

# Reporting Wrongdoing - Public Interest Disclosures Procedure

## Section 1 - Purpose

(1) To set out the Procedure for making a public interest disclosure. It covers the following topics:

- a. Part A: Reporting under the [Public Interest Disclosure Policy](#);
- b. Part B: Receiving and Assessing a Report;
- c. Part C: Dealing with a Report;
- d. Part D: Maintaining Confidentiality;
- e. Part E: Protection Against Reprisals;
- f. Part F: Support for Staff who are the Subject of a Report;
- g. Part G: Notification of Action Taken or Proposed;
- h. Part H: Reporting to [NSW Ombudsman](#) and Minister for Education;
- i. Part I: Alternative Avenues for Reporting; and
- j. Part J: Contact Details for Investigating Authorities.

### Scope

(2) This Procedure applies to all individuals who are:

- a. employees of the University, or otherwise engaged in the service of the University. This includes individuals such as:
  - i. consultants and independent contractors (and their employees) who are in the service of the University;
  - ii. employees of corporations engaged by the University under a contract to provide services to the University; and
  - iii. volunteers in the service of the University.

(3) In this Procedure, these individuals are referred to as 'staff'.

## Section 2 - Policy

(4) Refer to the [Public Interest Disclosure Policy](#).

## Section 3 - Procedures

### Responsibilities and Required Actions

(5) This Procedure requires actions by the following:

- a. Staff; and

- b. the University's Disclosure Officers.

## **Part A - Reporting Under the [Public Interest Disclosure Policy](#)**

### **Staff**

#### **How to Make a Report**

- (6) Staff can report suspected wrongdoing in writing or verbally. They are encouraged to make a report in writing as this can help to avoid any confusion or misinterpretation.
- (7) If a report is made verbally, a record will be made of the report and the staff member will be asked to sign it. The staff member will be given a copy of this record.
- (8) If concerned about being seen making a report, staff can ask to meet in a discreet location away from the workplace.

#### **Persons to Whom Reports of Wrongdoing Should be Made**

- (9) The [Public Interest Disclosure Policy](#) outlines the requirements which must be met for a report of suspected wrongdoing to attract the protections of the [PID Act](#). One of the requirements is that the report is made to one of the University's Disclosure Officers or to an external investigating authority (see Part I: Alternative Avenues for Reporting).
- (10) The University's Disclosure Officers are:
  - a. The Disclosure Co-Ordinator of the University - The University's Disclosure Co-Ordinator is the individual who, from time to time, occupies or acts in the position of Vice-President, People and Services.
  - b. A Nominated Disclosure Officer - The University's Nominated Disclosure Officers are:
    - i. the individual who, from time to time, occupies or acts in the position of the Vice-President, Finance and Resources;
    - ii. the individual who, from time to time, occupies or acts in the position of Chief People Officer; and
    - iii. the individual who, from time to time, occupies or acts in the position of Chancellor, but only for reports relating to the Vice-Chancellor.
  - c. The Principal Officer - Macquarie University's Principal Officer is the individual who, from time to time, occupies or acts in the position of Vice-Chancellor.

- (11) Any supervisor who receives a report that they believe relates to wrongdoing to which the [PID Act](#) applies ought to guide the staff reporting the suspected wrongdoing to make a report in accordance with [Public Interest Disclosure Policy](#) to one of the Disclosure Officers.

#### **Could a Report be Anonymous?**

- (12) There are some situations in which staff may not want to identify themselves when they make a report. Although anonymous reports will be considered, it is better if the staff member discloses their identity. This allows the University to take reasonable steps to provide that individual with the necessary support and protection from reprisals, as well as report on action taken or proposed to be taken by the University.
- (13) It is important to realise that an anonymous disclosure may not prevent a staff member from being identified.
- (14) Staff should also have regard to Part D: Maintaining Confidentiality.

## Part B - Receiving and Assessing a Report

### Disclosure Officers

(15) The Disclosure Officer who receives a report of suspected wrongdoing will:

- a. when requested, make arrangements for the report to be made discreetly and, if possible, away from the workplace;
- b. reduce to writing and date any report received orally and have the staff member reporting sign the record. The Disclosure Officer will give a copy of this record to the staff member;
- c. discuss with the staff member whether or not it is possible to keep the report confidential (refer to Part D: Maintaining Confidentiality);
- d. where the report was not originally made to the Disclosure Co-Ordinator, notify the Disclosure Co-Ordinator that a report of suspected wrongdoing has been made and, where and to the extent appropriate, provide details of the report within five (5) working days after receiving it. The details may include:
  - i. the name of the staff member making the report;
  - ii. the date on which the report was made; and
  - iii. which of the following categories of wrongdoing the public interest disclosure appears to relate to:
    - Corrupt Conduct;
    - Maladministration;
    - Serious and Substantial Waste; and
    - Government Information Contravention;
- e. in consultation with the Disclosure Co-Ordinator (where the report was not originally made to the Disclosure Co-Ordinator), determine whether or not the report is a public interest disclosure under the [PID Act](#) and if it is not, advise the staff member;
- f. if the report is considered to be a public interest disclosure under the [PID Act](#), give the staff member a letter acknowledging receipt of the report and a copy of the [Public Interest Disclosure Policy](#) and this Procedure. The [PID Act](#) requires that staff are provided with an acknowledgement letter and a copy of the [Public Interest Disclosure Policy](#) and this Procedure within 45 days after the report is made. Despite this, the Disclosure Officer will attempt to provide the letter within five (5) working days from the date the report is made;
- g. in consultation with the Disclosure Co-Ordinator (where the report was not originally made to the Disclosure Co-Ordinator), conduct an initial assessment of the risk of reprisals and develop strategies to deal with those risks; and
- h. seek legal advice from the Office of General Counsel as appropriate.

(16) The Disclosure Co-Ordinator will thereafter usually have responsibility for dealing with the report in accordance with the [Public Interest Disclosure Policy](#) but may seek such assistance from the Disclosure Officer who originally received the report as appropriate.

(17) There may be occasions when it would be appropriate for some person other than the Disclosure Co-Ordinator, such as the Vice-Chancellor, to have responsibility for dealing with the report. The Vice-Chancellor will make this decision in consultation with the Disclosure Co-Ordinator. If the report relates to the Vice-Chancellor, the Chancellor will make this decision in consultation with the Disclosure Co-Ordinator. Any such person will then have the role of the Disclosure Co-Ordinator under this Procedure in respect of the report.

## Part C - Dealing with a Report

## Disclosure Coordinator

(18) Within one (1) month after receiving or being notified of a report, the Disclosure Co-Ordinator will determine whether:

- a. the facts claimed in the report are in dispute and if they are, determine how best to investigate them. This may include appointing an external independent party to undertake an investigation of the facts;
- b. any other investigation is appropriate in relation to any aspect(s) of the report. Again, this may include appointing an external independent party to undertake an investigation;
- c. it is appropriate that the report be dealt with in accordance with some other policy or procedure such as an industrial instrument (for example, the University's [Enterprise Agreements](#) with staff) or a particular code (for example, in connection with research); and / or
- d. it is appropriate to refer the report to the police (if a criminal matter), [NSW Independent Commission Against Corruption](#) 'ICAC' (if the matter concerns Corrupt Conduct) or the [Information and Privacy Commission NSW](#) (if the matter concerns a Government Information Contravention).

(19) The Disclosure Co-Ordinator may determine that a different course of action is appropriate and may take whatever action is necessary to implement his or her determination(s). The Disclosure Co-Ordinator may determine that it is appropriate to implement one or more actions at the same time or at different times, depending on the circumstances.

(20) The Disclosure Co-Ordinator will consider the final action(s) to be taken in respect of the report. The Disclosure Co-Ordinator may consider that any action taken in relation to the original determination(s) is a final outcome in respect of the report (for example, dealing with relevant matters under the enterprise agreement or referral to the police).

(21) In the course of dealing with a report, the Disclosure Co-Ordinator will:

- a. discuss with the staff member making the report any support they may require as a result of the process;
- b. provide the staff member with details of internal staff able to offer the staff member support or are responsible for initiating and co-ordinating such support, particularly if the person is suffering any form of reprisal;
- c. provide the staff member with information about external agencies and services the staff member can access for support;
- d. review any initial strategies developed to deal with the risk of reprisals and make changes if necessary; and
- e. make determinations about any reasonable and necessary interim measures to be taken relating to the alleged wrongdoing pending the final outcome of the report.

(22) What action is appropriate will depend on the circumstances of any specific case and what it is reasonably possible for the University to do.

(23) The Disclosure Co-Ordinator will seek legal advice from the Office of General Counsel as appropriate.

(24) If at any stage it becomes apparent that a report relates to actual or suspected Corrupt Conduct, the Disclosure Co-Ordinator will refer the matter to the Vice-Chancellor (or to the Chancellor if the report relates to the Vice-Chancellor) in a timely manner to enable the Vice-Chancellor (or the Chancellor) to comply with the [Independent Commission Against Corruption Act 1988](#) (NSW).

(25) The Disclosure Co-Ordinator will otherwise keep the Vice-Chancellor informed of action taken as may be appropriate in the circumstances or at the Vice-Chancellor's request, unless the report relates to the Vice-Chancellor, in which case the Disclosure Co-Ordinator will keep the Chancellor informed.

## Part D - Maintaining Confidentiality

### Disclosure Officers and Staff

(26) Staff and Disclosure Officers must not disclose information that might identify the staff member who reported the wrongdoing unless:

- a. the staff member consents in writing;
- b. it is essential, having regard to the principles of natural justice, that the identifying information is disclosed to an individual whom the report may concern; or
- c. the individual to whom the report is made is of the opinion that disclosure of the identifying information is:
  - i. necessary to investigate the matter effectively; or
  - ii. in the public interest.

(27) If the identity of the individual making the report needs to be disclosed, the individual will be notified in advance and given the opportunity to discuss the matter with the Disclosure Co-Ordinator. The identity of the individual making the report may be disclosed to:

- a. a Nominated Disclosure Officer (if the report was made to the Disclosure Co-Ordinator);
- b. the Disclosure Co-Ordinator (if the report was made to a Nominated Disclosure Officer);
- c. the General Counsel and all solicitors advising the University; and / or
- d. the Vice-Chancellor,

except in circumstances where the report suggests wrongdoing by them.

(28) Staff who report suspected wrongdoing, are the subject of a report and witnesses should only discuss the disclosure with the individuals dealing with the report.

## Part E - Protection Against Reprisals

### Disclosure Officers and Staff

(29) The University will not tolerate any reprisal action against staff who report suspected wrongdoing. In assessing and dealing with reports of wrongdoing under the [PID Act](#), the University will consider the possibility of reprisal action and seek to minimise its occurrence.

(30) If a staff member is concerned about the possibility of reprisal action, they should raise the matter with the Disclosure Co-Ordinator. Similarly, if any staff member is concerned that any action they need to take in the course of their role may be perceived to amount to reprisal action, they should consult the Disclosure Co-Ordinator.

(31) The University will take all reasonable and necessary steps to provide protection to staff who make Internal Reports under the [PID Act](#) from suffering any reprisal for the making of the reports.

(32) The [PID Act](#) provides protection for staff reporting wrongdoing by imposing penalties on anyone who takes detrimental action substantially in reprisal for the report. The penalties which can be imposed include imprisonment or fines. Individuals who take detrimental action against someone who has made a disclosure can also be required to pay damages for any loss suffered by that other individual.

(33) As well as sanctions under the [PID Act](#), staff who take detrimental action against an individual who reports suspected wrongdoing may also be disciplined by the University in accordance with relevant University policies and industrial instruments.

(34) Detrimental action means action causing, comprising or involving any of the following:

- a. injury, damage or loss;
- b. intimidation or harassment;
- c. discrimination, disadvantage or adverse treatment in relation to employment;
- d. dismissal from, or prejudice in, employment; or
- e. disciplinary proceedings.

(35) Reprisal action may occur after a member of staff has left the University.

(36) If a staff member has reported suspected wrongdoing and feels that any reprisal action is not being dealt with effectively, they may contact the [Auditor General NSW](#), the [NSW Ombudsman](#), the [NSW Independent Commission Against Corruption](#) or the [Information and Privacy Commission NSW](#) depending on the type of wrongdoing reported.

(37) If a staff member makes a report of wrongdoing in accordance with the [PID Act](#), they will not be subject to any liability and no action, claim or demand can be taken against them for making the disclosure. They will not have breached any confidentiality or secrecy obligations and they will have the defence of absolute privilege in defamation.

## **Part F - Support for Staff who are the Subject of a Report**

### **Disclosure Officers and Staff**

(38) The University is committed to ensuring staff who are the subject of a report of wrongdoing are treated fairly and reasonably. If staff are the subject of a report, they will be:

- a. treated fairly and impartially;
- b. told their rights and obligations under the University's policies and procedures;
- c. kept informed during any investigation as appropriate;
- d. given the opportunity to respond to any allegation made against them; and
- e. informed of the result of any investigation as appropriate.

(39) The identity of any individual subject to a report of wrongdoing will be protected where it is reasonable and possible to do so.

## **Part G - Notification of Action Taken or Proposed**

### **Disclosure Coordinator**

(40) The staff member who makes a report of wrongdoing under [Public Interest Disclosure Policy](#) must be notified, within six (6) months of the report being made, of:

- a. the action taken or proposed to be taken in respect of the report; or
- b. that the matter has been investigated and is not complete, together with the reason why it is not complete.

(41) The notification should contain, as appropriate, sufficient information to demonstrate that adequate and appropriate action was taken, or is proposed to be taken, in respect of the report and include a sufficient statement of the reasons for the action taken or proposed to be taken in response to the report.

(42) The notification should also include sufficient information to enable the individual to make an assessment as to whether the circumstances listed in section 19(3)(a)-(c) of the [PID Act](#) (relating to disclosures to Members of Parliament and journalists) apply. These circumstances are whether:

- a. a decision was made not to investigate the matter; or
- b. a decision was made to investigate the matter, but the investigation has not been completed within six (6) months of the original decision being made; or
- c. the matter was investigated but no recommendation was made for the taking of any action in respect of the matter.

(43) The notification may be an appropriate opportunity to advise the person who made the disclosure that the University is of the opinion that they did not honestly believe on reasonable grounds that the information showed or tended to show wrongdoing.

## **Part H - Reporting to NSW Ombudsman and Minister for Education**

### **Disclosure Coordinator**

(44) The University must provide a report to the [NSW Ombudsman](#) under section 6CA of the [PID Act](#) every six (6) months and under section 31 of the [PID Act](#) to the Minister on an annual basis.

(45) The six (6) monthly reports must be sent to the [NSW Ombudsman](#) no later than 30 July and 30 January in each year.

(46) The annual reports must be sent to the Minister for Education (with a copy to the [NSW Ombudsman](#)) no later than four (4) months after the end of the University's reporting year on 31 December.

## **Part I - Alternative Avenues for Reporting**

### **Staff**

(47) Staff are encouraged to report suspected wrongdoing within the University, but Internal Reporting is not the only option. Reports can still be public interest disclosures if made to one of the investigating authorities listed below. Reports may be made to investigating authorities before or after report is made to the University. If a report is about the Chancellor, it can be made directly to an investigating authority.

(48) The [PID Act](#) lists the following investigating authorities to whom staff may report suspected wrongdoing and the categories of wrongdoing each authority can deal with:

- a. the [NSW Auditor-General](#), for Serious and Substantial Waste;
- b. the [NSW Independent Commission Against Corruption](#) (ICAC), for Corrupt Conduct;
- c. the [NSW Ombudsman](#), for Maladministration; and
- d. the [Information and Privacy Commission NSW](#), for Government Information Contravention.

(49) Staff should contact the relevant authority for advice about how to make a report to them. Contact details for all these investigating authorities are included in Part J: Contact Details for Investigating Authorities.

(50) Staff should be aware that the investigating authority is very likely to discuss the case with the University. The University will make every effort to co-operate with and assist the investigating authority. The University will take reasonable steps to provide appropriate support and assistance to staff who report suspected wrongdoing to an investigating authority.

(51) Staff may also choose to make a report to a Member of Parliament or a journalist however their report will be protected in limited circumstances under the [PID Act](#). To be protected, staff must have already made substantially the same report in accordance with the [PID Act](#) to one of the following:

- a. the Principal Officer;
- b. the Disclosure Co-Ordinator;
- c. a Nominated Disclosure Officer; or
- d. an investigating authority.

(52) Also, the University or investigating authority that received the report must have:

- a. decided not to investigate the matter;
- b. decided to investigate the matter, but not completed the investigation within six (6) months of the original report;
- c. investigated the matter but did not recommend any action as a result; or
- d. failed to inform the person who made the report within six (6) months of the report being made whether the matter will be investigated.

(53) Most importantly, to be protected under the [PID Act](#), if a report of a suspected wrongdoing is made to a Member of Parliament or a journalist, the staff member is required to prove not only that they have reasonable grounds for believing that the disclosure is substantially true but also that it is, in fact, substantially true.

(54) If a report of suspected wrongdoing is made to a person or organisation which is not listed above, the staff member will not be protected under the [PID Act](#). This may mean they are in breach of legal obligations owed to the University, including any relevant codes of conduct (for example, by disclosing confidential information).

(55) For more information about reporting wrongdoing outside the University, contact the University's Disclosure Co-Ordinator or the [NSW Ombudsman's Public Interest Disclosures Unit](#).

## Part J - Contact Details for Investigating Authorities

The [NSW Independent Commission Against Corruption](#)

Level 21, 133 Castlereagh Street  
SYDNEY NSW 2000  
Phone: (02) 8281 5999

The [NSW Ombudsman, Public Interest Disclosures Unit](#)

Level 24, 580 George Street  
SYDNEY NSW 2000  
Phone: (02) 9286 1000

The [Information and Privacy Commission NSW](#) (IPC)

Level 17, 201 Elizabeth Street  
SYDNEY NSW 2000  
Phone: 1800 472 679

The [Audit Office of NSW](#)

Level 15, 1 Margaret Street  
SYDNEY NSW 2000  
Phone: (02) 9275 7100

## Section 4 - Guidelines

(56) Nil.



## Section 5 - Definitions

(57) Commonly defined terms are located in the University [Glossary](#). Definitions specific to this Procedure are contained in the [Public Interest Disclosure Policy](#).

## Status and Details

<b>Status</b>	Historic
<b>Effective Date</b>	22nd February 2021
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<b>Approval Authority</b>	Vice-Chancellor
<b>Approval Date</b>	18th December 2013
<b>Expiry Date</b>	14th December 2023
<b>Responsible Executive</b>	S. Bruce Dowton Vice-Chancellor
<b>Responsible Officer</b>	Eric Knight Deputy Vice-Chancellor (People and Operations)
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