

Public Interest Disclosures Policy

Section 1 - Preamble

Part A - Purpose of the Policy

- (1) The University is committed to protecting staff members who report wrongdoing in the workplace.
- (2) The purpose of this policy is to establish an internal reporting system for the making of disclosures about corrupt conduct, maladministration, serious and substantial waste of public money or government information contravention by staff members. Responsibilities of University staff members under the internal reporting system are outlined in Schedule 1.
- (3) Some reports of wrongdoing may be classified as protected or public interest disclosure under the [Public Interest Disclosures Act 1994 \(NSW\)](#) (PID Act). This policy specifically addresses those types of reports.
- (4) Other reports of wrongdoing may not meet the definition of a protected or public interest disclosure. However the University supports and encourages such reports as the University does not tolerate wrongdoing in the workplace.

Part B - The Object of the Act

- (5) The purpose of the [PID Act](#) is to ensure that public officials who wish to make public interest disclosures under the legislation receive protection from reprisals, and that the matters raised in public interest disclosures are properly investigated.
- (6) The [PID Act](#) aims to encourage and facilitate the disclosure - in the public interest - of corrupt conduct, maladministration, serious and substantial waste and government information contravention in the public sector. This is achieved by:
 - a. enhancing and augmenting established procedures for making public interest disclosures concerning such matters;
 - b. protecting persons from reprisals that might otherwise be inflicted on them because of these public interest disclosures; and
 - c. providing for those public interest disclosures to be properly investigated and dealt with.

Section 2 - Definitions

- (7) For the purpose of this Policy five categories of wrongdoing in the internal reporting system are: corrupt conduct; maladministration; serious and substantial waste of public money; government information contravention; and local government pecuniary interest contravention. Definitions of these concepts are outlined below:
 - a. Corrupt Conduct
 - i. 'Corrupt Conduct' is defined in s.8 and s.9 of the [Independent Commission Against Corruption Act 1988](#) (NSW) (the ICAC Act). The definition used in the [ICAC Act](#) is intentionally broad. Corrupt conduct is the

dishonest or partial exercise of official functions by a public official. Conduct of person who is not a public official when it adversely affects the impartial or honest exercise of official functions by a public official, also comes within the definition.

- ii. Corrupt conduct can take many forms ie. the improper use of knowledge, power or position for personal gain or the advantage of others; acting dishonestly or unfairly, or breaching public trust; a member of the public influencing a public official to use their position in a way that is dishonest, biased or breaches public trust.
- iii. For more information see the NSW Ombudsman's guideline on What should be reported? at Part N.

b. Maladministration

- i. Maladministration is defined in the [PID Act](#). It is conduct that involves action or inaction of a serious nature that is contrary to law, unreasonable, unjust, oppressive or improperly discriminatory or based wholly or partly on improper motives.
- ii. Maladministration could include: making a decision and/or taking action that is unlawful; or refusing to grant someone a licence for reasons that are not related to the merits of their application.
- iii. For more information see the NSW Ombudsman's guideline on What should be reported? at Part N.

c. Serious and Substantial Waste

- i. The term 'serious and substantial waste' is not defined in the [PID Act](#). The NSW Auditor-General provides the following working definition: Serious and substantial waste refers to the uneconomical, inefficient or ineffective use of resources, authorised or unauthorised, which results in a loss/wastage of public funds/resources.
- ii. Serious and Substantial Waste could include: not following a competitive tendering process for a large scale contract; and having bad or no processes in place for a system involving large amounts of public funds.
- iii. For more information see the NSW Ombudsman's guideline on What should be reported? at Part N.

d. Government Information Contravention

- i. A Government Information Contravention is failure to properly fulfil a function under the [Government Information \(Public Access\) Act 2009](#) (GIPA Act).
- ii. Government Information Contravention could include: destroying, concealing or altering records to prevent them from being released; knowingly making decisions that are contrary to the legislation; or directing another person to make a decision that is contrary to the legislation.
- iii. For more information see the NSW Ombudsman's guideline on What should be reported? at Part N.

e. Local Government Pecuniary Interest Contravention

- i. This is defined in the [PID Act](#) and relates to a breach of an obligation imposed by the Local Government Act 1993 (NSW) in connection with a pecuniary interest.

f. Other Wrongdoing

- i. This is wrongdoing outside the previous five categories of conduct which attract the specific protections of the [PID Act](#). All activities or incidents that a staff member believes are wrong should be reported.
- ii. Other Wrongdoing could include: harassment or unlawful discrimination; reprisal action against a person who has reported wrongdoing; or practices that endanger the health or safety of staff or the public.

Section 3 - Policy Statement

Part C - Support for Persons Who Report Wrongdoing

(8) The University is committed to the aims and objectives of the [PID Act](#). It recognises the value and importance of contributions made by staff to enhance administrative and management practices and strongly supports reports being

made by staff which disclose Corrupt Conduct, Maladministration, Serious or Substantial Waste, Government Information Contravention, Local Government Pecuniary Interest Contravention or Other Wrongdoing not covered by the [PID Act](#). The University will:

- a. create a climate of trust, where staff are comfortable and confident about reporting wrongdoing;
- b. encourage staff to come forward if they have witnessed what they consider to be wrongdoing within the organisation;
- c. keep the identity of the staff member disclosing wrongdoing confidential, wherever possible and appropriate;
- d. protect staff who make disclosures from any adverse action motivated by their report;
- e. deal with reports thoroughly and impartially and if some form of wrongdoing has been found, taking appropriate action to rectify it;
- f. keep staff who make reports informed of their progress and the outcome;
- g. encourage staff to report wrongdoing within the organisation, but respect any decision to disclose wrongdoing outside the organisation — provided that disclosure outside the organisation is made in accordance with the provisions of the [PID Act](#);
- h. ensure managers and supervisors at all levels in the organisation understand the benefits of reporting wrongdoing, are familiar with this policy, and aware of the needs of those who report wrongdoing; and
- i. provide adequate resources, both financial and human, to:
 - i. encourage reports of wrongdoing;
 - ii. protect and support those who make them;
 - iii. provide training for key personnel; and
 - iv. investigate allegations.

Part D - Roles and Responsibilities

(9) This Policy applies to:

- a. permanent staff members, whether full-time or part-time;
- b. temporary or casual staff members;
- c. members of University Council;
- d. consultants; and
- e. individual contractors working for the University.

(10) This Policy may also apply to other people who perform official functions and their conduct and activities could be investigated by an investigating authority. This includes volunteers and those contracted to work for the University.

(11) Staff members are encouraged to report known or suspected incidents of Corrupt Conduct, Maladministration, Serious and Substantial Waste or Government Information Contravention in accordance with this Policy.

(12) All staff members have an important role in supporting those who have made legitimate public interest disclosures. They must abstain from any activity that is or could be perceived to be victimisation or harassment of persons who make public interest disclosures. Further they should protect and maintain the confidentiality of persons they know or suspect to have made public interest disclosures. Staff members must notify their manager or supervisor immediately of any suspicions they have that reprisal against an internal reporter is occurring or has been threatened.

(13) The responsibilities of staff members reporting wrongdoing include:

- a. only discussing the matter with authorised people and not alerting anyone who is the subject of a report that a public interest disclosure has been made;

- b. when they report, raising any concerns they have about reprisals or workplace conflict with the person assessing their report or the Disclosure Coordinator;
- c. assisting those assessing and dealing with the report, including supplying any information on request;
- d. if needed, seeking support from their support officer, manager or supervisor, the Disclosure Coordinator or any external organisations and services; and
- e. at any time after they have reported, notifying their manager or supervisor, the Disclosure Coordinator or Vice Chancellor immediately of any suspicions they have that reprisal is occurring or has been threatened.

(14) Staff members should be aware of other University policies which also apply to wrongdoing. Each Employee should be aware of these policies to follow the correct procedure in dealing with such conduct:

- a. [Code of Conduct](#);
- b. [SCU Enterprise Agreement](#) where relevant; and
- c. [Fraud and Corruption Prevention Policy](#).

Section 4 - Procedures

Part E - What Should Be Reported?

(15) Staff members should report any wrongdoing they see within the University. Reports about the relevant categories of serious wrongdoing — Corrupt Conduct, Maladministration, Serious and Substantial Waste, Government Information Contravention, and Local Government Pecuniary Interest Contravention — will be dealt with under the [PID Act](#) as public interest disclosures and according to this Policy.

(16) While Local Government Pecuniary Interest Contravention it is less likely to be relevant to the University context than to some other Public Authorities, staff should be aware that it falls under the [PID Act](#) in the event that they do encounter it.

Other Wrongdoing

(17) Although reports about the previous five categories of conduct can attract the specific protections of the [PID Act](#), staff members should report all activities or incidents that they believe are wrong.

(18) These types of issues should be reported to a supervisor, in line with other relevant University policies. Even if these reports are not dealt with as public interest disclosures, the University will consider each matter and make every attempt to protect the employee making the report from any form of reprisal. Other relevant University policies include:

- a. Code of Conduct;
- b. Harassment, Bullying and Discrimination; and
- c. Occupational Health and Safety Policy Statement and associated Procedures and Rules.

Part F - Making A Report

When will a report be protected?

(19) The University will support any staff member who reports wrongdoing. For a report to be considered a public interest disclosure, it has to meet all of the requirements under the [PID Act](#). These requirements are:

- a. the person making the disclosure must honestly believe on reasonable grounds that the information shows or

tends to show wrongdoing;

b. the report has to be made to one of the following:

i. a person nominated in this policy (see Part G below);

ii. the Vice Chancellor; or

iii. one of the investigating authorities nominated in the [PID Act](#) (see Part H below).

(20) Reports by staff members will not be considered public interest disclosures if they mostly question the merits of government policy and/or are made with the substantial motive of avoiding dismissal or other disciplinary action.

How to make a report

(21) Reports of wrongdoing may be made in writing or verbally. Those making a report are encouraged to report in writing as this can help to avoid any confusion or misinterpretation.

(22) If a report is made verbally, the person receiving the report must make a comprehensive record of the disclosure and ask the person making the disclosure to sign this record. The person making the disclosure should keep a copy of this record.

(23) If concerned about being seen making a report, a person making a disclosure can ask to meet in a discreet location away from the workplace.

Can a report be anonymous?

(24) There will be some situations where someone may not want to be identified when making a report. Although these reports will still be dealt with by the University it is best if the person making a report does identify him or herself. This allows the University to provide any necessary protection and support, as well as feedback about the outcome of any investigation into the allegations.

(25) It is important to realise that an anonymous report may not prevent a person making a disclosure from being identified. If the University does not know who made the report, it is very difficult for the University to prevent any reprisal action.

Maintaining Confidentiality

(26) The University realises many staff will want their report to remain confidential. This can help to prevent any action being taken against those persons for reporting wrongdoing.

(27) The University is committed to keeping identity, and the fact a wrongdoing has been reported, confidential. However there may be situations where this may not be possible or appropriate. The University will discuss with persons making a report whether it is possible to keep the report confidential.

(28) If confidentiality cannot be maintained, the University will develop a plan to support and protect persons making a report from risks of reprisal. Persons making a report will be involved in developing this plan.

(29) If reporting wrongdoing, the person making the report should only discuss the report with those dealing with it.

Part G - Who can receive a report within the University?

(30) Staff members are encouraged to report general wrongdoing to their supervisor. However the [PID Act](#) requires that — for a report to be a public interest disclosure — it must be made to a public official in accordance with the organisation's disclosure procedures. For the University this means this Policy, Procedure and the Public Interest Disclosure Schedule 1.

(31) Any supervisor who receives a report that they believe may be a public interest disclosure must refer the staff member making the report to one of the positions listed below. The broad responsibilities of these positions are outlined below, with more detail provided in the Public Interest Disclosure Schedule 1.

(32) The following positions are the only staff within the University who can receive a public interest disclosure.

Disclosures Officers

(33) Disclosures Officers are responsible for receiving, forwarding and/or dealing with reports made in accordance with this policy. The University's Disclosures Officers are identified in Schedule 1.

Disclosures Coordinator

(34) The Disclosure Coordinator has pivotal position in the public disclosure reporting system and acts as a clearing house for reports. The Disclosure Coordinator receives reports, assesses them, refers them to people within the University who can deal with them appropriately. The University's Disclosure Coordinator and the responsibilities associated with the role are identified in Schedule 1.

Vice Chancellor

(35) Reports of wrongdoing may be made by any staff member directly to the Vice Chancellor (or his or her Executive Officer acting as delegate), rather than by way of the Disclosures Officers. The Vice Chancellor's responsibilities are identified in Schedule 1 but in summary he or she is responsible for:

- a. deciding if a report is a public interest disclosure;
- b. determining what needs to be done next, including referring it to other authorities;
- c. deciding what needs to be done to correct any problem that has been identified;
- d. ensuring there are systems in place to support and protect staff members who report wrongdoing; and
- e. reporting actual or suspected corrupt conduct to the Independent Commission Against Corruption.

Part H - Who can receive a report outside the University?

(36) Staff members are encouraged to report wrongdoing within the University, but internal reporting is not the only option. If the guidance below is followed, a staff member's report can still be a public interest disclosure.

(37) Staff members can choose to make their report to an investigating authority. Staff members can do this first, or at any stage after their initial report to the University. If the report is about the Vice Chancellor, it should be made to an investigating authority.

(38) Staff members can also choose to make a report to a Member of Parliament or a journalist, but only in limited circumstances.

Investigating authorities

(39) The [PID Act](#) lists a number of investigating authorities in NSW that staff can report wrongdoing to and the categories of wrongdoing each authority can deal with. The authorities are:

- a. the Auditor-General - for serious and substantial waste;
- b. the Independent Commission Against Corruption (ICAC) - for corrupt conduct;
- c. the Ombudsman - for maladministration;
- d. the Police Integrity Commission (PIC) - for police misconduct;
- e. the PIC Inspector - for disclosures about the PIC or its staff;

- f. the Division of Local Government, Department of Premier and Cabinet - for disclosures about local government agencies;
- g. the ICAC Inspector - for disclosures about the ICAC or its staff; and
- h. the Information Commissioner - for disclosures about a government information contravention.

(40) Staff members should contact the relevant authority for advice about how to make a report to them. Contact details for each investigating authority relevant to the University are provided at Part O.

(41) Staff members should be aware that it is very likely the investigating authority will discuss the case with the University. The University will make every effort to assist and cooperate with the investigating authority to ensure the matter is dealt with appropriately and there is a satisfactory outcome. The University will also provide appropriate support and assistance to staff members who report wrongdoing to an investigating authority.

Members of Parliament or journalists

(42) To have the protections of the [PID Act](#), staff reporting wrongdoing to a Member of Parliament (MP) or a journalist must have already made substantially the same report to one of the following:

- a. the Vice Chancellor;
- b. a person nominated in this policy; or
- c. an investigating authority in accordance with the [PID Act](#).

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

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

(44) Most importantly — to be protected under the [PID Act](#) — if a staff member reports wrongdoing to an MP or a journalist the staff member will need to be able to prove that he or she has reasonable grounds for believing that the disclosure is substantially true and that it is in fact substantially true.

(45) If a staff member reports wrongdoing to a person or an organisation that is not listed above, the staff member will not be protected under the [PID Act](#). This means the staff member may be in breach of legal obligations or the University's Code of Conduct — by, for example, disclosing confidential information.

(46) For more information about reporting wrongdoing outside the University, contact the Disclosure Coordinator or the NSW Ombudsman's Public Interest Disclosures Unit. Their contact details are provided at Part O.

Part I - After a report is made

Feedback to staff members who report wrongdoing

(47) Staff who report wrongdoing will be told what is happening in response to their report. When a staff member makes a report, he or she will be given:

- a. an acknowledgement that the report has been received;
- b. the timeframe for when the staff member will receive further updates; and
- c. the name and contact details of the people who can tell the staff member what is happening.

(48) The [PID Act](#) requires that a staff member is provided with an acknowledgement letter and a copy of this Policy within forty-five (45) days after having made a report. The University will attempt to get this information to you within five (5) working days from the date you make your report.

(49) After a decision is made about how the report will be dealt with, the staff member will be given the following information within ten (10) working days from the date on which the decision was made:

- a. information about the action that will be taken in response to the staff member's report;
- b. likely timeframes for any investigation;
- c. information about the resources available within the University to handle any concerns a staff member may have; and
- d. information about external agencies and services a staff member can access for support.

(50) During any investigation, the staff member who has made a report will be given:

- a. information on the ongoing nature of the investigation;
- b. information about the progress of the investigation and reasons for any delay; and
- c. advice if the identity of the person making the report needs to be disclosed for the purposes of investigating the matter, and an opportunity to talk about this.

(51) At the end of any investigation, the staff member who has made the report will be given:

- a. enough information to show that adequate and appropriate action was taken and/or is proposed to be taken in response to their report and any problem that was identified; and
- b. advice about whether the staff member will be involved as a witness in any further matters, such as disciplinary or criminal proceedings.

Protection against reprisals

(52) The [PID Act](#) provides protection for people reporting wrongdoing by imposing penalties on anyone who takes detrimental action substantially in reprisal for them making the public interest disclosure.

(53) The University will not tolerate any reprisal action against staff who make a public interest disclosure. The criminal penalties that can be imposed include imprisonment or fines. Detrimental action is also misconduct that justifies disciplinary action. People who take detrimental action against someone who has made a public interest disclosure can also be required to pay damages for any loss suffered by that person.

(54) 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; and/or
- e. disciplinary proceedings.

Responding to reprisals

(55) The University will act to protect staff who report wrongdoing from reprisals.

(56) When a report is received, the University will ensure that a thorough risk assessment is conducted. This will identify any risks to the member of staff who reported the wrongdoing, as well as strategies to deal with those risks.

(57) If the staff member believes that detrimental action has been or is being taken against them or someone else who has reported wrongdoing in reprisal for making a report, the staff member should tell their supervisor, the Disclosure Coordinator or the Vice Chancellor immediately.

(58) All supervisors must report any suspicions they have that reprisal action against a staff member is occurring, or any reports that are made to them, to the Disclosure Coordinator or the Vice Chancellor

(59) If the Disclosure Coordinator becomes aware of reprisal action against a person who has made a report, they will:

- a. ensure a senior and experienced member of staff, who has not been involved in dealing with the initial report, will investigate the suspected reprisal;
- b. give the results of that investigation to the Vice Chancellor for a decision;
- c. if it has been established that reprisal action is occurring against someone who has made a report, take all steps possible to stop that activity and protect the member of staff who made the report; and
- d. refer to the Vice Chancellor to take appropriate disciplinary action in accordance with the relevant industrial instrument or refer for criminal action in respect of anyone proven to have taken or threatened any action in reprisal for making a public interest disclosure.

(60) If a staff member reports reprisal action, that staff member will be kept informed of the progress of any investigation and the outcome.

(61) The Vice Chancellor may issue specific directions to help protect against reprisals, including:

- a. issuing warnings to those alleged to have taken reprisal action against the member of staff who made the report;
- b. relocating the member of staff who made the report or the subject officer within the current workplace;
- c. transferring the member of staff who made the report or the staff member who is the subject of the allegation to another position for which they are qualified; and/or
- d. granting the member of staff who made the report or the subject officer leave of absence during the investigation of the report.

(62) These directions will only be taken if the member of staff who made the report agrees to it. The Disclosure Coordinator will make it clear to other staff that this action was taken in consultation with the staff member and with management support — and it is not a punishment.

(63) If a staff member has reported wrongdoing and feels that any reprisal action is not being dealt with effectively, the staff member may contact the Ombudsman or the ICAC — depending on the type of wrongdoing reported. Contact details for all these investigating authorities are included at Part O.

Protection against legal action

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

Part J - Support for those reporting wrongdoing

(65) The University will make sure that staff who have reported wrongdoing, regardless of whether they have made a public interest disclosure, are provided with access to any professional support they may need as a result of the reporting process — such as stress management, counselling services, legal or career advice.

(66) The University also has staff who will support those who report wrongdoing. These staff are responsible for initiating and coordinating support, particularly to those who are suffering any form of reprisal. Details are included at Schedule 2 to this Policy.

(67) All supervisors must notify the Disclosure Coordinator if they believe a staff member is suffering any detrimental action as a result of reporting wrongdoing.

Part K - Sanctions for making false or misleading disclosures

(68) It is important that all staff are aware that it is a criminal offence under the [PID Act](#) to wilfully make a false or misleading statement when reporting wrongdoing.

Part L - Support for the subject of a report

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

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

Part M - Review

(70) This Policy will be reviewed by the Legal Services periodically to ensure it meets the objectives of the legislation and facilitates the making of disclosures under the [PID Act](#).

Section 5 - Guidelines and Resources

Part N - Guidelines

(71) Staff members may access guidance and advice internally from the office of the Senior Deputy Vice Chancellor.

(72) Guidance about public interest disclosures is available from the NSW Ombudsman's website www.ombo.nsw.gov.au which includes a number of fact sheets including:

- a. B2, What should be reported;
- b. B3, What's not a public interest disclosure?

Part O - More Information and Resources

(73) Staff members may access guidance and advice from the Senior Deputy Vice Chancellor www.scu.edu.au/dvc/ and the NSW Ombudsman's website at www.ombo.nsw.gov.au

(74) The contact details for external investigating authorities to which staff members may make a public interest disclosure or seek advice from are listed below:

(75) For disclosures about corrupt conduct:

Independent Commission Against Corruption (ICAC)

Phone: 02 8281 5999

Toll free: 1800 463 909

Tel. typewriter (TTY): 02 8281 5773

Facsimile: 02 9264 5364

Email: icac@icac.nsw.gov.au

Web: www.icac.nsw.gov.au

Address: Level 21, 133 Castlereagh Street,
Sydney NSW 2000

(76) For disclosures about maladministration:

NSW Ombudsman

Phone: 02 9286 1000

Toll free (outside Sydney metro): 1800 451 524

Tel. typewriter (TTY): 02 9264 8050

Facsimile: 02 9283 2911

Email: nswombo@ombo.nsw.gov.au

Web: www.ombo.nsw.gov.au

Address: Level 24, 580 George Street, Sydney NSW 2000

(77) For disclosures about serious and substantial waste:

Auditor-General of the NSW Audit Office

Phone: 02 9275 7100

Facsimile: 02 9275 7200

Email: mail@audit.nsw.gov.au

Web: www.audit.nsw.gov.au

Address: Level 15, 1 Margaret Street, Sydney NSW 2000

(78) For disclosures about breaches of the [GIPA Act](#):

Information Commissioner

Toll free: 1800 463 626

Facsimile: 02 8114 3756

Email: oicinfo@oic.nsw.gov.au

Web: www.oic.nsw.gov.au

Address: Level 11, 1 Castlereagh Street, Sydney NSW 2000

Status and Details

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