

# Whistleblowing (Public Interest Disclosures) Procedures

## Section 1 - Purpose

(1) These Procedures, along with the Whistleblowing (Public Interest Disclosures) Policy, are the University's Public Interest Disclosure Policy for the purpose of sections 42 and 43 of the [Public Interest Disclosures Act 2022](#) (NSW) (PID Act).

(2) The Procedures set out the way in which the University will:

- a. deal with and investigate reports of suspected serious wrongdoing under the Policy;
- b. identify, manage and minimise risks to officers, staff and students who make reports or who are required to participate in the process; and
- c. meet its statutory obligations under the PID Act, the [Independent Commission Against Corruption Act 1988](#) (NSW) and any other relevant legislation.

(3) Unless defined in these procedures, words and terms used in these procedures have the same meaning given to them in the Policy.

## Section 2 - Reporting Suspected Serious Wrongdoing

### Part A - How to make a report

(4) A report of suspected serious wrongdoing can be made orally or in writing and in order to receive protection under the PID Act, must be made to a person authorised to receive such reports as set out in Part B below.

(5) A report can be made anonymously. A report will only be considered anonymous if there is no reasonable or practical way of communicating with the person making the report. Even if the Reporter chooses to remain anonymous, they will still be protected under the PID Act. However, it will be difficult for the University to investigate the matters reported if it cannot contact the Reporter for further information.

(6) The Reporter should provide as much information as possible so that the University can deal with the report effectively. The type of information which should be included is:

- a. date, time and location of key events;
- b. names of people involved in the suspected wrongdoing, their role and how they are involved;
- c. the Reporter's relationship with the people involved, such as whether the Reporter works closely with them;
- d. an explanation of the matter being reported;
- e. how the Reporter became aware of the matter being reported;
- f. possible witnesses;

g. other information that supports the report.

## **Part B - People who can receive a report**

### **Within the University**

(7) A report can be made internally to:

- a. a Disclosure Officer (see [Schedule A – Disclosure Officers](#)); or
- b. the manager of the person making the report (the Recipient Manager). This is the person who directly, or indirectly, supervises the person making the report. For a contractor, subcontractor or volunteer or a person employed by one of them, for the purpose of this Policy, their manager is the University employee who oversees the relevant services or functions, or who manages the relevant contract or volunteering arrangements.

(8) Where the Vice-Chancellor is the subject of a report of suspected serious wrongdoing, the report can be made to the Chancellor via the Disclosure Coordinator.

### **Outside of the University**

(9) A report can be made externally to a Public Official in another agency as follows:

- a. a NSW Minister or member of a Minister's staff in which case the report must be made in writing
- b. a disclosure officer for another NSW public agency (see the relevant agency's PID policy for ways to contact their disclosure officers)
- c. an Integrity Agency (see [Schedule A – List of Integrity Agencies](#))
- d. the head of another NSW public agency

(10) A report made externally may be referred back to the University so that appropriate action can be taken.

### **Member of Parliament or Journalist**

(11) A report can be made to a Member of Parliament or a journalist if the following circumstances are met:

- a. the Reporter has previously made substantially the same report (a 'previous report') to someone authorised to receive a report as set out in clauses (7) to (9) of these Procedures;
- b. the report is substantially true;
- c. the previous report was not made anonymously;
- d. the Reporter did not give a written waiver of their right to receive information relating to the previous report; and
- e. either:
  - i. the Reporter has been notified that the University has decided not to investigate the serious wrongdoing referred to in previous report or refer the previous report to another agency; or
  - ii. at the end of the investigation period, the Reporter has not received from the University:
    - notice of the University's decision to investigate the report
    - a description of the results of the investigation
    - details of proposed or recommended corrective action.

(12) In clause (11), investigation period means:

- a. 6 months from the previous report being made; or
- b. 12 months if the Reporter applied for an internal review of the University's decision within 6 months of making the previous report.

## Part C - Initial action

(13) On receipt of a report of suspected serious wrongdoing, the Disclosure Officer or Recipient Manager must:

- a. if requested or otherwise appropriate, arrange to meet with the Reporter discreetly and, preferably, away from that person's workplace or study area.
- b. ask the Reporter to make a statement or, in the case of an oral report:
  - i. make a comprehensive written record of it.
  - ii. ask the Reporter to sign that record and give them a copy.
- c. explain the process for assessing a report under Section 4 - of these Procedures.
- d. provide the Reporter with information about support available to them such as the [Employee Assistance Program](#) or the [University Student Counselling Service](#).

(14) The Disclosure Officer or Recipient Manager will forward the report to the Disclosure Coordinator as soon as possible. If a report concerns the Disclosure Coordinator, it must be forwarded to the Vice-Chancellor who will appoint an alternative Disclosure Coordinator.

(15) In appropriate circumstances, the Disclosure Coordinator can meet with the Reporter and undertake the actions in as set out in clause (13) above instead of the Disclosure Officer.

(16) The Disclosure Coordinator must notify the Vice-Chancellor of all reports. If the report concerns the Vice-Chancellor, the Disclosure Coordinator will notify the Chancellor.

## Section 3 - Acknowledgement and Information

(17) If the report is not anonymous, the Disclosure Coordinator must provide the Reporter with an acknowledgement and a copy of the Policy and these Procedures within ten business days of receipt.

(18) If the report is not anonymous, and the Disclosure Coordinator determines that it is a voluntary public interest disclosure, the Disclosure Coordinator will inform the Reporter:

- a. the PID Act applies to the University's actions in dealing with the report.
- b. how the University is dealing or proposes to deal with the report.

(19) If the University makes a decision to not investigate the report or to cease such an investigation, the Disclosure Coordinator will notify the Reporter of that decision and the reasons for it.

(20) If the University refers the report to an Integrity Agency, the Disclosure Coordinator will notify the Reporter of that decision and provide details of the referral.

(21) If the University decides to investigate the report, the Disclosure Coordinator will provide the Reporter with updates on the progress of the investigation at least every three months.

# Section 4 - Confidentiality and Protection against Detrimental Action

## Confidentiality

(22) The University will treat all reports of serious wrongdoing as confidential, and will not disclose information that might identify or tend to identify the person making the report unless:

- a. they first give written consent;
- b. it is generally known that the person has made the report by having voluntarily identified themselves (other than by making the report itself) as the person who made it;
- c. it is necessary that the identity of the Reporter be revealed to a person whose interests are affected by a disclosure;
- d. after consulting with the person, the University reasonably considers it necessary to disclose the identifying information to protect a person from detriment;
- e. the identifying information has previously been lawfully published;
- f. the disclosure of the identifying information is necessary to investigate the matter effectively, or it is otherwise in the public interest to do so;
- g. the University is required to disclose it in order to comply with the law, or an order made by a court or a tribunal or it is for the purpose of proceedings before a court or tribunal.

(23) The University maintains confidentiality through a range of steps including:

- a. limiting the number of people who are aware of the Reporter's identity or information that could identify them;
- b. notifying any person who does know the identity of the Reporter that they have a legal obligation to keep their identity confidential; and
- c. limiting access to emails, files or other documentation that contain information about the identity of the Reporter to authorised persons (including by ensuring appropriate security/access levels are applied to documents).

## Detrimental Action

### Risk Assessment

(24) On receipt of a report, the Disclosure Coordinator must undertake an assessment of the risk of detrimental action to the Reporter. When conducting the risk assessment, the Disclosure Coordinator will consult with the Reporter.

(25) The risk assessment must be in writing and include:

- a. an assessment of the likelihood of detrimental action using a matrix which considers the seriousness and likelihood of potential detrimental action against a person as a result of the report, including against the Reporter and the Public Official whose serious wrongdoing the report is about (excluding reasonable management action);
- b. an assessment of the likely impact on the people who are the subject of the report, taking into account the seriousness of the matters raised in the report;
- c. appropriate strategies to minimise or control the risks of detrimental action and other adverse impacts.

(26) The risk assessment must be monitored and regularly reviewed to ensure these strategies to minimise or control the risk remain effective and take into account any changed circumstances.

## Protection

(27) The University will not tolerate any detrimental action against:

- a. a person who investigates or proposes to investigate reports of serious wrongdoing.
- b. a person who provides information as part of an investigation into serious wrongdoing;
- c. staff who are Reporters or are believed to be a Reporter;

(28) If a Reporter experiences adverse treatment or detrimental action, such as bullying or harassment, they should report it immediately by:

- a. notifying the Disclosure Coordinator; or
- b. making a report to an Integrity Agency (see [Schedule B](#)).

(29) The University will take action to support and help protect Reporters against detrimental action, which may include:

- a. issuing warnings to or taking disciplinary action against the staff member whose serious wrongdoing the report is about;
- b. relocation of the staff member whose serious wrongdoing the report is about, or the Reporter, to another location or position for which they are qualified for a limited time;
- c. suspending the staff member whose serious wrongdoing the report is about, or granting temporary leave of absence to the Reporter.

(30) Any action taken to minimise or control risk of detrimental action is intended to be a risk management strategy only, not a punishment or sanction. It should be decided in consultation with the Reporter and, if the public official whose serious wrongdoing the report is about is a University staff member, in accordance with the Enterprise Agreement and relevant staff employment contract.

(31) Nothing in this Section precludes reasonable management action from being taken in relation to a Public Official.

## Section 5 - Assessment of the Report

(32) Each report of suspected serious wrongdoing must be assessed by the Disclosure Coordinator to determine whether:

- a. it qualifies as a voluntary public interest disclosure;
- b. it should be investigated, taking into account whether:
  - i. it can properly or effectively be investigated;
  - ii. it can be more appropriately resolved in another way, such as a process under another policy or through another process either separately or concurrently.
- c. it should be investigated internally, referred to an external investigator or an Integrity Agency;
- d. it involves a criminal offence, corrupt conduct or other conduct that should be reported or notified to the police or an Integrity Agency (for example, the Independent Commission Against Corruption);
- e. there is any risk of detrimental action;
- f. any legal or other professional advice should be obtained.

(33) At any stage during the process, the Disclosure Coordinator may do one or more of the following:

- a. decide not to accept the report if it appears to be:
  - i. an unsubstantiated allegation with no specific information that points to alleged serious wrongdoing;
  - ii. not made as an honest or genuine report on reasonable grounds or contains false or misleading information.
- b. if the report does not involve serious wrongdoing but involves a complaint of another kind, refer the report to be dealt with under the relevant Policy or process.
- c. if the report involves suspected serious wrongdoing as well as other matters, arrange for a combined preliminary inquiry to be undertaken, prior to deciding whether formal investigation is required.
- d. if the report is accepted and alleges serious wrongdoing against a staff member, refer the matter to the Vice President (People and Culture).
- e. if the report is accepted and does not allege serious wrongdoing against a staff member, in consultation with the Vice-Chancellor, arrange for an investigation, enquiry, audit or other action of an investigative nature in relation to that report.
- f. if the Disclosure Coordinator reasonably suspects that the serious wrongdoing concerns, or may concern, corrupt conduct that is required to be reported under s.11 of the [Independent Commission Against Corruption Act 1988](#), notify the Vice-Chancellor and:
  - i. advise the Vice-Chancellor to make that report; or
  - ii. arrange for legal advice for the Vice-Chancellor on whether the matter should be reported.
- g. The Disclosure Coordinator must provide the [NSW Ombudsman](#) with written reasons explaining a decision by the University in relation to a voluntary public interest disclosure to:
  - i. not investigate the report nor refer the report to an Integrity Agency; or
  - ii. cease investigating the report without completing the investigation or referring the disclosure to an Integrity Agency.

## Deemed voluntary public interest disclosures

(34) If the Vice-Chancellor believes that a report shows or tends to show serious wrongdoing, the Vice-Chancellor may determine that the report is a voluntary public interest disclosure, even if the report does not meet the criteria for a voluntary public interest disclosure.

(35) Such a determination can be made at the request of the Reporter or at the initiative of the Vice-Chancellor.

(36) The Reporter must be advised in writing of any such determination.

(37) The Vice-Chancellor may revoke their determination if they form the view that the Reporter wilfully made a false statement, misled, or attempted to mislead, the University or the person to whom the report was made.

(38) If a deemed disclosure is referred to another agency under the PID Act or another Act or law, the University must inform the other agency of the determination.

# Section 6 - Investigations

## Process

(39) A person who investigates a report of serious wrongdoing must:

- a. prepare a written report of that investigation that sets out:
  - i. the matters investigated;
  - ii. the methodology adopted for that investigation;

- iii. a list of persons interviewed;
  - iv. a list of all documents or systems reviewed;
  - v. an analysis of evidence obtained (including relevance);
  - vi. findings of fact; and
  - vii. any recommendations for action (including, for example, how systems might be improved).
- b. conduct the investigation in a thorough, fair and impartial manner and within the relevant terms of reference and, if applicable, in accordance with the requirements of the Enterprise Agreement or relevant staff member's contract of employment.

(40) The written report must not reveal the identity of the Reporter, except to the extent that this is necessary to include them in the list of witnesses interviewed or unless that person first gives their written consent.

## **Corrective Actions**

(41) If, after investigating, the University finds that serious wrongdoing has occurred, the University will take appropriate corrective action. This may include:

- a. payment of compensation to people affected by serious wrongdoing.
- b. publication of a finding that serious wrongdoing is found to have occurred, ensuring the University takes appropriate corrective action;
- c. reform within the University including:
  - i. improvements to relevant policies or procedures;
  - ii. structural change;
  - iii. the reallocation of resources;
  - iv. additional training or educational measures.
- d. issuing a formal apology;
- e. issuing a warning;
- f. terminating the employment or the contract of any person involved in the serious wrongdoing or misconduct.

## **Conclusion**

(42) At the conclusion of an investigation, the Disclosure Coordinator will:

- a. monitor the implementation of any corrective actions.
- b. notify the Reporter of the results of the investigation and where appropriate, details of corrective action taken, proposed or recommended.

# **Section 7 - Report of serious wrongdoing involving a staff member**

(43) When a report of serious wrongdoing is referred to the Vice President (People and Culture), any investigation must be conducted in accordance with these Procedures to the extent that they are not inconsistent with the procedures specified in the University's Enterprise Agreement or the relevant staff member's contract of employment.

(44) During any investigation, the Vice President (People and Culture) will keep the Disclosure Coordinator informed as to the progress of the investigation, so that the Disclosure Coordinator can update the Reporter as required under clause (21).

(45) At the conclusion of any investigation or disciplinary proceedings, the Vice President (People and Culture) must notify the Disclosure Coordinator of the outcomes of the investigation and details of any action taken or proposed to be taken against the staff member so that the Disclosure Coordinator can:

- a. notify the Reporter as required under clause (42)(b); and
- b. include that information in the annual report to the [NSW Ombudsman](#) as required under clause (51).

## Section 8 - Review of Decisions

### Internal Review

(46) A person who makes a report may apply for an internal review of the following decisions of the Disclosure Coordinator:

- a. the University will cease investigating the relevant serious wrongdoing without either completing the investigation or referring the disclosure to an investigating authority.
- b. the University will neither investigate the relevant serious wrongdoing nor refer the disclosure to an investigating authority.
- c. the University will cease to deal with the disclosure as a voluntary public interest disclosure because it is not in fact a voluntary public interest disclosure.
- d. the report does not qualify as a voluntary public interest disclosure.

(47) The application for internal review must:

- a. be made in writing to the Disclosure Coordinator within 28 days of receipt of the relevant decision; and
- b. state the reasons the applicant considers the decision should not have been made. The applicant can provide relevant material for the internal reviewer to consider.

(48) The internal review will be undertaken by a Disclosure Officer who was not previously involved in the decision under review.

(49) The internal reviewer will:

- a. confirm the original decision; or
- b. decide the disclosure is to be dealt with, or continue to be dealt with, as a voluntary public interest disclosure.

(50) The internal reviewer will notify the applicant of their decision.

## Section 9 - Other University obligations

### Annual Report

(51) The Disclosure Coordinator will provide an annual return to the [NSW Ombudsman](#) and the Audit and Risk Management Committee about:

- a. measures taken by the University during the relevant 12-month period to promote a culture in which public interest disclosures are encouraged;
- b. action taken by the University to deal with voluntary public interest disclosures during the relevant 12-month period; and



- c. voluntary public interest disclosures received by the University during the relevant 12-month period.

## **Awareness and Training**

(52) All Public Officials associated with the University will be directed to:

- a. the University's [Reporting Wrongdoing](#) webpage.
- b. the [Whistleblowing \(Public Interest Disclosures\) Policy](#) and [Procedures](#) on the University's Policy Library.

(53) The following will be provided with training in relation to their responsibilities under the Policy, Procedures and the PID Act within three months of commencing in that role and refresher training at least every 3 years:

- a. Vice-Chancellor
- b. Disclosure Officers
- c. Recipient Managers

## **Recordkeeping**

(54) The University will keep full and accurate records with respect to all information received in connection with a report under the Policy or these Procedures in accordance with the [Records Management Policy](#) and [Procedures](#).

## Status and Details

<b>Status</b>	Current
<b>Effective Date</b>	19th February 2024
<b>Review Date</b>	19th February 2027
<b>Approval Authority</b>	Vice Chancellor
<b>Approval Date</b>	14th February 2024
<b>Expiry Date</b>	Not Applicable
<b>Responsible Executive</b>	Tyrone Carlin Vice-Chancellor +61 2 66269189
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