

Procedure

Public Interest Disclosures

NSWHP_PR_039



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1. Purpose

This procedure is designed to help NSW Health Pathology Staff identify and manage potential public interest disclosures consistent with the requirements of the Public Interest Disclosures Act 2022 (NSW) and the NSW Health Public Interest Disclosures Policy Directive PD2023_026.

It is intended to ensure that reports of serious wrongdoing relating to corruption, maladministration, serious and substantial waste, government information contravention and privacy contravention are treated appropriately and that Staff that make reports will be protected from reprisal.

2. Background

NSW Health Pathology takes reports of serious wrongdoing seriously. We are committed to building a 'speak up' culture where public officials are encouraged to report any conduct that they reasonably believe involves wrongdoing.

This procedure sets out NSWHP internal procedure in relation to public interest disclosures (PIDs) and includes:

- how we will deal with the report of serious wrongdoing
- who to contact if you want to make a report of serious wrongdoing
- how to make a report of serious wrongdoing

This procedure should be read in conjunction with NSW Health Public Interest Disclosures Policy Directive PD2023_026, NSW Health Code of Conduct, NSW Health Managing Misconduct Policy Directive PD2018_031 and policies and procedures listed in section 8 below.

NSW Health Pathology adopts the NSW Health PD 2023_026 as a local policy and all references in this procedure link to that document. For further background, legislative requirements and definitions, please refer to that policy (PD 2023_026).

3. Scope

This Procedure applies to all Staff (including contractors, subcontractors and volunteers providing services or exercising functions on behalf of NSW Health Pathology).

This Procedure does not apply to:

- *people who have received services from NSW Health Pathology and want to make a complaint about those services.*
- *people and organisations providing services directly to NSW Health Pathology under contract (as opposed to contractors providing services on behalf of NSW Health Pathology, or who are exercising functions of NSW Health Pathology. Most NSW Health Pathology contractors will not be considered public officials for the purposes of the PID Act).*

This means that if you are not a public official defined in the PID Act, this Procedure does not apply to your complaint or report of wrongdoing.

4. Definitions

Public Interest Disclosure means a report of Serious Wrongdoing within the NSW Health Service (whether or not the wrongdoing occurred), and there is an:

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- allegation of the Serious Wrongdoing; or
- indication of Serious Wrongdoing.

Disclosure Officer means, in NSW Health Pathology:

- the Chief Executive of NSW Health Pathology
- the most senior ongoing NSW Health Pathology employee who ordinarily works at a permanently maintained NSW Health Pathology worksite where more than one employee works.
- additional nominated disclosure officers for NSW Health Pathology appointed by the Chief Executive, including at the time of publication of this policy, Associate Directors of HR, Director Legal & Corporate Governance, Senior Legal Counsel, Legal Counsel and Enterprise Risk Manager.

People Manager a people manager includes any person who directly or indirectly supervises a public official.

Principal Officer means the Chief Executive of NSW Health Pathology.

Serious Wrongdoing means serious wrongdoing defined by the PID Act as one or more of the following:

- corrupt conduct
- a government information contravention
- serious maladministration
- a privacy contravention
- serious and substantial waste of public money.

Detailed definitions of these categories are provided in Section 8.1 of PD 2023_026.

Mandatory PID has the meaning given in the PID Act and arises where a report is made by a public official where such report is an ordinary requirement of their role or function or under a legal duty to make such a report. Refer to section 3.4 of PD2023_026 for information regarding Mandatory PIDs.

Staff means any person working in a casual, temporary or permanent capacity in NSW Health Pathology, including consultants, contractors, board members, volunteers, students and any person performing a public official function whose conduct could be investigated by an investigating authority.

Witness PID has the meaning given in the PID Act and occurs where a person (whether or not a public official) discloses information during an investigation, the investigation is into serious wrongdoing and the information was disclosed following a request of an investigator. Refer to section 3.5 of PD2023_026 for information regarding witness PIDs.

Other definitions are as provided in PD2023_026.

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5. NSW Health Pathology Public Interest Disclosure processes and procedures

Consistent with the CORE values of NSW Health (Collaboration, Openness, Respect and Empowerment) and RITE values of NSW Health Pathology (Respect, Integrity, Teamwork and Excellence), all Staff who become aware of serious wrongdoing should report it.

All Staff should have confidence that reports of serious wrongdoing which are made in accordance with the PID Act, PD2023_026 and this Procedure will be treated appropriately, including protection from detrimental action.

This Procedure is not intended to be used for Staff grievances. If a Staff member makes a report under this Procedure which is substantially a grievance, the matter will be dealt with in accordance with NSW Health Resolving Workplace Grievances Policy Directive PD2016_046.

5.1.1. What is a PID?

When someone reports suspected or possible wrongdoing in the public sector, their report will be a PID if it has certain features which are set out in the PID Act, namely that it:

- a) is made by a Staff member;
- b) is about one of the categories of conduct outlined in the PID Act (refer to the definition of Serious Wrongdoing above);
- c) discloses information based on an honest belief, on reasonable grounds that the alleged information shows or tends to show Serious Wrongdoing;
- d) be made to a manager or disclosures officer; and
- e) not question the merits of government policy or be made to avoid dismissal/disciplinary action.

A report of Serious Wrongdoing as outlined above is a voluntary PID, where it is made voluntarily i.e. it is not a Mandatory or Witness PID.

Refer to PD2023_026 for more information and detailed definitions of the categories of Serious Wrongdoing and types of PIDs.

5.1.2. What should be reported?

Staff are encouraged to report any suspected wrongdoing they encounter within NSW Health Pathology. Examples of Serious Wrongdoing include things like:

- Theft of consumables or equipment
- Roster/timesheet fraud
- Dishonest failure to declare conflicts of interest in recruitment or procurement processes
- Accepting gifts from equipment or consumable suppliers
- Using work time or resources for secondary employment opportunities
- Unlawfully disclosing health information for a non-work purpose

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- Using confidential NSW Health Pathology information for personal gain.

For conduct to be considered corrupt, and therefore Serious Wrongdoing for the purposes of the PID Act, it has to be serious enough to involve a potential criminal or disciplinary offence, or be grounds for potential dismissal.

5.1.3. How to make a report of serious wrongdoing

a) Who can I make a report to?

For a report to be a voluntary PID, it must be made to certain public officials as set out below, or otherwise in PD2023_026.

You can make a report within NSW Health Pathology to:

- NSW Health Pathology Chief Executive;
- a Disclosure Officer for NSW Health Pathology — a list of disclosure officers for NSW Health Pathology and their contact details can be found at <https://www.health.nsw.gov.au/workforce/culture/Pages/disclosure-officers.aspx> and include members of the NSW Health Pathology Corporate Governance team who can be contacted at nswpath-corporategovernance@health.nsw.gov.au ; or
- your manager — this is the person who directly, or indirectly, supervises you. It can also be the person who you directly, or indirectly, report to. You may have more than one manager. Your manager will make sure that the report is communicated to a Disclosure Officer on your behalf or may accompany you while you make the report to a Disclosure Officer.

Voluntary PID reports can also be made to public officials in other agencies, including the Ministry of Health or integrity agencies such as ICAC or NSW Ombudsman. PIDs may be made to members of parliament (MPs) or journalists only in certain limited circumstances – see the NSW Health PID policy PD2023_026 for more information.

b) How to make a report

Staff can make a voluntary PID:

- *in writing* — this could be an email or letter to a person who can receive voluntary PIDs.
- *verbally* — have a private discussion with a person who can receive voluntary PIDs. This can be face-to-face, via telephone or virtually.
- *anonymously* — write an email or letter or call a person who can receive PIDs to make a report without providing your name or anything that might identify you as the maker of the report. 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 you choose to remain anonymous, you will still be protected under the PID Act. It may be difficult, however, for NSW Health Pathology to investigate the matter(s) you have disclosed if we cannot contact you for further information.

c) What should I include in my report?

Staff should provide as much information as possible so we can deal with the report effectively. The type of information you should include is:

- date, time and location of key events

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- names of person(s) involved in the suspected wrongdoing, their role, title and how they are involved
- your relationship with the person(s) involved, such as whether you work closely with them
- your explanation of the matter you are reporting
- how you became aware of the matter you are reporting
- possible witnesses
- other information you have that supports your report.

d) What if I am not sure if my report is a PID?

Staff are encouraged to report any wrongdoing you become aware of regardless of whether you think it is Serious Wrongdoing. It is important for NSW Health Pathology to understand what is or may be occurring. In most cases, the wrongdoing should initially be reported to a manager or supervisor.

If your report is a PID, we are responsible for making sure your report is handled appropriately under the PID Act, or if it is not a PID, in line with our other procedures. Even if your report is not a PID, it may fall within another one of NSW Health's or NSW Health Pathology's policies for dealing with reports, allegations or complaints.

e) Who can I talk to if I have questions or concerns?

Staff can contact the Corporate Governance team who can be contacted via nswpath-corporategovernance@health.nsw.gov.au or NSWPATH-legal@health.nsw.gov.au for further information.

You can also:

- Contact your local NSW Health Pathology People & Culture manager;
- contact another nominated Disclosure Officer within NSW Health Pathology;
- contact the PID Advice Team within the NSW Ombudsman by phone: (02) 9286 1000 or email: pidadvice@ombo.nsw.gov.au; or
- access the NSW Ombudsman's PID guidance, available on its website here: <https://www.ombo.nsw.gov.au/guidance-for-agencies/pid-act-2022> .

If you require legal advice with respect to your own personal circumstances under the PID Act, you should seek independent legal advice.

5.1.4. Protections

When a Staff member makes a voluntary PID they receive special protections under the PID Act. NSW Health Pathology is committed to:

- taking all reasonable steps to protect Staff from detriment as a result of making a PID.
- Maintaining confidentiality as much as possible while the PID is being dealt with.

NSW Health Pathology will not tolerate detrimental action against Staff who have made a report, might make a report or are believed to have made a report, of a PID. More detail about protections for makers of voluntary PIDs is set out in the NSW Health PD 2023_026.

Staff may choose to keep their identity anonymous and/ or the fact they made a voluntary disclosure confidential. Identifying information about the reporter must not be disclosed unless it is necessary or authorised under the PID Act.

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People who make Mandatory PIDs and Witness PIDs are also protected as set out in NSW Health PD2023_026.

5.1.5. Reporting detrimental action

If you experience adverse treatment or detrimental action, such as bullying or harassment, you should report this immediately to your manager, HR manager or the Corporate Governance team or otherwise to an integrity agency. Please refer to the list of integrity agencies annexed to PD2023_026.

5.1.6. Support

Following receipt of a PID, the Disclosure Officer will communicate with the maker of the report and nominate a person who will be the key point of contact in relation to the PID and who will take steps to protect their interests, for example, if they are at risk of detrimental action.

Staff making reports may also seek support from their local HR and/or the Employee Assistance Program.

6. Assessment and Management of PIDs

Information on the assessment and management (including investigation) of reports of wrongdoing and the protections available under the PID Act to Staff who make a PID is provided in PD2023_026.

Mandatory and Witness PIDs will be managed in accordance with PD2023_026.

6.1 What to do if you receive a potential PID report

6.1.1 People managers

- a) As set out in PD2023_026, all People Managers are required to:
- Receive and pass on voluntary reports of Serious Wrongdoing they receive, from Staff who report to them or who they supervise, to a Disclosure Officer;
 - Ensure Staff are protected from detrimental action including by maintaining confidentiality and offering support;
 - Manage risk of reprisal; and
 - Notify the Disclosure Officer if they consider a Staff member is being subjected to, or is at risk of, reprisal.

6.1.2 Disclosure Officers

- b) As set out in PD2023_026, Disclosure Officers are responsible for:
- receiving reports of Serious Wrongdoing from Staff, or as passed on by a People Manager;
 - ensuring reports are dealt with appropriately;
 - notifying the NSW Health Pathology Corporate Governance team; and
 - ensuring any verbal report is recorded in writing.

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- c) Following receipt of a voluntary PID report, the Disclosure Officer must provide an acknowledgment to the person who made the report that:
 - The report has been received
 - Confirms that the report will be assessed to determine whether it is a PID
 - States that the PID Act applies to how the report is handled
 - Provide a link to this Procedure
 - Provide details of a contact person and available support.
- d) In addition, a Disclosure Officer in receipt of a report must, in consultation with the Corporate Governance team and HR (as necessary or appropriate in the circumstances):
 - Conduct a risk assessment (including potential risks for the People Manager) as per <https://internal.health.nsw.gov.au/pid/docs/pid-risk-assessment-form.pdf>
 - Take steps to mitigate the risk of detrimental action to the person who made the voluntary PID report.
 - Maintain the confidentiality of the person who made the report.
 - Provide feedback on the progress and outcome of any investigation to the voluntary PID maker.
 - Consider providing information on the progress and outcome of the matter.

6.2 Assessment of whether the report constitutes a PID

Assessment of whether the report of wrongdoing is a PID, and resulting action or investigation required, should be undertaken by Disclosure Officers in consultation with the Corporate Governance team. Where a report of Serious Wrongdoing has been assessed as being a PID, the NSW Health Pathology Disclosures Officer will consider whether it can be managed locally, in consultation with local HR and the Corporate Governance team.

See PD2023_26 in relation to assessment and management of PIDs. Where it is determined the report is a voluntary PID and requires investigation, investigation of the allegations will ordinarily be carried out by HR in accordance with the Managing Misconduct Policy Directive PD2018_031 and related procedures. Other arrangements can be made with the approval of the Director of Legal and Corporate Governance.

Where the report is a mandatory PID, consideration should be given to guidance from the NSW Ombudsman on '[Dealing with Mandatory PIDs](#)' along with PD2023_26.

7. Roles and Responsibilities

Roles and responsibilities are as set out in PD2023_26 and this Procedure.

The NSW Health Pathology Chief Audit Executive (the Director of Legal and Corporate Governance) will report on public interest disclosures as required by PD2023_026.

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8. Legal, Policy and Procedure Framework

The relevant legislation and policies are detailed in PD2023_26 and include the below.

Legislation

- Government Information (Public Access) Act 2009 (NSW) (GIPA Act)
- Health Records and Information Privacy Act 2002 (NSW) (HRIP Act)
- Independent Commission Against Corruption Act 1988 (NSW) (ICAC Act)
- Privacy and Personal Information Protection Act 1998 (NSW) (PPIP Act)
- Public Interest Disclosures Act 2022 (NSW) (PID Act)

Policies and Procedures

- NSW Health PD 2023_026 Public Interest Disclosures
- PD2015_028 - Lobbyist - Code of Conduct, Lobbying Government Officials
- PD2020_020 - Incident Management Policy
- PD2018_032 - Managing Complaints and Concerns about Clinicians
- NSW Health Code of Conduct Policy Directive 2015_049
- NSW Health Corrupt Conduct – Reporting to the Independent Commission Against Corruption Policy Directive PD2016_029
- NSW Health Managing Misconduct Policy Directive 2018_031
- NSW Health Risk Management - Enterprise-Wide Risk Management Policy and Framework PD2015_043
- NSW Health Prevention and Management of Bullying in NSW Health PD2021_030

Additional Material

The NSW Ombudsman has published a range of resources in relation to PIDs, available on its website here: <https://www.ombo.nsw.gov.au/guidance-for-agencies/pid-act-2022>.

NSW Health Disclosures Officers: <https://www.health.nsw.gov.au/workforce/culture/Pages/disclosure-officers.aspx>

9. Review

This procedure will be reviewed by 31/03/2026.

10. Risk

Risk Statement	If Staff do not have a clear understanding of their rights and responsibilities in relation to public interest disclosures, serious wrongdoing may go unrecognised and unreported or staff may not be protected from reprisal connected to reporting such wrongdoing, which could result in significant reputational, financial and legal damage for NSW Health Pathology.
Risk Category Choose one category	Leadership and Management

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11. Further Information

For further information, please contact:

Procedure Contact Officer	Position: Senior Legal Counsel
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12. Version History

The approval and amendment history for this document must be listed in the following table.

Version No	Effective Date	Approved By	Approval Date	Procedure Author	Risk Rating	Sections Modified
1.0	19/12/2019	SLT	05/11/2019	Tammy Boone	Medium	New procedure
2.0	21/12/2021	Director, Corporate Governance	21/12/2021	Director, Corporate Governance	Medium	Minor amendments
3.0	15/03/2024	Director, Legal and Corporate Governance	11/03/2024	Senior Legal Counsel	Medium	Major amendments in line with new PID Act, including disclosures officers at each site and additional obligations of people managers and disclosures officers and increased protection for staff reporting PIDs