



Public Interest Disclosure (NSW)

Guideline

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1 Introduction

The NHVR is committed to an ethical, transparent culture. In pursuit of this, the NHVR values the disclosure of information about suspected wrongdoing within the NHVR, including corrupt conduct and maladministration. It also recognises the value in NHVR officers identifying such wrongdoing.

Disclosure of information allows wrongdoing to be properly assessed and, if necessary, appropriately investigated.

This guideline applies to wrongdoing and its disclosure within New South Wales. However, given the NHVR's operations across various jurisdictions, if necessary, the PID Coordinator will determine the relevant jurisdiction under which the disclosure will be actioned.

The NHVR's *Fraud and Corrupt Conduct Policy* outlines the reporting obligations for fraud and corrupt conduct upon NHVR staff and CEO. Please refer to that policy to ascertain *when* to report such conduct.

This guideline outlines *how* such conduct (and other relevant conduct) is to be reported so as to comply with the *Public Interest Disclosures Act 1994 (NSW)* (PID Act (NSW)). The NHVR will provide support to an employee or others who make disclosures about matters in the public interest. This guideline demonstrates this commitment and ensures that practical and effective procedures are implemented that comply with the PID Act (NSW).

2 Purpose

The guidelines set out the processes for making a public interest disclosure (PID) and the way the NHVR receives, assesses, and deals with PIDs.

By complying with the PID Act (NSW), the NHVR will encourage and facilitate PIDs by:

- enhancing and augmenting established procedures for making disclosures concerning such matters
- protecting persons from reprisals that might otherwise be inflicted on them because of those disclosures
- providing for those disclosures to be properly investigated and dealt with.

The NHVR's *Public Interest Disclosure – Policy* is available on the NHVR website at nhvr.gov.au. The policy and these guidelines will be reviewed annually and updated as required.

This guideline relates only to the making of a disclosure about a NHVR wrongdoing, or to an employee or officer of the NHVR.

3 What can a disclosure be made about?

A disclosure must concern the conduct of a public authority or one of its officers that constitutes wrongdoing.

There are five categories of wrongdoing:

- corrupt conduct
- maladministration
- serious and substantial waste of public money
- government information contravention
- local government pecuniary interest contravention.

Only the first three categories of wrongdoing are applicable to the conduct of the NHVR, and its employees and officers.

3.1 Corrupt conduct

Corrupt conduct has the meaning in the *Independent Commission Against Corruption Act 1988* (ICAC Act)—see [Appendix A – Corrupt conduct definition \(ICAC Act\)](#) in this document.

However, in essence, 'corrupt conduct' is the dishonest or partial exercise of power or position resulting in one person being advantaged over another. It may also involve conduct of non-public officials that adversely affects the honest and impartial exercise of a public official's functions.

3.2 Maladministration

Maladministration is conduct of a kind that involves action or inaction of a **serious nature** that is either contrary to law or unreasonable, unjust, oppressive or improperly discriminatory or based wholly or partly on improper motives.

When determining whether a matter is of a serious nature, it is necessary to consider the severity, frequency and impact on the community and the public sector generally. The following factors may suggest a matter is serious:

- whether the conduct is systemic and for how long and how often it occurs
- whether the conduct is against the law, whether it is deliberate and whether it is repeated
- the scope of the conduct including the number of people and organisations involved
- the effect of the conduct on the integrity of the government sector and public trust in government
- if there has been significant monetary or property loss, substantial effect on an individual, or was or misuse of public money or funds
- the effect of the conduct on an agency's ability to provide services and comply with its obligations
- whether serious safety risks have been created or whether adverse effect on the community
- the severity of the breach of professional standards.

3.3 Serious and substantial waste of public money

Serious and substantial waste of public money is any uneconomical, inefficient or ineffective use of resources, authorised or unauthorised, that results in a loss of public funds or resources.

Serious and substantial waste can be:

Absolute	where the waste is regarded as significant.
Systemic	where the waste indicates a pattern that results from a weakness within an organisation's systems.
Material	where the waste is about the authority's expenditure or a particular item of expenditure, or is to such an extent that it affects an authority's capacity to perform its primary functions.

Some examples are:

- misappropriation or misuse of public property
- the purchase of unnecessary or inadequate goods and services
- overstaffing in particular areas
- staff being remunerated for skills that they do not have, but are required to have under the terms or conditions of their employment
- programs not achieving their objectives and therefore the program's costs being clearly ineffective and inefficient.

Waste can result from such things as insufficient safeguards to prevent the theft or misuse of public property, purchasing practices that do not ensure goods and services are necessary and adequate for their intended purpose, and poor recruiting practices.

4 Who can make a disclosure?

Any **public official** (see [Definitions](#)) may make a disclosure about the conduct of a **public authority** (see [Definitions](#)) or its officers.

To constitute a disclosure protected by the PID Act (NSW), the disclosure must be made to either:

- the NHVR's Chief Executive Officer (CEO) or the NHVR's PID Coordinator
- the supervisor or manager of the employee or officer
- the principal officer of the Department of Parliamentary Services, the Department of Legislative Assembly, or the Department of the Legislative Council about a member of the NSW Parliament
- a member of the NSW Parliament or to a journalist.

In relation to disclosures made to officers of the NHVR, such disclosures must be of information that the person making the disclosure honestly believes, on reasonable grounds, shows or tends to show corrupt conduct, maladministration, or

serious and substantial waste of public money. Furthermore, the disclosure must be made in accordance with these guidelines.

Disclosures to a journalist or a member of Parliament are addressed in [8 Disclosure to a journalist or a member of Parliament](#).

5 How is a disclosure made (and who can it be made to)?

5.1 NHVR staff

A disclosure may be made to the NHVR's CEO, the NHVR's PID Coordinator or to the supervisor or manager of an NHVR employee or officer.

The NHVR's PID Coordinator is the officer authorised by the NHVR's CEO for the purposes of managing PIDs made to the NHVR under the PID Act (NSW).

5.2 Method for making a disclosure

A disclosure to the NHVR's PID Coordinator may be made by one of the following methods:

Email:	PID@nhvr.gov.au
Post:	PID Coordinator National Heavy Vehicle Regulator GPO Box 492 Fortitude Valley Qld 4006
By phone	The Whistle-Blower's Hotline: (07) 3309 8889
In person	A private conversation with the NHVR's PID Coordinator

5.3 Alternative methods

Alternatively:

If the disclosure concerns ...	it may be made to the ...	being in accordance with the ...
corrupt conduct	ICAC	<i>Independent Commission Against Corruption Act 1988 (ICAC Act)</i>
maladministration	Office of the NSW Ombudsman	<i>Ombudsman Act 1974 (NSW)</i>
serious and substantial waste	NSW Auditor-General	<i>Public Finance and Audit Act 1983 (NSW)</i>

Disclosures may be made via those entity's websites, which also include alternate contact details.

Disclosures of a particular kind of conduct or a particular category of public officer as prescribed by the PID Act (NSW) may be made to the appropriate investigating authority. Such disclosures and the investigating authorities are listed in [Appendix B](#) to this guideline.

Disclosure of fraud or corrupt conduct may be made by NHVR staff (note that this is not a publicly available service) using the NHVR Whistle-blower Hotline. A quick guide for the hotline and how to use it is available under Policies and Procedures in the NHVR intranet.

6 What happens after a disclosure is made?

Following receipt of a disclosure, the person who receives the disclosure or the PID Coordinator must consider the following:

- If the content of the disclosure suggests that there is an imminent risk of serious physical injury or death to any person or the public generally, information should be immediately communicated to the most appropriate agency (e.g. the NSW Police Service) to mitigate that risk.

Note: In a high-risk situation, the person who receives the disclosure must immediately communicate the risk to the appropriate agency. If that person is not the PID Coordinator, then they must then immediately notify the PID Coordinator.

- If the person to whom the disclosure is made, or the PID Coordinator, forms a reasonable suspicion that the nature of the disclosure involves corrupt conduct, the matter must be reported under the ICAC Act.

Note: If a person receiving a disclosure indicating corruption is not the PID Coordinator, they must immediately report it to the PID Coordinator. The PID Coordinator is then responsible for reporting the conduct to the ICAC.

If an NHVR employee makes a disclosure to their supervisor or manager, the disclosure must (unless the complaint is about the PID Coordinator) be referred to the NHVR's PID Coordinator for assessment, investigation (if required) and management.

If the complaint is about the PID Coordinator, the matter should be referred to the NHVR's CEO for consideration of whether to authorise a new PID Coordinator for the purpose of that matter.

6.1 Assessing whether the disclosure is a PID

In handling a PID, the PID Coordinator is required to comply with requirements of the PID Act (NSW) and these guidelines.

Following receipt of a disclosure, the PID Coordinator must (if the discloser's identity is known or contact details have been provided):

- within 45 days of a disclosure being made, provide a copy of these guidelines and written acknowledgement of receipt of the disclosure to the person who made it
- within six months after receiving the disclosure, assess the disclosure and notify the discloser, that an assessment of the information has been made and advise the discloser either:
 - of the action being taken, or
 - if no action is being taken, of the reasons why no action is being taken in relation to the information.

In assessing the disclosure, unless there is evidence to the contrary, the PID Coordinator must accept that what is asserted by the public official is that person's belief, and that it is an honest belief.

If it is determined that the disclosure is not a PID, then at the same time as communicating that advice, the PID Coordinator should also direct the discloser to other policies or resources relevant to their concerns.

6.2 Completing a risk assessment and managing risks

Although not an explicit requirement under the PID Act (NSW), the PID Coordinator will, as soon as possible after receipt of the disclosure, conduct a risk assessment to assess the likelihood of detrimental action being taken against the discloser as a result of having made the disclosure.

A risk management plan may be developed, depending on the level of risk, in consultation with the discloser (where their identity is known), the Manager People and Culture (HR), and any other individual as identified by the PID Coordinator. The risk management plan will be reviewed and amended if required until such time as the PID is finalised.

Whether or not a management plan has been developed, the PID Coordinator must, in consultation with the Manager People and Culture (HR), so far as reasonably practicable, manage any allegations of detrimental action or suspected detrimental action taken against the discloser.

When conducting the risk assessment and considering appropriate measures to manage the risk of detrimental action being taken against the discloser, the PID Coordinator will have regard to the principles in the [Public Interest Disclosure Risk Assessment and Risk Management Guide](#) published by the Queensland Ombudsman.

If the discloser is concerned or suspects that they may have been or will be the subject of detrimental action on the grounds of having made, or being about to make, a PID, they are encouraged to report that suspicion by either:

- raising the concern or suspicion with the PID Coordinator
- contacting an investigating authority, such as the Office of the NSW Ombudsman (for instance, if the concern or suspicion relates to the PID Coordinator).

6.3 Referring to an investigating authority

If satisfied that the disclosure is one protected by the PID Act (NSW), the PID Coordinator must consider whether it is appropriate for the NHVR to refer the matter to an investigating authority.

Reasons to refer the matter include:

- the information disclosed indicates wrongdoing by a combination of NHVR and non-NHVR officials
- the NHVR does not have the appropriate resources to conduct the investigation because of the scale or seriousness of the conduct
- there might be a conflict of interest or the perception of a conflict of interest if NHVR were to conduct the investigation.

Where the matter is referred to the appropriate investigating authority (see [Appendix B](#)) any information that the PID Coordinator has obtained in relation to the disclosure must also be provided to that authority.

The PID Coordinator must advise the public official who made the disclosure of this decision as soon as practicable.

The PID Coordinator may find that the conduct disclosed is in fact the conduct of another authority and its officers. In those circumstances, the matter should be referred to that other authority, along with any information that the PID Coordinator has obtained in relation to the disclosure.

The PID Coordinator must advise the discloser of this decision as soon as practicable.

6.4 Investigation

If a decision is made to investigate a PID, the NHVR may appoint an investigator (who may be internal or external to the NHVR) to conduct the investigation. The investigation will be undertaken with consideration of the:

- principles of natural justice
- obligation under the PID Act (NSW) to protect confidential information
- obligation under the PID Act (NSW) to protect public officials from reprisal
- interests of the person the subject of the disclosure.

If the information about wrongdoing provided in the PID is substantiated, the NHVR will decide what appropriate action should be taken (which may include, via the appropriate delegate, action in accordance with the NHVR's usual disciplinary and/or other processes).

Where the investigation does not substantiate any wrongdoing, the PID Coordinator may recommend that the NHVR review its systems, policies and procedures to identify whether there are improvements that can be made and consider if staff training is required.

The PID Coordinator will advise the discloser in writing of the outcome of the PID.

7 Protections for disclosers

The PID Act (NSW) provides disclosers with appropriate protections including:

- immunity from liability
- confidentiality
- protection from detrimental action.

Disclosure by a public official to a member of the NSW Parliament, or to a journalist, is also protected by the PID Act (NSW)—see [8 Disclosure to a journalist or a member of Parliament](#).

7.1 Immunity from liability

A person is not subject to any liability for making a PID and no action, claim or demand may be taken or made of or against the person for making the disclosure.

7.2 Confidentiality

The identity of the discloser must be kept confidential unless:

- the discloser has consented in writing to their identity being disclosed (or if the person has voluntarily identified themselves, otherwise than by making the PID, as the person who made the PID)
- it is essential, having regard to the principles of natural justice, that the identifying information be disclosed to a person whom the information provided by the disclosure may concern
- the investigating authority, public authority, officer or public official is of the opinion that disclosure of the identifying information is necessary to investigate the matter effectively or it is otherwise in the public interest to do so.

To ensure the discloser's confidentiality is protected, the NHVR will:

- apply internal procedures to ensure that a discloser who is an NHVR employee or officer maintains confidentiality about the PID
- store information about appropriate disclosures securely and will handle such information with reasonable care.

7.3 Detrimental action

A person who takes detrimental action against a discloser on the ground, or substantially on the ground, that the person has made or intends to make an appropriate disclosure of public interest information, commits an act of victimisation.

A person who takes detrimental action commits an offence under the PID Act (NSW). The offence has a maximum penalty of 100 penalty units or two years imprisonment.

A discloser may commence proceedings in a court seeking a remedy for damages for any loss that the discloser suffers as a result of the detrimental action.

Note: NHVR will implement appropriate procedures to reasonably protect a discloser from detrimental action. See [10 Welfare management](#).

If the discloser is concerned or suspects that they may have been or will be the subject of detrimental action on the grounds of having made, or being about to make, an appropriate disclosure of public interest information, they are encouraged to report that suspicion by either:

- raising the concerns or suspicions with the PID Coordinator
- raising the concerns with their supervisor or manager or another appropriate NHVR officer, if the concerns relate to the way in which the NHVR PID Coordinator is handling the matter
- contacting other Investigating Authorities, as may be necessary.

8 Disclosure to a journalist or a member of Parliament

A disclosure by a public official to a member of the NSW Parliament, or to a journalist, is protected by the PID Act (NSW) only if the following conditions are satisfied:

- the public official making the disclosure has already made substantially the same disclosure to an investigating authority, public authority or officer of a public authority in accordance with the PID Act (NSW);
- the investigating authority, public authority or officer to whom the disclosure was made:
 - has decided not to investigate the matter; or
 - has decided to investigate the matter but not completed the investigation within 6 months of the original disclosure being made; or
 - has investigated the matter but not recommended the taking of any action in respect of the matter; or
 - has failed to notify the person making the disclosure, within 6 months of the disclosure being made, of whether or not the matter is to be investigated;
- the public official has reasonable grounds for believing that the disclosure is substantially true; and
- the disclosure is substantially true.

9 Protections for the subject of the complaint

An NHVR officer who is the subject of a PID is entitled to confidentiality.

The NHVR will handle and investigate PIDs impartially, fairly and reasonably, in accordance with the principles of natural justice.

10 Welfare management for the discloser

The NHVR recognises that providing appropriate support to a discloser is an important feature of effective PID management.

An assessment will be undertaken to identify the support needs of the discloser. Where appropriate, a PID support officer will be assigned to the discloser. The PID support officer will assist the discloser to access information about PIDs, protections available under the PID Act (NSW) and the PID management process.

Information and support will be provided to the discloser until the matter is finalised.

Making a PID does not prevent reasonable management action undertaken in a reasonable way as part of the ordinary course of an individual's employment. That means that the discloser will continue to be managed in accordance with normal, fair and reasonable management practices during and after the handling of the PID.

The NHVR may also provide appropriate support to the subject of the complaint.

11 Offences

It is an offence to take detrimental action against a person who makes or intends to make a disclosure under the PID Act (NSW). (See [7.3 Detrimental Action](#)).

- Maximum penalty is 100 penalty units or two years imprisonment.

It is an offence for a person making a PID to willfully make a false statement to, or mislead or attempt to mislead the authority or official to whom they make the disclosure.

- Maximum penalty is 50 penalty units or 12 months imprisonment.

12 The NHVR's reporting obligations

The NHVR is required to report on PIDs in its Annual Report, and to provide six monthly reports to the Office of the NSW Ombudsman, for the period ending 30 June and 31 December in relation to PIDs. The reports must include the information prescribed by regulation.

The Annual Report is to be tabled in each house of Parliament by the responsible Minister for the NHVR in NSW.

13 Discloser's right of review

If a discloser is concerned or believes that the disclosure is not being dealt with appropriately by the NHVR, the discloser may either:

- contact other relevant authorities such as the Officer of the NSW Ombudsman
- raise the matter with the NHVR's CEO for review and consideration of authorising another PID Coordinator for the PID.

14 Roles and responsibilities

The following roles are responsible for the activities in this guideline.

Role	Responsibilities
Chief Executive Officer/Principal Officer	<ul style="list-style-type: none"> • appoints one or more officers as the PID Coordinator • ensures the name and contact details of the NHVR's PID Coordinator is made available to all NHVR employees and officers

Role	Responsibilities
	<ul style="list-style-type: none"> ensures procedures are made available for a person who wants to make an appropriate disclosure of public interest information to NHVR ensures NHVR staff are aware of the contents of the policy and the protections under this Act for a person who makes a public interest disclosure.
PID Coordinator Director, Legal Services	<ul style="list-style-type: none"> designated by the NHVR's CEO to: <ul style="list-style-type: none"> receive appropriate disclosures of public administration information relating to NHVR public officers encourage the discloser to raise any concerns they have about potential detrimental outcomes that may be caused from the disclosure assess the PID and if appropriate appoint an investigator ensure that the person making the disclosure is kept informed of progress in the investigation into the PID ensure compliance with the PID Act (NSW) and these guidelines make appropriate recommendations to the NHVR's Principal Officer for dealing with PIDs provide advice to NHVR staff in relation to their obligations, protections and offences under PID Act (NSW) and about this guideline.
Chiefs/Executive Directors/Directors/Managers/Supervisors	<ul style="list-style-type: none"> maintains a workplace culture that values professionalism, integrity and diligence demonstrates positive ethical standards through their own conduct and communications at work and values all employees creates a supportive reporting environment that encourages employees to report any concerns about wrongdoing provides appropriate confidential support to employees who report suspected wrongdoing and provide assurance to them by making clear statements of support. liaises with the PID Coordinator and Manager People and Culture (HR) to ensure appropriate protective measures are in place for the discloser monitors the workplace and taking all reasonable steps to minimise the risk of detrimental action towards the discloser implements appropriate controls to prevent harm to the NHVR's assets and resources.
Manager, People and Culture (HR)	<ul style="list-style-type: none"> appoints a PID support officer for the discloser if required decides on appropriate action—consults with senior management (i.e. Chief/ED/CEO)
PID Support Officer	<ul style="list-style-type: none"> provides advice and information to the discloser on NHVR's PID procedure provides personal support and referral to other sources of advice or support as required facilitates updates on progress of investigation proactively contacts the discloser throughout PID management process.
Employee	<ul style="list-style-type: none"> conducts their duties to a high professional and ethical standard seeks appropriate guidance if they have an ethical issue immediately reports a matter, to a relevant authority, if they honestly believe that some wrongdoing has occurred maintains confidentiality about the fact that a PID has been made, the information disclosed and the identity of those referred to in the PID is prepared to assist in an investigation of the PID if requested by an investigator to provide information reports any reprisal action to their workplace manager or appropriate NHVR officer.

15 Definitions

The following terms are specific to this guideline.

Term	Definition
Corrupt conduct	See Appendix A .
Chiefs	The NHVR's Chief Corporate Officer, Chief Operations Officer, and Chief Regulatory Policy & Standards Officer
Detrimental action	Action causing, comprising or involving any of the following: <ol style="list-style-type: none"> injury, damage or loss intimidation or harassment discrimination, disadvantage or adverse treatment in relation to employment dismissal from, or prejudice in, employment disciplinary proceeding.
Discloser	<p>A person—being a 'public official'—who makes a disclosure in accordance with these guidelines to:</p> <ul style="list-style-type: none"> an investigating authority; or to the principal officer of a public authority or investigating authority or officer who constitutes a public authority; or another officer of the public authority or investigating authority to which the public official belongs; or an officer of the public authority or investigating authority to which the disclosure relates. <p>Also, a person—being a 'public official'—who makes a disclosure to:</p> <ul style="list-style-type: none"> the principal officer of the Department of Parliamentary Services, the Department of Legislative Assembly or the Department of the Legislative Council about the conduct of a member of Parliament; or a member of Parliament or to a journalist.
ICAC Act	<i>Independent Commission Against Corruption Act 1988 (NSW)</i>
Investigating authority	<ol style="list-style-type: none"> the Auditor-General, or the Commission, or the Ombudsman, or the LECC (Law Enforcement Conduct Commission), or the LECC Inspector, or the local government investigating authority, or the ICAC Inspector, or the Information Commissioner, or the CC (Crime Commission) Inspector.
Journalist	A person engaged in the occupation of writing or editing material intended for publication in the print or electronic news media.
Maladministration	Maladministration is conduct of a kind that involves action or inaction of a serious nature that is either contrary to law or unreasonable, unjust, oppressive or improperly discriminatory or based wholly or partly on improper motives.
Independent Commission Against Corruption (ICAC)	The ICAC is a statutory corporation created by the ICAC Act. The principal functions of the ICAC are listed in section 13 of the ICAC Act.
Principal Officer	The NHVR's Chief Executive Officer.

Term	Definition
Public official	<p>(1) In the <i>Public Interest Disclosures Act 1994</i>, means</p> <p>(a) an individual who is an employee of or otherwise in the service of a public authority, and includes (without limitation) each of the following:</p> <p>(i) a Public Service employee;</p> <p>(ii) a member of Parliament, but not for the purposes of a disclosure made by the member,</p> <p>(iii) a person employed by either or both of the President of the Legislative Council or the Speaker of the Legislative Assembly,</p> <p>(iv) any other individual having public official functions or acting in a public official capacity whose conduct and activities may be investigated by an investigating authority;</p> <p>(v) an individual in the service of the Crown; or</p> <p>(a1) a person employed under the <i>Members of Parliament Staff Act 2013</i>; or</p> <p>(b) an individual who is engaged by a public authority under a contract to provide services to or on behalf of the public authority; or</p> <p>(c) if a corporation is engaged by a public authority under a contract to provide services to or on behalf of the public authority, an employee or officer of the corporation who provides or is to provide the contracted services or any part of those services.</p>
Public authority	<p>Any public authority whose conduct or activities may be investigated by an investigating authority, and includes (without limitation) each of the following:</p> <p>(a) a Public Service agency;</p> <p>(b) a State-owned corporation and any subsidiary of a State owned corporation;</p> <p>(c) a local government authority;</p> <p>(d) the NSW Police Force, PIC and PIC Inspector;</p> <p>(e) the Department of Parliamentary Services, the Department of the Legislative Assembly and the Department of the Legislative Council.</p>
PID Coordinator	Any officer authorised by the NHVR's Chief Executive Officer for the purposes of administering the PID Act (NSW).
Serious and Substantial Waste of Public Money	Any uneconomical, inefficient or ineffective use of resources, authorised or unauthorised, which results in a loss of public funds or resources.
Support Officer	The person nominated or appointed by the NHVR to support the discloser.

16 References

16.1 Other policies and procedures

- *Public Interest Disclosure Policy*
- *Code of Conduct Policy*
- *Conflict of Interest Policy*
- *Employee Complaints Management Policy*
- *Customer Complaints Management Policy*
- *Fraud and Corrupt Conduct Policy*
- *Whistle-Blower Hotline Quick Guide*

16.2 Legislation

- *Independent Commission Against Corruption Act 1988* (NSW)
- *Public Interest Disclosures Act 1994* (NSW)
- *Public Interest Disclosures Regulation 2011* (NSW)

Appendix A – Corrupt conduct definition (ICAC Act)

- (1) Corrupt conduct is:
- (a) any conduct of any person (whether or not a public official) that adversely affects, or that could adversely affect, either directly or indirectly, the honest or impartial exercise of official functions by any public official, any group or body of public officials or any public authority; or
 - (b) any conduct of a public official that constitutes or involves the dishonest or partial exercise of any of his or her official functions; or
 - (c) any conduct of a public official or former public official that constitutes or involves a breach of public trust, or
 - (d) any conduct of a public official or former public official that involves the misuse of information or material that he or she has acquired in the course of his or her official functions, whether or not for his or her benefit or for the benefit of any other person.
- (2) Corrupt conduct is also any conduct of any person (whether or not a public official) that adversely affects, or that could adversely affect, either directly or indirectly, the exercise of official functions by any public official, any group or body of public officials or any public authority and which could involve any of the following matters:
- (a) official misconduct (including breach of trust, fraud in office, nonfeasance, misfeasance, malfeasance, oppression, extortion or imposition);
 - (b) bribery;
 - (c) blackmail;
 - (d) obtaining or offering secret commissions;
 - (e) fraud;
 - (f) theft;
 - (g) perverting the course of justice;
 - (h) embezzlement;
 - (i) election bribery;
 - (j) election funding offences;
 - (k) election fraud;
 - (l) treating;
 - (m) tax evasion;
 - (n) revenue evasion;
 - (o) currency violations;
 - (p) illegal drug dealings;
 - (q) illegal gambling;
 - (r) obtaining financial benefit by vice engaged in by others;
 - (s) bankruptcy and company violations;
 - (t) harbouring criminals;
 - (u) forgery;
 - (v) treason or other offences against the Sovereign;
 - (w) homicide or violence;
 - (x) matters of the same or a similar nature to any listed above;
 - (y) any conspiracy or attempt in relation to any of the above.
- (2A) Corrupt conduct is also any conduct of any person (whether or not a public official) that impairs, or that could impair, public confidence in public administration and which could involve any of the following matters:
- (a) collusive tendering;
 - (b) fraud in relation to applications for licences, permits or other authorities under legislation designed to protect health and safety or the environment or designed to facilitate the management and commercial exploitation of resources;

- (c) dishonestly obtaining or assisting in obtaining, or dishonestly benefiting from, the payment or application of public funds for private advantage or the disposition of public assets for private advantage;
 - (d) defrauding the public revenue;
 - (e) fraudulently obtaining or retaining employment or appointment as a public official.
- (3) Conduct may amount to corrupt conduct under subsection (1), (2) or (2A) even though it occurred before the commencement of that subsection, and it does not matter that some or all of the effects or other ingredients necessary to establish such corrupt conduct occurred before that commencement and that any person or persons involved are no longer public officials.
- (4) Conduct committed by or in relation to a person who was not or is not a public official may amount to corrupt conduct under this section with respect to the exercise of his or her official functions after becoming a public official. This subsection extends to a person seeking to become a public official even if the person fails to become a public official.
- (5) Conduct may amount to corrupt conduct under this section even though it occurred outside the State or outside Australia, and matters listed in subsection (2) or (2A) refer to:
- (a) matters arising in the State or matters arising under the law of the State; or
 - (b) matters arising outside the State or outside Australia or matters arising under the law of the Commonwealth or under any other law.
- (6) The specific mention of a kind of conduct in a provision of this section shall not be regarded as limiting or expanding the scope of any other provision of this section.

Limitation on nature of corrupt conduct

- (1) However, conduct does not amount to corrupt conduct unless it could constitute or involve:
- (a) a criminal offence; or
 - (b) a disciplinary offence; or
 - (c) reasonable grounds for dismissing, dispensing with the services of or otherwise terminating the services of a public official; or
 - (d) in the case of conduct of a Minister of the Crown or a member of a House of Parliament—a substantial breach of an applicable code of conduct.
- (2) It does not matter that proceedings or action for such an offence can no longer be brought or continued, or that action for such dismissal, dispensing or other termination can no longer be taken.

Appendix B – Other agencies to whom disclosures can be made and what they can be made about

Particular types of conduct by particular officials may be reported to the appropriate investigating authority as follows:

Type of conduct	Investigating authority	Act
Corruption	ICAC www.icac.nsw.gov.au	ICAC Act 1988
Maladministration	Ombudsman www.ombo.nsw.gov.au	<i>Ombudsman's Act 1974</i>
Serious and substantial waste of public money	Auditor General www.audit.nsw.gov.au	<i>Public Finance and Audit Act 1983</i>
Government information contravention	Information Commissioner www.ipc.nsw.gov.au	<i>Government Information (Information Commissioner) Act 2009</i>

Wrongdoing by particular categories of public official may be reported to these investigators:

Type of conduct	Investigating authority	Act
Wrongdoing by NSW police or police officers or Crime Commission or its officers	Law Enforcement Conduct Commission www.lecc.nsw.gov.au	<i>Law Enforcement Conduct Commission 2016</i>
Wrongdoing by council members or staff	Local government investigating authority www.olg.nsw.gov.au	<i>Local Government Act 1993</i>
Wrongdoing by ICAC or its staff	ICAC inspector www.icac.nsw.gov.au	ICAC 1988
Wrongdoing by NSW police or police officers or Crime Commission or its officers	Law Enforcement Conduct Commission www.lecc.nsw.gov.au	<i>Law Enforcement Conduct Commission 2016</i>

In each case, the disclosure must be made in the way prescribed by the relevant legislation.

Protection for misdirected disclosures:

A disclosure that is made to the wrong investigating authority is still protected by the PID Act (NSW), so long as the investigating authority either re-directs the disclosure to the appropriate authority, or chooses to investigate the matter itself. (It may be difficult to distinguish in some case between for example a serious waste of public money and maladministration).

Appendix C – Public Interest Disclosure (NSW) process

