

Public Interest Disclosure

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1. Purpose

NOPSEMA encourages and supports the reporting of suspected wrongdoing (a public interest disclosure) by public officials in accordance with the *Public Interest Disclosure Act 2013* (the PID Act) and will act on disclosures where appropriate, as well as protect disclosers and others who provide, or are considering providing assistance, from reprisals or threats of reprisals.

This Policy should be read in conjunction with NOPSEMA's N-12100-SOP1331 Public Interest Disclosure Procedure.

2. Public Interest Disclosures

A disclosure of information will only be a 'public interest disclosure' (PID) for the purposes of the PID Act, if it meets the following requirements:

- it is made by a public official (the discloser);
- the information tends to show, or the discloser believes on reasonable grounds that there is information that tends to show one or more instances of 'disclosable conduct'; and
- the disclosure is made to an appropriate person (an Authorised Officer or the supervisor of the discloser).

A 'public official' includes a current or former NOPSEMA employee, individual contracted service providers and/or their employees who provide services to NOPSEMA under a contract.

NOPSEMA's Authorised Officers are listed in the table below:

Authorised Officer	Division	Contact Information
David Christensen	Regulatory Operations	Telephone: (08) 6188 8801 Email: david.christensen@nopsema.gov.au
Jeremy Dunster	Strategic Regulation and Improvement	Telephone: (08) 6188 8746 Email: jeremy.dunster@nopsema.gov.au
Julie Kordic	Corporate and Business Transformation	Telephone: (08) 6188 8968 Email: julie.kordic@nopsema.gov.au

'Disclosable conduct' is conduct by an agency, a public official in connection with their position or a contracted Commonwealth service provider in connection with a contract and includes conduct that:

- contravenes a law of the Commonwealth, State or Territory;
- perverts, or attempts to pervert the course of justice or involves corruption of any other kind;
- constitutes maladministration;

- is an abuse of public trust;
- results in wastage of public money or property;
- unreasonably endangers the health and safety of other people or the environment; or
- is engaged in by a public official involves an abuse of their position/could, if proved, give reasonable grounds for disciplinary action resulting in the termination of the official's engagement or appointment¹.

A public official may report disclosable conduct to their supervisor, or an NOPSEMA Authorised Officer. If the conduct is reported to the supervisor in the first instance, and the supervisor has reasonable grounds to believe that the information given to them concerns, or could concern, disclosable conduct, they must refer it to an Authorised Officer as soon as reasonably practicable. If a public official has information about suspected wrongdoing in another agency, they may choose to make a disclosure directly to an Authorised Officer in that agency.

The Authorised Officer will decide whether the disclosure is of a kind covered by the PID Act, and if so, will allocate it to the appropriate agency to investigate the matter. If the conduct relates to NOPSEMA, then it will be allocated to NOPSEMA as the investigating agency. The Principal Officer must investigate, or delegate the investigation of, disclosures allocated to NOPSEMA except for circumstances outlined in section 48 of the PID Act. A public interest disclosure will be investigated within 90 days of it being made in accordance with the PID Act and the Public Interest Disclosure Standard 2013 (Cth). The investigator will conduct an investigation and provide an investigation report to the Principal Officer and the discloser. The Principal Officer will also provide a copy of the investigation report to the Commonwealth Ombudsman.

In some cases, disclosable conduct may also be dealt with by other relevant policies and procedures, for example an alleged breach of the Australian Public Service Code of Conduct under NOPSEMA's N-12000-PL0339 Code of Conduct Policy, or where conduct involves suspected fraud and corruption under NOPSEMA's N-07400-PL1476 Fraud and Corruption Control Plan. Further, in an instance of suspected corrupt conduct, the conduct must be referred to the National Anti-Corruption Commission (NACC) under the *National Anti-corruption Commission Act 2022* (NACC Act).

3. Responsibilities

3.1. Principal Officer

NOPSEMA's Chief Executive Officer (CEO) is the Principal Officer under the PID Act². The Principal Officer is responsible for:

- establishing written procedures to facilitate and deal with PIDs that comply with the PID Standard and must include assessment of reprisal risk³;

¹ Note that amendments to the PID Act in 2023 exclude 'personal work-related conduct' from being 'disclosable conduct' unless the conduct constitutes taking reprisal action, is of such significant nature that it would undermine public confidence in an agency or has other significant implications for an agency.

² Note that the CEO is also an authorised officer of NOPSEMA so can receive disclosures. The CEO may also delegate any, or all, of their functions or powers to a public official of NOPSEMA.

³ Reprisal occurs if someone causes, by an act or omission, any detriment to another person because they believe or suspect that person, or anyone else, may have made or intends to make a public interest disclosure, including threats to take a reprisal action. Protection against reprisal also extends to public officials who could make a disclosure but have not yet done or may never do so, e.g. officials likely to have knowledge of a matter

- Take reasonable steps to provide ongoing training and education to public officials about the PID Act, including specific training to support those officials' performing functions under the PID Act;
- appointing Authorised Officers, ensuring the number of Authorised Officers is sufficient to be readily accessible by public officials belonging to NOPSEMA and that public officials are aware of the identity of NOPSEMA's Authorised Officers;
- encouraging and supporting public officials who make, or are considering making, public interest disclosures to NOPSEMA and any other persons who provide, or are considering providing, assistance in relation to public interest disclosures;
- ensuring disclosures are properly investigated;
- take reasonable steps to protect NOPSEMA public officials against reprisals in relation to PIDs that have been, may have been, are proposed to be, or could be made to NOPSEMA;
- Advising persons providing assistance during investigations of their protections under section 12A of the PID Act;
- prepare an investigation report and take appropriate action in response to recommendations made in the report; and
- notify the discloser and the Commonwealth Ombudsman of the completion of an investigation under the PID Act and provide a copy of the investigation report.

3.2. Authorised Officers

Authorised Officers are responsible for:

- providing information to disclosers on the public interest disclosure process and protections available, including the circumstances in which a PID must be referred to another agency, person or body under a law of the Commonwealth;
- receiving disclosures from public officials about disclosable conduct;
- deeming a person to be a public official to facilitate the making of a PID;
- assessing reported information to determine if there are reasonable grounds to believe the information could be considered to be a PID and should be investigated under the PID Act; or if it would be more appropriately investigated under another law or power⁴;
- obtaining information and making preliminary inquiries necessary to make an allocation decision;
- allocating all, or part, of the public interest disclosure to NOPSEMA's CEO or the Principal Officer of another agency for investigation within 14 days of receiving the disclosure;
- assessing risks of reprisal against a public official, witness or other relevant public official;

that has been the subject of a public interest disclosure matter. It also extends to witnesses and public officials exercising powers or performing functions under the PID Act.

⁴ There must be another law or power under which the conduct could be investigated, and the alternative investigative process is more appropriate as it is designed for investigating the specific kind of alleged conduct (e.g. Code of Conduct), includes specific investigative powers or is more flexible or better suited to investigating and responding to the alleged conduct.

- taking reasonable steps to protect public officials who belong to NOPSEMA from reprisal if they suspect that a relevant PID has been, may have been, is proposed to be, or could be made or given to them;
- notifying the Commonwealth Ombudsman:
 - of the reallocation of a public interest disclosure,
 - when a disclosure is not allocated for investigation under the PID Act, or
 - when a stop action direction from the NACC prevents allocation of all or part of the disclosure;
- informing the discloser of the allocation decision;
- consenting to the allocation of a disclosure by the Authorised Officer of another agency;
- advising the discloser of a decision not to allocate, the reasons why and any other course of action available under Commonwealth law; and
- referring suspected systemic or serious corrupt conduct to the NACC.

3.3. Supervisors

A supervisor is a public official who supervises or manages the person making a disclosure.

Supervisors must provide Authorised Officers with information they have received from public officials they supervise which tends to show disclosable conduct as soon as practicable. This obligation applies even if the discloser does not want the matter to be identified as a public interest disclosure, or the information to be investigated.

Supervisors must also explain the following to a discloser:

- that their public interest disclosure could be treated as an internal disclosure;
- the next steps in the process; referring the disclosure to an Authorised Officer, potential allocation and investigation;
- the circumstances (if any) in which a PID must be referred to an agency, other person, or body under another law of the Commonwealth; and
- the civil and criminal protections that the PID Act provides to protect disclosers, and those assisting with the handling of the PID (including witnesses).

3.4. Public Officials

- Public officials must use their best endeavours to assist:
 - a Principal Officer in the conduct of an investigation;
 - the Commonwealth Ombudsman in the performance of their functions under the PID Act;
 - any other public official to exercise a right or perform a duty or function under the PID Act.

Officials (including disclosers, witnesses and those assisting the CEO in performing functions under the PID Act) are not liable for any civil, criminal or administrative action (including disciplinary action) for acts or omissions done in good faith when providing such assistance, including witnesses. Disclosers are also protected from exposure of their identity (sections 20 and 21 of the PID Act).

4. Rights of review

If a discloser is unhappy with NOPSEMA's decision, or a decision was not completed within required timeframes, they may make an 'external disclosure', which is a disclosure to any person outside government, or complaint about the public interest disclosure process, or NOPSEMA's handling of their disclosure to the Commonwealth Ombudsman. More information on how to make an external disclosure or complaint is available from the [Commonwealth Ombudsman](#).

5. References

National Anti-Corruption Commission Act 2022 (Cth)

Public Interest Disclosure Act 2013 (Cth)

Public Interest Disclosure Standard 2013 (Cth)

National Anti-Corruption Commission "What is Serious or Systemic Corrupt Conduct?"

Ombudsman "Agency Guide to the Public Interest Disclosure Act 2013"

N-07400-PL1476 Fraud and Corruption Control Plan

N-12000-PL0339 Code of Conduct Policy

N-12000-PL0800 Resolving Workplace Issues Policy

N-15000-PL0215 Records Management Policy

N-12100-SOP1331 Public Interest Disclosure Procedures

N-12100-FM1875 Risk of Reprisal Assessment for Disclosers, Witnesses and Other Relevant Professionals