

Public interest disclosures policy

Environment Protection Authority





Acknowledgement of Country

The NSW Environment Protection Authority acknowledges the Traditional Custodians of the land on which we live and work, honours the ancestors and the Elders both past and present and extends that respect to all Aboriginal people.

We recognise Aboriginal peoples' spiritual and cultural connection and inherent right to protect the land, waters, skies and natural resources of NSW. This connection goes deep and has since the Dreaming.

We also acknowledge our Aboriginal and Torres Strait Islander employees who are an integral part of our diverse workforce and recognise the knowledge embedded forever in Aboriginal and Torres Strait Islander custodianship of Country and culture.

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1. Introduction

The EPA is an independent statutory authority, sitting in the portfolio of the Minister for Environment. The EPA works in partnership with communities, businesses, and government to protect human health, reduce pollution and waste, and prevent degradation of the environment.

The EPA is responsible for regulating a diverse range of activities, using a suite of legislation and tools which establishes a strong basis for environmental protection that is outcomes-focused, proactive and contains appropriate compliance mechanisms and actions.

1.1 Message from the CEO, Tony Chappel

The EPA is committed to having an ethical working culture. A system where staff are comfortable and confident to internally report wrongdoing is an integral part of this culture.

Under the EPA's *Code of Ethics and Conduct* all staff have a responsibility and an ethical obligation to report wrongdoing. In support of this obligation the EPA is committed to providing reporters with the support they need, including:

- protecting them against detrimental actions
- identifying public officials who have been nominated and trained to accept a potential public interest disclosures
- making sure public officials to whom public interest disclosures may be made identify the reports that are potentially public interest disclosures
- making sure public interest disclosures are properly managed by managers, nominated disclosure officers and the Chief Executive Officer.

2. Policy

2.1 Policy statement – fostering public interest reporting of wrongdoing

The EPA is committed to:

- delivering its work for the NSW environment, businesses, and community in an effective, efficient, and ethical manner
- taking all reasonable steps to prevent ineffectual, inefficient, and unethical practices from happening
- responding appropriately to any reports or allegations of wrongdoing in a way that is fair to all those involved.

The EPA has zero tolerance towards wrongdoing, and encourages **public officials** to report these matters promptly, so that appropriate action can be taken.

2.2 Purpose

All agencies in NSW are required to have a public interest disclosures policy under section 42 of the [Public Interest Disclosure Act 2022](#) (the Act). The purpose of this policy is to set out the requirements for **public**

officials to fulfil their obligations under the Act. It is essential for the EPA to understand what is and may be happening.

The purpose of the policy is also to set out the EPA's responsibilities to make sure such reporting of disclosures that are or may be public interest disclosures are handled according to the Act (or, if it is not a public interest disclosure, in line with other EPA policies and procedures) and to outline the protections available under the Act to makers of public interest disclosures.

The integrity of the EPA relies upon staff, volunteers, contractors and subcontractors speaking up when they become aware of wrongdoing. Part of that speak up culture is having a framework in place aligned with the Act is necessary to allow public interest reporting of wrongdoing by establishing internal reporting processes by which someone can report suspected wrongdoing and be protected from detrimental action.

This policy sets out:

- the obligation of **public officials** to report all wrongdoing they become aware of, regardless of whether it may be considered serious
- how the EPA will support and protect **public officials** who come forward with a report of serious wrongdoing (including protecting those who speak up from **detrimental action**)
- other protections which are available under the Act to those who make a report
- the EPA's disclosure officers, who are the persons that **public officials** can contact if they want to make a report
- how to make a report
- how the EPA will take appropriate action to investigate or otherwise deal with reports received of wrongdoing, and the EPA's other responsibilities under the Act.

This policy should be read with:

- *EPA Code of Ethics and Conduct*
- *EPA Managing Misconduct Policy and Procedure Guide*
- *EPA Statement of Business Ethics*
- *EPA Complaint Handling Policy and Procedure Guide*
- *EPA's Obligations Framework*
- *EPA Fraud and Corruption Control Policy.*

This policy is designed to help **public officials**:

- attain and demonstrate mature compliance with the EPA's values and all requisite ethical and behavioural standards as stipulated in the [EPA Code of Ethics and Conduct](#) (EPA Code)
- manage the risks of non-compliance
- develop and maintain the ability to apply relevant and proportionate controls to prevent non-compliance, and to monitor for and detect instances of non-compliance
- take fair and reasonable corrective action in response to instances of non-compliance (this may involve promptly reporting instances of non-compliance using the appropriate mechanisms detailed in this policy)
- be aware of governance arrangements that will protect confidentiality and promote procedural fairness
- make sure the processes described in this policy are implemented in a prompt and correct manner.

This policy is designed to complement normal communication channels between managers and employees. **Public officials** are encouraged to raise matters of concern at any time with their people leader. Staff should be aware that if they suspect a report is a public interest disclosure they should make the disclosure according to this policy.

This policy is part of the suite of the EPA's governance and employment related policies. It is not intended to be used for complaints or employee grievances, which should be raised with the employee's manager or the People Culture and Capability Branch in line with:

- the *Respectful Workplace and Anti-Bullying Policy and Procedure Guide* – for general grievances
- the *Managing Misconduct Policy and Procedure Guide* – in instances where the alleged behaviours may amount to misconduct.

2.3. Accessibility

This policy is available on the EPA's website and internally on Horizon.

2.4. Who does this policy apply to?

This policy applies to all EPA **public officials** (see 2.6.2). This includes:

- all **employees** of the EPA – whether on an ongoing, fixed term, casual, or temporary basis, or on secondment to the EPA
- volunteers, contingent workers, independent contractors, subcontractors and consultants engaged by the EPA who are providing services on behalf of the EPA or exercising EPA functions.
Note: Workers engaged through third parties (e.g., volunteers, contingent workers, independent contractors, subcontractors and consultants) will need to meet engagement and other requirements as set out in the terms of the contract. For issues relating to non-employee workers, seek advice from the [Manager People Partners \(People Culture and Capability Branch\)](#).
- the members of the EPA Board.

This policy does not apply to:

- people who have received services from an agency and want to make a complaint about those services
- people, such as contractors, who provide services to an agency. For example, employees of a company that sold computer software to an agency.

2.5 Compliance

It is a condition of engagement that EPA staff are to comply with the ethical and behavioural standards set out in the EPA Code. The EPA Code details obligations regarding compliance with relevant NSW government legislation and EPA policies, rules, and guidelines – including this policy.

This condition means EPA staff must behave and act in a manner that:

- is appropriate and accords with EPA values and policies.
- accords with the core values of the NSW Government sector (under the *Government Sector Employment Act 2013*)
- does not damage the reputation of the EPA or the NSW Public Service, nor adversely affect their operations.

2.5.1. Non-compliance

As well as penalties specified in the Act and this policy, non-compliance with this policy may be considered an *unsatisfactory performance* matter needing corrective action or a *misconduct* matter.

Guidance can be found in the *EPA Code of Ethics and Conduct (2022)* and the *Managing Misconduct Policy and Procedure Guide 2023*.

2.6 Key definitions

2.6.1. What is serious wrongdoing?

Serious wrongdoing is defined in section 13 of the Act as one or more of the following:

- *corrupt conduct* – such as a public official accepting a bribe
- *serious maladministration* – such as an agency systemically failing to comply with proper recruitment processes when hiring staff.
- *a government information contravention* – such as destroying, concealing or altering records to prevent them from being released under a Government Information Public Access application.
- *a local government pecuniary interest contravention* – such as a senior council staff member recommending a family member for a council contract and not declaring the relationship.
- *a privacy contravention* – such as unlawfully accessing a person’s personal information on an agency’s database.
- *a serious and substantial waste of public money* – such as an agency not following a competitive tendering process when contracting with entities to do government work.

Reports must be one or more of those categories of serious wrongdoing to be a voluntary public interest disclosure. However, reporters do not need to state to the EPA that they are reporting serious wrongdoing, nor do they need to state the category of serious wrongdoing being reported.

2.6.2. Who is an EPA public official?

Public officials are defined in section 14 of the Act. For the EPA, this includes persons who are:

- employed by the EPA.
- engaged as a contractor, subcontractor or volunteer who provides services, or exercises functions, on behalf of the EPA.
- working for an entity (such as a non-government organisation) who is contracted by the EPA to provide services or exercise functions on behalf of the EPA and involved in doing that contracted work.

A **public official** can make a public interest disclosure about **serious wrongdoing** relating to *any* agency, not just the EPA. This means that the EPA may receive public interest disclosures from public officials outside the EPA. It also means that EPA public officials can make a public interest disclosure to any agency, including an **integrity agency** such as the NSW Ombudsman. See full list of integrity agencies at **Appendix B**.

2.6.3. When will a report be a public interest disclosure?

There are three types of public interest disclosures under the Act. These are:

1. **Voluntary public interest disclosure:** This is where a public official makes a report because they decided, of their own accord, to come forward and disclose what they know.
A report is a **voluntary public interest disclosure** if it has the following five features:
 - the report is made by a **public official** (of any NSW Government agency)
 - the report is made or communicated to a **disclosure officer** of any agency, including an integrity agency (see **Appendix B**) or another person who can receive a voluntary public interest disclosure
 - the public official honestly and reasonably believes that the information they are providing shows, or tends to show, **serious wrongdoing**.
 - the report is made in writing, or orally (with certain exceptions)
 - the report is voluntary, meaning it is not a **mandatory public interest disclosure** nor a **witness public interest disclosure**.
2. **Mandatory public interest disclosure:** This is where the public official has made a report about **serious wrongdoing** because they have a **legal obligation** to make that report, or because making that report is

an ordinary aspect of their role or function in an agency. For the purposes of this definition, an obligation imposed by a code of conduct is not a legal obligation.

Note: At first instance, mandatory public interest disclosures should be reported via the framework under which they are created. If in doubt, seek advice from the [Governance, Risk and Planning Branch](#).

3. **Witness public interest disclosure:** This is where a person discloses information during an investigation of **serious wrongdoing** following a request or requirement of the investigator. Such investigations may be part of the procedures under this policy, or otherwise.

Note: Even if disclosed because of an investigation, a mandatory public interest disclosure cannot be classified as a witness public interest disclosure.

This policy mostly relates to making a voluntary public interest disclosures and how voluntary ones are dealt with.

2.6.4. Who can I make a public interest disclosure to?

For a report to be a voluntary public interest disclosure, it must be made to certain **public officials** – primarily, but not exclusively, **disclosure officers** listed in section 18 of the Act.

For the EPA, disclosure officers include:

- the EPA Chief Executive Officer (s18(1)(a))
- EPA Board members (s 18(1)(c))
- the most senior ongoing employee who ordinarily works at each main regional office (s 18(1)(b))
- any other EPA worker nominated as a disclosure officer for the EPA (s 18(d)-(e)).

Appendix A lists disclosure officers for the EPA and their contact details.

- **Special case – managers:** If no disclosure officer is readily identifiable or contactable in this policy, the **manager** of the public official making the report is taken to be a disclosure officer under s.18(2) of the Act. This is the person who directly, or indirectly supervises a public official. It can also be the person who a public official directly, or indirectly, reports to. A manager will ensure the public interest disclosure is communicated to a disclosure officer on your behalf. Public officials may have more than one manager.

A manager will not investigate a report of wrongdoing, unless the manager is the CEO or other, nominated, **decision maker** – see subsection **7.3 How the EPA will deal with voluntary public interest disclosures**.

2.6.5. What is detrimental action against a person?

Section 32 of the Act describes detrimental action against a person as an act or omission that causes, comprises, involves or encourages detriment to a person or a threat of detriment to a person (whether express or implied).

Detriment to a person includes:

- injury, damage or loss
- property damage
- reputational damage
- intimidation, bullying or harassment.
- unfavourable treatment in relation to another person’s job
- discrimination, prejudice or adverse treatment
- disciplinary proceedings or disciplinary action, or
- any other type of disadvantage.

Detrimental action does not include:

- lawful action taken to investigate serious wrongdoing or other misconduct.
- the lawful reporting or publication of a finding of serious wrongdoing or other misconduct
- the lawful making of adverse comment, resulting from investigative action.
- the prosecution of a person for a criminal offence
- reasonable management action taken in relation to a person who made or may make a public interest disclosure, for example ordinary performance reviews and performance management, if such action is not taken because of the public interest disclosure (see section 31(3) of the Act for more examples of reasonable management action).

3. How to report serious wrongdoing

3.1 What if it isn't clear if the matter being reported counts as a public interest disclosure?

EPA staff should report all wrongdoing they become aware of regardless of whether it may be considered **serious wrongdoing**. It is important for the EPA to understand what is, or may be, happening.

The EPA is responsible for making sure the report is handled appropriately under the Act, including ensuring reporters are appropriately protected. If a report it is not deemed to be a voluntary public interest disclosure, the EPA will handle the report in line with other applicable EPA policies and procedures.

3.1.1. Deeming that a report is a voluntary public interest disclosure

The EPA CEO can, in certain circumstances, determine that a report is a voluntary public interest disclosure even if the report does not otherwise have all the features of a voluntary public interest disclosure (the Act, Section 29). This is known as the 'deeming power'. By deeming that a report is a voluntary public interest disclosure, it makes sure that reporters are provided with protections under the Act.

A decision to deem a report to be a voluntary public interest disclosure is at the discretion of the CEO, or another person to whom the CEO has delegated this power.

3.2 How to make a voluntary public interest disclosure?

EPA public officials can make a voluntary public interest disclosure:

- *in writing* – this could be an email or letter to a person who can receive voluntary public interest disclosures.
- *orally*¹ – have a private discussion with a person who can receive voluntary public interest disclosures; this can be face-to-face, via telephone or virtually.
- *anonymously* – write an email or letter or call a person who can receive public interest disclosures to make a report without providing your name or anything that might identify you as the maker of the

¹ Voluntary public interest disclosure reports cannot be made orally to a Minister or a member of a Minister's staff.

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 reporters choose to remain anonymous, they will still be protected under the Act. It may be difficult, however, for the EPA to investigate the matter or matters disclosed if the EPA cannot contact the reporter for further information.

- If you experience adverse treatment or detrimental action in relation to a public interest disclosure, such as bullying or harassment, you should report this immediately. You can report any experience of adverse treatment or detrimental action directly to the EPA or to an integrity agency (see list at Appendix 2). If you wish to report adverse treatment or detrimental action to the EPA, please contact the Chief Executive Officer, the Disclosure Coordinator, or a disclosure officer. If you feel that detrimental action is not being dealt with effectively you should contact the NSW Ombudsman or the ICAC – depending on the type of wrongdoing reported.

3.3 What should be included in a report?

Reporters should provide as much information as possible so that the EPA can deal with the report effectively. The type of information that should be included is:

- date, time, and location of key events
- name(s) of person(s) involved in the suspected wrongdoing, their role, title and how they are involved
- the reporter's relationship with the person(s) involved, such as whether they work closely with the person(s) involved in the suspected wrongdoing
- a clear explanation of the matter being reported
- how the reporter became aware of the matter being reported
- possible witnesses
- other information the reporter has that supports the report.

3.4 Making a report outside the EPA

EPA employees can also make a report to a **public official** in another agency. These include:

- the *head of another agency* – this means the head of any public service agency
- an *integrity agency* – a list of integrity agencies is provided at **Appendix B** of this policy
- a *disclosure officer for another agency* – ways to contact disclosure officers for other agencies are located in an agency's public interest disclosure policy which can be found on their public website
- a Minister or a member of a Minister's staff but the report must be made in writing.

If an EPA reporter chooses to make a disclosure outside of the EPA, it is possible that the disclosure will be referred back to the EPA so that appropriate action can be taken.

3.5 Making a report to a member of parliament or journalist

Disclosures to MPs or journalists are different to other reports. Section 28 of the Act concerns disclosing a report of wrongdoing as a voluntary public interest disclosure to an MP or journalist. This can only be done in the following circumstances:

- the reporter has first made substantially the same disclosure (a 'previous disclosure') to someone who can receive disclosures
- the disclosure must be substantially true

- the previous disclosure was not made anonymously
- the reporter did not give a written waiver of the right to receive information relating to the previous disclosure
- the reporter did not receive the following from the EPA:
 - notification that the EPA will not investigate the serious wrongdoing and will also not refer the previous disclosure to another agency, or
 - the following information at the end of the investigation period:
 - notice of the EPA’s decision to investigate the serious wrongdoing
 - a description of the results of an investigation into the serious wrongdoing
 - details of proposed or recommended corrective action as a result of the previous disclosure or investigation.

4. Protections for public interest disclosure reporters

4.1 What classes of public interest disclosure reports/reporters are protected?

Part 3 of the Act details protections for makers of public interest disclosures from the time the disclosure is first made. Makers of **witness public interest disclosures** and **mandatory public interest disclosures** are afforded the same protections as a maker of a **voluntary public interest disclosure**.

4.2 How is the maker of a public interest disclosure protected?

The maker of a voluntary public interest disclosure is protected in the following ways.

Protection from detrimental action:

- A person cannot take **detrimental action** against another person based on the suspicion, belief or awareness that a person has made, may have made or may make a public interest disclosure.
- Once the EPA becomes aware that a voluntary public interest disclosure has been made by a public official employed or otherwise associated with the EPA that concerns serious wrongdoing relating the EPA, the EPA will do a risk assessment and take steps to mitigate the risk of detrimental action happening against the person who made the voluntary public interest disclosure report.
- It is an indictable criminal offence² for someone to take detrimental action against a person because they have made or may make a public interest disclosure. It is punishable by a maximum penalty of 200 penalty units³ or imprisonment for five years or both.

Note: A person who makes a public interest disclosure can still be subject to reasonable management action – see sub-section 2.5.5.

Right to compensation: A person can initiate proceedings and seek compensation for injury, damage or loss suffered as a result of unlawful detrimental action being taken against them.

² Indictable criminal offences are heard before the District Court or Supreme Court, not by a Magistrate.

³ A penalty unit is [currently \\$110](#).

Ability to seek injunctions: A person can apply for a court order (injunction) to prevent the commission or possible commission of a detrimental action offence against a person. For example, an order to prevent dismissal or to require reinstatement.

Protection of confidentiality: Public officials and agencies must not disclose information tending to identify a person as the maker of a public interest disclosure, unless permitted by the Act (e.g. see below).

Immunity from civil and criminal liability: Public officials may be subject to a duty of confidentiality or other restriction that, ordinarily, prevents them disclosing certain information that they get or become aware of through their work. In order to make a public interest disclosure, public officials may need to breach or disregard such confidentiality duties/restrictions. If that happens, a public official cannot be disciplined, sued, or be criminally charged for breaching or disregarding such duties/restrictions.

- **Limitation with respect to witness public interest disclosures:** The immunity protection only applies to matters relevant to the investigation or the report constitutes an independent disclosure.
- **Liability for own past conduct:** The immunity protection does not protect a person against liability for their own past conduct that is disclosed by them by making a public interest disclosure. The Attorney General may give an undertaking that the disclosure or the fact of the disclosure will not be used in evidence against the person in civil or criminal proceedings (other than proceedings relating to the falsity of the disclosure). Such an undertaking can only be given by the Attorney General.

4.2.1. Minimising the risk of detrimental action

The EPA has zero tolerance for any detrimental action being taken by anyone against a person who has made a public interest disclosure, investigators, witnesses, or the person about whom the report has been made (see section 4.2.2).

The EPA will assess and take steps to mitigate the risk of detrimental action being taken against the maker of a voluntary public interest disclosure, the person whose conduct is the subject of a public interest disclosure, investigators and witnesses.

The EPA will take steps to assess and minimise the risk of detrimental action by:

- maintaining confidentiality (see section 4.2.3)
- identifying sources of risk in consultation with the reporter
- identifying protection options in consultation with the reporter, which may include remote working or approved leave for the duration of the investigation
- outlining what supports will be provided to the reporter.

4.2.2. How the EPA will deal with allegations of detrimental action

If the EPA becomes aware of an allegation that a detrimental action offence has been committed by or against a public official associated with the EPA, the EPA will:

- take steps to stop the detrimental action and protect the person(s)
- take appropriate disciplinary action against anyone who has taken detrimental action
- refer any evidence of a detrimental action offence to the appropriate integrity agency
- notify the NSW Ombudsman about the allegation of a detrimental action offence being committed.

4.2.3. How the EPA will protect confidentiality

The EPA understands that people who make voluntary public interest disclosures may want their identity and the fact that they have made a report to be confidential. The default position under the Act is that information tending to identify a person as the maker of a voluntary public interest disclosure (known as identifying information) is not to be disclosed by a public official or an agency.

The EPA commits to not disclosing identifying information regarding a public interest disclosure unless it is necessary and authorised under the Act (see exceptions below).

The EPA will implement steps to keep the identifying information of the reporter and the fact that a report has been made confidential. The EPA will do this by:

- limiting the number of people who are aware of the reporter's identity or information that could identify them
- applying appropriate security and access controls to documents saved in the EPA's record management system
- reminding EPA staff who know the identity of the reporter that they have a legal obligation to keep the reporter's identity confidential
- advising the reporter of the importance of maintaining confidentiality and how best to protect their identity, for example, by not discussing their report with other staff.

It may not be possible for the EPA to maintain complete confidentiality while investigating, but the EPA will do all that it practically can to keep confidential any information from which the reporter can be identified.

Exceptions: There are certain circumstances under the Act that allow for the disclosure of identifying information (section 64(2)). These include:

- where the person consents in writing to the disclosure
- where it is generally known that the person is the maker of the voluntary public interest disclosure because of their voluntary self-identification as the maker
- when the public official or the EPA reasonably considers it necessary to disclose the information to protect a person from detriment
- where it is necessary for the information be disclosed to a person whose interests are affected by the disclosure
- where the information has previously been lawfully published
- when the information is disclosed to a medical practitioner or psychologist for the purposes of providing medical or psychiatric care, treatment or counselling to the individual disclosing the information
- when the information is disclosed for the purposes of proceedings before a court or tribunal
- when the disclosure of the information is necessary to deal with the disclosure effectively
- if it is otherwise in the public interest to disclose the identifying information.

5. Protections for EPA workers if they are the subject of an allegation

An employee subject of an allegation will be given fair and reasonable treatment and have their identity kept confidential, where possible. The EPA will apply the strictest controls in the creation, dissemination, use, retention and disposal of personal information. An employee subject of an allegation may also have access to a support officer of their choosing (such as when attending interviews).. The support person must keep all matters relating to the investigation confidential. They must not be directly involved in the matter or a witness.

An employee subject of an allegation will be afforded procedural fairness in accordance with the *Managing Misconduct Policy and Procedure Guide*.

Broadly, this means that employees subject of an allegation, at an appropriate time and before any adverse findings, will be:

- advised of the details of the allegation made against them
- advised of their rights and obligations under the relevant related policies and procedures
- kept informed of the progress of any investigation
- provided a reasonable opportunity to respond to any allegations made against them
- told of the outcome of any investigation, including any decision made about whether or not further action will be taken against them
- and told of outcome of any investigation, including any decision made about whether further action will be taken against them.

If the allegations against an employee are clearly wrong, or have been investigated and found to be unsubstantiated, the existence of the allegations and any ensuing investigation will be kept confidential, unless otherwise agreed to by the employee.

6. Roles and responsibilities

The EPA Chief Executive Officer is responsible for:

- fostering a workplace culture where reporting is encouraged
- receiving disclosures from public officials
- making sure there is a system in place for assessing disclosures
- making sure the EPA complies with this policy and the public interest disclosure Act
- making sure the EPA has appropriate systems for:
 - overseeing internal compliance with the Act
 - supporting public officials who make voluntary public interest disclosures, including by minimising the risk of detrimental action
 - implementing corrective action if serious wrongdoing is found to have happened
 - complying with reporting obligations regarding allegations or findings of detrimental action
 - complying with yearly reporting obligations to the NSW Ombudsman.

The public interest disclosure coordinator is responsible for:

- determining whether a report is to be treated as a public interest disclosure by conducting an initial review
- coordinating the EPA's response to the report, including ensuring the EPA decides how to deal with the disclosure. This may include investigating the matters in the report. Investigating could include following a procedure, or conducting an assessment or other action of an investigative nature, whether on a preliminary or formal basis
- deciding on a strategy to manage the disclosure, including any risks and coordinating this strategy with relevant staff
- coordinating training and awareness requirements
- creating and maintaining accurate records
- ensuring the EPA's reporting obligations to the Ombudsman and ICAC are completed.

This role is performed by the Director, Risk and Governance.

Disclosure officers are responsible for:

- receiving reports from public officials

- receiving reports when they are passed on to them by managers
- making sure reports are dealt with appropriately, including by referring the matter as soon as reasonably practicable to the Director Risk and Governance
- making sure any oral reports that have been received are recorded in writing.

The responsibilities of managers include:

- receiving reports from persons who report to them or whom they supervise
- passing on reports they receive to a disclosure officer as soon as reasonably practicable.

All employees must:

- report suspected serious wrongdoing or other misconduct
- use their best endeavours to help in an investigation of serious wrongdoing if asked to do so by a person dealing with a voluntary public interest disclosure on behalf of the EPA
- treat any person dealing with or investigating reports of serious wrongdoing with respect.

All employees must not take detrimental action against any person who has made, may in the future make, or is suspected of having made, a public interest disclosure.

Other EPA responsibilities

Record keeping

The EPA must keep full and accurate records with respect to all information received in connection with the Act. This makes sure the EPA meets its obligations under the *State Records Act 1998*. Records should have appropriate security applied.

Reporting

Each year the EPA must provide an annual return to the NSW Ombudsman which includes:

- information about voluntary public interest disclosures received by the EPA during each return period (yearly with the start date being 1 July)
- action taken by the EPA to deal with voluntary disclosures during the return period
- how the EPA promoted a culture in the workplace where disclosures are encouraged.

Training

The EPA must make sure training is provided in relation to the responsibilities of certain people under the public interest disclosure Act and this policy. Training must be provided to:

- the EPA CEO
- disclosure officers
- managers of public officials associated with the EPA.

Agency service contracts

The EPA enters an 'agency service contract' by engaging a body or person, under a contract, subcontract or other arrangement, to provide services on behalf of the EPA, including an engagement to exercise an EPA function. The EPA has the following obligations under section 82 of the Act:

- All agency service contracts entered into by the EPA must contain clauses relating to obligations of contracted persons under the Act.
- Terms of the contract must require the engaged person or body to notify the EPA of any voluntary disclosure they become aware of and any serious wrongdoing committed or alleged to be committed by someone providing services under the contract.

Contact the legal duty officer for any questions relating to agency service contracts.

7. How the EPA will deal with public interest disclosures

7.1 Acknowledging and updating the reporter

When a disclosure officer in the EPA receives a report which is a voluntary disclosure, or looks like it may be one, the person who made the report will receive the following information:

- An acknowledgment that the report has been received. This acknowledgement will:
 - state that the report will be assessed to identify whether it is a public interest disclosure
 - state that the Act applies to how the EPA deals with the report.
 - provide clear information on how the reporter can access this disclosure policy.
 - provide the reporter with details of a contact person and available supports.
- If the report is a voluntary disclosure, the EPA will inform the reporter as soon as practical how we intend to deal with the report. This may include:
 - that the EPA is investigating the serious wrongdoing
 - that the EPA will refer the report to a different agency (if appropriate) to deal with the voluntary disclosure. If we do this, we will provide you with details of this referral.
 - if the EPA decides not to investigate the report and not to refer it to another agency for it to be investigated, the EPA will tell the reporter the reasons for this decision. The EPA will also notify the NSW Ombudsman of this decision.
- If the EPA decides to investigate the serious wrongdoing, the EPA will provide the reporter with updates on the investigation at least every three months. During this time, if the reporter would like more frequent updates, the reporter should contact the contact person who was nominated when the report was acknowledged.
- If the EPA investigates the serious wrongdoing, the EPA will provide the reporter with the following information once the investigation is complete:
 - a description of the results of the investigation, that is, the EPA will tell the reporter whether the EPA found that serious wrongdoing took place.
 - information about any corrective action as a result of the investigation – this means the EPA will tell the reporter what action the EPA took in relation to the person who engaged in the serious wrongdoing or if the serious wrongdoing was by the EPA, what the EPA has put in place to address that serious wrongdoing.
 - corrective action could include taking disciplinary action against someone or changing the practices, policies and procedures that the EPA has in place which led to the serious wrongdoing.
- There may be some details about both the findings made as a result of the investigation and the corrective action taken that cannot be revealed to the reporter. The EPA will always balance the right of a reporter to know the outcome of that report, with other legal obligations the EPA has.
- If an anonymous report was made, in many cases the EPA may not be able to provide this information to the reporter.

7.2 How the EPA will assess voluntary public interest disclosures

Once a report that may be a voluntary public interest disclosure is received and referred to the Director, Risk and Governance, the information contained in the report will be assessed to see if it has the features of a voluntary disclosure.

This initial review is to identify whether the report is a voluntary disclosure or another type of disclosure, and to make sure that the right procedure is followed. If it is a voluntary disclosure, the EPA will make sure the requirements in the Act are complied with.

Once a disclosure officer receives a report that may be a voluntary disclosure, the officer should notify the EPA CEO and the Director, Risk and Governance, except in circumstances where it would be inappropriate to do so. In exceptional circumstances, for example a report about the CEO or Director, Risk and Governance the disclosure officer should instead notify either the Executive Director, Legal, Governance and People or the Chair of the EPA Board.

The CEO can decide whether to deem a report to be a voluntary disclosure, or a person to whom the CEO has delegated this power to.

7.3 How the EPA will deal with voluntary public interest disclosures

Once a report is confirmed (or deemed) to be a voluntary public interest disclosure, the CEO or the disclosure coordinator shall decide whether the EPA will investigate the alleged serious wrongdoing or refer the report to a different agency to deal with.

- In most cases the EPA will investigate to make findings about whether the serious wrongdoing disclosed in the report occurred, who was involved, who was responsible, and whether the people involved, or the EPA, engaged in serious wrongdoing. There may be circumstances where the EPA considers an investigation is not warranted – for example, if the conduct has previously been investigated.
- There may also be circumstances where the EPA decides that the report should be referred to another agency, such as an integrity agency. For example, reports concerning possible corrupt conduct may be required to be reported to the ICAC in accordance with section 11 of the *Independent Commission Against Corruption Act 1988*.
- Before referring a matter, the EPA will discuss the referral with the other agency and will provide the reporter with details of the referral and a contact person within the other agency.
- If the EPA decides not to investigate a report and not to refer the matter to another agency, the EPA will let the reporter know the reasons for this and will also notify the NSW Ombudsman.

7.4 If a report is not a voluntary disclosure (or a witness disclosure arising from an investigation into a voluntary disclosure)

The EPA may stop dealing with a report submitted as a voluntary public interest disclosure if the matter is determined to not have all the features of a voluntary disclosure. The EPA may continue to deal with the matter according to another policy or procedure guide such as the EPA's complaint handling or managing misconduct policies.

The EPA will notify the reporter if the EPA has stopped dealing with their matter as a voluntary disclosure, provide reasons for the decision, explain how the EPA will deal with the concerns raised in the report, and detail any relevant follow-up actions.

If the reporter is not happy with this assessment or otherwise disagrees with it, they can raise it with the person who has communicated the outcome or with a disclosure officer or request an internal review or that the matter be conciliated. The EPA may, but is not obliged to, request the NSW Ombudsman to conciliate the matter.

8. What the EPA will do if an investigation finds serious wrongdoing

If, after an investigation, it is found that serious wrongdoing or other misconduct has happened, the EPA will take the most appropriate action to address that wrongdoing or misconduct. This is also known as corrective action (see section 66 of the Act).

Corrective action may include:

- a formal apology
- improving internal policies to adequately prevent and respond to similar instances of wrongdoing
- providing extra education and training to staff where required
- taking appropriate disciplinary action against persons involved in the wrongdoing.
- payment of compensation to people who have been affected by serious wrongdoing or other misconduct.

9. Review and dispute resolution

A person who makes a voluntary public interest disclosure can seek internal review of the following EPA decisions:

- the EPA is not required to deal with the report as a voluntary disclosure
- to stop dealing with the report because the EPA decided it was not a voluntary disclosure
- to not investigate the serious wrongdoing and not refer the report to another agency
- to stop investigating the serious wrongdoing without either completing the investigation or referring the report to another agency for investigation.

The EPA will make sure internal reviews are conducted in compliance with the Act.

Reporters who wish to apply for an internal review must apply in writing within 28 days of being informed of the EPA's decision (section 60(2) of the Act). The application should state the reasons why the reporter considers the EPA's decision should not have been made. The reporter may also submit any other relevant material with their application. The internal review will be conducted by a person who was not substantially involved in making the decision or dealing with the disclosure. The reviewer will notify the applicant of the reviewer's decision.

If a dispute arises between the EPA and a reporter concerning a report which is, or may be, a voluntary disclosure, the EPA may request the NSW Ombudsman to conciliate the dispute. Conciliation is a voluntary process and will only be suitable for disputes where the EPA and the reporter are willing to resolve the dispute.

10. Policy review

The Director, Risk and Governance will coordinate a review of this policy no later than three years from the date the document is approved. The document may be reviewed earlier in response to post-implementation feedback or changes to legislation, or as necessary.

For further information about this policy contact:

Sam Gray Director Risk and Governance 04 4726 0638

Joseph Budnik, Manager, Risk and Governance 02 9995 6805

Tim North, Coordinator, Risk and Governance 02 9995 5404

Appendix A: Names and contact details of disclosure officers for EPA

Role	Name	Contact details
Chief Executive Officer	Tony Chappel	tony.chappel@epa.nsw.gov.au
Executive Director, Legal, Governance and People	Jacqueleine Moore	jacqueleine.moore@epa.nsw.gov.au
Executive Director, Operations	Jason Gordon	jason.gordon@epa.nsw.gov.au
Executive Director, Programs and Innovation	Alexandra Geddes	alexandra.geddes@epa.nsw.gov.au
Executive Director, Regulatory Practice and Services	Steve Beaman	stephen.beaman@epa.nsw.gov.au
Executive Director, Strategy and Policy	Nancy Chang	nancy.chang@epa.nsw.gov.au
Director, Corporate Affairs	Evie Madden	evie.madden@epa.nsw.gov.au
Director, Risk and Governance	Sam Gray	samantha.gray@epa.nsw.gov.au
Director Litigation	Damon Anderson	damon.anderson@epa.nsw.gov.au
Director Legislation and Advice	Melinda Murray	melinda.murray@epa.nsw.gov.au
Director People Culture and Capability	Erin Torsello	erin.torsello@epa.nsw.gov.au
Lead Audit and Assurance	Darcy Welsh	darcy.welsh@epa.nsw.gov.au
Director Major Programs	Alex Young	alex.young@epa.nsw.gov.au
Director Major Programs	Kathy Giunta	kathy.giunta@epa.nsw.gov.au
Director Major Projects	Mel Walsh	melissa.walsh@epa.nsw.gov.au
Director Digital Data and Intelligence	Anne Kinsella	anne.kinsella@epa.nsw.gov.au
A/Director Regulatory Practice and Coordination	James Goodwin	james.goodwin@epa.nsw.gov.au
Director Priority Compliance and Investigations	Greg Sheehy	greg.sheehy@epa.nsw.gov.au
Director Incident Management and Environmental Health	Arminda Ryan	arminda.ryan@epa.nsw.gov.au
Director Technical	Karen Marler	karen.marler@epa.nsw.gov.au
Director Technical	Sonya Errington	sonya.errington@epa.nsw.gov.au

Role	Name	Contact details
Director Climate and Environment Protection	Jacquelyn Miles	jacquelyn.miles@epa.nsw.gov.au
Director Circular Economy	Atapattu Asela	attapattu.asela@epa.nsw.gov.au
Director Policy and Strategy	Shagofta Ali	shagofta.ali@epa.nsw.gov.au
Director Finance	Roo Rachna	roo.rachna@epa.nsw.gov.au
Lead Aboriginal Initiatives	Kylie Jacky	kylie.jacky@epa.nsw.gov.au
Director Operations – West Regional	Scott Kidd	scott.kidd@epa.nsw.gov.au Albury Office 02 6022 0600
Director Operations - North Regional	Steve Orr	Steve.orr@epa.nsw.gov.au Newcastle Office 02 4908 6800
A/Director Operations – South Regional	Sandie Jones	sandie.jones@epa.nsw.gov.au Queanbeyan Office 02 6229 7002
Director Operations – North Metro	David Gathercole	david.gathercole@epa.nsw.gov.au
Director Operations – South Metro	Adam Gilligan	adam.gilligan@epa.nsw.gov.au
A/Director Operations – West Metro	Rob Hogan	rob.hogan@epa.nsw.gov.au
Manager Regional Operations	Lindsay Fulloon	lindsay.fulloon@epa.nsw.gov.au Armidale Office 02 6773 7000
Manager Regional Operations	Sheridan Ledger	sheridan.ledger@epa.nsw.gov.au Bathurst Office 02 6333 3800
Manager Regional Operations	Ben Lewin	ben.lewin@epa.nsw.gov.au Coffs Harbour Office 02 6659 8298
Manager Regional Operations	Damien Rindfleish	damien.rindfleish@epa.nsw.gov.au Dubbo Office 02 6883 5333
Manager Regional Operations	Brett Nudd	brett.nudd@epa.nsw.gov.au Grafton Office 02 6640 2500
Manager Regional Operation	John Forcier	john.forcier@epa.nsw.gov.au Port Macquarie Office 02 5534 3000
Manager Regional Operations	Jessica Creed	jessica.creed@epa.nsw.gov.au Wagga Wagga Office 02 6983 4931
Manager Regional Operations	Peter Bloem	peter.bloem@epa.nsw.gov.au Wollongong Office 02 9995 5000
Unit Head	Matthew Quinn	matthew.quinn@epa.nsw.gov.au Narrabri Office 02 6792 4020
Unit Head	Jason Price	jason.Price@epa.nsw.gov.au Griffith Office 02 6969 0700
Chair, EPA Board	Rayne de Gruchy	epaboard.privacy@epa.nsw.gov.au
Member, EPA Board	Carolyn Walsh	epaboard.privacy@epa.nsw.gov.au
Member, EPA Board	Bradley Moggridge	epaboard.privacy@epa.nsw.gov.au
Member, EPA Board	Chris Turney	epaboard.privacy@epa.nsw.gov.au

Appendix B: List of integrity agencies

Integrity agency	What they investigate	Contact information
The NSW Ombudsman	Most kinds of serious maladministration by most agencies and public officials (but not NSW Police, judicial officers or MPs)	Telephone: 1800 451 524 between 9am to 3pm Monday to Friday Writing: Level 24, 580 George Street, Sydney NSW 2000 Email: info@ombo.nsw.gov.au
The Auditor-General	Serious and substantial waste of public money by auditable agencies	Telephone: 02 9275 7100 Writing: GPO Box 12, Sydney NSW 2001 Email: governance@audit.nsw.gov.au
Independent Commission Against Corruption (ICAC)	Corrupt conduct	Telephone: 02 8281 5999 or toll free on 1800 463 909 (callers outside Sydney) between 9am and 3pm, Monday to Friday Writing: GPO Box 500, Sydney NSW 2001 or faxing 02 9264 5364 Email: icac@icac.nsw.gov.au
The Inspector of the Independent Commission Against Corruption	Serious maladministration by ICAC or ICAC officers	Telephone: 02 9228 3023 Writing: PO Box 5341, Sydney NSW 2001 Email: oiicac_executive@oiicac.nsw.gov.au
The Law Enforcement Conduct Commission	Serious maladministration by the NSW Police Force or the NSW Crime Commission	Telephone: 02 9321 6700 or 1800 657 079 Writing: GPO Box 3880, Sydney NSW 2001 Email: contactus@lecc.nsw.gov.au
The Inspector of the Law Enforcement Conduct Commission	Serious maladministration by the LECC and LECC officers	Telephone: 02 9228 3023 Writing: GPO Box 5341, Sydney NSW 2001 Email: oilccec_executive@oilccec.nsw.gov.au
The Office of Local Government	Local government pecuniary interest contraventions	Email: olg@olg.nsw.gov.au
The Privacy Commissioner	Privacy contraventions	Telephone: 1800 472 679 Writing: GPO Box 7011, Sydney NSW 2001 Email: ipcinfo@ipc.nsw.gov.au
The Information Commissioner	Government information contraventions	Telephone: 1800 472 679 Writing: GPO Box 7011, Sydney NSW 2001 Email: ipcinfo@ipc.nsw.gov.au