

Public Interest Disclosure

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1. Purpose

NOPSEMA encourages and supports the reporting of wrongdoing by public officials in accordance with the *Public Interest Disclosure Act 2013* (PID Act).

'Disclosable conduct' includes:

- conduct that contravenes a Commonwealth law;
- corruption or maladministration;
- wastage of public money;
- conduct that unreasonably endangers the health and safety of other people or the environment; or
- conduct that could give rise to disciplinary action/breach of the APS Code of Conduct.

NOPSEMA will take active steps to support and to protect public officials who make a public interest disclosure under the PID Act. NOPSEMA will carry out risk assessments, will monitor the effectiveness of measures designed to control risks and will actively follow up on any reports of reprisal action against disclosers or persons thought to be disclosers.

NOPSEMA recognises that it is important to have an effective system for reporting and investigating disclosable conduct.

NOPSEMA also recognises that a decision not to consider a public interest disclosure under the PID Act could be seriously detrimental to the effective operation and good reputation of the agency.

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

2. Public Interest Disclosures

A public official is entitled to make a public interest disclosure if they believe on reasonable grounds that there is information that tends to show one or more instances of disclosable conduct. 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.

A public official who makes a public interest disclosure under the PID Act will have a range of protections available to them. This includes immunity from legal action except where they provide false or misleading information, commit offences under specified sections of the *Criminal Code Act 1995* (Cth), contravene a designated publication restriction or liability for their own conduct. It also includes protection from reprisal action. Their identity will be protected unless they consent to it being released subject to exceptions outlined in subsection 20(3) of the PID Act.

A public official should report disclosable conduct to their supervisor, manager or NOPSEMA Authorised Officer. If a supervisor or manager believes that the information given to them concerns, or could concern, disclosable conduct, they must refer it to an Authorised Officer.

The Authorised Officer will make a decision as to whether the disclosure is of a kind covered by the PID Act, and if so, will allocate it within fourteen days 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 and 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.

Note that 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 Code of Conduct Policy (N-12000-PL0339) or where conduct involves suspected fraud and corruption under NOPSEMA's N-07400-PL1476 Fraud and Corruption Control Plan.

3. Responsibilities

3.1. Principal Officer

NOPSEMA's Chief Executive Officer is the Principal Officer under the PID Act.

The Principal Officer is responsible for:

- establishing procedures to facilitate and deal with PIDs;
- ensuring employees are aware of PID procedures and protections;
- appointing Authorised Officers;
- ensuring disclosures are properly investigated;
- protecting employees from detriment or threats of detriment if they make a disclosure;
- taking appropriate action in response to an investigation report; and
- providing information to the Ombudsman or any other authorised agency.

Note that the CEO is also an Authorised Officer under the PID Act.

3.2. Authorised Officers

Authorised Officers are responsible for:

- providing information to employees on the PID process and protections available;
- receiving disclosures from current or former officials about disclosable conduct;
- deeming a person to be a public official to facilitate the making of a PID;
- informing a person who may be unaware of the PID Act requirements that information that the Authorised Officers reasonably believes could concern disclosable conduct could be treated as an internal disclosure, explaining the requirements of the PID Act and advising the person of any designated public restrictions that may affect disclosure;
- assessing reported information to determine if there are no reasonable grounds to believe the information could be considered to be a PID;
- making preliminary inquiries necessary to make an allocation decision;
- allocating all or part of the disclosure to NOPSEMA's CEO or Principal Officer of another agency within fourteen (14) days of receiving the disclosure;
- assessing risks of reprisal against a public official;
- informing the CEO, and other external agencies where appropriate, of allocated decisions and associated information;

- informing the discloser of the allocation decision;
- consenting to the allocation of a disclosure by the Authorised Officer of another agency; and
- advising the discloser of a decision not to allocate, the reasons why and any other course of action available under Commonwealth law.

3.3. Supervisors and Managers

A supervisor or manager is a public official who supervises or manages the person making a disclosure. Supervisors and managers are legally obligated to provide Authorised Officers with information they have received from their employees 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 PID or the information to be investigated.

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 complain about the PID 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

Public Interest Disclosure Act 2013 (Cth)

Public Service Act 1999 (Cth)

Public Interest Disclosure Standard 2013 (Cth)

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 and Disputes Policy

N-15000-PL0215 Records Management Policy

N-12100-SOP1331 Public Interest Disclosure Procedures

N-12100-GL1327 Authorised Officer Responsibilities

N-12100-GL1328 Investigator Responsibilities

N-12100-GL1329 Principal Officer Responsibilities

N-12100-GL1330 Supervisor and Manager Responsibilities

N-12100-IP1332 Public Interest Disclosure Flowchart

N-12100-IP131 Frequently Asked Questions

N-12100-FM1333 Form 1 – Notification to Ombudsman of an allocation decision

N-12100-FM1318 Form 2 – Notification to Ombudsman for an extension of time to investigate a PID

N-12100-FM1319 Form 3 – Request to Ombudsman for an extension of time to investigate a PID

N-12100-FM1320 Notice to discloser of allocation

N-12100-FM1321 File Note – notice of allocation and informing the discloser

N-12100-FM1322 Notice to discloser of decision not to investigate or stop investigating disclosure

N-12100-FM1323 Notice to discloser of investigation of disclosure

N-12100-FM1326 Notice to discloser of completion of investigation

N-12100-FM1875 Risk of Reprisal Assessment