

OFFICIAL: Sensitive



Public Interest Disclosures Policy and Procedures

Professional Standards
People and Culture Directorate

Policy No. CS02-001
Version 04 – 12 June 2024

Contents

Contents	2
Purpose	4
Accessibility of this policy	4
Who does this policy apply to?	4
Who does this policy not apply to?	5
What is contained in this policy?	5
1. How to make a report of serious wrongdoing	6
(a) Reports and complaints	6
(b) When will a report be a PID?	7
(c) Who can make a voluntary PID?	8
(d) What is serious wrongdoing?	8
(e) Who can I make a voluntary PID to?	9
(f) What form should a voluntary PID take?	10
(g) What should I include in my report?	11
(h) What if I am not sure if my report is a PID?	11
(i) Deeming that a report is a voluntary PID	11
(j) Who can I talk to if I have questions or concerns?	12
2. Protections	12
(a) How is the maker of a voluntary PID protected?	12
(b) Protections for people who report mandatory and witness PIDs	13
3. Reporting detrimental action	14
5. General support	15
6. Roles and responsibilities of FRNSW employees	16
(a) Principal Officer (Commissioner, FRNSW)	16
(b) Disclosures Coordinator (Director, Professional Standards)	16
(c) Disclosure Officers	16
(d) Managers	17
(e) All employees	17
7. How FRNSW will deal with voluntary PIDs	17
(a) How FRNSW will acknowledge that it has received a report and keep the person who made it informed	17
(b) How FRNSW will deal with voluntary PIDs	18
(c) Report not a voluntary PID	19
(d) Cease dealing with report as voluntary PID	19
(e) How FRNSW will protect the confidentiality of the reporter of a voluntary PID	20

Fire and Rescue NSW

Public Interest Disclosures Policy and Procedures

(f) How FRNSW will assess and minimise the risk of detrimental action.....	21
(g) How FRNSW will deal with allegations of a detrimental action offence	22
(h) What FRNSW will do if an investigation finds that serious wrongdoing has occurred.....	22
8. Review and dispute resolution	23
(a) Internal review	23
(b) Voluntary dispute resolution.....	23
9. Other agency obligations.....	23
(a) Record-keeping requirements.....	23
(b) Reporting of voluntary PIDs and FRNSW annual return to the Ombudsman...	24
(c) FRNSW will ensure compliance with the PID Act and this policy.....	24
Document information	25
Document control	25
Revision history	25
Annexure A — Disclosure Officers for FRNSW	26
Annexure B — List of integrity agencies	26

Purpose

All agencies in New South Wales (NSW) are required to have a Public Interest Disclosure (PID) Policy under section 42 of the *Public Interest Disclosures Act 2022* (PID Act).

At Fire and Rescue NSW (FRNSW), we take reports of serious wrongdoing seriously. We are committed to building a 'speak up' culture, where public officials are encouraged to report any conduct that they reasonably believe involves wrongdoing.

The integrity of our agency relies on our employees, volunteers, consultants, and contractors (referred to as staff) speaking up when they become aware of wrongdoing.

This policy sets out:

- how FRNSW will support and protect you if you come forward with a report of serious wrongdoing;
- how FRNSW will deal with the report and our other responsibilities under the PID Act;
- who to contact if you want to make a report;
- how to make a report; and
- the protections available to you under the PID Act.

This policy also documents FRNSW's commitment to building a speak up culture. Part of that speak up culture is having in place a framework, which in NSW is the PID Act, that facilitates public interest reporting of wrongdoing by:

- protecting those who speak up from detrimental action; and
- imposing duties on agencies who receive reports of wrongdoing to take appropriate action to investigate or otherwise deal with them.

This policy should be read in conjunction with our [Code of Conduct and Ethics](#), [Conflict of Interest Policy and Procedures](#), [Statement of Business Ethics](#), [Resolving Workplace Complaints Policy and Procedure](#), [Procedural Guidelines for the Management of Conduct – Part 1](#) and [Part 2](#) and the [Fraud and Corruption Policy and Prevention Plan](#).

Accessibility of this policy

This policy is available on the FRNSW public website as well as on the FRNSW intranet.

Who does this policy apply to?

The FRNSW Public Interest Disclosures Policy and Procedures applies to all FRNSW staff, including but not limited to, full, part time, casual staff, volunteers, contractors, and consultants providing services or exercising functions on behalf of FRNSW.

Managers are responsible for ensuring external contractors, consultants and volunteers are aware of the policy and who to speak to when making a report.

The Commissioner (Principal Officer) and disclosure officers and managers within FRNSW, have specific responsibilities under the PID Act. This policy also provides information about how people in these roles will fulfil their responsibilities.

Other public officials who work in and for the public sector, but do not work for FRNSW, may use this policy if they want information on who they can report wrongdoing to within FRNSW.

Who does this policy not apply to?

This policy does not apply to:

- people who have received services from an agency and want to make a complaint about those services; and
- people, who provide services to FRNSW, but do not act on our behalf. For example, employees of a company that sold computer software to FRNSW.

This means that if you are not a public official, this policy does not apply to your complaint (there are some circumstances where a complaint can be deemed to be a voluntary PID, see Section 1(i) of this policy for more information).

However, you can still make a complaint to FRNSW. This can be done by contacting:

Professional Standards Branch
Phone: 02 9265 2826 (9:00am - 5:00pm)
Email: ProfStandards@fire.nsw.gov.au

Or by visiting the FRNSW website's Feedback and Complaints page on the [Internet](#).

What is contained in this policy?

This policy will provide you with information on the following:

- ways you can make a voluntary PID to FRNSW under the PID Act;
- the names and contact details for disclosure officers in FRNSW;
- the roles and responsibilities of people who hold particular roles under the PID Act and who are employees of FRNSW;
- what information you will receive once you have made a voluntary PID;
- protections available to people who make a report of serious wrongdoing under the PID Act and what FRNSW will do to protect you;
- FRNSW procedures for dealing with reports;
- FRNSW procedures for managing the risk of detrimental action and reporting detrimental action;
- FRNSW record-keeping and reporting requirements; and

- how FRNSW will ensure it complies with the PID Act and this policy.

If you require further information about this policy, how public interest disclosures will be handled and the PID Act you can:

- confidentially contact a disclosure officer within FRNSW;
- contact the PID Advice Team within the NSW Ombudsman by phone: (02) 9286 1000 or email: pidadvice@ombo.nsw.gov.au;
- access the NSW Ombudsman's PID guidelines which are available on its website; or
- View the [Ombudsman's guidelines](#), 'Dealing with mandatory PIDs' and 'Dealing with witness PIDs'.

If you require legal advice with respect to the PID Act or your obligations under the PID Act, you may need to seek independent legal advice.

1. How to make a report of serious wrongdoing

(a) Reports and complaints

When a public official report suspected or possible wrongdoing in the public sector, their report will be a PID if it has certain features which are set out in the PID Act.

Some internal complaints by our own staff may also be PIDs, as long as they have the features of a PID. If an internal complaint is a report of serious wrongdoing, FRNSW Professional Standards Branch (PSB) will consider whether the complaint is a PID.

If the report is deemed a PID, PSB will manage the report as set out in this policy, also making sure our *Resolving Workplace Complaints Policy and Procedures*, and any other applicable policies, are followed.¹

Allegations that do not meet the criteria for a PID will continue to be dealt with according to the appropriate FRNSW policy and/or procedure, including the *Resolving Workplace Complaints Policy*, *Preventing and Responding to Bullying and Harassment Policy*, *FRNSW Code of Conduct and Ethics*, *the Fire and Rescue Regulations 2023*, and the *Government Sector Employment Act 2013*.

Once a PID is received, the reporting person is entitled to certain protections under the PID Act. FRNSW will then undertake a triage and risk assessment to assist decision making about how to deal with the PID and how to protect and support the person who has made the report.

¹ In the event that the report alleges a government information and/or privacy contravention, the matter will be managed by Legal and Regulatory Services.

(b) When will a report be a PID?

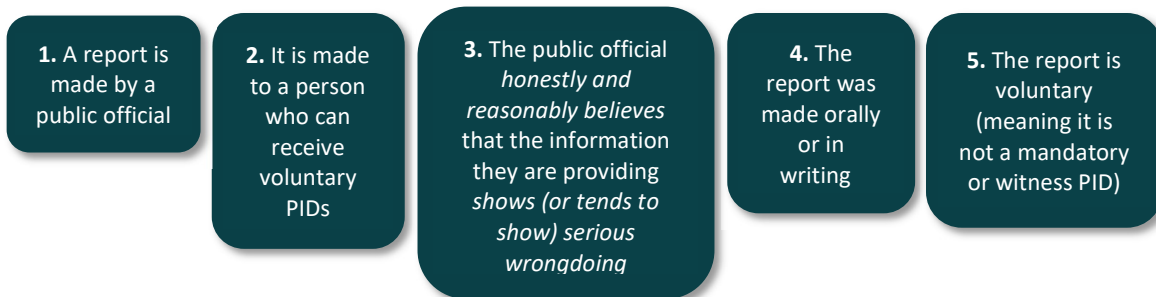
There are three types of PIDs in the PID Act. These are:

1. *Voluntary* PID: This is a PID where a report has been made by the public official because they decided, of their own accord, to come forward and disclose what they know;
2. *Mandatory* PID: This is a PID 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; and
3. *Witness* PID: This is a PID where a person discloses information during an investigation of serious wrongdoing following a request or requirement of the investigator.

This policy largely relates to making a voluntary PID and how we will deal with voluntary PIDs. People who make a mandatory PID or a witness PID are still entitled to protection. More information about protections is available in Section 2 of this policy.

Voluntary PIDs involve a public official making a report because they have information that they believe shows (or tends to show) serious wrongdoing, where they are not under a legal obligation to make that report and where it is not an ordinary part of their role to report such wrongdoing.

A report is a voluntary PID if it has the following five features, which are set out in sections 24 to 27 of the PID Act:



If the report has all five features, it is a voluntary PID.

You will not be expected to prove that what you reported actually happened or is serious wrongdoing. You *do* have to honestly believe, on reasonable grounds, that the information you are reporting shows or tends to show serious wrongdoing.

Even though you do not have to prove the serious wrongdoing happened or provide evidence, an allegation only, with no supporting information is unlikely to meet this test.

If we make an error and do not identify that you have made a voluntary PID, you will still be entitled to the protections under the PID Act.

If you make a report and believe we have made an error by not identifying that you have made a voluntary PID, you should raise this with a disclosure officer, the manager you initially made your report to, or PSB. If you are still not satisfied with this outcome, you can seek an internal review. You may also contact the NSW Ombudsman. Further information on rights to internal review is found in Section 7 of this policy.

(c) Who can make a voluntary PID?

Any public official can make a voluntary PID — see 'Who this policy applies to'. You are a public official if:

- you are employed by FRNSW;
- you are a contractor, subcontractor or volunteer who provides services, or exercises functions, on behalf of FRNSW. For example, you work for a company that is contracted to install new radios in fire appliances; or
- you work for an entity (such as a non-government organisation) which is contracted by FRNSW to provide services or exercise functions on behalf of FRNSW — if you are involved in undertaking that contracted work. For Example, Red Cross Australia is contracted to provide safety visits to the elderly on behalf of FRNSW.

A public official can make a PID about serious wrongdoing relating to *any* agency, not just the agency they are working for. This means that we may receive PIDs from public officials outside our agency. It also means that you can make a PID to any agency, including an integrity agency like the Independent Commission Against Corruption (**ICAC**) and the NSW Ombudsman. **Annexure B** of this policy has a list of integrity agencies.

(d) What is serious wrongdoing?

Reports must be about one or more of the following categories of *serious wrongdoing* to be a voluntary PID (in addition to having the other features set out here). Serious wrongdoing is defined in the PID Act as:

- *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 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 undertake government work; or

- 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;²

When you make your report, you do not need to tell FRNSW what category of serious wrongdoing you are reporting or that you are reporting serious wrongdoing.

(e) Who can I make a voluntary PID to?

For a report to be a voluntary PID, it must be made to certain public officials.

Making a report to a public official who works for FRNSW

You can make a report inside FRNSW to:

- Principal Officer (the Commissioner);
- Disclosures Coordinator (Director, Professional Standards);
- a Disclosure Officer for FRNSW — a list of disclosure officers for FRNSW and their contact details can be found at **Annexure A** of this policy;
- your ‘manager’ — this is the person who directly, or indirectly, supervises you. It can also be the person who you directly, or indirectly, report to. You may have more than one manager. Your manager will make sure that the report is communicated to a disclosure officer on your behalf or may accompany you while you make the report to a disclosure officer. In FRNSW, a ‘manager’ refers to any of the following:
 - CFU Officers
 - Deputy Captain and Captain
 - Leading Firefighter and above
 - Clerk Grade 7/8 and above

Making a report to a recipient outside of FRNSW

You can also make your report to a public official in another agency (meaning an agency you do not work for) or an integrity 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 located at Annexure B of this policy;
- a *disclosure officer for another agency* — ways to contact disclosure officers for other agencies are located in an agency’s PID policy which can be found on their public website; or
- a *Minister or a member of a Minister’s staff* — but the report *must be made in writing*.

² *Disclaimer: This category of PID is only relevant in local government.*

If you choose to make a report that concerns serious wrongdoing relating to FRNSW, to a public official in another agency, it is possible that your disclosure will be referred back to FRNSW so that appropriate action can be taken.

Making a report to a Member of Parliament or journalist

Disclosures to MPs or journalists are different to other reports. You can only disclose a report of wrongdoing as a voluntary PID to an MP or journalist in the following circumstances:

- you must have first made substantially the same disclosure (described here as a 'previous disclosure') to someone who can receive disclosures;
- the previous disclosure must be substantially true;
- you did not make the previous disclosure anonymously;
- you did not give a written waiver of your right to receive information relating to your previous disclosure; and
- you did not receive the following from FRNSW:
 - notification that FRNSW 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 an investigation period:

- notice of a FRNSW decision to investigate the serious wrongdoing;
- a description of the results of an investigation into the serious wrongdoing; and
- details of proposed or recommended corrective action as a result of the previous disclosure or investigation.

Investigation period means:

- after six months from the previous disclosure being made; or
- after 12 months if you applied for an internal review of the agency's decision within six months of making the disclosure.

If all the above requirements are met, your disclosure to an MP or journalist may be a voluntary PID.

(f) What form should a voluntary PID take?

You can make a voluntary PID:

- *in writing* — this could be an email or letter to a person who can receive voluntary PIDs;
- *orally* — have a private discussion with a person who can receive voluntary PIDs. This can be face-to-face, via telephone or virtually;
- *directly to PSB* – all staff within PSB are trained Disclosure Officers, specialised in receiving and managing PIDs. While employees can report PIDs to any Manager or Disclosure Officer within FRNSW, PSB staff are best set up to take these reports as they are experts in the FRNSW complaints policies and procedures; or

- *anonymously* — write an email or letter or call a person who can receive PIDs to make a report without providing your name or anything that might identify you as the maker of the report. A report will only be considered anonymous if there is no reasonable or practical way of communicating with the person making the report. Even if you choose to remain anonymous, you will still be protected under the PID Act. However, it may be difficult for FRNSW to investigate the matter(s) you have disclosed if it cannot contact you for further information.

(g) What should I include in my report?

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

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

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

You should report all wrongdoing you become aware of regardless of whether you think it is serious wrongdoing. It is important for FRNSW to understand what is or may be occurring within our organisation.

PSB are then responsible for making sure your report is handled appropriately under the PID Act, or if it is not a PID, in line with our other procedures. Even if your report is not a PID, it may fall within one of FRNSW other policies for dealing with reports, allegations, or complaints.

(i) Deeming that a report is a voluntary PID

The Principal Officer, in certain circumstances, can determine that a report is a voluntary PID even if the report does not otherwise have all the features of a voluntary PID. This is known as the 'deeming power'.

By deeming that a report is a voluntary PID, it ensures that reporters are provided with protections under the PID Act.

If you make a report that has not met all the requirements of a voluntary PID, you can refer your matter to the Principal Officer, to request that they consider deeming your report to be a voluntary PID.

A decision to deem a report to be a voluntary PID is at the discretion of the Principal Officer. For more information about the deeming power, see the Ombudsman's guideline ['Deeming that a disclosure is a voluntary PID'](#).

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

If you have any questions or concerns in relation to PIDs or reporting, please contact PSB or any of the Disclosure Officers listed at **Annexure A**.

2. Protections

(a) How is the maker of a voluntary PID protected?

When you make a voluntary PID you receive special protections under the PID Act.

FRNSW is committed to taking all reasonable steps to protect you from detriment as a result of having made a PID. We strive for a 'speak up' culture and value receiving complaints that help us do things better. When you make a complaint about serious wrongdoing, you are demonstrating the FRNSW Values. We are also committed to maintaining your confidentiality (as far as is possible) while the PID is being dealt with.

We will not tolerate any type of detrimental action being taken against you because you have made a report, might make a report, or are believed to have made a report.

The maker of a voluntary PID is protected in the following ways:

- *Protection from detrimental action*
 - A person cannot take detrimental action against another person because they have made a voluntary PID or are considering making a PID. Detrimental action includes bullying, harassment, intimidation, or dismissal.
 - Once we become aware that a voluntary PID has been made, we will undertake a risk assessment and consider actions to mitigate the risk of detrimental action occurring against the person who made the voluntary PID.
 - It is a criminal offence for someone to take detrimental action against a person because they have made or may make a voluntary PID. It is punishable by a maximum penalty of 200 penalty units or imprisonment for five years or both.
 - A person may seek compensation where unlawful detrimental action has been taken against them.
 - A person can apply for a court order (injunction) where detrimental action is threatened or has occurred (for example, an order to prevent dismissal or to require reinstatement).

Note that a person who makes a PID can still be subject to reasonable management action (such as ordinary performance reviews and performance

management). Provided such action is not taken because of the PID, it is not detrimental action under the PID Act.

- *Immunity from civil and criminal liability*

Some public officials are subject to a duty of confidentiality that prevents them disclosing certain information that they obtain or become aware of at work. Sometimes, in order to make a PID, public officials will need to breach or disregard such confidentiality duties. If that happens, a public official cannot be disciplined, sued, or criminally charged for breaching confidentiality.

- *Confidentiality*

Public officials and agencies must not disclose information tending to identify a person as the maker of a voluntary PID unless doing so is permitted by the PID Act.

- *Protection from liability for own past conduct*

The Attorney General can give the reporter an undertaking that a disclosure of their own past conduct will not be used against them if a person discloses their own wrongdoing or misconduct while making a report. This undertaking can only be given on application by an integrity agency to the Attorney General.

(b) Protections for people who report mandatory and witness PIDs

Apart from PIDs that are reported voluntarily by public officials, there are other types of reports that are recognised as PIDs under the PID Act:

- *A mandatory PID:* This is a PID 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 example, a member of the finance team reports an anomaly they identify whilst performing the functions of their role.
- *A witness PID:* This is a PID where a person discloses information during an investigation of serious wrongdoing following a request or requirement from the investigator.

Protections for makers of mandatory and witness PIDs are detailed in the table below.

Protection	Mandatory PID	Witness PID
Detrimental action — It is an offence to take detrimental action against a person based on the suspicion, belief, or awareness that a person has made, may have made, or may make a PID.	✓	✓

<p>Right to compensation — A person can initiate proceedings and seek compensation for injury, damage or loss suffered as a result of detrimental action being taken against them.</p>	✓	✓
<p>Ability to seek injunction — An injunction can be sought 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.</p>	✓	✓
<p>Immunity from civil and criminal liability — a person will not incur civil or criminal liability if the person breaches a duty of confidentiality while making a disclosure. This means that legal action cannot be taken against a person for:</p> <ul style="list-style-type: none"> • breaching a duty of secrecy or confidentiality; or • breaching another restriction on disclosure. 	✓	✓

3. Reporting detrimental action

FRNSW will not tolerate any detrimental action against staff who report wrongdoing. The PID Act provides protection for people reporting wrongdoing, by imposing penalties on anyone who takes detrimental action substantially in reprisal for them reporting the public interest disclosure.

Detrimental action means action causing, comprising, or involving any of the following:

- injury, damage or loss;
- intimidation or harassment;
- discrimination, disadvantage, or adverse treatment in relation to employment;
- dismissal from, or prejudice in, employment; or
- disciplinary proceedings.

Detrimental action is also *misconduct* under the *Fire Brigade Regulation 2023* (see Part 4, section 32 Meaning of misconduct (1) (d)) and such behaviour may constitute grounds for disciplinary action up to and inclusive of termination of employment.

4. Responding to reprisals

FRNSW will act to protect staff who report wrongdoing from reprisal action.

If you believe that detrimental action has been, or is being, taken against you, or someone else who has reported wrongdoing, in reprisal for making a report, you should report your concerns to either PSB, the Disclosures Coordinator, Principal Officer or to an integrity agency immediately (a list of integrity agencies is located at **Annexure B** of this policy).

When reporting your concerns to PSB, a thorough risk assessment will be conducted. This will identify any risks to the member of staff who reported the wrongdoing, as well as strategies to deal with those risks.

All managers must report any suspicions they have that reprisal action against a staff member is occurring, or any reports of reprisal action that are made to them, to the Disclosures Coordinator, PSB or the Principal Officer.

If the Disclosures Coordinator or PSB becomes aware that detrimental action is being taken against a person who has made a report, they will:

- ensure a senior and experienced member of staff, who has not been involved in dealing with the initial disclosure, will investigate the suspected reprisal;
- give the results of that investigation to the Principal Officer for a decision;
- if it has been established that detrimental action is being taken against someone who has made a report, take all possible steps to stop that activity and protect the reporter; and
- take appropriate disciplinary or refer for criminal action, anyone proven to have taken or threatened any detrimental action against the reporter, in reprisal for making a report.

The Principal Officer may issue specific directions to help protect the reporter against reprisals, including:

- issuing warnings to those alleged to have taken detrimental action against the member of staff who made the report;
- relocating the member of staff who made the report or the staff member who is the subject of the allegation;
- transferring the member of staff who made the report or the staff member who is the subject of the allegation to another position for which they are qualified; or
- granting the member of staff who made the report, or the staff member who is the subject of the allegation, a leave of absence during the investigation of the report.

Taking other remedial, or disciplinary action in line with the *Fire Brigade Regulation 2023* or action in line with other FRNSW policies and procedures. Directions to relocate or transfer the staff member who made the report will only be taken in consultation with the reporter and with support by management. This action will not be initiated as a punishment for the reporter.

5. General support

PID reporters will be allocated a PSB case officer who is available to provide information and otherwise support them with their report. Additionally, the Mental Health and Wellbeing team in the FRNSW Health and Safety Branch, is available to provide mental health support to individuals who have made a report throughout this process.

6. Roles and responsibilities of FRNSW employees

Certain people within FRNSW have responsibilities under the PID Act.

(a) Principal Officer (Commissioner, FRNSW)

The Principal Officer will:

- foster a workplace culture where reporting is encouraged;
- receive reports from public officials;
- ensure there is a system in place for assessing reports;
- ensure FRNSW complies with this policy and the PID Act;
- ensure that FRNSW has appropriate systems for:
 - overseeing internal compliance with the PID Act;
 - supporting public officials who make voluntary PIDs, including by minimising the risk of detrimental action;
 - implementing corrective action if serious wrongdoing is found to have occurred;
 - complying with reporting obligations regarding allegations or findings of detrimental action; and
 - complying with yearly reporting obligations to the NSW Ombudsman.

(b) Disclosures Coordinator (Director, Professional Standards)

The Disclosure Coordinator will:

- perform the role of a Disclosure Officer if required;
- assess a report received from a Disclosure Officer and determine the appropriate course of action. This action will occur in line with the requirements of the *Resolving Workplace Complaints Policy* and/or the *Procedural Guidelines for the Management of Conduct Part 1 and 2* through staff in PSB
 - determine whether a report meets the criteria for a PID
- ensure all reporting obligations to ICAC, the NSW Police Force or other investigating authority are met, in line with the *Resolving Workplace Complaints Policy*, and/or the *Procedural Guidelines for the Management of Conduct Part 1 and 2*, and legislative obligations;
- advise the Disclosure Officer of the determination of the PID (or of the determination that a report does not meet the criteria) and the appropriate course of action; and
- monitor all action taken in relation to a report including investigation, remedial and/or disciplinary action.

(c) Disclosure Officers

Disclosure Officers are responsible for:

- receiving reports from public officials;
- receiving reports when they are passed on to them by 'managers';
- ensuring reports are dealt with appropriately, including by referring the matter to PSB; and
- ensuring that any oral reports that have been received are recorded in writing.

All staff within the PSB are disclosure officers, and they will have additional duties in line with their role description, including to investigate PIDS.

(d) Managers

The responsibilities of managers include:

- receiving reports from persons that report to them or that they supervise; and
- passing on reports they receive to PSB. It is important that Manager's understand that the Commissioner has made it mandatory to report all complaints received – including PIDS – to PSB, in line with the *Resolving Workplace Complaints Policy*.

(e) All employees

The process for making a PID is outlined in Section 1(e) of this Policy. Any employee who requires further information about making a PID should contact PSB.

All employees must:

- report suspected serious wrongdoing or other misconduct;
- use their best endeavours to assist in an investigation of serious wrongdoing, if asked to do so by a person dealing with, or investigating a voluntary PID on behalf of FRNSW; and
- treat any person dealing with or investigating reports of serious wrongdoing with respect.

No employee should take detrimental action against any person who has made, or is suspected of having made, a PID.

7. How FRNSW will deal with voluntary PIDs

(a) How FRNSW will acknowledge that it has received a report and keep the person who made it informed

Staff who report wrongdoing will be told what is happening in response to their report.

When a disclosure officer receives a report of a voluntary PID, you 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 PID;
- state the timeframe for when you may receive further updates;
- state that the PID Act applies to how FRNSW deals with the report;
- provide clear information on how you can access this PID policy; and
- provide you with details of a contact person and available supports.

After a decision is made about how the report will be dealt with, you will be given information, on a confidential basis, that may include:

- that the report had been deemed a voluntary PID, information about the action that will be taken in response to your report,
- that we will refer the report to a different agency (if appropriate) to deal with the voluntary PID. If we do this, we will provide you with details of this referral; or
- If we decide to not investigate the report and not to refer it to another agency for it to be investigated, we will tell you the reasons for this decision. We will also notify the NSW Ombudsman of this decision.
- If we decide to investigate the report of serious wrongdoing, you will be provided with updates on the investigation at least every three months. During this time, if you would like more frequent updates, you should contact the contact person within PSB who was nominated when you made the report.
 - If we investigate the serious wrongdoing, you will be provided with the following information once the investigation is complete:
 - advice on the outcome
 - information about any corrective action as a result of the investigation, noting the advice provided may be limited in line with privacy legislation.
- 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 you. We will always balance the right of a person who makes a report to know the outcome of that report, with other legal obligations we have.
- If you have made an anonymous report, in many cases we may not be able to provide this information to you.

(b) How FRNSW will deal with voluntary PIDs

Once a report is received, FRNSW will look at the information contained in the report to see if it has the features of a voluntary PID. This assessment is undertaken to identify whether the report is a voluntary PID or another type of report, and to make sure that the right steps are followed.

A report will be dealt with in one of the following ways:

- PID status declined with reasons given for the determination;
- PID status granted;

- internal assessment, inquiries will be undertaken and if warranted, formal investigation will occur, or investigation by an appropriate external investigator. This must occur in line with the *Resolving Workplace Complaints Policy* and the Procedural Guidelines Parts 1 and 2;
- referral to, and investigation by, an investigation authority, including:
 - the ICAC, if the matter involves alleged corrupt conduct;
 - the NSW Ombudsman, if the matter involves alleged maladministration;
 - the NSW Auditor-General, if the matter involves alleged serious and substantial waste of public money;
 - the NSW Police Force, if the matter involves alleged criminal activity; or
 - the Information and Privacy Commissioner, if the matter involves government information and/or privacy contravention. Allegations of government information contraventions will be assessed by the Legal and Regulatory Services (LRS) branch and reported to the Information Commissioner with the required checklist completed. The Information Commissioner then determines whether the potential contravention is a PID, conducts a risk assessment, investigates the matter and liaises with the complainant.

If the report is a voluntary PID, we will ensure that we comply with the requirements in the PID Act.

(c) Report not a voluntary PID

If the report is deemed not to be a voluntary PID, you will be notified that the PID Act does not apply to the report and how the concerns raised in the report will be dealt with, in line with FRNSW's *Resolving Workplace Complaints Policy and/or the Procedural Guidelines for the Management of Conduct Part 1 and Part 2* which states, for Managers, including Inspectors and above, the Commissioner has made it mandatory to report all complaints to PSB for assessment and record keeping.

If you are not happy with this assessment or otherwise disagree with it, you can raise it with the person who has communicated the outcome with you or a disclosure officer, request an internal review. In certain limited circumstances, FRNSW may, request the assistance of the NSW Ombudsman to conciliate the dispute.

(d) Cease dealing with report as voluntary PID

FRNSW may stop dealing with a voluntary PID because it is not actually a voluntary PID (meaning it does not have all the features of a PID).

(e) How FRNSW will protect the confidentiality of the reporter of a voluntary PID

It is understandable that people who report voluntary PIDs may want their identity, and the fact that they have made a report, to be confidential.

Under the PID Act, information tending to identify a person as the reporter of a voluntary PID (known as identifying information) is not to be disclosed by any public official within FRNSW.

There are certain circumstances under the PID Act that allow for the disclosure of identifying information. These include:

- where the person consents in writing to the disclosure of their identity;
- where it is generally known that the person is the reporter of the voluntary PID, because of their voluntary self-identification as the reporter;
- when the public official or FRNSW reasonably considers it necessary to disclose the information to protect a person from detriment;
- where it is necessary the information be disclosed to a person whose interests are affected by the report;
- 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 reporting 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 report effectively; or
- if it is otherwise in the public interest to disclose the identifying information.

We will not disclose identifying information unless it is necessary and authorised under the PID Act.

Steps will be put into place to keep the identifying information of the reporter confidential. It may not be possible to maintain complete confidentiality while we progress the investigation, but we will do all that we practically can to avoid unnecessarily disclosing information from which the maker of the report can be identified.

If confidentiality cannot be maintained or is unlikely to be maintained, FRNSW may undertake any, or all, of the following actions, or other suitable actions:

- advise the person whose identity may become known;
- update the FRNSW risk assessment and risk management plan;
- review and implement strategies to minimise the risk of detrimental action;
- provide additional support to the person who reported the PID;
- remind persons who become aware of the identifying information of the consequences for failing to maintain confidentiality; and

- remind staff that engaging in detrimental action is a criminal offence and may also be a disciplinary matter.

(f) How FRNSW will assess and minimise the risk of detrimental action

FRNSW will not tolerate any detrimental action being taken by any person against a person who has reported a PID, investigators, witnesses, or the person the report is about.

FRNSW will assess and take steps to mitigate detrimental action from being taken against the reporter of a voluntary PID, the person whose conduct is the subject of a PID, investigators and witnesses.

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

- undertaking a risk assessment
- PSB staff will complete a risk assessment following consultation with the person who has made the PID;
- approval for the risk assessment and risk management plan rests with the Director, PSB, as the disclosures coordinator, or their delegate;
- when a PID is made, the Senior Investigation Officer appointed to manage the matter will communicate with the maker to identify risks;
- FRNSW will discuss protection options with the reporter for the duration of the investigation; and specific support will be provided based on the needs of the person who reported the PID and requirements of the disclosure.

Detrimental action against a person is 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 by a person or body to assess or 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; or

- reasonable management action taken by someone in relation to a person who reported a PID. For example, a reasonable appraisal of the reporters work performance.

(g) How FRNSW will deal with allegations of a detrimental action offence

If FRNSW become(s) aware of an allegation that a detrimental action offence has occurred or may occur, PSB in conjunction with a decision maker will:

- take all steps possible to stop the action and protect the person(s);
- refer any evidence of a detrimental action offence to the Commissioner of the NSW Police Force and ICAC or the Law Enforcement Conduct Commission (whichever is applicable);
- notify the NSW Ombudsman about the allegation of a detrimental action offence being committed.
- If supported or required following the steps above, take appropriate remedial or disciplinary action following an investigation against anyone proven, on the balance of probabilities, to have taken detrimental action;

(h) What FRNSW will do if an investigation finds that serious wrongdoing has occurred

If, after an investigation, it is found that serious wrongdoing or other misconduct has occurred, FRNSW will take the most appropriate action to address that wrongdoing or misconduct in accordance with the FRNSW Procedural Guidelines for the Management of Conduct and other FRNSW policies and procedures. This may include:

- a caution or reprimand;
- the imposition of a fine;
- reduction of the employee's salary or demotion to a lower position;
- directing the employee to resign, or to be allowed to resign within a specified period;
- dismissal;
- counselling (informal and formal);
- training and development; monitoring the employee's conduct;
- implementing a conduct improvement plan;
- issuing a warning;
- transferring to a position of same rank; or
- other action of a similar nature.

FRNSW may also determine to implement other changes in practice or systems improvements to address the serious misconduct.

8. Review and dispute resolution

(a) Internal review

People who report voluntary PIDs can seek an internal review of the following decisions made by FRNSW:

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

FRNSW will ensure internal reviews are conducted in compliance with the PID Act.

If you would like to make an application for an internal review, apply to PSB in writing at ProfStandards@fire.nsw.gov.au, within 28 days of being informed of the outcome. The application should state the reasons why you consider the outcome by FRNSW should not have been made. You may also submit any other relevant material with your application.

PSB will undertake a review by a suitably qualified member of staff, not being the original person who handled the matter or may utilise an external reviewer.

(b) Voluntary dispute resolution

If a dispute arises between FRNSW and a person who has made a report which is, or may be, a voluntary PID, we may request the NSW Ombudsman conciliate the dispute. Conciliation is a voluntary process and will only be suitable for disputes where FRNSW and the maker of the report are willing to resolve the dispute.

9. Other agency obligations

(a) Record-keeping requirements

FRNSW must keep full and accurate records with respect to all information received in connection with the PID Act. This ensures that FRNSW complies with its obligations under the *State Records Act 1998*.

FRNSW ensures full and accurate records are kept and secured within its complaints management database and records management system. Access to this information is limited to only those working in complaint management or with a formal decision-making role. Access is further restricted based on the sensitivities of a matter.

(b) Reporting of voluntary PIDs and FRNSW annual return to the Ombudsman

Each year PSB provides FRNSW's annual return to the NSW Ombudsman which includes:

- information about voluntary PIDs received by FRNSW during each return period (yearly with the start date being 1 July);
- action taken by FRNSW to deal with voluntary PIDs during the return period; and
- how FRNSW promoted a culture in the workplace where PIDs are encouraged.
- LRS will ensure that it reports PIDs that are government information and privacy contraventions to PSB for inclusion in FRNSW's annual return to the NSW Ombudsman.

(c) FRNSW will ensure compliance with the PID Act and this policy

FRNSW will ensure compliance with the PID Act and this policy through the following measures:

- Responsibility of PID management and handling resides with the Executive Director of People and Culture and the Executive Leadership Team (ELT);
- Responsibility of PID assessment and referrals to PSB resides with the Executive Director of Business Coordination, Compliance and Reporting;
- PSB will be responsible for all FRNSW PID reporting requirements, and for providing quarterly updates to the ELT and the ARC;
- PSB will be responsible for maintaining and updating the PID Policy. This will be reviewed every three (3) years; and
- All Disclosure Officers and managers are responsible for ensuring they are aware of their obligations and comply with the PID Act.

Document information

Document control

Policy Manager	Executive Director People & Culture
Contact Officer	Director Professional Standards Branch
Contact No	(02) 9265 2826
Document type	Policy
Applies to	<input checked="" type="checkbox"/> Firefighters <input checked="" type="checkbox"/> Community Fire Unit Members <input checked="" type="checkbox"/> Administrative and Trades Staff <input checked="" type="checkbox"/> Contractors and Consultants
Status	Draft
Security	OFFICIAL: Sensitive
File Reference	WPS23/1169
Review Date	Three years from publication
Rescinds	V3 Public Interest Disclosure Policy Commissioner's 2011/24
Copyright	© State of New South Wales through Fire and Rescue NSW
Version approved by	Commissioner
Date approved	24 July 2024
Approval File Reference	WPS24/11162

Revision history

Version	Date	Status	HPE RM Ref	Details
01	25/10/2011	Final	NFB/11397	D15/15018
02	28/03/2015	Updated	NFB/11397	WPS15/949
03	01/12/2017	Updated	NFB/11397	WPS15/949
04	12/06/2024	Final	NFB/11397	WPS23/1169

Annexure A — Disclosure Officers for FRNSW

- Commissioner (and Staff Officer)
- Deputy Commissioners (and Staff Officers)
- All Executive Directors
- All Assistant Commissioners
- All Directors
- Director, Professional Standards Branch (Disclosure Coordinator)
- Nominated Disclosure Officers
- All Chief Superintendents
- All Superintendents
- All Inspectors
- All Captains and Deputy Captains
- All staff within the Professional Standards Branch
- All people managers

Annexure 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 the NSW Police Force, 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	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 the ICAC or the ICAC officers	Telephone: 02 9228 3023 Writing: PO Box 5341, Sydney NSW 2001 Email: oiicac_executive@oiicac.nsw.gov.au

Fire and Rescue NSW

Public Interest Disclosures Policy and Procedures

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: olecc_executive@olecc.nsw.gov.au
Office of the 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