

Public Interest Disclosures - Internal Reporting Policy & Procedure

1. Purpose and outcomes

This policy and procedure affirms the commitment of Roads & Maritime Services to supporting and protecting staff who report wrongdoing that relates to corrupt conduct, maladministration, serious and substantial waste of public money or government information contravention.

Reports of wrongdoing that fall within the serious wrongdoing categories referred to above and which are made in accordance with the *Public Interest Disclosures Act 1994 (the PID Act)* are known as “public interest disclosures”.

The policy and procedure specifically explains the process for making and handling reports that are classified as public interest disclosures under the *PID Act* (formerly known as *the Protected Disclosures Act*).

This policy and procedure is designed to complement normal communication channels between managers, supervisors and staff. Staff are encouraged to continue to raise appropriate matters at any time with their managers or supervisors, but as an alternative and to be eligible for the protections available under the *PID Act* they also have the option of making a public interest disclosure in accordance with this policy and procedure.

2. Context

Under section 6D of the *PID Act*, Roads & Maritime Services is required to have a policy that provides for its procedures for receiving, assessing and dealing with public interest disclosures. This policy and procedure explains how to make public interest disclosures and how public interest disclosures will be dealt with by Roads & Maritime Services. The policy and procedure is adopted for the purposes of complying with section 6D of the *PID Act*.

Insofar as the policy and procedure deals with public interest disclosures, it addresses the relevant provisions of the *PID Act* and any reports classified as public interest disclosures will be dealt with in accordance with Roads & Maritime Services responsibilities under the *PID Act*.

In formulating the parts of this policy and procedure that relate to public interest disclosures under the *PID Act*, Roads & Maritime Services has had regard to the NSW Ombudsman's Model Internal Reporting Policy and the Ombudsman's guidelines.

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This policy and procedure is consistent with the organisation's Code of Conduct and Ethics, which is available on the intranet. It is also just one of several policies relating to grievances and complaints.

3. Organisational commitment

Roads & Maritime Services is committed to achieving high standards of ethical and accountable conduct and does not tolerate any form wrongdoing. This policy and procedure specifically deals with the serious wrongdoing categories of corrupt conduct, maladministration, serious and substantial waste of public money or government information contravention that can be deemed as public interest disclosures under the *PID Act*. Roads & Maritime Service will support staff who make public interest disclosures because they are helping to promote integrity, accountability and good management within Roads & Maritime Services.

Roads & Maritime Services recognise that staff are often best placed to bring to light serious problems within the management and operation of an organisation. All staff are encouraged to come forward and make a public interest disclosure if they have witnessed corrupt conduct, maladministration, serious and substantial waste of public money or government information contravention within the Roads & Maritime Services.

Through this policy and procedure Roads & Maritime Services aims to create an organisational climate of trust, where staff feel comfortable and confident about making public interest disclosures.

Roads & Maritime Services will take all reasonable steps to protect staff who make a public interest disclosure from any detrimental action against them that is substantially in reprisal for them having made the public interest disclosure. Their identify will be kept confidential wherever possible and appropriate.

Roads & Maritime Services will deal with reports of public interest disclosures thoroughly and impartially and, if the reported wrongdoing is proven, action will be taken to rectify it.

Staff who make a public interest disclosure will be notified of the action taken or proposed to be taken in respect of the public interest disclosure. However, where a disclosure has resulted in disciplinary action, the disciplinary process will remain confidential and is managed separately to the disclosure, meaning that the person who has made the disclosure will not be provided with details of the disciplinary process or the nature of any action taken.

Roads & Maritime Services encourages staff to make public interest disclosures within Roads & Maritime Services and in accordance with this policy and procedure, but respects their right to make them outside Roads & Maritime Services, provided any disclosures made outside the organisation are made in accordance with the provisions of the *PID Act*.

Roads & Maritime Services will ensure managers and supervisors at all levels in the organisation understand the benefits that arise from staff making public interest disclosures,

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are familiar with this policy and procedure and are aware of the needs of those who report corrupt conduct, maladministration, serious and substantial waste of public money or government information contravention.

Roads & Maritime Services will provide adequate resources, both financial and human, to ensure the implementation of this policy and procedure.

4. Scope

This policy and procedure applies to all Roads & Maritime Services staff, including:

- (i) permanent employees (whether full time or part time),
- (ii) temporary employees,
- (iii) casual employees, and
- (iv) individual contractors (including consultants) working for Roads & Maritime Services.

This policy and procedure may also apply to other people who perform public official functions or act in a public official capacity and whose conduct and activities could be investigated by an investigating authority. This can include volunteer workers and people engaged by Roads & Maritime Services under a contract for services, regardless of whether they are engaged as individuals or via companies (e.g. John Smith Consulting Pty Ltd).

5. Definitions

Word	Definition
Public official	<p>A public official is defined in section 4A of the <i>PID Act</i> as meaning an individual who is an employee of or otherwise in the service of a public authority and includes:</p> <ul style="list-style-type: none"> • a person employed under the <i>Public Sector Employment and Management Act 2002</i>, • a member of Parliament, but not for the purposes of a disclosure made by the member, • a person employed by either or both of the President of the Legislative Council or the Speaker of the Legislative Assembly, • any other individual having public official functions or acting in a public official capacity whose conduct and activities may be investigated by an investigating authority, • an individual in the service of the Crown, and • an individual who is engaged by a public authority under a contract to provide services to or on behalf of the public

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	<p>authority (i.e. an independent contractor).</p> <p><u>Examples:</u></p> <p>Public officials include employees of Roads & Maritime Services, independent contractors (including a consultants) engaged by Roads & Maritime Services under contracts for services if they are trading as an individual. It also includes contractors (regardless of whether they are trading as individuals, companies or subcontractors,) and volunteers if the contractors or volunteers are performing public official functions or acting in a public official capacity and their conduct and activities may be investigated by an investigating authority.</p>
Corrupt conduct	<p>Corrupt conduct, as defined in the <i>Independent Commission Against Corruption Act 1988</i> (the <i>ICAC Act</i>) is deliberate or intentional wrongdoing, not negligence or a mistake. It has to involve or affect a NSW public official or public sector organisation. It includes:</p> <ul style="list-style-type: none"> • conduct of any person (whether or not a public official) that could or does adversely affect the honest or impartial exercise of official functions by any public officials or any public authority, • the dishonest or partial (i.e. biased) exercise of official functions by a public official • a breach of public trust by a public official or former public official, • the misuse of information or material that a public official has acquired in the course of his or her official functions, or • conduct of any person (whether or not a public official) that could or does adversely affect the exercise of official functions by any public official or any public authority, and which could involve matters such as bribery, blackmail, obtaining or offering secret commissions, fraud, theft, perverting the course of justice, embezzlement, election bribery, election funding offences, election fraud, treating, tax evasion, revenue evasion, currency violations, illegal drug dealings, illegal gambling, obtaining financial benefit by vice engaged in by others, bankruptcy and company violations, harbouring criminals, forgery, treason or other offences

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	<p>against the Sovereign, homicide or violence, matters of the same or a similar nature to any listed above and any conspiracy or attempt in relation to any of the matters listed above.</p> <p><u>Examples:</u></p> <p>Corrupt conduct may include:</p> <ul style="list-style-type: none"> • the deliberate improper use by a public official of their position or power, or any knowledge or material gained by them in the course of their official functions, for personal gain or the gain of a third party - for example, the public official using their public official position to manipulate the proper competitive tendering processes and procedures to ensure a contract or tender is awarded to a private party on the basis that they are related by family, friendship or association (note - such conduct may also amount to "maladministration"), and • a member of the public influencing or trying to influence a public official to use their position in a way that is dishonest, biased or breaches public trust - for example, by bribing or blackmailing them.
Maladministration	<p>Maladministration is defined in section 11 (2) of the <i>PID Act</i> as conduct that involves action or inaction of a serious nature that is</p> <ul style="list-style-type: none"> • contrary to law, or • unreasonable, unjust, oppressive or improperly discriminatory or • based wholly or partly on improper motives. <p><u>Examples:</u></p> <p>Maladministration may include:</p> <ul style="list-style-type: none"> • making a decision or taking an action that is so unreasonable that no reasonable person would so decide or act (i.e.: irrational), • serious delays in making a decision or taking action, • making a decision or taking an action that is unlawful, • awarding contracts and tenders to private parties that are related by family, friendship or association without following a competitive tendering process (this could also amount to corrupt conduct),

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	<ul style="list-style-type: none"> • issuing an order against a person without giving them procedural fairness, and • refusing to grant someone a licence for reasons that are not related to the merits of their application.
<p>Serious and substantial waste of public money</p>	<p>Serious and substantial waste of public money is not defined in the <i>PID Act</i>. However, it is considered to involve the uneconomical, inefficient or ineffective use of resources authorised or unauthorised which results in the loss of public money/resources.</p> <p>Serious and substantial waste of public money can be:</p> <ul style="list-style-type: none"> • absolute – where the waste is regarded as significant, for example, \$500,000, • systemic – where the waste indicates a pattern that result from a weakness within Roads & Maritime Services' systems, and • material – where the waste is about Roads & Maritime Services' expenditure or a particular item of expenditure, or is to such an extent that it affects the capacity of Roads & Maritime Services to perform its primary functions. <p><u>Examples:</u></p> <p>A serious and substantial waste of public money may include:</p> <ul style="list-style-type: none"> • persisting with an ineffective program that is not achieving its objectives and is unlikely to achieve its objectives in the future, • a significant, systematic or material purchase of unnecessary or inadequate goods or services, and • having bad or no processes in place for a system involving large amounts of public funds.
<p>Government information contravention</p>	<p>Government information contravention is defined in section 4 (1) of the <i>PID Act</i> as conduct of a kind that constitutes a failure to exercise functions in accordance with any provisions of the <i>Government Information (Public Access) Act 2009 (the GIPA Act)</i>.</p> <p><u>Examples</u></p>

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	<p>A government information contravention may include:</p> <ul style="list-style-type: none"> • destroying, concealing or altering records to prevent them from being released, • knowingly making decisions that are contrary to the GIPA Act, and • directing another person to make a decision that is contrary to the <i>GIPA Act</i>.

6. Policy and Procedure Statement

Roads & Maritime Services does not tolerate corrupt conduct, maladministration, serious and substantial waste of public money or government information contravention.

Roads & Maritime Services will establish, implement and maintain a policy that facilitates the reporting by Roads & Maritime Services staff, in the public interest, of corrupt conduct, maladministration, serious and substantial waste of public money and government information contravention which will allow, where applicable, for such disclosures to be protected by the *PID Act*.

Roads & Maritime Services will provide information on public interest disclosures in its Annual Report and will provide half yearly data to the Ombudsman on its compliance with the *PID Act*.

The responsibilities of all staff include:

- (i) reporting known or suspected corrupt conduct, maladministration, serious and substantial waste of public money and government information contravention within Roads & Maritime Services,
- (ii) behaving in a lawful manner and complying with all relevant legislative, industrial and administrative requirements,
- (iii) not making false or misleading reports of corrupt conduct, maladministration, serious and substantial waste of public money or government information contravention or other wrongdoing,
- (iv) keeping the identity of a person who has made a public interest disclosure and anyone who is the subject of a disclosure confidential,
- (v) assisting those authorised to assess/investigate public interest disclosures, including supplying any information on request,
- (vi) supporting staff who report public interest disclosures,
- (vii) not taking reprisals against another staff member whom they know or they suspect has made a public interest disclosure, and

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- (viii) notifying their manager or supervisor immediately of any suspicion they have that reprisal action against a person who has made a public interest disclosure has occurred, is occurring or has been threatened.

The responsibilities of staff making a public interest disclosure include:

- (i) only discussing the matter with authorised people and not alerting anyone who is the subject of the report that a public interest disclosure has been made,
- (ii) when making a disclosure raising any concerns they have about reprisals or workplace conflict with the person assessing their public interest disclosure or the disclosures coordinator,
- (iii) assist those authorised to assess and deal with your report, including supplying any information on request,
- (iv) if needed, seeking support from their support officer, manager, supervisor, a disclosure officer or the disclosure coordinator, and
- (v) notifying their manager, supervisor, a disclosure officer, or the disclosure coordinator immediately of any suspicions they have that reprisal action has occurred, is occurring or has been threatened.

Managers and supervisors play a key role in establishing a working environment that encourages all staff to report corrupt conduct, maladministration, serious and substantial waste of public money or government information contravention and other wrongdoing and to support those that do. If a staff member has a concern or a report of a serious conduct category that may be a public interest disclosure under the *PID Act*, managers and supervisors should advise them to raise the matter with a person authorised within Roads & Maritime Services to receive public interest disclosures (see 15). All other reports of wrongdoing should be taken and dealt with under the relevant policy and procedure.

If a manager or supervisor is aware that a staff member has made a public interest disclosure, their responsibilities include:

- (i) keeping the identity of the person who has made the public interest disclosure and anyone who is the subject of their a disclosure confidential, where this is possible and appropriate,
- (ii) assisting those authorised to deal with a public interest disclosure, including supplying any information on request,
- (iii) providing support to the person who has made the public interest disclosure , including ensuring that they have access to any necessary professional support,
- (iv) ensuring that appropriate systems and strategies are established to minimise any risk of reprisal action that the person who has made the public interest disclosure faces,

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- (v) notifying a disclosure officer, the disclosures coordinator or principal officer immediately if they believe a staff member is being subject to reprisal action as a result of making a public interest disclosure,
- (vi) effectively managing the workplace situation if reprisal action is threatened or has taken place or is taking place, and
- (vii) taking appropriate action against any person who threatens or has taken or is taking reprisal action against a person for making a public interest disclosure.

The responsibilities of staff who are the subject of the public interest disclosure include:

- (i) only discussing the matter with authorised people such as the person investigating your matter, a nominated support officer or your legal representative,
- (ii) not seeking to identify the person who made the public interest disclosure,
- (iii) assisting those authorised to deal with a report of a public interest disclosure, including supplying any information on request, and
- (iv) not taking reprisal against another staff member whom they know or they suspect has made a report of a public interest disclosure.

7. What should be reported (as public interest disclosures)?

Staff should report any wrongdoing they see within Roads & Maritime Services.

However only reports about:

- (i) corrupt conduct,
- (ii) maladministration,
- (iii) serious and substantial waste of public money, and
- (iv) government information contravention,

will be dealt with under the *PID Act* as public interest disclosures and according to this policy and procedure.

8. Other wrongdoing

Although reports about corrupt conduct, maladministration, serious and substantial waste of public money and government information contravention can attract the specific protections under the *PID Act*, staff should report all activities or incidents that they believe are wrong. For example:

- (i) harassment or unlawful discrimination,
- (ii) reprisal action against a person who has reported wrongdoing, and

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- (iii) practices that endanger the health or safety of staff or the public.

These incidents should be reported to your supervisor or manager and dealt with in line with applicable Roads & Maritime Services policies, procedures and guidelines.

Even if these reports of wrongdoing are not dealt with as public interest disclosures, Roads & Maritime Services will consider each report and make every attempt to protect the staff member making the report from any form of reprisal action as a consequence of making the report. Section 43 of the *Public Sector Employment Management Act 2002* identifies, any form of reprisal action against an employee for reporting wrongdoing, as misconduct.

9. Who can make a public interest disclosure?

Anyone can report activities or incidents that they believe are wrong. However, in order to be considered a public interest disclosure, the report must be made by a public official and meet the criteria of the *PID Act* (see 10 below for more details).

10. When will a report be protected as a public interest disclosure?

For a report to be considered a public interest disclosure, it has to meet all the requirements under the *PID Act* and which this policy and procedure gives support to. The requirements are:

- (i) the report must be made voluntarily (that is, of the reporter's own accord and not under compulsion or pursuant to a duty imposed by legislation),
- (ii) the report must be made by a public official,
- (iii) the report must be about the conduct of a public official or the activities of a public authority (including Roads & Maritime Services),
- (iv) the wrongdoing being reported must fall within the wrongdoing categories listed in the *PID Act*, i.e. within the meaning of corrupt conduct, maladministration, serious and substantial waste of public money or government information contravention,
- (v) the person making the report must honestly believe on reasonable grounds that the information shows or tends to show one of the types of conduct that public interest disclosures can be made about, e.g. corrupt conduct, maladministration, a serious and substantial waste of public money or a government information contravention. This means that the belief must be more than a suspicion and must be genuinely held. In addition, there must be sufficient information to indicate that the wrongdoing described in their public interest disclosure has happened or is happening. This may include: direct observations of the wrongdoing; corroborative observations by others; and evidence such as missing funds or items of value, unbalanced accounts or contradictory records, also
- (vi) the report has to be made to one or more of the following:

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- the Chief Executive Officer as the ‘Principal Officer ‘ of Roads & Maritime Services (see 15.1),
 - General Manager, Governance Branch as Roads & Maritime Services “Disclosures Coordinator” (see 15.2),
 - those Roads & Maritime Services Officers nominated as a “Disclosures Officer” (see 15.3), and
 - one of the investigating authorities nominated in the *PID Act* (see 16.1 below), and
- (vii) any reports made to the Disclosures Coordinator or a Disclosures Officer must be made in accordance with this policy and procedure.

(Note: Apart from investigating authorities, public interest disclosures can also be made to certain people outside Roads & Maritime Services if certain conditions are met – see 16.2 below.)

11. What disclosures are not protected?

Reports will not be considered to be public interest disclosures if they do not meet the requirements listed in 10 above. They will also not be considered to be public interest disclosures if they:

- (i) mostly question the merits of government policy,
- (ii) are made with the sole or substantial motive of avoiding dismissal or other disciplinary action, or
- (iii) contain intentional false statements or are intended to mislead the recipient (note: making such disclosures is also an offence under the *PID Act*).

12. How to make a report

You can make a report in writing or verbally to any of the persons listed in 15.

A report in writing can help to avoid any confusion or misinterpretation.

If a report is made verbally, the person receiving the report must make a comprehensive record of the disclosure and ask the person making the disclosure to sign this record where possible.

If you are concerned about being seen making a report, you can ring a Disclosures Officer and ask to meet in a discrete location away from the workplace.

13. Can a report be anonymous?

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There will be some situations where you may not want to identify yourself when you make a public interest disclosure. Although these disclosures will still be dealt with by Roads & Maritime Services, it is best if you identify yourself. This allows Roads & Maritime Services to provide you with any necessary protection and support, as well as notification of the action taken or proposed to be taken in respect of your public interest disclosure.

It is important to realise that an anonymous disclosure may not prevent you from being identified. If we do not know who made the report, it is very difficult for us to prevent any reprisal action.

14. Maintaining confidentiality

Roads & Maritime Services realises that some staff may want their reports to remain confidential.

Under the *PID Act*, Roads & Maritime Services is required not to disclose information that might identify or tend to identify any person who makes a public interest disclosure. There are however several exemptions to this requirement. The exceptions to this confidentiality requirement are where:

- (i) the person making the report consents in writing to the disclosure of that information, or
- (ii) it is generally known that the person has made the public interest disclosure as a result of them having voluntarily identified themselves as the person who made the disclosure, or
- (iii) it is essential, having regard to the principles of natural justice, that the identifying information be disclosed to the person who is the subject of the disclosure, or
- (iv) Roads & Maritime Services or the public official to whom the report is made is of the opinion that disclosure of the identifying information is necessary to investigate the matter effectively or disclosure is otherwise in the public interest.

We will discuss with you, where able, whether it is possible to keep your identity confidential.

Decisions about natural justice, effective investigation and public interest will be made by the Disclosures Coordinator. In all cases you will be consulted before such a decision is made.

You should only discuss your report with those dealing with it. This will include the Disclosures Officer (if you have made the report to a Disclosures Officer), the Disclosures Coordinator, the person or persons dealing with your report and the Principal Officer.

15. Who can receive a public interest disclosure report within Roads & Maritime Services?

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You are encouraged to report any matter you believe to be wrongdoing to your supervisor or manager. However, the *PID Act* requires that for a report to be a public interest disclosure, it must be made by a public official and, in the case of reports made to officers other than the Principal Officer, in accordance with the organisation's public interest disclosure procedure - (for Roads & Maritime Services this means this policy and procedure).

Any supervisor or manager who is not a nominated Disclosure Officer who receives a report of corrupt conduct, maladministration, serious and substantial waste of public money or government information contravention that they believe may fall within the definition of a public interest disclosure must:

- (i) bring to the reporters notice this policy and procedure, and
- (ii) advise them to make their report directly to one of the nominated authorised officers (listed below) in order for them to be considered eligible to have their report dealt with as a public interest disclosure.

15.1 Principal Officer (Chief Executive)

The Principal Officer for Roads & Maritime Services is the Chief Executive Officer. You can report public interest disclosures directly to the Principal Officer.

The Principal Officer is responsible for:

- (i) referring all public interest disclosures made to them to the Disclosures Coordinator for assessment,
- (ii) keeping the identity of the person making the public interest disclosure and anyone who is the subject of the disclosure confidential, if this is possible and appropriate,
- (iii) making sure that Roads & Maritime Services has systems in place for the receipt, assessment and the actioning of public interest disclosures including referring them to other, more appropriate, authorities,
- (iv) ensuring that he or she is advised when an assessment has been made about a public interest disclosure and if further action is recommended,
- (v) ensuring that he or she is given, where required, progress updates and informed of the outcome of any public interest disclosures that require investigation,
- (vi) making sure that there are systems in place in Roads & Maritime Services to support and protect staff that make public interest disclosures,
- (vii) fostering a work environment where staff are encouraged to make public interest disclosures without fear of reprisals and taking appropriate action if reprisal action is threatened or taken,
- (viii) making sure that systems are in place to deal with allegations of work place reprisals as a result of a public interest disclosure being made, If such action is identified then taking appropriate action,

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- (ix) reporting on public interest disclosures in accordance with the PID Act and the requirements of the NSW Ombudsman (this includes the annual report to Parliament and half yearly statical reports to the Ombudsman),
- (x) making sure that Roads & Maritime Services has a public interest disclosure policy and procedure and that Roads & Maritime Services staff are aware of that policy & procedure,
- (xi) referring actual or suspected corrupt conduct to the Independent Commission Against Corruption, and
- (xii) ensuring that Roads & Maritime Services has adequate resources, both financial and human are dedicated to achieving the outcomes of this policy and procedure.

The Principal Officer also has the authority to impartially assess each disclosure and decide whether the disclosure appears to be a public interest disclosure within the meaning of the *PID Act*, having regard to factors listed in 10 and 11 above.

15.2 Disclosures Coordinator (General Manager, Governance Branch)

The Disclosures Coordinator has a central role in dealing with reports made by staff and acts as a clearing house for disclosures. The Disclosures Coordinator receives and assesses disclosures and, if necessary organises for the investigation of disclosures or referring disclosures to people within Roads & Maritime Services or externally who can deal with them appropriately.

The Disclosures Coordinator in the Roads & Maritime Services is the General Manager, Governance Branch and to assist with this function they have at their disposal the Deputy Disclosures Coordinator and the Disclosures Manager. The Disclosures Coordinator with the assistance of the Deputy Disclosures Coordinator and the Manager Disclosures, must impartially assess each disclosure and decide whether the disclosure appears to be a public interest disclosure within the meaning of the *PID Act*, having regard to factors listed in 10 and 11 above. The Disclosures Coordinator must also determine the appropriate action to be taken in relation to the public interest disclosure. Options include:

- (i) take no action/decline,
- (ii) identify the appropriate area within Roads & Maritime Service to take responsibility for dealing with the disclosure,
- (iii) preliminary or informal investigation,
- (iv) formal investigation,
- (v) referral to an applicable Director or Deputy Chief Executive or the Chief Executive for the actioning of Roads & Maritime Services disciplinary process,
- (vi) referral to an investigating authority for investigation or other appropriate action,
- (vii) referral to the police (if a criminal matter) or the ICAC (if the matter concerns corrupt conduct), and

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(viii) consultation with the Principal Officer, if necessary.

The Disclosures Coordinator is also responsible for:

- (i) carrying out or organising for any internal investigation arising out of a public interest disclosure, subject to the direction of the Principal Officer in carrying out this function,
- (ii) reporting, where applicable, to the Principal Officer on the findings of any investigation and recommending remedial action,
- (iii) taking all necessary and reasonable steps to ensure that the identity of persons who make public interest disclosures, and persons the subject of disclosures, are kept confidential,
- (iv) supporting people who make public interest disclosures and actively protecting them from victimisation, harassment or any other form of reprisal,
- (v) reporting the outcome of any investigation concerning reprisal action to the Principal Officer
- (vi) reporting actual or suspected corrupt conduct to the Principal Officer in a timely way to enable the Principal Officer to comply with the Independent Commission Against Corruption Act, and
- (vii) collating the statistical data required by the NSW Ombudsman as stipulated in the *PID Act*.

15.3 Disclosures officers

Disclosures Officers are officers authorised and nominated by Roads & Maritime Services to receive public interest disclosures to accord with the policy and procedure. They are responsible for receiving, forwarding and/or acting upon public interest disclosures in accordance with this policy and procedure.

All staff of the Corruption and Fraud Investigation Section within the Governance Branch are Disclosures Officers.

The current list of other authorised and nominated Disclosures Officers are presented in the annexure at the end of this policy and procedure document. That list may be adjusted from time to time.

Disclosures Officers responsibilities also include:

- (i) clearly explaining to persons making a public interest disclosure what will happen in relation to the information received,
- (ii) when requested, making arrangements to ensure that disclosures can be made privately and, if necessary, away from the workplace,
- (iii) reducing to writing and dating any disclosures received orally (and asking the person making the disclosure to sign the document),

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- (iv) dealing with disclosures impartially,
- (v) promptly forwarding all disclosures to the Disclosures Coordinator for assessment (or, if the report is about the Disclosures Coordinator, forwarding it to the Principal Officer),
- (vi) taking all necessary and reasonable steps to ensure that the identity of the persons who make disclosures, and the persons the subject of the disclosures, are kept confidential, and
- (vii) supporting persons who make disclosures and protect them from victimisation, harassment, or any other form of reprisal action.

16. Who can receive a report outside of Roads & Maritime Services?

Staff are encouraged to report corrupt conduct, maladministration, serious and substantial waste of public money or government information contravention within Roads & Maritime Services, but internal reporting is not your only option. If you follow the guidance below, your report can still be a public interest disclosure for the purposes of the *PID Act* and be eligible for the protections available under that *Act*.

You can choose to make your report to an investigating authority (listed below in 16.1). This can be done at the beginning or at any stage after your initial report to Roads & Maritime Services. If your report is about the Chief Executive you should make it to an investigating authority. You can also choose to make a report to a Member of Parliament or a journalist, but only in limited circumstances (see 16.2).

16.1 Investigating authorities

The *PID Act* lists a number of investigating authorities in NSW that staff can report corrupt conduct, maladministration, serious and substantial waste of public money or government information contravention and the categories of wrongdoing each authority can deal with. The authorities that relate to the Roads & Maritime Services are:

- (i) the Independent Commission Against Corruption (ICAC) – for corrupt conduct,
- (ii) the Auditor-General – for serious and substantial waste of public money,
- (iii) the Ombudsman – for maladministration, and
- (iv) the Information Commissioner – for government information contravention.

You should contact the relevant authority for advice about how to make a public interest disclosure to them. Contact details for the investigating authorities relevant to Roads & Maritime Services are provided at the end of this policy and procedure.

You should be aware that it is very likely the investigating authority will discuss the case with Roads & Maritime Services. We will make every effort to assist and cooperate with the investigating authority to ensure the matter is dealt with appropriately and there is a satisfactory outcome. We will also provide appropriate support and assistance to staff who

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report corrupt conduct, maladministration, serious and substantial waste of public money or government information contravention to an investigating authority.

16.2 Members of Parliament or journalists

To have the protections of the *PID Act*, staff reporting corrupt conduct, maladministration, serious and substantial waste of public money or government information contravention to a Member of Parliament (MP) or journalist must have already made substantially the same report to one of the following:

- (i) the Principal Officer,
- (ii) the Disclosures Coordinator,
- (iii) a nominated Disclosures Officer, or
- (iv) an investigating authority in accordance with the Act.

Also, Roads & Maritime Services or the investigating authority that received the report must have either:

- (i) decided not to investigate the matter, or
- (ii) decided to investigate the matter, but not completed the investigation within six months of the original report, or
- (iii) investigated the matter but not recommended any action as a result, or
- (iv) not told the person who made the report, within six months of the report being made, whether the matter would be investigated.

Most importantly – to be protected under the *PID Act* – if you report corrupt conduct, maladministration, serious and substantial waste of public money or government information contravention to an MP or a journalist you will need to be able to prove that you have reasonable grounds for believing that the disclosure is substantially true and that it is in fact substantially true.

If you report corrupt conduct, maladministration, serious and substantial waste of public money or government information contravention to a person or an organisation that is not listed above, you will not be protected under the *PID Act*. This may mean you will be in breach of legal obligations or your obligations to Roads & Maritime Services under the Code of Conduct and Ethics - for example, by disclosing confidential information.

For more information about reporting corrupt conduct, maladministration, serious and substantial waste of public money or government information contravention outside Roads & Maritime Services, contact the Disclosures Coordinator, staff of the Corruption and Fraud Investigation Section or the NSW Ombudsman's Public Interest Disclosures Unit. The contact details for the Ombudsman are provided at the end of this policy and procedure.

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17. Feedback to staff who make public interest disclosures

Staff who make public interest disclosures internally and whose identity is known (i.e. not anonymous) will be told what is happening in response to their report.

When you report a public interest disclosure you will be given:

- (i) an acknowledgment that your report has been received, and
- (ii) the name and contact details of the person who can initially tell you what is happening with your report.

The information, as required by the *PID Act*, will be given to you, together with a copy of this policy and procedure, within 45 days after you make your report.

In compliance with section 27 of the *PID Act*, if your report is deemed to be a public interest disclosure under the *PID Act* Roads & Maritime Services must notify you within 6 months of the disclosure being made of the action taken or proposed to be taken in respect to your disclosure.

If a decision has been made to investigate your public interest disclosure you will be given:

- (i) information on the ongoing nature of the investigation,
- (ii) information about the progress of the investigation and reasons for any delay, and
- (iii) advice if your identity needs to be disclosed for the purposes of investigating the matter, and an opportunity to talk about this.

At the end of any investigation into a deemed public interest disclosure, you will be given:

- (i) enough information to show that adequate and appropriate action was taken and/or is proposed to be taken in response to your disclosure and any problem that was identified, and
- (ii) advice about whether you will be involved as a witness in any further matters, such as disciplinary or criminal proceedings.

18. Protection against reprisals

The *PID Act* provides protection for people making a public interest disclosure by imposing penalties on anyone who takes detrimental action substantially in reprisal for them making the public interest disclosure.

Roads & Maritime Services will not tolerate any detrimental action against staff who make public interest disclosures. The *PID Act* makes it a criminal offence to take detrimental action against any person who has made a public interest disclosure. Penalties that can be imposed include imprisonment and or fines. Proven detrimental action is also serious

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misconduct that justifies disciplinary action. People who take detrimental action against someone who has made a public interest disclosure can also be required to pay damages for any loss suffered by that person.

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

- (i) injury, damage or loss,
- (ii) intimidation or harassment,
- (iii) discrimination, disadvantage or adverse treatment in relation to employment,
- (iv) dismissal from, or prejudice in, employment, or
- (v) disciplinary proceedings.

18.1 Responding to reprisals

Roads & Maritime Services will act to protect staff who make public interest disclosures from reprisals as a consequence of their report.

When a report of reprisal advice is received, we will ensure that a risk assessment is conducted. This will identify any risks to the member of staff who reported corrupt conduct, maladministration, serious and substantial waste of public money or government information contravention as well as strategies to deal with those risks.

If you believe that detrimental action has been or is being taken against you or someone else who has made a public interest disclosure, in reprisal for making the disclosure, you should inform the Principle Officer, Disclosures Coordinator or a Disclosures Officer immediately.

All managers and supervisors must report any suspicions they have that reprisal action against a staff member has occurred or is occurring, or any reports that are made to them about such actions, to the Disclosures Coordinator or their Director.

If the Disclosures Coordinator becomes aware of reprisal action against a person who has made a public interest disclosure, the Disclosure Coordinator will:

- (i) arrange, following assessment and where appropriate, for investigation of the suspected reprisal,
- (ii) report the results of that investigation to the applicable Director or Chief Executive or Deputy Chief Executive for a determination in regard to the taking of appropriate disciplinary or criminal action against anyone proven to have taken or threatened any action in reprisal for making a public interest disclosure,
- (iii) if it has been established that reprisal action has occurred or is occurring against someone who has made a public interest disclosure, arrange for all appropriate steps to be taken to stop that activity and protect the member of staff who made the public interest disclosure, and

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- (iv) refer any evidence of reprisal action having been taken against a person who has made a public interest disclosure in accordance with this policy to the NSW Police Commissioner or the Independent Commission Against Corruption.

If you report reprisal action, you will be kept informed of the progress of any assessment or investigation and of the outcome.

The Principle Officer, Deputy Chief Executive, or Director may issue specific directions to help protect against reprisals, including:

- (i) issuing warnings to those alleged to have taken reprisal action against the member of staff who made the public interest disclosure,
- (ii) relocating the member of staff who made the disclosure, or the person or persons alleged to have taken reprisal action within the current workplace,
- (iii) transferring the member of staff who made the disclosure or the person or persons alleged to have taken reprisal action to another position for which they are qualified, and
- (iv) granting the member of staff who made the disclosure or person or persons alleged to have taken reprisal action leave of absence during the investigation of the disclosure.

These actions will only be taken if the member of staff who made the disclosure agrees to it.

The Disclosures Coordinator will make it clear to other staff that this action was taken in consultation with the staff member and with management support – and it is not a punishment.

If you have reported reprisal action as a result of a public interest disclosure you have made and feel that the reprisal action is not being dealt with effectively, contact the Ombudsman or the ICAC – depending on the type of wrongdoing you initially reported. Contact details for all these investigating authorities are included at the end of this policy and procedure.

19. Protection against legal action

If you make a public interest disclosure in accordance with the *PID Act*, you will

- (i) not be subject to any liability and no action, claim or demand can be taken against you for making the disclosure,
- (ii) not have breached any confidentiality or secrecy obligations, and
- (iii) have the defence of absolute privilege in defamation.

20. Support for those reporting corrupt conduct, maladministration, serious and substantial waste of public money or government information contravention wrongdoing

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Roads & Maritime Services will make sure that staff who have reported corrupt conduct, maladministration, serious and substantial waste of public money or government information contravention are provided with access to any professional support they may need such as counselling services, legal or career advice.

21. Sanctions for making false or misleading disclosures

As noted earlier, it is important that all staff are aware that it is a criminal offence under the *PID Act* to wilfully make a false or misleading statement when making a disclosure to an investigating authority, public authority or public official.

22. Support for the subject of a public interest disclosure

Roads & Maritime Services is committed to ensuring staff who are the subject of a report of corrupt conduct, maladministration, serious and substantial waste of public money or government information contravention are treated fairly and reasonably.

If you are the subject of a public interest disclosure and if it is revealed that you are the subject of a disclosure, you will be:

- (i) treated fairly and impartially,
- (ii) told your rights and obligations under our policies and procedures,
- (iii) kept informed during any investigation,
- (iv) given the opportunity to respond to any allegation made against you, and
- (v) told the result of any investigation.

There may be circumstances where the matter does not progress to a stage where the subject of a public interest disclosure needs to be informed of the above or that they are the subject of a disclosure.

23. Government Information (Public Access) Act 2009 – (GIPA)

Under *GIPA*, information cannot be released if it is information that might identify or tend to identify someone who has made a public interest disclosure.

24. Non compliances with this policy and procedure

Non compliances with this policy and procedure may result in:

- (i) corrective and/or remedial and/or disciplinary action, and
- (ii) infringement of the *PID Act*.

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25. Resources and related documentation

Document type	Title
Legislation	The Public Interest Disclosures Act 1994 The Independent Commission Against Corruption Act 1988

More information around about public interest disclosures is available on our intranet. Staff can also access advice and guidance from the Disclosures Coordinator and the NSW Ombudsman's website at www.ombo.nsw.gov.au.

The contact details for external investigating authorities that staff can make a public interest disclosure to or seek advice from are listed below.

For corrupt conduct:

Independent Commission Against Corruption (ICAC)

Phone: 02 8281 5999

Toll FREE: 1800 463 909

Tel. typewriter (TTY): 02 8281 5773

Facsimile: 02 9264 5364

Email: icac@icac.nsw.gov.au

Web: www.icac.nsw.gov.au

Address: Level 21, 133 Castlereagh Street, Sydney NSW 2000

For maladministration:

NSW Ombudsman

Phone: 02 9286 1000

Toll free (outside Sydney metro): 1800 451 524

Tel. typewriter (TTY): 02 9264 8050

Facsimile: 02 9283 2911

Email: nswombo@ombo.nsw.gov.au

Web: www.ombo.nsw.gov.au

Address: Level 24, 580 George Street, Sydney NSW 2000

For serious and substantial waste:

Auditor-General of the NSW Audit Office

Phone: 02 9275 7100

Facsimile: 02 9275 7200

Email: mail@audit.nsw.gov.au

Web: www.audit.nsw.gov.au

Address: Level 15, 1 Margaret Street, Sydney NSW 2000

For government information contravention:

Information Commission

Toll Free: 1800 463 626

Facsimile: 02 8114 3756

Email: oiinfo@oic.nsw.gov.au

Web: www.oic.nsw.gov.au

Address: Level 11, 1 Castlereagh Street, Sydney NSW 2000

26. Policy and procedure directory requirements

This policy can be located on Roads & Maritime Services' intranet.

27. Policy and procedure replaces

Not applicable.

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28. Evaluation and review

This policy and procedure will be reviewed by Roads & Maritime Services biannually.

29. Contact

For questions about this policy and procedure please contact the General Manager, Governance Branch or the Senior Manager, Corruption and Fraud Investigations Section.

30. Document Control

Version control and change history.

Version number	Approval date	Approved by	Amendment
1	/02/2012	Peter Duncan Chief Executive Roads & Maritime Services	

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ANNEXURE TO PUBLIC INTEREST DISCLOSURES – INTERNAL REPORTING POLICY AND PROCEDURE (PN 237)

Disclosures Officers are officers authorised and nominated by the Roads and Maritime Services to receive public interest disclosures.

Disclosures Officers are responsible for receiving, forwarding and/or acting upon public interest disclosures in accordance with the Public Interest Disclosures – Internal Reporting Policy and Procedure.

All staff of the Corruption and Fraud Investigation Section within the Governance Branch are authorised and nominated as Disclosure Officers.

This annexure to the Public Interest Disclosures – Internal Reporting Policy and Procedure holds the current list of ‘other’ positions who are authorised and nominated as Disclosures Officers effective as from the below approval date:

- (i) Deputy Chief Executive
- (ii) All Directors
- (iii) Group General Managers
- (iv) General Managers

The complete lists of the responsibilities for the “Disclosures Officers” are presented in Section 15.3 in the Public Interest Disclosures – Internal Reporting Policy and Procedure.

Sections 15.1 and Sections 15.2 in the Public Interest Disclosures – Internal Reporting Policy and Procedure provide detail regarding the “Principal Officer” and the “Disclosures Coordinator”.

1. Contact

For questions about this Annexure to the Public Interest Disclosures – Internal Reporting Policy and Procedure please contact the General Manager, Governance Branch or the Senior Manager, Corruption and Fraud Investigation Section.

2. Document Control

Version control and change history

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