

# **Public Interest Disclosures policy and procedures**

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**Professional Standards  
People and Culture Directorate**

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# POLICY

## 1 Introduction

### 1.1 Purpose

The Public Interest Disclosures Policy establishes an internal reporting system for the reporting of disclosures of corrupt conduct, maladministration or serious and substantial waste of public money by FRNSW or its staff.

This policy is designed to complement normal communication channels between supervisors and staff. Staff are encouraged to continue to raise appropriate matters at any time with their supervisors, but as an alternative have the option of making public disclosures in accordance with this policy.

### 1.2 Scope and application

This Policy applies to:

- FRNSW employees, whether full-time or part-time
- Temporary or casual employees
- Consultants
- Individual contractors working for the organisation
- Any volunteer or any other person working in an official capacity for FRNSW

### 1.3 Legal and policy framework

#### 1.3.1 Legal framework

The *Public Interest Disclosures Act 1994* (PID Act) commenced operation on 1 March 1995 and has been amended in 2011 to reflect new reporting arrangements and responsibilities of the NSW Ombudsman. The purpose of this Act is to ensure that public officials (including FRNSW employees) who wish to make disclosures under the legislation, receive protection from reprisals and that the matters raised in the disclosures are properly investigated.

The Act aims to encourage and facilitate the disclosure - in the public interest - of corrupt conduct, maladministration and serious and substantial waste and government information contravention in the public sector. This is achieved by:

- enhancing and augmenting established procedures for making disclosures concerning such matters;
- protecting persons from reprisals that might otherwise be inflicted on them because of these disclosures; and
- providing for those disclosures to be properly investigated and dealt with.

FRNSW takes its obligations under the PID Act seriously and is committed to ensuring that staff who disclose information about corrupt conduct, maladministration and serious and substantial waste are able to do so without fear of personal loss or harassment.

### 1.3.2 Policy framework

The procedures set out within this document are based on the NSW Ombudsman's guidelines and enable internal disclosures to be made to the Nominated Disclosure Officers, the Disclosure Co-ordinator or to the Principal Officer.

Further information in regard to the reporting and management of concerns about FRNSW employees can be found in: the FRNSW Code of Conduct and Ethics, the *Fire Brigades Regulation 2014* and the associated *Procedural Guidelines for the Management of Conduct*, the *Government Sector Employment Act 2013*; the *Government Sector Employment Rules 2014*; the Fraud Control Plan 2014-2016, the Resolving Workplace Complaints Policy and the Preventing and Responding to Bullying and Harassment Policy.

### 1.4 Key definitions

**Employee:** For the purposes of this policy, the term employee refers to:

- FRNSW employees, whether full-time or part-time
- Temporary or casual employees
- Consultants
- Individual contractors working for the organisation
- Any volunteer or any other person working in an official capacity for FRNSW

**Detrimental action** (reprisal):

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
- disciplinary proceeding
- where that action is taken substantially in reprisal for a person having made a public disclosure

For a full definition refer to section 20 of the PID Act.

**Government information contravention:** means conduct of a kind that constitutes a failure to exercise functions in accordance with any provision of the *Government Information (Public Access) Act 2009*.

**Public Official:** employees of a state government department or agency (including the FRNSW), staff of a local government authority, employees of a state owned corporation, a person having a public official function or acting in a public official capacity for the state.

## 2 Policy statement

### 2.1 Policy principles and requirements

Fire and Rescue NSW (FRNSW) is committed to the highest standards of conduct, honesty, accountability and ethical behaviour. All FRNSW employees are expected to act, and be seen to act, in a manner that maintains these high standards and is in the public interest.

FRNSW recognises the value of helping to promote integrity, accountability and good management within the organisation, and supports the making of disclosures that reveal corrupt conduct, conduct involving a substantial mismanagement of public resources, or conduct involving a substantial risk to public health and safety or the environment.

FRNSW neither tolerates improper conduct by its staff, nor the taking of reprisals against those who come forward to disclose such conduct.

### 2.2 Policy implementation

Any employee who wishes to make a disclosure can do so to any of the Nominated Disclosure Officers listed in **Appendix A**, the Disclosure Co-ordinator or the Principal Officer (the Commissioner).

Any wrongdoing may be reported in writing or verbally. It is recommended that reports are made in writing as this can help to avoid any possible confusion or misinterpretation.

### 2.3 Roles and responsibilities

#### 2.3.1 Staff

All staff of FRNSW have an important role to play in supporting those who have made legitimate disclosures. They must abstain from any activity that is or could be perceived to be victimisation or harassment of any person who has made a disclosure. Further, they should protect and maintain the confidentiality of any person they know or suspect to have made disclosures.

An employee wishing to make a public interest disclosure can report their concerns to a Nominated Disclosure Officer. The Nominated Disclosure Officer will record the information and make an initial assessment of the information and determine how it is best managed. If it appears that the disclosure may satisfy the public interest disclosure criteria, the Nominated Disclosure Officer will refer the information to the Disclosure Co-ordinator. A Nominated Disclosure Officer may consult with the Disclosure Co-ordinator when making their initial assessment and determination.

The process of making a public interest disclosure is outlined in Section 3. Any employee who requires further information about making a public interest disclosure can contact Professional Standards.

#### 2.3.2 Nominated Disclosure Officers

A Nominated Disclosure Officer is a senior FRNSW employee to whom a public interest disclosure can be made. When a Nominated Disclosure Officer receives a disclosure he or she will:

- ensure the disclosure is received and recorded in a private and confidential manner
- receive the disclosure impartially and act in an appropriate and fair way towards the person making the disclosure
- briefly put in writing and date a disclosure received verbally and have the person making the disclosure sign the written record if the person does not wish to put the matter in writing themselves. A disclosure may be made to a Nominated Disclosure Officer via the telephone, however the person making the disclosure will be required to sign the transcript of their complaint
- explain to the person making the disclosure what the process will be once the disclosure has been received
- take all necessary steps to ensure the identity of the person making the disclosure and other persons named in the disclosure are kept confidential
- refer the information from the disclosure to the Disclosure Co-ordinator (Director Professional Standards)
- afford procedural fairness to all parties involved including any persons against whom allegations have been made

A Nominated Disclosure Officer will not make the determination as to whether a disclosure is granted protected status. This determination is made by the Commissioner following recommendations from the Disclosure Co-ordinator. A Nominated Disclosure Officer cannot give an indication or assurances to a person making a disclosure about whether or not the disclosure will be treated as a public interest disclosure. Once a decision has been made regarding protected status of a disclosure the Nominated Disclosure Officer may be asked to report back to the person making the disclosure.

### **2.3.3 Disclosure Co-ordinator**

The Disclosure Co-ordinator is the Director Professional Standards.

The Disclosure Co-ordinator will:

- perform the role of a Nominated Disclosure Officer if required
- assess a disclosure received from a Nominated Disclosure Officer and determine the appropriate course of action
- ensure all reporting obligations to the ICAC, NSW Police Force or other investigating authority are met
- make a recommendation to the Commissioner as to whether the disclosure meets the criteria for a public interest disclosure
- advise the Nominated Disclosure Officer of the determination of the public interest disclosure (or of the determination that a disclosure does not meet the criteria) and the appropriate course of action
- monitor all action taken in relation to a disclosure including investigation, remedial and/or disciplinary action

### **2.3.4 Principal Officer**

The Principal Officer is the Commissioner, FRNSW.

An employee can report wrongdoing directly to the Principal Officer. They are responsible for:

- deciding if a report is a public interest disclosure
- determining what needs to be done next, including referring it to other authorities
- deciding what needs to be done to correct any problem that has been identified

The Principal Officer must make sure there are systems in place in FRNSW to support and protect staff who report wrongdoing. They are also responsible for referring actual or suspected corrupt conduct to the Independent Commission Against Corruption.

### **2.3.5 Professional Standards**

Professional Standards (PSB) will:

- receive disclosures from the Nominated Disclosure Officers
- maintain confidential records of public interest disclosures on a restricted access data base
- provide the person making a public interest disclosure with written acknowledgement of their public interest disclosure
- ensure public interest disclosures are investigated impartially using the principles of procedural fairness and in a timely manner
- co-ordinate the investigation of public interest disclosures
- provide support and advice to the people involved in a public interest disclosure, including providing information about the finalisation of investigations
- take all necessary and reasonable steps to ensure that the identity of the person making the public interest disclosure is kept confidential
- provide the Commissioner with reports relating to public interest disclosures as requested and in order to meet the obligations of the *Independent Commission Against Corruption Act 1988* and the *Ombudsman Act 1974*

## PROCEDURES

### 3 How to make a public interest disclosure

#### 3.1 What should be reported?

There are four types of conduct which should be reported: corrupt conduct, maladministration, serious and substantial waste, and government information contravention.

##### 3.1.1 Corrupt conduct

The definition used in the PID Act is taken from the ICAC Act and is intentionally quite broad.

##### **Corrupt conduct is:**

- a) any conduct of any person that adversely affects, or that could adversely affect, either directly or indirectly, the honest or impartial exercise of official functions by any public official, any group or body of public officials or any public authority, or
- b) any conduct of a public official that constitutes or involves the dishonest or partial exercise of any of his or her official functions, or
- c) any conduct of a public official or former public official that constitutes or involves a breach of public trust, or
- d) any conduct of a public official or former public official that involves the misuse of information or material that he or she has acquired in the course of his or her official functions, whether or not for his or her benefit or for the benefit of any other person

##### **This could involve, among other matters:**

- Official misconduct
- Bribery
- Obtaining or offering secret commissions
- Fraud
- Theft
- Embezzlement

Conduct of a person who is not a public official, when it adversely affects the impartial or honest exercise of official functions by a public official, also comes within the definition.

For further information, please refer to ICAC's website.

##### 3.1.2 Maladministration

'Maladministration' is defined in the PID Act as conduct that involves action or inaction of a serious nature that is: contrary to law; unreasonable, unjust, oppressive



or improperly discriminatory; or based wholly or partly on improper motives. The type of conduct covered by these terms includes:

**Decisions or actions contrary to law, for example:**

- Making a decision and/or taking action that is unlawful
- Improper exercise of a delegated power (e.g. decisions or actions not authorised by delegation or acting under the direction of another)
- Unauthorised disclosure of confidential information
- Decisions or actions induced or affected by fraud

**Unreasonable, for example:**

- Decisions or actions inconsistent with adopted guidelines or policy, inconsistent with other decisions or actions which involve similar facts or circumstances not justified by any evidence, or so unreasonable that no reasonable person could so decide or act
- Arbitrary, partial, unfair or inequitable decisions or actions
- Policy applied inflexibly without regard to the merits of individual cases
- Relevant considerations not adequately taken into account or irrelevant considerations taken into account
- Serious delay in making decisions or taking action
- Failure to give notice of rights
- Wrong, inaccurate or misleading advice leading to detriment
- Failure to apply the law
- Failure to rectify identified mistakes, errors, oversights or improprieties
- Decisions or actions based on incorrect or misinterpreted information
- Failure to properly investigate

**Unjust, for example:**

- Decisions or actions not justified by any evidence, so unreasonable that no reasonable person could so decide or act
- Partial, unfair, inequitable or unconscionable decisions or actions

**Oppressive, for example:**

- Unconscionable decisions or actions
- Means used not reasonably proportional to ends to be achieved
- Abuse of power, intimidation or harassment

**Improperly discriminatory, for example:**

- Inconsistent application of laws, policies or practices when there is no reasonable, justifiable or appropriate reason to do so
- Distinctions applied not authorised by law, or failure to make a distinction which is authorised or required by law

**Based wholly or partly on improper motives, for example:**

- Decisions or actions for a purpose other than that for which the power was conferred (i.e. in order to achieve a particular outcome)
- Conflicts of interest
- Bad faith or dishonesty
- Seeking or accepting gifts or benefits in connection with performance of official duties
- Misuse of public property, official services or facilities

**3.1.3 Serious and substantial waste.**

There is no legislative definition of serious and substantial waste, however, the Auditor-General has offered a working definition:

“Serious and substantial waste refers to any uneconomical, inefficient or ineffective use of resources, authorised or unauthorised, which results in significant loss/wastage of public funds/resources.”

Serous and substantial waste can be:

- Absolute – Serious and substantial waste might be regarded in absolute terms where the waste is regarded as significant, for example \$200,000
- Systemic – where the waste indicates a pattern that results from a weakness within FRNSW systems
- Material – where the waste is about FRNSW expenditure or a particular item of expenditure, or is to such an extent that it affects the capacity to perform its primary functions

**Material waste by nature not amount:**

The serious and substantial waste may not be material in financial terms but may be significant by nature, that is, it may be improper or inappropriate. (Alternatively, this type of waste may constitute “maladministration” as defined in the Public Interest Disclosures Act.) The uneconomical, inefficient or ineffective use of resources may be authorised or unauthorised

Some examples of waste are:

- misappropriation or misuse of public property
- the purchase of unnecessary or inadequate goods and services
- overstaffing in particular areas
- staff being remunerated for skills that they do not have, but are required to have under the terms or conditions of their employment
- programs not achieving their objectives and therefore the program’s costs being clearly ineffective, and inefficient

Waste can result from such things as:

- insufficient safeguards to prevent the theft or misuse of public property
- purchasing practices that do not ensure goods and services are necessary and adequate for their intended purpose
- poor recruiting practices

### **3.1.4 Government information contravention**

A government information contravention is a failure to properly fulfil functions under the *Government Information (Public Access) Act 2009* (GIPA Act).

For example, this could include:

- destroying, concealing or altering records to prevent them from being released
- knowingly making decisions that are contrary to legislation
- directing another person to make a decision that is contrary to legislation

For more information about government information contravention, see the NSW Ombudsman's guidelines.

### **3.1.5 Other wrongdoing**

Although reports about the previous four categories of conduct can attract the specific protections of the PID Act, you should report all activities or incidents that you believe are wrong.

For example, these could include:

- harassment or unlawful discrimination
- reprisal action against a person who has reported wrongdoing
- practices that endanger the health or safety of staff or the public

These types of issues should be reported to a supervisor, or to the Professional Standards Branch, in line with FRNSW's policies.

## **3.2 Public interest disclosure criteria**

A disclosure will be protected under the Act only if ALL of the following criteria are satisfied:

- The disclosure shows or tends to show corruption, maladministration, serious and substantial waste or government information contravention
- The disclosure is made by a public official about the conduct of a public official, including a person who was a public official at the time of the alleged conduct
- The disclosure is made to a Nominated Disclosure Officer, the Disclosures Co-ordinator or the Principal Officer
- The disclosure is made voluntarily

- The disclosure does NOT principally involve questioning the merits of government policy, and
- The disclosure was NOT made solely or substantially with the motive of avoiding dismissal or other disciplinary action

Allegations that do not meet the criteria for a public interest disclosure should 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 Brigades Regulation 2014* and the *Government Sector Employment Act 2013*.

### **3.3 How to make a report**

To make a disclosure you must honestly believe on reasonable grounds that the information shows, or tends to show, wrongdoing. FRNSW will take all reasonable steps to support any employee who reports wrongdoing.

You can make a disclosure to any of the Nominated Disclosure Officers listed in **Appendix A**, the Disclosures Co-ordinator or the Principal Officer (the Commissioner).

You can report wrongdoing in writing or verbally, however you are encouraged to make a report in writing as this can help to avoid any possible confusion or misinterpretation.

If a report is made verbally, the authorised person receiving your report must make a comprehensive record of the disclosure and ask you as the person making the disclosure, to sign this record. You should keep a copy of this record.

If you are concerned about being seen making a report, ask to meet in a discreet location away from the immediate workplace.

#### **3.3.1 Can a report be anonymous?**

There will be some situations where you may not want to identify yourself when making a report. Although these reports will still be dealt with by FRNSW, it is best if you do identify yourself as this allows us to provide you with any necessary protection and support, as well as feedback about the outcome of any investigation into the allegations.

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 to prevent any reprisal action.

#### **3.3.2 The importance of maintaining confidentiality**

FRNSW realises many employees will want their report to remain confidential. This can help to prevent any action being taken against you for reporting wrongdoing.

We are committed to keeping your identity, and the fact you have reported wrongdoing, confidential. However there may be situations where this may not be possible or appropriate. No guarantees of confidentiality of public interest disclosures are possible because the identity of the person making the disclosure

may need to be revealed to enable the effective investigation of the matter, or to enable procedural fairness during disciplinary or legal action.

We will discuss with you whether it is possible to keep your report confidential. If confidentiality cannot be maintained, we will develop a plan to support and protect you from risks of reprisal. You will be involved in developing this plan.

Should sufficient evidence to support your report be identified from other independent sources, such as electronic records, internal data bases, or from other persons, it may not be necessary to inform the subject officer that a Public Interest Disclosure has been made. Such a step will assist in maintaining your confidentiality and minimising the risk of reprisal action.

Employees, including witnesses, who are involved in the disclosure or investigation of a public interest disclosure must maintain confidentiality and must not disclose information about the process or allegations to any other person, except:

- to staff of the Professional Standards Branch
- a Nominated Disclosure Officer or the Disclosure Co-ordinator
- to the person or authority conducting an investigation

Unauthorised disclosure of information relating to a public interest disclosure may result in disciplinary and/or defamation action.

### **3.3.3 Disclosures to Investigating Authorities**

Any FRNSW employee may make a disclosure directly to one of the following investigating authorities:

- the ICAC, telephone 8281 5999 for corrupt conduct
- the NSW Ombudsman, telephone 9286 1000 for maladministration
- the NSW Auditor-General, telephone number 9275 7100 for serious and substantial waste of public money
- the NSW Police Integrity Commission, telephone number 9321 6700 for matters concerning the conduct of NSW Police Officers, and
- the Office of the Information Commissioner, telephone number 1800 463 626 for government information contravention matters

If the report is about the Principal Officer, you should make your report to an investigating authority.

You should contact the relevant authority for advice about how to make a disclosure to them. Contact details for each investigating authority are provided at the end of this policy.

You should be aware that it is very likely the investigating authority will discuss the case with FRNSW. 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. FRNSW will also provide appropriate support and assistance to employees who report wrongdoing to an investigating authority.

### **3.3.4 Reporting to a Member of Parliament or a Journalist**

The PID Act provides provisions for an employee to make a disclosure to a Member of Parliament or a journalist. Disclosures to a Member of Parliament or journalist can only be made in limited circumstances and strict conditions must be met in order for the person making the disclosure to be protected under the Act.

An employee making a disclosure to a Member of Parliament or journalist will be provided protected status under the Act only if the following conditions are met:

- the employee making the disclosure must have reasonable grounds for believing that the disclosure is true and the disclosure must be substantially true, and
- the employee making the disclosure must have already made substantially the same disclosure to an investigating authority or through internal reporting procedures

In addition, the authority or officer receiving the original disclosure must have:

- decided not to investigate the matter, or
- decided to investigate the matter but did not complete the investigation within six months of the original disclosure being made, or
- investigated the matter but did not recommend taking any action, or
- failed to notify the person making the disclosure, within six months of the disclosure being made, of whether or not the matter is to be investigated.

Most importantly, in order to be protected under the PID Act, if you report wrongdoing 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 wrongdoing 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 FRNSW Code of Conduct by, for example, disclosing confidential information.

For more information about reporting wrongdoing outside the FRNSW, please contact the Disclosures Co-ordinator or the NSW Ombudsman's Public Interest Disclosures Unit. Their contact details are provided at the end of this policy

## **4 How disclosures will be dealt with**

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

- public interest disclosure status declined with reasons given for the determination
- public interest disclosure status granted
- internal investigation of the public interest disclosure, or investigation by an appropriate external investigator
- 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 Commissioner if the matter involves government information contravention

#### **4.1 Feedback to staff who report wrongdoing**

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

When you make a report, you will be given:

- an acknowledgement that the disclosure has been received
- the timeframe for when you may receive further updates
- the name and contact details of the people who can tell you what is happening

**This information will be provided to you within three (3) working days from the date of your report.**

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

- information about the action that will be taken in response to your report
- likely timeframes for any investigation
- information about the resources available within FRNSW to handle any concerns you may have
- information about external agencies and services you can access for support

**This information will be provided to you within seven (7) working days from the date of your report.**

- During any investigation, you will be given, on a confidential basis, information on the ongoing nature of the investigation
- information about the progress of the investigation and reasons for any delay
- 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, you will be given, on a confidential basis:

- enough information to show that adequate and appropriate action was taken and/or is proposed to be taken in response to your disclosure
- advice about any problems, systemic or otherwise that were identified during the course of the investigation and action proposed to be taken in response
- advice about whether you will be involved as a witness in any further matters, such as disciplinary or criminal proceedings

## **4.2 Protection against reprisals**

FRNSW will not tolerate any reprisal 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 making the public interest disclosure.

The criminal penalties that can be imposed include imprisonment or fines. Detrimental action is also misconduct that justifies disciplinary action. People who take detrimental action against a person who has made a 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:

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

## **4.3 Responding to reprisals**

FRNSW will act to protect staff who report wrongdoing from reprisals.

When your report is received, we will ensure that a thorough risk assessment is conducted. This will identify any risks to the member of staff who reported the wrongdoing, 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 reported wrongdoing in reprisal for making a report, you should tell the Disclosures Co-ordinator or the Principal Officer immediately.

All supervisors must report any suspicions they have that reprisal action against a staff member is occurring, or any reports that are made to them, to the Disclosures Co-ordinator or the Principal Officer.

If the Disclosures Co-ordinator becomes aware of reprisal action against a person who has made a disclosure, 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 reprisal action is occurring against someone who has made a disclosure, take all steps possible to stop that activity and protect the member of staff who made the disclosure
- take appropriate disciplinary or criminal action against anyone proven to have taken or threatened any action in reprisal for making a disclosure

If an employee reports reprisal action, they will be kept informed of the progress of any investigation and the outcome.



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

- issuing warnings to those alleged to have taken reprisal action against the member of staff who made the disclosure
- relocating the member of staff who made the disclosure or the subject officer within the current workplace
- transferring the member of staff who made the disclosure or the staff member who is the subject of the allegation to another position for which they are qualified
- granting the member of staff who made the disclosure or the subject officer leave of absence during the investigation of the disclosure

These directions will only be taken if the member of staff who made the disclosure agrees to it. The Disclosures Co-ordinator 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 wrongdoing and feel that any reprisal action is not being dealt with effectively, you will need to contact the Ombudsman or the ICAC, depending on the type of wrongdoing you have reported. Contact details for all these investigating authorities are included at the end of this policy.

#### **4.4 Protection against legal action**

If you make a disclosure in accordance with the PID Act, you will not be subject to any liability and no action, claim or demand can be taken against you for making the disclosure. You will not have breached any confidentiality or secrecy obligations and you will have the defence of absolute privilege in defamation.

#### **4.5 Sanctions for making false or misleading disclosures**

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 reporting wrongdoing.

## **5 Managing Disclosures to and from other agencies**

### **5.1 Dealing with PID matters referred from another agency**

The *Public Interest Disclosures Act 1994* (PID Act) allows for investigating authorities to refer a public interest disclosure either to another investigating authority or to a public authority for investigation or other action.

This means that an investigating authority such as the Independent Commission Against Corruption or the NSW Ombudsman may refer a public interest disclosure to FRNSW if it is not authorised to investigate the matter or it is of the opinion that FRNSW may appropriately deal with the matter.

Referrals of public interest disclosures from investigating authorities may be referred to FRNSW under Section 25 of the PID Act or alternatively under the provisions of other legislation, such as the Independent Commission Against Corruption Act 1988.

A public interest disclosure may be referred by an investigating authority before or after the matter has been investigated. It can also be referred whether or not any investigation is complete or any findings have been made. The investigating authority may also refer any other information relevant to the matter that it may have obtained while investigating the matter, at the time of referring the disclosure.

## **5.2 Information provided to the internal reporter**

If FRNSW receives a public interest disclosure referred from an investigating authority FRNSW will acknowledge receipt of the report and will notify the internal reporter of the action taken, or proposed to be taken, within 6 months of the public interest disclosure being made.

FRNSW will work in consultation with the referring authority to maintain the confidentiality of the internal reporter and will make appropriate decisions about whether information about the issue or investigation can be disclosed.

FRNSW will also work with the referring authority to prevent possible reprisal for the making of the PID and ensure the internal reporter is provided with appropriate support.

## **5.3 Dealing with PID Matters referred to another agency**

In some circumstances, a public interest disclosure received by FRNSW may require referral to an external authority for action or investigation, such as the NSW Police Force, NSW Ombudsman, Independent Commission Against Corruption etc.

FRNSW will acknowledge receipt of the report and will notify the internal reporter of the action taken, or proposed to be taken, within 6 months of the public interest disclosure being made.

Referrals made under Section 26 of the PID Act require that both FRNSW and the receiving authority have a responsibility to maintain the confidentiality of the internal reporter and make appropriate decisions about whether information about the issue or investigation can be disclosed.

Similarly, both FRNSW and the receiving authority will be responsible for implementing measures to prevent or minimise possible reprisal action and ensuring the internal reporter is provided with appropriate support.

# **6 Training and support**

## **6.1 Support for those reporting wrongdoing**

All supervisors must notify the Disclosures Co-ordinator if they believe a staff member is suffering any detrimental action as a result of disclosing wrongdoing. Should you feel distressed or concerned about your situation, you may wish to contact our Employee Assistance Program (EAP) which provides state-wide, confidential, professional counselling services for employees and members of their family. The contact number for the EAP provider is **1300 360 364** (24 hours a day, seven days per week). This service is delivered by an independent service provider.

Alternatively, you may contact FRNSW's Wellbeing Coordinator on 0448 295 725

FRNSW Chaplains can also provide confidential counselling and support to employees and their families. To speak to a Chaplain, contact 0418 869 280 or 0418 268 754. The Chaplains can also be contacted via email: chaplain@fire.nsw.gov.au

You may also access advice and guidance from FRNSW's Disclosure's Co-ordinator and the NSW Ombudsman's website at [www.ombo.nsw.gov.au](http://www.ombo.nsw.gov.au).

## **6.2 Support for the subject of a report**

FRNSW is committed to ensuring staff who are the subject of a report of wrongdoing are treated fairly and reasonably. If you are the subject of a report, you will be:

- treated fairly and impartially
- told your rights and obligations under our policies and procedures
- kept informed during any investigation
- given the opportunity to respond to any allegation made against you
- told the result of any investigation

## **6.3 Nominated Disclosure Officers**

Advice and support for Nominated Disclosure Officers or any other person regarding the application of this policy is available by contacting Professional Standards.

## **7 Monitoring and review**

This policy will be reviewed by FRNSW biennially or as soon as possible following legislative change. For any advice or guidance about this review, contact the NSW Ombudsman's Public Interest Disclosures Unit.

## **8 Further information**

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

### **For disclosures about 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](mailto:icac@icac.nsw.gov.au)  
Web: [www.icac.nsw.gov.au](http://www.icac.nsw.gov.au)  
Address: Level 7, 255 Elizabeth Street, Sydney NSW 2000

### **For disclosures about 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](mailto:nswombo@ombo.nsw.gov.au)  
Web: [www.ombo.nsw.gov.au](http://www.ombo.nsw.gov.au)  
Address: Level 24, 580 George Street, Sydney NSW 2000

**For disclosures about 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](mailto:mail@audit.nsw.gov.au)  
Web: [www.audit.nsw.gov.au](http://www.audit.nsw.gov.au)  
Address: Level 15, 1 Margaret Street, Sydney NSW 2000

**For disclosures about breaches of the GIPA Act:**

Information Commissioner  
Toll free: 1800 463 626  
Facsimile: 02 8114 3756  
Email: [oiinfo@oic.nsw.gov.au](mailto:oiinfo@oic.nsw.gov.au)  
Web: [www.oic.nsw.gov.au](http://www.oic.nsw.gov.au)  
Address: Level 11, 1 Castlereagh Street, Sydney NSW 2000

## 9 Document information

### 9.1 Related documents

List any related documents, such as templates, recommended practices, guidelines or procedures.


### 9.2 Document control

<b>Policy Manager</b>	Executive Director People and Culture
<b>Contact Officer</b>	Director Professional Standards
<b>Contact No</b>	(02) 9265 2826
<b>Document type</b>	Policy
<b>Applies to</b>	<input checked="" type="checkbox"/> Permanent Firefighters <input checked="" type="checkbox"/> Retained Firefighters <input checked="" type="checkbox"/> Community Fire Unit Members <input checked="" type="checkbox"/> Administrative and Trades Staff <input checked="" type="checkbox"/> Contractors and Consultants
<b>Status</b>	Draft/Approved/Rescinded
<b>Security</b>	Unclassified
<b>File Reference</b>	NFB/11397
<b>Review Date</b>	1 December 2019
<b>Rescinds</b>	Refer to Protected Disclosures in Conduct in Ethics Standing Orders 22 September 2011
<b>Rescinded by</b>	N/A
<b>Copyright</b>	© State of New South Wales through Fire and Rescue NSW

### 9.3 Revision history

Version	Date	Status	TRIM 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

## **Appendix A - Nominated Disclosure Officers**

A public disclosure may be made to any of the following officers:

- Commissioner
- Deputy Commissioners
- Director Professional Standards (Disclosure Co-ordinator)
- All Executive Directors
- Area Commanders
- Chief of Staff and Staff Officers
- Manager, Conduct & Complaints, Professional Standards
- Manager, Prevention & Support, Professional Standards
- All Professional Standards Officers