

BHI Public Interest Disclosures

September 2024

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Introduction

The Bureau of Health Information (BHI) takes reports of serious wrongdoing seriously and is committed to building a 'speak up' culture where public officials are encouraged to report any conduct that they reasonably believe involves wrongdoing.

This document sets out the process for identifying and reporting the disclosure of serious wrongdoing in BHI and outlines how reports are assessed. BHI will take the appropriate action in response to any report, and ensure public officials, witnesses and other persons are protected from detriment that may arise as a result of making public interest disclosures.

The Public Interest Disclosures Act 2022 (NSW) [PID Act], requires public authorities to have a policy and procedure for receiving, assessing and dealing with public interest disclosures. This document should be read in conjunction with the NSW Health Policy Directive on Public Interest Disclosures (PD2023_026).

Any BHI public official who has knowledge of, or who has witnessed serious wrongdoing should make a confidential report about the wrongdoing.

What is a Public Interest Disclosure

A Public Interest Disclosure (PID) is a report made by a public official that relates to suspected serious wrongdoing. Under the PID Act 2022, serious wrongdoing includes:

- corrupt conduct
- serious maladministration
- a privacy contravention
- a serious and substantial waste of public money
- a government information contravention.

Responsibilities

All staff, including the Chief Executive, people managers, and disclosures officers have responsibilities under the PID Act 2022.

Role	Responsibility
Chief Executive	At BHI, the Chief Executive has the responsibility for ensuring the organisation complies with the PID Act 2022 and the policy directive (PD2023_026). The Chief Executive has responsibilities as outlined in section 2.1.1 of NSW Health Public Interest Disclosures (PD2023_026).
People Managers	All staff members who have other staff members report directly (and indirectly) to them have a responsibility for encouraging staff to report known or suspected wrongdoing within a NSW Health organisation, and to provide support for those staff when they make, or are suspected of making, a disclosure. Managers have responsibilities as outlined in section 2.1.2 of NSW Health Public Interest Disclosures (PD2023_026). Under the PID Act 2022, people managers must complete Public Interest Disclosures Training for People Managers in My Health Learning by 31 March 2024 and then once every three years thereafter.

Role	Responsibility
Disclosure Officers	<p>Disclosure officers are responsible for receiving reports from public officials, receiving reports when they are passed on to them by managers, ensuring reports are dealt with appropriately, including by referring the matter to the appropriate complaint unit (if relevant), and ensuring that any verbal reports that have been received are recorded in writing.</p> <p>BHI's disclosure officers are the Chief Executive and the Director, Corporate Affairs. Disclosure officers must complete the mandatory Public Interest Disclosures Training for Disclosure Officers in My Health Learning by 31 March 2024 and then once every three years.</p>
Staff members	<p>Any BHI staff who has knowledge of, or who has witnessed, serious wrongdoing is encouraged to make a report about the wrongdoing. The responsibilities of staff are outlined in Section 2.1.4 of NSW Health Public Interest Disclosures (PD2023_026).</p>

Record Keeping

BHI will keep full and accurate records with respect to all information received in connection with the PID Act 2022. This ensures compliance under the State Records Act 1998. All records, taken by People Managers will be provided to the Disclosure Officer (Director, Corporate Affairs) who will be responsible for their secure storage in BHI's records management system.

Types of Public Interest Disclosures

Types of PID	Description
Voluntary PID	<p>A voluntary PID is a report of known, or suspected, serious wrongdoing made by a public official who is not under a legal obligation to make that report, and it is not an ordinary part of their role to report the wrongdoing. The characteristics of a voluntary PID are outlined in Section 3.3.1 of NSW Health Public Interest Disclosures (PD2023_026).</p>
Mandatory PID	<p>This is a PID where the public official has made a report about serious wrongdoing because they have a legal duty to make that report, or because making that report is an ordinary requirement of their role.</p>
Witness PID	<p>This is a PID where a person discloses information during an investigation of serious wrongdoing following a request or requirement of the investigator.</p>

How BHI will maintain confidentiality

BHI understands that people who make voluntary PIDs may want their identity and the fact that they have made a report to be confidential.

Under the PID Act 2022, information tending to identify a person as the maker of a voluntary PID is not to be disclosed by a public official or an agency.

There are certain circumstances under the PID Act 2022 that allow for the disclosure of identifying information. These include:

- where the person consents in writing to the disclosure

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

BHI will not disclose identifying information unless it is necessary and authorised under the PID Act 2022.

Protection from detrimental action

When a person has made a PID, BHI management will ensure that person is protected from detrimental action arising as a result of making, or being suspected of making, a PID. It is a criminal offence for someone to take detrimental action against a person because they have made or may make a PID.

BHI will not tolerate any detrimental action being taken by anyone against a person who has made a PID, who is an investigator, witness or who the report is about. BHI will assess and take steps to mitigate detrimental action from being taken against the maker of a voluntary PID, the person whose conduct is the subject of a PID, investigators and witnesses.

How will BHI deal with voluntary PIDs

Step	Process
1	<p>Making a voluntary disclosure</p> <p>Voluntary PIDs can be directed to the Disclosure Officer at Aleksandra.Petrovska@health.nsw.gov.au</p> <p>A PID can be directed to the line manager. PIDs received by managers will be forwarded to the BHI Disclosure Officer for investigation.</p>
2	<p>Acknowledgment</p> <p>When the BHI Disclosure Officer receives a PID, the reporter will receive the following as soon as practicable:</p> <ul style="list-style-type: none"> • acknowledgement of receipt and confirmation that the report will be assessed to identify whether it is a PID • confirmation that the PID Act 2022 applies to how we deal with the report • clear information on how to access the NSW Health Public Interest Disclosures Policy (PD2023_026) • details of available support including the Employee Assistance Program

Step	Process
3	Investigation and Advice <ul style="list-style-type: none"> The BHI Disclosure Officer will conduct an initial assessment of the disclosure to determine if the report meets the criteria for a voluntary PID. Where the assessment indicates that the report is not a voluntary PID, the reporter will be informed of this outcome as soon as practicable. An explanation for the decision must be provided to the reporter and the NSW Ombudsman must also be notified of such a decision. The BHI Disclosure Officer will provide the reporter with regular updates on the investigation - at least every three months. A summary of the information to be provided to a reporter of serious wrongdoing is listed in the NSW Health Public Interest Disclosures Policy (PD2023_026) Section 8.4.
4	Assessment and minimising the risk <p>After confirming the report is a voluntary PID, the BHI Disclosure Officer will take steps to assess and minimise the risk of detrimental action.</p> <p>Different actions that can be taken to minimise the risk of detrimental action, include:</p> <ul style="list-style-type: none"> Issuing warnings to those alleged to have taken detrimental action Taking all steps possible to stop the action and protect the person Taking appropriate disciplinary action against anyone that has taken detrimental action Providing the reporter, or the person the subject of the disclosure, approved leave during the investigation
5	Management of report <p>The BHI Disclosure Officer will oversee the management of any disclosures. They will be responsible for keeping the reporter informed of any action taken or proposed to be taken in respect of the disclosure.</p>
6	Outcomes from reports of serious wrongdoing <p>Once the investigations are complete, the BHI Disclosure Officer will prepare a report and recommend actions to be submitted to the Chief Executive.</p> <p>Following the Chief Executive's direction, the BHI Disclosure Officer will issue a formal letter to the person who made the PID advising of the determination and next steps as required.</p> <p>If the BHI Disclosure Officer finds that serious wrongdoing has occurred, BHI is to take the most appropriate corrective action to address that wrongdoing or misconduct.</p> <p>Corrective actions may include:</p> <ul style="list-style-type: none"> a formal apology improving internal policies to adequately prevent and respond to similar instances of wrongdoing providing additional education and training to staff where required taking action as per NSW Health policy directives such as Managing Misconduct (PD2018_031) payment of compensation to people who have been affected by serious wrongdoing or other misconduct. <p>At the conclusion of the investigation, the following information will be provided:</p> <ul style="list-style-type: none"> a description of the findings of the investigation — that is, whether it was found that serious wrongdoing took place

Step	Process
	<ul style="list-style-type: none"> information about any corrective action as a result of the investigation/s — that is, what action was taken and what measures have been put in place to address that serious wrongdoing. <p>The BHI Disclosure Officer will report every six months to NSW Ombudsman and MOH-Compliance Unit on PIDs received, action taken to deal with voluntary PIDs and how the agency has promoted a culture where PIDs are encouraged.</p>

How will BHI ensure compliance with the PID Act (2022)

BHI has the following internal procedures to ensure compliance with the PID Act (2022) and with NSW Health Public Interest Disclosures Policy Directive (PD2023_026):

- Reporting compliance, fraud and corruption and risk matters to the BHI Audit and Risk Committee
- Fraud and Corruption Control framework and plan
- NSW Health Code of Conduct
- Mandatory fraud and corruption control training
- Mandatory Public Interest Disclosures Training for Disclosure Officers in My Health Learning
- Mandatory Public Interest Disclosures Training for People Managers in My Health Learning
- Promoting awareness of PID information to all staff through the Chief Executive newsletter

Relevant Legislation, Policy Directives and Guidelines

Legislation:

- Public Interest Disclosures Act 2022 NSW (the PID Act)
- Independent Commission Against Corruption Act 1988
- Government Information (Public Access) Act 2009
- Privacy and Personal Information Protection Act 1998
- Health Records and Information Privacy Act 2002
- State Records Act 1998

Policy:

- NSW Health Public Interest Disclosures Policy Directive (PD2023_026)
- NSW Health Code of Conduct (PD2015_049)
- Corrupt Conduct - Reporting to the Independent Commission Against Corruption (ICAC) (PD2016_029)
- Managing Misconduct (PD2018_031)
- BHI Fraud and Corruption Control framework and plan