

# Public Interest Disclosure (Whistleblowing) Procedure

Note: this procedure applies to disclosures made by NSW public officials and/or those that must be managed and will be protected under the [Public Interest Disclosure Act 2022 \(NSW\)](#) or [Corporations Act 2001 \(Cth\)](#). Other disclosures, complaints, or reports of wrongdoing may also be made to the University and will be managed under the appropriate policy and process - see the [Reporting and escalating issues website](#) for further information.

## Section 1 - Purpose

- (1) This procedure supports the [Public Interest Disclosure \(Whistleblowing\) Policy](#) by setting out the processes to be followed for reporting, receiving managing and investigating wrongdoing at Charles Sturt University (the University).
- (2) This procedure sets out the processes to be followed at the University for the making and receiving of:
- a. a public interest disclosure (PID) under the [Public Interest Disclosures Act 2022 \(NSW\) \(PID Act\)](#), and/or
  - b. a protected report of wrongdoing under the [Corporations Act 2001 \(Cth\) \(Corporations Act\)](#).

### Scope

- (3) This procedure has the same scope as the [Public Interest Disclosure \(Whistleblowing\) Policy](#). To the extent of any inconsistency between this procedure and relevant legislation referred to herein, including the [PID Act](#), the provisions of the relevant legislation shall prevail.

## Section 2 - Policy

- (4) This procedure supports the [Public Interest Disclosure \(Whistleblowing\) Policy](#).

## Section 3 - Procedures

### Part A - How to make a report of serious wrongdoing

#### Reports, complaints and grievances

- (5) When a member of the University community reports suspected or possible wrongdoing in the public sector, their report will be a PID if it has certain features which are set out in the [PID Act](#).
- (6) Some internal complaints or internal grievances may also be PIDs, as long as they have the features of a PID. If an internal complaint or grievance is a report of serious wrongdoing, the University will consider whether it is a PID. If it is a PID, the University will deal with it as set out in this procedure, but the University will also make sure that it follows any other applicable and relevant policy such as the [Complaints Management Policy](#).

## When will a report be a PID?

(7) There are three types of PIDs in the [PID Act](#). These are:

- a. Voluntary PID: This is a PID where a report has been made by a public official (which includes a university employee) because they decided, of their own accord, to come forward and disclose what they know.
- b. Mandatory PID: This is a PID where the public official has made a report about serious wrongdoing because they have a legal obligation to make that report, or because making that report is an ordinary aspect of their role or function in an agency.
- c. Witness PID: This is a PID where a person discloses information during an investigation of serious wrongdoing following a request or requirement of the investigator.

(8) This procedure mostly relates to making a voluntary PID and how the University will deal with voluntary PIDs. People who make a mandatory PID or a witness PID are still entitled to protection. More information about protections is available in this procedure under the heading 'Protections'.

(9) Voluntary PIDs are the kind of PIDs most people have in mind when they think about public interest reporting and whistleblowing. They involve a public official making a report because they have information that they believe shows (or tends to show) serious wrongdoing, where they are not under a legal obligation to make that report and where it is not an ordinary part of their role to report such wrongdoing.

(10) A report is a voluntary PID if it has the following five features, which are set out in sections 24-27 of the [PID Act](#):

- a. A report is made by a public official.
- b. It is made to a person who can receive voluntary PIDs.
- c. The public official honestly and reasonably believes that the information they are providing shows (or tends to show) serious wrongdoing.
- d. The report was made orally or in writing.
- e. The report is voluntary (meaning it is not a mandatory or witness PID).

(11) If the report has all five features, it is a voluntary PID. You will not be expected to prove that what you reported actually happened or is serious wrongdoing. You do have to honestly believe, on reasonable grounds, that the information you are reporting shows or tends to show serious wrongdoing.

(12) Even though you do not have to prove the serious wrongdoing happened or provide evidence, a mere allegation with no supporting information is unlikely to meet this test.

(13) If the University makes an error and does not identify that you have made a voluntary PID, you will still be entitled to the protections under the [PID Act](#).

(14) If you make a report and believe that the University has made an error by not identifying that you have made a voluntary PID, you should raise this with a nominated [disclosure officer](#) or your contact officer for the report. If you are still not satisfied with this outcome, you can seek an internal review or the University may seek to conciliate the matter. You may also contact the [NSW Ombudsman](#).

## Who can make a voluntary PID?

(15) Any public official can make a voluntary PID. You are a public official if:

- a. you are employed by the University
- b. you are a contractor, subcontractor or volunteer who provides services, or exercises functions, on behalf of the University, or

- c. you work for an entity (such as a non-government organisation) that is contracted by the University to provide services or exercise functions on behalf of the University — if you are involved in undertaking that contracted work.

(16) A public official can make a PID about serious wrongdoing relating to any agency, not just the University. This means that the University may receive PIDs from public officials outside of the University. It also means that you can make a PID to any agency, including an integrity agency like the [Independent Commission Against Corruption \(ICAC\)](#) and the [NSW Ombudsman](#). [Annexure B](#) of this procedure has a list of integrity agencies.

## **What is serious wrongdoing?**

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

- a. corrupt conduct — such as a university employee accepting a bribe
- b. serious maladministration — such as the University systemically failing to comply with proper recruitment processes when hiring staff, or failing to follow its procurement processes when selecting contractors
- c. a government information contravention — such as destroying, concealing or altering records to prevent them from being released under a Government Information Public Access (GIPA) application
- d. a pecuniary interest contravention — such as a senior university staff member recommending a family member for a university contract and not declaring the relationship/conflict of interest
- e. a privacy contravention — such as unauthorised access of a student's academic transcripts or other personal information on the University's database
- f. a serious and substantial waste of public money — such as the University not following a competitive tendering process when contracting with entities to undertake construction or maintenance work.

(18) When you make your report, you do not need to state to the University what category of serious wrongdoing you are reporting or that you are reporting serious wrongdoing.

## **Who can I make a voluntary PID to?**

(19) For a report to be a voluntary PID, it must be made to certain public officials, as described below.

### **Making a report via the online portal or to a public official who works for the University**

(20) You can make a report inside the University:

- a. by submitting an online report directly to the University's [disclosure coordinator](#)
- b. via the University's [online portal for making complaints](#)
- c. to a [disclosure officer](#) for the University — a list of disclosure officers for the University and their contact details can be found at [Annexure A](#) of this procedure
- d. to your manager — this is the person who directly, or indirectly, supervises you. It can also be the person who you directly, or indirectly, report to. You may have more than one manager. Your manager will make sure that the report is communicated to a disclosure officer on your behalf or may accompany you while you make the report to a disclosure officer, or
- e. to the Vice-Chancellor.

### **Making a report to a recipient outside of the University**

(21) You can also make your report to a public official in another agency (meaning a university other than Charles Sturt University or another agency that you do not work for) or an integrity agency. These include:

- a. the head of another agency — this means the head of any public service agency
- b. an integrity agency — a list of integrity agencies is located at [Annexure B](#) of this procedure
- c. a disclosure officer for another agency — ways to contact disclosure officers for other agencies are located in an agency's PID policy which can be found on their public website
- d. a minister or a member of a minister's staff but the report must be made in writing.

(22) If you choose to make a disclosure outside of the University, it is possible that your disclosure will be referred back to the University so that appropriate action can be taken.

### **Making a report to a member of parliament or journalist**

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

- a. You must have first made substantially the same disclosure (described here as a 'previous disclosure') to someone who can receive disclosures.
- b. The previous disclosure must be substantially true.
- c. You cannot have made the previous disclosure anonymously.
- d. You must not have given a written waiver of your right to receive information relating to your previous disclosure.
- e. You cannot have received the following from the University:
  - i. notification that the University will not investigate the serious wrongdoing and will also not refer the previous disclosure to another agency, or
  - ii. the following information at the end of the investigation period:
    - notice of the University's decision to investigate the serious wrongdoing
    - a description of the results of an investigation by the University into the serious wrongdoing, or
    - details of proposed or recommended corrective action by the University as a result of the previous disclosure or investigation.

(24) Investigation period means:

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

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

### **What form should a voluntary PID take?**

(26) You can make a voluntary PID:

- a. in writing — this could be an email or letter to a person who can receive voluntary PIDs or via the University's [online portal](#) for receiving PIDs
- b. orally — have a private discussion with a person who can receive voluntary PIDs. This can be face-to-face, via telephone or virtually
- c. anonymously — use the anonymous report option in the [online portal](#), or write an email or letter or call a person who can receive PIDs to make a report without providing your name or anything that might identify you as the maker of the report. A report will only be considered anonymous if there is no reasonable or practical way of communicating with the person making the report. Even if you choose to remain anonymous, you will still be protected under the [PID Act](#). It may be difficult, however, for the University to investigate the matter(s) you

have disclosed if you cannot be contacted for further information.

## **What should I include in my report?**

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

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

## **What if I am not sure if my report is a PID?**

(28) You should report all wrongdoing you become aware of regardless of whether you think it is serious wrongdoing. It is important for the University to understand what is or may be occurring.

(29) The University is then responsible for making sure your report is handled appropriately under the [PID Act](#), or if it is not a PID, in line with our other procedures. Even if your report is not a PID, it may fall within another one of the University's policies for dealing with reports, allegations or complaints.

## **Deeming that a report is a voluntary PID**

(30) The University's [disclosure coordinator](#) can, in certain circumstances, determine that a report is a voluntary PID even if the report does not otherwise have all the features of a voluntary PID. This is known as the 'deeming power'.

(31) By deeming that a report is a voluntary PID, it ensures that reporters are provided with protections under the [PID Act](#).

(32) If you make a report that has not met all the requirements of a voluntary PID, you can refer your matter to the [disclosure coordinator](#) to request that they consider deeming your report to be a voluntary PID.

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

## **Who can I talk to if I have questions or concerns?**

(34) If you have concerns or questions you can contact the [disclosure coordinator](#) to address your concerns and answer your questions.

# **Part B - Protections**

## **How is the maker of a voluntary PID protected?**

(35) When you make a voluntary PID you receive special protections under the [PID Act](#). The University is committed to taking all reasonable steps to protect you from detriment as a result of having made a PID. The University is also committed to maintaining your confidentiality as much as possible while the PID is being dealt with.

(36) It is a criminal offence to take detrimental action against you because you have made a report, might make a

report, or are believed to have made a report. Even if your report is not a PID, reporters and complainants have protection from victimisation under other University policies (e.g. the [Complaints Management Policy](#)).

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

**a. Protection from detrimental action**

- i. A person cannot take detrimental action against another person because they have made a voluntary PID or are considering making a PID. Detrimental action includes bullying, harassment, intimidation or dismissal.
- ii. Once the University becomes aware that a voluntary PID by a person employed or otherwise associated with the University that concerns serious wrongdoing relating to the University has been made, the University will undertake a risk assessment and take steps to mitigate the risk of detrimental action occurring against the person who made the voluntary PID.
- iii. It is a criminal offence for someone to take detrimental action against a person because they have made or may make a voluntary PID. It is punishable by a maximum penalty of 200 penalty units or imprisonment for five years or both.
- iv. A person may seek compensation where unlawful detrimental action has been taken against them.
- v. A person can apply for a court order (injunction) where detrimental action is threatened or has occurred (for example, an order to prevent dismissal or to require reinstatement).
- vi. Note that a person who makes a PID can still be subject to reasonable management action (such as ordinary performance reviews and performance management). Provided such action is not taken because of the PID, it is not detrimental action under the [PID Act](#).

**b. Immunity from civil and criminal liability**

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

**c. Confidentiality**

- i. The University and its employees must not disclose information tending to identify a person as the maker of a voluntary PID unless doing so is permitted by the [PID Act](#).

**d. Protection from liability for own past conduct**

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

## **Protections for people who make mandatory and witness PIDs**

(38) Apart from PIDs that are made voluntarily by public officials, there are other types of reports that are recognised as PIDs under the [PID Act](#):

- a. A mandatory PID: This is a PID where the public official has made the report about serious wrongdoing because they have a legal obligation to make that report, or because making that report is an ordinary aspect of their

role or function at the University.

- b. A witness PID: This is a PID where a person discloses information during an investigation of serious wrongdoing following a request or requirement of the investigator.

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

Protection	Mandatory PID	Witness PID
Detrimental action — It is an offence to take detrimental action against a person based on the suspicion, belief or awareness that a person has made, may have made or may make a PID.	Yes	Yes
Right to compensation — A person can initiate proceedings and seek compensation for injury, damage or loss suffered as a result of detrimental action being taken against them.	Yes	Yes
Ability to seek injunction — An injunction can be sought to prevent the commission or possible commission of a detrimental action offence against a person. For example, an order to prevent dismissal or to require reinstatement.	Yes	Yes
Immunity from civil and criminal liability — a person will not incur civil or criminal liability if the person breaches a duty of confidentiality while making a disclosure. This means that legal action cannot be taken against a person for: 1. breaching a duty of secrecy or confidentiality, or 2. breaching another restriction on disclosure.	Yes	Yes

## Reporting detrimental action

(40) If you experience adverse treatment or detrimental action, such as bullying or harassment, you should report this immediately. You can report any experience of adverse treatment or detrimental action directly to Employee Relations at the University, or to an integrity agency. A list of integrity agencies is located at [Annexure B](#) of this procedure.

## General support

(41) The University's [Employee Assistance Program](#) can be contacted for independent and confidential support. Contact details will be provided to reporters who are not employed by the University.

## Part C - How the University will deal with voluntary PIDs

### How reports will be received and reporters kept informed

(42) When a disclosure officer in the University receives a report that is a voluntary PID, or looks like it may be a voluntary PID, the person who made the report will receive the following information:

- a. You will receive an acknowledgment that the report has been received. This acknowledgement will:
  - i. state that the report will be assessed to identify whether it is a PID
  - ii. state that the [PID Act](#) applies to how the University deals with the report
  - iii. provide clear information on how you can access this PID procedure
  - iv. provide the name and contact details of the people who can tell the reporter what is happening or address concerns that the reporter may have.
- b. Within 45 calendar days the disclosure coordinator will send the reporter an acknowledgement letter providing:
  - i. advice on whether the University is treating the report as a voluntary PID
  - ii. a copy of the [Public Interest Disclosure \(Whistleblowing\) Policy](#) and this supporting procedure
  - iii. information about the action that will be taken in response to the report
  - iv. the likely timeframes for any investigation or other action
  - v. information concerning whether the University will refer the report to a different agency (if appropriate)



to deal with the voluntary PID. If the University does this, it will provide you with details of this referral.

- c. If the University decides not to investigate the report and not to refer it to another agency to be investigated, the University will tell you the reasons for this decision. The University will also notify the [NSW Ombudsman](#) of this decision.
- d. If the University decides to investigate the serious wrongdoing, the University will provide you with updates on the investigation at least every three months. During this time, if you would like more frequent updates, you should contact the contact person who was nominated when you made the report.
- e. If the University investigates the serious wrongdoing, it will provide you with the following information once the investigation is complete:
  - i. a description of the results of the investigation — that is, the University will tell you whether it found that serious wrongdoing took place
  - ii. information about any corrective action as a result of the investigation(s) — this means the University will tell you what action it took in relation to the person who engaged in the serious wrongdoing or if the serious wrongdoing was by the University, what the University has put in place to address that serious wrongdoing
    - Corrective action could include taking disciplinary action against someone or changing the practices, policies and procedures that the University has in place which led to the serious wrongdoing.
- f. There may be some details about both the findings made as a result of the investigation and the corrective action taken that cannot be revealed to you. The University will always balance the right of a person who makes a report to know the outcome of that report, with other legal obligations that the University has.
- g. If you have made an anonymous report, in many cases the University may not be able to provide this information to you.

## **How the University will deal with voluntary PIDs**

(43) Once a report that may be a voluntary PID is received the University will look at the information contained in the report to see if it has the features of a voluntary PID. This assessment is undertaken to identify whether the report is a voluntary PID or another type of disclosure, and to make sure that the right steps are followed. If it is a voluntary PID, we will ensure that we comply with the requirements in the [PID Act](#).

## **Where the report is a voluntary PID**

(44) If the report is a voluntary PID:

- a. In most cases, we will conduct an investigation to make findings about whether the serious wrongdoing disclosed in the report occurred, who was involved, who was responsible, and whether the people involved, or the University engaged, in serious wrongdoing. There may be circumstances where the University believes that an investigation is not warranted — for example, if the conduct has previously been investigated.
- b. There may be circumstances where the University decides that the report should be referred to another agency, such as an integrity agency. For example, reports concerning possible corrupt conduct may be required to be reported to the ICAC in accordance with section 11 of the [Independent Commission Against Corruption Act 1988](#).
- c. Before referring a matter, the University will discuss the referral with the other agency, and we will provide you with details of the referral and a contact person within the other agency.
- d. If the University decides not to investigate a report and to not refer the matter to another agency, the University must let you know the reasons for this and notify the [NSW Ombudsman](#).



## Receiving a report

(45) An authorised [disclosure officer](#) who receives a report of wrongdoing will:

- a. if the report is made verbally, record the details of the report by making a comprehensive record of the report, ask the maker of the report to sign the record, and provide the maker with a copy of the signed record,
- b. refer the report immediately to the University's [disclosure coordinator](#) (subject to clause 46b), and
- c. provide the person who made the report with a written acknowledgement, if the person has provided a means of doing so:
  - i. the acknowledgement must provide advice about the timeframe within which the person reporting will receive further information and the name and contact details of the disclosure coordinator and/or disclosure manager, and
  - ii. where appropriate, the disclosure coordinator may provide a proforma response for this acknowledgement, or the disclosure coordinator may send the written acknowledgement once the report has been referred to them.

(46) Where a report of wrongdoing is about the Vice-Chancellor or the disclosure coordinator, the following will apply:

- a. Where a report is about the Vice-Chancellor, it must be forwarded to the Chancellor for assessment.
- b. Where a report is about the disclosure coordinator, it must be forwarded to the Vice-Chancellor for assessment.

(47) The report will be assessed and a determination made that either:

- a. the report should be treated as a voluntary PID under the [PID Act](#) or a report protected by the [Corporations Act](#)
- b. the report does not meet the requirements of a voluntary PID (for example, where the reporter is not eligible to make a protected report), but may still be investigated as a wrongdoing under this procedure
- c. the report does not meet the requirements of a voluntary PID but should be referred elsewhere in the University for investigation under other policies
- d. the report does not meet the requirements of a voluntary PID but should be referred to an external investigating authority or the police, or
- e. there is not enough evidence or information to take any further action.

(48) Where immediate action is required to protect the safety of people, animals or the environment, the disclosure coordinator will enact any relevant emergency management procedures. See also the [Crisis Management Procedure](#).

## Management of reports

(49) The disclosure coordinator will consult with the oversight panel for the purpose of management of reports, including:

- a. upon assessment
- b. prior to commencing investigation
- c. for decisions to refer the investigation to an external investigator
- d. upon completion of investigation
- e. prior to recommending a Section 11 ICAC report, or other external reporting, or
- f. as an interface between the disclosure coordinator and the Vice-Chancellor.

(50) The oversight panel will consist of the University Secretary and others as set out in the [Public Interest Disclosure \(Whistleblowing\) Policy](#).

- a. Where a report is about the University Secretary, the disclosure coordinator may consult directly with the Vice-Chancellor.
- b. Where the University Secretary is also the disclosure coordinator, the Vice-Chancellor may nominate another officer as the disclosure coordinator and convene a panel of appropriate University officers for conferral and to provide advice.

### **Investigation of reports**

(51) Where the disclosure coordinator determines that the report will be investigated as a voluntary PID under the [PID Act](#) or a wrongdoing under the [Corporations Act](#), they will gather preliminary facts to determine whether there may be a case to answer. The disclosure coordinator may also delegate the preliminary appraisal to the disclosure officer.

(52) The preliminary appraisal will be completed promptly to determine what action will be taken to deal with the report of wrongdoing, and the findings will be referred, in order of preference, to:

- a. the oversight panel (except where the matter relates to the University Secretary)
- b. the Vice-Chancellor (except where the matter relates to the Vice-Chancellor), or
- c. the Chancellor.

(53) The preliminary appraisal and findings will be assessed and a decision made to either:

- a. further investigate the matter, this will include how that investigation should be carried out
- b. refer the report elsewhere, or
- c. take no further action on the report.

(54) Throughout all preliminary appraisals and investigations, actions will be taken as appropriate to:

- a. assess whether it is practicable and appropriate to keep the person making the report's identity confidential and discuss options as required with the reporter
- b. assess the risk of reprisal and workplace conflict related to or likely to arise out of a report and develop strategies to manage any risk identified
- c. where required, provide or coordinate support to people involved in the reporting or investigation process, including protecting the interests of any officer who is the subject of a report
- d. where appropriate, refer actual or suspected cases of wrongdoing to an independent, qualified external investigator (such as a certified fraud examiner), and/or
- e. identify systemic issues arising from reports of wrongdoing and formulate recommendations for improvement.

(55) Where required, advice may be sought from others within the University, including the oversight panel, Executive Director, People and Culture, General Counsel or Internal Audit staff, while maintaining confidentiality as far as practicable.

(56) Subject to the direction of the [Independent Commission Against Corruption \(ICAC\)](#), all formal investigations relating to corrupt conduct within the University must be assigned, by the oversight panel or Vice-Chancellor, to a suitably qualified investigator (such as a certified fraud examiner or similar). The Vice-Chancellor will refer investigation reports to the ICAC.

(57) Unauthorised investigations by line managers or by any member of staff are prohibited.

### **Report not a voluntary PID**

(58) Even if the report is not a voluntary PID, it will still need to be dealt with in a manner consistent with the relevant

University policy (such as the [Complaints Management Policy](#)) or through an alternate policy or process.

(59) If the report is not a voluntary PID, the University will let you know that the [PID Act](#) does not apply to the report and will advise you how it will address the concerns raised in the report.

(60) If you are not happy with this assessment or otherwise disagree with it, you can raise it with the person who has communicated the outcome with you or a disclosure officer, request an internal review or request that the matter be conciliated. The University may, but does not have to, ask for the [NSW Ombudsman](#) to conciliate the matter.

### **Cease dealing with the report as voluntary PID**

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

### **How the University will protect the confidentiality of the maker of a voluntary PID**

(62) The University understands that people who make voluntary PIDs may want their identity and the fact that they have made a report to be confidential.

(63) Under the [PID Act](#), information tending to identify a person as the maker of a voluntary PID (known as identifying information) is not to be disclosed by a public official or the University.

(64) There are certain circumstances under the [PID Act](#) that allow for the disclosure of identifying information. These include:

- a. where the person consents in writing to the disclosure
- b. where it is generally known that the person is the maker of the voluntary PID because of their voluntary self-identification as the maker
- c. when the public official or University reasonably considers it necessary to disclose the information to protect a person from detriment
- d. where it is necessary for the information to be disclosed to a person whose interests are affected by the disclosure
- e. where the information has previously been lawfully published
- f. 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
- g. when the information is disclosed for the purposes of proceedings before a court or tribunal
- h. when the disclosure of the information is necessary to deal with the disclosure effectively
- i. if it is otherwise in the public interest to disclose the identifying information.

(65) The University will not disclose identifying information unless it is necessary and authorised under the [PID Act](#).

(66) The University will put in place steps to keep the identifying information of the maker and the fact that a report has been made confidential. It may not be possible for the University to maintain complete confidentiality as the investigation progresses, but the University will do all that it practically can to not unnecessarily disclose information from which the maker of the report can be identified. The University will do this through the following:

- a. Limiting the number of people who are aware of the maker's identity or information that could identify them.
- b. If the University must disclose information that may identify the maker of the PID, it will still not disclose the actual identity of the maker of the PID, unless the University has consent from the PID maker to do so.
- c. Ensuring that any person who does know the identity of the maker of a PID is reminded that they have a legal obligation to keep their identity confidential.

- d. Ensuring that only authorised persons have access to emails, files or other documentation that contain information about the identity of the maker.
- e. The University will undertake an assessment to determine if anyone is aware of the maker's identity and if those persons have a motive to cause detrimental action to be taken against the maker or impede the progress of the investigation.

(67) The University will provide information to the maker of the PID about the importance of maintaining confidentiality and advising them how best to protect their identity, for example, by telling them not to discuss their report with other staff.

(68) If confidentiality cannot be maintained or is unlikely to be maintained, the University will take steps which could include:

- a. advising the person whose identity may become known
- b. updating the University's risk assessment and risk management plan
- c. implementing strategies to minimise the risk of detrimental action
- d. providing additional supports to the person who has made the PID, and/or
- e. reminding persons who become aware of the identifying information of the consequences for failing to maintain confidentiality and that engaging in detrimental action is a criminal offence and may also be a disciplinary matter.

## **How the University will assess and minimise the risk of detrimental action**

(69) The University will not tolerate any detrimental action being taken by any person against a person who has made a PID, investigators, witnesses or the person the report is about.

(70) The University 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.

(71) The University will take steps to assess and minimise the risk of detrimental action by:

- a. explaining that a risk assessment will be undertaken, and a risk management plan will be created (including reassessing the risk throughout the entirety of the matter)
- b. providing details of the unit/role that will be responsible for undertaking a risk assessment
- c. explaining the approvals for risk assessment and the risk management plan, that is, rank or role of the person who has final approval
- d. explaining how the University will communicate with the maker to identify risks
- e. listing the protections that will be offered, that is, the University will discuss protection options with the maker which may include remote working or approved leave for the duration of the investigation, and
- f. outlining what supports will be provided.

(72) Detrimental action against a person is an act or omission that causes, comprises, involves or encourages detriment to a person or a threat of detriment to a person (whether express or implied). Detriment to a person includes:

- a. injury, damage or loss
- b. property damage
- c. reputational damage
- d. intimidation, bullying or harassment
- e. unfavourable treatment in relation to another person's job

- f. discrimination, prejudice or adverse treatment
- g. disciplinary proceedings or disciplinary action, or
- h. any other type of disadvantage.

(73) Detrimental action does not include:

- a. lawful action taken by a person or body to investigate serious wrongdoing or other misconduct
- b. the lawful reporting or publication of a finding of serious wrongdoing or other misconduct
- c. the lawful making of adverse comment, resulting from investigative action
- d. the prosecution of a person for a criminal offence, or
- e. reasonable management action taken by someone in relation to a person who made or may make a PID. For example, a reasonable appraisal of a PID maker's work performance.

## **How the University will deal with allegations of a detrimental action offence**

(74) If the University becomes aware of an allegation that a detrimental action offence has occurred or may occur, the University will:

- a. take all steps possible to stop the action and protect the person(s)
- b. take appropriate disciplinary action against anyone that has taken detrimental action
- c. refer any evidence of a detrimental action offence to the Commissioner of Police and the ICAC or the Law Enforcement Conduct Commission (whichever is applicable), and
- d. notify the [NSW Ombudsman](#) about the allegation of a detrimental action offence being committed.

## **What the University will do if an investigation finds that serious wrongdoing has occurred**

(75) If, after an investigation, it is found that serious wrongdoing or other misconduct has occurred, the University will take the most appropriate action to address that wrongdoing or misconduct. This is also known as corrective action.

(76) Corrective action can include:

- a. a formal apology
- b. improving internal policies to adequately prevent and respond to similar instances of wrongdoing
- c. providing additional education and training to staff where required
- d. taking employment action against persons involved in the wrongdoing (such as termination of employment, relocation, a caution or reprimand), and/or
- e. payment of compensation to people who have been affected by serious wrongdoing or other misconduct.

## **Part D - Review and dispute resolution**

### **Internal review**

(77) People who make voluntary PIDs can seek internal review of the following decisions made by the University:

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

(78) The University will ensure internal reviews are conducted in compliance with the [PID Act](#).

(79) If you would like to make an application for an internal review, you must apply in writing within 28 days of being informed of the University's decision. The application should state the reasons why you consider the University's decision should not have been made. You may also submit any other relevant material with your application.

## **Voluntary dispute resolution**

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

## **Part E - Other university obligations**

### **Recordkeeping requirements**

(81) The University must keep full and accurate records with respect to all information received in connection with the [PID Act](#). This ensures that the University complies with its obligations under the [State Records Act 1998](#).

### **Reporting of voluntary PIDs and the University's annual return to the [NSW Ombudsman](#)**

(82) Each year the University will provide an annual return to the [NSW Ombudsman](#) which includes:

- a. information about voluntary PIDs received by the University during each return period (yearly with the start date being 1 July)
- b. action taken by the University to deal with voluntary PIDs during the return period, and
- c. how the University promoted a culture in the workplace where PIDs are encouraged.

### **How the University will ensure compliance with the [PID Act](#) and this procedure**

(83) Each year the disclosure coordinator will provide a report to the Vice-Chancellor regarding the University's compliance with the [PID Act](#) and setting out any recommendations from the oversight panel for actions to improve the University's compliance with the [PID Act](#)

## **Part F - Procedures for making and receiving protected disclosures under the [Corporations Act](#)**

(84) A report will be a protected report under the [Corporations Act](#) where it relates to misconduct, an improper state of affairs or circumstances in relation to the University or its controlled entities, a contravention of or offence under various Commonwealth financial laws, an offence under a Commonwealth law that is punishable by imprisonment for a period of 12 months or more, or represents a danger to the public or the financial system and it is made in accordance with this procedure.

(85) Reports of wrongdoing that constitute an offence against, or a contravention of, a provision of any of the following Commonwealth financial laws will be protected reports under the [Corporations Act](#):

- a. the [Corporations Act](#)
- b. the [Australian Securities and Investments Commission Act 2001](#)
- c. the Banking Act 1959
- d. the Financial Sector (Collection of Data) Act 2001
- e. the Insurance Act 1973

- f. the Life Insurance Act 1995
- g. the National Consumer Credit Protection Act 2009
- h. the [Superannuation Industry \(Supervision\) Act 1993](#)
- i. an instrument made under any Act referred to in this clause.

(86) People who can make a protected disclosure under the [Corporations Act](#) are:

- a. all university staff, including staff of controlled entities
- b. individuals who supply services or goods to the University (whether paid or unpaid)
- c. employees of a person that supplies services or goods to the University (whether paid or unpaid)
- d. an individual that makes, or participates in making, decisions that affect the whole, or a substantial part, of the business of the University, or have the capacity to significantly affect the University's financial standing (officers and associates as defined in the [Corporations Act](#))
- e. any person that was formerly a person stated at a. to d. above
- f. a relative, dependant or spouse of any person stated at a. to d. above.

(87) People who have been authorised by the University to receive reports of wrongdoing that may be protected reports under the [Corporations Act](#) are the persons listed in [Annexure A](#) to this procedure. It is also possible to use the [online portal](#) to log a report. Details for the portal are set out in [Annexure A](#).

(88) It is also possible that a report of wrongdoing may be protected under the [Corporations Act](#) where the report is made to a journalist, a member of parliament, or an external legal advisor. Any person considering making a report of wrongdoing, that will be protected by the [Corporations Act](#) to a journalist, a member of parliament, or an external legal advisor should review the provisions of Part 9.4AAA of the [Corporations Act](#) to ensure that their disclosure will meet the necessary conditions for protection. The following is a summary only and should not be used to decide whether to make a report to a member of parliament or a journalist:

- a. The person making the report of wrongdoing is one of the eligible people stated in this procedure.
- b. The person is disclosing a wrongdoing stated in this procedure that is protected by the [Corporations Act](#).
- c. The person disclosing a wrongdoing to an MP or journalist must have already made substantially the same report to:
  - i. an authorised [disclosure officer](#) under this procedure, or
  - ii. an investigating authority listed in [Annexure B](#).
- d. Before making a disclosure to an MP or journalist all of the following requirements must be met:
  - i. at least 90 days have passed since the previous disclosure was made
  - ii. the person does not have reasonable grounds to believe that action is being, or has been, taken to address the matters to which the previous disclosure related
  - iii. the person has reasonable grounds to believe that making a further disclosure of the would be in the public interest
  - iv. after at least 90 days and before the disclosure to an MP or journalist is made, the person gave the University contact or investigating authority to which the previous disclosure was made a written notification that:
    - includes sufficient information to identify the previous disclosure, and
    - states that the person intends to make a public interest disclosure
  - v. the extent of the information is no greater than is necessary to inform the MP or journalist of the wrongdoing, in accordance with the [Corporations Act](#).

(89) Alternatively, an emergency disclosure made to an MP or a journalist may qualify for protection if all of the



following are met:

- a. the person making the report of wrongdoing is one of the eligible people stated in this procedure
- b. the person is disclosing a wrongdoing stated in this procedure
- c. the person disclosing a wrongdoing to an MP or journalist must:
  - i. have previously made a disclosure of that information (the previous disclosure) that qualifies for protection under the [Public Interest Disclosure \(Whistleblowing\) Policy](#) and the [Corporations Act](#)
  - ii. have reasonable grounds to believe that the information concerns a substantial and imminent danger to the health or safety of one or more persons or to the natural environment
  - iii. give the person, contact or authority to which the previous disclosure was made a written notification that:
    - includes sufficient information to identify the previous disclosure, and
    - states that the reporter intends to make an emergency disclosure
  - iv. the extent of the information disclosed in the emergency disclosure is no greater than is necessary to inform the MP or journalist of the substantial and imminent danger.

(90) Where a person reports wrongdoing that is not a PID and not protected by the [Corporations Act](#), the University will, insofar as is reasonably practicable, keep the identity of the reporter confidential. The identity of a person who makes a report of wrongdoing that is protected under the [Corporations Act](#) will be kept confidential by the University but it may be disclosed if one of the following exceptions applies:

- a. the person reporting the wrongdoing consents to having their identity disclosed
- b. the report is referred by any of the University's authorised [disclosure officers](#) to ASIC, APRA or a member of the Australian Federal Police
- c. the University is seeking legal advice or legal representation in relation to the operation of the whistleblower provisions in Part 9.4AAA of the [Corporations Act](#), or
- d. the disclosure of the person's identity is made by ASIC, APRA or a member of the Australian Federal Police and is made to another Commonwealth, state or territory authority in the circumstances set out in the [Corporations Act](#).

(91) A report of wrongdoing that the University determines is protected by the [Corporations Act](#) will be investigated in substantially the same way that a voluntary PID is investigated by the University (as set out in this procedure).

(92) The University will protect and support a person who makes a report of wrongdoing that is a protected report under the [Corporations Act](#) in substantially the same way that (as set out in this procedure) the University will protect a person who makes a report that is a voluntary PID.

## Section 4 - Guidelines

(93) Nil.

## Section 5 - Glossary

(94) Nil.

## Status and Details

<b>Status</b>	Current
<b>Effective Date</b>	12th February 2024
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