



Natural
Resources
Commission

PUBLIC INTEREST DISCLOSURES PROCEDURE

June 2017

Table of Contents

1	About this procedure	1
2	Definitions	1
3	Commission’s Public Interest Disclosures Officer	1
4	Procedure for managing public interest disclosures	3
4.1	Identify need to make a disclosure	3
4.2	Make a disclosure	3
4.3	Receive disclosure	3
4.4	Make an initial assessment of the disclosure	4
4.5	Acknowledge receipt of disclosure	4
4.6	Conduct risk assessment	5
4.7	Determine necessary action	5
4.8	Conduct investigation	6
4.9	Report findings of the investigation	6
4.10	Implement recommendations	7
5	What to do if there is a reprisal	7
6	Document control	7
	Attachment 1: Internal report form	8
	Attachment 2: Checklist for an internal report	10
	Attachment 3: Assessment of an internal report	13
	Attachment 4: Letter to acknowledge when report is a public interest disclosure	16
	Attachment 5: Letter to inform when report is not a public interest disclosure	19

1 About this procedure

This procedure outlines the process for receiving and managing a public interest disclosure (PID) under the *Public Interest Disclosure Act 1994* (the Act).

This procedure is complemented by the **Public Interest Disclosures Policy** (D17/0748).

2 Definitions

For information about public officials and categories of disclosures protected by the Act, refer to the Act or the Commission's **Public Interest Disclosures Policy**.

3 Commission's Public Interest Disclosures Officer

The Director Corporate Services is an authorised officer or PID Officer of the Commission to receive and manage disclosure reports. Disclosures can also be reported to the Commissioner.

In case the disclosure is about the Director Corporate Services, disclosures can be reported to the Commissioner.

Public Interest Disclosure Officer Natural Resources Commission

Director Corporate Services
Level 6, Martin Place
Sydney NSW 2000
Phone: 9228 4518

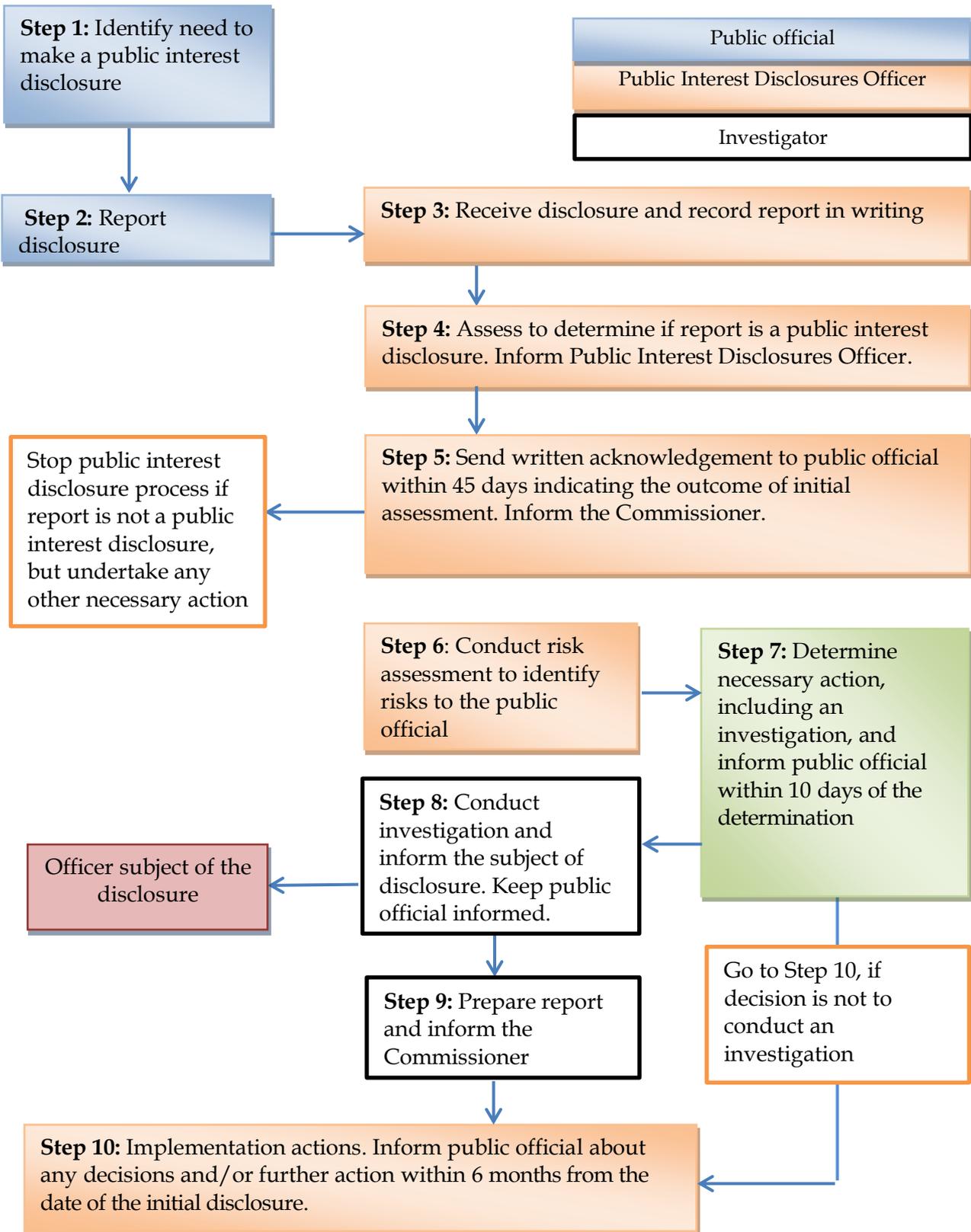


Figure 1: Steps in managing a public interest disclosure

4 Procedure for managing public interest disclosures

4.1 Identify need to make a disclosure

Decide to make a disclosure

(Responsibility: Public official)

Public official has reasonable grounds to believe wrongdoing and decides to report disclosure.

4.2 Make a disclosure

Make a disclosure

(Responsibility: Public official)

Disclosures can be submitted either to the PID Officer or the Commissioner.

If a Director is approached by the public official to make a disclosure, Director must refer that person to the PID Officer otherwise the disclosure will not be protected under the Act.

Complete the **Internal Report Form (D17/0750)**.

Private meetings

The person who is making a disclosure may request a private meeting, away from the workplace, if they are concerned about publicly approaching the PID Officer in the workplace.

Form of disclosures

The disclosure can be in writing or made verbally. A disclosure in writing is preferred as this can help to avoid any confusion or misinterpretation.

Anonymous disclosures

There may be a situation where a public official does not want to be identified when making a disclosure. Although anonymous disclosures are also dealt with appropriately by the Commission, identification is necessary if a disclosure is to be protected under the Act. Identification also allows the Commission to provide support, as well as feedback about the outcome of any investigation. It is also important to know that an anonymous disclosure may not prevent the person from being identified by some people. If the Commission does not know who made the disclosure, it may not be possible to prevent reprisal action.

Disclosures can also be made to some designated external bodies. Refer to the **Public Interest Disclosures Policy** for details regarding external reporting.

4.3 Receive disclosure

Record disclosure and offer support

(Responsibility: PID Officer)

The PID Officer will record disclosure and oversee investigation, unless the matter pertains to their own conduct, in which case the Commissioner will manage the matter.

Making an accurate record

If a disclosure is made verbally, the person receiving the disclosure must make a comprehensive record of the disclosure. Later, when acknowledging the report, ask the person making the disclosure to sign this record.

Complete the **Internal Report Form** (D17/0750).

Refer to the **Checklist for Receiving an Internal Report** (D17/0751), to ensure you have captured all information and have provided all the necessary advice/information to the person making the disclosure.

Offer support

Offer support to the person who has made the disclosure.

4.4 Make an initial assessment of the disclosure

Consider whether the disclosure meets requirements of the Act
(Responsibility: PID Officer)

Consider whether or not the disclosure meets the requirements for protection under the Act.

Refer to the **Assessment of Internal Report** (D17/0752) for making a determination about whether the report is a PID.

Inform the Commissioner
(Responsibility: PID Officer)

If the report is a PID, the PID Officer informs the Commissioner of the circumstances of the disclosure, while observing the confidentiality obligations.

4.5 Acknowledge receipt of disclosure

Acknowledge receipt of disclosure within 45 days
(Responsibility: PID Officer)

Within 45 days, send written acknowledgement of receipt of disclosure to the person who made the disclosure, including notification that the public official must maintain confidentiality of the disclosure.

Keep the person who made the disclosure informed about any action taken or proposed to be taken in respect of the disclosure.

Provide a copy of the **Public Interest Disclosures Policy** to the person who made the disclosure. This is a requirement under the Act.

Indicate timeframe when further updates will be provided to the person who made the disclosure. Provide the name and contact details of the people who can advise what is happening.

Use the template **Letter to Acknowledge When Report is a Public Interest Disclosure** (D17/0753).

Where results of the initial assessment clearly show that the report is not a PID, inform the person who made the disclosure.

Use the **Letter to Inform When Report is not a Public Interest Disclosure** (D17/0754).

Follow any other relevant Commission procedures to deal with

any issues raised in the report.

4.6 Conduct risk assessment

Conduct risk assessment to identify risks to the person who made the disclosure

(Responsibility: PID Officer)

Conduct a risk assessment to identify any risks to the person who made the disclosure, as well as strategies to deal with the identified risks.

Respond to reprisals

If you suspect or concerns are raised that there may be reprisal action against the person who made the disclosure:

- ensure a senior and experienced member of staff, who has not been involved in dealing with the initial disclosure, will investigate the suspected reprisal, and report the results of that investigation to the Commissioner for a decision
- if it has been established that reprisal action is occurring, take all necessary action possible to stop that and protect the person who made the disclosure.

4.7 Determine necessary action

Determine necessary action

(Responsibility: PID Officer)

The Commissioner and the PID Officer will determine how the matter is to be actioned. Depending on the circumstances, there are different actions that can be taken:

- nomination of an appropriate person to take responsibility for dealing with the disclosure
- preliminary or informal investigation
- formal investigation
- prosecution or disciplinary action
- referral to an investigating authority for investigation
- referral to the Commissioner of Police (if a criminal matter) or ICAC (if the matter concerns corrupt conduct).

If appropriate, the Commissioner may consider issuing specific directions to help protect against reprisals, including:

- issuing warnings to those alleged to have taken reprisal action against the person who made the disclosure
- relocating, within the current workplace, the person who made the disclosure or the person alleged to have taken reprisal action
- granting the person who made the disclosure or the person the subject of the disclosure leave of absence during the investigation of the disclosure.

Any decisions, related to the person who made the disclosure, will be made in consultation with that person.

Inform public official

(Responsibility: PID Officer)

Within 10 working days of the decision about how the disclosure will be dealt with, the person who made the disclosure will be provided:

- information about the action that will be taken
- likely timeframes for any investigation
- information about the resources available within the Commission to handle any concerns the person may have
- information about external agencies and services for support.

If the decision is to conduct investigation, proceed to Section 4.8, or else go to Section 4.10.

4.8 Conduct investigation

Inform the person who is the subject of disclosure

(Responsibility: PID Officer)

If the decision is to conduct an investigation, inform the person who is the subject of disclosure.

Ensure the person who is the subject of a disclosure is:

- treated fairly and impartially
- informed about their rights and obligations under the Act and the Commission policies
- kept informed during the investigation
- given the opportunity to respond to any disclosure made against them
- informed about the result of any investigation.

Investigate disclosure

(Responsibility: Investigator)

The investigator investigates the matter.

Communicate with the public official

(Responsibility: PID Officer)

During the investigation, the PID Officer will communicate with the person who made the disclosure and provide:

- information about the nature of the investigation, progress of the investigation, and reasons for delay, if any
- advice if person's identity needs to be disclosed for the purpose of investigation, and provide the person with an opportunity to discuss about this.

4.9 Report findings of the investigation

Prepare investigation report

(Responsibility: Investigator and PID Officer)

Within 10 days, the investigator prepares a confidential report on matters that have been investigated, and submits the report to the Commissioner.

At the end of investigation, the PID Officer provides the person who made the disclosure:

- enough information to show that adequate and appropriate

action is being taken and/or is proposed to be taken in response to the disclosure, and any issues that were identified

- advice about whether the person may be involved as a witness in any further proceedings.

4.10 Implement recommendations

Implement recommendations of the investigation

(Responsibility: PID Officer)

Implement the recommendations of the investigation report.

Communicate with public official

(Responsibility: PID Officer)

Within six months from the date of the initial disclosure, inform the person who made the disclosure of the result of any decisions and/or further actions in relation to the disclosure.

If a decision is made not to investigate the matter or refer it to an investigating authority, the person who made the disclosure is to be notified of that decision.

5 What to do if there is a reprisal

The Commission will ensure that any evidence of reprisal against the person who made the disclosure is referred to the Commissioner of Police, ICAC, or the Police Integrity Commission if the evidence relates to the NSW Police Force.

Public official who reported reprisal against the person who made the disclosure will be kept informed of the progress of any investigation and the outcome.

If the public official who made the disclosure feels that any reprisal is not being dealt with effectively, they should contact the NSW Ombudsman or ICAC, depending on the type of disclosure reported. For contact details of these agencies, refer to the **Public Interest Disclosures Policy**.

6 Document control

Date approved	May 2017
Review period	Triennial
Next revision	May 2020
Responsible Officer	Director Corporate Services
Approving Officer	Commissioner

Attachment 1: Internal report form

Public interest disclosure: Internal report form

(To be completed by an internal reporter and submitted to the PID Officer)

Details of reporter

(You can make an anonymous report by leaving this section blank)

Name: [Click here to enter text](#) Phone: [Click here to enter text](#)

Title: [Click here to enter text](#) Email: [Click here to enter text](#)

Preferred method of contact

Phone

Email

Details of wrongdoing being reported

What happened? [Click here to enter text](#)

Where did this happen?

When did it happen?

Is this still happening?

(attach an additional page if required)

How did you become aware of this? [Click here to enter text](#)

Name and position of people involved in wrongdoing [Click here to enter text](#)

Attach any additional relevant information or indicate where supporting evidence may be found [Click here to enter text](#)

Name and position of other people who may have additional information [Click here to enter text](#)

Statement:

I honestly believe that the above information shows or tends to show wrongdoing.

(Signature of reporter)

(Do not sign if you want to make an anonymous report)

(Date report submitted)

Attachment 2: Checklist for an internal report

Public interest disclosure: Checklist for an internal report

[To be completed by the PID Officer]

Internal report

Report received by: [Click here to enter text](#)

Date report received: [Click here to enter text](#)

- Verbal
 Written
 Anonymous

If the report was made verbally, the report has been documented in writing and signed:

- Yes No

The reported has been thanked for coming forward with their concerns:

- Yes No

Confidentiality/risk of reprisal

Who else knows that the report has been made? [Click here to enter text](#)

Is the reported concerned about their identity will become known in the workplace? If yes, why? [Click here to enter text](#)

Is the reporter concerned that they may suffer reprisal action for making the report, if their identity becomes known? From whom? [Click here to enter text](#)

What professional relationship does the reporter have with any subject(s) of the report? [Click here to enter text](#)

Previous reporting

Has this reporter raised this matter to another person within the organisation? Yes No

If yes, who was it reported to, when was it reported, and what action was/is being taken? [Click here to enter text](#)

Support

The reporter has been advised of our employee assistance program. Yes No

The reporter requires support. Yes No

If the reporter requires support, what type of support? [Click here to enter text](#)

Public interest disclosure: Checklist for an internal report

Reporter's expectations

What does the reporter expect from this process? [Click here to enter text](#)

What does the reporter expect will happen to any subject(s) of disclosures? [Click here to enter text](#)

Additional information the recipient of a report may be aware of

The reporter is currently/has previously been the subject of performance issues. Yes No

The reporter is currently/has previously been the subject of disciplinary proceedings. Yes No

The reporter is currently/has previously been the subject of criminal investigation related to this matter. Yes No

The reporter is currently/has previously been the subject of workplace changes. Yes No

If **yes** to any of the above, provide any known details. [Click here to enter text](#)

(Signature of recipient)

(Name)

(Date)

Attachment 3: Assessment of an internal report

Public interest disclosure: Assessment of an internal report

[To be completed by the PID Officer to assess whether the report meets the criteria of a PID, as defined in the *Public Interest Disclosures Act 1994* (the Act)]

Criteria under the Act		Comments
1. Is the reporter a public official?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Anonymous	<p>If the reporter is not a public official, as defined in the Act, the report is not a PID.</p> <p>If the reporter is anonymous and the content of the report indicate that the reporter is a public official. In such cases, it is always best to assume the reporter is a public official unless there is evidence to indicate the reporter is not a public official.</p>
2. Is the report about the conduct of a public official or a public authority?	<input type="checkbox"/> Yes <input type="checkbox"/> No	<p>If the report is not about the conduct of a public official or public authority, as defined in the Act, the report is not a PID.</p>
3. Is the report about one of the categories of conduct in the Act?	<input type="checkbox"/> Yes <input type="checkbox"/> No	<p>If the report is not about one of the categories of conduct in the Act, it is not a PID.</p> <p>For more information about these categories of conduct, see NSW Ombudsman's PID procedure.</p> <p>If you have answered 'no' because you believe the maladministration or waste of public money was not serious or substantial enough, clearly record your reasons over the page.</p>
<input type="checkbox"/> Breach of the GIPA Act <input type="checkbox"/> Serious maladministration <input type="checkbox"/> Local Government pecuniary interest contravention <input type="checkbox"/> Corrupt conduct <input type="checkbox"/> Serious and substantial waste of public money	<input type="checkbox"/> Yes <input type="checkbox"/> No	<p>Assume the reporter has an honest belief unless there is evidence to the contrary.</p> <p>If another person, given the same conditions, would take the same viewpoint, this is reasonable grounds.</p> <p>The reporter must be able to show or tend to show evidence of the alleged wrongdoing, i.e. they witnessed it or they have documentary or other evidence. It cannot be hearsay.</p> <p>If you have answered 'no', clearly record your reasons over the page.</p>
4. Does the reporter have reasonable grounds to believe that the information they have reported shows or tends to show the alleged wrongdoing?	<input type="checkbox"/> Yes <input type="checkbox"/> No	<p>If the report was not made to the PID Officer, the report is not a PID.</p> <p>If the reporter has not made the report to an authorised person they should be redirected to</p>
5. Was the report made to the PID Officer?	<input type="checkbox"/> Yes <input type="checkbox"/> No	

Public interest disclosure: Assessment of an internal report

Criteria under the Act		Comments
		one.
6. Does the report primarily question the merits of Government policy?	<input type="checkbox"/> Yes <input type="checkbox"/> No	If the report primarily questions the merits of Government policy, the report is not a PID.
7. Is there substantial evidence indicating that the report was made solely or substantially with the motive of avoiding dismissal or other disciplinary action?	<input type="checkbox"/> Yes <input type="checkbox"/> No	<p>If the report has been made solely or substantially with the motive of avoiding dismissal or other disciplinary action, the report is not a PID.</p> <p>A high evidential threshold is required to conclude the reporter's motives were improper.</p> <p>If you have answered 'yes', you should have sound reasons and clearly record those reasons over the page.</p>

Further Comments

- The PID assessment should be based on the content of the disclosure, not the outcome of any investigation.
- An internal reporter does not have to explicitly indicate that they are making a PID or ask to be protected.
- If in doubt, err on the side of caution and interpret the Act broadly i.e. assume that the Act applies and proceed accordingly.

Assessment

Based on this assessment, should the report be treated as a PID?

Yes No

If 'yes', the following steps will be taken:

[Click here to enter text](#)

If 'no', the following steps will be taken:

[Click here to enter text](#)

If 'yes', was the PID made:

- Incidental to the performance of the reporter's day-to-day functions
- Under a statutory or other legal obligation on the reporter
- Otherwise

(Signature of PID Officer)

(Name)

(Date)

Attachment 4: Letter to acknowledge when report is a public interest disclosure



Letter to acknowledge public interest disclosure

Insert Date

Name
Position
Natural Resources Commission
52 Martin Place
Sydney NSW 2000

Dear Ms/Mr Surname

Internal report of suspected wrongdoing

I am writing in relation to your [letter/email] addressed to [Officer's Name], received [date]. You reported [brief description of report]. **OR** I am writing in relation to your conversation with [Officer's Name], on [date]. I understand that you reported [brief description of report]

Thank you for coming forward with this information.

The Natural Resources Commission's **Public Interest Disclosures Policy** can be found on the Commission website. As the Public Interest Disclosures Officer, I am responsible for dealing with reports of wrongdoing made by our staff.

I have assessed your report and decided to treat this matter as a public interest disclosure (PID), in accordance with the requirements of the *Public Interest Disclosures Act 1994* (the Act).

What the Commission will do with your report

Having received your report, the Commission will decide how to deal with this information and to take appropriate action. We expect you to assist in this process and provide further information you may be aware of, if requested.

The Commission will advise you of what action we have taken or intend to take by [date no later than six months after date received]. Please be aware, however, that the Commission [may/will] not be able to provide you with personal or employment related information about those involved in the conduct you have reported.

Protection from reprisal

Under Section 20 of the Act, it is a criminal offence for someone to take detrimental action against another person which is substantially in reprisal for that person having made a PID.

The Commission will take appropriate steps to help protect you from reprisal action that may result from having made a report. If practicable, we will make every effort to keep your identity confidential. Please be aware however that this may not be possible or appropriate in some circumstances. We will be in contact in the near future to discuss whether maintaining confidentiality is possible and appropriate in your case.

To minimise the risk of your identity being disclosed, it is important that you only discuss this matter with me or someone authorised to deal with this matter. In particular, do not inform any person involved in the alleged wrongdoing that you have made a report about them.

Failure to maintain confidentiality may limit the Commission's ability to protect you from reprisal action and could be detrimental to any investigation.

[Optional line where the concerned reporter has intentionally breached confidentiality] Wilfully disregarding these instructions will be treated as a serious matter.

Support options

I acknowledge that making a report in the workplace can be difficult, and appreciate that you have brought this to the Commission's attention.

If you are experiencing difficulties or require support, you can contact the Commission's Employee Assistance Program. If you require additional support throughout this process, please contact me to arrange a support officer.

You are welcome to call me on [direct phone number] if you have any questions about this letter or would like further information about how the Commission will be dealing with your report.

Please contact me immediately if you believe someone has taken, or intends to take, detrimental action against you in reprisal for making this report.

Yours sincerely,

[Name]

Public Interest Disclosures Officer

Attachment 5: Letter to inform when report is not a public interest disclosure



Letter to inform when report is not a public interest disclosure

Insert Date

Name

Position

Natural Resources Commission

52 Martin Place

Sydney NSW 2000

Dear Ms/Mr Surname

Internal report of suspected wrongdoing – Result of assessment

Thank you for taking the time to discuss and raise your concern about [topic] on [date] with me.

I have carefully assessed your concern and the supporting information/evidence you provided. As advised in our conversation on [date], the Natural Resources Commission (the Commission) cannot treat your concern as a public interest disclosure (PID) because it does not meet at least one of the requirements of the *Public Interest Disclosures Act 1994* (the Act). In this regard, it is my assessment that the concern you have raised [Explain why the concern raised is not a PID using one of the following criteria]

- Questions the merits of Government policy [contrary to s. 17 of the Act].
- Was made primarily to avoid dismissal or disciplinary action [contrary to s. 18 of the Act].
- It is not a PID because you are not a public official as defined by the Act / or were not a public official as defined by the Act when you raised the concern [as required by s. 8 of the Act].
- It is not about a public authority or public official, including a person who acts in or performs a public official function [contrary to s. 8 of the Act].
- It is not about serious wrongdoing (i.e. a report about a matter of sufficient importance to be categorised as a public interest issue).
- It is not about one of the categories of conduct defined in the Act, for example:
 - corrupt conduct
 - serious maladministration
 - serious and substantial waste of public money
 - failure to comply with the *Government Information (Public Access) Act 2009*
 - pecuniary interest contravention under the *Local Government Act 1993*

- It is a mere allegation that contains little or no information/evidence that shows or tends to show that the alleged conduct has occurred/is occurring [contrary to the requirements of the Act].
- It is more appropriately categorised as a performance management issue.
- It is a workplace grievance or interpersonal conflict.
- It alleges bullying or harassment of an individual, for example it does not show or tend to show a course of conduct or systemic workplace issue.

Although your concern cannot be treated as a PID, the Commission values public officials raising concerns and it has been decided that your concern will be: [Explain what action will be taken]

- resolved managerially and your concern will be forwarded to your supervisor for their information/or action
- handled as a grievance, in line with the Grievance Policy
- handled as a complaint, in line with the Policy for Managing External Complaints and Allegations
- handled as a harassment, bullying or an unlawful discrimination complaint, in line with the **Bullying Free Workplace Policy**
- dealt with as a work, health and safety concern because there is the possibility of a health and safety risk to public officials or the public
- dealt with under the Commission's Code of Ethics and Conduct
- dealt with through the performance management process
- referred to the police as it is a criminal matter.

I will keep you updated about how the Commission will handle your concern. You are also welcome to contact me directly on [direct phone number].

Raising a concern in the workplace can be difficult, and we appreciate that you brought this matter to our attention.

If you are experiencing difficulties or require support, you can contact the Commission's Employee Assistance Program. If you require additional support throughout this process, please contact me to arrange a support officer. If you fear or experience any adverse action resulting from having brought this matter to our attention, please contact your supervisor and myself as soon as possible.

If you disagree with the assessment/outcome, you are welcome to contact the NSW Ombudsman's Public Interest Disclosures Unit on 02 9286 1000 for advice.

Yours sincerely,

[Name]

Public Interest Disclosures Officer