



Public Interest Disclosures Policy

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Summary:	This Policy provides guidance for staff and Council members on public interest disclosures (formerly known as protected disclosure or whistleblowing) under the <i>Public Interest Disclosures Act 1994</i> .				
Applies to:	HPCA staff Council members Members of Council committees and associated regulatory bodies				
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Related legislation, Awards, Policy and Agreements:	<ul style="list-style-type: none"> • <i>Public Interest Disclosures Act 1994</i> • NSW Health <i>Public Interest Disclosures Policy Directive (PD2011_061)</i> 				
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INTRODUCTION

The *Public Interest Disclosures Act 1994* aims to ensure that public officials can make a protected or public interest disclosure (that is, a complaint) and be confident that it will be handled in a way that minimises the risk of any reprisal from making that complaint.

This Policy provide guidance for staff and members of the Medical Council of NSW (the Council) on making, assessing and dealing with public interest disclosures under NSW Health Policy Directive *Public Interest Disclosures (PD2011_061)*, which should be read in conjunction with this document.

KEY DEFINITIONS

Principal Officer is defined as the person who is the head of the organisation, its most senior officer or the person normally entitled to preside at its meetings. The President of the Council is considered to be a “principal officer”. The Director-General is the Principal Officer for the NSW Ministry of Health and the Health Administration Corporation.

The Director, Health Professional Councils Authority (HPCA) is not a Principal Officer for the HPCA but may make a report to the relevant authority in relation to HPCA staff, at the same time advising the Director-General that a report has been made.

President is the person appointed under Schedule 5C Part 2 Clause 10 of the *Health Practitioner Regulation National Law (NSW) No 86a* (the Law).

Public official means an individual who is an employee of, or otherwise in the service of a public authority, including staff and a Council member.

Member includes any member of the Council, a Council committee or an associated regulatory body such as Professional Standards Committee, Impaired Registrants Panel, Performance Review Panel members or non-judicial members of a Tribunal, section 150 Inquiry delegates, interviewers, panellists, assessors, experts and other ad hoc participants in Council activities.

Staff includes permanent, temporary or casual employees, contractors or consultants, working in a full-time or part-time capacity, at all levels of the HPCA.

What is a public interest disclosure?

A public interest disclosure (PID) is a report made by a public official that relates to wrongdoing which is a matter of public interest - namely corrupt conduct, maladministration, serious and substantial waste of public money or government information contravention.

Corrupt conduct is the dishonest or partial exercise of power or position resulting in one person being advantaged over another. It may also involve the conduct of non-public officials which adversely affects the honest and impartial exercise of a public official's functions. The key notion is the misuse of public office.

Maladministration is conduct which 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.

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

Government information contravention relates to a failure to properly fulfil functions under the *Government Information (Public Access) Act 2009* (GIPA Act), such as destroying, concealing or altering records to prevent them from being released; knowingly making a decision contrary to the GIPA Act; or directing another person to make a decision contrary to the GIPA Act.

RESPONSIBILITIES

The President has the responsibilities of Principal Officer. The President must inform the Director, HPCA of any disclosures regarding staff.

Disclosure Coordinator

The Manager, Corporate Governance is the HPCA disclosure coordinator, and coordinates six-monthly reporting to the NSW Ombudsman via the PID online reporting tool.

The specific roles and responsibilities of designated officers and public officials making a public interest disclosure are outlined in the NSW Health *Public Interest Disclosures Policy Directive (PD2011_061)*.

MAKING A PUBLIC INTEREST DISCLOSURE

To be protected under the Act a disclosure by a public official must be made in accordance with the relevant legislation.

Internal Reporting System

The positions to whom a report may be made in accordance with the Act and this policy are:

- The Principal Officer, in relation to the Council
- The disclosure coordinator – HPCA Manager, Corporate Governance, in relation to the HPCA
- A nominated disclosure officer. Positions nominated for this purpose are:
 - HPCA Administration Manager (report by HPCA staff)
 - Council Executive Officer (report by member)

The Director, HPCA is not a Principal Officer but may make a report to the relevant authority in relation to suspected corrupt conduct by staff at the same time advising the Director-General.

External Reporting System

Disclosures may be reported directly to the relevant agency:

1. Corrupt conduct – dealt with by the Independent Commission Against Corruption (ICAC) in accordance with *ICAC Act 1988*. See the Reporting Corrupt Conduct procedures for further information.
2. Maladministration – dealt with by the NSW Ombudsman in accordance with the *Ombudsman Act 1974*.
3. Serious and substantial waste – dealt with by the Auditor-General in accordance with the *Public Finance and Audit Act 1983*.
4. Government information contravention – dealt with by the Information Commissioner in accordance with the *GIPA Act 2009*.

TRAINING AND EDUCATION

Induction programs for Council members and staff include a session on ethical decision-making and corruption prevention. This Policy is available on the Council and HPCA websites. Information from the NSW Ombudsman and the ICAC is also readily available.

All members sign the Medical Council of NSW Code of Conduct for Members and staff sign the NSW Health Code of Conduct which include undertakings regarding corruption.

REPORTING REQUIREMENTS

As a statutory body, the Council is required to report on public interest disclosures in its Annual Report, and provide six monthly reports to the Ombudsman, for the period ending 30 June and 31 December in relation to public interest disclosures by members. A collated report is collected for reporting member and HPCA staff disclosures.

Statistical reporting template

The Manager, Corporate Governance coordinates the collation and submission of reports, with the information provided by the Council's Executive Officer and HPCA section managers. This information is submitted as a collated report to the NSW Ombudsman's Public Interest Disclosure Unit via the PID online reporting tool.

Further information on the reporting tool and other PID resources are available on the Ombudsman's Office Public Interest Disclosures website www.ombo.nsw.gov.au.

REFERENCES AND FURTHER INFORMATION

1. HPCA and Council Reporting Corrupt Conduct policies
2. Medical Council of NSW Code of Conduct for Members
3. *Public Interest Disclosures Act 1994*
4. NSW Health, *Public Interest Disclosures Policy Directive (PD2011_061)*
5. Ombudsman's Office www.ombo.nsw.gov.au/PublicinterestDisclosures.html
6. Independent Commission Against Corruption (ICAC) www.icac.nsw.gov.au/reporting-corruption
7. *Independent Commission Against Corruption Act 1988*
8. *Ombudsman Act 1974*
9. *Government Information (Public Access) Act 2009*
10. *Annual Reports (Statutory Bodies) Act 1984*