



Public Interest Disclosure Procedures

1. Statement

nbn is committed to the highest standards of ethical and accountable conduct, including by creating and maintaining an open working environment in which its employees, directors and contracted service providers (and their employees and directors) are able to raise concerns regarding suspected unethical, unlawful or undesirable conduct or wrongdoing without fear of reprisal.

Each of those persons are public officials of **nbn** for the purposes of these procedures.

This document sets out **nbn's** procedures in relation to disclosures made under or in accordance with the *Public Interest Disclosure Act 2013* (**PID Act**) and the relevant **nbn** policies that may apply, including the [Whistleblower Policy](#).

Disclosures that are not made under or in accordance with the PID Act will be dealt with in accordance with the relevant **nbn** policies that may apply, including:

- the [Whistleblower Policy](#);
- the [Code of Conduct](#);
- the [CATA Disclosure Procedures](#); and/or
- the [Managing Workplace Grievances Policy](#).

These procedures include, and should be read in conjunction with, the [PID Act Glossary of Terms](#) and the [PID Information Sheet for Disclosers](#) which are all available on **nbn's** website <https://www.nbnco.com.au/corporate-information/about-nbn-co/policies/corporate-policies>

If you wish to make a public interest disclosure, we encourage you to use the [Public Interest Disclosure Form](#).

The operation of these procedures will be reviewed regularly to ensure their continued effectiveness and will be updated from time to time with changes in law.



2. Roles and Responsibilities

2.1 Appointment of authorised officers

The principal officer of **nbn** (being the Chief Executive Officer of **nbn**) has:

- made the following initial appointments as authorised officers¹ (whose principal role is to receive and allocate public interest disclosures under the PID Act) and consequently as authorised internal recipients of public interest disclosures under the PID Act:²
 - the Company Secretary, and if he or she is not available, is unable to act or is identified in the disclosure by name or role;
 - the Chief Customer Officer, and if he or she is not available, is unable to act or is identified in the disclosure by name or role;
 - the Executive General Manager Supply,
(the **WPO Priority List**), each of whom are also Whistleblower Protection Officers (**WPOs**) at **nbn** for the purposes of **nbn's** Whistleblower Policy; and
- separately, appointed KPMG FairCall and the KPMG FairCall personnel that receive disclosures from an **nbn** public official as authorised officers,³ and consequently as authorised internal recipients.⁴

The WPO Priority List may be amended from time to time in writing by the Chief Executive Officer of **nbn**.

2.2 Delegation of functions and powers of principal officer

The principal officer of **nbn** has delegated⁵ all of the functions and powers of the principal officer under the PID Act to the WPO Priority List.

A delegate is also the WPO at **nbn** for the purposes of **nbn's** Whistleblower Policy.

2.3 Responsibilities

WPOs have the following responsibilities as appointed authorised officers and as delegates of **nbn's** principal officer:

- receiving disclosures from current or former public officials of **nbn** about disclosable conduct;
- assessing purported disclosures to determine whether there are 'no reasonable grounds' to believe the information could be considered to be a public interest disclosure;
- making any preliminary inquiries necessary to make an allocation decision and allocating all or part of the disclosure to the principal officer (or delegate) of **nbn** and/or another agency, with that agency's consent;
- complying with various notification obligations under the PID Act, including in relation to the discloser, witnesses and the Ombudsman;
- consenting to the allocation of a disclosure by an authorised officer of another agency;
- establishing procedures for facilitating and dealing with public interest disclosures relating to **nbn**, including procedures for:
 - assessing risks that reprisals may occur against persons who make disclosures and any witnesses; and
 - providing for confidentiality of the investigative process;
- taking reasonable steps to protect disclosers from detriment or threats of detriment;

¹ s 36(b)(ii), PID Act.

² s 34, PID Act.

³ s 36(b)(ii), PID Act.

⁴ s 34, PID Act.

⁵ s 77(1), PID Act.



- ensuring disclosures are properly investigated, preparing an investigation report and taking appropriate action in response to the report;
- providing information and assistance to the Ombudsman, including in relation to PID Act annual reporting; and
- acting as the point of contact for staff for any queries or questions regarding **nbn's** PID Act obligations and compliance.

3. PROCEDURES

3.1 Step 1: Disclosure is made

A public official of **nbn** may, in accordance with the [PID Information Sheet for Disclosers](#), make a public interest disclosure to their supervisor or manager or to an authorised officer by telephone, email or post. In addition disclosures may be made:

- to KPMG FairCall via the online disclosure mechanism; or
- in person to their supervisor or manager or to a WPO.

Public officials are encouraged to use the PID Disclosure Form when making a public interest disclosure.

A supervisor means a public official who supervises or manages the person who is making the disclosure, which at **nbn** includes a member of EXCO and their Executive General Manager direct reports.

3.2 Step 2: Authorised officer considers whether a disclosure meets the requirements for a PID

Following receipt of a disclosure, the authorised officer will allocate the disclosure to an agency, unless they are satisfied on reasonable grounds that there is "**no reasonable basis**" on which the disclosure could be considered an internal disclosure for the purposes of the PID Act.

If a disclosure is made to KPMG FairCall: KPMG FairCall will not consider whether a disclosure meets the requirements for a public interest disclosure (or PID).

All disclosures received by KPMG FairCall will be referred to the WPO that is highest on the WPO Priority List. Where:

- the discloser has not consented to KPMG FairCall providing their contact details to **nbn** and/or the Ombudsman and where **nbn** has made a written request to KPMG FairCall; or
- **nbn** has made a written request to KPMG FairCall,

(a **Point of Contact Request**) KPMG FairCall will act as the point of contact between a discloser and: a WPO in its capacity as authorised officer; a WPO in its capacity as principal officer; or the Ombudsman (as applicable).

This may include, without limitation:

- forwarding questions and other information from **nbn** or the Ombudsman to the discloser;
- facilitating direct communication between **nbn** and the discloser (where the discloser consents);
- updating the discloser on the progress of investigations into the disclosure;
- informing the discloser of any extensions to investigation timeframes; and/or
- subject to the PID Act, providing the discloser with a copy of the investigation report.



If a disclosure is made to or received by a WPO: The WPO will consider whether to allocate the disclosure, including by determining whether:

- the information provided by the disclosers consists of an "internal disclosure" under the PID Act. To be an internal disclosure, the discloser must provide information which tends to show one or more instances of "disclosable conduct";⁶ and
- whether the disclosure has been made by a public official or a deemed public official.

The WPO will also consider whether the disclosure is a 'Qualifying Disclosure' under the CATA Regime.

If the WPO is satisfied of an internal disclosure: he or she will allocate the disclosure to **nbn** for handling and investigation in accordance with the process set out at Step 3 below.⁷

If the WPO is not so satisfied:

- the disclosure will not be allocated;⁸ and
- if contacting the discloser is reasonably practicable, the WPO will inform the discloser of:
 - the reasons why the disclosure will not be allocated; and
 - any other course of action that might be available to the discloser under other laws of the Commonwealth or any other policy of **nbn**.⁹

Where the disclosure has been referred from KPMG FairCall and the discloser did not consent to KPMG FairCall providing their contact details to **nbn**, the WPO will require that KPMG FairCall notifies the discloser.

3.3 Step 3: WPO allocates the disclosure

If the disclosure is made to or received by a WPO: The WPO will allocate the disclosure to the WPO highest on the WPO Priority List, unless the WPO considers that there are exceptional circumstances warranting allocation to the Ombudsman.

The WPO may make any inquiries and obtain any information that they deem necessary in order to allocate a PID.¹⁰ Where the disclosure has been referred from KPMG FairCall and the WPO makes a Point of Contact Request, KPMG FairCall will operate as the point of contact between the WPO and the discloser for the purposes of making such inquiries and obtaining such information.

The allocation should occur within 14 days of the disclosure.¹¹ Allocations should be notified to each of **nbn**, the Ombudsman and the discloser¹² in accordance with Step 4 below.

If the disclosure does not substantially relate to nbn but relates to another agency, then the WPO will allocate the disclosure to the most appropriate agency, considering the context of the disclosure, and the principle that an agency should only investigate a disclosure if some or all of the disclosable conduct relates to the agency.¹³

A disclosure can only be allocated to another agency with that agency's consent.¹⁴

⁶ s 26 Item 1 Column 3, PID Act.

⁷ s 43(1), PID Act.

⁸ s 43(2), PID Act.

⁹ s 44(3), PID Act.

¹⁰ s 43(4), PID Act.

¹¹ s 43(5), PID Act.

¹² s 44, PID Act.

¹³ ss 43(1), (3), PID Act.

¹⁴ s 43(6), PID Act.



Keeping records in either scenario: A WPO that has allocated the handling of a disclosure to one or more agencies (including **nbn**) will keep an appropriate written record of:

- the decision (including the name of each agency to which the disclosure is to be allocated);
- the reasons for the decision; and
- the consent provided by the agency to which the allocation is made.

3.4 Step 4: WPO informs relevant persons of allocation

3.4.1 Informing the discloser

If contacting the discloser is reasonably practicable, the WPO will, within 14 days of the allocation, inform the discloser in writing of the allocation to **nbn**, the Ombudsman or other agency¹⁵ and record this in accordance with Step 5.¹⁶

Where the disclosure has been referred from KPMG FairCall and the WPO makes a Point of Contact Request, KPMG FairCall will operate as the point of contact between the WPO and the discloser for the purposes of providing such information to the discloser.

3.4.2 Notification from KPMG FairCall

Where KPMG FairCall operates as the point of contact with the discloser, the WPO will require that KPMG FairCall notifies the discloser of the allocation.

3.4.3 Informing the Ombudsman

The WPO will notify the Ombudsman of the allocation within 10 days of the allocation.¹⁷

3.5 Step 5: WPO makes a record of the allocation decision

When a WPO allocates the disclosure to **nbn** or the Ombudsman, he or she will keep an appropriate record of:

- the allocation decision, including:¹⁸
 - the decision;
 - the reasons for the decision; and
 - the consent provided by the authorised officer of the agency to which the allocation is made; and
- the communication with the discloser, including:¹⁹
 - the date and time the discloser was notified;
 - the means by which the discloser was notified; and
 - the content of the notification.

These records will be kept confidential.

3.6 Step 6: WPO receives allocation

A WPO may receive an allocation of a disclosure from:

- a WPO in their capacity as an authorised officer of **nbn**, following a determination that the disclosure should be allocated internally; or

¹⁵ s 44(2), PID Act.

¹⁶ s 6, PID Standard.

¹⁷ s 44(1A), PID Act.

¹⁸ s 6(1), PID Standard.

¹⁹ s 6(2), PID Act.



- an authorised officer of an external agency, if the agency allocates the disclosure to **nbn**, due to the disclosable conduct relating to **nbn**.

3.7 Step 7: WPO provides information to disclosers

Within 14 days of the allocation of a PID to **nbn**, a WPO will ensure that the discloser is given information about the WPO's powers as a delegate of the principal officer to:²⁰

- decide not to investigate the disclosure; or
- decide not to investigate the disclosure further.

Where the allocation of the PID has been an internal allocation by a WPO in its capacity as an authorised officer, the information will have been provided to them in the [PID Information Sheet for Disclosers](#), or ensure that the contents of it have otherwise been conveyed, by the relevant WPO (or, where applicable, KPMG FairCall).

Where the allocation has originated from an external agency, then the WPO (in his or her capacity as a principal officer) will ensure that the discloser receives a copy of the [PID Information Sheet for Disclosers](#), or ensure that the contents of it have otherwise been conveyed.

3.8 Step 8: WPO considers whether to investigate disclosure

After receiving an allocation, a WPO will make an assessment as to whether to conduct an investigation.

3.8.1 Seeking further information from disclosers

On occasion, it may be difficult for a WPO to decide whether to investigate a disclosure on the basis of the information provided in the initial disclosure, particularly where the WPO is considering not investigating on the basis that it is impractical to do so due to the absence of information provided in the initial disclosure. In such cases, the WPO may, where practicable, seek further information from disclosers in order to make such an assessment.²¹

3.8.2 Decision not to investigate further once investigation has commenced

If, during the course of an investigation, the WPO responsible for the investigation decides that the investigation does not need to be investigated any further due to one of the above reasons, the fact that an investigation has been commenced does not preclude this occurring. If such a decision is made mid-investigation, the process in Step 9 below should still be undertaken.

3.9 Step 9: WPO conducts risk assessment

Protection of disclosers is a key requirement of the PID Act. When a WPO receives an allocation of a PID (regardless of whether or not the WPO decides to investigate), that WPO will conduct an assessment of the risk of reprisals.²² See section 4 below.

3.10 Step 10: WPO notifies the discloser and Ombudsman

3.10.1 If the disclosure will not be investigated

If a WPO decides not to investigate a disclosure, they will inform the discloser and the Ombudsman of the decision not to investigate as follows:

²⁰ s 9, PID Standard.

²¹ s 53(2), PID Act.

²² s 59(1), PID Act.



- **The discloser** must, as soon as reasonably possible and where reasonably practicable, be informed of the decision not to investigate the disclosure, the reasons for the decision, and any other course of action which the discloser may pursue under any Commonwealth law or internally within **nbn**.²³ Where the WPO does not have contact details for the discloser but the relevant authorised officer does have such details, the WPO will request that the authorised officer sends the notification on to the discloser.

Where KPMG FairCall operates as the point of contact with the discloser, the WPO will request KPMG FairCall to notify the discloser of the decision not to investigate their disclosure.

In providing the reasons to not investigate to the discloser, the WPO may delete/redact any reasons that would cause the document to be exempt for the purposes of Part IV of the *Freedom of Information Act 1982*.

- **The Ombudsman** will be informed of the WPO's decision not to investigate and the reasons for the decision.²⁴ Where the WPO does not have contact details for the discloser but the relevant authorised officer does have such details, the WPO will request that the authorised officer sends the notification on to the discloser.

A decision not to investigate does not preclude the matter being investigated otherwise than as a PID under the PID Act.²⁵ This may include the disclosure being investigated as a HR matter.

3.10.2 If the disclosure will be investigated

If the WPO determines that, under the PID Act, **nbn** is required to investigate the disclosure, then the WPO will, as soon as reasonably possible, inform the discloser of the decision to investigate²⁶ as well as the estimated length of the investigation.²⁷

Where KPMG FairCall operates as the point of contact with the discloser, the WPO will request that KPMG FairCall notify the discloser of a decision to investigate their disclosure.

3.11 Step 11: WPO considers whether to appoint an investigator and who

Once the WPO has determined that the disclosure should be investigated, they will make an assessment as to who should investigate the disclosure.

In some circumstances, it will be most appropriate for a WPO to undertake the investigation. However, a WPO may use **nbn** internal resources, appoint a third party service provider or a combination of these in order to effectively conduct an investigation. If a WPO makes such an appointment, that individual or firm may be:

- an internal Whistleblower Investigation Officer (**WIO**); or
 - an external investigator contracted by **nbn** (**External Investigator**),
- (each an **Appointed Investigator** and together, the **Appointed Investigators**).

These procedures apply only to investigations of internal disclosures conducted by the WPOs and/or Appointed Investigators. References in in these procedures to the "investigator" are to the WPOs as investigators and to the Appointed Investigators (separately, and as applicable) as investigator.

²³ s 50(1)(b), 50(2), PID Act.

²⁴ s 50A(1), PID Act.

²⁵ s 48(2), PID Act.

²⁶ s 50(1)(b), PID Act.

²⁷ s 50(1A), PID Act.



3.12 Step 12: WPO conducts investigation

Investigations will generally be conducted within 90 days of the allocation.²⁸ If more time is required, the WPO investigating the disclosure will notify the Ombudsman and request additional time.²⁹

3.12.1 Notification of any extension

Where an investigator considers that it is likely or known that the investigation will not be completed within 90 days (or within any extension granted by the Ombudsman), the investigator or WPO (as applicable) will apply to the Ombudsman for an extension of time.³⁰ The Ombudsman will inform the discloser and give reasons for the extension where reasonably practicable.³¹ Where the Ombudsman does not have the discloser's identifying or contact details, the WPO will be asked to notify the discloser. In addition, where an extension is granted, the WPO will let the discloser know, as soon as reasonably practicable after the extension is granted, about the progress of the investigation.³²

Where KPMG FairCall operates as the point of contact with the discloser, the WPO will request KPMG FairCall to notify the discloser of the extension.

3.12.2 Referral of information to police and others

An investigator who suspects that information disclosed as part of an internal disclosure, or information that is obtained during the course of an investigation, constitutes evidence of an offence against a Commonwealth, state or territory law, may disclose that information to a member of a relevant police force.³³

However, in cases where the potential offence is serious (that is, punishable by imprisonment for two years or more), notification of the relevant police force is mandatory.³⁴

3.13 Step 13: WPO prepares a report of the investigation

The WPO will prepare a report of the investigation.

3.14 Step 14: WPO provides copy of report to discloser

Once a report has been prepared, the WPO will ensure that, subject to the PID Act, a copy of the report is provided to the discloser within a reasonable time after the preparation of the report.³⁵

3.15 Step 15: Further action taken after the investigation

Once an investigation has been completed, a report prepared and the discloser notified (if contacting the discloser is reasonably practicable), the WPO will consider what actions should be taken in response to any recommendations that may be contained in an investigation report, or to any information which arises during the course of an investigation.³⁶ The actions that may be available and appropriate will depend on the specific circumstances of the investigation, but may include:

- no action;

²⁸ s 52(1), PID Act.

²⁹ s 52(3), PID Act.

³⁰ s 52(3)(b), PID Act.

³¹ s 52(5)(a), PID Act.

³² s 52(5)(b), PID Act.

³³ s 56(1), PID Act.

³⁴ s 56(2), PID Act.

³⁵ s 51(4), PID Act.

³⁶ s 59(4), PID Act.



- referral of the matter to the police or another body that can take further action;
- mediation or conciliation of a workplace conflict;
- an internal audit or other review of an issue or the operations of a particular unit;
- implementing or changing policies, procedures or practices; and/or
- conducting training and awareness sessions for staff.

Where a disclosure concerns an individual, and that individual is aware of the allegations or that there has been investigation, the WPO may formally advise the individual of the outcome of the investigation as it relates to them.

4. Risk Assessment and Confidentiality

4.1 Reprisals

There are serious penalties (i.e. imprisonment for 2 years or a \$25,200 penalty or both and/or civil penalties) that apply under the PID Act if someone:

- seeks to cause detriment to you or to another person (e.g. a discloser) because they believe or suspect that you or another person has made or intends to make a public interest disclosure; or
- threatens to take such a reprisal against you or another person where the offender intends the threat to cause fear or is reckless about this occurring.

Detriment includes any disadvantage to a person, including dismissal, injury in a person's employment, alteration of their position to their detriment, or discrimination between them and other employees. For example, it could include an action (or threat of action) that results in:

- a physical or psychological injury, including a stress-related injury;
- intimidation, harassment or victimisation;
- loss or damage to property; or
- disadvantage to a person's career (for example, denying them a promotion without appropriate reasons).

nbn takes reprisals seriously. Please let a WPO know if you believe that you or someone else are being or may be subject to a reprisal.

4.2 Risk Assessment

Risk assessments will be conducted as early as possible in the process of handling a PID by the following people in the following circumstances:

- if a PID has been received by an authorised officer of **nbn**, but allocated to an external agency other than **nbn** (such as the Ombudsman), the authorised officer that has received the disclosure will conduct a risk assessment.
- if a PID has been received and allocated to **nbn**, the principal officer that has received the allocation will conduct a risk assessment. A risk assessment will be conducted regardless of whether a WPO decides to investigate or not.

In conducting a risk assessment, the relevant WPO will:

- seek information about the potential risks which the discloser or a witness may face. The best person to provide this information may be the discloser or witness themselves, or (where appropriate) their supervisor or manager. Care will be taken to comply with the confidentiality obligations under the PID Act in obtaining such information;
- consider the likelihood of any reprisal occurring against the potential seriousness of any reprisal; and



- consider and tailor protocols and strategies to apply in each given situation, including for example, those regarding protecting the discloser's identity, advising witnesses of their obligations under the PID Act, taking action against people who engage in reprisals, and providing support to the discloser and witnesses.

4.3 Confidentiality

nbn takes all complaints seriously. In relation to any information that a discloser provides in relation to a disclosure and any information obtained during the course of an investigation, all efforts will be made to also keep the information confidential, subject to the need to conduct an adequate investigation and in accordance with the PID Act. All documents, reports and records relating to the investigation of disclosures will be confidentially stored and retained in an appropriate and secure manner.