



Whistleblower policy

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Background

At **nbn** we are One Team, we are Fearless, we Deliver and we Care. **nbn** is committed to creating and maintaining an open working environment in which:

- all employees and directors of **nbn**;
- individuals and organisations (and their sub-contractors) that provide goods and services under a contract with **nbn** or under a contract for and on behalf of **nbn** (**contracted service providers**); and
- officers and employees of contracted service providers,

(each a **public official** (whether full-time, part-time or casual)) are able to disclose concerns regarding potential wrongdoing or maladministration.

Purpose

This policy sets out the process for public officials to disclose (whether anonymously or otherwise) their concerns regarding potential wrongdoing or maladministration without fear of reprisal and with the support and protection of **nbn**.

This policy is in line with the goals of the *Public Interest Disclosure Act 2013* (Cth) (the **PID Act**), which aims to facilitate disclosure and investigation of wrongdoing and maladministration in the Commonwealth public sector. **nbn** is a "public authority", and the public officials listed in the 'Overview' section of this policy are "public officials", for the purposes of the PID Act. The PID Act provides a number of protections for public officials who make "public interest disclosures" (as set out in the PID Act) including immunity from civil, criminal or administrative liability for making a public interest disclosure.

This policy should be read in conjunction with **nbn**'s [Public Interest Disclosure Procedures \(PID Procedures\)](#). The PID Procedures set out **nbn**'s processes and procedures in relation to public interest disclosures, in accordance with the PID Act.

Scope

This policy applies to public officials in respect of public interest disclosures made by those public officials.

Please note that the [Managing Workplace Grievances Policy](#) applies to personal workplace grievances that are not public interest disclosures.



This policy will be reviewed if the Cth Treasury Laws Amendment (Enhancing Whistleblower Protections) Bill 2017 becomes in law in 2018.

Policy

To whom can a public official make a disclosure?

Any concerns regarding potential wrongdoing or maladministration at or in relation to **nbn** should be raised in the first instance with that public official's line manager.

However, **nbn** recognises that a public official may not always feel comfortable discussing certain matters with their line manager. Therefore a disclosure may be made to:

- one of **nbn**'s [Whistleblower Protection Officers \(WPOs\)](#); or
- KPMG FairCall, an independently monitored external hotline and reporting service for public officials, operated by KPMG.

As a guide, minor or personal workplace related grievances (including, for example, a suspected breach of **nbn**'s Code of Conduct) and non-serious instances of suspected misconduct or wrongdoing which do not relate to systemic issues or reprisals for making a public interest disclosure, should be reported or escalated in accordance with the Managing Workplace Grievances Policy.

Disclosure

A disclosure to a WPO or via the KPMG FairCall service should be made when the disclosure relates to:

- conduct or practices which are illegal or in breach of any law, regulation or code of conduct applying to **nbn** or any breach of a contract by an employee or director of **nbn** (e.g. deliberately passing sensitive or confidential **nbn** information to a third party without authorisation);
- fraudulent or corrupt practices, or conduct engaged in for a fraudulent or corrupt purpose (e.g. misappropriation of funds, bribery, undue influence, false information, perversion of justice);
- breaches of **nbn**'s policies or other rules of conduct (other than minor or personal workplace related grievances, as set out above);
- conduct that constitutes maladministration (including conduct that involves acting on improper motives, is unreasonable, unjust, oppressive or is negligent);
- misleading or deceptive conduct of any kind (e.g. not correcting public statements that are factually incorrect);
- conduct that is an abuse of public trust;
- conduct that results in a wastage of **nbn**'s money;
- situations within **nbn**'s control that unreasonably present a significant (or increased) risk or danger to the health or safety of one or more persons, or the environment; or



- any of the above conduct by a contracted service provider in connection with a contract to provide goods and services to, or on behalf of, **nbn** (such as a genuine concern that a supplier may be in breach of modern slavery or ethical procurement legal requirements).

WPOs Reporting Mechanism

Public officials may make disclosures to WPOs by following the process set out below.

KPMG FairCall Reporting Mechanism

KPMG Australia, an independent third party, has been engaged by **nbn** to operate the KPMG FairCall hotline and reporting service. Public officials may make disclosures to KPMG FairCall by following the process set out below.

Calls will be received by KPMG FairCall on its toll-free phone number on business days between 8am and 7pm (AEST). Outside these times, a voicemail service is provided to allow the caller to leave details. Calls are not recorded. The operators taking the call on this hotline are not associated with **nbn**. They are trained and experienced specialists dedicated to dealing with whistleblowers and their concerns. Callers will be provided with a confidential reference number by the KPMG FairCall operator.

Public officials may also make disclosures via KPMG FairCall's email service, online 'drop-box' facility, secure postal mailbox, or secure fax number.

The contact details for KPMG FairCall are:

Telephone: 1 800 179 054

Email: faircall@kpmg.com.au

Web-based access: <https://www.kpmgfaircall.kpmg.com.au/nbn>

Postal Service: The KPMG Faircall Manager, KPMG Forensic, PO Box H67, Australia Square, 1213, Sydney

Fax: (02) 9335 7466

Where KPMG Australia collects, uses and discloses personal information as part of the KPMG FairCall service, it does so in accordance with KPMG Australia's privacy statement, available at: <http://www.kpmg.com/AU/en/Pages/privacy-faircall.aspx>.

After receiving a disclosure, the KPMG FairCall operator will provide the details of the disclosure to a WPO, who will not be a person named in the disclosure. Where a discloser provides their contact details to KPMG FairCall, those contact details will not be provided to the WPO without the discloser's consent.

Investigation of complaints

Where a public interest disclosure is made, it will be dealt with by the WPOs in accordance with the PID Procedures and the PID Act. Where a disclosure is not a public interest disclosure, it may (where applicable) be handled in accordance with the **nbn** [Managing Workplace Grievances Policy](#) (as decided by the WPO). For more information as to whether a disclosure is a public interest disclosure, please read **nbn**'s PID Procedures.



Reports may be submitted anonymously and the identity of the person making the report will not be known nor publicly disclosed by **nbn**. Should a person choose to disclose their identity this information will be kept confidential by **nbn**. All efforts will be made to also keep the details of the disclosure confidential, subject to the need to, where applicable, conducting an investigation and complying with the requirements of the PID Act.

All documents, reports and records relating to the investigation of a disclosure will be securely stored to retain confidentiality.

The PID Act sets out requirements for anonymity of public interest disclosures and their investigation. Criminal penalties are also imposed under the PID Act for inappropriate disclosure of information that may identify a person who has made a public interest disclosure, and for the disclosure or misuse of information obtained from an investigation.

Under the PID Act it may be a criminal and/or civil offence to carry out or threaten a reprisal in connection with a public interest disclosure. A public official who carries out or threatens reprisals will be subject to disciplinary action.

If a public official believes on reasonable grounds that it would be appropriate for a disclosure to be investigated by the Commonwealth Ombudsman, the public official may contact the Commonwealth Ombudsman directly and request an investigation into the relevant conduct.

The WPO will be tasked with the responsibility of protecting and safeguarding the interest of disclosers in accordance with the PID Act. The WPO has access to independent financial, legal and operational advisers as required.

The WPO will also decide whether to investigate the disclosure.

Where a WPO decides to investigate, he or she may choose to appoint an internal **nbn** employee Whistleblower Investigation Officer (**WIO**) and/or an external investigator contracted by **nbn**, to conduct or to assist in the conduct of the investigation.

While the WIO will be appointed on a case by case basis, the WIO will not be a person associated with the area under investigation.

Where a disclosure is a public interest disclosure, the discloser will receive notifications where possible regarding the handling of their disclosure in accordance with the PID Procedures. Any investigation into such a disclosure will also be conducted in accordance with the PID Procedures.

If the public official believes that the investigations undertaken by **nbn** into a disclosure are inadequate, there are options available to that public official under the PID Act to take further action outside of the **nbn** reporting mechanism.

For more information regarding **nbn** 's processes and procedures relating to the allocation, investigation and notification of public interest disclosures please see the PID Procedures.

Breaches of the Corporations Act 2001 (Cth)

Section 1317AE of the *Corporations Act 2001* (Cth) provides that, in the event a discloser makes a wilful disclosure providing information that pertains to a breach of that Act, a person to whom this disclosure is made must comply with specific confidentiality requirements in order to protect the discloser.



Crimes against persons or property

Crimes against person or property, such as assault, burglary etc, should immediately be reported to local law enforcement personnel.

Roles and responsibilities

Disclosers have the following responsibilities:

Anyone making a disclosure concerning potential wrongdoing or maladministration must have reasonable and genuine grounds for believing the information disclosed indicates such conduct. While all reports are anonymous, any allegations which prove to have been made maliciously or knowingly to be false will be investigated, may be viewed as a serious disciplinary offence and may disentitle the discloser to the protections available under the PID Act.