

# Oversight of the *Public Interest Disclosures Act 2022*

Annual Report 2023-24

ISBN: 978-1-922862-51-8

ISSN: 2982-2297 (Online)

**NSW Ombudsman**  
**Level 24, 580 George Street**  
**Sydney NSW 2000**

**Phone: (02) 9286 1000**

**Toll free (outside Sydney Metro Area): 1800 451 524**

**Website: [ombo.nsw.gov.au](http://ombo.nsw.gov.au)**

**Email: [pidadvice@ombo.nsw.gov.au](mailto:pidadvice@ombo.nsw.gov.au)**

© State of New South Wales

The Hon. Ben Franklin, MLC  
President  
Legislative Council  
Parliament House  
SYDNEY NSW 2000

The Hon. Greg Piper, MP  
Speaker  
Legislative Assembly  
Parliament House  
SYDNEY NSW 2000

Dear Mr President and Mr Speaker

**Public Interest Disclosures Oversight Annual Report**

I am pleased to present the 2023-24 annual report on the oversight of the public interest disclosures scheme for the 12 months ending 30 June 2024.

This report is presented in accordance with section 76 of the *Public Interest Disclosures Act 2022*. The report addresses the reporting requirements outlined in section 76(1)(a)-(e) of the Act and is titled *Oversight of the Public Interest Disclosures Act 2022 Annual Report 2023-24*.

I draw your attention to the provision of s 31AA of the *Ombudsman Act 1974* in relation to the tabling of this report and request that you make the report public forthwith.

Yours sincerely



Paul Miller  
**NSW Ombudsman**

11 December 2024



# Contents

<b>Introduction</b> .....	<b>1</b>
Structure of this report .....	1
Future reports .....	2
<b>Part 1 Legislative Framework</b> .....	<b>1</b>
<b>Legislative Framework</b> .....	<b>4</b>
The <i>Public Interest Disclosures Act 2022</i> .....	4
Objects of the Act .....	4
What does it mean for a report to be a PID under the Act?.....	4
What is an agency under the Act.....	5
Types of PIDs under the Act.....	5
Obligations on agencies in relation to PIDs .....	6
Serious wrongdoing .....	6
Integrity Agencies .....	7
The role of the NSW Ombudsman .....	7
Our role as the oversight agency under the Act.....	7
Our role as an integrity agency under the Act.....	8
Our role as an agency under the Act .....	8
<b>Part 2 Ombudsman’s activities</b> .....	<b>9</b>
<b>Ombudsman’s activities</b> .....	<b>10</b>
Publication of guidelines and the model PID policy.....	10
Raising awareness and understanding of the Act.....	10
PID awareness sessions and round tables .....	10
PID Bytes .....	11
PID Community of Practice .....	11
PID Awareness Week .....	11
Local Aboriginal Land Councils.....	12
Provision of advice, information, assistance and training .....	13
PID advice.....	13
Whistleblower support .....	13
PID training .....	14
Reporting to the Ombudsman .....	15
Reportable event notifications .....	15
Agency annual return reporting .....	16
<b>Part 3 PID Steering Committee</b> .....	<b>17</b>
<b>PID Steering Committee</b> .....	<b>18</b>
Functions.....	18
Constitution .....	18
Meetings .....	19
Activities and focus.....	19
Areas of possible legislative reform.....	20

<b>Part 4 Agency compliance</b> .....	<b>21</b>
<b>Agency compliance with the Act</b> .....	<b>22</b>
Audit and monitoring activity .....	22
Self-assessment audit .....	22
Desktop audit: Agency arrangements under s 81 of the Act.....	22
Desktop audit: PID policies .....	22
Speak up culture.....	24
Promoting a speak up culture.....	24
Awareness activities.....	25
Compliance with training requirements.....	26
<b>Part 5 Voluntary PIDs received by agencies</b> .....	<b>28</b>
<b>Voluntary public interest disclosures</b> .....	<b>29</b>
Agency annual returns .....	29
Information agencies are to provide in the annual return .....	29
The return period.....	30
Data limitations.....	30
Number of agencies in 2023-24.....	31
Number of annual returns submitted in 2023–24.....	33
Arrangements with other agencies .....	35
Voluntary public interest disclosures.....	36
Number of voluntary PIDs received.....	36
Voluntary PIDs by agency size.....	36
Categories of voluntary PIDs.....	37
How voluntary PIDs were received.....	38
Recipients of voluntary PIDs .....	38
Whether the PID maker remained anonymous.....	39
Voluntary PIDs that were also purported PIDs.....	39
Number of public officials involved in serious wrongdoing .....	40
Nature of alleged serious wrongdoing.....	41
Action taken by the agency to deal with voluntary PIDs .....	42
Purported PIDs that were not in fact PIDs .....	46
<b>Part 6 Failure to provide annual return</b> .....	<b>48</b>
<b>Agencies that failed to provide annual return</b> .....	<b>49</b>
Failure to submit an annual return .....	49
Extensions to submit an annual return.....	49
Failure to submit annual return on time (with or without extension) .....	49
<b>Appendices</b> .....	<b>50</b>
<b>Appendix A</b> .....	<b>51</b>
‘Public service agencies’ (during the reporting period).....	51
<b>Appendix B</b> .....	<b>53</b>
Agencies that failed to submit an annual return in 2023-24.....	53
Agencies that submitted their 2023-24 annual return outside of time .....	54

## Introduction

This is the first annual report relating to the *Public Interest Disclosures Act 2022* (NSW) (**the Act**) that my office has prepared. The Act commenced on 1 October 2023, and the *Public Interest Disclosures Act 1994* (**the PID Act 1994**) was repealed on the same date. Accordingly, while this report addresses the activities of my office over the full 12 months, including preparing for the commencement of the Act during the first 3 months of the financial year, the data in this report covers only a period of 9 months.

A strong ‘speak up’ culture that encourages public officials to report wrongdoing is important for ensuring the integrity of the public sector. An integral part of that ‘speak up’ culture is having in place a framework that facilitates public interest reporting of wrongdoing by:

- protecting those who speak up from detriment
- taking active steps to maintain the confidentiality of reports where possible
- imposing duties on agencies who receive reports of wrongdoing to take appropriate action to investigate or otherwise deal with them.

The Act is an important part of building and maintaining this framework.

The NSW Ombudsman has a long history in championing whistleblower protection in NSW, and this has continued with the new Act. We have a number of functions in addition to receiving disclosures as an integrity agency:

- providing information, advice, assistance and training to agencies and public officials about their obligations and rights under the Act
- publishing guidance and other materials to assist agencies and public officials
- auditing, monitoring and reporting on the compliance of agencies with their responsibilities under the Act.<sup>1</sup>

This report outlines how we have approached these functions, as well as providing an overview of the voluntary public interest disclosures (**PID[s]**) made under the Act and the activities of agencies to train relevant staff and raise awareness of how to report wrongdoing among all public officials.

## Structure of this report

The report is structured in the same manner as my reporting obligation under the Act.<sup>2</sup>

**Part 1** outlines the legislative framework for the PID scheme in NSW and describes our role under the Act.

**Part 2** provides an overview of the activities of my office during the reporting period. This includes the activities we have undertaken to fulfil our functions under the Act.

**Part 3** provides an overview of the activities of the PID Steering Committee, including recommendations made to the Minister during the reporting period.

**Part 4** provides information about compliance by agencies with the Act.

**Part 5** contains information relating to voluntary public interest disclosures made to agencies during the reporting period.

**Part 6** reports on the agencies that have failed to provide my office with an annual return within the prescribed period, as required by section 78(2) of the Act.

---

<sup>1</sup> Section 72(1)(d).

<sup>2</sup> Section 76(1).

## Future reports

This first report under the Act will provide a baseline or starting point for tracking the way in which voluntary PIDs are made and handled in NSW, including the outcome of disclosures. As the Parliamentary Committee noted when it recommended changes to agency reporting to our office, collecting and reporting on this type of information will assist in:

*...improving public officials' and authorities' understanding of the PID Act. It will also provide better data on the effectiveness of agencies' handling of public interest disclosures and assist the Ombudsman to deliver focused training and audit programs.<sup>3</sup>*

It will take some time to achieve this, but we believe that all public officials deserve to have an effective framework within which they can come forward and report serious wrongdoing. They must also have the confidence that either their agency or the agency they report to will deal with their disclosure appropriately and provide them with the support and if necessary, protection required as a result of their decision to act in the public interest by speaking up.

---

<sup>3</sup> Committee on the Ombudsman, the Law Enforcement Conduct Commission and the Crime Commission, *Review of the Public Interest Disclosures Act 1994*, p. 35. [Report - Review of the Public Interest Disclosures Act 1994.PDF](#)

# Part 1

## Legislative Framework



## Legislative Framework

### The *Public Interest Disclosures Act 2022*

The Act commenced on 1 October 2023. On that date the *Public Interest Disclosures Act 1994* (**the PID Act 1994**) was repealed.

A strong ‘speak up’ culture that encourages public officials to report wrongdoing is important for ensuring the integrity of the public sector. Good government relies on public officials speaking up when they witness, or otherwise become aware of, wrongdoing in the public sector.

An integral part of that ‘speak up’ culture is having in place a framework that facilitates public interest reporting of wrongdoing by:

- protecting those who speak up from detriment
- taking active steps to maintain the confidentiality of reports
- imposing duties on agencies who receive reports of wrongdoing to take appropriate action to investigate or otherwise deal with them.

The Act provides the framework in NSW for public officials to report serious wrongdoing in or affecting the public sector. Importantly, it protects public officials, witnesses and other persons from detriment or liability that might arise as a result of PIDs.

### Objects of the Act

The objects of the Act are to:

- facilitate the disclosure by public officials of serious wrongdoing in the public sector
- promote a culture in which PIDs are encouraged
- protect public officials and others from detriment or liability as a result of PIDs
- provide for the establishment and publication of policies and procedures for receiving and dealing with disclosures that are or may be voluntary PIDs
- ensure the interests of all persons affected by PIDs are taken into account when dealing with disclosures
- provide for independent oversight of the PID scheme established under the Act.<sup>4</sup>

### What does it mean for a report to be a PID under the Act?

When a public official makes a report of suspected or possible wrongdoing in the NSW public sector, their report will be a PID, if it has certain features which are set out in the Act.<sup>5</sup>

When a PID is received, it is important that the recipient quickly recognises that they have received a PID. Agencies therefore have to have an effective assessment process in place to ensure they can identify whether a report has the features of a PID, and therefore whether it is a PID. If an agency has received a report that is a PID (because it has all the features set out in the Act), then the report is a PID from the moment it is made, whether or not the agency recognises it as a PID.

---

<sup>4</sup> Section 3.

<sup>5</sup> Part 2, Division 2.

PIDs attract special protections under the Act. These include:

- immunity from civil and criminal liability that might otherwise arise because they made the report<sup>6</sup>
- protection from detrimental action, ensuring that a person who has made a PID does not suffer detrimental action such as bullying, harassment or dismissal, as a result<sup>7</sup>
- protection from the disclosure of information that identifies or tends to identify the maker of the PID (unless the disclosure is permitted by the Act).<sup>8</sup>

## What is an agency under the Act

The Act is concerned with reports of serious wrongdoing in or affecting the public sector. The concept of ‘agency’ is the Act’s central concept for what is and is not considered to be the public sector in NSW.

PIDs are generally reports of serious wrongdoing made by ‘public officials’<sup>9</sup>. The main category of public officials are those employed in or by an agency, or who are otherwise in the service of an agency. This means it is necessary to understand whether the relevant entity is an ‘agency’, in order to know whether the relevant person is a public official.

The concept of agency is also important because PIDs are made to agencies and, when received, it is agencies that may have the relevant obligations to investigate or otherwise deal with them, as well as to take other action — such as to support and protect the PID maker, to notify our office when a reportable event occurs and to provide their annual return to our office.

The definition of which entities are ‘agencies’ under the Act is broad and includes government departments, local government authorities, public universities, local Aboriginal land councils and integrity agencies.<sup>10</sup>

## Types of PIDs under the Act

There are 3 types of PIDs in the Act. These are:



<sup>6</sup> Section 40.

<sup>7</sup> Part 3, Division 2.

<sup>8</sup> Section 64.

<sup>9</sup> The meaning of ‘public official’ is in section 14.

<sup>10</sup> The meaning of ‘agency’ is in section 16.

1. **Voluntary PID** — This is a report by a public official who decides, of their own accord, to come forward and disclose information they have of serious wrongdoing occurring.<sup>11</sup> The Act provides that for a disclosure to be a voluntary PID, it must have been received by certain recipients.<sup>12</sup> These recipients are:

- the head of any agency
- a disclosure officer for any agency
- a manager of the person making the disclosure
- subject to section 24(3)(c) of the Act — a Minister or a member of a Minister’s staff
- subject to section 28 of the Act — a member of Parliament or a journalist.

Agencies have an obligation under the Act to provide an annual return to our office about the voluntary PIDs they have received in the preceding year. In Part 5 of this report, we provide a breakdown of the information we have received from agencies about the voluntary PIDs they received during the reporting year.

2. **Mandatory PID** — This is a PID where the public official reports 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.<sup>13</sup>

3. **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.<sup>14</sup>

The protections in the Act for a person who makes a PID will generally apply to all 3 types of PIDs. Agencies are not required to report to us on the mandatory and witness PIDs they receive.

## Obligations on agencies in relation to PIDs

Once an agency has received a PID, it will be subject to special obligations under the Act.

For voluntary PIDs, agencies are required to:

- investigate or otherwise appropriately deal with the PID
- ensure that the identity of the person who has made the PID is not unlawfully revealed
- keep the maker of the PID informed about how their report is being dealt with and the outcome of any investigation
- provide information to our office about the report and how it was dealt with.

## Serious wrongdoing

All PIDs must relate to serious wrongdoing (including a disclosure of information during an investigation of serious wrongdoing) in some way. Under the Act, ‘serious wrongdoing’ means one or more of the following:

- corrupt conduct
- serious maladministration
- a government information contravention
- a local government pecuniary interest contravention
- a privacy contravention
- a serious and substantial waste of public money.<sup>15</sup>

---

<sup>11</sup> Section 24.

<sup>12</sup> Section 27.

<sup>13</sup> Section 23.

<sup>14</sup> Section 22.

<sup>15</sup> Section 13.

## Integrity Agencies

The following are the integrity agencies under the Act.

- the Ombudsman
- the Auditor-General
- the Independent Commission Against Corruption
- the Law Enforcement Conduct Commission
- the Inspector of the Independent Commission Against Corruption
- the Inspector of the Law Enforcement Conduct Commission
- the Secretary of the Department of Planning, Industry and Environment (when exercising functions under certain provisions of the Local Government Act 1993)
- the Privacy Commissioner
- the Information Commissioner
- a person or body declared by the Public Interest Disclosures Regulation 2022 (the Regulation) to be an integrity agency for the purposes of the Act.<sup>16</sup>

Each integrity agency typically is concerned with a particular type of serious wrongdoing. For example, the Independent Commission Against Corruption (**ICAC**) is concerned with corrupt conduct, while our office is typically concerned with serious maladministration, the Auditor-General with conduct involving serious and substantial waste of public monies, and the NSW Information and Privacy Commission (**IPC**) with government information contraventions.

## The role of the NSW Ombudsman

Our office has multiple roles under the Act.

### Our role as the oversight agency under the Act

The Ombudsman's functions under the Act are:

- to promote public awareness and understanding of the Act, and to promote the objects of the Act
- to provide information, advice and assistance and training to agencies and public officials on matters relevant to the Act
- to publish guidelines and other materials for the assistance of:
  - agencies in connection with their functions under the Act, and
  - public officials and other persons in connection with the operation of this Act and the protections available to them under this Act
- to audit and monitor the exercise by agencies of their functions under the Act (other than functions exercised by an integrity agency in relation to disclosures that do not relate to the integrity agency)
- to provide reports and recommendations to the Minister about proposals for legislative and administrative change to further the objects of the Act
- other functions conferred on the Ombudsman by or under the Act.<sup>17</sup>

---

<sup>16</sup> Section 19.

<sup>17</sup> Part 6, Division 2.

### **Reporting to the Ombudsman in its role as the oversight agency**

- Agencies must provide to the Ombudsman an annual return which contains specific information about the voluntary PIDs received in the annual reporting period and information about the measures taken by the agency to promote a culture in which PIDs are encouraged and public officials feel confident coming forward with reports of serious wrongdoing.<sup>18</sup>
- Agencies must also notify the Ombudsman when a reportable event occurs, as soon as possible after the reportable event occurs. The number of reportable event notifications received during 2023-24 are provided in Part 2 of this report.

### **Our role as an integrity agency under the Act**

The NSW Ombudsman is an integrity agency under the Act. Distinct from our role as the oversight agency under the Act, as an integrity agency we can receive PIDs about any type of serious wrongdoing.

Our ordinary jurisdiction is the handling of complaints about maladministration, and the investigation of suspected maladministration. As such, we can investigate PIDs that we receive or that are referred to us which allege serious maladministration concerning agencies and public officials that are public authorities within our jurisdiction under the *Ombudsman Act 1974*.

- If we receive reports of other types of serious wrongdoing that we cannot deal with ourselves, we will refer it to the most relevant agency to deal with it. In many cases we will refer it to the relevant integrity agency, or otherwise to the agency to which the report of serious wrongdoing relates.

### **Our role as an agency under the Act**

Our staff are public officials under the Act, and as such they may make reports of serious wrongdoing and attract the protections under the Act. We have published a [PID Policy](#) which covers how we will deal with PIDs received by our disclosure officers, including PIDs which relate to us and those which relate to other agencies. As an agency under the Act, we are subject to the same obligations as other agencies under the Act.

We have established a dedicated unit (the **PID Unit**) to support the exercise of our functions as the oversight agency under the Act. The PID Unit is operationally separate from the branches of our office that support the exercise of our functions as an agency/integrity agency, including our functions of receiving and investigating complaints, including PIDs.

---

<sup>18</sup> Section 78.

# Part 2

## Ombudsman's activities

# Ombudsman’s activities

## Publication of guidelines and the model PID policy

We published a comprehensive suite of 18 [PID guidelines](#) shortly before the commencement of the Act (draft versions had been published prior to this to allow for agencies to provide feedback).

The guidelines are a core reference for agencies and public officials, and the primary guidance material we publish.

We also published a model PID Policy for agencies to use and adapt to their context.

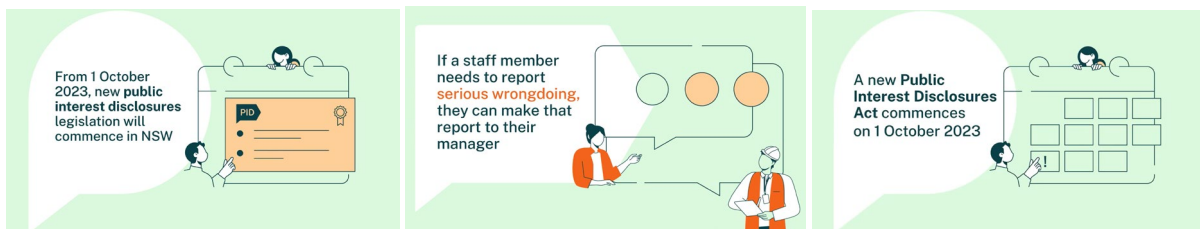


PID guidelines on the Ombudsman website

## Raising awareness and understanding of the Act

### PID awareness sessions and round tables

In the lead up to the 1 October 2023 commencement of the Act, we provided information and awareness sessions across the NSW public sector to assist the sector to be ready for the commencement of the Act. This included face-to-face and online sessions, supported by live action videos and animations, which we distributed to agencies.



PID awareness animations



PID awareness videos

Following the commencement of the Act, we continued to deliver information sessions to a range of audiences, including professional standards and investigation teams, leadership groups and Statutory Boards and Trustees.

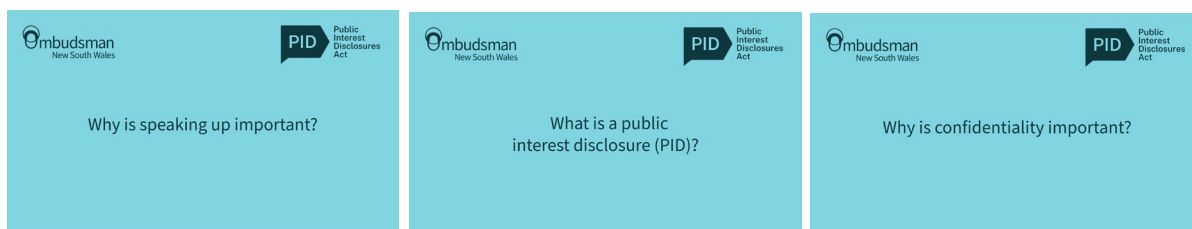
Between 1 October 2023 and 30 June 2024, we presented 56 information and awareness sessions in person and online to over 2,600 attendees.

## PID Bytes

‘PID Bytes’ are short videos we created that highlight key aspects of the Act.

In the lead up to the commencement of the Act we produced a series of 7 PID Bytes on topics such as “Top 5 things an agency can do to prepare for the PID Act” and “What is a speak up culture and why is it important?”.

In July 2024 we released a second tranche of PID Bytes, which now total 19. As at the time of reporting, the PID Bytes have been viewed over 58,000 times.



### PID Bytes videos

## PID Community of Practice

At the end of 2023, we established a PID Community of Practice. The Community of Practice is an opportunity for public officials with specific roles under the Act to share experiences and ideas for operationalising the Act.

The group met in person for the first time in March 2024, and virtually in August 2024. Members will meet four times per year. At the time of writing, there were approximately 100 members.

## PID Awareness Week

In August 2024, we delivered the first PID awareness week in NSW. This was aimed at raising the level of understanding across the public sector about how the Act works and the importance of a ‘speak up’ culture.

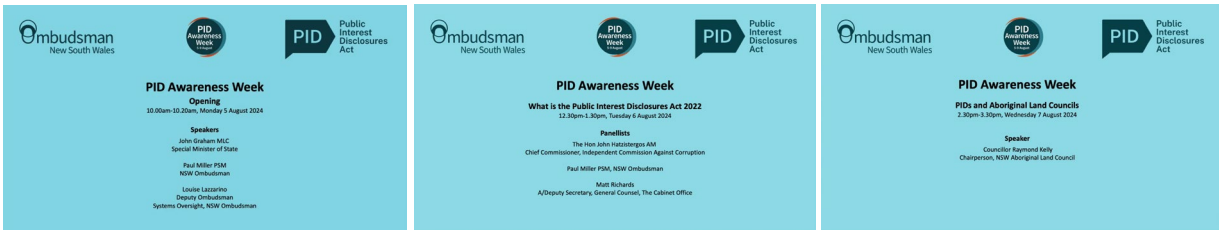
We hosted 9 live online presentations with a range of speakers from our office and other agencies, including:

- The benefits of reporting wrongdoing – Lewis Rangott, Executive Director Corruption Prevention at the ICAC.
- What is the *Public Interest Disclosures Act 2022*? – The Hon John Hatzistergos AM, Chief Commissioner of the ICAC; Paul Miller PSM, NSW Ombudsman; Matt Richards, A/Deputy Secretary, General Counsel at the Cabinet Office.
- Managers and the PID Act 2022 – Kieran Gregory, Principal Advisor, Public Service Commission.
- PIDs and Aboriginal Land Councils – Councillor Raymond Kelly, Chairperson, NSW Aboriginal Land Council.
- Internal reports by NSW Police Force officers – how the system works – Assistant Commissioner Peter Cotter, NSW Police Force, Commissioner Anina Johnson, Law Enforcement Conduct Commission.

We also delivered targeted sessions for contractors, subcontractors and volunteers in agencies and disclosure officers.

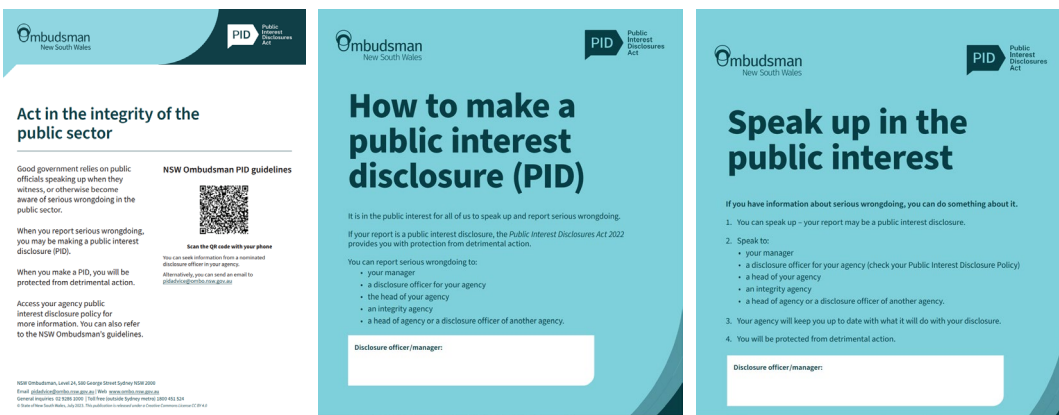


621 people logged into the sessions, and session recordings were uploaded to YouTube. At the time of preparing this report, the session recordings have been viewed almost 2,000 times.



**PID awareness week sessions**

During PID Awareness Week we launched a suite of fact sheets and posters for agencies to use to raise awareness amongst their staff.



**PID awareness week fact sheets and posters**

**Local Aboriginal Land Councils**

Prior to the commencement of the Act, we established a small team led by a First Nations Principal Engagement officer to focus on the delivery of online and face-to-face training and awareness to support Local Aboriginal Land Councils (LALCs) and the NSW Aboriginal Land Council (NSWALC) to meet their obligations under the Act.

Our work has included virtual roundtables to raise awareness of the Act with the NSWALC Zone Directors and LALC CEOs; the creation of core content in a range of formats and continued the expansion of our external stakeholder networks through face-to-face visits to LALCs.

We visited LALCs in regional areas in NSW including Gandangara, Mudgee, Narromine, Trangie and Dubbo.

Examples of our awareness work includes:

- Email campaigns across the Aboriginal Land Rights network
- Social media links to promote and remind ALCs about upcoming training opportunities
- Targeted awareness videos
- Contextualised fact sheets and posters



LALC PID fact sheets and posters



LALC PID awareness videos

## Provision of advice, information, assistance and training

### PID advice

During the reporting period we responded to 323 requests for advice. The demand for advice was highest in the 6 months from 1 July to 31 December 2023 (the quarters that fell either side of the commencement of the Act) but remained strong throughout the reporting period. The team advised agencies from across the public sector including departments, integrity agencies, local government authorities and LALCs.

Following the commencement of the Act, we saw a noticeable increase in the number of enquiries about dealing with PIDs, which coincides with agencies operationalising the Act. Agencies also sought advice about topics including receiving and assessing a disclosure, options for dealing with voluntary PIDs, and protections under the Act including how to maintain confidentiality.

### Whistleblower support

During 2023-24 we worked on developing an operating model for the provision of support to whistleblowers in the NSW public sector. We looked at relevant research and different models in Australia and internationally to understand what best practice looks like.

As a result, we commenced the establishment of a Whistleblower Support Team to provide impartial support to public officials in NSW who have made, or are seeking to make, a PID. Its purpose is to empower those people with information and objective guidance, and, where necessary, to assist with referring them to appropriate professional expertise such as legal advice or wellbeing support. The Whistleblower Support Team is co-located with and reports to the same Deputy Ombudsman as the broader PID Unit but maintains an information barrier ('confidentiality screen') in respect of the requests for advice and support it receives.

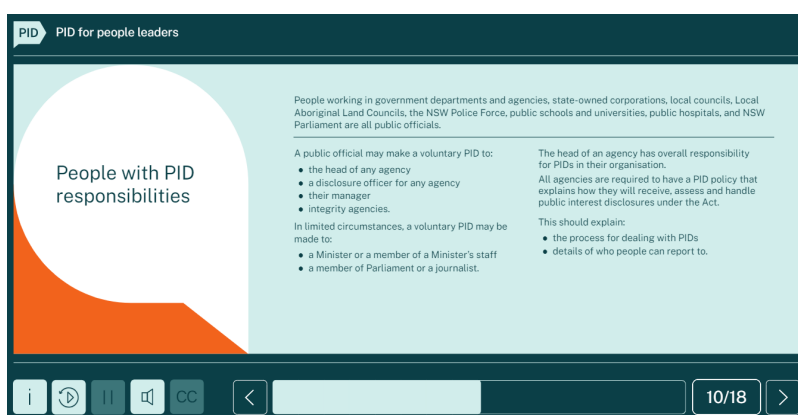
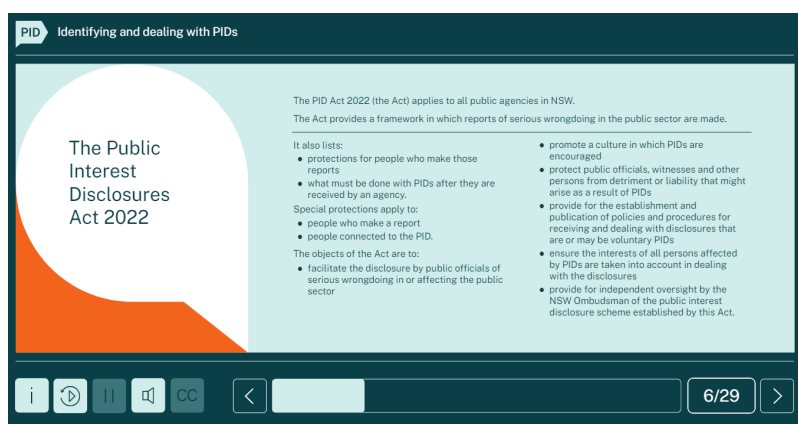
By 30 June 2024 a Manager Whistleblower Support had been hired, and the recruitment of two Senior Whistleblower Support Specialists was nearing completion.

## PID training

Under the Act, agencies are required to provide training to their disclosure officers and managers within 6 months after the commencement of the Act, or 3 months after they commence in the role if it was later than 6 months after the Act commenced.<sup>19</sup> Disclosure officers and managers must be given refresher training at least every 3 years.<sup>20</sup>

We developed two eLearning courses to assist agencies meet this training requirement. The courses were provided to agencies in September 2023 to upload onto their Learning Management Systems (LMS).

21 smaller agencies and regional councils that did not have their own LMS were provided access to the LMS we use to support our fee-based training service. 365 people from these 21 agencies have completed the course for disclosure officers, and 452 people have completed the course for managers.



### PID eLearning training courses

### PID training for LALCs

In March 2024, we launched our 'PID for LALC' training, initially delivered as virtual training sessions online. From April, we conducted face-to-face sessions of this training to managers within LALCs.

As at 30 June 2024, we had provided PID training to 55 of the 118 LALC CEOs and to 131 LALC staff and board members.

<sup>19</sup> Section 48(2) and clause 4(2) of the Regulation.

<sup>20</sup> Clause 4(3) of the Regulation.

## Reporting to the Ombudsman

The Act requires agencies to notify our office when a reportable event occurs. These notifications must occur as soon as possible following the event. Information about reporting is available in our [Reporting to the Ombudsman](#) guideline.

### Reportable event notifications

#### Categories of reportable events

Reportable events under the Act are:

1. Alleged or possible detrimental action offences:
  - When an agency becomes aware of an allegation that a detrimental action offence has been committed by a public official associated with the agency.<sup>21</sup>
  - When an agency refers evidence of a detrimental action offence to the Commissioner of the NSW Police Force and to either the ICAC or the Law Enforcement Conduct Commission (LECC).<sup>22</sup>
  - When an agency becomes aware of the outcome of a prosecution against a public official associated with the agency for the commission of a detrimental action offence.<sup>23</sup>
  - When an agency otherwise becomes aware of a detrimental action offence that has been committed or alleged and has arisen from a PID relating to the agency.<sup>24</sup>
2. When an agency receives a voluntary PID and decides to:
  - neither investigate the relevant serious wrongdoing nor to refer the disclosure, or
  - cease investigating the relevant serious wrongdoing without either completing the investigation or referring the disclosure

(in notifying the Ombudsman, the agency must also provide written reasons for that action).
3. When an agency (agency A) enters into an arrangement with another agency (agency B), for agency B to undertake the functions of agency A under the Act on agency A's behalf.<sup>25</sup>
4. When an agency enters into an arrangement with an entity (that is not an agency) which allows the entity to exercise one or more of the agency's functions under the Act on their behalf (these functions can only be receiving voluntary PIDs, dealing with voluntary PIDs and providing the training required under the Act).<sup>26</sup>

We received 126 reportable event notifications between 1 October 2023 and 30 June 2024. Over half of these notifications (53%) related to arrangements entered into under s 81 of the Act.

Notifications relating to detrimental action offences are made when an agency becomes aware of an allegation of a detrimental action offence as well as when an agency becomes aware that a detrimental action offence has been committed.

When we receive a detrimental action offence notification, we contact the agency for further information to ascertain whether the agency is appropriately dealing with the matter, the seriousness of the allegation and what further monitoring action we will take.

---

<sup>21</sup> Section 34(4)(a).

<sup>22</sup> Section 34(2).

<sup>23</sup> Section 34(4)(c).

<sup>24</sup> Section 34(4)(d).

<sup>25</sup> Section 81(4)(b).

<sup>26</sup> Ibid.

**Table 1. Number of Notifications made to the NSW Ombudsman for the 2023-24 reporting period**

Notification type	Number
Notifications about alleged or possible detrimental action offences (s 34(4))	19
Notifications about decisions to cease or not investigate a disclosure (s 55(3))	40
Notifications about arrangements to exercise functions on behalf of an agency (s 81)	67
<b>Total</b>	<b>126</b>

### Agency annual return reporting

We developed a new portal for agencies to submit their 2023-24 annual return. The portal was launched in June 2024. We supported relevant agency staff to use the portal by holding a webinar, developing a series of user guides and providing helpdesk support. Parts 4 and 5 of this report contain information about the annual returns received in this reporting period.

# Part 3

## PID Steering Committee

## PID Steering Committee

### Functions

The Act establishes a PID Steering Committee. The functions of the Steering Committee are to:

- provide advice to the Minister on the operation of the Act and recommendations for reform
- provide advice to the Minister on regulations proposed to be made under the Act, and
- receive, consider and provide advice to the Minister on reports provided by our office in the exercise of our functions under the Act.<sup>27</sup>

### Constitution

When the Act commenced on 1 October 2023, the Steering Committee (which had existed under the previous PID Act) was reestablished to continue to perform these key functions. The members of the Committee are:

- the Ombudsman
- the Secretary of the Cabinet Office
- the Auditor-General
- the Chief Commissioner of the Independent Commission Against Corruption
- the Chief Commissioner of the Law Enforcement Conduct Commission
- the Secretary of the Department of Planning, Housing and Infrastructure
- the Commissioner of Police
- the Information Commissioner
- the Public Service Commissioner, and
- the Privacy Commissioner.<sup>28</sup>

The Ombudsman is the chairperson of the Steering Committee.

Each Committee member can nominate someone to exercise the functions of a member either generally or for a particular purpose. Seven of the Committee members have made general nominations, and some nominations have changed from time to time.

At the time of writing, the nominated representatives for each Committee member are:

- Matt Richards, A/Deputy Secretary, General Counsel for the Secretary of the Cabinet Office
- Mark Hare, A/Deputy Secretary, General Counsel for the Secretary of the Cabinet Office
- Katherine Frank, A/Executive Director, Legal Branch for the Secretary of the Cabinet Office
- Laura Shumack, A/Executive Director, Legal Branch for the Secretary of the Cabinet Office
- Alexandra Ellinson, Director, Legislation & Assurance for the Auditor General
- Roy Waldon, Executive Director Legal for the Chief Commissioner of the ICAC
- Anina Johnson, Commissioner for the Chief Commissioner of the LECC
- Susan Raice, Director Prevention, Legal and Engagement for the Chief Commissioner of the LECC

---

<sup>27</sup> Section 68.

<sup>28</sup> Section 67.

- Douglas Walther, Executive Director Local Government for the Secretary of the Department of Planning, Industry and Environment
- Commander of Professional Standards Command for the Commissioner of Police<sup>29</sup>
- Sarah Sandstad, Director Legal Services for the Public Service Commissioner
- Ignatia Spooner, Principal Lawyer for the Public Service Commissioner

## Meetings

The Steering Committee met on 20 November 2023 and 25 March 2024. The following members (or their nominees) attended each of the meetings.<sup>30</sup>

### 20 November 2023

- Paul Miller, NSW Ombudsman
- Mark Hare, Executive Director Legal, The Cabinet Office
- Anina Johnson, Commissioner, LECC
- Elizabeth Tydd, Information Commissioner, IPC
- Sonia Minutillo, Acting Privacy Commissioner, IPC
- There were several other Steering Committee member offices represented at the meeting, but as the attendees had not yet been nominated to represent the Committee member, they attended as observers.

### 25 March 2024

- Paul Miller, NSW Ombudsman
- Matt Richards, Executive Director Legal, The Cabinet Office
- Emma Wallhead, Executive Director, Professional Services, Audit Office of New South Wales
- Susan Raice, Manager, Legal Services Unit, LECC
- Douglas Walther, Executive Director Local Government, Department of Planning, Housing and Industry
- Rachel McCullum, Information Commissioner, IPC
- Sarah Sandstad, General Counsel, Public Service Commission
- Sonia Minutillo, Acting Privacy Commissioner, IPC

## Activities and focus

During the reporting period the role of the Committee has been primarily to oversee, guide and assist our office in our work to implement the Act.

At each meeting our office has also reported to the Committee on emerging operational issues with the Act reported by agencies, as well as any suggestions made by agencies for legislative change. The Committee has provided their insight into these operational and legislative issues.

---

<sup>29</sup> There have been several senior officers in the position of Commander of the Professional Standards Command representing the Commissioner at Steering Committee meetings.

<sup>30</sup> A number of the nominees listed as having attended the 25 March 2024 meeting have since had a change in their position title. The title listed is the role they held at the time of the meeting.



The Committee commenced the collation and review of possible areas for legislative change for the purpose of providing advice and making recommendations to the Special Minister of State and the Premier.

During the reporting period, the Committee did not provide advice to the Minister.

## Areas of possible legislative reform

The Committee will continue to monitor the operation of the Act and identify ways in which it can be further improved in the future.

Prior to the commencement of the Act, our office identified that the following issues were not fully addressed by the Act. In our 'Special Report to Parliament on the Public Interest Disclosures Bill 2021'<sup>31</sup> we indicated that we would ask the Steering Committee to consider these issues and report back their advice to Government.

The relevant issues are:

1. Whether the definition of 'serious wrongdoing' be expanded to include additional categories, or be otherwise simplified
2. Whether the definition of maladministration should be expanded to include other workplace wrongdoing
3. Whether the definition of 'public official' appropriately deals with contracted-out services.

---

<sup>31</sup> [Special Report by the NSW Ombudsman on the Public Interest Disclosures Bill 2021](#)

# Part 4

## Agency compliance

# Agency compliance with the Act

## Audit and monitoring activity

One of our roles in overseeing the Act is to audit and monitor how agencies exercise their functions under the Act.

### Self-assessment audit

In 2023–24 we developed a self-assessment audit to establish a baseline of compliance with the Act across the sector.

We issued this self-assessment audit to 597 agencies after 30 June 2024, to ensure agencies had a reasonable period of time to implement the Act before completing the audit. A second self-assessment audit will be undertaken to allow for comparison.

The self-assessment nature of the audit provides agencies with an opportunity to assess and report to us on their compliance with the Act, and act immediately to address any identified shortcomings in ensuring they comply with the Act.

The audit results will feed into our future engagement, advice, audit and monitoring work with a view to supporting agencies to improve their compliance and understanding of the Act.

We will report on the outcome of the 2 self-assessment audits in a separate audit report.

### Desktop audit: Agency arrangements under s 81 of the Act

The Act allows an agency to arrange for another agency to exercise its functions on its behalf. Agencies can also arrange for entities (which are not agencies) to exercise the following functions:

- receiving voluntary PIDs
- dealing with voluntary PIDs by investigating relevant serious wrongdoing
- providing training.

Agencies are required to notify the Ombudsman of any such arrangements. They are also required to prominently publish the details of the arrangement on the agency's public website and the agency's intranet (if an agency has them).

During the reporting period, 67 agencies notified us they had entered into an arrangement with another agency or entity. We undertook a desktop audit by reviewing the websites of these agencies to ascertain their compliance with the publication requirement.

We found that only 48% of these agencies had published the details of the arrangement on their public website. We will continue to monitor and engage with the agencies to increase their level of compliance with this obligation.

### Desktop audit: PID policies

The Act provides that all agencies must have a PID policy.<sup>32</sup> The Act also sets out the mandatory information which must be included in a PID policy, and states that the PID policy must be prominently published on the agency's public website and intranet (if the agency has them).<sup>33</sup>

---

<sup>32</sup> Section 42.

<sup>33</sup> Section 43.

During the reporting period, we conducted 329 desktop audits of agency websites and their PID policies (if published) to determine:

- whether agencies have a PID policy in place
- whether the PID Policy contains all mandatory information required under the Act, and
- whether the PID Policy complies with the publication requirements.

Table 2 presents the number of the agencies subject to the website audit by agency type and the corresponding outcome.

**Table 2. PID policy website audit by agency type**

Agency type - s 16 of the Act	# desktop audits	# of agencies with current PID Policy published	# agencies with no public website	# of agencies with public website but PID policy not published
Local government authority	145	95	1	49
Statutory body representing the Crown	47	11	8	28
A public authority whose conduct or activities an integrity agency is authorised by another Act or law to investigate or audit	42	17	4	21
Local Aboriginal Land Council	24	0	17	7
NSW Health Service	10	5	0	5
An integrity agency	8	7	0	1
A State-owned corporation or subsidiary of a State-owned corporation	6	2	2	2
Public service agency	45	27	1	17
Teaching Service of New South Wales	1	1	0	0
Parliamentary Department	1	0	0	1
<b>TOTAL</b>	<b>329</b>	<b>165</b>	<b>33</b>	<b>131</b>

165 (50%) agencies of the audited agencies had a PID Policy, which met the content requirements under the Act, and which was published on their website.

Of the remaining 164 agencies, 33 (20%) did not have a public website. 131 (40%) of all agencies audited either had no PID policy published on their website, or their policy still referenced the PID Act 1994.

We contacted all agencies that did not have a PID policy published on their website and provided them with information on the requirement to have a PID policy under the Act.

**Table 3. Agency compliance with PID policy publication requirement**

Agency compliance with PID policy publication requirement	Number
Current PID Policy published on agency website	165 (50%)
No PID Policy published on agency website	131 (40%)
No website identified	33 (10%)
<b>Total</b>	<b>329</b>

## Speak up culture

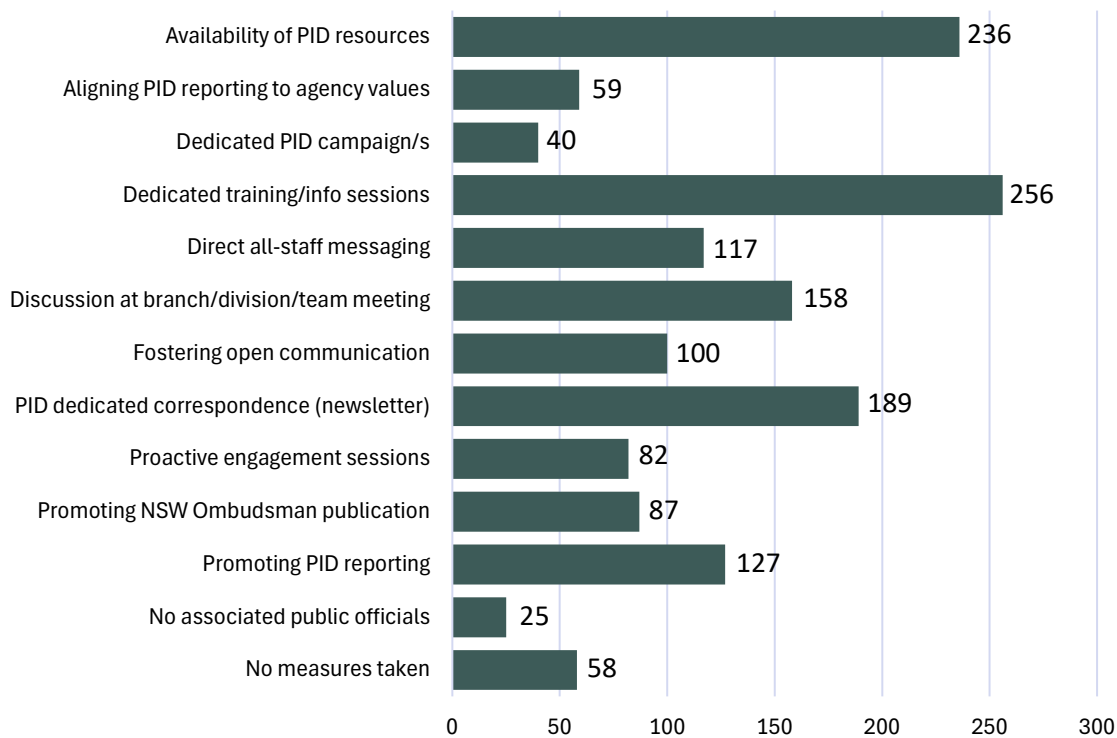
### Promoting a speak up culture

One of the objects of the Act is to promote a culture in which PIDs are encouraged.<sup>34</sup> Agencies are also required to include information in their annual return to us about the measures taken by the agency to promote a culture in which PIDs are encouraged.

481 agencies (85%)<sup>35</sup> reported taking measures to promote a 'speak up' culture, with most agencies reporting taking more than one type of measure. 58 responses indicated no measures were taken to promote a speak up culture.

**Figure 1. How agencies promoted a 'speak up' culture**

#### What measures the agency has taken to promote a speak up culture



<sup>34</sup> Section 3(a).

<sup>35</sup> Excluding Statutory Land Managers and Common Trusts.

## Awareness activities

Agencies must ensure all public officials associated with the agency are made aware of —

- how to make a voluntary PID, and
- the agency’s PID Policy, and
- that they may be entitled to take action if dissatisfied with how the voluntary PID was dealt with.

Agencies reported on awareness activities that were undertaken during the return period. Of the 563 agencies<sup>36</sup> that submitted an annual return to us, 534 (95%) reported that they had taken some form of awareness activity to ensure public officials associated with the agency were aware of the items listed above.

We asked agencies to report on the activities undertaken as well as the manner in which they raised awareness of the Act with their public officials. The most common method used for awareness activities included:

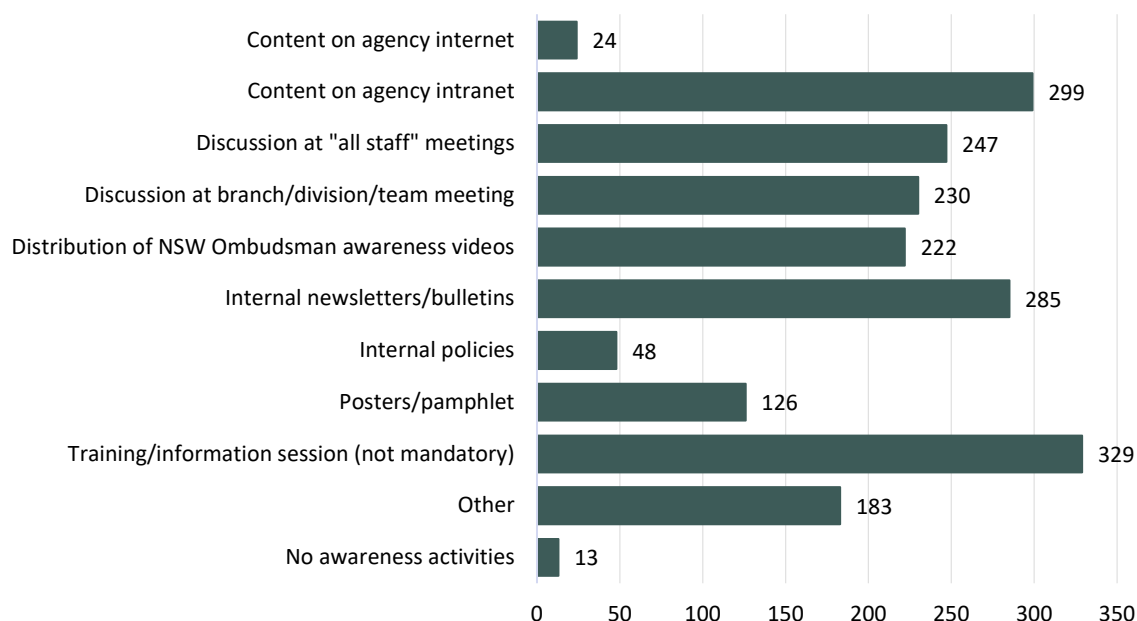
- distribution of PID material and making resources readily available (50%)
- holding discussions at branch/division/team meetings and all staff meetings (24%)
- including PID awareness in existing training sessions – e.g. induction or ethics training (16%).

Agencies also reported on the type of awareness activities undertaken (see Figure 2). The 3 most common awareness activities were:

- publishing a link to the internal reporting policy on the agency’s intranet
- providing induction training to new staff
- requiring staff to sign an undertaking they had read and understood the internal reporting policy.

**Figure 2. PID awareness activities undertaken by agencies**

### How the reporting agency ensures public officials associated with the agency are aware of the Act



<sup>36</sup> Excluding Statutory Land Managers and Common Trusts.

183 (33%)<sup>37</sup> agencies reported that they had undertaken awareness activities which were not in our list of possible awareness activities. We asked these agencies to provide further details on the activities they had undertaken. Figure 3 below outlines these additional awareness activities in categories.<sup>38</sup>

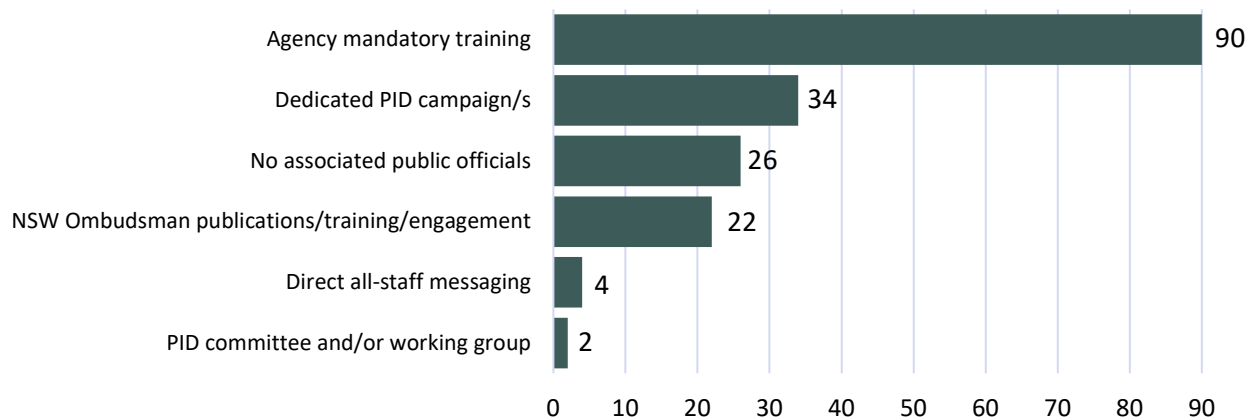
90 of 183 (49%) agencies reported that PID content was also included in the mandatory training the agency provides its employees.<sup>39</sup> 34 (19%) reported that they implemented dedicated PID awareness campaigns, including developing internal PID videos and promoting the Act on computer screensavers.

26 of these 183 (14%) agencies responded that they had not otherwise undertaken awareness activities because they did not have public officials associated with their agency.

We will use this information to further refine the list of awareness activities in the portal for the 2024-25 annual return.

**Figure 3. Additional PID awareness activities undertaken by agencies**

**Additional PID awareness activities**



**Compliance with training requirements**

An agency must ensure each of the following people receive training in relation to their responsibilities under the Act and the agency’s PID policy:

- the head of the agency
- a disclosure officer for the agency
- a manager of a public official associated with the agency.<sup>40</sup>

The time within which the training is to be provided, and the frequency of refresher training, are specified in the Regulation.<sup>41</sup>

478 (85%) agencies reported that their head of agency, all disclosure officers, and/or all managers received training on the agency’s PID policy and on their responsibilities under the Act.

85 (15%) agencies indicated that none of the staff in these roles had received training during the return period.

<sup>37</sup> Excluding Statutory Land Managers and Common Trusts.

<sup>38</sup> 5 agencies did not provide further details on the activities.

<sup>39</sup> As distinct from mandatory PID training specified in section 48(2) of the Act.

<sup>40</sup> Section 48(2).

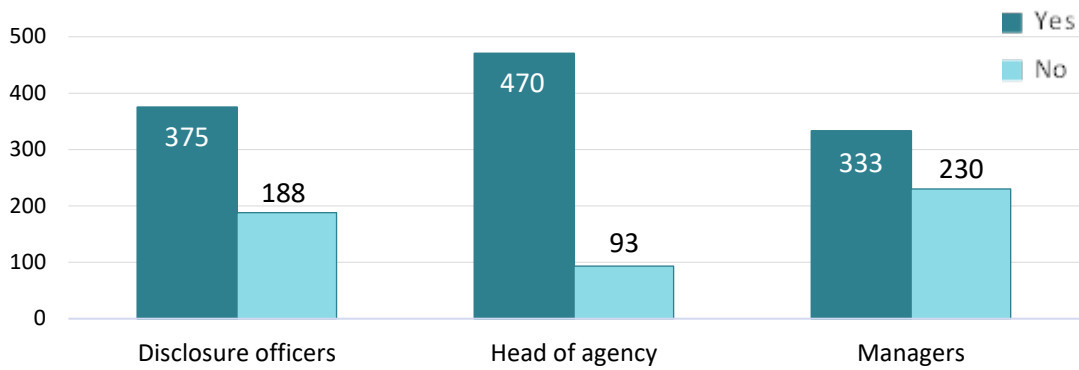
<sup>41</sup> Clauses 4(2) and (3).

**Figure 4. Compliance with training requirements across all agencies by role type**

Across all agencies, the compliance rate of the provision of PID training to persons in the following roles were reported to be:

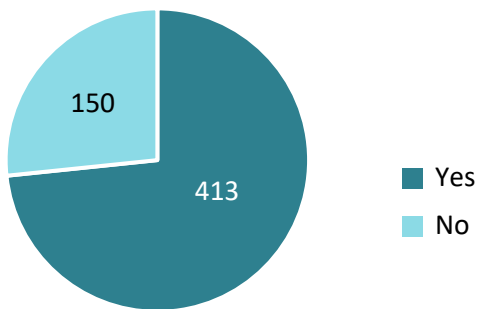
- 83% of heads of agency
- 67% of disclosure officers
- 59% of managers

**4A. PID training insight (n=563)**



73% of agencies indicated they included content about the Act in their induction training. This would mean that all new staff have undertaken some form of PID training, regardless of role. The breakdown is in Figure 4B.

**4B. PID content in induction training**





# Part 5

## Voluntary PIDs received by agencies

## Voluntary public interest disclosures

### Agency annual returns

Agencies must provide the Ombudsman with an annual return, which must contain the information, and be provided in the manner, prescribed by the Regulation.<sup>42</sup>

The Ombudsman has issued a Guideline '[Reporting to the Ombudsman](#)' that outlines these requirements.

### Information agencies are to provide in the annual return

An agency's annual return is in 2 parts:

1. Information about the voluntary PIDs the agency has received in the return period and how they have dealt with those PIDs, and
2. Information about the measures they have taken during the return period to promote a culture in which PIDs are encouraged. We have provided information on compliance with this requirement in Part 4 of this report.

Agencies' returns concerning the voluntary PIDs they have received must be divided into the following categories:

#### Category 1 – voluntary PIDs relating to the agency

A voluntary PID relates to an agency if the disclosure is about serious wrongdoing:

- by the agency
- by a public official associated with the agency, or
- that otherwise affects, or might affect, the exercise of the functions of the agency.

#### Category 2 – other voluntary PIDs

These may include:

- voluntary PIDs relating to another agency but received by the reporting agency
- voluntary PIDs that relate to two or more agencies
- voluntary PIDs dealt with by the agency as a result of being in an arrangement under section 81 of the Act.<sup>43</sup>

Agencies must provide the following information about each voluntary PID received or dealt with during the return period:

- how the agency received the disclosure
- the date on which the agency received the disclosure
- the nature of the serious wrongdoing the disclosure was about

---

<sup>42</sup> Section 78 of the Act, clauses 5 and 6 of the Regulation.

<sup>43</sup> Under section 81 of the Act, an agency can arrange for another agency or entity to exercise all or some of their functions.

- whether the disclosure was a purported PID<sup>44</sup>
- the relationship between the maker of the disclosure and the public official whose serious wrongdoing the disclosure was about
- whether the serious wrongdoing involved 1 public official or more than 1 public official
- action taken by the agency to deal with the disclosure, including the date on which the agency ceased to deal with the disclosure
- if the agency investigated the serious wrongdoing—a description of the results of the investigation
- the corrective action taken, proposed to be taken or recommended to be taken by the agency.

An agency is also to include in the annual return information about purported PIDs that were assessed as **not** being PIDs:

- the number of the disclosures received by the agency during the return period
- the number of the disclosures that were made by public officials
- the reasons the agency did not deal with, or ceased dealing with, each of the disclosures as a PID.

## The return period

An agency must provide an annual return to the Ombudsman in relation to each period of 12 months ending on 30 June (the **return period**).<sup>45</sup> This means that typically the return period will be 1 July to 30 June of each year. For the purposes of this report, the return period refers to 1 October 2023 to 30 June 2024.

Between 1 July 2023 and 30 September 2023, the PID Act 1994 was in effect. This meant that agencies received and dealt with PIDs under the former disclosure scheme until the commencement of the new Act. These disclosures do not form part of this report.

## Data limitations

### Data only relates to voluntary PIDs

An agency is only required to report to us on the voluntary PIDs they receive and deal with during the return period. Agencies are not required to include in their annual return information about any disclosures received or dealt with by any agency that are mandatory or witness PIDs.

### ‘Over-reporting’ of the number of unique voluntary PIDs in the sector

When a voluntary PID is received by one agency and then referred to another, the second agency will have then also ‘received’ the PID. Consequently, both agencies will report the voluntary PID in their annual returns, which means that there is likely an over-reporting of unique voluntary PIDs.

Over-reporting will also arise where a PID maker makes a disclosure to multiple agencies, each of whom will have received the PID and should include it in their annual return.

---

<sup>44</sup> A purported PID is defined in the dictionary (Schedule 2 of the Act) as a disclosure that is:

- made in compliance with section 27 of the Act — meaning the maker made the report to a recipient of voluntary PIDs
- not a mandatory PID or a witness PID and,
- stated by the maker of the disclosure to be a PID, whether or not it is in fact a PID.

<sup>45</sup> Section 78(2).

For future reporting periods we will explore ways to capture information that may enable us to provide a more accurate estimate of the number of unique voluntary PIDs received across the sector during the reporting period.

### **Bulk uploads of annual return data identified inconsistencies**

PID annual return reporting under the Act requires the capture of significantly more data than had previously been required under the PID Act 1994.

Several larger agencies told us they needed an ability to bulk upload their data due to the large number of voluntary PIDs they had received and the number of agencies on whose behalf they would be reporting. We facilitated this through interim measures that allowed for the bulk upload of data via a digital portal.

Analysis of this data indicated that there were deviations in the data field descriptions used by some agencies and those outlined in our *Reporting to the Ombudsman Guideline*, which has resulted in some inconsistencies in the type of data recorded against the different fields by different agencies.

As we develop phase 2 of the portal for future annual returns, we will ensure that we embed more and clearer guidance to agencies on the collation and recording of annual return data in relation to the voluntary PIDs received.

### **Data cannot be directly compared with previous annual reports under the PID Act 1994**

The reporting obligations which were prescribed under the former disclosure scheme are not comparable to the obligations implemented in the current Act. For this reason, a direct comparison between the reports submitted under the PID Act 1994 is not possible. Some significant differences include, but are not limited to, the below:

- the 2023-24 annual returns reflect 9 months of operations rather than 12 months
- there is a greater number of agencies reporting under the new Act
- mandatory PIDs are expressly excluded from the annual return
- all categories of serious wrongdoing are now included in the annual return (rather than only the main category of serious wrongdoing in a PID being reported to us)
- the number of public officials alleged to be involved in the serious wrongdoing is now included in the annual return (including any relationship between the PID maker and public official if applicable)
- the outcomes of an investigation and any corrective action taken are now reportable in the annual return.

### **Number of agencies in 2023-24**

Under the new Act we identified a significantly higher number of agencies which are required to provide an annual return to us, than under the PID Act 1994.<sup>46</sup> As a result, we received more returns than in previous years.<sup>47</sup>

This increase can also be attributed to the greater awareness that agencies have of the Act and the annual return requirement as a result of our engagement and our provision of a portal for complying with this requirement.

---

<sup>46</sup> Under the PID Act 1994 agencies were referred to as ‘public authorities’. The definition of which entities were considered ‘public authorities’ was not as clear as under the new Act.

<sup>47</sup> Under the PID Act 1994 public authorities were required to provide their report (now a return) on a 6 monthly basis.

We identified **1,276** public sector entities as agencies under the Act. Of these:

- 564 agencies are Statutory Land Managers<sup>48</sup> (SLMs)
- 115 are Common Trusts (CTs).<sup>49</sup>

597 is the total number of all other agencies, as represented in Figure 5 below. In this report we refer to this group as the “general cohort”.

In the annual return we asked agencies to identify which category of agency (as defined under the Act) they best fit within. We further broke down some of these categories to present the data in a form that was more indicative of the information we received in the annual returns.

The agency types we have reported on are:

- ‘Public Service Agency’ (see Appendix A)
- NSW Health Service (Including Ministry of Health)
- Local Government Authority
- A statutory body representing the Crown
- University
- (Other) Public authority which can be investigated or audited by an integrity agency
- State owned corporation or a subsidiary (under the *State Owned Corporations Act 1989*)
- Integrity agency
- Parliamentary departments
- Local Aboriginal Land Council
- NSW Police Force.

The agency group ‘Public Service Agency’ includes a wide range of agencies but is largely made up of government departments listed in Schedule 1 of the *Government Sector Employment Act 2013 (GSE Act)*. A list of these agencies is included at Appendix A.

The group called ‘University’ includes the 10 universities established by NSW legislation, as well as 58 organisations that are linked or affiliated with a university,<sup>50</sup> and considered to be an agency for the purposes of the Act.

The agencies which are included under ‘Public authority which can be investigated or audited by an integrity agency’ are those which identified this as the category which best described how they came to be an agency under the Act (however, most other agencies under the Act are also subject to the jurisdiction of the integrity agencies).

---

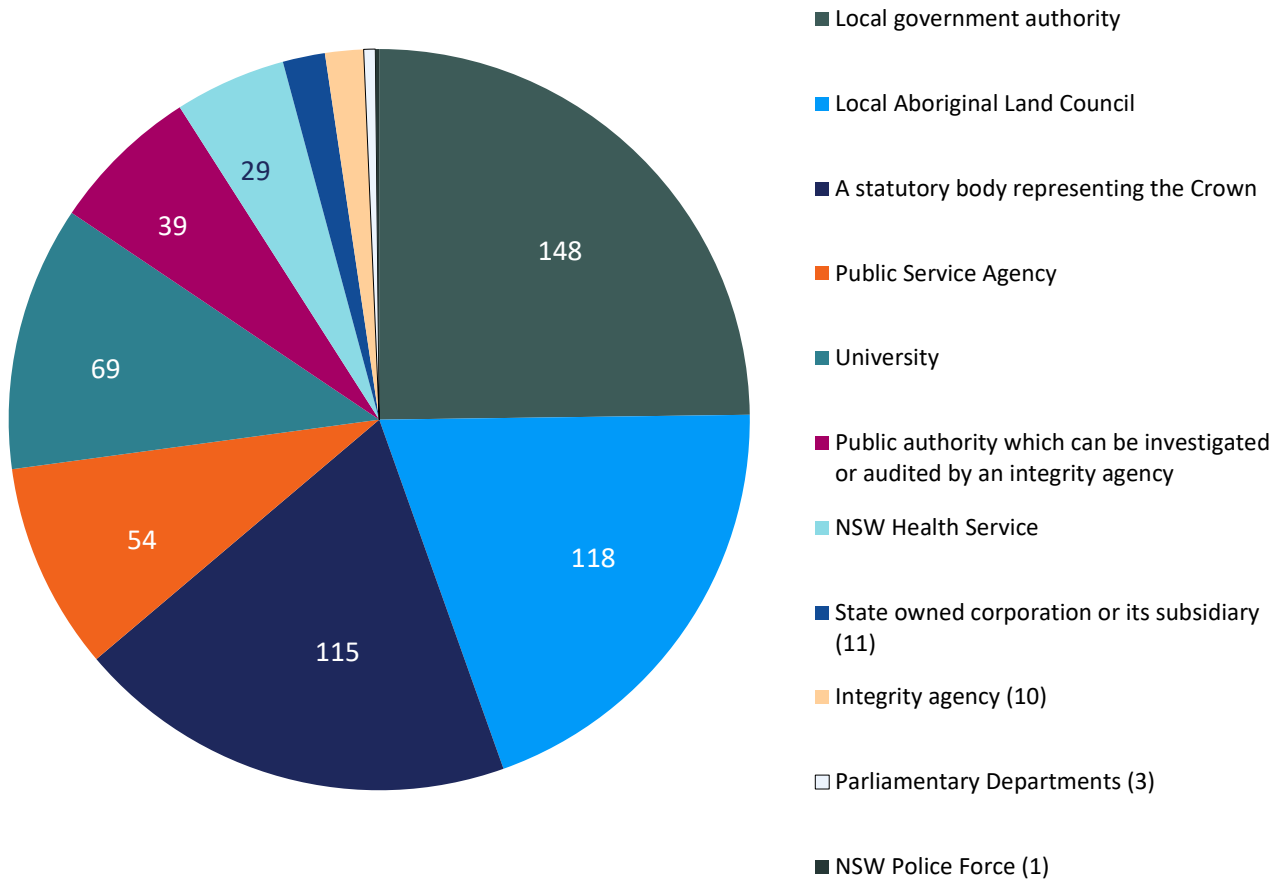
<sup>48</sup> Established or Continued Under the *Crown Land Management Act 2016*. Crown reserves are managed in collaboration between the community and the government. This network of community-minded organisations, which includes local councils, incorporated groups, not-for-profit corporations as well as over 550 volunteer boards are responsible for overseeing more than 7,800 Crown reserves throughout New South Wales.

<sup>49</sup> Trust established in respect of a Common under the *Commons Management Act 1989*. Publicly owned land overseen by the state government on behalf of the people of NSW is known as crown land. These include cemeteries, recreation areas, pasture grounds and beaches. Crown land managers operate the day-to-day operations of Crown reserves, through a partnership between the community and the government. Commons trust boards often depend on volunteers which play a vital role in the management and operation of their common.

<sup>50</sup> Examples include commercial consulting companies of a university, other registered higher education institutions that are related to a university.

For the purposes of this report, we have excluded SLMs and CTs from the majority of our reporting and analysis and only report on the general cohort. We do so because, while there is a large number of SLMs and CTs (when compared to other agencies in the sector), they have very few associated public officials and have only reported to have received 1 voluntary PID between them.

**Figure 5. Agency types broken down by type (general cohort) (n=597)**



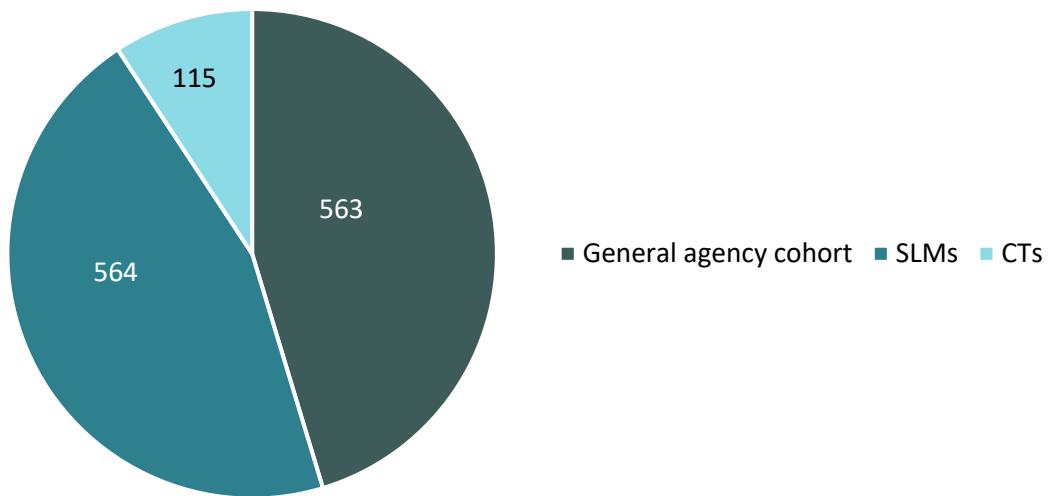
### Number of annual returns submitted in 2023–24

**1,242** agencies (97% of all 1276 agencies) submitted an annual return in 2023-24.

Of these:

- 563 of the 597 (94%) from the ‘general cohort’ submitted an annual return
- All 564 SLMs submitted an annual return, and all reported they had 10 or less employees
- All 115 CTs submitted an annual return, and all reported they had 10 or less employees.

The 6% of agencies in the general cohort that did not submit an annual return were all LALCs. All of the SLMs and CTs provided their annual return after the required date. This is explained further in Part 6 of this report.

**Figure 6. Composition of agencies that submitted an annual return****Annual return submission by agency type (n=1242)****Table 4. Annual return submission rates 2023-24**

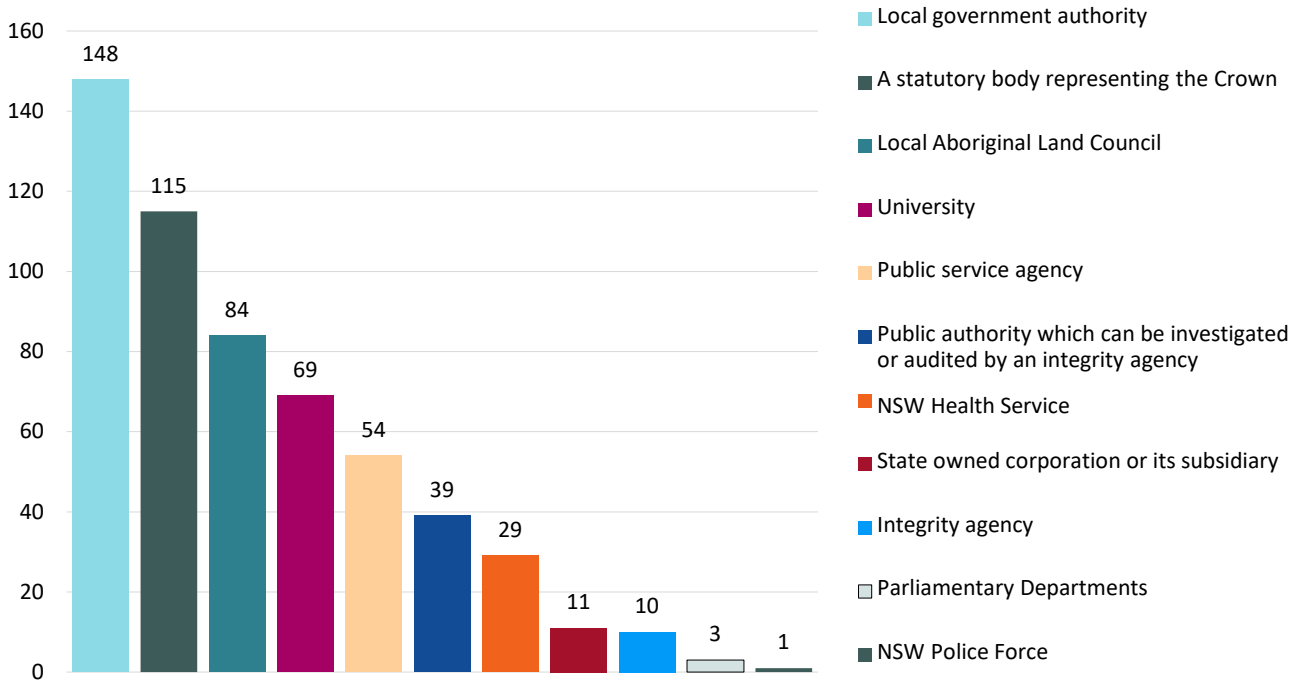
Agencies	Agencies	Returns	Annual return compliance
<b>Total agencies</b>	<b>1,276</b>	<b>1,242</b>	<b>97%</b>
General cohort	597	563	94%
SLMs	564	564	100%
CTs	115	115	100%

**Agency types**

Excluding SLMs and CTs, most annual returns were submitted by local government authorities 148 (26%). This was followed by statutory bodies representing the Crown 115 (20%) and LALCs with 84 (15%) of annual returns submitted. Figure 7 shows these top 3 agency types comprised 62% of annual returns from the general cohort.

**Figure 7. Agency types**

**Annual return submissions by agency type (n=563)**

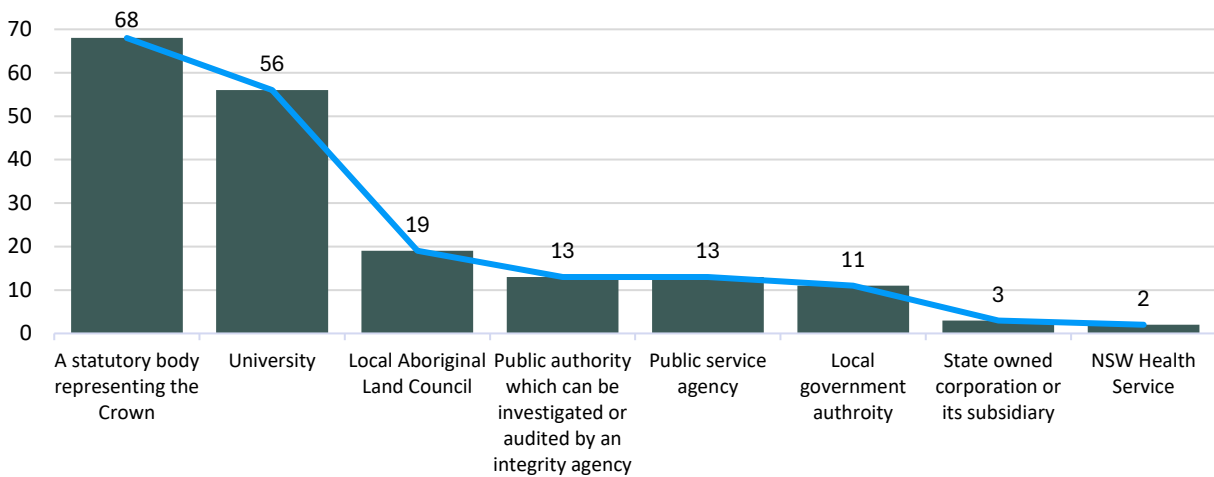


### Arrangements with other agencies

An agency may arrange for another agency to exercise that agency’s functions under the Act, which can include submitting their annual return.<sup>51</sup>

185 agencies (15% of the 1242 agencies which submitted an annual return) reported they had entered into an arrangement with another agency to submit the annual return on their behalf. The breakdown of these agency types is provided in Figure 8.

**Figure 8. Annual returns made by way of a s 81 arrangement (n=185)**



<sup>51</sup> Section 81(2).



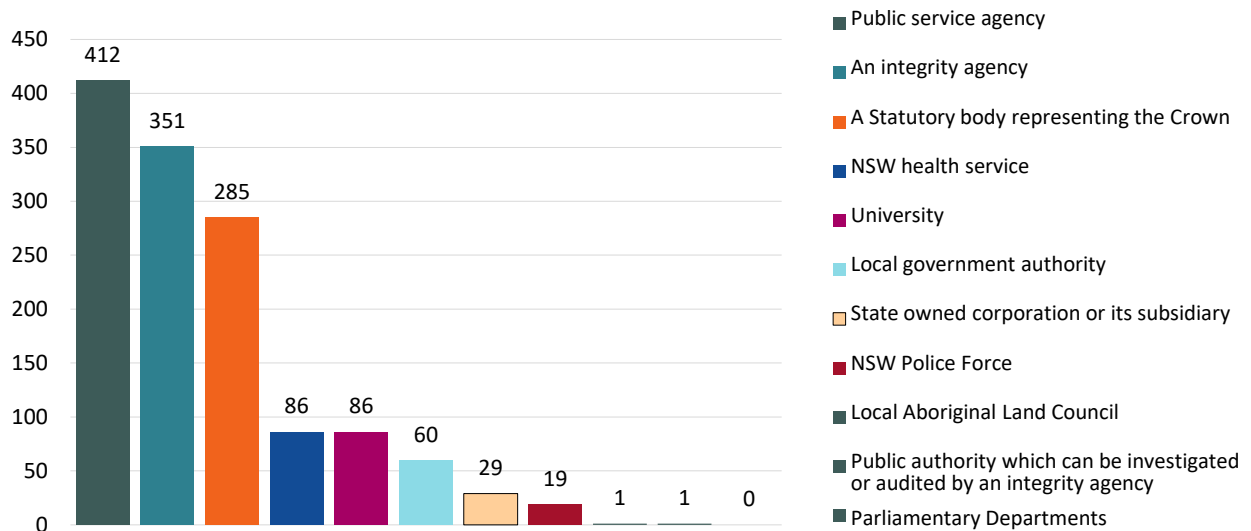
## Voluntary public interest disclosures

### Number of voluntary PIDs received

The annual returns show that **1,330** voluntary PIDs were received in the reporting period.

The highest number of voluntary PIDs were received by public service agencies 412 (31%). Voluntary PIDs received by integrity agencies comprised 26%, followed by statutory bodies representing the Crown at 21%. These 3 agency types received 79% of all voluntary PIDs.

**Figure 9. Number of voluntary PIDs by agency type (n=1330)**



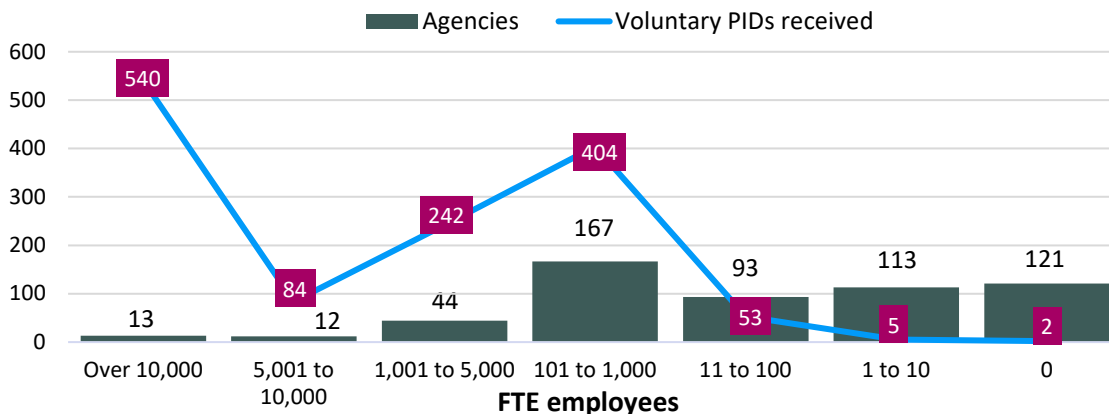
### Voluntary PIDs by agency size

We asked agencies to provide us with the number of their full time equivalent (FTE) employees. Figure 10 below shows the number of voluntary PIDs received by size of agency (on the basis of the FTE).

The 13 agencies with more than 10,000 FTE comprised 2% of agencies and reported 41% of the voluntary PIDs received across the sector (540). Most agencies, 167 (30%) reported having between 101 and 1,000 FTE employees. These agencies received a total of 404 voluntary PIDs (30% of all voluntary PIDs in the sector).

**Figure 10. Number of FTE employees and voluntary PIDs received by size of agency**

#### Voluntary PIDs received (n=1330)



## Categories of voluntary PIDs

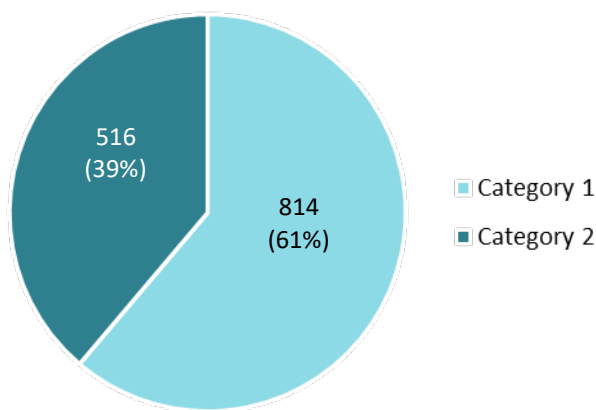
As part of their annual return, agencies must separate voluntary PIDs into two categories and report separately on each category.<sup>52</sup> These categories, as detailed earlier in this report, are:

- **Category 1** –voluntary PIDs relating to the agency
- **Category 2** –all other voluntary PIDs.

Of the 1,330 voluntary PIDs received, 61% fell into Category 1 and 39% fell into Category 2.

**Figure 11. Proportion of Category 1 and Category 2 voluntary PIDs (n=1330)**

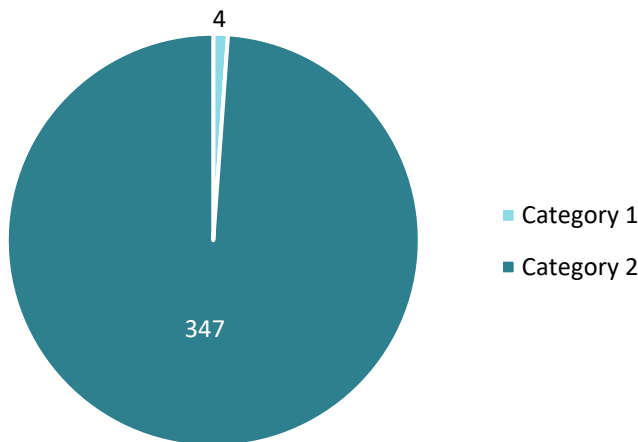
### Total number of voluntary PIDs received (divided by category)



Most agencies reported that they received a significantly higher proportion of Category 1 PIDs, with the exception of integrity agencies which reported that 99% of the voluntary PIDs they received were part of Category 2.

**Figure 12. Category 1 and Category 2 voluntary PIDs received by integrity agencies (n=351)**

### Total voluntary PIDs received by integrity agencies (divided by category)



<sup>52</sup> Clause 6(1) of the Regulation.

## How voluntary PIDs were received

In their annual return, agencies are required to report on how they received each voluntary PID.

Agencies reported that most voluntary PIDs were received in writing (80% of the 1330 voluntary PIDs received).

**Table 5. Voluntary PID mode of submission**

How voluntary PID submitted	2023-24
Email	437 (33%)
Online	280 (21%)
Post	40 (3%)
In writing (email, online or by post)*	306 (23%)
Phone	166 (12%)
In person	90 (7%)
Verbally (phone or in person)*	11 (>1%)

\*Some agencies reported the receipt mode as only 'in writing' or 'verbally' without a further breakdown as to the method in which the PID was actually received.

## Recipients of voluntary PIDs

A report is received by an agency when it is:

- made to a disclosure officer of the agency, including the head of the agency
- communicated to a disclosure officer of the agency by a manager, a Minister or a Minister's staff member
- communicated to a disclosure officer of the agency by another agency that is referring the PID to the agency, or
- otherwise communicated to the agency in accordance with an applicable law, policy, procedure or arrangement.

Of the 1,330 voluntary PIDs received, agencies reported that most (796 or 60%) were received by 'another disclosure officer for an agency', meaning a disclosure officer for the agency other than the head of agency. Voluntary PIDs reported directly to the head of agency or not addressed to a specific individual but sent to the agency's registered address, email address or other usual address (thereby taken to be made to the head of agency) comprised 36% of all voluntary PIDs received in 2023-24.

**Table 6. Recipients of voluntary public interest disclosures**

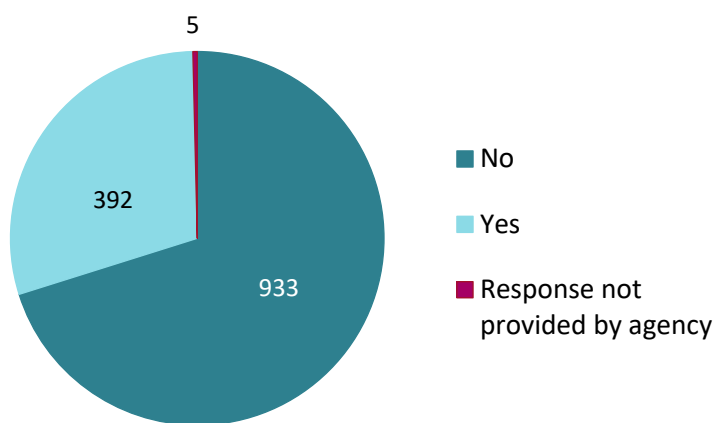
Recipient	2023-24
A manager of the person making the disclosure	50 (4%)
Another disclosure officer for an agency	796 (60%)
The head of an agency	92 (7%)
Sent to the agency's registered address, email address, or other usual address and not addressed to any specific individual <sup>53</sup>	381 (29%)
Subject to section 24(3)(c) – a Minister or a member of a Minister's staff	11 (<1%)

<sup>53</sup> Under section 27(2) of the Act, these disclosures are taken to be made to the head of an agency.

### Whether the PID maker remained anonymous

PID makers can choose to remain anonymous when making a disclosure. Agencies reported that 392 (29%) of PID makers chose to remain anonymous, while the majority did not (70%).<sup>54</sup> Under the Act, a disclosure is an anonymous PID only if, after considering the circumstances of the PID and any material which relates to it, it is determined that there is no reasonable or practical way of communicating with the PID maker.<sup>55</sup> (This means that a person may make a PID without disclosing their identity, but this would not be considered an ‘anonymous’ PID under the Act if the person provided a means by which they could be contacted, for example an email address using a pseudonym).

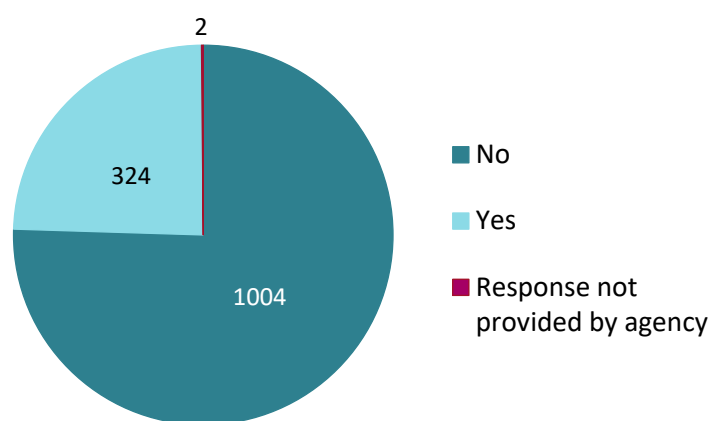
**Figure 13. Proportion of PID makers remaining anonymous (n=1330)**



### Voluntary PIDs that were also purported PIDs

- 324 (24%) of the 1330 voluntary PIDs received were reported as being a purported PID. This means that in addition to having the features of a voluntary PID, the PID maker themselves stated, when making the disclosure, that their report was a PID.

**Figure 14. Voluntary PIDs that were also purported PIDs (n=1330)**



<sup>54</sup> Less than 1% of agencies provided no response to this question.

<sup>55</sup> Schedule 2 Dictionary.

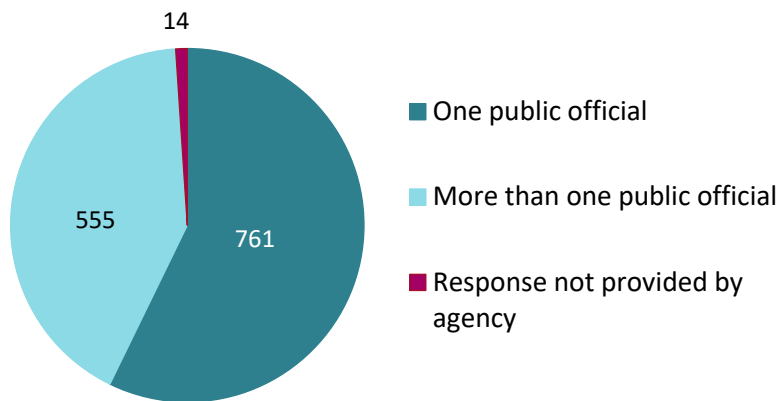
## Number of public officials involved in serious wrongdoing

For each voluntary PID, agencies are required to report whether the serious wrongdoing involved 1 public official or more than 1 public official, and, if applicable, the relationship between the maker of the disclosure and the public official whose serious wrongdoing the disclosure was about.

Most agencies reported that most voluntary PIDs involved only 1 public official.

761 (57%) voluntary PIDs received involved 1 public official, and 555 (42%) involved more than 1 public official.

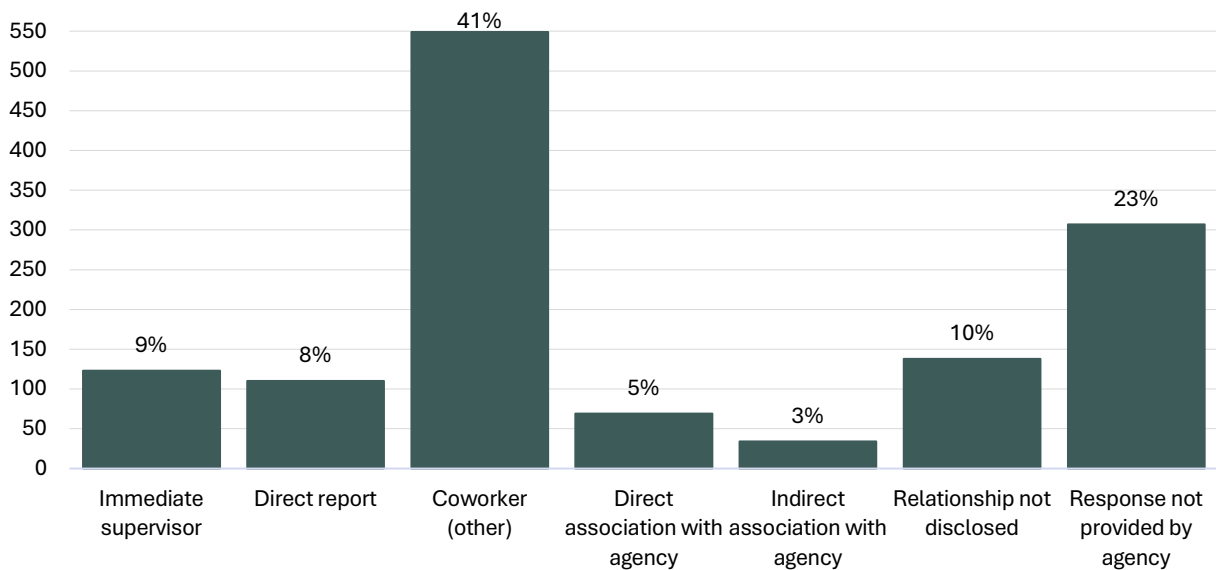
**Figure 15. Number of public officials involved in serious wrongdoing subject of a voluntary PID (n=1330)**



## Relationship between the maker of the disclosure and the public official

Agencies reported on the relationship between the maker of the disclosure and the public official whose alleged serious wrongdoing the disclosure was about. The largest proportion of voluntary PIDs received were those where the PID maker was a coworker with the person subject of the PID (41%). In 33% of all voluntary PIDs the relationship was either not reported by the agency or was not disclosed. This may be because the agency had not captured the relevant information.

**Figure 16. Relationship between the PID maker and public official(s) subject of the PID (n=1330)**



## Nature of alleged serious wrongdoing

The Act defines serious wrongdoing as one or more of the following:

- corrupt conduct
- serious maladministration
- a government information contravention
- a privacy contravention
- a serious and substantial waste of public money, and
- a local government pecuniary interest contravention.<sup>56</sup>

A voluntary PID may make an allegation, or may make multiple allegations, that fall into more than one category of serious wrongdoing.

Agencies in their annual returns are supposed to identify all categories of serious wrongdoing to which a voluntary PID relates. However, it appears likely that in many cases agencies are reporting only the most obvious or prominent category, or the category that the PID maker themselves has identified. For example, most allegations of corrupt conduct will also fall within the definition of serious maladministration, but most PIDs reported as being about corrupt conduct are not reported as also being reports of serious maladministration.

192 (14%) voluntary PIDs have been reported by agencies as involving multiple categories of serious wrongdoing.

Information about voluntary PIDs that are reported as relating to more than one category of serious wrongdoing is provided in Table 7. The top 5 combinations are represented in that table.

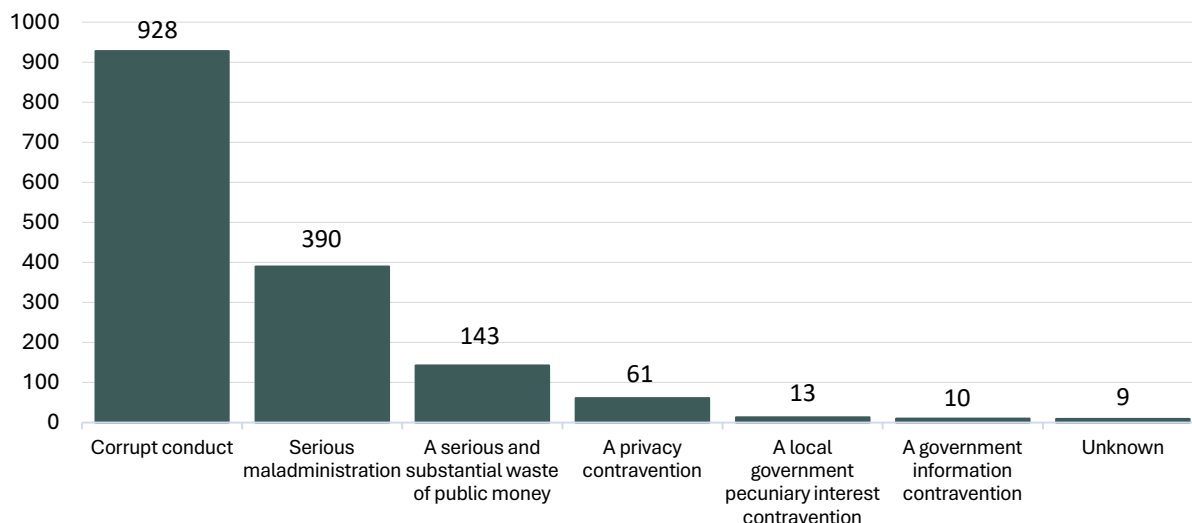
**Table 7. Voluntary PIDs containing more than 1 type of serious wrongdoing**

Types of serious wrongdoing reported	Number of voluntary PIDs
Corrupt conduct Serious maladministration	85
Corrupt conduct A serious and substantial waste of public money	50
Serious maladministration A serious and substantial waste of public money	20
Corrupt conduct Serious maladministration A serious and substantial waste of public money	16
Corrupt conduct A privacy contravention	7

Figure 17 shows the allegations of serious wrongdoing identified in voluntary PIDs received by agencies. The majority of voluntary PIDs are reported as having alleged corrupt conduct (70%). The second most common type of serious wrongdoing reported was serious maladministration (29%).

<sup>56</sup> Section 13.

**Figure 17. Type of serious wrongdoing reported**



### Action taken by the agency to deal with voluntary PIDs

An agency is to provide the following information in an annual return in relation to the voluntary PIDs that they have dealt with during the return period:

- action taken by the agency to deal with the disclosure, including the date on which the agency ceased to deal with the disclosure
- if the agency investigated the serious wrongdoing—a description of the results of the investigation
- if applicable — the corrective action taken, proposed to be taken or recommended to be taken by the agency.

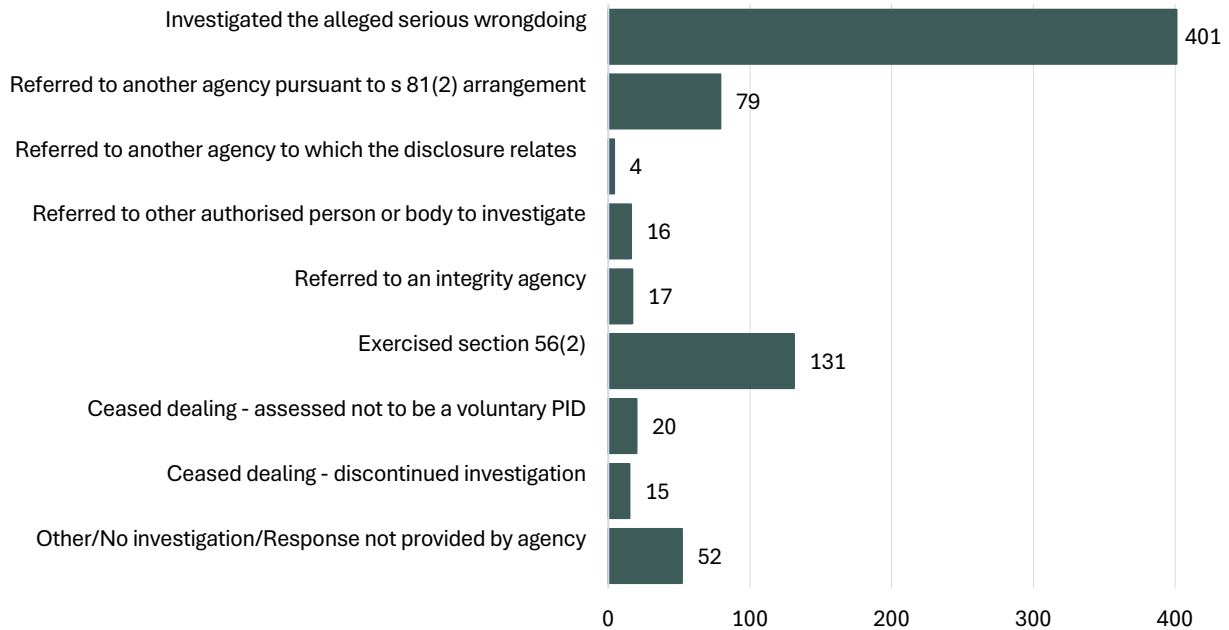
### Action taken on voluntary PIDs – all agencies

Of the 1330 voluntary PIDs received by agencies during the reporting period, a total of 735 were reported as finalised as at 30 June 2024.

Of these, 401 (55%) were reported to us as having been investigated, including 116 (16%) that were subject to external investigation.

Of the 177 matters reported as finalised by integrity agencies, 131 (74%) were dealt with by the integrity agency under section 56(2) of the Act. Section 56(2) allows an integrity agency to deal with a voluntary PID which does not relate to it in accordance s 58 of the Act, or another Act or law which authorises the integrity agency to investigate the relevant serious wrongdoing (for example, ICAC may deal with such a voluntary PID under the *Independent Commission Against Corruption Act 1988*).

**Figure 18. Action taken by agency (n=735)**



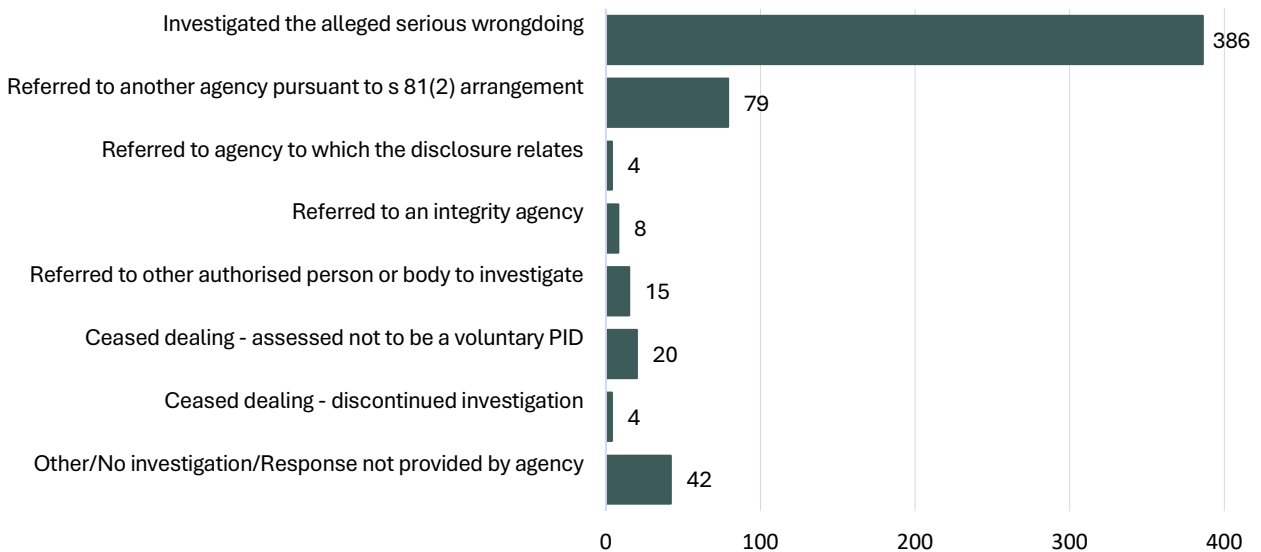
**Action taken on voluntary PIDs – excluding integrity agencies**

Excluding those dealt with by integrity agencies, 558 voluntary PIDs were reported as having been finalised in the reporting period. Of these:

- 386 (69%) were reported as having been finalised by being investigated, and
- 106 (19%) were reported as having been finalised by being referred to another agency.

In 4% of cases the agency reported that it ceased to deal with the disclosure because it was assessed not to be a voluntary PID.

**Figure 19. Action taken by agency (excluding integrity agencies) (n=558)**





## Findings of serious wrongdoing

Of the voluntary PIDs finalised during the reporting period, serious wrongdoing was reported to have been found in 81 matters following investigation.

## Corrective action taken

An agency must take corrective action if the outcome of an investigation into a voluntary PID includes a finding that serious wrongdoing or other misconduct occurred.<sup>57</sup> Corrective action under the Act includes:

- an action under s 69(4) of the GSE Act such as termination of employment
- an action authorised by the law procedures or policies which allowed the serious wrongdoing to be investigated
- issuing a formal apology
- enacting reforms within the agency, such as additional training and education
- publishing the findings of the serious wrongdoing or other misconduct and a report in support of the finding
- paying compensation to people affected by the serious wrongdoing or other misconduct.

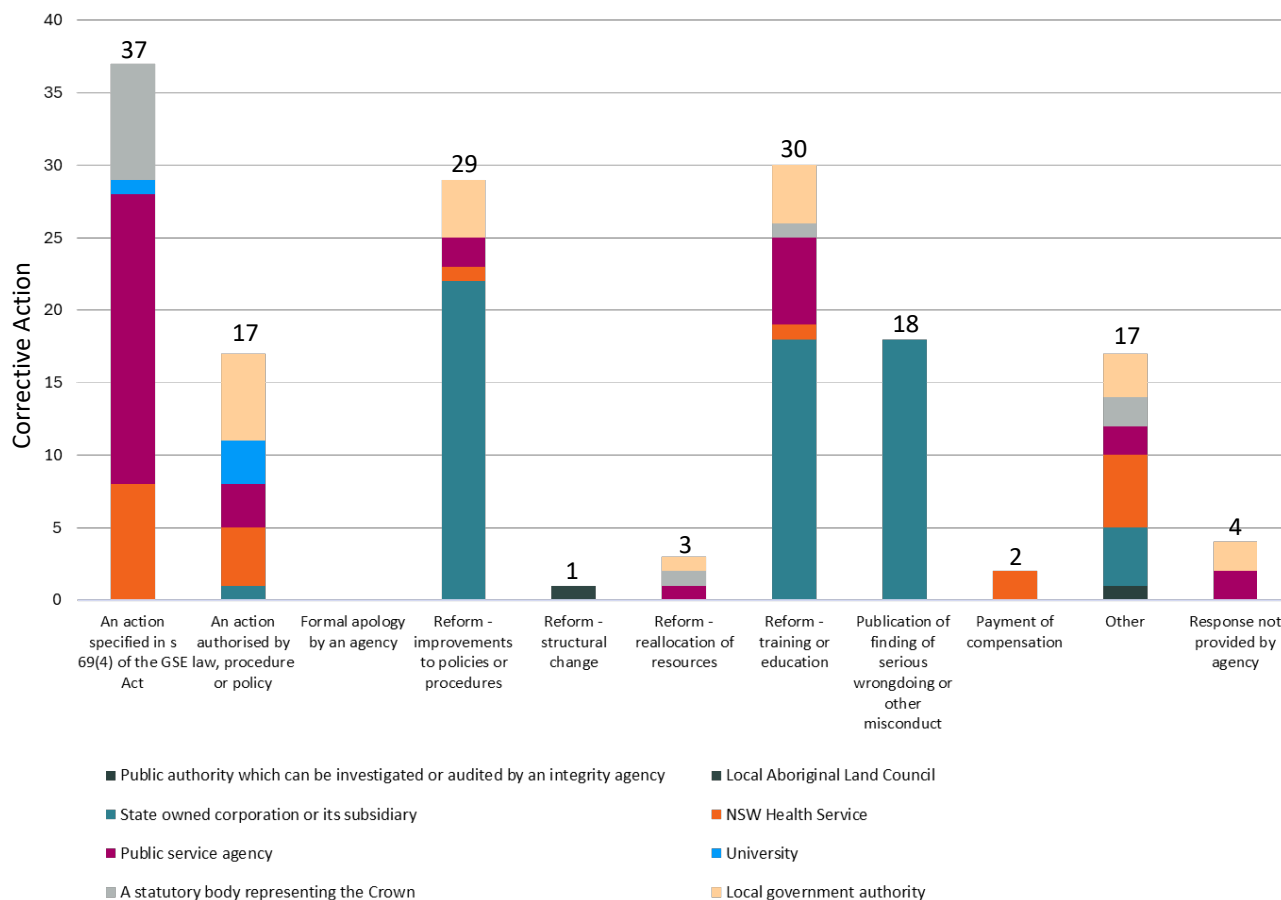
In the annual return, agencies are required to report on the corrective action taken, proposed to be taken, or recommended to be taken by the agency. An agency can take multiple forms of corrective action in relation to one voluntary PID (in this reporting period 158 corrective actions were taken in relation to 111 voluntary PIDs).

Corrective action pursuant to section 69(4) of the GSE Act was reported to have been taken in relation to 37 voluntary PIDs, comprising 23% of the 158 corrective actions reported. Training and education were reported as the corrective action taken in relation to 30 (19%) matters, and improvements to procedure or policy was the corrective action taken in relation to 29 (18%) matters.

---

<sup>57</sup> Section 66(1).

**Figure 20. Corrective action taken by agencies (n=158)**



### Voluntary PIDs referred

Referrals under the Act can be made to:

- an integrity agency
- a person or body authorised by another Act or law to investigate the serious wrongdoing
- another agency pursuant to an arrangement under section 81(2) of the Act
- another agency to which the disclosure relates.<sup>58</sup>

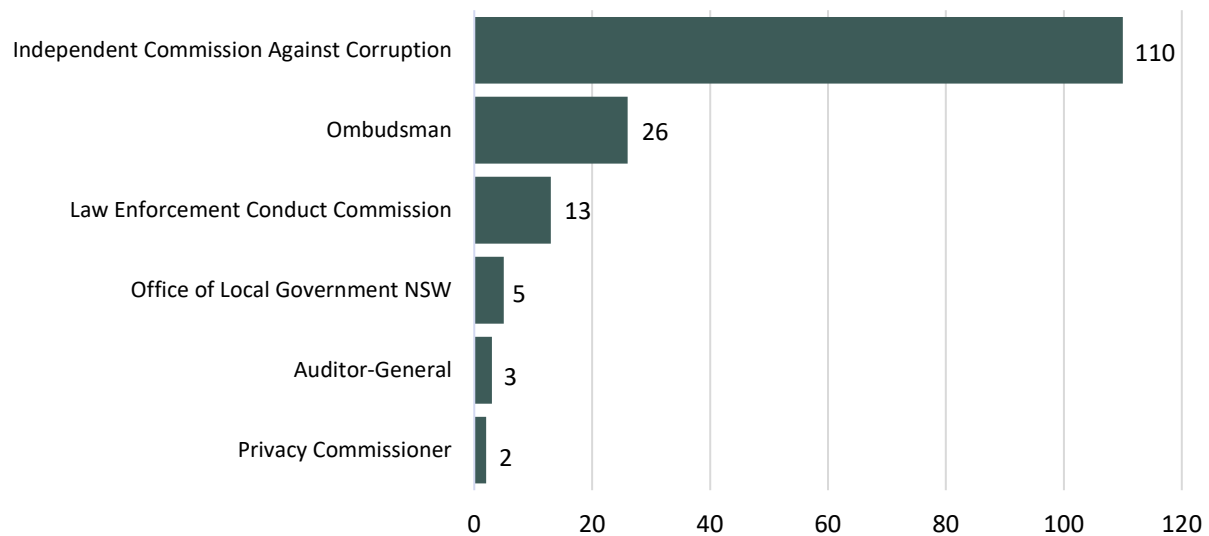
#### Referrals made to an integrity agency

Agencies reported they made 159 referrals to integrity agencies. Of these,

- 110 (69%) referrals were made to ICAC, of which 88 (80%) reported alleged corrupt conduct
- 26 (16%) referrals were made to the Ombudsman, of which 14 (54%) were reports of serious maladministration; all other voluntary PIDs referred to the Ombudsman were reports of corrupt conduct.

In most cases, where voluntary PIDs were referred to an integrity agency they were directed to the integrity agency whose ordinary jurisdiction is the relevant category of serious wrongdoing.

<sup>58</sup> Section 27.

**Figure 21. Referrals made to integrity agencies (n=159)**

Note: A voluntary PID could be referred to more than one integrity agency

### Voluntary PIDs received from another agency

Agencies reported that they received 180 (14%) voluntary PIDs by way of referral from another agency. 118 (66%) of these referred voluntary PIDs were received from an integrity agency.

**Table 8. Voluntary PIDs referred from another agency (n=180)**

Agencies that referred voluntary PIDs to another agency are listed below by agency type

Referring agency by type	2023-24
Integrity agency	118 (66%)
Local government authority	29 (16%)
Public service agency	19 (11%)
NSW Health Service	6 (3%)
Statutory body representing the crown	4 (2%)
Parliamentary Departments	1 (<1%)
NSW Police Force	1 (<1%)
Local Aboriginal Land Council	1 (<1%)
Public authority which can be investigated or audited by an integrity agency	1 (<1%)

## Purported PIDs that were not in fact PIDs

A purported PID is a disclosure that is:

- made in compliance with section 27 [report made to a permissible recipient of a PID under the Act]; and
- not a mandatory PID or a witness PID, and
- stated by the maker of the disclosure to be a PID, whether or not it is in fact a PID.

Through our engagement with agencies preparing their annual return, we have identified that there is some confusion around what a purported PID is. This may have impacted on the accuracy of the data received in the annual returns.

An agency is required to include the following information about purported PIDs that were not in fact PIDs in their annual return:

- the number of the purported disclosures received by the agency during the return period
- the number of the purported disclosures that were made by public officials
- the reasons the agency did not deal with, or ceased dealing with, each of the purported disclosures as a public interest disclosure.

Agencies reported receiving a total of 162 purported PIDs that were not in fact PIDs. 124 (77%) were made by public officials and 38 (23%) by individuals who were not public officials.

Reasons provided for not dealing with the disclosure as a PID included:

- the disclosure was not made by a public official (14 matters)
- the disclosure was not a report of serious wrongdoing (94 matters)

**Table 9. Reasons for NOT dealing with purported PIDs as a voluntary PID**

Reason for NOT dealing with purported PIDs as PID disclosure	Number of purported PIDs
Not made by a public official	14
Not a report of serious wrongdoing	94
Other reasons	54

We asked agencies that reported ‘other reasons’ to provide more detail as to why they did not deal with, or ceased to deal with, a purported PID as a PID. In relation to 16 (30%) reports, agencies told us that the disclosure did not have the requisite features of a PID. Other responses given included:

- the matter was referred to, or dealt through, another internal process (e.g. by human resources)
- the matter was an employment grievance
- the matter was related to staff misconduct.

13 agencies did not provide further reasons. In 2 cases the agency (both LALCs) told us that the reason for their failure to deal with the purported PID as a PID was that the CEO was new to the role. Some of the responses indicate a poor understanding of the Act. For example, the Act provides that an individual employee grievance relating only to that employee and with no implications beyond those personally affecting them, is *not* a PID.<sup>59</sup> However, apart from that exclusion, the fact that a matter may be dealt with as a ‘human resources’ or ‘staff misconduct’ issue does not mean that it may not also be a PID.

<sup>59</sup> Section 26(3)(a).

# Part 6

## Failure to provide annual return

## Agencies that failed to provide annual return

The Act requires us to include in this report information about any agencies that failed to provide the Ombudsman with an annual return within the period specified by the Act.<sup>60</sup>

### Failure to submit an annual return

Of the 1,276 identified agencies, 34 agencies have not provided us with an annual return (< 3%). All 34 of these agencies were LALCs (84 LALCs did provide us with an annual return). A list of the 34 agencies that did not provide an annual return is available in Appendix B to this report.

Through our engagement with the Aboriginal Land Council network, it is apparent that there are challenges for some LALCs to fulfil their governance and statutory obligations given their size and resourcing. We have established a specialised engagement team within the PID Unit which engages specifically with LALCs to raise their awareness and understanding of the Act, deliver training and provide contextualised resources. We will continue to engage with LALCs to ensure that they are supported to fulfil their reporting obligations.

### Extensions to submit an annual return

Agencies must provide an annual return to the Ombudsman in relation to the return period, within 30 days of 30 June.<sup>61</sup> The Ombudsman can approve for the annual return to be provided at a later time. 82% of agencies requested an extension to provide their annual return.

**Table 10. Number of agencies that requested extension to submit their 2023-24 annual return**

Agency group	Number of extensions
Agencies (general cohort)	339
Statutory Land Managers	564
Common Trusts	115
<b>Total</b>	<b>1018</b>

### Failure to submit annual return on time (with or without extension)

One agency<sup>62</sup> submitted the annual return outside of the prescribed period due to it only recently becoming aware that it is considered an 'agency' under the Act.

686 other agencies provided their annual return after the due date for submission.<sup>63</sup> Apart from 7 agencies (listed in Appendix B) these 686 agencies were:

- All 564 SLMs
- All 115 CTs

<sup>60</sup> Section 76(1)(e).

<sup>61</sup> Section 78(1).

<sup>62</sup> Albury Base Hospital.

<sup>63</sup> All of these agencies requested and were granted an extension of time, but did not provide the return within that extended timeframe.

# Appendices

## Appendix A

### **‘Public service agencies’ (during the reporting period)**

Aboriginal Languages Trust  
Art Gallery of NSW Trust  
Australian Museum  
City West Housing  
Crown Solicitor's Office  
Dams Safety NSW  
Department of Climate Change, Energy, the Environment and Water  
Department of Communities and Justice  
Department of Customer Service  
Department of Education  
Department of Enterprise, Investment and Trade  
Department of Planning, Housing and Infrastructure  
Department of Regional NSW  
Department of Transport  
Destination NSW  
Fire and Rescue NSW  
Health Professional Councils Authority  
Independent Liquor and Gaming Authority  
Independent Pricing and Regulatory Tribunal  
Infrastructure NSW (iNSW)  
Land and Housing Corporation  
Legal Aid NSW  
Library Council of NSW  
Local Land Services  
Long Service Corporation  
Museum of Applied Arts and Sciences (Powerhouse Museum)  
Museums of History NSW  
Natural Resources Commission  
NSW Electoral Commission  
NSW Government Telecommunications Authority  
NSW Reconstruction Authority  
NSW Skills Board  
NSW Treasury  
NSW Trustee and Guardian  
Office of Sport  
Office of the Independent Review Office  
Office of the NSW Rural Fire Service  
Office of the Registrar Aboriginal Land Rights Act 1983 (NSW)



Parliamentary Counsel's Office  
Premier's Department  
Public Service Commission  
Service NSW  
State Library of NSW Foundation  
State Sporting Venues Authority  
Sydney Ferries  
Sydney Metro  
Sydney Opera House Trust  
Sydney Trains  
TAFE Commission Board  
TAFE NSW  
Teachers Housing Authority  
The Cabinet Office  
Venues NSW  
Western Sydney Parklands Trust

## Appendix B

### Agencies that failed to submit an annual return in 2023-24

Amaroo Local Aboriginal Land Council  
Armidale Local Aboriginal Land Council  
Baryulgil Square Local Aboriginal Land Council  
Birrigan Gargle Local Aboriginal Land Council  
Bogal Local Aboriginal Land Council  
Bowraville Local Aboriginal Land Council  
Cobar Local Aboriginal Land Council  
Cobowra Local Aboriginal Land Council  
Coffs Harbour Local Aboriginal Land Council  
Collarenebri Local Aboriginal Land Council  
Cummeragunja Local Aboriginal Land Council  
Forster Local Aboriginal Land Council  
Glen Innes Local Aboriginal Land Council  
Goodooga Local Aboriginal Land Council  
Gugin Gudduba Local Aboriginal Land Council  
Jana Ngalee Local Aboriginal Land Council  
Karuah Local Aboriginal Land Council  
Leeton and District Local Aboriginal Land Council  
Lightning Ridge Local Aboriginal Land Council  
Moombahlene Local Aboriginal Land Council  
Narrabri Local Aboriginal Land Council  
Narromine Local Aboriginal Land Council  
Purfleet/Taree Local Aboriginal Land Council  
Tharawal Local Aboriginal Land Council  
Thungutti Local Aboriginal Land Council  
Trangie Local Aboriginal Land Council  
Tweed/Byron Local Aboriginal Land Council  
Walgett Local Aboriginal Land Council  
Warren Macquarie Local Aboriginal Land Council  
Wee Waa Local Aboriginal Land Council  
Weilmoringle Local Aboriginal Land Council  
Weilwan Local Aboriginal Land Council

Wellington Local Aboriginal Land Council

Wilcannia Local Aboriginal Land Council

**Agencies that submitted their 2023-24 annual return outside of time**

Coonamble Local Aboriginal Land Council

Jubullum Local Aboriginal Land Council

Land and Housing Corporation

Merrimans Local Aboriginal Land Council

Teachers Housing Authority

Walhallow Local Aboriginal Land Council

Worimi Local Aboriginal Land Council

## **Public Interest Disclosures**

NSW Ombudsman  
Level 24, 580 George Street  
Sydney NSW 2000

General enquiries: 02 9286 1000  
Toll free (outside Sydney Metro Area,  
NSW only): 1800 451 524  
National Relay Service: 133 677

Email: [pidadvice@ombo.nsw.gov.au](mailto:pidadvice@ombo.nsw.gov.au)

[www.ombo.nsw.gov.au](http://www.ombo.nsw.gov.au)