

## **INQUIRY INTO PROTECTION OF PUBLIC SECTOR WHISTLEBLOWER EMPLOYEES**

**Organisation:** Department of Education and Training  
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**Position:** Director General  
**Telephone:**  
**Date received:** 25/11/2008

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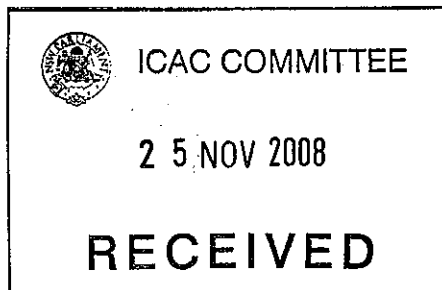
**DIRECTOR-GENERAL OF EDUCATION AND TRAINING  
MANAGING DIRECTOR OF TAFE NSW**

**NEW SOUTH WALES  
DEPARTMENT  
OF EDUCATION  
AND TRAINING**



Early Childhood and Primary Education  
Secondary Education  
Technical and Further Education  
Vocational Education and Training  
Higher Education  
Adult and Community Education

Mr Frank Terenzini MP  
Chair  
Committee on the Independent Commission  
Against Corruption  
Parliament House  
Macquarie Street  
SYDNEY NSW 2000



DGL 08/2386

Dear Mr Terenzini

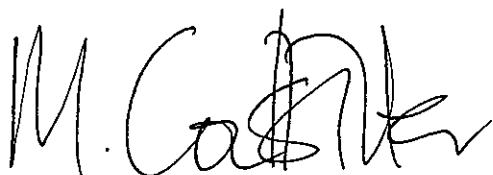
I write in response to your letter regarding the Committee on the Independent Commission Against Corruption's inquiry into the protection of public sector whistleblowers.

I have attached the Department of Education and Training's internal reporting policy for managing protected disclosures and the more detailed procedures. I have also attached a brochure outlining the Department's complainant and witness support program for protected disclosures.

A submission including trends and costing is also attached for the Committee's consideration.

Ms Jane Thorpe, Director, Employee Performance and Conduct and Mr Grant Marley, Senior Manager, Serious Misconduct Investigation Team will appear before the Committee on 1 December 2008 at 10.00 am.

Yours sincerely



Michael Coutts-Trotter  
**DIRECTOR-GENERAL OF EDUCATION AND TRAINING  
MANAGING DIRECTOR OF TAFE NSW**

25 November 2008

**PARLIAMENT OF NSW  
COMMITTEE ON THE INDEPENDENT COMMISSION AGAINST CORRUPTION**

**Inquiry into the protection of public whistleblower employees**

**Submission by the NSW Department of Education and Training**

As an extremely large employer engaging over 130,000 permanent and casual employees it is imperative that the Department of Education and Training and NSW Technical and Further Education ensures all staff are encouraged to adopt the highest degree of ethical standards.

The Department has developed policy and procedures which outline the process by which staff can make protected disclosures internally. These procedures provide for centralised oversight so that matters can be externally reported and internally monitored. A copy of the Department's Protected Disclosure – Internal Reporting Policy and Procedures is provided at Tab A.

The Department's Code of Conduct outlines the expectations of staff and encourages staff to report corrupt conduct, maladministration or serious and substantial waste. The disclosure support system adopted by the Department provides alternative opportunities for staff to make reports should they not be comfortable making a disclosure locally.

**Numbers of protected disclosures**

The table below provides an overview of the number of investigations into serious misconduct undertaken by the Department over the past five financial years and the number of protected disclosures received during the same periods.

<b>Financial Year</b>	<b>No. of investigations of serious misconduct</b>	<b>No. of Protected Disclosures</b>	<b>% of Protected Disclosures of investigations</b>
<b>2003-04</b>	<b>107</b>	<b>33</b>	<b>30.8%</b>
<b>2004-05</b>	<b>89</b>	<b>27</b>	<b>30.3%</b>
<b>2005-06</b>	<b>102</b>	<b>26</b>	<b>25.5%</b>
<b>2006-07</b>	<b>126</b>	<b>26</b>	<b>20.6%</b>
<b>2007-08</b>	<b>84</b>	<b>25</b>	<b>29.8%</b>

**Decentralised reporting and centralised coordination**

The Department's Protected Disclosure – Internal Reporting Procedures establish a network of Nominated Disclosure Officers (NDOs) across all areas of the Department (Tab B).

The high number of NDOs recognises the breadth of the Department's activities both professionally and geographically. The spread of NDOs provides staff with a number of alternative reporting channels through which they can make a protected disclosure.

The Procedures set out the responsibilities of NDOs in dealing with disclosures. One of the critical functions of the NDO is to forward the disclosure to the Department's Disclosure Coordinator (Senior Manager, Serious Misconduct Investigation Team) so that it can be assessed and appropriate action determined.

### **Role of the Disclosure Coordinator**

The Disclosure Coordinator provides a centralised oversight of complaints that are deemed to be protected disclosures. This aims for consistent assessment and decision making in determining how protected disclosures are managed.

The Coordinator assesses matters to establish whether they meet the criteria of a protected disclosure and consults with NDOs to assist them in the receipt and management of protected disclosures.

As part of the assessment process the Disclosure Coordinator will determine if the matter satisfies the criteria for a protected disclosure and, if so, the appropriate course of action.

In general, protected disclosures are investigated by the Department's Serious Misconduct Investigation Team within the Employee Performance and Conduct Directorate. Disclosures which are of a less serious nature may be undertaken locally under the oversight of the Serious Misconduct Investigation Team.

### **How staff who make a protected disclosure are supported**

In making an assessment as to whether a matter is a protected disclosure the Disclosure Coordinator will contact the staff member making the disclosure (where their identity is known) to discuss the matter and ensure they understand the implications of making a protected disclosure, associated confidentiality issues and the protection offered.

If the matter is determined to be a protected disclosure the staff member making the disclosure is advised in writing that it has been assessed as being a protected disclosure and is to be investigated and by whom. This formal notification is accompanied by an information sheet providing further information about protected disclosures (Tab C) and a pamphlet providing information about the Department's Protected Disclosures Complainant and Witness Support Program (Tab D).

The Complainant and Witness Support Program is designed to support staff who make protected disclosures or who are witnesses in these matters. Support program advisers provide advice and support about process and can make representations on their behalf if necessary.

This Program is located in the Department's Human Resources area and is therefore discrete from the investigative area.

The centralised coordination provides staff making a protected disclosure with another point of contact should they wish to discuss their disclosure. The investigating officer is available for staff making a protected disclosure to provide advice and assistance throughout the investigation. At the conclusion of the

investigation the person making the protected disclosure will also be advised about the outcome.

Anecdotal evidence is that very few disclosants use the Complainant and Witness Support Program despite being provided with details of its availability. This is a resource which could be more actively pursued and used.

### **Anonymous disclosures**

Notifications of inappropriate conduct are able to be made anonymously. The Department considers all notifications, irrespective of whether the person making the disclosure is known or not.

While an anonymous disclosure may be able to be investigated, not knowing who made the disclosure often leads to difficulty in clarifying allegations and establishing detail of the alleged wrongdoing.

It is also difficult for protections to be provided to an unknown person. Often the Department receives referrals of notifications of a protected disclosure from the Independent Commission Against Corruption (ICAC). Generally if the complaint is assessed to constitute a protected disclosure, ICAC will withhold the identity of the person making the disclosure, even though it is known to them. This practice can limit a response to a disclosure and also minimises the opportunity the Department has of offering protection as provided by the legislation, as it is unclear who is protected.

It is appreciated that should ICAC elect to investigate a matter, it may be appropriate for it to maintain the confidentiality of the identity of the person making the disclosure. However, if ICAC refers the matter to the Department for investigation it is considered that it would be beneficial to both the Department and the staff member making the disclosure if the staff member's identity could be provided. This enables the Department to ensure the protections of the legislation are able to be offered and applied, as well as enhancing investigation options by clarifying allegations and information.

### **Protected disclosure misconceptions**

Protected disclosures specifically relate to behaviour which may involve corrupt conduct, maladministration or serious and substantial waste. On occasion staff make reports of behaviour which fall outside this criteria and expect the protection offered for protected disclosures. These types of cases often involve personal grievances.

It would be beneficial if greater clarity was provided by the legislation and guidelines issued by both the NSW Ombudsman and Independent Commission Against Corruption regarding the types of complaints/disclosures which may be accorded protected disclosure status.

Staff making protected disclosures are often under the misapprehension that their identity will never be released. In consulting with staff about their disclosures, it is made clear that while every effort will be made to provide confidentiality it may be necessary in the interest of natural justice to provide sufficient detail to the person subject to the allegations that will enable the disclosant to be identified. In cases

where this is necessary, the person making the disclosure is consulted prior to this occurring.

There have been occasions where once staff understand that confidentiality is not assured, they have sought to withdraw their disclosure. In these cases a high level of support and consultation is undertaken with them to assist them through the process. In the end, in some cases it has been necessary to accept the disclosure anonymously. In these cases the person who made the disclosure will often be interviewed as a witness, therefore not identifying them as the person who made the disclosure.

### **Response - whether a protected disclosure or not**

The Department must assess all allegations of inappropriate conduct against its staff. A decision about the level of response required to an allegation is determined by the nature of the alleged conduct, the level of information made available in the allegation, the possible options to investigate and risks associated with the matter.

This assessment will occur whether a matter is notified as a protected disclosure or not. Generally, investigations will also be undertaken in a consistent manner irrespective of how the allegations were received.

The difference between those matters which are notified as protected disclosures and those which are not is the relationship with the staff member making the disclosure. Consequently, while there are additional responsibilities in managing and supporting a protected disclosure, these additional activities are a relatively small proportion of the work involved in responding to and investigating the allegations.

### **Cost of managing protected disclosures**

While investigations, initiated by a protected disclosure or otherwise, generally follow a standard approach, the time taken and resources dedicated to each investigation will vary from case to case. Consequently, it is only possible to estimate the average cost of investigations retrospectively.

It is also important to note that the decision to investigate a matter is not dependent upon how the disclosure was received. Each disclosure is considered to determine whether the information provided is sufficient to warrant investigation. Should an investigation be undertaken based on a protected disclosure, there are additional administrative requirements in managing the investigation as well as resources dedicated to working with and supporting the person who made the disclosure. These additional requirements are often a minor resourcing aspect of the investigation, but again the level of resources dedicated to managing the protected disclosure will vary from case to case.

It is estimated that the average cost of conducting an investigation of serious misconduct during the 2007-08 financial year was \$6,526, irrespective of whether it was initiated by a protected disclosure or otherwise.

In the 2007-08 financial year the Department investigated 25 protected disclosures. Based on the estimated average cost of an investigation, the cost of investigating these protected disclosures was \$163,150.

Additional costs associated with administering protected disclosures would have also been incurred. The cost in each investigation would vary depending on the nature of the disclosure and the extent of investigation required.

Cases where the disclosant alleges detrimental action will clearly incur additional costs.

### **Oversight by external agencies**

The Department provides a quarterly report to the Independent Commission Against Corruption (ICAC) notifying all identified cases of alleged corrupt conduct, maladministration or serious waste. The report also provides progress reports for all matters previously notified and advises ICAC of the outcomes of investigations.

As all matters which meet the criteria of a protected disclosure are required to be notified, the Commission is aware of all protected disclosures and the Department's response. The opportunity is therefore available for the Commission to review these matters and seek information about individual cases if required.

The NSW Ombudsman also plays a role in oversight of the Department's protected disclosures. Staff are able to refer a complaint to the NSW Ombudsman if they believe that their concerns will not be investigated, the investigation is not completed within 6 months or no recommendations were made for action despite an investigation.

The role of these external agencies ensures an alternative avenue for staff to seek redress in relation to protected disclosures. These oversight roles are currently applied without the administrative burden experienced in other Department functions under the oversight of external agencies.

If the Parliamentary Committee was of a view to enhance the monitoring of whether complaints should have been assessed to constitute protected disclosures, it should give consideration to providing one of the current oversight agencies with the power to audit agencies' investigations in a similar way to which the NSW Ombudsman currently audits child protection investigations.

The Department does not consider it necessary to establish a further oversight agency or function. This would increase the red tape and administrative burdens already placed upon public sector agencies in NSW when undertaking investigations of misconduct.

### **Summary of issues**

This submission provides an overview of the important aspects of administering protected disclosures and the issues arising for the Department in doing so. These issues are summarised as follows:

1. The limited capacity to provide protection to staff members who make anonymous disclosures, especially in cases where their identity is known to the Independent Commission Against Corruption, but not provided to the investigating Department.

2. The need for greater clarity in relation to protected disclosures not being an avenue to resolve personal grievances.
3. The need for greater clarity in relation to protected disclosure status not being a guarantee of confidentiality of the identity of the person making the disclosure.
4. The costs associated with administering protected disclosures is minimal in relation to the costs associated with investigations given complaints received as protected disclosures would, in all likelihood, result in an investigation, irrespective of the manner in which the notification was received.
5. Current oversight capacity of the Independent Commission Against Corruption and NSW Ombudsman ensures appropriate application of the legislation. Additional oversight of protected disclosures may establish onerous administrative and reporting tasks for agencies, leading to resources being distracted from investigations and support to disclosants.

## **Protected Disclosures - Internal Reporting Policy**

✓ Describes an internal reporting system for disclosing suspected corruption, maladministration or serious and substantial waste that complements normal communication channels between supervisors and staff.

### **1. Objectives - Policy statement**

#### **1.1**

A Protected Disclosure is an allegation of corruption, maladministration or serious and substantial waste, made by a public official and about a public official.

#### **1.2**

An allegation relating to one or more of the above must be made to a Nominated Disclosure Officer who, if the complaint is accepted as meeting the necessary criteria, will ensure that the name of the complainant is kept confidential where possible and that they are protected from any detrimental action as a result of having made such an allegation.

#### **1.3**

Any allegation received by a Nominated Disclosure Officer must be treated in accordance with the provisions of this policy.

### **2. Audience and applicability**

#### **2.1**

The internal reporting system is for the guidance of all public officials who wish to make an allegation of corruption, maladministration or serious and substantial waste within the Department. It is also for the guidance of staff within the Department who are nominated to receive protected disclosures.

### **3. Context**

#### **3.1**

Protected Disclosure Act 1994: An Act to provide protection for public officials disclosing corrupt conduct, maladministration and waste in the public sector; and for related purposes.

#### **3.2**

#### **Document history and details**

### **4. Responsibilities and delegations**

#### **4.1**

#### **Employees**

##### **4.1.1**

All DET employees are encouraged to report known or suspected incidents of corrupt conduct, maladministration and/or serious and substantial waste within the Department.

## **4.2**

### **Nominated Disclosure Officers**

#### **4.2.1**

Are to ensure the allegations are assessed and treated in the manner determined by this policy, whether or not the complainant has requested protected status.

## **4.3**

### **Protected Disclosures Co-ordinator (Senior Manager, Serious Misconduct Investigation Team, Employee Performance and Conduct Directorate)**

#### **4.3.1**

Is to ensure that there is compliance with the provisions of this policy

## **4.4**

### **Director, Employee Performance and Conduct**

#### **4.4.1**

Is to ensure that there is compliance with the provisions of this policy and to report actual or suspected corrupt conduct to the DG/MD.

## **4.5**

### **Director General/Managing Director**

#### **4.5.1**

Is obligated to report actual or suspected corrupt conduct to the Independent Commission Against Corruption (ICAC:under s.11 of the ICAC Act.)

## **5. Monitoring, evaluation and reporting requirements**

### **5.1**

The Senior Manager, Serious Misconduct Investigation Team, Employee Performance and Conduct Directorate, (as Protected Disclosure Co-ordinator) is responsible for monitoring the implementation of this policy and will report quarterly to the Department's Investigations Committee and to the ICAC and annually to the Board of Management.

## **6. Contact**

Senior Manager, Serious Misconduct Investigation Team, Employee Performance and Conduct Directorate, (02) 9244 5203



**PROTECTED DISCLOSURES -  
INTERNAL REPORTING PROCEDURES  
2005**

Department of Education and Training (DET)  
Employee Performance and Conduct Directorate  
Phone: (02) 9244 5203

PD/2002/0019/v002

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## 1. Definitions

**Complainant** - a person lodging a complaint or allegation

**Corrupt conduct** (corruption) - includes:

- any conduct of any person (whether or not a public official) that adversely affects, or that could adversely affect, either directly or indirectly, the honest or impartial exercise of official functions by a public official, any group or body of public officials, or any public authority,
- any conduct of a public official that constitutes or involves the dishonest or partial exercise of any of his or her official functions,
- any conduct of a public official or former public official that constitutes or involves a breach of public trust (which includes reportable conduct by a staff member in relation to a student or students),
- any conduct of a public official or former public official that involves the misuse of information or material that he or she has acquired in the course of his or her official functions, whether or not for his or her benefit or for the benefit of any other person, and
- serious maladministration.

To be corrupt conduct the behaviour must be sufficiently serious to constitute a disciplinary offence or a criminal offence or grounds for dismissal.

**Detrimental action** - action causing, comprising or involving any of the following:

- injury, damage or loss;
- intimidation or harassment;
- discrimination, disadvantage or adverse treatment in relation to employment;
- dismissal from, or prejudice in, employment; or
- disciplinary proceeding.

**Investigating authority** – means the Independent Commission Against Corruption (ICAC), the NSW Ombudsman or the Auditor General of NSW.

**Maladministration** - action or inaction of a serious nature that is contrary to law; unreasonable, unjust, oppressive or improperly discriminatory; or based wholly or partly on improper motives.

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**Nominated Disclosure Officer (NDO)** - position nominated by DET whose incumbent can receive disclosures from staff which may be protected disclosures and forward them to the Disclosures Co-ordinator (Senior Manager, Serious Misconduct Investigation Team, Employee Performance and Conduct Directorate) or, in the case of Child Protection matters to the Director, Employee Performance and Conduct.

**Protected disclosure** - an allegation of corruption, maladministration or serious and substantial waste, by a public official, about a public official, to a Nominated Disclosure Officer or other specified person, made in accordance with the *Protected Disclosures Act 1994*.

**Public official** - staff of a state government department or agency (including part time or casual staff), staff of a local government authority, an employee of a state owned corporation or a subsidiary of a state owned corporation, a person having a public official function or acting in a public official capacity for the state.

**Respondent** – (also known as an alleged offender) the person who is the subject of an allegation or other concern about suspected corrupt conduct, maladministration or serious and substantial waste

**Serious and substantial waste** - uneconomical, inefficient or ineffective use of resources (authorised or unauthorised) which results in significant loss or wastage of public funds or resources. In this context the loss or waste is “significant” if it is material in terms of the total budget, or exceeds \$500 000, or indicates systemic weakness.

## **2. Principles for the management of protected disclosures**

### **2.1 Confidentiality is to be maintained as far as possible**

2.1.1 All necessary and reasonable steps are to be taken to ensure that the identity of persons who make disclosures, or who are the subject of disclosures, are kept confidential.

2.1.2 Steps must be taken to limit knowledge of the matter and the identities of those involved to those who have an immediate need to know, namely:

- the person to whom the matter is being reported;
- the person(s) undertaking the investigation; and
- those who receive reports as part of their duty to undertake or monitor corrective action.

2.1.3 No guarantees of confidentiality are possible (because the identity of the complainant may need to be revealed to the respondent to enable the effective investigation of the matter, or to enable procedural fairness during later disciplinary or legal action).

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- 2.1.4 See section 8.3 of these procedures for confidentiality arrangements covering protected disclosures.
- 2.2 All protected disclosures and suspected corrupt conduct are to be reported promptly to the Senior Manager, Serious Misconduct Investigation Team, Employee Performance and Conduct Directorate.**
- 2.2.1 All protected disclosures and all cases of suspected corrupt conduct must be reported promptly to the Senior Manager, Serious Misconduct Investigation Team, Employee Performance and Conduct Directorate by the Nominated Disclosure Officer who receives the disclosure (except if it is a child protection matter involving reportable conduct by a staff member – see below).
- 2.2.2 The Employee Performance and Conduct Directorate will assess the need for investigation (see 2.3), advise on the most appropriate investigators, monitor the investigation and, in some cases, undertake the investigation.
- 2.2.3 The Director, Employee Performance and Conduct is responsible for maintaining data on cases of suspected corruption, maladministration or serious and substantial waste to enable the Director-General/Managing Director to regularly report to the Independent Commission Against Corruption (ICAC) all cases where it is suspected that corrupt conduct has occurred.
- 2.2.4 Instances of reportable conduct by a staff member in relation to students are to be reported to the Employee Performance and Conduct Directorate, which separately reports child protection matters to the ICAC and to the Ombudsman.
- 2.3 The matter is to be properly acted on**
- 2.3.1 Section 5.3 b ii of these procedures sets out a number of options for action ranging from no action to referral to the police. What is appropriate action will depend on a number of factors including the seriousness of the matter and what previous investigation or review has occurred.
- 2.3.2 Depending on the nature of the allegation, the decisions about what action is taken, if an investigation is required and who investigates the matter, are made by the Director, Employee Performance and Conduct.
- 2.4 Steps are to be taken to minimise the risk of reprisals against complainants**
- 2.4.1 Steps to be taken include:
- educating all staff that the Department does not tolerate corruption, maladministration or serious and substantial waste and supports the making of disclosures;

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- investigating anonymous allegations where this is feasible;
  - educating all staff that a person shown to have taken reprisal action against an officer for making a disclosure will be guilty of a breach of discipline and also will be guilty of an offence under the *Protected Disclosures Act* which may be punishable by imprisonment;
  - advising complainants of their rights;
  - encouraging complainants to refrain from telling others (who are not involved) that they have made a disclosure;
  - reminding those who are aware that a disclosure has been made of the need to support and protect the complainant(s);
  - discouraging those who speculate on the identity of the complainant(s) (whether or not the complaint was anonymous);
  - providing positive support to complainants who need special arrangements to protect their confidentiality or well being (see section 9); and
  - reporting detrimental action that is suspected to have occurred as a reprisal for making a disclosure, to the Disclosures Co-ordinator (Senior Manager, Serious Misconduct Investigation Team, Employee Performance and Conduct Directorate) so that appropriate action can be taken.

### 3. Making a disclosure under the *Protected Disclosures Act*

3.1 A disclosure will be a protected disclosure under the *Protected Disclosures Act 1994* if all of the following criteria are satisfied.

1. The disclosure is about the conduct of public official or a person who was a public official at the time of the conduct complained of.
2. The disclosure is made by a public official or a person who was a public official at the time of the disclosure.
3. The disclosure is made to one of the following:
  - a Nominated Disclosure Officer (see Appendix A for full list); or
  - the Disclosures Co-ordinator (Senior Manager, Serious Misconduct Investigation Team, Employee Performance and Conduct Directorate); or
  - the Director-General of Education and Training and Managing Director of TAFE NSW (DG/MD); or
  - ICAC (in the case of alleged corrupt conduct); or
  - Audit Office (in the case of alleged serious and substantial waste); or

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- NSW Ombudsman's Office (in the case of alleged maladministration); or
  - the Police Integrity Commission.
4. The disclosure is made voluntarily, that is, not in the exercise of a duty imposed by another Act. Staff making mandatory notifications to the Department of Community Services under the *Children and Young Persons (Care and Protection) Act 1998* are not acting voluntarily and are therefore such notifications are not covered by the *Protected Disclosures Act*. However the same disclosure made to the Employee Performance and Conduct Directorate is covered by the *Protected Disclosures Act* if the other criteria are also satisfied.
  5. The disclosure shows or tends to show corruption, maladministration or serious and substantial waste (that is, matters are described which, if they were substantiated, would amount or tend to amount to corruption, maladministration or serious and substantial waste as defined above).
  6. The disclosure is NOT made frivolously or vexatiously in the opinion of the DG/MD or an investigating authority (ie ICAC, Auditor General, NSW Ombudsman or the Police Integrity Commission).
  7. The disclosure does not principally involve questioning the merits of government policy.
  8. The disclosure was not made solely or substantially with the motive of avoiding dismissal or other disciplinary action (except if the disciplinary action was taken in reprisal for the making of a protected disclosure).
- 3.2 It is not necessary for a person making a disclosure to be aware of the *Protected Disclosures Act* or to identify their complaint or allegation as a protected disclosure.
  - 3.3 It is not necessary for the disclosure to be in writing; oral disclosures are possible.
  - 3.4 It is not necessary for the disclosure to be signed. Anonymous allegations can be treated as a protected disclosure where it is apparent that they have been made by a staff member. However the investigation of anonymous allegations is usually more difficult, and feedback cannot be provided to the complainant.
  - 3.5 Information for complainants is summarised in Appendix B.

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#### **4. Penalties for false or misleading disclosures**

- 4.1 False or misleading disclosures, wilfully made, can incur penalties under the *Protected Disclosures Act* including fines and up to 12 months imprisonment or both. The Department may also take disciplinary action in such cases.

#### **5. Roles and responsibilities under the Protected Disclosures Act**

These procedures place responsibilities upon staff at all levels within the Department.

##### **5.1 Employees**

- 5.1.1 Employees are encouraged to report known or suspected incidents of corrupt conduct, maladministration or serious and substantial waste in accordance with these procedures.
- 5.1.2 All employees of the Department have an important role to play in supporting those who have made legitimate disclosures. They must abstain from any activity that is or could be perceived to be victimisation or harassment of persons who make disclosures. Further, they should protect the confidentiality of persons they know or suspect to have made a disclosure.
- 5.1.3 Line supervisors (such as school principals and TAFE institute managers) should also assist a person to report to a Nominated Disclosure Officer where the matter shows or tends to show corruption, maladministration or serious and substantial waste and protection is warranted but would otherwise not be provided. Note that it is the person who reports to the Nominated Disclosure Officer who obtains the protection, therefore a person cannot gain protection if a matter is reported on their behalf.

##### **5.2 Nominated Disclosure Officers**

- 5.2.1 Nominated Disclosure Officers (listed in Appendix A) are responsible for receiving, forwarding and acting upon disclosures in accordance with these procedures and the procedures contained in *Responding to Suggestions, Complaints and Allegations*. Nominated Disclosure Officers are required to:
- a) acknowledge the disclosure in writing (preferably within 5 working days) and explain to persons making disclosures what action they will take (eg referral to the Disclosures Co-ordinator);

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- b) when requested, make arrangements to ensure that disclosures can be made privately and discreetly (if necessary away from the workplace);
  - c) prepare a written version of any disclosure received orally (and have the person making the disclosure sign the document where possible);
  - d) deal with disclosures impartially;
  - e) treat the complainant and any respondent fairly, and ensure that any real or perceived conflict of interest is properly managed;
  - f) ensure that all relevant correspondence is marked confidential and that staff preparing, sending or receiving such correspondence are aware of their responsibility to maintain confidentiality and to implement high standards of security;
  - g) forward disclosures to the Disclosure Co-ordinator (Senior Manager, Serious Misconduct Investigation Team, Employee Performance and Conduct Directorate) so that its protected disclosure status can be assessed and the appropriate course of action determined;
  - h) assess the risk that the identity of the complainant could become known or detrimental action taken in reprisal, and, in conjunction with the investigator, take all necessary and reasonable steps to ensure that the identity of the complainant is kept confidential and that risks of reprisal are minimised;
  - i) take steps to protect the privacy of any respondent(s);
  - j) advise the complainant of the Complainant and Witness Support Program (see section 9) or the support available to complainants and witnesses through the Employee Performance and Conduct Directorate;
  - k) receive the investigation report if they are the appropriate line manager, consider the recommendations and implement or refer recommendations as appropriate;
  - l) if they are the appropriate line manager to receive the investigation report, advise the complainant of the action taken and the final outcome when it is known;
  - m) if the outcome is not known within 6 months after the disclosure was made, then, prior to the 6 month point and in conjunction with the investigator, advise the complainant of the action taken or proposed; and

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- n) (where any respondent is aware of the investigation) ensure that there is a process in train to notify the respondent of the final outcome.

### **5.3 Disclosures Co-ordinator (Senior Manager, Serious Misconduct Investigation Team, Employee Performance and Conduct Directorate)**

5.3.1 The Disclosures Co-ordinator has a pivotal position in the internal reporting system and acts as a clearing house for disclosures. The Disclosures Co-ordinator is required to:

- a) provide staff with an alternative reporting channel which they can use if they do not wish to report to their line management and, when this occurs, perform the role of the Nominated Disclosure Officer;
- b) impartially assess each disclosure to determine:
  - i) whether the disclosure appears to be a protected disclosure within the meaning of the Act; and
  - ii) the appropriate action to be taken in relation to the disclosure, for example:
    - preliminary investigation;
    - full investigation;
    - recommendation of disciplinary action;
    - referral to an investigating authority for investigation or other appropriate action;
    - referral to the police (if a criminal matter) or
    - no action.
- c) conduct, assist in or monitor any internal investigation arising out of a disclosure, subject to the direction of the DG/MD;
- d) monitor the implementation of recommended remedial action;
- e) take all necessary and reasonable steps to ensure that the identity of complainants and any respondents are kept confidential;
- f) arrange for investigations to be conducted in ways which support complainants and minimise the risk of reprisal against them;
- g) ensure that complainants are advised of the actions taken and the final outcome when it is known;
- h) (where any respondent is aware of that investigation) ensure that the respondent is notified of the outcome;

- 
- i) report actual or suspected corrupt conduct to the DG/MD in a timely manner to enable the DG/MD to comply with the *Independent Commission Against Corruption Act 1988*; and
  - j) enable the Department's Investigations Committee to monitor the investigation work of the Employee Performance and Conduct Directorate.

#### **5.4 Director, Employee Performance and Conduct**

5.4.1 The Director, Employee Performance and Conduct, co-ordinates the handling of disclosures about child protection matters involving reportable conduct by a staff member. The Director is required to:

- a) perform the role of the Nominated Disclosure Officer when receiving a disclosure directly from the complainant;
- b) impartially assess each disclosure to determine:
  - i) whether the disclosure appears to be a protected disclosure within the meaning of the Act; and
  - ii) the appropriate action to be taken in relation to the disclosure, for example:
    - preliminary investigation;
    - full investigation;
    - recommendation of disciplinary action;
    - referral to an investigating authority for investigation or other appropriate action;
    - referral to the police (if a criminal matter) or
    - no action;
- c) conduct, assist in or monitor any internal investigation arising out of a disclosure, subject to the direction of the DG/MD;
- d) monitor the implementation of recommended remedial action;
- e) take all necessary and reasonable steps to ensure that the identity of complainants and any respondents are kept confidential;
- f) arrange for investigations to be conducted in ways which support complainants and minimise the risk of reprisal against them;
- g) ensure that complainants are advised of the actions taken and the final outcome when it is known;

- 
- h) (where any respondent is aware of that investigation) ensure that the respondent is notified of the outcome;
  - i) report actual or suspected corrupt conduct to the DG/MD in a timely manner to enable the DG/MD to comply with the *Independent Commission Against Corruption Act 1988*; and
  - j) enable the DG/MD to comply with the *Ombudsman Act 1974*.

## **5.5 Director-General/Managing Director (DG/MD)**

### **5.5.1 The Director-General/Managing Director will:**

- a) receive disclosures and refer them to either the Disclosures Coordinator (Senior Manager, Serious Misconduct Investigation Team, Employee Performance and Conduct Directorate) or the Director, Employee Performance and Conduct in relation to child protection matters, as appropriate;
- b) on request, determine whether a disclosure is vexatious or frivolous and therefore not protected;
- c) report actual or suspected corrupt conduct to ICAC (under s.11 of the *Independent Commission Against Corruption Act 1988*).

## **6. Disclosures to journalists and members of Parliament**

### **6.1 The *Protected Disclosures Act* states that disclosures made to a journalist or a member of Parliament will only be protected if the following three conditions are met, namely:**

- a) the person making the disclosure to a journalist or member of Parliament must have already made substantially the same disclosure through the internal reporting system or to an investigating authority (eg ICAC, NSW Ombudsman's Office or Audit Office) in accordance with the Act; and
- b) the person making the disclosure must have reasonable grounds for believing that the disclosure is substantially true and the disclosure must in fact be substantially true; and
- c) the investigating authority, public authority or officer to whom the matter was originally referred has:
  - i) decided not to investigate the matter; or
  - ii) decided to investigate the matter but not completed the investigation within 6 months of the original disclosure; or
  - iii) investigated the matter but not recommended any action in respect of the matter; or

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- iv) failed to notify the person making the disclosure, within 6 months of the disclosure, of whether the matter is to be investigated.

## **7. Rights of respondents**

7.1 The following actions are to be taken in order to protect the rights of respondents. In this regard:

- a) disclosures will be assessed and acted on impartially, fairly and reasonably;
- b) responsible officers who receive disclosures in accordance with these procedures are obliged to:
  - maintain the confidentiality of the identity of respondents as far as possible (see limitations to this in section 8.3);
  - assess disclosures impartially; and
  - act fairly towards respondents;
- c) disclosures will be investigated as discreetly as possible, with a strong emphasis on maintaining confidentiality both as to the identity of complainants and respondents;
- d) where investigations or other inquiries do not substantiate disclosures, the fact that the investigation or inquiries have been carried out, the results of the investigation or inquiries and the identity of the respondent will be kept confidential unless the respondent requests otherwise;
- e) if the matter proceeds to disciplinary or court action which could affect their rights, interests or legitimate expectations, the respondents have the right to:
  - be informed as to the substance of the allegations which have led to the disciplinary or court action;
  - be given a reasonable opportunity to put their case to the persons undertaking the disciplinary or court process;
- f) where the allegations in a disclosure have been investigated, and the respondent is aware of the substance of the allegations, the substance of any adverse comment, or the fact of the investigation, he or she should be formally advised as to the outcome of the investigation, regardless of the outcome;

**7.2 Information for respondents is summarised in Appendix C.**

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## **8. Protection available under the Act to persons making disclosures**

### **8.1 Protection against detrimental action taken in reprisal**

8.1.1 Detrimental action means action causing, comprising or involving any of the following:

- injury, damage or loss;
- intimidation or harassment;
- discrimination, disadvantage or adverse treatment in relation to employment;
- dismissal from, or prejudice in, employment; or
- disciplinary proceeding.

8.1.2 Any member of staff who believes that detrimental action is being taken against them substantially in reprisal for making a disclosure should immediately bring the allegations to the attention of the Disclosures Co-ordinator (Senior Manager, Serious Misconduct Investigation Team, Employee Performance and Conduct Directorate) who will determine appropriate action proportional to the seriousness of the alleged reprisal. This could lead to disciplinary action.

8.1.3 The *Protected Disclosures Act* provides protection by imposing penalties on a person who takes detrimental action against another person substantially in reprisal for a protected disclosure. Penalties under the *Protected Disclosures Act* can be imposed by means of fines and imprisonment.

### **8.2 Protection against actions for defamation or breach of secrecy**

8.2.1 The Act provides that a person is not subject to any liability for making a protected disclosure and no action, claim or demand may be taken or made against the person for making the disclosure. This provision has effect despite any duty of secrecy or confidentiality or any other restriction on disclosure by a public official.

8.2.2 A person who has made a protected disclosure has a defence of absolute privilege in proceedings for defamation.

8.2.3 Note that to gain the above protection, a disclosure must meet all of the requirements set out in section 3 of these procedures (including the requirement that the disclosure is not made frivolously or vexatiously).

8.2.4 Only the disclosure made in accordance with the *Protected Disclosures Act* is protected. If the same disclosure is made to others, then that behaviour is not protected from action for defamation. If a person makes disclosures to others in a manner not in accordance with the *Protected Disclosures Act* and if they are directed not to do so and continue to do so, then they may be subject to disciplinary action.

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### **8.3 Confidentiality**

- 8.3.1 The Act requires investigating authorities, public authorities and public officials to whom protected disclosures are made or referred, not to disclose information that might identify or tend to identify the person who made the disclosures. The exceptions to the confidential requirement are:
- the person consents in writing to the disclosure of that information; or
  - it is essential, having regard to the principles of natural justice that the identifying information be disclosed to the respondent; or
  - disclosure of the identifying information is necessary to investigate the matter effectively; or
  - disclosure is otherwise in the public interest; or
  - disclosure is otherwise required by law.
- 8.3.2 References to the disclosure that might be read by persons other than those involved in conducting the investigation, should not unnecessarily reveal the identity of the complainant.
- 8.3.3 Some people who need to know of the matter do not need to know the identity of the complainant, and care needs to be taken to observe this distinction.
- 8.3.4 To ensure confidentiality, all documents relating to protected disclosures should be stored securely. Access to these documents should be strictly controlled. Their movement and eventual destruction must also be secure.

### **8.4 Freedom of Information (FOI) exemption**

- 8.4.1 Under the *Freedom of Information Act 1989*, a document is exempt from release "if it contains matter the disclosure of which would disclose matters relating to a protected disclosure within the meaning of the *Protected Disclosures Act*" (Schedule 1 s20(d)). This means that documents relating to a protected disclosure are exempt, even where the complainant makes the FOI request.

## **9. Complainant and Witness Support**

- 9.1 The Department has established services for staff who make disclosures under the *Protected Disclosures Act* or who are witnesses in these matters.
- 9.2 Complainants and witnesses in protected disclosures that are being dealt with by the Employee Performance and Conduct Directorate can obtain support from the Senior Counsellors in that Directorate.

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- 9.3 Complainants and witnesses in other protected disclosures can obtain support through the Complainant and Witness Support Program which promotes the welfare and the health and safety at work of these staff.
  - 9.4 A number of support program advisers have been engaged as part of the program. Support program advisers will assist members of staff by providing them with advice and making representations on their behalf regarding issues arising in relation to their working conditions.
  - 9.5 Neither support program advisers, nor the manager of the program, will receive or investigate complaints, steer proceedings or make decisions about matters related to a protected disclosure.
  - 9.6 Services under the Complainant and Witness Support Program are provided on a confidential basis.
  - 9.7 Complainants and witnesses in protected disclosures who wish to seek the assistance of a support program adviser can contact the program manager on 02 9561 8761.

## **10. Notification to the complainant of action taken or proposed**

- 10.1 A complainant must be notified, within six months of the disclosure being made, of the action taken or proposed to be taken in respect of the disclosure.
- 10.2 If a disclosure is made in accordance with these procedures, the Disclosures Co-ordinator is responsible for the notification to the complainant within 6 months, unless this responsibility has been retained by or allocated to another officer.
- 10.3 The notification provided to the complainant should contain sufficient information to demonstrate that adequate and appropriate action was taken, or is proposed to be taken, in respect of the disclosure. The notification should also include a statement of the reasons for the decision made or action taken in response to the disclosure.
- 10.4 The notification should include sufficient information to enable the person who made the disclosure to make an assessment as to whether the circumstances listed in section 19(3)(a)-(c) of the Act (relating to disclosures to members of Parliament and journalists) apply (see section 6).

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## **11. Reporting crimes to the Police**

- 11.1 Alleged corruption, maladministration or waste which involves a criminal offence will also need to be reported to the Police when the responsible manager or director is reasonably certain that the alleged behaviour actually occurred.
- 11.2 Normally it is the responsibility of the manager of the section that has suffered the loss or detriment to report to the Police. In the case of protected disclosures the Disclosures Co-ordinator can provide advice and assistance.
- 11.3 It is itself an offence not to report a serious criminal offence. A serious criminal offence is one which is punishable by imprisonment for five years or more and includes most white collar crimes when committed by public servants.
- 11.4 Legal Services Directorate can provide advice on whether the alleged behaviour is criminal behaviour.
- 11.5 Steps may need to be taken to prevent internal investigative or disciplinary action from interfering with the police investigation.

**NOMINATED DISCLOSURE OFFICERS (NDOS)**

In addition to the Director-General/Managing Director and the Senior Manager, Serious Misconduct Investigation Team, Employee Performance and Conduct Directorate, persons who are authorised to receive protected disclosures are known as Nominated Disclosure Officers. In the Department of Education and Training these are the persons holding, acting or relieving in the following positions:

- All Deputy Directors-General
- All Regional Directors
- All School Education Directors
- Director, School & Regional Policy
- Director, School & Regional Operations
- All General Managers
- All TAFE Institute Directors
- All TAFE Associate Directors
- Executive Director, Strategic Relations and Communications
- Director, Media and Communications
- Chief Information Officer
- Director, National Art School
- Director, Community and Migrant Education
- Director, Safety and Security
- Director, Employee Performance and Conduct
- Duty Officers, Employee Performance and Conduct Directorate
- Director, Legal Services
- Director, Audit
- Manager, Corruption Prevention, Audit & Risk Management Directorate

**NSW Department of Education and Training****PROTECTED DISCLOSURES  
INFORMATION FOR COMPLAINANTS**

The Department does not tolerate corruption, maladministration or serious and substantial waste, and therefore will support those who report it through proper channels.

**Is your complaint a protected disclosure?**

You will gain the protection of the *Protected Disclosures Act 1994* if you meet all of the following requirements:

1. The disclosure is about a public official;
2. You are a public official (eg employee of DET) at the time of the disclosure;
3. You make the disclosure to a Nominated Disclosure Officer (listed in Appendix A of the procedures and including School Education Directors and TAFE Institute Directors) or the Disclosures Co-ordinator (Senior Manager, Serious Misconduct Investigation Team, Employee Performance and Conduct Directorate), the DG/MD, the ICAC (in the case of corruption), the NSW Ombudsman (in the case of maladministration) or the Auditor General (in the case of waste);
4. The disclosure is made voluntarily (ie not in the exercise of a duty imposed by another Act);
5. The disclosure describes behaviour which, if true, would amount to corruption, maladministration or serious and substantial waste as defined in the relevant Acts;
6. The disclosure is not made frivolously or vexatiously;
7. The disclosure does not principally involve questioning the merits of government policy; and
8. The disclosure is not made to avoid dismissal or disciplinary action.

If the disclosure is made to a journalist or member of Parliament, then certain additional conditions apply (see section 6.1 for details).

Staff wilfully making false or misleading disclosures may be disciplined by the Department and can be penalised under the Act.

### **What protection is available to you?**

The protection provided by the Act relates to confidentiality, protection against actions, and reprisals. Details of each of these follow.

Confidentiality means not unnecessarily revealing your identity as the source of the complaint. No guarantees of confidentiality can be given because there will be situations where your identity must be released to the respondent (eg if it is necessary for the investigation of the matter, if it is necessary because of procedural fairness, if it is in the public interest to do so). In addition, you can consent to the release of your identity if confidentiality is not an issue.

If you are seeking confidentiality you should be careful not to tell colleagues of your complaint. The respondent also has rights to privacy and you should not tell colleagues or members of the public about your complaint.

Documents that relate to a protected disclosure are subject to certain exemptions under the Freedom of Information legislation.

Protection against actions means that if you report your disclosure through proper channels, meet the criteria set out in the Act, and it is not known by you to be false or misleading, nor made frivolously or vexatiously, then you will have protection against actions including proceedings for defamation. Note that this protection may not apply to other disclosures if they are not made in accordance with the Act.

Reprisals are detrimental actions taken against a person in reprisal for making a complaint. The Department takes steps to minimise the risk of reprisals but if you believe you are the victim of a reprisal you should notify the Disclosures Co-ordinator (Senior Manager, Serious Misconduct Investigation Team, Employee Performance and Conduct Directorate) so that appropriate action can be taken. This may involve disciplinary action against the person taking the reprisals. The Act imposes penalties such as fines and imprisonment for reprisals.

Support is available through the Employee Performance and Conduct Directorate (02 9266 8070) or in other matters, through the Complainant and Witness Support Program (02 9561 8761). Advice can also be obtained from the Senior Manager, Serious Misconduct Investigation Team, Employee Performance and Conduct Directorate (02 9244 5203).

### **What feedback will you be given?**

If you lodge a protected disclosure you will receive acknowledgment of its receipt and notification of the action to be taken. If the matter is to be investigated, then you will also receive, at a later date, information about the results of that investigation.

### **What if you are dissatisfied with the outcome?**

You can seek more information from the Disclosures Co-ordinator. However you should be aware that as an employer, the Department has an obligation to protect staff, including those about whom you complain, from unjustified harassment. Their privacy rights also need to be observed and you will not be told the details of action taken against them.

If you wish to take further action then you can approach the office of the NSW Ombudsman.

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**NSW Department of Education and Training****PROTECTED DISCLOSURES  
INFORMATION FOR RESPONDENTS**

The Department understands that it may be distressing to be suspected of wrongdoing, particularly if the allegations or concerns are false or exaggerated. However the only way for the Department to prevent and address corruption is to be prepared to investigate concerns raised in allegations or other reports. Investigation is also the only way to establish the truth or falsity of the allegations.

**Who will know about the allegations?**

Those who will have knowledge of the allegation and the identity if the respondent include:

the person who makes the disclosure,  
the person who receives the disclosure,  
the Disclosures Co-ordinator (Senior Manager, Serious Misconduct Investigation Team, Employee Performance and Conduct Directorate) or the Employee Performance and Conduct Directorate,  
those who assess the disclosure (Senior Manager, Serious Misconduct Investigation Team, Employee Performance and Conduct Directorate).

If it is decided that investigation is necessary, then the matter will also be known to one or more investigators, and will appear on a schedule of cases warranting investigation which is distributed to members of the Investigations Committee to which the Employee Performance and Conduct Directorate is accountable, the DG/MD, the Minister, and the ICAC.

The case remains on the schedule of cases until all departmental action is complete. Therefore if the allegations are not substantiated, the schedule will report that fact.

The investigation will also require that the matter be discussed with witnesses and staff who are knowledgeable about the circumstances of the allegation.

**How will the allegations be investigated?**

Disclosures will be assessed and acted on impartially, fairly and reasonably.

Investigations will be conducted as discreetly as possible, with a strong emphasis on maintaining confidentiality.

Investigation reports will be subjected to quality review to ensure that they are thorough, and that conclusions are substantiated.

**Will you be told about the allegations and the investigation?**

It is most likely that you will be interviewed at least once during the investigation. This will probably occur towards the end of the investigation, as proper investigation procedures require that all available evidence is collected before you are interviewed.

Please note that procedural fairness does not require that you be notified of all allegations during an investigation nor does it require that you be notified of an investigation (eg if it quickly disproves the allegations). This provides protection for you against allegations and investigations being used to harass you.

If the matter proceeds to disciplinary or court action that could affect your rights, interests or legitimate expectations, then procedural fairness gives you the right to:

- be informed as to the substance of the allegations that have led to the disciplinary or court action
- be given a reasonable opportunity to put your case to the person undertaking the disciplinary or court action.

Where the allegations in a disclosure have been investigated, and you are aware of the substance of the allegations, the substance of any adverse comment, or the fact of the investigation, you should be formally advised as to the outcome of the investigation.

### **What should you do if you are the subject of a disclosure?**

If you are invited to be interviewed it is in your interests to attend so that you can present your case. You are not required to answer questions but should you choose not to do so then the matter may have to proceed to disciplinary action in order to be resolved.

Take a support person to the interview. The support person cannot ask or answer questions but they can provide moral and practical support to you.

Avoid all actions that could be interpreted as detrimental actions in reprisal against the complainant. If you have colleagues who are aware of the complaint against you, advise them to do likewise.



## EMPLOYEE PERFORMANCE AND CONDUCT

### PROTECTED DISCLOSURES INFORMATION FOR COMPLAINANTS

In addition to the information provided in the *Protected Disclosures Complaint and Witness Support Program* pamphlet, the following information may explain some of the questions you may have now that your complaint has been assessed as a protected disclosure.

**1. What protection is given to me?**

People who disclose information as a protected disclosure are provided protection. It is against the law for a person to take any action against someone who made a protected disclosure in reprisal for them making their complaint. If you believe that someone has done so, you need to notify the investigator about this so that it can be looked into.

We will make every effort to maintain confidentiality to protect your identity as the person who made the disclosure.

**2. Will the person I made the disclosure about know what I've said?**

To enable an investigation to be undertaken it is important that anyone subject of a complaint has a right to respond to any allegation relating to them. They will therefore be told of the allegations, but your identity will not be disclosed to them.

If charges are laid as a result of a complaint, the person charged has a right to know what evidence has been used to make the charge. This may include some of your evidence which could lead to your name having to be provided as the source of the evidence. However if there are several witnesses, the person charged may not identify who made the original complaint.

**3. Will I be told the findings?**

You will be notified about the general outcomes of the investigation at its conclusion. However the person you may have complained about does have particular privacy rights, therefore the Department will not disclose details of the action taken against them.

**4. Will I get a copy of the report?**

No, the report is confidential and cannot be provided to you.

**5. Can I take a support person to any interview I will be asked to attend?**

A support person at your interview may help you through the process. It is your decision whether you have a person with you during the interview, however you are not required to have anyone else present. It is important to remember that if you do bring a support person they cannot act on your behalf during the interview.

**6. How long will the investigation take?**

Investigations need to be done thoroughly and the correct process followed. The correct process has many steps that must be taken and often this can take quite some time. It is not possible to say exactly how long an investigation will take to complete, but you can be assured that the investigation will be completed as soon as possible.

**7. What will happen after the investigation is over?**

The investigation will make recommendations. These could include: referring the matter to the police, disciplinary action, management action such as training, counselling, systems improvement etc, or no further action. You will be advised when the investigation is completed, but we may not be able to tell you all of the details regarding the outcome.

**8. Should I get more evidence?**

You should provide any information you have regarding your complaint to the Department's investigating officer. It is not recommended that you investigate the matter any further yourself. When you provide information to the investigator they will follow up any information you provide. Remember the protection of your identity may be compromised if you start gathering information yourself.

**9. What other support is available?**

Making a disclosure can lead to some levels of anxiety for you. If you are an employee of the Department, you can access the Employee Assistance Program by calling 1300 366 789. This is a confidential and free support service for Department employees.

In addition the Department has established a Complaint and Witness Support Program for staff who make disclosures or who are witnesses. You can contact the Program Manager on 9561 8761.



# protected disclosures

The Department of Education and Training has established a Complainant and Witness Support Program for staff who make disclosures under the *Protected Disclosures Act (1994)* or who are witnesses in these matters.

This Act aims to facilitate the disclosure, in the public interest, of corrupt conduct, maladministration and serious and substantial waste in the public sector.

**The Act achieves this by:**

- enhancing established procedures for making disclosures;
- making it an offence to take reprisals against a staff member for making a disclosure;
- providing for bona fide disclosures to be properly investigated and dealt with.

The Department is committed to the aims of the Act. It recognises the value and importance of contributions from staff in enhancing administrative and management practices. It strongly supports disclosures being made by staff about corrupt conduct, maladministration or serious and substantial waste.

A protected disclosure may only be made to a nominated disclosure officer identified by the Department or to other parties listed in the policy *Internal Reporting of Protected Disclosures*. This policy may be accessed on the Department's website at [www.det.nsw.edu.au/directorates/audit/complaints/interepo/welcome.htm](http://www.det.nsw.edu.au/directorates/audit/complaints/interepo/welcome.htm)

The Complainant and Witness Support Program is designed to support staff who make protected disclosures or who are witnesses in these matters.

The Complainant and Witness Support Program includes a Program Manager and a number of independent support program advisers.

Support program advisers assist members of staff who have made protected disclosures or who are witnesses in these matters by providing them with advice and support, and making representations on their behalf regarding issues arising in relation to their working conditions.

The Program Manager and support program advisers do not receive or investigate complaints, steer proceedings or make decisions about matters related to a protected disclosure. Their role is to provide advice and support to staff who have made a protected disclosure or who are witnesses in these matters.

Support under the Complainant and Witness Support Program is provided on a confidential basis.

If you are a Departmental staff member, and you have made a protected disclosure or are a witness in a protected disclosure matter, you may wish to seek the assistance of a support program adviser.

You can do this by contacting the Program Manager on (02) 9561 8761

Further information about making protected disclosures is available in the policy *Responding to Suggestions, Complaints and Allegations*. This policy may be accessed on the Department's website at

[www.det.nsw.edu.au/policies/complain/respsugg/index.htm](http://www.det.nsw.edu.au/policies/complain/respsugg/index.htm)

(TAB D)





# protected disclosures

complainant and  
witness support  
program