

Updating the makers of voluntary PIDs and providing supports

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What this guideline covers

It is important for people who report serious wrongdoing to understand how an agency will manage their report and to receive regular updates as the matter progresses. Not only is it an obligation under the *Public Interest Disclosures Act 2022 (PID Act)* for agencies to keep the maker of a voluntary public interest disclosure (**PID**) informed of the progress of a matter, it also helps to ensure that PID makers feel confident that their concerns are being taken seriously by the agency.

If communication between the agency and the person who made the voluntary PID is not regular and accurate, the PID maker may experience unnecessary stress.

Failure to communicate with the PID maker may also lead them to reveal information about their disclosure to others which could have the potential to increase their risk of being exposed to detrimental action (through a loss of confidentiality) as well as potentially undermining an investigation.

People who report serious wrongdoing should be provided with additional supports, regardless of their risk of detrimental action. Agencies should have a support network in place for PID makers to access as they require.

This guideline outlines the minimum requirements on agencies for updating the maker of a voluntary PID as set out in the PID Act. It also provides guidance about other measures that should be implemented to ensure that reporters are provided with the appropriate support mechanisms.

Communicating with makers of voluntary PIDs and providing access to support

Under section 59 of the PID Act, agencies have obligations to keep reporters of voluntary PIDs informed. These obligations are outlined in the table below under 'Information to be provided to makers of voluntary PIDs'.

Agencies should also consider what access to support should be provided to the maker of a voluntary PID. Things an agency may consider implementing include:

- Appointing a contact person for the maker so they can seek their own updates and report any concerns. The maker should also be encouraged to report any negative changes in behaviour of other staff or any different or unfair treatment that they have experienced, especially if they are concerned that this may suggest their identity as a PID maker is no longer confidential.
- Providing access to a program such as an Employee Assistance Program or other appropriate counselling and wellbeing services that the PID maker can access as required, depending on their specific needs.
- Setting the PID maker's expectations by clearly explaining the PID handling process, the PID maker's rights and obligations, and the agency's obligations. This includes an agency's obligation to protect their confidentiality and to protect them from detrimental action. The maker should also be informed that they have a role to play in maintaining their confidentiality. PID makers should be aware of the risk of detrimental action if they discuss the disclosure with others, as this will mean their identity as a PID maker is no longer confidential. However, a PID maker may discuss the disclosure with an integrity agency, such as the Ombudsman or the Independent Commission Against Corruption, if they have concerns about how the PID is being dealt with.
- Communicating in plain English when providing updates and information about management of the matter, such as a referral to another agency.
- Managing the expectations of the maker by providing accurate and timely updates. Even if an investigation has not progressed, the maker must still be updated at least every 3 months.
- Ensuring that the maker feels supported after a PID has been finalised. This means maintaining access to emotional and wellbeing support for a reasonable time afterwards, informing them of the outcome of the PID and any corrective action taken and continuing to manage the risk of detrimental action by putting in place appropriate risk mitigation strategies.

Information to be provided to the makers of voluntary PIDs

The below table sets out what information must be provided to a person who has made a voluntary PID under section 59 of the PID Act. After sending information and updates to the maker, agencies should consider whether they also need to discuss these updates with the maker to ensure the agency's decisions and actions have been understood. It is important that each update to the maker occurs as soon as possible after actions are taken, or decisions are made, by the agency.

When should information be provided?	What information should be provided?	Guidance	Relevant guideline(s)
<p>As soon as reasonably practicable upon receipt of a report that has the features of a voluntary PID or as soon as a report is identified as being a voluntary PID.</p>	<p>After an agency receives a voluntary PID, the agency must:</p> <ul style="list-style-type: none"> • inform the maker that Part 5, Division 2 of the PID Act applies to the agency's actions in dealing with the disclosure,¹ and • ensure the maker has access to the agency PID policy by either: <ul style="list-style-type: none"> – giving the maker a copy of the policy – directing the maker to where it's located on the agency's public website or intranet, or – otherwise telling the maker how to access a copy of the policy.² 	<p>PID makers should receive confirmation in writing, such as in a letter or email, that their PID has been received, and that the matter will be dealt with in accordance with Part 5, Division 2 of the PID Act.</p> <p>Agencies should explain that Part 5, Division 2 of the PID Act provides:</p> <ul style="list-style-type: none"> • that an agency must deal with a voluntary PID • the ways in which an agency can deal with a voluntary PID, including the ability to refer a voluntary PID to another agency • what information must be provided to the makers of voluntary PIDs • the risk management obligations on agencies to protect the maker from detrimental action, and • that the maker is entitled to review of certain agency decisions. <p>The document should contain a link to the PID Act and enclose a copy of the agency's PID policy or explain where the agency's PID policy can be found on the agency's public website, intranet or records management system.</p> <p>Agencies should also ensure makers are provided with the contact details of someone they can receive updates from and who they can report concerns of detrimental action to.</p> <p>As soon as reasonably practicable means as soon as possible or the next available opportunity after the PID has been made. There should not be significant delay in providing information to the maker. In particular, the provision of this information to the maker should not be delayed because the agency is deciding how to deal with the PID or because the agency is conducting a risk assessment.</p>	<p>Assessing a report of wrongdoing to identify if it is a voluntary PID.</p> <p>Maintaining confidentiality when dealing with voluntary PIDs.</p> <p>Agencies assessing and managing the risk of detrimental action.</p>

1. *Public Interest Disclosures Act 2022*, s 59(2)(a).

2. *Public Interest Disclosures Act 2022*, s 59(1).

When should information be provided?	What information should be provided?	Guidance	Relevant guideline(s)
<p>Once the agency decides how it will deal with the voluntary PID.</p>	<p>Tell the maker of the voluntary PID how the agency is dealing with, or proposes to deal with, the PID.³</p>	<p>Section 55 of the PID Act provides that an agency can decide to deal with a voluntary PID that relates to the agency in one or more of the following ways:</p> <ul style="list-style-type: none"> • investigating the serious wrongdoing itself • referring the report to an integrity agency • referring the report to another agency with which the receiving agency has an arrangement in place under which it has been agreed that the second agency exercises the functions of the first agency under the PID Act, or • referring the report to another agency to which it relates, if the disclosure relates to more than one agency. <p>Section 56 of the PID Act provides that an agency can decide to deal with a voluntary PID that does not relate to the agency in one or more of the following ways:</p> <ul style="list-style-type: none"> • investigating the serious wrongdoing if the agency is authorised to investigate or otherwise deal with the suspected serious wrongdoing • referring the disclosure to an integrity agency • referring the disclosure to a person or body that is authorised by another Act or law to investigate the relevant serious wrongdoing, or • referring the disclosure to the agency to which the disclosure relates. <p>Except where a referral is mandatory under another law, an agency that refers a voluntary PID to another agency must consider the following prior to making a referral:</p> <ul style="list-style-type: none"> • whether the disclosure would be more appropriately dealt with by that other agency, and • the risk of detrimental action being taken against the maker of the PID because of the referral or failure to refer the disclosure.⁴ 	<p>Dealing with voluntary PIDs.</p>

3. *Public Interest Disclosures Act 2022*, s 59(2)(b).

4. *Public Interest Disclosures Act 2022*, s 57(2).

When should information be provided?	What information should be provided?	Guidance	Relevant guideline(s)
If an agency decides to refer the voluntary PID to another agency.	If the agency refers the disclosure to another agency, it must provide the details of the referral to the maker. ⁵	<p>When updating the maker, agencies should include the following information:</p> <ul style="list-style-type: none"> • the date of the referral • the information included in the referral • the agency to which the referral was made • the recipient of the referral and a contact person within the agency that has received the referral. 	Dealing with voluntary PIDs.
If the agency decides to investigate the serious wrongdoing.	If the agency decides to investigate the serious wrongdoing, it must tell the maker of the PID and provide updates on the investigation at intervals of not more than 3 months throughout the investigation. ⁶	<p>Agencies should provide these updates in writing.</p> <p>Agencies should consider providing updates more regularly than every 3 months if this would assist in alleviating any concerns the PID maker may have.</p> <p>Even if an investigation has not progressed since the last update, the maker must still be updated.</p>	
At the completion of an investigation	<p>If an investigation is completed, an agency must provide the maker with:</p> <ul style="list-style-type: none"> • a description of the results of the investigation, and • details of any taken, proposed or recommended corrective action as a result of the investigation.⁷ 	<p>A description of the results of an investigation should include whether findings were made that the alleged serious wrongdoing occurred. In providing a description of the results of an investigation, agencies should note that the PID Act states that this information must be provided to the PID maker.</p> <p>Under section 66(1) of the PID Act, an agency must take corrective action if an investigation into a voluntary PID finds that serious wrongdoing or other misconduct occurred. Corrective action can include termination of an employee under section 69(4) of the Government Sector Employment Act 2013, issuing a formal apology or enacting reforms within an agency (among other things – see section 66(4) of the PID Act).</p> <p>If the agency has taken corrective action, it must provide the details of any taken, proposed or recommended corrective action as a result of the investigation to the maker.</p>	Dealing with voluntary PIDs.

5. *Public Interest Disclosures Act 2022*, s 59(2)(d).

6. *Public Interest Disclosures Act 2022*, s 59(2)(e), s 59(3).

7. *Public Interest Disclosures Act 2022*, s 59(2)(f).

When should information be provided?	What information should be provided?	Guidance	Relevant guideline(s)
If an agency ceases to deal with a PID or decides not to investigate a PID.	<p>If the agency decides:</p> <ul style="list-style-type: none"> not to investigate the PID or refer it to another agency or cease investigating the relevant serious wrongdoing without either completing the investigation or referring the PID <p>the agency must provide reasons to the maker.⁸</p>	<p>Agencies must also provide written reasons to the Ombudsman if one of these decisions is made regarding a voluntary PID.⁹</p> <p>When informing the maker of one of these decisions, the agency should also inform the maker that they have a right to internal review of the agency’s decision pursuant to section 60 of the PID Act.</p>	Reporting to the Ombudsman.
If the agency decides that a purported PID is not a voluntary PID.	<p>If an agency decides, in relation to a purported PID, that it is:</p> <ol style="list-style-type: none"> not a voluntary PID and the disclosure is not in fact a voluntary PID <p>it must inform the maker of the agency’s reasons for the decision.¹⁰</p>	<p>The term purported PID is defined in the Dictionary of the PID Act as a disclosure that is:</p> <ul style="list-style-type: none"> made in compliance with section 27 of the PID 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. <p>Reasons for the agency’s decision should be given to the maker of the purported PID as soon as possible after a decision is made.</p> <p>When giving reasons, an agency should use simple terms and be as clear as possible about why the agency decided that the disclosure does not have the features of a voluntary PID under the PID Act. It may be necessary to meet with the maker to discuss the agency’s reasons.</p> <p>The agency should also inform the maker that they may apply for an internal review of the agency’s decision.¹¹</p>	Assessing a report of wrongdoing to identify whether it is a voluntary PID.
Any other matters listed in an agency’s PID policy.	If an agency’s PID policy requires that other matters are communicated to the maker of the PID, these parts of the policy must be complied with.		

8. *Public Interest Disclosures Act 2022*, s 59(2)(c).

9. *Public Interest Disclosures Act 2022*, s 55(3).

10. *Public Interest Disclosures Act 2022*, s 59(4).

11. *Public Interest Disclosures Act 2022*, s 60(1)(b).

