

# Company Policy: Whistleblowing

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## 1.0 POLICY STATEMENT

Essential Energy's values and standards of behaviour are set out in our Code of Conduct. This policy is designed to support people when reporting actual or potential misconduct. It outlines the process and support available for individuals reporting misconduct, and the process for Essential Energy to respond to these reports.

## 2.0 PURPOSE

This policy outlines the process for reporting and responding to actual or potential misconduct. In New South Wales, this includes but is not limited to disclosures under the Public Interest Disclosures Act 2022 (NSW), disclosures of corrupt conduct under the Independent Commission Against Corruption Act 1988 (NSW) and alleged criminal conduct under the Crimes Act 1900 (NSW). Similar legislation exists in other jurisdictions where Essential Energy and its related entities operate, contact [ethics@essentialenergy.com.au](mailto:ethics@essentialenergy.com.au) for information or advice where needed.

This policy meets the requirement for Essential Energy to have a Public Interest Disclosure (PID) Policy under section 42 of the NSW Public Interest Disclosures Act 2022 ("PID Act").

### 2.1 Audience

This policy is intended for all employees of the Company, including but not limited to executives, managers, staff, contractors, and third-party resources.

## 3.0 KEY REQUIREMENTS

At Essential Energy we take reports of misconduct seriously. We are committed to building a 'speak up' culture where employees and contractors (public officials) are encouraged to report actual or potential misconduct including corrupt conduct and other public interest disclosures.

Essential Energy relies upon our employees, contractors, subcontractors and members of the public speaking up when they become aware of actual or potential misconduct.

This policy sets out:

- how Essential Energy will support and protect you if you report misconduct
- how we will deal with the report and our other responsibilities under the PID Act
- who to contact if you want to make a report
- how to make a report
- the protections available under the PID Act

This policy also documents our commitment to building a speak up culture. Part of that speak up culture is having in place a framework that facilitates reporting of misconduct by:

- protecting those who speak up from detrimental action.
- imposing duties on those who receive reports of misconduct to take appropriate action to investigate or otherwise deal with them.

### 3.1 Accessibility of This Policy

This policy is available on Essential Energy's website and intranet.

### 3.2 Applicability of Policy

This policy applies to any individual making a report to Essential Energy in relation to alleged criminal conduct or breaches of Essential Energy's Code of Conduct.



This policy also applies to public officials in NSW making a report to Essential Energy about serious wrongdoing in or affecting the public sector under the NSW Public Interest Disclosures Act, including but not limited to reports made by

- Essential Energy employees, managers, executives, directors
- Essential Energy contractors, subcontractors or volunteers who provide services, or exercise functions, on behalf of Essential Energy

This policy does not apply to disagreements with policy, or complaints regarding customer service by or on behalf of Essential Energy, its employees, contractors or related entities.

### 3.3 What is Contained in This Policy

This policy will provide you with information on the following:

- ways you can make a voluntary PID to Essential Energy under the PID Act.
- the names and contact details for the nominated disclosure officers in Essential Energy.
- the roles and responsibilities of people who hold particular roles under the PID Act and who are employees of Essential Energy.
- what information you will receive once you have made a voluntary PID.
- protections available to people who make a report of serious wrongdoing under the PID Act and what we will do to protect you.
- Essential Energy procedures for dealing with disclosures.
- Essential Energy procedures for managing the risk of detrimental action and reporting detrimental action.
- Essential Energy record-keeping and reporting requirements.
- how Essential Energy will ensure it complies with the PID Act and this policy.

If you require further information about this policy, how public interest disclosures will be handled and the PID Act you can:

- confidentially contact [ethics@essentialenergy.com.au](mailto:ethics@essentialenergy.com.au).
- contact the PID Advice Team within the NSW Ombudsman by phone: (02) 9286 1000 or email: [pidadvice@ombo.nsw.gov.au](mailto:pidadvice@ombo.nsw.gov.au), or
- access the NSW Ombudsman's PID guidelines which are available on its website.

If you require legal advice with respect to the PID Act or your obligations under the PID Act, you may need to seek independent legal advice.

## 4.0 ACTIONS TO ACHIEVE IMPLEMENTATION OF THIS POLICY

### 4.1 How to Make a Report of Serious Wrongdoing

#### 4.1.1 Reports, Complaints, and Grievances

When a public official reports suspected or possible wrongdoing in the public sector, their report will be a PID if it has certain features which are set out in the PID Act.

Some internal complaints or internal grievances may also be PIDs, as long as they have the features of a PID. If an internal complaint or grievance is a report of serious wrongdoing, we will consider whether it is a PID. If it is a PID, we will deal with it as set out in this policy.

It is important that we quickly recognise when a received report or disclosure is a PID. This is because once a PID is received, the person who has made the report is entitled to certain protections and we have certain decisions that we have to make on how we will deal with the PID and how we will protect and support the person who has made the report.



Instances of serious wrongdoing include corrupt conduct, maladministration, serious and substantial waste of public money, and breaches of the Government Information (Public Access) Act 2009. If you honestly believe on reasonable grounds this conduct has occurred, a confidential disclosure can be made in any of the following ways:

- Call the corruption hotline on 1800 808 322.
- Call an Essential Energy Disclosure Officer on 02 6589 8259.
- Send an email to [ethics@essentialenergy.com.au](mailto:ethics@essentialenergy.com.au)
- Call Essential Energy's Head of Risk and Compliance on 02 6589 8942 or 0425 228 616.
- Call Essential Energy's Chief Executive Officer on 02 6589 8333.
- Make a report via Essential Energy's confidential Whistleblowing platform ([Whispli](#)).

#### 4.1.2 When will a report be a PID?

There are three types of PIDs in the PID Act. These are:

1. **Voluntary PID:** This is a PID where a report has been made by the public official because they decided, of their own accord, to come forward and disclose what they know.
2. **Mandatory PID:** This is a PID where the public official has made a report about 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.
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.

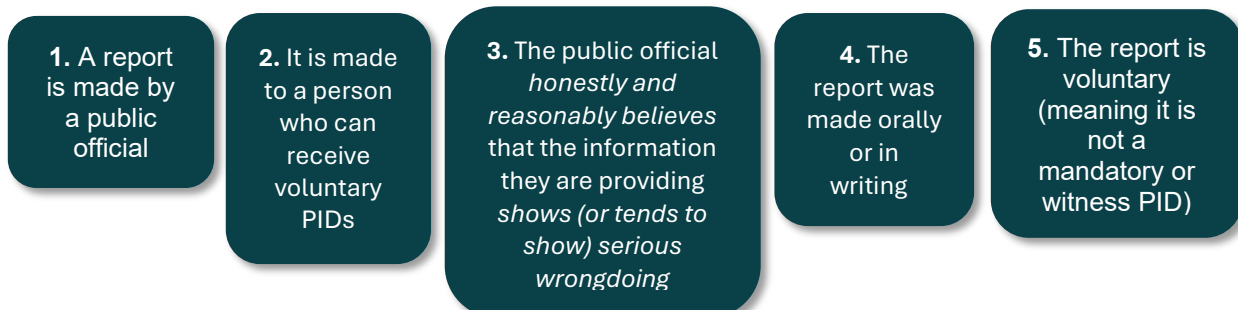
People who make voluntary PIDs, mandatory PIDs or witness PIDs are entitled to protection under the PID Act and this policy. More information about protections is available in section 2 of this policy.

You can find more information about mandatory and witness PIDs in the Ombudsman's guidelines 'Dealing with mandatory PIDs' and 'Dealing with witness PIDs'.

Voluntary PIDs are the kind of PIDs most people have in mind when they think about public interest reporting and 'whistleblowing'.

They involve a public official making a report because they have information that they believe shows (or tends to show) serious wrongdoing, where they are not under a legal obligation to make that report and where it is not an ordinary part of their role to report such wrongdoing.

A report is a voluntary PID if it has the following five features, which are set out in sections 24 to 27 of the PID Act:



If the report has all five features, it is a voluntary PID.

You will not be expected to prove that what you reported actually happened or is serious wrongdoing. You do have to honestly believe, on reasonable grounds, that the information you are reporting shows or tends to show serious wrongdoing.

Even though you do not have to prove the serious wrongdoing happened or provide evidence, a mere allegation with no supporting information is unlikely to meet this test.

If we make an error and do not identify that you have made a voluntary PID, you will still be entitled to the protections under the PID Act.

If you make a report and believe we have made an error by not identifying that you have made a voluntary PID, you should raise this with a nominated disclosure officer or your contact officer for the report. If you are still not satisfied with this outcome, you can seek an internal review, or we make seek to conciliate the matter. You may also contact the NSW Ombudsman. Further information on rights to internal review and conciliation is found in section 7 of this policy.

#### 4.1.3 Who can make a voluntary PID?

Any public official can make a voluntary PID — see ‘Who this policy applies to’. You are a public official if:

- you are employed by Essential Energy or its related entities
- you are a contractor, subcontractor or volunteer who provides services, or exercises functions, on behalf of Essential Energy, or
- you work for an entity (such as a non-government organisation) who is contracted by Essential Energy to provide services or exercise functions on behalf of Essential Energy — if you are involved in undertaking that contracted work.

A public official can make a PID about serious wrongdoing relating to any agency, not just the agency they are working for. This means that we may receive PIDs from public officials outside our agency. It also means that you can make a PID to any agency, including an integrity agency like the Independent Commission Against Corruption (ICAC) and the NSW Ombudsman. Annexure B of this policy has a list of integrity agencies.

#### 4.1.4 What is serious wrongdoing?

Reports must be of one or more of the following categories of serious wrongdoing to be a voluntary PID (in addition to having the other features set out here). Serious wrongdoing is defined in the PID Act as one or more of the following:

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

When you make your report, you do not need to nominate what category of serious wrongdoing you are reporting or that you are reporting serious wrongdoing.

#### 4.1.5 Who can I make a voluntary PID to?

For a report to be a voluntary PID, it must be made to certain public officials.



#### 4.1.5.1 Making a report to a public official who works for Essential Energy

You can make a report inside Essential Energy to:

- The Chief Executive Officer.
- a disclosure officer for Essential Energy — a list of disclosure officers for Essential Energy and their contact details can be found at Annexure A of this policy.
- your manager — this is the person who directly, or indirectly, supervises you. It can also be the person who you directly, or indirectly, report to. You may have more than one manager. Your manager will make sure that the report is communicated to a disclosure officer on your behalf or may accompany you while you make the report to a disclosure officer.
- for a public official who is a person providing services or exercising functions on behalf of Essential Energy (including a contractor, subcontractor, or volunteer) or an employee, partner or officer of an entity that provides services on behalf of Essential Energy or exercises functions of Essential Energy — their manager is taken to be the public official in that agency who oversees those services or functions, or who manages the relevant contract or volunteering arrangement.

#### 4.1.5.2 Making a report to a recipient outside of Essential Energy

You can also make your report to a public official in another agency (meaning an agency you do not work for) or an integrity agency. These include:

- the *head of another agency* — this means the head of any public service agency.
- an *integrity agency* — a list of integrity agencies is located at Annexure B of this policy.
- a *disclosure officer for another agency* — ways to contact disclosure officers for other agencies is located in an agency's PID policy which can be found on their public website.
- a *Minister or a member of a Minister's staff* but the report *must be made in writing*.

If you choose to make a disclosure outside of Essential Energy, it is possible that your disclosure will be referred back to Essential Energy so that appropriate action can be taken. In these cases, all of the protections that have been previously outlined will apply to the person making the disclosure.

#### 4.1.5.3 Making a report to a Member of Parliament or journalist

Disclosures to MPs or journalists are different to other reports. You can only disclose a report of wrongdoing as a voluntary PID to an MP or journalist in the following circumstances:

- You must have first made substantially the same disclosure (described here as a 'previous disclosure') to someone who can receive disclosures.
- The previous disclosure must be substantially true.
- You did not make the previous disclosure anonymously.
- You did not give a written waiver of your right to receive information relating to your previous disclosure.
- You did not receive the following from Essential Energy:
  - notification that Essential Energy will not investigate the serious wrongdoing and will also not refer the previous disclosure to another agency, or
  - the following information at the end of the investigation period:
    - notice of Essential Energy decision to investigate the serious wrongdoing.
    - a description of the results of an investigation into the serious wrongdoing.
    - details of proposed or recommended corrective action as a result of the previous disclosure or investigation.

Investigation period means:

- after six months from the previous disclosure being made, or





- after 12 months if you applied for an internal review of the agency's decision within six months of making the disclosure.

If all the above requirements are met, your disclosure to an MP or journalist may be a voluntary PID.

#### 4.1.6 What form should a voluntary PID take?

You can make a voluntary PID:

- *in writing* — this could be an email or letter to a person who can receive voluntary PIDs. At Essential Energy you are able to report serious misconduct via email – [ethics@essentialenergy.com.au](mailto:ethics@essentialenergy.com.au).
- *orally* — have a private discussion with a person who can receive voluntary PIDs. This can be face-to-face, via telephone or virtually. You are able to report wrongdoing by calling the Corruption Hotline on 1800 808 322; calling the Chief Executive Officer on 6589 8333; calling a disclosure officer on 02 6589 8259; or calling the Head of Risk and Compliance on 02 6589 8942.
- *anonymously* — write an email or letter or call a person who can receive PIDs to make a report without providing your name or anything that might identify you as the maker of the report. A report will only be considered anonymous if there is no reasonable or practical way of communicating with the person making the report. Even if you choose to remain anonymous, you will still be protected under the PID Act. It may be difficult, however, for Essential Energy to investigate the matter(s) you have disclosed if we cannot contact you for further information.
- Essential Energy also utilises the confidential Whistleblowing platform, Whispli, to provide another means for reports of wrongdoing to be made. Information provided via Whispli remains confidential, with the discloser of information only identified should they choose to identify themselves. Although the use of Whispli would not meet the PID Act definition of anonymous on the basis that the platform allows the person making the report to be communicated with, the protections of the PID Act would still apply to anyone choosing to report wrongdoing via Whispli.

#### 4.1.7 What should I include in my report?

You should provide as much information as possible so we can deal with the report effectively. The type of information you should include is:

- date, time, and location of key events.
- names of person(s) involved in the suspected wrongdoing, their role, title and how they are involved.
- your relationship with the person(s) involved, such as whether you work closely with them.
- your explanation of the matter you are reporting.
- how you became aware of the matter you are reporting.
- possible witnesses.
- other information you have that supports your report.

#### 4.1.8 What if I am not sure if my report is a PID?

You should report all wrongdoing you become aware of regardless of whether you think it is serious wrongdoing. It is important for Essential Energy to understand what is or may be occurring.

We are then responsible for making sure your report is handled appropriately under the PID Act, or if it is not a PID, in line with our other procedures. Even if your report is not a PID, it may fall within another one of the agency's policies for dealing with reports, allegations, or complaints.

#### 4.1.9 Deeming that a report is a voluntary PID

The Chief Executive Officer can, in certain circumstances, determine that a report is a voluntary PID even if the report does not otherwise have all the features of a voluntary PID. This is known as the 'deeming power'.



By deeming that a report is a voluntary PID, it ensures that reporters are provided with protections under the PID Act. If you make a report that has not met all the requirements of a voluntary PID, you can refer your matter to the Chief Executive Officer to request that they consider deeming your report to be a voluntary PID.

A decision to deem a report to be a voluntary PID is at the discretion of Chief Executive Officer. For more information about the deeming power, see the Ombudsman's guideline 'Deeming that a disclosure is a voluntary PID'.

#### 4.1.10 Who can I talk to if I have questions or concerns?

For support on reporting options available to you, or enquiries in relation to this policy, email [ethics@essentialenergy.com.au](mailto:ethics@essentialenergy.com.au)

## 4.2 Protections

### 4.2.1 How is the maker of a voluntary PID protected?

When you make a voluntary PID you receive special protections under the PID Act.

We are committed to taking all reasonable steps to protect you from detriment as a result of having made a PID. We are also committed to maintaining your confidentiality as much as possible while the PID is being dealt with.

We will not tolerate any type of detrimental action being taken against you because you have made a report, might make a report, or are believed to have made a report.

The maker of a voluntary PID is protected in the following ways:

#### 4.2.1.1 Protection from detrimental action

A person cannot take detrimental action against another person because they have made a voluntary PID or are considering making a PID. **Detrimental action includes bullying, harassment, intimidation, or dismissal.**

Once we become aware that a voluntary PID made by a person employed or otherwise associated with Essential Energy that concerns serious wrongdoing relating to Essential Energy has been made, we will undertake a risk assessment and take steps to mitigate the risk of detrimental action occurring against the person who made the voluntary PID.

It is a criminal offence for someone to take detrimental action against a person because they have made or may make a voluntary PID. This offence is punishable by a maximum penalty of 200 penalty units or imprisonment for five years or both.

A person making a PID may seek compensation where unlawful detrimental action has been taken against them.

A person can apply for a court order (injunction) where detrimental action is threatened or has occurred (for example, an order to prevent dismissal or to require reinstatement).

Note that a person who makes a PID can still be subject to **reasonable management action (such as ordinary performance reviews and performance management)**. Provided such action is not taken because of the PID, it is not detrimental action under the PID Act.



#### 4.2.1.2 Immunity from civil and criminal liability

Some employees are subject to a duty of confidentiality that prevents them disclosing certain information that they obtain or become aware of at work. Sometimes, in order to make a PID, employees will need to breach or disregard such confidentiality duties. If that happens, the person making the PID cannot be disciplined, sued or criminally charged for breaching confidentiality.

#### 4.2.1.3 Confidentiality

Public officials and agencies must not disclose information tending to identify a person as the maker of a voluntary PID unless doing so is permitted by the PID Act.

#### 4.2.1.4 Protection from liability for own past conduct

The Attorney General can give the maker of a PID an undertaking that a disclosure of their own past conduct will not be used against them if a person discloses their own wrongdoing or misconduct while making a report. This undertaking can only be given on application by an integrity agency to the Attorney General.

### 4.2.2 Protections for people who make mandatory and witness PIDs

Apart from PIDs that are made voluntarily by public officials, there are other types of reports that are recognised as PIDs under the PID Act:

- **A mandatory PID:** This is a PID where the public official has made the report about 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.
- **A 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.

Protections for makers of mandatory and witness PIDs are detailed in the table below.

Protection	Mandatory PID	Witness PID
Detrimental action — It is an offence to take detrimental action against a person based on the suspicion, belief, or awareness that a person has made, may have made or may make a PID.	✓	✓
Right to compensation — A person can initiate proceedings and seek compensation for injury, damage or loss suffered as a result of detrimental action being taken against them.	✓	✓
Ability to seek injunction — An injunction can be sought to prevent the commission or possible commission of a detrimental action offence against a person. For example, an order to prevent dismissal or to require reinstatement.	✓	✓
Immunity from civil and criminal liability — a person will not incur civil or criminal liability if the person breaches a duty of confidentiality while making a disclosure. This means that legal action cannot be taken against a person for: <ul style="list-style-type: none"> <li>• breaching a duty of secrecy or confidentiality, or</li> <li>• breaching another restriction on disclosure.</li> </ul>	✓	✓

### 4.3 Reporting Detrimental Action

If you experience adverse treatment or detrimental action, such as bullying or harassment arising from making a PID, you should report this immediately. You can report any experience of adverse treatment or detrimental action directly to Essential Energy, or to an integrity agency. A list of integrity agencies is located at Annexure B of this policy.



## 4.4 General Support

When employees report misconduct, support is available through the employee's Human Resources Business Representative. Employees may request support from an additional or alternative employee when making a report under this policy. Additional external sources of support include Essential Energy's Employee Assistance Program.

## 4.5 How we will deal with voluntary PIDs

### 4.5.1 How Essential Energy will acknowledge that we have received a report and keep the person who made it informed

When a disclosure officer in Essential Energy receives a report which is a voluntary PID, or looks like it may be a voluntary PID, the person who made the report will receive the following information:

- You will receive an acknowledgment that the report has been received. This acknowledgement will:
  - state that the report will be assessed to identify whether it is a PID.
  - state that the PID Act applies to how Essential Energy deals with the report.
  - provide clear information on how you can access this PID policy.
  - provide you with details of a contact person and available supports.
  - be provided verbally and/or writing. The disclosure officer or assigned investigator will talk to you about how the acknowledgement will be made.
- If the report is a voluntary PID, we will inform you as soon as possible how we intend to deal with the report. This may include:
  - that we are investigating the serious wrongdoing
  - that we will refer the report to a different agency (if appropriate) to deal with the voluntary PID. If we do this, we will provide you with details of this referral.
  - If we decide to not investigate the report and to not refer it to another agency for it to be investigated, we will tell you the reasons for this decision. We will also notify the NSW Ombudsman of this decision.
- If we decide to investigate the serious wrongdoing, we will provide you with updates on the investigation at least every three months, or at the finalisation of the investigation. During this time, if you would like more frequent updates, you should contact the disclosure officer or investigator who was nominated when you made the report.
- If we investigate the serious wrongdoing, we will provide you with the following information once the investigation is finalised:
  - a description of the results of the investigation — that is, we will tell you whether we found that serious wrongdoing took place.
  - information about any corrective action as a result of the investigation/s — this means we will tell you what action we took in relation to the person who engaged in the serious wrongdoing or if the serious wrongdoing was by our agency, what we have put in place to address that serious wrongdoing.
- Corrective action could include taking disciplinary action against someone or changing the practices, policies, and procedures that we have in place which led to the serious wrongdoing.
- There may be some details about both the findings made as a result of the investigation and the corrective action taken that cannot be revealed to you. We will always balance the right of a person who makes a report to know the outcome of that report, with other legal obligations we have.
- If you have made an anonymous report, in many cases we may not be able to provide this unless your report is made in a way that facilitates ongoing communication, such as through Whispli.



#### 4.5.2 How Essential Energy will deal with voluntary PIDs

Once a report that may be a voluntary PID is received a disclosure officer will assess the information contained in the report to see if it meets the definition of a voluntary PID. This assessment is undertaken to identify whether the report is a voluntary PID or another type of disclosure, and to make sure that the right steps are followed. If it is a voluntary PID, we will ensure that we comply with the requirements in the PID Act.

Assessments of allegations arising from a PID are overseen by Essential Energy's Disclosures Panel (The Chief Executive Officer, Chief of Staff, Chief Operations People and Safety Officer, and General Counsel and Company Secretary). The Disclosures Panel approves assessment recommendations, including recommendations to:

- Take no further action
- Refer a matter to an internal team or external organisation for information, action, or investigation
- Commence an investigation to be overseen by the Disclosures Panel

##### 4.5.2.1 *Decision to commence an investigation to be overseen by the Disclosures Panel*

The purpose of an investigation into alleged wrongdoing is to establish the facts in relation to alleged wrongdoing and support the continuous improvement of company systems through the implementation of corrective and preventive actions.

In consultation with the General Counsel and Company Secretary or Head of Legal, a member of the Disclosures Panel may request legal advice or commission an investigation into a matter for the purpose of providing legal advice or in anticipation of legal proceedings.

Where approved by the Disclosures Panel, the Head of Risk and Compliance will facilitate the commencement of an investigation using either internal or external resources. External providers may be provided with relevant assessment reports and other information to inform the scope of the investigation.

The following principles underpin investigations of alleged wrongdoing:

- Cooperation – All employees must co-operate with an investigator who has been commissioned to conduct an investigation into a disclosure. This co-operation will include fully disclosing all relevant information, providing free and unrestricted access to all functions, property, personnel, records, accounts, files and other documentation which the investigator considers necessary to undertake a complete and impartial investigation.
- Confidentiality – The Head of Risk and Compliance will instruct the investigator to inform all employees who participate in an investigation that information communicated by an employee and received by the investigator in the course of an investigation will be treated as information obtained in confidence and information provided (including the identity of the person who provided it) may need to be revealed to other parties involved in the investigation if such action is determined to be either essential on the grounds of natural justice or necessary for the purposes of the investigation.
- The Workplace Investigator will maintain confidentiality and security of information provided

Investigations may be undertaken in two phases. A preliminary investigation is utilised when the nature of the alleged conduct is complicated or additional enquiries and data analysis are necessary to better understand the nature of the alleged conduct. It will usually not involve interviewing an affected person in relation to the alleged conduct. At the conclusion of the preliminary investigation a preliminary investigation report is prepared and provided to the Disclosures Panel in order to make a decision on the next steps.



A full investigation is utilised where there is sufficient evidence to provide the affected person with an opportunity to respond to the alleged conduct. Any allegations of wrongdoing put to the affected person must be in writing and the person will be given an opportunity to respond to the alleged conduct in writing and/or participate in an interview. This is necessary to ensure the affected person has a fair opportunity to respond to the alleged conduct.

If an employee who is an affected person is required to be interviewed by an investigator, the person will be given written notice of:

- the time and place of this interview;
- the nature of the matters which information will be sought; and
- such other details as may be considered fair and reasonable
- available support including the opportunity to have a support person present during the interview.

#### *4.5.2.2 Report the results of an investigation*

The Head of Risk and Compliance reviews investigation reports and will recommend actions to the Disclosures Panel for review including.

- closing the investigation;
- notifying relevant external parties such as the ICAC, NSW Police, NSW Ombudsman of the progress of the investigation and the outcome of the investigation;
- notifying the affected person of investigation outcomes. The affected person will either be notified that substantiated findings arising from the investigation have been referred to the Chief Operations People and Safety Officer and that disciplinary action will be taken in accordance with company policies, or the investigation is closed and no further action will be taken;
- notifying the reporter or complainant of the investigation outcome;
- notifying relevant teams of other observations or findings that require actions to improve controls, or where an investigation identifies a loss that may be recovered including through company insurances

#### *4.5.2.3 Report not a voluntary PID*

If the report is not a voluntary PID, we will let you know that the PID Act does not apply to the report and how we will deal with the concerns raised in the report. Reports that are not voluntary PIDs will still be assessed for investigation, referral, or other action.

If you are not happy with this assessment or otherwise disagree with it, you can raise it with the person who has communicated the outcome with you or a disclosure officer, request an internal review or request that the matter be conciliated. Essential Energy can, but do not have to, request the NSW Ombudsman to conciliate the matter.

#### *4.5.2.4 Cease dealing with report as voluntary PID*

Essential Energy may stop dealing with a voluntary PID because it does not meet the definition as a voluntary PID (meaning it does not have all the features of a PID).

If at any point of an assessment or an investigation of a purported PID it is determined that the information disclosed does not meet the definition of a PID, the disclosure officer or investigation will take immediate steps to advise the maker of the disclosure of the decision.

If you are not happy with this assessment or otherwise disagree with it, you can raise it with the person who has communicated the outcome with you or a disclosure officer, request an internal review or request that the matter be conciliated. Essential Energy can, but do not have to, request the NSW Ombudsman to conciliate the matter.





#### 4.5.2.5 Where the report is a voluntary PID

If the report is a voluntary PID:

- In most cases we will conduct an investigation to determine the factual circumstances of the alleged incident that led to the disclosure and make findings about whether the serious wrongdoing disclosed in the report occurred, who was involved, who was responsible, and whether the people involved, or the agency engaged, in serious wrongdoing. There may be circumstances where we believe an investigation is not warranted — for example, if the conduct has previously been investigated.
- There may also be circumstances where we decide that the report should be referred to another agency, such as an integrity agency. For example, reports concerning possible corrupt conduct may be required to be reported to the ICAC in accordance with section 11 of the Independent Commission Against Corruption Act 1988.
- Before referring a matter, we will discuss the referral with the other agency, and we will provide you with details of the referral and a contact person within the other agency.
- If we decide not to investigate a report and to not refer the matter to another agency, we will let you know the reasons for this and notify the NSW Ombudsman.
- Essential Energy reserves the right to engage an external investigator to assess or investigate a PID when the need arises.

Should Essential Energy appoint an external investigator to assess and/or investigate a PID, the disclosure officer will advise you that this referral has been made and provide you with the following information once the investigation is finalised:

- A description of the results of the investigation — that is, we will tell you whether it has been established that serious wrongdoing took place.
- Information about any corrective action as a result of the investigation/s — this means we will tell you what action we took in relation to the person who engaged in the serious wrongdoing or if the serious wrongdoing was by our agency, what we have put in place to address that serious wrongdoing.
- This information will be provided verbally and/or writing. The disclosure officer will talk to you about how the acknowledgement will be made.

#### 4.5.3 How Essential Energy will protect the confidentiality of the maker of a voluntary PID

We understand that people who make voluntary PIDs may want their identity and the fact that they have made a report to be confidential.

Under the PID Act, information tending to identify a person as the maker of a voluntary PID (known as identifying information) is not to be disclosed by a public official or an agency.

There are certain circumstances under the PID Act that allow for the disclosure of identifying information. These include:

- where the person making a PID consents in writing to the disclosure being made.
- where it is generally known that the person is the maker of the voluntary PID because of their voluntary self-identification as the maker of the PID.
- when Essential Energy reasonably considers it necessary to disclose the information to protect a person from detriment.
- where it is necessary the information be disclosed to a person whose interests are affected by the disclosure.
- where the information has previously been lawfully published.



- when the information is disclosed to a medical practitioner or psychologist for the purposes of providing medical or psychiatric care, treatment or counselling to the individual disclosing the information.
- when the information is disclosed for the purposes of proceedings before a court or tribunal.
- when the disclosure of the information is necessary to deal with the disclosure effectively.
- if it is otherwise in the public interest to disclose the identifying information.

We will not disclose identifying information unless it is necessary and authorised under the PID Act.

We will put in place steps to keep the identifying information of the maker and the fact that a report has been made confidential. It may not be possible for us to maintain complete confidentiality while we progress the investigation, but we will do all that we practically can to not unnecessarily disclose information from which the maker of the report can be identified. We will do this by:

- Limiting the number of people who are aware of the maker's identity or identifying information
- If we must disclose information that may identify the maker of the PID, only disclosing the actual identity of the maker of a PID with their consent.
- Ensuring that any person who does know the identity of the maker of a PID is reminded that they have a legal obligation to keep their identity confidential.
- Ensuring that only authorised persons have access to emails, files or other documentation that contain information about the identity of the maker.
- Providing information to the maker of the PID about the importance of maintaining confidentiality and advising them how best to protect their identity, for example, by telling them not to discuss their report with other staff.

If confidentiality cannot be maintained or is unlikely to be maintained, Essential Energy will:

- Advise the person whose identity may become known.
- Assess the risk of detrimental action being taken against the maker of a PID
- Implement strategies to minimise the risk of detrimental action.
- Provide additional supports to the person who has made the PID.
- Remind persons who become aware of the identifying information of the consequences for failing to maintain confidentiality and that engaging in detrimental action is a criminal offence and may also be a disciplinary matter.

#### 4.5.4 How Essential Energy will assess and minimise the risk of detrimental action

Essential Energy will not tolerate any detrimental action being taken by any person against a person who has made a PID, investigators, witnesses or the person the report is about.

We will assess and take steps to mitigate detrimental action from being taken against the maker of a voluntary PID, the person whose conduct is the subject of a PID, investigators and witnesses.

We will take steps to assess and minimise the risk of detrimental action in each Investigation Assessment and PID Handling Report submitted to the Disclosures Panel for review and final approval.

This report will include any additional protections required to reduce the risk of reprisal actions against the maker of the PID. Additional protections may include, but not be limited to, remote working or approved leave for the duration of the investigation.





Detrimental action against a person is an act or omission that causes, comprises, involves or encourages detriment to a person or a threat of detriment to a person (whether express or implied).

Detriment to a person includes:

- injury, damage, or loss
- property damage
- reputational damage
- intimidation, bullying or harassment
- unfavourable treatment in relation to another person's job
- discrimination, prejudice or adverse treatment
- disciplinary proceedings or disciplinary action, or
- any other type of disadvantage.

Detrimental action does not include:

- lawful action taken by a person or body to investigate serious wrongdoing or other misconduct
- the lawful reporting or publication of a finding of serious wrongdoing or other misconduct
- the lawful making of adverse comment, resulting from investigative action
- the prosecution of a person for a criminal offence
- reasonable management action taken by someone in relation to a person who made or may make a PID. For example, a reasonable appraisal of a PID maker's work performance.

#### 4.5.5 How Essential Energy will deal with allegations of a detrimental action offence

If Essential Energy becomes aware of an allegation that a detrimental action offence has occurred or may occur, we will:

- take all steps possible to stop the action and protect the person(s)
- take appropriate disciplinary action against anyone that has taken detrimental action
- refer any evidence of a detrimental action offence to the NSW ICAC
- notify the NSW Ombudsman about the allegation of a detrimental action offence being committed.
- Any questions, concerns, or reports of detrimental action arising out of a PID disclosure should be directed to the Head of Risk and Compliance.
- Upon receipt of a report of detrimental action against a maker of a PID, the Head of Risk and Compliance will initiate a risk assessment and identify support available for the reporting person

#### 4.5.6 What Essential Energy will do if an investigation finds that serious wrongdoing has occurred

If, after an investigation, it is found that serious wrongdoing or other misconduct has occurred, Essential Energy will take the most appropriate action to address that wrongdoing or misconduct. This is also known as corrective action.

Corrective action can include:

- a formal apology
- improving internal policies to adequately prevent and respond to similar instances of wrongdoing
- providing additional education and training to staff where required
- initiating disciplinary action against persons involved in the wrongdoing (such as termination of employment, relocation, a caution or reprimand)

All investigation reports prepared in response to the disclosure of wrongdoing outlined in a PID will be reviewed by the Head of Risk and Compliance prior to consideration by the Disclosures Panel for final review and approval of any actions (disciplinary or otherwise) recommended in the report.



Upon approval of the recommended corrective actions by the Disclosures Panel, all actions will be communicated to the responsible business unit.

## **4.6 Review and Dispute Resolution**

### **4.6.1 Internal Review**

People who make voluntary PIDs can seek internal review of the following decisions made by Essential Energy:

- that Essential Energy is not required to deal with the report as a voluntary PID
- to stop dealing with the report because Essential Energy decided it was not a voluntary PID
- to not investigate the serious wrongdoing and not refer the report to another agency
- to cease investigating the serious wrongdoing without either completing the investigation or referring the report to another agency for investigation.

Essential Energy will ensure internal reviews are conducted in compliance with the PID Act.

If you would like to make an application for an internal review, you must apply in writing within 28 days of being informed of Essential Energy's decision. The application should state the reasons why you consider Essential Energy's decision should not have been made. You may also submit any other relevant material with your application.

All applications for an internal review should be sent to the Head of Risk and Compliance. Essential Energy undertakes to complete any review of a decision within 14 days of the receipt of an application.

### **4.6.2 Voluntary Dispute Resolution**

If a dispute arises between Essential Energy and a person who has made a report which is, or may be, a voluntary PID, we may request the NSW Ombudsman to conciliate the dispute. Conciliation is a voluntary process and will only be suitable for disputes where Essential Energy and the maker of the report are willing to resolve the dispute.

## **4.7 Other Agency Obligations**

### **4.7.1 Record-Keeping Requirements**

Essential Energy must keep full and accurate records with respect to all information received in connection with the PID Act. This ensures that Essential Energy complies with its obligations under the State Records Act 1998.

All communications, assessment and investigation reports, and associated documents and records will be stored on a secure drive accessible only by members of the Workplace Investigation team (Workplace Investigator, and Ethics & Fraud Risk Officer) and the Chief Risk & Compliance Officer or their delegate. Additional access rights will be at the discretion of the Chief Risk & Compliance Officer or their delegate.

### **4.7.2 Reporting of voluntary PIDs and Essential Energy annual return to the Ombudsman**

Each year Essential Energy provides an annual return to the NSW Ombudsman which includes:

- information about voluntary PIDs received by Essential Energy during each return period (yearly with the start date being 1 July).
- action taken by Essential Energy to deal with voluntary PIDs during the return period.
- how Essential Energy promoted a culture in the workplace where PIDs are encouraged.
- The gathering, storage, and security of all information related to PID reporting to the NSW Ombudsman is the responsibility of the Workplace Investigation team.



- All data will be stored on the Workplace Investigations shared drive.
- The Workplace Investigation team is responsible for the preparation and submission of all statistical reporting.

#### 4.7.3 How Essential Energy will ensure compliance with the PID Act and this policy

Oversight for ensuring the effectiveness and compliance and communication of Essential Energy's PID policy is the responsibility of the Workplace Investigations team under the direction of the Head of Risk and Compliance.

On an annual basis, following the mandated reporting to the NSW Ombudsman, all PID statistical reporting will be provided to the Board Risk and Cyber Security Committee for their review and information.

### 5.0 AUTHORITIES AND RESPONSIBILITIES

Position / Title	Responsibility
<b>Chief Executive Officer</b>	<ul style="list-style-type: none"> <li>• Fostering a workplace culture where reporting is encouraged.</li> <li>• Receiving disclosures from employees, contractors, and sub-contractors.</li> <li>• Ensuring there is a system in place for assessing disclosures.</li> <li>• Ensuring Essential Energy complies with this policy and the PID Act.</li> <li>• Ensuring that Essential Energy has appropriate systems for: <ul style="list-style-type: none"> <li>• Overseeing internal compliance with the PID Act.</li> <li>• Supporting public officials who make voluntary PIDs, including by minimising the risk of detrimental action.</li> <li>• Implementing corrective action if serious wrongdoing is found to have occurred.</li> <li>• Complying with reporting obligations regarding allegations or findings of detrimental action.</li> </ul> </li> <li>• Complying with yearly reporting obligations to the NSW Ombudsman.</li> <li>• Complying with all obligations of the Principal Officer under the ICAC Act report (s 11) on any matter suspected on reasonable grounds that may concern corrupt conduct. The Chief Executive Officer reviews and signs correspondence to ICAC under section 11 of the Independent Commission Against Corruption Act 1988 (NSW).</li> <li>• Reviewing and signing correspondence to affected individuals or delegate such duties where appropriate.</li> <li>• Notifying the Chair of the Board and Chair of the Board Risk and Cyber Security Committee of an investigation if allegations are made against a Level 2 Manager or above.</li> </ul>
<b>Disclosures Panel</b>	<ul style="list-style-type: none"> <li>• Reviewing assessments of allegations of wrongdoing</li> <li>• Authorising investigations into alleged wrongdoing.</li> <li>• Determining action to be taken after considering an investigation report</li> </ul>
<b>General Counsel &amp; Company Secretary</b>	<ul style="list-style-type: none"> <li>• Reviewing and signing investigation notices issued to affected persons</li> <li>• With the Head of Legal where appropriate, providing legal advice to the Head of Risk and Compliance and members of the Disclosures Panel</li> </ul>
<b>Head of Risk and Compliance</b>	<ul style="list-style-type: none"> <li>• Reviewing and approving this policy.</li> <li>• Investigating disclosures in line with this procedure, including managing internal and external investigators including resources and costs.</li> <li>• Reporting to the Disclosures Panel on the progress of investigations.</li> </ul>



	<ul style="list-style-type: none"> <li>• Reviewing assessment and investigation reports</li> <li>• Acting as the contact for ICAC and other authorities.</li> <li>• Facilitating compliance with ICAC Act and PID Act obligations (e.g. reporting, protection, feedback to relevant parties).</li> <li>• Arranging for other persons to be notified of an investigation if it concerns issues of health, safety or security, or if other circumstances suggest this action is necessary.</li> </ul>
<b>Workplace Investigator / Policy, Ethics and Risk Officer</b>	<ul style="list-style-type: none"> <li>• Conducting assessments and investigations</li> <li>• Preparing assessment and investigation reports including with outsourced providers where appropriate</li> <li>• Communicating investigation outcomes to relevant managers.</li> <li>• Preparing external correspondence</li> <li>• Facilitating compliance with ICAC Act and PID Act obligations (eg reporting, protection, feedback to relevant parties).</li> </ul>
<b>Disclosure Officers</b>	<ul style="list-style-type: none"> <li>• Receiving reports including reports passed on to them by managers.</li> <li>• Ensuring reports are dealt with appropriately, including by referring the matter to the appropriate internal team</li> <li>• Ensuring that any oral reports that have been received are recorded in writing.</li> </ul>
<b>Managers</b>	<ul style="list-style-type: none"> <li>• Receiving reports from persons that report to them or that they supervise.</li> <li>• Passing on reports they receive to a disclosure officer.</li> <li>• Assisting with the investigation of disclosures by providing access to information and individuals as part of an investigation</li> <li>• Providing correspondence to affected persons when requested by the Workplace Investigator.</li> <li>• With HR Business Partners, providing welfare support to affected persons during an investigation.</li> </ul>
<b>All Employees</b>	<ul style="list-style-type: none"> <li>• Reporting suspected serious wrongdoing or other misconduct.</li> <li>• Using their best endeavours to assist in an investigation and fully disclosing all relevant information to investigators during the investigation process.</li> <li>• Protecting and maintaining the confidentiality of any employee they know has or suspects to have made a disclosure.</li> <li>• Not victimising, harassing or taking any kind of detrimental action against anyone who has made, may in the future make, or is suspected of having made, a report of wrongdoing.</li> </ul>

## 6.0 DEFINITIONS

### Affected person

An affected person is anybody about whom an adverse comment or decision might be made as a result of an investigation.

### Corrupt conduct

For the purposes of this procedure, conduct is corrupt when it involves deliberate or intentional wrongdoing, not negligence or a mistake. Corrupt conduct occurs when:  
an employee improperly uses, or tries to improperly use, the knowledge, power or resources of their position for personal gain or the advantage of others; or

- an employee acts dishonestly or unfairly, or breaches public trust; or
- a member of the public influences, or tries to influence, an employee to use his or her position in a way that is dishonest, biased or breaches public trust.



The definition of corrupt conduct includes matters involving fraud, theft, bribery and forgery. Reference should also be made to Section 8 of the *Independent Commission Against Corruption Act 1998 (NSW)* where the term 'corrupt conduct' is defined.

**Criminal conduct**

For the purposes of the procedure, an alleged offence by an employee under the *Crimes Act 1900 (NSW)*.

**Detrimental action**

For the purposes of this procedure, detrimental action is 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; and
- disciplinary proceeding.

**Disclosures Officer**

A person identified in the Code of Conduct who receives and forwards information to the Chief Risk & Compliance Officer on alleged wrongdoing.

**Disclosures Panel**

A panel of employees normally comprising the Chief Executive Officer, Chief of Staff, General Counsel & Company Secretary, and Chief Operations People and Safety Officer.

**Employees**

Includes permanent employees (full-time or part-time) and any other person undertaking work in the Company, including contractors and their agents or employees.

**Executive Leadership Team (ELT)**

Direct reports to the Chief Executive Officer other than the Chief of Staff.

**Government information contravention**

For the purposes of this procedure, is a failure to properly fulfil functions under the *Government Information (Public Access) Act 2009 (NSW)*. For example, this could include:

- destroying, concealing or altering records to prevent them from being released;
- knowingly making decisions that are contrary to the legislation; or
- directing another person to make a decision that is contrary to the legislation.

**Independent Commission Against Corruption**

The Independent Commission Against Corruption (ICAC) as constituted under the *Independent Commission Against Corruption Act 1988 (NSW)*.

**Maladministration**

For the purposes of this procedure, maladministration is conduct that involves 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.



**NSW Ombudsman**

The NSW Ombudsman as constituted under the *Ombudsman Act 1974 (NSW)*.

**Principal Officer**

The Chief Executive Officer of Essential Energy.

**Public interest disclosure**

For the purposes of this procedure, a disclosure that satisfies the applicable requirements of Part 2 of the *Public Interest Disclosures Act 2022 (NSW)*.

**Public Official**

‘Public official’ is defined in section 14 of the PID Act as follows:

- (a) a person employed in or by an agency or otherwise in the service of an agency,
- (b) a person having public official functions or acting in a public official capacity whose conduct or activities an integrity agency is authorised by another Act or law to investigate,
- (c) an individual in the service of the Crown,
- (d) a statutory officer,
- (e) a person providing services or exercising functions on behalf of an agency, including a contractor, subcontractor or volunteer,
- (f) if an entity, under a contract, subcontract or other arrangement, is to provide services on behalf of an agency or exercise functions of an agency in whole or in part—an employee, partner or officer of the entity who is to be involved in providing the services in whole or in part, or who is to exercise the functions,
- (g) a judicial officer,
- (h) a member of Parliament, including a Minister,
- (i) a person employed under the Members of Parliament Staff Act 2013.

**Serious and substantial waste of public money**

For the purposes of this procedure, serious and substantial waste of public money is the uneconomical, inefficient or ineffective use of resources that could result in the loss or wastage of public resources.

**Wrongdoing**

Alleged corrupt conduct, maladministration, serious and substantial waste of public money and breaches of the *Government Information (Public Access) Act 2009 (NSW)*.

**7.0 REFERENCES**

Internal
<a href="#">CECG3001.01</a> - Essential Energy Code of Conduct
<a href="#">CECP0002</a> - Board Policy: Governance
<a href="#">CECP0002.01</a> - Board Policy: Preventing Fraud and Corruption
<a href="#">CEOP2000.60</a> - Building a Respectful Workplace - Preventing and Managing Vilification, Discrimination, Bullying and Harassment
External
Crimes Act 1900 (NSW)
Government Information (Public Access) Act 2009 (NSW)
Independent Commission Against Corruption Act 1988 (NSW)
Public Interest Disclosures Act 2022 (NSW)



**8.0 REVISIONS**

Issue No.	Section	Details of changes in this revision	Change Risk Impact?
4	All	Initial adoption following publication of model policy by NSW Ombudsman (replacing previous policy version based on 1994 PID Act)	Med
5	All	Amalgamation of the Whistleblowing & Investigating Alleged Wrongdoing and Criminal Conduct policies.	Low



**Annexure A - Names and contact details of disclosure officers for Essential Energy**

Essential Energy's disclosures officers include:

- The Chief Executive Officer, and members of Essential Energy's Board of Directors
- The most senior ongoing employee who ordinarily works at a permanently maintained worksite where more than one employee works.

Contact information for a disclosures officer at each permanently maintained worksite is available on EssentialNet, or by contacting any of the individuals below.

Position	Contact Details
Chief Risk & Compliance Officer	0425 228 616 dean.saunders@essentialenergy.com.au
Workplace Investigator	0447 227 817 sue.clements@essentialenergy.com.au
Ethics & Fraud Risk Officer	ethics@essentialenergy.com.au





**Annexure B – List of Integrity Agencies**

<b>Integrity agency</b>	<b>What they investigate</b>	<b>Contact information</b>
<b>The NSW Ombudsman</b>	Most kinds of <b>serious maladministration</b> by most agencies and public officials (but not NSW Police, judicial officers or MPs)	<b>Telephone:</b> 1800 451 524 between 9am to 3pm Monday to Friday <b>Writing:</b> Level 24, 580 George Street, Sydney NSW 2000 <b>Email:</b> <a href="mailto:info@ombo.nsw.gov.au">info@ombo.nsw.gov.au</a>
<b>The Auditor-General</b>	<b>Serious and substantial waste of public money</b> by auditable agencies	<b>Telephone:</b> 02 9275 7100 <b>Writing:</b> GPO Box 12, Sydney NSW 2001 <b>Email:</b> <a href="mailto:governance@audit.nsw.gov.au">governance@audit.nsw.gov.au</a>
<b>Independent Commission Against Corruption</b>	<b>Corrupt conduct</b>	<b>Telephone:</b> 02 8281 5999 or toll free on 1800 463 909 (callers outside Sydney) between 9am and 3pm, Monday to Friday <b>Writing:</b> GPO Box 500, Sydney NSW 2001 or faxing 02 9264 5364 <b>Email:</b> <a href="mailto:icac@icac.nsw.gov.au">icac@icac.nsw.gov.au</a>
<b>The Inspector of the Independent Commission Against Corruption</b>	<b>Serious maladministration</b> by the ICAC or the ICAC officers	<b>Telephone:</b> 02 9228 3023 <b>Writing:</b> PO Box 5341, Sydney NSW 2001 <b>Email:</b> <a href="mailto:oiicac_executive@oiicac.nsw.gov.au">oiicac_executive@oiicac.nsw.gov.au</a>
<b>The Law Enforcement Conduct Commission</b>	<b>Serious maladministration</b> by the NSW Police Force or the NSW Crime Commission	<b>Telephone:</b> 02 9321 6700 or 1800 657 079 <b>Writing:</b> GPO Box 3880, Sydney NSW 2001 <b>Email:</b> <a href="mailto:contactus@lecc.nsw.gov.au">contactus@lecc.nsw.gov.au</a>
<b>The Inspector of the Law Enforcement Conduct Commission</b>	<b>Serious maladministration</b> by the LECC and LECC officers	<b>Telephone:</b> 02 9228 3023 <b>Writing:</b> GPO Box 5341, Sydney NSW 2001 <b>Email:</b> <a href="mailto:oilc_executive@oilc.nsw.gov.au">oilc_executive@oilc.nsw.gov.au</a>
<b>Office of the Local Government</b>	<b>Local government pecuniary interest contraventions</b>	<b>Email:</b> <a href="mailto:olg@olg.nsw.gov.au">olg@olg.nsw.gov.au</a>
<b>The Privacy Commissioner</b>	<b>Privacy contraventions</b>	<b>Telephone:</b> 1800 472 679 <b>Writing:</b> GPO Box 7011, Sydney NSW 2001 <b>Email:</b> <a href="mailto:ipcinfo@ipc.nsw.gov.au">ipcinfo@ipc.nsw.gov.au</a>
<b>The Information Commissioner</b>	<b>Government information contraventions</b>	<b>Telephone:</b> 1800 472 679 <b>Writing:</b> GPO Box 7011, Sydney NSW 2001 <b>Email:</b> <a href="mailto:ipcinfo@ipc.nsw.gov.au">ipcinfo@ipc.nsw.gov.au</a>