



Australian Government



Northern Australia Infrastructure Facility

# Public Interest Disclosure Policy

June 2023

[www.naif.gov.au](http://www.naif.gov.au)

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## 1. Scope of this Policy

The Public Interest Disclosure Act 2013 (the PID Act) in conjunction with the National Anti-Corruption Commission Act 2022 (the NACC Act) promotes integrity within the Commonwealth public sector by providing a framework for Commonwealth officials to report suspected wrongdoing and for agencies to investigate and respond to such Public Interest Disclosures (Disclosure).

NAIF is committed to maintaining the highest standards of ethical and accountable conduct and ensuring that individuals who make Disclosures are provided with the protections available under the PID Act.

NAIF has developed a detailed process for reporting, investigating and responding to Disclosures under the PID Act. Although the Policy is not a statement of the law this Policy reflects relevant legal requirements of the PID Act and the NACC Act.

This Policy applies to all Public Officials under the PID Act and includes all current and former NAIF Employees as well as NAIF Directors. The Policy sets out:

- who can make a Public Interest Disclosure;
- what can be reported;
- how a Public Interest Disclosure can be made; and
- NAIF's policy on how a Public Interest Disclosure will be investigated.

## 2. Definitions

**Authorised Officer** means the Principal Officer as well as an officer authorised and appointed in writing (Appendix One) by the Principal Officer to be an Authorised Officer under the PID Act.

**Corrupt Conduct** is a situation where a public official does something that breaches the public trust; abuses their office as a public official, or misuses information they have access to in their capacity as a public official.

**Corruption Issue** is information, or an allegation that raises a question of whether a person has engaged in corrupt conduct in the past; is currently engaging or will engage in corruption conduct in the future.

**Disclosable Conduct** is conduct of a kind outlined in section 29 of the PID Act, that is engaged in by an agency; or by a public official, in connection with their position as a public officer; or by a contracted service provider for a Commonwealth contract. But excludes government policy, action or expenditure with which a person disagrees.

**Discloser** means an individual who discloses information.

**Disclosure** means information disclosed by a Discloser.

**EFA** means Export Finance Australia formerly known as the Export Finance and Insurance Corporation (Efic).

**EFA Service Level Agreement** means the service agreement between NAIF and EFA dated 5 April 2017 (as amended or replaced from time to time).

**Employees** are persons employed by, or operating under, an employment or similar contract with NAIF including a full time or part time employee, consultant, contractor and EFA personnel working on NAIF matters under the EFA Service Level Agreement.

**NACC** is the National Anti-Corruption Commission.

**NACC Act** means National Anti-Corruption Commission Act 2022.

**People Leader** in relation to a Public Official, is a person who supervises or manages the Public Official or Employee.

**PID Act** means the *Public Interest Disclosure Act 2013*.

**Principal Officer** means the Chief Executive Officer (CEO) or their delegates as appointed from time to time.

**Public Official** is a broad term which includes any person who is or was employed or appointed by the Australian Government, Employees of Commonwealth companies, Commonwealth authorities and statutory agencies, the Parliamentary Service, Commonwealth statutory officeholders and service providers under a contract to the Commonwealth or a Commonwealth authority and includes all current and former NAIF Employees and Directors.

### 3. Policy Statement

The purpose of the Public Interest Disclosure (PID) Policy is to inform Commonwealth officials of the Northern Australia Infrastructure Facility's (NAIF) approach to dealing with Public Interest Disclosures relating to NAIF under the Public Interest Disclosure Act 2013 (PID Act) and National Anti-Corruption Commission Act 2022 (NACC Act).

NAIF provides a number of avenues for Employees to raise concerns or areas of complaint within NAIF, including the NAIF Grievance Policy. It is requested that the Grievance Policy is considered as the preferred communication process, prior to making a Disclosure.

### 4. Roles and Responsibilities

Role	Responsibility
People and Remuneration Committee (PRemCo)	The PRemCo is responsible for reviewing this Policy and endorsing it for Board approval. Directors are responsible for complying with this Policy.
Board	The Board is responsible for approving this Policy in line with section 4 of this Policy
Principal Officer (CEO)	The Principal Officer (CEO) is responsible for: <ul style="list-style-type: none"><li>• overseeing this Policy and ensuring adequate and appropriate resources are allocated to implement, develop, maintain and comply with this Policy;</li><li>• Investigation of matters raised including the decision to appoint an external investigator as appropriate.</li><li>• Reporting to NACC as soon practical after an internal disclosure raised a corruption issue;</li><li>• Ensuring confidentiality is maintained (s8), risk of reprisal assessment completed (s7) and protections to the discloser are in place (s9)</li><li>• implementing appropriate remedial, disciplinary or other action for failure to comply with this Policy; and</li><li>• encouraging Employees to comply with this Policy and make any recommendations for continuous improvement.</li></ul>

<b>Authorised Officer (s44)</b> (Snr Director People and Culture; Chief Legal Officer; Company Secretary)	Authorised Officer as appointed by the Principal Officer is responsible for: <ul style="list-style-type: none"> <li>• receiving and acting upon the information disclosed by the discloser;</li> <li>• assessing whether the disclosable conduct relates to the agency or another and complete the appropriate allocations;</li> <li>• maintaining confidentiality of the disclosure unless permission is granted by the discloser or as required by law; and</li> <li>• Informing the discloser of the allocation and or action taken or not.</li> <li>• Ensuring confidentiality is maintained (s8), risk of reprisal assessment completed (s7) and protections to the discloser are in place (s9)</li> </ul>
<b>People and Culture</b>	People and Culture is responsible for: <ul style="list-style-type: none"> <li>• arranging training from time to time for Directors and Employees on this Policy including the consequences of a breach;</li> <li>• ensure adequate number of trained Authorised Officers is maintained;</li> <li>• providing (as appropriate) advice to Directors and Employees on compliance with this Policy; and</li> <li>• ensuring material changes to the Policy are communicated to Employees in a timely manner.</li> </ul>
<b>All Employees</b>	Employees are responsible for complying with this Policy in line with Section 6.

## 5. Public Interest Disclosures

### 5.1 What is the Public Interest Disclosure Scheme

The Public Interest Disclosure Scheme (PID scheme) was established by the Public Interest Disclosure Act 2013 (PID Act) which came into effect on 15 January 2014. The PID Act replaced the ‘whistleblower’ provisions previously contained within the *Public Service Act 1999*.

The PID Act promotes the integrity and accountability of the Commonwealth public sector by:

- encouraging and facilitating the disclosure of suspected wrongdoing;
- protecting people who make disclosures; and
- ensuring disclosures are properly investigated and dealt with.

### 5.2 What is a PID

An allegation of wrongdoing made under the PID Act, is known as a Public Interest Disclosure (PID). Conduct that may be the subject of a PID (disclosable conduct) includes, but is not limited to:

- a contravention of the law
- corruption
- perverting the course of justice
- maladministration
- an abuse of public trust
- falsifying scientific research
- wastage of public money, or
- conduct that is a danger to health, safety or the environment.

### 5.3 Who can make a Public Interest Disclosure

A current or former Public Official can make a Public Interest Disclosure and such a Disclosure can be made anonymously.

### 5.4 What can be reported

A current or former Public Official can disclose information that they believe on reasonable grounds tends to show one or more instances of Disclosable Conduct.

### 5.5 How a Public Interest Disclosure can be made

There are four types of Public Interest Disclosures under the section 26 of the PID Act: Internal Disclosures, External Disclosures, Emergency Disclosures and Legal Practitioner Disclosures.

#### 5.5.1 Internal Disclosure

Generally, Public Officials in NAIF should make a Disclosure to NAIF in the first instance.

An Internal Disclosure can be made to NAIF about Disclosable Conduct carried out by Public Officials who belong to NAIF, or who belong to other Commonwealth agencies.

A current or former Public Official can make the Disclosure in person, by telephone or in writing, including by email. The Disclosure can be made either to the Discloser's People Leader (for current Employees), or to an Authorised Officer in NAIF, including the Principal Officer or an Authorised Officer.

The Discloser can remain anonymous although NAIF has the discretion not to investigate if NAIF is unable to progress an investigation because it cannot contact the Discloser to seek further information.

In addition, if the Discloser believes on reasonable grounds that it is appropriate for the NACC to investigate instead of NAIF, they can make an Internal Disclosure directly to the NACC.

#### 5.5.2 External Disclosure

The PID scheme is focused on internal disclosure with PIDs being made and investigated within Government. Although most PIDs must be made internally in the first instance, an External Disclosure may be justified in some limited circumstances. Public Officials considering making disclosures outside of Government should seek their own independent advice prior to doing so to ensure they are covered by the protections of the PID Act.

#### 5.5.3 Emergency Disclosure

This type of Disclosure is where the Discloser believes on reasonable grounds that the information concerns a substantial and imminent danger to the health and safety of one or more persons or to the environment.

#### 5.5.4 Legal Practitioner Disclosure

Where the Disclosure is made to an Australian Legal Practitioner and is made for the purposes of obtaining legal advice, or professional assistance from the recipient in relation to the disclosure having made or proposing to make a PID Disclosure.

## 6. Obligations of NAIF Employees

## 6.1 Principal Officer

NAIF's Principal Officer is responsible for:

- establishing procedures to deal with Disclosures;
- ensuring Public Officials who belong to NAIF are aware of the procedures and the protections available;
- carrying out the role of Authorised Officer;
- appointing Authorised Officers, in writing, to receive Disclosures, and ensuring that there are sufficient Authorised Officers to make them readily accessible;
- ensuring that Public Officials who belong to NAIF are aware of the identity of each Authorised Officer;
- ensuring Disclosures are properly investigated including referral to external investigator as appropriate;
- reporting any PID that raises an actual corruption issue or suspected issue that could involve serious or systemic corrupt conduct to the NACC as soon as practicable after becoming aware of it;
- protecting Public Officials who belong to NAIF from reprisals or threats of detriment if they make a Public Interest Disclosure;
- taking appropriate action in response to an investigation report;
- keeping records in relation to the handling of Disclosures; and
- providing information to the NACC.

## 6.2 People Leader

If the People Leader of a Public Official in NAIF believes that the information given to them by that person concerns, or could concern, Disclosable Conduct, they must give that information to an Authorised Officer in NAIF as soon as reasonably practicable. However, because of the confidentiality requirements, the People Leader should obtain the person's consent before passing on their identifying information. If the Discloser wishes to remain anonymous, the People Leader must pass on as much of the information contained in the Disclosure as possible and in a manner that does not reveal the identity of the Discloser. People Leaders also have a role in assessing or helping the Authorised Officer to assess the risks of reprisal action against a Discloser.

People Leaders also have a key role in ensuring that the workplace culture supports the making of Disclosures. They can help to do so by:

- being knowledgeable about the PID Act, particularly in relation to confidentiality requirements;
- being approachable to Employees who wish to raise concerns;
- ensuring Employees undergo available training;
- confronting any workplace prejudices about making a Disclosure;
- supporting an Employee member who they know has made a Disclosure and ensuring they are protected from reprisal;
- increasing supervision of the workplace if necessary (for example, if workplace conflict occurs because a Disclosure has been made or an investigation is under way);
- not trying to fix a problem raised by a Disclosure without first getting advice from an Authorised Officer or Principal Officer; and
- setting an example for Employees.

## 6.3 Authorised Officers

Authorised Officers have a range of decision-making, notification and other responsibilities under the PID Act, including:

- receiving Disclosures from current or former Public Officials about Disclosable Conduct;
- deeming a person who is not a current or former Public Official to be a Public Official to facilitate the making of a Public Interest Disclosure;
- deciding whether to inform a person who may be unaware of the PID Act requirements that information could be treated as an Internal Disclosure, explaining the requirements of the PID Act and advising the person of any designated publication restrictions that may affect Disclosure;
- assessing reported information to determine whether there are reasonable grounds to believe the information could be considered to be a Disclosure;
- assessing the risks of reprisal action against the Discloser; making any preliminary inquiries necessary to make an allocation decision including establishing whether the Discloser consents to having their name and contact details passed on to the Principal Officer; (if the Discloser wishes to be anonymous, the Authorised Officer must allocate as much of the information contained in the Disclosure as possible, but in a manner that does not reveal the name or contact details of the Discloser);
- allocating the Disclosure to the Principal Officer of their agency and/or another agency, with that other agency's consent, desirably within 14 days of becoming aware of the Disclosure;
- informing the Principal Officer of each relevant agency of allocation decisions and associated information;
- informing the Discloser of the allocation decision;
- consenting to the allocation to NAIF of a Disclosure by an Authorised Officer of another agency;
- advising the Discloser of a decision not to allocate, the reasons why and any other course of action that may be available under Commonwealth law; and
- keeping records relating to the handling of Disclosures.

## 6.4 All Employees

The PID Act requires all Public Officials to use their best endeavours to assist the Principal Officer in the conduct of an investigation, noting that:

- Public Officials have a common law right to silence in a PID Act investigation; and
- the PID Act also gives witnesses in a PID Act investigation certain legal protections.

Beyond those specific responsibilities, all Employees share the responsibility of ensuring the PID Act works effectively. Their role includes:

- reporting matters where there is evidence that shows or tends to show Disclosable Conduct;
- identifying areas where there may be opportunities for wrongdoing to occur because of inadequate systems, and proactively raising those with management;
- supporting Employees who they know have made Disclosures; and
- keeping confidential the identity of a Discloser and anyone against whom an allegation has been made, if they become aware of those matters.

## 7. Assessment of risks of reprisal

As soon as possible after a Public Interest Disclosure is received, an Authorised Officer must assess risks that reprisal may be taken against a person who makes a Disclosure. If the Disclosure is made to the People Leader and the person wishes their identity to remain anonymous, the People Leader must conduct a risk assessment as soon as possible after the Disclosure is made.

The person assessing the risk, in consultation with the Principal Officer, where appropriate, will plan and implement strategies to control the risks of reprisals or related workplace conflict. Where possible, the Discloser will be consulted before any decision is made.



The risk assessment should be monitored and reviewed by the risk assessor as necessary including by checking with the Discloser to see if reprisals have been made or threatened.

## 8. Confidentiality

NAIF will make every reasonable effort to protect the Discloser's identity. It is a criminal offence for a Public Official who is involved in handling a Disclosure to reveal the Discloser's identifying information to anyone else without their consent or use it for another purpose, unless it is for the purposes of the PID Act, an investigation by the NACC, or another Commonwealth law or prescribed law, or if the information has already lawfully been published.

However, the Discloser's identity, or information that would effectively identify them, may need to be disclosed to certain other people if that is necessary:

- to investigate the Disclosure effectively (for example, if the wrongdoing that was reported was directed solely against the Discloser);
- to protect them against reprisals (for example, if there are concerns that it is impossible for them to remain in their current workplace); or
- because of a requirement of law, including procedural fairness.

If it is necessary or highly likely that the Discloser's identity will be revealed, NAIF will, unless it is not reasonably practicable, discuss this with the Discloser before proceeding.

## 9. Protections provided to the Discloser

The PID Act provides the following protections for persons who make a Disclosure:

- The person will not be subject to any civil, criminal or administrative liability for making the Disclosure unless their Disclosure was knowingly false or misleading.
- No contractual or other remedy may be enforced or sanction imposed on the person for making the Disclosure.
- The person has absolute privilege (for the purpose of defamation proceedings) in respect of a Disclosure.
- A contract to which the person is a party must not be terminated on the basis that the Disclosure constitutes a breach of contract.
- It is a criminal offence for a person to take, or threaten to take, reprisal action against a person who has made, or who is thought to have made, a Disclosure.
- Other remedies, including compensation and injunctions, may also be available in respect of reprisal actions under the PID Act or the Fair Work Act 2009 (although an application may only be made under one Act).
- The general workplace protections offered by Part 3-1 of the *Fair Work Act 2009* will apply in relation to the making of a Disclosure by a Public Official who is an employee within the meaning of that Act.

The protections from liability do not apply to protect the Discloser in relation to their own wrongdoing.

## 10. Investigation

NAIF will investigate Disclosures which contain enough information to support further enquiry subject to its discretion not to investigate in certain circumstances.

The Principal Officer is responsible for conducting an investigation and may delegate those powers and functions to a Public Official in the agency by an instrument.

Investigations under the PID Act will be conducted by an independent investigator skilled in conducting investigations, and familiar with the PID Act and PID Standard any other relevant procedures, especially the confidentiality requirements and the protections for the Discloser.

The Principal Officer must take appropriate action in response to a recommendation and other matters contained in the investigation report.

## 11. Record keeping and reporting

The Authorised Officer must keep secure and confidential records of Disclosures and of how and when a Disclosure was made. Each Disclosure should be given a unique reference number. Details of the risk assessment of reprisal, allocation, the investigation, notification to the Discloser and others will also be kept. A PID Act investigator must also keep records of their investigation secure and confidential.

In addition to the immediate reporting requirements to the NACC, the following details will be disclosed by the Principal Officer to the NACC as required under the PID Act and NACC Act :

- the number of Disclosures received by Authorised Officers of NAIF during the relevant financial year;
- the kinds of Disclosable Conduct to which those Disclosures related;
- the number of Disclosure investigations that the Principal Officer of NAIF conducted during the relevant financial year;
- the actions that the Principal Officer took during the relevant financial year in response to recommendations in reports relating to those Disclosure investigations; and
- any other information requested by the Ombudsman.

### 11.1 Keeping the Discloser informed

The Discloser will be notified at various stages in the process, provided the person's contact details are available. The Discloser must be advised by the Authorised Officer or Principal Officer:

- when the Disclosure is either allocated for investigation, or not allocated because it has been determined not to be an Internal Disclosure;
- of information about the Principal Officer's discretionary powers to not investigate within 14 days of the Disclosure being allocated;
- if the decision is to investigate under the PID Act, the estimated length of the investigation;
- if the decision is not to investigate, the reasons for the decision and any action that might be available to the Discloser under other Commonwealth laws;
- if an investigation is conducted under the PID Act and an extension of time is granted by the NACC, the progress of the investigation; and
- when the investigation report is completed, they must be provided with a copy of the report (which may be redacted).

## 12. Seeking assistance

If you have any queries or need any assistance, you may wish to discuss these queries with your People Leader or an Authorised Officer in the NAIF, including the CEO.

General information on the Public Interest Disclosure scheme is available at:

- [NACC – www.ag.gov.au/integrity/NACC](http://www.ag.gov.au/integrity/NACC)
- [Commonwealth Ombudsman – www.ombudsman.gov.au/complaints/public-interest-disclosure-whistleblowing](http://www.ombudsman.gov.au/complaints/public-interest-disclosure-whistleblowing)

## Appendix One: Authorised Officer Appointment Letter

To, Authorised Officer

I, Craig Doyle Chief Executive Officer of Northern Australia infrastructure Facility (NAIF) and Principal Officer under the Public Interest Disclosure Act 2013 (the PID Act), appoint you [insert full name], [insert title] of NAIF as an Authorised Officer under the PID Act as of [insert date].

In executing the duties of an Authorised Officer for the purposes of the PID Act you will maintain your training and awareness of the PID Act, the National Anti-Corruption Commission Act 2022 (the NACC Act) and all associated legislation, rules and guidelines.

Your responsibilities as an Authorised Officer, as defined by the PID Act are:

- provide information to potential disclosers about their rights and responsibilities
- receive and manage public interest disclosures in accordance with the PID Act
- assess the disclosure to ensure it contains public interest information
- where appropriate, investigate or cause an investigation of the matters disclosed
- provide information to potential subjects of a disclosure about their rights, responsibilities, duties and the potential offences, if appropriate
- take such action as is necessary, reasonable and within your functions and powers
- maintain confidentiality of the identity of the discloser and subject(s) of disclosures
- provide progress reports, where requested, and final reports to disclosers
- create and maintain proper and secure records about disclosures
- act according to the rules of natural justice
- act according to the code of conduct and integrity and any applicable authority-specific code of conduct, established separately to the PID Act.

A large part of your role focuses on maintaining communication with all people involved in the disclosure process. You must ensure appropriate disclosures are investigated and action is taken, and administer the process in line with the NAIF Public Interest Disclosure Policy and all relevant legislation, rules and guidelines. You will need to be adaptable and flexible in your approach according to the circumstances.

Even if the disclosure is not an appropriate disclosure, you can still encourage the discloser to find a pathway to report the matter. In some cases, you may be able to refer them to an internal person better able to address their concerns.

If you accept this appointment, please complete the section below. A copy of this appointment letter will be kept within your employee file

Yours sincerely

Craig Doyle  
Chief Executive Officer  
Northern Australia Infrastructure Facility

I, [insert full name] accept this appointment and understand the role of the Authorised Officer and accept the responsibilities of this appointment.

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

## 13. Review and Approval

This Policy is reviewed annually, or more frequently if required, by or on behalf of the CEO to ensure it remains aligned with governing legislation. The Board approves all material amendments and reviews the Policy at least every two years.

### Document Review and Approval

Policy Sponsor	Policy Approver	Approval date	Next Board Review
Senior Director, People and Culture	PRemCo	22 June 2023	

VERSION DATE	AUTHOR/REVIEWER	REVISION	APPROVAL	DATE OF APPROVAL	NEXT REVIEW
1.0	NAIF Management	Original	Board	10 August 2016	August 2017
2.0	NAIF Management	Review	Board	20 June 2017	June 2018
3.0	Manager, Governance, Compliance and Risk	Review	Board	23 August 2018	August 2019
4.0	Manager, Risk & Compliance	Review	CEO	1 August 2019	August 2020
5	A/Head of Human Resources	Review	Board	9 September 2020	September 2022
6.0	Chief People and Culture Officer	Review	Board	March 2023	March 2025
7.0	Senior Director, People and Culture	Review	Board	22 June 2023	22 June 2025