

# GOV-001 Whistleblower Policy and Procedure

**Applies to:** All current and former PWDA Board Directors, employees, contractors, subcontractors, consultants, members, volunteers and students, and their families

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**Policy approver:** PWDA Board

**Policy owner:** Chief Executive Officer

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## Purpose

- To encourage individuals to report improper conduct in good faith if they know or have reasonable grounds to suspect such conduct, including those related to child safety.
- To explain the process for reporting misconduct or dishonest or illegal activity that has occurred or is suspected within PWDA.
- To outline the process for investigating and responding to whistleblower concerns reported under this policy.
- To ensure that any Reportable Conduct is identified and dealt with appropriately.
- To ensure that individuals who disclose wrongdoing can do so safely, securely and with confidence that they will be protected and supported, in alignment with the Public Interest Disclosure Act (PID).
- To improve PWDA's whistleblowing culture and increase transparency.
- To help deter wrongdoing and promote better compliance with the law.
- To help to ensure that PWDA maintains the highest standards of ethical behaviour and integrity.

## Scope

This policy applies to all current and former Board Directors, PWDA members, employees, independent contractors, subcontractors (and their employees), consultants, volunteers acting on behalf of PWDA, student placements, associates of PWDA, official visitors, families, and dependants of these.

Within this policy all these people are represented by the term **Workers**.

**This policy covers** disclosures about actual or possible wrongdoing which has happened, or is happening, within PWDA.

**This policy does not cover** disclosures about personal work-related grievances or bullying or harassment. Refer to PWDA's **Grievance Policy and Procedure** and **Bullying, Harassment and Discrimination Policy**.

This policy mainly relates to voluntary disclosures of serious wrongdoing under the Public Interest Disclosure Act, though people who make mandatory or witness disclosures of serious wrongdoing are still entitled to protections under this Act.

## **Policy Statement**

- PWDA is committed to fostering a culture of legal, ethical, and moral behaviour and exemplary corporate governance.
- PWDA recognises the value of transparency and accountability in its administrative and management practices and supports the reporting of improper conduct.
- This **Whistleblower Policy and Procedure** has been developed so that everyone feels safe and supported to speak up regarding situations where they believe that PWDA or anybody connected with PWDA has acted in a way that constitutes wrongdoing, whether they think it is serious wrongdoing or not, including unethical, illegal, corrupt or other inappropriate conduct, as set out below.

This policy is not intended to override any rights or obligations any party may have under the whistleblower laws.

## **Reporting and Disclosing**

### **What is a whistleblower?**

A whistleblower is a person who, whether anonymously or not, attempts to report or disclose misconduct or dishonest or illegal activity that has occurred in connection with PWDA, and wishes to avail themselves of protection against reprisal for having made the report.

A whistleblower may be a current or former Worker with PWDA.

### **What can be reported?**

A person may disclose any information that they have reasonable grounds to suspect concerns illegal conduct, misconduct or an improper state of affairs or circumstances in relation to PWDA or a related body corporate of PWDA.

## What is Reportable Conduct?

Reportable Conduct is any past, present or likely future activity, behaviour or state of affairs considered to be:

- dishonest
- corrupt (including soliciting, accepting, or offering a bribe, or facilitating payments or other such benefits)
- fraudulent
- illegal (including theft, drug sale or use, violence or threatened violence, or property damage)
- in breach of regulation, internal policy, or code (such as our Codes of Conduct)
- improper conduct relating to accounting, internal controls, compliance, actuarial, audit or other matters of concern to the whistleblower
- a serious impropriety or an improper state of affairs or circumstances
- endangering health or safety
- damaging or substantially risking damage to the environment
- a serious mismanagement of PWDA's resources
- detrimental to PWDA's financial position or reputation
- maladministration (an act or omission of a serious nature that is negligent, unjust, oppressive, discriminatory or is based on improper motives)
- concealing reportable conduct.

Reportable Conduct usually relates to the conduct of employees or Board Directors, but it can also relate to the actions of a third party, such as a funder, customer/client, supplier, or service provider.

## What is not Reportable Conduct?

While everybody is encouraged to speak up and report any concerns to PWDA, not all types of conduct are intended to be covered by this policy or by the protections under the Corporations Act 2001 (Cth). This policy does not apply to complaints by clients about a service or personal work-related grievances unless the grievance includes victimisation due to whistleblowing. Those matters are dealt with under other policies.

Personal work-related grievances are those that relate to the discloser's current or former employment with PWDA that might have implications for the discloser personally, such as interpersonal conflicts, decisions about promotions, decisions that do not involve a breach of workplace laws, or terms and conditions of employment, but do not:

- have any other significant implications for PWDA (or another entity); or
- relate to any conduct or alleged conduct about a disclosable matter (as set out above).

However, personal work-related grievances may be covered by this policy where they include information about misconduct, or an allegation that the entity has breached employment or other laws.

### **What are Disclosable Matters?**

When a whistleblower raises a complaint in relation to Reportable Conduct the complaint becomes a "Disclosable Matter" and the whistleblower will receive the protections under law, as outlined in this policy.

### **What information is needed to make a report?**

To make a protected disclosure, whistleblowers must know of or have reasonable grounds to suspect the Reportable Conduct.

For a report to be investigated, it must contain enough information to form a reasonable basis for investigation. It is important therefore that as much information is provided as possible. This includes any known details about the events underlying the report such as the:

- date
- time
- location
- name of person(s) involved
- possible witnesses to the events; and
- evidence of the events (e.g. documents, emails).

Include in the report, any steps that may have already been taken to report the matter elsewhere or to resolve the concern.

## **How to Make a Report**

For their disclosures to be protected, whistleblowers must make their disclosure to the people listed in this Policy.

**Whistleblowers can make a disclosure or obtain additional information prior to making a disclosure by contacting one of PWDA's Whistleblower Protection Officers (WPO).**

While PWDA encourages whistleblowers to identify themselves to a WPO, they may opt to report their concerns anonymously.

Alternatively, whistleblowers can disclose the information to any one of PWDA's auditors, tax / BAS agents, or funding contract managers etc. Please refer to the **Whistleblower Procedure** section below, which lists WPO's and other disclosure recipients.

## **Support Available for Disclosing Information**

PWDA can provide support to help whistleblowers disclose their information and throughout the investigation. This can include help to lodge a disclosure, providing information in accessible formats, and providing interpreters and other supports that may be reasonably needed.

Whistleblowers can also have their own support person to assist them if they wish.

Whistleblowers should let PWDA know, at the time of contacting PWDA about a disclosure:

- if they need support, and the kind of support they need
- if they believe they are at risk of detrimental action
- how they would like updates provided to them.

## **Protections**

### **How we protect reporters of Reportable Conduct**

If whistleblowers have reasonable grounds to suspect Reportable Conduct, even if it turns out their concerns are mistaken, PWDA will support and protect them and anyone else assisting in the investigation.

PWDA will not tolerate any detriment inflicted on whistleblowers because they or somebody else has made, or might make, a report of Reportable Conduct. Examples of a detriment include:

- retaliation, dismissal, suspension, demotion, or termination of their role
- bullying, harassment, threats, or intimidation
- discrimination including current or future bias, or derogatory treatment
- harm or injury
- damage or threats to a whistleblower's property, business, financial position, or reputation
- revealing the identity of a whistleblower without their consent or contrary to law
- threatening to carry out any of the above actions.

This protection applies regardless of whether any concerns raised in a report are found to be true or not, provided that the whistleblower is acting honestly and ethically and made the report on reasonable grounds.

This protection also applies to individuals conducting, assisting or participating in an investigation. They will also be entitled to the protection if they make a report of Reportable Conduct to an external body under this policy.

**Anyone found to be victimising or disadvantaging another individual for making a disclosure under this policy will be disciplined and may be dismissed or subject to criminal or civil penalties.**

If a whistleblower believes they have suffered a detriment in violation of this policy, we encourage them to report this immediately to a WPO, or an external body under this policy. Concerns of being disadvantaged will be treated as a report of Reportable Conduct in line with this policy.

**Anyone engaging in detrimental conduct may be subject to serious consequences, including disciplinary action and/or termination of engagements or contracts, as applicable. They may also be subject to civil and criminal penalties.**

Whistleblowers may also be entitled to the following legal protections for making a report:

- protection from civil, criminal, or administrative legal action
- protection from having to give evidence in legal proceedings; and/or
- compensation or other legal remedy.

## **Ensuring Confidentiality**

A whistleblower can choose to remain anonymous while making a disclosure, over the course of the investigation and after the investigation is finalised. PWDA will do all it can to protect confidentiality.

However, we encourage all individuals to disclose their identity when raising a concern. This will assist us to gather further information on their report.

If they choose to disclose their identity, their details will be treated confidentially to the fullest extent possible in connection with the investigation. PWDA will take measures to protect their identity (and any details in their report that are likely to identify them) such as by redacting their personal information, storing their information and disclosure securely, referring to them in a gender-neutral context and only allowing qualified employees to investigate their disclosure.

PWDA can disclose the information contained in a disclosure with or without the discloser's consent if:

- the information does not include the discloser's identity
- PWDA has taken all reasonable steps to reduce the risk that the discloser will be identified from the information; and
- it is reasonably necessary for investigating the issues raised in the disclosure.

There are also some situations when a whistleblower's identity or information that could or is likely to identify them, can be disclosed without the whistleblower's consent. This includes if the disclosure is made to:

- an inhouse or external lawyer for the purpose of obtaining legal advice or legal representation relating to whistleblower laws
- Australian Federal Police
- Australian Securities and Investments Commission

- Australian Commissioner of Taxation if the disclosure is about PWDA's tax affairs or the tax affairs of an associate of PWDA
- disclosure is necessary to prevent or lessen a threat to a person's health, safety, or welfare.

It is illegal for a person to identify a discloser or disclose information that is likely to lead to the identification of the discloser unless an exception above applies.

If a whistleblower feels that their confidentiality has been breached, they can lodge a complaint with a regulator, such as ASIC or the ATO.

**PWDA may also take disciplinary action against individuals that breach the confidentiality of a discloser, including summary dismissal.**

### **False Reports or Disclosures**

Protected disclosures must be made on reasonable grounds. Anyone who knowingly makes a false or misleading report/disclosure of Reportable Conduct may be subject to disciplinary action in accordance with PWDA's **Disciplinary Policy**.

The disciplinary action will depend on the severity, nature and circumstances of the false disclosure, and protections and immunity from legal action may not apply.

## **Handling and Investigating a Disclosure**

Each disclosure will be promptly and impartially assessed to determine whether:

- it qualifies for protection; and
- a formal, in-depth investigation is required.

PWDA will provide the whistleblower with regular updates and inform them of the outcome of their disclosure.

**PWDA may not be able to investigate a disclosure if it is unable to contact the whistleblower.**

PWDA will handle and investigate protected disclosures adhering to principles of natural justice, including evidence review, interviews, and fact-finding, following statutory requirements of the PID Act and in accordance with the Whistleblowing Procedure below.

## Monitoring and Assurance

This policy will be available to all workers via Employment Hero and during Induction.

To ensure effective protection under the policy, PWDA will monitor and review this policy every 2 years and as legislation is amended.

PWDA will provide workers who are responsible for receiving protected disclosures with training on their rights and responsibilities.

PWDA will provide workers (and their immediate family members) with access to free, confidential, short-term support services by qualified professionals, either face to face, over the phone or over the internet.

## Making a Complaint

Any concerns or complaints about this policy or how a whistleblower has been treated by making a disclosure or during an investigation, should be directed to the relevant WPO.

Details of PWDA's WPOs can be obtained by:

1. writing to: PWDA, PO Box 666, Strawberry Hills NSW 2012
2. emailing: [whistleblower@pwd.org.au](mailto:whistleblower@pwd.org.au)
3. phoning: 1800 422 015
4. emailing or phoning a Whistleblower Protection Officer directly, or
5. by visiting the PWDA Head Office: Suite 10.01 Centennial Plaza, Level 10, 300 Elizabeth Street, Surry Hills NSW 2010. Please call 1800 422 015 to arrange a time.

## Legal Obligations

As a public company limited by guarantee, PWDA is required to maintain a Whistleblower Policy and Procedure that complies with the requirements of the **PID Act**, the new **section 1317AI of the Corporations Act 2001** and other applicable laws.

PWDA is required to maintain policies that are consistent with the intent of the PID Act and **Independent Commission Against Corruption Act 1988** (ICAC Act)

Note: As a service provider to the NSW Government, PWDA, and all PWDA workers who deliver services or exercise functions on behalf of our government funders, are considered **public officials** for the purposes of the PID Act.

## Record Keeping

All whistleblower disclosures, assessments, and investigation records will be securely stored and managed according to legislative and privacy requirements.

Records will be retained as required by law and periodically audited for compliance.

## Roles and Responsibilities

**Board** – is responsible for this policy and for managing whistleblower disclosures that relate to the CEO or Board Directors.

The Board is also responsible for ensuring that the broader trends, themes, and/or emerging risks highlighted by disclosures made under this policy are addressed and mitigated by PWDA as part of its risk management and corporate governance.

**CEO** – is responsible for:

- assisting WPO's in assessing and overseeing whistleblower reports
- maintaining a secure and restricted record of all reports made under this policy and procedure
- determining if complex disclosures require support from PWDA's legal advisors
- taking appropriate action, as soon as reasonably practicable, in response to recommendations made in an investigation report
- reporting to the Board on whistleblower disclosures, progress and outcomes, trends, actions taken to improve services and operations, and strategic recommendations
- reporting disclosures to relevant authorities where required, including the Department of Communities and Justice contract manager
- investigating any matters involving the Director of People and Culture in accordance with this policy.

**Director of People and Culture** – is responsible for:

- assisting WPO's in assessing and overseeing whistleblower reports
- maintaining a secure and restricted record of all reports made under this policy and procedure
- providing administrative support to Board Directors in their roles as WPOs and/or Investigators
- investigating any matters involving workers (except the CEO)
- ensuring investigations are conducted in accordance with this policy
- determining the appropriate course of action to remediate or act on an investigation
- ensuring workers are made aware of their rights and responsibilities in relation to whistleblowing at induction
- arranging role-specific training as and when required.

**Whistleblower Protection Officer (WPO)** – is responsible for:

- receiving whistleblower reports and protecting the interests of reporters
- determining whether a report falls within the scope of this policy
- ensuring any reports involving a Board Director or the CEO are reported to the President of the Board
- immediately reporting concerns in relation to any detrimental conduct to the CEO or President (provided that the concerns do not relate to them)
- liaising with the Director of People and Culture, or CEO if the report is about the Director of People and Culture, in relation to an investigation
- updating whistleblowers on progress and details of outcomes
- maintaining to the fullest extent possible, confidentiality of the identity of and reports received by whistleblowers
- completing any training mandated.

**Investigators** – are responsible for:

- investigating reports in accordance with this policy and procedure
- maintaining to the fullest extent possible, confidentiality of the identity of and reports received from whistleblowers
- identifying any conflicts of interest in the investigation process
- gathering evidence and taking steps to protect and preserve evidence

- making findings based on a fair and objective assessment of the evidence gathered during the investigation, and formalising this in a report
- keeping comprehensive records about the investigation
- making recommendations to the WPO about how to implement the strategy in relation to how reported misconduct can be stopped, prevented, and/or mitigated in future
- reporting back to the WPO on the progress of their investigation 7 days after the report and every 14 days thereafter
- complying with the directions of the WPO in relation to any further follow up, and reporting action and requirements, including the implementation of any recommendations.

**Workers** – are responsible for reporting misconduct or dishonest or illegal activity that has occurred or is suspected within PWDA as quickly as possible, whether anonymously or otherwise.

If a worker makes a disclosure under this policy, they:

- are responsible for giving PWDA the information that is needed and providing reasonable help as required during the investigation
- remain discreet about their disclosure and maintain confidentiality throughout the investigation. If needed, whistleblowers should seek advice about the process and their rights and responsibilities including from a WPO or an independent legal adviser.

**Workers are regularly encouraged to speak up about concerns of Reportable Conduct.**

## **Whistleblower Procedure**

### **Making a Report**

Whistleblowing protections will only apply to reports of Reportable Conduct made in accordance with this policy and procedure.

Where there are reasonable grounds to suspect that an individual has engaged in Reportable Conduct, the matter should be reported to any person authorised by

PWDA to receive whistleblower disclosures. These people are referred to as a Whistleblower Protection Officer (WPO). At PWDA they are:

- Company Secretary
- CEO
- Director of People and Culture
- any PWDA Board Director.

Disclosures can be made to any of the people above:

- **in writing** — by sending an email or letter or by using **Attachment A – Whistleblower Disclosure Form**
- **orally** — through a private discussion either face-to-face, via telephone or virtually. The person receiving the oral disclosure must make a written record of the disclosure
- **anonymously** — by writing an email or letter or by calling to make a disclosure without providing a name or any identifying details as the discloser. **A disclosure will only be considered anonymous if there is no reasonable or practical way of communicating with the person making the disclosure.**

While PWDA encourages whistleblowers to identify themselves to a WPO, they may opt to report their concerns anonymously such as by adopting a pseudonym.

If reporters are not comfortable or able to report Reportable Conduct internally, they may disclose information to any one of the following:

- an external or internal auditor or member of an audit team conducting an audit on PWDA
- their legal practitioner, for the purposes of obtaining legal advice about the operation of the whistleblower protections
- disclosures of serious wrongdoing associated with the provision of services by PWDA on behalf of a NSW Government Agency can also be made to PWDA's contract manager at the Department of Communities and Justice (DCJ), the DCJ PID officer, or to an integrity agency
- disclosures that qualify for protection under the Corporations Act can also be made directly to ASIC or the ATO (where it relates to Tax related matters)

For contact details refer to **Appendix 1: External Agencies**

## **Investigating Reports**

After receiving a report PWDA will:

- assess the report of Reportable Conduct
- consider whether there are any conflicts of interest prior to investigating
- determine whether external authorities need to be notified
- determine whether and how to investigate; and
- appoint an Investigator if appropriate.

If an investigation is deemed necessary, it will be conducted fairly, objectively and in a timely manner. The investigation process will vary depending on the nature of the Reportable Conduct and the amount of information provided.

Any individuals who are accused of misconduct in a report (a Respondent) will have an opportunity to respond to allegations before any findings are made and before any disciplinary action (if appropriate) is taken.

PWDA may need to speak with a whistleblower as part of an investigation. If the identity of the whistleblower is known, PWDA will endeavour to keep them informed about the status of an investigation.

If there is insufficient information to warrant further investigation, or the initial investigation immediately identifies there is no case to answer, the individual who reported the Reportable Conduct will be notified at the earliest possible opportunity.

## **Investigation Outcome**

At the conclusion of the investigation, a report will be prepared outlining:

- a finding of all relevant facts
- a determination as to whether the allegation(s) have been substantiated or otherwise
- the action that will be taken.

Any disciplinary action taken will depend on the severity, nature, and circumstances of the Reportable Conduct.

Where possible and appropriate, having regard to PWDA's privacy and confidentiality obligations, the whistleblower will be informed of the outcome of any investigation into their concerns.

## **Reporting to the Board or its Delegated Subcommittee**

The CEO will provide the Board or its delegated subcommittee with updates on whistleblower matters. The reports will include:

- status of any current investigations
- outcomes of any completed investigations and any actions that have been taken as a result.

The CEO will also report to external agencies and regulators where required, including the Department of Communities and Justice contract manager, of a voluntary public interest disclosure, as well as any serious wrongdoing committed, or alleged to be committed, by an individual providing services for or on behalf of the Department of Communities and Justice.

## **Review and Dispute Resolution**

Anyone who makes a disclosure can seek internal review of decisions made by PWDA, if PWDA decides:

- the disclosure does not meet the requirements of this policy
- not to investigate the disclosure in circumstances where it also does not refer the disclosure to an external agency
- to cease investigating the disclosure without either completing the investigation or referring the report to an external agency for investigation.

Internal reviews of decisions will be conducted in compliance with applicable laws.

## **Related Documents**

### **Legislation, Regulations and Standards**

- Corporations Act 2001 (Cth)
- Fair Work Act 2009 (Cth)
- Fair Work Regulations 2009 (Cth)
- Insurance Act 1973

- Life Insurance Act 1995
- Public Interest Disclosure Act 2013
- Superannuation Industry (Supervision) Act 1993
- Taxation Administration Act 1953.
- [Public Interest Disclosure Amendment \(Review\) Bill 2022](#)
- [Independent Commission Against Corruption Act 1988](#)
- [Department of Communities and Justice Public Disclosures Policy](#)
- State and Territory Child Protection laws
- Disability Discrimination Act
- Privacy Act
- National Disability Services Standards
- Australian Charities and Not-for-profits Commission (ACNC) Standards.

## **PWDA Policies**

- Easy Read Whistleblower Policy
- Board and Employee Codes of Conduct and Ethics
- Board and Employee Conflict of Interest Policies
- Bullying, Harassment and Discrimination Policy
- Compliments, Complaints and Feedback Policy
- Child Protection Policy
- Preventing Sexual Exploitation, Abuse and Harassment Policy
- Grievance Policy and Procedure
- Privacy Policy
- Preventing Financial Wrongdoing Policy
- WHS Hazard, Incident Management and Injury Notification Policy and Procedures
- Disciplinary Policy
- WHS Risk Management Policy
- Continuous Improvement Policy.

## **Supporting Documents**

- Appendix 1: External Reporting Agencies
- Attachment A: Whistleblower Disclosure Form.

## **Appendix 1: External Reporting Agencies**

### **Department of Communities and Justice**

PWDA Contract Manager

DCJ PID Officer

Email: [pid@dcj.nsw.gov.au](mailto:pid@dcj.nsw.gov.au)

### **Australian Charities and Not-for-profits Commission**

[Raise a concern online form](#)

### **The NSW Ombudsman**

**(Most kinds of serious maladministration by most agencies and public officials)**

Phone: 1800 451 524 9am to 3pm Monday to Friday

Writing: Level 24, 580 George Street, Sydney NSW 2000

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

### **The Auditor-General**

**(Serious and substantial waste of public money by auditable agencies)**

Phone: 02 9275 7100

Writing: GPO Box 12, Sydney NSW 2001

Email: [governance@audit.nsw.gov.au](mailto:governance@audit.nsw.gov.au)

### **Independent Commission Against Corruption**

**(Corrupt conduct)**

Phone: 02 8281 5999

Toll free: 1800 463 909 (callers outside Sydney) 9am and 3pm, Monday to Friday

Writing: GPO Box 500, Sydney NSW 2001

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

## Attachment A: Whistleblower Disclosure Form

This form is designed to make it easier to make a disclosure.

If you wish to use the form, please fill it in and attach any other information you think could be relevant. The completed form can be given or sent to any of the Whistleblower Protection Officers (WPO) listed in this policy:

1. write to: Whistleblower Protection Officer, PWDA, PO Box 666, Strawberry Hills NSW 2012
2. email: [whistleblower@pwd.org.au](mailto:whistleblower@pwd.org.au)
3. visit: PWDA Head Office: Suite 10.01 Centennial Plaza, Level 10, 300 Elizabeth Street, Surry Hills NSW 2010. Please call 1800 422 015 to arrange a time.

**You are not required to provide your personal information if you wish to remain anonymous.** However, an anonymous report may make it difficult to fully investigate the disclosure and provide updates and details of the investigation outcome.

### Your Contact Details

|  |  |
|--|--|
| <b>Name:</b>                             |  |
| <b>Address:</b>                          |  |
| <b>Phone or TTY phone</b>                |  |
| <b>Email:</b>                            |  |
| <b>Preferred method of communication</b> |  |

### Details of Person Who Committed the Wrongdoing

|                  |  |
|------------------|--|
| <b>Name:</b>     |  |
| <b>Position:</b> |  |

## Disclosure

**Are there any other people or organisations involved?**

No

Yes – please provide details:

**Please tell us what you know and how you know about it.**

If there is more than one allegation, number each of them.

Please tell us as much detail as possible including dates, times, location, people involved and possible witnesses. Add more pages if you need to.

**Tell us if you have, or know about, any other details, and any evidence, such as documents or a witness that might help us to investigate your disclosure?**

If possible, attach copies of any documents and details of any witnesses.

**Please do NOT try to get evidence that you don't have a right to access.**

**Please tell us if you are concerned about yourself or anyone else being treated badly because you are making this report.**

No

Yes – please provide details:

**Have you told anyone else about your concerns?**

No

Yes

**Are you comfortable with telling us who?**

No

Yes – please provide details:

**Is there anything else you would like to tell us about this matter?**

No

Yes – please provide details:

**Your signature:**

**Date:**

**We will contact you as soon as your disclosure has been assessed.**