

Company Policy: Whistleblowing

CECP0002.08

For questions regarding or permission to release this Policy, please contact Essential Energy's Chief Risk and Compliance Officer.

If working from a printed copy of this document, check Policy Alerts and the Policy Library regularly for updates.

29 September 2023 – Issue 4
Approved By: Chief Risk and Compliance Officer
Next review date: September 2026
COMMERCIAL-IN-CONFIDENCE



COMMERCIAL-IN-CONFIDENCE**CONTENTS**

1.0	POLICY STATEMENT	4
2.0	PURPOSE.....	4
3.0	KEY REQUIREMENTS	4
3.1	Accessibility of This Policy.....	4
3.2	Applicability of Policy	4
3.3	What is Contained in This Policy.....	5
4.0	ACTIONS TO ACHIEVE IMPLEMENTATION OF THIS POLICY.....	6
4.1	How to Make a Report of Serious Wrongdoing	6
4.1.1	<i>Reports, Complaints, and Grievances.....</i>	<i>6</i>
4.1.2	<i>When will a report be a PID?</i>	<i>6</i>
4.1.3	<i>Who can make a voluntary PID?.....</i>	<i>7</i>
4.1.4	<i>What is serious wrongdoing?.....</i>	<i>8</i>
4.1.5	<i>Who can I make a voluntary PID to?.....</i>	<i>8</i>
4.1.5.1	<i>Making a report to a public official who works for Essential Energy.....</i>	<i>8</i>
4.1.5.2	<i>Making a report to a recipient outside of Essential Energy.....</i>	<i>8</i>
4.1.5.3	<i>Making a report to a Member of Parliament or journalist.....</i>	<i>9</i>
4.1.6	<i>What form should a voluntary PID take?.....</i>	<i>9</i>
4.1.7	<i>What should I include in my report?.....</i>	<i>10</i>
4.1.8	<i>What if I am not sure if my report is a PID?.....</i>	<i>10</i>
4.1.9	<i>Deeming that a report is a voluntary PID</i>	<i>10</i>
4.1.10	<i>Who can I talk to if I have questions or concerns?</i>	<i>10</i>
4.2	Protections.....	10
4.2.1	<i>How is the maker of a voluntary PID protected?</i>	<i>10</i>
4.2.1.1	<i>Protection from detrimental action</i>	<i>11</i>
4.2.1.2	<i>Immunity from civil and criminal liability</i>	<i>11</i>
4.2.1.3	<i>Confidentiality.....</i>	<i>11</i>
4.2.1.4	<i>Protection from liability for own past conduct</i>	<i>11</i>
4.2.2	<i>Protections for people who make mandatory and witness PIDs.....</i>	<i>11</i>
4.3	Reporting Detrimental Action	12
4.4	General Support	12
4.5	How we will deal with voluntary PIDs	12
4.5.1	<i>How Essential Energy will acknowledge that we have received a report and keep the person who made it informed.....</i>	<i>12</i>
4.5.2	<i>How Essential Energy will deal with voluntary PIDs</i>	<i>14</i>
4.5.2.1	<i>Report not a voluntary PID.....</i>	<i>14</i>
4.5.2.2	<i>Cease dealing with report as voluntary PID</i>	<i>14</i>
4.5.2.3	<i>Where the report is a voluntary PID.....</i>	<i>14</i>
4.5.3	<i>How Essential Energy will protect the confidentiality of the maker of a voluntary PID</i>	<i>15</i>

COMMERCIAL-IN-CONFIDENCE

4.5.4	<i>How Essential Energy will assess and minimise the risk of detrimental action</i>	16
4.5.5	<i>How Essential Energy will deal with allegations of a detrimental action offence</i>	17
4.5.6	<i>What Essential Energy will do if an investigation finds that serious wrongdoing has occurred</i>	17
4.6	Review and Dispute Resolution	18
4.6.1	<i>Internal Review</i>	18
4.6.2	<i>Voluntary Dispute Resolution</i>	18
4.7	Other Agency Obligations	18
4.7.1	<i>Record-Keeping Requirements</i>	18
4.7.2	<i>Reporting of voluntary PIDs and Essential Energy annual return to the Ombudsman</i>	18
4.7.3	<i>How Essential Energy will ensure compliance with the PID Act and this policy</i>	19
5.0	AUTHORITIES AND RESPONSIBILITIES	19
6.0	DEFINITIONS	20
7.0	REFERENCES	20
8.0	REVISIONS	21
	Annexure A - Names and contact details of disclosure officers for Essential Energy	22
	Annexure B – List of Integrity Agencies	23

COMMERCIAL-IN-CONFIDENCE

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 public interested disclosures of alleged wrongdoing. As a NSW State Owned Corporation, this policy also 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").

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 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.

In NSW, that framework is the PID Act.

3.1 Accessibility of This Policy

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

3.2 Applicability of Policy

The PID Act is concerned with reports about serious wrongdoing in or affecting the public sector.

This policy applies to all Essential Energy employees and anyone else providing a service or exercising functions **on behalf of Essential Energy**, including as a contractors, subcontractors, or volunteers.

This policy does not apply to

- complaints that do not relate to the provision of services by or on behalf of Essential Energy
- customer service complaints.

COMMERCIAL-IN-CONFIDENCE

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.
- contact the PID Advice Team within the NSW Ombudsman by phone: (02) 9286 1000 or email: 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.

COMMERCIAL-IN-CONFIDENCE

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 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
- Call Essential Energy's Chief Risk & Compliance Officer on 02 6589 8942.
- 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.

This policy mostly relates to making a voluntary PID and how we will deal with voluntary PIDs. People who make a mandatory PID or a witness PID are still entitled to protection. More information about protections is available in **section 2** of this policy.

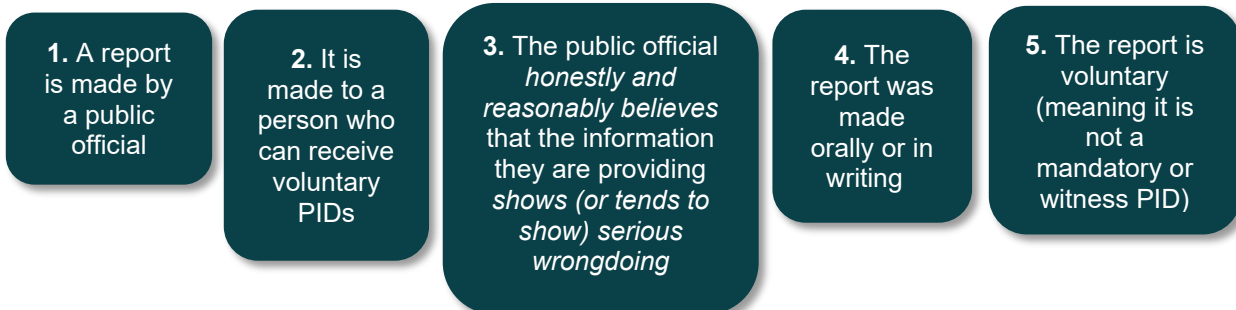
You can find more information about mandatory and witness PIDs in the Ombudsman's guidelines 'Dealing with mandatory PIDs' and 'Dealing with witness PIDs'.

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

COMMERCIAL-IN-CONFIDENCE

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
- 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.

COMMERCIAL-IN-CONFIDENCE**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.

COMMERCIAL-IN-CONFIDENCE**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.
- *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 Chief Risk and Compliance Officer 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,

COMMERCIAL-IN-CONFIDENCE

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

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.

COMMERCIAL-IN-CONFIDENCE

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.

COMMERCIAL-IN-CONFIDENCE

- 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"> • breaching a duty of secrecy or confidentiality, or • breaching another restriction on disclosure. 	✓	✓

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:

COMMERCIAL-IN-CONFIDENCE

- 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.
 - - be provided verbally and/or writing. The disclosure officer or assigned investigator will talk to you about how the acknowledgement will be made.
- 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.
- The process for investigating an allegation arising from a PID are contained in the Essential Energy policy CECP0002.07 Investigating Alleged Wrongdoing and Criminal Conduct.
 - 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.
 - be provided verbally and/or writing. The disclosure officer or assigned investigator will talk to you about how the acknowledgement will be made.
 - 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 information to you.

COMMERCIAL-IN-CONFIDENCE**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.

4.5.2.1 Report not a voluntary PID

Even if the report is not a voluntary PID, it will still need to be dealt with in a manner consistent with the Essential Energy policy CEOP2000.60 Building a Respectful Workplace or through an alternate process.

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.

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.

4.5.2.2 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.

4.5.2.3 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.

29 September 2023 – Issue 4

Approved By: Chief Risk and Compliance Officer

Next review date: September 2026

Page 14 of 23

COMMERCIAL-IN-CONFIDENCE

UNCONTROLLED COPY IF PRINTED

COMMERCIAL-IN-CONFIDENCE

- 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:

- We will limit the number of people who are aware of the maker's identity or information that could identify them.

COMMERCIAL-IN-CONFIDENCE

- If we must disclose information that may identify the maker of the PID, we will still not disclose the actual identity of the maker of the PID, unless we have their consent to do so.
- We will ensure 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.
- We will ensure that only authorised persons have access to emails, files or other documentation that contain information about the identity of the maker.
- We will undertake an assessment to determine if anyone is aware of the maker's identity and if those persons have a motive to cause detrimental action to be taken against the maker or impede the progress of the investigation.
- We will provide 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:

- advising the person whose identity may become known.
- updating the agency's risk assessment and risk management plan.
- implementing strategies to minimise the risk of detrimental action.
- providing additional supports to the person who has made the PID.
- reminding 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 by:

All disclosures of wrongdoing, whether they are assessed to be a PID or not, will be risk assessed by the Risk and Compliance team on receipt.

Approval of the risk assessment will rest with the Chief Risk and Compliance Officer. The completed risk assessment will be included in the 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

29 September 2023 – Issue 4

Approved By: Chief Risk and Compliance Officer

Next review date: September 2026

Page 16 of 23

COMMERCIAL-IN-CONFIDENCE

- 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 a disclosures officer or the Chief Risk and Compliance Officer.
- Upon receipt of a report of detrimental action against a maker of a PID, the Chief Risk and Compliance Officer will initiate a risk assessment and provide the reporting person with the support

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 Chief Risk and Compliance Officer 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, and where relevant entered as an action in TotalSAFE, tracked by the Risk and Compliance team and notified to the Disclosures Panel.

COMMERCIAL-IN-CONFIDENCE

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 a dispute resolution should be sent to the Chief Risk and Compliance Officer. 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.

COMMERCIAL-IN-CONFIDENCE

- 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 will be responsible for the preparation and submission of all statistical reporting after final approval from the Chief Risk & Compliance Officer or their delegate.

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

Oversight for ensuring the effectiveness and compliance of Essential Energy's PID policy is the responsibility of the Workplace Investigations team under the direction of the Chief Risk & Compliance Officer or their delegate.

The effectiveness of the policy will be reviewed quarterly, with a focus on the number of reports received and a desktop audit conducted to ensure that all protections outlined in the PID Act have been followed. This review will inform all decisions in relation to what further communication may be required to ensure that all stakeholders remain aware of their PID rights and responsibilities.

Any non-conformances identified will be addressed and reported to the Disclosures Panel at the discretion of the Chief Risk & Compliance Officer or their delegate.

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

5.0 AUTHORITIES AND RESPONSIBILITIES

Certain people within Essential Energy have responsibilities under the PID Act.

Position / Title	Responsibility
Chief Executive Officer	<ul style="list-style-type: none"> • Fostering a workplace culture where reporting is encouraged. • Receiving disclosures from employees, contractors, and sub-contractors. • Ensuring there is a system in place for assessing disclosures. • Ensuring Essential Energy complies with this policy and the PID Act. • Ensuring that Essential Energy has appropriate systems for: <ul style="list-style-type: none"> • Overseeing internal compliance with the PID Act. • Supporting public officials who make voluntary PIDs, including by minimising the risk of detrimental action. • Implementing corrective action if serious wrongdoing is found to have occurred. • Complying with reporting obligations regarding allegations or findings of detrimental action. • Complying with yearly reporting obligations to the NSW Ombudsman.
Chief Risk and Compliance Officer	<ul style="list-style-type: none"> • Reviewing and approving this policy
Disclosure Officers	<ul style="list-style-type: none"> • Receiving reports from public officials. • Receiving reports when they are passed on to them by managers.

COMMERCIAL-IN-CONFIDENCE

	<ul style="list-style-type: none"> Ensuring reports are dealt with appropriately, including by referring the matter to the appropriate complaint unit (if relevant). Ensuring that any oral reports that have been received are recorded in writing.
Managers	<ul style="list-style-type: none"> Receiving reports from persons that report to them or that they supervise. Passing on reports they receive to a disclosure officer.
All Employees	<ul style="list-style-type: none"> All employees must: <ul style="list-style-type: none"> report suspected serious wrongdoing or other misconduct. use their best endeavours to assist in an investigation of serious wrongdoing if asked to do so by a person dealing with a voluntary PID on behalf of Essential Energy. treat any person dealing with or investigating reports of serious wrongdoing with respect. All employees must not take detrimental action against any person who has made, may in the future make, or is suspected of having made, a PID.

6.0 DEFINITIONS

Note: Definitions are included in the relevant sections of this document for ease of reference, in accordance with the PID Act.

Public Official

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

- a person employed in or by an agency or otherwise in the service of an agency,
- 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,
- an individual in the service of the Crown,
- a statutory officer,
- a person providing services or exercising functions on behalf of an agency, including a contractor, subcontractor or volunteer,
- 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,
- a judicial officer,
- a member of Parliament, including a Minister,
- a person employed under the Members of Parliament Staff Act 2013.

7.0 REFERENCES

Internal
CECG3001.01 - Essential Energy Code of Conduct
CECP0002.07 - Company Procedure - Investigating Alleged Wrongdoing and Criminal Conduct
CEOP2000.60 - Building a Respectful Workplace - Preventing and Managing Vilification, Discrimination, Bullying and Harassment

COMMERCIAL-IN-CONFIDENCE

External
NSW Public Interest Disclosures Act (2022)

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

COMMERCIAL-IN-CONFIDENCE**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

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