

Policy



Public Interest Disclosures

Approved by Council: XX/XX/XXXX

To establish a 'speak-up' culture and system for reporting wrongdoing.

Safety

Teamwork

Accountability

Respect

Policy Statement

Council is committed to building a 'speak up' culture where our Public Officials (including staff, volunteers, contractors and subcontractors) are encouraged to report any conduct that they reasonably believe involves wrongdoing.

The *Public Interest Disclosures Act 2022 (PID Act)* and this policy form the framework at Council that facilitates public interest reporting of wrongdoing by:

- protecting those who speak up from detrimental action, and
- imposing duties on Council, when receiving reports of wrongdoing, to take appropriate action to investigate or otherwise deal with those reports.

This policy has been developed with regard to the requirements of section 43 of the PID Act and the Model Public Interest Disclosures Policy published by the NSW Ombudsman and is constituted of the following parts:

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Application – who does this policy apply to?

This policy applies to all Public Officials including:

- Councillors and committee members (including Audit, Risk and Improvement and s355 Committee members)
- Employees (whether full-time, part-time, casual, temporary, or labour hire)
- A person providing services or exercising functions on behalf of Council, including a contractor, subcontractor or volunteer.

This policy does not apply to:

- people who have received services from Council and want to make a complaint about those services
- people, such as contractors, who provide services to Council. For example, employees of a company that sold computer software to Council.

This means that if you are not a public official, this policy does not apply to your complaint (there are some circumstances where a complaint can be deemed to be a voluntary PID - see Part 2 of this policy for more information).

However, you can still make a complaint to Council by completing the digital 'complaints and feedback form' available on Council's website or via the below link:

<https://complaintfeedbackform.paperform.co/>

Part 1 – Public Interest Disclosures

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.

1.2 What is serious wrongdoing?

Serious wrongdoing is defined in the PID Act as:

Type	Example
<i>corrupt conduct</i>	such as a public official accepting a bribe
<i>serious maladministration</i>	such as an agency systemically failing to comply with proper recruitment processes when hiring staff
<i>a government information contravention</i>	such as destroying, concealing or altering records to prevent them from being released under a Government Information Public Access application
<i>a local government pecuniary interest contravention</i>	such as a senior council staff member recommending a family member for a council contract and not declaring the relationship

Type	Example
<i>a privacy contravention</i>	such as unlawfully accessing a person's personal information on an agency's database
<i>a serious and substantial waste of public money</i>	such as an agency not following a competitive tendering process when contracting with entities to undertake government work.

1.3 Types of Public Interest Disclosures

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.

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

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 the Ombudsman's guidelines '[Dealing with mandatory PIDs](#)' and '[Dealing with witness PIDs](#)'.

Part 2 – Voluntary PIDs

Under section 43(1)(a) of the PID Act, this policy must include information about dealing with disclosures that are or may be voluntary PIDs.

2.1 How to make a report of serious wrongdoing

2.1.1 What is a voluntary PID?

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:

1. A report is made by a public official

2. It is made to a person who can receive voluntary PIDs

3. The public official *honestly and reasonably believes* that the information they are providing *shows (or tends to show) serious wrongdoing*

4. The report was made orally or in writing

5. The report is voluntary (meaning it is not a mandatory or witness PID)

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 may seek to conciliate the matter. You may also contact the NSW Ombudsman. Further information on rights to internal review and conciliation is found in Part 2 of this policy.

2.1.2 Who can make a voluntary PID?

Any public official can make a voluntary PID.

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 council. 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 C of this policy has a list of integrity agencies.

2.1.2 Who can I make a voluntary PID to?

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

(a) Making a report to a public official who works for Council

You can make a report inside Council to:

- The General Manager
- a disclosure officer for Council — a list of disclosure officers for Council and their contact details can be found at Annexure B of this policy
- your manager/supervisor — 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.

(b) Making a report to a recipient outside Council

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 C 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 Council, it is possible that your disclosure will be referred back to Council so that appropriate action can be taken.

(c) Making a report to a Member of Parliament or journalist

Disclosures to Members of Parliament (MP) 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 Council:
 - notification that Council 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 Council's 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 Council'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.

2.1.3 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.
- *orally* — have a private discussion with a person who can receive voluntary PIDs. This can be face-to-face, via telephone or virtually.
- *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 Council to investigate the matter(s) you have disclosed if we cannot contact you for further information.

2.1.4 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.

2.1.3 What if I am not sure 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 us 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 our policies for dealing with reports, allegations or complaints.

2.1.3 Deeming that a report is a voluntary PID

The General Manager 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'.

In accordance with section 80(1) of the PID Act, Council's General Manager delegates to the Disclosure Coordinator/s the deeming power under section 29 of the PID Act.

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 General Manager or the Disclosure Coordinator/s 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 the General Manager or Disclosure Coordinator. For more information about the deeming power, see the Ombudsman's guideline ['Deeming that a disclosure is a voluntary PID'](#).

2.1.3 Who can I talk to if I have questions or concerns?

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

- confidentially contact the Group Manager People and Performance or the Governance and Risk Manager who are nominated disclosure officers within Council's People and Performance business unit.
- 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.

2.2 How we deal with voluntary PIDs

2.2.1 How we will acknowledge receipt of a PID report and keep the person who made it informed

Under section 43(1)(b) of the PID Act, this policy must include information about what Council will do as soon as a report is received and the procedures for providing information to the maker of the voluntary PID.

When a disclosure officer within Council 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:

(a) Acknowledgement of receipt – 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, if the report is a PID, the PID Act will apply to how we deal 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.

(b) Confirmation as to whether the report is a PID –

- If the report is a voluntary PID, we will inform you as soon as possible how we intend to deal with the report. This may include:
 - that we are investigating the serious wrongdoing,
 - that we will refer the report to a different agency (if appropriate) to deal with the voluntary PID. If we do this, we will provide you with details of this referral,
 - If we decide to not investigate the report and to not refer it to another agency for it to be investigated, we will tell you the reasons for this decision. We will also notify the NSW Ombudsman of this decision.
- If the report is not a 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. We can, but do not have to, request the NSW Ombudsman to conciliate the matter.

(c) Investigation updates – If we decide to investigate the serious wrongdoing, we will provide you with updates on the investigation at least every **three (3) months**. During this time, if you would like more frequent updates, you should contact the contact person who was nominated when you made the report.

(d) Outcome of investigation – If we investigate the serious wrongdoing, we will provide you with the following information once the investigation is complete:

- a description of the results of the investigation — that is, we will tell you whether we found that serious wrongdoing took place.
- information about any corrective action as a result of the investigation/s — this means we will tell you what action we took in relation to the person who engaged in the serious wrongdoing or if the serious wrongdoing was by our agency, what we have put in place to address that serious wrongdoing.
 - Corrective action could include taking disciplinary action against someone or changing the practices, policies and procedures that we have in place which led to the serious wrongdoing.

NOTE

- + 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.

2.2.2 How we will deal with voluntary PIDs

Under section 43(1)(a) of the PID Act, this policy must include information about Council's procedures for dealing with voluntary PIDs.

Once a report that may be a voluntary PID is received by a disclosure officer we will look at the information contained in the report to see if it has the features 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. This process is depicted below in Figure 1 with associated turnaround times set out in [Table 1](#).

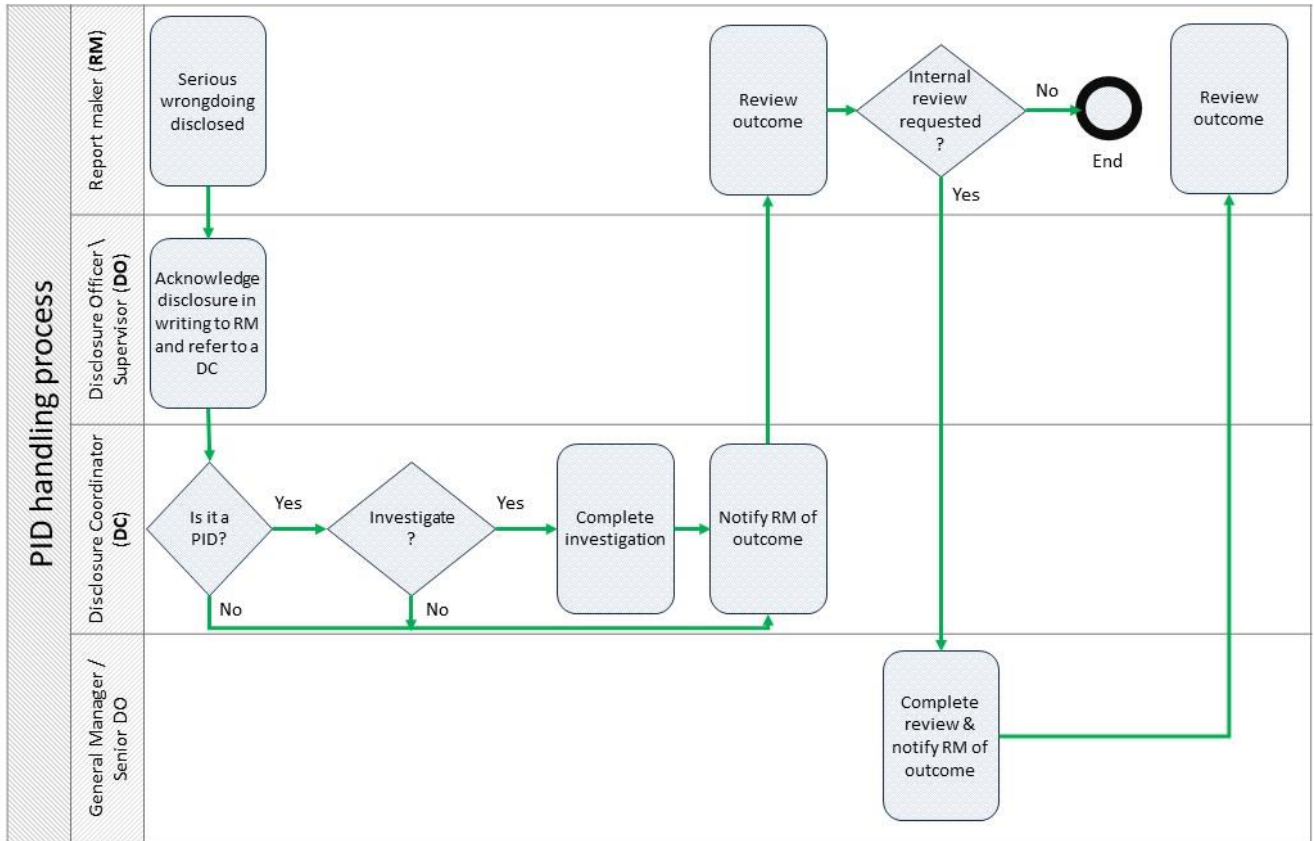


Figure 1 – Process Map for receiving, acknowledging, and dealing with purported voluntary PIDs

TABLE 1: Turnaround Times			
No.	Activity	Responsible Officer	Time (working days unless stated otherwise)
1	Acknowledgement	DO	2 days from receipt of report/disclosure from RM
2	Confirmation of PID assessment to RM	DC	5 days from date of acknowledgement provided in Activity No. (1)
3	PID Investigation and Outcome Notification	DC	20 days from date of Activity No. (2) or such longer period as determined by the DC and notified to the RM
4	Outcome Review	General Manager/ Senior DO	20 days from date of request for review from RM or such longer period as determined by the responsible officer and notified to the RM

TABLE 1: Turnaround Times			
No.	Activity	Responsible Officer	Time (working days unless stated otherwise)
5	Investigation Updates to RM	DC	Every 90 days if prolonged investigation required.
6	Request for Review	RM	28 calendar days from the date of outcome notification

Cease dealing with report as voluntary PID

We may stop dealing with a voluntary PID because it is not actually a voluntary PID (meaning it does not have all the features of a PID).

If this occurs, we will notify the maker of the purported PID, including the reasons we have ceased dealing with the report as a voluntary PID, in accordance with Figure 1 above.

2.2.3 How we protect the confidentiality of the maker of a voluntary PID

Under section 43(1)(e) of the PID Act, this policy must include information about Council's procedures for maintaining confidentiality in relation to voluntary PIDs and protecting the maker's identity.

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 consents in writing to the disclosure
- where it is generally known that the person is the maker of the voluntary PID because of their voluntary self-identification as the maker
- when the public official or we reasonably consider it necessary to disclose the information to protect a person from detriment
- where it is necessary that the information be disclosed to a person whose interests are affected by the disclosure
- where the information has previously been lawfully published
- when the information is disclosed to a medical practitioner or psychologist for the purposes of providing medical or psychiatric care, treatment or counselling to the individual disclosing the information
- when the information is disclosed for the purposes of proceedings before a court or tribunal
- when the disclosure of the information is necessary to deal with the disclosure effectively
- if it is otherwise in the public interest to disclose the identifying information.

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

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

- Limiting the number of people who are aware of the maker's identity or information that could identify them.
- 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.
- Ensuring that any person who does know the identity of the maker of a PID is reminded that they have a legal obligation to keep their identity confidential.
- Ensuring that only authorised persons have access to emails, files or other documentation that contain information about the identity of the maker.
- Undertaking 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, we will:

- Advise the person whose identity may become known
- update our risk assessment and risk management plan
- implement strategies to minimise the risk of detrimental action
- provide additional supports to the person who has made the PID
- remind persons who become aware of the identifying information of the consequences for failing to maintain confidentiality and that engaging in detrimental action is a criminal offence and may also be a disciplinary matter.

2.2.4 What Council will do if an investigation finds that serious wrongdoing has occurred

Under section 43(1)(f) of the PID Act, this policy must include information about Council's procedures for taking corrective action.

If, after an investigation, it is found that serious wrongdoing or other misconduct has occurred, we 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
- taking employment action against persons involved in the wrongdoing (such as termination of employment, relocation, a caution or reprimand)
- payment of compensation to people who have been affected by serious wrongdoing or other misconduct.

A report summarising the findings of the investigation and any required corrective actions will be prepared by the person who conducted the investigation.

This report will detail:

- who is to receive a copy of the report (this will usually include the General Manager, or the Chair in the event the report relates to the General Manager)
- what steps must be taken to address the report recommendations
- which person/business unit will be responsible for ensuring the corrective action takes place
- how the maker should be notified of the proposed corrective action

2.3 Review and dispute resolution

2.3.1 Internal review

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

- that Council is not required to deal with the report as a voluntary PID
- to stop dealing with the report because we 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.

We 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 our decision. The application should state the reasons why you consider our decision should not have been made. You may also submit any other relevant material with your application.

Applications for internal review should be addressed to the General Manager and will be conducted by a disclosure officer holding a position at Council no less senior than the original investigating disclosure officer. Internal reviews will be conducted within 20 working days of receipt of a valid internal review application.

2.3.2 Voluntary dispute resolution

If a dispute arises between us 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 we and the maker of the report are willing to resolve the dispute.

Part 3 – Protections available under the PID Act

Under section 43(3)(a) of the PID Act, this policy must include information about the protections available to makers of voluntary PIDs.

3.1 How is the maker of a voluntary PID protected?

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

We 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. We are also committed to maintaining your confidentiality as much as possible while the PID is being dealt with.

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

- *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 by a person employed or otherwise associated with Council that concerns serious wrongdoing relating to Council 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. It is punishable by a maximum penalty of 200 penalty units or imprisonment for five years or both.
 - A person 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.

- *Immunity from civil and criminal liability*

Some public officials are often 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, public officials will need to breach or disregard such confidentiality duties. If that happens, a public official cannot be disciplined, sued or criminally charged for breaching confidentiality.

Refer to the NSW Ombudsman's guidelines '[Dealing with mandatory PIDs](#)' for further information.

- *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.

- *Protection from liability for own past conduct*

The Attorney General can give the maker 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.

3.2 Protections for people who make mandatory and witness PIDs

Under section 43(3)(b) of the PID Act, this policy must include information about the protections available to makers of witness and mandatory PIDs.

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

- *A mandatory PID:* This is a PID where the public official has made the report about serious wrongdoing because they have a legal obligation to make that report, or because making that report is an ordinary aspect of their role or function in an agency.

- *A witness PID*: This is a PID where a person discloses information during an investigation of serious wrongdoing following a request or requirement of the investigator.

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

Protection
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.

Part 4 – Dealing with allegations of detrimental action

4.1 Reporting detrimental action

If you experience adverse treatment or detrimental action, such as bullying or harassment, you should report this immediately. You can report any experience of adverse treatment or detrimental action directly to us (e.g., by contacting a disclosure officer), or to an integrity agency. A list of integrity agencies is located at Annexure C of this policy.

4.2 How we will assess and minimise the risk of detrimental action

Under section 43(1)(c) of the PID Act, this policy must include information about the steps Council will undertake to assess and minimise the risk of detrimental action.

We 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 by:

- explaining that a risk assessment will be undertaken, and a risk management plan will be created (including reassessing the risk throughout the entirety of the matter) and approved by the Disclosure Coordinator.
- listing the protections that will be offered, that is, the Council will discuss protection options with the maker which may including remote working or approved leave for the duration of the investigation
- outlining what supports will be provided, such as support person and access to Council's Employee Assistance Program.

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

Detriment to a person includes:

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

Detrimental action does not include:

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

4.3 How we will deal with allegations of a detrimental action offence

Under section 43(1)(d) of the PID Act, this policy must include information about the steps Council will take if it becomes aware of an allegation of detrimental action.

If we become 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 Commissioner of Police and the ICAC or the Law Enforcement Conduct Commission (whichever is applicable)
- notify the NSW Ombudsman about the allegation of a detrimental action offence being committed.

The Disclosure Coordinator is responsible for making referrals about detrimental action offences. If you believe you are the victim of detrimental action you should reach out to a Disclosure Coordinator.

Part 5 – Council's responsibilities under the PID Act

5.1 – Roles and Responsibilities

Under sections 43(2) of the PID Act, this policy must specify the responsibilities imposed on the General Manager, Disclosure Officers, and managers/supervisors under the PID Act.

5.1.1 General Manager

The General Manager is responsible for:

- fostering a workplace culture where reporting is encouraged

- receiving disclosures from public officials
- ensuring there is a system in place for assessing disclosures
- ensuring Council complies with this policy and the PID Act
- ensuring Council has appropriate systems for:
 - 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.

5.1.2 Disclosure Coordinators

Disclosure Coordinators are responsible for:

- Determining whether a report is a PID
- Determining how a PID should be dealt with (e.g. referred to another agency or investigated)
- Investigating a reported PID and reporting on the findings and required corrective actions, if applicable

5.1.3 Disclosure officers

Disclosure officers are responsible for:

- receiving reports from public officials
- receiving reports when they are passed on to them by managers/supervisors
- ensuring reports are dealt with appropriately, including by referring the matter to the Disclosure Coordinator
- ensuring that any oral reports that have been received are recorded in writing.

5.1.4 Managers/Supervisors

The responsibilities of managers/supervisors include:

- receiving reports from persons that report to them or that they supervise
- passing on reports they receive to a disclosure officer.

5.1.5 All employees

All employees must:

- 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 Council
- 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.

5.2 Other Council obligations

Under section 43(1)(g)-(i) of the PID Act, this policy must include information about Council's record keeping and annual reporting obligations, and procedures for establishing oversight and ensuring compliance with the PID Act.

5.2.1 Record-keeping and annual returns

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

Records will be stored in Council's EDRMS (known as Content Manager) with appropriate security access permissions applied.

5.2.2 Reporting of voluntary PIDs in Council's annual return to the Ombudsman

Each year we provide an annual return to the NSW Ombudsman which includes:

- information about voluntary PIDs received by Council during each return period (yearly with the start date being 1 July)
- action taken by Council to deal with voluntary PIDs during the return period
- how Council promoted a culture in the workplace where PIDs are encouraged

A member of Council's Governance Team is responsible for collating and lodging the above PID data with the NSW Ombudsman.

5.2.3 How we will ensure oversight and compliance with the PID Act and this policy

Council's Audit, Risk and Improvement Committee will have oversight over and receive reports regarding:

- compliance with this policy and the PID Act, including measures to be taken to rectify any non-compliance
- currency/review of this policy
- information to be reported within Council's annual return to the NSW Ombudsman.

Document control

All substantive amendments to this policy, excluding the annexures, must be approved by Council resolution.

The following amendments may be made at any time with the approval of the Governance and Risk Manager:

- Minor administrative amendments (i.e. typographical errors, and updating hyperlinks);
- Amendments to the annexures, including (but not limited to) names and contact details of disclosure officers and integrity agencies.

Policy contact officer

Governance and Risk Manager

Related documents

Policies

[Code of Conduct](#)

[Customer feedback, complaints and unreasonable conduct](#)

[Fraud and corruption control](#)

[Related party disclosure](#)

[Work Health and Safety](#)

Procedures

[Code of Conduct](#)

[Code of Conduct - Conflict of Interests](#)

[Code of Conduct - Gifts benefits and bribes](#)

[Feedback and Complaints Handling](#)

Legislation

Local Government Act 1993

Public Interest Disclosures Act 2022

Other

NSW Ombudsman's website < [| <i>Office use only</i> | File no.: F20/324-01 | Next review date: 4 years | |
|------------------------|---|---------------------------|----------------|
| Version | Purpose and description | Date adopted by Council | Resolution no. |
| 1.0 | New policy | 21/12/2011 | 106/11 |
| 2.0 | Review and update policy. | 15/04/2020 | 17/20 |
| 3.0 | Review and update nominated Disclosures Coordinator to include Governance Advisor. | 17/06/2020 | 30/20 |
| 4.0 | Review and update nominated Disclosures Coordinator to reflect changes made during 2021 organisation structure and resourcing review. | 17/08/2022 | 51/22 |
| 5.0 | Update policy to reflect Model PID policy published by the IPC and requirements of new 2022 PID Act. | | |](https://www.ombo.nsw.gov.au/guidance-for-agencies/handling-public-interest-disclosures-whistleblowing/pid-act-2022#:~:text=This%20is%20the%20Public%20Interest,and%20local%20aboriginal%20land%20councils.></p></div><div data-bbox=)

ANNEXURE A – Definitions

Term	Meaning
Council	Rous County Council
Disclosure Officer/s	<p>The person/s holding the positions identified in Annexure B (attached).</p> <p><small>¹⁸ Meaning of “disclosure officer” for an agency</small></p> <p>(1) In this Act, <i>disclosure officer</i> for an agency means a person responsible for receiving voluntary public interest disclosures on behalf of the agency, including the following—</p> <p>(a) the head of the agency;</p> <p>(b) for each work site that is permanently maintained by the agency and at which more than 1 person is employed—the most senior ongoing employee who ordinarily works at the site;</p> <p>(c) if the agency has an unelected governing body—a member of the governing body;</p> <p>(d) a person specified in the agency’s public interest disclosure policy as a person with responsibility for receiving voluntary public interest disclosures on behalf of the agency;</p> <p>(e) a member of a class of persons, or a person employed in a position or role, specified in the agency’s public interest disclosure policy as a class, position or role with responsibility for receiving voluntary public interest disclosures on behalf of the agency.</p>
Disclosure Coordinator	Group Manager People and Performance, and Governance and Risk Manager
EDRMS	Electronic Document and Records Management System
Manager	<ul style="list-style-type: none"> For individual contractors, subcontractors or volunteers providing services or exercising functions on behalf of an agency, 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. For staff of entities that are contracted to provide services or exercise functions on behalf of an agency, their manager is taken to be the public official in that agency who oversees those services or functions, or who manages the relevant contract. For all other public officials, their manager is the person who directly or indirectly supervises them. For most public officials, their ‘manager’ will generally be obvious — the person in the organisational structure who is identified as their immediate ‘boss’. This is the person who assigns them work tasks, undertakes performance reviews, approves their leave, and so on. In the common language of public sector roles, if a person is your ‘direct report’ then you are their manager. <p>However, under the PID Act, a person’s manager will also include any other person who directly or indirectly supervises them. This means that public officials can (and in most cases will) have more than one manager.</p> <p>Given the PID Act is beneficial legislation, designed to facilitate the making of public interest disclosures, it is appropriate to take a broad interpretation when considering whether someone ‘directly or indirectly supervises’ another (and is therefore a ‘manager’ of them).</p>
PID	Public Interest Disclosure
Public official	<p>One or more of the following persons or entities set out in section 14 of the PID Act.</p> <p>Further guidance can be found in the Ombudsman’s guideline ‘Core concepts in the PID Act’.</p>

ANNEXURE B – List of Disclosure Officers

Under section 43(4) of the PID Act, this policy must include a list identifying Council's disclosure officers and information enabling those disclosure officers to be contacted.

Site	Disclosure Officer/s	Contact details
Lismore Administration Building 218 – 232 Molesworth Street, Lismore, NSW 2480	General Manager	Phillip Rudd T: (02) 6623 3800 E: phillip.rudd@rous.nsw.gov.au
	Group Manager People and Performance	Helen McNeil T: (02) 6623 3800 E: helen.mcneil@rous.nsw.gov.au
	Governance and Risk Manager	Lauren Edwards T: (02) 6623 3800 E: lauren.edwards@rous.nsw.gov.au
	People and Culture Manager	TBC when position filled.
Gallans Road – Depot 57 Gallans Road, Ballina, NSW 2478	Group Manager Operations	Adam Nesbitt T: (02) 6623 3800 E: adam.nesbitt@rous.nsw.gov.au
Gallans Road – Administration Building 57 Gallans Road, Ballina, NSW 2478	Project Manager – Relocation and Properties	Guy Bezrouchko T: (02) 6623 3800 E: guy.bezrouchko@rous.nsw.gov.au
Emigrant Creek Water Treatment Plant Friday Hut Road, Tintenbar, NSW 2478	Dams and Treatment Team Assistant Team Leader	Rhys Oates T: (02) 6623 3800 E: rhys.oates@rous.nsw.gov.au
Nightcap Water Treatment Plant Nightcap Range Road, Dorrroughby, NSW 2480	Dams and Treatment Team Leader	Ben Hildebrand T: (02) 6623 3800 E: ben.hildebrand@rous.nsw.gov.au
Woodburn Depot 66 Trustums Hill Road, Woodburn, NSW 2472	Flood Mitigation Team Leader	Jason Nelson T: (02) 6623 3800

Site	Disclosure Officer/s	Contact details
		E: Jason.nelson@rous.nsw.gov.au
Wyrallah Road Depot 320 Wyrallah Road, Monaltrie, NSW 2480	Bush Regeneration and Weed Control Team Leader	Yusuke Koda T: (02) 6623 3800 E: yusuke.koda@rous.nsw.gov.au

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ANNEXURE C – 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: oiiecc_executive@oiiecc.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