

POLICY:-	
Policy Title:	Public Interest Disclosures Policy (former Public Interest Disclosures - Internal Reporting Policy)
File Reference:	F13/618-13
Date Policy was adopted by Council initially:	24 March 2005
Resolution Number:	85/05
Other Review Dates:	23 August 2007, 28 August 2008, 20 August 2009, 19 August 2010, 17 November 2011, 20 March 2014 and 20 April 2017 and 16 June 2022
Resolution Number:	85/05, 257/07, 258/08, 333/09, 311/10, 444/11, 64/14, 108/17 and 123/22
Current Policy adopted by Council:	18 April 2024
Resolution Number:	52/24
Next Policy Review Date:	2026

PROCEDURES/GUIDELINES:-	
Date procedure/guideline was developed:	April 2024
Procedure/guideline reference number:	

RESPONSIBILITY:-	
Draft Policy developed by:	NSW Ombudsman
Committee/s (if any) consulted in the development of this Policy:	N/A
Responsibility for implementation:	Chief Executive Officer
Responsibility for review of Policy:	Director of Finance and Administration

Contents

1.	Purpose and context of the Policy	3
2.	Organisational Commitment and Accessibility of the Policy	3
3.	Who does this Policy apply to?	4
4.	Roles and Responsibilities	4
5.	Assessment of Reports	4
6.	When will a Report be treated as a Public Interest Disclosure?	5
7.	How to make a Report of Serious Wrongdoing	5
8.	Protections	6
9.	Related Legislation and Council Policies	7
10.	Variation	7

1. Purpose and context of the Policy

All agencies in NSW are required to have a Public Interest Disclosure (PID) Policy under section 42 of the Public Interest Disclosures Act 2022 (PID Act).

Upper Lachlan Shire Council take reports of serious wrongdoing seriously. Public officials are encouraged to report any conduct that they reasonably believe involves wrongdoing.

The integrity of Council relies upon Councillor's staff, volunteers, contractors and subcontractors speaking up when they become aware of wrongdoing.

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 public interest reporting of wrongdoing by:-

- Protecting those who speak up from detrimental action
- Imposing duties on agencies who receive reports of wrongdoing to take appropriate action to investigate or otherwise deal with them.

This policy should be read in conjunction with the PID procedures and will be made available on Upper Lachlan Shire Council's website as well as on the intranet. A copy of the policy will be sent to all staff of Council on their commencement.

The internal reporting system established under this policy is not intended to be used for staff grievances, or complaints. Council Staff Grievances should be raised in accordance with Council Grievance Policy and complaints in accordance with the Complaints Policy. If a staff member makes a report under this policy which is substantially a grievance, or complaint, the matter will be referred to Manager Human Resources and dealt with in accordance with the Grievance Policy or referred to the Complaints Coordinator and dealt with in accordance with the Complaints Policy.

2. Organisational Commitment and Accessibility of the Policy

Upper Lachlan Shire Council strives to deliver on its Customer Service Charter, community goals and strategic priorities as reflected in the Community Strategic Plan (CSP) and supporting documents.

Council is committed to the aims and objectives of the *PID Act 2022*. Council is committed to creating a climate of trust, where people are comfortable and confident about reporting wrongdoing and encourage staff to come forward if they are aware of wrongdoing within the Council.

Council will not tolerate and is committed to eliminating all types of serious wrongdoing including corrupt conduct, maladministration, serious and substantial waste of public money, information management, privacy and pecuniary interest contraventions. Council will take all reasonable steps to provide protection to staff that makes such disclosures from any detrimental action in reprisal for the making of the disclosure.

Council will deal with reports thoroughly and impartially and if some form of wrongdoing has been found, taking appropriate action to address it and provide adequate resources to address issues in accordance with Council's PID Procedures and forms. This Policy is made available on the Council's website and intranet site and the policy will be provided to all Council staff.

Council Chief Executive Officer, PID Coordinator and PID Officers shall ensure Directors, Managers (including supervisors and co-ordinators) at all levels in the Council understand the benefits of reporting wrongdoing, receive appropriate training, are familiar with this policy and aware of the needs of those who report wrongdoing.

Council PID Coordinator and PID Officers will properly assess, investigate or otherwise deal with allegations and properly manage any workplace issues that the allegations identify or that result from a report in accordance with Council's PID procedures. Council's Chief Executive Officer will be consulted by the PID Coordinator prior to proceeding with an engagement of an external investigation.

3. Who does this Policy apply to?

This policy will apply to:-

- Both Council staff and Councillors;
- Permanent employees, whether full-time or part-time;
- Temporary or casual employees;
- Contractors, consultants and their employees working for Council and/or providing services to Council;
- Other people who perform Council functions whose conduct and activities could be investigated by an investigating authority, including volunteers and Section 355 committee members.

The policy also applies to public officials of another Council or public authority who report wrongdoing relating to Upper Lachlan Shire Council.

4. Roles and Responsibilities

Certain people within Council have responsibilities under the PID Act. A person may make a report to the following people at Council:-

- Chief Executive Officer (CEO)
- The Mayor may receive reports from Councillors and the Disclosure coordinator about the Chief Executive Officer (CEO)
- A Disclosure Officer - a list of disclosure officers and their contact details can be found in the Public Interest Disclosure Procedures.
- A 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.

The roles and responsibility of Council staff and senior management are fully described in the Public Interest Disclosure Procedures.

5. Assessment of Reports

All reports will be promptly and thoroughly assessed to determine what action will be taken to deal with the report and whether or not the report will be treated as a public interest disclosure, in accordance with the PID procedures.

6. When will a Report be treated as a Public Interest Disclosure?

Council will treat a report as a public interest disclosure if it meets the criteria of a public interest disclosure under the *PID Act 2022*, as described in the PID Procedures.

7. How to make a Report of Serious Wrongdoing

When a public official reports suspected or possible wrongdoing their report will be a PID if it has certain features which are set out in the *PID Act*. You can report wrongdoing in writing or verbally. You are encouraged to make a report in writing as this can help to avoid any confusion or misinterpretation.

There are three types of PIDs in the *PID Act*. These are as follows:-

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.

More information about the types of PIDs is in the NSW Ombudsman's Guidelines 'Dealing with Mandatory PIDs' and 'Dealing with Witness PIDs'.

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:-

- Corrupt conduct - such as a public official accepting a bribe
- Serious maladministration - such as an agency systemically failing to comply with proper recruitment processes when hiring staff
- A government information contravention - such as destroying, concealing or altering records to prevent them from being released under a Government Information Public Access application
- A local government pecuniary interest contravention - such as a senior council staff member recommending a family member for a council contract and not declaring the relationship
- A privacy contravention - such as unlawfully accessing a person's personal information on an agency's database
- A serious and substantial waste of public money - such as an agency not following a competitive tendering process when contracting with entities to undertake government work.

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

8. Protections

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

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

Council 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 *PID Act* provides protection for staff and councillors who have made a public interest disclosure by imposing penalties on anyone who takes detrimental action against another person substantially in reprisal for that person making a public interest disclosure. These penalties also apply to cases where a person takes detrimental action against another because they believe or suspect the other person has made or may have made a public interest disclosure, even if they did not.

Detrimental action means action causing, comprising or involving any of the following:-

- Injury, damage or loss;
- Intimidation or harassment;
- Discrimination, disadvantage or adverse treatment in relation to employment;
- Dismissal from, or prejudice in, employment;
- Disciplinary proceedings.

A person who is found to have committed a reprisal offence may face criminal penalties such as imprisonment and/or fines, and may be required to pay the victim damages for any loss suffered as a result of the detrimental action.

Taking detrimental action in reprisal is also a breach of the Council's Code of Conduct which may result in disciplinary action. In the case of Councillors, such disciplinary action may be taken under the misconduct provisions of the *Local Government Act 1993* and may include suspension or disqualification from civic office.

9. Related Legislation and Council Policies

- Public Interest Disclosures Act 2022;
- Public Interest Disclosures Regulation 2022;
- Ombudsman Act 1974;
- NSW Ombudsman Public Interest Disclosures Guidelines;
- Independent Commission Against Corruption Act 1988;
- Government Information (Public Access) Act 2009;
- Local Government Act 1993;
- Local Government (General) Regulation 2021;
- Work Health and Safety Act 2011 and Regulations;
- Privacy and Personal Information Protection Act 1998;
- State Records Act 1998;
- Code of Conduct;
- Disciplinary Policy;
- Complaints Policy;
- Fraud and Corruption Prevention Policy;
- Grievance Policy;
- Harassment Policy; and
- Code of Business Practice.

10. Variation

Council reserves the right to vary or revoke this policy.

For disclosures about corrupt conduct:

Independent Commission Against Corruption (ICAC)
Phone: 02 8281 5999
Toll free: 1800 463 909
Tel. typewriter (TTY): 02 8281 5773
Facsimile: 02 9264 5364
Email: icac@icac.nsw.gov.au
Web: www.icac.nsw.gov.au
Address: Level 7, 255 Elizabeth Street,
Sydney NSW 2000

For disclosures about maladministration:

NSW Ombudsman
Phone: 02 9286 1000
Toll free: 1800 451 524
Tel. typewriter (TTY): 02 9264 8050
Facsimile: 02 9283 2911
Email: nswombo@ombo.nsw.gov.au
Web: www.ombo.nsw.gov.au
Address: Level 24, 580 George Street,
Sydney NSW 2000