

# Public Interest Disclosures Act – Internal Reporting Policy

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### DATA AND DOCUMENT CONTROL – GOVERNANCE USE ONLY

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## Purpose

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

At Campbelltown City Council we take reports of serious wrongdoing seriously. We are committed to building a 'speak up' culture where public officials are encouraged to report any conduct that they reasonably believe involves wrongdoing.

The integrity of our organisation relies upon our staff, volunteers, contractors and subcontractors speaking up when they become aware of wrongdoing.

This policy sets out:

- how Campbelltown City Council will support and protect people who you come forward with a report of serious wrongdoing
- how we will deal with the report and our other responsibilities under the PID Act
- who to contact to make a report
- how to make a report
- the protections which are available under the PID Act.

This policy also documents Council's 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.

In NSW, that framework is the PID Act.

This policy should be read in conjunction with the policies referenced in section 10 of this Policy.

## Accessibility of this policy

This policy is available on Campbelltown City Council's publicly available website as well as on Council's intranet.

A copy of the policy is also provided to all staff of Campbelltown City Council on their commencement. A hard copy of the policy can be requested from the Governance unit.

## Who does this policy apply to?

This policy applies to, and for the benefit of, all public officials in NSW. You are a public official if you are:

- 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

- an employee, partner or officer of an entity that provides services, under contract, subcontract or other arrangement, on behalf of an agency or exercises functions of an agency, and are involved in providing those services or exercising those functions
- a judicial officer
- a Member of Parliament (**MP**), including a Minister
- a person employed under the *Members of Parliament Staff Act 2013*.

The General Manager, Disclosure Coordinator, other nominated disclosure officers, Mayor and managers of Council have specific responsibilities under the PID Act. This Policy also provides information on how people in these roles will fulfil their responsibilities. Other public officials who work in and for the public sector, but do not work for Council, may use this Policy if they want information on who they can report wrongdoing to within Councils.

### **Who does this policy not apply to?**

This policy does not apply to:

- people who have received services from an agency and want to make a complaint about those services
- Consultants engaged to assist Council with its work
- People, such as contractors, who provide services to an agency. For example, employees of a company that sold computer software to an agency.

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 section 1.9 of this Policy for more information).

However, you can still make a complaint to Council. This can be done under Council's Feedback Policy, available on Council's website.

## **Compliance with the PID Act**

This Policy will be reviewed every four years or more frequently as required. The review will be undertaken by the Governance unit in accordance with Council's Information Management Authorised Statement and the adopted procedure for Policy Development and Review. The Governance unit will monitor the Policy to ensure it is meeting its purpose. If an error or issue is found in the Policy, it should be notified to the Disclosure Coordinator.

## **What is contained in this policy?**

This Policy will provide you with information on the following:

- Ways you can make a voluntary PID to Council under the PID Act
- The names and contact details for the nominated disclosure officers in Council
- The roles and responsibilities of people who hold particular roles under the PID Act and who are public officials of Council
- 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
- Council's procedures for dealing with disclosures

- Council's procedures for managing the risk of detrimental action and reporting detrimental action
- Council's record-keeping and reporting requirements
- How Council 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 a nominated disclosure officer within Council
- Contact the PID Advice Team within the NSW Ombudsman by phone: (02) 9286 1000 or email: [pidadvice@ombo.nsw.gov.au](mailto: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.

# 1. How to make a report of serious wrongdoing

## 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, but we will also make sure we follow our Code of Conduct, Procedures for the Administration of the Code of Conduct, Grievance Handling Authorised Statement, and Workplace Investigations Authorised Statement.

It is important that we quickly recognise that we have received 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.

## 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'.

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:

1	2	3	4	5
A report is made by a public official	It is made to a person who can receive voluntary PIDs	The public official <i>honestly and reasonably believes</i> that the information they are providing <i>shows (or tends to show) serious wrongdoing</i>	The report was made orally or in writing	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 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.

### 1.3 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 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.

### 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:

- *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 to us what category of serious wrongdoing you are reporting or that you are reporting serious wrongdoing.

You can find more information about serious wrongdoing in the Ombudsman’s guideline ‘What is serious wrongdoing?’

## **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.

### **Making a report to a public official who works for Campbelltown City Council**

You can make a report inside Council to:

- General Manager
- Disclosure Coordinator
- A disclosure officer for Council – a list of disclosure officers for Council and their contact details can be found at Annexure A of this Policy
- Mayor, especially if the report concerns the General Manager
- 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.

### **Making a report to a recipient outside of 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 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 Council, it is possible that your disclosure will be referred back to us so that appropriate action can be taken.

## **Making a report to a Member of Parliament (MP) 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 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 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.

## **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.
- *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.

## **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.

## **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 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 Council's policies for dealing with reports, allegations or complaints.

## **1.9 Deeming that a report is a voluntary PID**

The General Manager or Disclosure Coordinator 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 General Manager or Disclosure Coordinator 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'.

## **1.10 Who can I talk to if I have questions or concerns?**

You can contact Council's Disclosure Coordinator or a disclosure officer listed at Annexure A of this Policy if you have questions or concerns. When doing so, you can advise if you would like this and associated communications treated confidentially. If you request confidentiality, this will be maintained as much as possible.

## 2. Protections

### 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.

Council is 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.

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:

#### **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.

#### **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.

## 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.

**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"> <li>• breaching a duty of secrecy or confidentiality, or</li> <li>• breaching another restriction on disclosure.</li> </ul>	✓	✓

## 3. 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 a disclosure officer of Council, or to an integrity agency. A list of Council’s disclosure officers and their contact details can be found at Annexure A and a list of integrity agencies is located at Annexure B of this Policy.

## 4. General support

If you have questions about the PID Act and reporting generally, you can contact the NSW Ombudsman or Council’s Disclosure Coordinator.

If you make a report, Council will allocate a person who will be your key contact person and who will take steps to protect your interests – for example, if you are at risk of detrimental action. This will generally be the Disclosure Coordinator.

Council is committed to providing you with access to support, counselling, and general health and wellbeing advice through the Employee Assistance Program (EAP). The EAP can be reached 24/7 by calling 1300 364 273 and is free and confidential for you and your family to use.

## 5. Roles and responsibilities of Council public officials

Certain people within Council have responsibilities under the PID Act.

### 5.1. 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 that 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.

### 5.2. Disclosure Coordinator

The Disclosure Coordinator has a central role in Council's PID reporting system. The Disclosure Coordinator can receive and assess reports from public officials, and is the primary point of contact for the reporter.

The Disclosure Coordinator is responsible for:

- Assessing reports to determine whether or not a report should be treated as a PID, and deciding how each report will be dealt with (either under delegation or in consultation with the General Manager)
- Deeming that a report is a voluntary PID
- Dealing with reports made under the Council's Code of Conduct in accordance with the Council's Procedures for the Administration of the Code of Conduct
- Coordinating Council's response to a report
- Acknowledging reports and providing updates and feedback to the reporter
- Assessing whether it is possible and appropriate to keep the reporter's identity confidential
- Assessing the risk of detrimental action and workplace conflict related to or likely to arise out of a report, and developing strategies to manage any risk identified

- Where required, providing or coordinating support to public officials involved in the reporting or investigation process, including protecting the interests of any public official the subject of a report
- Ensuring Council complies with the PID Act
- Providing reports to the NSW Ombudsman in accordance with this Policy.

### **5.3. Disclosure officers**

Disclosure officers are responsible for:

- Receiving reports from public officials
- Receiving reports when they are passed on to them by managers
- 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.

### **5.4. Mayor**

The Mayor is a disclosure officer and is responsible for:

- Receiving reports from public officials, especially where they relate to the General Manager
- Receiving reports when they are passed on to them by managers, especially where they relate to the General Manager
- Ensuring reports are dealt with appropriately, including by referring the matter to the Disclosure Coordinator or, if the report concerns the General Manager, the relevant integrity agency
- Ensuring that any oral reports that have been received are recorded in writing.

### **5.5. Managers**

The responsibilities of managers include:

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

### **5.6. All public officials of Council**

The responsibilities of public officials of Council include:

- Reporting suspected serious wrongdoing or other misconduct
- Using 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
- Treating any person dealing with or investigating reports of serious wrongdoing with respect.

All public officials of Council 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. How we will deal with voluntary PIDs

### 6.1 How Council will acknowledge that we have received a report and keep the person who made it informed

When a disclosure officer in 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 from the Disclosure Coordinator by way of secure email, phone discussions or virtually via Teams or another platform (whichever method is determined in consultation with you to be most appropriate in the circumstances):

- You will receive an acknowledgment that the report has been received. This acknowledgment will:
  - State that the report will be assessed to identify whether it is a PID
  - State that the PID Act applies to how Council 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, including how Council will consult with you to establish whether you are at risk of detrimental action, whether you need support networks to be put in place and how this will be assessed on an ongoing basis.
- 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 we decide to investigate the serious wrongdoing, we will provide you with updates on the investigation at least every three 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.
  - 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.
- 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.

## 6.2 How Council will deal with voluntary PIDs

Once a report that may be a voluntary PID is received, the Disclosure Coordinator 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. The Disclosure Coordinator may seek to have the assessment quality checked by another disclosure officer or a lawyer. If it is a voluntary PID, the Disclosure Coordinator will ensure that Council complies with the requirements in the PID Act.

### 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 related Council policies and procedures (such as the Code of Conduct or Grievance Policy and related procedures), or through an alternate process if appropriate.

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. We will also let you know the reasons for this 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. Council can, but does not have to, request the NSW Ombudsman to conciliate the matter.

### Cease dealing with report as voluntary PID

Council 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 that happens, the same process will apply as outlined above under the heading 'Report not a voluntary PID'.

### Where the report is a voluntary PID

If the report is a voluntary PID:

- In most cases we will conduct an investigation to 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. An external investigator may be appointed for this purpose. 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 must let you know the reasons for this and notify the NSW Ombudsman.



### **6.3 How Council 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 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 Council 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:

- 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
- Providing 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 public officials.

If confidentiality cannot be maintained or is unlikely to be maintained, Council will:

- Advise the person whose identity may become known
- Update the 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.

## **6.4 How Council will assess and minimise the risk of detrimental action**

Council 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.

Council 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.

Council will take steps to assess and minimise the risk of detrimental action 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)
- Providing details of the role that will be responsible for undertaking a risk assessment
- Explaining the approvals for risk assessment and the risk management plan, that is, the rank or role of the person who has final approval
- Explaining how Council will communicate with the maker to identify risks
- Listing the protections that will be offered, that is, 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.

Further information on assessing the risk of detrimental action is found in the Ombudsman's guideline 'Agencies – assessing and managing the risk of detrimental action'.

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.

## **6.5. How Council will deal with allegations of a detrimental action offence**

If Council becomes aware of an allegation that a detrimental action offence has occurred or may occur, Council 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 ICAC
- Notify the NSW Ombudsman about the allegation of a detrimental action offence being committed.

This will generally be coordinated by Council's Disclosure Coordinator, who is the primary contact for any person who is the subject of alleged detrimental action. The Disclosure Coordinator will provide updates to this person and advise what supports will be offered.

## **6.6. What Council 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, 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.

This will generally be determined by Council's Disclosure Coordinator, who will also determine which person or business unit will be responsible for ensuring corrective action takes place and how the maker of the disclosure will be notified of the proposed or recommended corrective action (subject to confidentiality requirements). This process will be undertaken in consultation with relevant members of Council's Senior Leadership Group.

# **7. Review and dispute resolution**

## **7.1 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 Council 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 Council's decision. The application must state the reasons why you consider Council's decision should not have been made. You may also submit any other relevant material with your application.

The application should be made to Council's Disclosure Coordinator, who in consultation with the General Manager will determine which person or business unit within Council will conduct the review. The review will be dealt with by a person who was not substantially involved in making the original decision or dealing with the disclosure. Following receipt of the review application, the applicant will be notified what timeframes will be set for completion of the review.

## **7.2 Voluntary dispute resolution**

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

## 8. Other agency obligations

### 8.1 Record-keeping requirements

Council 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*.

The records will be stored in Council's electronic records and information management system (IRIS) and in accordance with the Records and Information Management Authorised Statement. Appropriate access and security controls will be applied to these records.

### 8.2 Reporting of voluntary PIDs and 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.

The annual return will be prepared by the Governance Unit using information provided by Council's Disclosure Coordinator. The information will also be stored in IRIS with appropriate access and security controls applied.

### 8.3 How Council will ensure compliance with the PID Act and this Policy

We will implement mechanisms for monitoring the effectiveness of this Policy and for ensuring compliance with the PID Act. These mechanisms include:

- Campbelltown City Council Public Interest Disclosures Act Internal Reporting Policy
- Implementation of Council's Legislative compliance system (Pulse)
- Regular reporting about compliance to Council's Executive Leadership Team and Audit, Risk and Improvement Advisory Committee
- Implementing measures to address any identified non-compliance
- Regular reviews of this Policy in accordance with the Corporate Document Development and Review Procedure, having regard to relevant guidance from the NSW Ombudsman and other integrity agencies where applicable.
- These mechanisms will generally be coordinated by Council's Disclosure Coordinator.

## 9. Definitions

**Manager** See the definition provided at pages 8-9 of this Policy.

**You** The person making a report under the PID Act.

**We** Campbelltown City Council.

## 10. Related Materials

### 10.1 Related Legislation

- *Government Information (Public Access) Act 2009*
- *Independent Commission Against Corruption Act 1988*
- *Local Government Act 1993*
- *Privacy and Personal Information Protection Act 1998*
- *Public Interest Disclosures Act 2022*
- *Public Interest Disclosures Regulation 2022*
- *State Records Act 1998*

### 10.2 Related Policies, Procedures and Other Guidance Material

- Code of Conduct
- Conflict of Interest Procedure
- Fraud and Corruption Control Policy
- Gifts and Benefits Procedure
- Grievance Handling Authorised Statement
- Ombudsman's Guidelines (NSW Ombudsman)
- Procedures for the Administration of the Code of Conduct
- Statement of Business Ethics
- Workplace Investigations Authorised Statement
- Information Management Authorised Statement

## Annexure A – Names and contact details of disclosure officers for Campbelltown City Council

Public officials of Council can make a voluntary disclosure to any of the disclosure officers listed in this Annexure, or to their Manager (see definition page 7).

Council Worksite	Disclosure Officers
Campbelltown Civic Centre  <b>4645 4000</b>  <b>pid@campbelltown.nsw.gov.au</b>	General Manager  Mayor  Director City Governance (Disclosure Coordinator)  Executive Manager, Corporate Services and Governance  Executive Manager, People and Performance  Manager, Governance and Risk  Internal Auditor
Council Depot – Sark grove Minto	Director City Services  Manager City Presentation  Manager Civil Services
Campbelltown Community Recycling Centre	Resource Recovery and Waste Services Coordinator
Library Services and Visitor Information Centre	Acting Manager Community Learning and Libraries
HJ Daley Library	Community Learning and Libraries  Branch and Customer Service Co-ordinator  Acting Co-ordinator Library Technology and Innovation  Team Leader HJ Daley
Greg Percival Library	Team Leader Greg Percival
Eagle Vale Library	Team Leader Eagle Vale Library
Glenquarie Library	Team Leader Glenquarie Library
Education and Care Services	Executive Manager Community Businesses  Manager Education and Care Services
Amarina Early Learning Centre	Nominated Supervisor Amarina
Minto Early Learning Centre	Temporary Nominated Supervisor Minto
Amber Cottage Early Learning Centre	Nominated Supervisor Amber Cottage
Namut Early Learning Centre	Nominated Supervisor Namut

Eagles Nest Early Learning Centre	Temporary Nominated Supervisor Eagles Nest
Waratah Early Learning Centre	Nominated Supervisor Waratah
Kabbarli Early Learning Centre	Nominated Supervisor Kabbarli
Wombat Willows Early Learning Centre	Nominated Supervisor Wombat Willows
Campbelltown Child and Family Centre	Early Years Service Supervisor
Family Day Care Office	Temporary Nominated Supervisor
Campbelltown City OSHC	Nominated Supervisor
Raby OSHC	Nominated Supervisor
Bicycle Education Centre	Bicycle Education Centre Team Lead
Leisure Centres	Executive Manager Community Businesses Operations Manager
Eagle Vale Leisure Centre	Centre Manager Eagle Vale Central
Macquarie Fields Leisure Centre	Centre Manager Macquarie Fields Leisure Centre & Macquarie Fields Fitness and Indoor Sports Centre
Gordon Fetterplace Leisure Centre	Centre Manager Gordon Fetterplace Aquatic Centre
Campbelltown Arts Centre	Acting Executive Manager, Campbelltown Arts Centre
Campbelltown Stadium	Venue Manager (Stadia), Community Businesses
Visitor Information Centre	Branch and Customer Service Coordinator
Animal Care Facility	Animal Care Facility Operations Lead

### Notes

- Direct contact information for each additional disclosure officer is available on Council's intranet.
- Annexure A may be amended under delegation by the General Manager as required.

## Annexure B – List of integrity agencies

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



<b>The Information Commissioner</b>	<b>Government information contraventions</b>	<b>Telephone:</b> 1800 472 679 <b>Writing:</b> GPO Box 7011, Sydney NSW 2001 <b>Email:</b> <a href="mailto:ipcinfo@ipc.nsw.gov.au">ipcinfo@ipc.nsw.gov.au</a>
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