



CUMBERLAND
CITY COUNCIL

Public Interest Disclosure Policy

AUTHORISATION & VERSION CONTROL

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PURPOSE

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).

At Cumberland City Council (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 Council relies upon our staff, volunteers, contractors and subcontractors speaking up when they become aware of wrongdoing.

This Policy sets out:

- how Council will support and protect you if 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 if you want to make a report
- how to make a report
- the protections which are available to you under the PID Act.

This Policy also documents our commitment to building a speak up culture. Part of that speak up culture is having in place a framework that facilitates 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.

SCOPE

This Policy applies to, and for the benefit of, all Council Officials, being "public officials" as defined under the PID Act. It also applies to the following people to whom the concept of the "public official" extends, under the PID Act:

- A person providing services or exercising functions on behalf of Council, including a service provider/service partner, or volunteer.
- An employee, partner or officer of an entity that provides services under contract, subcontract, or other arrangement, on behalf of Council or exercises functions of Council, and are involved in providing those services or exercising those functions.

The General Manager, other nominated disclosure officers and managers within Council have specific responsibilities under the PID Act. This Policy also provides information about 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 Cumberland City Council, may refer to this Policy to determine who they can report wrongdoing to within Council.

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 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.)

However, you can still make a complaint to Council. This can be done by lodging a complaint in accordance with the Compliments and Complaints Management Policy.

DEFINITIONS

Act	<i>Local Government Act 1993.</i>
Agency	'Agency' is defined in the PID Act as including a local government authority. Council is an agency.
Councillor	Cumberland City Council elected representative.
Council committee member	A person other than a Councillor or a Council Officer who is a member of a Council committee other than a wholly advisory committee, and a person other than a Councillor who is a member of Council's audit, risk and improvement committee.
Council Official	Councillors, Council Officers, Council committee members and delegates of Council.
Council Officer	Cumberland City Council members of staff (including full-time, part-time, casual and contracted staff).
Detriment	Detriment is defined in section 32(1) of the PID Act as disadvantage to a person, including: <ul style="list-style-type: none"> • 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 proceeding or disciplinary action.
Detrimental action	Detrimental action is defined in section 32(2) of the PID Act as 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). Detrimental action does not include: <ul style="list-style-type: none"> • 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.

	<ul style="list-style-type: none"> • 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.
Integrity agency	The integrity agencies set out in Annexure B.
Manager	Any Council Officer who manages, or is in any way responsible for, any other Council Officer, Councillor, volunteer or service provider/service partner.
PID	Public interest disclosure.
PID Act	<i>Public Interest Disclosures Act 2022.</i>
Public Interest Disclosure Coordinator	The Council Official responsible for coordinating Council's response to receiving and dealing with PIDs. Please refer to Annexure A for the contact details of the Public Interest Disclosure Coordinator (IOSS). This Public Interest Disclosure Coordinator is a disclosure officer.
Public official	<p>A public official is defined in the PID Act to include:</p> <ul style="list-style-type: none"> • A person employed by an agency or otherwise in 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. • A person providing services or exercising functions on behalf of an agency, including a contractor, subcontractor or volunteers. <p>Council Officials, volunteers and service providers/service partners who are providing services or exercising functions on behalf of Council are public officials for the purposes of the PID Act.</p> <p>Public officials will also include persons that fall within the definition of the public official in the PID Act that are not related to Council. For example, a person working at another council will be a public official for the purposes of making a PID.</p>
Serious Wrongdoing	Refer to definition in this Policy.

POLICY STATEMENT

Council is committed to encouraging and supporting the reporting of wrongdoing, and to protect those who make public interest disclosures from any adverse action motivated by their report, keeping their identity confidential where possible.

What should be reported?

You should report any wrongdoing you see within Council. 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 a public official makes their report, they do not need to specify to Council what category of serious wrongdoing they are reporting or that they are reporting serious wrongdoing.

Other wrongdoing

Although reports about the above-mentioned categories can attract the specific protections of the PID Act, you should report all activities or incidents that you believe are wrong.

For example, these could include:

- Bullying, harassment or unlawful discrimination.
- Reprisal action against a person who has reported wrongdoing.
- Practices that endanger the health or safety of staff or the public.

These types of issues should be reported to your manager or supervisor in line with Council's policies:

- Code of Conduct
- Fraud and Corruption Prevention Policy
- Councillor and Staff Interaction Policy
- Compliments and Complaints Management Policy
- Good Working Relationships
- Grievance & Dispute Handling

How to make a report of serious wrongdoing

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.

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.

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.

Public officials 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:

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

Who can make a voluntary PID?

Any public official can make a voluntary PID. You are a public official if:

- you are employed by Cumberland City Council
- you are a contractor, subcontractor or volunteer who provides services, or exercises functions, on behalf of Cumberland City Council, or
- you work for an entity (such as a non-government organisation) who is contracted by Council to provide services or exercise functions on behalf of Council — if you are involved in undertaking that contracted work.

A public official can make a PID about serious wrongdoing relating to *any* agency, not just the agency they are working for. This means that we may receive PIDs from public officials outside our agency. It also means that you can make a PID to any agency, including an integrity agency like the Independent Commission Against Corruption (ICAC) and the NSW Ombudsman.

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 recipient who works for Cumberland City Council

- The General Manager
- A disclosure officer for Council — a list of disclosure officers for Cumberland Council and their contact details can be found in Annexure A of this Policy.
- Your manager — this is the person who directly, or indirectly, supervises you. It can also be the person who you directly, or indirectly, report to. You may have more than one manager. Your manager will make sure that the report is communicated to a disclosure officer on your behalf or may accompany you while you make the report to a disclosure officer.

Making a report to a recipient outside of Council

Public officials can also make their report to a public official in another agency (meaning an agency that the public official does not work for) or an integrity agency.

These include:

- The head of another agency — this means the head of any public service agency listed under Schedule 1 of the *Government Sector Employment Act 2013*, such as the Information Commission of the Information and Privacy Commission or the Ombudsman from the Ombudsman Office.
- 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 are set out in an agency's PID policy which can be found on the agency's 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.

Making a report to a Member of Parliament or journalist

Disclosures to MPs or journalists are different to other reports. You can only disclose a report of wrongdoing as a voluntary PID to an MP or journalist in the following circumstances:

- You must have first made substantially the same disclosure (described here as a 'previous disclosure') to someone who can receive disclosures.
- The previous disclosure must be substantially true.
- You did not make the previous disclosure anonymously.
- You did not give a written waiver of your right to receive information relating to your previous disclosure.
- You did not receive the following from Council:
 - Notification that Council will not investigate the serious wrongdoing and will also not refer the previous disclosure to another agency.
 - The following information at the end of the investigation period:
 - notice of Council 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.

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.

What should a public official include in their report?

A public official should provide as much information as possible so that Council can deal with the report effectively. The type of information a public official should include is:

- The date, time, and location of key events.
- The names of person(s) involved in the suspected wrongdoing, their role, title and how they are involved.
- The public official's relationship with the person(s) involved, such as whether the public official works closely with them.
- The public official's explanation of the matter that they are reporting.
- How the public official became aware of the matter that they are reporting.
- Possible witnesses.
- Other information that the public official has that supports their report.

What if the public official is not sure if the report is a PID?

Public officials should report all wrongdoing that they become aware of regardless of whether they think it is serious wrongdoing. It is important for Council to understand what is or may be occurring.

Council is then responsible for making sure that the report is handled appropriately under the PID Act, or if it is not a PID, in line with other procedures. Even if the public official's report is not a PID, it may fall within another one of the Council's policies for dealing with reports, allegations, or complaints.

Deeming that a report is a voluntary PID

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

Who can public officials talk to if they have questions or concerns?

If a public official, including Council Officials, have any questions or concerns, the public official should contact a nominated disclosure officer listed in Annexure A by email, phone or in person. If a public official wishes for their discussion to be confidential, the public official should mark any communications as confidential, for example, in the subject line of their email.

Protections

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.

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 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 Council becomes aware that a voluntary PID by a person employed or otherwise associated with Cumberland City 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.

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 below:

- **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 either:
 - Breaching a duty of secrecy or confidentiality.
 - Breaching another restriction on disclosure.

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 Council, or to an integrity agency.

General Support

Council is committed to the wellbeing of all public officials making PIDs. Council will assign a key contact person to a public official and make other arrangements on a case-by-case basis where the public official is at risk of detrimental action.

ROLES AND RESPONSIBILITIES

Certain people within Council have responsibilities under the PID Act.

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.

Public Interest Disclosures Coordinator

The Internal Ombudsman Shared Service is Council's Public Interest Disclosures Coordinator. The Internal Ombudsman Shared Service is a confidential service and can receive reports of serious wrongdoing or assist with determining if a complaint meets the requirements of a PID. The contact details can be found in Annexure A of this policy.

The Public Interest Disclosures Coordinator is responsible for:

- Receiving reports from public officials.
- Receiving reports when they are passed on to them by Managers.
- Coordinating investigations and reviews of serious wrongdoing as required.
- Supporting the General Manager and disclosure officers to respond appropriately.
- Providing training and advice as required to public officials.
- Conducting internal reviews of decision-making related to PIDs.
- Fulfill the Council's reporting requirements to the NSW Ombudsman.

Disclosure Officers

Disclosure Officers are responsible for:

- Receiving reports from public officials.
- Receiving reports when they are passed on to them by managers.
- Ensuring that any oral reports that have been received are recorded in writing.
- Conducting an assessment to determine if a report is a PID.
- Conducting an initial detrimental action risk assessment for the discloser and take action to manage immediate risks.
- Ensuring reports are dealt with appropriately, including by referring the matter to the disclosures co-ordinator (IOSS).

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.

All Council Officials

All Council Officials 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 Council Officials must not take detrimental action against any person who has made, may in the future make, or is suspected of having made, a PID.

How Council will deal with voluntary PIDs

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:

- You will receive an acknowledgment that the report has been received. This acknowledgement will:
 - state that the report will be assessed to identify whether it is a PID.
 - state that the PID Act applies to how 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.
- 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, Council will advise the reasons for this decision. We will also notify the NSW Ombudsman of this decision.
- If Council decides 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 Council, 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.

Once a report that may be a voluntary PID is received, Council 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.

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 Council's Code of Conduct or through an alternate process.

- If the report is not a voluntary PID, we will let you know that the PID Act does not apply to the report and how we will deal with the concerns raised in the report.
- If you are not happy with this assessment or otherwise disagree with it, you can raise it with the person who has communicated the outcome with you or a disclosure officer, request an internal review or request that the matter be conciliated. Cumberland City Council can, but do not have to, request the NSW Ombudsman to conciliate the matter.
- 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).

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. 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.

How Council will protect the confidentiality of the maker of a voluntary PID

Council understands 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.

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

Council 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.

Council will do this by:

- Limiting the number of people who are aware of the maker's identity or information that could identify them.
- If Council must disclose information that may identify the maker of the PID, Council will still not disclose the actual identity of the maker of the PID, unless we have their consent to do so.
- Council will ensure that any person who does know the identity of the maker of a PID is reminded that they have a legal obligation to keep their identity confidential.

- Council will ensure that only authorised persons have access to emails, files or other documentation that contain information about the identity of the maker.
- Council will undertake an assessment to determine if anyone is aware of the maker's identity and if those persons have a motive to cause detrimental action to be taken against the maker or impede the progress of the investigation.
- We will provide information to the maker of the PID about the importance of maintaining confidentiality and advising them how best to protect their identity, for example, by telling them not to discuss their report with other staff.

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

- advise the person whose identity may become known
- update Council's risk assessment and risk management plan
- implement strategies to minimise the risk of detrimental action
- provide additional support 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.

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.

The Disclosures Coordinator 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).
- The manager or disclosures officer that receives the report will initially manage any risks and then will consult the disclosures co-ordinator on the risk assessment.
- Approval for the risk assessment is the disclosures co-ordinator.
- Council will engage with the PID maker to identify risks and appropriately manage them.
- Council will communicate the various options for risk management to the maker of a PID.
- Council commits to supporting PID makers by tailoring the risk management for detrimental action to the unique circumstances of each disclosure.

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.

How Council will deal with allegations of a detrimental action offence

If we become 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 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.

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, Council 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)

Review and dispute resolution

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.

Council 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 to the Internal Ombudsman Shared Service within 28 days of being informed of Council's decision. The application should state the reasons why you consider the decision should not have been made. You may also submit any other relevant material with your application.

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.

Other agency obligations

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*.

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

Each year Council 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.

RELATED LEGISLATION

- *Local Government Act 1993*
- *Public Interest Disclosures Act 2022*
- *Independent Commission Against Corruption Act 1988*
- *Government Information (Public Access) Act 2009 (GIPA Act)*
- *NSW Ombudsman Act 1974*

RELATED DOCUMENTS AND COUNCIL POLICY

- Code of Conduct
- Public Interest Disclosure Internal Report Form
- Internal Ombudsman Shared Service Governance Charter
- NSW Ombudsman Public Interest Disclosure Guidelines
- NSW Ombudsman Model Internal Reporting Policy Local Government
- Compliments and Complaints Handling Policy
- Fraud and Corruption Control Policy
- Councillor and Staff Interaction Policy
- Grievance & Dispute Handling Guidelines

Annexure A — Names and contact details of disclosure officers for Cumberland City Council

Position	Location
Internal Ombudsman (PID Coordinator) Internal Ombudsman Shared Service	11 Northumberland Road, Auburn 8757 9044 internalombudsman@cumberland.nsw.gov.au
General Managers Unit	
General Manager	<ul style="list-style-type: none"> • Merrylands Administration Building • Auburn Administration Building
General Counsel	<ul style="list-style-type: none"> • Merrylands Administration Building • Auburn Administration Building
Manager Special Projects	<ul style="list-style-type: none"> • Merrylands Administration Building • Auburn Administration Building
Governance and Risk	
Director Governance and Risk	<ul style="list-style-type: none"> • Merrylands Administration Building • Auburn Administration Building
Manager Governance	Merrylands Administration Building
Manager Audit, Safety and Risk	Merrylands Administration Building
Manager Property Transactions	Merrylands Administration Building
City Services	
Director City Services	<ul style="list-style-type: none"> • Merrylands Administration Building • Guildford Depot • Auburn Depot
Executive Manager Environmental Health and Development Services	<ul style="list-style-type: none"> • Merrylands Administration Building
Manager Environment Health and Development Programs	<ul style="list-style-type: none"> • Merrylands Administration Building

Executive Manager Assets, Capital and Facilities	<ul style="list-style-type: none"> • Guildford Depot • Auburn Depot
Business Manager	<ul style="list-style-type: none"> • Merrylands Administration Building
Executive Manager City Operations	<ul style="list-style-type: none"> • Guildford Depot • Auburn Depot
Manager Waste and Ranger Services	<ul style="list-style-type: none"> • Merrylands Administration Building • Auburn Depot
Manager City Maintenance	<ul style="list-style-type: none"> • Merrylands Administration Building • Auburn Depot • Guildford Depot
Manager City Open Spaces	<ul style="list-style-type: none"> • Auburn Depot • Guildford Depot
Manager City Open Spaces	Auburn Botanic Gardens
Manager City Open Spaces	Central Gardens Nature Reserve
Manager City Open Spaces	Holroyd Gardens Nature Reserve
Manager City Open Spaces	Rosnay Auburn Golf Club
Manager City Open Spaces	Woodville Golf Course
Manager City Open Spaces	Wyatt Park Lidcombe
Manager City Open Spaces	Mona Park
Manager City Open Spaces	Merrylands Park
Manager City Open Spaces	Ringrose Oval – Monty Bennett Oval
Manager City Open Spaces & Manager Holroyd Centre	Eric Tweedale Stadium and Sports Field
Manager Holroyd Centre	Holroyd Centre Merrylands
Manager Buildings and Depot	Guildford Depot
Manager Buildings and Depot	Auburn Depot

Manager City Assets and Construction	<ul style="list-style-type: none"> • Auburn Depot
Swim Centre Operations Manager	Auburn Ruth Everuss Aquatic Centre
Swim Centre Operations Manager	Granville Swim Centre
Swim Centre Operations Manager	Guildford Swim Centre
Swim Centre Operations Manager	Merrylands Swim Centre
Swim Centre Operations Manager	Wentworthville Memorial Swim Centre
Environment and Planning	
Director Environment and Planning	<ul style="list-style-type: none"> • Merrylands Administration Building • Auburn Administration Building
Executive Manager Environment and Planning Systems	Auburn Administration Building
Executive Manager City Planning and Development	Auburn Administration Building
Manager Place and Engagement	Auburn Administration Building
Manager, Engineering and Building	Auburn Administration Building
Corporate Performance	
Director Corporate Performance	<ul style="list-style-type: none"> • Merrylands Administration Building • Auburn Administration Building
Manager Strategy and Improvement	Merrylands Administration Building
Manager Strategic Communications	Merrylands Administration Building
Manager Human Resources	Merrylands Administration Building
Executive Manager Customer Experience and Technology	<ul style="list-style-type: none"> • Merrylands Administration Building • Auburn Administration Building
Coordinator Bookings and Community	Merrylands Administration Building
Coordinator Bookings and Community	Auburn Centre for Community
Coordinator Bookings and Community	Berala Community Centre
Coordinator Bookings and Community	Guildford Community Centre

Chief Financial Officer	Merrylands Administration Building
Manager Finance	Merrylands Administration Building
Community and Culture	
Director Community and Culture	Merrylands Library
Director Community and Culture	Auburn Library
Senior Library Officer	Greystanes Library
Senior Library Officer	Wentworthville Library
Senior Library Officer	Lidcombe Library
Senior Library Officer	Guildford Library
Senior Library Officer	Regents Park Library
Senior Library Officer	Granville Library
Senior Coordinator Events and Culture	Granville Centre (Gallery)
Swim Centre Operations Manager	Granville Pools
Manager Holroyd Centre	Granville Centre
Education and Care Coordinator	Auburn Long Day Child Care Centre (ALDC)
Education and Care Coordinator	Frances Fisk Child Care Centre (FFCCC)
Education and Care Coordinator	Friend Park Children's Centre (FPCC)
Education and Care Coordinator	Guildford West Children's Centre (GWCC)
Education and Care Coordinator	Guildford West OOSH (GWOOSH)
Education and Care Coordinator	HCC - Gumnut Grove (HCCGG)
Education and Care Coordinator	Parramatta West OOSH (PWOOSH)
Education and Care Coordinator	Pemulwuy Children's Centre (PEMCC)
Education and Care Coordinator	Ringrose OOSH (RROOSH)
Education and Care Coordinator	Sherwood Grange OOSH (SGOOSH)
Education and Care Coordinator	Wenty Children's Centre (WCC)
Education and Care Coordinator	Widemere OOSH (WOOSH)
Executive Manager Community Wellbeing	Merrylands Administration Building
Manager Education and Care	Merrylands Administration Building
Manager Community Development	Merrylands Administration Building

Annexure B – List of Integrity Agencies

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

The Information Commissioner	Government information contraventions	Telephone: 1800 472 679 Writing: GPO Box 7011, Sydney NSW 2001 Email: ipcinfo@ipc.nsw.gov.au
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