

PUBLIC INTEREST DISCLOSURE POLICY

POLICY OBJECTIVE

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 Wentworth Shire 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 our agency 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 should be read in conjunction with Council's Code of Conduct; Fraud Control Policy; Procurement Policy; Delegation Policy; Complaints Management Policy; Statement of Business Ethics Policy; Legislative Compliance Policy; Conflict of Interest Policy; and Privacy Management Policy.

POLICY STATEMENT

The intent of this policy is to provide public officials with the following information:

- ways you can make a voluntary PID to Wentworth Shire 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 employees 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
- Wentworth Shire Council's record-keeping and reporting requirements
- how Council will ensure it complies with the PID Act and this policy.

1. POLICY COVERAGE

The PID Act is designed to encourage 'public officials' to report serious wrongdoing and to protect them when they do. This policy applies to, and for the benefit of, all public officials at Council.

All staff including volunteer staff at Wentworth Shire Council and including Councillors are public officials in accordance with the PID Act. A person providing services or exercising functions on behalf of Wentworth Shire Council, including a contractor or subcontractor, is also considered a public official in accordance with the PID Act.

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The General Manager of Wentworth Shire Council and other nominated disclosure officers and managers within 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 Wentworth Shire Council may use this policy if they want information on who they can report wrongdoing to within Council.

This policy does not apply to other people with complaints or grievances about Council services. Council's Complaint Management Policy sets out processes that apply to feedback and reporting of concerns from the community and stakeholders and is available on Council's website with an overview of various complaint mechanisms.

2. STRATEGIC PLAN LINK

Objective: 4.0 Wentworth is supported by a strong and ethical civic leadership with all activities conducted in an open, transparent and inclusive manner.

Strategy: 4.2 Provide a strong, responsible and representative government.

3. DEFINITIONS AND ABBREVIATIONS

| Term/Word | Definition |
|--------------------|---|
| Agency | Section 16 of the PID Act provides the meaning of ' agency ' for the purpose of the Act. This includes a Public Service Agency, an integrity agency, and a local government authority, amongst others. |
| Council | Wentworth Shire Council |
| Detriment | In the PID Act, detriment to a person means disadvantage to the person, including the following – <ul style="list-style-type: none"> (a) Injury, damage or loss caused to the person, (b) Damage caused to the person's property, (c) Damage caused to the person's reputation, (d) Intimidation bullying or harassment, (e) Unfavourable treatment in relation to the persons' career, profession, employment or trade, (f) Discrimination, prejudice or adverse treatment, whether in relation to employment or otherwise, (g) Disciplinary proceedings or disciplinary action. |
| Detrimental action | In the PID Act, detrimental action against a person means an act or omission causing, comprising, involving or encouraging – <ul style="list-style-type: none"> (a) Detriment to the person, or (b) The threat of detriment to the person, whether express or implied |
| Disclosure Officer | In the PID Act, disclosure officer for an agency means a person responsible for receiving voluntary public interest disclosures on behalf of the agency, |
| Manager | Section 15 of the PID Act provides the meaning of ' manager ' of a public official for the purpose of the Act. For a public official at Council this means – |

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| | <p>(a) A public official to whom the public official reports directly or indirectly, or</p> <p>(b) A public official who directly or indirectly supervises the public official in the exercise of the public official's functions.</p> |
| Public Interest Disclosure (PID) | 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. One such feature is that the public official <i>honestly and reasonably believes</i> that the information they are providing <i>shows (or tends to show) serious wrongdoing</i> . |
| Public Official | Section 14 of the PID Act provides the meaning of ' public official ' for the purposes of the Act. For Council this relevantly includes a person employed in or by an agency or otherwise in the service of an agency; and a person providing services or exercising functions on behalf of an agency, including a contractor, subcontractor or volunteer; amongst others.. |
| Serious wrongdoing | <p>In the PID Act, serious wrongdoing means 1 or more of the following –</p> <ul style="list-style-type: none"> (a) Corrupt conduct, (b) A government information contravention, (c) A local government pecuniary interest contravention, (d) Serious maladministration, (e) A privacy contravention, (f) A serious and substantial waste of public money. |

4. POLICY CONTENT

4.1 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, however if not, it may still raise important issues and will still be considered against one of several complaint handling policies and procedures in place including Council's Code of Conduct Policy, Staff Grievance Policy, and Complaint Management Policy and Framework.

Accurately identifying PIDs is important because, if a report is a PID, the public official who made the report will have special protections under the PID Act.

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.

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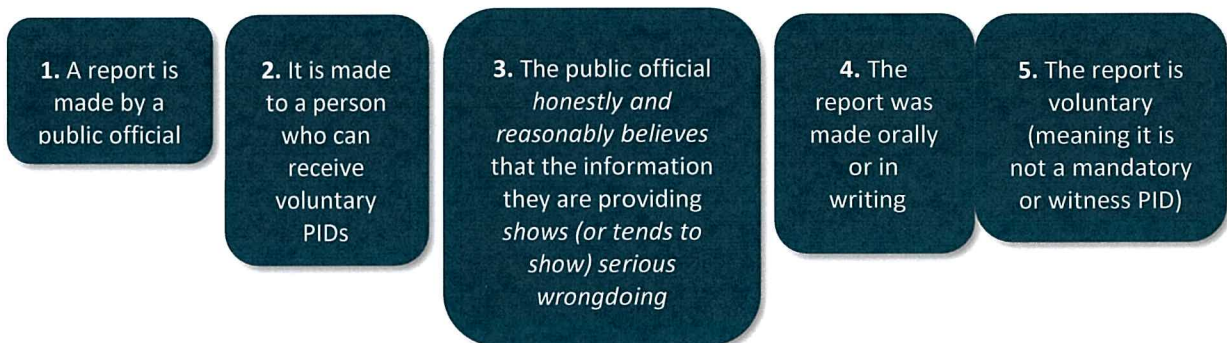
2. *Mandatory PID*: This is a PID where the public official has made a report about serious wrongdoing because they have a legal obligation to make that report, or because making that report is an ordinary aspect of their role or function in an agency.
3. *Witness PID*: This is a PID where a person discloses 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 4.2 of this policy.

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:



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 4.7 of this policy.

Who can make a voluntary PID?

Any public official can make a 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

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Independent Commission Against Corruption (ICAC) and the NSW Ombudsman. Annexure B of this policy has a list of integrity agencies.

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.

Who can I make a voluntary PID to?

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

You can make a report inside Council to:

- the General Manager
- a disclosure officer for Council — a list of disclosure officers for Wentworth Shire Council and their contact details can be found at Annexure A of this policy
- your manager — this is the person who directly, or indirectly, supervises you. It can also be the person who you directly, or indirectly, report to. You may have more than one manager. Your manager will make sure that the report is communicated to a disclosure officer on your behalf or may accompany you while you make the report to a disclosure officer.
- Your Contract Manager at Council if you are a contractor or sub-contractor providing services to Council. 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.

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 Council so that appropriate action can be taken.

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You can also disclose a report of wrongdoing as a voluntary PID to an MP or journalist but only 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.

What form should a voluntary PID take?

You can make a voluntary PID in writing or orally to a person who can receive a voluntary PID, this includes via email or face-to-face or via telephone or virtually.

You can make this anonymously 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 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.

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Deeming that a report is a voluntary PID

The General Manager can, in certain circumstances, determine that a report is a voluntary PID even if the report does not otherwise have all the features of a voluntary PID. This is known as the 'deeming power'.

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 to request that they consider deeming your report to be a voluntary PID.

4.2 PROTECTIONS

How is the maker of a voluntary PID protected?

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

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

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.

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- *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, as discussed in 4.1 above there are other types of reports that are recognized as PIDs under the PID Act: a *mandatory PID* and a *witness PID*.

Protection for makers of mandatory and witness IDs are detailed below:

- Protections for makers of mandatory and witness PIDs are as follows:
- 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:
 - breaching a duty of secrecy or confidentiality, or
 - breaching another restriction on disclosure

4.3 REPORTING DETRIMENTAL ACTION

If you experience adverse treatment or detrimental action, such as bullying or harassment, you should report this immediately. You can report any experience of adverse treatment or detrimental action directly to us either in writing or orally to a disclosure officer listed in Annexure A or to an integrity agency as listed at Annexure B of this policy.

4.4 GENERAL SUPPORT

Support will be made available for people who have made a report and this can be discussed with the Disclosure Coordinator. Support options include the Manager Human Resources, Drake Wellbeing Hub Services (Council's Employee Assistance Provider) or contact can be made with the NSW Ombudsman for questions about the PID Act and reporting generally.

4.5 ROLES AND RESPONSIBILITIES

Certain people within Council have responsibilities under the PID Act.

HEAD OF AGENCY – The General Manager

As Head of Agency the General Manager is responsible for:

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- 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.

DISCLOSURE COORDINATOR

Council's Disclosure Coordinator has a central role in managing Council's Public Interest Disclosures. The Disclosures Coordinator can receive and assess reports, and is the senior point of contact in Council for reporting of PIDs.

The Coordinator is responsible for:

- assessing reports to determine whether or not a report should be treated as a public interest disclosure, and to decide how each report will be dealt with (either under delegation or in consultation with the General Manager);
- dealing with reports made under Council's Code of Conduct in accordance with Council's adopted Code of Conduct Procedures;
- coordinating Council's response to a report;
- acknowledging reports and provide updates and feedback to the Reporter;
- assessing whether it is possible and appropriate to keep the Reporter's identity confidential;
- assessing the risk of reprisal and workplace conflict related to or likely to arise out of a report, and develop strategies to manage any risk identified;
- where required, providing or coordinating support to Council Officers involved in the reporting or investigation process, including protecting the interests of any officer who is the subject of a report;
- ensuring Council complies with the PID Act; and
- reporting 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 reports are dealt with appropriately, including by referring the matter to Council's Disclosure Coordinator
- ensuring that any oral reports that have been received are recorded in writing.

MANAGERS

The responsibilities of managers include:

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

ALL EMPLOYEES

All employees must:

- report suspected serious wrongdoing or other misconduct
- use their best endeavours to assist in an investigation of serious wrongdoing if asked to do so by a person dealing with a voluntary PID on behalf of Council
- treat any person dealing with or investigating reports of serious wrongdoing with respect.

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

4.6 HOW WE 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 acknowledgment will:
 - state that the report will be assessed to identify whether it is a PID
 - state that the PID Act applies to how we deal with the report
 - provide clear information on how you can access this PID policy
 - provide you with details of a contact person and available supports.
- 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.

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- 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.

How Council will deal with voluntary PIDs

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 our grievance handling process 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. Council can, but does not have to, request the NSW Ombudsman to conciliate the matter.

This may include Council ceasing dealing with a voluntary PID because it is not actually a voluntary PID (meaning it does not have all the features of a PID) even though the maker of the PID has stated it is a voluntary PID. Council will provide reasons to you if this is the case.

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.

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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:

- Where possible and appropriate we will take steps to keep your identity, and the fact you have reported serious wrongdoing, confidential. We will discuss with you whether it is possible to keep your identity confidential
- If confidentiality cannot be maintained, we will develop a plan to support and protect you from reprisal in consultation with you
- If you report serious wrongdoing, it is important that you only discuss your report with those responsible for dealing with it. This may include your Manager and/or Disclosure officer, and will include the Disclosures Coordinator and the General Manager, or in the case of a report about the General Manager, the Disclosures Coordinator and the Mayor. The fewer people who know about your report, before and after you make it, the more likely it will be that we can protect you from any reprisal
- Any Council Officers involved in the investigation or handling of a report, including witnesses, are also required to maintain confidentiality and not disclose information about the process or allegations to any person except for those people responsible for handling the report.

If confidentiality cannot be maintained or is unlikely to be maintained, we will

- advise the person whose identity may become known

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- update the agency's 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.

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.

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 Council becomes aware of an allegation that a detrimental action offence has occurred or may occur, we will:

- assess the allegation of reprisal to decide whether the report should be treated as a public interest disclosure and whether the matter warrants investigation or if other action should be taken to resolve the issue;
- if the reprisal allegation warrants investigation, ensure this is conducted by a senior and experienced Council Officer;
- if it is established that reprisal is occurring against someone who has made a report, take all steps possible to stop that activity and protect the maker;

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- take appropriate disciplinary action against anyone proven to have taken or threatened any action in reprisal for making a disclosure;
- refer any breach of Part 7.3 or 7.4 of Council's Code of Conduct (detrimental action) by a Councillor or the General Manager to the Office of Local Government;
- refer any evidence of a detrimental action offence to the ICAC or NSW Police Force;
- make sure that access to professional support that may be needed as a result of the reporting process – such as counselling services – is provided.

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)
- payment of compensation to people who have been affected by serious wrongdoing or other misconduct.

4.7 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 Council's Disclosure Coordinator within 28 days of being informed of Council's decision. The application should 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.

Your review will be referred to a Senior Officer in Council other than the Disclosure Coordinator to address.

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.

PUBLIC INTEREST DISCLOSURE POLICY

4.8 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*. These records will be stored securely in Council's Records Management System with appropriate access arrangement ensuring records are only accessed by those in the organisation with responsibility for oversight or investigation.

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

Each year Council's Disclosure Coordinator prepares and provides 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.

How Council will ensure compliance with the PID Act and this policy

Council's Disclosure Coordinator is the contact responsible for review and compliance of this policy.

Council's Audit, Risk and Improvement Committee and Internal Audit Function also have compliance and risk management oversight roles.

5. RELATED DOCUMENTS & LEGISLATION

LEGISLATION

Local Government Act (NSW) 1993

Local Government (General) Regulation 2021

Independent Commission Against Corruption Act (NSW) 1998

Public Interest Disclosure Act (NSW) 2022

COUNCIL POLICIES

GOV001 – Gifts and Benefits Policy

GOV003 – Fraud Control Policy

GOV005 – Procurement Policy

GOV009 – Delegation Policy

GOV012 – Complaints Management Policy

GOV019 – Statement of Business Ethics Policy

GOV020 – Code of Conduct Policy

GOV022 – Legislative Compliance Policy

GOV023 – Conflict of Interest Policy

PR019 - Conflict of Interest Management Policy for Council Related Development

COUNCIL DOCUMENTS

Legislative Compliance Framework

Governance Framework

Fraud Control Plan

Records & Information Management Policy (operational)

PUBLIC INTEREST DISCLOSURE POLICY

Information Security Policy (operational)

Gifts and Benefits Register

Conflict of Interest Register

Complaints Management Framework

6. FURTHER INFORMATION

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 Wentworth Shire Council
- contact the PID Advice Team within the NSW Ombudsman by phone: (02) 9286 1000 or email: pidadvice@ombo.nsw.gov.au, or
- access the NSW Ombudsman's PID guidelines which are available on its website.

If you require legal advice with respect to the PID Act or your obligations under the PID Act, you may need to seek independent legal advice.

7. ATTACHMENTS

Annexure A – Names and contact details of disclosure officers for Wentworth Shire Council

Annexure B – List of integrity agencies

8. DOCUMENT APPROVAL

This document is the latest version of the official policy of the Wentworth Shire Council, as adopted by Council on 20 September 2023. All previous versions of this policy are null and void.

This policy may be amended or revoked by Council at any time.

A PDF copy of the signed document can be accessed from Council's record management system and Reliansys.

Signed: 

5 October 2023

General Manager Wentworth Shire Council

Date

Whilst the Attachments – Annexures A and B – form part of this policy, they are subject to endorsement by the General Manager and not adoption by Council. This is because the positions listed within Annexure A are subject to change and prompt updating is required to align with the policy objectives.

PUBLIC INTEREST DISCLOSURE POLICY

Annexure A – Names and contact details of disclosure officers at Wentworth Shire Council

| POSITION | WORK SITE LOCATION | CONTACT DETAILS |
|--|----------------------------|--|
| General Manager | Main Office | council@wentworth.nsw.gov.au 03 5027 5027 |
| Mayor (for reports about the General Manager only) | Main Office | council@wentworth.nsw.gov.au 03 5027 5027 |
| Director Finance & Policy | Main Office | council@wentworth.nsw.gov.au 03 5027 5027 |
| Manager Human Resources | Main Office | council@wentworth.nsw.gov.au 03 5027 5027 |
| Work Health Safety Officer | Main Office | council@wentworth.nsw.gov.au 03 5027 5027 |
| Regulatory Services Officer | Main Office | council@wentworth.nsw.gov.au 03 5027 5027 |
| Team Leader, Roads | Wentworth Depot | council@wentworth.nsw.gov.au 03 5027 5027 |
| Workshop/Fleet Supervisor | Wentworth Depot | council@wentworth.nsw.gov.au 03 5027 5027 |
| Team Leader, Landfill Operations | Buronga Landfill | council@wentworth.nsw.gov.au 03 5027 5027 |
| Team Leader, Visitor Information Centre | Visitor Information Centre | council@wentworth.nsw.gov.au 03 5027 5027 |
| Team Leader, Library Services | Library Services | council@wentworth.nsw.gov.au 03 5027 5027 |
| <p>Each of the above officers can be contacted by staff by all internal communication methods.</p> <p>Other persons may contact the above listed officers by calling 03 5027 5027 and asking to speak to the relevant officer stating that the matter is confidential.</p> | | |

PUBLIC INTEREST DISCLOSURE POLICY

Annexure B – List of integrity agencies

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

PUBLIC INTEREST DISCLOSURE POLICY

9. ENDORESMENT OF ANNEXURES

These annexures are the latest version of the official policy as approved by the General Manager.
These annexures may be amended or revoked by the General Manager at any time.

Signed: 

5 October 2023

General Manager Wentworth Shire Council

Date

| Version | Date | Author | Changes |
|---------|------------|---------|---|
| 0.1 | 12/09/2023 | D Zorzi | This Policy replaces Council <i>Internal Reporting Policy</i> in its entirety |
| 1.0 | 20/09/2023 | | Adopted by Council |
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