

# COUNCIL POLICY



<b>Policy name</b>	Public Interest Disclosure and Administration Procedures
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## Abstract

Under section 42 of the *Public Interest Disclosure Act 2022* Council is required to have a policy for reporting, dealing and encouraging Councillors, employees, volunteers and contractors to report any conduct that they reasonably believe involves wrongdoing.

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<b>Endorsed by</b>	Executive Leadership Team on	
<b>Approved by</b>	Gunnedah Shire Council, at its Ordinary Meeting of Council held 20 September 2023. Resolution number: 10.9/23	
<b>Policy Custodian</b>	Manager Governance and Legal	
<b>Relevant to</b>	Councillors, Employees, Volunteers and Subcontractors	
<b>Superseded Policies</b>	Model Internal Reporting Policy (Resolution 8.02/21)	
<b>Related documents</b>	Code of Conduct	
<b>Related legislation</b>	Public Interest Disclosures Act 2022 (PID Act)	

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## 1. 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 Gunnedah 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 Council relies upon our employees, 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.

In NSW, that framework is the PID Act.

## 2. Organisational commitment

For Council to be able to deal effectively with reports of wrongdoing, it must have the right culture. This policy aims to:

- create a climate of trust, where people are comfortable and confident about reporting wrongdoing
- encourage employees to come forward if they are aware of wrongdoing within the council
- keep the identity of an employee disclosing wrongdoing confidential, where this is possible and appropriate
- protect employees from any adverse action resulting from them making a report
- deal with reports thoroughly and impartially and if some form of wrongdoing has been found, taking appropriate action to address it
- keep employees who make a report informed of their progress and the outcome
- encourage the reporting of wrongdoing within Council, but respect any decision to disclose wrongdoing outside Council that is made in accordance with the provisions of the PID Act
- ensure managers and supervisors at all levels in Council understand the benefits of reporting wrongdoing, are familiar with this policy, and aware of the needs of those who report wrongdoing
- review the policy periodically to ensure it is relevant and effective
- provide adequate resources to:
  - encourage reports of wrongdoing
  - protect and support those who make reports

- provide training for employees about how to make reports and the benefits of internal reports to Council and the public interest generally
- properly assess and investigate or otherwise deal with allegations
- properly manage any workplace issues that the allegations identify or that result from a report
- appropriately address any identified problems.

### **3. Accessibility of this policy**

This policy is publicly available on Council's website:

<https://www.gunnedah.nsw.gov.au/index.php/council/council-information/council-policies>

and internally accessible on Council's intranet:

[http://intranet.gscdomain.infogunnedah.com.au/index.php?option=com\\_k2&view=item&layout=item&id=885&Itemid=486](http://intranet.gscdomain.infogunnedah.com.au/index.php?option=com_k2&view=item&layout=item&id=885&Itemid=486)

Employees are informed of this policy on their commencement as part of Council's Employee Induction Program. A hard copy of the policy can be requested from the employee's supervisor or manager or from Council's Governance & Legal department.

### **4. Who does this policy apply to?**

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

- a Council employee or councillor
- permanent employees, whether full-time or part-time
- temporary or casual employees, including agency staff
- consultants
- individual contractors working for Council
- employees of contractors providing services to Council
- other people who perform council official functions whose conduct and activities could be investigated by an investigating authority, including volunteers.

The General Manager, 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 Council may use this policy if they want information on who they can report wrongdoing to within Council.

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

This policy does not apply to:

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

This means that if you are not a public official, this policy does not apply to your complaint (there are some circumstances where a complaint can be deemed to be a voluntary PID, see section 7(i) of this policy for more information).

However, you can still make a complaint to Council. Refer to Council's Complaints Policy located on Council's website at:

<https://www.gunnedah.nsw.gov.au/index.php/council/council-information/council-policies>

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

This policy will provide you with information on the following:

- ways you can make a voluntary PID to Council under the PID Act
- the names and contact details for the nominated disclosure officers in Council
- the roles and responsibilities of people who hold particular roles under the PID Act and who are 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 Council will do to protect you
- Council procedures for dealing with disclosures
- Council procedures for managing the risk of detrimental action and reporting detrimental action
- Council record-keeping and reporting requirements
- how Council will ensure it complies with the PID Act and this policy.

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

- confidentially contact a nominated disclosure officer within Council
- contact the PID Advice Team within the NSW Ombudsman by phone: (02) 9286 1000 or email: [pidadvice@ombo.nsw.gov.au](mailto:pidadvice@ombo.nsw.gov.au)
- 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. How to make a report of serious wrongdoing**

### **a) 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 or other relevant policies, management directives and procedures.

Where the report does not meet the features of a PID, the report will be handled in accordance with Council's relevant policy or procedures e.g. 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.

Employees will be advised on review of the report if it will be handled as a PID or another policy of Council.

## b) When will a report be a PID?

There are three types of PIDs in the PID Act. These are:

1. **Voluntary PID:** This is a PID where a report has been made by the public official because they decided, of their own accord, to come forward and disclose what they know.
2. **Mandatory PID:** This is a PID where the public official has made a report about serious wrongdoing because they have a legal obligation to make that report, or because making that report is an ordinary aspect of their role or function in an agency.
3. **Witness PID:** This is a PID where a person discloses information during an investigation of serious wrongdoing following a request or requirement of the investigator.

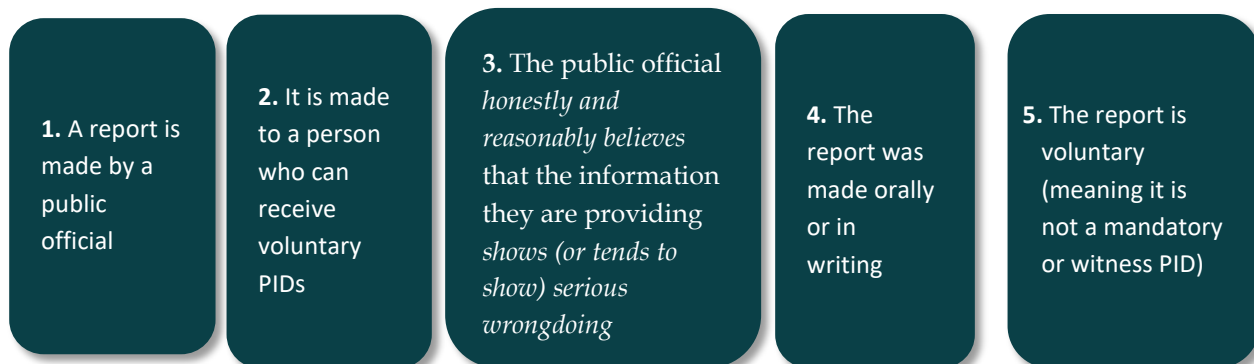
This policy mostly relates to making a voluntary PID and how we will deal with voluntary PIDs. People who make a mandatory PID or a witness PID are still entitled to protection. More information about protections is available in section 8 of this policy.

You can find more information about mandatory and witness PIDs in the Ombudsman's guidelines 'Dealing with mandatory PIDs' and 'Dealing with witness PIDs'.

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

They involve a public official making a report because they have information that they believe shows (or tends to show) serious wrongdoing, where they are not under a legal obligation to make that report and where it is not an ordinary part of their role to report such wrongdoing.

A report is a voluntary PID if it has the following five features, which are set out in sections 24 to 27 of the PID Act:



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 12 of this policy.

### c) Who can make a voluntary PID?

Any public official can make a voluntary PID — see ‘Who this policy applies to’. You are a public official if:

- you are employed by Council
- Councillors or Elected Members of Council
- members of Committees of Council
- a person having public official functions or acting in a public official capacity for Council
- you are a contractor, subcontractor or volunteer who provides services, or exercises functions, on behalf of Council
- 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 Council. It also means that you can make a PID to any agency, including an integrity agency like the Independent Commission Against Corruption (**ICAC**) and the NSW Ombudsman. Annexure B of this policy has a list of integrity agencies.

### d) 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***

Corrupt conduct is the dishonest or partial exercise of official functions by a public official.

For example, this could include:

- the improper use of knowledge, power or position for personal gain or the advantage of others
- acting dishonestly or unfairly, or breaching public trust
- a Council official being influenced by a member of public to use their position in a way that is dishonest, biased or breaches public trust or accepting a bribe.

#### ***Serious Maladministration***

Maladministration is conduct that involves action or inaction of a serious nature that is contrary to law, unreasonable, unjust, oppressive or improperly discriminatory or based wholly or partly on improper motives.

For example, this could include:

- making a decision and/or taking action that is unlawful
- refusing to grant an approval for reasons that are not related to the merits of their application
- systemically failing to comply with proper recruitment processes when hiring staff.

#### ***Government information contravention***

A breach of the *Government Information (Public Access) Act 2009* (GIPA Act) is a failure to properly fulfil functions under that Act.



For example, this could include:

- destroying, concealing or altering records to prevent them from being released
- knowingly making decisions that are contrary to the legislation
- directing another person to make a decision that is contrary to the legislation.

***Local government pecuniary interest contravention***

A local government pecuniary interest contravention is a failure to comply with requirements under the *Local Government Act 1993* relating to the management of pecuniary interests. These include obligations to lodge disclosure of interests returns, disclose pecuniary interests at Council and Council Committee meetings and leave the meeting while the matter is being discussed. A pecuniary interest is an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person.

For example, this could include:

- a senior Council employee recommending a family member for a council contract and not declaring the relationship
- a Councillor participating in consideration of a DA for a property they or their family have an interest in.

***A privacy contravention***

- such as unlawfully accessing a person’s personal information on Council’s database.

***A serious and substantial waste of public money***

Serious and substantial waste is the uneconomical, inefficient or ineffective use of resources that could result in losing or wasting public money.

For example, this could include:

- not following a competitive tendering process for a large scale contract
- having bad or no processes in place for a system involving large amounts of public funds.

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

**e) Who can I make a voluntary PID to?**

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

***Making a report to a public official who works for Council***

You can make a report inside Council to:

- General Manager
- a disclosure officer or coordinator of Council — a list of disclosure officers and coordinators for 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. Your manager can make sure that the report is communicated to a disclosure officer on your behalf or can accompany you while you make the report to a disclosure officer or coordinator.
- If your report involves a Councillor, you should make it to the General Manager.
- If your report relates to the General Manager, you should make it to the Mayor.

### ***Making a report to a recipient outside of Council***

You can also make your report to a public official in another agency (meaning an agency you do not work for) or an integrity agency. These include:

- the *head of another agency* — this means the head of any public service agency
- an *integrity agency* — a list of integrity agencies is located at Annexure B of this policy
- a *disclosure officer for another agency* — ways to contact disclosure officers for other agencies is located in an agency's PID policy which can be found on their public website
- a *Minister or a member of a Minister's staff* but the report *must be made in writing*.

If you choose to make a disclosure outside of Council, it is possible that your disclosure will be referred back to 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, or
  - the following information at the end of the investigation period:
    - o notice of Council's decision to investigate the serious wrongdoing
    - o a description of the results of an investigation into the serious wrongdoing
    - o 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.

#### **f) 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. It is important to realise that an anonymous disclosure may not prevent you from being identified by the subjects of the report or your colleagues.

#### **g) 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.

#### **h) What if I am not sure if my report is a PID?**

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

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

#### **i) 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.

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'.

### **8. Protections**

#### **a) 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, Council 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.

If you make a public interest disclosure in accordance with the PID Act, you will not be subject to any liability, and no action, claim or demand can be taken against you for having made the public interest disclosure. You will not have breached any confidentiality or secrecy obligations and you will have the defence of absolute privilege in defamation.

## **b) Protections for people who make mandatory and witness PIDs**

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

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

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

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

Protection	Mandatory PID	Witness PID
Detrimental action — It is an offence to take detrimental action against a person based on the suspicion, belief or awareness that a person has made, may have made or may make a PID.	✓	✓
Right to compensation — A person can initiate proceedings and seek compensation for injury, damage or loss suffered as a result of detrimental action being taken against them.	✓	✓
Ability to seek injunction — An injunction can be sought to prevent the commission or possible commission of a detrimental action offence against a person. For example, an order to prevent dismissal or to require reinstatement.	✓	✓
Immunity from civil and criminal liability — a person will not incur civil or criminal liability if the person breaches a duty of confidentiality while making a disclosure. This means that legal action cannot be taken against a person for: <ul style="list-style-type: none"> <li>• breaching a duty of secrecy or confidentiality, or</li> <li>• breaching another restriction on disclosure.</li> </ul>	✓	✓

### c) The rights of persons subject of a report

Council is committed to ensuring employees or Councillors who are the subject of a report of wrongdoing are treated fairly and reasonably. This includes keeping the identity of any person the subject of a report confidential, where this is practical and appropriate.

If you are the subject of the report, you will be advised of the allegations made against you at an appropriate time and before any adverse findings. At this time you will be:

- advised of the details of the allegation
- advised of your rights and obligations under the relevant related policies and procedures
- kept informed about the progress of any investigation
- given a reasonable opportunity to respond to any allegation made against you
- told the outcome of any investigation, including any decision made about whether or not further action will be taken against you.

Where the reported allegations against the subject officer are clearly wrong, or have been investigated and unsubstantiated, the subject officer will be supported by Council. The fact of the allegations and any investigation will be kept confidential unless otherwise agreed to by the subject officer.

#### **d) Reporting detrimental action**

If you believe that detrimental action has been or is being taken against you or someone else in reprisal for reporting wrongdoing, you should tell a Disclosure Coordinator or the General Manager immediately. In the case of an allegation of reprisal by the General Manager, you can alternatively report this to the Mayor.

- All supervisors, managers and disclosure officers must notify a Disclosure Coordinator or the General Manager if they suspect that reprisal against an employee is occurring or has occurred, or if any such allegations are made to them. In the case of an allegation of reprisal by the General Manager, the Mayor can alternatively be notified.

If Council becomes aware of or suspects that reprisal is being or has been taken against a person who has made a disclosure, Council 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 reporter
- 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 9 of the council's Code of Conduct (detrimental action) by a Councillor or the General Manager to the Office of Local Government.
- refer any evidence of an offence under section 20 of the PID Act to the ICAC or NSW Police Force.

If you allege reprisal, you will be kept informed of the progress and outcome of any investigation or other action taken in response to your allegation.

If you have reported wrongdoing and are experiencing reprisal which you believe is not being dealt with effectively, contact the Office of Local Government, the Ombudsman or the ICAC (depending on the type of wrongdoing you reported). Contact details for these investigating authorities are included at the end of this policy.

### **9. General support**

Council will make sure that employees who have reported wrongdoing, regardless of whether their report is treated as a public interest disclosure, are provided with access to any professional support they may need as a result of the reporting process – such as stress management or counselling services.

Access to support may also be available for other employees involved in the internal reporting process where appropriate. Reporters and other employees involved in the process can discuss their support options with a Disclosure Coordinator.

### **10. Roles and responsibilities of Council employees**

Certain people within Council have responsibilities under the PID Act.

### **a) General Manager**

The General Manager has ultimate responsibility for maintaining the reporting system, workplace reporting culture and ensuring Council complies with the PID Act. The General Manager has a responsibility to:

- foster a workplace culture where reporting is encouraged
- receive disclosures from public officials
- ensure there is a system in place for assessing disclosures
- ensure Council complies with this policy and the PID Act
- ensure 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.

### **b) Disclosure Coordinators**

The Disclosure Coordinator has a central role in Council's internal reporting system. The Disclosure Coordinator can receive and assess reports, and is the primary point of contact in Council for the reporter. The Disclosure Coordinator under their instrument of sub delegation has a responsibility to:

- assess 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)
- deal with reports made under Council's Code of Conduct in accordance with the adopted Code of Conduct procedures
- coordinate Council's response to a report
- acknowledge reports and provide updates and feedback to the reporter
- assess whether it is possible and appropriate to keep the reporter's identity confidential
- assess 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, provide or coordinate support to employees involved in the reporting or investigation process, including protecting the interests of any officer the subject of a report
- ensure Council complies with the PID Act
- provide reports to the NSW Ombudsman in accordance with the PID Act.

### **c) Disclosure officers**

Disclosures officers are additional points of contact within the internal reporting system. They can provide advice about the system and the internal reporting policy, receive reports of wrongdoing and assist employees and Councillors to make reports. Disclosure officers under their instrument of sub-delegation have a responsibility to:

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

- document in writing any reports received verbally, and have the document signed and dated by the reporter
- discuss with the reporter any concerns they may have about reprisal or workplace conflict
- Forward reports to the Disclosure Coordinator or General Manager and assist as required on their assessment
- ensure reports are dealt with appropriately.

#### **d) Supervisors and Managers**

Supervisors and managers play an important role in managing the immediate workplace of those involved in or affected by the internal reporting process. Supervisors and managers should be aware of the internal reporting policy and are responsible for creating a local work environment where employees are comfortable and confident about reporting wrongdoing. They have a responsibility to:

- encourage employees to report known or suspected wrongdoing within the organisation and support employees when they do
- identify reports made to them in the course of their work which could be public interest disclosures, and assist the employee to make the report to a disclosure officer or coordinator
- implement local management strategies, in consultation with the Disclosure Coordinator, to minimise the risk of reprisal or workplace conflict in relation to a report
- notify the Disclosure Coordinator or General Manager immediately if they believe an employee is being subjected to reprisal as a result of reporting wrongdoing, or in the case of suspected reprisal by the General Manager, notify the Mayor.

#### **e) Mayor**

The Mayor can receive reports from employees and Councillors about the General Manager. Where the Mayor receives such reports, the Mayor has a responsibility to:

- assess the reports to determine whether or not they should be treated as a public interest disclosure, and to decide how they will be dealt with
- deal with reports made under Council's Code of Conduct in accordance with the Council's adopted Code of Conduct procedures
- refer reports to an investigating authority, where appropriate
- liaise with the Disclosure Coordinator to ensure there are strategies in place to support reporters, protect reporters from reprisal and manage workplace conflict that may arise in relation to a report
- refer actual or suspected corrupt conduct to the ICAC
- refer any evidence of a reprisal offence under section 20 of the PID Act to the Commissioner of Police or the ICAC.

#### **f) All employees**

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.



## **11. How we will deal with voluntary PIDs**

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

When a disclosure officer or Disclosure Coordinator 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 support services.
- 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 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, we may not be able to provide this information to you.

### **b) 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 process will be undertaken by a Disclosure Coordinator.

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 be dealt with in a manner consistent with our Code of Conduct and any relevant procedures.

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 do not have to, request the NSW Ombudsman to conciliate the matter.

### ***Cease dealing with report as voluntary PID***

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

### ***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.

## **c) 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:

- 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 employees.
- We will limit the number of people who are aware of the maker's identity or information that could identify them.
- We will ensure that only authorised persons have access to emails, files or other documentation that contain information about the identity of the maker.

If confidentiality cannot be maintained or is unlikely to be maintained, Council will advise the person whose identity may become known and provide additional support services to the person who has made the PID.

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

Council will not tolerate any detrimental action being taken by any person against a person who has made a PID, investigators, witnesses or the person the report is about.

Council will assess and take steps to mitigate detrimental action from being taken against the maker of a voluntary PID, the person whose conduct is the subject of a PID, investigators and witnesses.

Council will take steps to assess and minimise the risk of detrimental action by:

- listing the protections that will be offered, that is, Council will discuss protection options with the maker which may including remote working or approved leave for the duration of the investigation, and
- outlining what support services will be provided.

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

- 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.

**e) How Council will deal with allegations of a detrimental action offence**

If Council become(s) 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.

Referrals about alleged detrimental action offences should be made in accordance with Council's Code of Conduct and relevant procedures.

**f) 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 employees 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.

The findings of an investigation will be provided to the General Manager or Mayor where the report of wrong doing relates to the General Manager.

The General Manager may manage or assign the following to the relevant Director or department:

- what steps will be taken to address any recommendations in the findings
- which person/business unit will be responsible for ensuring corrective action takes place
- how the maker will be notified of the proposed or recommended corrective action.

## **12. Review and dispute resolution**

### **a) 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 within 28 days of being informed of Council's decision. The application should state the reasons why you consider Council decision should not have been made. You may also submit any other relevant material with your application.

Internal review applications should be sent to your Director or General Manager. The General Manager will determine the person or unit within the agency to conduct the internal review.

Each review will be conducted as efficiently as possible based on the complexity of the content of the original PID and investigation recommendations.

### **b) 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.

## **13. Other agency obligations**

### **a) 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*.

Information is stored within Council's corporate record system against Council's defined security access requirements as determined by the relevant policies and procedures.

### **b) 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.

Information is collected and stored within Council's corporate record system and reported on by the Disclosure Coordinator. Reporting of information is in accordance with the requirements of the PID Act.

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

This policy will be reviewed in accordance with Council's Policy Framework or where there are applicable changes in the PID Act. A review may be completed at the end of a PID investigation subject to the complexity of the report and investigation.

## 14. Annexure A — Names and contact details of disclosure officers for Council

### **General Manager**

Eric Groth  
Gunnedah Shire Council  
PO Box 63 (63 Elgin Street)  
GUNNEDAH NSW 2380  
Phone: 02 6740 2150  
Mobile: 0459 238 806  
Email: [ericgroth@infogunnedah.com.au](mailto:ericgroth@infogunnedah.com.au)

### **Mayor (for reports about the General Manager only)**

Jamie Chaffey  
Gunnedah Shire Council  
PO Box 63 (63 Elgin Street)  
GUNNEDAH NSW 2380  
Phone: 02 6740 2150  
Mobile: 0467 402 412  
Email: [jamiechaffey@infogunnedah.com.au](mailto:jamiechaffey@infogunnedah.com.au)

### **Disclosure Coordinators (appointed under instrument of sub-delegation)**

Alice McLean  
Manager Governance & Legal  
Gunnedah Shire Council  
PO Box 63 (63 Elgin Street)  
GUNNEDAH NSW 2380  
Phone: 02 6740 2111  
Mobile: 0487 162 357  
Email: [alicemclean@infogunnedah.com.au](mailto:alicemclean@infogunnedah.com.au)

#### ***Disclosure Coordinator (Alternate)***

Kelly Stidworthy  
Director Corporate Services  
Gunnedah Shire Council  
PO Box 63 (63 Elgin Street)  
GUNNEDAH NSW 2380  
Phone: 02 6740 2111  
Mobile: 0499 971 744  
Email: [kellystidworthy@infogunnedah.com.au](mailto:kellystidworthy@infogunnedah.com.au)

## **Disclosure Officers (appointed under instrument of sub-delegation)**

### **Council Chambers**

Craig Jurd  
Governance Officer – Procurement and Policy  
Gunnedah Shire Council  
PO Box 63 (63 Elgin Street)  
GUNNEDAH NSW 2380  
Phone: 02 6740 2107  
Email: [craigjurd@infogunnedah.com.au](mailto:craigjurd@infogunnedah.com.au)

Donna Markey  
Senior Governance & Administration Officer  
Gunnedah Shire Council  
PO Box 63 (63 Elgin Street)  
GUNNEDAH NSW 2380  
Phone: 02 6740 2116  
Email: [donnamarkey@infogunnedah.com.au](mailto:donnamarkey@infogunnedah.com.au)

### **Depot/Administration Building**

Corey Anderson  
Manager Plant and Building Services  
Gunnedah Shire Council Depot  
12-20 Bennett Rd  
GUNNEDAH NSW 2380  
Phone: 02 6740 2142  
Email: [coreyanderson@infogunnedah.com.au](mailto:coreyanderson@infogunnedah.com.au)

Peter Smith  
Manager Works  
Gunnedah Shire Council Depot  
12-20 Bennett Rd  
GUNNEDAH NSW 2380  
Phone: 02 6740 2189  
Email: [petersmith@infogunnedah.com.au](mailto:petersmith@infogunnedah.com.au)

Michael Ludlow  
Manager Water Services  
Gunnedah Shire Council Depot  
12-20 Bennett Rd  
GUNNEDAH NSW 2380  
Phone: 02 6740 2167  
Email: [michaelludlow@infogunnedah.com.au](mailto:michaelludlow@infogunnedah.com.au)

### **Library**

Christiane Birkett  
Librarian  
Gunnedah Shire Council  
291 Conadilly St  
GUNNEDAH NSW 2380  
Phone: 02 6740 2191  
Email: [christianebirkett@infogunnedah.com.au](mailto:christianebirkett@infogunnedah.com.au)



**Swimming Pool**

Stephen Merlehan  
Coordinator Aquatic Complex  
Gunnedah Shire Council  
Anzac Parade  
GUNNEDAH NSW 2380  
Phone: 02 6740 2213  
Email: [stephenmerlehan@infogunnedah.com.au](mailto:stephenmerlehan@infogunnedah.com.au)

Ashley Gardner  
Manager Public Facilities  
Gunnedah Shire Council  
Anzac Parade  
GUNNEDAH NSW 2380  
Phone: 02 6740 2131  
Email: [ashleygardner@infogunnedah.com.au](mailto:ashleygardner@infogunnedah.com.au)

**Waste Management Facility**

Sheridan Cameron  
Manager Waste  
Gunnedah Shire Council  
418 Quia Road  
GUNNEDAH NSW 2380  
Phone: 02 6740 2222  
Email: [sheridancameron@infogunnedah.com.au](mailto:sheridancameron@infogunnedah.com.au)

Karolina Mingay  
Operations Supervisor Waste Services  
Gunnedah Shire Council  
418 Quia Road  
GUNNEDAH NSW 2380  
Phone: 02 6740 2197  
Email: [karolinamingay@infogunnedah.com.au](mailto:karolinamingay@infogunnedah.com.au)

**Arts and Cultural Precinct**

Danny Hankinson  
Team Leader Cultural Precinct  
Gunnedah Shire Council  
83 Chandos Street  
GUNNEDAH NSW 2380  
Phone: 02 6740 2271  
Email: [dannyhankinson@infogunnedah.com.au](mailto:dannyhankinson@infogunnedah.com.au)

**Saleyards**

Susan Frater  
Manager Economy and Growth  
Gunnedah Shire Council  
Kamilaroi Highway  
GUNNEDAH NSW 2380  
Phone: 02 6740 2174  
Email: [susanfrater@infogunnedah.com.au](mailto:susanfrater@infogunnedah.com.au)

**GoCo Office Tamworth**

Bruce Mercer  
Executive Manager GoCo  
Gunnedah Shire Council – GoCo Community Care  
Suite 206, Level 1/279B Marius Street  
TAMWORTH NSW 2340  
Phone: 02 6740 2240  
Email: [brucemercer@infogunnedah.com.au](mailto:brucemercer@infogunnedah.com.au)

**GoCo Office Gunnedah**

Jacinta Cipolla  
Marketing Leader  
Gunnedah Shire Council – GoCo Community Care  
2/35 Barber Street  
GUNNEDAH NSW 2380  
Phone: 02 6740 2113  
Email: [jacintacipolla@infogunnedah.com.au](mailto:jacintacipolla@infogunnedah.com.au)

## 15. Annexure B — List of integrity agencies

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