PUBLIC INTEREST DISCLOSURES POLICY

Policy Owner: **General Manager**

Category: **Statutory**

Direction: **5. Our Civic Leadership**

1. STATEMENT OF INTENT

1.1 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).

1.2 At North Sydney 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.

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

1.4 This Policy sets out:

- how North Sydney 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; and
- the protections which are available to you under the PID Act.

1.5 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; and
- imposing duties on agencies who receive reports of wrongdoing to take appropriate action to investigate or otherwise deal with them.

1.6 This Policy is one of a suite of policies and procedures on how North Sydney Council deals with misconduct matters, internal grievances and complaints, integrity issues and code of conduct issues. This Policy should be read in

conjunction with the Council's vision and values, *Code of Conduct - Councillors & Staff*, *Complaints Handling Policy, Fraud & Corruption Prevention Policy*, and other documents and internal policies as listed in section 6 of this Policy.

1.7 This Policy is available on North Sydney Council's publicly available website as well as on the internal staff intranet. A copy of the Policy is also sent to all new staff on their commencement. A hard copy of the Policy can be printed on request.

2. ELIGIBILITY

2.1 This Policy applies to, and for the benefit of, all public officials in NSW, including all permanent, temporary and casual employees, volunteers, work experience persons, Councillors of North Sydney Council, consultants, and individual contractors working for the Council.

2.2 The General Manager, other nominated disclosure officers and managers within North Sydney Council have specific responsibilities under the PID Act, as set out in section 5 of the Policy.

2.3 Other public officials who work in and for the public sector, but do not work for North Sydney Council may use this Policy if they want information on who they can report wrongdoing to within North Sydney Council.

2.4 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.

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 4.1.9 of this Policy for more information). However, you can still make a complaint to North Sydney Council. This can be done in accordance with the Council's *Complaints Handling Policy*.

3. DEFINITIONS

3.1 Agency - means a NSW public service agency, including a local government authority.

3.2 Public Official - in accordance with the PID Act, public officials in NSW are:

- a person employed in or by an agency or otherwise in the service of an agency;
- a person having public official functions or acting in a public official capacity whose conduct or activities within an integrity agency is authorised by another Act or law to investigate;
- an individual in the service of the Crown;
- a statutory officer;
- a person providing services or exercising functions on behalf of an agency, including a contractor, subcontractor or volunteer;
- an employee, partner or officer of an entity that provides services, under contract, subcontract or other arrangement, on behalf of an agency or exercises functions of an agency, and are involved in providing those services or exercising those functions;
- a judicial officer;
- a Member of Parliament, including a Minister; and
- a person employed under the *Members of Parliament Staff Act 2013*.

3.3 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.

3.4 Disclosures officers - support the Disclosure Coordinator and are responsible for receiving, forwarding and/or dealing with reports made in accordance with this Policy.

3.5 Serious wrongdoing - means one of more of the following:

- corrupt conduct;
- a government information contravention;
- serious maladministration;
- a privacy contravention;
- a serious and substantial waste of public money.

3.6 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.

4. PROVISIONS

4.1 How to make a report of serious wrongdoing

4.1.1 Reports, Complaints and Grievances

When a public official reports suspected or possible wrongdoing in the public sector, their report will be a PID if it has certain features which are set out in the PID Act.

Some internal complaints or internal grievances may also be PIDs, as long as they have the features of a PID. If an internal complaint or grievance is a report of serious wrongdoing, we will consider whether it is a PID. If it is a PID, we will deal with it as set out in this policy, but we will also make sure we follow our Complaints Handling Policy and other relevant staff and corporate policies.

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.

4.1.2 When will a report be a PID?

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

a) *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.
b) *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.

c) *Witness PID* - this is a PID where a person discloses information during an investigation of serious wrongdoing following a request or requirement of the investigator.

This Policy mostly relates to making a voluntary PID and how we will deal with voluntary PIDs. People who make a mandatory PID or a witness PID are still

entitled to protection. More information about protections is available in section 2 of this Policy.

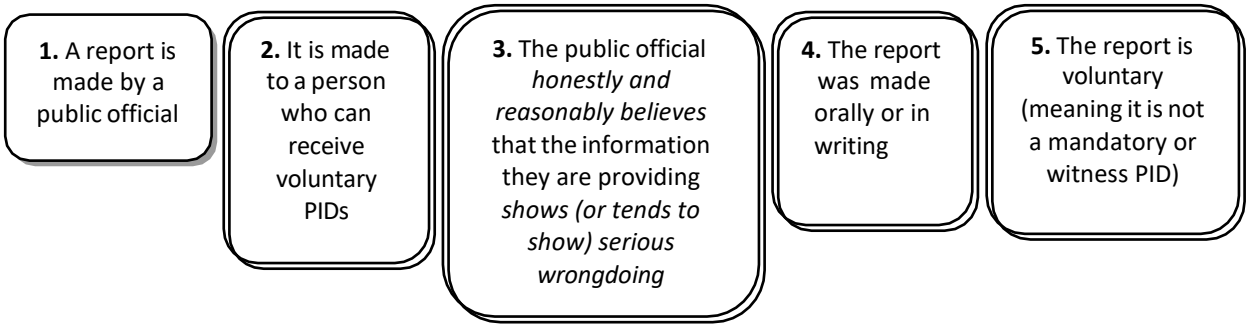
You can find more information about mandatory and witness PIDs in the NSW Ombudsman's guidelines 'Dealing with mandatory PIDs' and 'Dealing with witness PIDs'.

Voluntary 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 4.5.1 of this Policy.

4.1.3 Who can make a voluntary PID?

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

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

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

4.1.4 What is serious wrongdoing?

Reports must be of one or more of the following categories of *serious wrongdoing* to be a voluntary PID (in addition to having the other features set out here). Serious wrongdoing is defined in the PID Act as:

- *corrupt conduct* - such as a public official accepting a bribe;
- *serious maladministration* - such as an agency systemically failing to comply with proper recruitment processes when hiring staff;
- *a government information contravention* - such as destroying, concealing or altering records to prevent them from being released under a Government Information Public Access application;
- *a local government pecuniary interest contravention* - such as a senior council staff member recommending a family member for a council contract and not declaring the relationship;
- *a privacy contravention* - such as unlawfully accessing a person's personal information on an agency's database;

- *a serious and substantial waste of public money* - such as an agency not following a competitive tendering process when contracting with entities to undertake government work.

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

4.1.5 Who can I report a voluntary PID to?

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

a) Making a report to a public official who works for North Sydney Council

You can make a report inside North Sydney Council to:

- General Manager
- Disclosure Coordinator (refer to Appendix A)
- Disclosures Officers (refer to Appendix A)
- your Director or 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 the Disclosure Coordinator or a Disclosure Officer on your behalf or may accompany you while you make the report to a disclosure officer.

b) Making a report to a recipient outside of North Sydney 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* - refer to Appendix B for a list of integrity agencies
- 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 North Sydney Council, it is possible that your disclosure will be referred back to North Sydney Council so that appropriate action can be taken.

c) 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 North Sydney Council:
    - the notification that North Sydney 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 North Sydney Council decision to investigate the serious wrongdoing;
        - a description of the results of an investigation into the serious wrongdoing;
        - details of proposed or recommended corrective action as a result of the previous disclosure or investigation.

Investigation period means:

- after six months from the previous disclosure being made, or
- after 12 months if you applied for an internal review of the agency's decision within six months of making the disclosure.

If all the above requirements are met, your disclosure to an MP or journalist may be a voluntary PID.

4.1.6 What form should a voluntary PID take?

You can make a voluntary PID:

a) *in writing* - this could be an email or letter to a person who can receive voluntary PIDs.
b) *orally* - have a private discussion with a person who can receive voluntary PIDs. This can be face-to-face, via telephone or virtually.
c) *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 North Sydney Council to investigate the matter(s) you have disclosed if we cannot contact you for further information.

4.1.7 What should I include in my report?

You should provide as much information as possible so we can deal with the report effectively. The type of information you should include is:

- date, time and location of key events;
- names of person(s) involved in the suspected wrongdoing, their role, title and how they are involved;
- your relationship with the person(s) involved, such as whether you work closely with them;
- your explanation of the matter you are reporting;
- how you became aware of the matter you are reporting;
- possible witnesses;
- other information you have that supports your report.

4.1.8 What is I am not sure my PID 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 North Sydney 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 the agency's policies for dealing with reports, allegations or complaints.

4.1.9 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, refer to the NSW Ombudsman's guideline 'Deeming that a disclosure is a voluntary PID'.

4.1.10 Who can I talk to if I have questions or concerns?

- confidentially contact the Disclosure Coordinator or a nominated Disclosure Officer within North Sydney Council as outlined in Appendix A, via Council's Call Centre, phone 02 9936 8100;
- 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 available from its website.

4.2 Protections

4.2.1 How is 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:

a) *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 North Sydney Council that concerns serious wrongdoing relating to North Sydney 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: 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.

b) 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.

c) 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.

d) 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.

4.2.2 Protections for people who make mandatory and witness PIDs

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

a) *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.
b) *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: • 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 North Sydney Council, or to an integrity agency - refer to Appendix B of this Policy for a list of integrity agencies.

4.4 How we will deal with voluntary PIDs

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

When a disclosure officer in North Sydney 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:

a) 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 North Sydney Council deals with the report;
- provide clear information on how you can access this PID policy; and
- provide you with details of a contact person and available supports.

b) 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.

c) If we decide to investigate the serious wrongdoing, we will provide you with updates on the investigation at least every three months. During this time, if you would like more frequent updates, you should contact the contact person who was nominated when you made the report.

- If we investigate the serious wrongdoing, we will provide you with the following information once the investigation is complete:
    - a description of the results of the investigation - that is, we will tell you whether we found that serious wrongdoing took place.

- Information about any corrective action as a result of the investigation/s - this means we will tell you what action we took in relation to the person who engaged in the serious wrongdoing or if the serious wrongdoing was by our agency, what we have put in place to address that serious wrongdoing.
- Corrective action could include taking disciplinary action against someone or changing the practices, policies and procedures that we have in place which led to the serious wrongdoing.

d) 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.

e) If you have made an anonymous report, in many cases we may not be able to provide this information to you.

4.4.2 How we will deal with voluntary PIDs

Once a report that may be a voluntary PID is received North Sydney 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.

a) Report is 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 internal complaints or 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. North Sydney Council can, but do not have to, request the NSW Ombudsman to conciliate the matter.

b) Cease dealing with report as voluntary PID

North Sydney 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).

c) 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.

4.4.3 How we 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 North Sydney 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; and
- 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:

- limit the number of people who are aware of the maker's identity or information that could identify them.
    - If we must disclose information that may identify the maker of the PID, we will still not disclose the actual identity of the maker of the PID, unless we have their consent to do so.
- ensure that any person who does know the identity of the maker of a PID is reminded that they have a legal obligation to keep their identity confidential.
- ensure that only authorised persons have access to emails, files or other documentation that contain information about the identity of the maker.
- undertake an assessment to determine if anyone is aware of the maker's identity and if those persons have a motive to cause detrimental action to be taken against the maker or impede the progress of the investigation.
- provide information to the maker of the PID about the importance of maintaining confidentiality and advising them how best to protect their identity, for example, by telling them not to discuss their report with other staff.

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

- advise the person whose identify may be known;
- 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.

4.4.4 How we will access and minimise the risk of detrimental action

North Sydney 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.

We 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.

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

- explaining that a risk assessment will be undertaken, and a risk management plan will be created (including reassessing the risk throughout the entirety of the matter);
- providing details of the unit/role that will be responsible for undertaking a risk assessment;
- explaining the approvals for risk assessment and the risk management plan, that is, rank or role of the person who has final approval;
- explaining how the Council will communicate with the maker to identify risks;
- listing the protections that will be offered, that is, the agency will discuss protection options with the maker which may include remote working or approved leave for the duration of the investigation; and
- outlining what supports will be provided.

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

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; or
- 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.

4.4.5 How we will deal with allegations of a detrimental action offence

If North Sydney Council becomes aware of an allegation that a detrimental action offence has occurred or may occur, Council's Disclosure Coordinator 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); and
- notify the NSW Ombudsman about the allegation of a detrimental action offence being committed.

Victims of detrimental action should speak with Council's Disclosure Coordinator in the first instance.

For more information regarding support to reporters refer to section 6 of this Policy.

4.4.6 What we 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, North Sydney 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); or
- payment of compensation to people who have been affected by serious wrongdoing or other misconduct.

Findings of an investigation will be determined by the complexity of the investigation and will be set out by the terms of reference and/or the Investigation Plan. Findings will be treated as confidential.

The Disclosure Coordinator will be responsible for overseeing the recommendations in the findings and ensuring they are completed. They will keep the maker of the report informed until the recommendations have been implemented. This will be done in writing via email.

4.5 Review and dispute resolution

4.5.1 Internal review

People who make voluntary PIDs can seek internal review of the following decisions made by North Sydney Council:

- that North Sydney Council is not required to deal with the report as a voluntary PID
- to stop dealing with the report because we 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.

North Sydney 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 North Sydney Council decision. The application should state the reasons why you consider we decision should not have been made. You may also submit any other relevant material with your application.

4.5.2 Voluntary dispute resolution

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

4.6 General support

Council has an employee assistance program available to all staff, who can offer support to people who have made a report. Their contact details are available from Council's Intranet and the People & Culture Department.

A disclosure officer will be allocated to the maker of the report, as the person who will be their key contact person and who will take steps to protect their interests, for example, if they are at risk of detrimental action.

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 North Sydney Council (refer to Annexure A)
- 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.

4.7 Other agency obligations

4.7.1 Record keeping requirements

North Sydney Council must keep full and accurate records with respect to all information received in connection with the PID Act. This ensures that North Sydney Council complies with its obligations under the *State Records Act 1998*.

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

Each year, via the Disclosure Coordinator, North Sydney Council provides an annual return to the NSW Ombudsman which includes:

- information about voluntary PIDs received by North Sydney Council during each return period (yearly with the start date being 1 July)
- action taken by North Sydney Council to deal with voluntary PIDs during the return period
- how North Sydney Council promoted a culture in the workplace where PIDs are encouraged.

4.7.3 How we will ensure compliance with the PID Act and this policy

The Disclosure Coordinator will ensure all disclosures officers and people mangers attend training to ensure compliance with the PID Act and this policy.

Non-compliance will be dealt with as outlined in Council's *Disciplinary and Misconduct Policy* (staff policy) and procedure.

Reports on the compliance with the Policy will be completed annually by the Disclosure Coordinator and reported to the Executive Team - occur in July every calendar year.

Compliance with the PID Act and this Policy will be reported to the Audit, Risk & Improvement Committee annually, after 1 July each year.

5 RESPONSIBILITY/ACCOUNTABILITY

Certain people within North Sydney Council have responsibilities under the PID Act.

5.1 General Manager (head of agency) - is responsible for:

- fostering a workplace culture where reporting is encouraged;
- receiving disclosures from public officials;
- ensuring there is a system in place for assessing disclosures;
- ensuring that North Sydney Council complies with this Policy and the PID Act;
- ensuring that North Sydney 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; and
    - complying with yearly reporting obligations to the NSW Ombudsman.

5.2 Mayor - is a disclosure officer, who can receive reports from staff and councillors about the General Manager and any other public officials of North Sydney Council. Where the Mayor receives such reports, the Mayor is responsible for:

- receiving reports from public officials or when are passed on to them by the Disclosures Coordinator;
- ensuring reports are dealt with appropriately, including by referring the matter to the appropriate complaint unit (if relevant);
- ensuring that any oral reports that have been received are recorded in writing; and
- deal with reports made under North Sydney Council's *Code of Conduct* in accordance with the code of conduct procedures, and related policies.

5.3 Disclosure Coordinator (Director Corporate Service) - has a responsibility to:

- assess reports to determine whether or not a report should be treated as a PID, 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 the Council's *Code of Conduct* in accordance with the council's 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 staff 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; and
- provide reports to the NSW Ombudsman in accordance with the PID Act.

5.4 Disclosure Officers (refer to Appendix A) - are responsible for:

- receiving reports from public officials;
- receiving reports when they are passed on to them by managers;
- ensuring reports are dealt with appropriately, including by referring the matter to the appropriate complaint unit (if relevant); and
- ensuring that any oral reports that have been received are recorded in writing.

5.5 Directors and Managers (includes supervisors) - are responsible for

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

5.6 All councillors and staff (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 North Sydney Council; and
- treat any person dealing with or investigating reports of serious wrongdoing with respect.

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

6 RELATED POLICIES/DOCUMENTS/LEGISLATION

The Policy should be read in conjunction with the following Council policies and documents:

- Access to Information Policy
- Code of Conduct - Councillors and Staff
- Code of Conduct - Volunteers and Community Representatives
- Code of Meeting Practice
- Complaints Handling Policy
- Conduct Committee Charter and Procedures
- Councillor Expenses and Facilities Policy
- Councillor and Staff Interaction Policy
- Disciplinary and Misconduct Policy (staff policy)
- EEO, Anti-discrimination and Anti-Harassment Policy (staff policy)
- Fraud and Corruption Prevention Policy
- Gifts and Benefits Policy
- Lobbying Policy
- Managing Unreasonable Complainants Policy
- Mediation Policy
- Oversight and Liaison with the General Manager Policy
- Privacy Management Plan
- Procurement Policy
- Records Management Policy
- Related Party Disclosures Policy
- Reportable Conduct Procedure (staff policy)
- Statement of Business Ethics

- Work, Health and Safety Statement of Intent (staff policy)

The Policy should be read in conjunction with the following documents/legislation:

- Government Information (Public Access) Act 2009
- Independent Commission Against Corruption (ICAC) Act 1998
- Local Government (State) Award
- Public Interest Disclosures Act 2022
- NSW Ombudsman's Guidelines

Version	Date Approved	Approved by	Resolution No.	Review Date
1	8 May 1995	Council		2007
2	4 June 2007	Council	348	2008/09
3	16 February 2009	Council	61	2012/13
3	8 August 2011	Council	507	2012/13
4	27 February 2012	Council	86	2012/13
5	18 February 2013	Council	61	2016/17
6	25 June 2018	Council	214	2020/21
7	11 September 2023	Council	262	2024/25
8	11 October 2023	General Manager	-	2024/25
9	10 January 2024	General Manager		2024/25

APPENDIX A. NORTH SYDNEY COUNCIL'S DISCLOSURE OFFICERS

Role	Job Title
Disclosure Coordinator	Director Corporate Services **Olena Tulubinska**
Disclosure Officer	Mayor of North Sydney Council **Zoe Baker**
Disclosure Officer - Chambers	Director Corporate Services **Olena Tulubinska**
Disclosure Officer - 1 James Place, North Sydney	Service Unit Manager Community Resilience & Sustainability **Gabrielle Rennard**
Disclosure Officer - Stanton Library	Manager Library Services **Kate Stewart**
Disclosure Officer - Coal Loader Centre for Sustainability	Coordinator Coal Loader Centre for Sustainability **Janice Bagot**
Disclosure Officer - Community Recycling Centre	Community Recycling Centre Supervisor **Shivaan Kumar**
Disclosure Officer - Works Depot	Service Unit Manager Public Presentation Jessica Choy
Disclosure Officer - Parks Depot	Manager Parks & Reserves **David Manson**
Disclosure Officer - North Sydney Oval & Function Centre	Coordinator North Sydney Oval Operations **Nicholas Govers**
Disclosure Officer - North Sydney Olympic Pool	Service Unit Manager Leisure & Aquatics **Duncan Rennie**

To confidentially contact the any of the above disclosures officer email PID@northsydney.nsw.gov.au

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**: oilecc_executive@oilecc.nsw.gov.au
Office of 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