

Protocol

Public Interest Disclosure

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Version History

Revision No.	Date	Modified By	Details / Comments
02	17/10/2023	Coordinator Governance	Operational protocol approved by the Executive Leadership Team meeting 17 October 2023. Followed a re write of the previous PID Act and effective 1 October 2023. Supersedes all previous versions.
01	28/07/2017	Manager Corporate Governance	Consolidated policy for SMRC.

1 Introduction

- 1.1 Council is required to have a Public Interest Disclosure (**PID**) Policy under section 42 of the *Public Interest Disclosures Act 2022* (**PID Act**) and fulfils that requirement through adopting this operational protocol referred to as a policy in this document.
- 1.2 Council takes reports of serious wrongdoing seriously. It is 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 Council relies upon our staff, volunteers, contractors and subcontractors speaking up when they become aware of wrongdoing.

2 Purpose

- 2.1 This policy sets out:
 - How Council will support and protect those that come forward with a report of serious wrongdoing
 - How Council will deal with the report and our other responsibilities under the PID Act
 - Who to contact to make a report
 - How to make a report
 - The protections which are available under the PID Act.
 - Document Council's commitment to building a "speak up" culture. Part of that speak up culture is having in place a framework that facilitates public interest reporting of wrongdoing by:
 - Protecting those who speak up from detrimental action
 - Imposing duties on those who receive reports of wrongdoing to take appropriate action to investigate or otherwise deal with them.
- 2.2 This policy should be read in conjunction with Council's Code of Conduct and any internal policies on grievance handling, misconduct matters, and dealing with internal fraud and corruption.

3 Accessibility of this policy

- 3.1 This policy is available on Council's intranet and internet and contained within the corporate records management systems.
- 3.2 Links to the policy are also included in on boarding material for new staff on their commencement. A hard copy of the policy can be requested from Governance.

4 Who does this policy apply to?

- a person employed by Council
- a person having public official functions or acting in a public official capacity whose conduct or activities an integrity agency is authorised by another Act or law to investigate
- a person providing services or exercising functions on behalf of Council, 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
- The Chief Executive Officer (CEO), other nominated disclosure officers and supervisory staff 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 What is contained in this policy?

- Ways to make a voluntary PID to Council under the PID Act
- 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 will be provided to those making 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 them
- Procedures for dealing with disclosures
- Procedures for managing the risk of detrimental action and reporting detrimental action
- Record-keeping and reporting requirements
- How Council will comply with the PID Act and this policy.

6 How to make a report of serious wrongdoing

Reports, complaints and grievances

- 6.1 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.
- 6.2 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, Council will consider whether it is a PID. If it is a PID, Council will deal with it as set out in this policy, but Council will also make sure Council follow our code of conduct or other related policies.
- 6.3 It is important that Council quickly recognise that Council 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 Council have certain decisions that Council have to make on how Council will deal with the PID and how Council will protect and support the person who has made the report.

When will a report be a PID?

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

Voluntary PID

- 6.5 This policy mostly relates to making a voluntary PID and how Council will deal with 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.

- 6.6 People who make a mandatory PID or a witness PID are still entitled to protection (see section 7). Further information about mandatory and witness PIDs can be found in the Ombudsman's guidelines '[Dealing with mandatory PIDs](#)' and '[Dealing with witness PIDs](#)'. These and other resources are available at the Ombudsman's website.

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

1. A report is made by a public official

2. It is made to a person who can receive voluntary PIDs

3. The public official *honestly and reasonably believes* that the information they are providing *shows (or tends to show) serious wrongdoing*

4. The report was made orally or in writing

5. The report is voluntary (meaning it is not a mandatory or witness PID)

- 6.7 If the report has all five features, it is a voluntary PID.
- You will not be expected to prove that what you reported actually happened or is serious wrongdoing. You do have to honestly believe, on reasonable grounds, that the information you are reporting shows or tends to show serious wrongdoing.
 - Even though you do not have to prove the serious wrongdoing happened or provide evidence, a mere allegation with no supporting information is unlikely to meet this test.
 - If Council 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 Council 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 Council make seek to conciliate the matter. To seek an internal review contact the Governance section. You may also contact the NSW Ombudsman.

Who can make a Voluntary PID

- 6.8 Any public official can make a voluntary PID. You are a public official if:
- You are employed by Council
 - You are a contractor, subcontractor or volunteer who provides services, or exercises functions, on behalf of Council, or
 - You work for an entity (such as a non-government organisation) who is contracted by Council to provide services or exercise functions on behalf of Council — if you are involved in undertaking that contracted work.
 - A public official can make a PID about serious wrongdoing relating to any agency, not just the agency they are working for. This means that Council 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.

What is serious wrongdoing?

- 6.9 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 Council what category of serious wrongdoing you are reporting or that you are reporting serious wrongdoing.

Who can I make a voluntary PID to?

6.10 For a report to be a voluntary PID, it must be submitted to:

- The CEO, or
- A disclosure officer. A list of disclosure officers for and their contact details can be found in the Annexures A of this policy, or
- The person who directly, or indirectly, supervises you. It can also be the person who you directly, or indirectly, report to. This person will make sure that the report is communicated to a disclosure officer on your behalf or may accompany you while you make the report to a disclosure officer.

Making to report to a recipient outside of Council

6.11 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.

6.12 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

6.13 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:
 - i. notification that Council will not investigate the serious wrongdoing and will also not refer the previous disclosure to another agency, or
 - ii. the following information at the end of the investigation period:
 - notice of Council's decision to investigate the serious wrongdoing
 - a description of the results of an investigation into the serious wrongdoing
 - details of proposed or recommended corrective action as a result of the previous disclosure or investigation.

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

Note: 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.

What form should a voluntary PID take?

- 6.15 In writing — this could be an email or letter to a person who can receive voluntary PIDs
- 6.16 Verbally — have a private discussion with a person who can receive voluntary PIDs. This can be face-to-face, via telephone or virtually.
- 6.17 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
- 6.18 It may be difficult for Council to investigate the matter(s) you have disclosed if Council cannot contact you for further information. This may cause an investigation to remain incomplete and unresolved.

What should I include in my report?

- 6.19 You should provide as much information as possible so Council 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.

What if I am not sure if my report is a PID?

- 6.20 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.
- 6.21 Council is 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.

Deeming that a report is a voluntary PID

- 6.22 The CEO or delegated officer 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'.
- 6.23 By deeming that a report is a voluntary PID, it ensures that reporters are provided with protections under the PID Act.

- 6.24 If you make a report that has not met all the requirements of a voluntary PID, you can refer your matter to the CEO to request that they consider deeming your report to be a voluntary PID.
- 6.25 A decision to deem a report to be a voluntary PID is at the discretion of the CEO. For more information about the deeming power, see the Ombudsman's guideline 'Deeming that a disclosure is a voluntary PID'.

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

- 6.26 For any questions or concerns contact the Governance Coordinator or Governance Officer. If either of those officers are the subject of your concerns contact the CEO.

7 Protections

How is the maker of a voluntary PID protected?

- 7.1 When you make a voluntary PID you receive special protections under the PID Act.
- 7.2 Council is committed to taking all reasonable steps to protect you from detriment as a result of having made a PID. Council are also committed to maintaining your confidentiality as much as possible while the PID is being dealt with.
- 7.3 There is no tolerance for 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.

Protection from detrimental action

- 7.4 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.
- 7.5 Once Council 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.
- 7.6 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.
- 7.7 A person may seek compensation where unlawful detrimental action has been taken against them.
- 7.8 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).
- 7.9 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

- 7.10 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

- 7.11 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

- 7.12 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.

Protection for people who make mandatory and witness PIDs

- 7.13 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.
- 7.14 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.
- 7.15 Protections for makers of mandatory and witness PIDs are the same:
- 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

8 Reporting detrimental action

- 8.1 If you experience adverse treatment or detrimental action, such as bullying or harassment, you should report this immediately. You can report any experience of adverse treatment or detrimental action directly to Council through the CEO or governance section, or to an integrity agency. A list of integrity agencies is located at Annexure B of this policy.

9 General Support

- 9.1 For any questions or support you can contact the Coordinator Governance or Governance Officer. Outside of Council you can contact the Office of the NSW Ombudsman.
- 9.2 For further information about this policy, how public interest disclosures will be handled and the PID Act:
- 9.3 Confidentially contact a nominated disclosure officer within Council
- 9.4 Contact the PID Advice Team within the NSW Ombudsman by phone: (02) 9286 1000 or email: PIDadvice@ombo.nsw.gov.au, or
- 9.5 Access the NSW Ombudsman's PID guidelines which are available on its website.

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

10 Roles and responsibilities of Council employees

Chief Executive Officer

10.1 The CEO will :

- a) Fostering a workplace culture where reporting is encouraged
- b) Receiving disclosures from public officials
- c) Ensuring there is a system in place for assessing disclosures
- d) Ensuring Council complies with this policy and the PID act
- e) Ensuring that Council has appropriate systems for:
 - i. Overseeing internal compliance with the PID Act
 - ii. Supporting public officials who make voluntary PIDs, including by minimising the risk of detrimental action
 - iii. Implementing corrective action if serious wrongdoing is found to have occurred
 - iv. Complying with reporting obligations regarding allegations or findings of detrimental action
 - v. Complying with yearly reporting obligations to the NSW Ombudsman.

Disclosure Officers

10.2 Disclosure Officers are responsible for:

- a) Receiving reports from public officials
- b) Receiving reports when they are passed on to them by managers
- c) Ensuring reports are dealt with appropriately, including by referring the matter to the appropriate complaint unit (if relevant)
- d) Ensuring that any oral reports that have been received are recorded in writing.

Managers

10.3 Managers are responsible for:

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

All employees

10.4 All employees must:

- a) Report suspected serious wrongdoing or other misconduct
- b) 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
- c) Treat any person dealing with or investigating reports of serious wrongdoing with respect.
- d) 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 Council will deal with voluntary PIDs

- 11.1 When a disclosure officer in Council receives a report which is a voluntary PID, or looks like it may be a voluntary PID, the person who made the report will receive an acknowledgment that the report has been received. It 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 details of a contact person and available support.
- 11.2 If the report is a voluntary PID Council will inform you as soon as possible how it intends to deal with the report. This may include that Council :
- Is investigating the serious wrongdoing
 - Will refer the report to a different agency (if appropriate) to deal with the voluntary PID. If this happens you will be provided with details of this referral
 - Decides to not investigate the report and to not refer it to another agency for it to be investigated. You will be told the reasons for this decision and Council will also notify the NSW ombudsman of this decision.
- 11.3 If Council decides to investigate the serious wrongdoing, it 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 the disclosure officer or the person you made the initial report to.
- If Council investigates the serious wrongdoing it will provide you with the following information once the investigation is complete:
 - A description of the results of the investigation — telling you whether Council found that serious wrongdoing took place.
 - Information about any corrective action as a result of the investigation/s — this means what action is taken in relation to the person who engaged in the serious wrongdoing or if the serious wrongdoing was by Council, what will be put in place to address that serious wrongdoing.
 - Corrective action could include taking disciplinary action against someone or changing the practices, policies and procedures which led to the serious wrongdoing.
- 11.4 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. Council will always balance the right of a person who makes a report to know the outcome of that report, with other legal obligations.
- 11.5 If you have made an anonymous report, Council may not be able to provide this information to you.

How Council will deal with voluntary PIDs

- 11.6 Once a report that may be a voluntary PID is received Council will look at the information contained in the report to see if it has the features of a voluntary PID. This assessment is undertaken to identify whether the report is a voluntary PID or another type of disclosure, and to make sure that the right steps are followed. If it is a voluntary PID, Council will ensure that it complies with the requirements in the PID Act.

Report not a voluntary PID

- 11.7 Even if the report is not a voluntary PID, it will still need to be dealt with in a manner consistent with our any other relevant internal complaints or grievance handling process or through an alternate process.
- 11.8 If the report is not a voluntary PID, Council will let you know that the PID Act does not apply to the report and how it will deal with the concerns raised in the report.
- 11.9 If you are not happy with this assessment or otherwise disagree with it, you can raise it with the person who has communicated the outcome with you or a disclosure officer, request an internal review or request that the matter be conciliated. Council can, but does not have to, request the NSW Ombudsman to conciliate the matter.

Cease dealing with report as Voluntary PID

- 11.10 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) and provide appropriate notice.

Where the report is a voluntary PID

- 11.11 In most cases Council 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 in the case of another agency, engaged in serious wrongdoing. There may be circumstances where Council believes an investigation is not warranted — for example, if the conduct has previously been investigated.
- 11.12 There may also be circumstances where Council decides 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.
- 11.13 Before referring a matter, Council will discuss the referral with the other agency, and provide you with details of the referral and a contact person within the other agency.
- 11.14 If Council decides not to investigate a report and to not refer the matter to another agency, it must let you know the reasons for this and notify the NSW Ombudsman.

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

- 11.15 Council understands that people who make voluntary PIDs may want their identity and the fact that they have made a report to be confidential.
- 11.16 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.
- 11.17 There are certain circumstances under the PID Act that allow for the disclosure of identifying information. These include:
 - a) Where the person consents in writing to the disclosure
 - b) Where it is generally known that the person is the maker of the voluntary PID because of their voluntary self-identification as the maker
 - c) When Council reasonably considers it necessary to disclose the information to protect a person from detriment
 - d) Where it is necessary the information be disclosed to a person whose interests are affected by the disclosure
 - e) Where the information has previously been lawfully published

- f) 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
- g) When the information is disclosed for the purposes of proceedings before a court or tribunal
- h) When the disclosure of the information is necessary to deal with the disclosure effectively
- i) If it is otherwise in the public interest to disclose the identifying information Council will not disclose identifying information unless it is necessary and authorised under the PID act and put in place steps to keep the identifying information of the maker and the fact that a report has been made confidential.

11.18 It may not be possible to maintain complete confidentiality while the investigation progresses however Council will take all practicable measures to not unnecessarily disclose information from which the maker of the report can be identified. This will be done by:

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

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

- g) Advise the person whose identity may become known
- h) Implement strategies to minimise the risk of detrimental action
- i) Remind persons who become aware of the identifying information of the consequences for failing to maintain confidentiality and that engaging in detrimental action is a criminal offence and may also be a disciplinary matter.

How Council will assess and minimise the risk of detrimental action

- 11.20 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.
- 11.21 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.
- 11.22 Council will take steps to assess and minimise the risk of detrimental action by:
 - a) Explaining that a risk assessment will be undertaken
 - b) Explaining how the agency will communicate with the maker to identify risks

- c) Listing the protections that will be offered, that is, the agency will discuss protection options with the maker which may including remote working or approved leave for the duration of the investigation.

11.23 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:

- a) Injury, damage or loss
- b) Property damage
- c) Reputational damage
- d) Intimidation, bullying or harassment
- e) Unfavourable treatment in relation to another person's job
- f) Discrimination, prejudice or adverse treatment
- g) Disciplinary proceedings or disciplinary action, or
- h) Any other type of disadvantage.

11.24 Detrimental action does not include:

- a) Lawful action taken by a person or body to investigate serious wrongdoing or other misconduct
- b) The lawful reporting or publication of a finding of serious wrongdoing or other misconduct
- c) The lawful making of adverse comment, resulting from investigative action
- d) The prosecution of a person for a criminal offence
- e) Reasonable management action taken by someone in relation to a person who made or may make a PID. For example, a reasonable appraisal of a PID maker's work performance.

How Council will deal with allegations of a detrimental action offence

11.25 If Council becomes aware of an allegation that a detrimental action offence has occurred or may occur it will:

- a) Take all steps possible to stop the action and protect the person(s)
- b) Take appropriate disciplinary action against anyone that has taken detrimental action
- c) Refer any evidence of a detrimental action offence to the police and the ICAC or the law enforcement conduct commission where applicable
- d) Notify the NSW ombudsman about the allegation of a detrimental action offence being committed.
- e) Referrals and notifications will be made by the Coordinator Governance or other delegated officer

What Council will do is an investigation finds that serious wrongdoing has occurred

11.26 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) A formal apology
- b) Improving internal policies to adequately prevent and respond to similar instances of wrongdoing

- c) Providing additional education and training to staff where required
- d) Taking employment action against persons involved in the wrongdoing. These may result in a caution, reprimand or termination of employment
- e) Payment of compensation to people who have been affected by serious wrongdoing or other misconduct

12 Review and dispute resolution

Internal review

- 12.1 People who make voluntary PIDs can seek internal review of the following decisions made by Council:
 - a) That Council is not required to deal with the report as a voluntary PID
 - b) to stop dealing with the report because Council decided it was not a voluntary PID
 - c) to not investigate the serious wrongdoing and not refer the report to another agency
 - d) to cease investigating the serious wrongdoing without either completing the investigation or referring the report to another agency for investigation.
- 12.2 Council will ensure internal reviews are conducted in compliance with the PID Act.
- 12.3 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's decision should not have been made. You may also submit any other relevant material with your application.
- 12.4 The review will be conducted by a senior staff member not responsible for the original decision

Voluntary dispute resolution

- 12.5 If a dispute arises between Council and a person who has made a report which is, or may be, a voluntary PID, Council 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 council obligations

Record-keeping requirements

- 13.1 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.
- 13.2 The records will be lodged within Council's corporate records management systems with appropriate security caveats applied.

Reporting to the Ombudsman

- 13.3 Each year Governance prepares data for an annual return to the NSW Ombudsman which includes:
 - a) Information about voluntary PIDs received by Council during each return period (yearly with the start date being 1 July)
 - b) Action taken to deal with voluntary PIDs during the return period
 - c) How Council promoted a culture in the workplace where PIDs are encouraged.

Compliance with the PID Act and this policy

- 13.4 Oversight of the PID activities are the responsibility of the Chief Officer responsible for the governance function.
- 13.5 Operational activity reports may include a summary of PID activities.
- 13.6 PID activity will be subject to service review and audit from time to time
- 13.7 Non-compliance will be dealt with by the Chief Officer responsible for Governance and reported to the Audit risk and improvement Committee

14 Related Documents

This policy should be read in conjunction with the following documents:

Documentation

- 250.2016.339.1 Public Interest Disclosure (PID) Procedure
- 250.2016.337.1 Public Interest Disclosure (PID) Form

Variation

Council reserves the right to review, vary or revoke this policy and should be reviewed periodically to ensure it is relevant and appropriate.

14.1 Annexure A — Names and contact details of disclosure officers for SMRC

Disclosure Officer				
Name	Position Title	Service	Contact email	Worksite
Mel Foster	Support Services Officer	Snowy River Hostel	mel.foster@snowymonaro.nsw.gov.au	Snowy River Hostel
Marcela Nassar	Home Manager	Community Services	marcela.escosteguy@snowymonaro.nsw.gov.au	Yallambee Lodge
Cheryl Smith	Coordinator Library Services	Community Services	cheryl.smith@snowymonaro.nsw.gov.au	Libraries
Racheal Roehl	Coordinator Community Support Programs	Community Services	racheal.roehl@snowymonaro.nsw.gov.au	Werri-Nina
Suzanne Diver	Coordinator Engagement	Engagement	susie.diver@snowymonaro.nsw.gov.au	Razorback Office
Peter Bascomb	Chief Executive Officer	Executive Office	peter.bascomb@snowymonaro.nsw.gov.au	Cooma Office
David Rawlings	Chief Strategy Officer	Executive Office	david.rawlings@snowymonaro.nsw.gov.au	Cooma Office
Stephanie Sellar-Peam	Chief Workforce Officer	Executive Office	steph.sellar-peam@snowymonaro.nsw.gov.au	Cooma Office
Sherie Reed	Financial Accountant	Finance	sherie.reed@snowymonaro.nsw.gov.au	Bombala Office
Stuart Sturgeon	Coordinator Fleet & Plant	Fleet and Plant	stuart.sturgeon@snowymonaro.nsw.gov.au	Cooma Depot
Luke O'Sullivan	Coordinator Governance	Governance	luke.osullivan@snowymonaro.nsw.gov.au	Cooma Office
Zach Crombie-Brown	Manager Infrastructure	Infrastructure	zachary.crombie-brown@snowymonaro.nsw.gov.au	Berridale Depot
Wayne Beswick	Supervisor Waste Facilities (Cooma)	Resource and Waste Services	wayne.beswick@snowymonaro.nsw.gov.au	Cooma Landfill

Leanne Gleisner	Supervisor Waste Facilities (Jindabyne)	Resource and Waste Services	leanne.gleisner@snowymonaro.nsw.gov.au	Jindabyne Landfill
Casey Skelton	Team Leader Bombala Delegate Waste Facilities	Resource and Waste Services	casey.skelton@snowymonaro.nsw.gov.au	Bombala Landfill
Paul Midgley	Supervisor WWW Operations (Snowy)	Water/Wastewater	Paul.midgley@snowymonaro.nsw.gov.au	Jindabyne Leesville Depot
Saleena Shirvington	Team Leader Talent Management	Workforce	saleena.shirvington@snowymonaro.nsw.gov.au	Berridale Office
William Perkins	Team Leader Bombala Civic Services	Civic Maintenance	william.perkins@snowymonaro.nsw.gov.au	Bombala Depot

14.2 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: oiiecc_executive@oiiecc.nsw.gov.au
Office of the Local Government	Local government pecuniary interest contraventions	Email: olg@olg.nsw.gov.au
The Privacy Commissioner	Privacy contraventions	Telephone: 1800 472 679 Writing: GPO Box 7011, Sydney NSW 2001 Email: ipcinfo@ipc.nsw.gov.au
The Information Commissioner	Government information contraventions	Telephone: 1800 472 679 Writing: GPO Box 7011, Sydney NSW 2001 Email: ipcinfo@ipc.nsw.gov.au