

# Central Coast Council

## Public Interest Disclosure Policy



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Revision: 1

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## 1. Policy Objectives

- 1.1.** The objectives of this Policy are to:
- 1.1.1. support and protect public officials who come forward with a report of serious wrongdoing;
  - 1.1.2. outline how Central Coast Council (**Council**) will deal with the report and our other responsibilities under the *Public Interest Disclosures Act 2022 (PID Act)*;
  - 1.1.3. provide information on who to contact to make a report of serious wrongdoing and how to make a report;
  - 1.1.4. outline the protections which are available to public officials under the PID Act; and
  - 1.1.5. document Council's commitment to building a 'speak up' culture that facilitates public interest reporting of wrongdoing in accordance with the PID Act by:
    - a) protecting those who speak up from detrimental action; and
    - b) imposing duties on agencies who receive reports of wrongdoing to take appropriate action to investigate or otherwise deal with them.
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## 2. Policy Scope

- 2.1.** This Policy applies to, and for the benefit of, all public officials in NSW. A public official is one or more of the following:
- 2.1.1. a person employed in or by an agency or otherwise in the service of an agency;
  - 2.1.2. a person who has the functions of a public official or who acts in a public official capacity and whose conduct or activities can be investigated by an integrity agency under another Act or law;
  - 2.1.3. an individual in the service of the Crown;
  - 2.1.4. a statutory officer (a person who holds an office under an Act or law);
  - 2.1.5. a person providing services or exercising functions on behalf of an agency, including a contractor, subcontractor or volunteer;
  - 2.1.6. 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;
  - 2.1.7. a judicial officer;
  - 2.1.8. a Member of Parliament (**MP**), including a Minister; or

- 2.1.9. a person employed under the *Members of Parliament Staff Act 2013*.
- 2.2.** 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 within Council.
- 2.3.** This Policy does not apply to:
- 2.3.1. people who have received services from an agency and want to make a complaint about those services; or
- 2.3.2. people, such as contractors, who provide services to an agency (i.e., employees of a company that sold computer software to an agency).
- 2.4.** Complaints can still be made to Council about dissatisfaction with Council services or staff. These complaints will be handled in accordance with Council's Complaints and Feedback Management Policy.
- 2.5.** This Policy should also be read in conjunction with Council's Code of Conduct.
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### 3. Policy Statement

- 3.1.** Council takes reports of serious wrongdoing seriously and is committed to building a 'speak up' culture where public officials are encouraged to report any conduct that they reasonably believe involves wrongdoing.
- 3.2.** The integrity of our agency relies upon our staff, volunteers, contractors and subcontractors speaking up when they become aware of wrongdoing.
- 3.3.** In accordance with section 42 of the PID Act, Council is required to have a Public Interest Disclosure (**PID**) Policy.
- 3.4.** This Policy is supported by and should be read in conjunction with Council's Public Interest Disclosure Procedure.
- 3.5.** This Policy is available on Council's publicly available website as well as on the intranet. A copy of the Policy is also sent to all staff of Council on their commencement. A hard copy of the Policy can be requested from:
- 3.5.1. Council's Public Officer; and/or
- 3.5.2. Complaints Coordinator.
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### 4. What is contained in this policy?

- 4.1.** This Policy will provide you with information on the following:
- 4.1.1. ways you can make a voluntary PID to Council under the PID Act;
- 4.1.2. contact details for the nominated disclosure officers in Council;
- 4.1.3. the roles and responsibilities of people who hold particular roles under the PID Act and who are employees of Council;
- 4.1.4. what information you will receive once you have made a voluntary PID;

- 4.1.5. protections available to people who make a report of serious wrongdoing under the PID Act and what we will do to protect you
  - 4.1.6. Council's procedures for dealing with disclosures
  - 4.1.7. Council's procedures for managing the risk of detrimental action and reporting detrimental action
  - 4.1.8. Council's record-keeping and reporting requirements
  - 4.1.9. how Council will ensure it complies with the PID Act and this policy.
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## 5. Reports of serious wrongdoing

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

- 5.1.1. *Voluntary PID*: This is a PID where a report has been made by a public official because they decided, of their own accord, to come forward and disclose what they know. Voluntary PIDs are the types of PIDs most people have in mind when they think about public interest reporting and 'whistleblowing'.
- 5.1.2. *Mandatory PID*: This is a PID where a 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.
- 5.1.3. *Witness PID*: This is a PID where a person discloses information during an investigation of serious wrongdoing following a request or requirement of the investigator.

**5.2.** This Policy mostly relates to making a voluntary PID and how Council will deal with voluntary PIDs. People who make a mandatory PID or a witness PID are still entitled to protection as outlined in the Act and Council's Procedures.

### **What is serious wrongdoing?**

**5.3.** 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 in this Policy). Serious wrongdoing is defined in the PID Act as:

- 5.3.1. *corrupt conduct* — such as a public official accepting a bribe;
- 5.3.2. *serious maladministration* — such as an agency systemically failing to comply with proper recruitment processes when hiring staff;
- 5.3.3. *a government information contravention* — such as destroying, concealing or altering records to prevent them from being released under a Government Information Public Access application;
- 5.3.4. *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;

- 5.3.5. *a privacy contravention* — such as unlawfully accessing a person’s personal information on an agency’s database; and
- 5.3.6. *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.

**5.4.** When a person makes a public interest disclosure, they do not need to state to Council what category of serious wrongdoing they are reporting or that they are reporting serious wrongdoing.

***What form should a voluntary PID take?***

**5.5.** Voluntary PIDs can be made in the following ways:

- 5.5.1. in writing — this could be an email or letter to a person who can receive voluntary PIDs.
- 5.5.2. verbally — have a private discussion with a person who can receive voluntary PIDs. This can be face-to-face, via telephone or virtually.
- 5.5.3. 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 the maker of a disclosure chooses to remain anonymous, they will still be protected under the PID Act. It may be difficult, however, for Council to investigate the matter(s) that have been disclosed if Council cannot contact the maker of a disclosure for further information.

**5.6.** All PIDs received by Council will be handled in accordance with the PID Act and Council’s Public Interest Disclosure Procedure.

***Deeming that a report is a voluntary PID***

- 5.7.** The Chief Executive 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**.
- 5.8.** By deeming that a report is a voluntary PID, it ensures that the maker of the disclosure is provided with protections under the PID Act.
- 5.9.** If a person who makes a disclosure that has not met all the requirements of a voluntary PID, they can refer your matter to the Chief Executive Officer or the Disclosures Coordinator to request that they consider deeming the report to be a voluntary PID.

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## **6. Protections**

**6.1.** 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.

- 6.2.** 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.
- 6.3.** Council will make sure that anyone who reports wrongdoing, regardless of whether they have made a public interest disclosure, are protected from harm or detrimental action. This will be done in accordance with Council's Public Interest Disclosure Procedure and the provisions of the PID Act.

### **Reporting detrimental action**

- 6.4.** If the maker of a disclosure experiences adverse treatment or detrimental action, such as bullying or harassment, this should be reported immediately. Any experience of adverse treatment or detrimental action can be reported directly to Council, or to one of the integrity agencies located at Appendix B of this policy.

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## **7. Responsibilities**

### **Compliance, monitoring and reporting**

#### **Chief Executive Officer**

- 7.1.** The Chief Executive Officer is responsible for:
- 7.1.1. fostering a workplace culture where reporting is encouraged;
  - 7.1.2. receiving disclosures from public officials;
  - 7.1.3. ensuring there is a system in place for assessing disclosures;
  - 7.1.4. ensuring Council complies with this policy and the PID Act; and
  - 7.1.5. ensuring that Council has appropriate systems for:
    - a) overseeing internal compliance with the PID Act;
    - b) supporting public officials who make voluntary PIDs, including by minimising the risk of detrimental action;
    - c) implementing corrective action if serious wrongdoing is found to have occurred;
    - d) complying with reporting obligations regarding allegations or findings of detrimental action; and
    - e) complying with yearly reporting obligations to the NSW Ombudsman.

#### **Disclosure Coordinator**

- 7.2.** The Disclosure Coordinator is responsible for:
- 7.2.1. receiving reports from public officials;
  - 7.2.2. receiving reports when they are passed on to them by managers and disclosure officers;

- 7.2.3. ensuring reports are dealt with appropriately;
- 7.2.4. ensuring that any oral reports that have been received are recorded in writing;
- 7.2.5. assess the report to determine whether it complies with the PID Act;
- 7.2.6. assessing any risks and managing the investigation of the PID; and
- 7.2.7. ensure compliance with reporting obligations in accordance with the PID Act.

### **Disclosure officers**

- 7.3. Disclosure officers are responsible for:
  - 7.3.1. receiving reports from public officials;
  - 7.3.2. receiving reports when they are passed on to them by managers;
  - 7.3.3. referring reports to the Disclosures Coordinator; and
  - 7.3.4. ensuring that any oral reports that have been received are recorded in writing.

### **Managers**

- 7.4. The responsibilities of managers include:
  - 7.4.1. receiving reports from persons that report to them or that they supervise; and
  - 7.4.2. passing on reports they receive to a disclosure officer or the Disclosures Coordinator.

### **All employees**

- 7.5. All employees must:
  - 7.5.1. report suspected serious wrongdoing or other misconduct;
  - 7.5.2. use their best endeavours to assist in an investigation of serious wrongdoing if asked to do so; and
  - 7.5.3. treat any person dealing with or investigating reports of serious wrongdoing with respect and confidentially.
- 7.6. 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.

### **Reporting**

- 7.7. Council provides an annual return to the NSW Ombudsman which includes:
  - 7.7.1. information about voluntary PIDs received by Council during each return period (yearly with the start date being 1 July);
  - 7.7.2. action taken by Council to deal with voluntary PIDs during the return period; and
  - 7.7.3. how Council promoted a culture in the workplace where PIDs are encouraged.



## Records management

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

~~**7.9.** Staff must maintain all records relevant to administering this protocol in accordance with Council's [Information and Records Management Policy](#).~~

## 8. Policy Definitions

<b>Act</b>	means the <i>Local Government Act 1993</i> .
<b>Agency</b>	has the meaning given by section 16 of the <i>Public Interest Disclosures Act 2022</i> .
<b>Chief Executive Officer</b>	means the Chief Executive Office of Central Coast Council.
<b>Council</b>	means Central Coast Council
<b>Council Officer</b>	has the meaning provided for in Council's Code of Conduct, and includes councillors, members of staff of a council, administrators, council committee members, delegates of council, contractors, community members of wholly advisory committees and volunteers
<b>Disclosure Officer</b>	means those nominated in this Policy to receive reports under the <i>Public Interest Disclosures Act 2022</i>
<b>Disclosures Coordinator</b>	means the most senior Disclosure Officer within Council.
<b>Integrity agency</b>	has the meaning given by section 19 of the <i>Public Interest Disclosures Act 2022</i>
<b>Manager</b>	has the meaning given by section 15 of the <i>Public Interest Disclosures Act 2022</i>
<b>Permanently maintained worksite</b>	means a worksite that is permanently maintained by Council where people are employed and where there is at least one officer ordinarily working.
<b>Public official</b>	has the meaning given by section 14 of the <i>Public Interest Disclosures Act 2022</i> .

## 9. Policy Administration

<b>Business Group</b>	Corporate Services
<b>Responsible Officer</b>	Unit Manager Governance Risk and Legal
<b>Associated Procedure (if any, reference document(s) number(s))</b>	Public Interest Disclosure Procedure (D15810938)
<b>Policy Review Date</b>	Four years from date of adoption unless legislated otherwise
<b>File Number / Document Number</b>	D15810716
<b>Relevant Legislation (reference specific sections)</b>	This Policy supports Council's compliance with the following legislation: <ul style="list-style-type: none"> <li>▪ <i>Public Interest Disclosures Act 2022</i></li> </ul>
<b>Link to Community Strategic Plan</b>	Theme 4: Responsible  <b>Goal G: Good governance and great partnerships</b>  R-G3: Provide leadership that is transparent and accountable, makes decisions in the best interest of the community, ensures Council is financially sustainable and adheres to a strong audit process.
<b>Related Policies / Protocols / Procedures / Documents (reference document numbers)</b>	<ul style="list-style-type: none"> <li>▪ <a href="#">Information and Records Management Policy</a> (D14025241)</li> <li>▪ <a href="#">Code of Conduct</a> (D15487987)</li> <li>▪ <a href="#">Delegations Register</a></li> <li>▪ <a href="#">Complaints and Feedback Management Policy</a> (D14928768)</li> </ul>

## 10. Policy Authorisations

No.	Authorised Function	Authorised Business Unit / Role(s)
TBA	Receive and assess reports of suspected wrongdoing received to determine whether or not they are public interest disclosures and decide how the reports will be dealt with in accordance with this Policy and the Procedure	Chief Executive Officer
TBA	Receive and assess reports of suspected wrongdoing received to determine whether or not they are public interest disclosures and decide how the reports will be dealt with (either under delegation or in consultation with the Chief Executive Officer) in accordance with this Policy and the Procedure	Disclosures Coordinator
TBA	Receive reports of suspected wrongdoing in accordance with this Policy and the Procedure	Disclosures Officers
TBA	Refer reports of suspected wrongdoing to the Disclosures Coordinator or the Chief Executive Officer in accordance with this Policy and the Procedure	Disclosures Officers

## 11. Policy History

Revision	Date Approved / Authority	Description Of Changes
1	12 December 2023 Minute No. 228/23 (adoption)	New policy created to reflect the updated Model PID Policy and changes to the <i>Public Interest Disclosures Act 2022</i> .

## 12. Appendices

Appendix 1: Names and contact details of disclosure officers for Central Coast Council

Appendix 2: List of integrity agencies

Appendix 3: Flow chart for PID Process

## Appendix 1 – Names and contact details of disclosure officers for Central Coast Council

Each of Council's disclosure officers can be contacted by staff by all internal communication methods.

Other persons may contact disclosure officers by calling 02 4306 7900 and asking to speak to the relevant officer stating that the matter is confidential.

### **Disclosure Officers**

- Chief Executive Officer
- Director Infrastructure Services
- Director Environment and Planning
- Director Corporate Services
- Director Community and Recreation Services
- Director Water and Sewer
- Unit Manager Governance Risk and Legal
- Disclosures and Investigations Coordinator

A list of internal Disclosure Officers is also available on Council's intranet.

## Appendix 2 – List of integrity agencies

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

## Appendix 3 – Flow chart for PID Process

