

## 11.4 Policy Review - Public Interest Disclosures

REPORT BY THE GOVERNANCE CO-ORDINATOR  
TO 20 SEPTEMBER 2023 ORDINARY MEETING  
GOV400103, GOV400047

### RECOMMENDATION

#### That Council:

1. **receive the report by the Governance Co-ordinator on the Policy Review - Public Interest Disclosures; and**
  2. **adopt the revised Public Interest Disclosures Policy.**
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### Executive summary

The Public Interest Disclosures Policy has been reviewed in preparation for and in accordance with the *Public Interest Disclosures Act 2022* (PID Act) which will come into effect on 1 October 2023 and will repeal the *Public Interest Disclosures Act 1994*.

### Disclosure of Interest

Nil

### Detailed report

The PID Act 2022 introduces significant reforms to the ways that public interest disclosures are made, received and dealt with in New South Wales and is intended to provide greater protection to people who make public interest disclosures and more pathways to report serious wrongdoing.

The new PID Act fosters a strong 'speak up' culture and provides a framework that facilitates public interest reporting of wrong doing by:

- protecting those who speak up from detrimental action
- maintaining the confidentiality of reports
- imposing duties on Council to take appropriate action to investigate and deal with reports of wrongdoing

The most significant changes of the new PID Act include:

- The requirement that each permanently maintained site at which more than one person is employed must have a Disclosure Officer
- The additional responsibility for Managers, Supervisors and anyone who has staff reporting to them either directly or indirectly to take a public interest disclosure and communicate it as soon as practicable to a disclosure officer.
- The threshold on what is considered detrimental action has been lowered to provide greater protection for people who choose to speak up.

The NSW Ombudsman have provided a model policy which has been used as the template to develop Council's policy. Mandatory information that must be included in Council's PID policy are Council's procedures for:

- acknowledging receipt of voluntary PIDs
- providing information to the makers of voluntary PIDs
- dealing with disclosures that are or may be voluntary PIDs
- assessing and minimising the risk of detrimental action
- dealing with allegations that a detrimental action offence has been committed by or against a public official associated with Council
- maintaining confidentiality in relation to PIDs
- protecting the identity of makers of PIDs
- taking appropriate corrective action in response to findings of serious wrongdoing or other misconduct that arise
- record keeping and how information is stored
- reporting to the NSW Ombudsman
- compliance with the PID act

Training will be provided to all staff on the new PID Act, with additional training provided for Managers, Supervisors and Disclosure Officers. Refresher training will be provided every 3 years in line with the legislative requirements.

S43(4) of the PID Act requires Council's policy to be accompanied by a list of identifying Disclosure Officers for Council along with information enabling them to be contacted. Disclosure Officers responsible for receiving public interest disclosures on behalf of Council will continue to be the General Manager, the Executive Team and the Governance Coordinator. Additional staff have been listed as Disclosure Officers in order to cover all of Council's permanently maintained sites which have more than one employee in accordance with the legislation. It should be noted that these staff have not yet been approached to be Disclosure Officers and may be subject to change. Proposed Disclosure Officers are listed in Annexure A.

## Community Plan implications

<b>Theme</b>	<b>Good Government</b>
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Goal	An effective and efficient organisation
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Strategy	Prudently manage risks association with all Council activities
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## Strategic implications

### **Council Strategies**

Not applicable

### **Council Policies**

Code of Conduct

Fraud and Corruption Policy

Complaints Policy

Legislative Compliance Policy

Access to Information Policy

Privacy Management Plan

### **Legislation**

Public Interest Disclosures Act 2022

## Financial implications

Failure to report serious wrongdoing can result in the continuation of corrupt conduct and the serious and substantial waste of public money. Other serious wrongdoing may result in penalties to Council for breach of legislation. Financial penalties can be imposed on Council for the failure to protect PID reporters from detrimental action.

## Associated Risks

Failure to encourage a speak up culture can result in staff not reporting serious wrongdoing and therefore the wrongdoing continues to occur. This can result in a range of risks to Council.

ASHLEIGH MARSHALL  
GOVERNANCE CO-ORDINATOR

SIMON JONES  
DIRECTOR COMMUNITY

5 September 2023

*Attachments:* 1. Draft Public Interest Disclosures Policy.  
2. Annexure A.  
3. Annexure B.

APPROVED FOR SUBMISSION:

JULIAN GEDDES  
ACTING GENERAL MANAGER



## Public Interest Disclosures Policy



<b>ADOPTED</b>		VERSION NO	<b>4.0</b>
COUNCIL MEETING MIN	[xx/xx]	REVIEW DATE	<b>SEPTEMBER 2027</b>
DATE:	[INSERT DATE]	FILE NUMBER	<b>GOV400047</b>

### Contents

- Objective ..... 3
- Organisational Commitment ..... 3
- Legislative requirements..... 3
- Related policies and plans..... 3
- Who does this policy apply to? ..... 4
- Making a Public Interest Disclosure ..... 4
  - What is a PID? ..... 4
  - How to make a PID ..... 4
  - What to include in a report ..... 6
  - What is serious wrong doing? ..... 6
  - Who can I make a voluntary PID to? ..... 6
- Protections ..... 8
  - Protections for makers of a voluntary PID ..... 8
  - Protections for makers mandatory and witness PIDs..... 9
- Reporting detrimental action..... 9
- General support..... 9
- Roles and responsibilities of Council employees ..... 9
  - The General Manager ..... 9
  - Disclosures Coordinator ..... 10
  - Disclosure Officers ..... 10
  - Mayor ..... 11
  - Managers and Supervisors ..... 11
  - All Employees ..... 11
- How Council will deal with Voluntary PIDs..... 11
  - How Council will acknowledge a report and keep the person who made it informed ..... 11

**POLICY: PUBLIC INTEREST DISCLOSURES POLICY | V 4.0 , 20 SEPTEMBER 2023**

Determining whether it is a voluntary PID .....	12
Report is not a voluntary PID.....	12
Report is a voluntary PID .....	13
Protecting the confidentiality of the maker of a voluntary PID .....	13
Assessing and minimising the risk of detrimental action .....	14
Where serious wrong doing is found .....	15
Rights to review and dispute resolution.....	16
Other Council obligations .....	16
Record-keeping.....	16
Reporting of voluntary PIDs and Council’s annual return to the Ombudsman.....	16
Compliance .....	17

## Objective

All agencies in NSW are required to have a Public Interest Disclosure (PID) Policy under section 42 of the Public Interest Disclosures Act 2022 (PID Act).

This policy sets out:

- how Council will support and protect you if you come forward with a report of serious wrongdoing
- how we will deal with the report and our other responsibilities under the PID Act
- who to contact if you want to make a report
- how to make a report
- the protections which are available to you under the PID Act.

The internal reporting system established under this policy is not intended to be used for staff grievances, which should be raised in accordance with the Grievance and Dispute Procedure. If a staff member makes a report under this policy which is substantially a grievance, the matter will be referred to their supervisor or an officer from the People & Performance department to be dealt with in accordance with the procedure.

## Organisational Commitment

At Mid-Western Regional 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.

Part of that speak up culture is having in place a framework that facilitates public interest reporting of wrongdoing by:

- protecting those who speak up from detrimental action
- imposing duties on agencies who receive reports of wrongdoing to take appropriate action to investigate or otherwise deal with them.

## Legislative requirements

Public Interest Disclosures Act 2022

## Related policies and plans

- Code of Conduct
- Fraud and Corruption Control Policy
- Complaints Policy

POLICY: PUBLIC INTEREST DISCLOSURES POLICY | V 4.0 , 20 SEPTEMBER 2023

- Legislative Compliance Policy
- Access to Information Policy
- Privacy Management Plan

## Who does this policy apply to?

Everyone within Council has a responsibility to speak up and act in the public interest by doing so. This includes:

- Council staff and Councillors
- Contractors, subcontractors and employees of contractors providing services or exercising functions on behalf of Council
- Volunteers providing services or exercising functions on behalf of Council
- Any other NSW public officials including other Councils

If you are not a public official as listed above, complaints can be made under Council's Complaints Policy which can be found on Council's website.

*Please note: there may be some circumstances where a complaint can be deemed to be a voluntary PID. This is outlined in this policy.*

## Making a Public Interest Disclosure

### What is a PID?

When a report of suspected or possible wrongdoing within Council is made it will be classified as 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, it will be considered whether it is a PID. If it is a PID, it will be dealt with as set out in this policy as well as Council's internal Grievance and Dispute procedure.

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.

This policy mostly relates to making a voluntary PID and how we will deal with voluntary PIDs.

### How to make a PID



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:

- A report is made by a public official
- It is made to a person who can receive a voluntary PID
- The person making the report *honestly and reasonably* believes that the information they are providing shows (or tends to show) serious wrong doing
- The report is made orally or in writing
- The report is made voluntarily (meaning it is not mandatory or a witness 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 you make an error and it is not identified 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.

You can make a voluntary PID:

- in writing — this could be an email or letter to a person who can receive voluntary PIDs.
- orally — have a private discussion with a person who can receive voluntary PIDs. This can be face-to-face, via telephone or virtually.
- anonymously — write an email or letter or call a person who can receive PIDs to make a report without providing your name or anything that might identify you as the maker of the report. A report will only be considered anonymous if there is no reasonable or practical way of communicating with the person making the report. Even if you choose to remain anonymous, you will still be protected under the PID Act. It may be difficult, however, for Council to investigate the matter(s) you have disclosed if we cannot contact you for further information.

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.



**POLICY: PUBLIC INTEREST DISCLOSURES POLICY | V 4.0 , 20 SEPTEMBER 2023**

### What to include in a 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.

### What is serious wrong doing?

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 Council 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 a Council database
- *a serious and substantial waste of public money* — such as Council 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?

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

#### WITHIN COUNCIL

You can make a report inside Council to:

- The General Manager
- A disclosure officer for Council — a list of disclosure officers and their contact details can be found at Annexure A of this policy

- A manager or supervisor — Your manager or supervisor 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.
- The Mayor – Where a report is about the General Manager

#### OUTSIDE COUNCIL

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

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

If you choose to make a disclosure outside of Mid-Western Regional Council, it is possible that your disclosure will be referred back to Council so that appropriate action can be taken.

#### A MEMBER OF PARLIAMENT OR A JOURNALIST

Disclosures to MPs or journalists are different to other reports. You can only disclose a report of wrongdoing as a voluntary PID to an MP or journalist in the following circumstances:

- You must have first made substantially the same disclosure (described here as a 'previous disclosure') to someone who can receive disclosures.
- The previous disclosure must be substantially true.
- You did not make the previous disclosure anonymously.
- You did not give a written waiver of your right to receive information relating to your previous disclosure.
- You did not receive the following from Council
  - notification that Council will not investigate the serious wrongdoing and will also not refer the previous disclosure to another agency, or
  - the following information at the end of the investigation period:
    - 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.

The investigation period is after six months from the previous disclosure being made or after 12 months if you applied for an internal review of Council's decision within 6 months of making the disclosure.

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

## Protections

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

Council is 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.

### Protections for makers of a voluntary PID

#### PROTECTION FROM DETRIMENTAL ACTION

- A person cannot take detrimental action against another person because they have made a voluntary PID or are considering making a PID. Detrimental action includes bullying, harassment, intimidation or dismissal.
- Once we become aware that a voluntary PID by a person employed or otherwise associated with Council that concerns serious wrongdoing relating to Mid-Western Regional Council has been made, Council will undertake a risk assessment and take steps to mitigate the risk of detrimental action occurring against the person who made the voluntary PID.
- It is a criminal offence for someone to take detrimental action against a person because they have made or may make a voluntary PID. It is punishable by a maximum penalty of 200 penalty units or imprisonment for five years or both.
- A person may seek compensation where unlawful detrimental action has been taken against them.
- A person can apply for a court order (injunction) where detrimental action is threatened or has occurred (for example, an order to prevent dismissal or to require reinstatement).

Note that a person who makes a PID can still be subject to reasonable management action (such as ordinary performance reviews and performance management). Provided such action is not taken because of the PID, it is not detrimental action under the PID Act.

#### IMMUNITY FROM CIVIL AND CRIMINAL LIABILITY

Some public officials are often subject to a duty of confidentiality that prevents them disclosing certain information that they obtain or become aware of at work. Sometimes, in order to make a PID, public officials will need to breach or disregard such confidentiality duties. If that happens, a public official cannot be disciplined, sued or criminally charged for breaching confidentiality.

#### CONFIDENTIALITY

Public officials and agencies must not disclose information tending to identify a person as the maker of a voluntary PID unless doing so is permitted by the PID Act.

#### PROTECTION FROM LIABILITY FOR OWN PAST CONDUCT

The Attorney General can give the maker an undertaking that a disclosure of their own past conduct will not be used against them if a person discloses their own wrongdoing or misconduct while making a report. This undertaking can only be given on application by an integrity agency to the Attorney General.

## Protections for makers mandatory and witness PIDs

### 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

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.

## 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 a disclosure officer, or to an integrity agency. A list of integrity agencies is located at Annexure B of this policy.

## General support

A key contact person will be allocated to a person who makes a voluntary PID. This person will take steps to protect the interests of the person.

Wellbeing support is also available through Council's Employee Assistance Program.

## Roles and responsibilities of Council employees

Certain people within Council have responsibilities under the PID Act.

### The General Manager

The General Manager is responsible for:

- fostering a workplace culture where reporting is encouraged

**POLICY: PUBLIC INTEREST DISCLOSURES POLICY | V 4.0 , 20 SEPTEMBER 2023**

- receiving disclosures from public officials
- ensuring there is a system in place for assessing disclosures
- ensuring that Council complies with this policy and the PID Act
- ensuring that Council has appropriate systems for:
  - overseeing internal compliance with the PID Act
  - supporting public officials who make voluntary PIDs, including by minimising the risk of detrimental action
  - implementing corrective action if serious wrongdoing is found to have occurred
  - complying with reporting obligations regarding allegations or findings of detrimental action
  - complying with yearly reporting obligations to the NSW Ombudsman.

#### Disclosures Coordinator

- receiving reports from public officials
- receiving reports when they are passed on to them by managers and supervisors
- 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.
- Assessing the risk of detrimental action related to or likely to arise out of a PID and developing strategies to manage any risk identified
- Keeping the General Manager (or Mayor) informed
- Providing advice and support do Disclosure Officers and the General Manager when dealing with PIDs
- Providing sufficient training to staff and people with additional PID responsibilities
- Refer evidence of detrimental action to the Commissioner of Police and ICAC
- Complying with yearly reporting obligations to the NSW Ombudsman

#### Disclosure Officers

Disclosure officers are responsible for:

- receiving reports from public officials
- receiving reports when they are passed on to them by managers and supervisors
- 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.



## Mayor

The Mayor is responsible for:

- receiving reports from public officials about the General Manager
- receiving reports about the General Manager when they are passed on to them by managers or supervisors
- 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.

## Managers and Supervisors

The responsibilities of managers and supervisors include:

- receiving reports from public officials
- passing on reports they receive to a disclosure officer

## All Employees

All employees must:

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

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

## How Council will deal with Voluntary PIDs

How Council will acknowledge a report and keep the person who made it informed

When a disclosure officer 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:

- An acknowledgment that the report has been received. This acknowledgement will:
  - state that the report will be assessed to identify whether it is a PID
  - state that the PID Act applies to how Council deals with the report
  - provide clear information on how you can access this PID policy
  - provide you with details of a contact person and available supports.
- If the report is a voluntary PID, we will inform you as soon as possible how we intend to deal with the report. This may include:

**POLICY: PUBLIC INTEREST DISCLOSURES POLICY | V 4.0 , 20 SEPTEMBER 2023**

- that we are investigating the serious wrongdoing
- that we will refer the report to a different agency (if appropriate) to deal with the voluntary PID. If we do this, we will provide you with details of this referral
- If we decide to not investigate the report and to not refer it to another agency for it to be investigated, we will tell you the reasons for this decision. We will also notify the NSW Ombudsman of this decision.
- If we decide to investigate the serious wrongdoing, we will provide you with updates on the investigation at least every three months. During this time, if you would like more frequent updates, you should contact the contact person who was nominated when you made the report.
  - If we investigate the serious wrongdoing, we will provide you with the following information once the investigation is complete:
    - a description of the results of the investigation — that is, we will tell you whether we found that serious wrongdoing took place.
    - information about any corrective action as a result of the investigation/s — this means we will tell you what action we took in relation to the person who engaged in the serious wrongdoing or if the serious wrongdoing was by our agency, what we have put in place to address that serious wrongdoing.
  - Corrective action could include taking disciplinary action against someone or changing the practices, policies and procedures that we have in place which led to the serious wrongdoing.
- There may be some details about both the findings made as a result of the investigation and the corrective action taken that cannot be revealed to you. We will always balance the right of a person who makes a report to know the outcome of that report, with other legal obligations we have.
- If you have made an anonymous report, in many cases we may not be able to provide this information to you.

### Determining whether it is a voluntary PID

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

### Report 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 Council's Grievance and Dispute Procedure 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.

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).



If you are not happy with this assessment or otherwise disagree with it, you can raise it with the person who has communicated the outcome with you or a disclosure officer, request an internal review or request that the matter be conciliated. Council can, but do not have to, request the NSW Ombudsman to conciliate the matter.

### Report is a voluntary PID

If the report is a voluntary PID:

- In most cases we will investigate 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.

### Protecting the confidentiality of the maker of a voluntary PID

People who make voluntary PIDs may want their identity and the fact that they have made a report to be confidential.

Under the PID Act, information tending to identify a person as the maker of a voluntary PID (known as identifying information) is not to be disclosed by a public official or an agency.

There are certain circumstances under the PID Act that allow for the disclosure of identifying information. These include:

- where the person consents in writing to the disclosure
- where it is generally known that the person is the maker of the voluntary PID because of their voluntary self-identification as the maker
- when the public official or Council reasonably considers it necessary to disclose the information to protect a person from detriment
- where it is necessary the information be disclosed to a person whose interests are affected by the disclosure
- where the information has previously been lawfully published
- when the information is disclosed to a medical practitioner or psychologist for the purposes of providing medical or psychiatric care, treatment or counselling to the individual disclosing the information
- when the information is disclosed for the purposes of proceedings before a court or tribunal

**POLICY: PUBLIC INTEREST DISCLOSURES POLICY | V 4.0 , 20 SEPTEMBER 2023**

- when the disclosure of the information is necessary to deal with the disclosure effectively
- if it is otherwise in the public interest to disclose the identifying information.

We will not disclose identifying information unless it is necessary and authorised under the PID Act.

We will put in place steps to keep the identifying information of the maker and the fact that a report has been made confidential. It may not be possible for us to maintain complete confidentiality while we progress the investigation, but we will do all that we practically can to not unnecessarily disclose information from which the maker of the report can be identified. We will do this by:

- advising the maker of the PID about how to best protect their own identity such as not discussing the matter. If they have disclosed the matter to other staff they should advise the names of staff they have spoken with
- limiting the number of people who are aware of the maker's identity or information that could identify them and will ensure that any person who does know the identity of the maker of the PID is reminded that they have a legal obligation to keep their identity confidential
- if we must disclose information that may identify the maker of the PID, we will still not disclose the actual identity of the PID maker without consent
- an assessment will be undertaken to determine whether anyone is aware of the PID makers identity and any motive to cause detrimental action against the maker of the PID
- any documentation relating to the PID including emails and file notes will be stored in a secure folder

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

- advise the person whose identity may become known and provide additional supports
- reminding people who become aware of identifying information of the consequences for failing to maintain confidentiality and engaging in detrimental action
- updating Council's risk assessment and risk management plan

#### Assessing and minimising the risk of detrimental action

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

Detrimental action may include:

- 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.

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

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

- undertaking a risk assessment and creating a risk management plan which will be reassessed throughout the matter
- discussing protection options with the PID maker which may include remote working or approved leave during the investigation

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

- take all steps possible to stop the action and protect the person(s)
- take appropriate disciplinary action against anyone that has taken detrimental action
- refer any evidence of a detrimental action offence to the Commissioner of Police and the ICAC or the Law Enforcement Conduct Commission (whichever is applicable)
- notify the NSW Ombudsman about the allegation of a detrimental action offence being committed.

#### Where serious wrong doing is found

If, after an investigation, it is found that serious wrongdoing or other misconduct has occurred, Council will take the most appropriate action to address that wrongdoing or misconduct. This is also known as corrective action.

Corrective action can include:

- a formal apology
- improving internal policies to adequately prevent and respond to similar instances of wrongdoing
- providing additional education and training to staff where required
- taking employment action against persons involved in the wrongdoing (such as termination of employment, relocation, a caution or reprimand)
- payment of compensation to people who have been affected by serious wrongdoing or other misconduct.

The findings of an investigation will be communicated with Council's Executive Team and any relevant Managers who are required to know in order to implement corrective actions. It may be the Manager or Coordinator who will be responsible for ensuring corrective actions take place.

The maker of the PID will be notified of the proposed or recommended corrective actions in line with Council's Privacy Management Plan.

**POLICY: PUBLIC INTEREST DISCLOSURES POLICY | V 4.0 , 20 SEPTEMBER 2023**

## Rights to review and dispute resolution

### INTERNAL REVIEW

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

- that Council is not required to deal with the report as a voluntary PID
- to stop dealing with the report because Council decided it was not a voluntary PID
- to not investigate the serious wrongdoing and not refer the report to another agency
- to cease investigating the serious wrongdoing without either completing the investigation or referring the report to another agency for investigation.

Council will ensure internal reviews are conducted in compliance with the PID Act.

If you would like to make an application for an internal review, you must apply in writing within 28 days of being informed of our 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. This may include:

- additional documents that support the PID that have not been previously provided
- additional information such as witnesses that can support the claims

### VOLUNTARY DISPUTE RESOLUTION

If a dispute arises between Council and a person who has made a report which is, or may be, a voluntary PID, we may request the NSW Ombudsman to conciliate the dispute. Conciliation is a voluntary process and will only be suitable for disputes where Council and the maker of the report are willing to resolve the dispute.

## Other Council obligations

### Record-keeping

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

Information will be stored in Council's electronic record keeping system. Secure access levels will be applied to the file and will be limited to the disclosure officer and anyone else who may be assisting in the investigation of the matter.

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

Each year Council provide an annual return to the NSW Ombudsman which includes:

- information about voluntary PIDs received by Council during each return period (yearly with the start date being 1 July)

- action taken by Council to deal with voluntary PIDs during the return period
- how Council promoted a culture in the workplace where PIDs are encouraged.

Statistics will be entered into an internal register by disclosure officers for the purpose of collating the information required for the annual return. The register will be stored in Council's electronic management system with secure access levels applied, limiting access to disclosure officers only.

The information recorded in the register will be used to determine the number of PID's received by Council, the number of public officials who have made a PID, the category the PID falls into and the number of PIDs that have been finalised. Information in the register will not identify the PID maker or provide any detail on the content of the PID.

The annual return will be prepared by the Disclosures Coordinator.

### Compliance

Compliance with the policy will be overseen by the Disclosures Coordinator. Ensuring that compliance with the policy is maintained will be undertaken in a number of ways.

### TRAINING

Training will be provided to all Council staff using resources provided by the NSW Ombudsman. Additional training will be provided to staff with specific responsibilities under the PID Act to ensure all staff know their obligations and responsibilities.

Relevant training will be provided to all new staff as part of the onboarding process.

Refresher training will be provided to all staff every three years.

### PROCEDURE

An internal procedure has been developed to be used and referred to alongside this policy. The procedure provides a step by step process for disclosure officers, managers, mandatory reporting officers and investigators to use and covers:

- Receiving a PID
- Assessing a report
- Determining how to investigate the alleged wrongdoing
- How to undertake an investigation internally
- Referring an investigation to be undertaken externally
- Communication
- Record keeping
- Final report

### AUDITING

Council's Disclosures Coordinator will oversee and review any received Public Interest Disclosures to ensure compliance with the legislation.

**POLICY: PUBLIC INTEREST DISCLOSURES POLICY | V 4.0 , 20 SEPTEMBER 2023**

In future, Public Interest Disclosures may be looked at as part of Council's internal audit function.

Any non-compliance with Council's PID policy will be assessed and disciplinary action may be taken in accordance with the Local Government Award or where necessary, referred to the NSW Ombudsman.



## Annexure A – Names and contact details of disclosure officers for Mid-Western Regional Council

### General Manager

Brad Cam  
Phone: 02 6378 2820  
Mobile: 0427 431 578  
Email: brad.cam@midwestern.nsw.gov.au

### Mayor

Des Kennedy  
Phone: 02 6378 2850  
Email: councillor.kennedy@midwestern.nsw.gov.au

### Disclosures Coordinator

Richard Cushway – Manager Customer Service and Governance  
Phone: 02 6378 2829  
Mobile: 0418 768 467  
Email: richard.cushway@midwestern.nsw.gov.au

### Disclosure Officers

#### MUDGEES ADMINISTRATION PRECINCT

- Simon Jones – Director, Community  
Phone: 02 6378 2859  
Mobile: 0407 947 104  
Email: simon.jones@midwestern.nsw.gov.au
- Alina Azar – Director, Development  
Phone: 02 6378 2885  
Mobile: 0412 203 180  
Email: alina.azar@midwestern.nsw.gov.au
- Leonie Van Oosterum - Director, Corporate Services  
Phone: 02 6378 2914  
Mobile: 0405 123 787  
Email: leonie.vanoosterum@midwestern.nsw.gov.au
- VACANT - Manager People and Performance
- Ashleigh Marshall – Governance Coordinator  
Phone: 02 6378 2989



Mobile: 0400 930 156  
Email: ashleigh.marshall@midwestern.nsw.gov.au

#### MUDGEE OPERATIONS DEPOT

- Julian Geddes – Director, Operations  
Phone: 02 6378 2810  
Mobile: 0499 514 188  
Email: julian.geddes@midwestern.nsw.gov.au

#### MUDGEE LIBRARY

- Rachel Gill – Manager, Library Services  
Phone: 02 6378 2739  
Email: rachel.gill@midwestern.nsw.gov.au

#### GULGONG AND RYLSTONE ADMINISTRATION OFFICE AND LIBRARY

- Jaime Adams – Customer Service Coordinator  
Phone: 02 6378 2874  
Email: jaime.adams@midwestern.nsw.gov.au

#### RYLSTONE COUNCIL DEPOT

- Peter Schmidt - Senior Works Engineer  
Phone: 02 6378 2910  
Mobile: 0429 276 346  
Email: peter.schmidt@midwestern.nsw.gov.au

#### MUDGEE WASTE FACILITY AND IRONED OUT

- Tiffany Girlich – Training Officer  
Phone: 0439 585 440  
Email: tiffany.girlich@midwestern.nsw.gov.au

#### MUDGEE POUND

- Nick Naoum – Compliance Coordinator  
Phone: 0457 452 924  
Email: nick.naoum@midwestern.nsw.gov.au

#### SWIMMING POOLS

- Mary Freestone – Pool Operations Coordinator  
Phone: 0429 817 589  
Email: mary.freestone@midwestern.nsw.gov.au

#### GLEN WILLOW

- Peter Raines – Manager, Recreation Services  
Phone: 02 6378 2881

Mobile: 0417 406 268

Email: peter.raines@midwestern.nsw.gov.au

#### CARAVAN PARKS

- Trent Robertson – Business Development Coordinator, Accommodation Services

Phone: 0455 727 059

Email: trent.robertson@midwestern.nsw.gov.au

#### MUDGEE WATER AND SEWER TREATMENT PLANT

- Anub Anair – Water and Sewer Process Coordinator

Phone: 0436 290 570

Email: anub.nair@midwestern.nsw.gov.au

#### MUDGEE AIRPORT

- Andy Banks – Business Development Coordinator

Phone: 02 6357 5007

Mobile: 0457 466 838

Email: andrew.banks@midwestern.nsw.gov.au

## Annexure B – List of integrity agencies

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

<b>The Information Commissioner</b>	<b>Government information contraventions</b>	<b>Telephone:</b> 1800 472 679 <b>Writing:</b> GPO Box 7011, Sydney NSW 2001 <b>Email:</b> <a href="mailto:ipcinfo@ipc.nsw.gov.au">ipcinfo@ipc.nsw.gov.au</a>
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