

Public Interest Disclosure Policy

October 2023

newcastle.nsw.gov.au



City of
Newcastle

Table of Contents

Purpose	4
Accessibility of this policy	4
Who does this policy apply to?	4
Who does this policy not apply to?	5
Compliance with the PID Act	5
What is contained in this policy?	5
1 How to make a report of serious wrongdoing	6
(a) Reports, complaints and grievances.....	6
(b) When will a report be a PID?	6
(c) Who can make a voluntary PID?	7
(d) What is serious wrongdoing?.....	7
(e) Who can I make a voluntary PID to?	8
(f) What form should a voluntary PID take?	9
(g) What should I include in my report?.....	9
(h) What if I am not sure if my report is a PID?	9
(i) Deeming that a report is a voluntary PID	9
(j) Who can I talk to if I have questions or concerns?.....	9
2 Protections	10
(a) How is the maker of a voluntary PID protected?.....	10
(b) Protections for people who make mandatory and witness PIDs.....	11
3 Reporting detrimental action	11
4 General support	11
(a) Support for Public Officials reporting wrongdoing	11
(b) Support for Public Officials who are the subject of a PID	11
5 Roles and responsibilities	12
CN employees	12
(a) CEO	12
(a-1) Disclosure Coordinator	12
(b) Disclosure officers	13
(c) Managers	13
(d) All employees.....	13
(e) Lord Mayor and Councillors.....	13

6	How CN will deal with voluntary PIDs	13
	(a) How the Disclosure Coordinator acknowledges that they have received a report and keep the person who made it informed	13
	(b) How CN will deal with voluntary PIDs	14
	(c) How CN will protect the confidentiality of the maker of a voluntary PID	15
	(d) How CN will assess and minimise the risk of detrimental action	16
	(e) How CN will deal with allegations of a detrimental action offence	17
	(f) What CN will do if an investigation finds that serious wrongdoing has occurred ..	17
7.	Review and dispute resolution	18
	(a) Internal review	18
	(b) Voluntary dispute resolution	18
8	Other agency obligations.....	18
	(a) Record-keeping requirements	18
	(b) Reporting of voluntary PIDs and CN's annual return to the Ombudsman.....	18
	(c) How CN will ensure compliance with the PID Act and this policy	19
	Annexure A — Definitions	20
	Annexure B - Policy Authorisations.....	21
	Annexure C — List of integrity agencies	25
	Annexure D - Examples of serious wrongdoing.....	26

Purpose

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

At City of Newcastle (CN) we take reports of serious wrongdoing seriously. We are committed to building a 'speak up' culture where public officials are encouraged to report any conduct that they reasonably believe involves wrongdoing.

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

This policy is based on the NSW Ombudman's model policy and sets out:

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

This policy also documents our commitment to building a speak up culture. Part of that speak up culture is having in place a framework that facilitates public interest reporting of wrongdoing by:

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

In NSW, that framework is the PID Act.

This policy should be read in conjunction with CN's Codes of Conduct, Workplace Discrimination, Bullying and Harassment Policy, Workplace Discrimination, Bullying and Harassment Complaint Procedure and our Corruption Prevention Framework.

Accessibility of this policy

This policy is available on CN's publicly available website.

A copy of the policy is also made available to all staff of CN on their commencement, accessible via CN's external website and intranet. A hard copy of the policy can be requested from Legal & Governance via email: governance@ncc.nsw.gov.au.

Who does this policy apply to?

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

- A person employed in or by an agency or otherwise in the service of an agency
- A person having public official functions or acting in a public official capacity whose conduct or activities an integrity agency is authorised by another act or law to investigate
- An individual in the service of the crown
- A statutory officer
- A person providing services or exercising functions on behalf of an agency, including a contractor, subcontractor or volunteer
- An employee, partner or officer of an entity that provides services, under contract, subcontract or other arrangement, on behalf of an agency or exercises functions of an

- agency, and are involved in providing those services or exercising those functions
- A judicial officer
- A member of parliament (MP), including a minister
- A person employed under the Members of Parliament Staff Act 2013.

The CEO, other nominated disclosure officers and managers within CN 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 CN may use this policy if they want information on who they can report wrongdoing to within CN.

Who does this policy not apply to?

This policy does not apply to:

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

This means that if you are not a public official, this policy does not apply to your complaint (there are some circumstances where a complaint can be deemed to be a voluntary PID, see section 1(i) of this policy for more information).

If you are not a Public Official and wish to make a complaint about CN, please consult CN's Customer Complaint Handling Policy available on CN's website:

<https://www.newcastle.nsw.gov.au/about-us/forms-and-publications/forms-and-permits/formal-customer-complaints>

Compliance with the PID Act

This policy is adopted by the CEO and reviewed every at least every three years or as required.

What is contained in this policy?

This policy will provide you with information on the following:

- Ways you can make a voluntary PID to CN under the PID Act
- The names and contact details for the nominated disclosure officers in CN
- The roles and responsibilities of people who hold particular roles under the PID Act and who are employees of CN
- What information you will receive once you have made a voluntary PID
- Protections available to people who make a report of serious wrongdoing under the PID Act and what we will do to protect you
- CN procedures for dealing with disclosures
- CN procedures for managing the risk of detrimental action and reporting detrimental action
- CN record-keeping and reporting requirements
- How CN will ensure it complies with the PID Act and this policy.

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

- Confidentially contact CN's Disclosure Coordinator or a nominated Disclosure Officer within CN (provided at Annexure B - Policy Authorisations)
- Refer to our [Public Interest Disclosure](#) page on CN's website or intranet

- Contact the PID Advice Team within the NSW Ombudsman by phone: (02) 9286 1000 or email: pidadvice@ombo.nsw.gov.au, or
- Access the NSW Ombudsman's PID guidelines which are available on its website.

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

1 How to make a report of serious wrongdoing

(a) Reports, complaints and grievances

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

Some internal complaints or internal grievances may also be PIDs, as long as they have the features of a PID. If an internal complaint or grievance is a report of serious wrongdoing, this should be reported to CN's Disclosure Coordinator to consider whether it is a PID. If it is a PID, the Disclosure Coordinator will deal with it as set out in this policy, and where relevant, CN's Codes of Conduct.

It is important that it is quickly recognised that we have received a PID. This is because once a PID is received, the person who has made the report is entitled to certain protections and the Disclosure Coordinator has certain decisions that have to make on how to deal with the PID and how to protect and support the person who has made the report.

(b) When will a report be a PID?

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

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

This policy mostly relates to making a voluntary PID and how CN will deal with voluntary PIDs. People who make a mandatory PID or a witness PID are still entitled to protection. More information about protections is available in section 2 of this policy.

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

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

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

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

- 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)

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 CN 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 CN have made an error by not identifying that you have made a voluntary PID, you should raise this with a nominated Disclosure Officer (provided at Annexure B) or your contact officer for the report. If you are still not satisfied with this outcome, you can seek an internal review or CN may seek to conciliate the matter. You may also contact the NSW Ombudsman. Further information on rights to internal review and conciliation is found in section 7 of this policy.

(c) Who can make a voluntary PID?

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

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

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

(d) What is serious wrongdoing?

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

- Corrupt conduct — 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 CN what category of serious wrongdoing you are reporting or that you are reporting serious wrongdoing.

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

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

Making a report to a public official who works for CN

You can make a report inside CN to:

- CEO
- CN's Disclosure Coordinator
- CN's Disclosure Officer — a list of disclosure officers for CN (and a link to their contact details available via CN's intranet) can be found at Annexure B of this policy
- Your manager — this is the person who directly, or indirectly, supervises you. It can also be the person who you directly, or indirectly, report to. You may have more than one manager. Your manager 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 a report to a recipient outside of CN

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 C 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 CN, it is possible that your disclosure will be referred back to CN so that appropriate action can be taken.

Making a report to a Member of Parliament or journalist

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

- You must have first made substantially the same disclosure (described here as a 'previous disclosure') to someone who can receive disclosures.
- The previous disclosure must be substantially true.
- You did not make the previous disclosure anonymously.
- You did not give a written waiver of your right to receive information relating to your previous disclosure.
- You did not receive the following from CN:
 - Notification that CN 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 CN'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.

Investigation period means:

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

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

(f) What form should a voluntary PID take?

You can make a voluntary PID:

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

(g) What should I include in my report?

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

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

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

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

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

(i) Deeming that a report is a voluntary PID

CN's CEO or CN's Disclosure Coordinator 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 our CEO or our Disclosure Coordinator to request that they consider deeming your report to be a voluntary PID.

A decision to deem a report to be a voluntary PID is at the discretion of the CEO or the Disclosure Coordinator. For more information about the deeming power, see the Ombudsman's guideline 'Deeming that a disclosure is a voluntary PID'.

(j) Who can I talk to if I have questions or concerns?

- For a confidential discussion, you are invited to contact Disclosure Coordinators or Disclosure Officers at Annexure B.

2 Protections

(a) How is the maker of a voluntary PID protected?

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

CN is committed to taking all reasonable steps to protect you from detriment as a result of having made a PID. CN is also committed to maintaining your confidentiality as much as possible while the PID is being dealt with.

CN will not tolerate any type of detrimental action being taken against you because you have made a report, might make a report or are believed to have made a report.

The maker of a voluntary PID is protected in the following ways:

- Protection from detrimental action
 - A person cannot take detrimental action against another person because they have made a voluntary PID or are considering making a PID. Detrimental action includes bullying, harassment, intimidation or dismissal.
 - Once CN's Disclosure Coordinator becomes aware that a voluntary PID by a person employed or otherwise associated with CN that concerns serious wrongdoing relating to CN has been made, the Disclosure Coordinator will undertake a risk assessment and advise CN on 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.

This may include the following CN positions (but are not limited to):

- Complaints Coordinator / Public Officer
- Privacy and Information Coordinator
- Internal Audit Coordinator
- Legal professionals (includes all CN Lawyers)

- 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.

(b) Protections for people who make mandatory and witness PIDs

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

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

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

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

3 Reporting detrimental action

If you experience adverse treatment or detrimental action, such as bullying or harassment, you should report this immediately. You can report any experience of adverse treatment or detrimental action directly to CN's Disclosure Coordinator in person, by phone or email or to an integrity agency. A list of integrity agencies is located at Annexure C of this policy.

4 General support

(a) Support for Public Officials reporting wrongdoing

CN will ensure that Public Officials who have reported wrongdoing, regardless of whether they have made a PID, are provided with access to support. The support available includes:

- Allocation of a key contact person through-out the whole process
- Access to CN's Employee Assistance Program

(b) Support for Public Officials who are the subject of a PID

CN will ensure that the Public Official who is the subject of a PID is:

- Treated fairly and with impartiality;

- Informed of their rights and obligations;
- Kept informed of progress during an investigation;
- Given the opportunity to respond to any allegation made against them;
- Advised of the outcome of any investigation;
- Provided with information about support available from CN or external agencies; and
- Provided with access to CN's Employee Assistance Program.

5 Roles and responsibilities

CN employees

Certain people within CN have responsibilities under the PID Act.

(a) CEO

The CEO is responsible for:

- Fostering a workplace culture where reporting is encouraged
- Receiving disclosures from public officials
- Ensuring there is a system in place for assessing disclosures
- Ensuring CN complies with this policy and the PID act
- Ensuring that CN 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.
- Appointing CN's Disclosure Coordinator and Disclosure Officers (refer to Annexure B)

(a-1) Disclosure Coordinator

CN's Disclosure Coordinator is responsible for:

- Assisting the CEO to perform the CEO's role under this policy and the PID Act.
- Receiving disclosures about wrongdoing by public officials including referring disclosures to the CEO or Lord Mayor.
- Ensuring that their actions adhere to the requirements of this policy and the PID Act including protecting and maintaining the confidentiality of the public official making the disclosure.
- Ensuring that instances of Detrimental Action are reported and dealt with under CN's Code of Conduct.
- Receiving and assessing reports of serious wrongdoing in accordance with this policy and the PID Act.
- Providing recommendations and oversight as to the implementation of corrective actions
- Preparation and submission of yearly reporting obligations to the NSW Ombudsman
- Reporting annually to CN's Governance and Risk (Executive) Committee and Audit and Risk Committee on completion of training
- Reporting non-compliance of PID Act to Governance and Risk (Executive) Committee annually and Audit and Risk Committee

(b) Disclosure officers

Disclosure officers are responsible for:

- Receiving reports from public officials
- Receiving reports when they are passed on to them by managers
- Ensuring reports are dealt with appropriately, including by referring the matter to CN's Disclosure Coordinator
- Ensuring that any oral reports that have been received are recorded in writing

(c) Managers

The responsibilities of managers include:

- Receiving reports from persons that report to them or that they supervise
- Passing on reports they receive to a Disclosure Officer

(d) 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 CN
- 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.

(e) Lord Mayor and Councillors

The Lord Mayor and Councillors must:

- Report suspected serious wrongdoing or other misconduct to the CEO or Disclosure Coordinator
- 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 CN
- Treat any person dealing with or investigating reports of serious wrongdoing with respect.

The Lord Mayor and Councillors must not take detrimental action against any person who has made, may in the future make, or is suspected of having made, a PID.

6 How CN will deal with voluntary PIDs

(a) How the Disclosure Coordinator acknowledges that they have received a report and keep the person who made it informed

When a Disclosure Officer in CN receives a report which is a voluntary PID, or looks like it may be a voluntary PID, the Disclosure Officer will provide the report to the Disclosure Coordinator to determine if it is a voluntary PID. The Disclosure Coordinator will provide the following to the person who made the report:

- You will receive an acknowledgment that the report has been received. This acknowledgment will:
 - State that the report will be assessed to identify whether it is a PID
 - State that the PID Act applies to how CN 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, they will inform you as soon as possible how they intend to deal with the report. This may include:
 - That they are investigating the serious wrongdoing
 - That they will refer the report to a different agency (if appropriate) to deal with the voluntary PID. If they do this, they will provide you with details of this referral
 - If they decide to not investigate the report and to not refer it to another agency for it to be investigated, they will tell you the reasons for this decision. They will also notify the NSW Ombudsman of this decision.
- If they decide to investigate the serious wrongdoing, they 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 they investigate the serious wrongdoing, they will provide you with the following information once the investigation is complete:
 - A description of the results of the investigation — that is, they will tell you whether they found that serious wrongdoing took place.
 - Information about any corrective action as a result of the investigation/s — this means they will tell you what action they took in relation to the person who engaged in the serious wrongdoing or if the serious wrongdoing was by our agency, what they 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 they 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. They will always balance the right of a person who makes a report to know the outcome of that report, with other legal obligations they have.
- If you have made an anonymous report, in many cases they may not be able to provide this information to you.

(b) How CN will deal with voluntary PIDs

Once a report that may be a voluntary PID is received the Disclosure Coordinator 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, the Disclosure Coordinator will ensure that they comply with the requirements in the PID Act.

Report not a voluntary PID

Even if the report is not a voluntary PID, it will still need to be dealt with in a manner consistent with CN's Codes of Conduct or through an alternate process.

If the report is not a voluntary PID, the Disclosure Coordinator will let you know that the PID Act does not apply to the report and how they will deal with the concerns raised in the report.

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

Cease dealing with report as voluntary PID

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

Where the Disclosure Coordinator determines to cease dealing with the report as a voluntary PID, the Disclosure Coordinator will provide you with reasons for their decision.

Where the report is a voluntary PID

If the report is a voluntary PID:

- In most cases the Disclosure Coordinator will conduct an investigation to make findings about whether the serious wrongdoing disclosed in the report occurred, who was involved, who was responsible, and whether the people involved, or the agency engaged, in serious wrongdoing. There may be circumstances where we believe an investigation is not warranted — for example, if the conduct has previously been investigated.
- There may also be circumstances where the Disclosure Coordinator 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*.
- Before referring a matter, the Disclosure Coordinator will discuss the referral with the other agency, and will provide you with details of the referral and a contact person within the other agency.
- If the Disclosure Coordinator decides not to investigate a report and to not refer the matter to another agency, they must let you know the reasons for this and notify the NSW Ombudsman.

(c) How CN will protect the confidentiality of the maker of a voluntary PID

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

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

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

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

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

CN 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 CN to maintain complete confidentiality while CN progress the investigation, but CN will do all that CN practically can to not unnecessarily disclose information from which the maker of the report can be identified.

CN will do this by:

- Limiting the number of people who are aware of the maker's identity or information that could identify them.
- If CN must disclose information that may identify the maker of the PID, CN will still not disclose the actual identity of the maker of the PID, unless CN have their consent to do so.
- 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.
- Ensuring that only authorised persons have access to emails, files or other documentation that contain information about the identity of the maker.
- 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.
- 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.

If confidentiality cannot be maintained or is unlikely to be maintained, the Disclosure Coordinator will:

- Advise the person whose identity may become known
- Update the reports' risk assessment and risk management plan
- Implement strategies to minimise the risk of detrimental action
- Provide additional supports to the person who has made the pid
- Remind persons who become aware of the identifying information of the consequences for failing to maintain confidentiality and that engaging in detrimental action is a criminal offence and may also be a disciplinary matter.

(d) How CN will assess and minimise the risk of detrimental action

CN 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.

The Disclosure Coordinator 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.

The Disclosure Coordinator will take steps to assess and minimise the risk of detrimental action by:

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

Detrimental action against a person is an act or omission that causes, comprises, involves or encourages detriment to a person or a threat of detriment to a person (whether express or implied). Detriment to a person includes:

- Injury, damage or loss
- Property damage

- Reputational damage
- Intimidation, bullying or harassment
- Unfavourable treatment in relation to another person's job
- Discrimination, prejudice or adverse treatment
- Disciplinary proceedings or disciplinary action, or
- Any other type of disadvantage.

Detrimental action does not include:

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

(e) How CN will deal with allegations of a detrimental action offence

If CN become aware of an allegation that a detrimental action offence has occurred or may occur, CN 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.

(f) What CN will do if an investigation finds that serious wrongdoing has occurred

If, after an investigation, it is found that serious wrongdoing or other misconduct has occurred, CN 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 Disclosure Coordinator will:

- Provide the responsible Executive Director and Executive Manager with recommendations to implement the corrective action
- Advise the person who made the report of the recommended corrective action
- Have oversight of the corrective action to ensure it takes place

7. Review and dispute resolution

(a) Internal review

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

- That CN is not required to deal with the report as a voluntary PID
- To stop dealing with the report because CN 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.

CN 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 the Disclosure Coordinator's decision. The application should state the reasons why you consider the decision should not have been made. You may also submit any other relevant material with your application.

Request for internal review should be submitted directly to the CEO, or the Lord Mayor (if about the CEO). The CEO or Lord Mayor will determine the most appropriate person to conduct the internal review. That person will contact you to advise that they have been appointed to conduct the internal review and will provide an expected timeframe (pending on the complexity of the internal review).

(b) Voluntary dispute resolution

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

8 Other agency obligations

(a) Record-keeping requirements

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

Any documentation relating to reports of wrongdoing will be captured in our official record keeping system ECM with the appropriate confidential classification, and in accordance with CN's Records Management Policy.

(b) Reporting of voluntary PIDs and CN's annual return to the Ombudsman

Each year CN provides an annual return to the NSW Ombudsman which includes:

- Information about voluntary PIDs received by CN during each return period (yearly with the start date being 1 July)
- Action taken by CN to deal with voluntary PIDs during the return period
- How CN promoted a culture in the workplace where PIDs are encouraged.

Legal & Governance Service Unit will:

- Have oversight of all internal reports of wrongdoing
- Maintain a confidential register of PID reports
- Prepare and submit reports to the NSW Ombudsman

(c) How CN will ensure compliance with the PID Act and this policy

Disclosure Coordinator will:

- Report annually to CN's Governance and Risk (Executive) Committee and Audit and Risk Committee on completion of training
- Report non-compliance of PID Act to Governance and Risk (Executive) Committee annually and Audit and Risk Committee
- Propose an audit of the PID framework to be included on CN's Forward Internal Audit Plan as appropriate

Annexure A — Definitions

CEO means Chief Executive Officer of the City of Newcastle and includes their delegate or authorised representative.

References to the Chief Executive Officer are references to the General Manager appointed under the *Local Government Act 1993* (NSW).

City of Newcastle (CN) means Newcastle City Council.

Councillor means a person elected to civic office as a member of the governing body including the Lord Mayor

Disclosure Coordinator means the employee appointed to the position identified as a Disclosure Coordinator at Annexure B Policy Authorisations

Disclosure Officer means the employee appointed to the position identified as a Disclosure Officer at Annexure B Policy Authorisations

PID means Public Interest Disclosure

PID Act means the Public Interest Disclosures Act 2022

Public Official means:

- A CN employee
- A CN Councillor
- A contractor, subcontractor or volunteer who provides services, or exercises functions, on behalf of CN, or
- You work for an entity (such as a non-government organisation) who is contracted by CN to provide services or exercise functions on behalf of CN — if you are involved in undertaking that contracted work.

Annexure B - Policy Authorisations

This Policy Authorisation may be updated and amended by the CEO from time to time.

In accordance with section 378 of the Local Government Act 1993, the Chief Executive Officer delegates the following functions to the positions listed:

Title of authorisation	Description of authorisation	Position Number and Title
Disclosure Coordinator	Authority to act as the Disclosures Coordinator and to deem a report to be a voluntary PID. In accordance with the Public Interest Disclosure Policy (this policy)	P60642 - Executive Manager Legal & Governance
Disclosure Coordinator (<i>Alternate</i>)	Authority to act as the alternate Disclosures Coordinator. In accordance with the Public Interest Disclosure Policy (this policy)	P60816 - Governance Manager
Disclosure Officer	Authority to act as a Disclosure Officer. In accordance with the Public Interest Disclosure Policy (this policy)	<p>Management Level 2 P60629 - Executive Director Corporate Services P60630 - Executive Director City Infrastructure P60631 - Executive Director Creative and Community Services P60632 - Executive Director Planning and Environment</p> <p>Management Levels 3, 4 and some 5 Art Gallery P40005 - Director Art Gallery P60550 - Head of Commercial & Operations P60551 - Head of Curatorial & Exhibitions</p> <p>Assets & Facilities P60633 - Executive Manager Assets & Facilities P60644 - Facilities Manager P50041 - Admin Buildings Coordinator P50612 - Building Trade Services Manager P20010 - Cultural Venues Coordinator P50012 - Works Coordinator - City Presentation P20902 - Asset Services Manager</p> <p>Civic Services P20689 - Executive Manager Civic Services P20006 - Manager Civic Theatre P20167 - Venues Manager</p>

		<p>Civil Construction and Maintenance P20679 - Executive Manager Civil Construction and Maintenance P20885 - Operations Manager P50497 - Road Maintenance Manager P50106 - Workshop Manager P50384 - Construction Manager P50465 - Management Systems and Depot Coordinator</p> <p>Community & Recreation P60638 - Executive Manager Community & Recreation P50676 - Open Space Operations Manager P50375 - Sports & Recreation Manager P50255 - Aquatic Services Manager P40161 - Community Planning and Development Manager</p> <p>Customer Experience P30003 - Executive Manager Customer and Transformation P60212 - Customer Insight and Improvement Manager P20368 - Customer Service Manager</p> <p>Environment & Sustainability P60640 - Executive Manager Environment & Sustainability P50275 - Blackbutt and Natural Areas Manager P50668 - City Greening Services Manager</p> <p>Finance Property & Performance P60636 - Executive Manager Finance Property Performance & Deputy CFO P60625 - Financial Controller P60107 - Corporate Planning and Performance Manager P20339 - Manager Procurement P20090 - Rates and Revenue Manager P20744 - Property Services Manager P20068 - Finance Business Partner P20069 - Finance Business Partner P20072 - Finance Business Partner P20075 - Finance Business Partner P20583 - Finance Business Partner P60595 - Senior Finance Business Partner (Waste)</p> <p>Information Technology P20107 - Chief Information Officer P20753 - Product Portfolio Chapter Lead P60725 - ERP & Applications Manager P60724 - Infrastructure & Operations Manager P20760 - Cyber Security Manager P20126 - Geospatial & Data Manager P20759 - Strategy & Architecture Manager P60834 - IT Business Partner Manger P60835 - IT Business Partner</p>
--	--	--

		<p>P60833 - IT Business Partner</p> <p>Legal & Governance P30042 - Records and Information Coordinator P60089 - Enterprise Risk Manager P30040 - Insurance and Risk Specialist P60819 - Legal Services Manager P30039 - Privacy and Information Coordinator P60754 - Governance Business Partner P60753 - Risk Business Partner</p> <p>Media Engagement Economy & Corporate Affairs P60639 - Executive Manager Media Engagement Economy & Corporate Affairs P20584 - Program Manager - City Events P20451 - Community Engagement Lead P30008 - Marketing Manager P30006 - Media and Stakeholder Relations Manager</p> <p>Museum Archive Libraries & Learning P60637 - Director Museum Archive Libraries & Learning P40068 - Director - Beresfield Childcare Centre P40093 - Manager Service Delivery and Customer Experience P60649 - Manager Collections and Community Partnerships</p> <p>People & Culture P60635 - Executive Manager People & Culture P60138 - Safety and Wellbeing Manager P60164 - WHS Support and Recovery Lead P60149 - Talent Diversity and Inclusion Lead P20659 - Learning Planning & Engagement Lead P60142 - Workforce Development Manager P30068 - Payroll and Rewards Lead P30056 - Strategic Partnering Manager P60487 - Safety and Wellbeing Partnering Lead P30132 - People and Culture Business Partner P30133 - People and Culture Business Partner P30134 - People and Culture Business Partner P60144 - People and Culture Business Partner P20691 - Talent Acquisition Business Partner</p> <p>Planning Transport & Regulation P60641 - Executive Manager Planning Transport & Regulation P60805 - City Significant & Strategic Planning Manager P40016 - Building Assessment Coordinator P60435 - Business and Customer Improvement Manager P50160 - Environmental Health Coordinator P20811 - City Wide Development Assessment Manager P20433 - Senior Ranger P60455 - Traffic & Transport Manager P20582 - Engineering Assessment Coordinator</p>
--	--	--

		<p>P60400 - Development Compliance Coordinator P20813 - Business and Customer Improvement Section Manager P60962 - Manager Business Operations and Customer Excellence</p> <p>Project Management Office P60634 - Executive Manager Project Management Office P20949 - Project Services Manager</p> <p>Waste Services P60572 - Managing Director Waste Services P20309 - Environmental Compliance Manager P20386 - Business and Customer Support Coordinator P20308 - Site Operations Manager P50069 - Waste and Commercial Collection Manager P20310 - Business Development Manager</p>
--	--	---

Disclosure Officer contact details is available via CN's intranet - Public Interest Disclosure Officer or by request at: governance@ncc.nsw.gov.au



David Clarke
Acting Chief Executive Officer
Date: 27/9/23

Annexure C — 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: oilc_executive@oilc.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

Annexure D - Examples of serious wrongdoing

Category of serious wrongdoing	Example
Corrupt conduct	<ul style="list-style-type: none"> - a public official selling confidential information gained while working in an official capacity - a public official failing to report criminal conduct in exchange for a financial advantage - a local councillor voting in favour of a development in which the councillor has an undisclosed financial interest - a public official accepting a financial benefit from someone in exchange for ensuring a particular outcome for that person (such as a favourable outcome on a driver's licence test or a development application)
Serious maladministration	<ul style="list-style-type: none"> - an agency contravenes legal procurement processes when engaging contractors - senior staff fail to deal with multiple reports of toxic materials in government-owned properties over a period of time - an agency implements policies and procedures which are contrary to its governing legislation and result in misuse of powers - an agency's procedures are unfairly discriminatory
Serious and significant waste of public money	<ul style="list-style-type: none"> - misappropriation or misuse of public property - the purchase of unnecessary or inappropriate goods and services - incurring costs which might otherwise have been avoided - programs not achieving their objectives and therefore the costs being clearly ineffective and inefficient - failure to maintain public property in a way that results in far greater expense being incurred in the future.
Government information	<ul style="list-style-type: none"> - having a policy of charging a fee for open access information, which should be free of charge, either purposely or due to a lack of understanding of the rules around open access - intentionally overlooking documents that should clearly be included in response to an access application - destroying, concealing or altering records to prevent them from being released - knowingly making decisions that are contrary to the GIPA Act - directing another person to make a decision that is contrary to the GIPA Act.
Privacy	<ul style="list-style-type: none"> - a public official unlawfully accessing a person's personal information, for their personal use or for another non-work-related matter, on a database that is used by an agency to retain customer information - an agency having poor data management processes in place which leads to the disclosure of the personal information about a person, or group of persons, to another agency or entity without a lawful reason an agency's poor email practices resulting in repeated failures by staff of the agency to ensure emails containing personal information go to the correct recipient.
Local government pecuniary interest	<ul style="list-style-type: none"> - a senior council staff member recommending a family member for a council contract and not declaring the relationship - a general manager holding an undisclosed shareholding in a company competing for a council contract - a councillor participating in considering a development application for a property in which they or their family have an interest

DOCUMENT CONTROL

Policy title	Public Interest Disclosure Policy
Policy owner	Executive Director Corporate Services and Chief Financial Officer / Executive Manager Legal & Governance
Policy expert/writer	Governance Manager
Associated Guideline or Procedure Title	Procedure for Managing Public Interest Disclosures - reports of serious wrongdoing
Guideline or Procedure owner	Executive Director Corporate Services and Chief Financial Officer / Executive Manager Legal & Governance
Prepared by	Legal & Governance
Approved by	CEO
Date approved	27/09/2023
Commencement Date	1/10/2023
Next review date	31/03/2026
Termination date	31/03/2027
Version #	Version 6
Category	Governance
Details of previous version	Version 5 – ECM: 7147867
Keywords	wrongdoing, serious wrongdoing, report, corrupt, conduct, PID, public interest disclosure
Relevant Newcastle 2040 Theme/s	Achieving Together
Relevant legislation/codes (reference specific sections)	This Policy supports CN's compliance with the following legislation: <ul style="list-style-type: none"> Public Interest Disclosure Act 2022
Other related documents	Nil
Related forms	<ul style="list-style-type: none"> Internal Reporting Form - Public Interest Disclosure Disclosure Officer Template - Initial Assessment of Internal Report Disclosures Coordinator Template - Assessment of Internal Report Disclosures Coordinator Template - Not a PID Letter to Reporter Disclosures Coordinator Template - Risk Assessment of Internal Report
Required on website	Yes
Authorisations	Functions authorised under this Policy at Annexure B