



LACHLAN SHIRE COUNCIL

PUBLIC INTEREST DISCLOSURE POLICY

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Further Information: Lachlan Shire Council ☎ 02 6895 1900 ✉ Email: council@lachlan.nsw.gov.au						
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1. BACKGROUND

Lachlan Shire Council (Council) is committed to the aims and objectives of the *Public Interest Disclosures Act 2022*, and does not tolerate serious wrongdoing.

This policy is prepared in accordance with Section 42 of the *Public Interest Disclosures Act 2022* (PID Act) and reflects the NSW Ombudsman model PID policy.

2. SCOPE

This policy applies to all staff, councillors, contractors, subcontractors, volunteers, committee members, and anyone providing services or exercising functions on behalf of Council.

This policy applies to, and for the benefit of, all public officials in NSW. A public official is:

- 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
- a person providing services or exercising functions on behalf of Council, including a contractor, subcontractor or volunteer

Note that if Council engages consultants to assist Council with its work, these consultants are not considered public officials under the PID Act

- an employee, partner or officer of an entity that provides services, under contract, subcontract or other arrangement, on behalf of Council or exercises functions of Council, and are involved in providing those services or exercising those functions

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

The General Manager, other nominated disclosure officers, directors and managers within Council have specific responsibilities under the PID Act. This policy also provides information on how people in these roles will fulfil their responsibilities.

This policy does not apply to:

- people who have received services from Council and want to make a complaint about those services
- people, such as contractors, who provide services to Council (for example, employees of a company that sold computer software to Council).

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 below in this policy for more information).

However, you can still make a complaint to Council. This can be done by contacting Council's Public Officer in person at our Administration Centre, or by email at council@lachlan.nsw.gov.au or by phone 02 6895 1900.

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3. OBJECTIVE

At 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.

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

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.

This policy also documents our commitment to building a ‘speak-up’ culture. Part of that speak-up culture is having in place the *Public Interest Disclosures Act 2022* (PID Act) framework that facilitates public interest reporting of wrong-doing 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.

This policy should be read in conjunction with relevant Council policies including *Code of Conduct Policy, Conflict of Interest Policy, Fraud and Corruption Policy, Gift, Benefits and Bribes Policy, and Complaints Management Policy.*

4. DEFINITIONS

Definitions under this policy include the following:

4.1 Public Interest Disclosure

A disclosure about wrongdoing in the public sector, that serves the public interest. Public officials (disclosers) who suspect wrongdoing within the public sector can raise their concerns under the *Public Interest Disclosure Act* (PID Act). Allegations made under the PID Act are public interest disclosures (PIDs).

4.2 Disclosure Officer

Disclosures officers are frontline points of contact within the internal reporting system who can provide advice about the system and the internal reporting policy, receive reports of wrongdoing and assist staff to make reports.

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Disclosure officers are those identified and listed in Appendix 1 of this LSC PID policy. Note that to be a PID, a report of serious wrongdoing must generally be made to a person's own manager, or to an agency's disclosure officer. Even when a PID is made to a manager, the manager's role is then to ensure that the PID is reported to a disclosure officer.

Disclosure officers are therefore central players under the PID Act. If a public official makes a report about serious wrongdoing, but the person they disclose the information to is not a disclosure officer (and not their own manager), then the report will generally not be a PID and they will not be protected by the PID Act.

Note that reports made to integrity agencies, such as ICAC and the Ombudsman, also need to be made to their disclosure officers to be PIDs.

4.3 Disclosure Coordinator

The disclosure coordinator has a central role in the authority's internal reporting system. The disclosures coordinator is responsible for receiving, assessing and managing reports, and is the primary point of contact in the authority for the reporter.

4.4 Principal Officer

The PID Act identifies the General Manager as the principal officer, who has ultimate responsibility for maintaining the internal reporting system and workplace reporting culture, and ensuring Council complies with the PID Act.

4.5 Public Official

Under this policy and the PID Act, a public official includes Council employees, councillors, committee members, contractors or subcontractors or volunteers or anyone who provides services and/or exercises functions on behalf of Council (but not consultants who assist Council with its work); an employee, partner or officer of an entity that provides services, under contract, subcontract or other arrangement, on behalf of Council or exercises functions of Council, and are involved in providing those services or exercising those functions.

4.6 Manager

Under section 15 of the PID Act, *manager* means as follows:

- For individual contractors, subcontractors or volunteers providing services or exercising functions on behalf of an agency, their manager is taken to be the public official in that agency who oversees those services or functions, or who manages the relevant contract or volunteering arrangement.
- For staff of entities that are contracted to provide services or exercise functions on behalf of an agency, their manager is taken to be the public official in that agency who oversees those services or functions, or who manages the relevant contract.
- For all other public officials, their manager is the person who directly or indirectly supervises them.

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4.7 Integrity Agency

A public official can make a PID to a disclosure officer of their agency or of any other agency. There is no requirement that a public official report serious wrongdoing to the 'right' agency for the report to constitute a PID.

The PID Act classifies certain agencies as 'integrity agencies', as listed at Appendix 2 of this policy. These are likely to be the external agencies to which a public official might wish to make a PID, outside of their own agency. Generally, PIDs would be expected to be directed to the most relevant integrity agency — for example, a report of corrupt conduct would be reported to the ICAC, a report of serious maladministration to the NSW Ombudsman, and a report of a government information contravention to the NSW Information and Privacy Commission. However, again, public officials are able to disclose any type of serious wrongdoing to any integrity agency. It does not need to be a report of the type of serious wrongdoing that the integrity agency typically investigates.

5. POLICY IN BRIEF

This policy provides information in accordance with the PID Act about the following:

- ways you can make a voluntary PID to Council under the PID Act
- the contact details for the nominated Disclosure Officers of Council
- the responsibilities of people who hold particular roles under the PID Act and who are employees of Council
- what information you will receive once you have made a voluntary PID
- the protections available to people who make a report of serious wrongdoing under the PID Act and what we will do to protect you
- our procedures for dealing with disclosures
- our procedures for managing the risk of detrimental action and reporting detrimental action
- our record-keeping and reporting requirements
- how Council will ensure it complies with the PID Act and this policy

6. POLICY IN DETAIL

6.1 How to make a report of serious wrongdoing

Reports, Complaints and Grievances

When a public official report 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 procedures may also be PIDs, as long as they have the features of a PID. If an internal complaint or grievance is a report of serious wrongdoing, we will consider whether it is a PID. If it is a PID, we will deal with it as set out in this policy.

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It is important that we quickly recognise that we have received a PID. This is because once a PID is received, the person who has made the report is entitled to certain protections. Certain decisions have to be made on how the PID will be dealt with to determine how the person who has made the report will be protected and supported.

When will a report be a PID?

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

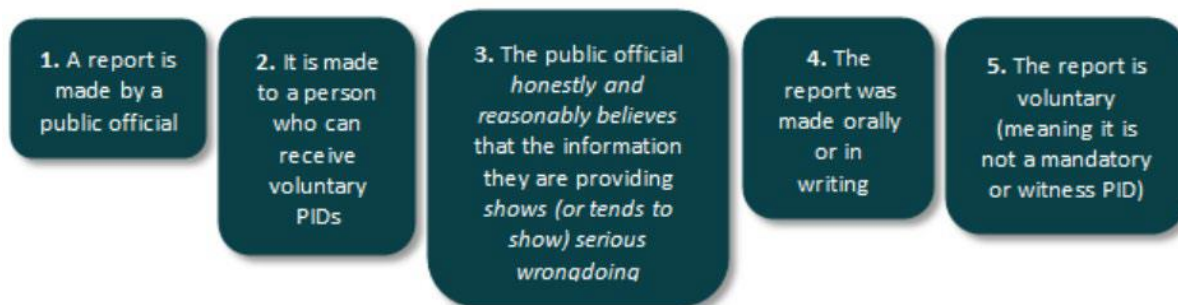
- *Voluntary PID* – this is a PID where a report has been made by the public official because they decided, of their own accord, to come forward and disclose what they know.
- *Mandatory PID* – this is a PID where the public official has made a report about serious wrongdoing because they have a legal 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 voluntary PIDs will be dealt with. People who make a voluntary PID or a witness PID are still entitled to protection. More information about protections is available below in this Policy.

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 24-27 of the PID Act:



If the report has all five features, it is a voluntary PID.

You will not be expected to prove that what you reported actually happened or is serious wrongdoing. *You do have to honestly believe, on reasonable grounds that the information you are reporting shows or tends to show serious wrongdoing.*

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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 an error is made 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 an error has been made by not identifying your report as a voluntary PID, you should raise this with a nominated Disclosure Officer or your contact officer for the report.

If you are still not satisfied with this outcome, you can seek an internal review or we make seek to conciliate the matter. You may also contact the NSW Ombudsman. Further information on rights to internal review and conciliation is detailed in this policy.

Who can make a voluntary PID?

- Any public official can make a voluntary PID. You are a public official if:
- you are employed by Council
- you are an elected Councillor of Council
- you are a member of a Committee of Council
- you are a contractor, subcontractor or volunteer who provides services, or exercises functions, on behalf of Council, or
- you work for an entity (such as a non-government organisation) who is contracted by Council to provide services or exercise functions on behalf of Lachlan Shire Council if you are involved in undertaking that contracted work.

A public official can make a PID about serious wrongdoing relating to any agency, not just the agency they are working for. This means that we may receive PIDs from public officials outside our agency.

It also means that you can make a PID to any agency, including an integrity agency like the Independent Commission against Corruption (ICAC) and the NSW Ombudsman. Refer to Appendix 2 of this policy for a list of integrity agencies.

What is a 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

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- *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 us 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.

You can make a report inside Lachlan Shire Council to:

- The General Manager
- a Disclosure Officer of Council – Refer to Appendix 1 of this policy for a list of Council’s Disclosure Officers.
- 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.
- for a public official who is a person providing services or exercising functions on behalf of an agency (including a contractor, subcontractor or volunteer) – your Manager is taken to be the public official in that agency who oversees those services or functions, or who manages the relevant contract or volunteering arrangements.

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, including;

- the head of any public service agency
- an integrity agency – a list of integrity agencies is provided at Appendix 2 of this policy
- a Disclosure Officer from another agency. The contact information for Disclosure Officers is located in an agency’s PID policy which can be found on their 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 Council, it is possible that your disclosure will be referred back to us so that appropriate action can be taken.

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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 we will not investigate the serious wrongdoing and will also not refer the previous disclosure to another agency, or
 - following the end of the investigation period, notice of our decision to investigate the serious wrongdoing
 - following the end of the investigation period, a description of the results of the investigation
 - following the end of the investigation period, 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.

What form should a voluntary PID take?

You can make a voluntary PID:

- in writing – via email or letter to a person who can receive voluntary PIDs.
- orally – have a private discussion face-to-face, via telephone or virtually with a person who can receive voluntary PIDs.
- 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,

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however, for us to investigate the matter(s) you have disclosed if we cannot contact you for further information.

What should I include in my report?

You should provide as much information as possible so the report can be dealt with 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
- Possible witnesses
- Other information you have that supports your report.

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 us 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 policies or procedures. Even if your report is not a PID, it may fall within another one of Council's policies for dealing with reports, allegations, or complaints.

Deeming that a report is a voluntary PID

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 of the requirements of a voluntary PID, you can refer your matter to the Disclosure Coordinator, or the General Manager to request that consideration be given to deeming your report to be a voluntary PID.

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

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

If you have questions or concerns you can contact Council's Disclosure Coordinator, or any of the Disclosure Officers, as listed in Appendix 1 of this policy.

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6.2 Protections

How is the maker of a voluntary PID Protected?

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

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

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

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

- 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 Council has been made, we will undertake a risk assessment and take steps to mitigate the risk of detrimental action occurring against the person who made the voluntary PID.

It is a criminal offence for someone to take detrimental action against a person because they have made or may make a voluntary PID. It is punishable by a maximum penalty of 200 penalty units or imprisonment for five years or both.

A person may seek compensation where unlawful detrimental action has been taken against them.

A person can apply for a court order (injunction) where detrimental action is threatened or has occurred (for example, an order to prevent dismissal or to require reinstatement).

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

- 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.

An example of where this may occur is the requirement to release information regarding PIDs to third parties where there is a legal obligation to provide this information. Mandatory reports include Section 11 notifications to ICAC, legislative reports to Integrity Agencies. Council's Disclosure Coordinators can provide further information or clarity on these requirements.

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- 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 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 following table.

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. 	✓	✓

6.3 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 Disclosure Coordinators or Disclosure Officers, or to an integrity agency.

A list of integrity agencies is located at Appendix 2 of this policy.

6.4 General support

The key persons that will provide ongoing support to individuals who have made a report will be Council's Executive Leadership Team and Disclosure Coordinators. The Disclosure Coordinators will be the key contact and will ensure that the necessary steps are taken to protect the person who has made the report from risk of detrimental action.

The Executive Team and Disclosure Coordinators will also provide confidential employee assistance.

6.5 How we deal with voluntary PIDs

Acknowledging and receiving a report

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:

- You will receive an acknowledgment from Council's Disclosure Coordinator 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 we deal with the report
 - provide clear information on how you can access this PID policy
 - provide you with details of a contact person and available support, including Council's employee assistance program.
- If the report is a voluntary PID, we will inform you as soon as possible how we intend to deal with the report. This may include:
 - that we are investigating the serious wrongdoing
 - that we will refer the report to a different agency (if appropriate) to deal with the voluntary PID. If we do this, we will provide you with details of this referral
- If we decide to not investigate the report and to not refer it to another agency for it to be investigated, we will tell you the reasons for this decision. We will also notify the NSW Ombudsman of this decision.
- 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.

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- 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.

How we will deal with voluntary PIDs

Once a report that may be a voluntary PID is received we 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 not a voluntary PID

Even if a report is not a voluntary PID, it will still need to be dealt with in a manner consistent with our Complaints Management Policy.

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

If you are not happy with this assessment or otherwise disagree with it, you can:

- raise it with the person who has communicated the outcome with you or a Disclosure Officer
- request an internal review or request that the matter be conciliated.

We can, but do not have to, request the NSW Ombudsman to conciliate the matter.

Appendix 2 provides a list of integrity agencies that can be contacted should you wish to obtain any clarification on management of PID.

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Cease dealing with report as voluntary PID

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

In this situation we will provide you with reasons in writing as to why we had ceased dealing with the report as a voluntary PID.

Where the report is a voluntary PID

In most cases we will conduct an investigation to make findings about whether the serious wrongdoing disclosed in the report occurred, who was involved, who was responsible, and whether the people involved, or the agency engaged, in serious wrongdoing.

There may be circumstances where we believed 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 maybe 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.

How will we protect the confidentiality of the maker of a voluntary PID?

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

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

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

- where the person consents in writing to the disclosure
- where it is generally known that the person is the maker of the voluntary PID because of their voluntary self-identification as the maker
- when the public official or Council reasonable considers it necessary to disclose the information to protect the 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

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- 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.

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 the information from which the maker of the report can be identified. We will do this by:

- limiting the number of people who are aware of the maker’s identity or information that could identify them
- if we must disclose information that may identify the maker of the PID, we will still not disclose the actual identity of the maker of the PID, unless we have their consent to do so
- we 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
- we will ensure that only authorised persons have access to emails, files or other documentation that contain information about the identity of the maker. These authorised officers will be limited to the General Manager and Disclosure Coordinators
- we will undertake an assessment to determine if anyone is aware of the maker’s identity and if those persons have a motive to cause detrimental action to be taken against the maker or impede the progress of the investigation
- we will provide information to the maker of the PID about the importance of maintaining confidentiality and advising them how to best protect their identity, for example, by telling them not to discuss their report with other staff.

If confidentiality cannot be maintained or is unlikely to be maintained, we will implement strategies, including a risk management plan, to minimise the risk of detrimental action. The person making the disclosure will be provided with support throughout the process.

How we will assess and minimise 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.

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

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

- explaining that a risk assessment will be undertaken, and a risk management plan will be created (including reassessing the risk throughout the entirety of the matter)
- providing details of the Disclosure Coordinator, being Director Corporate and Community who oversees risk management function in the organisation, who will be responsible for undertaking a risk assessment
- explaining how Council will communicate with the maker of the PID the identified risks and controls
- listing the protections that will be offered, such as potential for remote working or approved leave, for the duration of the investigation
- outlining what support 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

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- reasonable management action taken by someone in relation to a person who made or may make a PID. For example, a reasonable appraisal of a PID maker’s work performance.

How we will deal with allegations of a detrimental action offence

If we become 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
- advise and update the person who the alleged detrimental action has been taken against of the actions we have taken/are taking, who is managing those actions, and, should they require it, how they can access support.

If any persons within Council, including the maker of a PID, believes that a detrimental action offence has occurred, then this is to be immediately reported to the Disclosure Coordinators or the General Manager.

What we will do if investigation finds that serious wrongdoing has occurred

If, after an investigation, it is found that serious wrongdoing or other misconduct has occurred, we 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 procedures or policies to adequately prevent and respond to similar instances of wrongdoing
- providing additional education and training to staff where required
- taking industrial action against persons involved in the wrongdoing, in accordance with the disciplinary procedures as set out in the Local Government State Award
- payment of compensation to people who have been affected by serious wrongdoing or other misconduct

The Disclosure Coordinators oversee or directly manage the investigation process for PIDs.

The findings from the investigation process are provided to the General Manager and relevant integrity agencies.

The maker of the PID will be notified, as appropriate without breaching confidentiality, of the corrective action taken by the Disclosure Coordinator.

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6.6 Review and dispute resolution

Internal Review

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

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

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 to the General Manager within 28 days of being informed of our 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.

The review will be undertaken by the General Manager within 28 days of receipt of the application.

Voluntary Dispute Resolution

If a dispute arises between us 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.

6.7 Other agency obligations

Record-keeping requirements

Council has responsibilities under the State Records Act 1998 to keep full and accurate records with respect to all information received in connection with the PID Act.

PID reports, investigation reports and associated documents and information will be stored in Council's electronic information management system. Access to the information will be restricted to the General Manager and Disclosure Coordinators.

Disclosure Officers and Managers who receive PID related information are required to refer it to a Disclosure Coordinator so that it can be managed in a secure environment.

Reporting of voluntary PIDs and annual return to the NSW Ombudsman

Each year we 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)

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- 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.

Information for the annual return is collected by the Disclosure Coordinators, and they are responsible for the preparation and provision of the information to the NSW Ombudsman. This information is stored in Council’s electronic document management system.

How we will Ensure Compliance with the PID Act and this Policy

Council will ensure compliance with the PID Act through:

- ensuring appropriate training is provided to support and develop understanding of the PID Act and its requirements
- supporting managers and Disclosure Officers in undertaking their roles
- auditing and reporting of PID processes
- monitoring review timeframes and addressing non-compliance

7. ROLES AND RESPONSIBILITIES

Certain people within Council have responsibilities under the PID Act, including the following:

7.1 General manager

The General Manager is responsible for:

- Fostering a workplace culture where reporting is encouraged
- Receiving disclosures from public officials
- Ensuring public officials of Council comply with this policy and the PID Act
- Supporting Supervisors, Managers, Disclosure Officers, Disclosure Coordinators in understanding their requirements under the PID Act by ensuring the provision of adequate training and resources
- Ensuring that Lachlan Shire 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 annual reporting obligations to the NSW Ombudsman.

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7.2 Disclosure coordinators

Disclosure Coordinators are responsible for:

- receiving reports from public officials;
- assisting supervisors and managers in accepting reports
- receiving reports from Disclosure Officers
- ensuring that any oral reports that have been received are recorded in writing
- supporting persons who have made PID reports throughout the process
- supporting Disclosure Officers and managers in their roles under the PID Act
- coordinating or undertaking investigations into reports of wrongdoing
- overseeing the external reporting requirements under PID Act
- coordinating training on PID Act requirements.

7.3 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 the Disclosure Coordinators.
- ensuring that any oral reports that have been received are recorded in writing.
- maintaining strict confidentiality of the PID maker and all associated persons

7.4 Managers

The responsibilities of Directors, Managers, Section Managers, Supervisors, Team leaders, Coordinators, include:

- Receiving reports from persons that report to them or that they supervise
- Passing on reports they receive to a Disclosure Officer
- Maintaining strict confidentiality of the PID maker and all associated persons

7.5 All employees

All employees must:

- report suspected serious wrongdoing or other misconduct
- participate in any training on PID Act or this policy as provided Council
- 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 with or investigating reports of serious wrongdoing with respect.
- maintain strict confidentiality of any PID processes and all associated persons of which they may be aware

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

8. FURTHER INFORMATION

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

- confidentially contact a nominated disclosure officer within Council – Refer to Appendix 1 of this policy for a list of Council’s disclosure officers
- contact the NSW Ombudsman PID Advice Team by phone: (02) 9286 1000 or email: pidadvice@ombo.nsw.gov.au
- 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.

9. RELATED DOCUMENTS

Related LSC policies include:

- Code of Conduct for Council Staff
- Code of Conduct for Councillors
- Conflict of Interest Policy
- Gifts, Benefits and Bribes Policy
- Fraud and Corruption Policy
- Complaints Management Policy
- Risk Management Policy

Related Legislation includes:

- Public Interest Disclosures Act 2022
- Local Government Act 1993
- Local Government (General) Regulations 2021
- Government Information (Public Access) Act 2009 (GIPA Act)
- Independent Commission Against Corruption Act 1988.

Nothing in this policy limits any applicable legislation.

Greg Tory
GENERAL MANAGER

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APPENDIX 1: LACHLAN SHIRE COUNCIL DISCLOSURE COORDINATORS AND DISCLOSURE OFFICERS

DISCLOSURE COORDINATORS	CONTACT INFORMATION
General Manager	Lachlan Shire Council, 58-64 Molong Street, CONDOBOLIN NSW 2877 Telephone: 02 68951900 Email: council@lachlan.nsw.gov.au
Director Corporate and Community Services	As above

DISCLOSURE OFFICERS	CONTACT INFORMATION
General Manager	Lachlan Shire Council, 58-64 Molong Street, CONDOBOLIN NSW 2877 Telephone: 02 68951900 Email: council@lachlan.nsw.gov.au
Director Corporate and Community Services	As above
Director Infrastructure Services	As above
Director Environment and Planning	As above
Human Resources Manager	As above
Finance Manager	As above
Information Services Manager	As above

DISCLOSURE OFFICERS	CONTACT INFORMATION
Town Planning Manager	As above
Projects and Building Manager	As above
Roads Manager	As above
Urban Works Manager	As above
Utilities Manager	As above
Tourism Manager	As above
Environment and Waste Coordinator	As above
Customer Service Supervisor	As above
Communication and Community Engagement Officer	As above
Work Health and Safety Officer	As above
Any other staff member who supervises staff.	As above.

In addition to the listed disclosure officers, staff can report to their Manager or Supervisor.

For public officials providing services or exercising functions on behalf of Council, such as *contractors*, *subcontractors* or *volunteers*, your Manager is taken to be the person in Council who oversees those services or functions, or who manages your contract or volunteering arrangement.

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APPENDIX 2: LIST OF INTEGRITY AGENCIES

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

Integrity agency	What they investigate	Contact information
Office of the Local Government	Local government pecuniary interest contraventions	Email: olg@olg.nsw.gov.au
The Privacy Commissioner	Privacy contraventions	<p>Telephone: 1800 472 679</p> <p>Writing: GPO Box 7011, Sydney NSW 2001</p> <p>Email: ipcinfo@ipc.nsw.gov.au</p>
The Information Commissioner	Government information contraventions	<p>Telephone: 1800 472 679</p> <p>Writing: GPO Box 7011, Sydney NSW 2001</p> <p>Email: ipcinfo@ipc.nsw.gov.au</p>