

PUBLIC INTEREST DISCLOSURE POLICY

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1. INTRODUCTION

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)

Broken Hill City Council (Council) take reports of serious wrongdoing seriously and 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.

2. POLICY OBJECTIVE

The objective of this policy is to set out:

- how Council will support and protect you if you come forward with a report of serious wrongdoing
- how Council will deal with the report and 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 Council's commitment to building a speak up culture. Part of that speak up culture is having in place the PID Act 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.

3. POLICY SCOPE

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 General Manager, Disclosure Coordinator, other nominated disclosure officers and managers or supervisors within Council have specific responsibilities under the PID Act. This policy also provides information on how people in these roles will fulfil their responsibilities. Other public officials who work in and for the public sector, but do not work for Council may use this policy if they want information to whom they can report wrongdoing within Council.

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 4.1.9 of this policy for more information).

If this policy does not apply to you, you can still make a complaint to Council. This can be done by contacting Council via:

- Phone: 08 8080 3300
- Email: council@brokenhill.nsw.gov.au
- Website: www.brokenhill.nsw.gov.au

For further information please see Council's Complaints Management Policy.

4. POLICY STATEMENT

This policy will provide you with information on the following:

- ways you can make a voluntary PID to Council under the PID Act
- the names and contact details for the nominated disclosure officers at Council
- the roles and 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
- protections available to people who make a report of serious wrongdoing under the PID Act and what Council will do to protect you
- Council procedures for dealing with disclosures
- Council procedures for managing the risk of detrimental action and reporting detrimental action
- Council record keeping and reporting requirements
- how Council will ensure it complies with the PID Act and this policy.

4.1 How to make a report of serious wrongdoing

You can report wrongdoing in writing or verbally. You are encouraged to make a report in writing as this can help to avoid any confusion or misinterpretation.

If a report is made verbally, the person receiving the report must make a comprehensive record of the disclosure and ask the person making the disclosure to sign this record. The employee should keep a copy of this record.

If you are concerned about being seen making a report, ask to meet in a discreet location away from the workplace.

4.1.1 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, Council will consider whether it is a PID. If it is a PID, Council will deal with the report as set out in this policy, but will also act in accordance with Council's Grievance and Complaints Management frameworks.

It is important that Council quickly recognise the receipt of a PID. This is because once a PID is received, the person who has made the report is entitled to certain protections and Council have certain decisions to make on how to deal with the PID and how to protect and support the person who has made the report.

4.1.2 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.

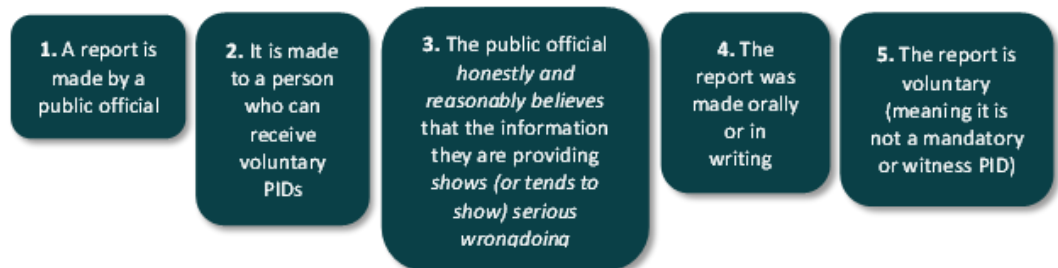
This policy mostly relates to making a voluntary PID and how Council will deal with voluntary PIDs. People who make a mandatory PID or a witness PID are still entitled to protection. More information about protections is available in section 4.2 of this policy.

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:



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

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

Even though you do not have to prove the serious wrongdoing happened or provide evidence, a mere allegation with no supporting information is unlikely to meet this test.

If Council makes an error and does not identify that you have made a voluntary PID, you will still be entitled to the protections under the PID Act.

If you make a report and believe Council have made an error by not identifying that you have made a voluntary PID, you should raise this with a nominated disclosure officer or your contact officer for the report. If you are still not satisfied with this outcome, you can seek an internal review or Council 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 4.6 of this policy.

4.1.3 Who can make a voluntary PID

Any public official can make a voluntary PID. You are a public official if:

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

A public official can make a PID about serious wrongdoing relating to *any* agency, not just the agency they are working for. This means that Council may receive PIDs from public officials outside 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 B of this policy has a list of integrity agencies.

4.1.4 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 in section 4.1.2). Serious wrongdoing is defined in the PID Act as:

Corrupt Conduct

The dishonest or partial exercise of official functions by a public official.

For example this could include:

- a public official accepting a bribe
- the improper use of knowledge, power or position for personal gain or the advantage of others
- acting dishonestly or unfairly, or breaching public trust
- a member of the public influencing a public official to use their position in a way that is dishonest, biased or breaches public trust.

Serious Maladministration

Conduct that involves action or inaction of a serious nature that is contrary to law, unreasonable, unjust, oppressive or improperly discriminatory or based wholly or partly on improper motives.

For example, this could include:

- an agency systemically failing to comply with proper recruitment processes when hiring staff
- making a decision and/or taking action that is unlawful
- refusing to grant someone a licence for reasons that are not related to the merits of their application
- issuing an order against a person without giving them procedural fairness
- failing to make a decision in accordance with official policy with no appropriate reason.

Government Information Contravention

Failure to properly fulfil functions under the *Government Information (Public Access) Act 2009 (GIPA Act)*

For example, this could include:

- destroying, concealing or altering records to prevent them from being released under a GIPA application
- knowingly making decisions that are contrary to the legislation
- directing another person to make a decision that is contrary to the legislation.

Local government pecuniary interest contravention

A local government pecuniary interest contravention is a failure to comply with requirements under the *Local Government Act 1993* relating to the management of pecuniary interests. These include obligations to lodge disclosure of interests returns, lodge written declarations and disclose pecuniary interests at Council and Council committee meetings. A pecuniary interest is an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person.

For example, this could include:

- a senior Council staff member recommending a family member for a Council contract and not declaring the relationship
- the General Manager holding an undisclosed shareholding in a company competing for a Council contract
- a Councillor participating in consideration of a Development Application for a property in which they or their family have an interest.

Privacy contravention

A privacy contravention means a failure, other than a trivial failure, by an agency or public official to exercise functions in accordance with—

- the *Privacy and Personal Information Protection Act 1998*, or
- the *Health Records and Information Privacy Act 2002*.

For example, this could include:

- unlawfully accessing a person's personal information on an agency's database

Serious and substantial waste of public money

Serious and substantial waste is the uneconomical, inefficient or ineffective use of resources that could result in the loss or wastage of public money. This includes all revenue, loans and other money collected, received or held by, for or on account of Council.

For example, this could include:

- an agency not following a competitive tendering process when contracting with entities to undertake government work
- misappropriation or misuse of public property
- purchase of unnecessary or inadequate goods and services
- poor project management practices leading to projects running over time
- having poor or no processes in place for a system involving large amounts of public funds

When you make a report, you do not need to state to Council what category of serious wrongdoing you are reporting or that you are reporting serious wrongdoing.

Who can I make a voluntary PID to?

Council Public Officials

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

- General Manager
- Disclosure Coordinator
- Disclosure Officers - a list of disclosure officers for Council and their contact details can be found at Annexure A of this policy
- Your Manager — this is the person who directly, or indirectly, supervises you. It can also be the person to whom you directly, or indirectly, report. 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.

Recipients outside of Council

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

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

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

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 Council:
 - notification that Council will not investigate the serious wrongdoing and will also not refer the previous disclosure to another agency, or
 - the following information at the end of the investigation period:
 - notice of Council 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.

4.1.5 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 Council to investigate the matter(s) you have disclosed if you cannot be contacted for further information.

4.1.6 What should I include in my report?

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

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

4.1.7 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 Council to understand what is or may be occurring.

Council is then responsible for making sure your report is handled appropriately under the PID Act, or if it is not a PID, in line with all other related 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.

4.1.8 Deeming that a report is a voluntary PID

The General Manager/ delegate can, in certain circumstances, determine that a report is a voluntary PID even if the report does not otherwise have all the features of a voluntary PID. This is known as the 'deeming power'.

By deeming that a report is a voluntary PID, it ensures that reporters are provided with protections under the PID Act.

If you make a report that has not met all the requirements of a voluntary PID, you can refer your matter to the General Manager / delegate 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 General Manager /delegate. For more information about the deeming power, see the Ombudsman's guideline 'Deeming that a disclosure is a voluntary PID'.

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

Questions or concerns can be directed to Council's Disclosure Coordinator - contact details for Disclosure Officers can be found in Annexure A of this Policy.

If you are concerned about being seen making a report, request to meet in a discreet location away from the workplace.

4.2 Protections

4.2.1 How is the maker of a voluntary PID protected?

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

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

Council 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.

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 Council become aware that a voluntary PID by a person employed or otherwise associated with Council, concerns serious wrongdoing relating to Council has been made, Council will undertake a risk assessment and take steps to mitigate the risk of detrimental action occurring against the person who made the voluntary PID.
- It is a criminal offence for someone to take detrimental action against a person because they have made or may make a voluntary PID. It is punishable by a maximum penalty of 200 penalty units or imprisonment for five years or both.
- A person may seek compensation where unlawful detrimental action has been taken against them.
- A person can apply for a court order (injunction) where detrimental action is threatened or has occurred (for example, an order to prevent dismissal or to require reinstatement).

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

Immunity from civil and criminal liability

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

Confidentiality

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

Protection from liability for own past conduct

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

4.2.2 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. 	✓	✓

4.3 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 Council (see **Annexure A**), or to an integrity agency. A list of integrity agencies is located at **Annexure B** of this Policy.

4.4 General Support

Council will ensure that employees who have reported wrongdoing, regardless of whether they have made a public interest disclosure, are provided with access to any professional support they may need as a result of the reporting process – such as stress management, counselling services, legal or career advice. All Council employees have access to the Employee Assistance Programme (EAP), further information on the EAP is available to Council employees on the intranet.

The Disclosures Coordinator, in consultation with the Executive Manager People and Culture, should put in place a care plan to manage any potential ongoing risk to the complainant. For example, if the complainant is currently required to interact directly with the respondent in the workplace, alternative arrangements may be put in place so that contact is avoided.

All supervisors must notify the Disclosure Coordinator if they believe an employee is suffering any detrimental action as a result of disclosing wrongdoing.

4.5 How Council deals with voluntary PIDs

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

When a disclosure officer of Council receives a report which is a voluntary PID, or looks like it may be a voluntary PID, the person who made the report will receive the following information:

You will receive an acknowledgment that the report has been received. This acknowledgement will:

- state that the report will be assessed to identify whether it is a PID
- state that the PID Act applies to how Council deals with the report
- provide clear information on how you can access this PID policy
- provide you with details of a contact person and available supports.

If the report is a voluntary PID, you will be informed as soon as possible how Council intend to deal with the report. This may include:

- that Council is investigating the serious wrongdoing
- that Council will refer the report to a different agency (if appropriate) to deal with the voluntary PID. If this occurs you will be provided with the referral details
- If Council decide to not investigate the report and to not refer it to another agency for it to be investigated, you will be notified of the reasons for this decision. Council will also notify the NSW Ombudsman of this decision.

If Council decide to investigate the serious wrongdoing, you will be provided 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 Council investigate the serious wrongdoing, you will be provided with the following information once the investigation is complete:
 - a description of the results of the investigation - that is, Council will tell you whether it was identified that serious wrongdoing took place.
 - information about any corrective action as a result of the investigation/s - this means Council will tell you what actions were made in relation to the person who engaged in the serious wrongdoing or if the serious wrongdoing was by Council, what has been 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 Council 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. Council will always balance the right of a person who makes a report to know the outcome of that report, with other legal obligations.

If you have made an anonymous report, in many cases Council may not be able to provide this information to you.

4.5.2 How Council will deal with voluntary PIDs

Once a report that may be a voluntary PID is received, Council will look at the information contained in the report to see if it has the features of a voluntary PID. This assessment is undertaken to identify whether the report is a voluntary PID or another type of disclosure, and to make sure that the right steps are followed. If it is a voluntary PID, Council will ensure compliance 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 Council's Grievance Policy, Complaints Management Policy or through an alternate process.

If the report is not a voluntary PID, Council will let you know that the PID Act does not apply to the report and how concerns raised in the report will be dealt with and the supports available to you.

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

Cease dealing with report as voluntary PID

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

If Council decides to stop dealing with a PID as it does not have all the features required by the PID Act you will be notified, provided with the reason(s) Council has determined to stop dealing with the report of a voluntary PID and the actions (if any) which will be taken in dealing with the concerns raised in your report.

Where the report is a voluntary PID

If the report is a voluntary PID:

- In most cases Council will conduct an investigation to make findings about whether the serious wrongdoing disclosed in the report occurred, who was involved, who was responsible, and whether the people involved, or the agency engaged, in serious wrongdoing. There may be circumstances where Council believe an investigation is not warranted — for example, if the conduct has previously been investigated.
- There may also be circumstances where Council decide that the report should be referred to another agency, such as an integrity agency. For example, reports concerning possible corrupt conduct may be required to be reported to the ICAC in accordance with section 11 of the *Independent Commission Against Corruption Act 1988*.
- Before referring a matter, Council 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 Council decide not to investigate a report and to not refer the matter to another agency, Council must let you know the reasons for this and notify the NSW Ombudsman.

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

Council 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 Council reasonably considers it necessary to disclose the information to protect a person from detriment

- where it is necessary the information be disclosed to a person whose interests are affected by the disclosure
- where the information has previously been lawfully published
- when the information is disclosed to a medical practitioner or psychologist for the purposes of providing medical or psychiatric care, treatment or counselling to the individual disclosing the information
- when the information is disclosed for the purposes of proceedings before a court or tribunal
- 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.

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

Steps will be put in place to keep the identifying information of the maker and the fact that a report has been made confidential. It may not be possible to maintain complete confidentiality while progressing the investigation, but Council will do all that is practical to not unnecessarily disclose information from which the maker of the report can be identified. This will be done by:

- limiting the number of people who are aware of the maker's identity or information that could identify them
- not disclosing information that may identify the maker of the PID, if information must be disclosed Council will still not disclose the actual identity of the maker of the PID, unless the maker gives 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, Council will:

- advise the person whose identity may become known
- update the 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 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.

4.5.4 How Council 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.

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

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

- 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 agency will discuss protection options with the maker which may include 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.

4.5.5 How Council will deal with allegations of a detrimental action offence

If Council become(s) aware of an allegation that a detrimental action offence has occurred or may occur, Council 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
- Disclosure Coordinator 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.

If you believe that detrimental action is being taken against you or someone else in relation to the reporting of serious wrongdoing you should tell your supervisor, a Disclosure Officer, the Disclosure Coordinator or the General Manager immediately.

All supervisors must notify the Disclosure Coordinator if they believe an employee is suffering any detrimental action as a result of disclosing wrongdoing.

4.5.6 What Council 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, Council will take the most appropriate action to address that wrongdoing or misconduct. This is also known as corrective action.

Corrective action can include:

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

Council will develop a terms of reference and or investigation plan which will outline:

- who receives the findings of an investigation
- what steps will be taken to address any recommendations in the findings
- who will be responsible for ensuring corrective action takes place
- how the maker will be notified of the proposed or recommended corrective action.

4.6 Review and dispute resolution

4.6.1 Internal Review

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

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

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

If you would like to make an application for an internal review, you must apply in writing to the Disclosure Coordinator, within 28 days of being informed of Council decision. The application should state the reasons why you consider Council's decision should not have been made. You may also submit any other relevant material with your application.

Internal reviews will be conducted by the Disclosure Coordinator in conjunction with the General Manager where necessary.

4.6.2 Voluntary dispute resolution

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

4.7 Other Agency Obligations

4.7.1 Record keeping requirements

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

4.7.2 Reporting of Voluntary PIDs and Council annual return to the Ombudsman

Each year Council's Disclosure Coordinator provide an annual return to the NSW Ombudsman which includes:

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

4.7.3 How Council will ensure compliance with the PID Act and this policy

To ensure Council complies with the PID Act and deals with all reports of wrongdoing properly, all staff and Councillors with roles outlined below and elsewhere in this policy will receive training on their responsibilities.

A report will be presented to Council's Risk and Audit Committee on a case by case bases.

5. IMPLEMENTATION

5.1 Roles and Responsibilities

Certain people within Council have responsibilities under the PID Act.

Role	Responsibility
Principal Officer The General Manager	<ul style="list-style-type: none"> • fostering a workplace culture where reporting is encouraged • receiving disclosures from public officials • ensuring there is a system in place for assessing disclosures • ensuring Council complies with this policy and the PID Act • ensuring Council has appropriate systems for: <ul style="list-style-type: none"> ○ 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.
Disclosure Coordinator	<ul style="list-style-type: none"> • assess reports to determine whether or not a report should be treated as a public interest disclosure, and to decide how each report will be dealt with (either under delegation or in consultation with the General Manager); • coordinate Council's response to a report; • acknowledge reports and provide updates and feedback to the reporter; • assess whether it is possible and appropriate to keep the reporter's identity confidential; • assess and document the risk of reprisal and workplace conflict related to, or likely to arise out of a report, and develop strategies to manage any risk identified; • where required, provide or coordinate support to individuals involved in the reporting or investigation process, including protecting the interests of the subject of a report; • ensure Council complies with the PID Act; • provide annual reports to the NSW Ombudsman in accordance with section 78 of the PID Act.
Disclosure Officers	<ul style="list-style-type: none"> • 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 appropriate complaint unit (if relevant) • ensuring that any oral reports that have been received are recorded in writing.

Managers and Supervisors	<ul style="list-style-type: none"> • receiving reports from persons that report to them or that they supervise • passing on reports they receive to a disclosure officer.
Councillors, all employees, contractors, sub contractors, volunteers and Public Officials from other agencies	<ul style="list-style-type: none"> • report suspected serious wrongdoing or other misconduct • use their best endeavours to assist in an investigation of serious wrongdoing if asked to do so by a person dealing with a voluntary PID on behalf of Council • treat any person dealing with or investigating reports of serious wrongdoing with respect. <p>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.</p>

5.2 Communication

This Policy will be communicated to the community and staff in accordance with Council's Policy, Procedure and Process Framework and Council's Business Paper process. Following adoption by Council the Policy will be made available on Council's website.

6. ASSOCIATED DOCUMENTS

The following documentation is to be read in conjunction with this policy.

- Code of Conduct
- Statement of Business Ethics
- Gifts and Benefits Policy
- Conflicts of Interest Policy
- Fraud Control Policy
- Equal Employment Opportunity Policy
- Complaints Management Policy
- Records Management Policy
- Grievance Policy
- Employee Assistance Programme Policy

7. REVIEW

Review of this policy will incorporate relevant legislation, documentation released from relevant state agencies and best practice guidelines.

The standard review period will be within each term of Council following the Local Government Elections, or as required to ensure that it meets legislation requirements and the needs of the community and Council. The responsible Council officer will be notified of the review requirements three (3) months prior to the expiry of this policy.

The Director Corporate and Community is responsible for the review of this policy.

8. LEGISLATIVE AND LEGAL FRAMEWORK

This policy is to be read in conjunction with the following:

- *Public Interest Disclosure Act 2022*
- *Local Government Act 1993*
- *Government Information (Public Access) Act 2009 (GIPA Act)*
- *Privacy and Personal Information Protection Act 1998*
- *Health Records and Information Privacy Act 2002*
- *the Independent Commission Against Corruption Act 1988*
- *State Records Act 1998*

Council employees shall refrain from personal activities that would conflict with proper execution and management of Council's Public Interest Disclosure Policy. Council's Code of Conduct provides guidance for recognising and disclosing any conflicts of interest.

9. DEFINITIONS

Council	Broken Hill City Council
ICAC	Independent Commission Against Corruption
PID	Public Interest Disclosure
PID Act	Public Interest Disclosures Act 2022

Annexure A – Council Disclosure Officers

Council's Principal Officer
The General Manager
Council's Disclosure Coordinator
Director Corporate and Community Manager Corporate and Customer Experience
Council's Disclosure Officers
Airport Manager Cemetery Service Coordinator Civic Centre Coordinator Gallery and Museum Manager Library Coordinator Living Desert Ranger Visitor Services Coordinator Waste and Sustainability Manager
Contact Information
Each of the above officers can be contacted by staff by all internal communication methods. External Public Officials may contact the above listed officers by the following methods: Telephone: 08 8088 3300 – ask to speak to the relevant officer and state that the matter is confidential. Writing: PO Box 448, Broken Hill NSW 2880 – To remain confidential mail must be addressed to Council's Disclosure Officer and then the relevant Disclosure Officers title Email: council@brokenhill.nsw.gov.au

Annexure B — List of integrity agencies

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