



Ku-ring-gai Council

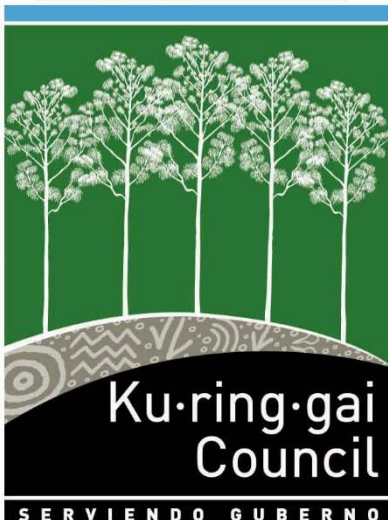
Policy

Public Interest Disclosures

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Public Interest Disclosures

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Controlled Document Information

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Related Policies	Code of Conduct Grievance Policy Employee Assistance Program Policy Fraud and Corruption Prevention Policy
Other References/Further Information	NSW Ombudsman Independent Commission Against Corruption Information and Privacy Commission NSW Audit Office

Version History

Version Number	Version Start Date	Version End Date	Author	Details and Comments
1	15 April 1997			First version.
2	18 July 2007	12 May 2009	John Clark	Ombudsman's model policy 5 th edition .
3	13 May 2009	28 April 2020	Michael Langereis	Revision of nominated disclosure officers.
4	29 April 2020	30 September 2023	Stephen Kwok	Version 4 has been rewritten to align it with the <i>Public Interest Disclosures Act 1994</i> and NSW Ombudsman model policy. Note: This policy (I.E. versions 1 to 3) was previously known as the <i>Internal Reporting Policy – Protected Disclosures</i> .
5	1 October 2023	TBA	Melinda Aitkenhead	Policy updated to reflect new Model Policy from NSW Ombudsman and recent changes to <i>Public Interests Disclosures Act 2022</i> .

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Introduction

Purpose

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

Ku-ring-gai Council takes reports of serious wrongdoing seriously and adheres to the objectives of the PID Act. We have zero tolerance of corruption, maladministration and the waste of public resources. We encourage a speak up culture, where public officials are encouraged to report any conduct that they reasonably believe involves wrongdoing.

The integrity of Council 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 a framework that facilitates public interest reporting of wrongdoing by:

- protecting those who speak up from detrimental action
- taking appropriate action to investigate or otherwise deal with reports of wrongdoing.

This policy should be read in conjunction with Council's Code of Conduct, Grievance Policy and Fraud and Corruption Policy and Strategy.

Who does this policy apply to?

This policy applies to all public officials in NSW who suspect wrongdoing relating to Ku-ring-gai Council. For the purposes of this policy, you are a Council **public official** if you are:

- a Council employee
- a Councillor
- a person employed in the service of Council (e.g. contingent labour)
- a person providing services or exercising functions on behalf of Council, including a contractor, subcontractor or volunteer
- a member of Council advisory or reference committee.

The General Manager, other nominated disclosure officers, managers and 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 Ku-ring-gai Council may use this policy if they want information on who they can report wrongdoing to within Ku-ring-gai Council.

Who does this policy not apply to?

This policy does not apply to:

- residents and other people who have received services from Ku-ring-gai 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 (although there are some circumstances where a complaint can be deemed to be a voluntary PID).

However, you can still make a complaint to Council. This can be done by completing Council's online feedback form on our [website](#), writing to the General Manager at Locked Bag 1006 Gordon NSW 2072 or by phoning 02 9424 0000.

What is contained in this policy?

This policy will provide you with information on the following:

- ways you can make a voluntary PID to Ku-ring-gai Council under the PID Act
- the names and contact details for the nominated disclosure officers in 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 we will do to protect you
- Council's procedures for dealing with disclosures
- Council's procedures for managing the risk of detrimental action and reporting detrimental action
- Council's record-keeping and reporting requirements
- how Council will ensure it complies with the PID Act and this policy.

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

- confidentially contact a nominated disclosure officer within Council
- contact the PID Advice Team within the NSW Ombudsman by phone: (02) 9286 1000 or email: pidadvice@ombo.nsw.gov.au, or
- access the NSW Ombudsman's PID guidelines which are available on its website.

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

Code of Conduct

Under section 9 of Ku-ring-gai Council's Code of Conduct, council officials¹ must not make or threaten to make a complaint or cause a complaint to be made alleging a breach of the code for an improper purpose (such as to bully, intimidate or harass another council official).

¹ Note that there are slight differences in the definition of a "council official" under the Code of Conduct and a "public official" under the PID Act. While Council employees and councillors are included under both definitions, the provisions of the Code of Conduct do not generally extend to contingent labour, contractors and volunteers).

Council officials making a PID for an improper purpose where it is trivial, frivolous, vexatious or not made in good faith may be considered in breach of the Code of Conduct and managed in accordance with the procedures.

Roles and responsibilities

General Manager

The General Manager is responsible for:

- fostering a workplace culture where reporting is encouraged
- receiving disclosures from public officials
- ensuring there is a system in place for assessing disclosures
- ensuring Ku-ring-gai Council complies with this policy and the PID Act
- ensuring that reports made under Council's Code of Conduct are dealt with in accordance with Council's adopted Code of Conduct procedures
- ensuring that Council has appropriate systems for:
 - overseeing internal compliance with the PID Act
 - supporting public officials who make voluntary PIDs, including by minimising the risk of detrimental action
 - implementing corrective action if serious wrongdoing is found to have occurred
 - complying with reporting obligations regarding allegations or findings of detrimental action
 - complying with yearly reporting obligations to the NSW Ombudsman.

Disclosure Coordinator

The Disclosure Coordinator is responsible for:

- assessing 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)
- coordinating Council's response to a report
- acknowledging reports and provide updates and feedback to the reporter
- assessing whether it is possible and appropriate to keep the reporter's identity confidential
- assessing the risk of reprisal and workplace conflicted related to or likely to arise out of a report, and develop strategies to manage any risk identified

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- where required, providing or coordinating support to staff involved in the reporting or investigation process, including protecting the interests of any office the subject of a report
- providing six-monthly reports to the NSW Ombudsman in accordance with the PID Act.

Disclosure officers

Disclosure officers are responsible for:

- receiving reports from public officials
- receiving reports when they are passed on to them by managers and supervisors
- ensuring that any oral reports that have been received are recorded in writing
- directing reports to the Disclosure Coordinator for assessment.

The Mayor can receive reports from public officials about the General Manager. Where the Mayor receives such reports, the Mayor has the same responsibilities as a disclosure officer.

Managers and supervisors

The responsibilities of managers and supervisors include:

- receiving reports from persons that report to them or that they supervise
- passing on reports they receive to a disclosure officer.

Councillors and employees

All Councillors and employees must:

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

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

Governance team

The Manager Governance and Corporate Strategy and the Governance team are responsible for:

- reviewing and updating this policy and supporting systems.
- providing training and information to staff on the PID Act, the importance of reporting wrongdoing and the protections available to them under the Act
- maintaining a secure and confidential process for public officials to make disclosures.

How to make a report of serious wrongdoing

Reports, complaints and grievances

Public officials should report any suspected wrongdoing within Ku-ring-gai Council or any activities of incidents you see within Council that you believe are wrong.

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, if 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. If a staff member makes a report under this policy which is substantially a grievance, the matter may be referred to People & Culture to be dealt with in accordance with Council's Grievance Policy.

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 and we have certain decisions that we must make on how we will deal with the PID and how we will protect and support the person who has made the report.

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 we 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 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.

If the report has all five features shown in Figure 1, it is a voluntary PID.

You will not be expected to prove that what you reported 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 we make an error and do not identify that you have made a voluntary PID, you will still be entitled to the protections under the PID Act.

If you make a report and believe we have made an error by not identifying that you have made a voluntary PID, you should raise this with a nominated disclosure officer or your contact officer for the report. 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 found in this policy.



Figure 1: Five features of a voluntary PID

Who can make a voluntary PID?

Any public official can make a voluntary PID.

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 Council. 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 A of this policy has a list of integrity agencies.

What is serious wrongdoing?

Reports must be of one or more of the following categories of **serious wrongdoing** to be a voluntary PID. Serious wrongdoing is defined in the PID Act as:

- **corrupt conduct** — such as a public official accepting a bribe
- **serious maladministration** — such as Council systemically failing to comply with proper recruitment processes when hiring staff
- **a government information contravention** — such as destroying, concealing or altering records to prevent them from being released under the Government Information (Public Access) Act (GIPA Act)
- **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 Council's information management systems
- **a serious and substantial waste of public money** — such as Council not following a competitive tendering process when contracting with entities to undertake work.

When you make your report, you do not need to state 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 to:

- the **General Manager**

- a **disclosure officer** for Ku-ring-gai Council — a list of disclosure officers for Council and their contact details can be found at **Annexure A** of this policy
- your **manager or supervisor** — 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 or supervisor. Your manager or supervisor will make sure that the report is communicated to a disclosure officer on your behalf or may accompany you while you make the report to a disclosure officer.

If your public interest disclosure involves a councillor, you can make it to the General Manager. If your public interest disclosure relates to the General Manager, you can make it to the Mayor.

You can also make your report to a public official in another agency, including:

- the head of any public service agency
- an integrity agency listed in **Annexure A** of this policy
- a disclosure officer for another agency (contact details for disclosure officers for other agencies are in their 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 us so that appropriate action can be taken.

Making a report to a Member of Parliament or journalist

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

- You must have first made substantially the same disclosure (described here as a 'previous disclosure') to someone who can receive disclosures.
- The previous disclosure must be substantially true.
- You did not make the previous disclosure anonymously.
- You did not give a written waiver of your right to receive information relating to your previous disclosure.
- You did not receive the following from Ku-ring-gai 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 period²:
 - o notice of Council’s decision to investigate the serious wrongdoing
 - o a description of the results of an investigation into the serious wrongdoing
 - o details of proposed or recommended corrective action because of the previous disclosure or investigation.

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** — 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 Ku-ring-gai Council to investigate the matter(s) you have disclosed if we cannot contact you for further information.

Ku-ring-gai Council also has a confidential online Public Interest Disclosure Form that can be used to make a report. This form helps to guide you through all the information required for us to assess the PID. It can be accessed [here](#) and a printable version is in **Annexure B** of this policy.

What should I include in my report?

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

- date, time and location of key events

² 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.

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

What 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 Ku-ring-gai Council to understand what is or may be occurring.

We are then responsible for making sure your report is handled appropriately under the PID Act, or if it is not a PID, in line with our other procedures. Even if your report is not a PID, it may fall within another one of the agency's policies for dealing with grievances 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 the requirements of a voluntary PID, you can refer your matter to the General Manager to request that they consider deeming your report to be a voluntary PID, such requests should be made in writing.

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 Ombudsman's guideline 'Deeming that a disclosure is a voluntary PID'.

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

At Ku-ring-gai Council, we value transparency and take any concerns seriously. We are committed to addressing issues promptly and effectively.

If you have any concerns or require further information regarding PIDs, we encourage you to reach out to the Disclosure Coordinator or another disclosure officer (see contact details in **Annexure A**). Your communication will be handled with the utmost discretion and confidentiality.

How we will deal with voluntary PIDs

Procedure for managing a voluntary PID

See Figure 2 below for an overview of how Ku-ring-gai Council will deal with a voluntary PID.

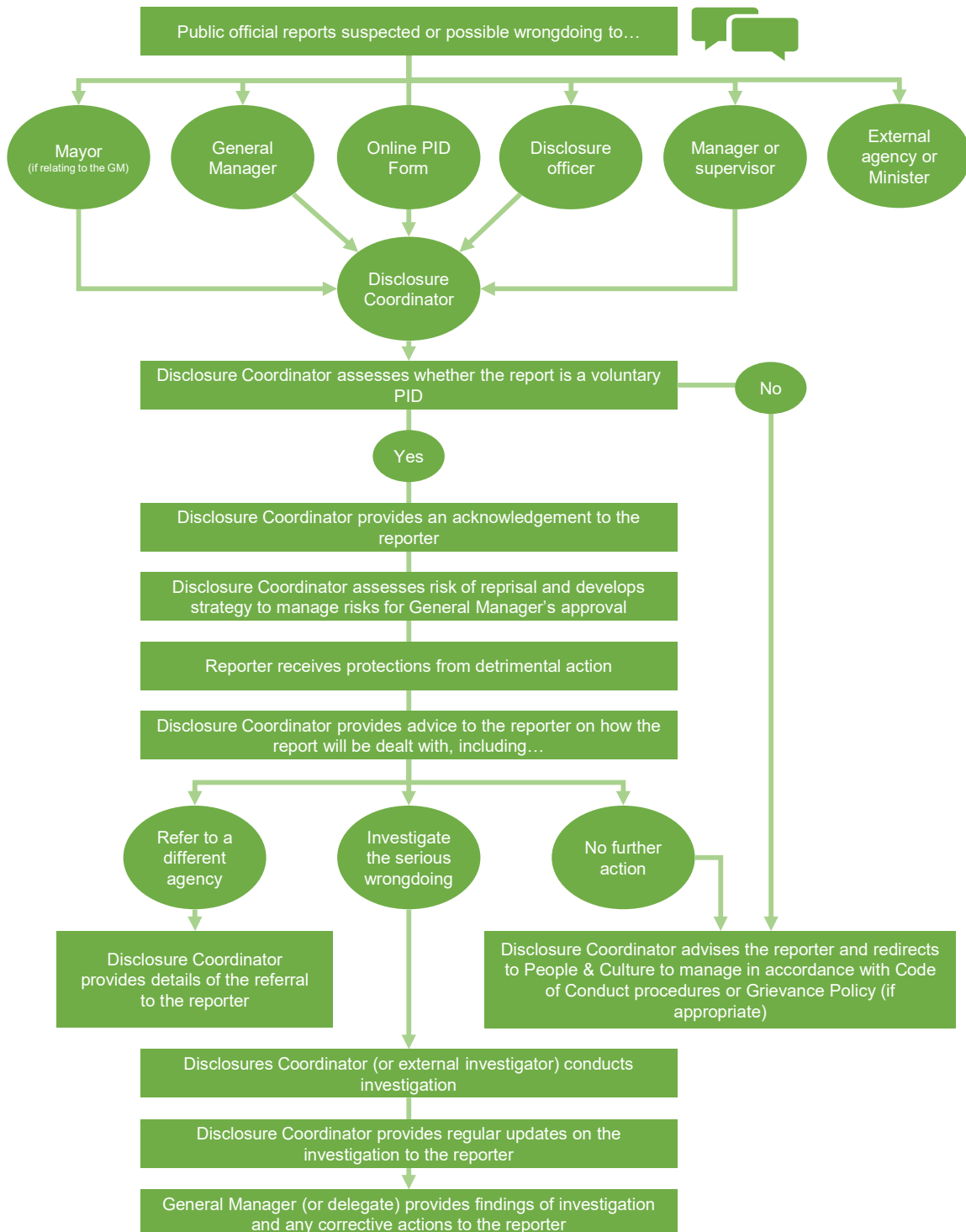


Figure 2: Procedure for managing a voluntary PID

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How Ku-ring-gai Council will acknowledge that we have received a report and keep the person who made it informed

When a disclosure officer in Ku-ring-gai 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 from the Disclosure Coordinator:

- 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, 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.
- 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 because of the investigation — 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 because 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 Ku-ring-Gai Council will deal with voluntary PIDs

Once a report that may be a voluntary PID is received Ku-ring-gai 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 by the Disclosures Coordinator 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 the report is not a voluntary PID, it will still need to be dealt with in a manner consistent with our Code of Conduct procedures, Grievance Policy or through an alternate process.

If the report is not a voluntary PID, the Disclosures Coordinator 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 General Manager, Disclosures Coordinator 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

Ku-ring-gai 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). Should this occur, the Disclosures Coordinator will advise the reporter and provide them with information on what action, if any will be taken matter. This may include directing it to People and Culture to be managed in accordance with Code of Conduct procedures or the Grievance Policy.

Where the report is a voluntary PID

If the report is a voluntary PID:

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

How Ku-ring-gai Council will 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 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.

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

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

The Disclosures Coordinator will do this by:

- limiting the number of people who are aware of the maker's identity or information that could identify them
- seeking the maker's consent before disclosing any information that may identify them, even if we must disclose this for the reasons outlined above
- 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.

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

- advise the person whose identity may become known
- implement a strategy to minimise the risk of detrimental action
- provide support to the person who has made the PID
- remind persons who become aware of the identifying information of the consequences for failing to maintain confidentiality and that engaging in detrimental action is a criminal offence.

How Ku-ring-gai Council will assess and minimise the risk of detrimental action

Ku-ring-gai 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.

The Disclosures Coordinator will take steps to assess and minimise the risk of detrimental action by assessing the risk of reprisal and developing a strategy to manage identified risks. This may include remote working, leave or alternate duties. This risk assessment and strategy will be developed in consultation with the PID maker and the Manager People and Culture and approved by the General Manager.

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.

How Ku-ring-gai Council will deal with allegations of a detrimental action offence

If Ku-ring-gai Council becomes 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
- 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.

A victim of detrimental action should speak to the General Manager, the Disclosures Coordinator or a disclosure officer. The Disclosure Coordinator take all steps required to protect the PID maker and ensure support is provided. The General Manager is responsible for taking appropriate disciplinary action and making referrals.

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

Corrective action can include:

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

The findings and recommendations of an investigation will be referred to the General Manager. The General Manager will be responsible for ensuring that corrective action takes place, and that the maker is notified of the proposed or recommended corrective actions.

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 Ku-ring-gai Council that 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, to make a PID, public officials will need to breach or disregard such confidentiality duties. If that happens, a public official cannot be disciplined, sued or criminally charged for breaching confidentiality.

Confidentiality

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

Protection from liability for own past conduct

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

Protections for 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.

Council will not tolerate any reprisal against staff or councillors who report wrongdoing or are believed to have reported wrongdoing. Protections for makers of mandatory and witness PIDs are detailed below.

Protection from 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:

- breaching a duty of secrecy or confidentiality, or
- breaching another restriction on disclosure.

Reporting detrimental action

If you experience adverse treatment or detrimental action, such as bullying or harassment, you should report this immediately. You can report any experience of adverse treatment or detrimental action directly to the General Manager, the Disclosures Coordinator, any of Ku-ring-gai Council's disclosure officers or to an integrity agency (see contact details in **Annexure A**).

General support

Ku-ring-gai Council will provide support to any person who makes a PID. The Disclosure Coordinator or a disclosure officer will be assigned as the key contact person for a PID make. They will be their key contact person, provide advice and support and take steps to protect them against detrimental action.

Council will make sure that staff who have reported wrongdoing, regardless of whether their report is treated as a PID, are provided access to any professional support they may need as a result of the reporting process, including counselling services.

Please refer to Council's Employees Assistance Program Policy for further information.

Review and dispute resolution

Internal review

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

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

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

If you would like to make an application for an internal review, you must apply in writing within 28 days of being informed of Council's 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 review applications should be sent to the General Manager. The General Manager will nominate a disclosure officer who was not directly involved in the matter (or an external investigator) to conduct the review.

Voluntary dispute resolution

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

Other obligations

Record-keeping requirements

Ku-ring-gai 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*.

All information received in relation to suspected acts of wrongdoing will be stored securely within Council's electronic document management system (Content Manager) and managed in accordance with Council's Records Management Policy). Only authorised officers (including the Disclosures Coordinator) will have access to these records.

Reporting of voluntary PIDs and Ku-ring-gai Council annual return to the Ombudsman

Each year, Ku-ring-gai Council will 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.

How Ku-ring-gai Council will ensure compliance with the PID Act and this policy

It is important the Council has mechanisms in place for monitoring the effectiveness of this PID policy and for ensuring compliance with the PID Act.

Council will provide appropriate training to disclosure officers, managers and supervisors on their roles and responsibilities under the PID Act. All staff will receive information and training on induction and during regular refresher training.

This policy will be reviewed regularly to ensure that it remains up-to-date and effective.

Compliance measures may also be assessed as part of Council's Internal Audit program.

Information about public interest disclosures is published in Council's Annual Report.

Contact details (Annexure A)

Contact us

Ku-ring-gai Council has an online Public Interest Disclosure (PID) Form that public officers can use to make a report under the *Public Interest Disclosure Act 2022*.

This form allows public officers to disclose serious wrongdoing that they have witnessed or become aware of in the course of their work. The form can be accessed [here](#) and a printable version is in **Annexure B** of this policy.

The PID Form is a secure and confidential way for public officers to make a PID. Any information provided on the form will be treated with the utmost discretion and will only be shared with those who need to know to investigate the matter.

Public officers who are unsure about whether the wrongdoing they have witnessed or become aware of is serious enough to warrant a PID can contact the Disclosures Coordinator or a disclosure officer.

Disclosures Coordinator

Council's Disclosures Coordinator is responsible for handling PIDs in accordance with this policy and is the key contact for any matters relating to PIDs at Ku-ring-gai Council.

Jamie Taylor

Corporate Lawyer

Email: dtaylor@krg.nsw.gov.au

Telephone: 9424 0703

Disclosure officers

To be a PID, a report of serious wrongdoing must generally be made to a person's own manager, supervisor or to an agency's disclosure officer. The contact details for the disclosure officer(s) at each Council work site can be found in the table below.

<i>Location</i>	<i>Role</i>	<i>Contact information*</i>
Council Chambers 818 Pacific Highway, Gordon	Acting General Manager	
	Manager Governance & Corporate Strategy	
	Senior Governance Officer	
Gordon Office 828 Pacific Highway, Gordon	Manager People & Culture	
Pymble Office 31 Bridge St, Pymble	Director Operations	
	Manager Technical Services	
Pymble Depot 5 Suakin St, Pymble	Director Operations	
	Manager Infrastructure Services	
Gordon Library 799 Pacific Hwy, Gordon	Manager Library Services	
Lindfield Library 265 Pacific Hwy, Lindfield	Library Team Leader	
St Ives Library 166 Mona Vale Rd, St Ives		
Turramurra Library 5 Ray St, Turramurra	Library Team Leader	
Ku-ring-gai Art Centre 3 Recreation Ave, Roseville	Arts & Cultural Coordinator	
Thomas Carlyle Children's Centre 2C Carlyle Rd, East Lindfield	Director TCC Children's Centre	
Wildflower Garden 420 Mona Vale Rd, St Ives	Venues Coordinator	

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Gordon Golf Course Lynn Ridge Avenue, Gordon	Golf Supervisor - Gordon Pro Shop	
	Team Leader Golf Courses	
North Turramurra Golf Course 361a Bobbin Head Road, North Turramurra	Greenkeeper	

*As at August 2023. Check Council's intranet (Kasey) for the latest contact details.

NSW integrity agencies

The PID Act classifies certain agencies as integrity agencies. These are the external agencies to which a public official might wish to make a PID, outside of Ku-ring-gai Council.

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: icac_executive@icac.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: olecc_executive@olecc.nsw.gov.au
Office of the Local Government	Local government pecuniary interest contraventions	Email: olg@olg.nsw.gov.au
The Privacy Commissioner	Privacy contraventions	Telephone: 1800 472 679 Writing: GPO Box 7011, Sydney NSW 2001 Email: ipcinfo@ipc.nsw.gov.au
The Information Commissioner	Government information contraventions	Telephone: 1800 472 679 Writing: GPO Box 7011, Sydney NSW 2001 Email: ipcinfo@ipc.nsw.gov.au

Public Interests Disclosure Form (Annexure B)

Ku-ring-gai Council Public Interest Disclosure (PID) Form

Public officers can use the following form to make a report under the Public Interest Disclosure Act 2022 and disclose serious wrongdoing that they have witnessed or become aware of in the course of their work. The online form can be accessed [here](#).

For this report to be a voluntary PID under Council's policy, it must be sent to the General Manager, a disclosure officer for Ku-ring-gai Council (see contact details in Annexure A of Council's PID policy), your manager or supervisor, or other officials as detailed in the policy).

Details of reporter (You can make an anonymous report by leaving this section blank)

Name:		
Position:		Preferred contact method
Telephone number:		<input type="checkbox"/> Telephone
Email:		<input type="checkbox"/> Email
Postal address:		<input type="checkbox"/> Post

Details of the wrongdoing being reported (attach an additional page if required)

Description, for example: <ul style="list-style-type: none"> What happened? Where did this happen? When did this happen? Is it still happening? How did you become aware of this? 		
Name and position of people involved in the wrongdoing:	Name	Position
Attach any additional relevant information or indicate where supporting evidence may be found:	Supporting evidence	Attached
		<input type="checkbox"/>
Name and position of other people who may have additional information:	Name	Position

Statement

I honestly believe that the above information shows or tends to show wrongdoing.

Signature of reporter
(Do not sign if you want to make an anonymous report)

Date report submitted
(Essential information)