



PUBLIC INTEREST DISCLOSURES POLICY

Adopted: XXX

TRIM: XXX



1. WHAT IS CONTAINED IN THIS POLICY?

1.1 This policy provides information on the following:

- ways you can make a voluntary public interest disclosure (PID) to the Council under the Public Interest Disclosures Act 2023 (PID Act);
- the names and contact details for Council's nominated disclosure officers;
- the roles and responsibilities of people who hold particular roles under the PID Act and who are employees of the 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;
- the Council's procedures for dealing with disclosures;
- the Council's procedures for managing the risk of detrimental action and reporting detrimental action;
- the Council's record-keeping and reporting requirements; and
- how the Council will ensure it complies with the PID Act and this policy.

1.2 Further information about this policy, how public interest disclosures will be handled and the PID Act can be obtained by:

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

1.3 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.

2. LEGISLATIVE FRAMEWORK

Government Information (Public Access) Act 2009 (**GIPA**)
Independent Commission Against Corruption Act 1988
Local Government Act 1993
Ombudsman Act 1974
Privacy and Protection of Personal Information Act 1998
Public Interest Disclosures Act 2022
State Records Act 1998

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3. DEFINITIONS

- 3.1 This section sets out key definitions used in the policy. A word or expression used in this policy has the same meaning as it has in the PID Act. Some of those definitions are repeated in this policy for convenience, but in the case of any conflict the definition in the PID Act applies.

Anonymous, in relation to a disclosure, means that, taking into account the circumstances of the disclosure and the accompanying material, there is no reasonably practicable means of communicating with the maker of the disclosure about the disclosure, whether or not the maker's name is known.

Breach of the GIPA Act is a failure to properly fulfil functions under the *Government Information (Public Access) Act 2009* (the GIPA Act). For example, this could include:

- (a) Destroying, concealing or altering records to prevent them from being released;
- (b) Knowingly making decisions that are contrary to the GIPA Act;
- (c) Directing another person to make a decision that is contrary to the GIPA Act.

CEO means the Chief Executive Officer of Council.

Corrective action includes the following:

- (a) in relation to an employee, an action specified in section 69(4) of the *Government Sector Employment Act 2013*;
- (b) an action authorised by an Act, law, procedure or policy in accordance with which serious wrongdoing is investigated;
- (c) a formal apology by Council;
- (d) reform within Council, including—
 - i. improvements to relevant policies or procedures, or
 - ii. structural change, or
 - iii. the reallocation of resources, or
 - iv. additional training or educational measures;
- (e) the publication of a finding of serious wrongdoing or other misconduct and a report in support of the finding;
- (f) the payment of compensation to persons affected by serious wrongdoing or other misconduct.

Corrupt conduct is the dishonest or partial exercise of official functions by a public official. For example, this could include:

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- a) The improper use of knowledge, power or position for personal gain or the advantage of others;
- b) Acting dishonestly or unfairly, or breaching public trust;
- c) A member of the public influencing or trying to influence a public official to use their position in a way that is dishonest, biased or breaches public trust.

Council means Liverpool City Council.

Detriment to a person means disadvantage to the person, including the following—

- (a) injury, damage or loss caused to the person,
- (b) damage caused to the person's property,
- (c) damage caused to the person's reputation,
- (d) intimidation, bullying or harassment,
- (e) unfavourable treatment in relation to the person's career, profession, employment or trade,
- (f) discrimination, prejudice or adverse treatment, whether in relation to employment or otherwise,
- (g) disciplinary proceedings or disciplinary action.

Detrimental action against a person means an act or omission causing, comprising, involving or encouraging –

- (a) detriment to the person, or
- (b) the threat of detriment to the person, whether express or implied,

but does not include –

- (a) lawful action taken by a person or body to investigate serious wrongdoing or other misconduct,
- (b) the lawful reporting or publication of a finding of serious wrongdoing or other misconduct, or the lawful making of adverse comment, resulting from investigative action mentioned in paragraph (a),
- (c) the prosecution of a person for a criminal offence

Disclosure Officer means a person responsible for receiving voluntary public interest disclosures on behalf of Council. A list of Disclosure Officers can be found in Annexure A to this policy and may be updated by the CEO.

Disclosures Coordinator means the Council's Head of Governance.

Government information contravention is a failure to exercise functions in accordance with:

- a) the Government Information (Information Commissioner) Act 2009 – in relation to working with the Information Commissioner; or

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- b) the Government Information (Public Access) Act 2009 – in relation to releasing government information to the public; or
- c) the State Records Act 1998 – in relation to providing public access to Council records.

ICAC means the Independent Commission Against Corruption.

Integrity agency means one of the following:

- (h) the Ombudsman,
- (i) the Auditor-General,
- (j) the Independent Commission Against Corruption,
- (k) the Inspector of the Independent Commission Against Corruption,
- (l) the Law Enforcement Conduct Commission,
- (m) the Inspector of the Law Enforcement Conduct Commission,
- (n) the Privacy Commissioner,
- (o) the Information Commissioner,
- (p) the Secretary of the Department of Planning, Industry and Environment when exercising functions under the relevant provisions of the *Local Government Act* 1993,
- (q) a person or body declared by the regulations to be an integrity agency for the purposes of the PID Act.

Local government pecuniary interest contravention is a failure to fulfil certain functions under the *Local Government Act* 1993 relating to the management of pecuniary interests. These include obligations to submit disclosure of interests returns, submit 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) A senior Council staff member recommending a family member for a Council contract and not declaring the relationship;
- b) A Councillor participating in consideration of a development application for a property in which they or their family have an interest.

Manager of a public official has the meaning given in the PID Act and includes:

- (a) a line manager, being a public official to whom a public official reports directly or indirectly;
- (b) a supervisor, being a public official who directly supervises a public official in the exercise of the public official's functions;
- (c) a contract manager, being the person responsible for overseeing the provision of services to Council or the exercise of Council functions.

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Mandatory PID means a disclosure about serious wrongdoing made by persons that this policy applies to in the ordinary requirements of their role or functions, or under their legal obligations.

PID means a public interest disclosure.

PID Act means the *Public Interest Disclosures Act 2022*.

Public official has the meaning given in the PID Act and includes:

- (a) the Mayor or a Councillor;
- (b) an employee of Council, whether full-time, part-time, temporary or casual;
- (c) a person providing services to Council or exercising Council functions, including a contractor, subcontractor or volunteer;
- (d) an employee, partner or officer of an entity that provides services on behalf of Council or exercises Council functions.

Serious and substantial waste of public money is the uneconomical, inefficient or ineffective use of resources that could result in losing or wasting of public money. For example, this could include:

- a) Not following a competitive tendering process for a large scale contract;
- b) Having bad or no processes in place for a system involving large amounts of public funds.

Serious maladministration is 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:

- a) Making a decision and/ or taking action that is unlawful;
- b) Refusing to grant an approval for reasons that are not related to the merits of their application.

Serious wrongdoing means one or more of the following:

- (a) corrupt conduct,
- (b) a government information contravention,
- (c) a local government pecuniary interest contravention,
- (d) serious maladministration,
- (e) a privacy contravention,
- (f) a serious and substantial waste of public money.

Voluntary PID means a disclosure made honestly, and on reasonable grounds, by a public official about serious wrongdoing. The disclosure can be made anonymously, orally, or in writing.

Witness PID means a disclosure of information at the request of or in response to Council investigating a serious wrongdoing, whether or not the investigation is in relation to a voluntary PID.

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4. PURPOSE/ OBJECTIVES

4.1 The PID Act seeks to:

- (a) facilitate the disclosure by public officials of serious wrongdoing in or affecting the public sector,
- (b) promote a culture in which public interest disclosures are encouraged,
- (c) protect public officials, witnesses and other persons from detriment or liability that might arise as a result of public interest disclosures,
- (d) provide for the establishment and publication of policies and procedures for receiving and dealing with disclosures that are or may be voluntary public interest disclosures,
- (e) ensure the interests of all persons affected by public interest disclosures are taken into account in dealing with the disclosures,
- (f) provide for independent oversight of the public interest disclosure scheme established by this Act.

4.2 This policy sets out how Council will implement the PID Act and seeks to:

- (a) Establish an reporting system for public officials to report wrongdoing without fear of reprisal;
- (b) Explain to whom public officials can report wrongdoing in Council, what can be reported and how reports of wrongdoing will be dealt with by Council;
- (c) Complement normal communication channels between public officials and disclosure officers who can receive reports of serious wrongdoing;
- (d) Ensure that Council will take all reasonable steps to support and protect public officials from detrimental action in response to a report of serious wrongdoing.

5. COUNCIL COMMITMENT

5.1 Council is committed to acting in accordance with the PID Act by:

- (a) creating a culture of speaking up and a climate of trust, where any public official is comfortable and confident about reporting wrongdoing;
- (b) encouraging public officials to come forward, if they have witnessed what they consider to be serious wrongdoing within Council;
- (c) protecting public officials from detrimental action in response to a report of serious wrongdoing;
- (d) dealing with reports thoroughly and impartially and, if some form of wrongdoing has been found, taking corrective action;
- (e) keeping people who make reports and those who are the subject of reports informed of progress and outcomes;

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- (f) respecting decisions to disclose wrongdoing outside Council if the disclosure is made in accordance with the PID Act;
- (g) training disclosure officers and public officials and raising awareness of the PID Act and this policy;
- (h) making Council's public officials aware of their responsibility to report serious wrongdoing and act in the best interests of the public and Council by doing so;
- (i) providing adequate resources, both financial and human, to achieve these commitments.

6. WHO DOES THIS POLICY APPLY TO?

6.1 This policy applies to, and for the benefit of all public officials, which in Council's context include:

- (a) the Mayor or a Councillor;
- (b) an employee of Council, whether full-time, part-time, temporary or casual;
- (c) a person providing services to Council or exercising Council functions, including a contractor, subcontractor or volunteer;
- (d) an employee, partner or officer of an entity that provides services on behalf of Council or exercises Council functions.

6.2 Public officials of another agency may use this policy if they want to report wrongdoing within Council.

6.3 This policy does not apply to people who want to complain about services provided by Council. Complaints that are not covered by this policy can be lodged by contacting Council's Customer Service Centre on 1300 36 2170 or via the online request service available at the following address on Council's website:

<https://mycouncil.liverpool.nsw.gov.au/ePathway/Production/web/mobility/citywatch/>

7. ROLES AND RESPONSIBILITIES

7.1 The role of Council

7.1.1 Council is responsible for establishing and maintaining a working environment that encourages members of Council staff and Councillors to speak up and report serious wrongdoing and supporting them when they do. This includes keeping the identity of reporters confidential where practical and appropriate, and taking steps to protect reporters from reprisal and to manage workplace conflict.

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7.1.2 Council will assess all reports of wrongdoing that it receives from members of Council staff and Councillors and deal with them appropriately. Once wrongdoing has been reported, Council takes “ownership” of the matter. This means it is up to Council to decide whether a report should be investigated, how it should be investigated and by whom. Council will deal with all reports of wrongdoing fairly and reasonably and respect the rights of any person the subject of a report.

7.1.3 Council must report on its obligations under the PID Act and provide statistical information about PIDs in its annual report and to the NSW Ombudsman every six months.

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

7.2 Mayor

7.2.1 The Mayor can receive reports from members of Council staff and Councillors about the CEO. The Mayor is a Disclosure Officer in respect of such complaints.

7.3 Chief Executive Officer

7.3.1 The CEO has responsibility for:

- (a) ensuring compliance with this policy and the PID Act;
- (b) fostering a workplace culture where reporting is encouraged; and
- (c) receiving reports of wrongdoing from public officials.

7.3.2 The CEO will ensure there are systems in place for:

- (a) assessing disclosures;
- (b) overseeing internal compliance with the PID Act;
- (c) supporting public officials who make voluntary PIDs, including by minimising the risk of detrimental action and managing workplace conflict that may arise in relation to a report;
- (d) taking appropriate remedial action where serious wrongdoing is substantiated;
- (e) complying with reporting obligations regarding allegations or findings of detrimental action, including reporting to ICAC where there is a reasonable suspicion of corrupt conduct;
- (f) complying with yearly reporting obligations to the NSW Ombudsman.

7.3.3 The CEO is one of Council’s Disclosure Officers and will oversee the handling of reports alleging serious wrongdoing by the Mayor or Councillors.

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- 7.3.4 The CEO will appoint Disclosure Officers after consultation with the Disclosures Coordinator and may update Annexure A to the policy.

7.4 Disclosures Coordinator

- 7.4.1 The Disclosures Coordinator has a central role in Council's internal reporting system. The Disclosures Coordinator will coordinate Council's implementation of the PID Act and this policy, which will include:

- (a) developing and implementing systems that the CEO is required to ensure are in place;
- (b) supporting Council staff involved in the reporting or investigation process, including protecting the interests of any person the subject of a report;
- (c) updating this policy and developing processes that promote Council's compliance with the PID Act;
- (d) providing reports to the NSW Ombudsman in accordance with the PID Act.

- 7.4.2 The Disclosures Coordinator is also a Disclosures Officer and can receive and assess reports from members of Council staff and Councillors. The Disclosures Coordinator will deal with reports made under the Code of Conduct in accordance with the Code of Conduct Procedures.

7.5 Disclosure Officers

- 7.5.1 Disclosure Officers are responsible for:

- (a) receiving reports from public officials;
- (b) receiving reports passed to them by managers;
- (c) ensuring reports are dealt with appropriately under this policy;
- (d) referring complaints that should not be dealt with under this policy to the appropriate person or team under Council's complaints policy;
- (e) having oral reports recorded in writing.

- 7.5.2 Disclosures Officers should provide advice about the application of this policy and assist public officers to make reports.

7.6 Managers

- 7.6.1 The responsibilities of managers include:

- (a) receiving reports from people that report to them or that they supervise (in the case of project managers this includes reports from contractors, subcontractors or volunteers that they manage);
- (b) passing reports they receive to a disclosure officer.

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7.6.2 Managers play an important role in managing the immediate workplace of those involved in or affected by the reporting of wrongdoing. They are responsible for creating a work environment where people are comfortable and confident about reporting wrongdoing. They have a responsibility to:

- (a) encourage members of Council staff to report known or suspected wrongdoing within Council and to support members of Council staff when they do so;
- (b) implement local management strategies, in consultation with the Disclosures Coordinator, to minimise the risk of reprisal or workplace conflict in relation to a report;
- (c) notify the Disclosures Coordinator or CEO immediately if they believe a Council staff member is being subjected to reprisal as a result of reporting wrongdoing, or in the case of suspected reprisal by the CEO, notify the Mayor.

7.7 Council staff, Councillors, contractors and volunteers

7.7.1 Paragraph 6.1 identifies who may be a public official in Council's operating environment.

7.7.2 All public officials, including Council staff, Councillors, contractors and volunteers play an important role in contributing to a workplace where serious wrongdoing is reported and dealt with appropriately. All public officials, are obliged to:

- (a) Report known or suspected serious wrongdoing and support those who have made reports of wrongdoing;
- (b) If requested, assist those dealing with a report, including supplying information on request, cooperating with any inquiry or investigation and maintaining confidentiality;
- (c) Treat any Council staff member or person dealing with a report of serious wrongdoing with courtesy and respect;
- (d) Respect the rights of any person the subject of a report.

7.7.3 A public official may take reasonable action in relation to a person who has made a report but must not engage in an act or omission that causes, comprises, involves or encourages detriment to the person or the threat of detriment. Detriment means disadvantage to the person and the PID Act gives examples of what may amount to detriment.

7.7.4 A public official must not make false or misleading reports of serious wrongdoing.

7.7.5 The behaviour of any member of Council staff and any Councillor involved in the internal reporting process must adhere to Council's Code of Conduct. A breach of the Code of Conduct can result in disciplinary action.

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8. HOW TO REPORT SERIOUS WRONGDOING

8.1 What should be reported?

- 8.1.1 Public officials are required to report serious wrongdoing. Employees and other public officials should report any activities or incidents that they observe within Council that they believe are wrong, even if unsure whether they are serious wrongdoing.
- 8.1.2 This policy defines serious wrongdoing in accordance with the PID Act. Table 1 sets out examples of serious wrongdoing in Council's context and identifies potential categories of serious wrongdoing that may apply. These examples do not limit the scope of conduct that may constitute serious wrongdoing under the PID Act and the suggested categorisations are indicative and non-exclusive.

Table 1: Examples of serious wrongdoing

Example conduct	Specific example	Potential wrongdoing
Exercising a Council function without disclosing a conflict of interest	Awarding a contract, or granting an approval, when the person has a pecuniary interest	<ul style="list-style-type: none">- Corrupt conduct- Local government pecuniary interest contravention
Using Council resources for private gain	Selling Council's confidential or commercially sensitive information. Doing private jobs using Council resources.	<ul style="list-style-type: none">- Corrupt conduct
Misusing, failing to use, or otherwise improperly exercising a Council function	Failing to issue penalty notices to friends when Council policy would require action.	<ul style="list-style-type: none">- Serious maladministration
Preparing a false report or concealing information	Getting a project approved or continued by concealing the true cost or impact.	<ul style="list-style-type: none">- Serious maladministration- Serious and substantial waste of public money
Disclosing confidential, commercially sensitive or personal information held by Council in breach of legal or policy requirements.	Emailing personal information to an incorrect recipient and failing to report or mitigate the breach.	<ul style="list-style-type: none">- Privacy contravention.

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Example conduct	Specific example	Potential wrongdoing
Withholding information requested under GIPA or failing to publish information required to be published proactively.	Failing to publish Council's register of government contracts or deliberately omitting contracts from the list.	- Government information contravention.
Awarding a contract or recruiting a person without due process or authority.	Failing to advertise or compete a contract or job opportunity without an appropriate exemption.	- Serious maladministration - Serious and substantial waste of public money

8.2 When will a report be a PID?

8.2.1 There are three types of PID under the PID Act:

- (a) voluntary PID;
- (b) mandatory PID; and
- (c) witness PID.

8.2.2 This policy is concerned with voluntary PIDs.

8.2.3 A report will be a voluntary PID if it has the following features:

- (a) a report is made by a public official;
- (b) the report is made to a person who can receive voluntary PIDs;
- (c) the public official honestly and reasonably believes the reported information shows or tends to show serious wrongdoing;
- (d) the report was made orally or in writing;
- (e) the report is voluntary, the person is not under a legal obligation to make the report, and it is not an ordinary part of the person's role to report such wrongdoing (meaning it is not a mandatory or witness PID).

8.2.4 The maker of the report is not expected to prove that what is being reported actually happened or is serious wrongdoing. The person need only have an honest belief, on reasonable grounds, that the information being reported shows or tends to show serious wrongdoing.

8.3 Who can receive a report within Council?

8.3.1 For a report to be a voluntary PID, it must be made to someone who can receive such disclosures. Within Council, the following positions are authorised to receive a PID:

- (a) CEO;
- (b) Mayor (for reports about the CEO only);
- (c) Disclosures Coordinator;
- (d) Disclosures Officers; and

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- (e) Manager or supervisor.

8.3.2 Contact details for disclosures officers are set out in Annexure A.

8.3.3 If a report involves a Councillor, it should be made to the CEO. If a report relates to the CEO, it should be made to the Mayor.

8.4 Who can receive a report outside of Council?

8.4.1 Council's public officials are encouraged to report wrongdoing within Council, but internal reporting is not their only option. They can also make a report to:

- (a) an integrity agency;
- (b) the head of any public service agency under the Government Sector Employment Act 2013;
- (c) disclosure officers for other agencies, whose details can be found in the agency's PID policy on the agency's website;
- (d) a Minister or a member of a Minister's staff, if made in writing;
- (e) an MP or a journalist, but only in the limited circumstances outlined below.

8.4.2 A report to an MP or journalist will only attract the protections of the PID Act if the following conditions are met:

- (a) the disclosure is substantially true;
- (b) the maker of the disclosure has previously made substantially the same voluntary public interest disclosure (the previous disclosure) to a person mentioned in 8.4.1(a) to (d);
- (c) the previous disclosure was not anonymous;
- (d) the maker of the previous disclosure did not waive, in writing, the right to receive information about the disclosure under the PID Act;
- (e) the maker of the previous disclosure has not received the required information at the end of the disclosure period or the agency has decided not to investigate or to cease investigating the disclosure.

8.4.3 The PID Act defines the integrity agencies who can receive reports about other agencies. The definition is repeated in this policy for convenience and includes ICAC, the Ombudsman, the Auditor General, the Privacy Commissioner and the Information Commissioner. Details of how to make a report to an integrity agency can be found in the agency's PID policy on the agency's website. A list of Integrity Agencies and their contact details is included at Annexure B

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8.5 How to make a report

- 8.5.1 Public officials, including Council staff, can report wrongdoing in writing or verbally. Examples of how a report can be made include examples include by email, letter, private discussion, or call.
- 8.5.2 If a public official is concerned about being seen making a report, the person may ask to meet in a discreet location away from the workplace. A report can also be made anonymously.
- 8.5.3 Public officials are encouraged to make a report in writing as this can help to avoid any confusion or misinterpretation. A Public Interest Disclosure Form is available on the Forms tab of the Staff Intranet and can be used as a template for disclosures.
- 8.5.4 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. A copy of this record should be kept by the person making the report and by Council.

8.6 Can a report be anonymous?

- 8.6.1 There will be some situations where a member of Council staff making a report may not want to be identified or communicated with. An anonymous disclosure may still be voluntary PID if it has the features of a voluntary PID under the PID Act. For example, Council will need to be able to conclude that it is likely the disclosure was made by a public official.
- 8.6.2 Council urges public officials to identify themselves rather than making anonymous PIDs or at least provide a means of further communication. This will allow Council to:
 - (a) seek clarification or further information about the PID;
 - (b) update the reporter about the steps Council is taking to deal with the report, including providing regular updates if an investigation is conducted;
 - (c) better assess and minimise the risk of detrimental action.
- 8.6.3 Council will act on anonymous reports wherever possible in accordance with this policy, while recognising that it may be more difficult to investigate an anonymous PID. When dealing with an anonymous PID, Council will consider the available evidence and decide on the most appropriate action to take. Council will take care to afford procedural fairness to any person alleged to have engaged in serious wrongdoing.
- 8.6.4 Council will seek to protect the maker of an anonymous PID to the extent that it can. Council will not seek to identify or 'out' the maker of an anonymous PID but will conduct a risk assessment to determine whether:

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- (a) anyone has indicated an intention to report or has previously complained about the wrongdoing;
- (b) the information or issues can be readily attributed to a known official;
- (c) the reporter's identity may be inadvertently discovered when dealing with the PID;
- (d) other officials may speculate, correctly or otherwise, about who made the PID;
- (e) the persons alleged to have committed the wrongdoing or others may discover the reporter's identity, whether inadvertently or deliberately;
- (f) a person who did not make the report but who is believed to have done so may be at risk of detrimental action.

8.6.5 Council will take appropriate action based on its risk assessment.

9. HOW WE WILL DEAL WITH PIDs

9.1 Acknowledgement of reports

9.1.1 A disclosure officer who receives a report of a voluntary PID or a report that looks like a voluntary PID will provide an acknowledgment to the maker of the report which:

- (a) states that the report will be assessed to identify whether it is a PID;
- (b) states that the PID Act applies to how Council deals with the report;
- (c) indicates how to access this policy; and
- (d) provides details of a contact person and available support.

9.1.2 The Disclosure officer will notify Council's Disclosure Coordinator of the report.

9.2 Assessment of reports

9.2.1 Council will assess allegations of serious wrongdoing to determine:

- (a) whether they are voluntary PIDs; and
- (b) whether they relate to Council or another agency.

9.2.2 This initial assessment will be made by the person who receives the disclosure, provided they are a person to whom a PID may be made, with support as necessary from Council's Disclosures Coordinator. Until the assessment has been made, Council will treat an allegation of serious wrongdoing as if it were a voluntary PID.

9.3 Deciding who should deal with a voluntary PID

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- 9.3.1 Council's Disclosure Coordinator will allocate an appropriate person to lead Council's response to a voluntary PID. This may be the person to whom the disclosure is made but an alternative person may be nominated if they are better placed to respond. Unless otherwise specified in this Policy, the lead officer will be responsible for carrying out Council's actions. Council's Disclosures Coordinator will support the lead officer as needed.

9.4 Responding to PIDs that relate to Council

- 9.4.1 Council may respond to a voluntary PID in one of the following ways:

- (a) investigating the PID itself;
- (b) referring the report to an integrity agency for action;
- (c) referring the report to another agency with which Council has an arrangement in place; and
- (d) referring the report to another agency to which it relates, if the disclosure relates to more than one agency.

- 9.4.2 A referral to another agency will be carried out in accordance with the requirements of the PID Act and relevant guidelines.

9.5 Responding to PIDs that don't relate to Council

- 9.5.1 A voluntary PID will not relate to Council if it:

- (a) alleges serious wrongdoing that is not committed by Council or a public official associate with Council; and
- (b) does not otherwise affect the exercise of Council's functions.

- 9.5.2 Council will generally respond to a voluntary PID that does not relate to Council by referring the disclosure to one of the following:

- (a) an integrity agency;
- (b) a person or body authorised by another Act or law to investigate the serious wrongdoing;
- (c) the agency to which the disclosure relates.

9.6 Investigating PIDs

- 9.6.1 If Council investigates a PID, the investigator will generally be a different person from the person leading Council's response to the PID. The investigation will be carried out in accordance with this policy and the requirements of procedural fairness.

9.7 Keeping the maker informed

- 9.7.1 If the report is a voluntary PID, Council will advise the person who made the report how it is intended to deal with the report. This may include

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investigation, referral to a different agency (details of which will be provided), or a decision not to investigate. Reasons will be provided for a decision not to investigate and the NSW Ombudsman will be notified.

9.7.2 If Council investigates serious wrongdoing, appropriate updates on the investigation will be provided to the person who reported the voluntary PID. This will include updates at least every three months and additional updates may be provided if requested. There may be details of an investigation that cannot be provided, for example:

- (a) to ensure procedural fairness in the investigation; or
- (b) to comply with the information protection principles under the Privacy and Personal Information Protection Act 1998; or
- (c) to comply with other legal obligations.

9.7.3 When providing updates on an investigation, Council will balance its commitment to keep the person who made the report informed with its other legal obligations.

9.8 Corrective action

9.8.1 Council will take corrective action if an investigation finds that serious wrongdoing or misconduct occurred. The action taken should respond appropriately to the findings.

9.8.2 Council will provide the PID maker with a description of the results of an investigation. Council will provide the PID maker with details of corrective action taken or proposed to be taken.

10. PROTECTION AND SUPPORT

10.1 Council's commitment and protection against detrimental action

10.1.1 A person who makes a voluntary PID is protected from detrimental action in various ways. This includes:

- (a) protection against detrimental action;
- (b) a right to compensation for detrimental action;
- (c) the ability to seek injunction to prevent detrimental action;
- (d) immunity from civil and criminal liability for breaching a duty of secrecy or confidentiality while making a disclosure; and
- (e) on application by an integrity agency to the Attorney General, protection from liability for own past conduct which the disclosure comprises of.

10.1.2 Council recognises its obligation under the PID Act to assess and minimise the risk of detrimental action being taken against a person as a result of a PID. Council will not tolerate detrimental action.

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10.1.3 A person who takes detrimental action may commit an offence against the PID Act. Taking detrimental action may also breach the Code of Conduct and result in disciplinary action. In the case of Councillors, such disciplinary action may be taken under the misconduct provisions of the *Local Government Act 1993* and may include suspension or disqualification from civic office.

10.2 Risk assessment and risk management plan

10.2.1 When Council receives a voluntary PID, it will conduct a risk assessment and develop a risk management plan aimed at protecting:

- (a) the maker of the PID;
- (b) persons alleged to have engaged in serious wrongdoing; and
- (c) any other person who may be at risk (for example, a person who may be thought incorrectly to have made the disclosure).

10.2.2 The initial risk assessment must be conducted by the person to whom a voluntary PID is made. The risk assessment must be kept under review and the management plan kept up to date. The person responsible for managing Council's response to the PID will maintain the risk assessment and management plan. The investigator will generally not be responsible for the risk assessment and management plan.

10.2.3 When carrying out a risk assessment and developing a risk management plan, consideration will be given to relevant guidance, for example from the Ombudsman's office. The Disclosures Coordinator can assist with advice and supporting materials.

10.3 Maintaining confidentiality

10.3.1 The protection that Council provides to a PID maker includes keeping confidential information tending to identify them as the maker of a voluntary PID. This is a legal obligation on Council and all public officials associated with Council are expected to maintain confidentiality. Steps that may be taken include:

- (a) limiting the people who know the PID maker's identity or information that may identify them to those who strictly need to know; and
- (b) reminding those involved in dealing with a PID of their obligations to maintain confidentiality.

10.3.2 Council will only disclose identifying information about a PID maker in circumstances permitted under the PID Act. Such circumstances may include where:

- (a) the PID maker consents in writing;

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- (b) it is generally known that the PID maker made the PID because they have voluntarily self-identified;
- (c) disclosure is reasonably necessary to protect a person from detriment;
- (d) where it is necessary to disclose the information to a person whose interests are affected by the disclosure;
- (e) the information has previously been lawfully published;
- (f) disclosure is to a medical practitioner or psychologist for the purpose of providing care, treatment or counselling to the PID maker;
- (g) disclosure is for the purposes of court or tribunal proceedings;
- (h) disclosure is necessary to deal with the disclosure effectively; or
- (i) it is otherwise in the public interest to disclose.

10.3.3 If identifying information cannot be kept confidential, the PID maker must be advised and the risk assessment and risk management plan updated. Consideration will be given to what additional support may need to be provided to the PID maker.

10.4 Responding to allegations of detrimental action

10.4.1 If someone believes that detrimental action has been or is being taken against them or someone else in reprisal for reporting wrongdoing, they should inform one of the following:

- (a) CEO;
- (b) Mayor (for reports about the CEO only);
- (c) Disclosures Coordinator;
- (d) Disclosures Officers; and
- (e) a director, manager or supervisor.

10.4.2 All directors, managers and supervisors must notify the Disclosures Coordinator or the CEO if they suspect that reprisal against a Council staff member is occurring, or has occurred, or if any such allegations are made to them. In the case of an allegation of reprisal by the CEO, the Mayor can alternatively be notified.

10.4.3 If Council becomes aware of or suspects that reprisal is being or has been taken against a person who has made a disclosure, Council will:

- (a) Assess the allegation of reprisal to decide whether the report should be treated as a PID and whether the matter warrants an investigation or if other action should be taken to resolve the issue;
- (b) If the reprisal allegation warrants an investigation, ensure that this investigation is conducted by an external investigator in accordance with Council's Ethical Governance: Investigations Policy;

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- (c) If it is established that reprisal is occurring against someone who has made a report, take all steps possible to stop that activity and protect the reporter;
- (d) Take appropriate disciplinary action against anyone proven to have taken or threatened any action in reprisal for making a PID;
- (e) Refer any breach of Part 8 of the Code of Conduct (reprisal action) by a Councillor or the CEO to the Office of Local Government;
- (f) Refer any evidence of an offence under section 20 of the PID Act to the ICAC or NSW Police Force.

10.4.4 If a reporter has disclosed wrongdoing and is experiencing detrimental action which they believe is not being dealt with effectively, they should contact an appropriate Integrity Agency (depending on the type of wrongdoing that they have reported). The correct contact person for raising a matter at an Integrity Agency should be available on the agency's website.

10.5 Protections for persons who make mandatory and witness PIDs

10.5.1 A person who makes a mandatory or witness PID is also protected under the PID Act. The available protections include the following:

- (a) Protection against detrimental action;
- (b) Right to compensation for detrimental action;
- (c) Ability to seek injunction to prevent detrimental action; and
- (d) Immunity from civil and criminal liability for breaching a duty of secrecy or confidentiality while making a disclosure.

10.5.2 Council will carry out a general risk assessment for roles that involve the making of mandatory PIDs. The risk assessment will be conducted by or at the direction of the responsible director, manager or supervisor.

10.5.3 If Council is investigating serious wrongdoing, Council will inform witnesses if information provided constitutes a witness PID and will advise of associated protections. Council will maintain records regarding witness PIDs securely. The investigator should inform the Disclosures Coordinator of any witness PIDs so that arrangements can be made for a risk assessment.

10.5.4 A risk assessment and associated risk management plan in relation to role that involves making mandatory PIDs or a witness PID should be aimed at protecting:

- (a) the maker of the PID;
- (b) persons alleged to have engaged in serious wrongdoing; and
- (c) any other person who may be at risk (for example, a person who may be thought incorrectly to have made the disclosure).

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10.6 Support for those reporting wrongdoing

- 10.6.1 Council will provide appropriate access to professional support to public officials who have reported serious wrongdoing. Examples of support that may be provided include stress management, counselling services, legal or career advice and the details of Council's EAP provider.
- 10.6.2 Access to support may also be available for other members of Council staff involved in the internal reporting process, where appropriate. Reporters and other members of Council staff involved in the process can discuss their support options with the Disclosures Coordinator.

11. SANCTIONS FOR THOSE WHO MAKE FALSE OR MISLEADING DISCLOSURES

- 11.1 A disclosure is not a public interest disclosure to the extent that the maker wilfully makes a false statement or misleads or attempts to mislead Council (or another agency or person to whom the disclosure is made) when making the disclosure. It is a criminal offence under the PID Act to wilfully make a false or misleading statement when reporting wrongdoing.
- 11.2 Council will not support public officials who wilfully make false or misleading reports. Such conduct may also be a breach of the Code of Conduct, resulting in disciplinary action. In the case of Councillors, disciplinary action may be taken under the misconduct provisions of the *Local Government Act 1993* and may include suspension or disqualification from civic office.

12. THE RIGHTS OF PERSONS SUBJECT TO A REPORT

- 12.1 Council is committed to treating public officials fairly and reasonably when it is alleged they have been involved in serious wrongdoing. If Council receives a PID, the person the subject of a report will be:
 - (a) informed of the details of the allegation;
 - (b) informed of their rights and obligations under relevant and related Council policies and procedures;
 - (c) kept informed about the progress of any inquiry or investigation;
 - (d) given a reasonable opportunity to respond to any allegation made against them;
 - (e) informed in writing of the outcome of any inquiry or investigation, including any decision made about whether or not further action will be taken against them.
- 12.2 Council will determine what information to disclose to the person who is the subject of the report after considering what is necessary to protect the maker of the report.

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- 12.3 Where an allegation of serious wrongdoing is clearly wrong, or has been investigated and not substantiated, Council will support the person the subject of the allegation. The fact of any allegation and any inquiry or investigation relating to an allegation will be kept confidential, unless the person the subject of the allegation agrees that details may be disclosed.

13. REVIEW AND DISPUTE RESOLUTION

- 13.1 A person who reported serious wrongdoing to Council may seek internal review of a decision by Council:
- (a) that a report of serious wrongdoing is not a voluntary PID;
 - (b) to not investigate serious wrongdoing;
 - (c) to cease investigating a voluntary PID without completing the investigation or referring the report to another agency for investigation.
- 13.2 Internal reviews will be conducted in compliance with the PID Act. Applications for internal review will need to be lodged through the Council intranet within 28 days after Council has notified the maker of the report of its decision.
- 13.3 Council may also request the NSW Ombudsman to conciliate a dispute between Council and the maker of the report that is, or may be, a voluntary PID. 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.

14. COMPLIANCE AND ACCOUNTABILITY

14.1 Updating the policy

- 14.1.1 This policy will be reviewed by Council at least every two years.
- 14.1.2 The Disclosures Coordinator may make minor changes to this policy to reflect:
- (a) changes in Council positions or personnel;
 - (b) legislative changes; and
 - (c) relevant Guidelines issued by the NSW Ombudsman; and
 - (d) Integrity Agency information

14.2 Record keeping requirements

- 14.2.1 Council will keep records of information received in connection with the PID Act that:

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- (a) are full and complete;
- (b) comply with Council's obligations under the State Records Act 1998; and
- (c) are held securely and subject to appropriate controls on access.

14.2.2 Council will make a written record of oral disclosures. The written record will be made by the person to whom a disclosure is properly made under this policy.

14.3 Monitoring compliance and addressing non-compliance

14.3.1 All PIDs must be reported to Council's Disclosures Coordinator, along with action taken in response to the PID. The Disclosures Coordinator will prepare an annual report on compliance with this policy, including to Council's Audit Risk and Improvement Committee.

14.3.2 Council will address non-compliance with this policy or the PID Act, which may include:

- (a) updating templates, guidance and procedures under the policy;
- (b) providing training to staff;
- (c) reviewing the risk assessment and risk management plan to prevent individuals being subjected to detriment in relation to a PID;
- (d) increasing the support and oversight of Council's response to a PID;
- (e) investigating the conduct of staff and taking appropriate action.

14.3.3 Council will report non-compliance with the policy and action taken to address non-compliance in its annual return to the NSW Ombudsman.

14.4 Annual returns to the NSW Ombudsman

14.4.1 After 30 June each year, Council will provide an annual return to the NSW Ombudsman which includes information about voluntary PIDs received by Council during each period of 12 months ending on 30 June (the return period), and action taken by Council to deal with voluntary PIDs during the return period.

14.4.2 The Disclosures Officers and Disclosures Coordinator are responsible for collecting and storing this information. The Disclosures Coordinator will prepare the annual return.

15. MORE INFORMATION

PUBLIC INTEREST DISCLOSURES POLICY

- 15.1 This policy is available on Council's publicly available website as well as on the Council intranet. A hard copy of the policy can be requested from Council's Governance team.
- 15.2 Council provides training material and other information about PIDs on its intranet at: The Public Interest Disclosures Act 2022 (sharepoint.com). Advice and guidance on this policy and the PID Act can also be accessed from Council's Disclosures Coordinator
- 15.3 The NSW Ombudsman's website provides a range of guidance material on PIDs and the operation of the PID Act at: www.ombo.nsw.gov.au.

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PUBLIC INTEREST DISCLOSURES POLICY

AUTHORISED BY

Council

EFFECTIVE FROM

XXX

DIRECTORATE RESPONSIBLE

Customer Support (Governance team)

REVIEW DATE

XXX

VERSIONS

Version	Amended by	Changes made	Date	TRIM Number
1	Adopted by Council	Not applicable	25 July 2011	037723.2011-003
2	Council	Minor changes in Ombudsman's Model Policy	21 November 2011	037723.2011-010
3	Chief Executive Officer (under delegation)	Changes in Council structure	2 February 2014	010852.2014
4	Chief Executive Officer (under delegation)	Changes in Council structure and policies	6 January 2015	310625.2014
5	Chief Executive Officer and the Mayor	Complete review based on NSW Ombudsman's Model Policy	15 February 2018	016359.2018
6	Disclosures Coordinator	Minor changes per clause 20.2	20 May 2020	128522.2020

REFERENCES

Liverpool City Council: Code of Conduct

Liverpool City Council: Code of Conduct Procedures

Liverpool City Council: Fraud and Corruption Prevention Policy

Liverpool City Council: Ethical Governance: Investigations Policy

NSW Ombudsman Guidance for Agencies

Annexure A – Disclosures Officers

Position	In relation to:	Contact
Mayor	Allegations of serious wrongdoing by the CEO	Mayor Ned Mannoun, mayor@liverpool.nsw.gov.au
Chief Executive Officer	All matters (except allegations of serious wrongdoing by the CEO), including as the most senior ongoing employee who ordinarily works at 33 Moore Street, Liverpool, NSW, 2170	Hon. John Ajaka, ajakaj@liverpool.nsw.gov.au
Senior staff within the meaning of the Local Government Act 1993	All matters except allegations of serious wrongdoing by the CEO	Operations: Jason Breton, bretonj@liverpool.nsw.gov.au Customer Support: Farooq Portelli, portellif@liverpool.nsw.gov.au Planning and Compliance: Lina Kakish kakishl@liverpool.nsw.gov.au Community and Lifestyles: Tina Bono, bonot@liverpool.nsw.gov.au Customer Experience and Business Performance: Michelle McIlvenny, mcilvennym@liverpool.nsw.gov.au City Futures: Shayne Mallard, mallards@liverpool.nsw.gov.au
Director Operations	Liverpool Community Recycling Centre, 99 Rose St, Liverpool NSW 2170 3 Hoxton Park Rd, Liverpool NSW 2170	Jason Breton, bretonj@liverpool.nsw.gov.au

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Position	In relation to:	Contact
	Other operations sites at which the Director Operations is regularly based	
Manager Resource Recovery	600 Cowpasture Rd, Len Waters Estate NSW 2171	Tim Pasley, pasleyt@liverpool.nsw.gov.au
Manager Casula Powerhouse Arts Centre	Casula Powerhouse Arts Centre	Nikita Karvounis, karvounisn@liverpool.nsw.gov.au
Manager Library and Museum Services	Liverpool City Library, Civic Place, 52 Scott Street, Liverpool, NSW, 2170	Elyse Dennis, dennise@liverpool.nsw.gov.au
Branch Library Officer	Moorebank Library, Nuwarra Rd &, Maddecks Ave, Moorebank NSW 2170	Slobodanka Todorovic todorovics@liverpool.nsw.gov.au 8711 7167
Branch Library Officer	Carnes Hill Library 600 Kurrajong Rd, Carnes Hill NSW 2171	Annabelle Vimalachandra vimalachandraa@liverpool.nsw.gov.au 8711 7247
Team Leader Museum Curator	Matters related to Liverpool Regional Museum, Cnr Congressional Drive and Hume Highway, Liverpool NSW, 2170	Tony Nolan nolant@liverpool.nsw.gov.au 8711 7128
Manager Children's Services	Childcare centres	Karyn Worlledge, worlledgek@liverpool.nsw.gov.au

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Position	In relation to:	Contact
Supervisor	Casula Preschool	Heather Franshaw Thomas, franshawthomash@liverpool.nsw.gov.au , 8711 7325
Supervisor	Cecil Hills EECC	Sandra Pinto, pintos@liverpool.nsw.gov.au , 8711 7325
Supervisor	Edmondson Park Preschool	Julie Kostrevski kostrevskij@liverpool.nsw.gov.au 8711 7337
Supervisor	Hinchinbrook EECC	Maree Cordova cordovam@liverpool.nsw.gov.au 8711 7446
Supervisor	Holsworthy EECC	Shahnaz Hoda, hodas@liverpool.nsw.gov.au , 8711 7295
Supervisor	Prestons EECC	Adriana Sirol, sirola@liverpool.nsw.gov.au , 8711 7275
Supervisor	Warwick Farm EECC	Riannan Ross, rossr@liverpool.nsw.gov.au , 8711 7285
Supervisor	Wattle Grove EECC	Lorena Bruce, brucel@liverpool.nsw.gov.au , 8711 7265
Director Community and Lifestyle	35 Scott Street, Liverpool, NSW, 2170	Tina Bono, bonot@liverpool.nsw.gov.au 8711 7413
Head of Governance	All matters except allegations of serious wrongdoing by the CEO	David Day, dayd@liverpool.nsw.gov.au 8711 7772

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Annexure B – Integrity Agencies

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

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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