



# Public Interest Disclosure Policy

March 2025



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## Purpose

The Legal Services Council (**Council**) and Commissioner for Uniform Legal Services Regulation (**Commissioner**) are required to have a Public Interest Disclosure Policy (**Policy**) under the *Public Interest Disclosures Act 2022* (NSW) (**PID Act**).

The key objective of the PID Act is to encourage the disclosure, in the public interest, of corrupt conduct, maladministration of a serious nature, serious and substantial waste of public monies, government information contraventions and privacy contraventions by:

- improving established procedures for reporting disclosures
- protecting people from detrimental actions simply because they have reported a disclosure
- providing for disclosures to be properly investigated and dealt with.

The Council and Commissioner take reports of serious wrongdoing seriously and are committed to building a “speak up” culture where public officials are encouraged to report any conduct that they reasonably believe involves wrongdoing.

## Scope

This Policy applies to:

- ongoing employees
- temporary and casual employees
- individual contractors, subcontractors and consultants providing services on behalf of the Council and Commissioner
- employees of contractors providing services on behalf of the Council and Commissioner
- Council members, Admission Committee members, Law Admissions Consultative Committee members, and Audit and Risk Committee members
- the CEO of the Council and Commissioner
- other people who perform public official functions whose conduct and activities could be investigated by an investigating authority, including volunteers
- public officials of another public authority who report wrongdoing relating to the Council or Commissioner.

This Policy has been approved by the Council and the Commissioner, who are responsible for ensuring compliance with the PID Act.

This Policy is available on the Council's website.

## Policy definitions

Term	Definition
Public official	<p>A person who is a:</p> <ul style="list-style-type: none"><li>• public service employee employed under the <i>Government Sector Employment Act 2013</i> (GSE Act)</li><li>• Public service senior executive employed under the GSE Act</li><li>• Statutory officer</li><li>• Judicial officer.</li></ul> <p>A public official also includes any volunteer or officer engaged under a contract, subcontract or other arrangement that is providing services or exercising functions for, or on behalf of, the Council or Commissioner.</p>

Manager	For the purpose of the PID Act, a manager means: <ul style="list-style-type: none"> <li>• For public officials – the person to whom a public official reports directly or indirectly, or who supervises them directly or indirectly.</li> <li>• For a person providing services or exercising functions for or on behalf of the Council or the Commissioner – the person taken to be the public official who oversees those services or functions, or who manages the relevant contract or volunteering arrangement.</li> </ul>
Disclosure officer	The person or role responsible for receiving and assessment of a PID.
Agency	Legal Services Council and Commissioner for Uniform Legal Services Regulation.
Head of an agency	CEO of the Council and Commissioner
Integrity agency	Includes the Ombudsman, Auditor General, Independent Commission Against Corruption, Law Enforcement Conduct Commission, Inspector of the Law Enforcement Conduct Commission, Secretary of the Department of Planning, Industry and Environment (when exercising certain functions), Privacy Commissioner and Information Commissioner.
Detrimental action	An action that: <ul style="list-style-type: none"> <li>• causes disadvantage, damage, loss or injury to a person, their property, reputation etc.</li> <li>• treats a person unfavourably by intimidating, bullying, harassing, discriminating, or other adverse treatment or actions taken, whether in relation to their profession, employment, trade or otherwise.</li> </ul>

## Roles and responsibilities

### Council and the Commissioner

The Council and the Commissioner are 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 the Council and Commissioner comply with this Policy and the PID Act
- ensuring that the Council and Commissioner have 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 officers

Disclosure officers are responsible for:

- receiving reports from public officials

- receiving reports when they are referred to them by managers
- considering if the report meets the criteria of serious wrongdoing
- ensuring reports are dealt with appropriately
- ensuring that any verbal reports that have been received are recorded in writing.

## Managers

Managers are responsible for:

- receiving reports from persons that report to them or persons under their supervision
- discussing the report with the disclosure officer
- referring the report to the disclosure officer, if a report is considered to meet the criteria of serious wrongdoing.

## Employees

Employees are responsible for:

- reporting suspected serious wrongdoing or other misconduct
- using their best endeavours to assist in an investigation of serious wrongdoing if asked to do so by a person dealing with a voluntary PID on behalf of the Council or Commissioner
- treating any person dealing with or investigating reports of serious wrongdoing with respect.

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

## Serious wrongdoing

Any serious wrongdoing observed or suspected to be occurring in relation to the work of the Council or Commissioner must be reported. Serious wrongdoing is defined in the PID Act as:

### Corrupt conduct

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

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

### Serious maladministration

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:

- making a decision and/or taking action that is unlawful
- systemically failing to comply with proper recruitment processes when hiring staff
- failing to make a decision in accordance with official policy for no apparent reason.

### Serious and substantial waste of public money

Serious and substantial waste of public money includes any uneconomical, inefficient or ineffective use of resources, whether authorised or unauthorised, which results in a loss of public funds or resources. For example, this could include:

- not following a competitive tendering process for a large-scale contract
- having no processes, or bad processes, in place for managing large amounts of public funds.

## Government information contravention

A government information contravention is a failure, other than a trivial failure, to exercise or fulfil functions under the:

- *Government Information (Public Access) Act 2009* (NSW) (**GIPA Act**), or
- *State Records Act 1998* (NSW).

For example, this could include:

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

## Privacy contravention

A privacy contravention is a failure, other than a trivial failure, to exercise or fulfil functions under the *Privacy and Personal Information Protection Act 1998* (NSW) (**PPIP Act**) or the *Health Records and Information Privacy Act 2002* (NSW) (**HRIP Act**).

For example, this could include:

- unlawfully accessing a person's personal information on the Council's electronic document and records management system, OneTRIM
- poor data management processes in place which leads to the disclosure of personal information about a person, or group of persons, to another agency or entity without a lawful reason
- poor email practices resulting in repeated failures by staff of the agency to ensure emails containing personal information go to the correct recipient
- failure to ensure legitimately retained health records are restricted to the appropriate part of the business
- an eligible data breach as described in the PPIP Act, for example where personal information held by the Council or Commissioner is lost because of unauthorised access to a database that is likely to result in serious harm to the affected individual.

## Reporting other wrongdoing

Although reports about the previous five categories of conduct can attract the specific protections of the PID Act, all activities and incidents that constitute a breach of legislative, policy or regulatory provisions can be reported to a manager or the CEO/Commissioner.

For example, these could include:

- suspected criminal acts
- child protection, reportable conduct
- practices that endanger the health or safety of employees or the public
- suspected or identified data or privacy breaches (which must be reported immediately).

Reports can also be made about another public sector agency or authority. A report about another public sector agency or authority can be made either within the Council, to the other organisation or to a relevant integrity agency.

## Types of PID

There are three types of PID. These are:

Voluntary PID	This is a PID where a report has been made by a public official because they decided, of their own accord, to come forward and honestly disclose what they know shows, or tends to show on reasonable grounds, serious wrongdoing.
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Mandatory PID	This is a PID where a 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.

More information about the types of PIDs is available on the NSW Ombudsman’s website (<https://www.ombo.nsw.gov.au>).

## Making a PID

The person making the report will not be expected to prove that what they reported actually happened or is serious wrongdoing. They do have to honestly believe, on reasonable grounds, that the information they are reporting shows or tends to show serious wrongdoing.

Even though they 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.

## Making a report internally to the Council or Commissioner

Reports can be made internally to:

- The CEO of the Council or the Commissioner.
- The disclosure officer for the Council – contact details can be found at **Attachment A** of this Policy.
- A manager of the person making the disclosure – this is the person who directly, or indirectly, supervises a public official. The role of a manager is to ensure that the report is communicated to the disclosure officer on behalf of the reporter, or they may accompany the reporter when making the report to the disclosure officer.

## Making a report to a recipient outside of the Council and Commissioner

A report can also be made to a public official in another agency or an integrity agency. These include:

- The head of another agency – this means the head of any public service agency.
- An integrity agency – a list of integrity agencies is located at **Attachment B** of this Policy.
- A disclosure officer for another agency – ways to contact disclosure officers for other agencies is located in an agency’s PID policy which can be found on their website.
- A Minister or a member of a Minister’s staff noting the report must be made in writing.

If a reporter chooses to make a report of serious wrongdoing outside of the Council and Commissioner, it is possible that the report will be referred back to the Council or Commissioner so that appropriate action can be taken.

## Making a report to a Member of Parliament or journalist

Disclosures to Members of Parliament or journalists are different to other reports. A disclosure reporting wrongdoing as a voluntary PID to a Member of Parliament or journalist may only be made in the following circumstances:

- The disclosure reported must be substantially the same as a disclosure (described here as a “previous disclosure”) reported to someone who can receive disclosures.
- The previously reported disclosure must be substantially true.
- The previously reported disclosure must not have been made anonymously.

- There was no written waiver by the reporter of their right to receive information relating to the previous disclosure.
- The reporter did not receive the following from the Council or Commissioner:
  - notification that the Council or Commissioner will not investigate the previously reported wrongdoing and will also not refer the previously reported disclosure to another agency, or
  - the following information at the end of the investigation period:
    - notice of the Council or Commissioner's decision to investigate the previously reported disclosure
    - a description of the results of an investigation into the previously reported disclosure
    - details of proposed or recommended corrective action as a result of the previously reported disclosure or investigation.

For the purpose of this section, 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 Council or Commissioner's decision within six months of making the disclosure.

If all the above requirements are met, the disclosure to a Member of Parliament or journalist may be a voluntary PID.

### Procedure for making and managing a PID

Information about how to report a PID and how a PID will be managed is set out in the PID Procedure.

### Protections

When a PID is made (voluntary, witness and/or mandatory), a reporter is subject to protection under the PID Act.

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

The Council and Commissioner will not tolerate any type of detrimental action being taken against a reporter because a report has been made, a report might be made, or a person is believed to have made a report.

The reporter of a PID is protected in the following ways:

#### Protection from detrimental action

A person cannot take detrimental action against another person because they have reported a PID or is considering making a PID. Detrimental action includes bullying, harassment, intimidation or dismissal.

Once a PID has been reported by a person employed or otherwise associated with the Council and Commissioner, a risk assessment will be conducted and steps taken 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 reported or may report a 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

Public officials are often subject to a duty of confidentiality that prevents them disclosing certain information that they obtain or become aware of at work. Sometimes, in order to report a PID, public officials will need to breach or disregard such confidentiality duties. If that happens, a public official cannot be disciplined, sued or criminally charged for breaching confidentiality. This includes any breaches of privacy under the PPIP Act and/or HRIP Act.

### 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.

### Confidentiality

It is important that all public officials including those reporting, those who have witnessed, or are a respondent to allegations of serious wrongdoing, maintain their confidentiality and do not discuss or disclose reported matters of serious wrongdoing.

### False or misleading reports

It is important to note misconduct action may be taken if evidence is found to substantiate that an individual, in making a report of serious wrongdoing, has or may have:

- wilfully made a false statement
- misled and/or attempted to mislead.

A breach of the PID Act is a criminal offence and can attract a maximum penalty of 100 penalty units or imprisonment for a maximum of two years, or both.

### Review and dispute resolution

People who report PIDs can seek internal review of decisions including:

- that the Council or Commissioner is not required to deal with the report as a PID
- to stop dealing with the report because the CEO/Commissioner decided it was not a 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.

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

Further information about the internal review process is set out in the PID Procedure.

## Other obligations

### Record-keeping requirements

The Council and Commissioner must keep full and accurate records with respect to all information received in connection with the PID Act. This ensures that the Council and Commissioner comply with their obligations under the *State Records Act 1998* (NSW).

Records in relation to reports made in accordance with the PID Act will be stored in a secure folder in OneTRIM.

### Reporting and annual returns to the NSW Ombudsman

Each year the Council and Commissioner provide an annual return to the NSW Ombudsman which includes:

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

The Disclosure Officer will collect this information, and the CEO will complete the annual return.

### Ensuring compliance with the PID Act, PID Policy and PID Procedure

The Council's Audit and Risk Committee will monitor compliance with the PID Act, PID Policy and PID Procedure.

The PID Policy and PID Procedure will be reviewed annually.

## General support

Agency	Contact information
NSW Ombudsman	Telephone: 1800 451 524 between 9am to 3pm Monday to Friday Writing: Level 24, 580 George Street, Sydney NSW 2000 Email: <a href="mailto:info@ombo.nsw.gov.au">info@ombo.nsw.gov.au</a>
NSW Department of Communities and Justice	Professional Conduct and Standards Unit Email: <a href="mailto:pid@dcj.nsw.gov.au">pid@dcj.nsw.gov.au</a>  Employee Assistance Program Telephone: 1300 687 327

## Version schedule

Revision	Date
Initial draft provided to Audit and Risk Committee	27 March 2025
Document endorsed by the Council	22 May 2025

**Date of review:** February 2026

**Attachment A – Name and contact details of disclosure officers for the Council and Commissioner**

<b>Name</b>	<b>Title</b>	<b>Contact information</b>
Ella Howard	Policy Manager	Telephone: 02 9692 1305 Writing: Level 3, 19 O’Connell Street, Sydney NSW 2000 Email: ella.howard@legalservicescouncil.org.au

## Attachment B – List of integrity agencies

Integrity agency	What they investigate	Contact information
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: <a href="mailto:info@ombo.nsw.gov.au">info@ombo.nsw.gov.au</a>
Auditor-General	Serious and substantial waste of public money by auditable agencies	Telephone: 02 9275 7100 Writing: GPO Box 12, Sydney NSW 2001 Email: <a href="mailto:governance@audit.nsw.gov.au">governance@audit.nsw.gov.au</a>
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: <a href="mailto:icac@icac.nsw.gov.au">icac@icac.nsw.gov.au</a>
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: <a href="mailto:oiicac_executive@oiicac.nsw.gov.au">oiicac_executive@oiicac.nsw.gov.au</a>
Law Enforcement Conduct Commission	Serious maladministration by the NSW Police or the NSW Crime Commission	Telephone: 02 9321 6700 or 1800 657 079 Writing: GPO Box 3880, Sydney NSW 2001 Email: <a href="mailto:contactus@lecc.nsw.gov.au">contactus@lecc.nsw.gov.au</a>
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: <a href="mailto:oilc_executive@oilc.nsw.gov.au">oilc_executive@oilc.nsw.gov.au</a>
Office of the Local Government	Local government pecuniary interest contraventions	Email: <a href="mailto:olg@olg.nsw.gov.au">olg@olg.nsw.gov.au</a>
Privacy Commissioner	Privacy contraventions	Telephone: 1800 472 679 Writing: GPO Box 7011, Sydney NSW 2001 Email: <a href="mailto:ipcinfo@ipc.nsw.gov.au">ipcinfo@ipc.nsw.gov.au</a>
Information Commissioner	Government information contraventions	Telephone: 1800 472 679 Writing: GPO Box 7011, Sydney NSW 2001 Email: <a href="mailto:ipcinfo@ipc.nsw.gov.au">ipcinfo@ipc.nsw.gov.au</a>