

1. BACKGROUND

Fairfield City Council (Council) takes the reporting of wrongdoing seriously and is committed to building a ‘speak up’ culture where its Public Officials are encouraged to report any conduct that they reasonably believe involves serious wrongdoing. The integrity of our organisation relies upon our Councillors, employees, committee members, volunteers, contractors and subcontractors speaking up when they become aware of what they believe are acts of wrongdoing.

This policy works in concert with Council’s *Public Interest Disclosure Procedures* (Procedures) setting out Council’s Internal Reporting System to encourage and facilitate the reporting of acts of serious wrongdoing by a Public Official in accordance with the requirements of the *Public Interest Disclosures Act 2022* (PID Act).

All agencies in NSW are required to have a Public Interest Disclosure (PID) Policy under Section 42 of the PID Act. The PID Act is designed to encourage Public Officials to report serious wrongdoing and to protect them when they do so.

2. OBJECTIVES

This policy formalises Council’s commitment to properly dealing with, and where appropriate, investigating public interest disclosures made in accordance with the PID Act.

Council is committed to:

- Encouraging a ‘speak up’ culture and the reporting of wrongdoing.
- Protecting and supporting those who make a PID under this Policy.
- Providing training for key personnel so that they clearly understand their roles and responsibilities in respect of receiving and managing PIDs.
- Thoroughly investigating allegations.
- Properly managing any workplace issues that the allegations identify or create.
- Correcting any problem/issue identified through the disclosure and its subsequent investigation.

Council is committed to protecting those who make disclosures and appropriately addressing reports of detrimental action. Accordingly, if an employee or Councillor wishes to make a disclosure under the PID Act, Council strongly supports such disclosures being made by way of its Internal Reporting System as set out in the Procedures.

The policy sets out:

- Who can make a PID
- What is a PID
- What constitutes serious wrongdoing
- Roles and responsibilities for Council’s Public Officials
- Protections available for someone reporting a PID

- Rights of the person who is the subject of a disclosure
- Reporting detrimental action
- Review and dispute resolution

Council's Values

This policy should be read in conjunction with Council's Organisational Values – UMGAWI which are Upfront, Motivated, Growing, Achieving, Winning and Important.

3. DEFINITIONS

Refer to **Appendix 2** of this Policy for the definitions and explanations that will assist in reading this Policy and associated Procedure.

4. ROLES AND RESPONSIBILITIES

This policy places responsibilities upon people at all levels of Council.

This Section also sets out the roles and responsibilities of Council's Public Officials who have authority under the PID Act to receive and process PIDs.

4.1 Who can make a Disclosure under the PID Act?

Any Public Official may make a public interest disclosure.

Public Officials at Council are all people who perform public official functions for Council including:

- Councillors
- Permanent employees whether full-time or part-time
- Temporary and casual employees
- Consultants (and their employees)
- Volunteers
- Individual contractors working for Council (and their employees)
- Council Committee Members (Standing and Advisory).

This policy also applies to Public Officials of another council or public authority who report wrongdoing relating to Fairfield City Council.

The PID Act encourages Public Officials to report acts of serious wrongdoing. Section 13 of the PID Act defines serious wrongdoing as:

- Corrupt Conduct
- A Government Information Contravention
- A Local Government Pecuniary Interest Contravention
- Serious Maladministration
- A Privacy Contravention

- A Serious and Substantial Waste of Public Money

When a Public Official makes a report, they do not need to state to Council what category of serious wrongdoing they are reporting or that they are reporting serious wrongdoing. However, they *'do have to honestly believe, on reasonable grounds, that the information they are reporting shows or tends to show serious wrongdoing.'*

Public Officials also have an important role to play in supporting those who have made a legitimate disclosure. They must abstain from any activity that is or could be perceived to be detrimental action against a person whose report constitutes a PID.

4.2 Who does this policy NOT apply to?

This policy does not apply to:

- People who have received services from an agency and want to make a complaint about those services
- People, such as contractors/suppliers, who provide services to an agency. For example, employees of a company that sold computer software to an agency.

This means that if someone is not a Public Official as defined under Section 14 of the PID Act, this policy does not apply to their complaint (there are some circumstances where a complaint can be deemed to be a Voluntary PID – refer to Section 4.7 of the Procedures for more information).

4.3 Disclosure Officers

Disclosure Officers are responsible for receiving and forwarding disclosures from Public Officials in accordance with this policy. Disclosure Officers receiving a disclosure will:

- Clearly explain to the person reporting a disclosure what will happen in relation to the information received;
- Ensure reports are dealt with appropriately by referring the matter to Council's Disclosure Coordinator;
- When requested, making arrangements to ensure that the disclosure can be made privately and discreetly (if necessary away from the workplace);
- Put in writing and date any disclosure received orally (and have the person making the disclosure sign the document);
- Ensure that written acknowledgement of the disclosure and a copy of this policy is given to the person making the disclosure as soon as possible, and preferably within 5 business days of the disclosure being made;
- Deal with disclosures impartially;
- Forward disclosures to the General Manager (or Mayor in certain circumstances) or Disclosure Coordinator for assessment;
- Take all necessary and reasonable steps to ensure that the identity of person(s) who make a disclosure and the person(s) the subject of disclosure, are kept confidential; and

- Support persons who make disclosures and those who are the subject of a disclosure to protect them from victimisation, harassment or any other form of detrimental action.

Refer to Appendix 3 for list of positions identified as Council's Disclosure Officers.

4.4 Disclosure Coordinator

Council has a Disclosure Coordinator which fulfils a pivotal role in Council's Internal Reporting System by acting as a clearing house for any PIDs received. The Disclosure Coordinator will:

- Consult with the General Manager on all disclosures received;
- Refer the disclosure to the General Manager for appropriate action if it concerns the Council's administration, within the day-to-day responsibilities of the General Manager;
- Be responsible for carrying out or co-ordinating any internal investigation arising out of a disclosure, subject to the direction of the General Manager in carrying out his/her functions;
- Report to the General Manager on the findings of any investigation and recommended corrective action;
- Take all necessary and reasonable steps to ensure that the identity of persons who make disclosures and person(s) the subject of the disclosure, are kept confidential (where this is practical and reasonable);
- Support person(s) who make disclosures as well as the person(s) subject to the report and protect them from detrimental action, and;
- Impartially assess each disclosure.

4.5 General Manager

The General Manager is responsible for:

- Fostering a workplace environment where reporting and a '*speak up*' culture is encouraged
- Receiving PIDs from a Disclosure Officer or Public Official
- Ensuring there is an Internal Reporting System in place for assessing and investigating PIDs
- Ensuring Council complies with this policy and its procedure and the PID Act
- Ensuring that Council has appropriate systems for:
 - overseeing internal compliance with the PID Act
 - staff are adequately trained to fulfil their PID Act obligations
 - 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.

4.6 The Mayor

The Mayor may receive public interest disclosures concerning the General Manager or Councillors, where the Mayor will:

- Impartially assess each disclosure received regarding the General Manager or Councillors.
- Take all necessary and reasonable steps to ensure that the identity of the person who made the disclosure and the person the subject of the disclosure, are kept confidential.

In making the above assessment the Mayor may seek guidance from the Disclosure Co-ordinator, Public Officer or an investigating authority (ie. ICAC, NSW Ombudsman, Information and Privacy Commission or the Office of Local Government).

4.7 Public Officials

All Council Public Officials must:

- Report suspected serious wrongdoing or other misconduct which they become aware of.
- Use their best endeavours to assist in an investigation of serious wrongdoing if asked to do so by a person dealing with a Voluntary PID on behalf of Council.
- Treat any person dealing with or investigating reports of serious wrongdoing with respect.
- Respect and maintain confidentiality of the person(s) making a report and the person(s) subject to a report.

All 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.

5. PROCEDURES AND INTERNAL REPORTING SYSTEM GUIDELINES

5.1 What is a Public Interest Disclosure?

The PID Act recognises there are 3 types of PIDs. 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 disclose what they know.

Mandatory PID:

This is a PID where the Public Official has made a report about serious wrongdoing because they have a legal obligation to make that report, or because making that report is an ordinary aspect of their role or function in an agency.

Witness PID:

This is a PID where a person discloses information during an investigation of serious wrongdoing following a request or requirement of the investigator.

This policy mostly relates to making a Voluntary PID and how Council will deal with Voluntary PIDs. People who make a Mandatory PID or a Witness PID are still entitled to protections as outlined in the 'Protections for people who make Mandatory and Witness PIDs' section of this policy.

More information about Mandatory and Witness PIDs can be found in the NSW 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 PID reporting and 'whistleblowing'. These involve a Public Official making a report because they have information that they believe shows (or tends to show) serious wrongdoing, where they are not under a legal obligation to make that report and where it is not an ordinary part of their role to report such wrongdoing.

A report is a PID if it has the following 5 features as set out in Sections 24-27 of the PID Act:

1.	2.	3.	4.	5.
A report is made by a Public Official	It is made to a person who can receive Voluntary PIDs	The Public Official honestly and reasonably believes that the information they are providing shows (or tends to show) serious wrongdoing	The report was made orally or in writing	The report is voluntary (meaning it is not a Mandatory or Witness PID)

If the report has all 5 features as set out above, it is deemed a Voluntary PID.

It is important to note that even though the person making the report does not have to prove the serious wrongdoing happened or provide evidence, a mere allegation with no supporting information is unlikely to meet this test.

5.2 Who can a Voluntary PID be made to?

For a report to be a Voluntary PID, it must be made to certain Public Officials within their organisation. At Council a report can be made to:

- The General Manager
- The Disclosure Coordinator
- A designated Disclosure Officer for Council— refer to Appendix # of this Policy for a list of Disclosure Officers
- The Mayor – in certain circumstances a disclosure can be made to the Mayor if it relates to the General Manager or a Councillor.

5.3 Making a report to a recipient outside of Council

A Public Official can make a PID about serious wrongdoing relating to any agency, not just the agency they are working for. This means Council may receive PIDs from Public Officials outside of Council. It also means a person making a report about serious wrongdoing within Council can make a PID to any agency including an Integrity Agency like the Independent Commission Against Corruption (ICAC), the NSW Ombudsman and the Office of Local Government (OLG).

Refer to **Appendix 4** of this policy for a list of integrity agencies.

The Act further recognises a Public Official can also make a report to a Public Official in another agency (meaning an agency they do not work for) or an integrity agency. These include:

- The head of another agency — this means the head of any public service agency
- An integrity agency
- A 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 but the report must be made in writing.

If a Public Official chooses to make a report outside of Council relating to what they believe is serious wrongdoing inside the Council, it is possible their disclosure may be referred back to Council so appropriate action can be taken.

5.4 Making a report to a Member of Parliament or Journalist

PIDs to Members of Parliament (MP) or journalists are different to other reports. A person making a report can only disclose a report of wrongdoing as a Voluntary PID to an MP or journalist in the following circumstances:

- The person making the report 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.
- The person making the report did not make the previous disclosure anonymously.
- The person making the report did not give a written waiver of their right to receive information relating to their previous disclosure.
- The person making the report did not receive the following from Council:
 - notification that Council will not investigate the serious wrongdoing and will also not refer the previous disclosure to another agency, or
 - the following information at the end of the investigation period:
 - notice of Council's decision to investigate the serious wrongdoing
 - a description of the results of an investigation into the serious wrongdoing
 - details of proposed or recommended corrective action as a result of the previous disclosure or investigation.

Investigation period means:

- after 6 months from the previous disclosure being made, or

- after 12 months if you applied for an internal review of the agency's decision within six months of making the disclosure.

If all the above requirements are met, the disclosure to an MP or journalist may be a Voluntary PID.

5.5 What form should a Voluntary PID take?

A Voluntary PID can be made in **writing**, **orally** and **anonymously**. The Procedures set out the details which are required and the business process for dealing with the disclosure. The report should include as much information as possible so Council can deal with the disclosure effectively.

5.6 How is the Reporter of a Voluntary PID protected?

When a Public Official makes a Voluntary PID they receive special protections under Part 3 of the PID Act.

Council is committed to taking all reasonable steps to protect the person making the report from any form of detrimental action as a result of having made a PID. Council is also committed to maintaining the reporter's confidentiality as much as possible while the PID is being dealt with.

Council will not tolerate any type of detrimental action being taken against the person making the report, because of having made a report or 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 Council becomes aware that a Voluntary PID by a person employed or otherwise associated with Council that concerns serious wrongdoing relating to the 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 5 years or both.
 - A person may seek compensation where unlawful detrimental action has been taken against them.
 - A person can apply for a Court Order (injunction) where detrimental action is threatened or has occurred (for example, an order to prevent dismissal or to require reinstatement).

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

- **Immunity from civil and criminal liability**

Some Public Officials are often subject to a duty of confidentiality that prevents them disclosing certain information that they obtain or become aware of at work. Sometimes, in order to make a PID, a Public Official 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 of a report 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.

5.7 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:

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.

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.

Section 43(3)(b) of the PID Act requires agencies to include information about the protections available to reporters of Witness and Mandatory PIDs in Council's PID Policy. Protections for reporters of Mandatory and Witness PIDs are detailed in the table below.

Protection	Type of PID	
	Mandatory	Witness
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	✓	✓

Protection	Type of PID	
	Mandatory	Witness
for injury, damage or loss suffered as a result of detrimental action being taken against them.		
Ability to seek injunction An injunction can be sought to prevent the commission or possible commission of a detrimental action offence against a person. For example, an order to prevent dismissal or to require reinstatement.	✓	✓
Immunity from civil and criminal liability A person will not incur civil or criminal liability if the person breaches a duty of confidentiality while making a disclosure. This means that legal action cannot be taken against a person for: <ul style="list-style-type: none"> breaching a duty of secrecy or confidentiality, or breaching another restriction on disclosure. 	✓	✓

5.8 Rights of the person who is the subject of a Disclosure

The rights of the person(s) who is the subject of a disclosure will also be protected. In this regard:

- The confidentiality of the identity of the person the subject of the disclosure, will be protected and maintained (where this is practical and reasonable);
- Where investigation or other enquiries do not substantiate the disclosure, the fact the investigation/enquiry has been carried out, the results of the investigation/enquiry and the identity of the person the subject of the disclosure will be kept confidential, unless the person who is the subject of the disclosure requests otherwise;
- The person, who is the subject of disclosure (whether a public interest disclosure under the PID Act or otherwise) being investigated by or on behalf of a Council, has the right to:
 - Be informed as to the substance of the allegations;
 - Be informed as to the substance of any adverse comment that may be included in a report/memorandum/letter or the like arising out of any such investigation; and
 - Be given reasonable opportunity to put their case (either orally or in writing) to the person carrying out the investigation for or on behalf of the Council, before any decision/determination/memorandum/letter or the like is made or finalised;
- Where the allegations in a disclosure have been investigated by or on behalf of Council, and the person the subject of the allegations is aware of the substance of the allegation, the substance of any adverse comment, or the fact of the investigation, he/she shall be formally advised of the outcome of the investigation, regardless of the outcome;
- Where the allegations contained in a disclosure are clearly wrong or unsubstantiated, the person, the subject of the disclosure, is entitled to the support of the Council and its senior management (the nature of the support that would be reasonable and appropriate would depend on the circumstances of the case, but could include a public statement of support or a letter setting out the Council's view that the allegations were either clearly wrong or unsubstantiated).

5.9 Reporting Detrimental Action

If a person making a report experiences adverse treatment or detrimental action, such as bullying or harassment, they should report this immediately.

They can report any experience of adverse treatment or detrimental action directly to Council via the Disclosure Coordinator or to an integrity agency.

Reports of detrimental action can be made to the Disclosure Coordinator by email, phone or in person as set out below:

E-mail: privacy@fairfieldcity.nsw.gov.au
 Phone: 9725 0226

Refer to **Section 10 of the Procedure** for how Council will deal with acts of detrimental action.

5.10 What Council will do if an investigation finds that serious wrongdoing has occurred

If, after an investigation, it is found that serious wrongdoing or other misconduct has occurred, Council will take the most appropriate action to address that wrongdoing or misconduct. This is known as corrective action.

Corrective action may 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.
- Referral to an Integrity Agency

5.11 Review and Dispute Resolution

If the person making a report is not happy with the assessment or the decision made by the Council in respect of their Voluntary PID they may seek an Internal Review or Voluntary Dispute Resolution.

Refer to **Section 7 of the Procedure** for Council's process for dealing with these matters.

6. OTHER OBLIGATIONS

6.1 Record-keeping requirements

Council will 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.

6.2 Annual Reporting

Each year Council will provide an annual return to the NSW Ombudsman which is to be prepared by the Disclosure Co-ordinator. This annual return will include:

- 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 'speak up' culture in the workplace where PIDs are encouraged.

6.3 Government Information (Public Access) Act Exemption

Under Schedule 1 of the Government Information (Public Access) Act 2009, a document is exempt from release if it contains information which would disclose matters relating to a public interest disclosure within the meaning of the Act.

6.3 Whom can a person talk to if they have questions or concerns?

Public Officials who are considering making a disclosure and have questions or concerns they would like addressed prior to lodging a report may contact Council's Disclosure Co-ordinator to seek advice:

E-mail: privacy@fairfieldcity.nsw.gov.au
 Phone: 9725 0226

These discussions will be kept confidential.

If the Public Official so wishes, they may prefer to obtain external advice from the following organisations:

NSW Ombudsman	(02) 9286 1000 pid@ombo.nsw.gov.au
Office of Local Government	(02) 4428 4100 olg@olg.nsw.gov.au
Independent Commission Against Corruption (ICAC)	(02) 8281 5999 icac@icac.nsw.gov.au 1800 472 679
The Information and Privacy Commission (IPC)	1800 472 679 ipcinfo@ipc.nsw.gov.au

If someone requires legal advice with respect to the provisions of PID Act 2022 or wants to know their obligations under the Act, they may need to seek independent legal advice.

7. GOVERNANCE

7.1 Legislative Context

Appendix 1 of this Policy sets out the key documents which provide context and additional information to assist in understanding both this policy and associated procedures.

7.2 Variation

The management of Council reserves the right to cease, modify or vary this Policy and will do so in accordance with Council's established consultation processes.

7.3 Review Date

This policy has been reviewed as a result of the NSW Government adopting a new PID Act 2022 and the NSW Ombudsman releasing a new Model Policy for agencies to base their revised PID Policy upon.

This policy shall be reviewed every 5 years, or where there is a change in legislation, to ensure it meets the object of the legislation and facilitates the making of disclosures under the PID Act 2022.

The Executive Manager has responsibility for review of this policy.

7.4 Authorisation

This policy was approved by Services Committee on 11 October 2011.

This policy was approved by Services Committee on 3 December 2013.

This policy was approved by Outcomes Committee on 1 December 2015.

This policy was approved by Outcomes Committee on 8 October 2019.

This policy was approved by Outcomes Committee on 13 February 2024.

APPENDIX 1: LEGISLATIVE CONTEXT

Related Fairfield City Council Policies, Procedures and Guidelines

Note: Some of the following policies are management policies

- Code of Conduct
- Procedures for the Administration of the Code of Conduct
- Code of Meeting Practice
- Secondary Employment Policy
- Statement of Business Ethics
- Fraud and Corruption Control Policy
- Appropriate Workplace Behaviour Policy
- Grievance Resolution Policy
- Performance Management and Disciplinary Policy
- Child Safe Policy
- Workplace Health and Safety (WHS) Policy
- Complaints Management Policy
- Mandatory Reporting of Data Breach Policy
- Equal Employment Opportunity Policy
- Probity Policy
- Unsolicited Proposals Policy
- Procurement Policy
- Procurement Cards Policy
- Secondary Employment Policy
- Councillor Access to Information & Staff Interaction Policy
- Gifts & Benefits Guidelines
- Conflict of Interest Guidelines
- Council Related DA Conflict of Interest Policy
- Information Management Policy
- Privacy Management Plan
- Authorised Proactive Release of Government Information Policy
- Fairfield Opportunity and Risk Management (FORM) Policy

External Agencies

- NSW Ombudsman Internal Reporting Policy for Local Government (June 2014)
- NSW Ombudsman *Developing your Public Interest Disclosure Policy* (July 2023)
- NSW Ombudsman *What is a Public Interest Disclosure?* (July 2023)
- NSW Ombudsman *Core Concepts in the PID Act* (July 2023)
- NSW Ombudsman *What is serious wrongdoing?* (July 2023)
- NSW Ombudsman *Dealing with Voluntary PIDs* (July 2023)
- NSW Ombudsman *Dealing with Mandatory PIDs* (July 2023)
- NSW Ombudsman *Dealing with Witness PIDs* (July 2023)
- NSW Ombudsman *Dealing with Anonymous Voluntary PIDs* (July 2023)
- NSW Ombudsman *Deeming that a Disclosure is a Voluntary PID* (July 2023)
- NSW Ombudsman *Protections under the PID Act* (July 2023)
- Office of Local Government Circular 15-22 – Public Interest Disclosure Obligations
- Information and Privacy Commission – Public Interest Disclosures FAQs

FAIRFIELD CITY COUNCIL – CITY MANAGEMENT	
POLICY NO. 0-015	PUBLIC INTEREST DISCLOSURES



NSW Legislation

- Public Interest Disclosures Act 2022
- Public Interest Disclosures Regulation 2022
- Independent Commission Against Corruption Act 1988
- Local Government Act 1993
- Local Government (General) Regulation 2021
- Workplace Health and Safety Act 2011
- Government Information (Public Access) Act 2009
- Government Information (Public Access) Regulation 2018
- Privacy and Personal Information Protection Act 1998
- Privacy and Personal Information Protection Regulation 2019
- Health Records Information Privacy Act 2002
- State Records Act 1998
- Members of Parliament Staff Act 2013

APPENDIX 2: DEFINITIONS

Term	Definition
Agency	<p>'Agency' is defined in Section 16 of the PID Act to mean any of the following:</p> <ul style="list-style-type: none"> • a public service agency • a group of staff comprising each of the following services, or a separate group of those staff: <ul style="list-style-type: none"> – the NSW Police Force – the Teaching Service of New South Wales – the NSW Health Service – the Transport Service of New South Wales • a statutory body representing the Crown • an integrity agency • a public authority whose conduct or activities are authorised to be investigated by an integrity agency under another Act or law • a state-owned corporation or its subsidiaries • a Local Government Authority • a Local Aboriginal Land Council • the Department of Parliamentary Services, the Department of the Legislative Assembly and the Department of the Legislative Council. <p>A Minister's office is Not an 'Agency' for the purposes of the PID Act</p>
Corrupt Conduct	<p>Corrupt conduct is broadly defined under Section 8 and 9 of the <i>Independent Commission Against Corruption Act 1988</i> and includes the dishonest or partial exercise of official functions by a Public Official. Conduct of a person who is not a Public Official, when it adversely affects the impartial or honest exercise of official functions by a Public Official, also falls under this definition.</p> <p>Corrupt conduct can take many forms and can include, taking of or offering bribes, Public Officials dishonestly using influence, blackmail, fraud, election bribery and illegal gambling.</p>
Council	Fairfield City Council
Detriment and Detrimental Action	<p>In the PID Act, detriment to a person means disadvantage to the person, including the following—</p> <ol style="list-style-type: none"> injury, damage or loss caused to the person, damage caused to the person's property, damage caused to the person's reputation, intimidation, bullying or harassment, unfavourable treatment in relation to the person's career, profession, employment or trade, discrimination, prejudice or adverse treatment, whether in relation to employment or otherwise, disciplinary proceedings or disciplinary action.

Term	Definition
	<p>Also in the Act detrimental action against a person means an act or omission causing, comprising, involving or encouraging:</p> <ul style="list-style-type: none"> (a) detriment to the person, or (b) the threat of detriment to the person, whether express or implied. <p>The following actions are not deemed detrimental action for the purposes of the Act:</p> <ul style="list-style-type: none"> (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 sub-clause (a) above, (c) the prosecution of a person for a criminal offence.
Disclosure	<p>A disclosure is a report of serious wrongdoing, either written or verbal, made in accordance with this policy. Under Section 13 of the PID Act there are 6 categories of serious wrongdoing consisting of corrupt conduct, serious maladministration, a government information contravention, a privacy contravention, serious and substantial waste of public money, or a local government pecuniary interest contravention. Definition of these categories of wrongdoing is outlined in this 'Definitions' section.</p> <p>The PID Act recognises there are 3 main types of PID consisting of a:</p> <ul style="list-style-type: none"> • Voluntary PID • Witness PID • Mandatory PID
Disclosure Officer	<p>Section 18 of the PID Act defines a Disclosure Officer for an agency to mean a person responsible for receiving voluntary public interest disclosures on behalf of the agency including the following:</p> <ul style="list-style-type: none"> • the head of the agency, • for each work site that is permanently maintained by the agency • if the agency has an unelected governing body—a member of the governing body, • a person specified in the agency's PID Policy as a person with responsibility for receiving voluntary PIDs on behalf of the agency, • a member of a class of persons, or a person employed in a position or role, specified in the agency's PID Policy as a class, position or role with responsibility for receiving voluntary PIDs on behalf of the agency.

Term	Definition
Divisional Manager	At Council a Divisional Manager is a manager who reports directly to a member of the Executive Leadership Team (ELT).
Integrity Agency	<p>The PID Act classifies certain agencies as integrity agencies. These are likely to be the external agencies to which a Public Official might wish to make a PID, outside of their own agency.</p> <p>The following are integrity agencies as defined under Section 19 of the PID Act:</p> <ul style="list-style-type: none"> • the NSW Ombudsman • the NSW Auditor-General • the Independent Commission Against Corruption • the Law Enforcement Conduct Commission • the Inspector of the Independent Commission Against Corruption • the Inspector of the Law Enforcement Conduct Commission • the Secretary of the Department of Planning, Industry and Environment (when exercising certain functions under the Local Government Act 1993) • the NSW Privacy Commissioner • the NSW Information Commissioner • a person or body declared by the Regulations to be an integrity agency.
Internal Reporting System	Provides the business process setting out how Public Officials can speak to someone when wanting to make a disclosure. Council's Internal Reporting System is set out in Appendix 2 of the Procedures.
Government Information Contravention	<p>A Government Information Contravention means a failure, other than a trivial failure, by an agency or Public Official to exercise functions in accordance with the:</p> <ul style="list-style-type: none"> • <i>Government Information (Information Commissioner) Act 2009</i>, or • <i>Government Information (Public Access) Act 2009</i>, or • <i>State Records Act 1998</i>.
Local Government Pecuniary Interest Contravention	<p>A Local Government Pecuniary Interest Contravention means the contravention of an obligation imposed in connection with a pecuniary interest by:</p> <ul style="list-style-type: none"> • The <i>Local Government Act 1993</i>, or • A Code of Conduct adopted by a council under Section 440(3) of the <i>Local Government Act 1993</i>.
Mandatory PID	<p>Many Public Officials have a legal obligation (under legislation or otherwise) to report serious wrongdoing. Some Public Officials have particular roles, or hold particular positions with certain functions, for which it is an ordinary requirement for them to report serious wrongdoing.</p> <p>For a disclosure to be a Mandatory PID it must be:</p>

Term	Definition
	<ul style="list-style-type: none"> • made by a Public Official • be about serious wrongdoing, and • made either: – while meeting the ordinary requirements of the official's role or functions, or under a statutory or other legal obligation.
Permanently Maintained Worksite	<p>The PID Act recognises that many agencies will have numerous permanently maintained worksites. For the purposes of the PID Act and this policy, Fairfield City Council has designated the following as its Permanently Maintained Worksites:</p> <ul style="list-style-type: none"> • Administration Centre (Wakeley) • Cabramatta Town Centre Office • Education and Care Services: <ul style="list-style-type: none"> ➢ Family Day Care ➢ Bonnyrigg Early Learning Centre & Preschool ➢ Bonnyrigg Heights Early Learning Centre & Preschool ➢ Bossley Park Preschool ➢ Cabramatta Early Learning Centre ➢ Canley Vale Early Learning Centre ➢ Fairfield Preschool ➢ Janice Crosio Early Learning Centre & Preschool ➢ Marlborough St Preschool ➢ Mobile 2 Preschool ➢ St Johns Park Early Learning Centre ➢ Smithfield West Preschool ➢ Tasman Parade Early Learning Centre & Preschool ➢ Wakeley Early Learning Centre ➢ Wetherill Park Early Learning Centre • Fairstart Early Intervention Services • Depot (Cardwell Street) • Dutton Plaza Office • Fairfield City HQ including Fairfield City Centre Office • Fairfield Showground including all ancillary buildings • Leisure Centres: <ul style="list-style-type: none"> ➢ Cabravale ➢ Fairfield ➢ Prairiewood • Libraries: <ul style="list-style-type: none"> ➢ Bonnyrigg ➢ Fairfield ➢ Smithfield ➢ Wetherill Park ➢ Whitlam Library • Fairfield City Museum and Gallery • Sustainability Resource Centre (SRC) <p>Note 1: If Council provides a hybrid working environment for staff (that is,</p>

Term	Definition
	<p>one where staff are involved in a mix of working at one of its permanently maintained worksites and working from home) the Disclosure Officer for those staff participating in the hybrid working environment is the most senior officer who ordinarily works at their relevant Council worksite.</p> <p>Note 2: If a Disclosure Officer is not already covered by a position listed in Appendix 3 of this Policy, then the most senior position at the location identified as Council's Permanently Maintained Worksites (see list above) will automatically be deemed a Disclosure Officer</p>
Privacy Contravention	<p>A Privacy Contravention means a failure, other than a trivial failure, by an agency or Public Official to exercise functions in accordance with the:</p> <ul style="list-style-type: none"> • <i>Privacy and Personal Information Protection Act 1998</i>, or • <i>Health Records and Information Privacy Act 2002</i>.
PID Act	Public Interest Disclosures Act 2022
PID	Public Interest Disclosure
Procedures	Public Interest Disclosure Procedures
Public Official	<p>A Public Official is defined in Section 14 of the PID Act as follows:</p> <ul style="list-style-type: none"> (a) A person employed in or by an agency or otherwise in the service of an Agency, (b) A person having Public Official functions or acting in a public official capacity whose conduct or activities an integrity agency is authorised by another Act or law to investigate, (c) An individual in the service of the Crown, (d) A statutory officer, (e) A person providing services or exercising functions on behalf of an agency, including a contractor, subcontractor or volunteer, (f) If an entity, under a contract, subcontract or other arrangement, is to provide services on behalf of an agency or exercise functions of an agency in whole or in part—an employee, partner or officer of the entity who is to be involved in providing the services in whole or in part, or who is to exercise the functions, (g) A judicial officer, (h) A member of Parliament, including a Minister, (i) A person employed under the Members of Parliament Staff Act 2013.
Reporter	A 'Reporter' is the person who is reporting what they believe is an incidence of serious wrongdoing. They may also be referred to as the 'Maker of a PID'.
Serious Maladministration	Serious maladministration is defined in the PID Act as conduct, other than conduct of a trivial nature, of an agency or a Public Official relating to a matter of administration that is:

Term	Definition
	<ul style="list-style-type: none"> • unlawful • unreasonable, unjust, oppressive or improperly discriminatory, or • based wholly or partly on improper motives. <p>There are 3 elements to serious maladministration in this definition:</p> <ol style="list-style-type: none"> 1. The conduct relates to a matter of administration. This means that there must be a link between the relevant action or inaction and the exercise of a power, function or duty of an agency or Public Official. 2. The conduct is: <ol style="list-style-type: none"> (a) unlawful (b) unreasonable, unjust, oppressive or improperly discriminatory, or (c) based wholly or partly on improper motives. 3. The action or inaction is serious. This means that the instance of maladministration must be more than trifling or trivial.
Serious and Substantial Waste of Public Money	<p>A Serious and Substantial Waste of Public Money includes any uneconomical, inefficient or ineffective use of resources, whether authorised or unauthorised and which results in a loss of public funds or resources.</p> <p>When addressing any complaint of serious and substantial waste, the NSW Audit Office will have regard to the nature, scale and materiality of the waste.</p> <p>Waste can result from such things as:</p> <ul style="list-style-type: none"> • not following a competitive tendering process • having poor or no processes in place when administering large amounts of public funds • the absence of appropriate safeguards to prevent the theft or misuse of public property • purchasing procedures and practices which fail to ensure that goods and services are necessary and adequate for their intended purpose • purchasing practices where the lowest price is not obtained for comparable goods or services without appropriate justification.
Serious Wrongdoing	<p>Under Section 13 of the PID Act serious wrongdoing is defined as:</p> <ul style="list-style-type: none"> • Corrupt Conduct • A Government Information Contravention • A Local Government Pecuniary Interest Contravention • Serious Maladministration • A Privacy Contravention • A Serious and Substantial Waste of Public Money

Term	Definition
Subject of a PID	Sometimes a PID may be reporting the behaviour of a Public Official where they have been accused of serious wrongdoing. This person is defined as the 'Subject of a PID'. Like the Reporter of a PID the Subject of a PID is entitled to protections and support whilst the investigation is being undertaken.
Voluntary PID	<p>A disclosure is deemed a Voluntary PID as soon as it is received by an agency as long as:</p> <ul style="list-style-type: none"> • The report is about serious wrongdoing, and • The report is made by a person who is or appears to be a Public Official, and • The report is not a Mandatory or Witness PID.
Witness PID	<p>The PID Act extends many of the protections that apply to Voluntary PID reporters (whistleblowers) to those who provide information as a witness in an investigation into serious wrongdoing.</p> <p>A disclosure will be a Witness PID if:</p> <ul style="list-style-type: none"> • A person (whether they are a Public Official or not) discloses information during an investigation, and • That investigation is into serious wrongdoing, and • They disclosed the information following a request or requirement of the investigator or investigating agency. <p>All information provided by a person in these circumstances constitutes a Witness PID (provided the person is not wilfully providing false information)</p>

APPENDIX 3 — FAIRFIELD CITY COUNCIL DISCLOSURE OFFICERS

Position
Mayor
General Manager
Deputy General Manager (Public Officer)
Executive Director and Chief Financial Officer
Director City Assets
Director City Delivery
Director City Development
Director City Living
Director City Planning
Director People, Culture & Strategy
Executive Manager (Disclosure Coordinator)
Chief Information Officer
Principal Internal Auditor
Manager Asset Management
Manager Building Control & Compliance
Manager Design Services
Manager Cabramatta Place
Manager Catchment Planning
Manager Children and Family Services
Manager Communications & Marketing
Manager Community Regulatory Services
Manager Development Planning
Manager Finance
Manager Infrastructure Services
Manager Integrated Planning and Reporting
Manager Leisure Centres, Showground and Golf Course
Manager Libraries & Museum
Manager Major Projects & Planning
Manager Operations People and Culture
Manager Parks and Gardens
Manager Parks Place & Economic Development
Manager Property and Community
Manager Property Strategy and Services
Manager Records and Information Management
Manager Social Planning and Community Development
Manager Strategic Land Use Planning
Manager Waste & Cleanings Operations
Coordinator Natural Resource Management
Major Events Director
Procurement Manager
Risk Management Co-ordinator
Team Leader Customer Service
Note: If not already covered by a position listed above, then the most senior position at the locations identified as Permanently Maintained Worksites (see Definitions) will be automatically deemed a Disclosure Officer

APPENDIX 4 — INTEGRITY AGENCIES

Integrity Agency	What they investigate	Contact Information
NSW Ombudsman	Serious maladministration — most kinds, 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
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 (ICAC)	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 Email: icac@icac.nsw.gov.au
The Inspector of the Independent Commission Against Corruption	Serious maladministration by ICAC or ICAC officers	Telephone: 02 9228 3023 Writing: PO Box 5341 Sydney NSW 2001 Email: oiicac_executive@oiicac.nsw.gov.au
The Law Enforcement Conduct Commission	Serious maladministration by the NSW Police Force or the NSW Crime Commission	Telephone: 02 9321 6700 or 1800 657 079 Writing: GPO Box 3880 Sydney NSW 2001 Email: contactus@lecc.nsw.gov.au
The Inspector of the Law Enforcement Conduct Commission	Serious maladministration by the LECC and LECC officers	Telephone: 02 9228 3023 Writing: GPO Box 5341 Sydney NSW 2001 Email: oilecc_executive@oilecc.nsw.gov.au
Department of Planning and Environment - 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