

Item 4.

Adoption - Public Interest Disclosure Policy

File No: S121629.035

Summary

The City of Sydney is required to have a public interest disclosure policy under section 42 of the Public Interest Disclosures Act 2022 (NSW), that supports public officials who report suspected serious wrongdoing and specifies our procedures for receiving, assessing and dealing with public interest disclosures. A new Public Interest Disclosure Policy was adopted by Council in October 2023 in accordance with the requirements of the 2022 Act.

The Public Interest Disclosure Policy sets out:

- how the City of Sydney will support and protect public officials if they come forward with a report of serious wrongdoing
- how we will deal with the report and our other responsibilities under the PID Act
- who to contact to make a report
- how to make a report
- the protections which are available to reporters under the PID Act.

The policy also documents our commitment to building a speak up culture. Part of that speak up culture is having in place a framework that facilitates public interest reporting of wrongdoing by protecting those who speak up from detrimental action and taking appropriate action to investigate reports. Protections for reporters include:

- protections from detrimental action
- protections from civil and criminal liability for making a disclosure
- the protection of information that may identify the reporter.

Following a scheduled review, this report seeks Council approval of the updated Public Interest Disclosure Policy with minor updates.

Recommendation

It is resolved that:

- (A) Council adopt the Public Interest Disclosure Policy, as shown at Attachment A to the subject report; and
- (B) authority be delegated to the Chief Executive Officer to make amendments to the Public Interest Disclosure Policy in order to update the contact information from time to time in Annexure A, correct any minor drafting errors and to finalise design and accessible formats for publication.

Attachments

Attachment A. Public Interest Disclosure Policy

Attachment B. Current Public Interest Disclosure Policy with tracked changes

Background

1. The Public Interest Disclosure Policy (PID Policy) was adopted by Council on 23 October 2023 following the commencement of the new Public Interest Disclosures Act 2022 (PID Act). This policy is based on the NSW Ombudsman's model public interest disclosure policy.
2. The PID Policy sets out:
 - how the City of Sydney will support and protect public officials if they come forward with a report of serious wrongdoing
 - how we will deal with the report and our other responsibilities under the PID Act
 - who to contact to make a report
 - how to make a report
 - the protections which are available to reporters under the PID Act.
3. The policy also documents our commitment to building a speak up culture. Part of that speak up culture is having in place a framework that facilitates public interest reporting of wrongdoing by protecting those who speak up from detrimental action and taking appropriate action to investigate reports. Protections for reporters include:
 - protections from detrimental action
 - protections from civil and criminal liability for making a disclosure
 - the protection of information that may identify the reporter.
4. Public officials have multiple pathways to report serious wrongdoing. This includes reporting to a nominated disclosure officer, managers and integrity agencies. The Executive Director Legal & Governance, as the City of Sydney's disclosure coordinator, is responsible for the assessment and oversight of internal reviews into reports of serious wrongdoing. A full list of disclosure officers is attached to the PID Policy as Annexure A and a list of integrity agencies is attached as Annexure B.
5. Public officials at the City of Sydney include:
 - Councillors, Council committee members and members of wholly advisory committees
 - City of Sydney employees, including permanent, temporary and casual employees, together with agency contractors (labour hire), work experience students, apprentices and volunteers
 - any person providing services or exercising functions on behalf of the City of Sydney, including contractors and subcontractors

- any employee, partner or officer of an entity that provides services, under contract, subcontract or other arrangement, on behalf of the City of Sydney or exercises City of Sydney functions, and are involved in providing those services or exercising those functions.

Key Implications

6. Guidance on the new PID Policy was communicated to all staff following adoption in 2023 and all disclosure officers and managers complete mandatory training on their responsibilities under the PID Act and PID Policy, based on content prepared by the NSW Ombudsman. Regular updates on reporting wrongdoing and our speak up culture are communicated to all staff. Refresher training for all disclosure officers and managers is also scheduled to be implemented in October 2026 to meet the 3 year refresher training requirements under the PID Act.
7. The PID Act requires every agency to submit a PID annual return to the NSW Ombudsman. The PID annual return contains information about voluntary PIDs received, how we dealt with those PIDs and the measures we have taken during the reporting period to promote a positive speak up culture. 6 voluntary PIDs have been received since the adoption of the PID Policy. 1 was found to be partially substantiated, 4 were found to be unsubstantiated and 1 was dealt with, following a risk assessment, through the presentation of tailored workshops to targeted groups.
8. No significant changes are required to the PID Policy, however, the following minor changes are recommended and marked in tracked changes in the attached draft (Attachment B):
 - additional content on acting with integrity and role modelling behaviour consistent with the City of Sydney's code of conduct and values
 - guidance on the option to discuss concerns with the NSW Ombudsman through their new whistleblower support team
 - additional guidance on maintaining confidentiality
 - references updated from director to executive director
 - disclosure officer contact details updated where applicable
 - updated employee definition
 - updated policy review period from 2 to 4 years, now that the changes to the whistleblower provisions under the new PID Act 2022 have been fully implemented.

Strategic Alignment - Sustainable Sydney 2030-2050 Continuing the Vision

9. Sustainable Sydney 2030-2050 Continuing the Vision renews the communities' vision for the sustainable development of the city to 2050. It includes 10 strategic directions to guide the future of the city, as well as 10 targets against which to measure progress. This policy is aligned with the following strategic direction and objective:
 - (a) Direction 1 - Responsible governance and stewardship - The City of Sydney's Public Interest Disclosure Policy addresses the requirements of the Public Interest Disclosure Act 2022 to have a policy that provides for the City's procedures for receiving, assessing and dealing with public interest disclosures.

Organisational Impact

10. The updated PID Policy will be the subject of staff communications following adoption and the updated contact details for disclosure officers will be displayed across work sites. Governance staff will continue to work across the organisation to raise awareness of the policy and to ensure it is being appropriately implemented.

Risks

11. The recommendation requested is within the City's risk appetite/tolerance in accordance with the Risk Appetite Statement. In particular:
 - We promote a culture of integrity, honesty and ethical behaviour in all aspects of our operations. We have no appetite for unethical practices or actions that may expose the organisation to significant legal or compliance risks.
 - We have no appetite for engaging in illegal activities including fraud and corruption.
 - We have minimal tolerance for non-compliance with policies and procedures, and we will take reasonable steps to prevent, detect and promptly address non-compliance.

This policy not only ensures that the City meets its compliance obligations under the Public Interest Disclosure Act 2022; it also supports the City's corruption prevention efforts to encourage a culture of integrity and to support staff to speak up if they suspect serious wrongdoing.

Relevant Legislation

12. Public Interest Disclosures Act 2022 (NSW).

Public Consultation

13. Governance staff consulted with the NSW Ombudsman on the development, implementation and review of this policy. No public consultation is required in relation to this policy.

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