

## Public Interest Disclosures & Internal Reporting Policy

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<b>AUTHORITY</b>	Corporate Services
<b>CONTACT OFFICER</b>	General Manager

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## 1 PURPOSE

- 1.1 The purpose of this Policy is to establish an internal reporting system for employees and Councillors to report wrongdoing without fear of reprisal. This Policy sets out who can report wrongdoing to in Council, what can be reported and how reports of wrongdoing will be dealt with. Specifically, the purpose of this Policy is:
- i. To encourage and facilitate the reporting of disclosures in accordance with the Public Interest Disclosures Act 1994 (the PID Act) by establishing an internal reporting system for the reporting of disclosures of corrupt conduct, maladministration or serious and substantial waste of public money by Council, its employees and Councillors;
  - ii. To provide protection from reprisals under the PID Act for employees or Councillors wishing to make disclosures;
  - iii. To properly investigate matters raised in disclosures;
  - iv. To provide confidentiality of the identity of the person making the disclosure; and
  - v. To report on Council's obligations under the PID Act and provide statistical information about the public interest disclosures in Council's annual report and to the NSW Ombudsman ever six (6) months.
- 1.2 This Policy is designed to complement normal communication channels between supervisors and employees. Employees are encouraged to raise matters of concern at any time with their supervisors, but also have the option of making a report about a public interest issue in accordance with this Policy and the *Public Interest Disclosures Act 1994*. It is a requirement of the PID Act that public authorities, including local government authorities, have a Policy and supporting procedures for receiving, assessing and dealing with public interest disclosures.
- 1.3 The internal reporting system established under this Policy is not intended to be used for employee grievances, which should be raised through Council's grievance procedure. If an employee makes a report under this Policy which is substantially a grievance, the matter will be dealt with in accordance with Council's grievance procedures.

## 2 SCOPE

- 2.1 This Policy applies to:
- i. Council employees (including temporary or casual employees) and Councillors;
  - ii. Consultants;
  - iii. Individual contractors working for Council;
  - iv. People who perform official functions on behalf of Council, whose conduct and activities could be investigated by an investigating authority, such as volunteers; and
  - v. Employees of contractors providing services to Council.
- 2.2 This Policy also applies to public officials of other councils or public authorities who report wrongdoing relating to Council.

## 3 DEFINITIONS

3.1 For the purposes of this Policy, the following definitions apply:

Term	Definition
Act	<i>Local Government Act 1993 (NSW)</i>

## 4 POLICY STATEMENT

4.1 Council is committed to the highest standards of ethical and accountable conduct, to principles of integrity, impartiality, responsiveness and honesty and to the aims and objectives of the PID Act.

4.2 Council recognises the value and importance of employee contributions to enhance administrative and management practices and strongly supports disclosures being made by employees or Councillors which disclose corrupt conduct, maladministration or serious and substantial waste of public money.

4.3 Council will not tolerate corrupt conduct, maladministration or serious and substantial waste of public money and will take all reasonable steps to provide protection to employees and Councillors who make such disclosures from any detrimental action in reprisal for the making of the disclosure. Council is committed to:

- i. Creating a climate of trust, where employees are comfortable and confident about reporting wrongdoing;
- ii. Encouraging employees to come forward if they have witnessed what they consider to be wrongdoing within Council;
- iii. Keeping the identity of the employee disclosing wrongdoing confidential, wherever possible and appropriate;
- iv. Protecting employees who make disclosures from any adverse action motivated by their report;
- v. Dealing with reports thoroughly and impartially and if some form of wrongdoing has been found, taking appropriate action to rectify it, this is also reaffirmed in Council's Code of Conduct (the Code);
- vi. Keeping employees who report informed of their progress and the outcome;
- vii. Encouraging employees to report wrongdoing within Council and respect their decision to disclose wrong doing outside Council, provided that the external disclosure is made in accordance with the provisions of the PID Act;
- viii. Ensuring Council employees, at all levels, understand the benefits of reporting wrongdoing, are familiar with this Policy and aware of the needs of those who report wrongdoing;
- ix. Providing adequate resources, both financial and human, to:
  - a. Encourage reports of wrongdoing;
  - b. Protect and support those who make them;
  - c. Provide training for key personnel;

- d. Investigate allegations;
- e. Properly manage any workplace issues that the allegations identify or create;
- f. Correct any problem that is identified; and
- g. Review the Policy annually to ensure it is still relevant and effective.

## 5 ROLES AND RESPONSIBILITIES

This internal reporting system places roles and responsibilities upon people at all levels within Council, including as follows:

### 5.1 The role of Council employees and Councillors

Employees and Councillors play an important role in contributing to a workplace where known or suspected wrongdoing is reported and dealt with appropriately. All Council employees and Councillors are obliged to:

- i. Report all known or suspected wrongdoing and support those who have made reports of wrongdoing;
- ii. If requested, assist those dealing with the report, including supplying information on request, cooperating with any investigation and maintaining confidentiality;
- iii. Treat any employees or person dealing with a report of wrongdoing with courtesy and respect; and
- iv. Respect the rights of any person the subject of reports.

Employees and Councillors must not:

- i. Make false or misleading reports of wrongdoing; or
- ii. Victimise or harass anyone who has made a report.

Additionally, the behaviour of all Council employees and Councillors involved in the internal reporting process must adhere to Council's Code of Conduct. A breach of the Code could result in disciplinary action.

### 5.2 The Role of Forbes Shire Council

Forbes Shire Council has a responsibility to establish and maintain a working environment that encourages employees and Councillors to report wrongdoing and supports 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 manage workplace conflict.

Forbes Shire Council will assess all reports of wrongdoing it receives from employees and Councillors and deal with them appropriately. Once wrongdoing has been reported, Forbes Shire Council takes 'ownership' of the matter. This means it is up to Council to decide whether a report should be investigated, and if so, how it should be investigated and by whom. Forbes Shire Council will deal with all reports of wrongdoing fairly and reasonably, and respect the rights of any person who is the subject of a report.

Forbes Shire Council must report on its obligations under the PID Act and statistical information about public interest disclosures in Council's annual report and to the NSW Ombudsman every six months.

To ensure Forbes Shire Council complies with the PID Act and deals with all reports of wrongdoing properly, all employees and Councillors with roles outlined below and elsewhere in this Policy receive training on their responsibilities.

## 5.3 General Manager

The General Manager has ultimate responsibility for maintaining the internal reporting system and workplace reporting culture, and ensuring Council complies with the PID Act. The General Manager can receive reports from employees and Councillors and has a responsibility to:

- i. Assess reports received by or referred to them, to determine whether or not the report should be treated as a public interest disclosure, and to decide how the report will be dealt with;
- ii. Deal with reports made under Council's Code of Conduct in accordance with Council's adopted Code of Conduct procedures;
- iii. Ensure there are strategies in place to support reporters, protect reporters from reprisal and manage workplace conflict that may arise in relation to a report;
- iv. Make decisions following any investigation or appoint an appropriate decision-maker;
- v. Take appropriate remedial action where wrongdoing is substantiated or systemic problems are identified;
- vi. Refer to actual or suspected corrupt conduct to the Independent Commission Against Corruption (ICAC); and
- vii. Refer any evidence of a reprisal offence under s. 20 of the PID Act to the Commissioner of Police or the ICAC.

## 5.4 Disclosures Coordinator

The Disclosures Coordinator has a central role in Council's internal reporting system. The Disclosures Coordinator can receive and assess reports, and is the primary point of contact for reporting. The Disclosure Coordinator has a responsibility to:

- i. Assess reports to determine whether or not a report should be treated as a public interest disclosure, and to decide how each report will be dealt with (either under delegation or in consultation with the General Manager);
- ii. Deal with reports made under the Code of Conduct;
- iii. Coordinate Council's response to a report;
- iv. Acknowledge reports and provide updates and feedback to the reporter;
- v. Assess whether it is possible and appropriate to keep the reporter's identity confidential;
- vi. Assess the risk of reprisal and workplace conflict related to or likely to arise out of a report, and develop strategies to manage any risk identified;
- vii. Where required, provide or coordinate support to employees involved in the reporting or investigation process, including protecting the interests of any Officer subject of a report;

- viii. Ensure Council complies with the PID Act; and
- ix. Provide six (6) monthly reports to the NSW Ombudsman in accordance with s. 6CA of the PID Act.

## 5.5. Disclosure Officers

Disclosure Officers are additional points of contact within the internal reporting system. They can provide advice about the system and the internal reporting policy, receive reports of wrongdoing and assist staff and Councillors to make reports. Disclosures Officers have a responsibility to:

- i. Document in writing any reports received verbally and have the document signed and dated by the reporter;
- ii. Make arrangements to ensure reporters can make reports privately and discreetly when requested;
- iii. Discuss with the reporter any concerns they may have about reprisal or workplace conflict; and
- iv. Carry out preliminary assessment and forward reports to the Disclosures Coordinator or General Manager for full assessment.

## 5.6 The Mayor

The Mayor can receive reports from employees and Councillors about the General Manager. When the Mayor receives such reports, the Mayor has a responsibility to:

- i. Assess the reports to determine whether or not they should be treated as a public interest disclosure, and to decide how they will be dealt with;
- ii. Deal with reports made under Council's Code of Conduct in accordance with Council's adopted Code of Conduct procedures;
- iii. Refer reports to an investigating authority, where appropriate;
- iv. Liaise with the Disclosures Coordinator to ensure there are strategies in place to support reporters, protect reporters from reprisal and manage workplace conflict that may arise in relation to a report;
- v. Refer actual or suspected corrupt conduct to the ICAC; and
- vi. Refer any evidence of a reprisal offence under s. 20 of the PID Act to the Commissioner of Police or the ICAC.

## 5.7 Supervisors and Line Managers

Supervisors and line managers should be aware of this Policy and are responsible for creating a work environment where employees are comfortable and confident about reporting wrongdoing. They have the responsibility to:

- i. Encourage employees to report known or suspected wrongdoing within the organisation and support employees when they do;

- ii. Identify reports made to them in the course of their work which could be public interest disclosures, and assist the employees to make the report to an officer authorised to receive public interest disclosures under this Policy;
- iii. Implement local management strategies, in consultation with the disclosures coordinator, to minimise the risk of reprisal or workplace conflict in relation to a report; and
- iv. Notify the Disclosures Coordinator or General Manager immediately if they believe an employee is being subjected to reprisal as a result of reporting wrongdoing, or in the case of suspected reprisal by the General Manager, notify the Mayor.

## 6 WHAT SHOULD BE REPORTED?

Individuals should report any suspected wrongdoing within Council, or any activities or incidents you see within the Council that you believe are wrong. Reports about five categories of serious misconduct (*corrupt conduct, maladministration, serious and substantial waste of public money, breach of the GIPA Act, and Local Government pecuniary interest contravention*) which otherwise meet the criteria of a public interest disclosure, will be dealt with under the PID Act and according to this Policy.

All other wrongdoing or suspected wrongdoing should be reported to a supervisor, to be dealt with in line with the relevant policies. This might include:

- i. Harassment or unlawful discrimination; or
- ii. Practices that endanger the health or safety of staff or the public.

Even if these reports are not dealt with as public interest disclosures, Council recognises such reports may raise important issues. Council will respond to all reports and make every attempt to protect the employees making the report from reprisal.

### 6.1 Corrupt Conduct

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

- i. The improper use of knowledge, power or position for personal gain or the advantage of others;
- ii. Acting dishonestly or unfairly, or breaching public trust; or
- iii. A Council Official being influenced by a member of the public to use their position in a way that is dishonest, biased or breaches public trust.

### 6.2 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:

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

## 6.3 Serious and Substantial Waste of Public Money

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

- i. Poor project management practices leading to projects running over budget or time leading to significant impact on resources (people, money, equipment);
- ii. Having poor or no processes in place for a system involving large amounts of public funds;  
or
- iii. Not following a competitive tendering process for large scale contract.

## 6.4 Government Information Contravention (Breach of the GIPA Act)

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

- i. Destroying, concealing or altering records to prevent them from being released;
- ii. Knowingly making decisions that are contrary to the legislation; or
- iii. Directing another person to make a decision that is contrary to the legislation.

## 6.5 Local Government Pecuniary Interest Contravention

A Local Government pecuniary interest contravention is a failure to comply with the requirements under the Local Government Act 1993 relating to the management of pecuniary interests. These include obligations to lodge disclosure of interest returns, disclose pecuniary interests at Council and Council Committee meetings and leave the meeting while the matter is being discussed. A pecuniary interest is an interest that a person has in a matter because of a reasonable likelihood or expectation or appreciable financial gain or loss to the person. For example, this could include:

- i. A senior Council employee recommending a family member for a Council contract and not declaring the relationship;
- ii. A Councillor/General Manager/senior Council employee holding an undisclosed shareholding in a company competing for a Council contract; or
- iii. A Councillor participating in consideration of a Development application for a property they or their family has interest in.

## 7 ASSESSMENT OF REPORTS

All reports will be promptly and thoroughly assessed to determine what action will be taken to deal with the report and whether or not the report will be treated as a public interest disclosure. The Disclosures Coordinator is responsible for assessing reports, in consultation with the General Manager where appropriate. All reports will be assessed on the information available to the Disclosures Coordinator at the time. It is up to the Disclosures Coordinator to decide whether an investigation should be carried out and how that investigation should be carried out. In assessing a report the Disclosures Coordinator may decide that the report should be referred elsewhere or that no action should be taken on the report.

## 8 WHEN WILL A REPORT BE TREATED AS A PUBLIC INTEREST DISCLOSURE?

Council will treat a report as a public interest disclosure if it meets the criteria of a public interest disclosure under the PIC Act. These requirements are:

- i. The report must be about one of the five (5) categories of serious wrongdoing (*corrupt conduct, maladministration, serious and substantial waste of public money, breach of the GIPA Act, and Local Government pecuniary interest contravention*) as per s. 5 of this Policy;
- ii. The person making the disclosure must honestly believe on reasonable grounds that the information shows or tends to show wrongdoing; and
- iii. The report has to be made to either the General Manager or, for reports about the General Manager, the Mayor, a position nominated in this policy (see s. 9), an investigating authority or in limited circumstances to an MP or journalist (see s. 10).

Reports by employees are not public interest disclosures if they:

- i. Mostly question the merit of Government Policy, including the Policy of the governing body of Council (see s. 17); or
- ii. Are made with the sole or substantial motive of avoiding dismissal or other disciplinary action.

## 9 WHO CAN RECEIVE A REPORT WITHIN COUNCIL

You are encouraged to report general wrongdoing to your supervisor. However, the PID Act requires that for a report to be a public interest disclosure, it must be made to certain public officials identified in this Policy and supporting procedures. The following positions are the only people within Council who are authorised to receive a public interest disclosure:

- i. General Manager;
- ii. Mayor (if the disclosure concerns or involves the General Manager);
- iii. Disclosures Coordinator; or
- iv. Disclosures Officer.

If your report involves a Councillor, you should make it to the General Manager. If your report relates to the General Manager, you should make it to the Mayor.

Any supervisor who receives a report that they believe may be a public interest disclosure is obliged to assist the employee to make the report to one of the positions listed below. The broader responsibilities of these positions are outlined under Roles and Responsibilities (see s.5)

## 10 WHO CAN RECEIVE A REPORT OUTSIDE OF COUNCIL

Employees and Councillors are encouraged to report wrongdoing within Council, however internal reporting is not the only option. You can also make a public interest disclosure to:

- i. An investigating authority; or
- ii. A Member of Parliament or journalist, but only in the limited circumstances below.

## 10.1 Investigating Authorities

The PID Act lists a number of investigating authorities in NSW that employees and Councillors can report wrongdoing to and the type of wrongdoing each authority can deal with it. In certain circumstances it may be preferable to make a report of wrongdoing to an investigating authority, for example a report about either the General Manager or the Mayor. The relevant investigating authorities are:

- i. Independent Commission Against Corruption (ICAC) – for corrupt conduct;
- ii. NSW Ombudsman – for maladministration;
- iii. Information Commissioner – for disclosures breach of the GIPA Act and
- iv. NSW Office of Local Government – for disclosures about local councils.

You should contact the relevant investigating authority for advice about how to make a disclosure to them. Contact details for each investigating authority may well discuss any such reports with Council. Council will make every effort to assist and cooperate with the investigating authority to ensure the matter is dealt with appropriately and there is a satisfactory outcome. Council will also provide appropriate support and assistance to employees or Councillors who report wrongdoing to an investigating authority, if Council is made aware that this has occurred.

## 10.2 Members of Parliament or Journalists

To have the protections of the PID Act, employees reporting wrongdoing to a Member of Parliament (MP) or a journalist must have already made substantially the same report to one of the following:

- i. The General Manager;
- ii. A person nominated in this Policy, including the Mayor for reports about the General Manager; or
- iii. An investigating authority.

Also, Council or the investigating authority that received the initial report must have either:

- i. Decided not to investigate the matter;
- ii. Decided to investigate the matter, but not completed the investigation within six months of the original report;
- iii. Investigated the matter but not recommended any action as a result; or
- iv. Not told the person who made the report, within six months of the report being made, whether the matter will be investigated.

Most importantly, to be protected under the PID Act, if you report wrongdoing to an MP or a journalist you will need to be able to prove that you have reasonable grounds for believing that the disclosure is substantially true and that it is in fact substantially true.

## 10.3 Other External Reporting

If you report wrongdoing to a person or authority that is not listed above, or make a report to an MP or journalist without following the steps outlined above, you will not be protected under the PID Act. This may mean you will be in breach of legal obligations or Council's Code of Conduct, for example, disclosing confidential information. For more information about reporting wrongdoing outside Council, contact the Disclosures Coordinator or the NSW Ombudsman's Public Interest Disclosures Unit.

## 11 HOW TO MAKE A REPORT

You can report wrongdoing in writing or verbally. You are encouraged to make a report in writing as this can help to avoid any confusion or misinterpretation. Council's Internal Reporting Form is also available for employees or Councillors to use to make a report. If a report is made verbally, the person receiving the report will make a comprehensive record of the report and ask the person making the report to sign this record. The reporter should keep a copy of this record.

## 12 CAN A REPORT BE ANONYMOUS?

There will be some situations where you may not want to identify yourself when you make a report. Although these reports will still be dealt with by Council, it is best if you identify yourself. This allows Council to provide you with any necessary protection and support, as well as feedback about the outcome of any investigation into the allegations. It is important to realise that an anonymous disclosure may not prevent you from being identified by the subjects of the report or your colleagues. If Council does not know who made the report, it is very difficult for Council to prevent any reprisal should others identify you.

## 13 FEEDBACK TO EMPLOYEES WHO REPORT WRONGDOING

Employees who report wrongdoing will be told what is happening in response to their report.

### 13.1 Acknowledgement

When you make a report, Council will contact you to confirm that your report has been received and to advise:

- i. The timeframe for when you will receive further updates; and
- ii. The name and contact details of the people who can tell you what is happening or handle any concerns you may have.

After a decision is made about how your report will be dealt with, Council will send you an acknowledgment letter providing:

- i. Information about the action that will be taken in response to your report;
- ii. The likely timeframes for any investigation or other actions; and
- iii. Information about the internal and external resources or services available that you can access for support.

Council will provide this information to you within ten (10) working days from the date you make your report. Council will also advise you if it decides to treat your report as a public interest disclosure and provide you with a copy of this Policy at that time, as required by the PID Act.

Please note, if you make a report which meets the requirements of the PID Act but the report was made under a statutory or legal obligation or incidental to the performance of your day to day functions, you will not receive an acknowledgement letter or a copy of this Policy.

## 13.2 Progress Updates

While your report is being dealt with, such as by investigation or making other enquiries, you will be given:

- i. Information about progress of the investigation or other enquiries and reasons for any delay;
- ii. Advice of any decision by Council to proceed with the matter; and
- iii. Advice if your identity needs to be disclosed for the purposes of investigating the matter or making enquiries, and an opportunity to talk about this beforehand.

## 13.3 Feedback

Once the matter has been finalised you will be given:

- i. Enough information to show that adequate and appropriate action was taken and/or is proposed to be taken in response to your disclosure and any problem that was identified; and
- ii. Advice about whether you will be involved as a witness in any further matters, such as disciplinary or criminal proceedings.

## 14 MAINTAINING CONFIDENTIALITY

Council realises many reporters may want their identity and the fact they have made a report to remain confidential. This can help to prevent any action being taken against you for reporting wrongdoing. Council is committed to keeping your identity, and the fact that you have reported wrongdoing, confidential. However there may be situations where this may not be possible or appropriate. Council will discuss with you whether it is possible to keep your report confidential.

If you report wrongdoing, it is important that you only discuss your report with those responsible for dealing with it. This will include the Disclosures Coordinator and the General Manager, In the case of a report about the General Manager, the Disclosures Coordinator and the Mayor. The fewer people who know about your report, before and after you make it, the more likely it will be that Council can protect you from any reprisal. Any employees or Councillors involved in the investigation or handling of a report, including witnesses, are also required to maintain confidentiality and not disclose information about the process or allegations to any person except for those people responsible for handling the report.

## 15 MANAGING THE RISK OF REPRISAL AND WORKPLACE CONFLICT

When an employee or Councillor reports wrongdoing, Council will undertake a thorough risk assessment to identify the risk to you of detrimental action in reprisal for reporting, as well as indirect but related risks of workplace conflict or difficulties. The risk assessment will also identify strategies to deal with those risks and determine the level of protection and support that is appropriate.

Depending on the circumstances, Council may:

- i. Relocate the reporter or the employee who is the subject of the allegation within the current workplace;
- ii. Transfer the reporter or the employee who is the subject of the allegation to another position for which they are qualified; or
- iii. Grant the reporter or the employee who is the subject of the allegation leave of absence during the investigation of the disclosure.

These courses of action are not punishment and will only be taken in consultation with the reporter.

## 16 PROTECTION AGAINST REPRISALS

Council will not tolerate any reprisal against employees or Councillors who report wrongdoing or are believed to have reported wrongdoing. The PIC Act provides protection for employees and Councillors who have made a public interest disclosure by imposing penalties on anyone who takes detrimental action against another person substantially in reprisal for that person making a public interest disclosure. These penalties also apply to cases where a person takes detrimental action against another because they believe or suspect the other person has made or may have made a public interest disclosure, even if they did not.

Detrimental action means action causing, compromising or involving any of the following:

- i. Injury, damage or loss;
- ii. Intimidation or harassment;
- iii. Discrimination, disadvantage or adverse treatment in relation to employment;
- iv. Dismissal from, or prejudice in, employment; or
- v. Disciplinary proceedings.

A person who is found to have committed a reprisal offence may face criminal penalties such as imprisonment and/or fines, and may be required to pay the victim damages for any loss suffered as a result of the detrimental action. Taking detrimental action in reprisal is also a breach of the Code of Conduct which may 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.

It is important for employees and Councillors to understand the nature and limitations of the protection provided by the PID Act. The PID Act protects reporters from detrimental action being taken against them because they have made, or are believed to have made, a public interest disclosure. It does not protect reporters from disciplinary or other management action where Council has reasonable grounds to take such action.

### 16.1 Responding to Allegations of Reprisal

If you believe that detrimental action has been or is being taken against you or someone else in reprisal for reporting wrongdoing, you should tell your supervisor, the Disclosures Coordinator or the General Manager immediately. In the case of an allegation of reprisal by the General Manager, you can alternatively report this to the Mayor.

All supervisors must notify the Disclosures Coordinator or the General Manager if they suspect that reprisal against an employee is occurring or has occurred, or if any such allegations are made to them. In the case of an allegation of reprisal by the General Manager, the Mayor can alternatively be notified. 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:

- i. Assess the allegation of reprisal to decide whether the report should be treated as a public interest disclosure and whether the matter warrants investigation or if other action should be taken to resolve the issue;
- ii. If the reprisal allegation warrants investigation, ensure this is conducted by a senior and experienced member of staff;
- iii. 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 report;
- iv. Take appropriate disciplinary action against anyone proven to have taken or threatened any action in reprisal for making a disclosure;
- v. Refer any breach of Council's Code of Conduct (reprisal action) by a Councillor or the General Manager to the Office of Local Government; and/or
- vi. Refer any evidence of an offence under section 20 of the PID Act to the ICAC or NSW Police Force.

If you allege reprisal, you will be kept informed of the progress and outcome of any investigation or other action taken in response to your allegation. If you have reported wrongdoing and are experiencing reprisal which you believe is not being dealt with effectively, contact the Office of Local Government, the Ombudsman or the ICAC (depending on the type of wrongdoing you reported).

## **16.2 Protection Against Legal Action**

If you make a public interest disclosure in accordance with the PID Act, you will not be subject to any liability, and no action, claim or demand can be taken against you for having made the public interest disclosure. You will not have breached any confidentiality or secrecy obligations and you will have the defence of absolute privilege in defamation.

## **17 SUPPORT FOR THOSE REPORTING WRONGDOING**

Council will make sure that employees who have reported wrongdoing, regardless of whether their report is treated as a public interest disclosure, are provided with access to any professional support they may need as a result of the reporting process – such as stress management or counselling services.

Access to support may also be available for other employees involved in the internal reporting process where appropriate. Reporters and other employees involved in the process can discuss their support options with the Disclosures Coordinator.

## **18 SANCTIONS FOR MAKING FALSE OR MISLEADING DISCLOSURES**

It is important all employees and Councillors are aware that it is a criminal offence under the PID Act to wilfully make a false or misleading statement when reporting wrongdoing. Council will not support employees or Councillors 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.

## 19 THE RIGHTS OF PERSONS THE SUBJECT OF A REPORT

Council is committed to ensuring employees or Councillors who are the subject of a report of wrongdoing are treated fairly and reasonably. This includes keeping the identity of any person the subject of a report confidential, where this is practical and appropriate.

If you are the subject of the report, you will be advised of the allegations made against you at an appropriate time and before any adverse findings. At this time you will be:

- i. Advised of the details of the allegation;
- ii. Advised of your rights and obligations under the relevant related policies and procedures;
- iii. Kept informed about the progress of any investigation;
- iv. Given a reasonable opportunity to respond to any allegation made against you;
- v. Told the outcome of any investigation, including any decision made about whether or not further action will be taken against you.

Where the reported allegations against the subject officer are clearly wrong, or have been investigated and unsubstantiated, the subject officer will be supported by Council. The fact if the allegations and any investigation will be kept confidential unless otherwise agreed to by the subject officer.

## 20 MORE INFORMATION

More information around public interest disclosures is available from Council's Senior Governance Officer or the NSW Ombudsman.

## 21 RESOURCES

**For Disclosures about Corrupt Conduct:** Independent Commission Against Corruption

**Phone:** 02 8281 5999

**Toll Free:** 1800 463 909

**Tel. Typewriter (TTY):** 02 8281 5773

**Email:** [icac@icac.nsw.gov.au](mailto:icac@icac.nsw.gov.au)

**Web:** [www.icac.nsw.gov.au](http://www.icac.nsw.gov.au)

**Address:** Level 21, 133 Castlereagh Street, Sydney NSW 2000

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**For Disclosures about maladministration:** NSW Ombudsman

**Phone:** 02 9286 1000

**Toll Free (outside Sydney metro):** 1800 451 524

**Tel. Typewriter (TTY):** 02 9264 8050

**Email:** [nswombo@ombo.nsw.gov.au](mailto:nswombo@ombo.nsw.gov.au)

**Web:** [www.ombo.nsw.gov.au](http://www.ombo.nsw.gov.au)

**Address:** Level 24, 580 George Street, Sydney NSW 2000

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**For Disclosures about breaches of the GIPA Act:** Information and Privacy Commission

**Toll Free:** 1800 472 679

**Email:** [ipcinfo@ipc.nsw.gov.au](mailto:ipcinfo@ipc.nsw.gov.au)

**Web:** [www.ipc.nsw.gov.au](http://www.ipc.nsw.gov.au)

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## 22 VARIATION

- 22.1 Council reserves the right to vary the terms and conditions of this policy subject to a report Council.

### Revision History

Version	Adoption Date	Authorised by	Approved by	Revision Date
V1	20/10/2011	General Manager	Council	-
V2	15/11/2018	General Manager	Council	15/11/2020

### Change History

Version	Change Details
V1	Initial Policy
V2	Minor changes to align with NSW Ombudsman <i>Model Internal Reporting Policy for Local Government</i> .

### Related Documents

#### Title

*Code of Conduct*

*Code of Conduct: Procedures for the Administration of the Code*

*People Management Policy*

*Work Health and Safety Policy*

*Public Interest Disclosures Act 1994*

*Local Government Act 1993*

*Government Information (Public Access) Act 2009*

*Work Health and Safety Act 2011*

*NSW Ombudsman Model Internal Reporting Policy for Local Government*