

ITEM 9

POLICY REVIEW - PUBLIC INTEREST DISCLOSURE POLICY [PREVIOUSLY INTERNAL REPORTING POLICY]

As part of Council's rolling three year Policy Review Program, the Internal Reporting Policy has been reviewed. The policy has been renamed the Public Interest Disclosure Policy to provide clarity on the types of matters addressed within the policy and is attached for consideration and endorsement by Council.

RECOMMENDATION

- 1 The Internal Reporting Policy be renamed Public Interest Disclosure Policy.
- 2 The Public Interest Disclosure Policy be adopted.

REPORT AUTHORISATIONS

Report of: Todd Hopwood, Manager Governance and Customer Service
 Authorised by: Renee Campbell, Director Corporate Services - Connected + Engaged City

ATTACHMENTS

- 1 Draft Public Interest Disclosures Policy [with tracked changes]
- 2 Draft Public Interest Disclosures Policy

BACKGROUND

The Public Interest Disclosures (PID) Act 1994 (the PID Act) prescribes a framework for the disclosure and investigation of suspected wrongdoing in the public sector. Section 6D of the Act requires Wollongong City Council to have in place a policy and procedures for receiving, assessing and dealing with public interest disclosures (PIDs). As prescribed by the PID Act, Council's Internal Reporting Policy was developed in 2008, with due regard to the NSW Ombudsman's guidelines and the model internal reporting policy for local government.

PROPOSAL

To provide clarity on the types of matters addressed within the policy, it is proposed the policy be titled the *Public Interest Disclosure Policy*. There are no substantive amendments proposed to the Policy, although a number of administrative changes have been proposed based on updates to relevant legislative instruments, and changes to the NSW Ombudsman's process for dealing with public interest disclosures, as well as improving consistency of language and referencing within the document. To assist with the identification of proposed administrative, legislative and referencing changes, a copy of the policy showing track changes has been provided.

PLANNING AND POLICY IMPACT

This report contributes to the delivery of Our Wollongong 2028 goal 4 "*We are a connected and engaged community*". It specifically delivers on the following:

Community Strategic Plan	Delivery Program 2018-2021	Operational Plan 2019-20
Strategy	3 Year Action	Operational Plan Actions
4.3.1 Positive leadership and governance, values and culture are built upon	4.3.1.1 Ensure appropriate strategies and systems are in place that support good corporate governance	Ensure the implementation of mitigation strategies for fraud/corruption risks identified with immediate focus on the very high/high rated risks

CONCLUSION

The revised Policy is drafted in accordance with the PID Act and consistent with NSW Ombudsman guidelines and is submitted to Council for endorsement.



ADOPTED BY COUNCIL: [TO BE COMPLETED BY CORP SUPPORT]

BACKGROUND

The Public Interest Disclosures (PID) Act 1994 (the PID Act) prescribes a framework for the disclosure and investigation of wrongdoing and maladministration in the public sector. Under section 6D of the PID Act, the PID Act, Wollongong City Council is required to have in place a policy and procedures for receiving, assessing and dealing with public interest disclosures (PIDs). As prescribed by the PID Act, this policy was developed with due regard to the NSW Ombudsman's guidelines and the model internal reporting policies for local government.

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OBJECTIVE

Council recognises that Councillors and staff have an important role in ensuring a high ethical standard and enhancing administrative and management practices, and strongly supports disclosures which expose:

- Corrupt conduct;
- Fraud;
- Maladministration;
- Serious and substantial waste of public money;
- Breaches of the Government Information (Public Access) Act 2009; or
- Local Government pecuniary interest contravention.

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The objective of this policy is therefore to encourage and facilitate public interest disclosures, to ensure that personnel who make such disclosures receive protection from reprisals, and to ensure that matters raised in the disclosures are properly investigated and acted upon.

POLICY STATEMENT

- 1 Council is committed to the aims and objectives of the PID Act.
- 2 The Lord Mayor, General Manager and Council management acknowledge the value and importance of Councillor and staff contributions to high standards of administrative and management practices and strongly endorse reporting of corrupt conduct, fraud, maladministration, serious and substantial waste of public money or government information contravention.
- 3 Council recognises that staff who come forward and report wrongdoing are helping to promote integrity, accountability and good management within Council.
- 43 Council is committed to an effective response to internal disclosures in a way that will protect the identity of the whistleblower, wherever possible and appropriate.
- 54 Council will not tolerate reprisals or retribution against those making legitimate public interest disclosures as prescribed by the PID Act.

INTERNAL REPORTING PUBLIC INTEREST DISCLOSURES

COUNCIL POLICY

ADOPTED BY COUNCIL: 8 MAY 2017

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1 Purpose and Context of the Policy

The purpose of this policy is to establish an internal reporting system for staff and Councillors to report wrongdoing without fear of reprisal. The policy sets out who you can report wrongdoing to in Wollongong City Council, what can be reported and how reports of wrongdoing will be dealt with by Wollongong City Council.

This policy is designed to complement normal communication channels between supervisors and staff. Staff 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 \(PID Act\)](#).

This policy is just one in the suite of Wollongong City Council's complaint handling policies which include:

- Code of Conduct – Councillors
- Code of Conduct – Delegates of Council and Members of Council Committees
- Code of Conduct – Staff
- Code of Business Ethics
- Fraud and Corruption Prevention policy
- Professional Conduct Investigation policy

The internal reporting system established under this policy is not intended to be used for staff grievances, which should be raised through the [Prevention and Resolution of Workplace Bullying Harassment and Discrimination Employment, Equity and Diversity \(EED\)](#) policy. If a staff member makes a report under this policy which is substantially a grievance, the matter will be referred to Human Resources to be dealt with in accordance with the Enterprise Agreement for grievance procedure.

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2 Organisational Commitment

Wollongong City Council is committed to:

- Creating a climate of trust and integrity, where staff, [Councillors and other stakeholders](#) are comfortable and confident about reporting wrongdoing;
- Encouraging [staff individuals](#) to come forward if they have witnessed what they consider to be wrongdoing within the Council;
- Keeping the identity of the [staff member/person](#) disclosing wrongdoing confidential, wherever possible and appropriate;
- Protecting [staff individuals](#) who make disclosures from any adverse action motivated by their report;
- Protecting [staff individuals](#) from any adverse action resulting from them making a report;
- Dealing with reports thoroughly and impartially and if some form of wrongdoing has been found, taking appropriate action to rectify it;
- Keeping [staff disclosants who make reports](#) informed of their progress [of their report](#) and the outcome;
- Encouraging [staff individuals](#) to report wrongdoing within Council, but respecting any decision to disclose wrongdoing outside Council – provided that disclosure outside Council is made in accordance with the provisions of the PID Act;
- Ensuring managers and supervisors at all levels in Council understand the benefits of reporting wrongdoing, are familiar with this policy, and aware of the needs of those who report wrongdoing;
- Providing adequate resources, both financial and human, to:
 - encourage reports of wrongdoing;
 - protect and support those who make them;
 - provide training about how to make reports and the benefits of internal reports to Council and the public interest generally;
 - properly assess and investigate or otherwise deal with allegations;
 - properly manage any workplace issues that the allegations identify or that result from a report;
 - appropriately address any identified problems.

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3 Who Does This Policy Apply To?

This policy will apply to:

- both Council staff and Councillors;
- permanent employees, whether full-time or part-time;
- temporary or casual employees;
- consultants;
- individual contractors working for Wollongong City Council;
- employees of contractors providing services to Wollongong City Council;
- other people who perform Council official functions whose conduct and activities could be investigated by an investigating authority, including volunteers;
- the policy also applies to public officials of another Council or public authority who report wrongdoing relating to Wollongong City Council.

4 Roles and Responsibilities

a The Role of Council Staff and Councillors

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

- report all known or suspected wrongdoing and support those who have made reports of wrongdoing;
- if requested, assist those dealing with the report, including supplying information on request, cooperating with any investigation and maintaining confidentiality;
- treat any staff member or person dealing with a report of wrongdoing with courtesy and respect;
- respect the rights of any person the subject of reports.

Staff and Councillors must not:

- make false or misleading reports of wrongdoing;
- victimise or harass anyone who has made a report.

Additionally, the behaviour of all Council staff and Councillors involved in the internal reporting process public interest disclosures must adhere to Wollongong City Council's Code of Conduct. A breach of the code could result in disciplinary action.

b The Role of Wollongong City Council

Wollongong City Council has a responsibility to establish and maintain a working environment that encourages staff 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.

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

Wollongong City Council must report on our-its obligations under the PID Act and provide statistical information about public interest disclosures in our-its annual report, and to the NSW Ombudsman every six months.

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

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c Roles-Responsibilities of Key Positions

General Manager

The General Manager has ultimate responsibility for maintaining the internal reporting system and workplace reporting culture, and ensuring Wollongong City Council complies with the PID Act. The General Manager can receive reports from staff, ~~and Councillors~~ and other identified persons, and has a responsibility to:

- 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;
- deal with reports made under Council's Code of Conduct in accordance with Council's adopted Code of Conduct procedures;
- ensure there are strategies in place to support reporters, protect reporters them from reprisal and manage workplace conflict that may arise in relation to a report;
- make decisions following any investigation or appoint an appropriate decision-maker;
- take appropriate remedial action where wrongdoing is substantiated or systemic problems are identified;
- refer actual or suspected corrupt conduct to the New South Wales Independent Commission Against Corruption (ICAC); _____
- refer any evidence of a reprisal offence under section 20 of the PID Act to the Commissioner of Police or the ICAC.

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Professional Conduct Coordinator

This policy nominates the Professional Conduct Coordinator (**PCC**) as Council's Disclosures Coordinator. The Disclosures Coordinator has a central role in **Wollongong City Council's** internal reporting system. The Disclosures Coordinator can receive and assess reports, and is the primary point of contact in **Wollongong City-Council Council** for the reporter. The Disclosures Coordinator has a responsibility to:

- 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);
- deal with reports made under Council's Code of Conduct in accordance with Council's adopted Code of Conduct procedures;
- coordinate [Wollongong City](#) Council's response to a report;
- acknowledge reports and provide updates and feedback to the reporter;
- assess whether it is possible and appropriate to keep the reporter's identity confidential;
- assess [and document](#) 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;
- where required, provide or coordinate support to [staff/individuals](#) involved in the reporting or investigation process, including protecting the interests of any officer the subject of a report;
- ensure [Wollongong City](#) Council complies with the PID Act;
- provide six-monthly reports to the NSW Ombudsman in accordance with section 6CA of the PID Act.

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Disclosures Officers

Disclosures 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/individuals to make reports.

Disclosures Officers have a responsibility to:

- document in writing any reports received verbally, and have the document signed and dated by the reporter;
- make arrangements to ensure reporters can make reports privately and discreetly when requested, if necessary away from the workplace;

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- discuss with the reporter any concerns they may have about reprisal or workplace conflict;
- carry out preliminary assessment and forward reports to the Disclosures Coordinator or General Manager for full assessment.

Lord Mayor

The Lord Mayor can receive reports ~~from staff and Councillors~~ about the General Manager. Where the Lord Mayor receives such reports, the Lord Mayor has a responsibility to:

- 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;
- deal with reports made under Council's Code of Conduct in accordance with Council's adopted Code of Conduct procedures;
- refer reports to an investigating authority, where appropriate;
- 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;
- refer actual or suspected corrupt conduct to the ICAC;
- refer any evidence of a reprisal offence under section 20 of the PID Act to the Commissioner of Police or the ICAC.

Supervisors and Line Managers

Supervisors and Line Managers play an important role in managing the immediate workplace of those involved in or affected by the internal reporting process. Supervisors and Line Managers should be aware of the ~~internal reporting policy~~ Public Interest Disclosures Policy and are responsible for creating a local work environment where staff are comfortable and confident about reporting wrongdoing. They have a responsibility to:

- encourage staff to report known or suspected wrongdoing within the organisation and support staff them when they do;
- identify reports made to them in the course of their work which could be public interest disclosures, and assist the staff member to make the report to an officer authorised to receive public interest disclosures under this policy;
- ensure that individuals who report suspected wrongdoing are assisted in making that report directly to a Disclosures Officer or the Disclosures Coordinator, to ensure they protection from reprisal pursuant to the PID Act.
- implement local management strategies, in consultation with the Disclosures Coordinator, to minimise the risk of reprisal or workplace conflict in relation to a report;
- notify the Disclosures Coordinator or General Manager immediately if they believe a staff member is being subjected to reprisal as a result of reporting wrongdoing, or in the case of suspected reprisal by the General Manager, notify the Lord Mayor.

5 What ~~s~~Should be Reported?

You should report any suspected wrongdoing within Wollongong City Council, or any activities or incidents you see within Wollongong City Council that you believe are wrong.

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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. See below for details about these types of conduct. More information about what can be reported under the PID Act can be found in the NSW Ombudsman's Guideline B2: What should be reported?

All other wrongdoing or suspected wrongdoing should be reported to a supervisor, to be dealt with in line with the ~~relevant policies~~ Code of Conduct or Council's Policy for Prevention and Resolution of Workplace Bullying Harassment and Discrimination. This might include:

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- harassment or unlawful discrimination;
- practices that endanger the health or safety of staff or the public.

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Even if these reports are not dealt with as public interest disclosures, Wollongong City Council recognises that such reports may raise important issues. We Council will respond to all reports and make every attempt to protect the staff-individual member making the report from reprisal.

a *Corrupt Conduct*

Corrupt conduct is the dishonest or partial exercise of official functions by a public official.

For example, this could include:

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

b *Maladministration*

Maladministration is conduct that involves action or inaction of a serious nature that is contrary to law, unreasonable, unjust, oppressive or improperly discriminatory or based wholly or partly on improper motives.

For example, this could include:

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

c *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:

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

d *Breach of the GIPA Act*

A breach of the *Government Information (Public Access) Act 2009* (the GIPA Act) is a failure to properly fulfil functions under that Act.

For example, this could include:

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

e *Local Government Pecuniary Interest Contravention*

A local government pecuniary interest contravention is a failure to comply with requirements under the *Local Government Act 1993* relating to the management of pecuniary interests. These include obligations to lodge disclosure of interests 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 of appreciable financial gain or loss to the person.

For example, this could include:

- a senior Council staff member recommending a family member for a Council contract and not declaring the relationship;
- a Councillor participating in consideration of a DA for a property they or their family have an interest in.

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6 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.

7 When ~~Will~~ a Report be ~~It~~ treated as a Public Interest Disclosure?

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

- the report must be about one of the following five categories of serious wrongdoing – corrupt conduct, maladministration, serious and substantial waste of public money, breach of the GIPA Act, or local government pecuniary interest contravention;
- the person making the disclosure must honestly believe on reasonable grounds that the information shows or tends to show wrongdoing;
- the report has to be made to either the General Manager or, for reports about the General Manager the Lord Mayor, a position nominated in this policy (see section 8), an investigating authority or in limited circumstances to an MP or journalist (see section 9).

Reports ~~by staff~~ are not public interest disclosures if they:

- mostly question the merits of government policy (see section 17);
- are made with the sole or substantial motive of avoiding dismissal or other disciplinary action (see section 18).

8 Who Can Receive a Report Within Wollongong City Council?

Staff, Councillors and other stakeholders are encouraged to report general wrongdoing to their 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 or any supporting procedures.

The following positions are the only people within Wollongong City Council who are authorised to receive a public interest disclosure. Any supervisor who receives a report that they believe may be a public interest disclosure is obliged to assist the staff member to make the report to one of the positions listed below. The broader responsibilities of these positions are outlined under Roles and Responsibilities (section 4).

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 Lord Mayor.

General Manager
Lord Mayor (for reports about the General Manager only)
Director Planning and Environment
Director Corporate ~~and Community~~ Services
Director Community Services
Director Infrastructure and Works
Manager Human Resources
Manager Governance and ~~Information~~ Customer Service
Professional Conduct Coordinator

Additional disclosures officers are listed on the Wollongong City Council internal Hub website for staff and Councillors to refer to.

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9 Who Can Receive a Report Outside of Wollongong City Council?

Staff and Councillors are encouraged to report wrongdoing within [Wollongong City Council](#), but internal reporting is not your only option. You can also make a public interest disclosure to:

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- [an](#) investigating authority.
- [a](#) Member of Parliament or a journalist, but only in the limited circumstances outlined below.

a Investigating Authorities

The PID Act lists a number of investigating authorities in NSW that staff and Councillors can report wrongdoing to and the type of wrongdoing each authority can deal with. 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 [Lord Mayor](#).

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The relevant investigating authorities for [Wollongong City Council](#) are:

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- the Independent Commission Against Corruption (ICAC) – for reports about corrupt conduct;
- the [NSW](#) Ombudsman – for reports about maladministration;
- the Information and Privacy Commission [NSW](#) – for disclosures about a breach of the GIPA Act;
- the Office of Local Government – for disclosures about local councils.

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You should contact the relevant investigating authority for advice about how to make a disclosure to them. Contact details for each investigating authority are provided at the end of this policy.

You should be aware that the investigating authority may well discuss any such reports with [Wollongong City Council](#). [We 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. [We Council](#) will also provide appropriate support and assistance to [staff or Councillors](#) [individuals](#) who report wrongdoing to an investigating authority, if [we are Council](#) [is](#) made aware that this has occurred.

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b Members of Parliament or Journalists

To have the protection of the PID Act, [staff individuals](#) reporting wrongdoing to a Member of Parliament (MP) or a journalist must have already made substantially the same report to one of the following:

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- the [General Manager](#);
- a person nominated in this policy, including the Lord Mayor for reports about the General Manager;
- an investigating authority.

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Also, [Wollongong City Council](#) or the investigating authority that received your initial report, must have either:

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- decided not to investigate the matter;
- decided to investigate the matter, but not completed the investigation within six months of the original report;
- investigated the matter but not recommended any action as a result;
- not [told the person who made the report](#) [advised you](#), 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 (see section 19).

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c 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 ~~our Council's Code of Conduct~~ – by, for example, disclosing confidential information.

For more information about reporting wrongdoing outside ~~Wollongong City~~ Council, contact the Disclosures Coordinator or the NSW Ombudsman's Public Interest Disclosures Unit. Their contact details are provided at the end of this policy.

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10 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.

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.

11 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 ~~Wollongong City~~ Council, it is best if you identify yourself. This allows ~~us~~ Council to provide you with any necessary protection and support, as well as feedback about what action is to be taken or has been taken to deal with the issues raised in the report, or the outcome of any investigation.

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 ~~we~~ Council do not know who made the report, it is very difficult for ~~us~~ them to prevent any reprisal should others identify you.

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12 Feedback to ~~individuals~~ Staff ~~who~~ Report Wrongdoing

Staff, ~~and~~ Councillors ~~and other identified stakeholders~~ who report wrongdoing will be told what is happening in response to their report.

a Acknowledgement

When you make a report, ~~Wollongong City~~ Council will contact you ~~in writing within 45 days of receipt of your report, to provide you with a copy of this Policy and to~~ confirm that your report has been received, and to advise:

- the timeframe within which you will receive further updates;
- 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, ~~Wollongong City~~ Council will send you an acknowledgment letter, providing:

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

~~We will provide this information to you within ten working days from the date you make your report. We will also advise you if we decide 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.

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b Progress Updates

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

- information about the progress of the investigation or other enquiries and reasons for any delay;
- advice of any decision by Wollongong City Council not to proceed with the matter;
- 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.

c Feedback

Once the matter has been finalised you will be given:

- 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;
- advice about whether you are likely to be called as a witness in any further matters, such as disciplinary or criminal proceedings.
- Council will notify you in writing of the action taken in relation to your disclosure as soon as a decision has been made, but no later than six months after your disclosure.

13 Maintaining Confidentiality

Wollongong City Council realises recognises that 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 them for reporting wrongdoing (ie reprisal action).

Where possible and appropriate we Council will take steps to keep your identity, and the fact you have reported wrongdoing, confidential. We Council will discuss with you whether it is possible to keep your identity confidential, after conducting a risk assessment in this regard.

If confidentiality cannot be maintained, we Council will develop a plan to support and protect you from reprisal in consultation with you.

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, or in the case of a report about the General Manager, the Disclosures Coordinator and the Lord Mayor. The fewer people who know about your report, before and after you make it, the more likely it will be that we can protect you from any reprisal. If you breach the confidential nature of the process, Council may not be able to keep your identity confidential.

Any staff or Councilors persons 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.

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14 Managing the Risk of Reprisal and Workplace Conflict

When a staff member or Councillor an individual reports wrongdoing, Wollongong City 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, Wollongong City Council may:

- relocate the reporter or the staff member who is the subject of the allegation within the current workplace;
- transfer the reporter or the staff member who is the subject of the allegation to another position for which they are qualified;
- grant the reporter or the staff member 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.

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INTERNAL REPORTING PUBLIC INTEREST DISCLOSURES

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15 Protection Against Reprisals

Wollongong City Council will not tolerate any reprisal against staff or Councillors any individual who reports wrongdoing or are believed to have reported wrongdoing.

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The PID Act provides protection for staff, and Councillors and other stakeholders 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, comprising or involving any of the following:

- injury, damage or loss;
- intimidation or harassment;
- discrimination, disadvantage or adverse treatment in relation to employment;
- dismissal from, or prejudice in, employment;
- 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 Council's 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.

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It is important for staff 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 Wollongong City Council has reasonable grounds to take such action.

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a 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 Lord Mayor.

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

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

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- 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;
- if the reprisal allegation warrants investigation, ensure this is conducted by a senior and experienced member of staff;
- if it is established that reprisal is occurring against someone who has made a report, take all steps possible to stop that activity and protect the reporter;
- take appropriate disciplinary action against anyone proven to have taken or threatened any action in reprisal for making a disclosure;
- refer any breach of Part 8 of Council's Code of Conduct (reprisal action) by a Councillor or the General Manager to the Office of Local Government;
- refer any evidence of an offence under Section 20 of the PID Act to the ICAC or NSW Police Force.

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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). Contact details for these investigating authorities are included at the end of this policy.

b 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.

16 Support for Those Reporting Wrongdoing

Wollongong City Council will make sure that staff 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 staff involved in the internal reporting process where appropriate. Reporters and other staff involved in the process can discuss their support options with the Disclosures Coordinator.

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17 Sanctions for Making False or Misleading Statements

It is important all staff 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. Wollongong City Council will not support staff 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.

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18 The Rights of Persons the Subject of a Report

Wollongong City Council is committed to ensuring staff 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.

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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:

- advised of the details of the allegation;
- advised of your rights and obligations under the relevant related policies and procedures;
- kept informed about the progress of any investigation;
- given a reasonable opportunity to respond to any allegation made against you;
- 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 Wollongong City Council. The fact of the allegations and any investigation will be kept confidential unless otherwise agreed to by the subject officer.

19 Review

This policy will be reviewed by Wollongong City Council every two years. For any advice or guidance about this review, contact the NSW Ombudsman's Public Interest Disclosures Unit.

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INTERNAL REPORTING PUBLIC INTEREST DISCLOSURES

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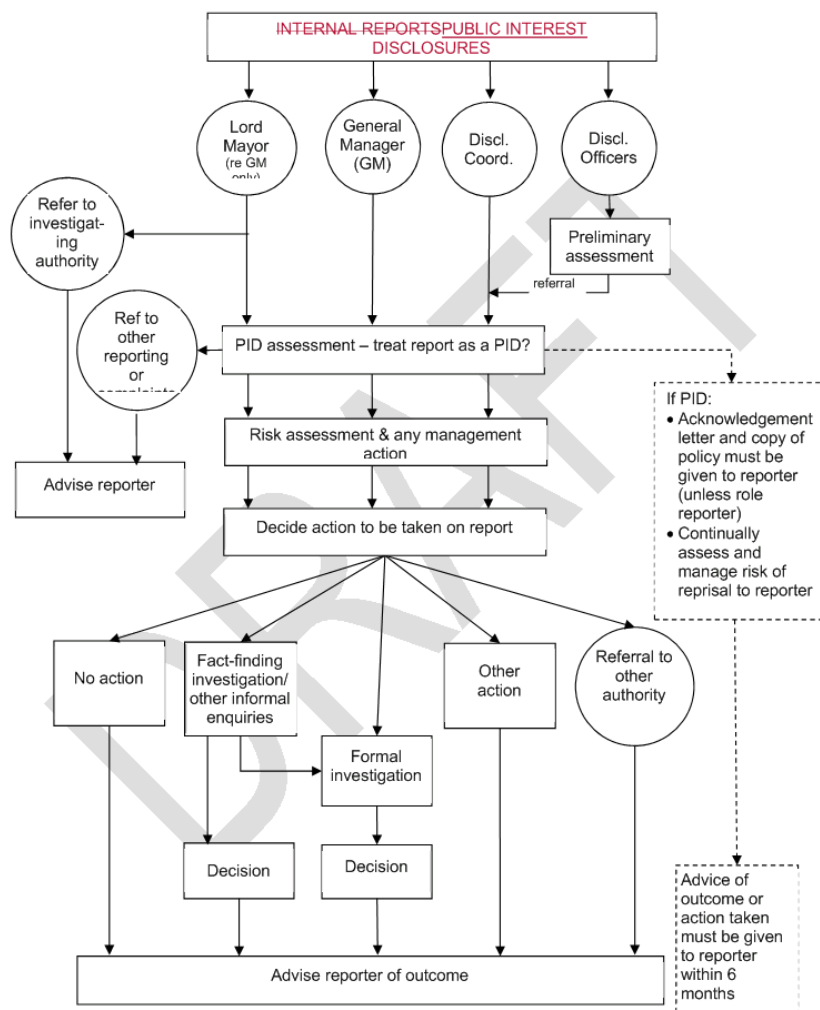
20 More Information

More information around public interest disclosures is available on our Professional Conduct Coordinator intranet site. Staff can also seek advice and guidance from the Disclosures Coordinator and the NSW Ombudsman's website at www.ombo.nsw.gov.au.

INTERNAL REPORTS PUBLIC INTEREST DISCLOSURES

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21 Flow Chart of Internal Reporting-Public Interest Disclosures Process



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INTERNAL REPORTING PUBLIC INTEREST DISCLOSURES

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22 Resources

The contact details for external investigating authorities that staff can make a public interest disclosure to or seek advice from are listed below.

For disclosures about corrupt conduct:

Independent Commission Against Corruption (ICAC)
 Phone: 02 8281 5999
 Toll free: 1800 463 909
 Tel. typewriter (TTY): 02 8281 5773
 Facsimile: 02 9264 5364
 Email: icac@icac.nsw.gov.au
 Web: www.icac.nsw.gov.au
 Address: Level 7
 255 Elizabeth Street
 Sydney NSW 2000

For disclosures about maladministration:

NSW Ombudsman
 Phone: 02 9286 1000
 Toll free (outside Sydney metro): 1800 451 524
 Tel. typewriter (TTY): 02 9264 8050
 Facsimile: 02 9283 2911
 Email: nswombo@ombo.nsw.gov.au
 Web: www.ombo.nsw.gov.au
 Address: Level 24
 580 George Street
 Sydney NSW 2000

For disclosures about breaches of the GIPA Act:

Information and Privacy Commission
 Toll free: 1800 472 679
 Facsimile: 02 8114 3756
 Email: ipcinfo@ipc.nsw.gov.au
 Web: www.ipc.nsw.gov.au
 Address: Level 17
 201 Elizabeth Street
 Sydney NSW 2000

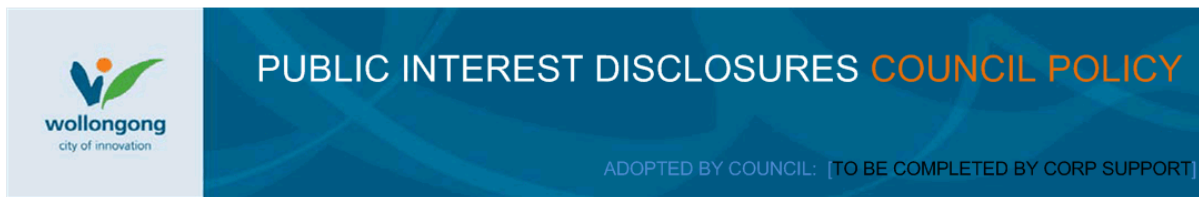
For disclosures about local councils:

Office of Local Government
 Phone: 02 4428 4100
 Tel. typewriter (TTY): 02 4428 4209
 Facsimile: 02 4428 4199
 Email: olg@olg.nsw.gov.au
 Web: www.olg.nsw.gov.au
 Address: 5 O'Keefe Avenue
 Nowra NSW 2541

INTERNAL REPORTING PUBLIC INTEREST DISCLOSURES

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SUMMARY SHEET		
Responsible Division	Office of the General Manager	
Date/s adopted	Executive Management Committee [updated by policy owner]	Council [DD Mmmm YYYY]
Date/s of previous adoptions	8 May 2017, 30 March 2015, 22 July 2013, 12 March 2012, 10 October 2011, 25 August 2008	
Date of next review	May 2019	
Legislative or other requirement for review DELETE THIS WHOLE ROW IF NOT APPLICABLE	Policy – Review every two years <u>years</u>	
Responsible Manager	Professional Conduct Coordinator	
Authorised by	General Manager	



BACKGROUND

The Public Interest Disclosures (**PID**) Act 1994 (**the PID Act**) prescribes a framework for the disclosure and investigation of wrongdoing and maladministration in the public sector. Under section 6D of the PID Act, Wollongong City Council is required to have in place a policy and procedures for receiving, assessing and dealing with public interest disclosures (**PIDs**). As prescribed by the PID Act, this policy was developed with due regard to the NSW Ombudsman's guidelines and the model internal reporting policies for local government.

OBJECTIVE

Council recognises that Councillors and staff have an important role in ensuring a high ethical standard and enhancing administrative and management practices, and strongly supports disclosures which expose:

- Corrupt conduct;
- Fraud;
- Maladministration;
- Serious and substantial waste of public money;
- Breaches of the *Government Information (Public Access) Act 2009*; or
- Local Government pecuniary interest contravention.

The objective of this policy is therefore to encourage and facilitate public interest disclosures, to ensure that personnel who make such disclosures receive protection from reprisals, and to ensure that matters raised are properly investigated and acted upon.

POLICY STATEMENT

- 1 Council is committed to the aims and objectives of the PID Act.
- 2 The Lord Mayor, General Manager and Council management acknowledge the value and importance of Councillor and staff contributions to high standards of administrative and management practices and strongly endorse reporting of corrupt conduct, fraud, maladministration, serious and substantial waste of public money or government information contravention.
- 3 Council recognises that staff who come forward and report wrongdoing are helping to promote integrity, accountability and good management within Council.
- 4 Council is committed to an effective response to internal disclosures in a way that will protect the identity of the disclosant, wherever possible and appropriate.
- 5 Council will not tolerate reprisals or retribution against those making legitimate public interest disclosures as prescribed by the PID Act.

PUBLIC INTEREST DISCLOSURES

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ADOPTED BY COUNCIL: 8 MAY 2017

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PUBLIC INTEREST DISCLOSURES

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1 Purpose and Context of the Policy

The purpose of this policy is to establish an internal reporting system for staff and Councillors to report wrongdoing without fear of reprisal. The policy sets out who you can report wrongdoing to in Wollongong City Council, what can be reported and how reports of wrongdoing will be dealt with.

This policy is designed to complement normal communication channels between supervisors and staff. Staff 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 PID Act.

This policy is just one in the suite of Wollongong City Council's complaint handling policies which include:

- Code of Conduct – Councillors
- Code of Conduct – Delegates of Council and Members of Council Committees
- Code of Conduct – Staff
- Code of Business Ethics
- Fraud and Corruption Prevention policy
- Professional Conduct Investigation policy

The internal reporting system established under this policy is not to be used for staff grievances, which should be raised through the Prevention and Resolution of Workplace Bullying Harassment and Discrimination policy. If a staff member makes a report under this policy which is substantially a grievance, the matter will be referred to Human Resources to be dealt with in accordance with the Enterprise Agreement for grievance procedure.

2 Organisational Commitment

Wollongong City Council is committed to:

- Creating a climate of trust and integrity, where staff, Councillors and other stakeholders are comfortable and confident about reporting wrongdoing;
- Encouraging individuals to come forward if they have witnessed what they consider to be wrongdoing within the Council;
- Keeping the identity of the person disclosing wrongdoing confidential, wherever possible and appropriate;
- Protecting individuals who make disclosures from any adverse action motivated by their report;
- Protecting individuals from any adverse action resulting from them making a report;
- Dealing with reports thoroughly and impartially and if some form of wrongdoing has been found, taking appropriate action to rectify it;
- Keeping disclosants informed of the progress of their report and the outcome;
- Encouraging individuals to report wrongdoing within Council, but respecting any decision to disclose wrongdoing outside Council – provided that disclosure outside Council is made in accordance with the provisions of the PID Act;
- Ensuring managers and supervisors at all levels in Council understand the benefits of reporting wrongdoing, are familiar with this policy, and aware of the needs of those who report wrongdoing;
- Providing adequate resources, both financial and human, to:
 - encourage reports of wrongdoing;
 - protect and support those who make them;
 - provide training about how to make reports and the benefits of internal reports to Council and the public interest generally;
 - properly assess and investigate or otherwise deal with allegations;
 - properly manage any workplace issues that the allegations identify or that result from a report;
 - appropriately address any identified problems.

3 Who does this Policy apply to?

This policy will apply to:

- both Council staff and Councillors;

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- permanent employees, whether full-time or part-time;
- temporary or casual employees;
- consultants;
- individual contractors working for Council;
- employees of contractors providing services to Council;
- other people who perform Council official functions whose conduct and activities could be investigated by an investigating authority, including volunteers;
- the policy also applies to public officials of another Council or public authority who report wrongdoing relating to Wollongong City Council.

4 Roles and Responsibilities

a The role of Council Staff and Councillors

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

- report all known or suspected wrongdoing and support those who have made reports of wrongdoing;
- if requested, assist those dealing with the report, including supplying information on request, cooperating with any investigation and maintaining confidentiality;
- treat any staff member or person dealing with a report of wrongdoing with courtesy and respect;
- respect the rights of any person the subject of reports.

Staff and Councillors must not:

- make false or misleading reports of wrongdoing;
- victimise or harass anyone who has made a report.

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

b The role of Wollongong City Council

Wollongong City Council has a responsibility to establish and maintain a working environment that encourages staff 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.

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

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

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

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c Responsibilities of Key Positions

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 staff, Councillors and other identified persons, and has a responsibility to:

- 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;
- deal with reports made under Council's Code of Conduct in accordance with Council's adopted Code of Conduct procedures;
- ensure there are strategies in place to support reporters, protect them from reprisal and manage workplace conflict that may arise in relation to a report;
- make decisions following any investigation or appoint an appropriate decision-maker;
- take appropriate remedial action where wrongdoing is substantiated or systemic problems are identified;
- refer actual or suspected corrupt conduct to the New South Wales Independent Commission Against Corruption (ICAC);
- refer any evidence of a reprisal offence under section 20 of the PID Act to the Commissioner of Police or the ICAC.

Professional Conduct Coordinator

This policy nominates the Professional Conduct Coordinator (**PCC**) as Council's 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 in Council for the reporter. The Disclosures Coordinator has a responsibility to:

- 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);
- deal with reports made under Council's Code of Conduct in accordance with Council's adopted Code of Conduct procedures;
- coordinate Council's response to a report;
- acknowledge reports and provide updates and feedback to the reporter;
- assess whether it is possible and appropriate to keep the reporter's identity confidential;
- assess and document 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;
- where required, provide or coordinate support to individuals involved in the reporting or investigation process, including protecting the interests of any officer the subject of a report;
- ensure Council complies with the PID Act;
- provide six-monthly reports to the NSW Ombudsman in accordance with section 6CA of the PID Act.

Disclosures Officers

Disclosures 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 individuals to make reports.

Disclosures Officers have a responsibility to:

- document in writing any reports received verbally, and have the document signed and dated by the reporter;
- make arrangements to ensure reporters can make reports privately and discreetly when requested, if necessary away from the workplace;
- discuss with the reporter any concerns they may have about reprisal or workplace conflict;

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- carry out preliminary assessment and forward reports to the Disclosures Coordinator or General Manager for full assessment.

Lord Mayor

The Lord Mayor can receive reports about the General Manager. Where the Lord Mayor receives such reports, the Lord Mayor has a responsibility to:

- 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;
- deal with reports made under Council's Code of Conduct in accordance with Council's adopted Code of Conduct procedures;
- refer reports to an investigating authority, where appropriate;
- 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;
- refer actual or suspected corrupt conduct to the ICAC;
- refer any evidence of a reprisal offence under section 20 of the PID Act to the Commissioner of Police or the ICAC.

Supervisors and Line Managers

Supervisors and Line Managers play an important role in managing the immediate workplace of those involved in or affected by the internal reporting process. Supervisors and Line Managers should be aware of the Public Interest Disclosures Policy and are responsible for creating a local work environment where staff are comfortable and confident about reporting wrongdoing. They have a responsibility to:

- encourage staff to report known or suspected wrongdoing within the organisation and support them when they do;
- identify reports made to them in the course of their work which could be public interest disclosures, and assist the staff member to make the report to an officer authorised to receive public interest disclosures under this policy;
- ensure that individuals who report suspected wrongdoing are assisted in making that report directly to a Disclosures Officer or the Disclosures Coordinator, to ensure they protection from reprisal pursuant to the PID Act.
- implement local management strategies, in consultation with the Disclosures Coordinator, to minimise the risk of reprisal or workplace conflict in relation to a report;
- notify the Disclosures Coordinator or General Manager immediately if they believe a staff member is being subjected to reprisal as a result of reporting wrongdoing, or in the case of suspected reprisal by the General Manager, notify the Lord Mayor.

5 What should be Reported?

You should report any suspected wrongdoing within Council, or any activities or incidents you see within 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. See below for details about these types of conduct. More information about what can be reported under the PID Act can be found in the NSW Ombudsman's Guideline B2: What should be reported?

All other wrongdoing or suspected wrongdoing should be reported to a supervisor, to be dealt with in line with the Code of Conduct or Council's Policy for Prevention and Resolution of Workplace Bullying Harassment and Discrimination. This might include:

- harassment or unlawful discrimination;
- 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 that such reports may raise important issues. Council will respond to all reports and make every attempt to protect the individual member making the report from reprisal.

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a Corrupt Conduct

Corrupt conduct is the dishonest or partial exercise of official functions by a public official.

For example, this could include:

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

b Maladministration

Maladministration is conduct that involves action or inaction of a serious nature that is contrary to law, unreasonable, unjust, oppressive or improperly discriminatory or based wholly or partly on improper motives.

For example, this could include:

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

c 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:

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

d Breach of the GIPA Act

A breach of the *Government Information (Public Access) Act 2009* (**the GIPA Act**) is a failure to properly fulfil functions under that Act.

For example, this could include:

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

e Local Government Pecuniary Interest Contravention

A local government pecuniary interest contravention is a failure to comply with requirements under the *Local Government Act 1993* relating to the management of pecuniary interests. These include obligations to lodge disclosure of interests 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 of appreciable financial gain or loss to the person.

For example, this could include:

- a senior Council staff member recommending a family member for a Council contract and not declaring the relationship;
- a Councillor participating in consideration of a DA for a property they or their family have an interest in.

6 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

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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.

7 When will a Report be treated as a Public Interest Disclosure?

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

- the report must be about one of the following five categories of serious wrongdoing – corrupt conduct, maladministration, serious and substantial waste of public money, breach of the GIPA Act, or local government pecuniary interest contravention;
- the person making the disclosure must honestly believe on reasonable grounds that the information shows or tends to show wrongdoing;
- the report has to be made to either the General Manager or, for reports about the General Manager the Lord Mayor, a position nominated in this policy (see section 8), an investigating authority or in limited circumstances to an MP or journalist (see section 9).

Reports are not public interest disclosures if they:

- mostly question the merits of government policy (see section 17);
- are made with the sole or substantial motive of avoiding dismissal or other disciplinary action (see section 18).

8 Who Can Receive a Report Within Wollongong City Council?

Staff, Councillors and other stakeholders are encouraged to report general wrongdoing to their 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 or any supporting procedures.

The following positions are the only people within Council who are authorised to receive a public interest disclosure. Any supervisor who receives a report that they believe may be a public interest disclosure is obliged to assist the staff member to make the report to one of the positions listed below. The broader responsibilities of these positions are outlined under Roles and Responsibilities (section 4).

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 Lord Mayor.

General Manager
Lord Mayor (for reports about the General Manager only)
Director Planning and Environment
Director Corporate Services
Director Community Services
Director Infrastructure and Works
Manager Human Resources
Manager Governance and Customer Service
Professional Conduct Coordinator

Additional disclosures officers are listed on the Council internal Hub website for staff and Councillors to refer to.

9 Who Can Receive a Report Outside of Wollongong City Council?

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

- an investigating authority.
- a Member of Parliament or a journalist, but only in the limited circumstances outlined below.

a Investigating Authorities

The PID Act lists a number of investigating authorities in NSW that staff and Councillors can report wrongdoing to and the type of wrongdoing each authority can deal with. In certain circumstances it may

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be preferable to make a report of wrongdoing to an investigating authority, for example a report about either the General Manager or the Lord Mayor.

The relevant investigating authorities for Wollongong City Council are:

- the Independent Commission Against Corruption (ICAC) – for reports about corrupt conduct;
- the NSW Ombudsman – for reports about maladministration;
- the Information and Privacy Commission NSW – for disclosures about a breach of the GIPA Act;
- the 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 are provided at the end of this policy.

You should be aware that the 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 individuals who report wrongdoing to an investigating authority, if Council is made aware that this has occurred.

b Members of Parliament or Journalists

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

- the General Manager;
- a person nominated in this policy, including the Lord Mayor for reports about the General Manager;
- an investigating authority.

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

- decided not to investigate the matter;
- decided to investigate the matter, but not completed the investigation within six months of the original report;
- investigated the matter but not recommended any action as a result;
- not advised you, 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 (see section 19).

c 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 – by, 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. Their contact details are provided at the end of this policy.

10 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.

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.

11 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 what action is to be taken or has been taken to deal with the issues raised in the report, or the outcome of any investigation.

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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 do not know who made the report, it is very difficult for them to prevent any reprisal should others identify you.

12 Feedback to individuals who Report Wrongdoing

Staff, Councillors and other identified stakeholders who report wrongdoing will be told what is happening in response to their report.

a *Acknowledgement*

When you make a report, Council will contact you in writing within 45 days of receipt of your report, to provide you with a copy of this Policy and to confirm that your report has been received, and to advise:

- the timeframe within which you will receive further updates;
- 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:

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

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.

b *Progress Updates*

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

- information about the progress of the investigation or other enquiries and reasons for any delay;
- advice of any decision by Wollongong City Council not to proceed with the matter;
- 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.

c *Feedback*

Once the matter has been finalised you will be given:

- 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;
- advice about whether you are likely to be called as a witness in any further matters, such as disciplinary or criminal proceedings.
- Council will notify you in writing of the action taken in relation to your disclosure as soon as a decision has been made, but no later than six months after your disclosure.

13 Maintaining Confidentiality

Council recognises that reporters may want their identity to remain confidential. This can help to prevent any action being taken against them for reporting wrongdoing (ie reprisal action).

Where possible and appropriate Council will take steps to keep your identity, and the fact you have reported wrongdoing, confidential. Council will discuss with you whether it is possible to keep your identity confidential, after conducting a risk assessment in this regard.

If confidentiality cannot be maintained, Council will develop a plan to support and protect you from reprisal in consultation with you.

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, or in the case of a report about the

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General Manager, the Disclosures Coordinator and the Lord Mayor. The fewer people who know about your report, before and after you make it, the more likely it will be that we can protect you from any reprisal. If you breach the confidential nature of the process, Council may not be able to keep your identity confidential.

Any persons 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.

14 Managing the Risk of Reprisal and Workplace Conflict

When an individual 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:

- relocate the reporter or the staff member who is the subject of the allegation within the current workplace;
- transfer the reporter or the staff member who is the subject of the allegation to another position for which they are qualified;
- grant the reporter or the staff member 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.

15 Protection against Reprisals

Council will not tolerate any reprisal against any individual who reports wrongdoing or are believed to have reported wrongdoing.

The PID Act provides protection for staff, Councillors and other stakeholders 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, comprising or involving any of the following:

- injury, damage or loss;
- intimidation or harassment;
- discrimination, disadvantage or adverse treatment in relation to employment;
- dismissal from, or prejudice in, employment;
- 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 Council's 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 staff 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.

a 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 Lord Mayor.

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All supervisors must notify the Disclosures Coordinator or the General Manager if they suspect that reprisal against a staff member is occurring or has occurred, or if any such allegations are made to them. In the case of an allegation of reprisal by the General Manager, the Lord 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:

- 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;
- if the reprisal allegation warrants investigation, ensure this is conducted by a senior and experienced member of staff;
- if it is established that reprisal is occurring against someone who has made a report, take all steps possible to stop that activity and protect the reporter;
- take appropriate disciplinary action against anyone proven to have taken or threatened any action in reprisal for making a disclosure;
- refer any breach of Part 8 of Council's Code of Conduct (reprisal action) by a Councillor or the General Manager to the Office of Local Government;
- 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). Contact details for these investigating authorities are included at the end of this policy.

b 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.

16 Support for those Reporting Wrongdoing

Council will make sure that staff 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 staff involved in the internal reporting process where appropriate. Reporters and other staff involved in the process can discuss their support options with the Disclosures Coordinator.

17 Sanctions for making False or Misleading Statements

It is important all staff 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 staff 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.

18 The Rights of Persons the Subject of a Report

Council is committed to ensuring staff 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:

- advised of the details of the allegation;

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- advised of your rights and obligations under the relevant related policies and procedures;
- kept informed about the progress of any investigation;
- given a reasonable opportunity to respond to any allegation made against you;
- 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 *Wollongong City Council*. The fact of the allegations and any investigation will be kept confidential unless otherwise agreed to by the subject officer.

19 Review

This policy will be reviewed by Council every two years. For any advice or guidance about this review, contact the NSW Ombudsman's Public Interest Disclosures Unit.

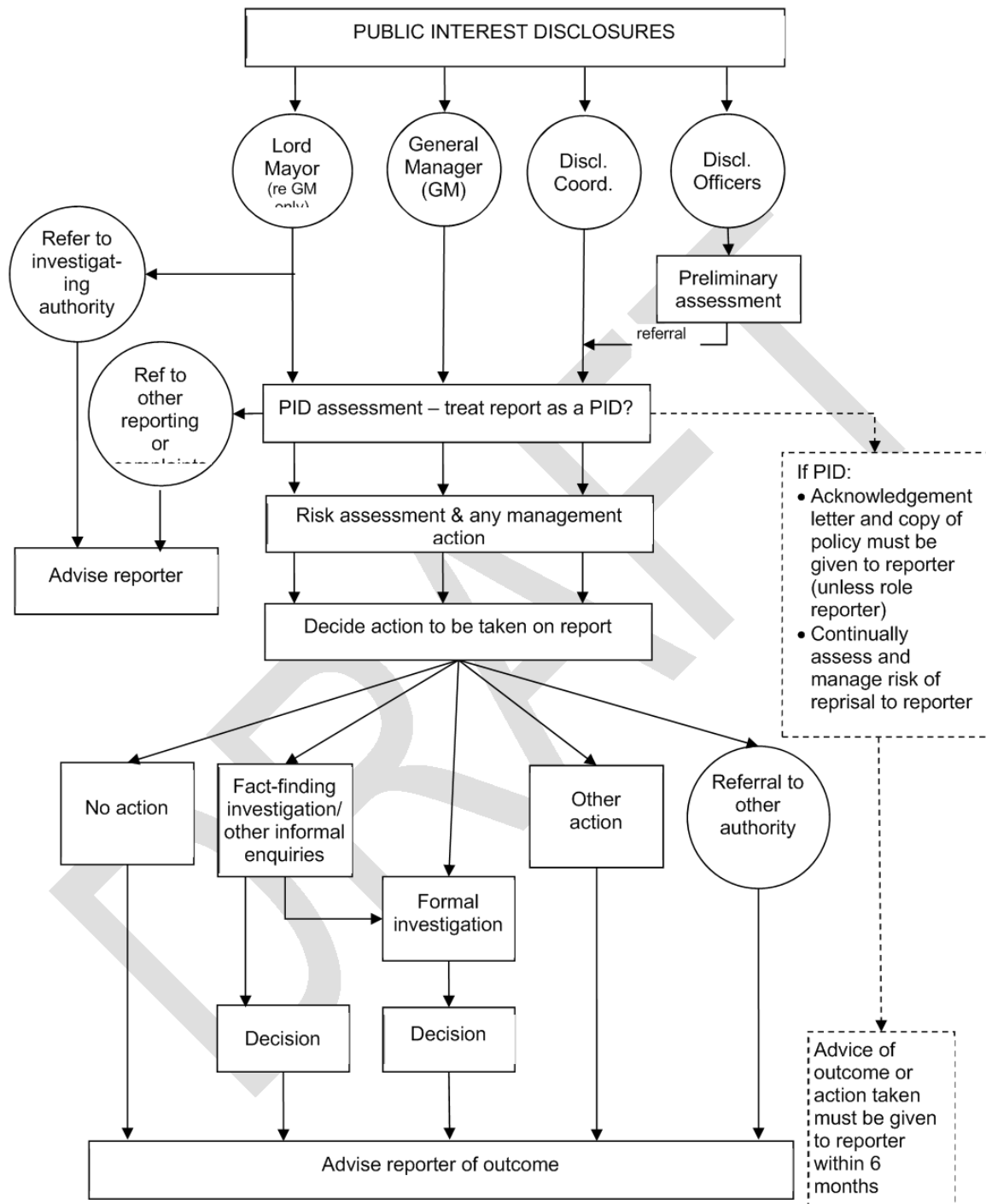
20 More Information

More information around public interest disclosures is available on our Professional Conduct Coordinator intranet site. Staff can also seek advice and guidance from the Disclosures Coordinator and the NSW Ombudsman's website at www.ombo.nsw.gov.au.

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21 Flow Chart of -Public Interest Disclosures Process



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22 Resources

The contact details for external investigating authorities that staff can make a public interest disclosure to or seek advice from are listed below.

For disclosures about corrupt conduct:

Independent Commission Against Corruption (ICAC)

Phone: 02 8281 5999
Toll free: 1800 463 909
Tel. typewriter (TTY): 02 8281 5773
Facsimile: 02 9264 5364
Email: icac@icac.nsw.gov.au
Web: www.icac.nsw.gov.au
Address: Level 7
255 Elizabeth Street
Sydney NSW 2000

For disclosures about maladministration:

NSW Ombudsman

Phone: 02 9286 1000
Toll free
(outside Sydney metro): 1800 451 524
Tel. typewriter (TTY): 02 9264 8050
Facsimile: 02 9283 2911
Email: nswombo@ombo.nsw.gov.au
Web: www.ombo.nsw.gov.au
Address: Level 24
580 George Street
Sydney NSW 2000

For disclosures about breaches of the GIPA Act:

Information and Privacy Commissioner

Toll free: 1800 472 679
Facsimile: 02 8114 3756
Email: ipcinfo@ipc.nsw.gov.au
Web: www.ipc.nsw.gov.au
Address: Level 17
201 Elizabeth Street
Sydney NSW 2000

For disclosures about local councils:

Office of Local Government

Phone: 02 4428 4100
Tel. typewriter (TTY): 02 4428 4209
Facsimile: 02 4428 4199
Email: olg@olg.nsw.gov.au
Web: www.olg.nsw.gov.au
Address: 5 O'Keefe Avenue
Nowra NSW 2541

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SUMMARY SHEET		
Responsible Division	Office of the General Manager	
Date/s adopted	<i>Executive Management Committee</i> [updated by policy owner]	<i>Council</i> [DD Mmmm YYYY]
Date/s of previous adoptions	8 May 2017, 30 March 2015, 22 July 2013, 12 March 2012, 10 October 2011, 25 August 2008	
Date of next review	May 2019	
Legislative or other requirement for review DELETE THIS WHOLE ROW IF NOT APPLICABLE	Policy – Review every two years	
Responsible Manager	Professional Conduct Coordinator	
Authorised by	General Manager	