
Cessnock City Council

Internal Reporting - Public Interest Disclosures Policy

Date Adopted 18/09/2019 Revision: 3

1. POLICY STATEMENT

1.1. "In order to deal effectively with reports of wrongdoing, we, the General Manager and the Mayor, are committed to creating the right workplace culture. To demonstrate our commitment, we have endorsed and signed this policy which aims to:

1.1.1. create a climate of trust, where people are comfortable and confident about reporting wrongdoing,

1.1.2. encourage individuals to come forward if they are aware of wrongdoing within Council,

1.1.3. keep the identity of the person disclosing wrongdoing confidential, where this is possible and appropriate,

1.1.4. protect the person from any adverse action resulting from them making a report,

1.1.5. deal with reports thoroughly and impartially and if some form of wrongdoing has been found, take appropriate action to rectify it,

1.1.6. keep the individual who makes a report informed of the progress and the outcome of the report,

1.1.7. encourage the reporting of wrongdoing within Council, but respect any decision to disclose wrongdoing outside of Council that is made in accordance with the provisions of the *Public Interest Disclosures Act 1994* (NSW),

1.1.8. ensure 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,

1.1.9. review the policy periodically to ensure it remains relevant and effective,

1.1.10. provide adequate resources, to:

- a) encourage reports of wrongdoing,
- b) protect and support those who make them,
- c) provide training about how to make reports and the benefits of internal reports to Council and the public interest generally,

- d) properly assess and investigate or otherwise deal with allegations,
- e) properly manage any workplace issues that the allegations identify or that result from a report, and
- f) appropriately address any identified problems.

Robert Maginnity

Cr Bob Pynsent

Interim General Manager

Mayor

2. POLICY OBJECTIVES

- 2.1. The objectives of this policy are to:
- 2.1.1. establish an internal reporting system for staff and Councillors to report wrongdoing without fear of reprisal,
 - 2.1.2. complement normal communication channels between supervisors and staff,
 - 2.1.3. encourage Council Officials 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* (NSW) (**PID Act**),
 - 2.1.4. strengthen public perceptions about the integrity of Council and the public sector in general,
 - 2.1.5. identify management practices or procedures that need improving, and
 - 2.1.6. avoid embarrassment for the government, Council and its staff.

3. POLICY SCOPE

- 3.1. This policy *applies* to:
- 3.1.1. both Council staff and Councillors,
 - 3.1.2. permanent employees, whether full-time or part-time,
 - 3.1.3. temporary or casual employees,
 - 3.1.4. consultants,
 - 3.1.5. individual contractors working for Council,
 - 3.1.6. employees of contractors providing services to Council,
 - 3.1.7. other people who perform Council official functions whose conduct and activities could be investigated by an investigating authority, including volunteers, and
 - 3.1.8. public officials of another council or public authority who report wrongdoing relating to Council.
- 3.2. The internal reporting system established under this policy is not intended to be used for staff grievances, which should be raised through the Workplace Grievance Notification Form. 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 Workplace Grievance Notification Form.

4. ROLES AND RESPONSIBILITIES

4.1. The role of staff and Councillors

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

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

4.1.2. Staff and Councillors must not:

- a) make false or misleading reports of wrongdoing,
- b) victimise or harass anyone who has made a report,

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

4.2. Council's role as an organisation

4.2.1. 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.

4.2.2. Council will assess all reports of wrongdoing it receives from staff and Councillors and deal with them appropriately.

4.2.3. Once suspected 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.

4.2.4. Council will deal with all reports of wrongdoing fairly and reasonably, and respect the rights of any person that is the subject of a report.

4.2.5. 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.

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

5. RESPONSIBILITIES OF KEY POSITIONS

5.1. General Manager

5.1.1. The General Manager has ultimate responsibility for maintaining the internal reporting system and workplace reporting culture, and ensuring Council complies with the PID Act.

5.1.2. The General Manager can receive reports from staff and Councillors and has a responsibility to:

- a) ensure Council has an internal reporting policy,
- b) ensure staff and Councillors are aware of the contents of the policy and the protection under the PID Act for people who make public interest disclosures,
- c) ensure Council complies with the policy and Council's obligations under the PID Act,
- d) appoint at least one staff member as being responsible for receiving public interest disclosures. Clause 3.20 of the Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW requires the complaints coordinator or alternate complaints coordinator to be a Disclosures Coordinator. The Ombudsman recommends councils nominate more than one person as being responsible for receiving public interest disclosures.
- e) 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,
- f) deal with reports made under Council's Code of Conduct in accordance with Council's adopted Code of Conduct Procedures,
- g) 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,
- h) make decisions following any investigation or appoint an appropriate decision-maker,
- i) take appropriate remedial action where wrongdoing is substantiated or systemic problems are identified,
- j) refer actual or suspected corrupt conduct to the Independent Commission Against Corruption (**ICAC**) in accordance with

section 11 of the *Independent Commission Against Corruption Act 1988* (NSW) (**ICAC Act**),

- k) refer any evidence of a reprisal offence under section 20 of the PID Act to the Commissioner of Police or the ICAC.

5.2. Disclosures Coordinator

5.2.1. The Disclosures Coordinator has a central role in the 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 is Council's Public Officer which is also Council's alternate Complaints Coordinator as required by clause 3.20 of the Procedures for the Administration of the model Code of Conduct for Local Councils in NSW and has a responsibility to:

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

5.3. Disclosures Officers

5.3.1. Disclosures Officers are additional points of contact for the internal reporting process. They can provide advice about the process of this policy, receive reports of wrongdoing and assist staff and Councillors to make reports.

5.3.2. Disclosures Officers listed in Appendix A have a responsibility to:

- a) Receive reports both in writing and verbally,
- b) make arrangements to ensure reporters can make reports privately and discreetly if necessary away from the workplace, when requested
- c) discuss with the reporter any concerns they may have about reprisal or workplace conflict,
- d) carry out preliminary assessment and forward reports to the Disclosures Coordinator or General Manager for full assessment.

5.4. The Mayor

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

- a) 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,
- b) deal with reports made under Council's Code of Conduct in accordance with Council's Code of Conduct Procedures,
- c) refer reports to an investigating authority, where appropriate,
- d) 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,
- e) refer actual or suspected corrupt conduct to ICAC, and
- f) refer any evidence of a reprisal offence under section 20 of the PID Act to the Commissioner of Police or ICAC.

5.5. Supervisors and line managers (Levels 4 and 5 RAA)

5.5.1. 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 this policy and are responsible for creating a local work environment where staff are comfortable and confident about reporting wrongdoing. They have a responsibility to:

- a) encourage staff to report known or suspected wrongdoing within Council and support staff when they do so,
- b) 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,

- c) implement local management strategies, in consultation with the Disclosures Coordinator, to minimise the risk of reprisal or workplace conflict in relation to a report,
- d) 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 Mayor.

6. WHAT SHOULD BE REPORTED

- 6.1. You should report any suspected wrongdoing within the Council, or any activities or incidents you see within the Council that you believe are wrong.
- 6.2. The suspected wrongdoing must involve serious misconduct:
 - 6.2.1. corrupt conduct,
 - 6.2.2. maladministration,
 - 6.2.3. serious and substantial waste of public money,
 - 6.2.4. breach of the *Government Information (Public Access) Act 2009* (NSW) (**GIPA Act**), and
 - 6.2.5. local government pecuniary interest contravention.
- 6.3. All other wrongdoing or suspected wrongdoing should be reported to a supervisor, to be dealt with in line with the relevant Council policies. This might include:
 - 6.3.1. harassment or unlawful discrimination,
 - 6.3.2. practices that endanger the health or safety of staff or the public.
- 6.4. 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 staff member making the report from reprisal.
- 6.5. **Corrupt conduct**
 - 6.5.1. Corrupt conduct is the dishonest or partial exercise of official functions by a Council Official.
 - 6.5.2. For example, this could include:
 - a) the *improper* use of knowledge, power or position for personal gain or the advantage of others,
 - b) acting dishonestly or unfairly, or breaching public trust, or

- c) 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.

6.6. Maladministration

6.6.1. 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.

6.6.2. For example, this could include:

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

6.7. Serious and substantial waste of public money

6.7.1. Serious and substantial waste is the uneconomical, inefficient or ineffective use of resources that could result in losing or wasting public money.

6.7.2. For example, this could include:

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

6.8. Breach of the GIPA Act

6.8.1. A breach of the GIPA Act is a failure to properly fulfil functions under that Act.

6.8.2. For example, this could include:

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

6.9. Local Government Pecuniary Interest contravention

6.9.1. A local government Pecuniary Interest contravention is a failure to comply with requirements under the Act 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.

6.9.2. For example, this could include:

- a) a senior Council staff member recommending a family member for a Council contract and not declaring the relationship, or
- b) a Councillor participating in consideration of a Development Application (**DA**) for a property they or their family have an interest in.

7. ASSESSMENT OF REPORTS

- 7.1. 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.
- 7.2. 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.
- 7.3. 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?

- 8.1. 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:
 - 8.1.1. 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, and
 - 8.1.2. the person making the disclosure must honestly believe on reasonable grounds that the information shows or tends to show wrongdoing, and
 - 8.1.3. 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 Appendix A), an investigating authority or in limited circumstances to an MP or journalist (see clause 10).
- 8.2. Reports by staff are not public interest disclosures if they:
 - 8.2.1. mostly question the merits of government policy, or

8.2.2. are made with the sole or substantial motive of avoiding dismissal or other disciplinary action.

9. WHO CAN RECEIVE A REPORT WITHIN THE COUNCIL?

9.1. Staff 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 as follows:

| IF THE REPORT IS ABOUT | IT SHOULD BE REPORTED TO |
|-------------------------------|---|
| The Mayor | The General Manager or an investigating authority |
| The General Manager | The Mayor |
| The Mayor and General Manager | An investigating authority |
| A Councillor | The Mayor, General Manager or an investigating authority |
| A Council officer | A Disclosures Officer, the Disclosures Coordinator, the General Manager or an investigating authority |

10. WHO CAN RECEIVE A REPORT OUTSIDE OF THE COUNCIL?

10.1. Council Officials are encouraged to report wrongdoing within Council, but internal reporting is not the only option. Council Officials can also make a public interest disclosure to:

10.1.1. an investigating authority, or

10.1.2. a Member of Parliament or a journalist, but only in the limited circumstances outlined below.

10.2. Investigating authorities

10.2.1. *The* PID Act lists a number of investigating authorities in NSW that Council Officials 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 Mayor.

10.2.2. The *relevant* investigating authorities are:

- a) ICAC — for reports about corrupt conduct,
- b) the Ombudsman — for reports about maladministration,
- c) the Information and Privacy Commissioner (**IPC**)— for disclosures about a breach of the GIPA Act,

- d) the Office of Local Government (**OLG**) — for disclosures about local councils.

10.2.3. Council Officials 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.

10.2.4. Council Officials 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 Council Officials who report wrongdoing to an investigating authority, if Council is made aware that this has occurred.

10.3. Members of Parliament or journalists

10.3.1. To have the protections of the PID Act, Council Officials reporting wrongdoing to a Member of Parliament or a journalist must have already made substantially the same report to one of the following:

- a) the General Manager,
- b) a person nominated in this policy, including the Mayor for reports about the General Manager, or
- c) an investigating authority.

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

- a) decided not to investigate the matter, or
- b) decided to investigate the matter, but not completed the investigation within six months of the original report, or
- c) investigated the matter but not recommended any action as a result, or
- d) not told the person who made the report, within six months of the report being made, whether the matter will be investigated.

10.3.3. Most importantly – to be protected under the PID Act – reporters having reported wrongdoing to an MP or a journalist will need to be able to prove that they have reasonable grounds for believing that the disclosure is substantially true and that it is in fact substantially true.

10.4. Other external reporting

10.4.1. Reports of wrongdoing made to a person or authority that is not listed above, or made to a MP or journalist without following the steps outlined above, reporters will not be protected under the PID Act. This may mean they will be in breach of legal obligations or Council's Code of Conduct – by, for example, disclosing confidential information.

11. CAN A REPORT BE ANONYMOUS?

- 11.1.** Although anonymous reports will still be dealt with by Council, it is best for reporters to identify themselves. This allows Council to provide reporters 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.

12. MAINTAINING CONFIDENTIALITY

- 12.1.** Where possible and appropriate Council will take steps to keep the reporter's identity, and the fact they have reported wrongdoing, confidential. Council will discuss with them whether it is possible to keep their identity confidential.
- 12.2.** If confidentiality cannot be maintained, Council will develop a plan to support and protect reporters from reprisal in consultation with them.
- 12.3.** Any Council Officials 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.

13. MANAGING THE RISK OF REPRISAL AND WORKPLACE CONFLICT

- 13.1.** Depending on the circumstances, Council may make appropriate and necessary changes to the employment arrangements of the reporter or the people who are subjects of a report, to ensure any concerns for one's safety and wellbeing are minimised.
- 13.2.** Any courses of action are not punishment and will only be taken in consultation with the reporter and the people who are subjects of a report.

14. PROTECTION AGAINST REPRISALS

- 14.1.** Council will not tolerate any reprisal against Council Officials who report wrongdoing or are believed to have reported wrongdoing.
- 14.2.** The PID Act provides protection for staff 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.
- 14.3.** Detrimental action means action causing, comprising or involving any of the following:
- 14.3.1. injury, damage or loss

14.3.2. intimidation or harassment

14.3.3. discrimination, disadvantage or adverse treatment in relation to employment

14.3.4. dismissal from, or prejudice in, employment

14.3.5. disciplinary proceedings.

14.4. 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 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 Act and may include suspension or disqualification from civic office.

14.5. 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 the Council has reasonable grounds to take such action.

14.6. Responding to allegations of reprisal

14.6.1. 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.

14.6.2. 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 Mayor can alternatively be notified.

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

- a) 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
- b) if the reprisal allegation warrants investigation, ensure this is conducted by a senior and experienced member of staff
- c) 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

- d) take appropriate disciplinary action against anyone proven to have taken or threatened any action in reprisal for making a disclosure
- e) refer any breach of Part 8 of the Council's Code of Conduct (reprisal action) by a Councillor or the General Manager to the Office of Local Government.
- f) refer any evidence of an offence under section 20 of the PID Act to the ICAC or NSW Police Force.

14.6.4. 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.

14.6.5. 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.

14.7. Protection against legal action

14.7.1. 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.

15. SUPPORT FOR THOSE REPORTING WRONGDOING

15.1. 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.

15.2. 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.

15.3. Council's Employee Assistance Program provider is AusPsych and they can be contacted on 02 4926 1688 or via email admin@auspsych.com.au.

16. SANCTIONS FOR MAKING FALSE OR MISLEADING STATEMENTS

16.1. 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. The 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 Act and may include suspension or disqualification from civic office.

17. THE RIGHTS OF PERSONS THE SUBJECT OF A REPORT

- 17.1.** The 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.
- 17.2.** 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:
- 17.2.1. advised of the details of the allegation,
 - 17.2.2. advised of your rights and obligations under the relevant related policies and procedures,
 - 17.2.3. kept informed about the progress of any investigation,
 - 17.2.4. given a reasonable opportunity to respond to any allegation made against you, and
 - 17.2.5. told the outcome of any investigation, including any decision made about whether or not further action will be taken against you.
- 17.3.** 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 of the allegations and any investigation will be kept confidential unless otherwise agreed to by the subject officer.

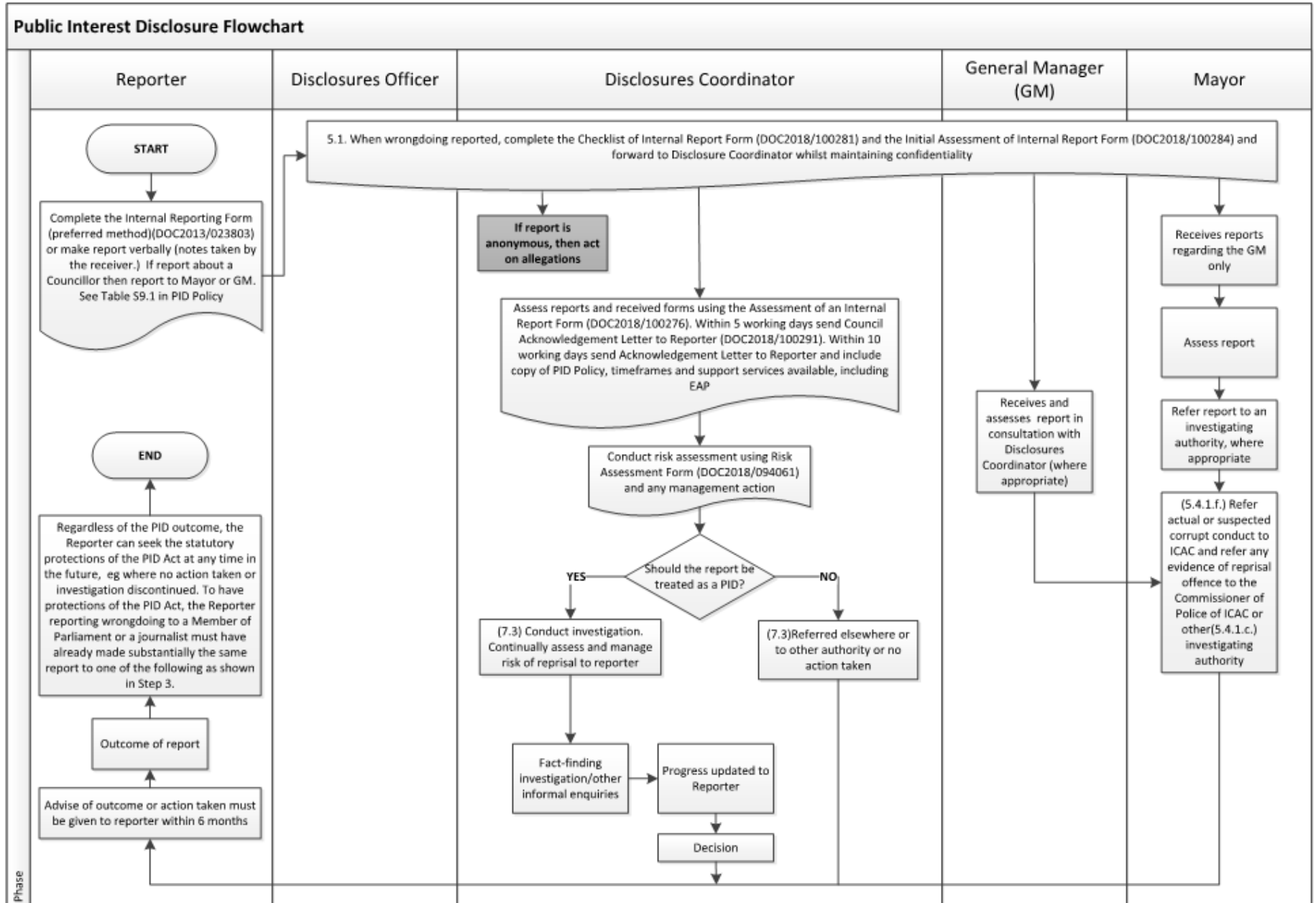
18. REVIEW

- 18.1.** Council values are embedded in the development, review and implementation of this Policy and its supporting documents to achieve consistent decision-making and appropriate resolution of ethical dilemmas.

19. RECORDS MANAGEMENT

- 19.1.** Staff must maintain all records relevant to administering this policy in accordance with Council's [Records Management Policy](#).

20. FLOW CHART OF INTERNAL REPORTING PROCESS



21. 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 21, 133 Castlereagh 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 Commissioner

Toll free: 1800 472 679

Facsimile: 02 8114 3756

Email: ipcinfo@ipc.nsw.gov.au

Web: www.ipc.nsw.gov.au

Address: Level 11, 1 Castlereagh 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

For disclosures about serious and substantial waste:

Auditor-General of the NSW

Phone: 02 9275 7100

Facsimile: 02 9275 7200

Email: mail@audit.nsw.gov.au

Web: <https://www.audit.nsw.gov.au>

Address: Level 15, 1 Margaret Street,
Sydney NSW 2000

22. POLICY DEFINITIONS

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|----------------------------|---|
| Act | means the <i>Local Government Act 1993</i> (NSW). |
| Council | means Cessnock City Council. |
| Council Officials | Means: <ul style="list-style-type: none"> ▪ Council staff and Councillors, ▪ 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. |
| Guideline | Means the Internal Reporting – Public Interest Disclosures Guideline |
| Pecuniary Interests | means interest(s) that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person. |

23. POLICY ADMINISTRATION

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|--|--|
| Business Group | Corporate and Community Services |
| Responsible Officer | General Manager |
| Responsible author | Governance Officer |
| Associated documents (if any) | Internal Reporting – Public Interest Disclosures Guideline |
| Policy Review Date | Three years from date of adoption unless legislated otherwise |
| File Number / Doc. Number | DOC2018/093182 (previously known under DOC2014/005250) |
| Relevant Legislation (reference specific sections) | <p>Section 11, <i>Independent Commission Against Corruption Act 1988</i> (NSW).</p> <p>Sections 6CA, 6E, 20 and Part 2, <i>Public Interest Disclosures Act 1994</i> (NSW).</p> <p>Section 120, <i>Government Information (Public Access) Act 2009</i> (NSW).</p> |
| Relevant desired outcome or objectives | <p><i>Civic leadership and effective governance</i></p> <p>Objective 5.3 Making Council more responsive to the community</p> |
| Related Policies / Protocols / Procedures / Documents | <ul style="list-style-type: none"> ▪ Code of Conduct (DOC2018/086716) ▪ Procedures for the Administration of Code of Conduct (DOC2018/086682) ▪ Workplace Grievance Notification Form (DOC2013/046519) ▪ Internal Reporting Form (DOC2018/100287) ▪ Checklist of Internal Report Form (DOC2018/100281) ▪ Initial Assessment of Internal Report Form (DOC2018/100284) ▪ Acknowledgment letter template (DOC2018/100290) ▪ Risk Assessment (DOC2018/094061) ▪ Assessment of an Internal Report Form (DOC2018/100276) ▪ Records Management Policy ▪ NSW Ombudsman’s Publications: <ul style="list-style-type: none"> ○ Supporting and protecting reporters - Guidelines D1 to D6 ○ Templates ○ Model internal reporting policies ○ Organisational commitment - Guidelines A1 to A4 ○ Facilitating reporting - Guidelines B1 to B6 ○ Assessing and investigating disclosures - Guidelines C1 to C7 ○ Implementation - Guidelines E1 to E2 ○ Online reporting tool: Public Interest Disclosures user manual |

24. POLICY AUTHORISATIONS

| Code | Authorisation | Role(s) |
|------|---|-------------------------|
| | <ol style="list-style-type: none"> 1. Appoint Council's Disclosure Coordinator in accordance with this policy. 2. Appoint staff members as Nominated Disclosures Officers. 3. Assess reports of suspected wrongdoing received to determine whether or not they are public interest disclosures, and decide how the reports will be dealt with, in accordance with this policy and the Guideline. | General Manager |
| | <ol style="list-style-type: none"> 1. Assess reports of suspected wrongdoing received to determine whether or not they are public interest disclosures, and decide how the reports will be dealt with (either under delegation or in consultation with the General Manager), in accordance with this policy and the Guideline. | Disclosures Coordinator |
| | <ol style="list-style-type: none"> 1. Receive reports of suspected wrongdoing in accordance with this policy and the Guideline. 2. Carry out preliminary assessment and forward reports to the Disclosures Coordinator or General Manager for full assessment, in accordance with this policy and the Guideline. | Disclosures Officers |
| | <ol style="list-style-type: none"> 1. Receive and assess reports from staff and Councillors about the General Manager whether or not they are public interest disclosures, and decide how the reports will be dealt with in accordance with this policy and the Guideline. | The Mayor |

25. Policy History

| Revision | Date Approved / Authority | Description Of Changes |
|----------|--|---------------------------|
| 1 | 19 October 2011 (PM60/2011 – 1773) | New policy adopted |
| 2 | 16 November 2011 (PM71/2011 – 1825) | Amended |
| 3 | 18 September 2013 (PM91/2013 – 581) | Reviewed |
| 4 | 31 August 2016 (DOC2014/005250) | [no information provided] |
| 5 | 18/09/2019 (CC79/2019-994) | Significant review |

26. APPENDIX A

The General Manager of Cessnock City Council has approved the following:

| Position title | Role |
|---|-------------------------|
| Director Corporate and Community Services | Disclosures Coordinator |
| Remaining Executive Leadership Team Members | Disclosures Officers |
| Managers at Level 3 RAA | Disclosures Officers |
| Governance and Council Support Coordinator | Disclosures Officer |
| Governance Officer | Disclosures Officer |
| Waste Services Coordinator | Disclosures Officer |
| Human Resources Operations Coordinator | Disclosures Officer |
| Risk and Safety Coordinator | Disclosures Officer |
| HR Advisor – Learning and Development | Disclosures Officer |

27. APPENDIX B – TEMPLATES AND FORMS

Workplace Grievance Notification Form

This form complies with the provisions of Clause 35 of the *Local Government (State) Award 2017* (see reverse for details).

Please complete the form below and return to the Human Resource Section.

28. Personal Details

| | | | |
|------------------------|-----------------|------------------------|--|
| Surname: | | First Name: | |
| Payroll Number: | | Contact Number: | |
| Directorate: | Choose an item. | Unit: | |
| Supervisor: | | | |

29. Grievance Details

| | | | |
|---------------------------|--|-------------------|--------------|
| Parties Involved: | | Date: | |
| Grievance Details: | | | |
| Remedy Sought: | | | |
| Name: | | Signature: | |
| | | | Date: |

LOCAL GOVERNMENT (STATE) AWARD 2017

GRIEVANCE AND DISPUTE PROCEDURES

- (i) At any stage of the procedure, the employee(s) may be represented by their union or its local representative/delegate and the employer represented by the Association.
- (ii) The union delegate shall have reasonable time, without loss of pay, to discuss a grievance or dispute with management at the local level where prior approval is sought. Such approval shall not be unreasonably withheld.
- (iii) A grievance or dispute shall be dealt with as follows:
 - (a) The employee(s) shall notify the supervisor, or other authorised officers of any grievance or dispute and the remedy sought, in writing.
 - (b) A meeting shall be held between the employee(s) and the supervisor to discuss the grievance or dispute and the remedy sought within two working days of notification.
 - (c) If the matter remains unresolved, the employee(s) may request the matter be referred to the head of the department or other authorised officer for discussion. A further meeting between all parties shall be held as soon as practicable.
 - (d) If the matter remains unresolved the general manager shall provide the employee(s) with a written response. The response shall include the reasons for not implementing any proposed remedy.
 - (e) Where the matter remains unresolved, it may be referred to the employee's union or representative and by the general manager or other authorised officer to the Association for further discussion between the parties.
- (iv) The Industrial Registrar may be advised of the existence of a dispute at any stage of this procedure.
- (v) During this procedure and while the matter is in the course of negotiation, conciliation and/or arbitration, the work practices existing prior to the dispute shall as far as practicable proceed as normal.

Internal Reporting Form

This document needs to be completed and submitted to a Nominated Disclosure Officer

| Details of Reporter (an anonymous report can be made) | | |
|--|-------------|-----------------------------|
| Name: | | |
| Position: | | |
| Division/Unit: | | Preferred method of contact |
| Telephone: | | |
| Email: | | |
| Postal address: | | |
| | | <input type="checkbox"/> |
| | | <input type="checkbox"/> |
| | | <input type="checkbox"/> |
| Details of the matter being reporting | | |
| Description of the wrongdoing being reported – <i>What happened?</i> <i>Where did this happen?</i> <i>When did this happen?</i> | | |
| <i>(Attach additional page if required)</i> | | |
| Name and position of people involved | | |
| How did you become aware of this? | | |
| List and/or attach any additional relevant information or supporting evidence | | |
| Name and position of other people that may have additional information relating to this matter | | |
| <i>I have made this report voluntarily and I honestly believe that the matter I am reporting shows or tends to show wrongdoing has occurred.</i> | | |
| Signature – Reporter | Date | |

Record of initial discussion with reporter

| | | | |
|---|------------------------------|--|--|
| Date report received by nominated disclosure officer | | <input type="checkbox"/> Verbal report | <input type="checkbox"/> Written report |
| Confidentiality | | | |
| Who else knows that the report is being made? | | | |
| Is the reporter concerned their identity will become known? Why? | | | |
| Is the reporter concerned that they may suffer reprisal action for making the report? From whom? | | | |
| What professional relationship does the reporter have with the subject? | | | |
| Previous reporting | | | |
| Has this matter been reported to another person within your organisation or to another organisation? | | | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| If yes, who was it reported to when was it reported what action was/is being taken? | | | |
| Is the reporter currently / previously been the subject of | | | |
| - performance issues | <input type="checkbox"/> Yes | <input type="checkbox"/> No | |
| - disciplinary proceedings | <input type="checkbox"/> Yes | <input type="checkbox"/> No | |
| - criminal investigation in relation to the subject matter? | <input type="checkbox"/> Yes | <input type="checkbox"/> No | |
| If yes, record details | | | |
| Support | | | |
| If the reporter wants a support person – who did they request? | | | |
| What does the reporter expect from this process? | | | |
| Information provided to reporter: | | | |
| <input type="checkbox"/> The contact details of the PID Co-ordinator and an explanation of their role and responsibilities in this process. | | | |
| <input type="checkbox"/> An acknowledgement will be sent within [XX] days along with a copy of the relevant policy | | | |
| <input type="checkbox"/> Within [XX] days the PID Co-ordinator will complete an assessment of the report to ensure it meets the criteria of a PID and will contact the reporter in [XX] days to advise the determination. | | | |
| <input type="checkbox"/> Within six months the organisation has to provide the reporter with details of what action has been taken or will be taken in relation to their report. | | | |
| <input type="checkbox"/> The reporter should contact the PID Co-ordinator if they have any questions or concerns during the process. | | | |
| <input type="checkbox"/> The organisation will take all appropriate steps to keep the identity of the reporter confidential – provide reasons where this may not be possible. | | | |
| <input type="checkbox"/> Advised reporter of the importance of maintaining confidentiality about this report and the process. | | | |
| <input type="checkbox"/> The organisation will implement appropriate strategies to protect the reporter from detrimental action in reprisal for making the report and respond to any occurrence of this type of behavior. | | | |
| <input type="checkbox"/> If the reporter believes detrimental action is being taken against them they need to advise the PID Co-ordinator, Principal officer or support person asap. | | | |
| <input type="checkbox"/> Provided employee assistance program contact details. | | | |
| <input type="checkbox"/> If verbal report - copy of PID form provided to reporter. | | | |
| Signature – Nominated Disclosure Officer | | | Date |

| Initial assessment: | |
|--|---|
| What is the category of wrongdoing? | |
| <input type="checkbox"/> Corrupt Conduct <input type="checkbox"/> Maladministration <input type="checkbox"/> Serious & Substantial Waste <input type="checkbox"/> Contravention of the GIPA Act | <input type="checkbox"/> Contravention of the pecuniary interest of LGA <input type="checkbox"/> Grievance <input type="checkbox"/> Other |
| Reporter is a public official | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| Matter reported is about the conduct of public official or public authority | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| The reporter has an honest belief on reasonable grounds that the information they have reported shows or tends to show the alleged conduct | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| The report does not principally involve questioning the merits of government policy | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| There is no reason to conclude that the report was made solely or substantially with the motive of avoiding dismissal or other disciplinary action | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| Signature – Nominated Disclosure Officer | Date |

Confirmation of information provided to individual reporting wrongdoing

Please confirm that the following information was raised with you by the nominated Disclosure Officer during the initial discussion about your report of wrongdoing:

- Explanation of the internal reporting and public interest disclosure process and procedures.
- The name and contact details of the Disclosures Coordinator.
- Explanation of the role and responsibility of the Disclosures Coordinator.
- That an acknowledgement will be sent to you within **XX** days along with a copy of relevant policies and documents.
- That the assessment will be completed in **XX** days and the determination advised within **XX** days.
- That Council is required to provide you with details of what action has been taken or will be taken in relation to this report with six months.
- That Council will take appropriate steps to keep your identity confidential and that there may be reasons where this is not possible.
- The importance of you maintaining confidentiality regarding this report and not discussing with other people.
- That Council will implement appropriate strategies to protect you from reprisal action that may result from making the report and will respond to any reprisal action that may occur.
- The contact details for the employee assistance program.
- The option of requesting a support person.
- Your preferred method of contact.

Name of reporter: _____

Signature: _____

Date: _____

Checklist of Internal Report Form

To be completed by the recipient of an internal report

Internal report

| | | | |
|--|---------------------------------|----------------------------------|------------------------------------|
| Report received by: | | | |
| Date report received: | <input type="checkbox"/> Verbal | <input type="checkbox"/> Written | <input type="checkbox"/> Anonymous |
| If the report was made verbally , the report has been documented in writing and signed: | <input type="checkbox"/> Yes | <input type="checkbox"/> No | |
| The reporter has been thanked for coming forward with their concerns: | <input type="checkbox"/> Yes | <input type="checkbox"/> No | |

Confidentiality / Risk of reprisal

| | |
|--|--|
| Who else knows that the report has been made? | |
| Is the reporter concerned their identity will become known in the workplace? Why? | |
| Is the reporter concerned that they may suffer reprisal action for making the report if their identity becomes known? From whom? | |
| What professional relationship does the reporter have with any subject(s) of the report? | |

Previous reporting

| | |
|---|---|
| <input type="checkbox"/> Yes <input type="checkbox"/> No | The reporter has raised this matter to another person within your organisation. |
| If yes , who was it reported to, when was it reported, what action was/is being taken? | |

Support

| | |
|--|---|
| <input type="checkbox"/> Yes <input type="checkbox"/> No | The reporter has been advised of our employee assistance program. |
| <input type="checkbox"/> Yes <input type="checkbox"/> No | The reporter requires support. |
| If the reporter requires support, what type of support? | |

Reporter's expectations

| |
|---|
| What does the reporter expect from this process? |
| What does the reporter expect will happen to any subject(s) of allegations? |



Integrity, Respect, Teamwork, Accountability and Excellence

Additional information the recipient of a report may be aware of

- Yes No
- Yes No
- Yes No
- Yes No

The reporter is currently/has previously been the subject of performance issues.

The reporter is currently/has previously been the subject of disciplinary proceedings relating to this matter.

The reporter is currently/has previously been the subject of criminal investigation related to this matter.

The reporter is currently/has previously been the subject of workplace changes.

If **yes** to any of the above, provide any known details.

Signature of recipient

Date

Initial Assessment of Internal Report Form

To be completed by a nominated Disclosures Officer



Integrity, Respect, Teamwork, Accountability and Excellence

| Public Interest Disclosures – General Criteria | | Comments |
|--|---|---|
| 1 | <p>Is the reporter a public official?</p> <p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p><input type="checkbox"/> Anonymous</p> | <p>Under the <i>Public Interest Disclosures (PID) Act 1994</i>, A <i>public official</i> includes employees, volunteers, individual contractors, certain employees of contracting companies and any other person performing a public official function for your public authority.</p> <p>If the reporter is not a <i>public official</i> the report is not likely to be a PID.</p> <p>If the reporter is anonymous, the content of the report may tend to indicate that the reporter is a public official. In such cases it is always best to assume the reporter is a public official until there is evidence to indicate the reporter is not a public official.</p> |
| 2 | <p>Is the report about the conduct of a public official or a public authority?</p> <p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> | <p>If the report is not about the conduct of a <i>public official</i> or <i>public authority</i> the report is not likely to be a PID.</p> |
| 3 | <p>Is the report about one of these categories of conduct?</p> <p><input type="checkbox"/> Maladministration</p> <p><input type="checkbox"/> Waste of public money</p> <p><input type="checkbox"/> Breach of the GIPA Act</p> <p><input type="checkbox"/> LG pecuniary interest contravention</p> <p><input type="checkbox"/> Corrupt conduct</p> | <p>Generally speaking, a grievance, such as a complaint about bullying, is not about one of these categories of conduct.</p> <p>If the report is not about one of these categories of conduct it is not likely to be a PID and does not need to be forwarded to the disclosures coordinator for assessment.</p> <p>For line managers/supervisors: PIDs must be made to a person authorised to receive PIDs under the public authority's internal reporting policy (for example a nominated disclosure officer). If you are not authorised to receive PIDs but suspect the report could be a PID, you should direct staff member to a nominated disclosures officer or show support and go with them.</p> |

Contact details of reporter

| | | |
|-----------------|--|-----------------------------|
| Name: | | Preferred method of contact |
| Telephone: | | |
| Email: | | |
| Postal address: | | |

Assessment and comments

Based on this **initial assessment**, could this report be a Public Interest Disclosure (PID)?

Yes No

Reasons for this initial assessment:

Signature of nominated disclosures officer

Date:

If **yes**,

Forward this report to the disclosures coordinator for formal assessment.

Date forwarded:

If **no**, the following steps will be taken:

Referred to:

For:

Date referred:

Complainant notified.

Date notified:

Acknowledgment letter template

Insert date

Our reference:

Contact:

Telephone:

[Mr/Ms] Firstname Surname

Address 1

Address 2

Suburb State Postcode

email

Dear [Mr/Ms] Surname

Internal report of suspected wrongdoing

I am writing in relation to your [letter/email] addressed to [Officer's Name], received [date]. You reported [brief description of report].

[or]

I am writing in relation to your conversation with [Officer's Name], on [date]. I understand that you reported [brief description of report]

Thank you for coming forward to bring to our attention suspected wrongdoing in Council.

I am enclosing a copy of our Internal Reporting – Public Interest Disclosures Policy and Guideline for your reference. As the Disclosures Coordinator I am responsible for dealing with reports of wrongdoing made by our staff.

I have assessed your report and decided to treat this matter as a public interest disclosure, in accordance with the requirements of the *Public Interest Disclosures Act 1994 (NSW)* (the **PID Act**).

What we will do with your report

Having received your report, it is now up to Council to decide how to deal with this information and to take appropriate action. We expect you to assist us in this process and provide further information you may be aware of, if requested.

We will advise you of what action we have taken or intend to take by [date no later than six months after date received]. Please be aware, however, that we [may/will] not be able to provide you with personal or employment related information about those involved in the conduct you have reported.

Protection from reprisal

As you may be aware, under Section 20 of the PID Act it is a criminal offence for someone to take detrimental action against another person which is substantially in reprisal for that person having made a public interest disclosure.

Council will take appropriate steps to help protect you from reprisal action that may result from having made a report. If practicable, we will make every effort to keep your identity confidential. Please be aware however that this may not be possible or appropriate in some circumstances. We will be in contact in the near future to discuss whether maintaining confidentiality is possible and appropriate in your case.

To minimise the risk of your identity being disclosed it is important that you only discuss this matter with me, the Principal Officer, or someone authorised to deal with this matter. In particular, do not inform any person involved in the alleged wrongdoing that you have made a report about them.

Failure to maintain confidentiality may limit Council's ability to protect you from reprisal action and could be detrimental to any investigation.

[Optional line where concerns reporter has intentionally breached confidentiality]:

Wilfully disregarding these instructions will be treated as a serious matter and may be a breach of the code of conduct.

Please contact me immediately if you believe someone has taken, or intends to take, detrimental action against you in reprisal for making this report. My phone number is [direct phone number].

Support options

Council acknowledges that making a report in the workplace can be difficult, and we appreciate that you have brought this to our attention.

If you are experiencing difficulties or require support you can contact Council's Employee Assistance Program Provider AusPsych on 02 4926 1688 or via email admin@auspsych.com.au. If you require additional support throughout this process, please contact me to arrange a support officer.

You are welcome to call me on [direct phone number] if you have any questions about this letter or would like further information about how Council will be dealing with your report.

Yours sincerely

[Disclosures Coordinator]

Encl. Internal Reporting – Public Interest Disclosures Policy and Guideline



Risk Assessment

To be completed by the Disclosures Coordinator after a PID is made internally or if a report has been made anonymously.

| Details of reporter | Details of assessor |
|---------------------|---------------------|
| Reporter's name: | Assessor's name: |
| Role: | Role: |

Stage 1. Identify the risks

Are the reporter's expectations reasonable? **Yes** **No** **N/A**

Prompts: Explain the internal reporting process and likely outcomes. What outcome does the reporter expect? Is the outcome they are seeking unlikely or unrealistic?

Is the reporter's identity known? **Yes** **Not currently known** **N/A**

If you answered 'Yes' to the question above, what are the circumstances in which the identity of the reporter is known?

Prompts: The PID Act recognises that there are circumstances where it may be necessary for information to be disclosed that may identify the person who has reported wrongdoing. This information may be disclosed by an investigating authority, public authority or public official who receives a PID if:

- The person consents in writing to the disclosure of the information.
- It is 'generally known' that the person has made the PID as they have voluntarily identified themselves as the person who made the PID.
- It is essential for the identifying information to be disclosed to a person to satisfy the principles of natural justice.
- It is necessary for the information to be disclosed for the effective investigation of the matter.
- It is otherwise in the public interest to do so.
- If you answered '**Not currently known**' to the question above, could the reporter's identity become known?
Yes **No** **N/A**

- Prompts:** Has the reporter told anyone else that they have made or intended to make a report? Have they raised their concerns previously? Is the nature of the report such that their identity is easily identified? Has the reporter previously been identified as the maker of disclosures of a similar nature or about the same subject officer(s)? Is it a small workplace?

- Is the reporter at risk of reprisal?**
Yes No N/A

- Prompts:** Does the reporter work at the same location as the subject officer(s)? Has the reporter expressed fear of reprisal? Has the subject officer(s) previously engaged in reprisal or poor conduct? Is the subject officer(s) the reporter's line manager? Is the reporter being performance managed? Are there effective supervisory arrangements to monitor the conduct of the subject officer(s)? Is the reporter employed part-time, on a casual basis or on contract?

- Is any subject officer(s) at risk of adverse consequences?**
Yes No N/A

- Prompts:** When will the subject officer(s) be made aware of the allegations? How will they be provided with support? **Is there a risk to the authority's functions, services and/or reputation?**
Yes No N/A

- Prompts:** Will business continuity be affected by the PID being investigated? Could there be media interest in the allegations raised?

Human resources

Yes No N/A

Are there known mitigating factors or potential risks in the workplace for the reporter and/or subject officer(s)?

Prompts: Is there a history of conflict in the workplace, particularly involving the reporter or subject officer(s)? Has the reporter received a threat or experienced recent bullying or harassment in the workplace? Is a restructure of the workplace planned?

Stage 2. Risk analysis and evaluation

Analyse the risks to determine how they might affect the reporter, subject officer(s) and authority.

Consequence(s) What is the potential impact of the risks to the reporter, subject officer(s) and the authority?

Likelihood What is the likelihood of the risks occurring, particularly if confidentiality cannot be maintained?

Controls Are there strategies in place to control or eliminate the risks?

Prompts: Refer to a list of suggested strategies in stage 3. Risk treatment

RISK RATING Select a risk rating based on all of the available information (examples of risks are below)

Low risk

The reporter's identity can be maintained or the reporter's identity is known and the reporter and assessor are confident that no reprisals will be taken against the reporter in response to having made a PID.

The subject officer is unaware that a PID has been made/an investigation is progressing.

The authority is compliant with the internal reporting policy and the authority's obligations under the PID Act.

Medium risk

The reporter's identity cannot be maintained.

Potential for low level reprisals against the reporter, workplace conflict or other difficulties in response to making a PID.

Concerns about the conduct of the parties involved. i.e. reporter and subject officer.

Possibility the authority is not compliant with the internal reporting policy and the authority's obligations under the PID Act.

High risk



Detrimental action against the reporter that is substantially in reprisal for the reporter making a PID. Detrimental action means causing, comprising or involving any of the following (PID Act, s.20(2)):

- a) injury, damage or loss,
- b) intimidation or harassment,
- c) discrimination, disadvantage or adverse treatment in relation to employment, and/or
- d) dismissal from, or prejudice in, employment, disciplinary proceeding.

Conflict involving the reporter and the subject officer(s).

The reporter will not comply with the internal reporting policy.

The authority is not compliant with the internal reporting policy and the authority’s obligations under the PID Act.

Stage 3. Risk treatment

Develop strategies to eliminate, minimise or manage risks to the reporter, subject officer(s) and authority.

Prompts: Possible strategies:

- Keep the identity of the reporter and subject officer(s) confidential.
- Develop a reporter support strategy.
- Communicate with managers and supervisors about keeping the identity of the reporter confidential, monitoring and managing workplace risks.
- Communicate with the reporter and subject officer(s) at regular intervals.
- Take proactive management intervention by warning the subject officer(s) about taking reprisal action.
- Provide general awareness or training.
- Ensure the report is dealt with in an appropriate timeframe.
- Facilitate alternative dispute resolution options.
- Consult with the reporter about whether they want to change employment arrangements.
- Change supervisory arrangements.
- Consider the timing and process of any restructure.
- Independently verify the work performance of the reporter.

SIGNATURE

Risks may need to be reviewed at various points in the process, such as when a decision is made to investigate, during the investigation into the report and once the outcome of an investigation is known.

Signature of assessor:

Date: / / Review date: / /

Assessment of an Internal Report Form

To be completed by the Disclosures Coordinator

| Public Interest Disclosures Act Criteria | | Comments |
|--|--|--|
| 1 | <p>Is the reporter a public official?</p> <p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p><input type="checkbox"/> Anonymous</p> | <p>If the reporter is not a <i>public official</i>, as defined in the PID Act the report is not a PID.</p> <p>If the reporter is anonymous, the content of the report may indicate that the reporter is a public official. In such cases it is always best to assume the reporter is a public official unless there is evidence to indicate the reporter is not a public official.</p> |
| 2 | <p>Is the report about the conduct of a public official or a public authority?</p> <p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> | <p>If the report is not about the conduct of a <i>public official</i> or <i>public authority</i>, as defined in the PID Act, the report is not a PID.</p> |
| 3 | <p>Is the report about one of the categories of conduct in the PID Act?</p> <p><input type="checkbox"/> Breach of the GIPA Act</p> <p><input type="checkbox"/> Serious maladministration</p> <p><input type="checkbox"/> LG pecuniary interest contravention</p> <p><input type="checkbox"/> Corrupt conduct</p> <p><input type="checkbox"/> Serious and substantial waste of public money</p> | <p>If the report is not about one of the categories of conduct in the PID Act it is not a PID.</p> <p>For more information about these categories of conduct see NSW Ombudsman PID Guideline B2.</p> <p>If you have answered no because you believe the maladministration or waste of public money was not <i>serious</i> or <i>substantial</i> enough, clearly record your reasons over the page.</p> |
| 4 | <p>Does the reporter have reasonable grounds to believe that the information they have reported shows or tends to show the alleged wrongdoing?</p> <p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> | <p>Assume the reporter has an <i>honest belief</i> unless there is evidence to the contrary.</p> <p>If another person, given the same conditions, would take the same viewpoint, this is <i>reasonable grounds</i>.</p> <p>The reporter must be able to <i>show or tend to show</i> evidence of the alleged wrongdoing, i.e. they witnessed it or they have documentary or other evidence. It cannot be hearsay.</p> <p>If you have answered no, clearly record your reasons over the page.</p> |
| 5 | <p>Was the report made to the principal officer, or a public official nominated to receive disclosures in the public authority's Internal Reporting Policy?</p> <p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> | <p>If the report was not made to the <i>principal officer</i> or a <i>nominated disclosures officer</i> the report is not a PID.</p> <p>If the reporter has not made the report to an authorised person they should be redirected to one.</p> |
| 6 | <p>Does the report primarily question the merits of government policy?</p> <p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> | <p>If the report <i>primarily questions the merits of government policy</i> the report is not a PID.</p> |
| 7 | <p>Is there substantial evidence indicating that the report was made solely or substantially with the motive of avoiding dismissal or other disciplinary action?</p> <p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> | <p>If the report has been made <i>solely or substantially with the motive of avoiding dismissal or other disciplinary action</i> the report is not a PID.</p> <p>A high evidential threshold is required to conclude the reporter's motives were</p> |

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| | | | <p>improper.</p> <p>If you have answered yes, you should have sound reasons and clearly record those reasons over the page.</p> |
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| Further comments | |
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| <ul style="list-style-type: none"> The PID assessment should be based on the content of the disclosure, not the outcome of any investigation. An internal reporter does not have to explicitly indicate that they are making a PID or ask to be protected. If in doubt, err on the side of caution and interpret the PID Act broadly – i.e. assume that the PID Act applies and proceed accordingly. For further advice, please refer to the NSW Ombudsman’s PID Guidelines at www.ombo.nsw.gov.au or contact the NSW Ombudsman PID Unit on pid@ombo.nsw.gov.au or 02 9286 1000. | |
| Assessment | |
| <p>Based on this assessment, should the report be treated as a Public Interest Disclosure?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If yes, was the PID made:</p> <p><input type="checkbox"/> incidental to the performance of reporter’s day-to-day functions,</p> <p><input type="checkbox"/> under a statutory or other legal obligation on the reporter,</p> <p><input type="checkbox"/> otherwise.</p> <p>_____</p> <p>Signature of disclosures coordinator</p> <p>Date:</p> | <p>If yes, the following steps will be taken:</p> <hr/> <p>If no, the following steps will be taken:</p> |
| Reasons for decision | |
| | |