

Wagga Wagga City Council

~~PROTECTED~~ PUBLIC INTEREST DISCLOSURES POLICY

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RESPONSIBLE MANAGER		Manager Corporate Strategy <u>Communications and Governance</u> <u>Audit Risk and Governance</u>	

PROTECTED PUBLIC INTEREST DISCLOSURES POLICY

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PART 1: INTRODUCTION

The Wagga Wagga City Council (Council) does not tolerate corrupt conduct, maladministration, the serious and substantial waste of public money, [contravention of the Government Information \(Public Access\) Act 2009 \(GIPA Act\) or Local Government Pecuniary Interest contravention](#) and acknowledges the reporting of suspected wrongdoing by staff, Councillors and Council engaged persons ([including contractors and volunteers](#)) as being vital to the integrity of the public sector.

Council is committed to the aims and objectives of the Public Interest Disclosures Act 1994 (the PID Act). It recognises the value and importance of contributions of staff, Councillors and other Council engaged persons to enhance administrative and management practices and strongly supports disclosures being made by those individuals which disclose corrupt conduct, maladministration, the serious and substantial waste of public money, ~~contravention of the Government Information (Public Access) Act 2009 (GIPA Act)~~ or Local Government Pecuniary Interest contravention.

Council will take all reasonable steps to provide protection to staff, Councillors and Council engaged persons who make such disclosures from any detrimental action in reprisal for the making of the disclosure.

1.1 Policy Objectives

This Policy establishes an internal reporting system for the reporting of disclosures of corrupt conduct, maladministration, the serious and substantial waste of public money, ~~contravention of the GIPA Act~~ [or Local Government Pecuniary Interest contravention by the Council, its](#) staff and Councillors. The system enables such internal disclosures to be made to the [General Manager, the](#) Disclosure Coordinator, Nominated Disclosure Officers, or the Mayor as an alternative to the General Manager.

1.2 Scope of Policy

This Policy covers complaints and reports made under the PID Act such as corrupt conduct, maladministration, the serious and substantial waste of public money, ~~contravention of the GIPA Act~~ [or Local Government Pecuniary Interest contravention.](#)

This policy applies to:

- Councillors and Council staff (including permanent employees whether full-time or part-time, temporary or casual employees); and
- Other persons engaged by Council (including consultants, individual contractors working for Council, [employees of contractors providing services to Council](#) and volunteers)

- Other people who perform Council official functions whose conduct and activities could be investigated by another investigating authority

Whilst the predominance of this Policy refers to staff, (given that they are best placed to bring to light serious problems within the management and operations of an organisation), the scope, principles and reporting processes contained within this Policy also apply to Councillors and other persons engaged by Council.

This Policy is designed to complement normal communication channels between managers/supervisors and staff/councillors/contractors/consultants and volunteers.

Staff are encouraged to continue to raise appropriate matters at any time with their supervisors but as an alternative have the option of making a public interest disclosure in accordance with this Policy.

This Policy does not cover complaints regarding breaches of Council's adopted Code of Conduct unless they involve corrupt conduct, maladministration, the serious and substantial waste of public money, contravention of the GIPA Act or Local Government Pecuniary Interest contravention. Procedures for reporting other breaches of the Code of Conduct are covered under section 11 of Council's Code of Conduct.

1.3 Legislative Context

The PID Act has the purpose of ensuring that public officials who wish to make disclosures under the legislation receive protection from reprisals, and that the matters raised in the disclosures are properly investigated.

The Act aims to encourage and facilitate the disclosure - in the public interest - of corrupt conduct, maladministration, the serious and substantial waste of public money, contravention of the GIPA Act or Local Government Pecuniary Interest contravention. This is achieved by:

- enhancing and augmenting established procedures for making disclosures concerning such matters,
- protecting persons from reprisals that might otherwise be inflicted on them because of these disclosures, and
- providing for those disclosures to be properly investigated and dealt with.

~~Under section 14 of the GIPA Act, Responsible and effective government, there is a public interest consideration against disclosure of information if disclosure of the information could reasonably be expected to prejudice the supply to an agency of confidential information that facilitates the effective exercise of that agency's functions.~~

1.4 Relevant legislation and documents:

- Public Interest Disclosures Act 1994
- Local Government Act 1993
- ~~Occupational Health & Safety Act 2000~~ Workplace Health and Safety Act 2011
- Government Information (Public Access) ([GIPA](#)) Act 2009
- Independent Commission Against Corruption Act 1988
- Ombudsman Act 1974

1.5 Related Documents

- Code of Conduct
- Administrative Procedures for the Code of Conduct
- Complaints Handling Framework and Policy
- Conflicts of Interest Policy
- Internal Audit Policy
- Gifts & Benefits Policy
- ~~Statement of Business Ethics~~
- Fraud and Corruption Prevention Framework and Policy
- Good Governance FrameworkPolicy

PART 2: RESPONSIBILITIES

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 from staff and councillors and deal with them appropriately. Once wrongdoing has been reported, Council takes 'ownership' of the matter. This means consideration is given to 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 our obligations under the PID Act and statistical information about public interest disclosures in our 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.

2.1 Staff, Councillors and Council engaged persons

Staff, Councillors and Council engaged persons are encouraged to report known or suspected incidences of ~~corrupt conduct, maladministration, serious and substantial waste or contravention of the GIPA Act~~ corrupt conduct, maladministration, the serious and substantial waste of public money, contravention of the ~~Government Information (Public Access) Act 2009~~ (GIPA Act) or Local Government Pecuniary Interest contravention in accordance with this Policy.

All staff, Councillors and Council engaged persons have 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 or is suspected to have made a report

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

~~to play in supporting those who have made legitimate disclosures. They must abstain from any activity that is, or could be perceived to be, victimisation or harassment of a person who has made a public interest disclosure. Further, they should protect and maintain the confidentiality of any person they know or suspect to have made disclosures.~~

~~The responsibilities of all staff include:~~

~~reporting known and suspected wrongdoing within Council~~

~~not making false or misleading reports of wrongdoing~~

~~keeping the identity of internal reporters and anyone who is the subject of a report confidential~~

~~assisting those dealing with a report, including supplying any information on request~~

~~supporting staff who report wrongdoing~~

~~not taking reprisals against individuals that they suspect has reported wrongdoing~~

~~notifying their manager or supervisor immediately of any suspicions they have that reprisal to an internal reporter is occurring or has been threatened.~~

~~The responsibilities of staff reporting wrongdoing:~~

~~only discussing the matter with authorised people and not alerting anyone who is the subject of a report that a disclosure has been made~~

~~when they report, raising any concerns that they have about reprisals or workplace conflict with the person assessing their report or the disclosures coordinator~~

~~assisting those assessing and dealing with the report, including supplying any information on request~~

~~if needed, seeking support from their support officer, manager or supervisor, the disclosures coordinator or any external organisations and services~~

~~at any time after they have reported, notifying their manager or supervisor, the disclosures coordinator or principal officer immediately of any suspicions they have that reprisal is occurring or has been threatened.~~

~~The responsibilities of staff who are the subject of a report:~~

~~only discussing the matter with authorised people~~

~~not seeking to identify the internal reporter~~

~~assisting those dealing with the report, including supplying any information on request~~

~~not taking reprisals against another staff member or individual whom they know or suspect has reported wrongdoing~~

~~if necessary, seeking support from their manager or supervisor or any available external organisations and services.~~

2.2 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 and Councillors 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 Administrative Procedures for Code of Conduct Procedures
- 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
- 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 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

Disclosures may be made direct to the General Manager rather than by way of the Internal Reporting System under this Policy. Disclosures made to the General Manager will be treated in the same manner as all other disclosures. The General Manager will:

- ~~(a) impartially assess each disclosure to determine:
 - ~~(i) whether the disclosure appears to be a public interest disclosure within the meaning of the Act;~~
 - ~~(ii) whether the disclosure covers another agency and should therefore be referred to the principle officer of that agency;~~
 - ~~(iii) the appropriate action to be taken in relation to the disclosure, such as:
 - no action/decline;
 - the appropriate person to take responsibility for dealing with the disclosure;
 - preliminary or informal investigations;
 - formal investigation;
 - prosecution or disciplinary action;
 - referral to an investigating authority for investigation or other appropriate action; or
 - referral to the Police (if criminal matter) or the ICAC (if the matter concerns corrupt conduct).~~~~
- ~~(b) receive reports from the Disclosure Coordinator on the findings of any investigation and any recommendations for remedial action, and determine what action should be taken;~~
- ~~(c) take all necessary and reasonable steps to ensure that the identity of persons who make disclosures, and the persons the subject of disclosures, are kept confidential,~~
- ~~(d) have primary responsibility for protecting staff who make disclosures, or provide information to any internal or external investigation of a disclosure, from victimisation, harassment or any other form of reprisal,~~
- ~~(e) be responsible for implementing organisational reform identified as necessary following investigation of a disclosure, and~~
- ~~(f) report criminal offence to the Police and actual or suspected corrupt conduct to ICAC (under s.11 of the ICAC Act).~~

2-22.3 Disclosure 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 Administrative Procedures for the Code of Conduct
- 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 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 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.

~~The Disclosure Coordinator acts as a clearing house for disclosures. The Disclosure Coordinator will:~~

- ~~(a) provide an alternative internal reporting channel to Nominated Disclosure Officers, and the General Manager;~~
- ~~(b) impartially assess each disclosure to determine:
 - ~~(i) whether the disclosure appears to be a public interest disclosure within the meaning of the Act;~~
 - ~~(ii) whether the disclosure covers another agency and should therefore be referred to the principle officer of that agency;~~
 - ~~(iii) the appropriate action to be taken in relation to the disclosure, such as:
 - ~~• no action/decline;~~
 - ~~• the appropriate person to take responsibility for dealing with the disclosure;~~
 - ~~• preliminary or informal investigations;~~~~~~

- ~~• formal investigation;~~
 - ~~• prosecution or disciplinary action;~~
 - ~~• referral to an investigating authority for investigation or other appropriate action;~~
 - ~~• referral to the Police (if criminal matter) or the ICAC (if the matter concerns corrupt conduct).~~
- ~~(c) consult with the General Manager about all disclosures received, other than where a disclosure concerns the General Manager;~~
- ~~(d) be responsible for either carrying out or coordinating any internal investigation arising out of a disclosure, subject to the direction of the General Manager;~~
- ~~(e) report to the General Manager on the findings of any investigation and recommend remedial action;~~
- ~~(f) take all necessary and reasonable steps to ensure that the identity of persons who make disclosures, and the persons the subject of disclosures, are kept confidential;~~
- ~~(g) support persons who make public interest disclosures and actively protect them from victimisation, harassment or any other form of reprisal; and~~
- ~~— report actual or suspected corrupt conduct to the General Manager in a timely manner to enable him/her to comply with the ICAC Act.~~
- ~~(h) provide six monthly reports on the incidence and management of PIDs to the NSW Ombudsman.~~

~~When the Disclosures Coordinator receives or assesses a report, their responsibilities are those for ‘Staff receiving a report’ and ‘Staff assessing a report’ as provided for in this Policy. Irrespective of whether the Disclosures Coordinator receives or assesses a report, their responsibilities include:~~

- ~~• keeping the identity of the internal reporter and anyone who is the subject of a report confidential, if this is possible and appropriate~~
- ~~• continually assessing the likelihood of the internal reporter being exposed to reprisal or workplace conflict~~
- ~~• ensuring that appropriate systems and strategies are established to minimise any risk of reprisals that the internal reporter faces~~
- ~~• ensuring that the internal reporter is kept regularly informed about the progress of the matter~~
- ~~• ensuring that the time frames promised in the acknowledgement letter are adhered to~~

~~If the Disclosures Coordinator becomes aware that reprisal against an internal reporter is threatened or is taking place or has taken place, their responsibilities include:~~

- ~~taking all steps to enable the internal reporter to continue working without being subjected to reprisal, or changing the workplace so that their exposure to the detriment is minimised (for example, moving staff to a different location)~~
- ~~ensuring a senior and experienced staff member, who has not been involved in dealing with the initial report, investigates the suspected reprisal~~
- ~~ensuring that the results of that investigation and any arising recommendations – including that appropriate disciplinary action be taken against anyone proven to have taken any reprisal – are provided to the principal officer for a decision~~
- ~~referring any evidence of reprisals to the police, the ICAC or the Police Integrity Commission (depending on the subject matter of the allegation) to see if there are sufficient lines of inquiry to establish that a criminal offence has taken place.~~

~~The Disclosures Coordinator is also responsible for ensuring Council meets its broader obligations under the PID Act, including:~~

- ~~implementing an internal reporting procedures for receiving, assessing and dealing with public interest disclosures~~
- ~~reporting annually on the incidence and management of public interest disclosures within Council and providing a copy of this report to the NSW Ombudsman.~~

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

~~Nominated Disclosure Officers are responsible for receiving, forwarding and/or acting upon disclosures in accordance with the Policy. They will:~~

- (a) ~~clearly explain to persons making disclosures what will happen in relation to the information received;~~

- ~~(b) when requested, make arrangements to ensure that disclosures can be made privately and discreetly;~~
- ~~(c) reduce to writing and date any disclosures received orally (and have the person making the disclosure sign the document);~~
- ~~(d) deal with disclosures impartially;~~
- ~~(e) forward disclosures to the Disclosure Coordinator or to the General Manager for assessment;~~
- ~~(f) take all necessary and reasonable steps to ensure that the identity of persons who make disclosures, and the persons the subject of disclosures, are kept confidential; and~~
- ~~(g) support persons who make public interest disclosures and protect them from victimisation, harassment or any other form of reprisal.~~

2.42.5 The Mayor

~~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:~~

- ~~• 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 Administrative Procedures for the Code of Conduct~~
- ~~• 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~~

~~The Mayor may receive internal disclosures from any member of staff or any Councillor concerning the General Manager or a Councillor only. The Mayor will:~~

- ~~(a) impartially assess each disclosure to determine:
 - ~~(i) whether the disclosure appears to be a public interest disclosure within the meaning of the Act. [Note: In making this assessment the Mayor may seek guidance from the Disclosure Coordinator, the General Manager (if appropriate), an investigating authority (i.e. the Ombudsman, ICAC or the Director General of the Department of Local Government)];~~
 - ~~(i) the appropriate action to be taken in relation to the disclosure, (in consultation with the General Manager if appropriate), such as:
 - ~~▪ no action/decline;~~
 - ~~▪ the appropriate person to take responsibility for dealing with the~~~~~~

disclosure;

- ~~preliminary or informal investigations;~~
- ~~formal investigation;~~
- ~~prosecution or disciplinary action;~~
- ~~referral to an investigating authority for investigation or other appropriate action;~~
- ~~referral to the Police (if criminal matter) or the ICAC (if the matter concerns corrupt conduct).~~

~~(b) refer disclosures to the General Manager for appropriate action if they concern the Council's administration, within the day to day responsibilities of the General Manager,~~

~~(c) protect/maintain the confidentiality of:~~

- ~~(i) the identity of any persons who make disclosures (unless any of the criteria of section 22 of the Act apply); and~~
- ~~(ii) the identity of persons the subject of the disclosures (unless disclosure is required to enable the allegation to be investigated or otherwise appropriately dealt with).~~

2.5 Principal Officers

~~Principle officers are responsible for:~~

- ~~establishing and maintaining a working environment that encourages staff to report wrongdoing~~
- ~~establishing an effective internal reporting system to appropriately deal with reports of wrongdoing, support staff who report, and ensure reprisals are not taken against them~~
- ~~ensuring adequate resources, both financial and human, are dedicated towards achieving these outcomes.~~

~~If wrongdoing is reported to the principal officer under s.8(1)(2) of the PID Act, this person has the responsibilities outlined for 'Staff receiving a report' as set out in this Policy. In addition to these general responsibilities, the principal officer must also refer actual or suspected corrupt conduct to the Police or the Independent Commission Against Corruption (ICAC).~~

~~The principal officer is responsible for assessing any reports that they receive in accordance with the responsibilities for 'Staff assessing a report' (see section 9 below).~~

~~Irrespective of whether the principal officer receives or assesses a report, their responsibilities include:~~

- ~~• keeping the identity of the internal reporter and anyone who is the subject of a report confidential, if this is possible and appropriate~~
- ~~• ensuring that they are advised when an assessment decision has been made about a report and, if further action is recommended, given regular progress updates and a report of the outcome~~
- ~~• providing adequate resources to any support person appointed to assist an internal reporter~~
- ~~• providing adequate resources to any person appointed to investigate a report~~
- ~~• ensuring that appropriate systems and strategies are established to minimise any risk of reprisal that the internal reporter faces~~
- ~~• effectively managing the workplace situation, or ensuring that the workplace situation is effectively managed, if reprisal is threatened or does take place~~
- ~~• taking appropriate action against anyone who threatens or takes reprisal against a person for reporting wrongdoing~~
- ~~• taking appropriate remedial action in response to any findings that substantiate the allegations in the report~~
- ~~• implementing any organisational reform that is necessary to address systemic issues identified following a report.~~

2.6 Managers and supervisors

Managers and supervisors 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 and are responsible for creating a 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 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
- implement 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 Mayor.

~~Managers and supervisors play a key role in establishing and maintaining a working environment that encourages staff to report wrongdoing and supports those that do. If a staff member has a concern or a report of wrongdoing that may be a disclosure under~~

~~the PID Act, managers and supervisors should advise them to raise the matter with a person nominated in your organisation's internal reporting policy to receive disclosures.~~

~~If a manager or supervisor is aware that one of their staff has made a report, their responsibilities include:~~

- ~~• keeping the identity of the internal reporter and anyone who is the subject of a report confidential, if this is possible and appropriate~~
- ~~• providing support to the internal reporter, including ensuring that they have access to any necessary professional support~~
- ~~• ensuring that appropriate systems and strategies are established to minimise any risk of reprisal that the internal reporter faces~~
- ~~• notifying the disclosures coordinator or principal officer immediately if they believe a staff member is being subjected to reprisal as a result of reporting wrongdoing~~
- ~~• effectively managing the workplace situation if reprisal is threatened or does take place~~
- ~~• taking appropriate action against any person who threatens or takes reprisal against a person for reporting wrongdoing.~~

~~2.7 Staff receiving a report (whether a principal officer, disclosures coordinator/officer, Mayor or General Manager)~~

~~The responsibilities of staff receiving a report include:~~

- ~~• keeping the identity of the internal reporter and anyone who is the subject of a report confidential, if this is possible and appropriate~~
- ~~• when requested by a person wishing to report wrongdoing, arranging to meet with them privately and discreetly – if necessary away from the workplace~~
- ~~• assisting the person to put their report in writing or ensuring that any reports received orally are documented, dated and signed by the person~~
- ~~• forwarding reports to the disclosures coordinator or principal officer for assessment~~
- ~~• advising the internal reporter to only discuss the matter with authorised people and not alert anyone who is the subject of a report that a disclosure has been made about them~~
- ~~• explaining to the internal reporter what will happen in relation to the information received~~
- ~~• advising the internal reporter to notify the disclosures coordinator or principal officer immediately of any suspicions they have that reprisal is occurring or has been threatened against them~~
- ~~• helping the internal reporter to communicate with the disclosures coordinator, principal officer or their support person if they are having difficulty doing this directly.~~

2.8 Staff assessing a report

The responsibilities of staff assessing a report include:

- determining whether or not the report is a public interest disclosure
- deciding how the report should be progressed, whether it is a public interest disclosure or not
- providing the principal officer with written advice about the initial assessment and the decision about how the report is to be progressed
- ensuring that a written acknowledgement is given to the internal reporter as soon as possible, but at least within two weeks of having received the report
- in consultation with the internal reporter, assessing the likelihood of their identity remaining confidential in the workplace if the report is investigated
- keeping the identity of the internal reporter and anyone who is the subject of a report confidential, if this is possible and appropriate
- if it is not possible to maintain confidentiality, developing a strategy for supporting the internal reporter and preventing reprisals – and giving the internal reporter an opportunity to discuss this proposal
- in consultation with the internal reporter, assessing the likelihood of them being exposed to reprisal or workplace conflict
- in consultation with the internal reporter, appointing a support person to assist them – someone who is not an investigator or someone with management responsibility for deciding the response to the report
- providing advice to the internal reporter's manager or the principal officer on the systems and strategies that should be established to minimise any risk of reprisal that the internal reporter faces
- reminding all managers that they have an obligation to notify the disclosures coordinator or principal officer immediately of any suspicions they have or allegations they receive that reprisal to an internal reporter is occurring or has been threatened.

PART 3: WHAT SHOULD BE REPORTED?

You should report any suspected wrongdoing you see within Council. Reports about the five categories of serious wrongdoing – corrupt conduct, maladministration, serious and substantial waste of public money, government information contravention (GIPA Act), and pecuniary interest contravention – will be dealt with under the PID Act as public interest disclosures and according to this Policy.

3.1 Corrupt Conduct

Corrupt conduct is defined in Sections 8 and 9 of the *Independent Commission Against Corruption Act 1988* and is broadly:

- (a) any conduct of any person, including a Councillor official that adversely affects, or that could adversely affect, either directly or indirectly, the honest or impartial exercise of official functions by any public official, any group or body of public officials or any public authority
- (b) any dishonest or partial exercise of any official functions by a Council official
- (c) any conduct by a Council official that constitutes or involves a breach of public trust, or
- (d) any conduct of a Council official that involves the misuse of information or material that he or she has acquired in the course of his or her official functions, whether or not for his or her benefit or for the benefit of any other person.

Some examples of corrupt conduct include, but are not limited to:

- Bribery
- Obtaining or offering secret commissions
- Collusive tendering
- Defrauding the public revenue
- Voting on a development matter in which the Councillor has an undisclosed financial interest
- Selling confidential information
- Election fraud

~~Corrupt conduct is the dishonest or partial exercise of official functions by a public official. Conduct of a person who is not a public official, when it adversely affects the impartial or honest exercise of official functions by a public official, also comes within the definition.~~

~~For example, this could include:~~

- ~~• the improper use of knowledge, power or position for personal gain or the advantage of others~~
- ~~• taking or offering bribes~~
- ~~• acting dishonestly or unfairly, or breaching public trust~~
- ~~• the dishonest or partial exercise of official functions by a public official~~
- ~~• a member of the public influencing or trying to influence a public official to use their position in a way that is dishonest, biased or breaches public trust~~

3.2 Maladministration

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

For example, this could include, but is not limited to:

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

~~The conduct covered by these terms includes:~~

- ~~• contrary to law, e.g.:~~
 - ~~— a decision or action contrary to law~~
 - ~~— a decision or action ultra vires (i.e. the decision-maker had no power to make the decision or to do the act)~~
 - ~~— breaches of natural justice/procedural fairness~~
 - ~~— improperly exercising a delegated power (e.g. a decision or action not authorised by delegation or acting under the direction of another)~~
 - ~~— unauthorised disclosure of confidential information~~

- ~~unreasonable, e.g.:~~
 - ~~decisions or actions so unreasonable that no reasonable person would so decide to act (eg irrational)~~
 - ~~an arbitrary, partial, unfair or inequitable decision or action~~
 - ~~applying a policy inflexibly without regard to the merits of an individual case~~
 - ~~decisions or actions that do not take into account all relevant considerations, or that take into account irrelevant considerations~~
 - ~~serious delays in making a decision or taking action~~
 - ~~provision of wrong, inaccurate or misleading advice~~
 - ~~failures to rectify identified mistakes, errors, oversights or improprieties~~
 - ~~failing to properly investigate~~
- ~~unjust, e.g.:~~
 - ~~decisions or actions not justified by any evidence or that are unreasonable~~
 - ~~a partial, unfair, inequitable or unconscionable decision or action~~
- ~~oppressive, e.g.:~~
 - ~~an unconscionable decision or action~~
 - ~~means used to achieve ends are not reasonably proportional to those ends~~
 - ~~abuses of power, intimidation or harassment~~
- ~~improperly discriminatory, e.g.:~~
 - ~~inconsistent application of a law, policy or practices when there is no reasonable, justifiable or appropriate reason to do so~~
 - ~~applying a distinction not authorised by law, or failing to make a distinction which is authorised or required by law~~
- ~~based wholly or partly on improper motives, e.g.:~~
 - ~~decisions or actions for a purpose other than that for which a power was conferred~~
 - ~~conflicts of interest~~
 - ~~bad faith or dishonesty~~
 - ~~decisions or actions induced or affected by fraud~~
 - ~~misuse of public property, official services or facilities~~
 -
- ~~mistake of law:~~
 - ~~incorrect interpretation or application of the law~~
 - ~~ignorance of the law~~
- ~~mistake of fact:~~
 - ~~decisions or actions based on information that is factually in error or misinterpreted~~
 - ~~important facts omitted from reports or deliberations, or ignored~~
- ~~Otherwise wrong:~~
 - ~~Negligent conduct~~

- ~~— Results of decisions or actions are uncertain~~
- ~~— Failures to give accurate, frank, impartial, complete or timely advice~~

3.3 **Serious and Substantial Waste** ~~in Local Government of~~ Public Money

Serious and substantial waste is the uneconomical, inefficient or ineffective use of resources that could result in the loss or wastage of ~~local government~~public money. This includes all revenue, loans and other money collected, received or held by, for or on account of Council.

For example this could include but is not limited to::

- misappropriation or misuse of public property
- not following a competitive tendering process for a large scale contract
- having bad or no processes in place for systems involving large amounts of public funds
- the purchase of unnecessary or inadequate goods or services

~~For example, this could include having poor or no processes in place for a system involving large amounts of public funds.~~

~~In addressing any complaint of serious and substantial waste regard will be had to the dollar value, the potential for savings, the public interest, etc.~~

Types:

- ~~(a) Absolute – Serious and substantial waste might be regarded in absolute terms where the waste is regarded as significant, for example \$500,000.~~
- ~~(b) Systematic – The waste indicates a pattern which results from a system weakness within the public authority.~~
- ~~(c) Material – The serious and substantial waste is/was material in terms of the public authority's expenditure or a particular item of expenditure or is/was material to such an extent so as to affect a public authority's capacity to perform its primary functions.~~
- ~~(d) Material by Nature Not Amount – The serious and substantial waste may not be material in financial terms but may be significant by nature. That is it may be improper or inappropriate. [Alternatively, this type of waste may constitute 'maladministration' as defined in the Protected Disclosures Act]~~

Note: ~~It is possible that in assessing the seriousness of waste or administrative conduct for the purposes of whether either is covered by the Act, differences in the size, budgets, responsibilities of agencies may be taken into account (what is serious for a small agency may not be so serious for a large agency).~~

~~Waste can take many forms, for example~~

~~Waste can result from such things as:~~

- ~~• the absence of appropriate safeguards to prevent the theft or misuse of public property,~~
- ~~• purchasing procedures and practices which fail to ensure that goods and services are necessary and adequate for their intended purpose, and~~
- ~~• purchasing practices where the lowest price is not obtained for comparable goods or services without adequate and appropriate justification.~~

3.4 ~~Government information contravention~~ Breach of the GIPA Act

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

For example, this could include:

- destroying, concealing or altering records to prevent them from being released
- intentionally overlooking documents that are clearly covered by an access application
- knowingly making decisions that are contrary to the legislation
- directing another person to make a decision that is contrary to the legislation

3.5 Local Government pecuniary interest contravention

A Local Government pecuniary interest contravention is a failure to fulfil certain functions under the *Local Government Act 1993* relating to the management of pecuniary interests. These include obligations to lodge disclosure of interests returns, lodge written declarations and disclose pecuniary interests at Council and Council committee meetings. 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.

The onus is on Councillors, Council delegates, Council staff and other people to determine whether they are affected by the pecuniary interest provisions in relation to a matter under consideration by Council.

For example, this could include:

- a ~~senior~~ Council staff member recommending a family member for a Council contract and not declaring the relationship

- the General Manager holding an undisclosed shareholding in a company competing for a Council contract
- A Councillor participating in consideration of a Development Application for a property they or their family have an interest in

~~Allegations or complaints concerning possible breaches of the pecuniary interest provisions of the *Local Government Act 1993* are to be made or referred to the Division Office of Local Government (DOLG), Department of Premier and Cabinet for assessment and any necessary action. Potentially, the DOLG may be required to formally investigate the matter and then refer a report of the investigation to the Pecuniary Interest and Disciplinary Tribunal NSW Civil and Administrative Tribunal.~~

3.6 Other wrongdoing

Although reports about the previous five categories of conduct can attract the specific protections of the PID Act, you should report all activities or incidents that you believe are wrong.

For example, these could include:

- harassment or unlawful discrimination
- reprisal action against a person who has reported wrongdoing
- practices that endanger the health or safety of staff or the public

These types of issues should be reported to a supervisor, in line with Council's policies.

Even if these reports are not dealt with as public interest disclosures, Council will consider each matter and make every attempt to protect the staff member making the report from any form of reprisal.

PART 4: REPORTING

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.

3.74.1 **When will a report be ~~protected~~ treated as a public interest disclosure?**

Council will treat a report as a public interest disclosure if it meets the criteria of a public interest disclosure under the 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 and
- the person making the disclosure must honestly believe on reasonable grounds that the information shows or tends to show wrongdoing and
- the report has to be made to either the General Manager or, for reports about the General Manager the Mayor, the Disclosure Coordinator or Disclosure Officer, an investigating authority or in limited circumstances to a Member of Parliament or journalist

Reports by staff are not public interest disclosures if they:

- mostly question the merits of government policy
- are made with the sole or substantial motive of avoiding dismissal or other disciplinary action

Council will support any staff who report wrongdoing. For a report to be considered a public interest disclosure, it has to meet all of the requirements under the PID Act. These requirements are:

The person making the disclosure must honestly believe on reasonable grounds that the information shows or tends to show wrongdoing.

a) ~~Honest belief~~

~~A belief is more than a suspicion. This means that you are more likely to accept the idea that wrongdoing occurred than reject it. An honest belief is a belief that is genuinely held. The PID Act provides that a belief is presumed to be honest unless there is evidence it is not.~~

~~b) — Reasonable grounds~~

~~The test applied here is whether, from an objective viewpoint, the basis for the person's belief is reasonable. That is, would a reasonable person in the circumstances believe that wrongdoing had occurred? The belief cannot be based on personal animosity or prejudice.~~

~~c) — Shows or tends to show~~

~~This means there must be sufficient information to indicate that the wrongdoing has happened or is happening. This may include:~~

~~direct observation of the wrongdoing~~

~~corroborative observation by others~~

~~evidence such as unbalanced accounts, missing items of value or contradictory records.~~

~~There should be no alternative explanations for the conduct or activities observed that can be easily thought of.~~

~~Taken together, an 'honest belief on reasonable grounds that information shows or tends to show' means that a public interest disclosure cannot be based on a mere allegation or suspicion that is unsupported by any facts, circumstances or evidence.~~

~~The report has to be made to one or more of the following:~~

~~a position nominated in this pPolicy — see section 4.5 below~~

~~the General Manager~~

~~one of the investigating authorities nominated in the PID Act — see section 4.6 below~~

~~Reports by staff and councillors cannot be considered to be public interest disclosures if they:~~

~~mostly question the merits of government policy, including the policy of the governing body of the council.~~

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

3.84.2 How to make a report

Staff can report wrongdoing in writing or verbally. Staff and Councillors 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 must make a comprehensive record of the disclosure and ask the person making the disclosure to sign this record. The staff member should keep a copy of this record.

~~If a staff member is concerned about being seen making a report, they should ask to meet in a discreet location away from the workplace.~~

3.94.3 Can a Report be Anonymous?

There will be some situations where staff may not want to identify themselves when they make a report. Although these reports will still be dealt with by Council, it is best if the staff member identifies themselves. This allows Council to provide the staff member with any necessary protection and support, as well as feedback about the outcome of any investigation into the allegations.

It is important to realise that an anonymous disclosure may not prevent a staff member from being identified. If Council does not know who made the report, it is very difficult for it to prevent any reprisal action.

3.104.4 Maintaining Confidentiality

Council realises many staff will want their report to remain confidential. This can help to prevent any action being taken against a staff member for reporting wrongdoing.

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.

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 General Manager, the Disclosures Coordinator and the Mayor. The fewer people who know about your report, before and after you make it, the more likely it will be that Council can protect you from any reprisal.

Any staff or Councillors involved in the investigation or handling of a report, including witnesses, are also required to maintain confidentiality and not disclose information about the process or allegations to any person except for those people responsible for handling the report.

~~Section 22 of the PID Act requires investigating authorities, councils and council officers to whom public interest disclosures are made or referred, not to disclose information that might identify or tend to identify the person who made the disclosures. The exceptions to the confidential requirement are where:~~

- ~~• the person consents in writing to the disclosure of that information or it is generally known that the person has made the disclosure as a result of the person having voluntarily identified themselves, or~~
- ~~• it is essential, having regard to the principles of natural justice that the identifying information be disclosed to a person whom the information provided by the disclosure may concern, or~~
- ~~• the investigating authority, council, or council officer is of the opinion that disclosure of the identifying information is necessary to investigate the matter effectively, or~~
- ~~• disclosure is otherwise in the public interest.~~

~~Decisions about natural justice, effective investigation and public interest will be made by the General Manager. In all cases the person who made the disclosure will be consulted before such a decision is made.~~

~~If confidentiality cannot be maintained, Council will develop a plan to support and protect the staff member from risks of reprisal. The relevant staff member will be involved in developing this plan and will also be told if their report will be dealt with under Council's Code of Conduct, as this may mean certain information will have to be tabled at a council meeting.~~

~~A staff member reporting wrongdoing, should only discuss their report with those dealing with it. This will include the Disclosures Coordinator and the General Manager. If the relevant staff member discusses their report more broadly, it may affect the outcome of any investigation.~~

3.114.5 Who can receive a report within Council?

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 to a public official in accordance with Council’s disclosure procedures. For Council, this means this Policy and any supporting procedures.

~~Any supervisor who receives a report that they believe may be a public interest disclosure must refer the staff member making the report to one of the positions listed below. The broader responsibilities of these positions will be outlined in the procedures supporting this Policy.~~

~~If you are Council staff and your report involves a Councillor, then such report should be made to the General Manager or the Mayor. If you are a Councillor and your report is about another Councillor, such report should be made to the General Manager or the Mayor.~~

The following positions are the only staff within Council who ~~can~~ are authorised to receive a public interest disclosure. Any supervisor who receives a report they believe may be a public interest disclosure is obligated to assist the staff to make a report to one of the positions listed below.

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

3.11.1 4.5.1 **General Manager**

Wrongdoing can be directly reported to the General Manager. The General Manager is responsible for:

- deciding if a report is a public interest disclosure
- determining what needs to be done next, including referring it to other authorities
- deciding what needs to be done to address any problem that has been identified

General Manager responsibilities are outlined in Section 2.2.

~~The General Manager must make sure there are systems in place in Council to support and protect staff who report wrongdoing. They are also responsible for referring actual or suspected corrupt conduct to the Police or the Independent Commission Against Corruption.~~

The General Manager may be contacted by:

Telephone: 6926 9120

In person: Civic Centre, Cnr Baylis & Morrow Streets, Wagga Wagga

By mail: marked “Private & Confidential”, PO Box 20, Wagga Wagga NSW 2650

~~3.11.2–4.5.2~~ **Mayor**

If you are making a report about the General Manager, you should make your report to the Mayor. The Mayor is responsible for:

- deciding if a report is a public interest disclosure
- determining what needs to be done next, including referring it to other authorities
- deciding what needs to be done to correct the problem that has been identified

~~The Mayor must make sure there are systems in place in Council to support and protect staff who report wrongdoing.~~

~~If the report is about the General Manager, the Mayor is also responsible for referring actual or suspected corrupt conduct to the Police or the Independent Commission Against Corruption.~~

The Mayor may be contacted by:

Telephone: 6926 9110 or 1300 292 442 (further contact details can be obtained from <http://www.wagga.nsw.gov.au/city-of-wagga-wagga/council/councillors>)

In person: Civic Centre, Cnr Baylis & Morrow Streets, Wagga Wagga

By mail: marked "Private & Confidential", PO Box 20, Wagga Wagga NSW 2650

~~3.11.3–4.5.3~~ **Disclosures Coordinator**

The Disclosures Coordinator is the ~~Manager Corporate Governance~~ Manager Audit Risk and Governance and has a central role in dealing with reports made by staff. They receive them, assess them, and refer them to the people within Council who can deal with them appropriately.

The Manager, ~~Corporate Governance~~ Audit, Risk and Governance may be contacted by:

Telephone: 6926 9573

In person: Civic Centre, Cnr Baylis & Morrow Streets, Wagga Wagga

By mail: marked "Private & Confidential", PO Box 20, Wagga Wagga NSW 2650

~~3.11.4–4.5.4~~ **Disclosures Officers**

Disclosures Officers work with the disclosures coordinator, and are responsible for receiving, forwarding and/or dealing with reports made in accordance with this policy.

~~Director, Corporate Services~~

~~The Director, Corporate Services may be contacted by:~~

~~Telephone: 6926 9200~~

~~In person: Civic Centre, Cnr Baylis & Morrow Streets, Wagga Wagga~~

~~By mail: marked "Private & Confidential", PO Box 20, Wagga Wagga NSW 2650~~

Corporate Governance Coordinator

Corporate Governance Coordinator may be contacted by:

Telephone: 6926 9175

In person: Civic Centre, Cnr Baylis & Morrow Streets, Wagga Wagga

By mail: marked "Private & Confidential", PO Box 20, Wagga Wagga NSW 2650

People and Culture Officer

The People and Culture Officer may be contacted by:

Telephone: 6926 9288

In person: Civic Centre, Cnr Baylis & Morrow Streets, Wagga Wagga

By mail: marked "Private & Confidential", PO Box 20, Wagga Wagga NSW 2650

Parks Operations Supervisor

The Parks Operations Supervisor may be contacted by:

Telephone: 6926 9611

In person: Civic Centre, Cnr Baylis & Morrow Streets, Wagga Wagga

By mail: marked "Private & Confidential", PO Box 20, Wagga Wagga NSW 2650

3.124.6 Who can receive a report outside of Council

Staff are encouraged to report wrongdoing within Council, but internal reporting is not their only option. ~~If staff follow the guidance below, their report can still be a public interest disclosure.~~

Staff can choose to make their report to an investigating authority. ~~This can be done first, or at any stage after their initial report to Council. If the report is about the General Manager or the Mayor, the staff member should consider making it to an investigating authority.~~

~~Staff can also choose to make a report to,~~ a Member of Parliament or a journalist, but only in limited circumstances.

3.12.1 4.6.1 Investigating authorities

The PID Act lists a number of investigating authorities in NSW that staff can report wrongdoing to and the categories of wrongdoing each authority can deal with.

In relation to Council, these authorities are:

- the Independent Commission Against Corruption (ICAC) — for corrupt conduct
- the Ombudsman — for maladministration
- the Auditor-General — for serious and substantial waste
- the Information Commissioner — for disclosures about a government information contravention

- the [Division Office](#) of Local Government, Department of Premier and Cabinet — for disclosures about local government agencies including non-disclosure of pecuniary interests
- ~~the Inspector of the Independent Commission Against Corruption — for disclosures about the ICAC or its staff~~

Staff should contact the relevant 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.

Staff should be aware that it is very likely the investigating authority will discuss the case 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 staff who report wrongdoing to an investigating authority.

~~3.12.2~~ [4.6.2](#) **Members of Parliament or journalists**

To have the protections of the PID Act, staff 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
- an investigating authority in accordance with the PID Act

Also, Council or the investigating authority that received the 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 told the person who made the report, within six months of the report being made, whether the matter will be investigated

Most importantly – to be protected under the PID Act – if staff report wrongdoing to an MP or a journalist they 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.

~~3.12.3~~ [4.6.3](#) **Other external reporting**

If staff report wrongdoing to a person or an organisation that is not listed above, they will not be protected under the PID Act. This may mean a staff member 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.

~~3.134.7~~ **Feedback to staff who report wrongdoing**

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

In accordance with the Act, when a staff member makes a report, they will be given within 45 days:

- a written acknowledgement that their disclosure has been received
- a copy of Council's ~~Protected~~-Public Interest Disclosures Policy
- the timeframe for when they will receive further updates
- the name and contact details of the people who can tell them what is happening.

~~This information will be given to the relevant staff member within two (2) working days from the date you make your report.~~

Although the legislative requirement is 45 days, Council will provide this information to the staff member within five working days from the date the report is made.

After a decision is made about how the report will be dealt with, the relevant staff member will be given:

- information about the action that will be taken in response to their report
- likely timeframes for any investigation
- information about the resources available within Council to handle any concerns they may have
- information about external agencies and services they can access for support

This information will be given to the relevant staff member within 10 working days from the date they make their report.

During any investigation, the reporting staff member will be given:

- information on the ongoing nature of the investigation
- information about the progress of the investigation and reasons for any delay
- advice if their identity needs to be disclosed for the purposes of investigating the matter, and an opportunity to talk about this

At the end of any investigation, the reporting staff member will be given:

- enough information to show that adequate and appropriate action was taken and/or is proposed to be taken in response to their disclosure and any problem that was identified
- advice about whether they will be involved as a witness in any further matters, such as disciplinary or criminal proceedings

Behaviour of all staff involved in the PID process are required to adhere to Council's Code of Conduct. A breach of Council's Code of Conduct could result in disciplinary action.

4.8 Managing the risk of reprisal and workplace conflict

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

Depending on the circumstances, Council may:

- 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.

3.144.9 Protection against reprisals

Council will not tolerate any reprisal against staff or Councillors who report wrongdoing or are believed to have reported wrongdoing.

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.

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 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 *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.

~~Council will not tolerate any reprisal action against staff who report wrongdoing. The PID Act provides protection for people reporting wrongdoing by imposing penalties on anyone who takes detrimental action substantially in reprisal for them making the public interest disclosure.~~

~~The criminal penalties that can be imposed include imprisonment or fines. Detrimental action is also misconduct that justifies disciplinary action. People who take detrimental action against someone who has made a disclosure can also be required to pay damages for any loss suffered by that person.~~

~~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.~~

3.154.10 Responding to reprisals

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

allegation of reprisal by the General Manager, you can alternatively report this to the Mayor.

All supervisors must notify the Disclosures Coordinator or the General Manager if they suspect that reprisal against 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.

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 in accordance with Council policy procedure
- 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.

~~Council will act to protect staff who report wrongdoing from reprisals.~~

~~When a report is received, Council will ensure that a thorough risk assessment is conducted. This will identify any risks to the member of staff who reported the wrongdoing, as well as strategies to deal with those risks.~~

~~If a reporting staff member believes that detrimental action has been or is being taken against them or someone else who has reported wrongdoing in reprisal for making a report, they should tell their supervisor, the Disclosures Coordinator or the General Manager immediately.~~

~~All supervisors must report any suspicions they have that reprisal action against a staff member is occurring, or any reports that are made to them, to the Disclosures Coordinator or the General Manager.~~

~~If the Disclosures Coordinator becomes aware of reprisal action against a person who has made a disclosure, they will:~~

- ~~• ensure a senior and experienced member of staff, who has not been involved in dealing with the initial disclosure, will investigate the suspected reprisal~~
- ~~• give the results of that investigation to the General Manager for a decision~~
- ~~• give the results of that investigation to the Mayor for a decision if the allegation of reprisal action is about the General Manager~~
- ~~• if it has been established that reprisal action is occurring against someone who has made a disclosure, take all steps possible to stop that activity and protect the member of staff who made the disclosure~~
- ~~• take appropriate disciplinary or criminal action against anyone proven to have taken or threatened any action in reprisal for making a disclosure.~~

~~If a staff member reports reprisal action, they will be kept informed of the progress of any investigation and the outcome.~~

~~The General Manager may issue specific directions to help protect against reprisals. If the allegation of reprisal action is about the General Manager, the Mayor may issue similar directions. These may include:~~

- ~~• issuing warnings to those alleged to have taken reprisal action against the member of staff who made the disclosure~~
- ~~• relocating the member of staff who made the disclosure or the subject officer within the current workplace~~
- ~~• transferring the member of staff who made the disclosure or the staff member who is the subject of the allegation to another position for which they are qualified~~
- ~~• granting the member of staff who made the disclosure or the subject officer leave of absence during the investigation of the disclosure.~~

~~These directions will only be taken if the member of staff who made the disclosure agrees to it. The Disclosures Coordinator will make it clear to other staff that this action was taken in consultation with the staff member and with management support — and it is not a punishment.~~

~~If a staff member has reported wrongdoing and feel that any reprisal action is not being dealt with effectively, they can contact the NSW Ombudsman or the ICAC — depending on the type of wrongdoing that was reported. Contact details for all these investigating authorities are included at the end of this pPolicy.~~

3.164.11 Protection against legal action

If a disclosure is made in accordance with the PID Act, the reporting staff member will not be subject to any liability and no action, claim or demand can be taken against them for making the disclosure. A reporting staff member will not have breached any

confidentiality or secrecy obligations and they will have the defence of absolute privilege in defamation.

3.174.12 Support for those reporting wrongdoing

Council will make sure that staff who have reported wrongdoing, regardless of whether they have made a public interest disclosure, are provided with access to any professional support they may need as a result of the reporting process, such as the Employee Assistance Program.

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.

~~Council also has staff who will support those who report wrongdoing. They are responsible for initiating and coordinating support, particularly to those who are suffering any form of reprisal. These support staff are any one of the five Directors of Council, being:~~

~~Director, Infrastructure Services~~

~~Director, Environment & Community Services~~

~~Director, Corporate Services~~

~~Director, Commercial & Economic Development~~

~~Director, Planning~~

~~All supervisors must notify the Disclosures Coordinator if they believe a staff member is suffering any detrimental action as a result of disclosing wrongdoing.~~

3.184.13 Sanctions for making false or misleading disclosures

It is important that all staff 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 Council's 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.

3.194.14 **Support for the Rights of persons** 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
- 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 Council. The fact of the allegations and any investigation will be kept confidential unless otherwise agreed to by the subject officer.

~~Council is committed to ensuring staff who are the subject of a report of wrongdoing are treated fairly and reasonably. If a staff member is the subject of a report, they will be:~~

- ~~• treated fairly and impartially~~
- ~~• told their rights and obligations under Council's policies and procedures~~
- ~~• kept informed during any investigation~~
- ~~• given the opportunity to respond to any allegation made against them~~
- ~~• entitled to bring a support person or legal adviser to any interview (that person will act in an advisory and support role to the person affected. They will not speak on behalf of the subject person)~~
- ~~• told the result of any investigation~~
- ~~• provided with access to Council's Employee Assistance Program.~~

PART 4: PART 5: REVIEW

This Policy will be reviewed by Council every ~~18 months~~ two years. For any advice or guidance about this review, contact the NSW Ombudsman's Public Interest Disclosures Unit.

~~PART 5:~~ PART 6: MORE INFORMATION

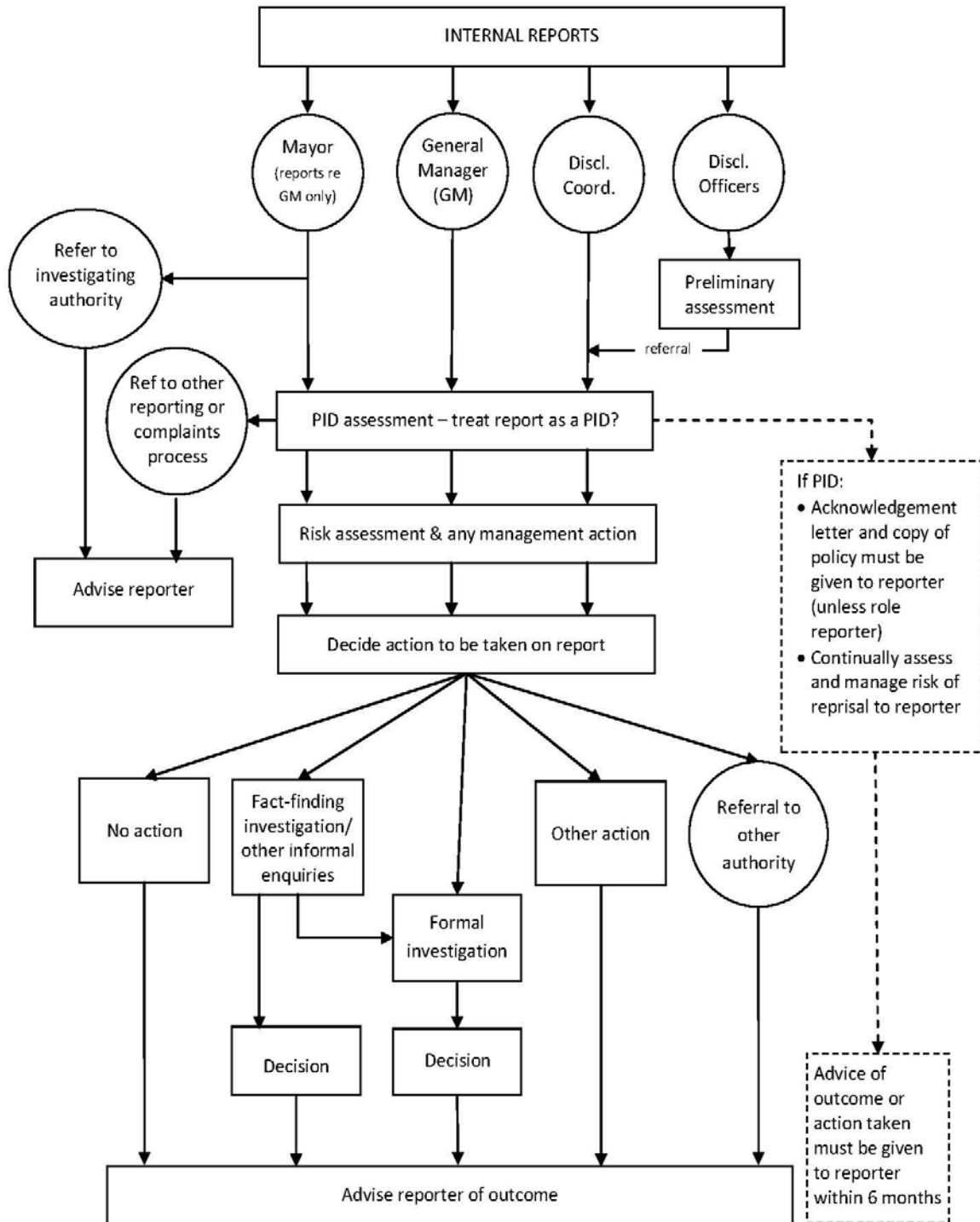
More information around public interest disclosures is available on Council's intranet. Staff can also access advice and guidance from Council's Disclosures Coordinator and the NSW Ombudsman's website at www.ombo.nsw.gov.au.

~~PART 6:~~ PART 7: RESOURCES

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

<p>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 Postal Address: GPO Box 500 Sydney New South Wales 2001</p>	<p>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</p>
<p>For disclosures about serious and substantial waste: Auditor-General of the NSW Audit Office Phone: 02 9275 7100 Facsimile: 02 9275 7200 Email: Web: Address: Level 15, 1 Margaret Street, Sydney NSW 2000</p>	<p>For disclosures about local government agencies: Office of Local Government in the Department of Premier and Cabinet 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 Locked Bag 3015, Nowra 2541</p>
<p><u>For disclosures about breaches of the GIPA Act:</u> <u>Information and Privacy Commissioner</u> <u>Toll free: 1800 472679</u> <u>Facsimile: 02 8114 3756</u> <u>Email: ipcinfo@ipc.nsw.gov.au</u> <u>Web: www.ipc.nsw.gov.au</u> <u>Address: Level 17, 201 Elizabeth Street,</u> <u>Sydney NSW 2000</u></p>	

PART 7: PART 8: ANNEXURE



Internal Reporting System

