



## Public Interest Disclosure Policy

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### 1. Scope

This policy applies to:

- Council staff and Councillors
- Permanent Employees, whether full time or part time
- Temporary or casual employees
- Consultants
- Individual contractors working for City of Parramatta Council
- Employees of contractors providing services to City of Parramatta Council
- Other people who perform council official functions whose conduct and activities could be investigated by an investigating authority, including volunteers
- Members of committees including the Independent Hearing Assessment Panel (IHAP) and other advisory committees.

The policy also applies to public officials of another council or public authority who report wrongdoing to City of Parramatta Council.

### 2. Purpose

In accordance with the *Public Interest Disclosures Act 1994* (PID Act), this Policy establishes an internal reporting system to encourage and facilitate the reporting of disclosures of corrupt conduct, maladministration, serious and substantial waste of public money, government information contravention or local government pecuniary interest contravention by City of Parramatta Council's staff and its Councillors.

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### 3. Policy

Council is committed to encouraging and supporting the reporting of wrongdoing, and to protecting those who make disclosures from any adverse action motivated by their report,

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keeping their identity confidential where possible.

### 3.1 What should be reported?

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

#### a) Corrupt conduct

Corrupt conduct is defined in the *Independent Commission Against Corruption Act 1988* and includes the dishonest or partial exercise of official functions by a public official. For example, this could include:

- the improper use of knowledge, power or position for personal gain or the advantage of others
- acting dishonestly or unfairly, or breaching public trust.

#### b) Maladministration

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

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

#### c) Serious and substantial waste in local government

Serious and substantial waste is the uneconomical, inefficient or ineffective use of resources that could result in the loss or wastage of local government 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:

- poor project management practices leading to projects running over time
- having poor or no processes in place for a system involving large amounts of public funds.

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## d) Government information contravention

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
- knowingly making decisions that are contrary to the legislation
- directing another person to make a decision that is contrary to the legislation.

## e) Local government pecuniary interest contravention

A local government pecuniary interest contravention is a failure to 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. For example, this could include:

- a senior Council staff member recommending a family member for a Council contract and not declaring the relationship
- a Chief Executive Officer holding an undisclosed shareholding in a company competing for a Council contract.

## 3.2 When will a report be protected?

3.2.1 Council will support any staff who report wrongdoing. For a report to be considered a protected 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 (as defined in Section 3.1 above)
- the report has to be made to one or more of the following:
  - a position nominated in this policy (see section 3.7 below)

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- the Chief Executive Officer
- one of the investigating authorities nominated in the PID Act (see section 3.17)

3.2.2 Reports by staff and Councillors will not be considered to be protected disclosures if they:

- mostly question the merits of government policy, including the policy of the governing body of Council
- are made with the sole or substantial motive of avoiding dismissal or other disciplinary action.

It is an offence to willfully make a false or misleading statement when making a disclosure.

## 3.3 How can other types of wrongdoing be addressed?

Although the Public Interest Disclosures Act offers protection for only 5 kinds of wrongdoing, all incidents of suspected wrongdoing should be reported.

These include, for example:

- Harassment or unlawful discrimination
- Practices that endanger health or safety
- Reprisal action against a person that has reported wrongdoing

These types of issues should be reported in accordance with the following policies, where relevant:

- Code of Conduct
- Grievance and Dispute Handling Policy
- Occupational Health and Safety Policy
- Customer Compliments and Complaints Policy
- Working with Children Policy
- Equal Employment Opportunity Policy

## 3.4 How to make a report

You can report wrongdoing in writing or verbally. You are encouraged to make a report

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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 you are concerned about being seen making a report, ask to meet in a discreet location away from the workplace.

Documentation relating to reports will be filed appropriately and handled in such a way as to ensure appropriate confidentiality.

## **Notes:**

- A council officer who wishes to make a public interest disclosure which involves a councillor may do so to the Lord Mayor or the Chief Executive Officer , or an investigating authority (ie. the ICAC, NSW Ombudsman or Local Government Investigating Authority).
- A councillor who wishes to make a public interest disclosure which involves another councillor may do so to the Lord Mayor, the Chief Executive Officer , or an investigating authority (ie. the ICAC, NSW Ombudsman, or Local Government Investigating Authority).
- If the Lord Mayor wishes to make a public interest disclosure he or she may do so to the Chief Executive Officer or an investigating authority (ie. the ICAC, NSW Ombudsman or Local Government Investigating Authority).

## **3.5 Can a report be anonymous?**

There will be some situations where you may not want to identify yourself when you make a report. Although Council retains its discretion to review any anonymous reports that have been made, it is best if you identify yourself. This allows us to provide you with any necessary protection and support, as well as feedback about the outcome of any investigation into the allegations.

It is important to realise that an anonymous disclosure may not prevent you from being identified. If we do not know who made the report, it is very difficult for us to prevent any reprisal action.

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## 3.6 Maintaining confidentiality

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

We are committed to keeping your identity, and the fact you have reported wrongdoing, confidential. However there may be situations where this may not be possible or appropriate. We will discuss with you whether it is possible to keep your report confidential.

The exceptions to the confidential requirement are where:

- the person making the disclosure consents in writing to the disclosure of that information or it is generally known that the person has made the public interest disclosure as a result of the person having voluntarily identified themselves as the person who made the disclosure; 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, public authority, officer or public official 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.

If confidentiality cannot be maintained, we will develop a plan to support and protect you from risks of reprisal. You will be involved in developing this plan. You will also be told if your 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.

If you report wrongdoing, you should only discuss your report with those dealing with it. This will include the Public Interest Disclosures Coordinator and the Chief Executive Officer. If you discuss your report more broadly, you may affect the outcome of any investigation.

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### 3.7 Who can receive a report within Council?

You are encouraged to report general wrongdoing to your supervisor. However the PID Act requires that – for a report to be a protected disclosure – it must be made to a public official in accordance with Council's disclosure procedures. For this Council, this means this Policy.

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. If you are Council staff and your report involves a Councillor, you should make it to the Chief Executive Officer or the Lord Mayor. If you are a Councillor and your report is about another Councillor, you should make it to the Chief Executive Officer or the Lord Mayor.

All reports made that are not covered under this Policy, that is where it does not qualify as a public interest disclosure, will be dealt with in accordance with the relevant Council policy and subject to the appropriate administrative process.

A flowchart of the process for handling a Public Interest Disclosure is included as Appendix A

The following positions are the only staff within Council who can receive a protected disclosure.

#### a) Chief Executive Officer

The Chief Executive Officer can receive reports of wrongdoing against anyone (ie Council delegate) other than themselves.

You can report wrongdoing directly to the Chief Executive Officer, who will:

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

The Chief Executive Officer will ensure there are systems in place in the Council to support and protect staff who report wrongdoing, and will refer any actual or suspected corrupt conduct to the Independent Commission Against Corruption

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(ICAC).

The Chief Executive Officer's Office can be contacted on 9806 5055.

## **b) Lord Mayor**

If you are making a report about the Chief Executive Officer, you should make your report to the Lord Mayor who will:

- Decide if a report is a protected disclosure.
- Determine what needs to be done next, including referring it to other authorities.
- Decide what needs to be done to correct the problem that has been identified.

The Lord Mayor will ensure there are systems in place in the Council to support and protect staff who report wrongdoing and will refer any actual or suspected corrupt conduct to the ICAC.

The Lord Mayor's Office can be contacted on 9806 (TBA) .

## **c) Public Interest Disclosures Coordinator**

The Public Interest Disclosures Coordinator has a central role in dealing with reports made by staff. They receive them, assess them, and refer them to the people within the Council who can deal with them appropriately.

The Public Interest Disclosure Coordinator is the Coordinator Investigations and Probity who can be contacted on 9806 5318.

## **d) Public Interest Disclosures Officers**

Public Interest Disclosures Officers work with the Public Interest Disclosures Coordinator, and are responsible for receiving, forwarding and/or dealing with reports made in accordance with this Policy. Staff occupying the following positions are Public Interest Disclosures Officers for the purposes of this Policy:

- Chief Executive Officer
- Chief Financial Officer
- Head of HR
- Head of IT

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- Chief Operating Officer
- City Operations Manager
- City Strategy Manager
- Manager Social & Community Services
- Coordinator Investigations and Probity
- Director Marketing & City Identity
- Director Property & Significant Asset
- Director City Services
- Director Strategic Outcomes & Development
- Finance Manager – Reports and Controls
- Head of PMO
- Manager Local Representative Committee and Strategy
- Finance Manager Governance Planning and Analysis
- Legal Services Manager
- Manager City Assets & Environ
- Manager Governance & Risk
- Manager Place Services
- Manager Asset Strategy & Prop Management
- Manager City Activation
- Manager Development & Traffic Services
- Chief of Staff
- Regulatory Unit Manager
- Head Future City
- Manager City Marketing and Development
- Riverside Theatre Director

The Chief Executive Officer may determine from time to time other persons to be Public Interest Disclosures Officers for the purposes of this policy.

## 3.8 Roles and Responsibilities

This policy places responsibilities upon people at all levels within City of Parramatta Council.

### 3.8.1 Employees, Councillors, Contractors and Consultants

All Council staff and Councillors are obliged to:

- report all known or suspected wrongdoing and support those who have made reports of wrongdoing

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

Staff and councillors must not:

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

### 3.8.2 The Disclosures Co-ordinator

The Disclosures Co-ordinator will:

- Acknowledge reports and provide updates and feedback to the reporter
- Consult with the Chief Executive Officer on all disclosures received
- Be responsible for carrying out or coordinating any internal investigation arising out of a disclosure, subject to the direction of the Chief Executive Officer in carrying out his/her functions;
- Report to the Chief Executive Officer on the findings of any investigation and recommended remedial action;
- Take all necessary and reasonable steps to ensure that the identity of persons who make disclosures, and persons the subject of the disclosure, are kept confidential, (where this is practical and reasonable)
- 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
- Support persons who make disclosures and actively protect them from victimisation, harassment or any other form of reprisal, and
- Impartially assess each disclosure to determine
  - Whether the disclosure appears to be a public interest disclosure within the

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meaning of the Act;

- Whether the disclosure concerns another agency and should therefore be referred to the principal officer of that agency; and
  - The appropriate action to be taken in relation to the disclosure, for example:
    - o No action/decline;
    - o The appropriate person to take responsibility for dealing with the disclosure,
    - o Preliminary or informal investigation;
    - o Formal investigation;
    - o Prosecution or disciplinary action;
    - o Referral to an investigating authority for investigation or other appropriate action, or
    - o Referral to the police (if a criminal matter) or the ICAC (if the matter concerns corrupt conduct).
    - o Report actual or suspected corrupt conduct to the Chief Executive Officer in a timely manner to enable that officer to comply with the *ICAC Act*
- Ensure Council complies with the PID Act
  - Provide six monthly reports to the NSW Ombudsman in accordance with section 6CA of the PID Act.

### 3.8.3 Disclosure Officers

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

- Clearly explain to persons making disclosures what will happen in relation to the information received,
- When requested, make arrangements to ensure that disclosures can be made privately and discreetly (if necessary away from the workplace);
- Instruct the person making the disclosure to keep the reporting confidential.
- Reduce to writing and date any disclosures received orally (and have the person making the disclosure sign the document);
- Deal with disclosures impartially,
- forward disclosures to the **Chief Executive Officer or acting Chief Executive**

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**Officer** for assessment;

- 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
- Support persons who make disclosures and protect them from victimisation, harassment or any other form of reprisal.

### 3.8.4 Chief Executive Officer

Disclosures may be made direct to the Chief Executive Officer unless the disclosure involves the Chief Executive Officer. The Chief Executive Officer will:

- impartially assess each disclosure to determine:
  - whether the disclosure appears to be a public interest disclosure within the meaning of the Act
  - whether the disclosure concerns another agency and should therefore be referred to the principal officer of that agency
  - the appropriate action to be taken in relation to the disclosure, for example.
    - No action/decline;
    - The appropriate person to take responsibility for dealing with the disclosure; preliminary or informal investigation,
    - Formal investigation; prosecution or disciplinary action;
    - Referral to an investigating authority for investigation or other appropriate action; or
    - Referral to the police (if a criminal matter) or the ICAC (if the matter concerns corrupt conduct);
- receive reports from any employee who has investigated any disclosure on the findings of any investigation and any recommendations for remedial action, and determine what action should be taken;
- 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;
- 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;
- Make decisions following any investigation or appoint an appropriate decision

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maker

- be responsible for implementing organisational reform or appropriate remedial action identified as necessary following investigation of a disclosure; and
- report criminal offences to the Police and actual or suspected corrupt conduct to ICAC (under s.11 of the *ICAC Act*).
- Refer evidence of an offence under section 20 of the *Public Interest Disclosures Act*, “Protection against reprisals” to the Commissioner of Police or the Independent Commission Against Corruption.

### 3.8.5 The Lord Mayor

The Lord Mayor may receive internal disclosures from any member of staff of the council or any councillor concerning the Chief Executive Officer or a councillor. Where the Lord Mayor receives such reports, The Lord Mayor will:

- impartially assess each disclosure made to him/her about the Chief Executive Officer or a councillor to determine.
  - whether the disclosure appears to be a public interest disclosure disclosure within the meaning of the Act;  
*Note: In making this assessment the Lord Mayor should seek guidance from: Chief Executive Officer (in the case of a disclosure about a councillor), an investigating authority (i.e. the ICAC, or NSW Ombudsman), or the Department of Local Government.*
  - the appropriate course of action to be taken in relation to the disclosure (in consultation with the Chief Executive Officer , if appropriate), for example:
    - no action/decline,
    - the appropriate person to take responsibility for dealing with the disclosure; preliminary or informal investigation;
    - formal investigation;
    - prosecution or disciplinary action,
    - referral to an investigating authority for investigation or other appropriate action; or
    - referral to the police (if a criminal matter) or the ICAC (if the matter concerns actual or suspected corrupt conduct)
- refer disclosures to the Chief Executive Officer for appropriate action if they

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concern the council's administration, within the day to day responsibilities of the Chief Executive Officer ;

- 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;
- Refer any evidence of a reprisal offence under section 20 of the PID Act to the Commissioner of Police or the ICAC.

### 3.8.6 Supervisors and Line Managers

Supervisors and line managers 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 local management strategies, in consultation with the disclosures coordinator, to minimise the risk of reprisal or workplace conflict in relation to a report
- notify the disclosures coordinator or Chief Executive Officer 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 Chief Executive Officer, notify the Mayor.

### 3.9 Who can receive a report outside of the Council?

Councillors and staff are encouraged to report wrongdoing within the Council, but internal reporting is not your only option. If you follow the guidance below, your report can still be a protected disclosure.

You can choose to make your report to an investigating authority. You can do this first, or at any stage after your initial report to the Council. If your report is about the Chief Executive Officer or the Lord Mayor, you should consider making it to an investigating authority.

#### a) Investigating Authorities

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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 NSW Ombudsman – for maladministration.
- The Law Enforcement Crime Commission (LECC) – for law enforcement misconduct.
- The PIC Inspector – for disclosures about the PIC or its staff.
- The Office of Local Government, Department of Premier and Cabinet – for serious and substantial waste in local government (reports about serious and substantial waste in State government agencies should be made to the Auditor General).
- The ICAC Inspector – for disclosures about the ICAC or its staff.
- The Information Commissioner – for disclosures about a government information contravention.

You 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.

You should be aware that it is very likely the investigating authority will discuss the case with the Council. We will make every effort to assist and cooperate with the investigating authority to ensure the matter is dealt with appropriately and there is a satisfactory outcome. We will also provide appropriate support and assistance to staff who report wrongdoing to an investigating authority.

## **b) 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 Chief Executive Officer.
- A person occupying a position nominated in this Policy.

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- An investigating authority in accordance with the PID Act.

Also, the Council or 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 you report wrongdoing to an MP or a journalist you will need to be able to prove that you have reasonable grounds for believing that the disclosure is substantially true and that it is in fact substantially true.

If you report wrongdoing to a person or an organisation that is not listed above, you will not be protected under the PID Act. This may mean you will be in breach of legal obligations or the Council's Code of Conduct – by, for example, disclosing confidential information.

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

### 3.10 Feedback to persons who report wrongdoing

#### a) Acknowledgement

Councillors and staff who report wrongdoing will be told what is happening in response to their report. When you make a report, you will be given:

- An acknowledgement that your disclosure has been received.
- The timeframe for when you will receive further updates.
- The name and contact details of the people who can tell you what is happening.
- A copy of this policy

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This information will be given to you within 5 working days from the date you make your report.

## b) Initial Update

After a decision is made about how your report will be dealt with, you will be given:

- Information about the action that will be taken in response to your report.
- Likely timeframes for any investigation.
- Information about the resources available within Council to handle any concerns you may have.
- Information about external agencies and services you can access for support.

In accordance with the *PID Act*, this information will be given to you within 45 working days from the date you make your report.

## c) Progress Updates

During any investigation, you 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 your identity needs to be disclosed for the purposes of investigating the matter, and an opportunity to talk about this.

## d) Feedback

At the end of any investigation, you will be given:

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

## 3.11 Protection against reprisals

All persons who report wrongdoing will be supported, protected and their disclosures appropriately acted upon. No person who reports wrongdoing through appropriate

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channels will suffer action for having done so.

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 protected disclosure.

Council will not tolerate any reprisal action against staff who report wrongdoing. 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.

In any such proceedings the reporting officer only needs to show that he or she made a public interest disclosure and suffered detrimental action. It is then the responsibility of the defendant to prove that the detrimental action shown to have been taken against the reporting officer was not substantially in reprisal for the person making the public interest disclosure.

Any member of staff or councillor who believes that '*detrimental action*' is being taken against them substantially in reprisal for the making of an internal disclosure in accordance with this Policy should immediately bring the allegations to the attention of the Chief Executive Officer or Lord Mayor.

If the person who made an **internal disclosure** feels that such reprisals are not being effectively dealt with, they should contact the ICAC, the NSW Ombudsman or the Director-General of the OLG.

If an external disclosure was made to an investigating authority, that body will either deal

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with the allegation or provide advice and guidance to the person concerned.

a) **Responding to reprisals**

Council will act to protect Councillors and staff who report wrongdoing from reprisals. When a report is received, we 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 you believe that detrimental action has been or is being taken against you or someone else who has reported wrongdoing in reprisal for making a report, you should tell your supervisor, a disclosure officer, the Public Interest Disclosures Coordinator or the Chief Executive Officer 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 Public Interest Disclosures Coordinator or the General Manager.

If the Public Interest 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 Chief Executive Officer for a decision.
- Give the results of that investigation to the Mayor for a decision if the allegation of reprisal action is about the Chief Executive Officer.
- 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 you report reprisal action, you will be kept informed of the progress of any investigation and the outcome.

The Chief Executive Officer may issue specific directions to help protect against reprisals. If the allegation of reprisal action is about the Chief Executive Officer, the

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Lord 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 Public Interest 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 you have reported wrongdoing and feel that any reprisal action is not being dealt with effectively, contact the Ombudsman or the ICAC – depending on the type of wrongdoing you reported. Contact details for all these investigating authorities are included at the end of this policy.

In accordance with section 20(4) and (5) any evidence that a reprisal offence has occurred will be referred to either the NSW Commissioner of Police or the Independent Commission Against Corruption.

## b) **Protection against legal action**

If you make a 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 making the disclosure. You will not have breached any confidentiality or secrecy obligations and you will have the defense of absolute privilege in defamation.

A person who has made a public interest disclosure has a defence of absolute privilege in proceedings for defamation.

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A person who has made a public interest disclosure is taken not to have committed any offence against an Act which imposes a duty to maintain confidentiality with respect to any information disclosed.

All complaints made to a PID Officer will be treated in accordance with Council's complaints handling process.

## 3.12 Support for those reporting wrongdoing

The Council will make sure that Councillors and staff who have reported wrongdoing, regardless of whether they have made a protected disclosure, are provided with access to any professional support they may need as a result of the reporting process – such as stress management, counselling services, legal or career advice.

We also have 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.

The Human Resources staff can provide details of support services. All supervisors must notify the Public Interest Disclosures Coordinator if they believe a staff member is suffering any detrimental action as a result of disclosing wrongdoing.

All supervisors and managers must notify the disclosures coordinator if they believe a staff member is suffering detrimental action as a result of disclosing wrongdoing.

## 3.13 Sanctions for making false or misleading disclosures

It is important that all Councillors and staff are aware that it is a criminal offence under the PID Act to willfully make a false or misleading statement when reporting wrongdoing.

## 3.14 Rights of the Persons the Subject of the Disclosures

The rights of persons the subject of disclosures will also be protected. In this regard:

- the confidentiality of the identity of persons the subject of disclosures will be protected and maintained (where this is practical and reasonable);
- disclosures will be assessed and acted on impartially, fairly and reasonably;

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- responsible officers who receive disclosures in accordance with this Policy are obliged to:
  - protect and maintain the confidentiality of the identity of persons the subject of the disclosures (where practical and reasonable);
  - assess disclosures impartially; and
  - act fairly to persons the subject of disclosures;
- all disclosures will be investigated as discreetly as possible, with a strong emphasis on maintaining confidentiality both as to the identity of the reporting officer and the person the subject of disclosure (where practical and reasonable).
- where investigations or other enquires do not substantiate disclosures, the fact the investigation/enquiry has been carried out where practical, the results of the investigation/enquiry, and the identity of persons the subject of the disclosures will be kept confidential, unless the persons the subject of the disclosures request otherwise;
- the person who is the subject of disclosures (whether public interest disclosures under the Act or otherwise) which are investigated by or on behalf of council, has the right to:
  - be informed as to the substance of the allegations;
  - be kept informed about the progress of any investigation
  - be informed as to the substance of any adverse comment that may be included in a report/memorandum/letter or the like arising out of any such investigation; and
  - be given a reasonable opportunity to respond to the allegations and put their case (either orally or in writing) to the persons carrying out the investigation for or on behalf of council.

before any final decision/determination/report/memorandum/letter or the like is made;

- where the allegations in a disclosure have been investigated by or on behalf of council, and the person the subject of the allegations is aware of the substance of the allegations, the substance of any adverse comment, or the fact of the investigation, he or she shall be formally advised as to the outcome of the investigation, regardless of the outcome; and
- where the allegations contained in a disclosure are clearly wrong or unsubstantiated, the person the subject of the disclosure is entitled to the support of the authority and its senior management (the nature of the support that would be reasonable and appropriate would depend on the circumstances of the case, but

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could include a public statement of support or a letter setting out the authority's views that the allegations were either clearly wrong or unsubstantiated).

- The person/s the subject of the disclosure will be entitled to utilise Council's Employee Assistance Program for support throughout the Public Interest Disclosure investigation process.

## 3.15 Government Information (Public Access) Exemption

Under schedule 1 of the Government Information (Public Access) Act 2009, a document is exempt from release if it contains matter the disclosure of which would disclose matters relating to a public interest disclosure within the meaning of the Act.

## 3.16 More Information

More information around public interest disclosures is available on our intranet. Staff can also access advice and guidance from the Council's Public Interest Disclosures Coordinator and the NSW Ombudsman's website at [www.ombo.nsw.gov.au](http://www.ombo.nsw.gov.au).

## 3.17 Resources – External Investigating Authorities

The contact details for external investigating authorities that staff can make a protected 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](mailto:icac@icac.nsw.gov.au)  
Web:  
[www.icac.nsw.gov.au](http://www.icac.nsw.gov.au)  
Address: Level 7, 255 Elizabeth Street,  
Sydney NSW 2000

### For disclosures about maladministration:

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

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## **For disclosures about serious and substantial waste generally in the public sector:**

Auditor-General of the NSW Audit

Office Phone: 02 9275 7100

Facsimile: 02 9275 7200

Contact form found on the website Web:

[www.audit.nsw.gov.au](http://www.audit.nsw.gov.au) Address:

Level 15, 1 Margaret Street,

Sydney NSW 2000

## **For disclosures about law enforcement misconduct:**

Law Enforcement Conduct Commission

(LECC) Phone: 02 9321 6700

Toll free: 1800 657 079

Facsimile: 02 9321 6799

Email:

[contactus@lecc.nsw.gov.au](mailto:contactus@lecc.nsw.gov.au)

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

Address: Level 3, 111 Elizabeth Street,  
Sydney NSW 2000

## **For disclosures about serious and substantial waste in local government:**

Office of Local

Government Phone: 02

4428 4100

Tel. typewriter (TTY): 02 4428 4209

Facsimile: 02 4428

4199 Email:

[olg@olg.nsw.gov.au](mailto:olg@olg.nsw.gov.au)

Web:

[www.olg.nsw.gov.au](http://www.olg.nsw.gov.au)

Address: 5 O'Keefe Avenue, Nowra, NSW  
2541

## **For disclosures about breaches of the GIPA Act:**

Information

Commissioner Toll

free: 1800 472 679

National Relay Service: 133 677

Translating and Interpreting Service:

131 450 Email: [ipcinfo@ipc.nsw.gov.au](mailto:ipcinfo@ipc.nsw.gov.au)

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

Address: Level 17, 201 Elizabeth Street,  
Sydney NSW 2000

## **4. Related Resources**

### **4.1 Legislation**

- *Local Government Act 1993*
- *Public Interest Disclosures Act 1994*
- *Government Information (Public Access) Act 2009*
- *Independent Commission Against Corruption Act 1988*

### **4.2 Associated Documents**

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- Code of Conduct
- Complaints Management Policy
- Protected Disclosure Internal Report Form

## 4.3 Definitions

**Corrupt conduct** As defined in the *Independent Commission Against Corruption Act 1988*, i.e. deliberate or intentional wrongdoing that involves or affects a NSW public official or public sector organisation. This wrongdoing does not include negligence or a mistake.

**Local Government Authority** (a) a Council  
(b) a county Council  
within the meaning of the *Local Government Act 1993*.

**Public Authority** Any public authority whose conduct or activities may be investigated by an investigating authority, and includes (without limitation) each of the following;

- (a) a Public Services agency
- (b) a State owned corporation and any subsidiary of a State owned corporation
- (c) a local government authority
- (d) the NSW Policy Force, PIC and PIC Inspector
- (e) the Department of Parliamentary Services, the Department of the Legislative Assembly and the Department of the Legislative Council.

**Public Interest Disclosure** A disclosure satisfying the applicable requirements of Part 2 of the *Public Interest Disclosures Act 1994*.

That is, a disclosure of information that the person making the disclosure honestly believes, on reasonable grounds, shows or tends to show corrupt conduct, maladministration, serious and substantial waste of public money, government information contravention or local government pecuniary interest contravention by Council, Councillors or staff or by another public authority or any of its officers. 'Public

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interest disclosure' is the new term for a protected disclosure.

## ***Public Official***

An individual who is an employee of or otherwise in the service of a public authority.

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## 5. Appendices

### 5.1 Appendix 'A' – Flowchart for handling a Public Interest Disclosure

