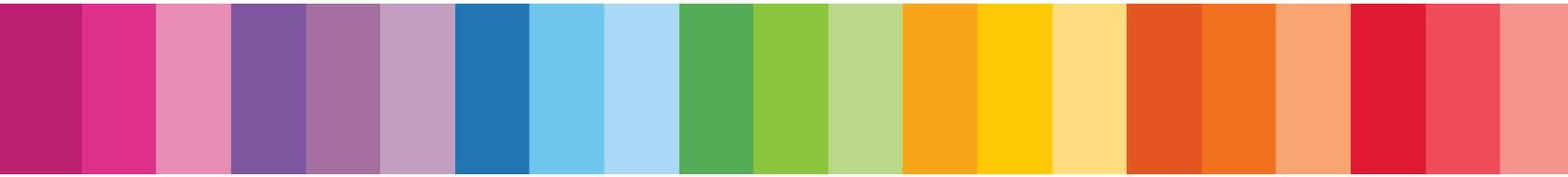




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Public Interest Disclosures Internal Reporting Procedure

December 2018

Contents

1. Roles and responsibilities	2
2. What should be reported?.....	3
3. When will a report be protected?.....	7
4. What disclosures are not protected?	9
5. How to make a report.....	9
6. How can other types of wrongdoing be addressed?	9
7. Can a report be anonymous?.....	10
8. Maintaining confidentiality	10
9. Assessment of reports	11
10. Who can receive a report within the City of Ryde?	11
10. Who can receive a report outside of the City of Ryde	14
11. Feedback to people who report wrongdoing	15
12. Managing the risk of reprisal and workplace conflict.....	17
13. Protection against reprisals	17
14. Support for those reporting wrongdoing.....	19
15. Sanctions for making false or misleading disclosures	19
16. The rights of persons who are the subject of a report	19
17. Review	20
18. More information	20
19. Flow chart of internal reporting process.....	21
20. Resources.....	22
21. Internal reporting workflow.....	23
Appendix 1 – Public Interest Disclosure Officers (December 2018).....	24
Appendix 2 - Definitions	25
Appendix 3 – Internal Reporting Form.....	27

Public Interest Disclosures Internal Reporting Procedure		
Owner: Corporate Governance	Review date: Annually	Endorsed: 11 December 2018
Trim Reference: D19/6003	Policy: Public Interest Disclosures Internal Reporting Policy	Page 1 of 27

Related Policy

This procedure relates to the City of Ryde Public Interest Disclosures Internal Reporting Policy, as adopted by Council.

1. Roles and responsibilities

a. The role of Council staff and councillors

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

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

Staff and councillors must not:

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

Additionally, the behaviour of all council staff and councillors involved in the internal reporting process must adhere to the Council's Code of Conduct – Policy, Standards of Conduct, and Complaints Procedure. A breach of the code could result in disciplinary action.

b. The role of City of Ryde

City of Ryde 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.

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

City of Ryde 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.

Public Interest Disclosures Internal Reporting Procedure		
Owner: Corporate Governance	Review date: Annually	Endorsed: 11 December 2018
Trim Reference: D19/6003	Policy: Public Interest Disclosures Internal Reporting Policy	Page 2 of 27

To ensure City of Ryde 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. What should be reported?

You should report any suspected wrongdoing you see within the City of Ryde. Reports about the five categories of serious wrongdoing – 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 public interest disclosures and in accordance with the City of Ryde *Public Interest Disclosures Internal Reporting Policy and Procedure*.

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

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

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

When considering whether a matter is of a serious nature, consider the severity, frequency and impact on the community and the public sector generally. The following factors or indicators may suggest a matter is serious:

- | | |
|----------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Systemic | <ul style="list-style-type: none"> • Systemic failures leading to serious consequences • Potential or actual systemic ramifications for public administration across jurisdictions or the state • Duration and frequency - how long the conduct has been occurring for (e.g. one-off event or part of a wider pattern or scheme) |
| Legal | <ul style="list-style-type: none"> • Contrary to law (other than on a legal technicality) • Deliberate offences over a number of years • Systemic violation of human rights (e.g. right to an education) |
| Scope | <ul style="list-style-type: none"> • Extensive scope (e.g. across jurisdictions or state-wide) • Involves a large number of public officials or external stakeholders • Activities could affect wider aspects of public administration |

Public Interest Disclosures Internal Reporting Procedure		
Owner: Corporate Governance	Review date: Annually	Endorsed: 11 December 2018
Trim Reference: D19/6003	Policy: Public Interest Disclosures Internal Reporting Policy	Page 3 of 27

PUBLIC INTEREST DISCLOSURES INTERNAL REPORTING PROCEDURE

- | | |
|---------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Public interest | <ul style="list-style-type: none"> • In the public interest generally • Conflicts of interest • Politically sensitive matters • Serious abuse of power • Breach of public trust in public administration • Loss of public confidence in the government/public sector • Integrity of the government/public sector is seriously compromised • Transparency and accountability in public administration is severely compromised |
| Material impact | <ul style="list-style-type: none"> • Significant or potential monetary or property loss • Substantial / serious impost on an individual • Substantial waste of public money or resources • Substantial mismanagement of public money or resources • Irregular or unauthorised use of a substantial amount of public money or resources |
| Service delivery | <ul style="list-style-type: none"> • Serious service failure • Any delay involved is substantial • Significant operational or legal consequences • Access to services or service delivery impaired by prejudice or discrimination • Results in termination of employment or cancellation of a contract • Complete cessation of service or output / or significant disruption to service or output • Very unsatisfactory record keeping that substantially breaches the State Records Act 1998 |
| Safety | <ul style="list-style-type: none"> • Serious safety risks that place people at an unacceptable risk of injury or death • Avoidable death, serious assault, serious injury or irregular or unauthorised use of a substantial amount of public money or resources • Adversely affects a large number of people • Potential or actual harm to the community |
| Professional expectations | <ul style="list-style-type: none"> • Seniority of the person/s the subject of the allegations (e.g. senior management) • Prior allegations about the conduct of the person/s the subject of the allegations • Failure to meet professional and/or industry standards • Substantial departure from the standards reasonably expected of a public official / professional |

Public Interest Disclosures Internal Reporting Procedure		
Owner: Corporate Governance	Review date: Annually	Endorsed: 11 December 2018
Trim Reference: D19/6003	Policy: Public Interest Disclosures Internal Reporting Policy	Page 4 of 27

a. Corrupt conduct

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

For example, this could include:

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

For more information about corrupt conduct, see the NSW Ombudsman’s guideline on [what should be reported](#).

b. Maladministration

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

For example, this could include:

- making a decision and/or taking action that is unlawful
- refusing to grant an approval for reasons that are not related to the merits of their application
- conduct that involves action or inaction of a serious nature that is either unreasonable, unjust, oppressive or improperly discriminatory or based wholly or partly on improper motives.

For more information about maladministration, see the NSW Ombudsman’s guideline on [what should be reported](#).

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 the Council.

For example, this could include:

- poor project management practices leading to projects running over time
- not following a competitive tendering process for a large scale contract
- poor or no processes in place for a system involving large amounts of public funds.

Serious and substantial waste can be:

- **Absolute** – where the waste is regarded as significant.

Public Interest Disclosures Internal Reporting Procedure		
Owner: Corporate Governance	Review date: Annually	Endorsed: 11 December 2018
Trim Reference: D19/6003	Policy: Public Interest Disclosures Internal Reporting Policy	Page 5 of 27

- **Systemic** – where the waste indicates a pattern that results from a weakness within an organisation’s systems.
- **Material** – where the waste is about the authority’s expenditure or a particular item of expenditure, or is to such an extent that it affects an authority’s capacity to perform its primary functions.

Some examples are:

- misappropriation or misuse of public property
- the purchase of unnecessary or inadequate goods and services
- overstaffing in particular areas
- staff being remunerated for skills that they do not have, but are required to have under the terms or conditions of their employment
- programs not achieving their objectives and therefore the program’s costs being clearly ineffective and inefficient.

Waste can result from such things as:

- insufficient safeguards to prevent the theft or misuse of public property
- purchasing practices that do not ensure goods and services are necessary and adequate for their intended purpose
- poor recruiting practices.

For more information about serious and substantial waste, see the NSW Ombudsman’s guideline on [what should be reported](#).

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 GIPA Act or other legislation
- directing another person to make a decision that is contrary to the GIPA Act or other legislation
- intentionally overlooking documents that are clearly covered by an access application.

For more information about government information contravention, see the NSW Ombudsman’s guideline on [what should be reported](#).

e. Local government pecuniary interest contravention

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

Public Interest Disclosures Internal Reporting Procedure		
Owner: Corporate Governance	Review date: Annually	Endorsed: 11 December 2018
Trim Reference: D19/6003	Policy: Public Interest Disclosures Internal Reporting Policy	Page 6 of 27

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. This extends to whether there are chances or possibilities, and probabilities of a financial gain or loss in the matter. 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 the Council.

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

For example, this could include:

- a senior Council staff member recommending a family member for a Council contract and not declaring the relationship
- A General Manager holding an undisclosed shareholding in a company competing for a Council contract.

For more information about local government pecuniary interest contravention, see the NSW Ombudsman's guideline on [what should be reported](#).

f. 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 the relevant City of Ryde policy and procedure.

Consideration should be given to the *Code of Conduct*, the *Anti-Discrimination, Bullying and Harassment Policy*, and *Work Health and Safety Policy*, and your obligations to act in accordance with these policies and report wrongdoing.

Even if these reports are not dealt with as protected disclosures, the City of Ryde will consider each matter and make every attempt to protect the person making the report from any form of reprisal.

3. When will a report be protected?

Public Interest Disclosures Internal Reporting Procedure		
Owner: Corporate Governance	Review date: Annually	Endorsed: 11 December 2018
Trim Reference: D19/6003	Policy: Public Interest Disclosures Internal Reporting Policy	Page 7 of 27

The City of Ryde will support any staff member or Councillor who reports 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 report must be about one of the following five categories of serious wrongdoing – corrupt conduct, maladministration, serious and substantial waste of public money, breach of the GIPA Act, or local government pecuniary interest contravention;
- The person making the disclosure must honestly believe on reasonable grounds that the information shows or tends to show the alleged wrongdoing;
- The report is about the conduct of a public official or the activities of the City of Ryde
- The report has to be made to a position nominated in this procedure (see Section 10) or an investigating authority.

a. Honest belief

An honest belief is a belief that is genuinely held. It is more than suspicion, speculation or rumour.

Section 9A of the PID Act states that if a public official asserts their belief in connection with the disclosure, in the absence of evidence to the contrary, it should be presumed that the belief is honest. This applies even if the assertion is inferred rather than expressed.

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 favouritism, animosity or prejudice.

When assessing the report, the disclosures coordinator can consider what information the reporter knew at the time and whether the person is being rational. For example, consideration may be given to what information is available to the reporter. However, information known only to the disclosures coordinator (and not the reporter) should not be relied on in making such an assessment. For example, the alleged conduct the subject of the report may have already been found to be unsubstantiated, but this was not known to the reporter who at the time had a reasonable belief it had occurred.

c. Shows or tends to show

There must be sufficient information to show or tend to show that the wrongdoing has happened or is happening. This may include:

- direct observation of the wrongdoing by the reporter
- corroborative observation by others
- evidence such as unbalanced accounts, missing items of value or contradictory records.

There should be no alternative innocent explanations that reasonably explain the conduct or activities observed that are likely to be applicable.

Public Interest Disclosures Internal Reporting Procedure		
Owner: Corporate Governance	Review date: Annually	Endorsed: 11 December 2018
Trim Reference: D19/6003	Policy: Public Interest Disclosures Internal Reporting Policy	Page 8 of 27

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

However, it is not necessary for the reporter to provide sufficient information to conclusively establish or prove that the wrongdoing occurred to any investigative standard of proof. The following example could be the content of a PID.

4. What disclosures are not protected?

Reports by staff and Councillors will not 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.

5. How to make a report

You can report wrongdoing in writing or verbally. You are encouraged to make a report in writing as this can help to avoid any confusion or misinterpretation.

If a report is made verbally, the person receiving the report must make a comprehensive record of the disclosure and ask the person making the disclosure to sign this record. The person making the disclosure should keep a copy of this record.

What information should a PID include?

Depending on the circumstances, a discloser should consider providing as many of the following matters as possible:

- Their name and contact details;
- The nature of the suspected wrongdoing;
- Who they think committed the suspected wrongdoing;
- When and where the suspected wrongdoing occurred;
- Any relevant events surrounding the issue;
- Whether they did anything in response to the wrongdoing; and
- Others who know about the suspected wrongdoing and have allowed it to continue

6. How can other types of wrongdoing be addressed?

Although the *Public Interest Disclosures Act* offers protection for only five kinds of wrongdoing (corrupt conduct, maladministration, serious and substantial waste of public money, breach of the GIPA Act, and local government pecuniary interest contravention), all incidents of suspended wrongdoing should be reported.

These include but not limited to:

Public Interest Disclosures Internal Reporting Procedure		
Owner: Corporate Governance	Review date: Annually	Endorsed: 11 December 2018
Trim Reference: D19/6003	Policy: Public Interest Disclosures Internal Reporting Policy	Page 9 of 27

- 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 City of Ryde policies, where relevant:

- Code of Conduct – Policy, Standards of Conduct and Complaints Procedure
- Work Health and Safety Policy
- Customer Feedback Policy
- Equal Employment Opportunity Policy and Explanatory Notes
- Prevention of Discrimination, Bullying and Harassment – Policy, Procedure, and Notes.

7. Can a report be anonymous?

There will be some situations where you may not want to identify yourself when you make a report. Although these reports will still be dealt with by the City of Ryde, 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.

8. Maintaining confidentiality

The City of Ryde realises many people 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.

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 the Council’s Code of Conduct, as this may mean certain information will have to be tabled at a Council meeting.

If you report wrongdoing, it is important that you only discuss your report with the people at the City of Ryde responsible to deal with it. This will include the Disclosures Coordinator and the General Manager. In the case of a report about the General Manager, you should only discuss your report with the Disclosures Coordinator and the Mayor.

Where your complaint is made under the Council’s Code of Conduct and relates to the General Manager or a Councillor, you may be required to discuss it with a conduct reviewer.

Public Interest Disclosures Internal Reporting Procedure		
Owner: Corporate Governance	Review date: Annually	Endorsed: 11 December 2018
Trim Reference: D19/6003	Policy: Public Interest Disclosures Internal Reporting Policy	Page 10 of 27

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.

9. Assessment of reports

All reports will be promptly and thoroughly assessed to determine what action will be taken to deal with the report and whether or not the report will be treated as a public interest disclosure.

The Disclosures Coordinator is responsible for assessing reports, in consultation with the General Manager where appropriate. All reports will be assessed on the information available to the disclosures coordinator at the time. It is up to the disclosures coordinator to decide whether an investigation should be carried out and how that investigation should be carried out. In assessing a report the disclosures coordinator may decide that the report should be referred elsewhere or that no action should be taken on the report.

10. Who can receive a report within the City of Ryde?

You are encouraged to report general wrongdoing to your supervisor. However the PID Act requires that – for a report to be a public interest disclosure – it must be made to a public official in accordance with the Council’s disclosure procedures – this means the Public Interest Disclosures Internal Reporting Policy and Procedure.

Any supervisor who receives a report that they believe may be a public interest disclosure must refer the individual making the 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.

The following positions are the only people within the City of Ryde who can receive a public interest disclosure.

a. General Manager

The General Manager has ultimate responsibility for maintaining the internal reporting system and workplace reporting culture, and ensuring City of Ryde complies with the PID Act. The General Manager can receive reports from staff and councillors and 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
- ensuring there are systems in place to support and protect people who report wrongdoing
- making decisions following any investigation or appoint an appropriate decision-maker
- taking appropriate remedial action where wrongdoing is substantiated or systemic problems are identified
- dealing with disclosures made under the Council’s Code of Conduct in accordance with the Council’s adopted Code of Conduct procedures

Public Interest Disclosures Internal Reporting Procedure		
Owner: Corporate Governance	Review date: Annually	Endorsed: 11 December 2018
Trim Reference: D19/6003	Policy: Public Interest Disclosures Internal Reporting Policy	Page 11 of 27

- referring actual or suspected corrupt conduct to the Independent Commission against Corruption (ICAC)
- referring any evidence of a reprisal offence under section 20 of the PID Act to the Commissioner of Police or the ICAC.

The General Manager’s Office can be contacted on 9952 8052.

b. 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.
- dealing with disclosures made under the Council’s Code of Conduct in accordance with the Council’s adopted Code of Conduct procedures
- liaising 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
- referring actual or suspected corrupt conduct to the ICAC
- referring any evidence of a reprisal offence under section 20 of the PID Act to the Commissioner of Police or the ICAC.

The Mayor must make sure there are systems in place in the City of Ryde 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 ICAC.

The Mayor’s Office can be contacted on 9952 8332.

c. Disclosures Coordinator

The Disclosures Coordinator has a central role in dealing with reports made by staff and Councillors. They receive them, assess them, and refer them to the people within or contracted by City of Ryde to be dealt with appropriately.

The Disclosures Coordinator is the Director, Corporate Services. The Director can be contacted on 9952 8011.

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)

Public Interest Disclosures Internal Reporting Procedure		
Owner: Corporate Governance	Review date: Annually	Endorsed: 11 December 2018
Trim Reference: D19/6003	Policy: Public Interest Disclosures Internal Reporting Policy	Page 12 of 27

- deal with reports made under the Council’s Code of Conduct in accordance with the Council’s adopted Code of Conduct Procedures
- coordinate the 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 City of Ryde complies with the PID Act
- provide six-monthly reports to the NSW Ombudsman in accordance with section 6CA of the PID Act.

d. Disclosures Officers

Disclosures Officers work with the Disclosures Coordinator, and are responsible for receiving, forwarding and/or dealing with reports made in accordance with the Public Interest Disclosures policy and procedure. They can provide advice about the system and the internal reporting policy and assist staff and councillors to make reports.

Disclosure 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.

Refer to Appendix 1 for more details about Council’s Public Interest Disclosure Officers.

e. Line Managers, Coordinators and Supervisors

Managers, Coordinators, and Supervisors play an important role in managing the immediate workplace of those involved in or affected by the internal reporting process. Supervisors and managers should be aware of the Public Interest Disclosure Internal Reporting Policy and Procedure and are responsible for creating a safe work environment where staff are comfortable and confident about reporting wrongdoing.

Public Interest Disclosures Internal Reporting Procedure		
Owner: Corporate Governance	Review date: Annually	Endorsed: 11 December 2018
Trim Reference: D19/6003	Policy: Public Interest Disclosures Internal Reporting Policy	Page 13 of 27

They have a responsibility to:

- Encourage staff to report known or suspected wrongdoing within the organisation and provide support to 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 the Public Interest Disclosure Internal Reporting Policy and Procedure;
- 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 the General Manager 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;

11. Who can receive a report outside of the City of Ryde

Staff and Councillors are encouraged to report wrongdoing within the City of Ryde, but internal reporting is not your only option.

If you follow the guidance below, you can make a public interest disclosure to:

- an investigating authority. If your report is about both the General Manager and the Mayor, you may wish to consider making the report to an investigating authority.
- a Member of Parliament or a journalist, but only in limited circumstances outlined below.

a. Investigating authorities

The *PID Act* lists a number of investigating authorities in NSW that staff and Councillors can report wrongdoing to and the 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 Chief Executive of the Office of Local Government (OLG) – for disclosures about local government agencies
- the Information and Privacy Commission— for disclosures about breaches of the GIPA Act
- the Auditor-General of the NSW Audit Office – for disclosures about serious and substantial waste
- the Law Enforcement Conduct Commission – for disclosures about police misconduct.

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.

Public Interest Disclosures Internal Reporting Procedure		
Owner: Corporate Governance	Review date: Annually	Endorsed: 11 December 2018
Trim Reference: D19/6003	Policy: Public Interest Disclosures Internal Reporting Policy	Page 14 of 27

You should be aware that it is very likely the investigating authority will discuss the case with the City of Ryde. 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 and Councillors 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 & procedures
- an investigating authority in accordance with the PID Act.

Also, the City of Ryde 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.

c. Other external reporting

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 City of Ryde’s Code of Conduct – by, for example, disclosing confidential information.

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

11. Feedback to people who report wrongdoing

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

a. Acknowledgement

The individual who reported wrongdoing will be contacted by the City of Ryde to confirm that your report has been received and to advise:

Public Interest Disclosures Internal Reporting Procedure		
Owner: Corporate Governance	Review date: Annually	Endorsed: 11 December 2018
Trim Reference: D19/6003	Policy: Public Interest Disclosures Internal Reporting Policy	Page 15 of 27

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

After a decision is made about how your report will be dealt with, the City of Ryde will send you an acknowledgement letter, providing:

- information about the action that will be taken in response to your report
- the likely timeframes for any investigation
- information about the resources available within the City of Ryde to handle any concerns you may have
- information about the external resources and services available that you can access for support.

We will provide this information to you within ten working days from the date you make your report. We will also advise you if we decide to treat your report as a public interest disclosure and provide you with a copy of this policy at that time, as required by the PID Act.

The PID Act requires that you are provided with an acknowledgement letter and a copy of this policy within 45 days after you have made your report. We will attempt to get this information to you within two working days from the date you make your report.

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

b. Progress updates

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

- information about the progress of the investigation or other enquiries and reasons for any delay
- advice of any decision by the City of Ryde not to proceed with the matter
- advice if your identity needs to be disclosed for the purposes of investigating the matter or making enquiries, and an opportunity to talk about this.

c. Feedback

Once the matter has been finalised you will be given:

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

Public Interest Disclosures Internal Reporting Procedure		
Owner: Corporate Governance	Review date: Annually	Endorsed: 11 December 2018
Trim Reference: D19/6003	Policy: Public Interest Disclosures Internal Reporting Policy	Page 16 of 27

Behaviour of all people involved in the PID process needs to adhere to the City of Ryde Code of Conduct. A breach of the Code of Conduct could result in disciplinary action.

12. Managing the risk of reprisal and workplace conflict

When a staff member or Councillor reports wrongdoing, the City of Ryde 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, the City of Ryde 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.

13. Protection against reprisals

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. It may also be a breach of the Code of Conduct.

The City of Ryde 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.

a. Responding to allegation of reprisal

The City of Ryde will act to protect people who report wrongdoing from reprisals. When a report is received, we will ensure that a thorough risk assessment is conducted. This will identify any

Public Interest Disclosures Internal Reporting Procedure		
Owner: Corporate Governance	Review date: Annually	Endorsed: 11 December 2018
Trim Reference: D19/6003	Policy: Public Interest Disclosures Internal Reporting Policy	Page 17 of 27

PUBLIC INTEREST DISCLOSURES INTERNAL REPORTING PROCEDURE

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, the Disclosures Coordinator or the General Manager immediately, or in the case of an allegation of reprisal by the General Manager, to the Mayor.

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, or in the case of an allegation of reprisal by the General Manager, to the Mayor.

If the City of Ryde becomes aware of or reasonably suspects that reprisal action is being or has been taken against a person who has made a disclosure, the City of Ryde will:

- assess the allegation of reprisal to decide whether the report should be treated as a public interest disclosure and whether the matter warrants investigation or if other action should be taken to resolve the issue
- if the reprisal allegation warrants investigation, ensure this is conducted by a senior and experienced member of staff
- if it is established that reprisal is occurring against anyone proven to have taken or threatened any action in reprisal for making a disclosure
- refer any breach of Part 8 of the Council's Code of Conduct – Standards of Conduct 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 report reprisal action, you will be kept informed of the progress and outcome of any investigation or other action taken in response to your allegation.

The General Manager may issue specific directions to help protect against reprisals, including:

- issuing warnings to those alleged to have taken reprisal action against the individual who made the disclosure
- relocating the member of staff who made the disclosure or an officer who is the subject of the allegations within the current workplace
- transferring the member of staff who made the disclosure or the staff member who is the subject of the allegations 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.

In relation to staff who make reports, such directions will only be made if the member of staff 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.

Public Interest Disclosures Internal Reporting Procedure		
Owner: Corporate Governance	Review date: Annually	Endorsed: 11 December 2018
Trim Reference: D19/6003	Policy: Public Interest Disclosures Internal Reporting Policy	Page 18 of 27

If you have reported wrongdoing and feel that any reprisal action is not being dealt with effectively, contact the Ombudsman, the ICAC or the Chief Executive of the Office of Local Government – depending on the type of wrongdoing you reported. Contact details for all these investigating authorities are included at the end of this procedure.

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 defence of absolute privilege in defamation.

14. Support for those reporting wrongdoing

The City of Ryde will make sure that people 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.

Council’s Employee Assistance Program (EAP) is currently Optum. EAP is available to all staff and can be accessed online on www.livewell.optum.com or via phone: 1300 361 008 (24 hours – 7 days).

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.

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

15. Sanctions for making false or misleading disclosures

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

It may also be a breach of Council’s Code of Conduct and 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.

16. The rights of persons who are the subject of a report

The *City of Ryde* is committed to ensuring staff and Councillors who are the subject of a report of wrongdoing are treated fairly and reasonably. If you are the subject of a report, you will be:

- treated fairly and impartially

Public Interest Disclosures Internal Reporting Procedure		
Owner: Corporate Governance	Review date: Annually	Endorsed: 11 December 2018
Trim Reference: D19/6003	Policy: Public Interest Disclosures Internal Reporting Policy	Page 19 of 27

PUBLIC INTEREST DISCLOSURES INTERNAL REPORTING PROCEDURE

- told your rights and obligations under our policies and procedures
- kept informed during any investigation
- given the reasonable opportunity to respond to any allegation made against you
- told the result of any investigation.

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

17. Review

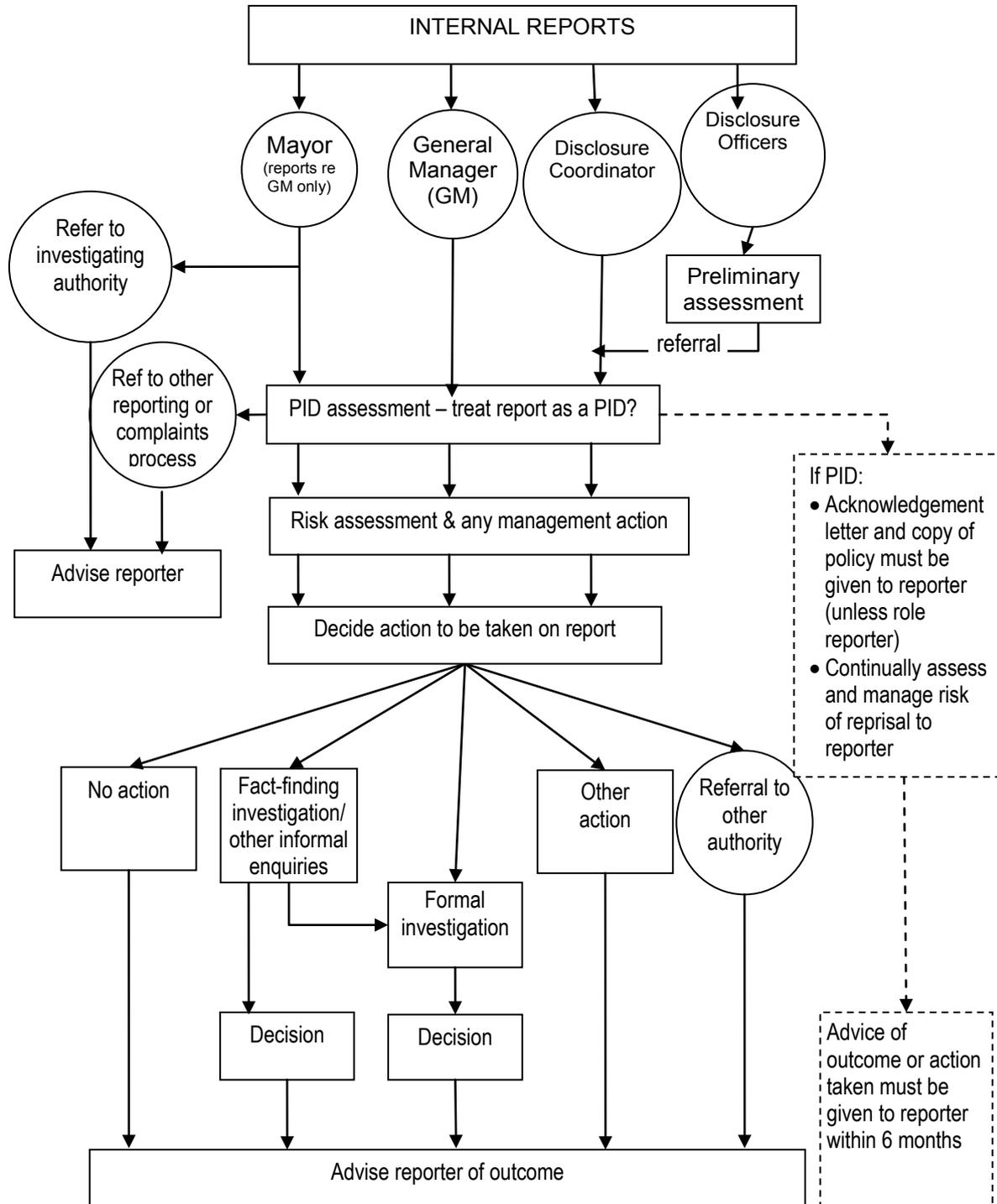
This policy and procedure will be reviewed by Council every twelve months. For any advice or guidance about this review, contact the NSW Ombudsman's Public Interest Disclosures Unit.

18. More information

You can access advice and guidance from the City of Ryde Disclosures Coordinator, the Disclosure Officers, your manager and the Corporate Governance team. More information around public interest disclosures is available on Infonet and the NSW Ombudsman's website at www.ombo.nsw.gov.au.

Public Interest Disclosures Internal Reporting Procedure		
Owner: Corporate Governance	Review date: Annually	Endorsed: 11 December 2018
Trim Reference: D19/6003	Policy: Public Interest Disclosures Internal Reporting Policy	Page 20 of 27

19. Flow chart of internal reporting process



Public Interest Disclosures Internal Reporting Procedure		
Owner: Corporate Governance	Review date: Annually	Endorsed: 11 December 2018
Trim Reference: D19/6003	Policy: Public Interest Disclosures Internal Reporting Policy	Page 21 of 27

20. Resources

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
Web: www.icac.nsw.gov.au
Address: Level 7, 255 Elizabeth Street, Sydney NSW 2000

For disclosures about breaches of the GIPA Act:

Information and Privacy Commission NSW

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

For disclosures about serious and substantial waste:

Auditor-General of the NSW Audit Office

Phone: 02 9275 7100
Facsimile: 02 9275 7200
Email: governance@audit.nsw.gov.au
Web: www.audit.nsw.gov.au
Address: Level 15, 1 Margaret Street, Sydney NSW 2000

For disclosures about maladministration:

NSW Ombudsman

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

For disclosures about Council:

Chief Executive, Office of Local Government in the Department of Premier and Cabinet

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

Sydney Office:

Address: Level 16, 320 Pitt Street, Sydney NSW 2000

For disclosures about police misconduct:

The Law Enforcement Conduct Commission (LECC)

Phone: 02 9321 6700
Toll free: 1800 657 079
Facsimile: 02 9321 6799
Email: contactus@lecc.nsw.gov.au
Web: www.lecc.nsw.gov.au
Address: Level 3, 111 Elizabeth Street Sydney NSW 2000

Public Interest Disclosures Internal Reporting Procedure		
Owner: Corporate Governance	Review date: Annually	Endorsed: 11 December 2018
Trim Reference: D19/6003	Policy: Public Interest Disclosures Internal Reporting Policy	Page 22 of 27

21. Internal reporting workflow

Staff and Councillors who come forward and report wrongdoing are helping to promote integrity, accountability and good management. Such behaviour is encouraged by the City of Ryde and supported the City of Ryde values.

Breaches of confidentiality can result in disciplinary action and dismissal.

1. A public interest disclosure may be made to the nominated officer/person detailed in this Procedure. City of Ryde's nominated positions to receive public interest disclosures are set out in Appendix 1.
2. Persons wishing to make a public interest disclosure also have the option to lodge externally with the appropriate investigating agency, including ICAC, NSW Ombudsman or Office of Local Government.
3. A person wishing to make a public interest disclosure is to make contact with a nominated officer/person identified in this procedure and advise that a public interest disclosure is to be made. The preferred contact points are either Disclosure Officers or the Disclosures Coordinator.
4. The Disclosure Officers will provide information to the Disclosures Coordinator who will then organise a meeting with the person making the disclosure (Discloser) as soon as possible and document the disclosure in a report.
6. The Disclosure Coordinator will as soon as practicable advise the General Manager of the report. If the report is about the General Manager, the Disclosure Coordinator shall advise the Mayor.
7. The General Manager (or Mayor as appropriate) shall examine the report and determine whether or not the disclosure is to be investigated or whether the matter should be referred to another authority.
8. The Discloser shall be advised in writing by the Disclosures Coordinator (or General Manager if applicable) whether or not the matter is to be investigated and what action is proposed. If the matter is to be investigated the likely time for completion of the investigation is to be given. If the matter is not to be investigated the reasons why shall be given. If the matter raised does not fall within the ambit of the Public Interest Disclosures Act the letter shall advise what other action is proposed to be taken on the matter.
9. On completion of the investigation, the Discloser shall be advised in writing by the Disclosure Coordinator of the findings of the investigation and what action is proposed to be taken.
10. The General Manager (or Mayor as appropriate) shall be responsible for ensuring that the appropriate action arising from the findings of the investigation is taken.

Public Interest Disclosures Internal Reporting Procedure		
Owner: Corporate Governance	Review date: Annually	Endorsed: 11 December 2018
Trim Reference: D19/6003	Policy: Public Interest Disclosures Internal Reporting Policy	Page 23 of 27

Appendix 1 – Public Interest Disclosure Officers (December 2018)

Disclosure Officers

Paul Hartmann
8878 5101 or 0407 407 984

Angela Jones-Blayney
9952 8480 or 0407 958 023

Amanda Janvrin
9952 8026 or 0466 144 570

Luke Pursey
c/- 0466 557 392

Colin Murphy
9952 8205 or 0418 858 024

**Mayor
Councillor Jerome Laxale**
9952 8332

John Maunder
9952 8378 or 9817 1960

Richie Griffiths
9952 8164 or 0418 200 139

John Schanz
9952 8022

General Manager

George Dedes 9952 8050

**Director, Corporate Services
Steve Kludass**
9952 8011

**Disclosure
Coordinator**

Public Interest Disclosures Internal Reporting Procedure		
Owner: Corporate Governance	Review date: Annually	Endorsed: 11 December 2018
Trim Reference: D19/6003	Policy: Public Interest Disclosures Internal Reporting Policy	Page 24 of 27

Appendix 2 - Definitions

Disclosure

A *disclosure* is a report, either written or verbal, made in accordance with the Public Interest Disclosures Internal Reporting Policy and Procedure. The complaints may only be made on: corrupt conduct, maladministration, serious and substantial waste of public money, government information contravention, and local government pecuniary interest contravention. Definitions of these concepts are outlined below.

Corrupt conduct

Corrupt conduct is defined in the *Independent Commission Against Corruption Act 1988* (s.8 and 9). The definition used in the Act is intentionally quite broad – corrupt conduct is defined to include 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.

Corrupt conduct can take many forms, i.e. the improper use of knowledge, power or position for personal gain or the advantage of others, acting dishonestly or unfairly, or breaching public trust are some examples.

Maladministration

Maladministration is defined in s.11 of the *Public Interest Disclosures Act* as conduct that involves action or inaction of a serious nature that is either:

- Contrary to law (other than a legal technicality), or
- Unreasonable, unjust, oppressive or improperly discriminatory, or
- Based wholly or partly on improper motives.

Serious and Substantial Waste

Serious and substantial waste is any uneconomical, inefficient or ineffective use of resources, authorised or unauthorised, which results in a loss/wastage of public funds/resources.

The following delineation of the definition of serious and substantial waste may be of assistance to public officials and/or public authorities.

Absolute - where the waste is regarded as significant.

Systemic - the waste indicates a pattern which results from a system weakness within public authorities.

Public Interest Disclosures Internal Reporting Procedure		
Owner: Corporate Governance	Review date: Annually	Endorsed: 11 December 2018
Trim Reference: D19/6003	Policy: Public Interest Disclosures Internal Reporting Policy	Page 25 of 27

Material - where the waste is about the authority's expenditure or a particular item of expenditure or is to such an extent that it affects an authority's capacity to perform its primary functions.

Government Information Contravention

Government Information Contravention is a failure to properly fulfil functions under the *Government Information (Public Access) Act 2009*.

Some examples are:

- Intentionally overlooking documents that are clearly covered by an access application;
- Destroying, concealing or altering records to prevent them from being released;
- Knowingly making decisions that are contrary to the *GIPA Act*;
- Directing another person to make a decision that is contrary to the *GIPA Act*.

Local Government Pecuniary Interest Contravention

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.

- A senior council staff member recommending a family member for a council contract and not declaring the relationship
- A general manager holding an undisclosed shareholding in a company competing for a council contract.

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

Public Official (*Public Interest Disclosures Act 1994*)

- (a) An individual who is an employee of or otherwise in the service of a public authority;
- (b) An individual who is engaged by a public authority under a contract to provide services to or on behalf of the public authority, or
- (c) If a corporation is engaged by a public authority under a contract to provide services to or on behalf of the public authority, an employee or officer of the corporation who provides or is to provide the contracted services or any part of those services.

Public Interest Disclosures Internal Reporting Procedure		
Owner: Corporate Governance	Review date: Annually	Endorsed: 11 December 2018
Trim Reference: D19/6003	Policy: Public Interest Disclosures Internal Reporting Policy	Page 26 of 27

Appendix 3 – Internal Reporting Form

Internal Report Form

To be completed by an internal reporter and submitted to a nominated Disclosures Officer
(Refer to the Public Interest Disclosures Internal Reporting Policy and Procedure for further details)

Details of reporter (You can make an anonymous report by leaving this section blank)	
Name:	
Position:	
Division/Unit:	Preferred method of contact
Telephone:	<input type="checkbox"/> Telephone
Email:	<input type="checkbox"/> Email
Postal address:	<input type="checkbox"/> Post
Details of the wrongdoing being reported	
Description:	
<ul style="list-style-type: none"> • What happened? • Where did this happen? • When did this happen? • Is it still happening? 	
[Attach an additional page if required]	
How did you become aware of this?	
Name and position of people involved in the wrongdoing:	Name
	Position
Attach any additional relevant information or indicate where supporting evidence may be found:	Supporting evidence
	Attached
	<input type="checkbox"/>
Name and position of other people who may have additional information:	Name
	Position
Statement	
I honestly believe that the above information shows or tends to show wrongdoing.	
Signature of reporter <i>(Do not sign if you want to make an anonymous report)</i>	Date report submitted <i>(Essential information)</i>

Public Interest Disclosures Internal Reporting Procedure		
Owner: Corporate Governance	Review date: Annually	Endorsed: 11 December 2018
Trim Reference: D19/6003	Policy: Public Interest Disclosures Internal Reporting Policy	Page 27 of 27