

Internal Reporting Policy Public Interest Disclosures

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1. Purpose and context

This policy is based on the NSW Ombudsman's Model internal reporting policy – Local Government (June 2014).

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

This policy is designed to complement normal communication channels between supervisors and staff. Staff are encouraged to raise matters of concern at any time with their supervisors, but also have the option of making a report about a public interest issue in accordance with this policy and the Public Interest Disclosures Act 1994 (*PID Act*).

This policy is just one in the suite of Randwick City Council's complaint handling policies. Other Council policies that deal with complaint handling, including:

- Council's Complaint Handling Policy and Procedure; and
- Code of Conduct.

The internal reporting system established under this policy is not intended to be used for staff grievances, which should be raised through the Staff Grievance Policy. If a staff member makes a report under this policy which is substantially a grievance, the matter will be referred to Organisational Staff Services to be dealt with in accordance with the Staff Grievance Policy.

2. Organisational commitment

Randwick City Council does not tolerate corrupt conduct, maladministration, serious and substantial waste of public money, government information contravention or local government pecuniary interest contravention.

Randwick City Council:

- is committed to creating a climate of trust, where people are comfortable and confident about reporting wrongdoing
- encourages individuals to come forward if they are aware of wrongdoing within the Council
- will keep the identity of the person disclosing wrongdoing confidential, where this is possible and appropriate
- will protect the person from any adverse action resulting from them making a report
- will deal with reports thoroughly and impartially and if some form of wrongdoing has been found, will take appropriate action to rectify it
- will keep the individual who makes a report informed of their progress and the outcome
- encourages the reporting of wrongdoing within the Council, but respects any decision to disclose wrongdoing outside the Council that is made in accordance with the provisions of the PID Act
- will ensure managers and supervisors at all levels in the Council understand the benefits of reporting wrongdoing, are familiar with this policy, and aware of the needs of those who report wrongdoing
- will review this policy periodically to ensure it is relevant and effective
- will provide adequate resources, to:
 - encourage reports of wrongdoing
 - protect and support those who make them
 - provide training about how to make reports and the benefits of internal reports to the Council and the public interest generally
 - properly assess and investigate or otherwise deal with allegations
 - properly manage any workplace issues that the allegations identify or that result from a report
 - appropriately address any identified problems.

Under the PID Act, the General Manager is responsible for ensuring that:

- the Council has an internal reporting policy
- the staff of the Council and Councillors are aware of the contents of the policy and the protection under the PID Act for people who make public interest disclosures
- the Council complies with the policy and the Council's obligations under the PID Act
- the policy delegates at least one staff member as being responsible for receiving public interest disclosures. Clause 3.15 of the Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW requires the complaints coordinator to be a disclosures coordinator. The Ombudsman recommends Councils nominate more than one person as being responsible for receiving public interest disclosures (see Section 8 of this policy "Who can receive a report within Randwick City Council" – page 5).

3. Who does this policy apply to?

This policy will apply to:

- both Council staff and Councillors
- permanent employees, whether full-time or part-time
- temporary or casual employees
- consultants
- individual contractors working for Randwick City Council
- employees of contractors providing services to Randwick City Council

- other people who perform Council official functions whose conduct and activities could be investigated by an investigating authority, including volunteers.

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

4. Roles and responsibilities

4.1. 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 Randwick City Council's Code of Conduct. A breach of the code could result in disciplinary action.

4.2. The role of Randwick City Council

Randwick City Council has a responsibility to establish and maintain a working environment that encourages staff and Councillors to report wrongdoing and supports them when they do. This includes keeping the identity of reporters confidential where practical and appropriate, and taking steps to protect reporters from reprisal and manage workplace conflict.

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

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

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

4.3. Roles of key positions

General Manager

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

- assess reports received by or referred to them, to determine whether or not the report should be treated as a public interest disclosure, and to decide how the report will be dealt with
- deal with reports made under the Council's Code of Conduct in accordance with the Council's adopted Code of Conduct Procedures

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

Disclosures Coordinators

The Disclosures Coordinators have a central role in Council's internal reporting system. The Disclosures Coordinators can receive and assess reports, and are the primary point of contact in Council for the reporter. The Disclosures Coordinators have a responsibility to:

- assess reports to determine whether or not a report should be treated as a public interest disclosure, and to decide how each report will be dealt with (either under delegation or in consultation with the General Manager)
- deal with reports made under the Council's Code of Conduct in accordance with the Council's adopted Code of Conduct procedures
- coordinate Council's response to a report
- acknowledge reports and provide updates and feedback to the reporter
- assess whether it is possible and appropriate to keep the reporter's identity confidential
- assess 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 Randwick City Council complies with the PID Act
- provide six-monthly reports to the NSW Ombudsman in accordance with section 6CA of the PID Act.

Disclosures Officers

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

Disclosures Officers have a responsibility to:

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

Mayor

The Mayor can receive reports from staff and Councillors about the General Manager.

Where the Mayor receives such reports, the Mayor has a responsibility to:

- assess the reports to determine whether or not they should be treated as a public interest disclosure, and to decide how they will be dealt with
- deal with reports made under the Council's code of conduct in accordance with the Council's adopted code of conduct procedures
- refer reports to an investigating authority, where appropriate
- liaise with the Disclosures Coordinator to ensure there are strategies in place to support reporters, protect reporters from reprisal and manage workplace conflict that may arise in relation to a report
- refer actual or suspected corrupt conduct to the ICAC

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

Note: In assessing reports the Mayor may seek guidance from: a Disclosure Coordinator (if appropriate) or an investigating authority (ie. the ICAC, the NSW Ombudsman, the NSW Information & Privacy Commissioner or the Director-General of the Officer of Local Government

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.

Managers, Coordinators and Supervisors should be aware of the internal reporting policy and are responsible for creating a local work environment where staff are comfortable and confident about reporting wrongdoing. They have a responsibility to:

- encourage staff to report known or suspected wrongdoing within the organisation and support staff 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 Coordinators, to minimise the risk of reprisal or workplace conflict in relation to a report
- notify a Disclosures Coordinator or the General Manager immediately if they believe a staff member is being subjected to reprisal as a result of reporting wrongdoing, or in the case of suspected reprisal by the General Manager, notify the Mayor.

5. What should be reported?

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

Reports about five categories of serious misconduct – corrupt conduct, maladministration, serious and substantial waste of public money, breach of the Government Information (Public Access) Act (the GIPA Act), and local government pecuniary interest contravention – which otherwise meet the criteria of a public interest disclosure, will be dealt with under the PID Act and according to this policy. See below for details about these types of conduct. More information about what can be reported under the PID Act can be found in the NSW Ombudsman’s Guideline B2: What should be reported?

[\(https://www.ombo.nsw.gov.au/news-and-publications/publications/guidelines/public-interest-disclosures/\)](https://www.ombo.nsw.gov.au/news-and-publications/publications/guidelines/public-interest-disclosures/).

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, Council 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.

Further information in relation to Council’s Staff Greivance Policy and the Code of Conduct can be found on Simeon

http://intranet.randwick.nsw.gov.au/Staff_Services/Organisational_Staff_Services_Policies/index.aspx.

5.1. Corrupt conduct

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

For example, this could include:

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

5.2. Maladministration

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

For example, this could include:

- 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 an application.

5.3. Serious and substantial waste of public money

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

For example, this could include:

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

5.4. Breach of the GIPA Act

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

For example, this could include:

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

5.5. Local government pecuniary interest contravention

A local government pecuniary interest contravention is a failure to comply with requirements under the Local Government Act 1993 relating to the management of pecuniary interests. These include obligations to lodge disclosure of interests returns, disclose pecuniary interests at Council and Council committee meetings and leave the meeting while the matter is being discussed. A pecuniary interest is an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person.

For example, this could include:

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

6. Assessment of reports

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

The Disclosures Coordinators are 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(s) at the time. It is up to the Disclosures Coordinator(s) to decide whether an investigation should be carried out and how that investigation should be carried out. In assessing a report the Disclosures Coordinator(s) may decide that the report should be referred elsewhere or that no action should be taken on the report.

7. When will a report be treated as a public interest disclosure?

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

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

Reports by staff are not public interest disclosures if they:

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

8. Who can receive a report within Randwick City Council?

Staff are encouraged to report general wrongdoing to their supervisor. However the PID Act requires that, for a report to be a public interest disclosure, it must be made to certain public officials identified in this policy or any supporting procedures.

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

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

General Manager

- *Phone 9399 0803 or email therese.manns@randwick.nsw.gov.au*

Mayor (for reports about the General Manager only)

- Phone 9399 0813 or email mayor@randwick.nsw.gov.au

Disclosures Coordinators

- *Complaints Coordinator and Manager Administrative Services (David Kelly) – Phone 9093 6782 or email david.kelly@randwick.nsw.gov.au*
- *Senior Administrative Coordinator (Julie Hartshorn) – Phone 9093 6546 or email julie.hartshorn@randwick.nsw.gov.au*

[Clause 3.15 of the Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW requires the Complaints Coordinator to be a Disclosures Coordinator. Randwick City Council's Complaints Coordinator is the Manager Administrative Services (David Kelly)].

Disclosures Officers

- Acting Manager Human Resources (Anne Warner) – phone 9093 6864 or email anne.warner@randwick.nsw.gov.au
- Manager Library Services (Barbara Todes) – phone 9093 6420 or email barbara.todes@randwick.nsw.gov.au
- Manager Public Safety and Aquatic Services (Duncan Rennie) – phone 9093 6320 or email duncan.rennie@randwick.nsw.gov.au
- Manager Waste & Cleaning Services (Mark Bush) – phone 9093 6738 or email mark.bush@randwick.nsw.gov.au
- Manager Sustainability (Peter Maganov) – phone 9093 6221 or email peter.maganov@randwick.nsw.gov.au
- Supervisor Public Place (Darron Daly) – phone 9093 6701 or email darron.daly@randwick.nsw.gov.au
- Senior Environmental Health Officer (Joanne Brown) – phone 9093 6879 or email joanne.brown@randwick.nsw.gov.au

In addition, you may choose to make a report to Council's Internal Audit Committee. This provides an alternate avenue for the submission of public interest disclosures should an employee or Councillor prefer not to make a submission to a staff member, the General Manager or the Mayor (as the case may be). Report to Council's Internal Audit Committee should be made in writing and should be addressed to:

Randwick City Council Internal Audit Committee

30 Frances Street

RANDWICK NSW 2031

Marked private and confidential

9. Who can receive a report outside Randwick City Council?

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

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

9.1. Investigating authorities

The PID Act lists a number of investigating authorities in NSW that staff and Councillors can report wrongdoing to and the type of wrongdoing each authority can deal with. In certain circumstances it may be preferable to make a report of wrongdoing to an investigating authority, for example a report about either the *General Manager or the Mayor*.

The relevant investigating authorities for Randwick City Council are:

- the Independent Commission Against Corruption (ICAC) – for reports about corrupt conduct
- the Ombudsman – for reports about maladministration
- the Information & Privacy Commissioner – for disclosures about a breach of the GIPA Act
- the Office of Local Government— for disclosures about local government pecuniary interest contravention or serious and substantial waste of public money.

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

You should be aware that the investigating authority may well discuss any such reports with Randwick City 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 or Councillors who report wrongdoing to an investigating authority, if we are made aware that this has occurred.

9.2. Members of Parliament or journalists

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

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

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

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

9.3. Other external reporting

If you report wrongdoing to a person or authority that is not listed above, or make a report to an MP or journalist without following the steps outlined above, you will not be protected under the PID Act. This may mean you will be in breach of legal obligations or *our* Code of Conduct – by, for example, disclosing confidential information.

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

10. How to make a report

You can report wrongdoing in writing or verbally. You are encouraged to make a report in writing as this can help to avoid any confusion or misinterpretation. You can use the Internal Report Form (on page 10 of this policy).

If a report is made verbally, the person receiving the report will make a comprehensive record of the report and ask the person making the report to sign this record. The reporter should keep a copy of this record using the Internal Report Form (on page 10 of this policy).

11. Can a report be anonymous?

There will be some situations where you may not want to identify yourself when you make a report. Although these reports will still be dealt with by Randwick City Council, it is best if you identify yourself. This allows us to provide you with any necessary protection and support, as well as feedback about what action is to be taken or has been taken to deal with the issues raised in the report, or the outcome of any investigation.

It is important to realise that an anonymous disclosure may not prevent you from being identified by the subjects of the report or your colleagues. If we do not know who made the report, it is very difficult for us to prevent any reprisal should others identify you.

12. Feedback to staff who report wrongdoing

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

12.1. Acknowledgement

When you make a report, Randwick City Council will contact you to confirm that your report has been received and to advise:

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

After a decision is made about how your report will be dealt with, Council will send you an acknowledgment letter, providing:

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

We will provide this information to you within ten (10) working days from the date you make your report. We will also advise you if we decide to treat your report as a public interest disclosure and provide you with a copy of this policy at that time, as required by the PID Act.

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

12.2. Progress updates

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

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

12.3. Feedbacks

Once the matter has been finalised you will be given:

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

13. Maintaining confidentiality

Randwick City Council realises reporters may want their identity and the fact they have made a report to remain confidential. This can help to prevent any action being taken against them for reporting wrongdoing.

Where possible and appropriate we will take steps to keep your identity, and the fact you have reported wrongdoing, confidential. We will discuss with you whether it is possible to keep your identity confidential.

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

If you report wrongdoing, it is important that you only discuss your report with those responsible for dealing with it. This will include a *Disclosures Coordinator* and the *General Manager*, or in the case of a report about the General Manager, a Disclosures Coordinator and the Mayor. The fewer people who know about your report, before and after you make it, the more likely it will be that we can protect you from any reprisal.

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

14. Managing the risk of reprisal and workplace conflict

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

Depending on the circumstances, Council may:

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

These courses of action are not punishment and will only be taken in consultation with the reporter.

15. Protection against reprisals

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

The PID Act provides protection for staff and Councillors who have made a public interest disclosure by imposing penalties on anyone who takes detrimental action against another person substantially in reprisal for that person making a public interest disclosure. These penalties also apply to cases where a person takes detrimental action against another because they believe or suspect the other person has made or may have made a public interest disclosure, even if they did not.

Detrimental action means action causing, comprising or involving any of the following:

- injury, damage or loss
- intimidation or harassment
- discrimination, disadvantage or adverse treatment in relation to employment
- dismissal from, or prejudice in, employment
- disciplinary proceedings.

A person who is found to have committed a reprisal offence may face criminal penalties such as imprisonment and/or fines, and may be required to pay the victim damages for any loss suffered as a result of the detrimental action. Taking detrimental action in reprisal is also a breach of the Council's Code of Conduct which may result in *disciplinary action*. In the case of Councillors, such disciplinary action may be taken under the misconduct provisions of the *Local Government Act 1993* and may include suspension or disqualification from civic office.

It is important for staff and Councillors to understand the nature and limitations of the protection provided by the PID Act. The PID Act protects reporters from detrimental action being taken against them because they have made, or are believed to have made, a public interest disclosure. It does not protect reporters from disciplinary or other management action where the *Council* has reasonable grounds to take such action.

15.1. Responding to allegations of reprisal

If you believe that detrimental action has been or is being taken against you or someone else in reprisal for reporting wrongdoing, you should tell your supervisor, a Disclosures Coordinator or the General Manager immediately. In the case of an allegation of reprisal by the general manager, you can alternatively report this to the Mayor.

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

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

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

If you allege reprisal, you will be kept informed of the progress and outcome of any investigation or other action taken in response to your allegation.

If you have reported wrongdoing and are experiencing reprisal which you believe is not being dealt with effectively, contact the Office of Local Government, the Ombudsman or the ICAC (depending on the type of wrongdoing you reported). Contact details for these investigating authorities are included at the end of this policy.

15.2. Protection against legal action

If you make a public interest disclosure in accordance with the PID Act, you will not be subject to any liability, and no action, claim or demand can be taken against you for having made the public interest disclosure. You will not have breached any confidentiality or secrecy obligations and you will have the defence of absolute privilege in defamation.

16. Support for those reporting wrongdoing

Randwick City Council will make sure that staff who have reported wrongdoing, regardless of whether their report is treated as a public interest disclosure, are provided with access to any professional support they may need as a result of the reporting process – such as stress management or counselling services.

Access to support may also be available for other staff involved in the internal reporting process where appropriate. Reporters and other staff involved in the process can discuss their support options with a Disclosures Coordinator.

Randwick City Council offers a free Employee Assistance Program for support and/ or counselling for workplace and personal issues. The service is by qualified professionals. The telephone freecall is **1800 337 068**. More information about this program and tips to stay healthy are on Simeon on our “[Health and Wellbeing](#)” page. You can also find the “[Employee assistance program policy](#)” on Simeon.

17. Sanctions for making false or misleading statements

It is important all staff and Councillors are aware that it is a criminal offence under the PID Act to wilfully make a false or misleading statement when reporting wrongdoing. Randwick City Council will not support staff or Councillors who wilfully make false or misleading reports. Such conduct may also be a breach of the Code of Conduct resulting in disciplinary action. In the case of Councillors, disciplinary action may be taken under the misconduct provisions of the *Local Government Act 1993* and may include suspension or disqualification from civic office.

Note: Staff investigations arising from a complaint made in accordance with this Policy will be undertaken in accordance with the [Data Collection for Staff Investigations](#) procedure.

18. The rights of persons the subject of a report

Randwick City Council is committed to ensuring staff or Councillors who are the subject of a report of wrongdoing are treated fairly and reasonably. This includes keeping the identity of any person the subject of a report confidential, where this is practical and appropriate.

If you are the subject of the report, you will be advised of the allegations made against you at an appropriate time and before any adverse findings. At this time you will be:

- advised of the details of the allegation
- advised of your rights and obligations under the relevant related policies and procedures
- kept informed about the progress of any investigation
- given a reasonable opportunity to respond to any allegation made against you
- told the outcome of any investigation, including any decision made about whether or not further action will be taken against you.

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

19. Review

This policy will be reviewed every two years.

20. The rights of persons the subject of a report

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

21. Resources

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

For disclosures about corrupt conduct:

Independent Commission Against Corruption (ICAC)

Phone: 02 8281 5999

Toll free: 1800 463 909

Tel. typewriter (TTY): 02 8281 5773

Facsimile: 02 9264 5364

Email: icac@icac.nsw.gov.au

Web: www.icac.nsw.gov.au

Address: Level 21, 133 Castlereagh Street, Sydney NSW 2000

For disclosures about maladministration:

NSW Ombudsman

Phone: 02 9286 1000

Toll free (outside Sydney metro): 1800 451 524

Tel. typewriter (TTY): 02 9264 8050

Facsimile: 02 9283 2911

Email: nswombo@ombo.nsw.gov.au

Web: www.ombo.nsw.gov.au

Address: Level 24, 580 George Street, Sydney NSW 2000

For disclosures about breaches of the GIPA Act:

Information & Privacy Commissioner

Toll free: 1800 472 679

Facsimile: 02 8114 3756

Email: ipcinfo@ipc.nsw.gov.au

Web: www.ipc.nsw.gov.au

Address: Level 11, 1 Castlereagh Street, Sydney NSW 2000

For disclosures about local Councils:

Office of Local Government

Phone: 02 4428 4100

Tel. typewriter (TTY): 02 4428 4209

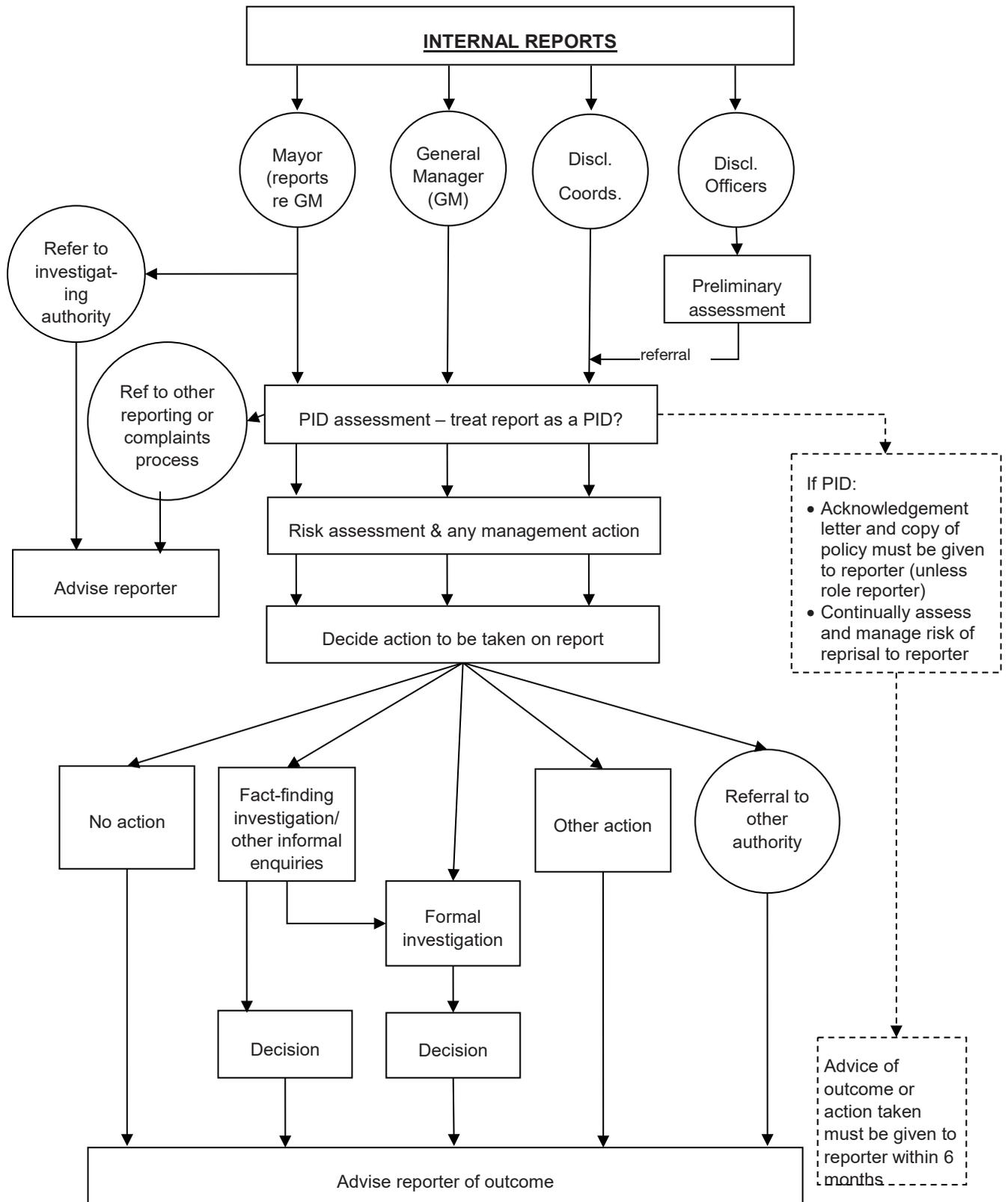
Facsimile: 02 4428 4199

Email: olg@olg.nsw.gov.au

Web: www.olg.nsw.gov.au

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

A. Flowchart of internal reporting process



B. Template – Internal report form

To be completed by an internal reporter and submitted to a nominated disclosures officer

Details of reporter <i>(You can make an anonymous report by leaving this section blank)</i>			
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"> • <i>What happened?</i> • <i>Where did this happen?</i> • <i>When did this happen?</i> • <i>Is it still happening?</i> <i>[Attach an additional page if required]</i>			
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"/>
			<input type="checkbox"/>
			<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

(Do not sign if you want to make an anonymous report)

Date report submitted

(Essential information)

C. Checklist – Initial assessment of internal report

To be completed by a nominated disclosures officer

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

<p>_____</p> <p>Signature of nominated disclosures officer</p> <p>Date:</p>	<p>If no, the following steps will be taken:</p> <p><input type="checkbox"/> Referred to:</p> <p>For:</p> <p>Date referred:</p> <p><input type="checkbox"/> Complainant notified.</p> <p>Date notified:</p>
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D. Checklist – Assessment of an internal report against the criteria in the PID Act

To be completed by the disclosures coordinator

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

Further comments

- The PID assessment should be based on the content of the disclosure, not the outcome of any investigation.
- An internal reporter does not have to explicitly indicate that they are making a PID or ask to be protected.
- If in doubt, err on the side of caution and interpret the PID Act broadly – i.e. assume that the PID Act applies and proceed accordingly.
- For further advice, please refer to the NSW Ombudsman's PID Guidelines at www.ombo.nsw.gov.au or contact the NSW Ombudsman PID Unit on pid@ombo.nsw.gov.au or 02 9286 1000.

Assessment

Based on this assessment, should the report be treated as a Public Interest Disclosure?

Yes No

If **yes**, was the PID made:

- incidental to the performance of reporter's day-to-day functions,
 under a statutory or other legal obligation on the reporter,
 otherwise.

Signature of disclosures coordinator

Date:

If **yes**, the following steps will be taken:

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

Reasons for decision

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