

PUBLIC INTEREST  
DISCLOSURES  
INTERNAL REPORTING

ES150



NARRANDERA SHIRE COUNCIL

Narrandera Shire Council  
141 East Street  
NARRANDERA NSW 2700  
Tel: 02 6959 5510 Fax: 02 6959 1884  
Email: [council@narrandera.nsw.gov.au](mailto:council@narrandera.nsw.gov.au)

## INTERNAL REPORTING

<b>Policy No:</b>	<b>ES150</b>
<b>Policy Title:</b>	<b>Public Interest Disclosures – Internal Reporting</b>
<b>Section Responsible:</b>	<b>Executive Services</b>
<b>Minute No:</b>	<b>11/209</b>
<b>MagiQ No:</b>	<b>8374</b>
<b>Next Review Date:</b>	<b>Every two years</b>

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### 1. Purpose and context of the policy

The Narrandera Shire Council is committed to protecting staff who report wrongdoing in the work place. Some reports of wrongdoing may be classified as “protected disclosures” under the Public Disclosures Act 1994 (PID Act). This policy specifically addresses those types of reports.

Other reports of wrongdoing may not meet the definition of “protected disclosures”, however the Narrandera Shire Council supports and encourages such reports as Council does not condone or tolerate wrongdoing in the workplace.

In addition to this policy, staff and Councillors should refer to the Council’s Code of Conduct, Business Ethics, Complaints Management, Grievance and Dispute Handling, Disciplinary, Volunteers, EEO, WHS Policies as this sets out expected and required standards of conduct and behaviour. External references include Ombudsman Act, Public Interest Disclosure Act, 1994, ICAC Act 1988, GIPA 2009 AND Local Government Act, 1993.

The purpose of the PID Act is:

- To encourage and facilitate the disclosure, in the public interest, of corrupt conduct, maladministration and serious and substantial waste in the public sector; and
- To ensure that any public official who wishes to make a disclosure receives legal protection from reprisals, and that the matters in any disclosure are properly investigated.

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 Narrandera Shire Council, what can be reported and how reports of wrongdoing will be dealt with by Narrandera Shire 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*).

The internal reporting system established under this policy is not intended to be used for staff grievances, which should be raised through the Grievance and Dispute Handling, a copy of which is available on the Intranet. If a staff member makes a report under this policy which is substantially a grievance, the matter will be referred to Human Resources.

## **2. Scope**

This policy and the associated procedure are based on the NSW Ombudsman's Guidelines July 2013. The policy applies to all Council Officers, Councillors, members of staff including permanent and temporary employees, full-time, part-time and casual employees, consultants, volunteers, individual contractors working for Council and external members of Council Committees.

It is designed to complement normal communication channels between supervisors and staff. It is not intended that all issues must be raised as public interest disclosures rather than an option to do so is clearly available.

## **3. Organisational commitment**

For Council to be able to deal effectively with reports of wrongdoing, it must have the right culture. Narrandera Shire Council will:

- create a climate of trust, where staff/Councillors are comfortable and confident about reporting wrongdoing.

- encourage staff/Councillors to come forward if they have witnessed what they consider to be wrongdoing within the Council.

- keep the identity of the staff/Councillor member disclosing wrongdoing confidential, wherever possible and appropriate.

- protect staff/Councillors who make disclosures from any adverse action motivated by their report.

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

- keep complainants who make reports informed of their progress and the outcome.

encourage staff/Councillors to report wrongdoing within the Council, but respecting any decision to disclose wrongdoing outside the Council – provided that disclosure outside the Council is made in accordance with the provisions of the PID Act.

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.

provide adequate resources, both financial and human, 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 create
- correct any problem that is identified

reassess/review the policy every two (2) years to ensure it is still relevant and effective.

The council has an internal reporting policy.

#### **4. 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 Narrandera Shire Council
- employees of contractors providing services to Narrandera Shire 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 Narrandera Shire Council.

#### **5. 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 Narrandera Shire Council's code of conduct. A breach of the code could result in disciplinary action.

#### b. The role of the Narrandera Shire Council

The Narrandera Shire 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.

The Narrandera Shire Council will assess all reports of wrongdoing it receives from staff and councillors and deal with them appropriately. Once wrongdoing has been reported, the Narrandera Shire 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. The Narrandera Shire Council will deal with all reports of wrongdoing fairly and reasonably, and respect the rights of any person the subject of a report.

The Narrandera Shire 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 the Narrandera Shire 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.

#### c. Roles of key positions

##### Chief Executive Officer

The Chief Executive Officer (CEO) has ultimate responsibility for maintaining the internal reporting system and workplace reporting culture, and ensuring the Narrandera Shire **Council** complies with the PID Act. The CEO 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 coordinator

The disclosures coordinator, being the Deputy GM Corporate and Community, has a central role in the Narrandera Shire Council's internal reporting system. The disclosures coordinator can receive and assess reports, and is the primary point of contact in the Narrandera Shire Council for the reporter.

The disclosures coordinator has a responsibility to:

- assess reports to determine whether or not a report should be treated as a public interest disclosure, and to decide how each report will be dealt with (either under delegation or in consultation with the CEO).
- deal with reports made under the council's code of conduct in accordance with the council's adopted code of conduct procedures.
- coordinate the Narrandera Shire 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 the Narrandera Shire 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, who are the Executive Officer and Human Resources Officer, are additional points of contact within the internal reporting system. They can provide advice about the system and the internal reporting policy, receive reports of wrongdoing and assist staff and councillors to make reports.

Disclosures officers have a responsibility to:

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

### Mayor

The Mayor can receive reports from staff and councillors about the CEO.

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.

### Supervisors and line managers

Supervisors and line managers play an important role in managing the immediate workplace of those involved in or affected by the internal reporting process. Supervisors and line managers should be aware of 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 coordinator, to minimise the risk of reprisal or workplace conflict in relation to a report.
- notify the disclosures coordinator or CEO 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 CEO, notify the Mayor.

## **6. What should be reported?**

Council staff should report any wrongdoing they see within the Narrandera Shire Council. Reports about the five categories of serious wrongdoing – corrupt conduct,

maladministration, serious and substantial waste of public money, breach of 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 as protected disclosures and according to this policy. See below for details about these types of conduct. More information about what can be said under PID Act can be found in the NSW Ombudsman's Guidelines B2: What should be reported?

All other wrongdoing or suspected wrongdoing should be reported to a supervisor, or other senior manager, 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, the [name of 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.

All Human Resources and Work Health and Safety policies can be located on the Intranet (Fridge).

#### **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.
- a council official being influenced by a member of the public influencing or trying to use their position in a way that is dishonest, biased or breaches public trust.

For more information about corrupt conduct, see the NSW Ombudsman's guideline on what can 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 someone a licence for reasons that are not related to the merits of their application.

For more information about maladministration, see the NSW Ombudsman's guideline on what can 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:

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

For more information about serious and substantial waste, see the NSW Ombudsman's guideline on what can be reported.

### **d. Breach of the GIP Act**

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

For example, this could include:

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

For more information about government information contravention, see the NSW Ombudsman's guideline on what can be reported.

### **e. 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.

## **f. Other wrongdoing**

Although reports about the previous four 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 Narrandera Shire's policies.

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

## **7. When will a report be protected?**

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

- The person making the disclosure must honestly believe on reasonable grounds that the information shows or tends to show wrongdoing.
- The report has to be made to one or more of the following:
  - a position nominated in this policy – see section 9 (b), (c) & (d) below
  - the CEO
  - one of the investigating authorities nominated in the PID Act – see section 10 below

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

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

## **8. 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 CEO 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.

## **9. When will a report be treated as a public interest disclosure?**

The Narrandera Shire 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 CEO or, for reports about the CEO 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).

## **10 How to make a report**

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

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

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

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

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

It is important to realise that an anonymous disclosure may not prevent a person from being identified. If Council's Disclosure Officers do not know who made the report, it is very difficult for them to prevent any reprisal action.

## **12 Maintaining confidentiality**

Narrandera Shire 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 the disclosures coordinator and the CEO, or in the case of a report about the CEO, the disclosures coordinator and the Mayor. The fewer people who know about your report, before and after you make it, the more likely it will be that 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.

## **13 Who can receive a report within the Narrandera Shire Council**

Council staff are encouraged to report general wrongdoing to their supervisor. However, the PID Act requires that – for a report to be a protected disclosure – it must be made to a public official in accordance with the Council's disclosure procedures. For the Narrandera Shire Council, this means this policy and any supporting procedures.

Any Council supervisor who receives a report that they believe may be a protected disclosure must refer the staff member making the report to one of the positions listed below. .

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

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

### **a. CEO**

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

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

The CEO must make sure there are systems in place in the Narrandera Shire Council to support and protect staff who report wrongdoing. The CEO is also responsible for referring actual or suspected corrupt conduct to the Independent Commission against Corruption. The CEO can be contacted on telephone 6959 5500.

#### **b. Mayor**

If a member of staff or a Councillor is making a report about the CEO, the report should be made to the Mayor. The Mayor is responsible for:

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

The Mayor must make sure there are systems in place in the Narrandera Shire Council/ to support and protect staff who report wrongdoing. The Mayor can be contacted on telephone 6959 5506 or through the CEO's Personal Assistant.

If the report is about the CEO, the Mayor is also responsible for referring actual or suspected corrupt conduct to the Independent Commission against Corruption.

#### **c. Disclosures Coordinator**

The Disclosures Coordinator has a central role in dealing with reports made by staff. The Disclosure's Coordinator receives them, assesses them, and refers them to the people within the Narrandera Shire Council who can deal with them appropriately.

The Disclosures Coordinator is the Deputy GM Corporate and Community, and may be contacted on telephone 6959 5511.

#### **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 this policy.

The Disclosures Officers are the Executive Officer and Human Resources Officer and can be contacted on telephone 6959 5502 and 6959 5535.

### **14 Who can receive a report outside of the Narrandera Shire Council**

Staff are encouraged to report wrongdoing within the Narrandera Shire Council, but internal reporting is not their only option. The guidance below provides details on how a report can still be a protected disclosure.

Members of Council staff can choose to make their report to an investigating authority either initially, or at any stage after an initial report to the *Narrandera Shire Council*. If the report is about the CEO or the Mayor, the staff member should consider making it to an investigating authority.

Members of Council staff can also choose to make a report to a Member of Parliament or a journalist, but only in limited circumstances.

#### **a. Investigating authorities**

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

In relation to Council, these authorities are:

- the Independent Commission Against Corruption (ICAC) — for corrupt conduct
- the Ombudsman — for maladministration
- the Information Commissioner — for disclosures about a breach of the GIPA Act.
- the Office of Local Government – for disclosures about local council.

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

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

#### **b. Members of Parliament or journalists**

To have the protections of the PID Act, Council 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 CEO
- a person nominated in this policy, including the Mayor for reports about the CEO.
- an investigating authority in accordance with the PID Act.

Also, the Narrandera Shire Council or investigating authority that received the report must have either:

- decided not to investigate the matter

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

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

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

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

### **c. 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 the *Narrandera Shire Council*, contact the disclosures coordinator or the NSW Ombudsman's Public Interest Disclosures Unit. Their contact details are provided at the end of this policy.

## **15 Feedback to Council staff who report wrongdoing**

Council staff who report wrongdoing will be told what is happening in response to their report.

### **Acknowledgement**

When you make a report, you will be given:

- an acknowledgement that a disclosure has been received
- the timeframe for when they will receive further updates
- the name and contact details of the people who can tell them what is happening **or** handle any concerns you may have.

This information will be given to member of Council staff within two working days from the date the report is made.

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

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

This information will be given to you within 10 working days from when you made the 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 copy of this policy.

### **Progress updates**

During any investigation, Council staff making a disclosure will be given:

- information on the ongoing nature of the investigation.
- information about the progress of the investigation and reasons for any delay.
- Advice of any decision by the Narrandera Shire Council not to proceed with the matter.
- advice if the identity of any member of Council staff needs to be disclosed for the purposes of investigating the matter, and an opportunity to talk about this.

### **Feedback**

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

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

## **16 Managing the risk of reprisal and workplace conflict**

When a staff member or councillor reports wrongdoing, the *Narrandera Shire 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, the Narrandera Shire 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.

## **17 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 protected disclosure.

The *Council* will not tolerate any reprisal action against Council staff who report wrongdoing. The criminal penalties that can be imposed include imprisonment or fines. Detrimental action is also misconduct that justifies disciplinary action. Council staff who takes 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 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 *Narrandera Shire Council* has reasonable grounds to take such action.

## **a. Responding to reprisals**

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

All supervisors must notify the disclosures coordinator or the CEO 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 CEO, the Mayor can alternatively be notified.

If the *Narrandera Shire Council* becomes aware of or suspects that reprisal is being or has been taken against a person who has made a disclosure, the *Narrandera Shire 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 (reprisal action) by a councillor or the CEO 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.

## **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 ~~they~~ **you** will have the defence of absolute privilege in defamation.

## **18 Support for those reporting wrongdoing**

Narrandera Shire Council will make sure that Council staff who have reported wrongdoing, regardless of whether they have made a protected disclosure, are provided with access to

any professional support they may need as a result of the reporting process – such as stress management, counselling services, legal or career advice.

Council has staff who will support those who report wrongdoing. They are responsible for initiating and coordinating support, particularly to those who are suffering any form of reprisal. Council's Human Resources Officer can be contacted on telephone **6959 5535**.

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

## **19 Sanctions for making false or misleading disclosures**

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

## **20 The rights of persons the subject of a report**

The *Narrandera Shire 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 Narrandera Shire Council. The fact of the allegations and any investigation will be kept confidential unless otherwise agreed to by the subject officer.

## 21 Review

This policy will be reviewed by Council every ~~eighteen months~~ **two (2) years**. For any advice or guidance about this review, contact the NSW Ombudsman's Public Interest Disclosures Unit.

## 22 More information

Members of Council staff and Councillors can access further advice and guidance from the disclosures coordinator and the NSW Ombudsman's website at [www.ombo.nsw.gov.au](http://www.ombo.nsw.gov.au).

## 23 Resources

The contact details for external investigating authorities that members of Council staff can make a protected disclosure to or seek advice from are listed below.

### For disclosures about corrupt conduct:

Independent Commission Against Corruption (ICAC)  
Phone: 02 8281 5999  
Toll free: 1800 463 909  
Tel. typewriter (TTY): 02 8281 5773  
Facsimile: 02 9264 5364  
Email: [icac@icac.nsw.gov.au](mailto:icac@icac.nsw.gov.au)  
Web: [www.icac.nsw.gov.au](http://www.icac.nsw.gov.au)  
Address: Level 21, 133 Castlereagh 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: [mail@audit.nsw.gov.au](mailto:mail@audit.nsw.gov.au)  
Web: [www.audit.nsw.gov.au](http://www.audit.nsw.gov.au)  
Address: Level 15, 1 Margaret Street, Sydney NSW 2000

### For disclosures about maladministration:

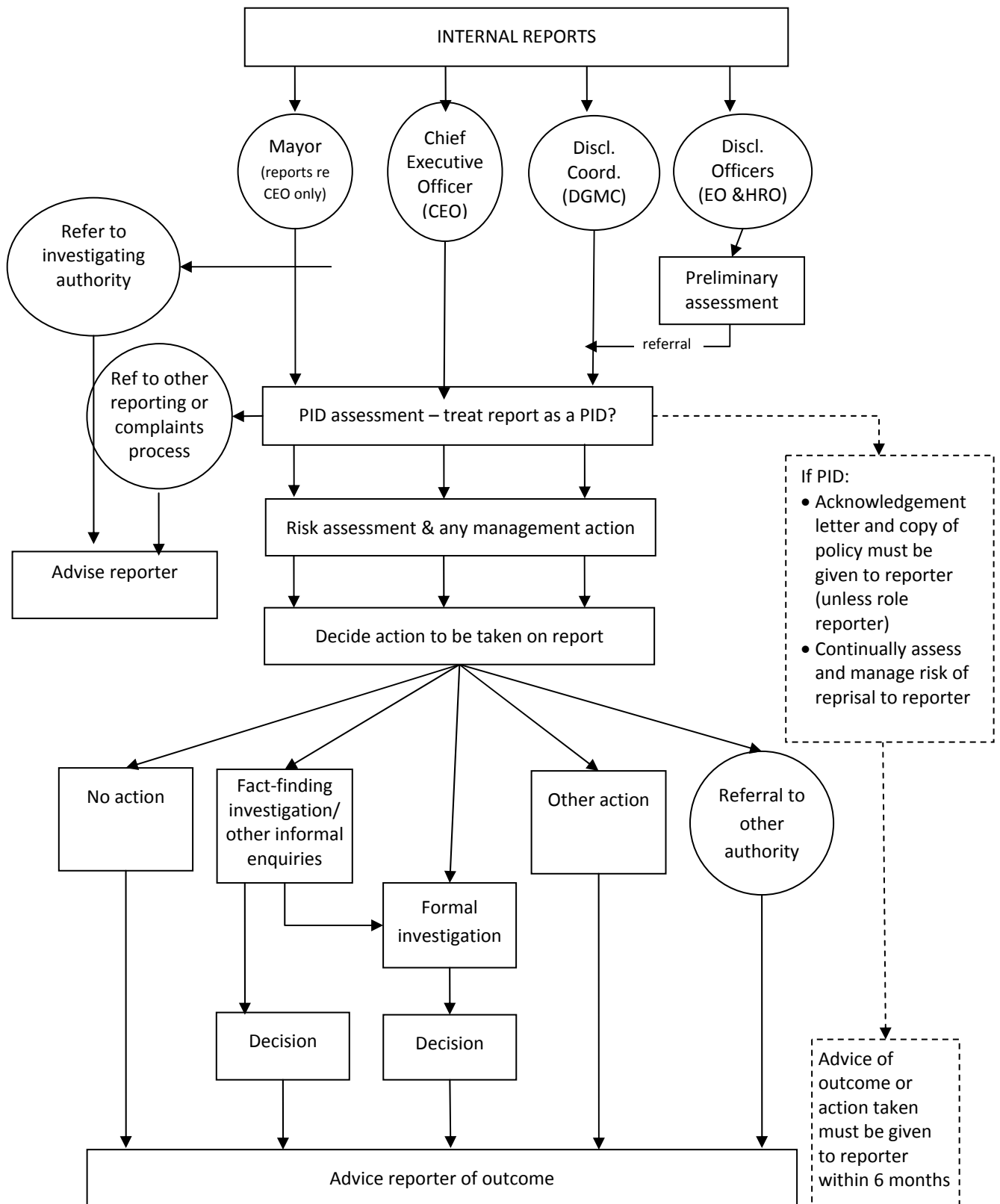
NSW Ombudsman  
Phone: 02 9286 1000  
Toll free (outside Sydney metro): 1800 451 524  
Tel. typewriter (TTY): 02 9264 8050  
Facsimile: 02 9283 2911  
Email: [nswombo@ombo.nsw.gov.au](mailto:nswombo@ombo.nsw.gov.au)  
Web: [www.ombo.nsw.gov.au](http://www.ombo.nsw.gov.au)  
Address: Level 24, 580 George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

For disclosures about local councils: Office of Local Government in the Department of Premier and Cabinet  
Phone: 02 4428 4100  
Tel. typewriter (TTY): 02 4428 4209  
Facsimile: 02 4428 4199  
Email: [dlg@dlg.nsw.gov.au](mailto:dlg@dlg.nsw.gov.au)  
Web: [www.dlg.nsw.gov.au](http://www.dlg.nsw.gov.au)  
Address: 5 O'Keefe Avenue, Nowra, NSW 2541

For disclosures about breaches of the GIPA Act:  
Information Commissioner  
Toll free: 1800 472 679  
Facsimile: 02 8114 3756  
EMAIL: [ipcino@ipc.nsw.gov.au](mailto:ipcino@ipc.nsw.gov.au)  
Web: [www.ipc.nsw.gov.au](http://www.ipc.nsw.gov.au)  
Address: Level 11, 1 Castlereagh Street, Sydney NSW 2000

# Attachment A

## INTERNAL REPORTING (PROTECTED DISCLOSURES) SYSTEM



## **Attachment B**

### Summary of Narrandera Shire Council's Ethical Governance – Internal Reporting (Protected Disclosures) Policy

Narrandera Shire Council does not tolerate corrupt conduct, maladministration or serious and substantial waste of public money.

Council is committed to the aims and objectives of the Public Interest Disclosures Act 1994. Council appreciates the value and importance of contributions from members of Council staff so as to improve administrative and management practices. Accordingly, Council strongly supports disclosures being made by members of Council staff which disclose corrupt conduct, maladministration, or serious and substantial waste.

#### **1. What is Protected Disclosure?**

Protection is available under the Public Interest Disclosures Act to public officials who voluntarily disclose information which shows or tends to show corruption, maladministration or serious and substantial waste of public money by a public authority or public official (refer to Policy for a more detailed description of these areas).

#### **2. Who can receive a Protected Disclosure?**

To be protected by the Public Interest Disclosures Act, a disclosure must be made by a member of Council staff or by a Councillor or a Council Contractor to the:

Disclosures Co-ordinator:

Deputy GM Corporate & Community – Ph 6959 5511

Disclosures Officers:

Executive Officer – Ph 6959 5502

Human Resources Officer – Ph 6959 5535

CEO – 6959 5500

Mayor – 6959 5506

NSW Ombudsman – Ph 9826 1000

Division of Local Government – Ph 4428 4100

Independent Commission Against Corruption – Ph 8281 5999

Information Commissioner Ph 1800 472 679

### **3. What protection is available?**

The Public Interest Disclosures Act provides protection by imposing penalties, including fines and imprisonments, on persons who take detrimental action against another person in reprisal for a protected disclosure. 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 or disciplinary proceedings.

A disclosure is not protected if:

- It is made frivolously or vexatiously (although all disclosures must be investigated);
- It is made to avoid disciplinary action; or
- It primarily questions the merits of a government policy.

### **4. What happens to the information provided?**

The flowchart attached to this information sheet shows how a protected disclosure is dealt with after it has been made under the Internal Reporting Policy of Council. The flowchart provides an understanding of each step in the process.

The disclosure will be assessed by a Senior Officer of Council to determine whether it appears that the Public Interest Disclosures Act applies to the disclosure, and the appropriate action to be taken.

The disclosure may be internally investigated by a Senior Officer, or referred to ICAC, the NSW Ombudsman, the NSW Police, the Information Commissioner or the Division of Local Government (as appropriate) for investigation or other action.

The CEO will determine the appropriate action to be taken as a consequence of any investigation that may be undertaken as a result of a disclosure. Any person who makes a disclosure will be notified within six months of the disclosure being made about the action taken or proposed in respect of his or her disclosure.

Any person who makes a disclosure and any Officer the subject of a disclosure will be advised of the outcome of any internal investigation.

## **5. Confidentiality**

The identity of any person making a disclosure will be kept confidential by the member of Council staff responsible for dealing with the disclosure, except under the following circumstances:

- Where the person, himself or herself, discloses the information: or
- The person consents (in writing) to the release of his or her name: or
- It is essential, having regard to the principles of natural justice, that the identifying information should be disclosed to a person whom the disclosures concerns; or
- It is necessary to do so to investigate the matter effectively; or
- Release of the information is necessary in the public interest.

Decisions about fairness, effective investigation and public interest will be made by the Disclosure Co-ordinator, CEO or Mayor, as appropriate. In all cases, the person who made the disclosure will be consulted about the matter.

## **ATTACHMENT C**

# **Internal Report Form**



**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"> <li>• <i>What happened?</i></li> <li>• <i>Where did this happen?</i></li> <li>• <i>When did this happen?</i></li> <li>• <i>Is it still happening?</i></li> <li>• <i>[Attach an additional page if required]</i></li> </ul>	

How did you become aware of this?	
-----------------------------------	--

Name and position of people involved in the wrongdoing:	<b>Name</b>	<b>Position</b>

Attach any additional relevant information or indicate where supporting evidence may be found:	<b>Supporting evidence</b>	<b>Attached</b>
		<input type="checkbox"/>
		<input type="checkbox"/>

Name and position of other people who may have additional information:	<b>Name</b>	<b>Position</b>

**Statement**

I honestly believe that the above information shows or tends to show wrongdoing.	Date report submitted ( <i>Essential information</i> )
Signature of reporter ..... (Do not sign if you want to make an anonymous report)	

**Variation**

**Council reserves the right to review, vary or revoke this policy.**

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**Policy History**

Adopted by ELT	24 November 2014
Adopted	29 April 1997
Reviewed	25 March 2002
Amended	24 July 2007
Reviewed/Amended	21 April 2009
Reviewed/Amended	23 April 2011
Reviewed/Amended	16 August 2011
Reviewed/Amended	10 December 2014

Signed: Chief Executive Officer 

Date: 16 December 2014