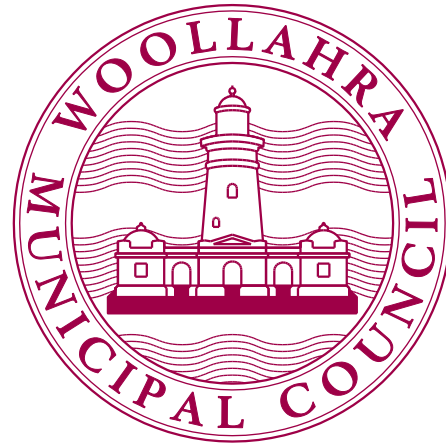




# 2011/2012 Annual Report

**Part 10 Public Interest Disclosure Annual Report**



# Woollahra Municipal Council Public Interest Disclosures Act

## Annual Report January - June 2012

## Background

Following amendments to the Public Interest Disclosures Act 1994 (*PID Act*) in March 2011, Council is required to report annually on its obligations under the *PID Act*. The first report is due for the period 1 January to 30 June 2012.

The report must be in accordance with the requirements of section 31 of the *PID Act* and clause 4 of the Public Interest Disclosures Regulation 2011 (*PID Regulation*).

This report is Council's first *PID Act Annual Report* and is for the period January to June 2012.

## Statistical information on Public Interest Disclosures (clause 4(a)-(c) - PID Regulation)

Information, in the detail required by clause 4(a) – (c) of the PID Regulation, is shown on the following Table.

	Jan 2012 – June 2012
Number of public officials who made PIDs	0
Number of PIDs received	0
Of PIDs received, number primarily about:	
Corrupt conduct	0
Maladministration	0
Serious and substantial waste	0
Government information contravention	0
Local government pecuniary interest contravention	0
Number of PIDs finalised	0

## Public Interest Disclosures Policy (clause 4(d) - PID Regulation)

Council adopted a Public Interest Disclosures Internal Reporting Policy and Internal Reporting System in September 2011 and amended the Policy and Internal Reporting System in October 2011 following amendments to the *PID Act*.

A copy of Council's Public Interest Disclosures Internal Reporting Policy and Internal Reporting System is attached as an annexure to this Report.

## Staff awareness of Public Interest Disclosures Policy (clause 4(e) - PID Regulation)

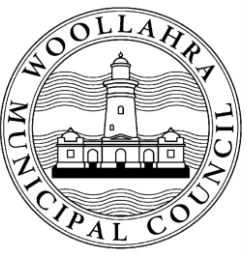
During the reporting period, Council undertook the following actions to meet its staff awareness obligations:

- Information on public interest disclosures included in Council's *Employee Manual*,
- Training and a copy of the *Policy and Internal Reporting System* provided to new staff during induction,
- The *Policy and Internal Reporting System* was available on Council's internal *Procedures Database* and *Website*,
- *Internal Reporting Systems* brochure developed for distribution to staff.

Annexure:

Public Interest Disclosures Internal Reporting Policy and Internal Reporting System

# **Public Interest Disclosures Internal Reporting Policy**



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## Internal Reporting Policy

### (Public Interest Disclosures Act, 1994)

#### 1. Purpose and context of the policy

The purpose of the *Public Interest Disclosures Act, 1994* (the PID Act) commonly known as the "Whistleblowers Act" is to ensure that staff who make disclosures under the legislation receive protection from reprisals, and that the matters raised in the disclosures are properly investigated.

The Act aims to encourage and facilitate the disclosure, in the public interest, of corrupt conduct, maladministration, serious and substantial waste, and government information contravention in the public sector.

This is achieved by:

- Enhancing and augmenting established procedures for making disclosures concerning such matters.
- Protecting people from reprisals that might otherwise be inflicted on them because of these disclosures.
- Providing for disclosures to be properly investigated and dealt with.

This document provides the procedures for the reporting and handling of public interest disclosures within Woollahra Council. It contains information staff and Councillors may need in relation to the following:

- Definitions of wrongdoing capable of being the subject of a public interest disclosure, namely "corrupt conduct", "maladministration", "serious and substantial waste" or "government information contravention".
- What disclosures are protected and which are not protected under the PID Act.
- Who can receive public interest disclosures within the Council and what their responsibilities are.
- Who are the external investigation authorities that can receive a public interest disclosure.
- Other provisions of the PID Act.
- How a public interest disclosure will be dealt with by Council.

This internal reporting policy should be read in conjunction with the Council's *Code of Conduct* and *Complaints Management Policy* as well as the other reference items listed in section 19 below.

In relation to reporting wrongdoing or ethical issues which do not fall within the parameters of the PID Act, staff and Councillors should follow the existing protocols for reporting matters to their Director or the General Manager.

Consultants, individual contractors working for Council and volunteers can report wrongdoing or ethical issues which do not fall within the parameters of the PID Act through Council's Code of Conduct and Complaints Management Policy provisions.

Staff or Councillors who require more detailed information about the PID Act than is contained in this document should contact the General Manager or the Disclosures Coordinator (Manager Governance) for advice.

Public officials who report wrongdoing (whistleblowers) can play an important role in organisational accountability by bringing wrongdoing to the attention of those who can effect change. The protection of whistleblowers is fundamental to the implementation of the Act and to organisational integrity. Legislative provisions are however insufficient on their own to either protect or encourage whistleblowing. An organisation-wide commitment to protecting and respecting whistleblowers and dealing properly with valid disclosures is essential.

Implementation of this internal reporting policy will, as a minimum:

- Confirm that the Council and the General Manager do not tolerate corrupt conduct, maladministration, serious and substantial waste of public money or government information contravention.
- Confirm that the Council and the General Manager recognise the value and importance of individual staff contributions to high standards of administrative and management practices and strongly supports reporting of corrupt conduct, maladministration, serious and substantial waste of public money or government information contravention.
- State that while opportunities for reporting outside the Council are legal and valid, the Council is committed to developing a system for reporting within Council wherever possible so that management is given an opportunity to remediate a problem in the first instance.
- Commit Council to an effective response to internal disclosures in a way that will protect the identity of the whistleblower, wherever possible and appropriate.
- Establish procedures for protecting whistleblowers against reprisals for making a disclosure, and
- Supplement 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.



## 2. Organisational commitment

We have a total commitment to providing services to the community of Woollahra in an ethical and accountable manner. Corrupt conduct, maladministration, serious and substantial waste of public money, government information contravention and other wrongdoing will not be tolerated.

The provisions of the PID Act are intended to support accountability and ethical conduct by encouraging and facilitating the disclosure in the public interest of the above.

Woollahra Council has a strong commitment to:

- creating a climate of trust, where staff are comfortable and confident about reporting wrongdoing, underpinned through the adoption and promotion of a clear set of corporate values
- encouraging staff to come forward if they have witnessed what they consider to be wrongdoing within the Council
- keeping the identity of the staff member disclosing wrongdoing confidential, wherever possible and appropriate
- protecting staff who make disclosures from any adverse action motivated by their report
- dealing with reports thoroughly and impartially and if some form of wrongdoing has been found, taking appropriate action to rectify it
- keeping staff who make reports informed of their progress and the outcome
- encouraging staff 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
- ensuring 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
- providing adequate resources, both financial and human, to:
  - encourage reports of wrongdoing
  - protect and support those who make them
  - provide training for key personnel
  - investigate allegations
  - properly manage any workplace issues that the allegations identify or create
  - correct any problem that is identified
  - reassess/review the policy each year to ensure it is still relevant and effective.

Councillors and staff are encouraged to observe their duty to report all forms of wrongdoing and we will fully support any staff member or Councillor who wishes to utilize the PID Act to make disclosures within the parameters of the Act.

- Note: Under the PID Act, the General Manager as the head of a public authority is responsible for ensuring that:
- the public authority has an internal reporting policy
  - the staff of the public authority are aware of the contents of the policy and the protection under the PID Act for people making public interest disclosures
  - the public authority complies with the policy and the authorities obligations under the PID Act, and
  - the policy delegates at least one staff member as being responsible for receiving public interest disclosures – the Ombudsman would advise organisations to provide more than one person with such responsibilities.

Councillor Susan Wynne  
Mayor

Gary James  
General Manager

### 3. Roles and responsibilities of staff

Under the PID Act public officials may make public interest disclosures. This includes public servants, Council employees, Councillors, MPs, and any other persons who have public official functions or act in a public official capacity.

This policy will apply to people who perform public official functions for Council and include:

- Council staff and councillors
- Permanent employee (both full-time or part-time)
- Temporary and casual staff
- Consultants
- Individual contractors working for Council
- Volunteers

A public official may make a public interest disclosure about a NSW agency (including a Council) even if that person has never been or is no longer employed by that agency or Council.

For example, a member of Council staff can make a disclosure about a staff member of another government agency if the Council staff member has information that shows or tends to show the staff member was involved in corrupt conduct, maladministration, serious or substantial waste or government information contravention. The Council staff member can make the disclosure to their own organisation, to the organisation to which their report relates or to a relevant investigating authority in accordance with that organisation's procedures.

All staff of Woollahra Council are encouraged to report known and suspected incidences of corrupt conduct, maladministration, serious and substantial waste of public money or government information contravention and other wrongdoing in accordance with this policy and reporting system.

Staff are also encouraged to support those who have made disclosures, as well as protect and maintain their confidentiality. They must not victimize or harass anyone who has made a disclosure.

Staff are reminded that this policy is just one of several relating to conduct, grievances and complaints, details of which appear in Section 19 below and which can be accessed through Council's Procedures Database or HR Central.

The roles and responsibilities of Council staff and Council Officers who can receive a public interest disclosure are detailed in Council's Internal Reporting System attached to this Policy.

#### 4. What should be reported

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

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

For more information about corrupt conduct, see the NSW Ombudsman's guideline on [what can be reported](#). A copy can be obtained from [www.ombo.nsw.gov.au](http://www.ombo.nsw.gov.au) or by contacting the disclosures coordinator.

##### **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
- awarding contracts and tenders to private parties that are related by family, friendship or association
- failing to make a decision in accordance with official policy for no appropriate reason
- issuing an order against a person without giving them procedural fairness

For more information about maladministration, see the NSW Ombudsman's guideline on [what can be reported](#). A copy can be obtained from [www.ombo.nsw.gov.au](http://www.ombo.nsw.gov.au) or by contacting the disclosures coordinator.

**c. *Serious and substantial waste in local government***

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

For example, this could include:

- poor project management practices leading to projects running over time and over budget
- having poor or no processes in place for a system involving large amounts of public funds
- misappropriation or misuse of public property
- the purchase of unnecessary or inadequate goods and services
- overstaffing of particular areas
- staff being remunerated for skills that they do not have, but are required to have under the terms or conditions of their employment
- programs not achieving their objectives and therefore the program's costs being clearly ineffective and inefficient.
- For more information about serious and substantial waste, see the NSW Ombudsman's guideline on what can be reported. A copy can be obtained from [www.ombo.nsw.gov.au](http://www.ombo.nsw.gov.au) or by contacting the disclosures coordinator.

**d. *Government information contravention***

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

For example, this could include:

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

For more information about government information contravention, see the NSW Ombudsman's guideline on what can be reported. A copy can be obtained from [www.ombo.nsw.gov.au](http://www.ombo.nsw.gov.au) or by contacting the disclosures coordinator.

**e. Local government pecuniary interest contravention**

*A local government pecuniary interest contravention is a failure to fulfil certain functions under the Local Government Act 1993 relating to the management of pecuniary interests. These include obligations to lodge disclosures of interests returns, lodge written declarations and disclose pecuniary interests at council and council committee meetings. A pecuniary interest is an interest that a person has in a matter because of a reasonable likelihood or expectation of a 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 general manager holding an undisclosed shareholding in a company competing for a council contract.*

*For more information about local government pecuniary interest contravention, see the NSW Ombudsman's guideline on what can be reported. A copy can be obtained from [www.ombo.nsw.gov.au](http://www.ombo.nsw.gov.au) or by contacting the disclosure coordinator.*

**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 Woollahra Council's policies. Council has a governance framework in place which provides polices on handling such things as grievance, disputes and harassment – these are listed in Section 19 below. You should refer to these policies for further information and guidance.

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

In addition to the above examples of wrongdoing that can be disclosed internally, breaches of pecuniary interest obligations under the Local Government Act can also be disclosed directly to the Chief Executive, Local Government, Department of Premier and Cabinet and receive the protections under the PID Act.

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

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

- the person making the disclosure must honestly believe on reasonable grounds that the information shows or tends to show wrongdoing.
- the report has to be made to one or more of the following:
  - a position nominated in this policy and reporting system — see section 9 below
  - the General Manager
  - 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 public interest disclosures if they:

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

## **6. How to make a report**

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

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

## **7. Can a report be anonymous?**

There will be some situations where you may not want to identify yourself when you make a report. Although these reports will still be dealt with by Woollahra 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 the outcome of any investigation into the allegations.

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

## **8. Maintaining confidentiality**

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

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

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

If you report wrongdoing, you should only discuss your report with those dealing with it. This will include the disclosures coordinator and the General Manager. If you discuss your report more broadly, you may affect the outcome of any investigation.

## **9. Who can receive a report within Woollahra Council**

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

Any supervisor who receives a report that they believe may be a public interest disclosure must refer the staff member making the report to one of the positions listed below. The broader responsibilities of these positions are outlined in Council's Internal Reporting System attached to this Policy.



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

The following positions are the only staff within Woollahra Council who can receive an internal public interest disclosure in accordance with the Act and this Policy and Reporting System:

**a. General Manager**

You can report wrongdoing directly to the General Manager. The General Manager is responsible for:

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

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

The General Manager is also responsible for referring actual or suspected corrupt conduct to the Independent Commission Against Corruption.

The General Manager may be contacted on 9391 7010.

**b. Mayor**

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

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

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

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

The Mayor may be contacted on 9391 7181.

**c. Disclosures coordinator**

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

The Disclosures Coordinator must also ensure that a copy of the Internal Reporting Policy and an acknowledgement, in writing, of the receipt of the disclosure is to be provided to a person who makes a public interest disclosure, within 45 days after the person makes the disclosure.

The Manager Governance may be contacted on 9391 7012.

**d. Disclosure officers**

Council has appointed the Directors and Managers as 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 and Internal Reporting System

**10. Who can receive a report outside of Woollahra Council?**

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

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

You 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 Division of Local Government, Department of Premier and Cabinet — for corrupt conduct, maladministration, serious and substantial waste in local government, government information contravention and local government pecuniary interest contraventions (reports about serious and substantial waste in State government agencies should be made to the Auditor General)
- the Information Commissioner — for disclosures about a government information contravention.

Other investigating authorities are:

- the Police Integrity Commission (PIC) — for police misconduct
- the PIC Inspector — for disclosures about the PIC or its staff
- the ICAC Inspector — for disclosures about the ICAC or its staff

You should contact the relevant authority for advice about how to make a disclosure to them. Contact details for each investigating authority are provided in Section 18 below.

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

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

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

- the General Manager
- a person nominated in this Policy and Reporting System
- an investigating authority in accordance with the PID Act.

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

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

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

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

For more information about reporting wrongdoing outside Woollahra Council, contact the Disclosures Coordinator or the NSW Ombudsman's Public Interest Disclosures Unit. See contact details in Section 18 below.

## **11. Feedback to staff who report wrongdoing**

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

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

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

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

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

This information will be given to you within 10 working days from the date you make your report.

During any investigation, you will be given:

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

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

- enough information to show that adequate and appropriate action was taken and/or is proposed to be taken in response to your disclosure and any problem that was identified,

- advice about whether you will be involved as a witness in any further matters, such as disciplinary or criminal proceedings.

## 12. Protection against reprisals

The PID Act provides protection for people reporting wrongdoing by imposing penalties on anyone who takes detrimental action substantially in reprisal for them making the public interest disclosure.

Woollahra Council will not tolerate any reprisal action against staff who report wrongdoing. The criminal penalties that can be imposed include imprisonment or fines. Detrimental action is also misconduct that justifies disciplinary action. People who take detrimental action against someone who has made a disclosure can also be required to pay damages for any loss suffered by that person.

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

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

### *a. Responding to reprisals*

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

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

If you believe that detrimental action has been or is being taken against you or someone else who has reported wrongdoing in reprisal for making a report, you should tell your supervisor, the Disclosures Coordinator or the General Manager immediately.

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

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

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

If you report reprisal action, you will be kept informed of the progress of any investigation and the outcome.

The General Manager may issue specific directions to help protect against reprisals. These may include:

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

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

If the allegation of reprisal action is about the General Manager, the Mayor should contact the Division of Local Government in the Department of Premier and Cabinet for advice on possible actions to be taken.

If you have reported wrongdoing and feel that any reprisal action is not being dealt with effectively, contact the Ombudsman or the ICAC – depending on the type of wrongdoing you reported. Contact details for all these investigating authorities are provided in Section 18 below.

**b. Protection against legal action**

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

**13. Support for those reporting wrongdoing**

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

All staff who report wrongdoing will be supported, protected and their disclosures appropriately acted upon. No staff member who reports wrongdoing through appropriate channels will suffer disciplinary action for having done so.

Staff within Woollahra Council who can receive a internal public interest disclosure will support those who report wrongdoing. They are responsible for initiating and coordinating support, particularly to those who may be suffering any form of reprisal.

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

**14. Sanctions for making false or misleading disclosures**

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

**15. Support for the subject of a report**

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

- Treated fairly and impartially
- Told your rights and obligations under our Policy and Reporting System
- Kept informed during any investigation
- Given the opportunity to respond to any allegation made against you
- Told the result of any investigation

## 16. Review

This policy will be reviewed annually to ensure that it meets the objects of the legislation, has regards to any further public interest disclosure guidelines issued by the NSW Ombudsman and facilitates the making of public interest disclosures.

## 17. More information

Staff can access advice and guidance about the PID Act from Council's Disclosures Coordinator (Manager Governance on phone 9391 7012) and the NSW Ombudsman (for general advice on phone 9286 1000) or its website at [www.ombo.nsw.gov.au](http://www.ombo.nsw.gov.au).

## 18. 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](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 corrupt conduct, maladministration, serious and substantial waste in local government, government information contravention and local government pecuniary interest contraventions in local government agencies:**

Division 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 serious and substantial waste not in local government:**

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 breaches of the GIPA Act:**

Information Commissioner  
Toll free: 1800 463 626  
Facsimile: 02 8114 3756  
Email: [oiinfo@oic.nsw.gov.au](mailto:oiinfo@oic.nsw.gov.au)  
Web: [www.oic.nsw.gov.au](http://www.oic.nsw.gov.au)  
Address: Level 11, 1 Castlereagh Street, Sydney NSW 2000

### **For disclosures about police misconduct:**

Police Integrity Commission (PIC)  
Phone: 02 9321 6700  
Toll free: 1800 657 079  
Facsimile: 02 9321 6799  
Email: [contactus@pic.nsw.gov.au](mailto:contactus@pic.nsw.gov.au)  
Web: [www.pic.nsw.gov.au](http://www.pic.nsw.gov.au)  
Address: Level 3, 111 Elizabeth Street, Sydney NSW 2000



## 19. Council's codes, policies and other references

Woollahra Council relevant codes & policies:

- Code of Conduct
- Complaints Management Policy
- Conflict Resolution Policy & Procedures
- Counselling & Disciplinary Policy
- EEO Policy
- EEO Management Plan
- Grievance & Dispute Handling Policy
- Harassment Policy & Procedure
- OH&S Policy
- Volunteer Policy

External references:

- *Public Interest Disclosures Act 1994*
- *Ombudsman Act 1974*
- *Independent Commission Against Corruption Act 1988*
- *Local Government Act 1993*
- *Government Information (Public Access) Act 2009*
- NSW Ombudsman public interest disclosures guidelines (practice notes)

### Annexure

Internal Reporting System

## Annexure

### Public Interest Disclosures Policy Internal Reporting System

#### 1. Introduction

Our Internal Reporting System supports our Public Interest Disclosures Policy. You should refer to the Policy for detailed information about key concepts such as corrupt conduct, maladministration, serious and substantial waste and government information contravention.

You should use this Internal Reporting System when reporting or disclosing corrupt conduct, maladministration, serious and substantial waste in local government or government information contravention. The System provides a variety of channels for internal disclosures to be made. The Public Interest Disclosures Policy identifies the organisations that you are able to refer external disclosures to.

#### 2. Roles and responsibilities of all staff

The responsibilities of all staff include:

- Reporting known and suspected wrongdoing within Council
- Not making false or misleading reports of wrongdoing
- Keeping the identity of internal reporters and anyone who is the subject of a report confidential
- Assisting those dealing with a report, including supplying any information on request
- Supporting staff who report wrongdoing
- Not taking reprisals against another staff member that they suspect has reported wrongdoing
- Notifying their manager or supervisor immediately of any suspicions they have that reprisals to an internal reporter is occurring or has been threatened.

#### 3. Responsibilities of staff reporting wrongdoing

The responsibilities of staff reporting wrongdoing include:

- Only discussing the matter with authorised people and not alerting anyone who is the subject of a report that a disclosure has been made
- When they report, raising any concerns that they have about reprisals or workplace conflict with the person assessing their report or the disclosures coordinator
- Assisting those assessing and dealing with the report, including supplying any information on request
- If needed, seeking support from their manager, supervisor, disclosure coordinator or any external organisations and services

- At any time after they have reported, notifying their manager, supervisor, Disclosures Coordinator or General Manager immediately of any suspicions they have that reprisal is occurring or has been threatened.

#### **4. Roles and responsibilities of staff receiving reports**

The following positions are the only staff within Woollahra Council who can receive an internal public interest disclosure in accordance with the Act and this policy and reporting system:

- The Disclosure Coordinator                      Manager Governance
- Nominated Disclosure Officers              Directors and Manager
- The General Manager.
- The Mayor (if the disclosure concerns or involves the General Manager or a Councillor).

The specific roles of these officers in relation to the public interest disclosures system and the channels to be used for making public interest disclosures within Woollahra Council are as follows:

##### **Disclosures Coordinator**

Council has nominated the Manager Governance, as the Disclosure Coordinator under the Internal Reporting Policy and Reporting System.

The Disclosure Coordinator has a central role in the internal reporting system and acts as a clearing house for disclosures. The Disclosure Coordinator will:

- Provide an alternative internal reporting channel to nominated disclosure officers and to the General Manager.
- Ensure that a copy of the Internal Reporting Policy and an acknowledgement, in writing, of the receipt of the disclosure is to be provided to a person who makes a public interest disclosure, within 45 days after the person makes the disclosure.
- Impartially assess each disclosure to consider:
  - Whether the disclosure appears to be a public interest disclosure within the meaning of the PID Act.
  - Whether the disclosure concerns another agency and should therefore be referred to the principal officer of that agency.
  - In consultation with the General Manager, other than where the disclosure concerns the General Manager, the appropriate action to be taken in relation to a disclosure that covers Woollahra Council. Possible actions include:
    - That no action is to be taken,
    - That an appropriate person be appointed to take responsibility for dealing with the disclosure,

- That a preliminary or an informal investigation be conducted,
  - That a formal investigation be conducted,
  - That prosecution or disciplinary action be recommended,
  - That the matter be referred to an investigating authority for investigation or other appropriate action, or
  - That the matter be referred to the NSW Police Force (if a criminal matter) or the ICAC (if the matter concerns corrupt conduct).
- Be responsible for either carrying out or coordinating any internal investigation arising out of a disclosure, subject to any relevant directions of the General Manager.
  - Report to the General Manager on the findings of any investigation and recommended remedial action.
  - Take all necessary and reasonable steps to ensure that the identity of the person who has made a disclosure, and any person who is the subject of a disclosure, are kept confidential (where this is practical and reasonable).
  - Support any person who has made a disclosure and protect them from victimisation, harassment or any other form of reprisal.
  - Report actual or suspected corrupt conduct to the General Manager in a timely manner to enable that officer to comply with the ICAC Act.
  - Report any evidence of retribution to a public interest disclosure to the Commissioner of Police or the Independent Commission Against Corruption.

### **Designated disclosures officers**

All Directors and Managers are designated disclosure officers and are responsible for receiving, forwarding and/or acting upon disclosures made in accordance with the policy and reporting system. The designated disclosure officers will:

- Clearly explain to the person making a disclosure what will happen in relation to the information received.
- When requested by a person wishing to make a disclosure, make arrangements to ensure that disclosures can be made privately and discreetly (if necessary away from the workplace).
- Put in writing and date any disclosures received orally (and have the person making the disclosure sign the document).
- Deal with disclosures impartially.
- Forward disclosures to the manager governance – council's disclosure coordinator for assessment.
- Take all necessary and reasonable steps to ensure that the identity of the person who has made a disclosure, and any person who is the subject of a disclosure, are kept confidential (where this is practical and reasonable), and
- Support any person who has made a disclosure and protect them from victimisation, harassment or any other form of reprisal.

## General Manager

Disclosures may be made directly to the General Manager, rather than by way of the internal reporting system established under this policy. In such circumstances, the General Manager will:

- Impartially assess each disclosure to determine:
  - Whether the disclosure appears to be a public interest disclosure within the meaning of the Act.
  - Whether the disclosure concerns another agency and should therefore be referred to the principal officer of that agency.
  - The appropriate action to be taken in relation to a disclosure that concerns the Council, Possible actions include:
    - That no action is to be taken,
    - That an appropriate person be appointed to take responsibility for dealing with the disclosure,
    - That a preliminary or an informal investigation be conducted,
    - That a formal investigation be conducted,
    - That prosecution or disciplinary action be recommended,
    - That the matter be referred to an investigating authority for investigation or other appropriate action, or
    - That the matter be referred to the NSW Police Force (if a criminal matter) or the ICAC (if the matter concerns corrupt conduct).
- Receive reports from the Disclosure Coordinator on the findings of any investigation and any recommendations for remedial action, and determine what action should be taken,
- Take all necessary action and reasonable steps to ensure that the identity of the person who has made a disclosure, and any person who is the subject of a disclosure, are kept confidential (where this is practical and reasonable),
- Have primary responsibility for protecting any person who has made a disclosure, or provided information to any internal or external investigation on a disclosure, from victimization, harassment or any other form of reprisal,
- Be responsible for implementing organisational reform identified as necessary following investigation of a disclosure, and
- Report criminal offences to the NSW Police Force and actual and suspected corrupt conduct to the ICAC (under s.11 of the ICAC Act)

## Mayor

The Mayor may receive internal disclosures from any member of staff of the Council or any Councillor concerning the General Manager or a Councillor. The Mayor should contact the Division of Local Government Department of Premier and Cabinet for advice on the actions to be taken.

Following discussion with the Division of Local Government Department of Premier and Cabinet the Mayor may refer the matter to the relevant external investigating authority or may:

- impartially assess each disclosure made to him/her about the General Manager or a Councillor to determine:
  - Whether the disclosure appears to be a public interest disclosure within the meaning of the PID Act
  - The appropriate action to be taken in relation to a disclosure that concerns the Council. Possible actions include:
    - That no action is to be taken,
    - That an appropriate person be appointed to take responsibility for dealing with the disclosure,
    - That a preliminary or an informal investigation be conducted,
    - That a formal investigation be conducted,
    - That prosecution or disciplinary action be recommended,
    - That the matter be referred to an investigating authority for investigation or other appropriate action, or
    - That the matter be referred to the NSW Police Force (if a criminal matter) or the ICAC (if the matter concerns corrupt conduct).
- Refer disclosures to the General Manager (other than disclosures about the General Manager) for appropriate action if they concern the Council's administration, that are within the day to day responsibilities of the General Manager.
- Take all necessary and reasonable steps to ensure that the identity of the person who has made a disclosure, and any person who is the subject of a disclosure, are kept confidential (where this is practical and reasonable).

Council staff who wish to make a public interest disclosure which involves a Councillor may also do so to an investigating authority (ie the Ombudsman, ICAC, the Division of Local Government or the Information Commissioner).

A Councillor who wishes to make a public interest disclosure which involves another Councillor may do so to the Mayor, the General Manager, or an investigating authority (ie the Ombudsman, ICAC, the Division of Local Government or the Information Commissioner).

If the Mayor wishes to make a public interest disclosure they may do so to the General Manager or an investigating authority (ie the Ombudsman, ICAC, Division of Local Government or the Information Commissioner).

## **5. The investigation process**

All disclosures will be promptly and thoroughly assessed. Decisions as to the most appropriate action to be taken on the disclosure will also be made promptly.

An internal investigation will be authorised by the General Manager and the Disclosure Coordinator or an appropriate investigator will be appointed.

Strict security will be maintained during the investigative process. All information obtained will be secured to prevent unauthorised access.

All relevant witnesses will be interviewed and documents examined. Contemporaneous notes of all discussions, phone calls and interviews will be made.

A report will be prepared when an investigation is complete. This report will include:

- the allegations.
- a statement of all relevant facts and the evidence relied upon in reaching any conclusions.
- the conclusions reached and their basis, and
- recommendations to address any wrongdoing identified and any other matters arising during the investigation.

The principles of procedural fairness (natural justice) will be observed. In particular, where adverse comment about a person is to be included in a report, the person affected will be given an opportunity to comment beforehand and any comments will be considered before the report is finalized.

## **6. Notification of action taken or proposed to be taken**

A person who makes a public interest disclosure will be notified by the Disclosures Coordinator, within 6 months of the disclosure being made, of the action taken or proposed to be taken in respect of the disclosure.