



PUBLIC INTEREST DISCLOSURES

INTERNAL REPORTING POLICY

Approval Date: 25 May 2017
Review Date: 25 May 2019
Responsible Officer: General Manager

Policy Review History

Date	Changes Made	Approved By
11 February 2015	Submitted to Council	
8 April 2015	Adopted by Council	Min No 1402
25 May 2017	Reviewed – no change	General Manager
14 June 2017	Submitted to Council	

Table of Contents

Section 1 - Background	Page 3
Section 2 – Objective	Page 3
Section 3 – Application/Scope	Page 3
Section 4 – What should be reported	Page 3
4.1 Corrupt Conduct	Page 4
4.2 Maladministration	Page 4
4.3 Serious & substantial waste in local government	Page 4
4.4 Government information Contravention	Page 5
Section 5 – When will a report be protected	Page 5
Section 6 – How to make a report	Page 5
Section 7 – Can a report be anonymous	Page 6
Section 8 – Maintaining confidentiality	Page 6
Section 9 – Who can receive a report within Coonamble Shire Council	Page 6
9.1 General Manager	Page 7
9.2 Mayor	Page 7
9.3 Public Interest Disclosure Co-ordinator	Page 7
Section 10 – Who can receive a report outside of Coonamble Shire Council	Page 7
10.1 Investigating authorities	Page 7
10.2 Members of Parliament	Page 8
Section 11 – Feedback to staff who report wrong-doing	Page 9
Section 12 – Protection against reprisals	Page 9
12.1 Responding to reprisals	Page 10
12.2 Protection against legal action	Page 10
Section 13 – Support for those reporting wrong-doing	Page 11
Section 14 – Sanctions for making false or misleading disclosures	Page 11
Section 15 – Support for the subject of a report	Page 11
Section 16 – Review	Page 11
Section 17 – More information	Page 11
Section 18 – Resources	Page 11
Section 19 – Relevant Legislation	Page 12
Section 20 – Related & associated Council policy & procedures	Page 12
Section 21 – Responsible Officer / Policy Owner	Page 12
Public Interest Disclosures	
Internal Reporting Policy	

1. Background

Coonamble Shire Council recognises the need to have a relevant Internal Reporting Policy to encourage and facilitate the disclosure, in the public interest, of cases where corrupt conduct, maladministration, serious and substantial waste and government information contravention occurs within Council.

Coonamble Shire Council is committed to the principles of the *Public Interest Disclosures Act 1994* (the PID Act) and will not tolerate corrupt conduct, maladministration, serious and substantial waste or government information contravention and will take all reasonable steps to provide protection and maintenance of confidentiality of staff and councillors who wish to make a disclosure. Staff or councillors who take detrimental action, as defined in the PID Act, against another person in reprisal for a protected disclosure can face penalties provided under the PID Act.

Coonamble Shire Council further recognises that disclosed information can lead to organisational improvement and commits to thoroughly investigate all disclosures for the primary purpose of gaining increased efficiency and eliminating any impediments to Council achieving its overall objectives.

In addition, Coonamble Shire Council commits to providing adequate training to ensure that all staff and councillors are acquainted with the provisions of the PID Act, including the reporting mechanisms.

2. Objective

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

3. Application / Scope

This policy applies to all Council staff, councillors, contractors, Council committee members, Council delegates and volunteers of Coonamble Shire Council.

4. What should be Reported?

You should report any wrong-doing you see within Coonamble Shire Council. Reports about the four categories of serious wrong-doing – corrupt conduct, maladministration, serious

and substantial waste of public money and government information contravention will be dealt with under the PID Act as protected disclosures and according to this Policy.

4.1 Corrupt Conduct

(1) Corrupt conduct is:

(a) any conduct of any person (whether or not a public official) that adversely affects, or that could adversely affect, either directly or indirectly, the honest or impartial exercise of official functions by any public official, any group or body of public officials or any public authority; or

(b) any conduct of a public official that constitutes or involves the dishonest or partial exercise of any of his or her official functions; or

(c) any conduct of a public official or former public official that constitutes or involves a breach of public trust; or

(d) any conduct of a public official or former public official that involves the misuse of information or material that he or she has acquired in the course of his or her official functions, whether or not for his or her benefit or for the benefit of any other person; or

For more information about corrupt conduct, refer to the Independent Commission Against Corruption Act 1988.

4.2 Maladministration

Maladministration is conduct that involves action or inaction of a serious nature that is:

(a) contrary to law; or

(b) unreasonable, unjust, oppressive or improperly discriminatory; or

(c) based wholly or partly on improper motives.

For more information about maladministration, refer to the Ombudsman Act 1974.

4.3 Serious and substantial waste in Local Government

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

The term “serious and substantial waste” is not defined in the Public Interest Disclosures Act 1994. The NSW Auditor General provides a working definition in that serious and substantial waste refers to the uneconomical, inefficient or

ineffective use of resources, authorised or unauthorised, which results in a loss or wastage of public funds or resources.

In addressing any complaint of serious and substantial waste, regard will be given to the nature and materiality of the alleged waste.

For more information about serious and substantial waste refer to the Ombudsman Act 1974.

4.4 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 record to prevent them from being released;
- Knowingly making decisions that are contrary to the legislation;
- Directing another person to make a decision that is contrary to the legislation.

5. When will a report be protected?

Coonamble Shire Council will support any staff who report wrong-doing. 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 wrong-doing.
- The report has to be made to one or more of the following:
 - A position nominated in this Policy – 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 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.

6. How to make a report

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.

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 Coonamble Shire 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

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

We are committed to keeping your identity and the fact that you have reported wrong-doing 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 Coonamble Shire Council's Code of Conduct, as this may mean certain information will have to be tabled at a Council meeting.

If you report wrong-doing, 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 Coonamble Shire Council?

While you are encouraged to report general wrong-doing to your supervisor, 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 Coonamble Shire Council, this means this policy and any supporting procedures.

Any 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. The broader responsibilities of these positions are outlined in this section.

If your complaint is about a Councillor you should report it to the General Manager. If your complaint is about any staff member, contractor, committee member or volunteer, your

complaint should be reported to the General Manager. If your complaint is about the General Manager, it should be reported to the Mayor.

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

9.1 General Manager

You can report wrong-doing directly to the General Manager. The General Manager is responsible for:

- Deciding if a report is a protected disclosure;
- What action needs to be taken, including referral to another agency.

The General Manager must make sure there are systems in place in Coonamble Shire Council to support and protect staff who report wrong-doing.

9.2 Mayor

If you are making a report about the General Manager, you should make your report to the Mayor. He/she is responsible for:

- Deciding if a report is a protected disclosure;
- Deciding what action needs to be taken, including referral to another agency.

9.3 Public Interest Disclosure Co-ordinator (Director of Community Services)

If you do not wish to report wrong-doing to either of the above positions, you may report directly to this position. The Co-ordinator is responsible for:

- Deciding if a report is a protected disclosure;
- Deciding what action needs to be taken, including referral to another agency.

10. Who can receive a report outside of Coonamble Shire Council?

Staff are encouraged to report wrong-doing within Coonamble Shire Council, but internal reporting is not your only option. If you follow the guidance below, your report can still be a protected disclosure.

You may choose to make your report to an investigating authority. You can do this first, or at any stage after your initial report to Coonamble Shire Council.

10.1 Investigating authorities

The PID Act lists a number of investigating authorities in NSW that staff can report wrong-doing to and the categories of wrong-doing 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 Police Integrity Commission (PIC) – for police misconduct;
- The PIC Inspector – for disclosures about the PIC or its staff;
- The Office of Local Government – for serious and substantial waste in local government;
- The ICAC Inspector – for disclosures about the ICAC or its staff;
- The Information Commissioner – for disclosures about a government information contravention.

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

You should be aware that it is very likely the investigating authority will discuss the case with Coonamble Shire Council. We will make every effort to assist and cooperate with the investigating authority to ensure the matter is dealt with appropriately.

10.2 Members of Parliament

To have the protections of the PID Act, staff reporting wrong-doing 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;
- An investigating authority in accordance with the PID Act.

Also, Coonamble Shire Council, or the 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 wrong-doing to a 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 wrong-doing to a person or an organisation that is not listed above, you will not be protected under the PID Act. This may mean you will be in breach of legal

obligations or the Coonamble Shire Council Code of Conduct – by, for example, disclosing confidential information.

For more information about reporting wrong-doing outside Coonamble Shire Council, contact the disclosures coordinator of the NSW Ombudsman's Public Interest Disclosures Unit. Their contact details are provided at the end of this policy.

11. Feedback to staff who report wrong-doing

Staff who report wrong-doing will be advised of action taken in response to their report. When you make a report, you will be given:

- An acknowledgement that your disclosure has been received;
- The time frame for when you will receive further updates.

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 time frames for any investigation;
- Information about external agencies and services you can access for support.

During any investigation you will be given:

- Information on the ongoing nature of the investigation;
- Information about the progress of the investigating and reasons for any delay;
- Advice if your identity needs to be disclosed for the purposes of investigating the matter.

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 wrong-doing by imposing penalties on anyone who takes detrimental action substantially in reprisal for them making the protected disclosure.

Coonamble Shire Council will not tolerate any reprisal action against staff who report wrong-doing. Detrimental action is also misconduct that justifies disciplinary action.

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.

12.1 Responding to reprisals

If you believe that detrimental action has been or is being taken against you or someone else who has reported wrong-doing 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 Disclosures 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;
- Give the results of that investigation to the Mayor 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 action against anyone proven to have taken or threatened any action in reprisal for making a disclosure.

The General Manager may issue specific directions to help protect against reprisals. If the allegation of reprisal action is about the General Manager, the Mayor may issue similar directions. These may include:

- Issuing warnings to those alleged to have taken reprisal action against the member of staff who made the disclosure;
- Relocating the member of staff who made the disclosure or the subject officer within the current workplace;
- Transferring the member of staff who made the disclosure or the staff member who is the subject of the allegation to another position for which they are qualified.

12.2 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 wrong-doing

All staff who report wrong-doing will be supported, protected and their disclosures appropriately acted upon. No staff member who reports wrong-doing through appropriate channels will suffer disciplinary action.

Staff within Coonamble Shire Council who can receive an internal protected disclosure will also support those who report wrong-doing. They are responsible for initiating and coordinating support, particularly to those who are suffering any form of reprisal. Details for support officers appears in Section 9 of this policy.

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

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 wrong-doing.

15. Support for the subject of a report

Coonamble Shire Council is committed to ensuring staff who are the subject of a report of wrong-doing 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 policies and procedures;
- Kept informed during any investigation;
- Given the opportunity to respond to any allegation made against you;
- Told the result of any investigation.

16. Review

Reviews of this policy will be in accordance with legislative requirements.

17. More information

Staff can access advice and guidance from Coonamble Shire Council's Disclosures Coordinator (Director of Community Services), the General Manager and the NSW Ombudsman's website at www.ombo.nsw.gov.au

18. Resources

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

<p>For disclosures about corrupt conduct:</p> <p>Independent Commission Against Corruption (ICAC) Phone: 02 8281 5999 Toll free: 1800- 463 9090 Tel.typewriter (TTY): 02 8281 5773 Facsimile: 02 9264 5364 Email: icac@icac.nsw.gov.au Web: www.icac.nsw.gov.au Address: Level 7, 255 Elizabeth Street, Sydney NSW 2000</p>	<p>For disclosures about maladministration:</p> <p>NSW Ombudsman Phone: 02 9286 1000 Toll free (outside Sydney metro) 1800 451 524 Tel.typewriter (TTY): 02 9264 8050 Facsimile: 02 9283 2911 Email: nswombo@ombo.nsw.gov.au Web: www.ombo.nsw.gov.au Address: Level 24, 580 George Street, Sydney NSW 2000</p>
<p>For disclosures about serious and substantial waste in local government agencies:</p>	<p>For disclosures about breaches of the GIPA Act:</p>
<p>Office of Local Government (OLG) Phone: 02 4428 41000 Tel.typewriter (TTY): 02 4428 4209 Facsimile: 02 4428 4199 Email: dlg@dlg.nsw.gov.au Web: www.dlg.nsw.gov.au Address: 5 O’Keefe Avenue, Nowra NSW 2541</p>	<p>Information Commissioner Toll free: 1300 363 992 Facsimile: 02 9284 9666 Email: oinfo@oic.nsw.gov.au Web: www.oic.nsw.gov.au Address: Level 3, 175 Pitt Street, Sydney NSW 2000</p>

19. Relevant Legislation

- Public Interest disclosures Act 1994;
- ICAC Act 1988;
- Ombudsman Act 1974;
- Government Information (Public Access) Act 2009

20. Related and associated Council policy and procedures

This policy has been introduced and does not replace any current policy of Council.

Related policies:

- Fraud Control Policy;
- Code of Conduct.

21. Responsible Officer / Policy Owner

The General Manager is responsible for the implementation and review of this policy.