

Public Interest Disclosures - Internal Reporting

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Strategic Pillar	Organisation Capability
Responsible Branch	Workplace & Governance

1 OUTCOMES

- 1.1 QPRC's policy on Public Interest Disclosures affirms Council's commitment to supporting and protecting staff and councillors who report any wrongdoing.
- 1.2 The policy explains the process for handling reports that are classified as public interest disclosures under the *Public Interest Disclosures Act 1994* (PID Act).
- 1.3 The policy addresses the relevant provisions of the PID Act and conforms with QPRC's Code of Conduct, Complaint Management Framework and Policies, Councillor and Staff Interaction Policy, Respectful Workplace Behaviours Directive, Grievance Management Process (ProMapp), and Resolution of Formal Employee Complaints and Allegations of Behavioural Misconduct Process (ProMapp).
- 1.4 Any report of wrongdoing will be recorded and reported in accordance with Council's responsibilities under the *Public Interest Disclosures Act 1994*.
- 1.5 It is supported by procedures based on the NSW Ombudsman's Model Internal Reporting Policy and guidelines for dealing with public interest disclosures

2 POLICY

- 2.1 This policy establishes an internal reporting system for staff and councillors to report wrongdoing without fear of reprisal

3 SCOPE OF THE POLICY

- 3.1 This policy defines what constitutes a Public Interest Disclosure; who you can report wrongdoing to; what can be reported and how reports of wrongdoing will be dealt with.

4 DEFINITIONS

Public Official -In the context of this policy a public official is defined as councillors, staff (permanent and part time), temporary or casual employees, consultants, contractors and delegates.

Public Interest Disclosure - Is report by a public official of an instance of serious misconduct (wrongdoing) within the organisation. To be deemed a PID the report must be made to a designated person as identified within this policy.

Wrongdoing -Is serious misconduct which covers five categories which are:

- Corrupt conduct
- Maladministration
- Serious and substantial waste of public money
- Government information contravention
- Local government pecuniary interest contravention.

5 LEGISLATIVE OBLIGATIONS AND/OR RELEVANT STANDARDS

- 5.1 *Public Interest Disclosures Act 1994*, noting a *Public Interest Disclosures Act 2022* is soon to be ratified and this Policy will be reviewed at such time.

6 CONTENT

- 6.1 Organisational Commitment
 - 6.1.1 Council will not tolerate any form of wrongdoing. It will support staff who report wrongdoing because they are helping to promote integrity, accountability and good management within Queanbeyan- Palerang Regional Council.

- 6.1.2 Through this policy, Council is creating an organisational climate of trust, where staff feel comfortable and confident about reporting wrongdoing.
- 6.1.3 Council will protect public officials who make disclosures from any adverse action motivated by their report. Their identity will be kept confidential wherever possible.
- 6.1.4 Council will deal with reports thoroughly and impartially, and will take appropriate action to rectify any wrongdoing.
- 6.1.5 Public officials who make reports will be kept informed of the progress and outcome of the investigation.
- 6.1.6 Council encourages public officials to report wrongdoing within Council, but respects 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.
- 6.1.7 Council will ensure public officials at all levels understand the benefits of reporting wrongdoing, are familiar with this policy and are aware of the needs of those who report wrongdoing.
- 6.1.8 Adequate financial and human resources will be provided to:
- Encourage reports of wrongdoing
 - Protect and support those who make such reports
 - Investigate allegations
 - Properly manage any workplace issues that the allegations identify or create
 - Correct any problem that is identified.
- 6.1.9 The policy will be reviewed each year to ensure it is relevant and effective.

Note: Under the PID Act, the CEO as the head of a public authority is responsible for ensuring that:

1. The public authority has an internal reporting policy
2. The staff of the public authority are aware of the contents of the policy and the protection under the PID Act for people who make public interest disclosures
3. The public authority complies with the policy and the authorities obligations under the PID Act
4. The policy delegates at least one staff member as being responsible for receiving public interest disclosures.

6.2 Roles and responsibilities of Council and staff

- 6.2.1 This policy will apply to:
- i) Both council staff and councillors
 - ii) Permanent employees, whether full-time or part-time
 - iii) Temporary or casual employees
 - iv) Consultants
 - v) Individual contractors working for Council
 - vi) Delegates who perform public official functions and whose conduct and activities could be investigated by an investigating authority. This can include volunteers and those contracted to work for the council.
- 6.2.2 Public officials are encouraged to report known and suspected wrongdoing within the council.
- 6.2.3 Public officials are reminded that this policy is just one of several relating to grievances and complaints – (See Section 1.3 of this Policy)
- 6.2.4 Staff are encouraged to support those who have made disclosures, as well as protect and maintain their confidentiality. They must not victimise or harass anyone who has made a disclosure.

6.3 What should be reported

You should report, if you honestly believe, on reasonable grounds that you have information that shows or tends to show wrongdoing within Council. Wrongdoing is defined as covering five categories of serious misconduct consisting of:

- i) corrupt conduct
- ii) maladministration
- iii) serious and substantial waste of public money, and
- iv) government information contravention
- v) local government pecuniary interest contravention

These types of misconduct will be dealt with under the PID Act as Public Interest Disclosures and according to the provisions of this policy.

6.4 Corrupt conduct

Corrupt conduct is the dishonest or partial exercise of official functions by a public official. For example, this could include:

- i) The improper use of knowledge, power or position for personal gain or the advantage of others
- ii) Acting dishonestly or unfairly, or breaching public trust
- iii) 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.

6.5 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

- i) Making a decision and/or taking action that is unlawful corrupt conduct

For more information about maladministration, see the NSW Ombudsman's Guideline on what can be reported

6.6 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:

- i) Poor project management practices leading to projects significantly running over time and budget
- ii) 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.

6.7 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:

- i) Destroying, concealing or altering records to prevent them from being released
- ii) Knowingly making decisions that are contrary to the legislation
- iii) 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.

6.8 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 disclosure 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 appreciable financial gain or loss to the person.

For example, this could include:

- i) A senior council staff member recommending a family member for a council contract and not declaring the relationship
- ii) A CEO/General Manager holding an undisclosed shareholding in a company competing for a council contract

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

6.9 Other wrongdoing

Although reports about the previous five categories of conduct can attract the specific protections of the PID Act, you should report all activities or incidents that you believe are wrong.

For example, these could include:

- i) Harassment or unlawful discrimination
- ii) Reprisal action against a person who has reported wrongdoing
- iii) 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 following QPRC policies, directives and business processes.
 - QPRC Code of Conduct
 - QPRC Complaint Management Policy
 - Respectful Workplace Behaviours Directive
 - Grievance Process
 - Resolution of Formal Employee Complaints and Allegations of Behavioural Misconduct

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

6.10 When will a report be protected?

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

- 6.10.1 The person making the disclosure must honestly believe on reasonable grounds that the information shows or tends to show wrongdoing. For example, this may include direct observation of the wrongdoing; corroborative observation by others, and/or evidence such as unbalanced accounts, missing items of value or contradictory records.
- 6.10.2 The report has to be made to one or more of the following:
- a position nominated in this policy – see section 6.14
 - the CEO/General Manager
 - one of the investigating authorities nominated in the PID Act – see section 6.16
- 6.10.3 Reports by staff and councillors will not be considered to be public interest disclosures if they:
- i) Mostly question the merits of government policy, including the policy of the governing body of the council
 - ii) Are made with the sole or substantial motive of avoiding dismissal or other disciplinary action.

6.11 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.

- i) 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.

6.12 Can a report be anonymous?

- 6.12.1 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 Council, it is best if you identify yourself. This allows Council to provide you with any necessary protection and support, as well as feedback about the outcome of any investigation into the allegations.
- 6.12.2 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.

6.13 Maintaining confidentiality

- 6.13.1 Council realises many staff will want their report to remain confidential. This can help to prevent any action being taken against you for reporting wrongdoing.
- 6.13.2 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.

6.13.3 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.

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

6.14 Who can receive a report within Queanbeyan-Palerang Regional Council?

6.14.1 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 Council's disclosure procedures. For Council, this means this policy and any supporting procedures.

6.14.2 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 will be outlined in the procedures supporting this policy.

6.14.3 If you are Council staff 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.

6.14.4 The following positions are the only staff within the Queanbeyan- Palerang Regional Council who can receive a public interest disclosure.

- **CEO/General Manager**

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

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

The CEO/General Manager must make sure there are systems in place in the Council to support and protect staff who report wrongdoing. He/She is also responsible for referring actual or suspected corrupt conduct to the Independent Commission Against Corruption.

Email: rebecca.ryan@qprc.nsw.gov.au

- **Mayor**

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

- i) Deciding if a report is a public interest disclosure
- ii) Determining what needs to be done next, including referring to other authorities
- iii) 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 Council to support and protect staff who report wrongdoing.

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

Email: Kenrick.winchester@qprc.nsw.gov.au

- **Disclosures Coordinator**

The Disclosures Coordinator has a central role in dealing with reports made by staff. They receive them, assess them, and refer them to the people within Council who can deal with them appropriately. Council's Disclosures Coordinator is the Public Officer.

Email: caitlin.flint@qprc.nsw.gov.au

- **Disclosures Officers**

Director Development and Environment –

Ruth Ormella – ruth.ormella@qprc.nsw.gov.au

Director Infrastructure –

Phil Hansen – phil.hansen@qprc.nsw.gov.au

Director Corporate Services –

Kate Monaghan – kate.monaghan@qprc.nsw.gov.au

Director Community, Arts and Recreation –

Jacqui Richards – Jacqui.richards@qprc.nsw.gov.au

6.15. Who can receive a report outside Queanbeyan-Palerang Regional Council

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

6.15.2 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 Council. If your report is about the CEO/General Manager or the Mayor, you should consider making it to an investigating authority.

6.15.3 You can also choose to make a report to a Member of Parliament or a journalist, but only in limited circumstances

6.16 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 NSW 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, Department of Planning — for disclosures about local government agencies
- The ICAC Inspector — for disclosures about the ICAC or its staff
- The Information Commissioner — for disclosures about a government information contravention.

6.16.1 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 (See Section 6.23)

6.16.2 You should be aware that it is very likely the investigating authority will discuss the case with 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.

6.17 Members of Parliament or Journalists

6.17.1 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:

- i) The CEO/General Manager
- ii) A person nominated in this policy
- iii) An investigating authority in accordance with the PID Act.

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

- i) Decided not to investigate the matter
- ii) Decided to investigate the matter, but not completed the investigation within six months of the original report
- iii) Investigated the matter but not recommended any action as a result
- iv) Not told the person who made the report, within six months of the report being made, whether the matter will be investigated.

6.17.3 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.

6.17.4 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 Council's Code of Conduct by, for example, disclosing confidential information.

6.17.5 For more information about reporting wrongdoing outside 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.

6.18 Feedback to staff who report wrongdoing

6.18.1 Public officials who report wrongdoing will be told what is happening in response to their report.

6.18.2 When you make a report, you will be given:

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

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

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

- i) Information about the action that will be taken in response to your report
- ii) Likely timeframes for any investigation
- iii) Information about the resources available within Queanbeyan-Palerang Regional Council to handle any concerns you may have
- iv) Information about 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.

6.18.5 During any investigation, you will be given:

- i) Information on the ongoing nature of the investigation
- ii) Information about the progress of the investigation and reasons for any delay
- iii) Advice if your identity needs to be disclosed for the purposes of investigating the matter, and an opportunity to talk about this.

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

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

6.19 Protection against reprisals

6.19.1 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.

6.19.2 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.

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

- i) Injury, damage or loss
- ii) Intimidation or harassment
- iii) Discrimination, disadvantage or adverse treatment in relation to employment
- iv) Dismissal from, or prejudice in, employment
- v) Disciplinary proceedings.

6.20 Responding to reprisals

Council will act to protect public officials 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 public official who reported the wrongdoing, as well as strategies to deal with those risks.

6.20.1 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.

6.20.2 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 CEO.

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

- i) Ensure a senior and experienced member of staff, who has not been involved in dealing with the initial disclosure, will investigate the suspected reprisal
- ii) Give the results of that investigation to the CEO/General Manager for a decision
- iii) Give the results of that investigation to the Mayor for a decision if the allegation of reprisal action is about the CEO/General Manager
- iv) 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 public official who made the disclosure
- v) Take appropriate disciplinary or criminal action against anyone proven to have taken or threatened any action in reprisal for making a disclosure.

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

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

- i) Issuing warnings to those alleged to have taken reprisal action against the member of staff who made the disclosure
- ii) Relocating the member of staff who made the disclosure or the subject officer within the current workplace
- iii) 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
- iv) Granting the member of staff who made the disclosure or the subject officer leave of absence during the investigation of the disclosure.

6.20.6 These directions will only be taken if the public official 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.

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

6.21 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.

6.22 Support for those reporting wrongdoing

- 6.22.1 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.
- 6.22.2 We also have staff who will support those who report wrongdoing. They are responsible for initiating and coordinating support, particularly to those who are suffering any form of reprisal. These support officers are the Disclosures Coordinator and Human Resources staff.
- 6.22.3 All supervisors must notify the Disclosures Coordinator if they believe a staff member is suffering any detrimental action as a result of disclosing wrongdoing.

6.23 Sanctions for making false or misleading disclosures

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

6.24 Support for the subject of a report

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:

- i) Treated fairly and impartially
- ii) Told your rights and obligations under our policies and procedures
- iii) Kept informed during any investigation
- iv) Given the opportunity to respond to any allegation made against you
- v) Told the result of any investigation.

6.25 Review

This policy will be reviewed by Council every 12 months. For any advice or guidance about this review the NSW Ombudsman's Public Interest Disclosures Unit may be contacted.

6.26 More information

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

6.27 Resources

The contact details for external investigating authorities that staff can make a public interest 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 463 909 Tel. typewriter (TTY): 02 8281 5773 Facsimile: 02 9264 5364 Email: icac@icac.nsw.gov.au Web: www.icac.nsw.gov.au Address: Level 21, 133 Castlereagh Street, Sydney NSW 2000</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:</p> <p>Auditor-General of the NSW Audit Office Phone: 02 9275 7100 Facsimile: 02 9275 7200 Email: mail@audit.nsw.gov.au Web: www.audit.nsw.gov.au Address: Level 15, 1 Margaret Street, Sydney NSW 2000</p>	