



**GEORGES
RIVER
COUNCIL**

**PUBLIC INTEREST
DISCLOSURE
REPORTING POLICY**

February 2018

POLICY ADMINISTRATION

Dates	Policy approved 03/07/2017 This policy is effective upon its approval. Policy is due for review July 2021.
Approved by	Council Meeting 03/07/2017 Council Resolution CCL122-17
Exhibition Period	N/A
Policy Owner	Manager Governance and Risk Management, Office of the Chief Operating Officer
Related Documents	Georges River Council Code of Conduct Georges River Council Procedures for the Administration of the Code of Conduct Georges River Council Complaints Policy Georges River Council Grievance and Complaint Resolution Administration Policy Georges River Council Values Bullying and Harassment Policy
References & Legislation	Public Interest Disclosures Act 1994 NSW Ombudsman Internal Reporting Policy for Local Government, June 2014 Protected Disclosures Guidelines, 6th edition, NSW Ombudsman, February 2009 Public Interest Disclosures Fact Sheet – NSW Ombudsman 2013
Document Identifier	Policy #: Pol-010.02 Doc #: D17/94059
Breaches of Policy	Breaches of any policy will be dealt with and responded to in accordance with adopted codes and/or relevant legislation.
Record Keeping	All documents and information obtained in relation to the implementation of this policy will be kept in accordance with the NSW State Records Act 1998, Georges River Council's Corporate Records Policy and adopted internal procedures.

PURPOSE

This Policy is compatible with the Public Interest Disclosures Act 1994 (PID Act). It establishes an internal reporting system for the management of any disclosures of corrupt conduct, maladministration, serious and substantial waste of public money, government information contraventions and Local Government pecuniary interest contraventions, by Georges River Council's officials as defined in the scope of this policy.

The system enables such internal disclosures to be made to the Disclosure Coordinator, or a nominated Disclosure Officer, or the General Manager, or to the Mayor as an alternative to the General Manager.

SCOPE

This Policy applies to all Council Officials, as defined in the Code of Conduct. This includes all Council staff, Councillors, Administrators, Council committee members, conduct reviewers, contractors and delegates of Council, employees (whether full-time or part-time, temporary or casual) including trainees from agencies used by the Council, consultants, contractors and volunteers. It also includes others who perform Council functions whose conduct and activities could be investigated by an investigation authority.

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

Code of conduct complaints can be made as ordinary communications, or they can be made as public interest disclosures under the PID Act. Public interest disclosures under the PID Act are to be managed in accordance with the requirements of that Act, this Internal PID Reporting Policy and any guidelines issued by the NSW Ombudsman, that relate to the management of public interest disclosures.

For a Code of Conduct complaint to be dealt with as a Public Interest Disclosure, the complainant must state at the outset and in writing at the time of making the complaint, that it is made as a Public Interest Disclosure (PID).

This Policy is designed to complement the normal communication channels between supervisors and staff. Staff are encouraged to continue to raise appropriate matters at any time with their supervisors, but as an alternative, they have the option of speaking with the Disclosures Coordinator or General Manager, or making a PID in accordance with this Policy.

Reports by staff and councillors will not be considered to be PID 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.

The internal reporting system established under this policy is not intended to be used for staff grievances, which should be raised through Council's Grievance and Complaint Resolution Administration Policy. These matters are referred to the Executive Manager People and Culture

DEFINITION OF TERMS

Term	Meaning
<i>Public Interest Disclosure (PID)</i>	A complaint or disclosure made in accordance with this policy, about corrupt conduct, maladministration, serious and substantial waste of public money, government information contravention and local government pecuniary interest contravention; which states at the outset and in writing at the time of making the complaint, that it is made as a Public Interest Disclosure (PID)
<i>Disclosures Coordinator</i>	The Manager Governance and Risk Management is the nominated Disclosures Coordinator, appointed for the purpose of receiving and managing reports of wrongdoing under the PID Act. Disclosures can also be made directly to the General Manager.
<i>Disclosures Officers</i>	Alternate Disclosures Officers are : <ul style="list-style-type: none"> • Mayor, for disclosures about the General Manager • General Manager • Executive Manager Engineering Services • Internal Auditor / Public Officer
<i>Council</i>	Georges River Council
<i>Corrupt Conduct</i>	Corrupt conduct is the dishonest or partial exercise of official functions by a public official. The ICAC Act in Section 8 extends the definition of corrupt conduct to effectively include attempts by any person, to corrupt a councillor or council staff member. For example, this could include: <ul style="list-style-type: none"> • 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. • any offer of a bribe or improper inducement, made by a member of the public or a Councillor or staff member.
<i>Maladministration</i>	Maladministration is conduct that involves action or inaction of a serious nature that is in fact contrary to law, unreasonable, unjust, oppressive or improperly discriminatory, or based wholly or partly on improper motives. For examples, this could include: <ul style="list-style-type: none"> • making a decision and / or taking action that is unlawful; • refusing to grant an approval, for reasons that are not related to the merits of the application.

<p><i>Serious and substantial waste</i></p>	<p>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.</p> <p>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:</p> <ul style="list-style-type: none"> • poor project management practices leading to projects running over time • having poor or no processes in place, for a system involving large amounts of public funds • not following a competitive tender process for a large scale contract
<p><i>Government Information Contravention</i></p>	<p>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:</p> <ul style="list-style-type: none"> • destroying, concealing or altering records to prevent them from being released • knowingly making decisions that are contrary to the legislation • directing another person to make a decision that is contrary to the legislation.
<p><i>Local government pecuniary interest contravention</i></p>	<p>A local government pecuniary interest contravention is a failure to fulfil certain functions under the Local Government Act 1993 as amended, 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.</p> <p>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:</p> <ul style="list-style-type: none"> • 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; • a Councillor participating in consideration of a Development Application for property they or their family have an interest in
<p><i>Honest belief</i></p>	<p>A belief is more than a suspicion. This means that you are more likely to accept the idea that wrongdoing occurred than reject it. An honest belief is a belief that is genuinely held.</p> <p>An ‘honest belief on reasonable grounds that information shows or tends to show’, means that a Public Interest Disclosure cannot be based on a mere allegation or suspicion that is unsupported by any facts, circumstances or evidence.</p>
<p><i>Reasonable grounds</i></p>	<p>The PID Act provides that a belief is presumed to be honest, unless there is evidence that it is not.</p>

	The test applied here is whether, from an objective viewpoint, the basis for the person's belief is reasonable. That is, would a reasonable person in the circumstances believe that wrongdoing had occurred? The belief cannot be based on or influenced by any personal animosity or prejudice.
<i>Shows or tends to show</i>	<p>This means there must be sufficient information to indicate that the wrongdoing has happened, or is happening. This may include:</p> <ul style="list-style-type: none"> • direct observation of the wrongdoing • corroborative observation by others • evidence such as unbalanced accounts, missing items of value or contradictory records. <p>Information applied must be objective. There should be no alternative, reasonable explanations for the conduct or activities observed, that can be easily thought of.</p>

POLICY STATEMENT

1. General Principles

- 1.1 This Policy has been developed from the Model Internal Reporting Policy for local government, as provided by the NSW Ombudsman and it is supported by procedures.
- 1.2 Council has zero tolerance of corrupt conduct, maladministration, serious and substantial waste of public money, government information contraventions and local government pecuniary interest contraventions.
- 1.3 Georges River Council is committed to the aims and objectives of the Public Interest Disclosures Act 1994 (PID Act) and has developed this Policy in accordance with the relevant provisions of section 6 of the PID Act.
- 1.4 Council strongly supports all Councillors and staff, who make disclosures of corrupt conduct, maladministration, serious and substantial waste of public money, government information contraventions and local government pecuniary interest contraventions.
- 1.5 Council takes all reasonable steps to provide protection from any detrimental action in reprisal, to Councillors and staff who make such disclosures.
- 1.6 Council is committed to:
 - 1.6.1 Creating a climate of trust, where staff are comfortable and confident about reporting wrong doing;
 - 1.6.2 Encouraging staff to come forward if they have witnessed what they consider to be wrong doing within Council;
 - 1.6.3 Keeping the identity of the staff member who discloses wrongdoing confidential, wherever possible and appropriate;
 - 1.6.4 Protecting staff who make disclosures, from any adverse action motivated by their report
 - 1.6.5 Protecting the principles of natural justice for any accused person(s) throughout any period of investigation;

- 1.6.6 Dealing with reports thoroughly and impartially and if some form of wrongdoing has in fact been found, taking appropriate action to rectify it;
 - 1.6.7 Keeping staff who make a report, informed of the investigation's progress and the outcome;
 - 1.6.8 Encouraging staff to report wrongdoing within Council, but respecting any decision to disclose wrongdoing outside of Council – provided that disclosure outside of Council is made in accordance with the provisions of the PID Act;
 - 1.6.9 Ensuring managers and supervisors at all levels in the Council, understand the benefits of reporting wrongdoing, are familiar with this policy and are aware of the needs of those who report wrongdoing;
 - 1.6.10 Providing adequate resources, both financial and human to;
 - encourage reports of wrongdoing
 - protect and support those who make such reports
 - provide appropriate training for key personnel
 - investigate all allegations
 - properly manage any workplace issues that the allegations identify or create
 - correct any problem that is identified
 - 1.7 The process for handling reports will be in accordance with this Policy and any associated guidelines developed by Council, or issued by the NSW Ombudsman. Council will also report to other agencies, any wrongdoing in accordance with this Policy and the relevant legislation.
 - 1.8 Staff and Councillors must support those who have made reports of wrongdoing, as well as protect and maintain their confidentiality. Staff and Councillors must not victimise or harass anyone who has made a report.
- 2. What should be reported?**
- 2.1 You should report any suspected wrongdoing you see within Council.
 - 2.2 Reports about the five (5) categories of serious wrongdoing – corrupt conduct, maladministration, serious and substantial waste of public money, government information contraventions and local government pecuniary interest contravention – if provided as Public Interest Disclosures, will be dealt with under the PID Act as Public Interest Disclosures and according to this Policy.
- 3. Other wrongdoing**
- 3.1 Not everything which first appears to be one of the five categories, is found in fact to be the result of corrupt conduct, maladministration, serious or substantial waste public money, a government information contravention or a local government pecuniary interest contravention.
 - 3.2 Many issues arise as a result of poor communication and explanations of judgements or decisions.
 - 3.3 All other wrongdoing or suspected wrongdoing should be reported to your supervisor to be dealt with in line with Council's policies.

- 3.4 This might include:
- a) harassment or unlawful discrimination;
 - b) conduct that is inconsistent with Council's Code of Conduct;
 - c) reprisal action against a person who has reported wrongdoing;
 - d) practices that endanger the health, welfare or safety of staff or the public.
- 3.5 Even if these reports are not to be received and dealt with as Public Interest Disclosures, Council will consider each matter and make every attempt to protect the staff member making the report from reprisal.
- 3.6 Where there has been a valid perception of wrongdoing but following investigation, no wrongdoing is found in fact, the person reporting their concerns will be briefed on the outcome of any investigation.
- 4. When will a report be protected?**
- 4.1 Georges River 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.
- 5. How to make a report**
- 5.1 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.
- 6. Can a report be anonymous?**
- 6.1 Yes, although it is important to realise that an anonymous disclosure may not prevent you from being identified
- 7. Maintaining confidentiality**
- 7.1 Council is committed to keeping both your identity and the fact you have reported wrongdoing, confidential.
- 7.2 However there may be situations where this may not be possible or appropriate. For example, Council cannot guarantee the continued confidentiality of information forwarded to the Office of Local Government. Another example is where a request for release of information concerning a PID is made under the Government Information (Public Access) Act 2009 (GIPA Act). In this situation consideration will be given to s22 of the PID Act and s14 and Schedule 1 of the GIPA Act. Refer to Appendix 2 at the end of this policy, the NSW Ombudsman's Public Interest Disclosures Fact Sheet 2013, for more information. Regardless, each GIPA Application will be accessed on a case by case basis and the public interest test applied.
- 7.3 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
- 8. Who can receive a report within the Georges River Council?**
- 8.1 You can report wrongdoing directly to the General Manager, the Disclosures Coordinator, or a Disclosures Officer.
- 8.2 If you are making a report about the General Manager, you should make your report to the Mayor.

- 8.3 The Disclosures Coordinator has a central role in dealing with reports made by staff. This officer receives them, assesses them and refers them to the people within the Council, or externally, who can deal with them appropriately. The Disclosures Coordinator is the Manager Governance and Risk Management.
- 8.4 The Disclosures Officers are Executive Manager Engineering Operations, Council depot and Internal Auditor / Public Officer, Civic Centre.
- 8.5 For disclosures to other State bodies, you should contact the relevant authority for advice about how to make a PID disclosure to them. Contact details for each investigating authority are provided in Appendix 1 at the end of the Policy under the section of Resources.
- 8.6 The contact details in Appendix 1 can be updated at any time by the General Manager as required.

9. Feedback to staff who report wrongdoing

- 9.1 When you make a report Council will provide you with a copy of this policy and an acknowledgement in writing of the receipt of the disclosure within 45 days after the disclosure is made.
- 9.2 Staff and Councillors who make a report of wrongdoing will be told what is happening in response to their report.

10. Protection against reprisals

- 10.1 Council will not tolerate any reprisal action against staff who report wrongdoing. The criminal penalties that can be imposed may include imprisonment or fines.

11. Responding to reprisals

- 11.1 Council will act to protect staff who report wrongdoing, from any reprisals.
- 11.2 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.
- 11.3 Council will keep the person who makes a disclosure, informed of the progress of any investigation and the outcome.
- 11.4 The General Manager may issue specific directions to help protect against reprisals. If the allegation of reprisal action is about the action of the General Manager, the Mayor may issue similar directions.
- 11.5 These may include:
- issuing warnings to those alleged to have taken reprisal action against the individual who made the disclosure;
 - relocating the member of staff who made the disclosure or an officer the subject of the allegations within the current workplace;
 - transferring the member of staff who made the disclosure or the staff member who is the subject of the allegations 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

11.6 In relation to staff who make reports, such directions will only be made if the member of staff 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.

11.7 If any person reports wrongdoing and feels that reprisal action has occurred and is not being dealt with effectively, that person should contact the Office of Local Government, NSW 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.

12. Protection against legal action

12.1 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

13.1 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.

13.2 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.

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

13.4 Council has an Employee Assistance Programme (EAP) via an external support agency to provide counselling and support services and advice. Contact details are 1800 337 068 or www.convergeinternational.com.au

14. Sanctions for making false or misleading disclosures

14.1 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. It may also be a breach of the Council's Code of Conduct and may result in disciplinary action. In the case of Councillors, such disciplinary action may be taken under the misconduct provisions of the Local Government Act 1993 and may include suspension or disqualification from civic office.

15. Review

15.1 This policy will be reviewed by Council within 12 months of a general election, or at earlier timeframes as warranted. For any advice or guidance about this review, contact the NSW Ombudsman's Public Interest Disclosures Unit. Staff can also access advice and guidance from the Disclosures Coordinator or the NSW Ombudsman's website at www.ombo.nsw.gov.au

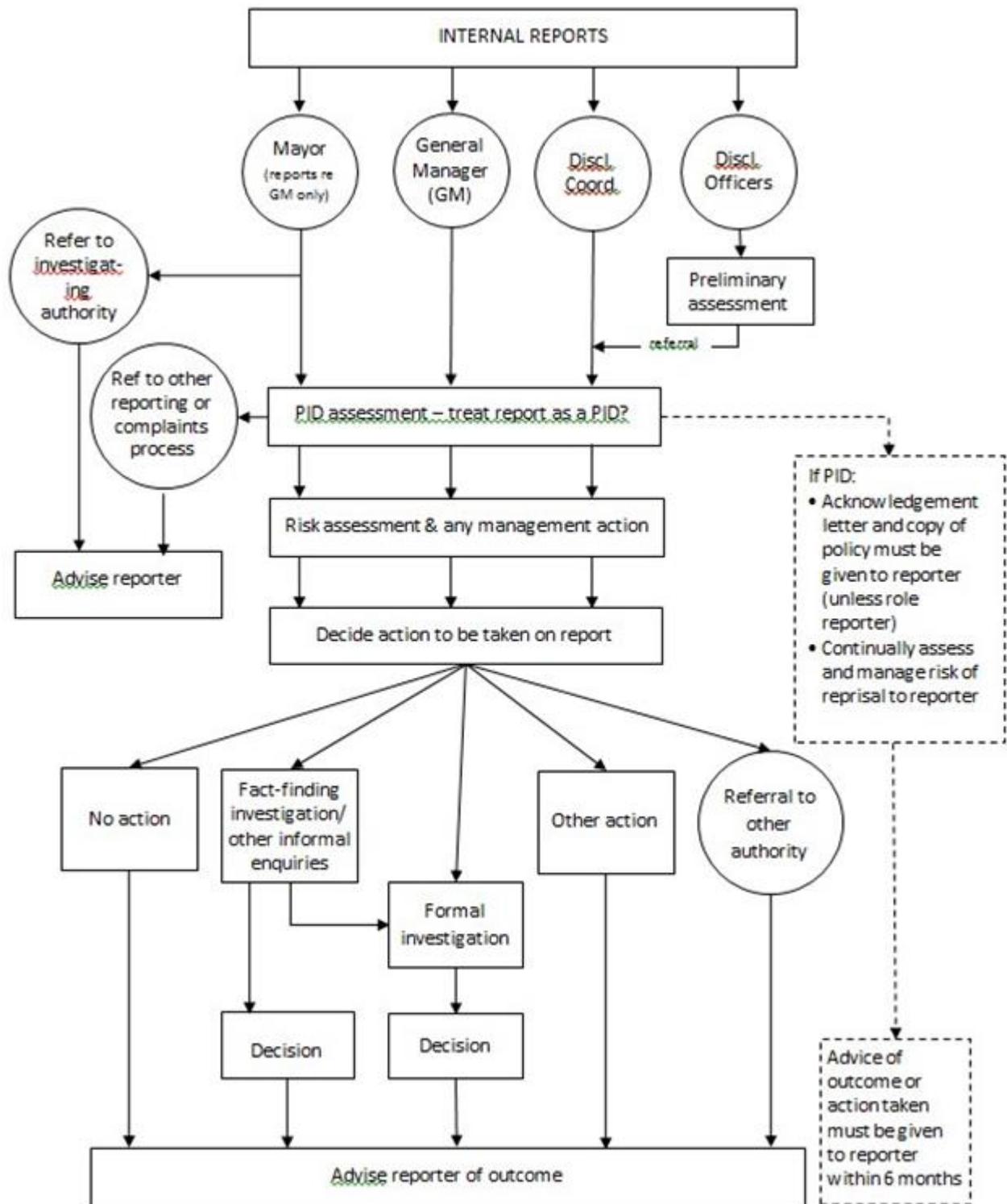
RESPONSIBILITIES

Position	Responsibility
<i>The Mayor</i>	<p>The Mayor can receive reports from staff and Councillors about the General Manager. Where the Mayor receives such reports, the Mayor has a responsibility to:</p> <ul style="list-style-type: none"> • assess the reports to determine whether or not they should be treated as a public interest disclosure, and to decide how they will be dealt with; • in making this assessment seek guidance from the Disclosures Coordinator, General Manager (if appropriate) or an investigating authority (i.e. NSW Ombudsman, ICAC, Chief Executive of the Department of Local Government); • deal with reports made under Council’s Code of Conduct in accordance with the adopted Code of Conduct Procedures; • refer reports to an investigating authority, where appropriate; • liaise with the Disclosures Coordinator to ensure there are strategies in place to support reporters, protect reporters from reprisal and • manage workplace conflict that may arise in relation to a report; • protect principles of natural justice for the subject(s) of any investigation; • refer criminal matters to NSW Police; • refer actual or suspected corrupt conduct to the ICAC (under section 11 of the ICAC Act); • refer any evidence of a reprisal offence under section 20 of the PID Act to the Commissioner of Police or the ICAC.
<i>General Manager</i>	<p>The General Manager has ultimate responsibility for maintaining the internal reporting system and workplace reporting culture and ensuring Council complies with the PID Act. The General Manager can receive reports from staff and Councillors and has a responsibility to:</p> <ul style="list-style-type: none"> • assess reports received by or referred to them, to determine whether or not the report should be treated as a public interest disclosure, and to decide how the report will be dealt with; • deal with reports made under Council’s Code of Conduct in accordance with Council’s adopted Code of Conduct Procedures; • ensure there are strategies in place to support reporters, protect reporters from reprisal and manage workplace conflict that may arise • in relation to a report; • make decisions following any investigation; • take appropriate remedial action where wrongdoing is substantiated or systemic problems are identified; • have primary responsibility to protect principles of natural justice for the subject(s) of any investigation; • refer criminal matters to NSW Police; • refer actual or suspected corrupt conduct to the ICAC (under section 11 of the ICAC Act); • refer any evidence of a reprisal offence under section 20 of the PID Act to the Commissioner of Police or the ICAC.

<p><i>Disclosures Coordinator</i></p>	<p>The Disclosures Coordinator has a central role in Council’s internal reporting system. The Disclosures Coordinator can receive and assess reports and is the primary point of contact in Council for the reporter. The Disclosures Coordinator has a responsibility to:</p> <ul style="list-style-type: none"> • assess reports to determine whether or not a report should be treated as a public interest disclosure, and to decide how each report will be dealt with (either under delegation or in consultation with the General Manager); • coordinate Council’s response to a report; • acknowledge reports and provide updates and feedback to the reporter; • assess whether it is possible and appropriate to keep the reporter’s identity confidential; • assess the risk of reprisal and workplace conflict related to or likely to arise out of a report and develop strategies to manage any risk identified; • where required, provide or coordinate support to staff involved in the reporting or investigation process, including protecting the interests of any officer the subject of a report; • ensure Council complies with the PID Act; • provide six-monthly reports to the NSW Ombudsman in accordance with section 6CA of the PID Act.
<p><i>Nominated Disclosures Officers</i></p>	<p>Disclosures Officers are additional points of contact within the internal reporting system. They can provide advice about the system and the internal reporting policy, receive reports of wrongdoing and assist staff and Councillors to make reports.</p> <p>Disclosures officers have a responsibility to:</p> <ul style="list-style-type: none"> • document in writing any reports received verbally, and have the document signed and dated by the reporter; • make arrangements to ensure reporters can make reports privately and discreetly when requested, if necessary away from the workplace; • discuss with the reporter any concerns they may have about reprisal or workplace conflict; • carry out preliminary assessment and forward reports to the Disclosures Coordinator or General Manager for full assessment.
	<p>Supervisors and line managers play an important role in managing the immediate workplace of those involved in or affected by the internal reporting process. Supervisors and line managers should be aware of the internal reporting policy and are responsible for creating a local work environment where staff are comfortable and confident about reporting wrongdoing.</p> <p>They have a responsibility to:</p> <ul style="list-style-type: none"> • encourage staff to report known or suspected wrongdoing within the organisation and support staff when they do • identify reports made to them in the course of their work which could be public interest disclosures, and assist the staff member to make

	<p>the</p> <ul style="list-style-type: none">• report to an officer authorised to receive public interest disclosures under this policy• implement local management strategies, in consultation with the Disclosures Coordinator to minimise the risk of reprisal or workplace conflict in relation to a report• notify the Disclosures Coordinator or General Manager immediately if they believe a staff member is being subjected to reprisal as a result of• reporting wrongdoing, or in the case of suspected reprisal by the• General Manager, notify the Mayor.
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FLOWCHART FOR INTERNAL REPORTING PROCESS



Source: NSW Ombudsman's Model internal reporting policy for Local Government – June 2014, page 15

VERSION CONTROL AND CHANGE HISTORY

Version	Amendment Details	Policy Owner	Period Active
KCC	Former Kogarah Council Policy discontinued	Kogarah Governance	24/06/2013 – 02/07/2017
HCC	Former Hurstville Council Policy discontinued	Hurstville Governance	06/05/2015 – 02/07/2017
1.0	Complete new Georges River Council Public Interest Disclosure Reporting Policy	Manager Governance and Risk Management	03/07/2017 – 25/02/2018
2.0	Minor Amendment to Appendix 1 – Removal of Administrator's details and inclusion of Mayor's contact details.	Manager Governance and Risk Management	26/02/2018

APPENDIX 1

You can report wrongdoing directly to the General Manager, the Disclosures Coordinator, or a Disclosures Officer.

The General Manager is Ms. Gail Connolly. Phone 02 9330 6256

gconnolly@georgesriver.nsw.gov.au

If you are making a report about the General Manager, you should make your report to the Mayor.

The Mayor is Mr. Kevin Greene. Phone 02 9330 6122

kgreene@georgesriver.nsw.gov.au

1. Disclosures Coordinator

The Disclosures Coordinator has a central role in dealing with reports made by staff. This officer receives them, assesses them and refers them to the people within the Council, or externally, who can deal with them appropriately.

The Disclosures Coordinator is the Manager Governance and Risk Management, Popy Mourgelas, located at the Hurstville Civic Centre. Contact details: 02 9330 6177 or pmourgelas@georgesriver.nsw.gov.au

Alternate Disclosures Officers will work with the Disclosures Coordinator and are responsible for receiving, forwarding and / or dealing with reports made in accordance with this Policy.

2. Alternate Disclosures officers

Andrew Latta, Executive Manager Engineering Operations, Council

depot. Contact details: 02 9330 6400 or

alatta@georgesriver.nsw.gov.au

Tony Gearon, Internal Auditor / Public Officer, Civic Centre. Contact details: 02 9330 6031 or tgearon@georgesriver.nsw.gov.au

For disclosures to other State bodies, you should contact the relevant authority for advice about how to make a PID disclosure to them.

Contact details for each investigating authority are provided below under the section of Resources.

1. Resources

The contact details for external investigating authorities, to which staff can make a Public Interest Disclosure, or from which staff can seek advice, are listed below.

For disclosures about corrupt conduct:

Independent Commission Against
Corruption (ICAC)

Phone: 02 8281 5999

Toll free: 1800 463 909

Tel. typewriter (TTY): 02 8281 5773

Facsimile: 02 9264 5364

Email: icac@icac.nsw.gov.au

Web: www.icac.nsw.gov.au

Address: Level 7, 255 Elizabeth St Sydney
NSW 2000
GPO Box 500
Sydney, New South Wales, 2001
Australia

For disclosures about breaches of the GIPA Act:

Information and Privacy Commissioner

Toll free: 1800 472 679

Email: ipcinfo@ipc.nsw.gov.au

Web: www.oic.nsw.gov.au

Address: Level 17, 201 Elizabeth Street,
Sydney NSW 2000

GPO Box 7011, Sydney NSW 2001

For disclosures about maladministration:

Complaints can be made using the
Ombudsman's On Line Complaint Form :
[ONLINE COMPLAINT FORM](#).

NSW Ombudsman

Phone: 02 9286 1000

Toll free (outside Sydney metro): 1800 451
524

Tel. typewriter (TTY): 02 9264 8050

Facsimile: 02 9283 2911

Email: nswombo@ombo.nsw.gov.au

Web: www.ombo.nsw.gov.au

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

For disclosures about local councils:

Office of Local Government in the
Department of Premier and Cabinet

Phone: 02 4428 4100

Tel. typewriter (TTY): 02 4428 4209

Facsimile: 02 4428 4199

Email: olg@olg.nsw.gov.au

Web: www.olg.nsw.gov.au

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

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

Web: www.pic.nsw.gov.au

Address: Level 3, 111 Elizabeth Street,
Sydney NSW 2000

GPO Box 3880 Sydney NSW 2001

APPENDIX 2

Interaction between Public Interest Disclosures Act and Government Information (Public Access) Act

This fact sheet outlines the interaction between the *Public Interest Disclosures Act 1994* (PID Act) and the *Government Information (Public Access) Act 2009* (GIPA Act) in relation to the release of information concerning a public interest disclosure.

Section 22 of the PID Act

Section 22 of the PID Act prohibits a 'disclosure' of information that 'might identify or tend to identify the identity of a person who has made' a public interest disclosure, subject to certain exceptions. When a request is made under the GIPA Act for information concerning a public interest disclosure, the authority will need to consider whether this section applies, and if so the nature and scope of the prohibition.

Section 14 of the GIPA Act

Section 14(1) GIPA Act provides that it is to be 'conclusively presumed' that there is an overriding public interest against disclosure of any of the government information described in Schedule 1 to that Act. Item 1 of that Schedule lists that there is an overriding public interest against disclosure of information which is prohibited by, amongst other laws, section 22 of the PID Act. This restriction applies whether or not the prohibition is subject to specific qualifications or exceptions and whether or not a breach of the prohibition constitutes an offence.

Application of section 22

In relation to the question whether section 22 applies, in considering the meaning of 'disclosure' the NSW Court of Appeal and the ADT have taken the view that once information is known it cannot be disclosed (unless it became known by some unlawful means). For example, '[t]he essence of disclosure of information is making known information to a person that the person did not previously know'. This indicates that section 14(1) and Schedule 1 of the GIPA Act would not apply in relation to the PID Act if the identity of the reporter has already been revealed or disclosed or become known by some lawful means.

If the identity of the reporter has not otherwise been lawfully disclosed, section 22 only applies to information that 'might identify or tend to identify the identity of the person who has made' a public interest disclosure.

Considering a GIPA request

Operational decisions about the disclosure of information that might disclose the identity of a reporter under the PID Act can be made by the head of the authority or a delegated officer (such as the PID Coordinator) exercising powers under section 22 of that Act. However, a Right to Information Officer exercising the powers under the GIPA Act has a much more limited discretion. When considering a GIPA Act request for information relating to a PID, the options available would appear to be:

1. where the identity of the reporter is either generally known or known to the GIPA applicant, it would appear that section 22 of the PID Act may well not apply (although some other public interest consideration against disclosure in the GIPA Act might apply)
2. where section 22 of the PID Act applies, it prohibits disclosure of information that might identify or tend to identify the reporter:
 - in some cases, the section 14(1) GIPA Act and section 22 PID Act prohibitions might be able to be addressed by redacting documents to remove information that might identify the reporter,
 - in other circumstances where even confirming the existence of a public interest disclosure might tend to identify the reporter, authorities might well be justified in relying on section 58(1)(f) of the GIPA Act to refuse to confirm or deny that such information is held by the authority.

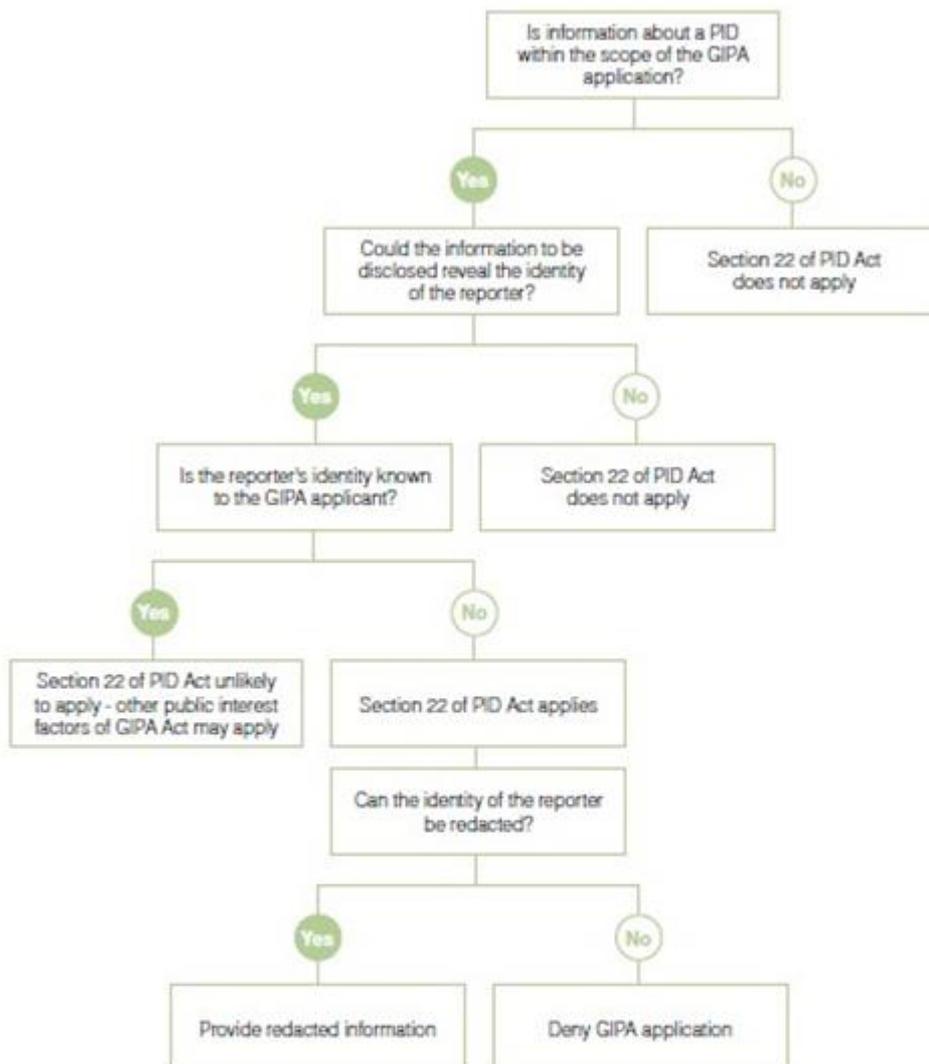
A GIPA application may ask for more than just the name of the PID reporter. If there is no conclusive presumption against disclosure, the public interest test and considerations in sections 12-15 of the GIPA Act must be applied. If the information includes someone's personal information, agencies are obliged to take reasonably practical steps to consult with that person to ascertain whether they have any objection to disclosure of some or all of the information and the reasons for any such objection (see section 54 of the GIPA Act). Depending on the information sought by the application, persons who need to be consulted might include the reporter, any subjects of the disclosure and/or any witnesses.

The Information and Privacy Commission (IPC) provides information, advice, assistance and training to agencies and the public on matters relevant to the GIPA Act. The IPC can be contacted at ipinfo@ipc.nsw.gov.au or 1800 472 679.

¹ *Nair v State of NSW* (2007) 107 A Crim R 78 at 106 [127] – See also: *Richards v Commissioner, Department of Community Services* (2011) NSW ADT 98 [40]; *R v Ritson; R v Stacey* (2010) NSW DC 160 at [51] – [58]; *Forster v Federal Commissioner of Taxation* (1951) 83 CLR 606 at 614-615.

Interaction between *Public Interest Disclosures Act* and *Government Information (Public Access) Act*

Decision making flowchart for agencies:



Contact us for more information

Our business hours are: Monday to Friday, 9am–5pm (Inquiries section closes at 4pm)

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