



Internal Reporting Policy

Application	Councillors, Staff and Contractors
Responsible Officer	General Manager
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1. Purpose and context of the policy

This policy provides a mechanism for Councillors, staff and independent contractors that encourages and facilitates the disclosure, in the public interest, of corrupt conduct, maladministration, serious and substantial waste and government information contravention within Carrathool Shire Council in accordance with the relevant provisions of the Public Interest Disclosures Act 1994 (PID Act). The policy is based on NSW Ombudsman's Model Internal Reporting Policy (Local Government).

The Internal Reporting System enables internal disclosures to be made to the disclosure co-ordinator or a nominated officer, or the Mayor as an alternative to the General Manager. Carrathool Shire Council is committed to high standards of ethical and accountable conduct and will not tolerate wrongdoing. The Internal Reporting Policy and procedures explain the process of handling reports that are classified as public interest disclosures under the PID Act.

The policy is designed to complement normal communication channels between supervisors and staff. Council staff are encouraged to continue to raise appropriate matters at any time with their supervisors, or may also raise issues in accordance with Council's Code of Conduct or Grievance Policy and procedures. Staff who come forward and report wrongdoing are recognized as helping to promote integrity, accountability and good management within the council.

2. Organisational commitment

Council is committed to creating a climate of trust, where staff are comfortable and confident about reporting wrongdoing. Council is strongly committed to the following:

- 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

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- 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.

3. Roles and responsibilities of staff

This policy will apply to:

- both council staff and councillors
- permanent employees, whether full-time or part-time
- temporary or casual employees
- consultants
- individual contractors working for the council
- employees of contractors providing services to the council.

The policy may also apply to other people who perform public official functions and their conduct and activities could be investigated by an investigating authority. This can include volunteers and those contracted to work for the council.

Council officials are encouraged to report known and suspected wrongdoing. This policy is one of several Council policies relating to grievances and complaints such as:

Council's Code of Conduct

Complaints Management Policy

Counselling and Disciplinary Manual Council officials are 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.

3.1 Councillors, Staff and Independent Contractors

Councillors, staff and contractors are encouraged to report known or suspected incidences of corrupt conduct, maladministration or serious and substantial waste in accordance with this policy.

All Councillors and staff of the Carrathool Shire Council have an important role to play in supporting those who have made legitimate disclosures. They must abstain from any activity that is or could be perceived to be victimisation or harassment of persons who make public interest disclosures. Further, they should protect/maintain confidentiality of persons they know or suspect to have made disclosures.



3.2 Nominated disclosure officers

Nominated disclosure officers are responsible for receiving, forwarding and or acting upon disclosures made in accordance with the policy. Nominated 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 disclosure co-ordinator, or the General Manager, 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.

3.3 The Disclosure Co-ordinator

The disclosure co-ordinator has a pivotal position in the internal reporting system and acts as a clearing house for disclosures. The disclosure co-ordinator will:

- (a) 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 covers another agency and should therefore be referred to the principal officer of that agency
 - the appropriate action to be taken in relation to the disclosure that concerns Carrathool Shire Council, eg:
 - no action/decline;
 - the appropriate person to take responsibility for dealing with the disclosure;
 - preliminary or informal investigation;
 - formal investigation;
 - prosecution or disciplinary action;
 - referral to an investigating authority for investigation or other appropriate action;
 - referral to the police (if a criminal matter) or the ICAC (if the matter concerns corrupt conduct).
 - be responsible for either carrying out or co-ordinating any internal investigation arising out of a disclosure.
- (b) receive reports from nominated disclosure officers and be responsible for carrying out or co-ordinating any internal investigation arising out of a disclosure.
- (c) take all necessary and reasonable steps to ensure that the identity of the persons who make disclosures, and the persons the subject of the disclosures, are kept confidential.



- (d) have primary responsibility for protecting staff and councillors who make disclosures, or provide information to any external investigation of a disclosure, from victimisation, harassment or any other form of reprisal.
- (e) be responsible for implementing organisational reform identified as necessary following investigation of a disclosure, and
- (f) report criminal offences to the Police and actual or suspected corrupt conduct to the ICAC (under Section 11 of the ICAC Act).
- (g) deal with reports made under the council's code of conduct in accordance with the council's adopted code of conduct procedures.
- (h) ensures the council complies with the PID Act.
- (i) provide six monthly reports to the NSW Ombudsman in accordance with section 6CA of the PID Act.

3.4 The General Manager

The general manager has ultimate responsibility for maintaining the internal reporting system and workplace reporting culture, and ensuring the council complies with the PID Act.

Disclosures may be made directly to the General Manager who will:

- (a) 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,
 - the appropriate person be appointed to take responsibility for dealing with the disclosure,
 - preliminary or an informal investigation be conducted,
 - that a formal investigation be conducted,
 - 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).
- (b) 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.
- (c) 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).
- (d) 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.
- (e) Be responsible for implementing organisational reform identified as necessary following investigation of a disclosure.
- (f) Report criminal offences to the NSW Police Force and actual and suspected corrupt conduct to the ICAC (under s.11 of the ICAC Act).



3.5 The Mayor

The Mayor may receive internal disclosures from any member of council's staff or from any councillor concerning the General Manager or a councillor. The Mayor will:

- (a) impartially assess each disclosure made to them about the General Manager or a councillor to determine:
 - whether the disclosure appears to be a public interest disclosure within the meaning of the Act.

Note: In making this assessment the Mayor may seek guidance from an investigating authority (ICAC, Ombudsman or the Director-General DLG)
 - the appropriate action to be taken in relation to the disclosure, eg
 - no action/decline;
 - the appropriate person to take responsibility for dealing with the disclosure;
 - preliminary or informal investigation;
 - formal investigation;
 - prosecution or disciplinary action;
 - referral to an investigating authority for investigation or other appropriate action;
 - referral to the police (if a criminal matter) or the ICAC (if the matter concerns corrupt conduct).
- (b) Refer disclosures to the General Manager for appropriate action if they concern the council's administration, within the day-to-day responsibilities of the General Manager.
- (c) 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).

4. What should be reported?

You should report any suspected wrongdoing you see within the Carrathool Shire Council, or any activities or incidents you see within the Council that you believe are wrong.

Reports about the five categories of serious misconduct – corrupt conduct, maladministration, serious and substantial waste of public money, breach of the GIPA Act, and local government pecuniary interest contravention – which otherwise meet the criteria of a public interest disclosure, will be dealt with under the PID Act and according to this policy. See below for details about these types of conduct. More information about what can be reported under the PID Act can be found in the NSW Ombudsman's *Guideline B2: What should be reported?*

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.

Corrupt conduct can take many forms, such as taking or offering bribes, public officials dishonestly using influence, blackmail, fraud, election bribery and illegal gambling.



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. Conduct covered by these terms includes:

- **Contrary to law eg**
 - a decision or action contrary to law
 - a decision or action ultra vires (ie the decision-maker had no power to make the decision or to do the act)
 - a decision or action contrary to the to lawful and reasonable orders from people or agencies with authority to make or give such orders
 - a breach of natural justice or procedural fairness
 - improperly exercising a delegated power (eg a decision or action not authorised by a delegation or acting under the direction of another)
 - unauthorised disclosure of confidential information
 - a decision or action induced or affected by fraud.
- **Unreasonable, eg**
 - a decision or action inconsistent with adopted guidelines or policies or with a decision or action which involves similar facts or circumstances not justified by any evidence, or so unreasonable that any reasonable person could so decide or act (eg irrational)
 - an arbitrary, partial, unfair or inequitable decision or action
 - a policy that is applied inflexibly and without regard to the merits of an individual case
 - a decision or action that does not take into account all relevant considerations or that takes into account irrelevant considerations
 - serious delays in making a decision or taking action
 - failing to give notice of rights
 - giving, wrong, inaccurate or misleading advice leading to detriment
 - failing to apply the law
 - failing to rectify identified mistakes, errors, oversights or improprieties
 - a decision or action based on incorrect or misinterpreted information
 - failing to properly investigate.
- **Unjust, eg**
 - a decision or action not justified by any evidence or that is unreasonable
 - a partial, unfair, inequitable or unconscionable decision or action.
- **Oppressive, eg**
 - an unconscionable decision or action
 - where the means used are not reasonably proportional to the ends to be achieved
 - an abuse of power, intimidation or harassment.
- **Improperly discriminatory, eg**
 - the consistent application of a law, policy or practices when there is no reasonable, justifiable or appropriate reason to do so
 - applying a distinction not authorised by law, or failing to make a distinction which is authorised or required by law.
- **Based wholly or partly on improper motives, eg**



- a decision or action for a purpose other than that for which a power was conferred (ie in order to achieve a particular outcome)
- a conflict of interest
- bad faith or dishonesty
- seeking or accepting gifts or benefits in connection with performance of official duties
- misusing public property, official services or facilities.
- 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.

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
- having poor or no processes in place for a system involving large amounts of public funds.

The following delineation of the definition of serious and substantial waste may be of assistance to public officials and/or public authorities.

Types:

Absolute: Serious and substantial waste might be regarded in absolute terms where the waste is regarded as significant, for example \$200,000.00.

Systemic: The waste indicates a pattern, which results from a system weakness within public authorities.

Material: The serious and substantial waste is/was material in terms of the public authority's expenditure or a particular item of expenditure or is/was material to such an extent so as to affect a public authority's capacity to perform its primary functions.

Material By Nature Not Amount: The serious and substantial waste may not be material in financial terms but may be significant by nature. That is may be improper or inappropriate. [alternatively, this type of waste may constitute 'maladministration' as defined in the *PID Act*].

Waste can result from such things as:

- misappropriation or misuse of public property,
- the purchase of unnecessary or inadequate goods and services,
- too many staff being employed in a particular area, incurring costs which might otherwise have been avoided,
- programs not achieving their objectives and therefore the costs being clearly ineffective and inefficient.
- the absence of appropriate safeguards to prevent the theft or misuse of public property,
- purchasing procedures and practices which fail to ensure that goods and services are necessary and adequate for their intended purpose, and



- purchasing practices where the lowest price is not obtained for comparable goods or services.

d. Breaches of the GIPA Act

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 legislation
- directing another person to make a decision that is contrary to the legislation.

e. Local Government pecuniary interest contravention

A local government pecuniary interest contravention is a failure to fulfill certain functions under the *Local Government Act 1993* relating to the management of pecuniary interests. These include obligations to lodge disclosure of interest returns, lodge written declarations and disclose pecuniary interest at council and council committee meetings. A pecuniary interest is an interest that a person has in a matter because of a reasonable likelihood expectation of appreciable financial gain or loss to the person.

For example, this could include:

- A senior council staff member recommending a family member for a council contract and not declaring the relationship
- A general manager holding an undisclosed shareholding in a company competing for a council contract.
- A councilor participating in consideration of a DA for a property they or their family have an interest in.

f. Other wrongdoing

Although reports about the previous 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:

- 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 Carrathool Shire Council's policies available on the intranet such as:

- Code of Conduct
- Complaints Handling policy and procedure
- Workplace Bullying and Harassment
- Grievance Policy and procedure.

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

5. When will a report be treated as a public interest disclosure?



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The Carrathool Shire 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 must be about one of the following five categories of serious misconduct – corrupt conduct, maladministration, serious and substantial waste of public money, breach of the GIPA Act, and local government pecuniary interest contravention. The report has to be made to one or more of the following:
 - the General Manager Rick Warren, Carrathool Shire Council, 9-11 Cobram Street, Goolgowi, phone (02) 6965-1900
 - the Mayor, Cr Peter Laird, "Mount View" via Hillston , phone (02) 6967-8144
 - the Disclosure Co-ordinator, Jackie Smith, Carrathool Shire Council, 9-11 Cobram Street, Goolgowi, phone (02) 6965-1900
 - the Disclosure Officer, Christine de Paul, Carrathool Shire Council, 9-11 Cobram Street, Goolgowi, phone (02) 6965-1900
 - 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 the Carrathool 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

The Carrathool 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 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 or in the case of a report about the general manager, the disclosures coordinator and the Mayor. The fewer people who know about your report, before and after you make it, the more likely it will be that we can protect you from any reprisal.

Any staff or councillors involved in the investigation or handling of a report, including witnesses, are also required to maintain confidentiality and not disclose information about the process or allegations to any person except for those people responsible for handling the report.

9. Who can receive a report within the Carrathool Shire 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 the Carrathool Shire Council, this means this policy and any supporting procedures.

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. 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.

The following positions are the only staff within the Carrathool Shire Council who can receive a public interest disclosure.

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 the Carrathool Shire 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.

Contact details for the General Manager are as follows:

Carrathool Shire Council
9-11 Cobram Street
PO Box 12
GOOLGOWI NSW 2652
Phone (02) 6965-1900

b. Mayor

If you are making a report about the General Manager, you should make your report to the Mayor, who will then be 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 the Carrathool Shire 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.

Contact details for the Mayor are as follows:

Mayor, Cr Peter Laird
"Mountain View"
Via ROTO
HILLSTON NSW 2675
Phone: (02) 6967-8144

c. Disclosure coordinator

The disclosure coordinator has a central role in dealing with reports made by staff. He/she will receive them, assess them, and refer them to the people within the Carrathool Shire Council who can deal with them appropriately.

Jacqui Smith
Carrathool Shire Council
9-11 Cobram Street
GOOLGOWI NSW 2652



Phone: (02) 6965-1900

d. Disclosure officer

The disclosures officer works with the disclosures coordinator, and is responsible for receiving, forwarding and/or dealing with reports made in accordance with this policy.

Christine de Paris
Carrathool Shire Council
9-11 Cobram Street
GOOLGOWI NSW 2652
Phone: (02) 6965-1900

10. Who can receive a report outside of the Carrathool Shire Council

Staff are encouraged to report wrongdoing within the Carrathool Shire 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 the Carrathool Shire 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 outlined below.

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 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 (reports about serious and substantial waste in State government agencies should be made to the Auditor General)
- 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 the Carrathool Shire 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
- an investigating authority in accordance with the PID Act.

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

- decided not to investigate the matter
- decided to investigate the matter, but not completed the investigation within six months of the original report
- investigated the matter but not recommended any action as a result
- not 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 Carrathool Shire Council's code of conduct – by, for example, disclosing confidential information.

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

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.

This information will be given 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 Carrathool Shire Council to handle any concerns you may have
- 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.

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



- advise 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.

The Carrathool Shire 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 person who is found to have committed a reprisal offence may face criminal penalties such as imprisonment and/or fines, and may be required to pay the victim damages for any loss suffered as a result of the detrimental action. Taking detrimental action in reprisal is also a breach of the council's code of conduct which may result in *disciplinary action*. In the case of councillors, such disciplinary action may be taken under the misconduct provisions of the *Local Government Act 1993* and may include suspension or disqualification from civic office.

It is important for staff and councillors to understand the nature and limitations of the protection provided by the PID Act. The PID Act protects reporters from detrimental action being taken against them because they have made, or are believed to have made, a public interest disclosure. It does not protect reporters from disciplinary or other management action where the **Council** has reasonable grounds to take such action.

a. Responding to allegations of reprisal

The Carrathool Shire 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.



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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 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 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. 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
- 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 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 included at the end of this policy.



b. Protection against legal action

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

13. Support for those reporting wrongdoing

Carrathool Shire 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. The General Manager will refer staff to appropriate officers to obtain any professional support required.

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 statements

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. The council will not support staff or councillors who wilfully make false or misleading reports. Such conduct may also be a breach of the code of conduct resulting in disciplinary action. In the case of councillors, disciplinary action may be taken under the misconduct provisions of the *Local Government Act 1993* and may include suspension or disqualification from civic office.

15. The rights of persons the subject of a report

Carrathool Shire Council is committed to ensuring staff who are the subject of a report of wrongdoing are treated fairly and reasonably. This includes keeping the identity of any person the subject of a report confidential where this is practical and appropriate.

If you are the subject of a report, you will be advised of the allegations made against you at an appropriate time and before any adverse findings. At this time you will be:

- advised of the details of the allegation
- advised of your rights and obligations under the relevant related policies and procedures
- kept informed about the progress of any investigation
- given a reasonable opportunity to respond to any allegation made against you
- told the outcome of any investigation, including any decision made about whether or not further action will be taken against you.

16. Review

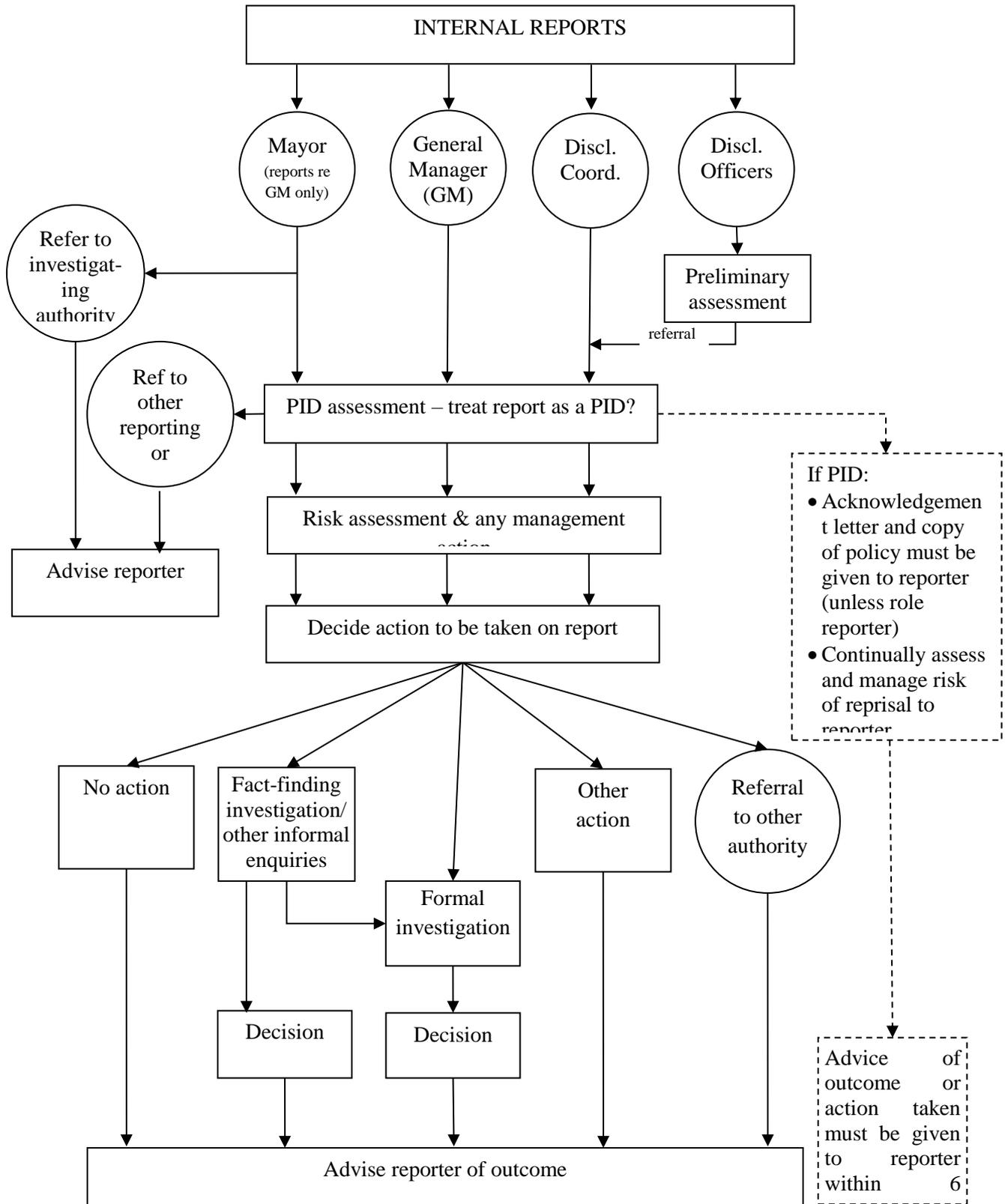
This policy will be reviewed by council every twelve/eighteen months. For any advice or guidance about this review, contact the NSW Ombudsman's Public Interest Disclosures Unit.

17. More information

More information around public interest disclosures will be made available on Council's intranet as material is developed. Staff can also access advice and guidance from the Carrathool Shire Council disclosures coordinator and the NSW Ombudsman's website at www.ombo.nsw.gov.au.



18. Flow Chart of the internal reporting process





19. 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
 Web: www.icac.nsw.gov.au
 Address: Level 21, 133 Castlereagh Street, Sydney NSW 2000

For disclosures about local government agencies:

Office of Local Government
 Phone: 02 4428 4100
 Tel. typewriter (TTY): 02 4428 4209
 Facsimile: 02 4428 4199
 Email: o
 Web: www.olg.nsw.gov.au
 Address: 5 O'Keefe Avenue, Nowra, NSW 2541

For disclosures about breaches of the GIPA Act:

Information Commissioner
 Toll free: 1800 463 626
 Facsimile: 02 8114 3756
 Email: oiinfo@oi.nsw.gov.au
 Web: www.oi.nsw.gov.au
 Address: Level 11, 1 Castlereagh 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
 Web: www.ombo.nsw.gov.au
 Address: Level 24, 580 George Street, Sydney NSW 2000

For disclosures about serious and substantial waste:

Auditor-General of the NSW Audit Office
 Phone 02 9275 7100
 Facsimile: 02 9275 7200
 Email: mail@audit.nsw.gov.au
 Web: www.audit.nsw.gov.au
 Address: Level 15, 1 Margaret 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
 Web: www.pic.nsw.gov.au
 Address: Level 3, 111 Elizabeth Street, Sydney NSW 2000

Revision Table

Minute / Date	Amendment Summary	Reason or Reference
9242/19.05.98	New policy	PID Act 1994
0152/19.10.99	No amendment	
0332/16.11.04	Updated NSW Ombudsman Model Policy	New model policy
1411/01.01.07	CI 3.4 Serious and substantial waste definition	New definition
1148/20.09.11	Updated NSW Ombudsman Model Policy Remove external investigating authority contact	New model policy
0163/19.02.13	Update officers and change reference from protected disclosures to public interest disclosures	
0605 / 18.03.14		Reaffirmed
1131/22.10.2019	Changes made to adjust the policy closer to the model policy	Reviewed

Associated Documents

- Internal Reporting System Procedures
- Code of Conduct
- Complaints Handling Policy and Procedure
- Grievance Handling Policy and Procedure



Council Policy 99

- Disciplinary Action Procedure
- Statement of Business Ethics
- Workplace Bullying and Harassment Policy

Review

This policy will be reviewed by council every twelve/eighteen months. For any advice or guidance about this review, contact the NSW Ombudsman's Public Interest Disclosures Unit.