

# Public Interest Disclosures Internal Reporting Policy

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# Contents

1. Purpose.....	4
2. Background and Organisational commitment .....	4
3. Scope .....	5
4. Definitions .....	5
4.1 Corrupt conduct .....	5
4.2 Maladministration.....	5
4.3 Serious and substantial waste of public money.....	5
4.4 Breach of the GIPA Act.....	6
4.5 Local government pecuniary interest contravention .....	6
5. Is it a PID or another complaint?.....	6
5.1 Who can make a PID? .....	6
5.2 Who can receive a PID?.....	7
5.3 The report is about wrongdoing .....	7
5.4 The report is about a public official .....	7
6. Roles and Responsibilities .....	7
6.1 The role of council staff and councillors .....	7
6.2 The role of the Federation Council .....	8
6.3 Roles of key positions.....	8
6.3.1 General Manager .....	8
6.3.2 Disclosures coordinator .....	8
6.3.3 Disclosures officers .....	9
6.3.4 Mayor.....	9
6.3.5 Supervisors and line managers .....	9
7. What should be reported? .....	10
8. Assessment of Reports .....	10
9. When will a report be treated as a Public Interest Disclosure? .....	10
10. Who can receive a report within the Federation Council? .....	11

11. Contacts.....	11
12. Who can receive a report outside of Federation Council? .....	11
12.1 Investigating authorities .....	12
12.2 Members of Parliament or journalists .....	12
12.3 Other external reporting.....	12
13. How to make a report .....	13
14. What evidence do I need?.....	13
15. Can a report be anonymous? .....	13
16. Feedback to staff who report wrongdoing.....	13
16.1 Acknowledgement .....	13
16.2 Progress updates.....	14
16.3 Feedback .....	14
17. Maintaining confidentiality .....	14
18. Managing the risk of reprisal and workplace conflict .....	14
19. Protection against reprisals.....	15
19.1 Responding to allegations of reprisal.....	15
19.2 Protection against legal action.....	16
20. Support for those reporting wrongdoing .....	16
21. Sanctions for making false or misleading statement .....	16
22. The rights of persons the subject of a report.....	16
23. More information.....	17
24. What if the report does not qualify as a PID? .....	17
25. References & Associated Documents .....	18
25.1 Relevant Legislation/ References.....	18
25.2 Relevant Council Policies / Forms .....	18
26. Policy History .....	18
27. Reviews.....	19

## 1. Purpose

The purpose of this policy is to establish an internal reporting system for staff and councillors to report wrongdoing without fear of reprisal. The policy sets out who you can report wrong doing to in Federation Council, what can be reported and how reports of wrongdoing will be dealt with by Federation Council.

This policy is designed to complement normal communication channels between supervisors and staff and further supports Federation Council's complaint handling processes.

Staff are encouraged to raise matters of concern at any time with their supervisors, but also have the option of making a report about a public interest issue in accordance with this policy and the Public Interest Disclosures Act 1994 (PID Act).

The internal reporting system established under this policy is not intended to be used for staff grievances, which should be raised through the Federation Council Grievance Policy. If a staff member makes a report under this policy which is substantially a grievance, the matter will be referred to Human Resources to be dealt with in accordance with the grievance policy.

## 2. Background and Organisational commitment

This policy has been prepared and reviewed to reflect and consider the NSW Ombudsman guidelines and model policy (July 2020). It contains procedural content to provide comprehensive guidance to all stakeholders.

The NSW Parliament has passed new public interest disclosures legislation. The Public Interest Disclosures Act received assent on 13 April 2022 and will come into force up to 18 months after assent. Council continues to be subject to the PID Act 1994 until the new PID Act 2022 comes into force. Council has been monitoring for the release of the new PID Act which is expected to come into force towards the end of 2023. These changes will form a key component of the next review.

For Federation Council to be able to deal effectively with reports of wrongdoing, it must have the right culture. Federation Council is committed to:

- creating a climate of trust, where people are comfortable and confident about reporting wrongdoing
- encouraging individuals to come forward if they are aware of wrongdoing within the council
- keeping the identity of the person disclosing wrongdoing confidential, where this is possible and appropriate
- protecting the person from any adverse action resulting from them making a report
- dealing with reports thoroughly and impartially and if some form of wrongdoing has been found, taking appropriate action to rectify it
- keeping the individual who makes a report informed of their progress and the outcome
- encouraging the reporting of wrongdoing within the council, but respect any decision to disclose wrongdoing outside the council that 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
- reviewing the policy periodically to ensure it is relevant and effective
- providing adequate resources, to:
  - encourage reports of wrongdoing
  - protect and support those who make them
  - provide training about how to make reports and the benefits of internal reports to the council and the public interest generally
  - properly assess and investigate or otherwise deal with allegations

- properly manage any workplace issues that the allegations identify or that result from a report appropriately address any identified problems.

### 3. Scope

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 Federation Council
- employees of contractors providing services to Federation Council
- other people who perform council official functions whose conduct and activities could be investigated by an investigating authority, including volunteers.

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

### 4. Definitions

#### 4.1 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, resources, power or position for personal gain or the advantage of others
- acting dishonestly or unfairly, or breaching public trust
- a council official being influenced by a member of public to use their position in a way that is dishonest, biased or breaches public trust.

#### 4.2 Maladministration

Maladministration is conduct that involves action or inaction of a serious nature that is contrary to law, unreasonable, unjust, oppressive or improperly discriminatory or based wholly or partly on improper motives.

For example, this could include:

- making a decision and/or taking action that is unlawful
- awarding contracts and tenders to private parties that are related by family, friendship or association
- failing to make a decision in accordance with official policy for no apparent reason
- issuing an order against a person without giving them procedural fairness
- refusing to grant an approval for reasons that are not related to the merits of their application.

#### 4.3 Serious and substantial waste of public money

Serious and substantial waste is the uneconomical, inefficient or ineffective use of resources that could result in losing or wasting public money.

For example, this could include:

- misappropriation or misuse of public property
- the purchase of unnecessary or inadequate goods and services

- overstaffing in particular areas or misalignment of duties, skills and remuneration, e.g., staff being remunerated for skills that they do not have, but are required to have under the terms or conditions of their employment, staff spending a significant proportion of time carrying out tasks well under their skill level and paid position level.
- programs not achieving their objectives and therefore the program's costs being clearly ineffective and inefficient.
- not following a competitive tendering process for a large-scale contract
- poor recruiting practices
- having bad or no processes in place for a system involving large amounts of public funds.

#### 4.4 Breach of the GIPA Act

A breach of the *Government Information (Public Access) Act 2009* (GIPA Act) is a failure to properly fulfil functions under that 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
- intentionally overlooking documents that are clearly covered by an access application.

#### 4.5 Local government pecuniary interest contravention

A local government pecuniary interest contravention is a failure to comply with requirements under the *Local Government Act 1993* relating to the management of pecuniary interests. These include obligations to lodge disclosure of interests returns, disclose pecuniary interests at council and council committee meetings and leave the meeting while the matter is being discussed. 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:

- a senior council staff member recommending a family member for a council contract and not declaring the relationship
- an administrator or a councillor participating in consideration of a DA for a property they or their family have an interest in.

## 5. Is it a PID or another complaint?

The process for dealing with a Public Interest Disclosure relies on several factors that must be met, including identifying whether it is a valid PID.

The NSW Ombudsman identifies the key things that will determine whether you are dealing with a PID. These include:

### 5.1 Who can make a PID?

1. The person raising the concern/s is employed within the public sector or performs a public sector function. This can include contractors and their employees, a consultant, volunteer or committee member.
2. If the reporter is not a public official at the time of making the disclosure, the report cannot be a PID.
3. If the public official makes the disclosure while a public official, but then ceases to be a public official, the disclosure remains protected.

4. Public officials can make a PID about another public official or any public authority – not just the public authority they work for.

## 5.2 Who can receive a PID?

1. The person has raised their concern/s with a nominated internal reporting officer. This may include the Principal Officer (General Manager), PID Disclosures Coordinator (Director Corporate and Community) or a PID Officer. (Refer Section 10)
2. The person has raised their concerns to an external reporting authority (Independent Commission Against Corruption, NSW Ombudsman, NSW Audit Office, Information Privacy Commissioner or Office of Local Government). (Refer Section 12)

## 5.3 The report is about wrongdoing

1. The person making the report must honestly believe on reasonable grounds that they have information which shows or tends to show wrongdoing has occurred.
2. Wrongdoing includes any of the issues as described in section 4 Definitions and includes:
  - a. Corruption
  - b. Maladministration
  - c. Serious or substantial waste of public money
  - d. Failure to comply with the GIPA Act
  - e. Failure to comply with the Local Government Act 1993 in relation to Pecuniary Interests

## 5.4 The report is about a public official

1. The concerns raised are about a public official or a person who performs a public sector function on behalf of the public authority.

**If the response to any of the first 4 requirements is no, it may not be a PID.**

# 6. Roles and Responsibilities

## 6.1 The role of council staff and councillors

Staff and councillors play an important role in contributing to a workplace where known or suspected wrongdoing is reported and dealt with appropriately. All council staff and councillors are obliged to:

- report all known or suspected wrongdoing and support those who have made reports of wrongdoing
- if requested, assist those dealing with the report, including supplying information on request, cooperating with any investigation and maintaining confidentiality
- treat any staff member or person dealing with a report of wrongdoing with courtesy and respect
- respect the rights of any person who is the subject of a report.

Staff and councillors must not:

- make false or misleading reports of wrongdoing
- victimise or harass anyone who has made a report

Additionally, the behaviour of all council staff and councillors involved in the internal reporting process must adhere to the Federation Council's code of conduct. A breach of the code could result in disciplinary action.

## 6.2 The role of the Federation Council

The Federation Council has a responsibility to establish and maintain a working environment that encourages staff and councillors to report wrongdoing and supports them when they do. This includes keeping the identity of reporters confidential where practical and appropriate, and taking steps to protect reporters from reprisal and manage workplace conflict.

The Federation Council will assess all reports of wrongdoing it receives from staff and councillors and deal with them appropriately. Once wrongdoing has been reported, the Federation Council takes 'ownership' of the matter. This means it is up to us to decide whether a report should be investigated, and if so, how it should be investigated and by whom. The Federation Council will deal with all reports of wrongdoing fairly and reasonably, and respect the rights of any person the subject of a report.

All PIDS must be coordinated by the PID Coordinator.

An independent investigator may be assigned. Council has a Code of Conduct Review panel which may be used to conduct the investigation.

*The Federation Council must report on our obligations under the PID Act and statistical information about public interest disclosures in our annual report and to the NSW Ombudsman every six months.*

To ensure the Federation Council complies with the PID Act and deals with all reports of wrongdoing properly, all staff and councillors with roles outlined below and elsewhere in this policy will receive training on their responsibilities.

## 6.3 Roles of key positions

### 6.3.1 General Manager

The General Manager has ultimate responsibility for maintaining the internal reporting system and workplace reporting culture, and ensuring the Federation Council complies with the PID Act. The general manager can receive reports from staff and councillors and has a responsibility to:

- Ensure the Council has an internal reporting policy
- Ensure the staff of the council and the councillors are aware of the contents of the policy and the protection under the PID Act for people who make public interest disclosures.
- assess reports received by or referred to them, to determine whether 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 the council's code of conduct in accordance with the 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 or appoint an appropriate decision-maker
- take appropriate remedial action where wrongdoing is substantiated or systemic problems are identified
- refer actual or suspected corrupt conduct to the Independent Commission Against Corruption (ICAC)
- refer any evidence of a reprisal offence under section 20 of the PID Act to the Commissioner of Police or the ICAC.

### 6.3.2 Disclosures coordinator

The disclosures coordinator has a central role in the Federation Council's internal reporting system. The disclosures coordinator can receive and assess reports, and is the primary point of contact in the Federation Council for the reporter. The disclosures coordinator has a responsibility to:



- 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)
- deal with reports made under the council's code of conduct in accordance with the council's adopted code of conduct procedures
- coordinate the Federation 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 the Federation Council complies with the PID Act
- provide six-monthly reports to the NSW Ombudsman in accordance with section 6CA of the PID Act.

### **6.3.3 Disclosures officers**

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. Disclosures officers have a responsibility to:

- 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.

### **6.3.4 Mayor**

The Mayor can receive reports from staff and/or councillors about the general manager. Where the Mayor receives such reports, the Mayor has a responsibility to:

- assess the reports to determine whether they should be treated as a public interest disclosure, and to decide how they will be dealt with
- deal with reports made under the council's code of conduct in accordance with the council's 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
- refer actual or suspected corrupt conduct to the ICAC
- refer any evidence of a reprisal offence under section 20 of the PID Act to the Commissioner of Police or the ICAC.

### **6.3.5 Supervisors and line managers**

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. They have a responsibility to:

- 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 the 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.

## 7. What should be reported?

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

Reports about 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.

More information about what can be reported under the PID Act can be found on the [NSW Ombudsman's website](#)

All other wrongdoing or suspected wrongdoing should be reported to a supervisor, to be dealt with in line with the relevant policies. This might include:

- harassment or unlawful discrimination
- practices that endanger the health or safety of staff or the public.

Even if these reports are not dealt with as public interest disclosures, the Federation Council recognises such reports may raise important issues. We will respond to all reports and make every attempt to protect the staff member making the report from reprisal.

## 8. Assessment of Reports

All reports will be promptly and thoroughly assessed to determine what action will be taken to deal with the report and whether or not the report will be treated as a public interest disclosure.

The disclosures coordinator is responsible for assessing reports, in consultation with the general manager where appropriate. All reports will be assessed on the information available to the disclosures coordinator at the time. It is up to the disclosures coordinator to decide whether an investigation should be carried out and how that investigation should be carried out. In assessing a report, the disclosures coordinator may decide that the report should be referred elsewhere or that no action should be taken on the report.

## 9. When will a report be treated as a Public Interest Disclosure?

The Federation Council will treat a report as a public interest disclosure if it meets the criteria of a public interest disclosure under the PID Act. These requirements are:

- the report must be about one of the following five categories of serious wrongdoing – corrupt conduct, maladministration, serious and substantial waste of public money, breach of the GIPA Act, or local government pecuniary interest contravention
- the person making the disclosure must honestly believe on reasonable grounds that the information shows or tends to show wrongdoing

- the report has to be made to either the general manager or, for reports about the general manager the Mayor, a position nominated in section 11 of this policy, an investigating authority or in limited circumstances to an MP or journalist (refer section 12 of this policy).

Reports by staff are not public interest disclosures if they:

- mostly question the merits of government policy (s. 17 Public Interest Disclosures Act 1994 (PID Act))
- are made with the sole or substantial motive of avoiding dismissal or other disciplinary action (s. 18 Public Interest Disclosures Act 1994 (PID Act)).

## 10. Who can receive a report within the Federation Council?

Staff are encouraged to report general wrongdoing to their supervisor. However, the PID Act requires that, for a report to be a public interest disclosure, it must be made to certain public officials identified in this policy or any supporting procedures.

The positions in Section 11 are the only people within the Federation Council who are authorised to receive a public interest disclosure.

Any officer who receives a report that they believe may be a public interest disclosure is obliged to assist the staff member to make the report to one of the positions listed below.

The broader responsibilities of these positions are outlined under Roles and Responsibilities (refer to section 4 of this policy).

**If your report involves the Mayor or a Councillor, you should make it to the General Manager.**

**If your report relates to the General Manager, you should make it to the Mayor.**

## 11. Contacts

### General Manager

- *Adrian Butler, PO Box 77, (100 Edward Street) Corowa NSW 2646 Telephone: 02 6033 8999*

### Mayor

- *Pat Bourke, PO Box 77, (100 Edward Street) Corowa NSW 2646 Telephone: 0429 208 267*

### Disclosures Coordinator

- *Jo Shannon, PO Box 77, (100 Edward Street) Corowa NSW 2646 Telephone: 02 6033 8999*

### Disclosures Officers

- *Heidi Neumeister – Governance Officer, 02 6033 8951*
- *Darren Harvey – Manager Recreation, 0419 713 257*

## 12. Who can receive a report outside of Federation Council?

Staff and councillors are encouraged to report wrongdoing within the Federation Council, but internal reporting is not your only option. You can also make a public interest disclosure to:

- An investigating authority.
- A Member of Parliament or a journalist, but only in the limited circumstances outlined below.

## 12.1 Investigating authorities

The PID Act lists a number of investigating authorities in NSW that staff and councillors can report wrongdoing to and the type of wrongdoing each authority can deal with. In certain circumstances it may be preferable to make a report of wrongdoing to an investigating authority, for example a report about either the general manager or the Mayor.

The relevant investigating authorities for the Federation Council are:

- ***the NSW Independent Commission Against Corruption (ICAC) — for reports about corrupt conduct***
- ***the NSW Audit Office for reports about serious and substantial waste of public money***
- ***the NSW Ombudsman — for reports about maladministration***
- ***the NSW Information Commissioner — for disclosures about a breach of the GIPA Act***
- ***the NSW Office of Local Government— for disclosures about local councils.***

You should contact the relevant investigating 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 the investigating authority may well discuss any such reports with the Federation 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 or councillors who report wrongdoing to an investigating authority, if we are made aware that this has occurred.

## 12.2 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, including the Mayor for reports about the general manager
- an investigating authority.

Also, the Federation Council or the investigating authority that received your initial report must have:

- decided not to investigate the matter or
- decided to investigate the matter, but not completed the investigation within six months of the original report or
- investigated the matter but not recommended any action as a result or
- 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.

## 12.3 Other external reporting

If you report wrongdoing to a person or authority that is not listed above, or make a report to an MP or journalist without following the steps outlined above, you will not be protected under the PID Act. This may mean you will be in breach of legal obligations or our code of conduct – by, for example, disclosing confidential information.

For more information about reporting wrongdoing outside the Federation 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.

## 13. 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. Federation Council's Internal Reporting Form is also available for staff or councillors to use to make a report.

If a report is made verbally, the person receiving the report will make a comprehensive record of the report and ask the person making the report to sign this record. The reporter should keep a copy of this record.

## 14. What evidence do I need?

There is a requirement that anyone making a report "honestly and reasonably believes" there are grounds for a disclosure. For example, directly observing wrongdoing; evidence such as documentary records or missing items of value; or corroboration by other people.

It doesn't need to be evidence which would be admissible in a court of law so hearsay can be considered.

The reporter will be asked to provide whatever evidence they have such as diary notes, dates, times, people directly involved and any conversations or discussions that have occurred with other parties.

The making of any vexatious complaints is a criminal offence.

## 15. 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 Federation 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 what action is to be taken or has been taken to deal with the issues raised in the report, or the outcome of any investigation.

It is important to realise that an anonymous disclosure may not prevent you from being identified by the subjects of the report or your colleagues. If we do not know who made the report, it is very difficult for us to prevent any reprisal should others identify you.

## 16. Feedback to staff who report wrongdoing

Staff and councillors who report wrongdoing will be told what is happening in response to their report.

### 16.1 Acknowledgement

When you make a report, the Federation Council will contact you to confirm that your report has been received and to advise:

- the timeframe within which you will receive further updates
- the name and contact details of the people who can tell you what is happening or handle any concerns you may have.

After a decision is made about how your report will be dealt with, the Federation Council will send you an acknowledgment letter, providing:

- information about the action that will be taken in response to your report including:
  - the likely timeframes for any investigation or other action
  - information about the internal and external resources or services available that you can access for support.

We will provide this information to you within ten working days from the date you make your report. We will also advise you if we decide to treat your report as a public interest disclosure and provide you with a copy of this policy at that time, as required by the PID Act.

Please note, if you make a report which meets the requirements of the PID Act but the report was made under a statutory or legal obligation or incidental to the performance of your day-to-day functions, you will not receive an acknowledgement letter or a copy of this policy.

## 16.2 Progress updates

While your report is being dealt with, such as by investigation or making other enquiries, you will be given:

- information about the progress of the investigation or other enquiries and reasons for any delay
- advice of any decision by the Federation Council not to proceed with the matter
- advice if your identity needs to be disclosed for the purposes of investigating the matter or making enquiries, and an opportunity to talk about this beforehand.

## 16.3 Feedback

Once the matter has been finalised 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 are likely to be called as a witness in any further matters, such as disciplinary or criminal proceedings.

## 17. Maintaining confidentiality

The Federation Council realises reporters may want their identity and the fact they have made a report to remain confidential. This can help to prevent any action being taken against them for reporting wrongdoing.

Where possible and appropriate we will take steps to keep your identity, and the fact you have reported wrongdoing, confidential. We will discuss with you whether it is possible to keep your identity confidential.

If confidentiality cannot be maintained, we will develop a plan to support and protect you from reprisal in consultation with you.

If you report wrongdoing, it is important that you only discuss your report with those responsible for 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.

## 18. Managing the risk of reprisal and workplace conflict

When a staff member or councillor reports wrongdoing, the Federation Council will undertake a thorough risk assessment to identify the risk to you of detrimental action in reprisal for reporting, as well as indirect but related risks of workplace conflict or difficulties. The risk assessment will also identify strategies to deal with those risks and determine the level of protection and support that is appropriate.

Depending on the circumstances, the Federation Council may:

- relocate the reporter or the staff member who is the subject of the allegation within the current workplace
- transfer the reporter or the staff member who is the subject of the allegation to another position for which they are qualified
- grant the reporter or the staff member who is the subject of the allegation leave of absence during the investigation of the disclosure.

These courses of action are not punishment and will only be taken in consultation with the reporter.

## 19. Protection against reprisals

The Federation Council will not tolerate any reprisal against staff or the councillors who report wrongdoing or are believed to have reported wrongdoing.

The PID Act provides protection for staff and the councillors who have made a public interest disclosure by imposing penalties on anyone who takes detrimental action against another person substantially in reprisal for that person making a public interest disclosure. These penalties also apply to cases where a person takes detrimental action against another because they believe or suspect the other person has made or may have made a public interest disclosure, even if they did not.

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 the 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 the 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 Federation Council has reasonable grounds to take such action.

### 19.1 Responding to allegations of reprisal

If you believe that detrimental action has been or is being taken against you or someone else in reprisal for reporting wrongdoing, you should tell your supervisor, the disclosures coordinator or the general manager immediately. In the case of an allegation of reprisal by the general manager, you can alternatively report this to the Mayor.

All supervisors must notify the disclosures coordinator or the general manager if they suspect that reprisal against a staff member is occurring or has occurred, or if any such allegations are made to them. In the case of an allegation of reprisal by the general manager, the Mayor can alternatively be notified.

If the Federation Council becomes aware of or suspects that reprisal is being or has been taken against a person who has made a disclosure, the Federation Council will:

- assess the allegation of reprisal to decide whether the report should be treated as a public interest disclosure and whether the matter warrants investigation or if other action should be taken to resolve the issue

- if the reprisal allegation warrants investigation, ensure this is conducted by a senior and experienced member of staff
- if it is established that reprisal is occurring against someone who has made a report, take all steps possible to stop that activity and protect the reporter
- take appropriate disciplinary action against anyone proven to have taken or threatened any action in reprisal for making a disclosure
- refer any breach of Part 8 of the council's code of conduct (reprisal action) by a councillor or the general manager to the Office of Local Government.
- refer any evidence of an offence under section 20 of the PID Act to the ICAC or NSW Police Force.

If you allege reprisal, you will be kept informed of the progress and outcome of any investigation or other action taken in response to your allegation.

If you have reported wrongdoing and are experiencing reprisal which you believe is not being dealt with effectively, contact the Office of Local Government, the Ombudsman or the ICAC (depending on the type of wrongdoing you reported). Contact details for these investigating authorities are included at the end of this policy.

## 19.2 Protection against legal action

If you make a public interest 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 having made the public interest disclosure. You will not have breached any confidentiality or secrecy obligations and you will have the defence of absolute privilege in defamation.

## 20. Support for those reporting wrongdoing

The Federation Council will make sure that staff who have reported wrongdoing, regardless of whether their report is treated as 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 or counselling services.

Federation Council provides access to an Employee Assistance Program (EAP) (Up to 3 x 1-hour sessions per person annually).

**Step Psychology, Suite 2, 490 David Street, Albury NSW Ph: 02 6021 7410**

Access to support may also be available for other staff involved in the internal reporting process where appropriate. Reporters and other staff involved in the process can discuss their support options with the disclosures coordinator.

## 21. Sanctions for making false or misleading statement

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

## 22. The rights of persons the subject of a report

The Federation Council is committed to ensuring staff or the councillors 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 the 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 further action will be taken against you.

Where the reported allegations against the subject officer are clearly wrong, or have been investigated and unsubstantiated, the subject officer will be supported by Federation Council. The fact of the allegations and any investigation will be kept confidential unless otherwise agreed to by the subject officer.

## 23. More information

More information around public interest disclosures is available on our intranet. Staff can also seek advice and guidance from the disclosures coordinator and the NSW Ombudsman's website at [www.ombo.nsw.gov.au](http://www.ombo.nsw.gov.au).

## 24. What if the report does not qualify as a PID?

Sometimes a report will fit the criteria of a reportable category of serious wrongdoing, being either of the following:

- corrupt conduct,
- maladministration,
- serious and substantial waste of public money,
- breach of the GIPA Act, or
- local government pecuniary interest contravention

However, where either one or more of the following applies;

- the person making the disclosure is not a public officer
- the report is not about the conduct of a public official or authority
- the person has not made their report to a nominated disclosures officer, or to the General Manager or, for reports about the General Manager, to the Mayor, or a position nominated in section 11 of this policy, an investigating authority or to an MP or journalist (refer section 12 of this policy).

**It may be necessary to carry out an investigation under Councils Complaints Policy or in accordance with the Procedures for the Model Code of Conduct.**

Complaints or allegations about corruption, serious or substantial waste, pecuniary interests or competitive neutrality from customers or members of the public who are not employees of Council should be lodged directly with the Council appointed Conduct Reviewer or with one of the following external bodies:

- the Independent Commission Against Corruption (ICAC) for complaints about corruption;
- the NSW Ombudsman for complaints about maladministration; and
- the Director-General of the Department of Local Government for complaints about serious; and substantial waste of public monies, pecuniary interests or competitive neutrality.

All details of the interaction must be recorded and logged via the Customer Request Management System (CRM) and an immediate supervisor must be notified. Where necessary, an incident report must be lodged.

Reports of suspected corrupt conduct should be reported to the ICAC within 3 months of the alleged incident by the General Manager.

A complainant making an allegation about criminal activities will be referred directly to the police and the matter is to be reported immediately to the General Manager.

A report or complaint regarding protection of children must be referred immediately to the responsible Director or General Manager immediately under the *Child Protection (Prohibited Employment) Act 1998*. The General Manager must then notify the NSW Ombudsman within 30 days.

A complaint received and reported by a Council contractor (that is not a complying PID), will be investigated by the Contract Administrator or Project Manager in the first instance. Should the processes undertaken by the Contract Administrator or Project Manager fail to resolve the complaint, it will be escalated to the relevant Director or the Public Officer for further review.

## 25. References & Associated Documents

### 25.1 Relevant Legislation/ References

*Public Interest Disclosures Act 1994 (PID Act).*  
*Government Information (Public Access) Act 2009*  
*Local Government Act 1993*  
*NSW Ombudsman PID Guidelines*

### 25.2 Relevant Council Policies / Forms

*Federation Council Complaints Handling Policy*  
*Procedures for the Administration of the Model Code of Conduct*  
*Federation Council Code of Conduct*  
*Federation Council Grievance Policy*  
*17/29184 Federation Council Public Interest Disclosure (PID) Internal Report Form*

## 26. Policy History

Version	Date	Changes / Amendments
1.0	01/09/2016	Development of document for Federation Council
	30/11/2016	Correction to 10 b. reference to GIPA Act removed.
	27/09/2017	New template applied, removal of Administrator contact details and addition of Mayor contact details
2.0	17/07/2018	Updated GM details, Addition of Audit Office as an Investigating Authority in 12.1, correction in Part 9 (Reference to GIPA Act changed to PID Act), Addition of Councils Grievance Policy as a reference in Part 5.2.
	10/07/2019	Updated PID Coordinator to reflect new Director as per Council Resolution 6/19FC on 19 February
3.0	6/8/2019	Changed name of policy to include internal reporting to align with NSW Ombudsman Model Internal Reporting Policy and generic language, removed reference to Administrator in relation to roles and responsibilities, paragraph structure changes heading one, addition of responsibilities under General Manager as per PID Act and Model Internal Reporting Policy
	04/02/2020	Update PID Disclosures Officer to reflect new title (Recreation Manager)
4.0	15/12/2020	Included flow chart from NSW Ombudsman Fact sheet 2. to help clarify process for reporting.
5.0	10/11/2021	Addition of internal references, contacts and section on what constitutes grounds for disclosure and evidence when making a report and more information on how to deal with non complying PID reports.
Draft	23/11/2022	Draft prepared for Council and public exhibition. References to NSW Ombudsman Fact sheets removed and flowchart replaced with text as these are no longer available. Included update on new legislation pending.
6.0	28/2/2022	Final version post exhibition (no submissions received).

## 27. Reviews

This policy will be reviewed annually or as required in accordance with the legislation.

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