



# **INTERNAL REPORTING POLICY**

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## 1. Purpose and context of the policy

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 wrongdoing to in Narromine Shire Council, what can be reported and how reports of wrongdoing will be dealt with by Narromine Shire Council.

This policy is designed to complement normal communication channels between supervisors and staff. 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).

This policy is just one in the suite of Narromine Shire Council's complaint handling policies. Other complaint handling policies include Grievance Resolution Policy, Council's Code of Conduct, Work Health & Safety Policy, Workplace Bullying and Procedures Policy.

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

## 2. Legal Obligations

Under Section 6D of the **Public Interest Disclosures Act 1994** (PID Act), public authorities are required to have a policy and procedures for receiving, assessing and dealing with public interest disclosures.

This policy must be based on the NSW Ombudsman's Model Internal Reporting Policy and the NSW Ombudsman's guidelines and be signed by both the Mayor and the General Manager. Under Section 6E of the PID Act, the General Manager as the head of a public authority is responsible for ensuring that:

- Narromine Shire Council has an internal reporting policy
- Narromine Shire Council staff and Councillors are aware of the contents of the policy and the protection under the PID Act for people who make public interest disclosures
- Narromine Shire Council complies with the policy and the Council's obligations under the PID Act, and
- The policy delegates at least one staff member as being responsible for receiving public interest disclosures.

**The Local Government Act 1993** requires Councils to adopt a Code of Conduct that incorporates the provisions of the **Model Code of Conduct**. This model code sets the minimum requirements of conduct for Council officials in carrying out their functions. It is underpinned by the key principles of integrity, leadership, selflessness, impartiality, accountability, openness, honesty and respect. Clause 3.20 of the Procedures for the Administration of the Model Code of Conduct requires the complaints co-ordinator to be a nominated disclosures co-ordinator. The Ombudsman recommends Council nominates more than one person as being responsible for receiving public interest disclosures. Clause 5.45 of the Procedures also states that – when dealing with a code of conduct complaint that is made as a public interest disclosure under the PID Act, it is to be managed in accordance with the requirements of that Act, Council's internal reporting policy and any guidelines issued by the NSW Ombudsman that relate to the management of public interest disclosures.

**The Standard Contract of Employment for General Managers** and Senior Staff (other than General Managers) of local councils in NSW requires these officers to 'facilitate Council staff awareness of the procedures for making public interest disclosures and of the protection provided' by the PID Act. General Managers are also required to maintain satisfactory operation of Council's reporting systems (including public interest disclosures).

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Reporting wrongdoing can be a difficult process and if not properly managed, can result in stressful interactions with colleagues and Managers. Stress is a legitimate and serious workplace concern and may result in a staff member sustaining a serious injury.

The Work Health and Safety Act 2011 states that a person conducting a business or undertaking – which includes public sector departments, authorities and councils – has a primary duty of care to ensure the health and safety of workers and others. An authority can fulfil this obligation by doing what they reasonably can in the circumstances to manage health and safety risks. All officers who can make decisions that significantly affect the authority must exercise due diligence to ensure compliance. Failure to comply with health and safety duties is a serious offence that attracts significant penalties (ss 31-33).

Authorities also have a duty of care under common law to provide a safe workplace for their staff. This means that Managers and Supervisors are responsible for taking all reasonable steps to prevent inappropriate behaviour at work – which includes harassment, bullying, discrimination and victimisation. Organisations have been successfully sued for compensation for breaching this duty of care where the staff member has become ill or suffered injury – physically or psychologically – as a result.

### **3. Council's commitment**

Narromine Shire 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 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 Council, but respecting any decision to disclose wrongdoing outside Council that is made in accordance with the provisions of the PID Act
- ensuring directors, managers and supervisors at all levels in 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 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

#### **4. Who does this policy apply to?**

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 Narromine Shire Council
- employees of contractors providing services to Narromine Shire 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 Narromine Shire Council.

#### **5. Roles and responsibilities**

##### **a. 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 the subject of reports

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 Narromine Shire Council's Code of Conduct. A breach of the Code could result in disciplinary action.

##### **b. The role of Narromine Shire Council**

Narromine Shire 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.

Narromine Shire Council will assess all reports of wrongdoing it receives from staff and Councillors and deal with them appropriately. Once wrongdoing has been reported, Narromine Shire 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. Narromine Shire Council will deal with all reports of wrongdoing fairly and reasonably, and respect the rights of any person the subject of a report.

Narromine Shire 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 Narromine Shire 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.

### **c. Roles of key positions**

#### **General Manager**

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

- Assess reports received by or referred to them, to determine whether or not the report should be treated as a public interest disclosure, and to decide how the report will be dealt with.
- Deal with reports made under Council's Code of Conduct in accordance with 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.

#### **Disclosures Coordinator**

The Disclosures Coordinator has a central role in Narromine Shire Council's internal reporting system. The Disclosures Coordinator can receive and assess reports, and is the primary point of contact in Narromine Shire 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 Council's Code of Conduct in accordance with the Council's adopted Code of Conduct procedures.
- Coordinate Narromine Shire 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 Narromine Shire Council complies with the PID Act.
- Provide six-monthly reports to the NSW Ombudsman in accordance with Section 6CA of the PID Act.

#### **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.

Disclosure 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.

### **Mayor**

The Mayor can receive reports from staff and Councillors about the General Manager. Where the Mayor receives such reports, the Mayor has a responsibility to:

- Assess the reports to determine whether or not they should be treated as a public interest disclosure, and to decide how they will be dealt with.
- Deal with reports made under the Council's Code of Conduct in accordance with 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 ICAC.
- Refer any evidence of a reprisal offence under Section 20 of the PID Act to the Commissioner of Police or the ICAC.

### **Directors, Managers and Supervisors**

Directors, Managers and Supervisors play an important role in managing the immediate workplace of those involved in or affected by the internal reporting process. Directors, Managers and Supervisors 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.

## **6. What should be reported?**

You should report any wrongdoing within Narromine Shire Council, or any activities or incidents you see within Narromine Shire Council that you believe are wrong. Reports about the five categories of serious wrongdoing – 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?*

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, Narromine Shire Council recognises such reports may raise important issues. Narromine Shire Council will respond to all reports and make every attempt to protect the staff member making the report from reprisal.

Other relevant policies include Grievance Resolution Policy, Workplace Bullying and Procedures Policy, Work Health & Safety Policy.

**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 council official being influenced by a member of public to use their position in a way that is dishonest, biased or breaches public trust.
- Using Council's resources for private purposes, such as secondary employment or private business purposes

For more information about corrupt conduct, see the NSW Ombudsman's guideline on [what can be reported](#).

**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.

For example, this could include:

- 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 appropriate reason
- issuing an order against a person without giving them procedural fairness
- making a decision and/or taking action that is unlawful
- refusing to grant someone an approval for reasons that are not related to the merits of their application.

**c. 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. This includes all revenue, loans and other money collected, received or held by, for or on account of the council.

Serious and substantial waste can be:-

- Absolute – where the waste is regarded as significant
- Systemic – where the waste indicates a pattern that results from a weakness within an organisation's systems
- Material – where the waste is about the organisation's expenditure or a particular item of expenditure, or is to such an extent that it affects an organisation's capacity to perform its primary functions

For example, this could include:

- Misappropriation or misuse of public property
- Purchase of unnecessary or inadequate goods and services
- Overstaffing in particular areas
- Staff being remunerated for skills that they do not have, but are required to have under the terms or conditions of their employment
- Programs not achieving their objectives and therefore the program's costs being clearly ineffective and inefficient
- poor project management practices leading to projects running over time
- having poor or no processes in place for a system involving large amounts of public funds
- Not following a competitive tendering process for a large scale contract.

**d. 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:



- Intentionally overlooking documents that are clearly covered by an access application
- 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 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
- a General Manager holding an undisclosed shareholding in a company competing for a Council contract
- a Councillor participating in consideration of a DA for a property they or their family have an interest in.

For more information about Local Government pecuniary interest contravention, see the NSW Ombudsman's guideline on [what can be reported](#).

## **7. 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.

## **8. When will a report be treated as a public interest disclosure?**

Narromine Shire 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 this policy (see section 9), an investigating authority or in limited circumstances to an MP or journalist (see section 10).

Reports by staff are not public interest disclosures if they:

- Mostly question the merits of government policy (see Section 18)
- Are made with the sole or substantial motive of avoiding dismissal or other disciplinary action (see Section 19)

## **9. Who can receive a report within Narromine Shire 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 following positions are the only people within Narromine Shire Council who are authorised to receive a public interest disclosure. Any supervisor 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 (Section 5).

If your report involves 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.

- a. General Manager – 0407 438 422**
- b. Mayor (for reports about the General Manager only) – 0429 887 707**
- c. Disclosures Coordinator – Executive Manager Corporate Governance– 6889 9930**
- d. Disclosures Officers – Executive Manager Human Resources – 6889 9992**  
**Manager Infrastructure Delivery – 6889 9924**

## **10. Who can receive a report outside of Narromine Shire Council?**

Staff and Councillors are encouraged to report wrongdoing within Narromine Shire Council, but internal reporting is not your only option. You can make a public interest disclosure to:

- An investigating authority.
- 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 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 Narromine Shire Council are:

- the Independent Commission Against Corruption (ICAC) — for reports about corrupt conduct
- the Ombudsman — for reports about maladministration
- the Office of Local Government, — for disclosures about local councils.
- the Information Commissioner — for disclosures about a breach of the GIPA Act

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 it is very likely the investigating authority will discuss any such reports with Narromine Shire Council. Narromine Shire Council 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. Narromine Shire Council will also provide appropriate support and assistance to staff and Councillors who report wrongdoing to an investigating authority, if Narromine Shire Council is made aware that this has occurred.

### **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, including the Mayor for reports about the General Manager

- an investigating authority

Also, Narromine Shire Council or the investigating authority that received the initial 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.

### **c. Other external reporting**

If you report wrongdoing to a person or an authority that is not listed above, or make a report to an MP or a 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 Narromine Shire Council's Code of Conduct – by, for example, disclosing confidential information.

For more information about reporting wrongdoing outside Narromine 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. 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. Narromine Shire Council's Internal Reporting Form is also available for staff or Councillors to use to make a report (see Appendix A).

If a report is made verbally, the person receiving the report must 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.

## **12. 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 Narromine Shire Council, it is best if you identify yourself. This allows Narromine Shire Council 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 Narromine Shire Council does not know who made the report, it is very difficult to prevent any reprisal should others identify you.

## **13. Feedback to staff who report wrongdoing**

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

### **a. Acknowledgement**

When you make a report, Narromine Shire 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.

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After a decision is made about how your report will be dealt with, Narromine Shire Council will send you an acknowledgement letter, providing:

- information about the action that will be taken in response to your report
- 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

This information will be given to you within ten working days from the date you make your report. Narromine Shire Council will also advise you if it is decided to treat your report as a public interest disclosure and provide you with a copy of this policy at the 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.

#### **b. 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 Narromine Shire 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.

#### **c. 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 will be called as a witness in any further matters, such as disciplinary or criminal proceedings.

### **14. Maintaining confidentiality**

Narromine Shire Council realises that reporters may want their identity and the fact that 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 Narromine Shire Council will take steps to keep your identity, and the fact you have reported wrongdoing, confidential. Narromine Shire Council will discuss with you whether it is possible to keep your identity confidential.

If confidentiality cannot be maintained, Narromine Shire Council 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 Narromine Shire Council 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.

## **15. Managing the risk of reprisal and workplace conflict**

When a staff member or Councillor reports wrongdoing, Narromine Shire 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, Narromine Shire 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.

## **16. Protection against reprisals**

Narromine Shire Council will not tolerate any reprisal against staff or Councillors who report wrongdoing or are believed to have reported wrongdoing.

The PID Act provides protection for staff and 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 the 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 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 Narromine Shire Council has reasonable grounds to take such action.

### **a. 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 allegations are made to them. In the case of an allegation of reprisal by the General Manager, the Mayor can alternatively be notified.

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

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- 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 9 of 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 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 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 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.

### **17. Support for those reporting wrongdoing**

Narromine 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 or counselling services.

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

Narromine Shire Council offers an employee assistance program. More information on the program is available from the Executive Manager Human Resources.

### **18. Sanctions for making false or misleading statements**

It is important all staff and Councillors are aware that it is a criminal offence under the PID Act to wilfully make a false or misleading statement when reporting wrongdoing. Narromine Shire Council will not support staff or Councillors who wilfully make false or misleading reports. Such conduct may also be a breach of Council's 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.

### **19. The rights of persons the subject of a report**

Narromine Shire Council is committed to ensuring staff or 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 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

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- advised of your rights and obligations under the relevant 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.

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

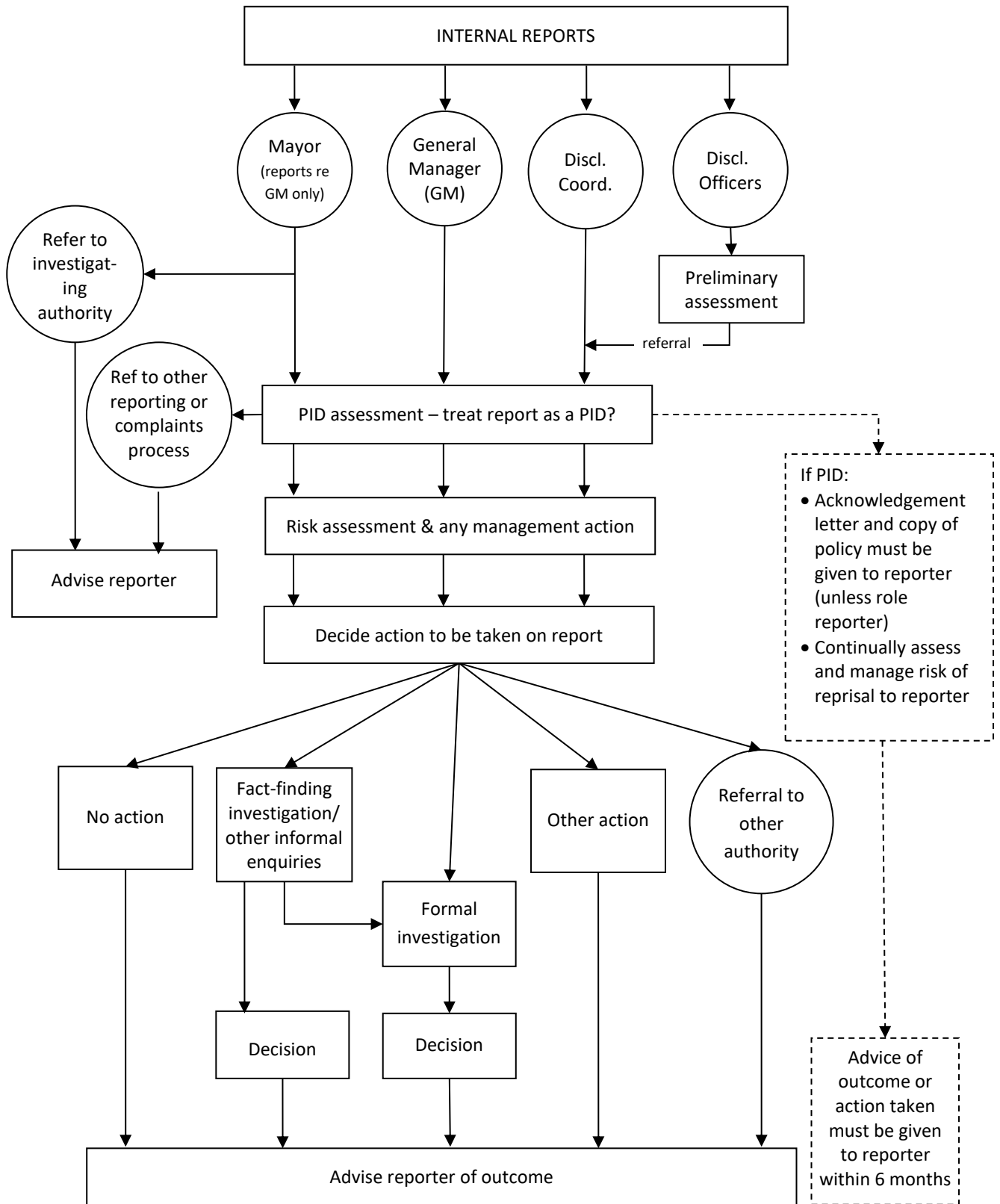
#### **20. Review**

This policy will be reviewed by Narromine Shire Council every two years. For any advice or guidance about this review, contact the NSW Ombudsman's Public Interest Disclosures Unit.

#### **21. 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).

**22. Flow chart of internal reporting**





Signed .....  
**Mayor**

Signed .....  
**General Manager**

### **23. Resources**

The contact details for external investigating authorities that staff and Councillors 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](mailto:icac@icac.nsw.gov.au)  
Web: [www.icac.nsw.gov.au](http://www.icac.nsw.gov.au)  
Address: Level 7, 255 Elizabeth 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](mailto:nswombo@ombo.nsw.gov.au)  
Web: [www.ombo.nsw.gov.au](http://www.ombo.nsw.gov.au)  
Address: Level 24, 580 George Street, Sydney NSW 2000

**For disclosures about local councils**

Office of Local Government  
Phone: 02 4428 4100  
Tel. typewriter (TTY): 02 4428 4209  
Facsimile: 02 4428 4199  
Email: [olg@olg.nsw.gov.au](mailto:olg@olg.nsw.gov.au)  
Web: [www.olg.nsw.gov.au](http://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 472 679  
Facsimile: 02 8114 3756  
Email: [ipcinfo@ipc.nsw.gov.au](mailto:ipcinfo@ipc.nsw.gov.au)  
Web: [www.ipc.nsw.gov.au](http://www.ipc.nsw.gov.au)  
Address: Level 17, 201 Elizabeth Street, Sydney NSW 2000

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Appendix A

**Internal Report Form**

To be completed by an internal reporter and submitted to a nominated Disclosures Officer  
(See Council's Internal Reporting Policy for further details)

<b>Details of reporter (You can make an anonymous report by leaving this section blank)</b>		
Name:		
Position:		
Department:	<b>Preferred method of contact</b> <input type="checkbox"/> Telephone <input type="checkbox"/> Email <input type="checkbox"/> Post	
Telephone:		
Email:		
Postal address:		
<b>Details of the wrongdoing being reported</b>		
Description: <ul style="list-style-type: none"> <li>• What happened?</li> <li>• Where did this happen?</li> <li>• When did this happen?</li> <li>• Is it still happening?</li> </ul> [Attach an additional page if required]		
How did you become aware of this?		
Name and position of people involved in the wrongdoing:	<b>Name</b>	<b>Position</b>
Attach any additional relevant information or indicate where supporting evidence may be found:	<b>Supporting evidence</b>	<b>Attached</b>
		<input type="checkbox"/>
		<input type="checkbox"/>
Name and position of other people who may have additional information:	<b>Name</b>	<b>Position</b>
<b>Statement</b>		
I honestly believe that the above information shows or tends to show wrongdoing.		
_____ Signature of reporter (Do not sign if you want to make an anonymous report)	_____ Date report submitted (Essential information)	

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<b>Prepared By</b>	<b>Version No</b>	<b>Date Adopted</b>	<b>Resolution No</b>	<b>Review Date</b>
Corporate, Community & Regulatory Services Department	1.0	6 September 2011	2011/433	
Corporate, Community & Regulatory Services Department	2.0	15 November 2011	2011/556	
Corporate, Community & Regulatory Services Department	3.0	14 August 2013	2013/280	
Corporate, Community & Regulatory Services Department	4.0	12 November 2014	2014/368	
Corporate, Community & Regulatory Services Department	5.0	12 August 2015	2015/200	July 2017
General Manager's Department	6.0	12 July 2017	2017/172	July 2019
General Manager's Department	7.0	12 June 2019	2019/139	June 2021