

# Public Interest Disclosures (Internal Reporting) Policy

## 1 Document Information

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<b>Author</b>	Administration Manager
<b>Owner</b> <i>(Relevant director)</i>	General Manager
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## 2 Summary

This policy establishes an internal reporting system for the reporting of disclosures of corrupt, maladministration or serious and substantial waste of public money by Cabonne Council, its staff and Councillors.

## 3 Approvals

Title	Date Approved	Signature
Mayor		
General Manager		

## 4 History

Minute No.	Summary of Changes	New Version Date
06/05/7	Public interest disclosures Policy adopted	15 May 2006
10/03/08	Readopted by Council with the amendment "The Corporate Development Manager be deleted from the list of nominated Disclosure Officers."	15 March 2010
	Policy retitled to "Internal Reporting Policy" and amended in keeping with legislation changes to (retitled) Public Interest Disclosures Act 1994	November 2011
11/11/29	Readopted by Council with the amendment "information will be given to you within forty five (45) working days from the date you make your report"	November 2011
13/09/30	Readopted as per s165(4)	17 September 2013
13/10/9	Amended to reflect revised Model internal reporting policy dated July 2013 from NSW Ombudsman (with DLG)	15 October 2013

Version Date: 24 July 2018

Minute No.	Summary of Changes	New Version Date
15/08/17	Provision for meeting ex-staff members expenses for attending enquiries added – see section 2.	August 2015
18/07/14	Fraudulent Conduct added on Page 9. Readopted as per s165(4)	24 July 2018

## 5 Reason

In accordance with requirements of the Public Interest Disclosures Act 1994 Council has adopted this policy to:

1. Encourage and facilitate the disclosure, in the public interest, of corrupt conduct, maladministration and serious and substantial waste in Council by staff and/or Councillors; and
2. Ensure that any Council staff member who wishes to make a disclosure receives legal protection from reprisals, and that the matters raised in any disclosure are properly investigated.

## 6 Scope

Refer below.

## 7 Associated Legislation

Public Interest Disclosures Act 1994

Government Information (Public Access) Act 2009

Independent Commission Against Corruption Act 1988

## 8 Definitions

Three key concepts in the internal reporting system are “corrupt conduct”, “maladministration” and “serious and substantial waste of public money”. Definitions of these concepts are outlined below.

### (1) Corrupt conduct

“Corrupt conduct” is defined in the Independent Commission Against Corruption Act 1988 (sections 8 and 9). The definition used in the Act is intentionally quite broad - corrupt conduct is defined to include the dishonest or partial exercise of official functions by a public official. Conduct of a person who is not a public official, when it adversely affects the impartial or honest exercise of official functions by a public official, also comes within the definition.

Corrupt conduct can take many forms, i.e. taking or offering bribes, public officials dishonestly using influence, blackmail, fraud, election bribery and illegal gambling are some examples.

### (2) Maladministration

“Maladministration” is defined in the Public Interest Disclosures Act as conduct that involves action or inaction of a **SERIOUS NATURE** that is:

◆ **contrary to law** (s.11(2)(a)) - for example:

- decisions or actions contrary to the law or *ultra vires* (defined below)

- decisions or actions contrary to lawful and reasonable orders from persons or body's with authority to make or give such orders
  - a breach of natural justice/procedural fairness
  - unauthorised disclosure of confidential information
- ◆ **unreasonable** (s.11(2)(b)) - for example:
- decisions or actions:
    - inconsistent with adopted guidelines or policy
    - made or taken without obvious relationship to the facts or circumstances
    - so unreasonable that no reasonable person could so decide or act (i.e. irrational)
  - relevant considerations not taken into account or irrelevant considerations taken into account
  - serious delay
  - wrong, inaccurate or misleading advice leading to detriment
  - means used not reasonably proportional to ends to be achieved (i.e. excessive use of authority)
  - failure to rectify identified mistakes, errors, oversights or improprieties
- ◆ **unjust** (s.11(2)(b)) - for example:
- decisions or actions not justified by any evidence, so unreasonable that no reasonable person could so decide to act (i.e. irrational), or unconscionable
  - partial, unfair or inequitable decisions or actions
  - abuse of power
- ◆ **oppressive** (s.11(2)(b)) - for example:
- unconscionable decisions or actions
  - abuse of power, intimidation or harassment
  - punitive, harsh, cruel or offensive decisions or actions
- ◆ **improperly discriminatory** (s.11(2)(b)) - for example:
- inconsistent application of laws, policies or practices when there is no reasonable, justifiable or appropriate reason to do so
  - distinctions applied not authorised by law, or failure to make a distinction which is authorised or required by law
  - failure to perform duties impartially and equitably
- ◆ **based wholly or partially on improper motives** (s.11(2)(c)) - for example:
- decisions or actions for a purpose other than that for which power was conferred
  - decisions or actions for personal advantage
  - bad faith

***ultra vires*** - [*Latin, Beyond the powers.*] The doctrine in the law of corporations that holds that if a corporation enters into a contract that is beyond the scope of its corporate powers, the contract is illegal.

## 9 Responsibilities

Refer to Policy Statement.

## 10 Related Documents

Document Name	Document Location
Code of Conduct Complaints Management Policy HR Manual Work Health and Safety Policy	Council's Policy Database – Magiq and website
NSW Ombudsman: What should be reported?	<a href="http://www.ombo.nsw.gov.au/__data/assets/pdf_file/0005/3596/GL_-B2-What_should_be_reported_nov11.pdf">http://www.ombo.nsw.gov.au/__data/assets/pdf_file/0005/3596/GL_-B2-What_should_be_reported_nov11.pdf</a>
NSW Ombudsman: Public Interest Disclosures Guidelines	<a href="http://www.ombo.nsw.gov.au/news-and-publications/publications/guidelines/public-interest-disclosures">http://www.ombo.nsw.gov.au/news-and-publications/publications/guidelines/public-interest-disclosures</a>

## 11 Policy Statement

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## 1. Purpose and context of the policy

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

The purpose of the Public Interest Disclosures Act (PID) 1994 is:

1. To encourage and facilitate the disclosure, in the public interest, of corrupt conduct, maladministration and serious and substantial waste in the public sector; and
2. To ensure that any public official who wishes to make a disclosure receives legal protection from reprisals, and that the matters raised in any disclosure are properly investigated.

The Act aims to encourage and facilitate the disclosure - in the public interest - of corrupt conduct, maladministration and serious and substantial waste in the public sector. This is achieved by:

- enhancing and augmenting established procedures based on the Ombudsman's guidelines for making disclosures concerning such matters;
- protecting persons from reprisals that might otherwise be inflicted on them because of these disclosures; and
- providing for those disclosures to be properly investigated and dealt with.

This internal reporting policy clearly states the Council's commitment to supporting and protecting individuals that report wrongdoing.

Council has adopted this policy with strong endorsement by the Mayor and General Manager to show the Council's commitment to high standards of ethical and accountable conduct, consistent with Council's Code of Conduct and to confirm that it will not tolerate any form of wrongdoing.

Individuals who come forward and report wrongdoing are considered to be helping to promote integrity, accountability and good management within the Council. As such they should not be exposed to any conduct which may be covered in Council's grievance policy (available in the HR Manual on Council's Intranet or on request from the HR Officer).

The policy applies to Council staff, as well as Councillors and other persons as defined in "3. Roles and responsibilities of staff"

This policy seeks to:

1. To establish and explain an internal reporting system for the reporting of disclosures of corrupt conduct, maladministration or serious and substantial waste of public money by Cabonne Council, members of Council staff and Councillors. This enables public interest disclosures to be made to the Disclosure Coordinator, nominated Disclosures Officers, the Mayor, or the General Manager and explains how they will be handled.
2. To complement the normal means of communication between managers and members of Council staff. (Council staff are encouraged to continue to raise appropriate matters at any time with their managers but they also have the right to make public interest disclosures in accordance with this policy.)
3. To ensure that Council will take all reasonable steps to protect any Councillor or member of Council staff or Council contractor who makes a disclosure from any detrimental action in reprisal for making that disclosure.

## 2. Organisational commitment

Cabonne Council, as an ethical Council, is committed to acting in accordance with the spirit and letter of the PID Act by:

- creating a climate of trust, where Council staff are comfortable and confident about reporting wrongdoing
- encouraging staff to come forward if they have witnessed what they consider to be wrongdoing within the Council
- keeping the identity of the staff member disclosing wrongdoing confidential, wherever possible and appropriate
- protecting staff who make disclosures from any adverse action motivated by their report
- dealing with reports thoroughly and impartially and if some form of wrongdoing has been found, taking appropriate action to rectify it
- keeping individuals who make reports informed of their progress and the outcome
- encouraging staff to report wrongdoing within Council, but respecting any decision to disclose wrongdoing outside Council, provided that disclosure outside Council is made in accordance with the PID Act
- ensuring 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
- providing adequate resources, both financial and human, to:
  - encourage reports of wrongdoing
  - protect and support those who make them
  - provide training for key personnel
  - investigate allegations - in this regard the council will meet the reasonable costs of attending an investigation including loss of income, travel, accommodation and for legal representation for ex-employees who may be called as witnesses during any such investigation
  - properly manage any workplace issues that the allegations identify or create
  - correct any problem that is identified
  - reassess or review the policy each year to ensure it is still relevant and effective.
- reviewing the policy periodically to ensure it is relevant and effective

## 3. Roles and responsibilities in Council

This policy will apply to:

- Members of Council staff and Councillors
- permanent employees, whether full-time or part-time
- temporary or casual employees
- consultants
- individual contractors working for Council.

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

Members of Council staff are encouraged to support those who have made disclosures, as well as protect and maintain their confidentiality. Staff must not victimize or harass anyone who has made a disclosure.

This policy is designed to complement normal communication channels between supervisors and staff. Staff are encouraged to continue to raise appropriate matters at any time with their supervisors, but as an alternative have the option of making a public interest disclosure in accordance with this policy.

The policy needs to be signed by both the Mayor and the General Manager.

Under the PID Act, the general manager as the head of the public authority is responsible for ensuring that:

- the Council has an internal reporting policy
- the staff of the Council and Councillors are aware of the contents of the policy and the protection under the PID Act for people who make public interest disclosures
- the 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. Clause 3.15 of the Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW requires the complaints coordinator to be a nominated disclosures coordinator. The Ombudsman recommends Council nominates more than one person as being responsible for receiving public interest disclosures.

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

You should report any wrongdoing you see within Cabonne Council. Reports about the five categories of serious wrongdoing – corrupt conduct, maladministration, serious and substantial waste of public money, government information contravention, and local government pecuniary interest contravention – will be dealt with under the PID Act as public interest disclosures and according to this 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 using their position in a way that is dishonest, biased or breaches public trust.

For more information about corrupt conduct, see the NSW Ombudsman's guideline on "what can be reported" at [www.ombo.nsw.gov.au](http://www.ombo.nsw.gov.au).

##### **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:

- making a decision and/or taking action that is unlawful
- refusing to grant an approval for reasons that are not related to the merits of their application.

For more information about maladministration, see the NSW Ombudsman’s guideline on “what can be reported” at [www.ombo.nsw.gov.au](http://www.ombo.nsw.gov.au).

### **c. Serious and substantial waste in local government**

Serious and substantial waste is the uneconomical, inefficient or ineffective use of resources that could result in the loss or wastage of local government money. This includes all revenue, loans and other money collected, received or held by, for or on account of the Council.

For example, this could include:

- poor project management practices leading to projects running over time
- having poor or no processes in place for a system involving large amounts of public funds.

For more information about serious and substantial waste, see the NSW Ombudsman’s guideline on “what can be reported” at [www.ombo.nsw.gov.au](http://www.ombo.nsw.gov.au).

### **d. Government information contravention**

A government information contravention is a failure to properly fulfil functions under the *Government Information (Public Access) Act 2009* (GIPA Act).

For example, this could include:

- 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.

For more information about government information contravention, see the NSW Ombudsman’s guideline on “what can be reported” at [www.ombo.nsw.gov.au](http://www.ombo.nsw.gov.au).

### **e. Fraudulent conduct**

Fraud is dishonest activity causing actual or potential financial loss to any person or entity, including theft of personal identity, moneys or other property by employees or persons external to the University and where deception is used at the time, immediately before or immediately following the activity. This also includes the deliberate falsification, concealment, destruction or use of falsified documentation used or intended for use for a normal business purpose or the improper use of information or position for personal financial benefit.

The concept of fraud involves fraudulent or corrupt conduct by internal parties or external entities targeting the organisation, or fraudulent or corrupt conduct by the University itself targeting external entities.

## f. Other wrongdoing

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

For example, these could include:

- harassment or unlawful discrimination
- reprisal action against a person who has reported wrongdoing
- practices that endanger the health or safety of staff or the public.

These types of issues should be reported to a supervisor, in line with Cabonne Council's policies including the Code of Conduct, Complaints handling, Employee Grievance Handling and harassment in the workplace policies and procedures.

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

## 5. When will a report be protected?

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

- The person making the disclosure must honestly believe on reasonable grounds that the information shows or tends to show wrongdoing.

The Ombudsman Guideline *What should be reported?* provides further detail on when a report will be protected. Some examples are:

- 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.
- The report has to be made to a position nominated in this policy (see section 9) or an investigating authority (see section 10).

Reports by staff and Councillors will not be considered to be public interest disclosures if they:

- mostly question the merits of the policy of the governing body of the Council.
- are made with the sole or substantial motive of avoiding dismissal or other disciplinary action.

## 6. How to make a report

You can report wrongdoing in writing or verbally. You are encouraged to make a report in writing as this can help to avoid any confusion or misinterpretation.

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

If you are concerned about being seen making a report, ask to meet in a discreet location away from the workplace.

## 7. Can a report be anonymous?

There will be some situations where you may not want to identify yourself when you make a report. Although these reports will still be dealt with by Cabonne Council, it is best if you identify yourself. This allows us to provide you with any necessary protection and support, as well as feedback about the outcome of any investigation into the allegations.

It is important to realise that an anonymous disclosure may not prevent you from being identified. If we do not know who made the report, it is very difficult for us to prevent any reprisal action.

## **8. Maintaining confidentiality**

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

We are committed to keeping your identity, and the fact you have reported wrongdoing, confidential. However there may be situations where this may not be possible or appropriate. We will discuss with you whether it is possible to keep your report confidential.

If confidentiality cannot be maintained, we will develop a plan to support and protect you from risks of reprisal. You will be involved in developing this plan. You will also be told if your report will be dealt with under the Council's code of conduct, as this may mean certain information will have to be tabled at a Council meeting.

If you report wrongdoing, you should only discuss your report with those responsible to deal with it. This will include the disclosures coordinator and the General Manager. In the case of a report about the General Manager, you should only discuss your report with the disclosures coordinator and the Mayor.

Where your complaint is made under the Council's code of conduct and relates to the General Manager or a Councillor, you may be required to discuss it with a conduct reviewer.

If you discuss your report more broadly, you may affect the outcome of any investigation.

## **9. Who can receive a report within Cabonne Council?**

You are encouraged to report general wrongdoing to your supervisor. However the PID Act requires that for a report to be a public interest disclosure it must be made to a public official in accordance with the Council's disclosure procedures. For Cabonne Council, this means this policy and any supporting procedures.

Any supervisor who receives a report that they believe may be a public interest disclosure must refer the individual making the report to one of the positions listed below. The broader responsibilities of these positions will be outlined below in this policy.

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.

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

### **a. General Manager**

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

- deciding if a report is a public interest disclosure
- determining what needs to be done next, including referring it to other authorities
- deciding what needs to be done to correct the problem that has been identified.
- ensuring there are systems in place in to support and protect people who report wrongdoing

- dealing with disclosures made under the Council's code of conduct in accordance with the Council's adopted code of conduct procedures
- referring actual or suspected corrupt conduct to the Independent Commission Against Corruption.

The General Manager may be contacted on 02 6392 3208.

## **b. Mayor**

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

- deciding if a report is a public interest disclosure
- determining what needs to be done next, including referring it to other authorities
- deciding what needs to be done to correct the problem that has been identified.
- dealing with disclosures made under the Council's code of conduct in accordance with the Council's adopted code of conduct procedures

The Mayor must make sure there are systems in place in Cabonne Council to support and protect staff who report wrongdoing.

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

The Mayor may be contacted on 02 6392 3208.

## **c. Disclosures Coordinator**

The disclosures coordinator (DC) has a central role in dealing with reports made by staff and Councillors. The DC receives them, assesses them, and refers them to the people within Cabonne Council who can deal with them appropriately.

The Cabonne Council Disclosures Coordinator (Director of Finance & Corporate Services) may be contacted on telephone 02 6392 3222.

## **d. Disclosures Officers**

Disclosures officers are responsible for receiving, forwarding and/or dealing with reports made in accordance with this policy.

Council's Disclosures Officers are listed below and may be contacted as follows:

- Director of Engineering & Technical Services on telephone: 02 6390 7123
- Director Environmental Services on telephone: 02 6392 3241
- Human Resources Coordinator on telephone: 02 6392 3218

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

Staff and Councillors are encouraged to report wrongdoing within Cabonne Council, but internal reporting is not your only option. If you follow the guidance below, your report can still be a public interest disclosure to:

- an investigating authority. If your report is about both the General Manager and the Mayor, you may wish to consider making it 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 categories of wrongdoing each authority can deal with.

In relation to Council, these authorities are:

- the Independent Commission Against Corruption (ICAC) — for corrupt conduct
- the Ombudsman — for maladministration
- the Director-General of the Office of Local Government, Department of Premier and Cabinet — for disclosures about local government agencies
- the Information Commissioner — for disclosures about a government information contravention.

You should contact the relevant authority for advice about how to make a disclosure to them. Contact details for each investigating authority are provided at the end of this policy.

You should be aware that it is very likely the investigating authority will discuss the case with Cabonne 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 individuals who report wrongdoing to an investigating authority.

## **b. Members of Parliament or journalists**

To have the protections of the PID Act, staff reporting wrongdoing to a Member of Parliament (MP) or a journalist must have already made substantially the same report to one of the following:

- the General Manager
- a person nominated in this policy
- an investigating authority in accordance with the PID Act.

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

- decided not to investigate the matter
- decided to investigate the matter, but not completed the investigation within six months of the original report
- investigated the matter but not recommended any action as a result
- not told the person who made the report, within six months of the report being made, whether the matter will be investigated.

Most importantly – to be protected under the PID Act – if you report wrongdoing to an MP or a journalist you will need to be able to prove that you have reasonable grounds for believing that the disclosure is substantially true and that it is in fact substantially true.

If you report wrongdoing to a person or an organisation that is not listed above, you will not be protected under the PID Act. This may mean you will be in breach of legal obligations or our Code of Conduct – by, for example, disclosing confidential information.

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

## **11. Feedback to the individual who reported wrongdoing**

The individual who reported wrongdoing will be told what is happening in response to their report.

When you make a report, you will be given:

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

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

*While the PID Act requires policies to advise that an acknowledgement and a copy of this policy is to be provided to a person reporting wrongdoing within 45 days of the report being made, it is recommended by the DLG and NSW Ombudsman that the reporter is provide an acknowledgement much sooner.*

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

- information about the action that will be taken in response to your report
- likely timeframes for any investigation
- information about the resources available within Cabonne Council to handle any concerns you may have
- information about external agencies and services you can access for support.

This information will be given to you within 10 working days from the date you make your report.

During any investigation, you will be given:

- information on the ongoing nature of the investigation
- information about the progress of the investigation and reasons for any delay
- advice if your identity needs to be disclosed for the purposes of investigating the matter, and an opportunity to talk about this.

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

- enough information to show that adequate and appropriate action was taken and/or is proposed to be taken in response to your disclosure and any problem that was identified
- advice about whether you will be involved as a witness in any further matters, such as disciplinary or criminal proceedings.

Behaviour of all people involved in the PID process needs to adhere to Council's code of conduct. A breach of the code of conduct could result in disciplinary action.

## **12. Protection against reprisals**

The PID Act provides protection for people reporting wrongdoing by imposing penalties on anyone who takes detrimental action substantially in reprisal for them making the public interest disclosure. It may also be a breach of Council's Code of Conduct.

Cabonne Council will not tolerate any reprisal action against a person who reports wrongdoing. The criminal penalties that can be imposed include imprisonment or fines. Detrimental action is also misconduct that justifies disciplinary action. A person who take detrimental action against someone who has made a disclosure can also be required to pay damages for any loss suffered by that person.

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

- injury, damage or loss

- intimidation or harassment
- discrimination, disadvantage or adverse treatment in relation to employment
- dismissal from, or prejudice in, employment
- disciplinary proceedings.

## **a. Responding to reprisals**

Cabonne Council will act to protect staff who report wrongdoing from reprisals.

When a report is received, we will ensure that a thorough risk assessment is conducted. This will identify any risks to the member of staff or Councillor who reported the wrongdoing, as well as strategies to deal with those risks.

If you believe that detrimental action has been or is being taken against you or someone else who has reported wrongdoing in reprisal for making a report, you should tell your supervisor, the disclosures coordinator or the General Manager immediately, or in the case of an allegation of reprisal action by the General Manager, the Mayor.

All supervisors must report any suspicions they have that reprisal action against a staff member is occurring, or any reports that are made to them, to the disclosures coordinator or the General Manager, or in the case of an allegation of reprisal by the General Manager, to the Mayor.

If the disclosures coordinator becomes aware of or reasonably suspects that reprisal action is or has been taken against a person who has made a disclosure, they will ensure that the matter is reported under the Council's code of conduct and dealt with in accordance with the Council's code of conduct procedures.

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

The General Manager may issue specific directions to help protect against reprisals, including:

- issuing warnings to those alleged to have taken reprisal action against the individual who made the disclosure
- relocating the member of staff who made the disclosure or an officer the subject of the allegations within the current workplace
- transferring the member of staff who made the disclosure or the staff member who is the subject of the allegations to another position for which they are qualified
- granting the member of staff who made the disclosure or the subject officer leave of absence during the investigation of the disclosure.

In relation to staff who make reports, such directions will only be made if the member of staff agrees to it. The disclosures coordinator will make it clear to other staff that this action was taken in consultation with the staff member and with management support – and it is not a punishment.

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

## **b. Protection against legal action**

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

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

Cabonne Council will make sure that staff who have reported wrongdoing, regardless of whether they have made a public interest disclosure, are provided with access to any professional support they may need as a result of the reporting process – such as stress management, counselling services, legal or career advice.

We also have staff that will provide support for those who report wrongdoing. They are responsible for initiating and coordinating support, particularly to those who are suffering any form of reprisal.

Council's support officer in this regard is the Human Resources Officer who may be contacted on 02 6392 3218.

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

### **14. Sanctions for making false or misleading disclosures**

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

### **15. Support for the subject of a report**

Cabonne Council is committed to ensuring people who are the subject of a report of wrongdoing are treated fairly and reasonably. If you are the subject of a report, you will be:

- treated fairly and impartially
- told your rights and obligations under our policies and procedures
- kept informed during any investigation
- given the opportunity to respond to any allegation made against you
- told the result of any investigation.

### **16. Review**

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

### **17. More Information**

Staff and Councillors can access advice and guidance about the PID Act from Cabonne Council Disclosures Coordinator (Director of Finance and Corporate Services on telephone 6392 3222) and the NSW Ombudsman (for general advice on telephone 9286 1000) or website at [www.ombo.nsw.gov.au](http://www.ombo.nsw.gov.au).

## 18. Resources

The contact details for external investigating authorities that staff can make a public interest disclosure to or seek advice from are listed below.

<p><b>For disclosures about corrupt conduct:</b></p> <p>Independent Commission Against Corruption (ICAC)</p> <p>Phone: 02 8281 5999</p> <p>Toll free: 1800 463 909</p> <p>Tel. typewriter (TTY): 02 8281 5773</p> <p>Facsimile: 02 9264 5364</p> <p>Email: <a href="mailto:icac@icac.nsw.gov.au">icac@icac.nsw.gov.au</a></p> <p>Web: <a href="http://www.icac.nsw.gov.au">www.icac.nsw.gov.au</a></p> <p>Address: Level 21, 133 Castlereagh Street, Sydney NSW 2000</p>	<p><b>For disclosures about maladministration:</b></p> <p>NSW Ombudsman</p> <p>Phone: 02 9286 1000</p> <p>Toll free (outside Sydney metro): 1800 451 524</p> <p>Tel. typewriter (TTY): 02 9264 8050</p> <p>Facsimile: 02 9283 2911</p> <p>Email: <a href="mailto:nswombo@ombo.nsw.gov.au">nswombo@ombo.nsw.gov.au</a></p> <p>Web: <a href="http://www.ombo.nsw.gov.au">www.ombo.nsw.gov.au</a></p> <p>Address: Level 24, 580 George Street, Sydney NSW 2000</p>
<p><b>For disclosures about breaches of the GIPA Act:</b></p> <p>Information Commissioner Information and Privacy Commission</p> <p>Phone: 1800 472 679</p> <p>Facsimile: (02) 8114 3756</p> <p>Email: <a href="mailto:ipcinfo@ipc.nsw.gov.au">ipcinfo@ipc.nsw.gov.au</a></p> <p>Web: <a href="http://www.ipc.nsw.gov.au">www.ipc.nsw.gov.au</a></p> <p>Address: Level 11, 1 Castlereagh Street, Sydney NSW 2000</p> <p>Post: GPO Box 7011, Sydney NSW 2001</p>	<p><b>For disclosures about Council:</b></p> <p>Director-General, Division of Local Government in the Department of Premier and Cabinet</p> <p>Phone: 02 4428 4100</p> <p>Tel. typewriter (TTY): 02 4428 4209</p> <p>Facsimile: 02 4428 4199</p> <p>Email: <a href="mailto:dlg@dlg.nsw.gov.au">dlg@dlg.nsw.gov.au</a></p> <p>Web: <a href="http://www.dlg.nsw.gov.au">www.dlg.nsw.gov.au</a></p> <p>Address: 5 O'Keefe Avenue, Nowra, NSW 2541</p>