

MURRAY RIVER COUNCIL  
COUNCIL POLICY

**INTERNAL  
REPORTING  
(PID)  
POLICY**

POL-113.V#2



murray river  
council

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## 1. INTRODUCTION

Under Section 6D of the Public Interest Disclosures Act 1994 (PID Act), public authorities, such as Local Government, are required to have a Policy that provides for its procedures for receiving, assessing and dealing with Public Interest Disclosures, known as PIDs.

## 2. PURPOSE

The purpose of this Internal Reporting Policy (the 'Policy') is to establish an internal reporting system for Murray River Council (the 'Council') Council Officers and Officials to report wrongdoing without fear of reprisal. The Policy sets out who you can report wrongdoing to within Council, what can be reported, and how reports of wrongdoing will be dealt with by Council.

This Policy is designed to complement normal communication channels between Council's Managers/Supervisors and staff. Staff are encouraged to raise matters of concern at any time with their Managers/Supervisors, but also have the option of making a report about a public interest issue in accordance with this Policy and the PID Act.

This Policy should not be read in isolation and forms only part of Council's complaint handling process.

The internal reporting system established under this Policy is not intended to be used for staff grievances, which should be raised through Council's Workplace Discrimination & Harassment Policy.(POL-503)

If a staff member makes a report under this Policy, which is substantially a grievance, the matter will be referred to Council's Coordinator Personnel to be dealt with in accordance with the Workplace Discrimination & Harassment Policy.(POL-503).

## 3. SCOPE

This Policy applies to Council Officers and Council Officials.

This Policy also applies to public officials of other Councils or public authorities who report wrongdoing relating to Murray River Council.

## 4. POLICY STATEMENT

This Policy enables Council to fulfil its obligations of the PID Act and any related Acts and Regulations.

This Policy is designed to complement normal communication channels between Managers/Supervisors and staff. However, it is not intended that all issues must be raised as PIDs, rather that an option to do so is clearly available.

Whilst opportunities for reporting outside Council are legal and valid, Council is committed to providing a system for reporting within Council, wherever possible, so that management is given an opportunity to remediate a problem in the first instance.

This Policy is based on the Model Internal Reporting Policy – Local Government, published in June 2014 issued by the NSW Ombudsman. Council will utilise the resources found on the NSW Ombudsman's website as procedural documents.

## ORGANISATIONAL COMMITMENT

Murray River Council, to deal effectively with reports of wrongdoing, 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 the progress and the outcome.
- ▶ Encouraging the reporting of wrongdoing within Council, but respect any decision to disclose wrongdoing outside Council that is made in accordance with the provisions of the PID Act.
- ▶ Ensuring Managers/Supervisors understand the benefits of reporting wrongdoing, are familiar with this Policy, and aware of the needs of those who report wrongdoing.
- ▶ Ensuring all Council Officers and Officials are aware of their responsibilities in reporting wrongdoing and that not reporting wrongdoing could be subject to the disciplinary action under the Workplace Performance Management/Disciplinary Policy (POL-507).
- ▶ Reviewing this 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; and
  - appropriately address any identified problems.

## WHAT SHOULD BE REPORTED?

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

Reports about five (5) categories of serious misconduct:

- ▶ corrupt conduct,
- ▶ maladministration,
- ▶ serious and substantial waste of public money,
- ▶ breach of the Government Information (Public Access) Act 2009 (GIPA Act), and
- ▶ local government pecuniary interest contravention,

which otherwise meet the criteria of a PID, 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 in the NSW Ombudsman's Guideline B2: *What should be reported?* This and other relevant documents can be found at:

All other wrongdoing or suspected wrongdoing should be reported to a Manager/Supervisor, to be dealt with in line with the most appropriate Council Policy and/or Procedure.

This might include:

- ▶ harassment or unlawful discrimination
- ▶ practices that endanger the health or safety of Council Officers and Officials or the public.

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

## 1. **Corrupt conduct**

Corrupt conduct is the dishonest or partial exercise of official functions by a public official. For example, this could include, but not limited to:

- ▶ 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 Officers and Officials being influenced by a member of the public to use their position in a way that is dishonest, biased or breaches public trust.

## 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, but not limited to:

- ▶ 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.

## 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, but not limited to:

- ▶ not following a competitive tendering process for a large scale contract.
- ▶ having bad or no processes in place for a system involving large amounts of public funds.

## 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, but not limited to:

- ▶ 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.

## 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 interest 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, but not limited to:

- ▶ a senior Council staff member recommending a family member for a Council contract and not declaring the relationship.
- ▶ a councillor participating in consideration of a Development Application (DA) for a property they or their family have an interest in.

## **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 PID.

The Disclosures Coordinator is responsible for assessing reports, in consultation with the CEO, 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.

## WHEN WILL A REPORT BE TREATED AS A PUBLIC INTEREST DISCLOSURE (PID)?

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

- ▶ the report must be about one of the following five (5) 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 CEO or, for reports about the CEO the Mayor, a position nominated in this Policy, an investigating authority or in limited circumstances to a Member of Parliament (MP) or journalist.

Reports by Council Officials are not PIDs if they:

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

## WHO CAN RECEIVE A REPORT WITHIN MURRAY RIVER COUNCIL?

Council Officials are encouraged to report general wrongdoing to their Manager/Supervisor. However, the PID Act requires that, for a report to be a PID, it must be made to certain public officials identified in this Policy or any supporting procedures and staff are encouraged to report directly to the officials below also.

The following positions are the only people within Council who are authorised to receive a PID. Any Manager/Supervisor who receives a PID report, or a report that they believe may be a PID, is obliged to assist the staff member to make the report to one of the positions listed below:

- ▶ **CEO**
- ▶ **Mayor** (for reports about the CEO only)
- ▶ **Disclosures Coordinator**
  - Director Shared Services
- ▶ **Disclosures Officers**
  - Director Operations and Major Projects
  - Director Planning & Environment
  - Director Community & Economic Development
  - Manager Governance & Risk

## WHO CAN RECEIVE A REPORT OUTSIDE OF MURRAY RIVER COUNCIL?

Council Officers and Officials are encouraged to report wrongdoing within Council, but internal reporting is not the only option. You can also make a PID to:

- ▶ An investigating authority.
- ▶ A Member of Parliament (MP) or a journalist (but *only* in the limited circumstances outlined overleaf).

## Investigating Authority

The PID Act lists a number of investigating authorities in NSW that Council Officers and Officials 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 CEO or the Mayor.

The relevant investigating authorities for Murray River Council are:

| Authority   | Contact Details   |
|---|---|
| <p><b>Independent Commission Against Corruption (ICAC)</b></p> <p>for reports about corrupt conduct</p>           | <p>Address: Level 21, 133 Castlereagh Street,<br/>Sydney NSW 2000<br/>Toll free: 1800 463 909<br/>Facsimile: 02 9264 5364<br/>Email: <a href="mailto:icac@icac.nsw.gov.au">icac@icac.nsw.gov.au</a><br/>Web: <a href="http://www.icac.nsw.gov.au">www.icac.nsw.gov.au</a></p>                         |
| <p><b>NSW Ombudsman</b></p> <p>for reports about maladministration</p>  | <p>Address: Level 24, 580 George Street,<br/>Sydney NSW 2000<br/>Toll free (outside Sydney metro): 1800 451 524<br/>Facsimile: 02 9283 2911<br/>Email: <a href="mailto:nswombo@ombo.nsw.gov.au">nswombo@ombo.nsw.gov.au</a><br/>Web: <a href="http://www.ombo.nsw.gov.au">www.ombo.nsw.gov.au</a></p> |
| <p><b>Auditor-General of the NSW Audit Office</b></p> <p>For disclosures about serious and substantial waste:</p> | <p>Address: Level 19, Darling Park Tower,<br/>201 Sussex Street, Sydney NSW 2000<br/>Phone: 02 9275 7100<br/>Facsimile: 02 9275 7200<br/>Email: <a href="mailto:mail@audit.nsw.gov.au">mail@audit.nsw.gov.au</a><br/>Web: <a href="http://www.audit.nsw.gov.au">www.audit.nsw.gov.au</a></p>          |
| <p><b>Information &amp; Privacy Commissioner</b></p> <p>for disclosures about a breach of the GIPA Act</p>        | <p>Address: Level 11, 1 Castlereagh Street,<br/>Sydney NSW 2000<br/>Toll free: 1800 472 679<br/>Facsimile: 02 8114 3756<br/>Email: <a href="mailto:ipcinfo@ipc.nsw.gov.au">ipcinfo@ipc.nsw.gov.au</a><br/>Web: <a href="http://www.ipc.nsw.gov.au">www.ipc.nsw.gov.au</a></p>                         |
| <p><b>Office of Local Government</b></p> <p>for disclosures about local councils</p>                              | <p>Address: 5 O'Keefe Avenue,<br/>Nowra, NSW 2541<br/>Phone: 02 4428 4100<br/>Facsimile: 02 4428 4199<br/>Email: <a href="mailto:olg@olg.nsw.gov.au">olg@olg.nsw.gov.au</a><br/>Web: <a href="http://www.olg.nsw.gov.au">www.olg.nsw.gov.au</a></p>   |

You should contact the relevant investigating authority for advice about how to make a disclosure to them. You should be aware that the investigating authority may well discuss any such reports with Council. 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. Council will also provide appropriate support and assistance to councillors or Council Officials who report wrongdoing to an investigating authority, if Council is made aware that this has occurred.

## Member of Parliament (MP) or Journalist

To have the protections of the PID Act, Council Officials 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 CEO
- ▶ a person nominated in this Policy, including the Mayor for reports about the CEO
- ▶ an investigating authority.

Also, 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 PID is substantially true and that it is in fact substantially true.

## 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 Council's Code of Conduct – by, for example, disclosing confidential information.

For more information about reporting wrongdoing outside Council, contact Council's Disclosures Coordinator or the NSW Ombudsman's Public Interest Disclosures Unit.

## 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. Council's Internal Reporting Form is also available for Council Officers and Officials 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.

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

## FEEDBACK TO COUNCIL OFFICIALS WHO REPORT WRONGDOING

Council Officers and Officials who report wrongdoing will be told what is happening in response to their report.

### Acknowledgement

When you make a report, 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, Council will send you an acknowledgment 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.
- ▶ Council will provide this information to you within ten (10) working days from the date you make your report. Council will also advise you if Council decides to treat your report as a PID 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.

### 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 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.

### 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.

## MAINTAINING CONFIDENTIALITY

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

confidential. If confidentiality cannot be maintained, 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 CEO, or in the case of a report about the CEO, 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 Council can protect you from any reprisal.

Any Council Officials 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.

## MANAGING THE RISK OF REPRISAL AND WORKPLACE CONFLICT

When a Council Official reports wrongdoing, Council will undertake a thorough risk assessment to identify the risk to the reporter 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, Council may:

- ▶ relocate the reporter or the employee who is the subject of the allegation within the current workplace.
- ▶ transfer the reporter or the employee who is the subject of the allegation to another position for which they are qualified.
- ▶ grant the reporter or the employee 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.

## PROTECTION AGAINST REPRISALS

Council will not tolerate any reprisal against Council Officials who report wrongdoing or are believed to have reported wrongdoing.

The PID Act provides protection for Council Officers and Officials who have made a PID by imposing penalties on anyone who takes detrimental action against another person substantially in reprisal for that person making a PID. 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 PID, 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 (POL-100), 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 Council Officers and Officials 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 PID. It does not protect reporters from disciplinary or other management action where Council has reasonable grounds to take such action.

## 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 Manager/Supervisor, the Disclosures Coordinator or the CEO immediately. In the case of an allegation of reprisal by the CEO, you can alternatively report this to the Mayor.

- ▶ All Managers/Supervisors must notify the Disclosures Coordinator or the CEO 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 CEO, the Mayor can alternatively be notified.

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

- ▶ assess the allegation of reprisal to decide whether the report should be treated as a PID 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) (POL100) by a Councillor or the CEO 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).

## Protection Against Legal Action

If you make a PID 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 PID. You will not have breached any confidentiality or secrecy obligations and you will have the defence of absolute privilege in defamation.

## SUPPORT FOR THOSE REPORTING WRONGDOING

Council will make sure that any Council Officials who has reported wrongdoing, regardless of whether their report is treated as a PID, 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 Council Officials involved in the internal reporting process, where appropriate. Reporters and other Council Officials involved in the process can discuss their support options with the Disclosures Coordinator.

Council Officials can access Council's Employee Assistance Program (EAP) if they wish and/or Council's Disclosure Officers.

## SANCTIONS FOR MAKING FALSE OR MISLEADING STATEMENTS

It is important that all Council Officers and Officials are aware that it is a criminal offence under the PID Act to wilfully make a false or misleading statement when reporting wrongdoing. Council will not support Council Officials who wilfully make false or misleading reports. Such conduct may also be a breach of Council's Code of Conduct (POL100), 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.

## THE RIGHTS OF PERSONS THE SUBJECT OF A REPORT

Council is committed to ensuring Council Officials 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; and
- ▶ 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 person are clearly wrong, or have been investigated and unsubstantiated, the subject person will be supported by Council. The fact of the allegations and any investigation will be kept confidential, unless otherwise agreed to by the subject person.

## MORE INFORMATION

Council Officers and Officials can also seek advice and guidance from Council's Disclosures Coordinator and the NSW Ombudsman's website at [www.ombo.nsw.gov.au](http://www.ombo.nsw.gov.au).

## 5. ROLES AND RESPONSIBILITIES

### The role of Council Officers and Officials

Council Officers and Officials play an important role in contributing to a workplace where known or suspected wrongdoing is reported and dealt with appropriately.

All Council Officers and Officials 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; and
- ▶ respect the rights of any person the subject of reports.

Council Officers and Officials **must not**:

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

Additionally, the behaviour of all Council Officers and Officials involved in the internal reporting process must adhere to Council's Code of Conduct. A breach of the Code could result in disciplinary action.

## The role of Murray River Council

- ▶ Council has a responsibility to establish and maintain a working environment that encourages Council Officers and Officials 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.
- ▶ Council will assess all reports of wrongdoing it receives from Council Officers and Officials and deal with them appropriately. Once wrongdoing has been reported, Council takes 'ownership' of the matter. This means it is up to management to decide whether a report should be investigated, and if so, how it should be investigated and by whom. Council will deal with all reports of wrongdoing fairly and reasonably, and respect the rights of any person the subject of a report.
- ▶ 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 Council complies with the PID Act and deals with all reports of wrongdoing properly, all Council Officers and Officials with roles outlined below and elsewhere in this Policy will receive training on their responsibilities.
- ▶ Council must ensure that all Council Officers and Officials are aware of this Policy and the PID Act.
- ▶ Council must nominate at least one employee as being responsible for receiving Public Interest Disclosures. Clause 3.15 of Council's Code of Conduct Procedure requires the Complaints Coordinator to be a Disclosure Coordinator.
- ▶ The Disclosures Coordinator, the alternative Disclosures Coordinator and Disclosures Officers will be given a Delegation from the CEO to undertake these roles.

## ROLES OF KEY POSITIONS

### CEO

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

The CEO can receive reports from Council Officers and Officials 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 PID, and to decide how the report will be dealt with.
- ▶ deal with reports made under Council's Code of Conduct in accordance with Council's adopted Code of Conduct procedures.
- ▶ ensure there are strategies in place to support reporters, protect reporters from reprisal and manage workplace conflict that may arise in relation to a report.
- ▶ make decisions following any investigation 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 Council's internal reporting system. The Disclosures Coordinator can receive and assess reports, and is the primary point of contact within 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 PID, and to decide how each report will be dealt with (either under delegation or in consultation with the CEO).
- ▶ deal with reports made under the Council's Code of Conduct in accordance with the Council's adopted Code of Conduct procedures.
- ▶ coordinate Council's response to a report.
- ▶ acknowledge reports and provide updates and feedback to the reporter.
- ▶ assess whether it is possible and appropriate to keep the reporter's identity confidential.
- ▶ assess the risk of reprisal and workplace conflict related to or likely to arise out of a report, and develop strategies to manage any risk identified.
- ▶ where required, provide or coordinate support to Council Officials involved in the reporting or investigation process, including protecting the interests of any officer the subject of a report.
- ▶ ensure Council complies with the PID Act.
- ▶ provide six-monthly reports to the NSW Ombudsman in accordance with section 6CA of the PID Act.

## Disclosures Officers

Disclosures Officers are additional points of contact within the internal reporting system. They can provide advice about the system and this [Internal Reporting Policy \(POL-209\)](#), receive reports of wrongdoing and assist Council Officers and Officials 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 CEO for full assessment.

## Mayor

The Mayor can receive reports from Council Officers and Officials about the CEO. 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 PID, and to decide how they 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.
- ▶ 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.

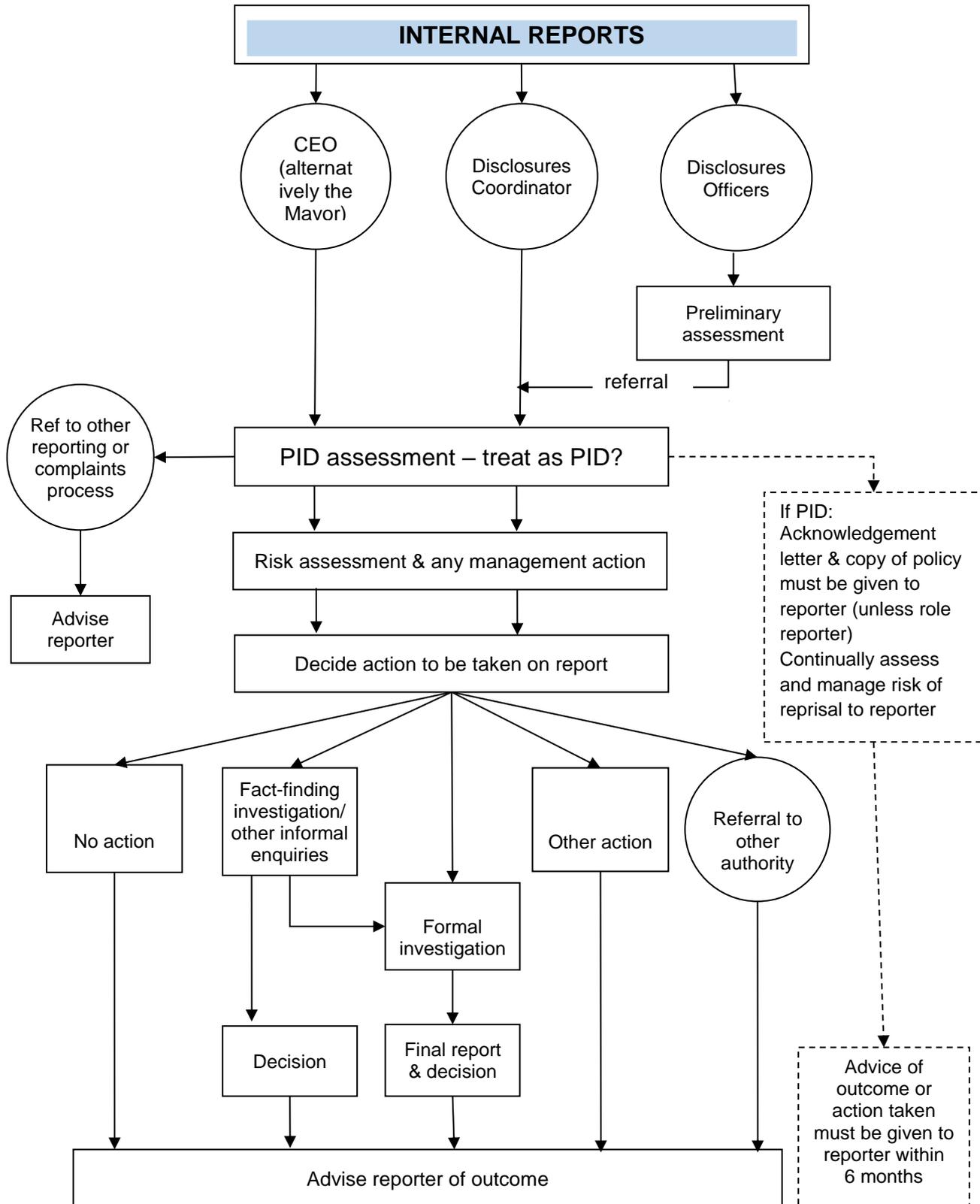
## Managers/Supervisors

Managers/Supervisors play an important role in managing the immediate workplace of those involved in, or affected by, the internal reporting process. Managers/Supervisors should be aware of this Internal Reporting Policy and are responsible for creating a local work environment where staff are comfortable and confident about reporting wrongdoing.

Managers/Supervisors have a responsibility to

- ▶ encourage staff to report known or suspected wrongdoing within Council and support staff when they do.
- ▶ identify reports made to them in the course of their work which could be PIDs, and assist the staff member to make the report to an officer authorised to receive PIDs 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 CEO 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 CEO, notify the Mayor.

## FLOW CHART OF INTERNAL REPORTING PROCESS



A decision made under this Policy that is disputed will be referred to the Ombudsman's Office for consideration.

## 6. LEGISLATION, ASSOCIATED DOCUMENTS AND DEFINITIONS

### Legislation

- ▶ Local Government Act 1993
- ▶ Local Government (General) Regulation 2005
- ▶ Public Interest Disclosures Act 1994
- ▶ Public Interest Disclosures Regulation 2011
- ▶ Protected Disclosures Amendment (Public Interest Disclosures) Act 2010
- ▶ Public Interest Disclosures Amendment Act 2011
- ▶ Government Information (Public Access) Act 2009
- ▶ Ombudsman Act 1974

### Associated Documents

- ▶ MRC Policy - Code of Conduct
- ▶ MRC Fraud and Corruption Control Policy
- ▶ MRC Policy - Workplace Discrimination & Harassment
- ▶ MRC Form - Internal Reporting Disclosure Form
- ▶ MRC Form - Internal Reporting Checklist for Recipient Form
- ▶ MRC Form - Internal Reporting Initial Assessment Form
- ▶ MRC Form - Internal Reporting Complete Assessment Form
- ▶ MRC Form - Internal Reporting Confirmation Letter
- ▶ Model Internal Reporting Policy – Local Government – July 2020 (NSW Ombudsman)
- ▶ NSW Ombudsman – Guideline A2: Internal Policies and Procedures
- ▶ NSW Ombudsman – Guideline B2: What should be reported?  
<https://www.ombo.nsw.gov.au/news-and-publications/publications/guidelines/public-interest-disclosures/public-interest-disclosures-guideline-b1-who-can-report-wrongdoing>
- ▶ NSW Ombudsman – Guidelines, templates and other supporting material
- ▶ Privacy Code of Practice (General) 2003
- ▶ Privacy Code of Practice for Local Government – 1 July 2000
- ▶ Department of Local Government – Circular 00/44
- ▶ Information Protection Principles (IPP) – Number 1 to 12
- ▶ General Records Disposal Schedule for Local Government

### Definitions

| Term            | Description   |
|-----------------|---|
| Council Officer | An officer is defined as being one of the following: <ul style="list-style-type: none"> <li>▶ An employee, or</li> <li>▶ A contractor or subcontractor, or</li> <li>▶ An employee of a contractor or subcontractor, or</li> <li>▶ An employee of a labour hire company who has been assigned to work in the person's business or undertaking, or</li> <li>▶ An outworker, or</li> <li>▶ An apprentice or trainee, or</li> <li>▶ A student gaining work experience, or</li> <li>▶ A volunteer</li> </ul> |

|                  |   |
|------------------|---|
| Council Official | <p>Includes</p> <ul style="list-style-type: none"> <li>▶ Councillors,</li> <li>▶ members of staff of Council,</li> <li>▶ administrators,</li> <li>▶ Council committee members,</li> <li>▶ conduct reviewers and</li> <li>▶ delegates of Council.</li> </ul> |
|------------------|---|

## 7. EVALUATION AND REVIEW

It is the responsibility of the Director Shared Services to monitor the adequacy of this Policy and recommend appropriate changes.

This Policy will be formally reviewed every four (4) years or as needed, whichever comes first

## 8. DOCUMENT CONTROL

| Version No. | Details   | Dates                     | CM9 Reference | Resolution No. |
|-------------|---|---------------------------|---------------|----------------|
| 1           | Initial Issue   | 8 Aug 2017 to 24 Nov 2020 | VF/19/522     | 080817         |
| 2           | Revision in line with latest version of the Model Internal Reporting Policy July 2020 and to reflect the organisation restructure changes | 24 Nov 2020 to            | VF/19/522     |                |

Council reserves the right to review, vary or revoke this policy at any time  
This Policy is scheduled for review before October 2024

### Disclaimer:

This document was formulated to be consistent with Murray River Council's legislative obligations and with the scope of Council's powers. This document should be read in conjunction with relevant legislation, guidelines and codes of practice. In the case of any discrepancies, the most recent legislation should prevail. This document does not constitute legal advice. Legal advice should be sought in relation to particular circumstances and liability will not be accepted for losses incurred as a result of reliance on this document.