



DRAFT Policy

Internal Reporting

2021

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Further Document Information and Relationships

Related Legislation	Public Interest Disclosures Act 1994 NSW OHS Act 2000 NSW OHS Regulations 2001 Anti-Discrimination Act 1977 Government Information (Public Access) Act 2009 Independent Commission Against Corruption Act 1988
Related Policies	Code of Conduct No 1.8 Complaints Management Handling Policy No 3.22 <u>Managing unreasonable customer conduct Policy</u> Business Ethics Policy No 07/103 Councillors Access to Information Policy No 1.14 Interactions between Councillors and Council Staff Policy No 1.15 <u>Fraud and Corruption Prevention Control</u> Policy No 11/009

	All of the above can be downloaded from www.byron.nsw.gov.au/Council/Your-right-to-Council-information/Policies
Related Standards, Procedures, Statements, documents	<p>Occupational Health and Safety Manual Human Resources Manual: -Bullying and Harassment Prevention Policy -Equal Employment Opportunity and Discrimination Prevention Policy (Internal Policy) http://www.byron.nsw.gov.au/publications Grievance Policy (Internal Policy)</p> <p>NSW Ombudsman Guidelines which can be accessed from Model internal reporting policy at www.ombo.nsw.gov.au/news-and-publications/public-interest-disclosures/model-internal-reporting-policy-local-government-public-interest-disclosures http://www.ombo.nsw.gov.au/aboutus/PublicInterestDisclosures.html#newguidelines</p>

Note: Any reference to Legislation will be updated in the Policy as required. See website <http://www.legislation.nsw.gov.au/> for current Acts, Regulations and Environmental Planning Instruments.

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

This Byron Shire Council Policy has been developed based on the NSW Ombudsman's model policy for local government and on the NSW Ombudsman's guidelines – refer to: www.ombo.nsw.gov.au/news-and-publications/public-interest-disclosures/model-internal-reporting-policy-local-government-public-interest-disclosures
<http://www.ombo.nsw.gov.au/aboutus/PublicInterestDisclosures.html>



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1. ~~Objectives~~ 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 Byron Shire Council (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 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).

- ~~1.1 To confirm Council's commitment to identification and eradication of wrongdoing from Byron Shire Council.~~
- ~~1.2 To encourage and facilitate the making of Protected Disclosures.~~
- ~~1.3 To provide protection to those staff who make Protected Disclosures.~~
- ~~1.4 To ensure that Protected Disclosures lead to the improvement of Council as an organisation.~~
- ~~1.5 To ensure that Council meets its statutory requirements relating to reporting of Protected Disclosures.~~

~~2. Policy Statement~~

~~2.1 This policy:~~

- ~~a) outlines Council's responsibilities under the Act, such as recording and reporting on reports of wrong doing;~~
- ~~b) establishes an internal reporting system for making of Public Interest Disclosures reporting allegations of corrupt conduct, maladministration or other serious wrongdoing by the Council or any of its officers;~~
- ~~c) is and will be supported by procedures based on the NSW Ombudsman's Guidelines~~

~~2.2 This Policy applies to:~~

- ~~a) both Council staff and Councillors;~~
- ~~b) permanent employees, whether full-time or part-time;~~
- ~~c) temporary or casual employees;~~
- ~~d) consultants;~~
- ~~e) individual contractors working for the council;~~
- ~~f) other people who perform public official functions and their conduct and activities could be investigated by an investigating authority, which can include volunteers and those contracted to work for Council.~~

This Policy is only one of a raft of Council policies and internal reporting procedures which collectively encourage everyone to report suspected wrongdoing. Examples of other Council policies and internal reporting procedures, currently existing include:

- a) Code of Conduct Policy (available to and can be used by the public as well as Councillors and staff)
- b) Complaint Handlings Management Policy (available to and can be used by the public as well as Councillors and staff)
- b)c) Managing Unreasonable Customer Conduct Policy (available to and can be used by the public as well as Councillors and staff)
- ~~c) Business Ethics Policy (available to and can be used by the public as well as Councillors and staff);~~



- d) Councillors' Access to Information Policy (available to and can be used by the public as well as Councillors and staff)
- e) Interactions between Councillors and Council Staff Policy (available to and can be used by the public as well as Councillors and staff)
- f) internal Human Resources Manual (available to and for use by Council staff only) which includes for example:
 - i) policies relating to Equal Employment Opportunity and Discrimination Prevention and Harassment and Bullying Prevention
 - ii) internal reporting procedures for example in relation to reporting bullying or harassment or other workplace grievances.

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

~~The aims of the Public Interest Disclosures Act 1994 (formerly called the Protected Disclosures Act) are to encourage and facilitate the disclosure, in the public interest, of corrupt conduct, maladministration, and serious and substantial waste in the public sector.~~

~~2.5 The Act provides avenues by which public officials can make disclosures about corrupt conduct, maladministration or other serious wrongdoing. For a public official to be protected under the Act, the disclosure must be properly made through a defined appropriate channel.~~

~~2.6 The Act provides protection by imposing penalties on a person who takes detrimental action against another person in reprisal for a protected disclosure.~~

~~2.7 Reporting of suspected wrongdoing is vital to the integrity of the Council and is a critical source of information for identifying and addressing problems within Council. Staff who are prepared to raise genuine concerns about corrupt conduct, maladministration or other serious wrongdoing are one of the most important and accurate sources of information for identifying and addressing serious problems within any organisation and they deserve and are entitled to support and protection.~~

3.2. Organisational commitment

~~3.1 Council is committed to maintaining the highest level of community accountability, community stewardship and leadership whilst maintaining respect for individuals and the rule of law.~~

For a council to be able to deal effectively with ~~staff~~ reports of wrongdoing, it must have the right culture. This policy starts with a strong commitment ~~to establish the right culture~~
~~Council commits to:~~

- a) creat~~ing~~ a climate of trust, where ~~staff~~ people are comfortable and confident about reporting wrongdoing;
- b) encourage~~ing~~ staff to come forward if they ~~have witnessed what they consider to be~~ are aware of wrongdoing within Council;



- c) keeping the identity of the staff member ~~complaining about the~~ disclosing wrong doing confidential, where ~~ver~~ this is possible and appropriate;
- d) protecting staff ~~who make disclosures~~ from any adverse action ~~motivated by~~ resulting from them making a their report
- e) dealing with reports thoroughly and impartially and if some form of wrongdoing has been found, taking appropriate action to ~~rectify~~ address it
- f) keeping staff who make a reports informed of their progress and the outcome
- g) encourage ~~ing staff to the~~ reporting of wrongdoing within ~~C~~the council, but respecting any decision to disclose wrongdoing outside of the ~~C~~council ~~— provided that disclosure outside of the council that~~ is made in accordance with the provisions of the ~~Public Interest Disclosures~~ PID Act 1994
- h) ensure ~~ing~~ managers and supervisors at all levels in ~~the C~~council understand the benefits of reporting wrongdoing, are familiar with ~~this~~ e policy, and aware of the needs of those who report wrongdoing
- i) provide ~~ing~~ adequate resources to:
 - i) encourage reports of wrongdoing
 - ii) protect and support those who make them
 - iii) provide training for staff about how to make reports and the benefits of internal reports to the council and the public interest generally
 - iv) properly assess and investigate or otherwise deal with allegations
 - v) properly manage any workplace issues that the allegations identify or that result from a report
 - vi) appropriately address any identified problems.
- ~~i) —, both financial and human to meeting its above commitments, but with recognition of the overall financial constraints facing the Council~~
- j) review ~~ing~~ this policy every ~~2~~ four years, or earlier if required, to ensure it is ~~still~~ relevant and effective.

3. Who does this policy apply to?

This policy will apply to:

- a) both Council staff and Councillors
- b) permanent employees, whether full-time or part-time
- c) temporary or casual employees
- d) consultants
- e) individual contractors working for Council
- f) employees of contractors providing services to Council



- g) 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 Council.

4. Roles and Responsibilities

~~4.1—All Councillors and staff have important roles and responsibilities in relation to reporting wrongdoing as summarised below.~~

4.1 All The role of Council staff and Councillors ~~and all Staff~~

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:

~~a) —The responsibilities of all Councillors and all staff include:~~

- a) reporting all known and or suspected wrongdoing and support those who have made reports of wrongdoing within Council;
- b) not making false or misleading reports of wrongdoing
- ~~b)c) not victimise or harass anyone who has made a report~~
- ~~e)d) keeping the identity of internal reporters and anyone who is the subject of a report, where known, confidential;~~
- ~~d)e) if requested, assisting those dealing with a the report, including supplying any information on request, cooperating with any investigation and maintaining confidentiality~~
- ~~e)f) not taking reprisals against staff members suspected of or known to have reported wrongdoing treat any staff member or person dealing with a report of wrongdoing with courtesy and respect~~
- ~~f) —in the case of Councillors, notifying the General Manager, the Disclosures Coordinator and the Mayor (or if the report is about the General Manager the Disclosures Officer and the Mayor) immediately of any suspicions that reprisals have been taken, are being taken or have been threatened against a report of wrongdoing.~~

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

4.2 the role of Councillors and Staff Reporting Wrongdoing

~~b) —The responsibilities of Councillors or staff who report wrongdoing include:~~

- ~~i) —only discussing the matter with authorised people and not alerting anyone who is the subject of a report that the report has been made;~~
- ~~ii) —when they report, raising any concerns they have about reprisals or workplace conflict with the person assessing their report or the Disclosures Coordinator;~~
- ~~iii) —assisting those assessing and dealing with the report, including supplying any information on request;~~



- ~~iv) if needed, seeking support, assistance and services from their supervisor, manager or executive manager, the Disclosures Coordinator or Disclosure Officers, OH&S Officer or the General Manager or any external organisation;~~
- ~~v) at any time after they have reported, notifying their supervisor, manager or executive manager, the Disclosures Coordinator or Disclosure Officers, or the General Manager (or in the case of concerns about the General Manager the Mayor) or any external organisation, immediately of any suspicions they have that reprisal is occurring or has been threatened;~~

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.

Council will assess all reports of wrongdoing it receives from staff and councillors and deal with them appropriately. Once wrongdoing has been reported, 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. 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.

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.

4.3 Roles of key positions~~People Receiving a Report (Disclosures Coordinator, Disclosures Officers, General Manager or Mayor, for reports about the General Manager)~~

The 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:

- a) 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
- b) deal with reports made under the council's code of conduct in accordance with the council's adopted code of conduct procedures
- c) refer reports to an investigating authority, where appropriate
- d) 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
- e) refer actual or suspected corrupt conduct to the ICAC



- f) refer any evidence of a reprisal offence under section 20 of the PID Act to the Commissioner of Police or the ICAC.

General Manager

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

- a) 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
- b) deal with reports made under the council's code of conduct in accordance with the council's adopted code of conduct procedures
- c) 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
- d) make decisions following any investigation or appoint an appropriate decision-maker
- e) take appropriate remedial action where wrongdoing is substantiated or systemic problems are identified
- f) refer actual or suspected corrupt conduct to the Independent Commission Against Corruption (ICAC)
- g) 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 the Council's internal reporting system. The disclosures coordinator can receive and assess reports, and is the primary point of contact in the Council for the reporter. The disclosures coordinator has a responsibility to:

- a) 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)
- b) deal with reports made under Council's Code of Conduct in accordance with Council's adopted Code of Conduct procedures
- c) coordinate Council's response to a report
- d) acknowledge reports and provide updates and feedback to the reporter
- e) assess whether it is possible and appropriate to keep the reporter's identity confidential
- f) 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
- g) 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
- h) ensure Council complies with the PID Act
- i) provide six-monthly reports to the NSW Ombudsman in accordance with section 6CA of the PID Act.

~~e) —The responsibilities of people receiving a report of wrongdoing include:~~



- ~~i) — keeping the identity of the internal report and anyone who is the subject of a report confidential, if that is appropriate and possible;~~
- ~~ii) — when requested by a person wishing to report wrongdoing, arranging to meet with them privately and discreetly — if necessary away from the workplace;~~
- ~~iii) — assisting the person to put their report in writing or ensuring that any reports received orally are documented, dated and signed by the person;~~
- ~~iv) — forwarding reports to the Disclosures Coordinator or General Manager for assessment;~~
- ~~v) — advising the person lodging the report to only discuss the matter with authorised people and not to alert anyone who is the subject of the report that the disclosure has been made about them;~~
- ~~vi) — explaining to the person lodging the report what will happen in relation to the information received;~~
- ~~vii) — advising the person lodging the report to notify the Disclosures Coordinator or General Manager (or the Disclosures Coordinator and the Mayor if the concerns are about the General Manager) immediately of any suspicions they have that reprisal is occurring or has been threatened against them;~~
- ~~viii) — helping the person lodging the report to communicate with the Disclosures Coordinator, General Manager, Mayor or their support person if they are having difficulty doing so directly.~~

~~People Assessing Reports (Disclosures Coordinator, General Manager or Mayor, for reports about the General Manager)~~

- ~~d) — The responsibilities of people assessing a report of wrongdoing include:
 - ~~i) — determining whether or not the report is a Protected Disclosure;~~
 - ~~ii) — deciding how the report should be progressed, whether it is a Protected Disclosure or not;~~
 - ~~iii) — providing the General Manager (or in the case of reports about the General Manager, the Mayor) with a written initial assessment with recommendations how the report could be progressed;~~
 - ~~iv) — ensuring that a written acknowledgement is given to the person lodging the report as soon as possible (but at least within 2 weeks) of having received the report;~~
 - ~~v) — in consultation with the person lodging the report, assessing the likelihood of their identity remaining confidential in the workplace if the report is investigated;~~
 - ~~vi) — if it is not possible to maintain confidentiality, in consultation with the person lodging the report, developing a plan for supporting them and preventing reprisals;~~
 - ~~vii) — in consultation with the person lodging the report, assessing the likelihood of them being exposed to reprisal or workplace conflict, and providing written information and recommendations to the General Manager (or to the Mayor if the report is about the General Manager) on the systems and strategies that should be established to minimise any risk of reprisal;~~
 - ~~viii) — in consultation with the person lodging the report, if needed, identifying a support person to assist them — someone who is not an investigator or a person with responsibility for deciding how the report will be responded to;~~
 - ~~ix) — advising all supervisors, managers and executive managers that they have obligations to notify the Disclosures Coordinator or General Manager (or if the report is about the General Manager, the Disclosures Coordinator and the Mayor) of any suspicions they have or allegations they receive that reprisals to a person who lodges a report has occurred, is occurring or is threatened.~~~~



The General Manager

- ~~e) The responsibilities of the General Manager include:~~
- ~~i) working, in collaboration with the Mayor, to establish and maintain a culture that encourages staff and Councillors to report wrongdoing;~~
 - ~~ii) establishing, having regard to available resources, as effective an internal reporting system as is possible, to appropriately deal with reports of wrongdoing, support staff and Councillors who report and ensure reprisals are not taken against them;~~
 - ~~iii) the responsibilities outlined above under the heading “Staff Assessing Reports”;~~
 - ~~iv) meeting reporting obligations to ICAC in accordance with s11 of the Independent Commission Against Act;~~
 - ~~v) irrespective of whether they are the officer who receives the report or not:~~
 - ~~a. ensuring that they are advised when an assessment decision has been made about a report and, if further action is recommended, given regular progress updates and reports on that action;~~
 - ~~b. effectively managing the workplace or ensuring the workplace is effectively managed, if reprisal against a person lodging a report is threatened or does take place;~~
 - ~~c. taking appropriate action against anyone who threatened or takes reprisal against a person for reporting, or being suspected of reporting, wrongdoing;~~
 - ~~d. taking, directing or authorising appropriate disciplinary or remedial action in response to any findings that substantiate the allegations in any report;~~
 - ~~e. implementing any organisational reform that is necessary to address systemic issues identified following any report. All Executive Managers, Managers, Supervisors~~

Disclosures officers

Disclosures officers are additional points of contact within the internal reporting system. They can provide advice about the system and the internal reporting policy, receive reports of wrongdoing and assist staff and councillors to make reports.

Disclosures officers have a responsibility to:

- a) document in writing any reports received verbally, and have the document signed and dated by the reporter
- b) make arrangements to ensure reporters can make reports privately and discreetly when requested, if necessary away from the workplace
- c) discuss with the reporter any concerns they may have about reprisal or workplace conflict
- d) carry out preliminary assessment and forward reports to the disclosures coordinator or general manager for full assessment.

Supervisors and Line Managers

Supervisors and Line Managers play an important role in managing the immediate workplace of those involved in or affected by the internal reporting process. Supervisors and Line Managers should be aware of the internal reporting policy and are responsible for



creating a local work environment where staff are comfortable and confident about reporting wrongdoing. They have a responsibility to:

- a) encourage staff to report known or suspected wrongdoing within the organisation and support staff when they do
- b) 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 the Disclosures Coordinator
- c) implement local management strategies, in consultation with the Disclosures Coordinator, to minimise the risk of reprisal or workplace conflict in relation to a report
- d) 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.

- ~~f) The responsibilities of all Executive Managers, Managers and Supervisors include:
 - ~~i) participating in establishing and maintaining a culture that encourages staff to report wrongdoing;~~
 - ~~ii) supporting staff who report wrongdoing;~~
 - ~~iii) for Executive Managers, fulfilling their duties as Disclosures Officers;~~
 - ~~iv) for Managers all other supervisors, where a staff member raises with them a concern or a report of wrongdoing that may be a Protected Disclosure, advising the staff member to raise the matter with a person authorised to receive Protected Disclosures (as identified below under the heading “When Will a Report be Protected”);~~
 - ~~v) where an Executive Manager, Manager or Supervisor is aware that one of their staff have made a report, their responsibilities include:
 - ~~a. keeping the identity of the staff member lodging the report and anyone the subject of the report confidential or reporting to the Disclosures Coordinator if they believe that is not possible or appropriate;~~
 - ~~b. providing support to the staff member, including ensuring they have access to any necessary professional support;~~
 - ~~c. ensuring that appropriate systems and strategies are established to minimise any risk of reprisal that the staff member might face;~~
 - ~~d. notifying the Disclosures Coordinator and the General Manager (or if the report is about the General Manager the Disclosures Coordinator only) immediately if they believe the staff member has been or is being subjected to reprisal action or reprisal has been threatened as a result of reporting wrongdoing;~~
 - ~~e. effectively managing the workplace if reprisal is threatened or does take place and to ensure a safe work environment for the staff member who lodged the report;~~
 - ~~f. following directions issued to them by the Disclosures Coordinator or General Manager;~~
 - ~~g. recommending to the General Manager or the Disclosures Coordinator action that would be appropriate against any person who threatened or takes reprisal against a person for reporting wrongdoing.~~~~~~

Disclosures Coordinator

- ~~g) The responsibilities of the Disclosures Coordinator include:~~



- ~~i) — continually assessing the likelihood of the staff member who lodged the report being exposed to reprisals or workplace conflict;~~
- ~~ii) — ensuring that appropriate systems and strategies are established to minimise any risks of reprisals that the person lodging the report may face;~~
- ~~iii) — ensuring that the person lodging the report is kept updated about the progress of the matter;~~
- ~~iv) — ensuring that the time frames estimated in the acknowledgement letter are adhered to as best as possible or revised timeframes provided where necessary;~~
- ~~v) — If the Disclosures Coordinator becomes aware that reprisal against a person lodging a report is threatened or is occurring or has occurred, their responsibilities include:
 - ~~a. — taking all steps to enable the person lodging the report to continue working without being subjected to reprisal, or changing the workplace so that their exposure to the detriment is minimised (for example, moving staff to a different location);~~
 - ~~b. — ensuring a senior and experienced staff member, who has not been involved in dealing with the initial report, investigates the suspected reprisal;~~
 - ~~c. — ensuring that the results of that investigation and any arising recommendations — including that appropriate disciplinary action be taken against anyone provide to have taken any reprisal — are provided to the General Manager for a decision;~~
 - ~~d. — referring any evidence of reprisals to the police or the ICAG to see if there are sufficient lines of inquiry to establish whether a criminal offence has occurred.~~~~
- ~~vi) — The Disclosures Coordinator is also responsible for ensuring that Council meets its broader obligations under the PID Act, including:
 - ~~a. — promoting the internal reporting policy that provides procedures for receiving, assessing and dealing with Protected Disclosures;~~
 - ~~b. — reporting annually on the incidence and management of Protected Disclosures within the Council and providing a copy of the reporting to the NSW Ombudsman.~~~~

Staff or Councillors

- ~~h) — The responsibilities of Staff or Councillors who are the subject of a report include:
 - ~~i) — only discussing the matter with authorised people;~~
 - ~~ii) — not seeking to identify the person who lodged the report;~~
 - ~~iii) — not taking reprisals against any other staff member who they know or suspect has lodged the report;~~
 - ~~iv) — assisting those dealing with the report, including supplying any information on request and participating in any investigation processes;~~
 - ~~v) — as necessary, seeking support from their Executive Manager, Manager or Supervisor, or Council's Human Resources Unit or any available external organisations as they require.~~~~

5. What should be reported?

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



Reports about ~~the four~~five categories of serious ~~wrongdoing~~misconduct – corrupt conduct, maladministration, serious and substantial waste of public money, breach of the GIPA Act, and local government information pecuniary interest contravention – which otherwise meet the criteria of a public interest disclosure, will be dealt with under the PID Act ~~as protected disclosures~~ 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:

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

These types of issues should be reported in line with the Byron Shire Council’s Human Resource Manual, such as:

- a) ~~Occupational Work~~ Health and Safety Policies ~~and Procedures~~
- b) Equal Employment Opportunity ~~(EEO)~~ and Discrimination Prevention Policy
- c) Workforce Bullying and Harassment ~~and Bullying~~ Prevention Policy
- d) Grievance ~~Procedure~~ Policy

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

Corrupt conduct

Corrupt conduct is the dishonest or partial exercise of official functions by a public official.

For example, this could include:

- a) the improper use of knowledge, power or position for personal gain or the advantage of others
- b) acting dishonestly or unfairly, or breaching public trust
- c) a council official being~~member of the public influencing or trying to~~ influenced by a member of the public~~a public official~~ to use their position in a way that is dishonest, biased or breaches public trust
- d) accepting bribes.

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:



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

Serious and substantial waste ~~in local government~~ of public money

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:

- a) ~~poor project management practices leading to projects running over time;~~ not following a competitive tendering process for a large scale contract
- b) having ~~poor~~ bad or no processes in place for a system involving large amounts of public funds.

~~government information contravention~~ Breach of the GIPA Act

A breach of the Government information ~~contravention~~ (Public Access) Act 2009 (GIPA Act) is a failure to properly fulfil functions under that Act. ~~e Government Information (Public Access) Act 2009 (GIPA Act).~~

For example, this could include:

- a) destroying, concealing or altering records to prevent them from being released
- b) knowingly making decisions that are contrary to the legislation;
- c) directing another person to make a decision that is contrary to the legislation.

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

~~(For more information about corrupt conduct, maladministration, serious or substantial waste in local government and/or government information contravention - see the NSW~~



~~Ombudsman's Guideline B2 'What Should be Reported'—~~

~~<http://www.ombo.nsw.gov.au/aboutus/PublicInterestDisclosures.html#newguidelines>~~

~~5.3— 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:~~

- ~~a) harassment or unlawful discrimination reprisal action against a person who has reported wrongdoing~~
- ~~b) practices that endanger the health or safety of staff or the public.~~
- ~~h) (Even if these reports are not dealt with as protected disclosures, the Byron Shire Council will consider each matter and make every attempt to protect the staff member making the report from any form of reprisal.)~~

6. 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.

6.7. When will a report be ~~protected~~ treated as a public interest disclosure?

~~The Byron Shire Council will treat a support any staff who genuinely~~ report as a public interest disclosure if it ~~wrongdoing. For a report to be considered a protected disclosure, it has to~~ meets all of the criteria requirements under the PID Act. These requirements are:

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

Note:

- i) Honest belief is a belief that is genuinely held that is more than a suspicion. That means the person has to be more likely to accept the idea that wrong doing occurred than to reject it. A belief will be presumed to be honest unless there is evidence that it is not.
- ii) The requirement for having reasonable grounds means that the belief has to be free from any personal prejudices or animosity. It requires the question 'would a



reasonable person in the circumstances believe that wrongdoing has occurred” to be able to be answered ‘yes’.

- iii) The final requirement means that there must be sufficient information to indicate that wrongdoing has happened or is happening. Sufficient information can include direct observations (seeing the wrongdoing), corroborative observations of others (first hand accounts from a number of witnesses) or other evidence such as contradictory records/documents, unbalanced accounts or missing items of value.

c) ~~The report has to be made to one or more of the following either:~~

- i) a position nominated in this policy – see section ~~89 (b), (c) & (d) below;~~
- ii) the General Manager; or for reports about the General Manager, the Mayor
- iii) ~~one of the~~an investigating authorityies or in limited circumstances to an MP or journalist (see section 9) ~~nominated in the PID Act – see section 10 below.~~

d) ~~Reports by staff and councillors will~~ are not ~~be considered to be protected~~ public interest disclosures if they:

- i) mostly question the merits of government policy see section 17, ~~including the policy of the governing body of the council;~~
- ii) are made with the sole or substantial motive of avoiding dismissal or other disciplinary action (see section 18).

7.8. Who can receive a report within ~~Byron Shire~~ Council?

~~You~~ Staff are encouraged to report general wrongdoing to ~~your~~ their supervisor. However the PID Act requires that, ~~– for a report to be a protected public interest disclosure, – it must be made to a certain public officials identified in this policy or any in accordance with the council's disclosure procedures. For Byron Shire Council, this means this policy and or~~ any supporting procedures.

The following positions are the only people within Council who are authorised to receive a public interest disclosure. Any supervisor who receives a report that they believe may be a ~~protected public interest~~ disclosure is obliged to assist ~~must refer~~ the staff member making the report to one of the positions listed below. The broader responsibilities of these positions ~~will be~~ are outlined ~~in the procedures supporting~~ under Roles and Responsibilities (section 4) ~~this policy.~~

If ~~you are council staff and~~ your report involves a councillor, you should make it to the General Manager.

If you are a councillor and your report is about another councillor, you should make it to the General Manager. If you are staff or a councillor and your report is about the General Manager, you should make it to the Mayor.

~~The following positions are the only staff within Byron Shire Council who can receive a protected disclosure.~~



Mayor (for reports about the General Manager only)

The Mayor can be contacted as follows:

Meetings (at Council or another venue): any time by arrangement

Phone: 02 6626 7210 (Mayor's Executive Assistant to arrange meetings)

Email: simon.richardson@cr.byron.nsw.gov.au

Mail: in sealed envelope marked "Mayor - Strictly Confidential" hand delivered or posted to 70 Station Street, Mullumbimby NSW 2482.

General Manager

- ~~a) — You can report wrongdoing directly to the general manager. The general manager is responsible for:
 - ~~i) — deciding if a report is a protected disclosure;~~
 - ~~ii) — determining what needs to be done next, including referring it to other authorities;~~
 - ~~iii) — deciding what needs to be done to correct the problem that has been identified.~~~~
- ~~b) — The General Manager must make sure there are systems in place in Byron Shire Council to support and protect staff who report wrongdoing.~~
- ~~c) — The General Manager is also responsible for referring actual or suspected corrupt conduct to the Independent Commission Against Corruption.~~

The General Manager can be contacted as follows:

Meetings (at Council or another venue): any time by arrangement

Phone: 02 6626 74210 (General Manager's Executive Assistant to arrange meetings)

Email: ~~marnoldken.gainger@byron.nsw.gov.au~~

Mail: in sealed envelope marked "General Manager - Strictly Confidential" hand delivered or posted to 70-90 Station Street, Mullumbimby NSW 2482.

Mayor

- ~~d) — If you are making a report about the General Manager, you should make your report to the Mayor. They are responsible for:
 - ~~i) — deciding if a report is a protected disclosure;~~
 - ~~ii) — determining what needs to be done next, including referring it to other authorities;~~
 - ~~iii) — deciding what needs to be done to correct the problem that has been identified.~~~~
- ~~e) — 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 can be contacted as follows:~~

~~Meetings (at Council or another venue): any time by arrangement~~

~~Ph 02 6626 7210 (Councillor Support Assistant to arrange meetings)~~



Email:

~~Mail: in sealed envelope marked "Mayor – Strictly Confidential" hand delivered or posted to 70-90 Station Street, Mullumbimby 2482.~~

Disclosures Coordinator

- ~~a) Byron Council's Disclosures Coordinator is the Coordinator Legal Services.~~
- ~~b) The Disclosures Coordinator has a central role in dealing with reports made by staff.~~
- ~~c) They receive them, assess them, and refer them to the people within Byron Shire Council who can deal with them appropriately.~~

The Disclosures Coordinator can be contacted as follows:

Meetings (at Council or another venue): any time by arrangement

Phone: 02 6626 7228

Email: ralph.james@byron.nsw.gov.au

Mail: in sealed envelope marked "~~Coordinator Legal Services~~ Legal Counsel - Strictly Confidential" posted or hand delivered to 70-~~90~~ Station Street, Mullumbimby NSW 2482.

Disclosures Officers

~~e)a)~~ a) Byron Council's Disclosures Officers are:

- i) all Directors ~~and Executive Managers~~; and
- ~~ii) Manager Governance; and~~
- ~~iii) Council's 2 People and Culture Business Partners Human Resource Officers.~~

~~e)b)~~ b) Disclosures Officers work with the Disclosures Coordinator and forward all reports to the Disclosures Officers for assessment.

~~f)c)~~ c) They are responsible for receiving, forwarding with reports made in accordance with this Policy.

The Disclosures Officers can be contacted as follows:

Meetings (at Council or another venue): any time by arrangement

Phone: As per Council's Internal Phone list

Mail: in sealed envelope marked attention to the relevant ~~officer~~ Director or Manager and marked "Strictly Confidential" hand delivered to them or to the HR People and Culture department at Mullumbimby Office or posted to 70-~~90~~ Station Street, Mullumbimby NSW 2482.



~~8.9.~~ 9. Who can receive a report outside of ~~Byron Shire Council?~~

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

- ~~a) You can choose to make your report to~~ an investigating authority. ~~You can do this first, or at any stage after your initial report to Byron Shire Council. If your report is about the General Manager or the Mayor, you should consider making it to an investigating authority.~~
- ~~b) You can also choose to make a report to~~ a Member of Parliament or a journalist, but only in the limited circumstances outlined below.

9.1 Investigating authorities

The PID Act lists a number of investigating authorities in NSW that staff and Councillors can report wrongdoing to and the type categories 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.

~~In relation to council, these~~ The relevant investigating authorities for Council are:

- a) the Independent Commission Against Corruption (ICAC) — for disclosures about corrupt conduct
- ~~b) the Ombudsman — for~~ disclosures about maladministration
- ~~c) the Division Office of Local Government, Department of Premier and Cabinet — for serious and substantial waste in local government~~ disclosures about councils
- ~~d) the Information Commissioner — for disclosures about a government breach of the GIPA Act~~ information contravention.

~~(There are other investigating authorities for reporting wrongdoing at State government level — refer to NSW Ombudsman's website for more information on reporting wrong doing in state government~~

~~<http://www.ombo.nsw.gov.au/aboutus/PublicInterestDisclosures.html#newguidelines>~~)

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 any such reports with Council ~~the case with Byron Shire 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. We will also provide appropriate support and assistance to staff or Councillors who report wrongdoing to an investigating authority, if we are made aware that this has occurred.



9.2 Members of Parliament or journalists

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

- a) the General Manager
- b) a person nominated in this policy, including the Mayor for reports about the General Manager
- c) an investigating authority ~~in accordance with the PID Act.~~

Also, ~~Byron Shire~~ Council or the investigating authority that received ~~the~~your initial report must have either:

- a) decided not to investigate the matter
- b) decided to investigate the matter, but not completed the investigation within six months of the original report
- c) investigated the matter but not recommended any action as a result
- d) 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 (see section 19).

9.3 Other external reporting

If you report wrongdoing to a person or ~~authority~~n-organisation 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 ~~Byron Shire~~ Council's Code of Conduct – by, for example, disclosing confidential information.

For more information about reporting wrongdoing outside ~~the Byron 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.

9.10. 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~~report and ask the person making the ~~disclosure~~report to sign this record. The ~~staff member~~reporter 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.~~

10.11. 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 us to provide you with any necessary protection and support, as well as feedback about what action is to be taken to deal with the issues raised in the report, or the outcome of any investigation~~into the allegations.~~

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

12. Feedback to staff and Councillors who report wrongdoing

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

12.1 Acknowledgement

When you make a report, Council you will contact you to confirm your report has been received and to advise:~~be given, within 2 weeks from the date you make your report:~~

- a) ~~an acknowledgement that your disclosure has been received;~~
- b) a) the timeframe for when within which you will receive further updates
- c) b) 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, ~~you will be given within 3 weeks from the date you make your report~~Council will send you an acknowledgment letter providing:

- a) information about the action that will be taken in response to your report
- b) the likely timeframes for any investigation or other action
- c) information about the internal and external resources or services available within that you can access for support~~Byron Shire Council to handle any concerns you may have~~
- d) we will provide this information to you within ten working days from the date you make your report. We will also advise you if we decide to treat your report as a public interest disclosure and provide you with a copy of this policy at that time, as required by the PID Act.



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.

~~e) information about external agencies and services you can access for support.~~

12.2 Progress updates

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

~~d) information on the ongoing nature of the investigation (unless giving you such information could jeopardise the investigation);~~

a) information about the progress of the investigation or other enquiries and reasons for any delay

b) advice of any decision by Council not to proceed with the matter

c) advice if your identity needs to be disclosed for the purposes of investigating the matter, and an opportunity to talk about this beforehand.

12.3 Feedback

~~At the end of any investigation,~~ Once the matter has been finalised you will be given:

a) 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

b) advice about whether you are likely to be called ~~will be involved~~ as a witness in any further matters, such as disciplinary or criminal proceedings.

~~11.~~ 13. Maintaining confidentiality

~~Byron Shire~~ Council realises people making a report may want their identity and the fact they have made a ~~many staff will want their~~ report to remain confidential. This can help to prevent any action being taken against ~~them~~ you for reporting wrongdoing.

Where possible and appropriate we will take steps to ~~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~~ identity confidential.

If confidentiality cannot be maintained, we will develop a plan to support and protect you from ~~risks of~~ reprisal in consultation with you. ~~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, it is important that you ~~should~~ only discuss your report with those dealing with it. This will include the disclosures coordinator and the General Manager, or in



the case of a report about the General Manager, the disclosures coordinator and the Mayor. The fewer people who know about your report, before and after you make it, the more likely it will be that we can protect you from any reprisal. ~~If you discuss your report more broadly, you may affect the outcome of any investigation.~~

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.

14. Managing the risk of reprisal and workplace conflict

~~Byron Shire Council will act to protect staff who report wrongdoing from reprisals.~~

When a staff member or Councillor reports wrongdoing, Council is received, we will ensure that undertake a thorough risk assessment is conducted. ~~This will to~~ identify the any risks to the member of staff who reported the wrongdoing ~~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 as well as strategies to deal with those risks and determine the level of protection and support that is appropriate.

~~The General Manager may issue specific directions to help protect against reprisals. If the allegation of reprisal action is about the General Manager, the Mayor may issue similar directions. These~~ Depending on the circumstances, Council may include:

- ~~a) Issuing warnings to those alleged to have taken reprisal action against the member of staff who made the disclosure~~
- b)a) relocating the member reporter or the staff member who is the subject of the allegation of staff who made the disclosure or the subject officer within the current workplace
- ~~e)b) transferring the member reporter of staff who made the disclosure or the staff member who is the subject of the allegation to another position for which they are qualified~~
- ~~d)c) granting the member reporter of staff who made the disclosure or the staff member who is the subject officer of the allegation~~ leave of absence during the investigation of the disclosure.

These courses of action are not punishment and directions ~~will only be taken in consultation with the reporter. f the member of staff who made the disclosure agrees to it. The Disclosures Coordinator will make it clear to other staff that this action was taken in consultation with the staff member and with management support and that it is not a punishment.~~

12.15. Protection against reprisals

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



The PID Act provides protection for people staff and Councillors who have made a public interest disclosure ~~reporting wrongdoing~~ by imposing penalties on anyone who takes detrimental action against another because they believe because they believe or suspect the other person has made or may have made a public interest disclosure, even if they did not ~~substantially in reprisal for them making the protected disclosure.~~

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

- a) injury, damage or loss
- b) intimidation or harassment
- c) discrimination, disadvantage or adverse treatment in relation to employment
- d) dismissal from, or prejudice in, employment
- e) disciplinary proceedings

A person who is found to have committed a reprisal offence may face ~~The~~ criminal penalties such as that can be imposed on people who take detrimental action against staff who report wrongdoing include imprisonment and/or fines, and may ~~People who take detrimental action against someone who has made a disclosure can also~~ be required to pay the victim damages for any loss suffered as a result of the detrimental action by that person. Taking detrimental action in reprisal against staff who report wrongdoing is also a breach of the Council's Code of Conduct which may result in disciplinary action. In the case of Councillors, such misconduct that justifies 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 Council has reasonable grounds to take such action.

~~13.~~ 15.1 Responding to allegations of reprisals

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~~ 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 ~~report any suspicions they have~~ that reprisal action against a staff member is occurring or has occurred, or any reports if any such allegations that are made to them. ~~to the Disclosures Coordinator or the General Manager.~~ In the case of an allegation of reprisal by the General Manager, the Mayor can alternatively be notified.

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



- a) 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
- e)b) if the reprisal allegation warrants an investigation, ensure this is conducted by a senior and experienced member of staff, ~~who has not been involved in dealing with the initial disclosure, will investigate the suspected reprisal;~~
- f)c) if it ~~has is~~been established that reprisal ~~action~~is occurring against someone who has made a ~~disclosure~~report, take all steps possible to stop that activity and protect the reporter~~the member of staff who made the disclosure;~~
- d) take appropriate disciplinary action ~~or initiate appropriate criminal action~~ against anyone proven to have taken or threatened any action in reprisal for making a disclosure
- e) refer any breach of Part 9 of the Council's Code of Conduct (reprisal action) by a Councillor or the General Manager to the Office of Local Government
- f) refer any evidence of an offence under section 20 of the PID Act to the ICAC or NSW Police Force.
- g) ~~give the results of that investigation to the General Manager for a decision;~~
- h) ~~give the results of that investigation to the Mayor for a decision if the allegation of reprisal action is about the General Manager;~~

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

If you have reported wrongdoing and are experiencing reprisal which you believe feel that any reprisal action 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.

14. 15.2 Protection against legal action

If you make a ~~genuine~~ public interest disclosure in accordance with the PID Act, you will not be subject to any liability and no action, claim or demand can be taken against you for having made~~making~~ 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.

15. 16. Support for those reporting wrongdoing

~~Byron Shire~~ Council will make sure that staff who have reported wrongdoing, regardless of whether their report is treated as a public interest ~~have made a protected~~ 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. Reporters and other staff involved in the process can discuss



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

~~16.~~ **17. 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. Council will not support staff or Councillors who w~~ilfully make~~ing a false or misleading statement reports. Such conduct ~~when reporting wrongdoing~~ is a breach of Byron Shire Council's Code of Conduct ~~—by, for example only, contravening Council's requirements and policies or acting unethically etc. 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.

~~17.~~ **18. Support for** The rights of persons the subject of a report

~~Byron 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:

~~a) — treated fairly and impartially;~~

a) advised of the details of the allegation

b) ~~told~~ advised of your rights and obligations under ~~our~~ the policies and procedures

c) kept informed about the progress of ~~during~~ any investigation

d) given ~~the~~ a reasonable opportunity to respond to any allegation made against you

e) told the ~~result~~ 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 [name of council] Council. The fact of the allegations and any investigation will be kept confidential unless otherwise agreed to by the subject officer.



~~18.~~19. **Review**

This policy will be reviewed by Council every ~~2~~four years or earlier if required.

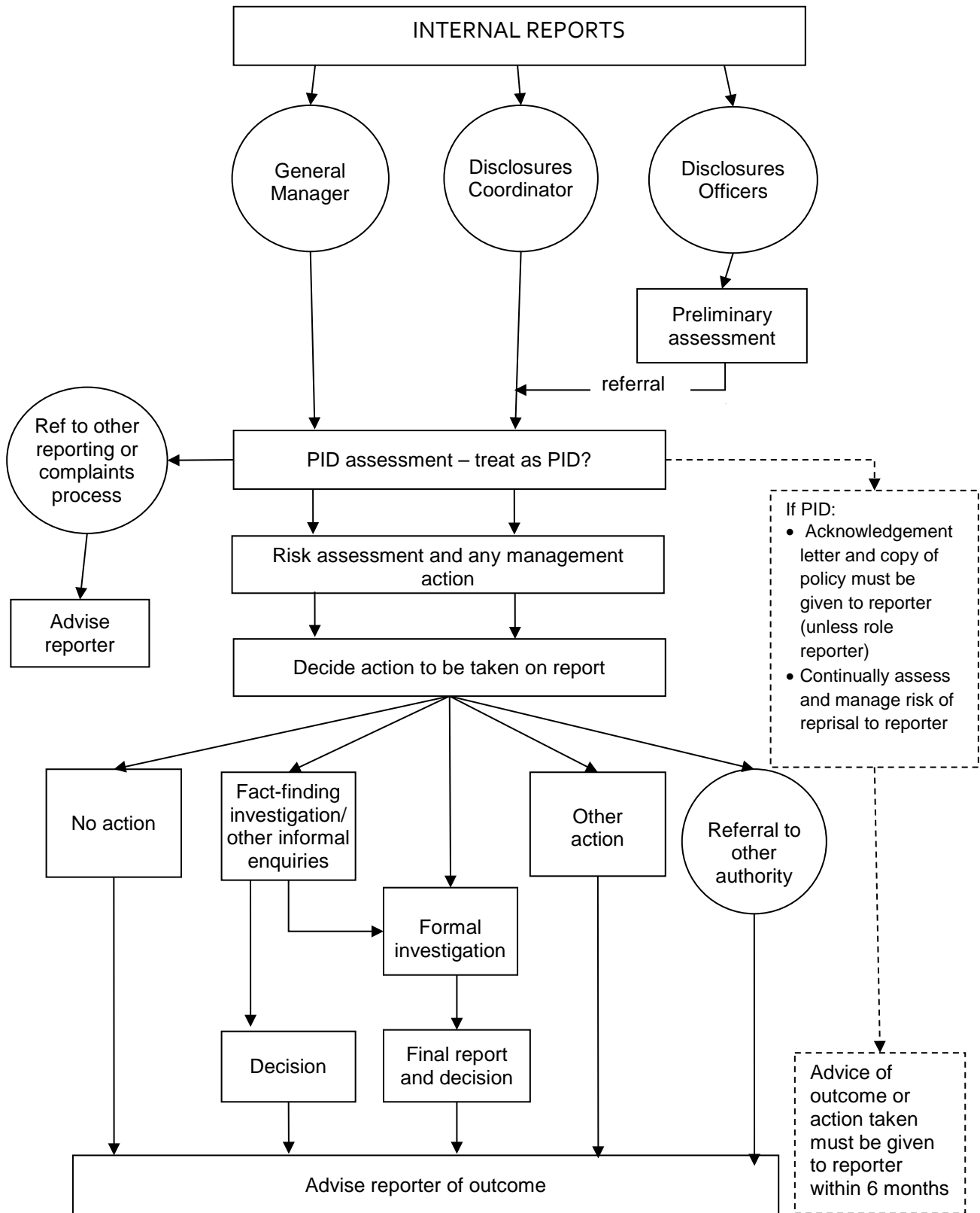
For any advice or guidance about this review, contact the NSW Ombudsman's Public Interest Disclosures Unit.

~~19.~~20. **More information**

Staff can seek ~~access~~ advice and guidance from ~~Byron Shire~~ Council's Disclosures Coordinator and the NSW Ombudsman's website at www.ombo.nsw.gov.au.



21. Flow chart of internal reporting process





20.22. Resources

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

For disclosures about corrupt conduct:

Independent Commission Against Corruption (ICAC)

Phone: 02 8281 5999

Toll free: 1800 463 909

Tel. typewriter (TTY): 02 8281 5773

Facsimile: 02 9264 5364

Email: icac@icac.nsw.gov.au

Web: www.icac.nsw.gov.au

Address: Level ~~217~~, ~~133 Castlereagh~~~~255 Elizabeth~~ Street, Sydney NSW 2000

For disclosures about serious and substantial waste **in local government agencies**:

Auditor-General of the NSW Audit Office

Phone: 02 9275 7100

Facsimile: 02 9275 7200

Email: mail@audit.nsw.gov.au

Web: www.audit.nsw.gov.au

Address: Level 19, Darling Park Tower, 201 Sussex Street, Sydney NSW 2000

~~Division of Local Government in the Department of Premier and Cabinet~~

~~Phone: 02 4428 4100~~

~~Tel. typewriter (TTY): 02 4428 4209~~

~~Facsimile: 02 4428 4199~~

~~Email: dlg@dlg.nsw.gov.au~~

~~Web: www.dlg.nsw.gov.au~~

~~Address: 5 O'Keefe Avenue, Nowra, NSW 2544~~

For disclosures about breaches of the GIPA Act:

Information and Privacy Commissioner

Toll free: 1800 ~~472 679~~~~63 626~~

Facsimile: 02 8114 3756

Email: ipeicinfo@ipcwie.nsw.gov.au

Web: www.ipeic.nsw.gov.au

Address: Level ~~1117~~, ~~201 Castlereagh 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

Web: 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

Web: www.olg.nsw.gov.au

Address: 5 O'Keefe Avenue, Nowra, NSW 2541