



INTERNAL REPORTING

PURPOSE

This policy is designed to encourage and facilitate disclosures of suspected or real cases of corrupt conduct, maladministration and wrongdoing by Hunter's Hill Council or its staff.

This policy protects people who make disclosures and ensures that people who are the subject of a disclosure receive a fair and thorough investigation.

This policy applies to situations where a council official is aware of or suspects corrupt conduct, maladministration, serious and substantial waste, government information contravention, local government pecuniary interest contravention and/or and wrongdoings by a Councillor or Council staff.

SCOPE

This policy applies to situations where a council official is aware of or suspects corrupt conduct, maladministration and/or serious and substantial waste concerning a Councillor or Council staff.

Staff are encouraged to ask questions or raise matters of concern at any time with their supervisors, in line with the existing communication channels between supervisors and staff. As an alternative however, staff have the option of making a public interest (protected) disclosure in accordance with this policy.

Hunter's Hill Council is committed to the aims and objectives of the Protected Disclosures Act 1994 (PID Act). The Act recognises the valuable contributions that staff can make to the administration and management of Council. The Act supports disclosures being made by Councillors or staff concerning corrupt conduct, maladministration, serious and substantial waste of public money, government information contravention and local government pecuniary interest contravention.

This policy has also been developed in accordance with the NSW Ombudsman's 'Public Interest Guidelines', issued September 2011.

This policy applies to all Council officials.



POLICY STATEMENT

PART 1 POLICY GUIDELINES

1. ORGANISATIONAL COMMITMENT

Council is committed to the following measures:

- Creating a climate of trust, where staff are comfortable and confident about reporting wrongdoing. Staff are encouraged to ask questions or raise matters of concern at any time with their supervisors, in line with the existing communication channels between supervisors and staff. As an alternative however, staff have the option of making a public interest disclosure in accordance with this policy.
- Staff members are encouraged to come forward if they have witnessed what they consider to be wrongdoing within the organisation or staff putting Council in disrepute.
- Council will keep the identity of any staff member disclosing wrongdoing confidential, wherever possible and appropriate.
- Council will ensure that staff who make disclosures are protected from any adverse action motivated by their report.
- Council is committed to deal with reports thoroughly and impartially and if some form of wrongdoing has been found, taking appropriate action to rectify it.
- Council will keep staff that make reports will be kept informed of their progress and the outcome.
- All staff are encouraged to report wrongdoing within the organisation, but Council respects any decision made to disclose wrongdoing outside the organisation – provided that disclosure outside the organisation is made in accordance with the provisions of the PID Act.
- Council will ensure that managers and supervisors at all levels in the organisation understand the benefits of reporting wrongdoing, are familiar with this policy, and aware of the needs of those who report wrongdoing.
- Staff will be provided with adequate resources, both financial and human, to:



- encourage reports of wrongdoing and protect and support those who make them
- provide training for key personnel
- investigate allegations
- properly manage any workplace issues that the allegations identify or create
- correct any problem that is identified
- reassess / review the policy each year to ensure it is still relevant and effective.

2. ROLES AND RESPONSIBILITIES OF STAFF

This policy will apply to:

- Permanent employees, whether full-time or part-time
- Councillors
- Temporary or casual employees
- Consultants
- Individual contractors working for the organisation.

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

Staff are encouraged to report known and suspected wrongdoing within the organisation. This policy is just one of several relating to grievances and complaints. Council's Grievance Procedure can be located on Council's intranet.

Staff are encouraged to support those who have made disclosures, as well as protect and maintain their confidentiality. They must not victimise or harass anyone who has made a disclosure.

3. WHAT SHOULD BE REPORTED?

You should report any wrongdoing you see within Hunter's Hill Council. Reports about the five categories of serious wrongdoing – corrupt conduct, maladministration, serious and substantial waste of public money, government information contravention and local government pecuniary interest contravention– will be dealt with under the PID Act as protected disclosures and according to this policy.



(a) Corrupt conduct

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

For example, this could include:

- the improper use of knowledge, power or position for personal gain or the advantage of others acting dishonestly or unfairly, or breaching public trust
- a member of the public influencing or trying to influence a public official to use their position in a way that is dishonest, biased or breaches public trust.

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

(b) Maladministration

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

For example, this could include:

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

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

(c) Serious and substantial waste of public money in Local Govt

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

For example, this could include:

- 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.

For more information about serious and substantial waste, see the NSW Ombudsman's guideline on [what can be reported](#).

(d) Government information contravention

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

For example, this could include:



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

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

(e) Local government pecuniary interest contravention

A local government pecuniary interest contravention is a failure to fulfil certain functions under the *Local Government Act 1993* relating to the management of pecuniary interests. These include obligations to lodge disclosure of interests returns, lodge written declarations and disclose pecuniary interests at council and council committee meetings. A pecuniary interest is an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person.

For example, this could include:

- a senior council staff member recommending a family member for a council contract and not declaring the relationship
- a general manager holding an undisclosed shareholding in a company competing for a council contract

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

(f) Other wrongdoing

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

For example, these could include:

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

These types of issues should be reported to a supervisor, in line with Hunter's Hill Council's policies.

Examples of relevant policies are:



- Corp.S.03 - Code of Conduct
- Corp.S.17 - Internal Reporting Policy
- Corp.S.06 - Code of Administrative Good Conduct
- Corp.S.07 – Statement of Business Ethics
- HR.17 - Workplace Bullying Policy
- Council's Grievance Procedure

These can be located on Council's website or by contacting the Human Resources Officer.

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



4. WHEN WILL A REPORT BE PROTECTED?

Hunter's Hill Council will support any staff who reports wrongdoing. For a report to be considered a public interest disclosure, it has to meet all of the requirements under the PID Act. These requirements are:

- The person making the disclosure must honestly believe on reasonable grounds that the information shows or tends to show wrongdoing.
- The report has to be made to one or more of the following:
 - a position nominated in this policy – see section 8 (b) (c) & (d) below
 - the General Manager
 - one of the investigating authorities nominated in the PID Act – see section 10 below

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

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

5. HOW TO MAKE A REPORT

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

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

The staff member 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.



6. CAN A REPORT BE ANONYMOUS?

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

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

7. MAINTAINING CONFIDENTIALITY

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

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

If confidentiality cannot be maintained, we will develop a plan to support and protect you from risks of reprisal. You will be involved in developing this plan.

If you report wrongdoing, you should only discuss your report with those dealing with it.

This will include the Human Resources Officer and the General Manager.

8. WHO CAN RECEIVE A REPORT WITHIN HUNTER'S HILL COUNCIL?

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

Any supervisor who receives a report that they believe may be a protected disclosure must refer the staff member making the report to one of the positions listed below. The broader responsibilities of these positions will be outlined in the procedures material supporting this policy.

The following positions are the only staff within Hunter's Hill Council who can receive a public interest disclosure.



(a) The General Manger

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

- deciding if a report is a public interest disclosure
- determining what needs to be done next, including referring it to other authorities
- deciding what needs to be done to correct any problem that has been identified.

The General Manager must make sure there are systems in place in Hunter's Hill Council to support and protect staff that report wrongdoing.

He is also responsible for referring actual or suspected corrupt conduct to the Independent Commission Against Corruption.

(b) Mayor

If you are making a report about the general manager, you should make your report to the Mayor. They are responsible for:

- deciding if a report is a public interest disclosure
- determining what needs to be done next, including referring it to other authorities
- deciding what needs to be done to correct the problem that has been identified.

The Mayor must make sure there are systems in place in the Hunter's Hill Council to support and protect staff who report wrongdoing.

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

(c) Disclosures coordinator

The disclosures coordinator has a central role in dealing with reports made by staff. They receive them, assess them, and refer them to the people within Hunter's Hill Council who can deal with them appropriately.

(d) Disclosures officers

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

The Human Resources Officer will fulfill the roles in (c) & (d) above.

9. WHO CAN RECEIVE A REPORT OUTSIDE OF HUNTER'S HILL COUNCIL

Staff are encouraged to report wrongdoing within Hunter's Hill Council, but internal reporting is not your only option. If you follow the guidance below, your report can still be a public interest disclosure.

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 Hunter's Hill Council. If your report is about the General Manager you should make it to an investigating authority.

You can also choose to make a report to a Member of Parliament or a journalist, but only in limited circumstances.

(a) Investigating authorities

The PID Act lists a number of investigating authorities in NSW that staff can report wrongdoing to and the categories of wrongdoing each authority can deal with.

These authorities are:

- the Auditor-General — for serious and substantial waste
- the Independent Commission Against Corruption (ICAC) — for corrupt conduct
- the Ombudsman — for maladministration
- the Police Integrity Commission (PIC) — for police misconduct
- the PIC Inspector — for disclosures about the PIC or its staff
- the Division of Local Government, Department of Premier and Cabinet — for serious and substantial waste in local government agencies
- the ICAC Inspector — for disclosures about the ICAC or its staff
- the Information Commissioner — for disclosures about a government information contravention.

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

You should be aware that it is very likely the investigating authority will discuss the case within Hunter's Hill Council. We will make every effort to assist and cooperate with the investigating authority to ensure the matter is dealt with appropriately and there is a satisfactory outcome. We will also provide appropriate support and assistance to staff that report wrongdoing to an investigating authority.

(b) Members of Parliament or journalists



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

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

Also, Hunter's Hill Council or investigating authority that received the report must have either:

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

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

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

For more information about reporting wrongdoing outside Hunter's Hill Council, contact the Human Resources Officer or the NSW Ombudsman's Public Interest Disclosures Unit. Their contact details are provided at the end of this policy.

10. FEEDBACK TO STAFF WHO REPORT WRONGDOING

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

When you make a report, you will be given:

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



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

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

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

This information will be given to you within 10 working days from the date you make your report. During any investigation, you will be given:

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

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

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

11. PROTECTION AGAINST REPRISALS

The PID Act provides protection for people reporting wrongdoing by imposing penalties on anyone who take detrimental action substantially in reprisal for them making the public interest disclosure.

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

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

- injury, damage or loss



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

(a) Responding to reprisals

Hunter's Hill Council will act to protect staff who report wrongdoing from reprisals.

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

If you believe that detrimental action has been or is being taken against you or someone else who has reported wrongdoing in reprisal for making a report, you should tell your supervisor, the Human Resources Officer or the General Manager immediately.

All supervisors must report any suspicions they have that reprisal action against a staff member is occurring, or any reports that are made to them, to the Human Resources Officer or the General Manager.

If the Human Resources Officer becomes aware of reprisal action against a person who has made a disclosure, they will:

- ensure a senior and experienced member of staff, who has not been involved in dealing with the initial disclosure, will investigate the suspected reprisal
- give the results of that investigation to the General Manager for a decision
- if it has been established that reprisal action is occurring against someone who has made a disclosure, take all steps possible to stop that activity and protect the member of staff who made the disclosure
- take appropriate disciplinary or criminal action against anyone proven to have taken or threatened any action in reprisal for making a disclosure.
- The General Manager must refer any evidence of reprisals to the Commissioner of Police or Police Commission

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

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



- issuing warnings to those alleged to have taken reprisal action against the member of staff who made the disclosure
- relocating the member of staff who made the disclosure or the subject officer within the current workplace
- transferring the member 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
- granting the member of staff who made the disclosure or the subject officer leave of absence during the investigation of the disclosure.

These directions will only be taken if the member of staff who made the disclosure agrees to it. The Human Resources Officer will make it clear to other staff that this action was taken in consultation with the staff member and with management support – and it is not a punishment.

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

(b) Protection against legal action

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

12. SUPPORT FOR THOSE REPORTING WRONGDOING

Hunter's Hill Council will make sure that staff who have reported wrongdoing, regardless of whether they 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, counselling services, legal or career advice.

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

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



13. SANCTIONS FOR MAKING FALSE, VEXATIOUS OR MISLEADING DISCLOSURES

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

Disclosures motivated solely or substantially with the motive of avoiding disciplinary action, not being disciplinary action taken in reprisal for the making of a disclosure, is not a public interest disclosure.

Whilst there are no criminal sanctions for making a disclosure frivolously or vexatiously, such a disclosure would not be protected under the PID Act. A decision that an allegation is false or vexatious will only be made by the relevant investigating authority or the General Manager. The source will be given an opportunity to be heard (in person or in writing) before such a decision is made final.

14. SUPPORT FOR THE SUBJECT OF A REPORT

Hunter's Hill Council is committed to ensuring staff who are the subject of a report of wrongdoing are treated fairly and reasonably. If you are the subject of a report, you will be:

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

15. REVIEW

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

16. MORE INFORMATION

More information around protected disclosures is available on our intranet. Staff can also access advice and guidance from the Human Resources Officer and the NSW Ombudsman's website at www.ombo.nsw.gov.au.



17. RESOURCES

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

18. REPORTING – COMPLIANCE WITH PID ACT

The Council must report to the Ombudsman, within 30 days of the end of each 6 monthly period (being the periods ending 30 June and 31 December in any year) providing statistical information on the Council's compliance with its obligations as detailed in this policy



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 21, 133 Castlereagh Street,
Sydney NSW 2000

For disclosures about serious and substantial waste:

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 15, 1 Margaret Street,
Sydney NSW 2000

For disclosures about breaches of the GIPA Act:

Information Commissioner

Toll free: 1800 463 626

Facsimile: 02 8114 3756

Email: picinfo@oic.nsw.gov.au

Web: www.oic.nsw.gov.au

Address: Level 11, 1 Castlereagh 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 serious and substantial waste in local government agencies:

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 2541



RELATED RESOURCES

Hunter's Hill Council Code of Conduct (CORP.S-Pol.03)

Hunter's Hill Council Privacy Code of Practice (CORP.S-Pol.08)

POLICY OWNER

The policy authority is the General Manager.

AUTHORISATION AND REVIEW

Next Review Date

This policy should be reviewed annually to ensure that it meets the object of the legislation and facilitates the making of disclosures under the Act.

Version Control Table

Date	Version	Res. No.	Key Changes	Author
24.03.1997	1.0	5389/97	Adoption of Policy	B Smith
26.06.2006	1.1	263/06	Amendments to comply with Act	B Smith
14.09.2009	1.2	285/09	Amended to reflect latest Ombudsman guidelines. Directions as to where information can be obtained, amend clause 11(a) on reprisals, obligations on feedback to staff and maintenance of confidentiality	B Smith
25.07.2011	1.3	248/11	Change in Act title and disclosure & other amendments	B Smith
14/11/2011	1.4	393/11	Amendments to legislation. Refer DLG Circular 11-31. Changes in title of Act to Public Disclosure Act.	B. Smith