

Adoption - Internal Reporting Policy - Corrupt Conduct and Serious Wrongdoing

File No: S121629.035

Summary

Under section 6D of the Public Interest Disclosures Act 1994 (PID Act), the City is required to have a policy that establishes its procedures for receiving, assessing and dealing with public interest disclosures (PIDs). The City must have regard to the Ombudsman's guidelines (including a model policy) when formulating its policy. The City's Fraud and Corruption Internal Reporting Policy is based on the NSW Ombudsman's Model Internal Reporting Policy (Model Policy) and has been tailored to meet the City's needs. The policy is now due for review.

The draft policy has been renamed to the 'Internal Reporting Policy - Corrupt Conduct and Serious Wrongdoing', to clarify its scope. This updated title also brings the policy name in line with the categories of reportable serious wrongdoing under the PID Act. Those categories are:

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

This approach also references feedback from the Independent Commission Against Corruption (ICAC) in their recent review of our draft policy.

This report seeks Council approval of the Internal Reporting Policy - Corrupt Conduct and Serious Wrongdoing.

Recommendation

It is resolved that Council:

- (A) adopt the Internal Reporting Policy - Corrupt Conduct and Serious Wrongdoing, as shown at Attachment A to the subject report; and
- (B) authorise the Chief Executive Officer to update the contact information in Appendix A of the Policy as and when required.

Attachments

Attachment A. Internal Reporting Policy - Corrupt Conduct and Serious Wrongdoing

Attachment B. Current Fraud and Corruption Internal Reporting Policy with Tracked Changes

Background

1. Under section 6D of the Public Interest Disclosures Act 1994 (PID Act), the City is required to have a policy that establishes its procedures for receiving, assessing and dealing with public interest disclosures (PIDs).
2. The City must have regard to the Ombudsman's guidelines (including a model policy) when formulating its own policy.
3. The City's Fraud and Corruption Internal Reporting Policy is based on the NSW Ombudsman's Model Internal Reporting Policy (Model Policy) and has been tailored to meet the City's needs. The policy is now due for review.
4. The purpose of this policy is to ensure that there is consistency and transparency in the management of PIDs, and to promote awareness of the protections available to councillors and employees who report wrongdoing.
5. In particular, the policy documents the City's internal reporting system which enables councillors and employees to report wrongdoing without fear of reprisal. It sets out what can be reported, who to report wrongdoing to at the City and how reports of wrongdoing will be dealt with.
6. Councillors are compliant with their reporting obligations under this policy if they forward all reports of known or suspected wrongdoing to the Disclosures Coordinator - Director Legal and Governance for review and management.

Key Implications

7. The draft policy has been renamed to Internal Reporting Policy - Corrupt Conduct and Serious Wrongdoing to clarify its scope.
8. This updated title also brings it in line with the categories of reportable serious wrongdoing under the PID Act. Those categories are:
 - (a) corrupt conduct;
 - (b) maladministration;
 - (c) serious and substantial waste of public money;
 - (d) breach of the Government Information Public Access Act 2009 (GIPA Act); and
 - (e) local government pecuniary interest contraventions.
9. This approach also references feedback from the Independent Commission Against Corruption (ICAC) in their recent review of our draft policy.
10. Minor changes and updates have been made to the policy based on the content of the NSW Ombudsman's current Model Policy (2020). These amendments include:
 - further guidance that this policy is one in a suite of complaint handling policies at the City and that workplace disputes, harassment or bullying complaints are covered by other policies.

- contact details for City employees authorised to receive a public interest disclosure in Appendix A and this contact list will also be made available to employees separately at every workplace. This list will be kept up to date by staff as and when required.
 - a new 'Managing the risk of reprisal and workplace conflict' section including a link to the NSW Ombudsman's PID Risk Assessment template.
11. In reviewing this policy, the Australian Securities and Investments Commission (ASIC)'s 'Regulatory Guide 270 - Whistleblower policies' which contains good practice guidance on implementing and maintaining a whistleblower policy was considered. As a result, a new section has been added to the policy outlining our process for reporting investigation findings internally.

Strategic Alignment - Sustainable Sydney 2030-2050 Continuing the Vision

12. Sustainable Sydney 2030-2050 Continuing the Vision renews the communities' vision for the sustainable development of the city to 2050. It includes 10 strategic directions to guide the future of the city, as well as 10 targets against which to measure progress. This policy is aligned with the following strategic directions and objectives:
- (a) Direction 1 - Responsible governance and stewardship - The City's Internal Reporting Policy - Corrupt Conduct and Serious Wrongdoing addresses the requirements of the Public Interest Disclosures Act 1994 to have a policy that provides for the City's procedures for receiving, assessing and dealing with public interest disclosures.

Organisational Impact

13. The policy will be the subject of staff communications and training following adoption, the contact details for disclosures officers will be displayed across work sites and Governance staff will continue to work across the organisation to ensure the policy is being appropriately implemented.

Relevant Legislation

14. Corporations Act 2001 (Cth).
15. Government Information (Public Access) Act 2009 (NSW).
16. Independent Commission Against Corruption Act 1988 (NSW).
17. Local Government Act 1993 (NSW).
18. Public Interest Disclosures Act 1994 (NSW).
19. Public Interest Disclosures Act 2022 (NSW).
20. Treasury Laws Amendment (Enhancing Whistleblower Protections) Act 2019 (Cth).

Critical Dates / Time Frames

21. A new Public Interest Disclosures Act 2022 (PID Act 2022) received assent on 13 April 2022 and has a commencement date of up to 18 months after assent, that is 13 October 2023. On commencement, the PID Act 2022 will repeal the current PID Act 1994.
22. The PID Act 2022 will introduce significant reforms to the ways that public interest disclosures are made, received and dealt with in NSW and is intended to provide greater protection of persons who make public interest disclosures than that currently afforded under the PID Act 1994.
23. The delayed commencement date will enable the NSW Ombudsman to prepare new guidelines, training packages and a new model internal reporting policy. The City has commenced a review of the new PID Act's provisions and will prepare an updated Internal Reporting Policy - Corrupt Conduct and Serious Wrongdoing for endorsement after the NSW Ombudsman has finalised and released their new model internal reporting policy. The NSW Ombudsman has advised that they will ensure that they will provide agencies with sufficient lead time to allow them to prepare for the new Act's commencement.

Public Consultation

24. No public consultation is required in relation to this policy.
25. The draft policy was shared with the ICAC. The ICAC provided feedback, including a suggestion to rename the policy for clarity and adding more examples, which were incorporated in the draft. The feedback from the ICAC was incorporated in this review.
26. The NSW Ombudsman was also consulted in relation to the draft policy. The NSW Ombudsman acknowledged that the policy as updated is consistent with their model internal reporting policy. The NSW Ombudsman did not have any specific recommendations for change.
27. The draft policy was presented to the City's Audit Risk and Compliance Committee on 26 May 2022. The Committee requested that a short summary document be prepared to improve accessibility of key content. In response, the City confirmed that our summary booklet, "Code of Conduct - A guide for employees" which includes sections on 'Internal reporting of fraud and corruption' and 'What to do if you're concerned', addresses this issue. This booklet is provided to all staff as part of their induction training program, including specific direction to this section on internal reporting, and is also available on the City's intranet.

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