



LITHGOW CITY COUNCIL

8. FINANCE

Policy 8.2

INVESTMENT POLICY

Version 3

| | | | | | |
|----------------------------------|-------------------------------------|---------------------------|---------|------------------------|----------------------|
| Maintained by Department: | Internal Services | Approved by: | Council | | |
| Reference: | Dataworks: Policy Register | Council Policy No: | 8.2 | Effective Date: | 21 Oct 2008 |
| Min No: | V1 - 06-349 V2 - 008-165 V3 - | Version No: | 3 | Review Date: | Oct 2009 Aug 2011 |
| Attachments: | | | | | |

8. FINANCE

8.2 INVESTMENT POLICY

OBJECTIVE:

To provide a framework for the investment of Council funds that seeks to maximise earnings whilst having due consideration of the risk and security for that investment; and ensures that Councils cash requirements are being met.

POLICY:

1. AUTHORITY FOR INVESTMENT:

All investments are to be made in accordance with:

- Local Government Act 1993;
- Local Government (General) Regulation 2005;
- Local Government Act 1993 - Order (of the Minister) dated 12 January 2011;
- The Trustee Amendment (Discretionary Investments) Act 1997 - Sections 1 A(2), 1 C(1) & (2);

2. DELEGATION OF AUTHORITY:

The General Manager is given delegated authority under the Local Government Act 1993 to invest temporary surplus funds in accordance with Council policy.

This authority may be sub-delegated by the General Manager.

3. AUTHORISED INVESTMENTS:

All investments must be denominated in Australian dollars. Authorised investments would include but not necessarily be limited to:

- a) Any public funds or securities issued by or guaranteed by, the Commonwealth, any State of the Commonwealth or a Territory;
- b) Any debentures or securities issued by a council (within the meaning of the Local Government Act 1993 (NSW));
- c) Interest bearing deposit with, or any debentures or bonds issued, by an authorised deposit – taking institution (as defined in the Banking Act 1959 (Cwth)), but excluding subordinated debt obligations;
- d) Any bill of exchange which has a maturity date of not more than 200 days; and if purchased for value confers on the holder in due course a right of recourse against a bank which has been designated as an authorised deposit-taking institution by the Australian Prudential Regulation Authority;
- e) A deposit with the New South Wales Treasury Corporation or investments in an hour-glass investment facility of the New South Wales Treasury Corporation.

4. GUIDELINES:

| FUND MANAGERS CREDIT RATINGS (VIA S&P OR MOODY'S OR FITCH) | MAXIMUM PERCENTAGE WITH ONE FINANCIAL INSTITUTION | MINIMUM RECOMMENDED INVESTMENT HORIZON | MAXIMUM WEIGHTING AS % OF TOTAL INVESTMENT PORTFOLIO |
|--|---|--|--|
| AAA | 50% | 0 – 3months | 0 – 100% |
| AA | 5% | 3 – 6 months | 0 – 90% |
| A | 0% | 6 – 12 months | 0 – 80% |

(a) Approved Investments with Funds Managers would include:

The asset structure and features of the fund are to be consistent with the time horizon, risk parameters, and liquidity requirements of Council as set out in its investment strategy.

Credit Ratings:

If any of Council's investments are downgraded such that they no longer fall within these investment policy guidelines, they will be divested as soon as is practicable.

(b) Council's Direct Investments:

| SHORT TERM RATING (STANDARD & POORS, MOODY'S OR FITCH EQUIVALENT) | LONG TERM RATING (STANDARD & POORS, MOODY'S OR FITCH EQUIVALENT) | MAXIMUM PERCENTAGE WITH ONE FINANCIAL INSTITUTION | MAXIMUM TERM TO MATURITY ¹ | MAXIMUM WEIGHTING AS % OF TOTAL INVESTMENT PORTFOLIO |
|---|--|---|---------------------------------------|--|
| A1+ | AAA to AA- | 15% | 7 years | 100% |
| A1 | A+ to A- | 10% | 5 years | 60% |
| A2 | BBB+ to BBB ² | 5% | 3 years | 15% |

Only a maximum of 10% of total annual average funds may be invested in securities with a maturity exceeding one year.

Investments in securities issued by institutions with a credit rating less than A2 short term or BBB+ long term must be issued by a licensed bank, building society or credit union.

If any of Council's investments are downgraded such that they no longer fall within these investment policy guidelines, they will be divested as soon as is practicable.

(c) Performance Benchmarks

| INVESTMENT | PERFORMANCE BENCHMARK |
|---------------------------------|---------------------------|
| Cash | 11am Cash Rate |
| Cash Enhanced/Direct Investment | USBA Bank Bill Index |
| Fixed Interest | USBA Composite Bond Index |

(d) Reporting

- (i) A monthly report shall be provided to Council, detailing the investment portfolio in terms of percentage exposure of each investment in the total portfolio.

The report will also detail investment income earned versus budget year to date.

- (ii) For audit purposes, certificates must be obtained from the banks/fund managers confirming the amounts of investment held on Council's behalf at 30th June each year.

(e) Variation to Policy

The General Manager be authorised to approve variations to this policy if the investment is to Council's advantage and/or due to revised legislation.

All changes to this policy are to be reported to Council.

REVIEW

This Policy will be reviewed as required and at a minimum at least once during the term of Council.



LITHGOW CITY COUNCIL

8. FINANCE

Policy 8.3

HARDSHIP POLICY

Version 3

| | | | | | |
|----------------------------------|-------------------------------------|---------------------------|---------|------------------------|-------------------------|
| Maintained by Department: | Internal Services | Approved by: | Council | | |
| Reference: | Dataworks: Policy Register | Council Policy No: | 8.3 | Effective Date: | 21 Oct 2008 |
| Min No: | V1 - 06-349 V2 - 008-165 V3 - | Version No: | 3 | Review Date: | Oct 2009 August 2011 |
| Attachments: | | | | | |

8. FINANCE

8.3 HARDSHIP POLICY

OBJECTIVE: To provide assistance to ratepayers, suffering substantial financial hardship, with payments due to council and to provide an administration process to determine applications promptly.

POLICY:

A debtor who cannot pay a debt due to Council for the reason of financial hardship can apply for assistance at any time.

Each individual case will be considered on its merits. The criteria for assessment will be, but is not limited to, the following:

- The amount of any rate increase when compared to the average rate increase for the rate category
- The amount of rates levied compared to the average rate of the rate category
- Income from all sources
- Living expenses
- Reason for financial hardship
- Length of occupancy

The assistance provided will be determined under the legal requirements of the Local Government Act 1993.

DEFINITIONS

- LGA, 1993 - refers to the Local Government Act 1993.
- Pensioner - means an eligible pensioner as defined in clause 13 of the Local Government (General) regulations 2005.
- Hardship application form will be used for the purpose of applying for assistance under this policy.
- Hardship Workgroup will review hardship applications and will include the Finance Manager and a Rating Officer.
- The workgroup will make recommendations to the General Manager and prepare reports to Council if amounts exceed the General Manager's delegations.

HARDSHIP PROVISIONS

The Local Government Act 1993 provides Council with three (3) options for providing assistance to ratepayers who are finding it difficult to pay their rates and charges because of financial hardship. A summary of the options is as follows:

Section 601 LGA 1993

Any ratepayer who incurs a rate increase in the first year following a revaluation of land values can apply to Council for rate relief if the increase in the amount of rates payable would cause them substantial hardship.

Council has discretion to waive, reduce or defer the payment of the whole or any part of the increase in the amount of the rate payable.

Council can set the period of time for when applications can be made under this Section.

Applications under Section 601 LGA 1993 must be made during the first year a new land value is used for rating purposes. Where an application is made in the first year, an application can also be made in subsequent years of the valuation base date.

Section 582 LGA 1993

Council can provide assistance to pensioners under this Section. Council may defer payment of all or part of the rates and charges payable after rebates have been deducted.

Sections 56 and 567 LGA 1993

Council can enter into payment agreements with rate payers, who cannot meet their normal instalment payments as provided by the LGA 1993.

- Council will provide an application form for the purpose of applying for assistance
- The Hardship workgroup will review the application and recommend to the General Manager any offer of assistance as provided by the Local Government Act 1993 having regard to the circumstances of the applicant
- The General Manager can approve or not approve the workgroup's recommendation
- The ratepayer will be informed of Council's decision in writing and if not satisfied with the outcome can request the Council to reconsider its decision
- After the Council considers the application and makes a decision the ratepayer has no further right to appeal.

Delegated Officers of Council can enter into payment agreements with ratepayers (Sections 56 and 567 LGA 1993).

Accrued interest on rates and charges may be written off where payment of the accrued interest would cause the person hardship. The Hardship workgroup may request the ratepayer to come to an interview if it is necessary to understand the issues causing hardship.

HARDSHIP RESULTING FROM A GENERAL REVALUATION GOVERNMENT AREA

In accordance with Section 601 of the Local Government Act a rate payer that suffers substantial hardship as the consequence of the making and levying of a rate on the most recent valuation, may apply to Council for relief. Assistance is only available in the first year new valuations are used to calculate rates.

The criteria used to determine eligibility are:

- The rates payable must be more than 5% of the gross household income

- The applicant must be an owner and an occupier of the property to which the rates relate and the dwelling must be the applicants sole or principle place of living
- The ordinary rate increase must be more in percentage terms than the amount determined by Council at each revaluation. The ordinary rate increase is calculated as the ordinary rates payable for the new rating year (being the first year in which revaluations are used) minus the ordinary rates payable in the previous rating year increased by the allowed rate pegging increase for the year (eg Rates 2005/06 \$600 minus rates 2004/05 \$400 plus 3% rate pegging increase (\$412) = \$188)
- No assistance is to be given for domestic waste management charges or special rates
- The maximum amount of assistance in aggregate for all ratepayers is \$20,000.

Applications will be considered in the order in which they are received by Council. Applications will be considered by the Senior Rates Officer. A ratepayer dissatisfied with a decision of the Senior Rates Officer may have that decision reviewed by the Hardship Workgroup established under the policy. If an application is refused, the applicant will be provided with reasons for such refusal. Applicants may appeal, in writing, to the Hardship Workgroup.

PRIVACY

Privacy in relation to any consideration of hardship will be preserved in accordance with Council's Privacy Management Plan.

REVIEW

This Policy will be reviewed as required and at a minimum at least once during the term of Council.



LITHGOW CITY COUNCIL

9. GOVERNANCE

Policy 9.3

BUSINESS ETHICS

Version 3

| | | | | | |
|----------------------------------|-------------------------------------|---------------------------|---------|------------------------|-------------------------|
| Maintained by Department: | Executive | Approved by: | Council | Exhibition: | |
| Reference: | Dataworks: Policy Register | Council Policy No: | 9.3 | Effective Date: | 21 Oct 2008 |
| Min No: | V1 - 06-349 V2 - 008-165 V3 - | Version No: | 3 | Review Date: | Oct 2009 August 2011 |
| Attachments: | | | | | |

9. GOVERNANCE

9.3 BUSINESS ETHICS

OBJECTIVE: To ensure Councillors and staff display the highest possible standard of business ethics consistent with Council's Codes.

POLICY:

COUNCIL EXPECTS THAT COUNCILLORS AND STAFF WILL:

1. Observe the principals detailed in the Council's Code of Conduct, when carrying out their duties, with specific attention to ensure actions are done with:
 - Integrity
 - Leadership by example
 - Selflessness
 - Objectivity
 - Accountability
 - Openness
 - Honesty
 - Respect
2. Councillors and staff will respect the policies and procedures of the Council and will:
 - Treat all tenderers for the supply of goods and services equitably;
 - Promote fair and open competition while seeking value for money;
 - Make decisions using principals of procedural fairness;
 - Respond promptly, efficiently and effectively to reasonable requests for advice and information;
 - Avoid situations where public interest could conflict with public duty;
 - Prevent the misuse or disclosure of privileged information, including confidential Council information;
 - Never solicit or accept gifts or remunerations or benefits from a supplier for the discharge of official duties and adhere to the Council's Code of Conduct requirements in this regard.

COUNCIL EXPECTS TENDERERS, SUPPLIERS, CONSULTANTS AND CONTRACTORS TO:

1. Respect the conditions expressed in Council documents supplied;
2. Respect the obligation of Council to abide by its policies and procedures;
3. Prevent the misuse or disclosure of privileged information, including confidential Council information;
4. Refrain from offering councillors or staff inducements which may give any impression of unfair advantage;
5. Abstain from collusive practices;
6. Avoid the disclosure of potential conflicts of interest;
7. Provide accurate information where required;
8. Not to act fraudulently or secretly.

APPARENT BREACHES

Where there is a suspected breach of the Business Ethics, the matter should be immediately brought to the attention of the General Manager.

The processes described in Council's Protected Disclosures Policy may assist those wishing to make disclosures.

REVIEW

This Policy will be reviewed as required and at a minimum at least once during the term of Council.



LITHGOW CITY COUNCIL

8. FINANCE

Policy 8.5

PENSION REBATES

Version 3

| | | | | | |
|----------------------------------|------------------------------------|---------------------------|---------|------------------------|----------------------|
| Maintained by Department: | Internal Services | Approved by: | Council | | |
| Reference: | Dataworks: Policy Register | Council Policy No: | 8.5 | Effective Date: | 21 Oct 08 |
| Min No: | V1 - 06-349 V2 - 008-165 V3- | Version No: | 3 | Review Date: | Oct 2009 Aug 2011 |
| Attachments: | | | | | |

8. FINANCE

8.5 PENSION REBATES

OBJECTIVES: To provide assistance to eligible pensioners with the payment of their rates and charges.

RELATED POLICY / SWP / LEGISLATION / STANDARD IMPLICATONS:

Local Government Act 1993
Local Government (General) Regulations 2005

Policy 8.3 Hardship

POLICY:

Council will provide a rebate of rates to eligible pensioners who were granted both a mandatory pension rebate under Section 575 of the Local Government Act 1993 and Council rebate under Section 582 of the Local Government Act 1993.

1. Guidelines

A Council rebate will apply to eligible pensioners who receive both the mandatory rebate under Section 575 of the Local Government Act 1993 and a Council rebate under Section 582 of the Local Government Act 1993.

The rebate amount by Council will be 45% and may be reviewed annually and the rebate from the State Government will be 55%, or as advised by the State Government.

The rebate will be shown on the Rates and Charges notice and will be deducted from the total amount payable.

On land that is jointly owned and the liability for payment of the rates is shared with ratepayers who are not eligible pensioners, the rebate amount will be calculated proportionally according to the ratio that the eligible pensioners bears to the total number of owners. There will be an exception where a legal agreement exists that makes the eligible pensioners solely liable for payment of the rates. In this case the full rebate will apply.

If an eligible pensioner becomes ineligible for any reason, the Council rebate will be written back proportionally according to the number of full quarters left in the rating year (Section 58 of the Local Government Act 1993).

2. Hardship

Eligible pensioners can apply to Council for assistance at any time within the current rating year if they are suffering financial hardship and are having difficulty paying their rates and charges. The procedure to apply is set out in the Council's Hardship Policy.

REVIEW

This Policy will be review as required and at a minimum at least once during the term of Council.



LITHGOW CITY COUNCIL

GOVERNANCE

Policy 9.13

PUBLIC INTEREST DISCLOSURES POLICY

Version 3

| | | | | | |
|----------------------------------|-------------------------------------|---------------------------|---------|------------------------|----------------------|
| Maintained by Department: | Executive | Approved by: | Council | | |
| Reference: | Dataworks: Policy Register | Council Policy No: | 9.13 | Effective Date: | 21 Oct 08 |
| Min No: | 06-349 (V1) V2 - 008-165 V3 - | Version No: | 3 | Review Date: | Oct 2009 Aug 2011 |
| Attachments: | | | | | |

9. GOVERNANCE

9.13 PUBLIC INTEREST DISCLOSURES POLICY

OBJECTIVE:

To provide an appropriate avenue to report and investigate claims of corrupt conduct, maladministration or serious and substantial waste.

RELATED POLICY / SWP / LEGISLATION / STANDARD IMPLICATONS:

Code of Conduct

Public Interest Disclosures Act 1994

Independent Commission Against Corruption Act 1988

Policy 9.3 Business Ethics

POLICY:

1. GUIDELINES:

To establish an internal reporting system for the reporting of disclosures of corrupt conduct, maladministration or serious and substantial waste of public money by Council, its staff and councillors. The system enables such internal disclosures to be made to the Mayor or to the General Manager.

This policy is designed to complement normal communication channels between supervisors and staff.

Staff are encouraged to continue to raise appropriate matters at any time with their supervisors, but as an alternative have the option of making a protected disclosure in accordance with this Policy.

Council does not tolerate corrupt conduct, maladministration or serious and substantial waste of public money.

Council is committed to the aims and objectives of the Public Interest Disclosures Act 1994. It recognises the value and importance of contributions of staff to enhance administrative and management practices and strongly supports disclosures being made by staff or councillors which disclose corrupt conduct, maladministration or serious and substantial waste of public money.

Council will take all reasonable steps to provide protection to staff and councillors who make such disclosures from any detrimental action in reprisal for the making of the disclosure.

This Policy establishes an internal reporting system for the reporting of disclosures of corrupt conduct, maladministration or serious and substantial waste of public money by Council, its staff and councillors. The system enables such internal disclosures to be made to the Mayor or to the General Manager.

This policy is designed to complement normal communication channels between supervisors and staff.

Staff are encouraged to continue to raise appropriate matters at any time with their supervisors, but as an alternative have the option of making a protected disclosure in accordance with this Policy.

2. OBJECT OF THE ACT

The purpose of the Act is to ensure that public officials who wish to make disclosures under the legislation receive protection from reprisals and that the matters raised in the disclosures are properly investigated.

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

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

3. DEFINITIONS

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

Definitions of these concepts are outlined below.

Corrupt Conduct

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

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

Maladministration

“Maladministration” is defined in the Public Interest Disclosures Act 1994 as conduct that involves action or inaction of a **serious nature** that is:

- Contrary to law, or
- Unreasonable, unjust, oppressive or improperly discriminatory, or
- Based wholly or partly on improper motives (s11).

The conduct covered by these terms includes:

- **contrary to law:**
 - a decision or action contrary to the law
 - a decision or action ultra vires (i.e. the decision-maker had no power to make the decision or to do the act)
 - a decision or action contrary to lawful and reasonable orders from persons or agencies with authority to make or give such orders
 - breach of natural justice or procedural fairness
 - unauthorised disclosure of confidential information
 - a decision or action included or affected by fraud.
- **Unreasonable:**
 - a decision or action inconsistent with adopted guidelines or policies or with a decision of action which involves similar facts or circumstances not justified by any evidence, or so unreasonable that no reasonable person could so decide or act (e.g. irrational)
 - an arbitrary, partial, unfair or unequitable decision or action
 - a policy that is applied inflexibly and without regard to the merits of an individual case
 - a decision or action that does not take into account all relevant considerations or that takes into account irrelevant considerations
 - serious delays in making decisions or taking action
 - failing to give notice of rights
 - giving wrong, inaccurate or misleading advice leading to detriment
 - failure to rectify identified mistakes, errors, oversights or improprieties
 - failing to properly investigate.
- **Unjust:**
 - a decision or action not justified by any evidence or that is unreasonable
 - a partial, unfair, inequitable or unconscionable decision or action
- **Oppressive:**
 - an unconscionable decision or action
 - where the means used are not reasonably proportional to the ends to be achieved
 - an abuse of power, intimidation or harassment
- **Improperly discriminatory:**
 - inconsistent application of laws, policies or practices when there is no reasonable, justifiable or appropriate reason to do so
 - distinctions applied not authorised by law, or failure to make a distinction which is authorised or required by law
- **Based wholly or partly on improper motives:**
 - a decision or action for a purpose other than that for which power conferred
 - a conflict of interest
 - bad faith or dishonesty

- seeking or accepting gifts or benefits in connection with performance of official duties
- misusing public property, official services or facilities

Serious and Substantial Waste:

The term “*serious and substantial waste*” is not defined in the Public Interest Disclosures Act. The Auditor-General provides the following working definition:

Serious and substantial waste refers to the uneconomical, inefficient or ineffective use of resources, authorised or unauthorised, which results in a loss/wastage of public funds/resources.

In addressing any complaint of serious and substantial waste regard will be had, to the nature and materiality of the waste.

The following delineation of the definition of serious and substantial waste may be of assistance to public officials and/or public authorities.

Types:

| | |
|-------------------------------------|--|
| <i>Absolute</i> | <i>Serious and substantial waste might be regarded in absolute terms where the waste is regarded as significant, for example, \$200,000.</i> |
| <i>Systemic</i> | <i>The waste indicates a pattern which results from a system weakness within the public authority.</i> |
| <i>Material</i> | <i>The serious and substantial waste is/was material in terms of the public authority's expenditure or a particular item of expenditure or is/was material to such an extent so as to effect a public authority's capacity to perform its primary functions.</i> |
| <i>Material By Nature No Amount</i> | <i>The serious and substantial waste may not be material in financial terms but may be significant by nature. That is it may be improper or inappropriate (alternatively, this type of waste may constitute “maladministration” as defined in the Public Interest Disclosures Act 1994).</i> |

Waste can take many forms, for example:

- misappropriation or misuse of public property;
- the purchase of unnecessary or inadequate goods and services;
- too many personnel being employed in a particular area, incurring costs which might otherwise have been avoided;
- personnel being remunerated for skills that they do not have, but are required to have under the terms or conditions of their employment;
- programs not achieving their objectives and therefore the costs being clearly ineffective and inefficient.

Waste can result from such things as:

- the absence of appropriate safeguards to prevent the theft or misuse of public property;
- purchasing procedures and practices which fail to ensure that goods and services are necessary and adequate for their intended purpose; and
- purchasing practices where the lowest price is not obtained for comparable goods or services without adequate and appropriate justification.

4. WHAT DISCLOSURES ARE PROTECTED UNDER THE ACT:

What disclosures are protected?

Disclosures are protected under the Act if they:

- are made:
 - in accordance with this Internal Reporting Policy; or
 - to the General Manager; or
 - to one of the investigating authorities nominated in the Act; and
- show or tend to show corrupt, maladministration, or serious and substantial waste of public money by Council or any of its staff or councillors; and
- are made voluntarily.

What disclosures are not protected?

A disclosure is not protected under the Act if it is made by a public official in the exercise of a duty imposed by or under an Act.

Protection is also not available for disclosures which:

- are made frivolously or vexatiously;
- primarily question the merits of government policy; or
- are made solely or substantially with the motive of avoiding dismissal or other disciplinary action.

It is an offence to wilfully make a false or misleading statement when making a disclosure.

5. REPORTING UNDER THE INTERNAL REPORTING SYSTEM:

The persons or positions to whom internal disclosures can be made in accordance with the Internal Reporting System (as shown on the attached diagram) are:

- the Disclosure Coordinator; or
- the General Manager; or
- the Mayor (if the disclosure concerns or involves the General Manager or a councillor).

| |
|--|
| Notes |
| Where persons contemplating making a disclosure are concerned about publicly approaching the Mayor or the General manager they can ring the relevant official and request a meeting in a discreet location away from the workplace. |
| <ol style="list-style-type: none"> 1. A council officer who wishes to make a protected disclosure which involves a councillor may do so to the Mayor, the General Manager, or an investigating authority (ie. The Director-General of the Department of Local Government, ICAC, or Ombudsman). 2. A councillor who wishes to make a protected disclosure which involves another councillor may do so to the Mayor, the General Manager, or an investigating authority (ie, Director-General of the Department of Local Government, ICAC, or Ombudsman). 3. If the Mayor wishes to make a protected disclosure he or she may do so to the General Manager, or an investigating authority (ie, Director-General of the Department of Local Government, ICAC, or Ombudsman). |

6. ROLES AND RESPONSIBILITIES:

This Internal Reporting Policy places responsibilities upon people at all levels within Council.

Employees

Employees are encouraged to report known or suspected incidences of corrupt conduct, maladministration or serious and substantial waste in accordance with this Policy.

All employees of Council have an important role to play in supporting those who have made legitimate disclosures. They may abstain from any activity that is or could be perceived to be victimisation or harassment of persons who make protected disclosures. Further, they should protect/maintain the confidentiality of persons they know or suspect to have made disclosures.

Disclosure Co-ordinator

The Disclosure Co-ordinator has a pivotal position in the internal reporting system and acts as a clearing house for disclosures. The Disclosure Co-ordinator will:

- a. provide an alternative internal reporting channel to Nominated Disclosure Officers and to the General Manager;
- b. impartially assess each disclosure to determine:
 - whether the disclosure appears to be a protected disclosure within the meaning of the Act;
 - whether the disclosure covers another agency and should therefore be referred to the principal officer of that agency;
 - the appropriate action to be taken in relation to the disclosure, for example -
 - no action/decline;
 - the appropriate person to take responsibility for dealing with the disclosure;
 - preliminary or informal investigation;

- formal investigation;
 - prosecution or disciplinary action;
 - referral to an investigating authority for investigation or other appropriate action; or
 - referral to the police (if a criminal matter) or the ICAC (if the matter concerns corrupt conduct).
- consult with the General Manager about all disclosures, other than where a disclosure concerns the General Manager;
 - be responsible for carrying out or co-ordinating any internal investigation arising out of a disclosure, subject to the direction of the General Manager;
 - report to the General Manager on the findings of any investigation and recommended remedial action;
 - take all necessary and reasonable steps to ensure that the identity of persons who make disclosures, (where this is practical and reasonable) and persons the subject of the disclosures, are kept confidential;
 - support persons who make disclosures and actively protect them from victimisation, harassment or any other form of reprisal; and
 - report actual or suspected corrupt conduct to the General Manager in a timely manner to enable that officer to comply with the *ICAC Act*.

General Manager

Disclosures may be made direct to the General Manager. The General Manager will:

- a. Impartially assess each disclosure to determine:
 - whether the disclosure appears to be a protected disclosure within the meaning of the Act;
 - whether the disclosure concerns another agency and should therefore be referred to the principal office of that agency;
 - the appropriate action to be taken in relation to the disclosure, for e.g.:
 - no action/decline;
 - the appropriate person to take responsibility for dealing with the disclosure;
 - preliminary or informal investigation;
 - formal investigation;
 - prosecution or disciplinary action;
 - referral to an investigating authority for investigation or other appropriate action; or
 - referral to the police (if a criminal matter) or the ICAC (if the matter concerns corrupt conduct).
- b. receive reports for the Disclosure Co-ordinator on the findings of any investigation and any recommendations for remedial action and determine what action should be taken;

- c. take all necessary and reasonable steps to ensure that the identity of persons who make disclosures, and the persons the subject of disclosures, are kept confidential (where reasonable and practical);
- d. have primary responsibility for protecting staff who make disclosures, or provide information to any internal or external investigation of a disclosure, from victimisation, harassment or any other form of reprisal;
- e. be responsible for implementing organisational reform identified as necessary following investigation of a disclosure; and
- f. report criminal offences to the Police and actual or suspected corrupt conduct to ICAC (under s.11 of the *ICAC Act*).

The Mayor

The Mayor may receive internal disclosures from any member of staff of the council or any councillor concerning the General Manager or a councillor. The Mayor will:

- a. impartially assess each disclosure made to him/her about the General Manager or a councillor to determine:
 - whether the disclosure appears to be a protected disclosure within the meaning of the Act;

Note: *In making this assessment the Mayor may seek guidance from: the General Manager (if appropriate) or an investigating authority (i.e. the Director General of DLG, the ICAC, or Ombudsman).*

- the appropriate course of action to be taken in relation to the disclosure (in consultation with the General Manager, if appropriate), for e.g.:
 - no action/decline;
 - the appropriate person to take responsibility for dealing with the disclosure;
 - preliminary or informal investigation;
 - formal investigation;
 - prosecution or disciplinary action;
 - referral to an investigating authority for investigation or other appropriate action; or
 - referral to the police (if a criminal matter) or the ICAC (if the matter concerns corrupt conduct);
- b. refer disclosures to the General Manager for appropriate action if they concern the council's administration, within the day to day responsibilities of the General Manager.
 - c. take all necessary and reasonable steps to ensure that the identity of the person who has made a disclosure, and any person to it he subject of a disclosure, are kept confidential (where this is practical and reasonable).

7. ALTERNATIVE AVENUES FOR DISCLOSURES:

Alternative avenues available to staff and councillors for making a protected disclosure under the Act (other than by means of the internal reporting system created under this Policy), are as follows:

- a. To the General Manager; or
- b. To one of the investigating authorities under the Act (eg the Director-General of DLG, ICAC and Ombudsman);
- c. To a journalist or a member of Parliament (where the following pre-conditions apply):
 - the person making the disclosure to a journalist or member of Parliament must have already made substantially the same disclosure through the internal reporting system, or to the General Manager or an investigating authority in accordance with the Act;
 - the person making the disclosure must have reasonable grounds for believing that the disclosure is substantially true and the disclosure must in fact be substantially true; and
 - the investigating authority, public authority or officer to whom the matter was originally referred has –
 - decided not to investigate the matter; or
 - decided to investigate the matter but not completed the investigation within 6 months of the original disclosure; or
 - investigated the matter but not recommended any action in respect of the matter; or
 - failed to notify the person making the disclosure, within 6 months of the disclosure, of whether the matter is to be investigated.

8. RIGHTS OF PERSONS THE SUBJECT OF DISCLOSURES:

The rights of persons the subject of disclosures will also be protected. In this regard:

- a. the confidentiality of the identity of persons the subject of disclosures will be protected/maintained (where this is possible and reasonable);
- b. disclosures will be assessed and acted on impartially, fairly and reasonably;
- c. responsible officials who receive disclosures in accordance with this Policy are obliged to:
 - protect/maintain the confidentiality of the identity of persons the subject of the disclosures (where this is practical and reasonable);
 - assess disclosures impartially; and
 - act fairly to persons the subject of disclosures;
- d. disclosures will be investigated as discreetly as possible, with a strong emphasis on maintaining confidentiality both as to the identity of persons making protected disclosures and the persons the subject of disclosures (where this is practical and reasonable);

- e. where investigations other enquiries do not substantiate disclosures, the fact the investigation/enquiry has been carried out, the results of the investigation/enquiry, and the identity of persons the subject of the disclosures will be kept confidential, unless the persons the subject of the disclosures request otherwise;
- f. the persons the subject of disclosures (whether protected disclosures under the Act or otherwise) which are investigated by or on behalf of a council, have the right to:
- be informed as to the substance of the allegations;
 - be informed as to the substance of any adverse comment that may be included in a report/memorandum/letter or the like arising out of any such investigation; and
 - be given a reasonable opportunity to put their case (either orally or in writing) to the persons carrying out the investigation for or on behalf of the council,
- before any decision/determination/report/memorandum/letter or the like is made;
- g. where the allegations in a disclosure have been investigated by or on behalf of a council, and the person the subject of the allegations is aware of the substance of the allegations, the substance of any adverse comment, or the fact of the investigation, he or she should be formally advised as to the outcome of the investigation, regardless of the outcome; and
- h. where the allegations contained in a disclosure are clearly wrong or unsubstantiated, the person the subject of the disclosure is entitled to the support of the council and its senior management (the nature of the support that would be reasonable and appropriate would depend on the circumstances of the case, but could include a public statement of support or a letter setting out the council's views that the allegations were either clearly wrong or unsubstantiated).

9. PROTECTION AVAILABLE UNDER THE ACT:

Protection against reprisals

The Act provides protection by imposing penalties on a person who takes "*detrimental action*" against another person substantially in reprisal for a protected disclosure. Penalties can be imposed by means of fines and imprisonment. "*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; or
- disciplinary proceeding.

Any member of staff or councillor who believes that "detrimental action" is being taken against them substantially in reprisal for the making of an internal disclosure in

accordance with this Policy should immediately bring the allegations to the attention of the General Manager or Mayor (as appropriate).

If a member of staff or councillor who made an internal disclosure feels that such reprisals are not being effectively dealt with, they should contact the Director-General of DLG, the Ombudsman or ICAC.

If an external disclosure was made to an investigating authority, that body will either deal with the allegation or provide advice and guidance to the person concerned.

Protection against actions etc.

The Act provides that a person is not subject to any liability for making a protected disclosure and no action, claim or demand may be taken or made of or against the person for making the disclosure. This provision has effect despite any duty of secrecy or confidentiality or any other restriction on disclosure by a public official.

A person who has made a protected disclosure has a defence of absolute privilege in proceedings for defamation.

A person who has made a protected disclosure is taken not to have committed any offence against an Act which imposes a duty to maintain confidentiality with respect to any information disclosed.

Confidentiality

The Act requires investigating authorities, public authorities and public officials to whom protected disclosures are made or referred, not to disclose information that might identify or tend to identify the person who made the disclosures. The exceptions to the confidential requirement are where:

- the person consents in writing to the disclosure of that information; or
- it is essential, having regard to the principles of natural justice, that the identifying information be disclosed to a person whom the information provided by the disclosure may concern; or
- the investigating authority, public authority, officer or public official is of the opinion that disclosure of the identifying information is necessary to investigate the matter effectively; or disclosure is otherwise in the public interest.

Decisions about natural justice, effective investigation and public interest will be made by the General Manager or Mayor (as appropriate). In all cases the person who made the disclosure will be consulted before such a decision is made.

Note: If guidance is needed in relation to the requirements of natural justice, effective investigation and public interest, this may be sought from an investigating authority.

Government Information Public Access Act 2009 Exemption

Under the Government Information Public Access Act 2009 a document is exempt from release if it contains matter the disclosure of which would disclose matters relating to a protected disclosure within the meaning of the Act.

10. NOTIFICATION OF ACTION TAKEN OR PROPOSED:

A person who makes a protected disclosure must be notified, within 6 months of the disclosure being made, of the action taken or proposed to be taken in respect of the disclosure.

If a disclosure is made in accordance with this Policy, either the General Manager or disclosure coordinator is responsible for the 6 month notification to the person who made the disclosure.

If a disclosure is made to the Mayor under this Policy, the Mayor is responsible for such notification to the person who made the disclosure, unless he or she directs the General Manager to assume this responsibility.

The notification provided to the person who made the disclosure should contain sufficient information to demonstrate that adequate and appropriate action was taken, or is proposed to be taken, in respect of the disclosure. **This should include a statement of the reasons for the decisions made or action taken in response to the disclosure.**

The notification should include sufficient information to enable the person who made the disclosure to make an assessment as to whether the circumstances listed in Section 19(3)(a)-(c) of the Act (relating to disclosures to members of Parliament and journalists) apply, ie whether :

- a. a decision was made not to investigate the matter; or
- b. a decision was made to investigate the matter, but the investigation was not completed within 6 months of the original decision being made; or
- c. a decision was made to investigate the matter, but the investigation has not been completed within 6 months of the original decision being made; or
- d. the matter was investigated but no recommendation was made for the taking of any action in respect of the matter.

One of the purposes of this is to give the whistleblower enough information to be able to properly assess whether it is appropriate or warranted to make a disclosure to a member of parliament or a journalist.

11. REVIEW

This Policy will be reviewed as required and at a minimum at least once during the term of Council.

COUNCIL'S INTERNAL REPORTING SYSTEM

