

ATTACHMENTS TO VARIOUS REPORTS FINANCE & ADMINISTRATION COMMITTEE

MONDAY 21 OCTOBER 2013

ATTACHMENT TO FAC 6B – 10/2013

**DRAFT REVIEW OF CODE OF MEETING
PRACTICE – AFTER PUBLIC EXHIBITION**

ATTACHMENT 1

*Draft Code of Meeting Practice for Councillors, Staff
and Delegates*

DRAFT

CODE OF MEETING PRACTICE FOR COUNCILLORS, STAFF AND DELEGATES

(TRIM DOC13/89680)
(DOC11/5266)

Prepared by Corporate Services

Adopted by Council [insert date]

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~~Revised March 1999~~

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~~Revised September 2007~~

~~Revised October 2008~~

~~Revised 23 March 2009 to accurately reflect the Local Government Act 1993~~

~~Revised Draft to Finance & Administration Committee Meeting – Monday 21 September 2009, Draft~~

~~Revised Draft document adopted by Council Meeting Monday 28 September 2009 and placed on public exhibition.~~

~~Revised Code of Meeting Practice adopted by Council Monday 21 December 2009 via Finance & Administration Committee meeting 14 December 2009, following public exhibition.~~

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INTRODUCTION

As part of their Charter, Councils are to involve Councillors, Council staff, members of the public and others in the development, improvement and co-ordination of local government (s.8 of the *Local Government Act 1993*). How meetings are managed is an important part of achieving this goal.

Meeting procedures contribute to good public decision-making and increase Council's transparency and accountability to its community.

The AlburyCity Code of Meeting Practice has been prepared in accordance with the *Local Government Act 1993*; the Local Government (General) Regulation 2005; the Division of Local Government's Model Code of Conduct for Local Councils in NSW, March 2013; the Division of Local Government's Meetings Practice Note - August 2009; and Council's adopted Code of Meeting Practice 2009.

PART 1 – PRELIMINARY

1. Citation

This Code may be cited as the 'AlburyCity Council Code of Meeting Practice'.

2. Definitions

Except as provided in this Code, expressions are defined in the dictionary at the end of the *Local Government Act 1993*.

In this Code:

- (a) **Amendment**, in relation to an original motion, means a motion moving an amendment to that motion.
- (b) **Chairperson**,
- in relation to a meeting of the Council – means the person presiding at the meeting as provided by Clause 11 of this Code; and
 - in relation to a meeting of a Committee – means the person presiding at the meeting as provided by Clause 48 of this Code.
- (c) **Clause**, refers to a Clause within this Code.
- (d) **Committee**, means a Committee appointed or elected by the Council in accordance with Clause 42(a) or the Council when it has resolved itself into a Committee of the Whole.
- (e) **Committee of the Whole** means all Councillors present at a Council or Committee meeting.
- (f) **Delegate**, means a Councillor or other person approved by Council to represent AlburyCity at a meeting or conference; or as a community representative on a Council advisory committee.
- (g) **'Negatived'** – A motion 'negatived' is a motion lost.
- (h) **Record**, means a document (including any written or printed material) or object (including a sound recording, video recording, coded storage device, magnetic tape or disc, microfilm, photograph, film, map, plan or model or a painting or other pictorial or graphic work) that is or has been made or received in the course of official duties by a Councillor or an employee of the Council and, in particular, includes the minutes of meetings of the Council or of a Committee of the Council.
- (i) **Relative**, in relation to a person, means any of the following:
- (a) the parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child of the person; or of the person's spouse;

(b) the spouse or the de facto partner of the person or of a person referred to in paragraph (i)(a).

~~(j) **Standing Orders** means the permanent rules and proceedings of meetings.~~

(k) **The Act** means the *Local Government Act 1993*.

(l) **The Code** means the AlburyCity Council Code of Meeting Practice; and the Regulation means the Local Government (General) Regulation 2005.

3. Act and Regulation

(a) This Code is made pursuant to section 360(2) of the Act.

(b) It incorporates relevant provisions of the Act and the Regulation.

(c) In the event of any inconsistency between the Code and the Act or the Regulation, the Act or the Regulation (as the case may be) shall prevail to the extent of the inconsistency.

4. Notes to Text

~~(a) Except as otherwise provided, expressions used in this Code which are defined in the dictionary at the end of the Act have the meanings set out in the dictionary.~~

~~(b) Notes in the text of this Code are explanatory notes and do not form part of this Code. They are provided to assist understanding. ??~~

PART 2 – CONVENING OF AND ATTENDANCE AT COUNCIL MEETINGS

5. Frequency of Meetings of the Council

- (a) The Council is required to meet at least 10 times each year, each time in a different month. **It is up to the Council to decide when and where to conduct the meeting.**
- (b) The Council's meeting cycle is as follows:
- (i) The Planning & Development Committee, Engineering & Works Committee, Community & Cultural Committee and Finance & Administration Committee will consider matters and make recommendations to Council.
- (ii) **The Planning & Development Committee** to consider matters associated with:
- Building regulations;
 - Development Applications;
 - Economic development;
 - Enforcement and compliance policy;
 - Strategic land use planning;
 - Regional development; and
 - Tourism.
- (iii) **The Engineering & Works Committee** to consider matters associated with:
- Airport, landfill and cemetery/crematorium;
 - Asset management;
 - Emergency services;
 - Major construction projects;
 - Roads, bridges, buildings, footpaths and drainage;
 - Traffic management and parking;
 - Fleet management;
 - Floodplain management;
 - Waste management; and
 - Water and sewerage.
- (iv) **The Community & Cultural Committee** to consider matters associated with:
- Community, cultural and youth services;
 - Community development;
 - Community health;
 - Community safety;
 - Events;
 - Natural resources management; and
 - Parks, sport and recreation.

- (v) **The Finance & Administration Committee** to consider matters associated with:
- Council Plan, Finance Plan and budgets;
 - Organisational performance and audit;
 - Policy development and review including communications and branding, governance, human resources, information management, risk management, procurement and sustainability; and
 - Strategic corporate planning.

The Mayor is an ex-officio member of each Committee, and there are no limits on the number of Councillors on each Committee.

- (vi) All provisions of Council's Code of Meeting Practice apply to these Committees.
- (vii) The Chairperson of each Committee and the Committee Members shall be resolved by the Council at the annual meeting when Councillor Representation on Committees is determined.
- (viii) Committee Meetings and Meetings of the Council are **generally** held in the AlburyCity Council Chambers, 553 Kiewa Street, Albury, at 6.00pm.
- (ix) 1st Monday will be, if required, a Community Forum and/or Councillor Workshop.
- (x) 2nd Monday of the month ~~shall be~~ **will be, if required**, the Planning & Development Committee Meeting followed by the Engineering & Works Committee Meeting.
- (xi) 3rd Monday of the month ~~shall be~~ **will be, if required**, the Community & Cultural Committee Meeting followed by the Finance & Administration Committee Meeting.
- (xii) Community Forums will have an Agenda. In accordance with the Agenda, members of the public may address the Councillors and the Chairperson may invite questions. In accordance with Clause ~~38~~ 37, order is to be maintained at the meeting.
- (xiii) Councillor Workshops will have an Agenda. The public and media do not have attendance entitlements at workshops. There is no obligation on Councillors to attend workshops.
- (xiv) Council decisions are not made at workshops. Workshop reports contain information but no recommendations.
- (xv) 4th Monday will be an ~~Ordinary~~ Council Meeting.
- (xvi) Council meetings shall conclude at 11.00pm and extensions of time (in fifteen minute periods) shall only be granted by resolution.

- (c) The Council may, by resolution, vary the time, date and place of Ordinary Meetings should circumstances exist which would prevent the Ordinary Meetings of the Council being held in accordance with clause 5(b).

~~Amended 14 September 1998~~

~~Amended 1 July 2001 and also November 2001~~

~~Amended 2005~~

~~Amended June 2006~~

~~Amended September 2007~~

~~Amended October 2008~~

6. Extraordinary Meetings

- (a) The Mayor may call Extraordinary Meetings of the Council.
- (b) If the Mayor receives a request in writing signed by at least two Councillors, the Mayor must call an Extraordinary Meeting of the Council to be held as soon as practicable but in any event within eight working days after the receipt of the requests made. (The Mayor can be one of the two Councillors who submit the written request.)
- (c) If the Mayor fails, within four working days of receipt of a request pursuant to subsection 6(b), to give a direction to the General Manager for the sending of Notices to Councillors for an Extraordinary Meeting to be held within the period specified in subsection 6(b), the General Manager must send a notice to each Councillor specifying that the Meeting will be held on the eighth working day following the date of receipt of the request.
- (d) For the purpose of subsections 6(b) and 6(c), a working day is a day that is not a Saturday, Sunday or public holiday.
- (e) **Extraordinary Meetings will be held as and when required.**

~~Amended June 2006~~

7. Notice of Council and Committee Meetings

- (a) The General Manager of the Council must send to each Councillor, at least three days before each meeting of the Council, a notice specifying the time, and place at which and the date on which the meeting is to be held and the business proposed to be transacted at the meeting.
- (b) The notice must be published in the local newspaper indicating the time and place of the meeting.
- (c) Notice of less than three days may be given of an Extraordinary Meeting called in an emergency, but in no case shall notice of less than one day be given.
- (d) Public notice must be given on the time and place of ~~Extra-Ordinary~~ **Extraordinary** Council and Committee Meetings but this does not have to be by publication in a local newspaper.

- (e) Subclauses 7(a) and 7(b) do not apply to the consideration of business at a meeting if the business:
- (i) is already before, or directly relates to a matter that is already before, the Council; or
 - (ii) is the election of a Chairperson to preside at the meeting as provided by Clause 11 ~~(iii)~~; or
 - (iii) is a matter or topic put to the meeting by the Chairperson in accordance with clause 15; or
 - (iv) is a motion for the adoption of recommendations of a Committee of the Council.
- (f) Despite subclauses 7(a) and 7(b), business may be transacted at a meeting of the Council even though due notice of the business has not been given to the Councillors. However, this can happen only if:
- (i) a motion is passed to have the business transacted at the meeting; and
 - (ii) either:
 - all the Councillors (disregarding any casual vacancies) are present at the meeting; or
 - the business proposed to be brought forward is ruled by the Chairperson to be of sufficient urgency to warrant consideration at that meeting.
- Such a motion can be moved without notice.
- (g) Despite clause 28 relating to the limitation as to the number of speeches, only the mover referred to in subclause 7(f) can speak to the motion before it is put.

Amended June 2006

8. Quorum

The quorum for a meeting of the Council is a majority of the Councillors of the Council who hold office for the time being and are not suspended from office.

9. What happens when a quorum is not present

- (a) A meeting of the Council must be adjourned if a quorum is not present:
- (i) within half an hour after the time designated for the holding of the meeting; or
 - (ii) at any time during the meeting.

- (b) In either case, the meeting must be adjourned to a time, date and place fixed:
 - (i) by the Chairperson; or
 - (ii) in his or her absence - by the majority of the Councillors present; or
 - (iii) failing that, by the General Manager.
- (c) The General Manager must record in the Council's minutes the circumstances relating to the absence of a quorum (including the reasons for the absence of a quorum) at or arising during a meeting of the Council, together with the names of the Councillors present.

10. Presence at Council meetings

- a. A Councillor cannot participate in a meeting of the Council unless personally present at the meeting.
- b. A Councillor requesting leave of absence from a meeting of a council does not need to make the application in person and the council may grant such leave in the absence of that Councillor.
- c. Leave of absence for three or more consecutive meetings may only be granted by a Council resolution.
- d. Leave of absence will not unreasonably be withheld.
- e. Acceptance of an apology by the Council is taken as granting leave of absence.
- f. If a Councillor is absent, with or without leave of the Council, from ordinary meetings of the Council for any period of more than three months, the Council must not pay any annual fee, or part of an annual fee, to that Councillor that relates to the period of absence that is in excess of three months.
- g. A member (other than the Mayor) ceases to be a member of a Committee if the member:
 - (i) has been absent from three consecutive meetings of the Committee without having given reasons acceptable to the Committee for the member's absences, or
 - (ii) has been absent from at least half of the meetings of the Committee held during the immediately preceding year without having given to the Committee acceptable reasons for the member's absences.
 - (iii) Subclause (g) does not apply in respect of a Committee that consists of all of the members of the council.

~~Amended June 2006~~

~~Clause 10b, d, e, f and g amended September 2009~~

PART 3 – PROCEDURE FOR THE CONDUCT OF COUNCIL MEETINGS

11. Chairperson of Council meetings

- (a) The Mayor or, at the request of or in the absence of the Mayor, the Deputy Mayor presides at meetings of the Council.
- (b) If the Mayor and the Deputy Mayor are absent, a Councillor elected to chair the meeting by the Councillors present presides at a meeting of the Council.
- (c) If no Chairperson is present at a meeting of the Council at the time designated for the holding of the meeting, the first business of the meeting must be the election of a Chairperson to preside at the meeting.
- (d) The election must be conducted by a show of hands.
 - (i) by the General Manager or, in his or her absence, an employee of the Council designated by the General Manager to conduct the election; or
 - (ii) if neither of them is present at the meeting or there is no General Manager or designated employee - by the person who called the meeting or a person acting on his or her behalf.
- (e) If, at an election of a Chairperson, two or more candidates receive the same number of votes and no other candidate receives a greater number of votes, the Chairperson is to be the candidate whose name is chosen by lot drawn by the General Manager or his nominee.
- (f) For the purpose of subclause 11(e), the person conducting the election must:
 - (i) arrange for the names of the candidates who have equal numbers of votes to be written on similar slips; and
 - (ii) then fold the slips so as to prevent the names being seen, mix the slips and draw one of the slips at random.
- (g) The candidate whose name is on the drawn slip is the candidate who is to be the Chairperson.

12. Chairperson to have precedence

- (a) When the Chairperson rises or speaks during a meeting of the Council:
 - (i) any Councillor then speaking or seeking to speak must, if standing, immediately resume his or her seat; and
 - (ii) every Councillor present must be silent to enable the Chairperson to be heard without interruption.

13. Chairperson's duty with respect to motions

- (a) It is the duty of the Chairperson at a meeting of the Council to receive and put to the meeting any lawful motion that is brought before the meeting.
- (b) The Chairperson must rule out of order any motion that is unlawful or the implementation of which would be unlawful.
- (c) Any motion, amendment or other matter that the Chairperson has ruled out of order is taken to have been rejected.

14. Minutes

- (a) The Council must ensure that full and accurate minutes are kept of proceedings of the Council.
- (b) The General Manager must ensure that the following matters are recorded in the Council minutes:
 - (i) Details of each motion moved at a Council meeting and any of the amendments moved to it,
 - (ii) The NAMES of the MOVER and the SECONDER of the motion or amendment,
 - (iii) Whether the motion or amendment is CARRIED or LOST.
- (c) The correctness of the minutes of every preceding meeting, including Extraordinary Meeting, not previously confirmed must be dealt with at every ordinary meeting of the Council, in order that such minutes may be confirmed.
- (d) A motion or discussion with respect to such minutes shall not be in order except with regard to their accuracy as a true record of the proceedings.
- (e) Minutes may be confirmed at an Extraordinary Meeting of the Council.
- (f) The minutes must, when they have been confirmed at a subsequent meeting of the Council, be signed by the person presiding at that subsequent meeting.

15. Order of Business

- (a) At a meeting of the Council (other than an Extraordinary Meeting), the general order of business is (except as provided by this Code) such as the Council has fixed by resolution passed at any previous meeting or, if no such resolution has been passed, in accordance with this Code ~~and the Schedule~~.
- (b) The order of business fixed under subclause 15(a) may be altered if a motion to that effect is carried. Such a motion can be moved without notice.
- (c) Despite clause 28, only the mover of a motion referred to in subclause 15(b) may speak to the motion before it is put.

16. Agenda for Council Meetings

- (a) The General Manager must ensure that the agenda paper for a meeting of the Council states:
- (i) all matters to be dealt with arising out of the proceedings of former meetings of the Council; and
 - (ii) if the Mayor (or the Deputy Mayor if acting for the Mayor) is the Chairperson - any matter or topic that the Chairperson proposes, at the time when the agenda is prepared, to put to the meeting; and
 - (iii) the business proposed to be transacted at the meeting.
 - (iv) any business of which due notice has been given.

- (b) The General Manager must not include in the agenda for a meeting of the Council any business of which due notice has been given if, in the opinion of the General Manager, the business is (or the implementation of the business would be) unlawful. The General Manager must report (without giving details of the item of business) any such exclusion, to the next meeting of the Council.

~~If, in the opinion of the General Manager, business to be transacted at a meeting of the Council is a kind of business referred to in clause 16(b), the business may be included in a confidential business paper.~~

~~If a confidential agenda paper is prepared for a kind of business referred to in clause 16(b), the General Manager must ensure that details of such items of business are included in the ordinary agenda prepared for the same meeting.~~

- (c) Certain matters, because of their confidential nature, may be considered in closed meetings. Parts of Council meetings may be closed to the public to discuss the type of matters referred to in section 10A(2) of the Act. Although Council decides whether the public is to be excluded from part of a meeting, the General Manager must indicate on the agenda (without details) that an item of business is likely to be discussed in a closed part of the meeting. The agenda item is to indicate the reason the item will be dealt with in the closed part of the meeting.

~~All other business to be transacted at the meeting must be included in an ordinary agenda.~~

- (d) The General Manager must cause the agenda for a meeting of the Council to be prepared as soon as practicable before the meeting.
- (e) Nothing in this clause limits the powers of the Chairperson under clause 19.

~~Clause 16 (i) amended 7 September 1998~~

~~Clause 16 (i) (b) amended 7 September 1998~~

~~Clause 16 (ii) amended 7 September 1998~~

~~Clause 16 (iii) amended 7 September 1998~~

Clause 16 (iv) amended 7 September 1998

Additional Clause 16 (ii) subsequent clauses renumbered

Amended 7 February 2000

17. Giving notice of business

- (a) The Council must not transact business at a meeting of the Council:
 - (i) unless a Councillor has given notice of the business in writing by noon of the ~~Thursday~~ **Wednesday** immediately preceding the meeting; and
 - (ii) unless notice of business has been sent to the Councillors at least three days before the meeting, or in the event of an Extraordinary Meeting called in an emergency, at least one day.
- (b) Subclause 17(a) does not apply to the consideration of business at a meeting if the business:
 - (i) is already before, or directly relates to a matter that is already before, the Council; or
 - (ii) is the election of a Chairperson to preside at the meeting as provided by clause 11(c); or
 - (iii) is a matter or topic put to the meeting by the Chairperson in accordance with clause 19 (**a Mayoral Minute**); or
 - (iv) is a motion for the adoption of recommendations of a Committee of the Council.
- (c) Despite subclause 17(a), business may be transacted at a meeting of the Council even though due notice of the business has not been given to Councillors. However, this can happen only if:
 - (i) a motion is passed to have the business transacted at the meeting; and
 - (ii) the business proposed to be brought forward is ruled by the Chairperson to be of great urgency or ~~the business proposed to be brought forward~~ is considered to be of great urgency by a majority of Councillors present at the meeting. **Voting to be by show of hands.**

Such a motion can be moved without notice.

Clause 17 (iii) b amended 7 February 2000

- (d) Despite clause 28, only the mover of a motion referred to in subclause 17(c) can speak to the motion before it is put.

18. Agenda for Extraordinary Meeting

- (a) The General Manager must ensure that the agenda for an Extraordinary Meeting of the Council deals only with the matters stated in the notice of the meeting.

- (b) Despite subclause (a), business may be transacted at an Extraordinary Meeting of the Council even though due notice of the business has not been given to the Councillors.

However, this can happen only if:

- (i) a motion is passed to have the business transacted at the meeting; and
- (ii) the business proposed to be brought forward is ruled by the Chairperson to be of great urgency or ~~the business proposed to be brought forward~~ is considered to be of great urgency by a majority of Councillors present at the meeting.
- (iii) Such a motion can be moved without notice but only after the business notified in the agenda for the meeting has been disposed of:
- (c) Despite clause 28 relating to limitations as to number of speeches, only the mover of a motion referred to in subclause 18(b) can speak to the motion before it is put.

Clause 18 (i) amended 7 September 1998

Clause 18 (ii) amended 7 September 1998

Clause 18 (ii) b amended 7 February 2000

19. Mayoral Minutes

- (a) If the Mayor (or the Deputy Mayor, if acting for the Mayor) is the Chairperson at a meeting of a Council, the Chairperson is, by minute signed by the Chairperson, entitled to put to the meeting without notice any matter or topic that is within the jurisdiction of the Council or of which the Council has official knowledge.
- (b) Such a minute, when put to the meeting, takes precedence over all business on the Council's business paper for the meeting. The Chairperson (but only if the Chairperson is the Mayor, or the Deputy Mayor, if acting for the Mayor) may move the adoption of the minute without the motion being seconded.
- (c) A recommendation made in a minute of the Chairperson (being the Mayor, or Deputy Mayor if acting for the Mayor) or in a report made by a Council employee is, in so far as adopted by the Council, a resolution of the Council.

20. Report of a Department of Local Government representative to be tabled at Council meeting

- (a) When a report of a ~~Department~~ **Division** of Local Government representative has been presented to a meeting of the Council in accordance with section 433 of the Act, the Council must ensure that the report:
- (i) is laid on the table at that meeting; and
- (ii) is subsequently available for the information of Councillors and members of the public at all reasonable times.

21. Notice of motion – ~~absence of mover~~

- (a) In the absence of a Councillor who has placed a notice of motion on the agenda for a meeting of the Council:
 - (i) any other Councillor may move the motion at the meeting; or
 - (ii) the Chairperson may defer the motion until the next meeting of the Council at which the motion can be considered.

- (b) It is possible to advise the Council of an intention to put forward a motion that relates to a motion currently before the Council. However, the chairperson cannot accept the new motion until the first motion is decided.

~~Clause 21 amended 7 September 1998~~

22. Motions to be seconded

- (a) A motion or an amendment cannot be debated unless or until it has been seconded. However, the mover of a motion may be allowed by the Chairperson to speak to the motion before calling for the motion to be seconded. This clause is subject to clauses 19(b) and 28(e).

23. How subsequent amendments may be moved

- (a) If an amendment has been accepted or rejected, a further amendment can be moved to the motion in its original or amended form (as the case may be), and so on, but no more than one motion and one proposed amendment can be before the Council at any one time.
- (b) It is permissible to debate the motion and an amendment concurrently.
- (c) It is permissible during the debate on an amendment for a further amendment to be foreshadowed. However, any such foreshadowed amendment shall not be moved and debated until the amendment is dealt with.

- (d) Any amendment to a motion must not alter the motion to the extent that it effectively reverses the motion.

24. Motions of dissent

- (a) A Councillor can, without notice, move to dissent from the ruling of the Chairperson on a point of order. If that happens, the Chairperson must suspend the business before the meeting until a decision is made on the motion of dissent.
- (b) If a motion of dissent is carried, the Chairperson must proceed with the suspended business as though the ruling dissented from had not been given. If, as a result of the ruling, any motion or business has been discharged as out of order, the Chairperson

must restore the motion or business to the business paper and proceed with it in due course.

- (c) Despite clause 28, only the mover of a motion of dissent and the Chairperson can speak to the motion before it is put. The mover of the motion does not have a right of general reply. **It is then a matter for Councillors to decide by majority vote whether to carry the motion of dissent.**
- (d) **A motion of dissent does not require a seconder.**

25. Petitions may be presented to the Council

- (a) A Councillor may present a petition to the Council.
- (b) The Chairperson must not permit discussion on the petition.
- (c) The petition will be referred to the General Manager for appropriate action or referral to a future meeting of the Council.

26. Questions may be put to Councillors and Council employees

- (a) A Councillor:
 - (i) may, through the Chairperson, put a question to another Councillor; and
 - (ii) may, through the Chairperson and the General Manager, put a question to a Council employee.
- (b) However, a Councillor or Council employee to whom a question is put is entitled to be given reasonable notice of the question and, in particular, sufficient notice to enable reference to be made to other persons or to documents.
- (c) Any such question shall be put directly, succinctly, and without argument. The Chairperson shall at all times reserve the right to require the Councillor to submit the question in writing. The Chairperson shall also reserve the right to direct that the response in relation to such question be reported in writing to a future meeting of the Council.
- (d) The Chairperson must not permit discussion on any reply or refusal to reply to a question put to a Councillor or Council employee under this clause.
- (e) Nothing in this clause affects questions being asked, with the leave of the Chairperson, relevant to any matter under discussion at a meeting.

27. Mode of address

Councillors shall at all times address other Councillors by their official designation, for example, "Mr. Mayor", "Madam Mayor" or "Councillor Brown", as the case may be.

Amended June 2006

28. Limitation as to number of speeches

- (a) A Councillor who, during a debate at a meeting of the Council, moves an original motion has the right of general reply to all observations that are made by ~~another~~ Councillors during the debate in relation to the motion and to any amendment to it, as well as the right to speak on any such amendment.
- (b) A Councillor, other than the mover of an original motion, has the right to speak once on the motion and once on each amendment to the motion.
- (c) A Councillor must not, without the consent of the Council, speak more than once on a motion or an amendment, or for longer than five minutes at any one time. However, the Chairperson may permit a Councillor who claims to have been misrepresented or misunderstood to speak more than once on a motion or an amendment and for longer than five minutes on that motion or amendment to enable the Councillor to make a statement limited to explaining the misrepresentation or misunderstanding.
- (d) Despite subclauses 28(a) and 28(b), a Councillor may move that a motion or an amendment be now put:
 - (i) if the mover of the motion or amendment has spoken in favour of it and no Councillor expresses an intention to speak against it; or
 - (ii) if at least two Councillors have spoken in favour of the motion or amendment and at least two Councillors have spoken against it.
- (e) The Chairperson must immediately put to the vote, without debate, a motion moved under subclause 28(d). A seconder is not required for such a motion.
- (f) If a motion that ~~is~~ the original motion or an amendment be ~~now~~ put is passed, the Chairperson must, without further debate, put the original motion or amendment to the vote immediately after the mover of the original motion has exercised his or her right of reply under subclause 28(a).
- (g) If a motion that the original motion or an amendment be ~~now~~ put is rejected, the Chairperson must allow the debate on the original motion or amendment to be resumed.

29. Motions put with no or limited debate

- (a) When a motion has been moved and seconded, the Chairperson shall ask if the motion is to be opposed. If no opposition is indicated, then the Chairperson may put the motion, provided no Councillor exercises his or her right to speak under Clause 28(b).
- (b) If a motion is opposed, then the Mover shall speak first. Other speakers shall follow, and shall alternate for and against the motion. When that cycle of debate cannot proceed, the Chairperson may put the motion, provided no Councillor exercises his or her right to speak under Clause 28(b).

30. Voting at Council meetings

- (a) Each Councillor is entitled to one vote.
- (b) However, the Chairperson has, in the event of an equality of votes, a second or casting vote.
- (c) A Councillor who is present at a meeting of the Council but who fails to vote on a motion put to the meeting is taken to have voted against the motion. This subclause does not apply to a Councillor who does not vote because he or she has a pecuniary interest in the subject matter of the motion.
- (d) If a Councillor who has voted against a motion put at a Council meeting so requests, the General Manager must ensure that the Councillor's dissenting vote is recorded in the Council's minutes.
- (e) The decision of the Chairperson as to the result of a vote is final, unless the decision is immediately challenged and not fewer than two Councillors rise and demand a division.
- (f) When a division on a motion is demanded, the Chairperson must ensure that the division takes place immediately. The General Manager must ensure that the names of those who vote for the motion and those who vote against it are respectively recorded in the Council's minutes.
- ~~(g)~~ Voting at a Council Meeting including voting in an election at such a meeting is to be by open ~~means~~ **voting** (such as on the voices or by show of hands). ~~However,~~ **The Council may will** resolve that the voting in any election by Councillors for Mayor or Deputy Mayor is **in accordance with Schedule 7 of the Local Government (General) Regulation 2005.** ~~to be by secret ballot. Other elections shall be determined by an exhaustive open ballot procedure.~~

~~Clause 30 (v) amended 24 March 1997~~

~~Clause 30 (vii) inserted 24 March 1997~~

31. Representations by members of the public - closure of part of meeting

- (a) A representation at a Council Meeting by a member of the public as to whether part of a meeting should be closed to the public can only be made for a fixed period immediately after the motion to close part of the meeting is moved and seconded.
- (b) The period allowed in clause 31(a) shall be fixed by Council resolution when the matter is under consideration, having due regard to the different types of matters to be discussed or received and discussed at the closed part of the meeting.

~~Clause 31 inserted 7 September 1998 and subsequent clauses renumbered.~~

~~Clause 31 (ii) amended 7 February 2000.~~

32. Resolutions passed at closed meetings to be made public

If a Council passes a resolution during a meeting, or a part of a meeting, that is closed to the public, the Chairperson must make the resolution public as soon as practicable after the meeting or part of the meeting has ended.

33. Decisions of the Council

A decision supported by a majority of the votes at a meeting of the Council at which a quorum is present is a decision of the Council.

34. Rescinding or altering resolutions

- (a) A resolution passed by the Council may not be altered or rescinded except by a motion to that effect of which notice has been duly given in accordance with clause 17.
- (b) If it is proposed to move a further motion in the event that a rescission motion is carried, the required notice must also be given of the proposed further motion.
- (c) If a notice of motion to rescind or alter a resolution is given:
 - (i) at the meeting at which the resolution is carried, the resolution must not be carried into effect until the motion of rescission or alteration has been dealt with; or
 - (ii) at any time after the meeting at which the resolution is carried, no further action to carry the resolution into effect may be taken after receipt of the notice of motion until the motion of rescission or alteration has been dealt with.
- (d) In the case of a motion of alteration, subclause 34(c) applies only to the extent that the resolution of Council would be affected by the motion of alteration, if it is carried.
- (e) If a motion has been negated by the Council, a motion having the same effect must not be considered unless notice of it has been given in accordance with clause 17.
- (f) A notice of motion to alter or rescind a resolution, and a notice of motion which has the same effect as a motion which has been negated by the Council, must be signed by at least three (3) Councillors if less than three (3) months has elapsed since the resolution was passed, or the motion was negated, as the case may be.
- (g) A notice of motion to alter or rescind a resolution must be lodged in the following manner:
 - (i) In circumstances where the resolution of the Council has been carried, then the notice of motion to alter or rescind the resolution can be lodged at the Council meeting at which the resolution was carried; or
 - (ii) If a notice of motion to rescind a resolution relates to a Development Application it must be lodged with the General Manager by 5:00pm the next working day after the meeting at which the resolution was carried (to ensure compliance with clauses 102 (1) and (3) of the Environmental Planning and Assessment Regulation 2000).
 - (iii) In all other circumstances, the notice of motion to alter or rescind the resolution must be lodged with the General Manager within three months.
- (h) If a motion to alter or rescind a resolution has been negated, or if a motion which has the same effect as a previously negated motion, is negated, no similar motion may be

brought forward within three (3) months. This subclause may not be evaded by substituting a motion differently worded, but is in principle, the same.

- (i) A motion to which this clause applies may be moved on the report of a Committee of the Council and any such report must be recorded in the minutes.
- (j) The provisions of this clause concerning negated motions do not apply to motions of adjournment.

35. Motions of adjournment

- (a) Debate shall not be permitted on any motion for adjournment of a Council meeting.
- (b) If a motion for adjournment is negated, the business of the meeting shall proceed, and it shall not be in order for any Councillor to again move a motion for adjournment within half an hour of the previous motion for adjournment being negated.
- (c) A motion for adjournment may specify the time, date and place of the adjourned meeting; however, if a motion for adjournment is carried but does not specify the time, date and place of the adjourned meeting, the Chairperson shall make a determination with respect to whichever of these has not been specified. An adjourned meeting is a continuation of the same meeting, not a new meeting.

~~Amended June 2006~~

36. Committee of the Whole

- ~~• The Council may resolve itself into a Committee of the Whole to consider any matter before the Council.~~
- ~~• All the provisions of this Code relating to meetings of the Council, so far as they are applicable, extend to and govern the proceedings of a Committee of the Whole, except the provisions:
 - ~~▪ limiting the number and duration of speeches.; and~~
 - ~~▪ requiring Councillors to stand when speaking.~~~~
- ~~• The General Manager is responsible for reporting to the Council proceedings in a Committee of the Whole. It is not necessary to report the proceedings in full but any recommendations of the Committee must be reported.~~
- ~~• The Council must ensure that a report of the proceedings (including any recommendations of the Committee) is recorded in the Council's minutes. However, the Council is not taken to have adopted the report until a motion for adoption has been made and passed.~~

Variation of Meeting Procedures

- ~~(a) Practices and procedures outlined in this Code may be suspended in part or in whole in order to deal with a particular matter or item of business.~~

- ~~(b) Procedures shall be suspended by the Council carrying a resolution to “suspend standing order” (that is, procedures) to deal with a particular matter following which Standing Orders shall resume.~~
- ~~(c) Suspension of Standing Orders requires a motion to be moved and seconded to move into Committee of the Whole, if not already, at an Ordinary Council Meeting; and a subsequent motion to be moved and seconded to resume the Standing Orders. The motion shall be recorded in the Minutes of the meeting.~~

~~Clause 36 amended September 2009~~

- (a) During the course of a Council meeting, Council may resolve itself into a Committee of the Whole to consider any matter before the Council. That part of the Council meeting then becomes a committee meeting.
- (b) All the provisions of this Code relating to meetings of the Council extend to and govern the proceedings of a Committee of the Whole, except the provision limiting the number and duration of speeches.
- (c) To move into a Committee of the Whole, Council requires a motion to be moved and seconded; a subsequent motion is required to be moved and seconded to resume the Council meeting. The motions shall be recorded in the Minutes of the Council meeting.
- (d) The Committee of the Whole may not pass a Council resolution. It makes recommendations to Council. Once the Council meeting has resumed Council considers any recommendations made by the Committee.
- (e) AlburyCity has traditionally referred to the Committee of the Whole meeting procedures as “Standing Orders”.

PART 4 – KEEPING ORDER AT MEETINGS

37. Questions of order

- (a) The Chairperson, without the intervention of any other Councillor, may call any Councillor to order whenever, in the opinion of the Chairperson, it is necessary to do so.
- (b) A Councillor who claims that another Councillor has committed an act of disorder, or is out of order, may call the attention of the Chairperson to the matter.
- (c) The Chairperson must rule on a question of order immediately after it is raised but, before doing so, may invite the opinion of the Council.
- (d) The Chairperson's ruling must be obeyed unless a motion dissenting from the ruling is passed.

38. Acts of disorder

- (a) Councillor
 - (i) A Councillor commits an act of disorder if the Councillor, at a meeting of the Council or a Committee of the Council:
 - (1) contravenes the Act, any regulation in force under the Act, Council's Code of Conduct or this Code; or
 - (2) assaults or threatens to assault another Councillor or person present at the meeting; or
 - (3) moves or attempts to move a motion or an amendment that has an unlawful purpose or that deals with a matter that is outside the jurisdiction of the Council or Committee, or addresses or attempts to address the Council or Committee on such a motion, amendment or matter; or
 - (4) insults or makes personal reflections on or imputes improper motives to any other Councillor or person; or
 - (5) says or does anything that is inconsistent with maintaining order at the meeting or is likely to bring the Council or Committee into contempt; or
 - (6) reads at length from any correspondence, report or other document, without the leave of the Council.
 - (ii) The Chairperson may require a Councillor:
 - to apologise without reservation for an act of disorder referred to in subclause (i) (1) or (2); or
 - to withdraw a motion or an amendment referred to in subclause (i) (3) and, where appropriate, to apologise without reservation; or

- to retract and apologise without reservation for an act of disorder referred to in subclause (i) (4) or (5).
 - to cease immediately in the case of a breach of clause 38(i)(6).
- (iii) A Councillor may, as provided by clause ~~64~~ 60(d), be expelled from a meeting of the Council or Committee of the Council for having failed to comply with a requirement under Subclause (ii). The expulsion of a Councillor from the meeting by reason of Subclause (ii) does not prevent any other action from being taken against the Councillor for the act of disorder concerned.

~~Amended June 2006~~

(b) Members of the Public

- (i) A member of the public commits an act of disorder if that person, at a meeting of the Council or a Committee of the Council:
- contravenes the Act, any regulation in force under the Act or this Code; or
 - assaults or threatens to assault another person or Councillor present at the meeting; or
 - Addresses or attempts to address the Council or Committee on any matter, without the leave of Council; or
 - insults or makes personal reflections on or imputes improper motives to any Councillor or person; or
 - says or does anything that is inconsistent with maintaining order at the meeting or is likely to bring the Council or Committee into contempt; or
 - reads at length from any correspondence, report or other document, without the leave of the Council or Committee.

39. How disorder at a meeting may be dealt with

- (a) If disorder occurs at a meeting of the Council or Committee of the Council, the Chairperson may adjourn the meeting for a period of not more than 15 minutes and leave the chair. The Council, or Committee of the Council, on reassembling, must, on a question put from the chair, decide without debate whether the business is to be proceeded with or not. This subclause applies to disorder arising from the conduct of members of the public as well a disorder arising from the conduct of Councillors.
- (b) A member of the public may, as provided by clause ~~64~~ 60(d) be expelled from a meeting of the Council or Committee of the Council for engaging in or having engaged in disorderly conduct at the meeting.

- (c) A Councillor may, as provided by subclause 39(b), be expelled from a meeting of the Council or Committee of the Council for engaging in or having engaged in disorderly conduct at the meeting.

40. Power to remove persons from meeting after expulsion resolution

If a Councillor or a member of the public fails to leave the place where a meeting of the Council or Committee of the Council is being held:

- (a) Immediately after the Council or Committee of the Council has passed a resolution expelling the Councillor or member from the meeting; or
- (b) where the Council or Committee of the Council has authorised the person presiding at the meeting to exercise the power of expulsion, immediately after being directed by the person presiding to leave the meeting,

a police officer, or any person authorised for the purpose by the Council or person presiding, may, by using only such force as is necessary, remove the Councillor or member from that place, and, if necessary, restrain the Councillor or member from re-entering that place.

PART 5 – COUNCIL COMMITTEES

(Note: clause 41 – Committee of the Whole - has been revised and consolidated in clause 36 on page 23)

41. Council may appoint Committees under Clause 260 of the Regulation

- (a) The Council may appoint or elect such Committees by resolution as it considers necessary.
- (b) Such a Committee is to consist of the Mayor and such number of Councillors of the Council as the Council decides.
- (c) The quorum for a meeting of such a Committee is to be:
 - (i) ~~such~~ the number of members as the Council decides; or
 - (ii) if the Council has not decided a number - a majority of the members of the Committee.

Amended June 2006

42. Functions of Committees

The Council must specify the functions of each of its Committees when the Committee is appointed or elected, but may from time to time amend those functions.

43. Notice of Committee meetings to be given

- (a) The General Manager of the Council must send to each Councillor, at least three days before each meeting of the Committee, a notice specifying:
 - (i) the time and place at which and the date on which the meeting is to be held; and
 - (ii) the business proposed to be transacted at the meeting.
- (b) However, notice of less than three days may be given of a Committee meeting called in an emergency.
- (c) The provisions of clause 16 (b) to (e) ~~-(d)~~ apply to the agendas of Committee meetings in the same manner as they apply to the agendas of meetings of the Council.

Clause 44 (iii) amended 7 September 1998

44. Non-members entitled to attend Committee meetings

A Councillor who is not a member of a Committee of the Council is entitled to attend and speak at, but is not entitled to put business on the Committee's Agenda, move or second a motion at the meeting or vote ~~at a meeting of the Committee.~~

Amended June 2006

45. Meeting Procedure in Committees

- (a) Each Committee of the Council may regulate its own meeting procedure.
- (b) Without limiting subclause 46(a), a Committee of the Council may decide that, whenever the voting on a motion put to a meeting of the Committee is equal, the Chairperson of the Committee is to have a casting vote as well as an original vote.
- (c) **Voting at a Committee meeting is to be by open means, by a show of hands.**

46. Committees to keep minutes

- (a) Each Committee of a council must ensure that full and accurate minutes of the proceedings of its meetings are kept.
- (b) As soon as the minutes of an earlier meeting of a Committee of the council have been confirmed at a later meeting of the Committee, the person presiding at the later meeting must sign the minutes of the earlier meeting.

47. Chairperson of Committees

- (a) The Chairperson of each Committee of the Council, must be:
 - (i) the Mayor; or
 - (ii) if the Mayor does not wish to be the Chairperson of a Committee - a member of the Committee elected by the Council; or
 - (iii) if the Council does not elect such a member - a member of the Committee elected by the Committee.
- (b) The Council may elect a member of a Committee of the Council as Deputy Chairperson of the Committee. If the Council does not elect a Deputy Chairperson of such a Committee, the Committee may elect a Deputy Chairperson.
- (c) If neither the Chairperson nor the Deputy Chairperson of a Committee of the Council is able or willing to preside at a meeting of the Committee, the Committee must elect a member of the Committee to be acting Chairperson of the Committee.
- (d) The Chairperson is to preside at a meeting of a Committee of the Council. If the Chairperson is unable or unwilling to preside, the Deputy Chairperson (if any) is to preside at the meeting, but if neither the Chairperson nor the Deputy Chairperson is able or willing to preside, the acting Chairperson is to preside at the meeting.
- (e) The procedure for the election of Chairperson is in accordance with clause 11 (c) to (g).
- (f) The Mayor is, by virtue of holding that office, a member of each Committee of the Council.

48. Absence from Committee meetings

- (a) A member ceases to be a member of a Committee if the member (other than the Mayor);
 - (i) has been absent from three (3) consecutive meetings of the Committee without having given reasons acceptable to the Committee for the member's absences; or
 - (ii) has been absent from at least half of the meetings of the Committee held during the immediately preceding year without having given to the Committee acceptable reasons for the member's absences.
- (b) Subclause ~~49~~ 48(a) does not apply if all of the members of the Council are members of the Committee.

Note: The expression "year" means the period beginning 1 July and ending the following 30 June. See the Dictionary to the Act.

49. Reports of Committees

- (a) If in a report of a Committee of the Council distinct recommendations are made, the decision of the Council may be made separately on each recommendation.
- (b) The recommendations of a Committee of the Council are, in so far as adopted by the Council, resolutions of the Council.
- (c) If a Committee of a Council makes a recommendation to Council, during a meeting, or a part of a meeting, that is closed to the public, the Chairperson must:
 - (i) make the recommendation to Council public as soon as practicable after the meeting or part of the meeting has ended; and
 - (ii) report the recommendation to Council to the next meeting of the council.

Amended June 2006

50. Disorder in Committee meetings

The provisions of the Act, the Regulation and this Code relating to the maintenance of order in Council meetings apply to meetings of Committees of the Council in the same way as they apply to meetings of the Council.

51. Committee may expel certain persons from its meetings

- (a) If a meeting or part of a meeting of a Committee of the Council is closed to the public in accordance with clause ~~64~~ 60(b), any person who is not a Councillor may be expelled from the meeting as provided by clause ~~64~~ 60(d) of this Code.
- (b) If any such person, after being notified of a resolution or direction expelling him or her from the meeting, fails to leave the place where the meeting is being held, a police officer, or any person authorised for the purpose by the Council, Committee, or person presiding,

may, by using only such force as is necessary, remove the first-mentioned person from that place, and, if necessary, restrain that person from re-entering that place.

52. Council may appoint Committees under Section 355(b) and 376(2) of the Act

- (a) The Council may appoint or elect such Committees as it considers necessary. These Committees can contain persons who are not Councillors.
- (b) The Council must specify the functions of each of these Committees when the Committee is appointed or elected, but may from time to time amend these functions.
- (c) A Committee can exercise a Council's Regulatory function under Chapter 7 of the Act only if all its members are either Councillors or Council Employees.
- (d) These Committee meeting procedures will follow the principles outlined in this Code of Meeting Practice with one exception, that is, the meetings are closed to the public and media unless public access is resolved by Council.

Clause 53 Included June 2006

PART 6 – PECUNIARY INTERESTS AND NON-PECUNIARY INTERESTS

53. Pecuniary interest

- (a) For the purposes of this Part, 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 or another person with whom the person is associated as provided in clause ~~55~~ 54.
- (b) A person does not have a pecuniary interest in a matter if the interest is so remote or insignificant that it could not reasonably be regarded as likely to influence any decision the person might make in relation to a matter or if the interest is of a kind specified in clause ~~56~~ 55.

54. Persons who have a pecuniary interest

- (a) For the purposes of this Part, a person has a pecuniary interest in a matter if the pecuniary interest is the interest of:
 - (i) the person; or
 - (ii) another person with whom the person is associated.
- (b) A person is taken to have a pecuniary interest in a matter if:
 - (i) the person's spouse or de facto partner or a relative of the person has a pecuniary interest in the matter; or
 - (ii) the person, or a nominee, partner or employer of the person, is a member of a company or other body that has a pecuniary interest in the matter.
- (c) However, a person is not taken to have a pecuniary interest in a matter as referred to in clause ~~55~~ 54(b):
 - (i) if the person is unaware of the relevant pecuniary interest of the spouse, de facto partner, relative or company or other body; or
 - (ii) just because the person is a member of, or employed by, a Council or a statutory body or is a member of a company or other body that has a pecuniary interest in the matter if the person has no beneficial interest in any shares of the company or body.

55. Interests that need not be declared

The following interests do not need to be disclosed for the purposes of this Part:

- (a) an interest as an elector;
- (b) an interest as a ratepayer or a person liable to pay a charge;

- (c) an interest in any matter relating to the terms on which the provision of a service or the supply of goods or commodities is offered to the public or a section of the public that includes persons who are not subject to this Part;
- (d) an interest in any matter relating to the terms on which the provision of goods or commodities is offered to a relative of the person by the Council in the same manner and subject to the same conditions as apply to persons who are not subject to this Part;
- (e) an interest as a member of a club or other organisation or association, unless the interest is as a holder of an office in the club or organisation (whether remunerated or not);
- (f) an interest of a member of a Council Committee as a person chosen to represent the community or as a member of a non-profit organisation or other community or special interest group if the Committee member has been appointed to represent the organisation or group on the Committee;
- (g) an interest in a proposal relating to the making, amending, altering or repeal of an environmental planning instrument, other than an instrument that effects a change of permissible uses of:
 - (i) land in which the person has a pecuniary interest; or
 - (ii) land adjoining, or adjacent to, land referred to in paragraph (a); or
 - (iii) other land in proximity to land referred to in paragraph (a), if the change would affect the value of the land referred to in paragraph (a).
- (h) an interest relating to a contract, proposed contract or other matter if the interest arises only because of a beneficial interest in shares in a company that does not exceed 10 per cent of the voting rights in the company;
- (i) an interest of a person arising from the proposed making by the council of an agreement between the council and a corporation, association or partnership, being a corporation, association or partnership that has more than 25 members, if the interest arises because a relative of the person is a shareholder (but not a director) of the corporation or is a member (but not a member of the Committee) of the association or is a partner of the partnership;
- (j) an interest of a person arising from the making by the council of a contract or agreement with a relative of the person for or in relation to any of the following, but only if the proposed contract or agreement is similar in terms and conditions to such contracts and agreements as have been made, or as are proposed to be made, by the council in respect of similar matters with other residents of the area:
 - (i) the performance by the council at the expense of the relative of any work or service in connection with roads or sanitation;
 - (ii) security for damage to footpaths or roads;

- (iii) any other service to be rendered, or act to be done, by the council by or under any Act conferring functions on the council or by or under any contract;
- (k) an interest relating to the payment of fees to Councillors (including the Mayor and Deputy Mayor);
- (l) an interest relating to the payment of expenses and the provision of facilities to Councillors (including the Mayor and Deputy Mayor) in accordance with a policy under section 252 of the Act;
- (m) an interest relating to an election to the office of Mayor arising from the fact that a fee for the following 12 months has been determined for the office of Mayor;
- (n) an interest of a person arising from the passing for payment of a regular account for wages or salary of any employee who is a relative of the person;
- (o) an interest arising from being covered by, or a proposal to be covered by, indemnity insurance as Councillor or member of a council Committee;
- (p) an interest arising from appointment of a Councillor to a body as representative or delegate of the council, whether or not a fee or other recompense is payable to the representative or delegate.

56. Disclosure and participation in meetings

- (a) A Councillor or a member of a Council Committee who has a pecuniary interest in any matter with which the Council is concerned and who is present at a meeting of the Council or Committee at which the matter is being considered must disclose the interest *and the nature of the interest* to the meeting as soon as practicable.
- (b) A general notice of disclosure made pursuant to section 454 of the Act fulfils the requirement of subclause ~~57~~ 56(a).
- (c) The Councillor or member must not be present at, or in sight of, the meeting of the council or Committee:
 - (i) At any time during which the matter is being considered or discussed by the council or Committee, or
 - (ii) At any time during which the council or Committee is voting on any question in relation to the matter.

The Councillor is not counted for the purpose of a quorum for that matter.

- (d) A person who, at the request or with the consent of the Council or a Council Committee, gives advice on any matter at any meeting of the Council or Committee must disclose any pecuniary interest the person has in the matter to the meeting at the time the advice is given.

- (e) A person does not breach this clause if the person did not know and could not reasonably be expected to have known that the matter under consideration at the meeting was a matter in which he or she had a pecuniary interest.

Note: Section 458 of the Act provides that the Minister may in certain circumstances allow a Councillor or a member of a Committee of a Council who has a pecuniary interest to take part in the consideration or discussion of a matter or vote on a matter.

Amended June 2006

57. Disclosures to be recorded

A disclosure made at a meeting of the Council or Council Committee must be recorded in the minutes of the meeting.

Amended May 2001 Clauses included (from Section 448 part (d), (h), (l), (j), (k), (l), (m), (n), (o) and (p) (Local Government Act)

Amended May 2001 Clauses included (from Section 451 part (2) (a) & (b) (Local Government Act)

Amended May 2001 56 Section (iii) (iv) (v), Section 57, also Section 59 (removed from ACC document, then renumbered).

58. Non-Pecuniary Conflict of Interest

- (a) Where practical, Councillors should advise the Chairperson in writing of this conflict at the beginning of the meeting (a standard form is available).
- (b) If a conflict arises during a Council or Committee Meeting, Councillors must inform the meeting of the interest. Depending upon the nature of the conflict, the Councillor needs to decide whether or not to participate in consideration of, or voting on the matter.
- (c) **To comply with clauses 4.12 to 4.19 of Council's adopted Model Code of Conduct March 2013, non-pecuniary conflict of interests should be declared based on the following:**
- (i) **If the Councillor decides the conflict is "significant", the Councillor must declare a non-pecuniary interest, not be eligible to vote, and leave the Chamber;**
- (ii) **If the Councillor decides the conflict is "less than significant", the Councillor must declare a non-pecuniary interest, and determine their action.**
- ~~(d) Where a Councillor decides not to vote on an issue because of a non pecuniary conflict of interest, the Councillor must leave the room at the time the vote is taken, otherwise the Councillor will be taken as having voted against the motion.~~
- (e) the disclosure of a conflict must be recorded in the minutes of the meeting.

Clause 59 Included June 2006

PART 7 – MEDIA AND PUBLIC

59. Public Notice of Meetings

- (a) The Council must give notice to the media and public of the times, dates and places of its meetings and meetings of those of its Committees of which all the members are Councillors.
- (b) The Council and each such Committee must have available for the media and public at its offices and at each meeting copies (for inspection and taking away by persons) of the agenda for the meeting. This requirement does not apply to the agenda for a matter that, in the opinion of the General Manager, is likely to be considered when the meeting is closed to the media and public.
- (c) The copies are to be available to the media and public as nearly as possible to the time they are available to Councillors.
- (d) The copies are to be available free of charge.

~~Clause 60 (ii) amended 7 September 1998~~

~~Amended June 2006~~

60. Attendance at meetings of the Council

- (a) The media and public are entitled to attend Ordinary and Extraordinary Meetings of the Council and Meetings of Special Committees, except as provided by this clause.
- (b) The Council or such a Committee may close to the media and public only so much of its meeting as comprises the receipt or discussion of any of the following:
 - (i) personnel matters concerning particular individuals (other than Councillors);
 - (ii) the personal hardship of any resident or ratepayer;
 - (iii) Information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business;
 - (iv) commercial information of a confidential nature that would, if disclosed
 - prejudice the commercial position of the person who supplied it, or
 - confer a commercial advantage on a competitor of the Council, or
 - reveal a trade secret;
 - (v) advice concerning litigation; or advice which would otherwise be privileged from production in legal proceedings on the grounds of legal professional privilege;

- (vi) information the disclosure of which would prejudice the maintenance of law;
- (vii) matters affecting the security of the Council, Councillors, Council staff or Council property;
- (viii) information concerning the nature and location of a place or an item of Aboriginal significance on community land.

A motion to close the meeting to the public is required.

A Council, or a Committee of the Council of which all the members are Councillors, may also close to the public so much of its meeting as comprises a motion to close another part of the meeting to the public.

A Council, or a Committee of a Council, may allow members of the public to make representations to or at a meeting, before any part of the meeting is closed to the public, as to whether that part of the meeting should be closed.

- (c) The grounds on which a meeting is closed must be specified in the decision to close the meeting and recorded in the minutes of the meeting. The grounds must specify the following:
 - (i) the relevant provision of clause ~~64~~ 60(b) (i-viii);
 - (ii) the matter that is to be discussed during the closed part of the meeting;
 - (iii) the reasons why the part of the meeting is being closed, including (if the matter concerned is a matter other than a personnel matter concerning particular individuals, the personal hardship of a resident or ratepayer or a trade secret) an explanation of the way in which the discussion of the matter in an open meeting would be, on balance, contrary to the public interest.
- (d) A person (whether a Councillor or another person) is not entitled to be present at a meeting if expelled from the meeting:
 - (i) by a resolution of the meeting; or
 - (ii) by the person presiding at the meeting, if the Council has, by resolution, authorised the person presiding to exercise the power of expulsion.
- (e) Nothing in this clause prevents any limitation being placed on the number of members of the public admitted to a meeting of the Council or a Committee of the Council, provided such limitation is for reason of safety or security.

Clause 61 (ii) (c) amended 7 September 1998

Clause 61 (ii) (d) amended 7 September 1998

Clause 61 (ii) (e) amended 7 September 1998

Amended June 2006

Clause 61 (b) (i) amended September 2009

Clause 61 (b) (viii) amended September 2009

61. Public access to correspondence and reports

- (a) The Council and a Committee of which all the members are Councillors must, during or at the close of a meeting, or during the business day following the meeting, give reasonable access to any person to inspect correspondence and reports laid on the table at, or submitted to, the meeting.
- (b) This clause does not apply if the correspondence or reports:
 - (i) relate to a matter that was received or discussed; or
 - (ii) were laid on the table at, or submitted to, the meeting, when the meeting was closed to the public.

PART 8 – MISCELLANEOUS

62. Information relating to proceedings at closed meetings not to be disclosed

- (a) A person must not disclose any information obtained in connection with the administration or execution of the *Local Government Act 1993* unless that disclosure is made:
 - (i) with the consent of the person from whom the information was obtained; or
 - (ii) in connection with the administration or execution of the *Local Government Act 1993*; or
 - (iii) for the purposes of any legal proceedings arising out of the *Local Government Act 1993* or of any report of any such proceedings; or
 - (iv) in accordance with a requirement imposed under the Ombudsman Act 1974, ~~or the Freedom of Information Act 1989~~ *Public Information (Public Access) Act 2009, the Health Records and Information Privacy Act 2002 and the Privacy and Personal Information Protection Act 1998*; or
 - (v) with other lawful excuse.
- (b) If a meeting or part of a meeting of the Council or a Committee of the Council is closed to the public in accordance with clause ~~64~~ 60(b), a person must not, without the authority of the Council or the Committee, disclose, otherwise than to the Council or to a Councillor, information with respect to the discussion at, or the business of, the meeting.
- (c) Subclause (b) does not apply to:
 - (i) the report of a Committee of the Council when presented to the Council; or
 - (ii) disclosure made in any of the circumstances referred to in subclause (i); or
 - (iii) disclosure made in circumstances prescribed by the regulations.
- (d) For the purpose of subclause ~~63~~ 62(c) (iii), any disclosure made with the intention of enabling the Minister or the Director-General to properly exercise the functions conferred or imposed on them by or under the *Local Government Act 1993* is a prescribed circumstance.

63. Inspection of the minutes of the Council or a Committee

- (a) Any inspection of the minutes of the Council or Committee of the Council is to be carried out under the supervision of the General Manager or an employee of the Council designated by the General Manager to supervise inspections of those minutes.

- (b) The General Manager must ensure that the minutes of the Council and any minutes of a Committee of the Council are kept secure and in safe custody and that no unauthorised person is allowed to interfere with them.

Note: Section 12 of the Act confers a right to inspect the minutes of a Council or Committee of a Council.

64. Access to records

- (a) The General Manager may allow or refuse to allow any Councillor to inspect any record of the Council that the Councillor requests to see.
- (b) If the General Manager refuses to allow a Councillor to inspect any such record, the Councillor may, at a meeting of the Council, move for the production of the document. However, the Councillor must give notice of intention to move the motion.
- (c) If the Council passes a motion for the production of a Council record, the Council must ensure that the record:
 - (i) is produced immediately and laid on the table for inspection by the Councillors; and
 - (ii) is made available for inspection by any Councillor on reasonable notice to the General Manager during the Council's ordinary office hours on any day that is within one (1) month after the passing of the motion.
- (d) Nothing in this clause derogates from the common law right of Councillors to inspect any record of the Council relating to any business before the Council, except where the Councillor requesting inspection has a pecuniary interest in the matter.

Clause 65 (i) amended 7 September 1998

Clause 65 (ii) amended 7 September 1998

65. Recording of any meeting of the Council or a Committee is prohibited without prior permission

- (a) A person may use ~~an tape recorder~~ **electronic recording device** to record the proceedings of a meeting of the Council or a Committee of a Council only with the authority of the Council or Committee.
- (b) A person may, as provided by clause ~~64~~ **60**(d), be expelled from a meeting of the Council or a Committee of the Council for using or having used ~~an tape recorder~~ **electronic recording device** in contravention of this clause.
- (c) If any such person, after being notified of such a resolution, fails to leave the place where the meeting is being held, a police officer, or any person authorised by the Council for the purpose, may remove the person from, and if necessary, restrain the person from re-entering, that place.

- (d) In this clause, ~~tape recorder~~ **an electronic recording device** includes ~~a video camera, and~~ any electronic device capable of recording **images and/or** speech. ~~whether a magnetic tape is used to record or not.~~
- (e) A person may use a camera to record still photographs of the proceedings of a meeting of the Council or a Committee of Council only with the authority of the Council or Committee.
- (f) Council will ~~tape~~ record all Council and Committee Meetings for its own records unless the Council resolves to not **record** ~~tape~~ the proceedings. The Chair of the meeting will advise those present that the meeting is being **recorded** ~~taped~~ for administrative purposes.

Addition June 2006

Clause 66 (e) added September 2009

- (g) **Audio recordings of Council and Council Committee meetings are made by Council staff for the purpose of:**
 - (i) **Assisting in the preparation of Minutes;**
 - (ii) **Ensuring decisions are accurately recorded; and**
 - (iii) **Verifying the accuracy of Minutes prior to their confirmation.**
- (h) **Audio recordings of Council and Committee meetings will not be released without the express permission of the General Manager.**

66. Certain circumstances do not invalidate Council decisions

Proceedings at a meeting of the Council or a Council Committee are not invalidated because of:

- (a) a vacancy in a civic office; or
- (b) a failure to give notice of the meeting to any Councillor or a Committee member; or
- (c) any defect in the election or appointment of a Councillor or a Committee member; or
- (d) a failure of a Councillor or a Committee member to disclose a pecuniary interest at a Council or a Committee meeting; or
- (e) a failure to comply with this Code.

67. Amendment of Code

This Code may be amended only in accordance with the provisions of Division 1 of Part 2 of Chapter 12 of the Act.

68. ~~Matters without~~ Notice of Urgent Business

- (a) At meetings of the Council the order of business shall include a provision for Councillors to raise **urgent** matters of which no notice has been given in accordance with the other provisions of the Code.
- (b) Such business shall be limited to the following:-
 - (i) Requests for officers to prepare reports or provide information on a particular subject;
 - (ii) To inform the Council of specific matters and issues of importance.
- (c) In all cases a Councillor wishing to raise an **urgent** matter without notice shall inform the Mayor to that effect prior to the meeting.
- ~~(d) It is not intended that these matters will require consideration and/or resolution by Council. Such matters of urgency would be dealt with in accordance with Clause 17(c)(ii).~~

~~Clause 69 added 15 March 1999~~

69. General order of business for Council and Committee Meetings

1. Opening Prayer **and acknowledgement of original custodians of our land**
2. Conflict of Interest Declarations received by the Chair
3. Declarations and Disclosures regarding political donations
4. Advise that the meeting is being ~~taped~~ **recorded** for administrative purposes
5. Apologies
6. Mayoral Minute(s)
7. Action Plan/s (for Council Meetings only)
8. Confirmation of Minutes of Previous Meetings
9. Reports from Council Committees
- 10. Reports from Community Forums**
11. Matters Arising from the Minutes (for Committee Meetings only)
12. Notices of Motion
13. Notices of Motion of Rescission
14. Presentations and Deputations
15. Reports/Minutes of Committees and Working Parties
16. Documents for Sealing
17. Officer's Reports for Consideration

- 18. Officer's Reports for Noting
- 19. **Delegates Reports for Noting**
- 20. ~~Matters Without Notice of Urgent Business~~
- 21. **Confidential** Matters (~~Committee of the Whole~~)

Item 13 added 15 March 1999

Item 2 and 3 added and Items 6, 8, 12, 14 and 15 amended June 2006

Revised March 1999

Revised February 2000 in accordance with Section 361 of the Local Government Act 1993

Revised May 2001 in accordance with the Local Government Act

Revised June 2006 in accordance with the Local Government Act and the Department of Local Government Meetings Practice Note

Revised September 2007 – change of Committee structure

Revised November 2008 – change of Committee structure

Revised September 2009

AUTHORISATION

Status	Committee	Draft Finance & Administration Committee Meeting on Monday 21 September 2009
	Manex	Manex – 15 July 2008
	Council	Ratified at the Council Meeting on October 2008 Draft Ratified at the Council Meeting on 28 September 2009 for Public Exhibition Ratified at the Council Meeting on 21 December 2009.
Owner	Corporate Services - Governance	
Compliance	Mandatory	
History	<p>Adopted on 24 April 1995</p> <p><i>Revised March 1999</i></p> <p><i>Revised February 2000 – Adopted 17 April 2000</i></p> <p><i>Revised May 2001 – Adopted 12 June 2001</i></p> <p><i>Revised February 2004 – Adopted at ECM 7 February 2005</i></p> <p><i>Revised July 2006 – Adopted 9 October 2006</i></p> <p><i>Revised September 2007</i></p> <p><i>Revised October 2008</i></p> <p><i>Revised 23 March 2009 to accurately reflect the Local Government Act 1993</i></p> <p>Revised Draft to Finance & Administration Committee Meeting – Monday 21 September 2009, changes adopted Council Meeting Monday 28 September 2009.</p>	
Register	This policy is included in the Public Policy and Procedure Register.	
Last issued 22 December 2009	Review	Code of Meeting Practice is reviewed within the first 12 months of a new Council, or as required.
TRIM REFERENCE DOC13/89680		

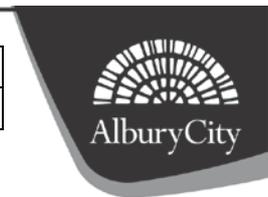
ATTACHMENT TO FAC 6C – 10/2013

**DRAFT INTERNAL REPORTING PUBLIC
INTEREST DISCLOSURES**

ATTACHMENT 1

*Draft Internal Reporting – Public Interest Disclosures
Policy*

POLICY NAME	Internal Reporting – Public Interest Disclosures Policy
DIRECTORATE	Corporate Services - Governance



PURPOSE

The purpose of this policy is to state Council's commitment to the aims and objectives of the *Public Interest Disclosures Act 1994* (PID Act) ~~formerly the *Protected Disclosures Act 1994*~~.

This policy is strongly endorsed by the Mayor and the General Manager and conforms with Council's Code of Conduct.

Council recognises the value and importance of individual staff contributions to administrative and management practices and high standards of ethical and accountable conduct. Council will not tolerate any form of wrongdoing and strongly supports reporting of serious wrongdoing - corrupt conduct, maladministration, serious and substantial waste of public money, government information contravention, and local government pecuniary interest contravention.

Council will take all reasonable steps to provide support and protection to staff from any detrimental action in reprisal for making a disclosure. Council acknowledges that Council Officers who come forward and report wrongdoing are helping to promote integrity, accountability and good management within the organisation.

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

Council will meet its annual and six-monthly reporting obligations to Parliament and the NSW Ombudsman in accordance with the Regulations.

SCOPE

This policy and the associated procedure are based on the NSW Ombudsman's Guidelines ~~June 2011~~ ~~July 2013~~. The policy ~~covers~~ **applies to** all Council Officers: Councillors, members of staff including permanent and temporary employees, full-time, part-time and casual employees, consultants, volunteers, individual contractors working for Council and external members of Council Committees.

It is designed to complement normal communication channels between supervisors and staff. It is not intended that all issues must be raised as public interest disclosures rather that an option to do so is clearly available.

CONTENT

This policy and the associated procedure provide a reporting system for all Council Officers to make disclosures internally; ensure that disclosures are properly and appropriately assessed, dealt with and acted upon; and provide protection from detrimental/reprisal action.

AUTHORISATION

Status	Committee	Strategy & Finance Committee - February 2007 Consultative Committee – October 2010 Finance & Administration Committee – October 2010 Consultative Committee – October 2011 Finance & Administration Committee – November 2011 Finance and Administration Committee – February 2012
	Manex	19 December 2006. Review 5 October 2010. Review 14 September 2011.
	Council	New policy adopted April 1997 Review adopted February 2007 Review adopted October 2010 Review adopted October 2011 Review adopted November 2011 Minutes of the Finance & Administration Committee were ratified at the Council Meeting – 27 February 2012.
Owner	Corporate Services - Governance	
Compliance	Mandatory	
History	This revised Policy supersedes any previous policy adopted by Council.	
Other	<p>This policy has a procedure attached, and is included in the AlburyCity Public Policy and Procedure Register and is related to the:</p> <p>WHS Management Statement Policy and Procedure Code of Conduct Equal Employment Opportunity Policy and Procedure Bullying and Harassment Procedure Disciplinary Policy and Procedure Employee Grievance Policy and Procedure Child Protection Policy and Procedure Complaints Management Policy and Procedure Fraud Recognition and Control Policy Grievance and Dispute Policy and Procedure Internal Investigation Policy and Procedure Purchasing and Tendering Policy.</p>	
Last issued: March 2012		Review: July 2015 or as required by legislation.
TRIM REFERENCE DOC12/15602		

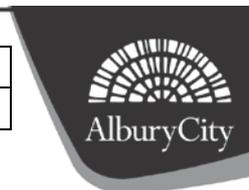
ATTACHMENT TO FAC 6C – 10/2013

**DRAFT INTERNAL REPORTING PUBLIC
INTEREST DISCLOSURES**

ATTACHMENT 2

*Draft Internal Reporting – Public Interest Disclosures
Procedure*

PROCEDURE NAME	Internal Reporting – Public Interest Disclosures
DIRECTORATE	Corporate Services - Governance



1. PURPOSE

The *Public Interest Disclosures Act 1994 (PID Act)* ~~formerly the *Protected Disclosures Act 1994*~~ encourages and facilitates the disclosure of corrupt conduct, maladministration, serious and substantial waste of local government money, government information contravention, and local government pecuniary interest contravention. This is done by improving established procedures for making disclosures, protecting people from reprisals and ensuring that disclosures are properly investigated.

The Internal Reporting – Public Interest Disclosures Procedure provides a system for reporting such disclosures by Council Officers and should be read in conjunction with Council’s Code of Conduct as well as other policies and procedures referenced in Section 18 of this document.

2. SCOPE

This procedure enables internal disclosures to be made by Council Officers to the General Manager, the Director Corporate Services (the Disclosure Coordinator), the Mayor or Nominated Disclosure Officers (Directors).

3. DEFINITIONS

Council Officers (also known as Public Officials): Councillors, members of staff including permanent and temporary employees, full-time, part-time and casual employees, consultants, volunteers, individual contractors working for Council and external members of Council Committees.

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 public interest disclosures and according to Council’s Internal Reporting – Public Interest Disclosures Policy.

a. Corrupt Conduct

Corrupt conduct is defined in sections 7, 8 and 9 of the *Independent Commission Against Corruption Act 1988 (ICAC Act)*. The definition provided in these sections is intentionally broad. Corrupt conduct includes the dishonest or partial exercise of official functions by a public official. The 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.

Some examples are:

- 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 Council Officer to use their position in a way that is dishonest, biased or breaches public trust.

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

c. Serious and Substantial Waste in Local Government

Serious and substantial waste refers to the uneconomical, inefficient or ineffective use of resources, authorised or unauthorised, 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:

- Poor project management practices leading to projects running over time.
- Having poor 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 should 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, but is not limited to:

- Intentionally overlooking documents that are clearly covered by an access application
- Destroying, concealing or altering records to prevent them from being released
- Knowingly making decisions that are contrary to the GIPA Act
- Directing another person to make a decision that is contrary to the GIPA Act.

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

f. Other Wrongdoing

Although reports about the previous categories of conduct can attract the specific protections of the *PID Act*, all activities or incidents believed to be wrong should be reported.

The types of issues that should be reported to a supervisor in line with Council's policies include:

- Workplace disputes.
- Harassment, bullying complaints or unlawful discrimination.
- Reprisal action against a person who has reported wrongdoing.
- Practices that endanger the health or safety of Council Officers or the public.

Even if these reports are not dealt with as public interest disclosures, Council will consider each matter and make every attempt to protect the Council Officer making the report from any form of reprisal. (Refer to [AlburyCity Policies and Procedures on page 13 of this document](#)).

4. WHEN WILL A REPORT BE PROTECTED?

Council will support Council Officers who report wrongdoing. For a report to be considered a public interest disclosure, it has to meet all 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 person or position nominated in this policy – see Section 8,
 - The General Manager,
 - One of the investigating authorities nominated in the *PID Act* – see Section 17.

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

- mostly question the merits of government policy including any formal policy adopted by resolution of Council (such policies are included in the AlburyCity Public Policy and Procedures Register), or
- are made with the sole or substantial motive of avoiding dismissal or other disciplinary action.

5. HOW TO MAKE A REPORT (Refer to Appendix A)

Reports can be made in writing or verbally. However, it is preferable to make a report in writing as this can help to avoid any confusion or misinterpretation. If the report is made verbally the person receiving the disclosure should make a comprehensive record of the disclosure and request that the person sign the record. The Council Officer shall keep a copy of this record.

Where a person contemplating making a disclosure is concerned about being seen to be making a report, ask to meet in a discreet location away from the workplace, and/or after business hours.

6. CAN A REPORT BE ANONYMOUS?

There will be some situations where a person may not want to identify themselves when a report is made. Although these reports will still be dealt with, it is best if the person identifies themselves. This allows Council to provide 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 the person being identified. If it is not known who made the report, it is very difficult to prevent any reprisal action.

7. MAINTAINING CONFIDENTIALITY

Council realises many officers will want their report to remain confidential. This can help to prevent any action being taken against a Council Officer for reporting wrongdoing. Council is committed to keeping the person's identity, and the fact a wrongdoing has been reported, confidential. However there may be situations where this may not be possible or appropriate. This will be discussed with the person who lodges the report.

If confidentiality cannot be maintained, a plan will be developed to support and protect the person lodging the report from risks of reprisal. The person making the report will be involved in developing this plan. The person will also be told that if the report will be dealt with under Council's Code of Conduct, as this may mean certain information will have to be tabled at a Council meeting.

If a report of wrongdoing is lodged it should only be discussed with those dealing with it. This will include the Disclosures Coordinator and the General Manager. **In the case of a report about the General Manager, it should only be discussed with the Disclosures Coordinator and the Mayor. Where the complaint is made under Council's Code of Conduct and relates to the General Manager or a Councillor, it may be necessary to discuss it with a conduct reviewer.** If the report is discussed more broadly it may affect the outcome of any investigation.

8. WHO CAN RECEIVE A REPORT WITHIN COUNCIL?

Council encourages reports of general wrongdoing to be made to the staff member's supervisor. However, the *PID Act* requires that – for a report to be a public interest disclosure – it must be made to a public official in accordance with the organisation's disclosure procedures. For Council, this means the Internal Reporting Policy and this supporting procedure.

Any supervisor who receives a report that they believe may be a public interest disclosure must refer the Council Officer making the report to one of the positions listed below.

If a Council Officer makes a report which involves a Councillor, the report should be made to the General Manager or the Mayor. If a Councillor is making a report of wrongdoing about another Councillor, it should be reported to the General Manager or the Mayor.

The following positions are the only officers within Council who can receive a public interest disclosure:

a. General Manager

A report of wrongdoing can be made directly to the General Manager who 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 to support and protect Council Officers who report wrongdoing. They are also responsible for referring actual or suspected corrupt conduct to the *Independent Commission Against Corruption*.

Disclosures may be made directly to the General Manager, Executive Services, 3rd Floor, 02 6023 8270.

b. Mayor

If a report of wrongdoing is about the General Manager, the report should be made to the Mayor, who 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 Mayor must make sure there are systems in place in Council to support and protect Council Officers 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. Contact the Mayor, Executive Services, 3rd Floor, 02 6023 8106.

c. Disclosures Coordinator

The Disclosures Coordinator has a central role in dealing with reports made by Council Officers. They receive the reports, assess them, and refer them to the people within Council who can deal with them appropriately. The Disclosures Coordinator is the Director Corporate Services, 2nd Floor, 02 6023 8150.

The Disclosures Coordinator is also responsible for preparing the six-monthly and annual reports to parliament and the NSW Ombudsman.

If the disclosure report is about the Director of Corporate Services, the General Manager will undertake the role of Disclosures Coordinator in that instance.

d. Disclosures Officers

Disclosures Officers are responsible for receiving, forwarding and/or dealing with reports made in accordance with this procedure. Contact:

- Director Engineering, 1st Floor, 02 6023 8747.
- Director Planning and Environment, 1st Floor, 02 6023 8289.
- Director Community and Recreation, 1st Floor, 02 6023 8145.
- Director Economic Development and Tourism, 1st Floor, 02 6023 8276
- Director Corporate Services, 2nd Floor, 02 6023 8150.

9. WHO CAN RECEIVE A REPORT OUTSIDE OF COUNCIL?

Council Officers are encouraged to report wrongdoing within Council, but internal reporting is not the only option. A report can still be a public interest disclosure, if the guidance below is followed.

A report can be made to an investigating authority. This can be done first, or at any stage after the initial report to Council. If the report is about the General Manager or the Mayor, you should consider making it to an investigating authority.

A report can also be made 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 to which Council Officers can report wrongdoing. The *PID Act* also lists the categories of wrongdoing that can be dealt with by each Authority.

In relation to Council, these authorities are:

- 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 disclosures about local government agencies.
- The ICAC Inspector - for disclosures about the ICAC or its staff.
- The Information Commissioner – for disclosures about a government information contravention.

Contact the relevant authority for advice about how to make a disclosure. Contact details for each investigating authority are provided in Section 17 of this document.

Council Officers should be aware that it is very likely the investigating authority will discuss the case with Council. Every effort will be made to assist and cooperate with the investigating authority to ensure the matter is dealt with appropriately and there is a satisfactory outcome. Appropriate support and assistance will be provided to Council Officers who report wrongdoing to an investigating authority.

b. Members of Parliament or Journalists

To have the protections of the *PID Act*, Council Officers reporting wrongdoing to a Member of Parliament or a journalist must have already made substantially the same report to one of the following:

- The General Manager.
- A person nominated in this policy.
- An investigating authority in accordance with the *PID Act*.

Also, the Council Officer or the 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 is to be investigated.

Most importantly – to be protected under the *PID Act* - the person making the report of wrongdoing to an MP or journalist must have reasonable grounds to prove that the disclosure is substantially true – and that it is in fact substantially true.

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

For more information about reporting wrongdoing outside Council, contact the Disclosures Coordinator, Director of Corporate Services, 2nd Floor, 02 6023 8150 or the NSW Ombudsman's Public Interest Disclosures Unit. See Section 17 for contact details.

10. FEEDBACK TO COUNCIL OFFICERS WHO REPORT WRONGDOING

Council Officers who report wrongdoing will be told what is happening in response to their report. When a report is made, the Council Officer will be given:

- An acknowledgement that the disclosure has been received.
- The timeframe for when further updates will be received.
- The name and contact details of the people who will be able to advise what is happening.

The *PID Act* requires that an acknowledgement letter and a copy of the Internal Reporting – Public Interest Disclosures Policy and Procedure be provided within 45 days after the report is made. Every attempt will be made to provide this information within five working days from the date the report is received.

After a decision is made about how the report will be dealt with, the Council Officer will be given:

- Information about the action that will be taken in response to the report.
- Likely timeframes for any investigation.
- Information about the resources available within Council to handle any concerns.
- Information about external agencies and services that can be accessed for support.

This information will be provided within 10 working days from the date of the report.

During an investigation, the Council Officer will be given:

- Information on the ongoing nature of the investigation.
- Information about the progress of the investigations and reasons for any delay.
- Advice if the Council Officer's identity needs to be disclosed for the purposes of investigating the matter, and an opportunity talk about it.

At the end of any investigation, the Council Officer will be given:

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

Within six months of a disclosure being made, the Council Officer must be notified whether or not the matter is to be investigated and what action has been taken, or will be taken.

Behaviour of all people involved in the PID process needs to adhere to Council's Code of Conduct. A breach of the Code of Conduct could result in disciplinary action.

11. PROTECTION AGAINST REPRISALS

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

Council will not tolerate any reprisal action against Council Officers who report wrongdoing. The criminal penalties that can be imposed for reprisal action include imprisonment or fines. Detrimental action is also misconduct that justifies disciplinary action. People who take detrimental action against a person, who has made a disclosure, can also be required to pay damages for any loss suffered by that person.

Note - Detrimental action includes action that occurs through social networking.

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; and
- disciplinary proceedings.

a. Responding to Reprisals

Council will act to protect those who report wrongdoing from reprisals.

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

If a Council Officer believes that detrimental action has been or is being taken against them or someone else who has reported wrongdoing, they should tell their supervisor, the Disclosures Coordinator or the General Manager immediately.

All supervisors must report any suspicions they have that reprisal action against a Council Officer is occurring, or any reports that are made to them, to the Disclosures Coordinator or the General Manager.

If the Disclosures Coordinator 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.
- Give the results of that investigation to the Mayor for a decision if the allegation of reprisal action is about the General Manager.
- 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 Council Officer 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.

If a Council Officer reports reprisal action, that Council Officer 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. If the allegation of reprisal action is about the General Manager, the Mayor may issue similar directions. These may include:

- issuing warnings to those alleged to have taken reprisal action against the Council Officer who made the disclosure,
- relocating the Council Officer who made the disclosure or the subject officer within the current workplace,
- transferring the Council Officer who made the disclosure or the subject officer to another position for which they are qualified, and
- granting the Council Officer 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 Council Officer who made the disclosure agrees. The Disclosures Coordinator will make it clear to other officers that this action was taken in consultation with the Council Officer and with management support – and it is not a punishment.

If a Council Officer has reported wrongdoing and feels that any reprisal action is not being dealt with effectively, contact the Ombudsman or the ICAC – depending on the type of wrongdoing reported. Contact details for all these investigating authorities are included in Section 17.

b. Protection against Legal Action

If a Council Officer makes a disclosure in accordance with the *PID Act*, they will not be subject to any liability and no action, claim or demand can be taken against them for making the disclosure. The Council Officer will not have breached any confidentiality or secrecy obligations and will have the defence of absolute privilege in defamation.

12. SUPPORT FOR THOSE REPORTING WRONGDOING

Council will make sure that all officers who have reported wrongdoing, regardless of whether they have made a public interest 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 or career advice.

Council has staff who will support those who report wrongdoing. They are responsible for initiating and coordinating support, particularly for those who are suffering any form of reprisal. More information and contact details for support officers can be obtained from the Disclosures Coordinator.

All supervisors must notify the Disclosures Coordinator if they believe a Council Officer is suffering any detrimental action as a result of disclosing wrongdoing.

13. SANCTIONS FOR MAKING FALSE OR MISLEADING DISCLOSURES

It is important that all officers are aware that it is a criminal offence under the *PID Act* to wilfully make a false or misleading statement or attempt to mislead, when reporting wrongdoing. ~~The maximum penalty is \$5,500 or imprisonment for 12 months, or both.~~

It may also be a breach of Council's Code of Conduct and may result in disciplinary action. In the case of Councillors, such disciplinary action may be taken under the misconduct provisions of the *Local Government Act 1993* and may include suspension or disqualification from civic office.

14. SUPPORT FOR THE SUBJECT OF A REPORT

Council is committed to ensuring Council Officers who are the subject of a report of wrongdoing are treated fairly and reasonably. If a Council Officer is the subject of a report, they will be:

- Treated fairly and impartially.
- Told their rights and obligations under our policies and procedures.
- Kept informed during any investigation.
- Given the opportunity to respond to any allegation made against them.
- Told the result of any investigation.

15. REVIEW

This policy will be reviewed by Council every ~~12/18 months~~ two years. For any advice or guidance about this review, contact the NSW Ombudsman's Public Interest Disclosures Unit.

16. MORE INFORMATION

Please refer to the Council's Internal Reporting – Public Interest Disclosures Policy. Council Offices can also access advice and guidance from the Council's Disclosures Coordinator, Director Corporate Services, and/or the NSW Ombudsman's website at www.ombo.nsw.gov.au.

17. RESOURCES

The contact details for external investigating authorities to which Council Officers can make a public interest disclosure or to seek advice 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 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 police misconduct:

Police Integrity Commission (PIC)
Phone: 02 9321 6700
Toll free: 1800 657 079
Facsimile: 02 9321 6799
Email: contactus@pic.nsw.gov.au
Web: www.pic.nsw.gov.au
Address: Level 3, 111 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 government agencies:~~ Council.

~~Director General~~, 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

For disclosures about breaches of the Government Information (Public Access) Act 2009:

Information Commissioner
Toll free: 1800 ~~463-626~~ 472 679
Facsimile: 02 8114 3756
Email: oiinfo@oic.nsw.gov.au
ipcinfo@ipc.nsw.gov.au
Web: ~~www.oic.nsw.gov.au~~ www.ipc.nsw.gov.au
Address: Level 11, 1 Castlereagh Street, Sydney NSW 2000

18. REFERENCES

Relevant Legislation

- *Local Government Act 1993*
- *Government Information (Public Access) Act 2009.*
- *Independent Commission Against Corruption Act (ICAC Act) 1988 No. 35.*
- *NSW Occupational Health and Safety Act 2000.*
- *Ombudsman Act 1974.*
- *Protected Disclosures Act 1994 as amended.*
- *Public Interest Disclosures Act 1994*
- *Public Interest Disclosures Regulation*
- *State Records Act 1998.*

Relevant References

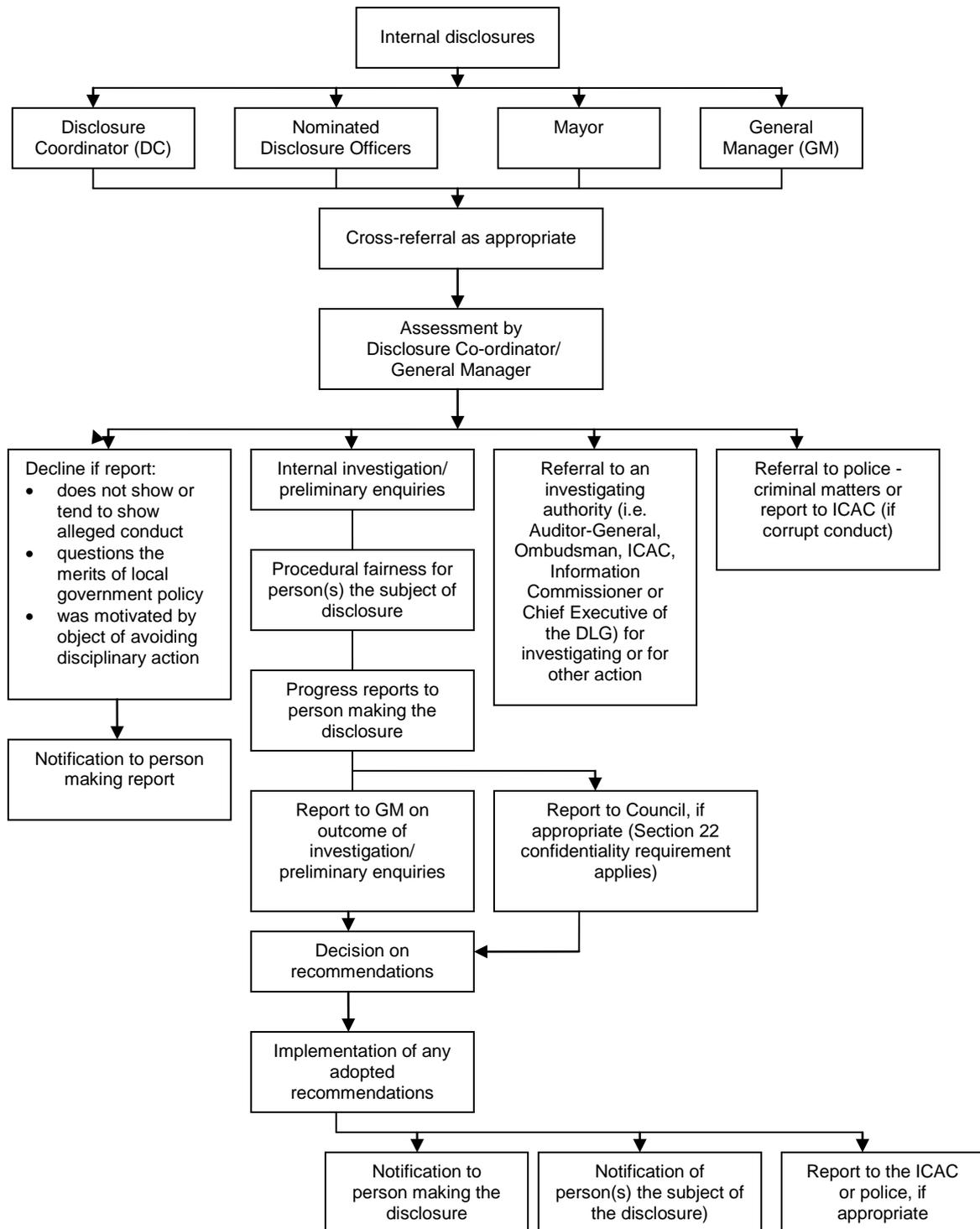
- NSW Ombudsman Protected Disclosure Guidelines 6th edition
- NSW Ombudsman Model Internal Reporting Policy, **Local Government July 2013**
- **Ombudsman NSW Checklist (03/2012) Internal Reporting Policy Best Practice.**

AlburyCity's Policies and Procedures

- **WHS Management Statement Policy and Procedure**
- Code of Conduct
- **Equal Employment Opportunity Policy and Procedure**
- **Bullying and Harassment Procedure**
- **Disciplinary Policy and Procedure**
- **Employee Grievance Policy and Procedure**
- Child Protection Policy and Procedure
- Complaints Management Policy and Procedure
- Fraud Recognition and Control Policy
- Grievance and Dispute Policy and Procedure
- Internal Investigation Policy and Procedure
- Purchasing and Tendering Policy.

Appendix A on following page

APPENDIX A
DIAGRAM OF THE INTERNAL REPORTING SYSTEM



AUTHORISATION

Status	Committee	Strategy & Finance Committee - February 2007 Consultative Committee – October 2010 Finance and Administration Committee – October 2010 Consultative Committee – October 2011 Finance and Administration Committee – November 2011 Finance and Administration Committee – February 2012 Finance and Administration Committee – October 2013
	Manex	19 December 2006. Review 5 October 2010. Review 14 September 2011.
	Council	New policy adopted April 1997 Review adopted February 2007 Review adopted October 2010 Review adopted October 2011 Review adopted November 2011 Minutes of Finance & Administration Committee ratified at the Council Meeting Monday 27 February 2012.
Owner	Public Information Officer - Corporate Services - Governance	
Compliance	Mandatory	
History	This Procedure supersedes previous Policies and Procedures adopted by Council.	
Other	This Procedure has a Policy attached and is included in the Public Policy and Procedures Register.	
Lasted Issued	March 2012 October 2013	Review: October 2015 or as required by legislation.
TRIM REFERENCE DOC12/15600		

ATTACHMENT TO FAC 6C – 10/2013

**DRAFT INTERNAL REPORTING PUBLIC
INTEREST DISCLOSURES**

ATTACHMENT 3

Ombudsman NSW Model
Internal Reporting Policy

Model internal reporting policy

State Government

July
2013

Under section 6D of the *Public Interest Disclosures Act 1994* (the PID Act), public authorities are required to have a policy and procedures for receiving, assessing and dealing with public interest disclosures. The policy you develop for your authority should be based on this model policy and the NSW Ombudsman's guidelines.

Most of the model policy [marked in black text] can be used as a template and replicated by authorities. We have also provided advice and guidance [marked in blue text] on what you need to consider when modifying the policy to suit your particular needs – such as your structure, size, geographical dispersion. Your authority's name and details of position holders can be inserted into text areas [marked in red].

Templates are not provided for section 1 (purpose and context of the policy), section 2 (organisational commitment) and section 3 (roles and responsibilities of staff). It is important that authorities develop these sections of the policy themselves so they carry as much meaning and commitment as possible. We have provided guidance [marked in blue text] on what you should consider including in these sections.

Your internal reporting policy needs to be supported by clear, easy to understand procedures. Practical advice on how to develop and implement these procedures is in the Ombudsman *Guideline A2: Internal reporting policies and procedures*.

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3.	Roles and responsibilities of staff	4
4.	What should be reported? (template)	4
5.	When will a report be protected? (template)	6
6.	How to make a report (template)	6
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1. Purpose and context of the policy

An internal reporting policy needs to clearly state the authority's commitment to supporting and protecting staff when they report wrongdoing. It should then explain the process for handling reports that are classified as public interest disclosures under the PID Act.

The policy should:

- be strongly endorsed by the head of the authority*
- show the authority's commitment to high standards of ethical and accountable conduct and confirm that it will not tolerate any form of wrongdoing*
- conform with the Code of Conduct and Ethics for Public Sector Executives and/or other relevant ethical codes*
- address the relevant provisions of the PID Act*
- state that staff who come forward and report wrongdoing are helping to promote integrity, accountability and good management within the authority.*
- outline the authority's broader responsibilities under the PID Act, such as recording and reporting on reports of wrongdoing*
- state that it is supported by procedures based on the Ombudsman's guidelines*
- refer to any other relevant policies or procedures, such as the authority's code of conduct and grievance policy, and provide information about how staff can access that information.*

2. Organisational commitment

For an authority to be able to deal effectively with staff reports of wrongdoing, it must have the right culture. The policy must start with a strong commitment to:

- create a climate of trust, where staff are comfortable and confident about reporting wrongdoing*
- encourage staff to come forward if they are aware of wrongdoing within the authority*
- keep the identity of the staff member disclosing wrongdoing confidential, where this is possible and appropriate*
- protect staff from any adverse action resulting from them making a report*
- deal with reports thoroughly and impartially and if some form of wrongdoing has been found, taking appropriate action to rectify it*
- keep staff who make reports informed of their progress and the outcome*
- encourage staff to report wrongdoing within the authority, but respect any decision to disclose wrongdoing outside the authority that is made in accordance with the provisions of the PID Act*
- ensure managers and supervisors at all levels in the authority understand the benefits of reporting wrongdoing, are familiar with this policy, and are aware of the needs and concerns of those who report wrongdoing*
- reassess / review the policy periodically to ensure it is relevant and effective*
- provide adequate resources to:*
 - encourage reports of wrongdoing*
 - protect and support those who make them*
 - provide training for staff about how to make reports and the benefits of internal reports to the authority and the public interest generally*
 - properly investigate allegations*

- *properly manage any workplace issues that the allegations identify or that result from a report*
- *appropriately address any identified problems.*

Under the PID Act, the head of a public authority is responsible for ensuring that:

- *the public authority has an internal reporting policy*
- *the staff of the public authority are aware of the contents of the policy and the protection under the PID Act for people who make public interest disclosures*
- *the public authority complies with the policy and the authorities obligations under the PID Act, and*
- *the policy delegates at least one staff member as being responsible for receiving public interest disclosures – the Ombudsman recommends that authorities nominate more than one person to undertake these responsibilities.*

3. Roles and responsibilities of staff

This section needs to be drafted by your authority as you will have standard wording for the roles and responsibilities of staff. It should include the following information in some form.

This policy will apply to:

- *permanent employees, whether full-time or part-time*
- *temporary or casual employees*
- *consultants*
- *individual contractors working for the authority.*

The policy may also apply to other people who perform public official functions whose conduct and activities could be investigated by an investigating authority. This can include volunteers and those contracted to work for an authority.

Staff should be encouraged to report known and suspected wrongdoing within the authority. They should be reminded that this policy is just one in the suite of the authority's complaint handling policies, and provide links and relevant information for the other policies.

Staff should also be encouraged to support those who have made reports of wrongdoing, as well as protect and maintain their confidentiality. They must not victimise or harass anyone who has made a report.

4. What should be reported? (template)

You should report any suspected wrongdoing you see within the *[name of authority]*. 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 public interest 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 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 guideline 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

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 breaches, 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 the *[name of authority]*'s policies.

[Include information here about relevant policies, such as grievance and harassment prevention policies – including the relevant intranet or file links.]

Even if these reports are not dealt with as public interest disclosures, the *[name of the authority]* will consider each matter and make every attempt to protect the staff member making the report from any form of reprisal.

5. When will a report be protected? (template)

The *[name of authority]* will support any staff who report 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.

[Provide examples relevant to your staff, based on the Ombudsman's guidelines.]

- The report has to be made to a position nominated in this policy (see section 9) or an investigating authority (see section 10).

Reports by staff cannot 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.

6. How to make a report (template)

[Add to or amend this section of the policy to bring it into line with the wording of your other policies relating to staff reporting. This should include any information about hotlines or advice services available within the authority]

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.

7. Can a report be anonymous? (template)

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 the *[name of authority]*, 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.

8. Maintaining confidentiality (template)

The *[name of authority]* 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 identity 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, it is important that you only discuss your report with those responsible to deal with it. This will include the *[disclosures coordinator]* and the *[principal officer]*.

9. Who can receive a report within the *[name of authority]*? (template)

You are encouraged to report general wrongdoing to your supervisor. However the PID Act requires that for a report to be a public interest disclosure, it must be made to a public official in accordance with the authority's disclosure procedures - this means this policy and any supporting procedures.

Any supervisor who receives a report that they believe may be a public interest 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 and/or guidance material]* supporting this policy.

The following positions are the only staff within the *[name of authority]* who can receive a public interest disclosure.

a. *[Principal officer]*

You can report wrongdoing directly to the *[principal officer]*. This position 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 address any problem that has been identified
- ensuring that there are systems in place to support and protect staff who report wrongdoing
- referring actual or suspected corrupt conduct to the Independent Commission Against Corruption.

[Include contact details for the principal officer here]

b. 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 the *[name of authority]* who can deal with them appropriately.

[Include contact details for the disclosures coordinator here]

c. Disclosures officers

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

[Include contact details for the disclosures officers here]

10. Who can receive a report outside of the *[name of authority]* (template)

Staff are encouraged to report wrongdoing within the *[name of authority]*, but internal reporting is not your only option. If you follow the guidance below, you can make a public interest disclosure to:

- an investigating authority. Any report about the *[principal officer]* should be made to an investigating authority.
- a Member of Parliament or a journalist, but only in the limited circumstances outlined below.

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

You should contact the relevant investigation 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 with the *[name of authority]*. 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 who 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 *[principal officer]*
- a person nominated in this policy
- an investigating authority listed in this policy and in accordance with the PID Act.

Also, the *[name of authority]* or investigating authority that received your initial report must have either:

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

Most importantly – to be protected under the PID Act – if you report wrongdoing to an MP or a journalist you will need to be able to prove that you have reasonable grounds for believing that the 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 our code of conduct – by, for example, disclosing confidential information.

For more information about reporting wrongdoing outside the *[name of authority]*, contact the disclosures coordinator or the NSW Ombudsman's Public Interest Disclosures Unit. Their contact details are provided at the end of this policy.

11. Feedback to staff who report wrongdoing (template)

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
- the timeframe for when you will receive further updates
- the name and contact details of the people who can tell you what is happening.

The PID Act requires that you are provided with an acknowledgement letter and a copy of this policy within 45 days after you have made your report. We will attempt to get this information to you within two working days from the date you make your report.

[While the PID Act requires policies to advise that an acknowledgement and a copy of this policy is to be provided to a person reporting wrongdoing within 45 days of the report being made, it is recommended that the reporter is provided an acknowledgement much sooner.]

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 *[name of authority]* 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.

Behaviour of all staff involved in the PID process needs to adhere to the *[name of authority]* code of conduct. A breach of code could result in disciplinary action.

12. Protection against reprisals (template)

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

The *[name of authority]* will not tolerate any reprisal action against staff who report wrongdoing. The criminal penalties that can be imposed include imprisonment or fines. Detrimental action is also misconduct that justifies disciplinary

action. People who take 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

The *[name of the authority]* 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 disclosures coordinator or the *[principal officer]* 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 disclosures coordinator or the *[principal officer]*.

If the disclosures coordinator becomes aware of or reasonably suspects that reprisal action is or has been taken 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 *[principal officer]* 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.

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

The *[principal officer]* 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 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 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.

13. Support for those reporting wrongdoing (template)

The *[name of the authority]* will make sure that staff who have reported wrongdoing, regardless of whether they have made a public interest 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 that will provide support for those who report wrongdoing. They are responsible for initiating and coordinating support, particularly to staff who are suffering any form of reprisal.

[Include further contact details for support officers here]

All supervisors must notify the disclosures coordinator if they believe a staff member is being subjected to any detrimental action as a result of disclosing wrongdoing.

14. Sanctions for making false or misleading disclosures (template)

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.

15. Support for the subject of a report (template)

The *[name of authority]* 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 about the progress of any investigation
- given a reasonable opportunity to respond to any allegation made against you
- told the result of any investigation.

16. Review

This policy will be reviewed by the *[name of authority]* *[annually/every two years]*. For any advice or guidance about this review, contact the NSW Ombudsman's Public Interest Disclosures Unit.

17. More information

[Provide information here about the procedures supporting this policy]

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

18. Resources (template)

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

[List only the investigating authorities relevant to your authority. All contact details were correct as at publication.]

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 police misconduct:

Police Integrity Commission (PIC)
Phone: 02 9321 6700
Toll free: 1800 657 079
Facsimile: 02 9321 6799
Email: contactus@pic.nsw.gov.au
Web: www.pic.nsw.gov.au
Address: Level 3, 111 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 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

For disclosures about breaches of the GIPA Act:

Information Commissioner
Toll free: 1800 463 626
Facsimile: 02 8114 3756
Email: oinfo@oic.nsw.gov.au
Web: www.oic.nsw.gov.au
Address: Level 11, 1 Castlereagh Street, Sydney NSW 2000

ATTACHMENT TO FAC 6D – 10/2013

**ANNUAL REVIEW OF COUNCILLORS PAYMENT
EXPENSES & PROVISION OF FACILITIES
POLICY**

ATTACHMENT 1

*Draft Policy – Councillors Payment of Expenses
and Provision of Facilities*

POLICY NAME	Draft Councillors Payment of Expenses and Provision of Facilities Policy
DIRECTORATE	Corporate Services - Governance

PURPOSE

The purpose of this policy is to ensure that there is accountability and transparency in the reimbursement of expenses incurred or to be incurred by Councillors related to their Council duties.

The policy also ensures that the facilities provided to assist Councillors to carry out their civic duties are reasonable.

SCOPE

The policy applies to ~~the~~ Mayors and Councillors. It also applies to Administrators of Council where appropriate.

The policy does not address the setting and payment of Councillors' annual fees.

CONTENT

1. Introduction

1.1 Reporting requirements

Council must adopt this policy annually and submit the policy to the Division of Local Government by 30 November each year or within 28 days of amendment.

Council must give Public Notice of its intention to adopt or amend the policy allowing at least 28 days for the making and consideration of public submissions. Before adopting or amending the policy, Council must consider any submissions and make any appropriate changes to the draft policy or amendment.

Council's annual report includes a website link to this policy.

The annual report is to include the following information:

- a. details (including the purpose) of overseas visits undertaken during the year by Councillors, Council staff or other persons while representing the Council (including visits sponsored by other organisations);
- b. details of the total cost during the year of the payment of expenses and the provision of facilities to Councillors in relation to their civic functions (as paid by the Council, reimbursed to the Councillors or reconciled with the Councillors). ~~including~~ Separate details **are to be included for** ~~on~~ the total cost of each of the following:

- i. the provision during the year of dedicated office equipment allocated to Councillors on a personal basis, such as tablet computers, mobile telephones (including equipment and internet access costs but not including call costs);
 - ii. telephone calls made by Councillors, including calls made from mobile telephones provided by the Council and from landline telephones and facsimile services installed in Councillor's homes;
 - iii. the attendance of Councillors at conferences and seminars, and any spouse/partner/accompanying person expenses paid;
 - iv. the training of Councillors and the provision of skill development for Councillors;
 - v. interstate visits undertaken during the year by Councillors while representing the Council, including the cost of transport, ~~the cost of~~ accommodation and other out-of-pocket travelling expenses. Travel to surrounding Councils in Victoria would be considered local travel;
 - vi. overseas visits undertaken during the year by Councillors while representing the Council, including the cost of transport, ~~the cost of~~ accommodation and other out-of-pocket travelling expenses;
 - vii. the expenses of any spouse, partner or other approved person who accompanied a Councillor in the performance of his or her civic functions, being expenses payable in accordance with the guidelines for the payment of expenses and the provision of facilities for Mayors and Councillors for local Councils in NSW prepared by the Director-General; and
 - viii. expenses involved in the provision of care for a child of, or an immediate family member of a Councillor, to allow the Councillor to undertake his or her civic functions; and
 - ix. any other significant expenses.
- c. Councillor attendance at Section 360 Committee meetings and Council meetings.

1.2 Legislative Provisions

This policy is made under the *Local Government Act 1993* (the Act) in accordance with sections 23A, 252 to 254, together with clause 403 of the Local Government (General) Regulation 2005.

The Act includes requirements that Council must adopt or amend a policy annually for the payment of expenses and the provision of facilities for the Mayor, the Deputy Mayor and Councillors. Section 252(3) prevents a Council from paying any expenses or providing any facilities otherwise than in accordance with the provisions set out in this policy.

Provision under the Regulation includes those under Clause 403 which disallows the payment of a general expense allowance, and for a vehicle to be made available for the exclusive use of a Councillor other than the Mayor.

1.3 Reference Documents

- *Local Government Act 1993* – Sections 23A, 252-254.
- Local Government (General) Regulation 2005 – Clause 217, Clause 403.
- Local Government (State) Award 2010

1.4 Relevant Government Policy

- DLG Guidelines for payment of expenses and provision of facilities to Mayor and Councillors in NSW – October 2009.
- Relevant ICAC Publications including 'No Excuse for Misuse'.
- DLG Circular 05/08 'Legal Assistance for Councillors and Council Employees'.

1.5 Relevant Council Policy/Registers

- Delegations of Authority.
- Code of Conduct
- Councillors Gift Register – all gifts with a total value greater than \$20 must be reported to Executive Services for inclusion in the Councillors Gift Register. For further information refer to AlburyCity Code of Conduct.

2. Approval Arrangements

Councillor attendance at conferences will be approved jointly by the Mayor and the Deputy Mayor based on the following criteria:

- benefit of conference to the Council and community;
- appropriateness of attendance by Councillors;
- costs involved in attendance at the conference, including travel; and
- the number of Councillors (if any) to attend.

If approval is sought by the Mayor, then approval may be given jointly by the Deputy Mayor and one other Councillor.

The Executive Support Team will provide information about forthcoming conferences relevant to local government to all Councillors. All Councillors are eligible to attend the annual Local Government NSW conference.

Each Councillor who attends a conference is to provide a separate report to Council for noting. Executive Support Staff will provide a report to Council every six months on conference attendance by Councillors. This report will include conference name, dates, Councillors attending, costs of the conference, accommodation and travel.

Travel and accommodation for Councillors for Council approved business will be arranged, and wherever possible payment made, by the Executive Support Team. Council will book accommodation at the conference/function venue where possible, or reasonably close to the venue.

Expenses incurred outside this policy will only be approved by Council resolution (with the individual Councillor the subject of the expenses to be excluded from the vote).

Disputed reimbursements or payments are to be reviewed by a full Council Meeting that is open to the public.

Reimbursement of reasonable expenses to Councillors is to be approved by the Mayor or General Manager in accordance with this policy.

Reimbursement of reasonable expenses to the Mayor is to be approved by the General Manager in accordance with this policy.

Reimbursement should be sought within one month of incurring the expenses.

Refer to chart 'Monetary Limits for Expenses' – at the end of this policy.

3. Payment of Expenses

Payment of Expenses Generally

Allowances and reimbursements are for actual expenses incurred upon the presentation of official receipts and the completion of the authorised claim form, Reimbursement of Expenses Form. This policy does not include provision for general expense allowances. Consideration will be given by the Mayor and the Deputy Mayor to the payment of reasonable expenses associated with the special requirements of Councillors such as disability and access needs to allow performance of normal civic duties.

3.1 Travel

- a. Council will pay actual travelling expenses incurred (airfares, hire car and fuel) and accommodation expenses that are associated with travelling to and from, and during Council approved conferences, seminars, training or business of the Council.
- b. Council will pay actual costs incurred for meals and other incidental expenses when travelling to and from, and during Council approved conferences, seminars, training or business of the Council, subject to the production of satisfactory documentary evidence.
- c. Council will reimburse actual taxi fares incurred when a Councillor attends a Council approved conference or seminar, or conducts business of the Council.
- d. Council will pay to Councillors, allowances for personal vehicle kilometres travelled to official Council business outside of the Albury local government area, in accordance with the rates set out in Clause 14 (ix) of the Local Government (State) Award 2010.

3.2 Private Overseas Travel

Councillors travelling overseas at their own expense are eligible for reimbursement of internet access costs for Council related matters only, up to the maximum monthly amount as specified under "Communication Costs and Expense" section of this policy. For telephone calls, Councillors will be reimbursed for communication costs associated with Council business only.

Councillors shall seek IT advice prior to travel if it is intended to seek reimbursement. International roaming is not available on Council supplied communications and IT equipment.

3.3 Reimbursement and Reconciliation of Expenses

When requested by a Councillor, payment in advance can be made for the cost of service associated with their civic duty. The payment will be reconciled against the actual expense incurred. This reconciliation must be completed within two weeks of the completion of the civic duty. For Councillors, the payment in advance request is to be presented to the Mayor for approval. The Mayor's payment in advance request is to be presented to the General Manager.

Reasonable out of pocket or incidental expenses associated with attending conferences, seminars or training courses, that Councillors incur may be reimbursed upon the presentation of official receipts and the completion of the necessary claim forms to the Mayor. The Mayor's claim forms are to be presented to the General Manager.

Incidental expenses could reasonably include telephone calls, refreshments, internet charges, laundry and dry cleaning, newspapers, taxi fares and parking fees. In addition, the cost of meals not included in the registration fees for conferences or similar functions may be reimbursed after reconciliation. All advanced payments are required to be reconciled with substantiating documentation.

3.4 Spouse and Partner Expenses

Partner's expenses at conferences will not be reimbursed.

However, there may be limited instances where certain costs incurred by the Councillor on behalf of their spouse, partner or accompanying person are properly those of the Councillor in the performance of his or her functions (hence they are properly incurred by, and reimbursable to the Councillor). An example of this is an accompanying person providing carer support to the Councillor.

Refer to chart 'Monetary Limits for Expenses' – at the end of this policy.

4. Specific Expenses for **the Mayors and Councillors**

4.1 General Travel Arrangements

All travel by Councillors should be undertaken by utilising the most direct route and the most practicable and economical mode of transport, subject to any personal medical considerations.

Overseas travel must be approved by a meeting of the full Council prior to a Councillor undertaking the trip. The report to Council should indicate the purpose of the trip and expected benefits, the duration, itinerary and approximate costs of each proposed visit.

Upon returning from the trip, Councillors or an accompanying member of staff will provide a detailed written report to Council.

4.2 Travel Arrangements and Expenses

Arrangements for the use of a private vehicle and provisions for the use of public transport, taxis, hire cars; travel using a Council vehicle and associated other costs such as parking and road tolls can be made. Upon request, Council will provide a vehicle for Councillor use on authorised, official Council business. The driver is personally responsible for all traffic or parking fines incurred while travelling in private or Council vehicles on Council business.

4.3 Educational Expenses

Council will pay for training and short courses specifically related to the role of a Councillor. Council will not pay for any expenses related to formal education, for example, TAFE or university courses. All Councillor requests are to be presented to the Mayor and Deputy Mayor for approval, or to the General Manager for the Mayor.

4.4 Attendance at Dinners and other Non-Council Functions

Consideration may be given at a full Council Meeting to meeting the cost of Councillors' attendance at dinners and other non-Council functions which provide briefings to Councillors from key members of the community, politicians and business. Approval to meet expenses should only be given when the function is relevant to the Council's interest. Only the cost of the service provided should be met.

No payment should be reimbursed for any component of a ticket that is additional to the service cost of the function, such as a donation to a political party or candidate's electoral fund, or some other private benefit. An additional payment to a registered charity may be acceptable as part of the cost of the function.

The cost of attending fundraising activities of political parties will not be met.

4.5 Civic Duty Related to Matters of a Community or Charitable Nature

When Councillor's partners are invited guests within the Local Government Area and the Mayor or Council is invited to host a table at a dinner or similar event, for fundraising, community or charitable purposes, attendance costs for Councillors and their spouses/partners will be paid by Council. Individual Councillor Requests for specific events must be approved by the Mayor and the Deputy Mayor.

4.6 Communications Costs and Expenses

Councillors will be reimbursed for communication costs associated with Council business, for example, Wi-Fi connection cost incurred at accommodation when travelling.

Council will reimburse the costs associated with a broadband internet connection to a maximum of \$60 per month. This does not include telephone line rental costs. To be eligible for the reimbursement Councillors must have Wi-Fi access installed to minimise data costs for the Council supplied tablet computer. Council can supply an ADSL Wi-Fi modem.

4.7 Printer Expenses

Council will reimburse costs associated with printer consumables used for Council related printing. Council will print Council related documents on request on Council's economical laser printers and forward to Councillors. A printer is also provided in the Councillor Office.

4.8 Care and Other Related Expenses

Council will pay carer expenses when a Councillor is required to attend meetings, seminars, training and conferences of the Council, where such attendance is in the course of the Councillor performing their civic duties. This includes childcare expenses and the care of the elderly, disabled and/or sick immediate family members of Councillors.

Consideration will be given to payment of other related expenses associated with the special requirements of Councillors, such as disability and access needs, to allow them to perform their normal civic duties and responsibilities.

Councillors' reimbursement requests for communication, printer and carer expenses are to be provided to the Mayor, or to the General Manager for the Mayor.

4.9 Executive Membership

Council will pay expenses over and above the amount reimbursed as a result of a Councillor being an executive member of a local government related group or association. ~~but only when each individual matter has been dealt with on its merits by the full Council.~~ **Such payments will only be made when adopted by Council.**

5. Insurances and Councillor Obligations

Council maintains insurance policies which extend benefits to elected representatives of Council where the person is engaged in or on any activity directly or indirectly connected with Council including travelling to and from such activity. These insurances are:

5.1 Personal Accident Insurance

This insurance provides some conditional coverage for Councillors and their accompanying partners for:

- personal accident and sickness (including provisions for lump sum payments and weekly benefits);
- payment of medical expenses;
- payment of additional expenses such as cancellation and curtailment fees; and
- travel (domestic and overseas) including general loss of personal and business property, medical expenses and other incidental travel related issues.

5.2 Motor Vehicle Insurance

This insurance provides some conditional coverage for damage to privately owned vehicles whilst being used on authorised and official Council business. The cover offered is on the following basis:

- the cover applies to Councillor's and their spouses only;
- in all cases, claims for damage involving personal vehicles must first be lodged on the owner's personal motor vehicle insurance policy;
- no benefits are payable under this policy for vehicles registered to any entity other than the Councillor or their spouse, that is, company registered vehicles are not covered; and
- the benefits payable under this policy are capped at not more than \$35,000 for all loss and damage resulting from the use of the privately owned vehicle.

5.3 Councillor's Liability

This insurance provides some conditional coverage for Councillors against claims they have committed a wrongful act resulting in harm or damage to a third party when acting in good faith in the course of their duties for Council.

This includes personal financial loss associated with defamation proceedings, the costs of attending formal statutory inquiries (such as ICAC) and general claims or prosecutions of breach of duty or corruption, legal defence costs, the costs of properly investigating any allegations as well as the financial cost of any judgement or settlement made against the insured person.

Councillors shall notify the General Manager as soon as reasonably practicable of any intention to make a claim under Council's insurance policies.

6. Legal Expenses and Obligations

The reasonable legal expenses of a Councillor may only be met for legal proceedings being taken against a Councillor in defending an action arising from the performance in good faith of a function under the Local Government Act (section 731 refers) or defending an action of defamation, provided that the outcome of the legal proceedings is favourable to the Councillor.

Reasonable legal costs may also be available for an inquiry, investigation or hearing into a Councillor's conduct by an appropriate investigative or review body including:

- i. Local Government Pecuniary Interest and Disciplinary Tribunal
- ii. Independent Commission Against Corruption
- iii. Office of the NSW Ombudsman
- iv. Division of Local Government, Department of Premier and Cabinet
- v. NSW Police Force
- vi. Director of Public Prosecutions
- vii. Council's Conduct Review Committee/Reviewer.

In addition, legal costs must only be provided where the investigative or review body makes a finding that is not substantially unfavourable to the Councillor. This may include circumstances in which a matter does not proceed to a finding. In relation to a Councillor's conduct, a finding by an investigative or review body that an inadvertent minor technical breach had occurred may not necessarily be considered a substantially unfavourable outcome.

In the event of any dispute as to whether specific expenses are covered by this policy, a decision will be made by Council, in its absolute discretion, by resolution of Council (with the individual Councillor the subject of the expenses to be excluded from the vote).

Any reimbursement of costs to a Councillor will be capped at the amount specified in the Councillors' liability insurance policy and the claim approved by the insurer. Should any costs be incurred in excess of these amounts Council may, in its absolute discretion, approve payment by resolution of Council (with the individual Councillor the subject of the expenses to be excluded from the vote).

Council will not meet the legal costs of legal proceedings initiated by a Councillor under any circumstance.

Council will not meet the costs of a Councillor seeking advice in respect of possible defamation, or in seeking a non-litigious remedy for possible defamation.

Legal costs will not be met for legal proceedings that do not involve a Councillor performing their role as Councillor.

Where doubt arises in relation to any of these points of the policy, the Council may seek its own legal advice.

Councillors shall inform the Mayor and General Manager of their intention to lodge a claim for expenses relating to legal expenses.

7. Provision of Facilities

Council facilities, equipment and services are not to be used to produce election material or for any other political purposes. Councillors should not obtain more than incidental private benefit from the provision of equipment and facilities. Travel bonuses such as 'frequent flyer' schemes or any other loyalty programs are not to be used while on Council business. Any benefits obtained whilst on Council business remain the property of AlburyCity and are not to be used in private circumstances.

In situations where private use of facilities occurs, Council will establish a suitable rate for the reconciliation and reimbursement by Councillors of that private use.

7.1 Provision of Equipment and Facilities for Councillors

Council provides:

- a. Councillors ~~are provided~~ with an office in the city administration building, which contains office furniture, a telephone/facsimile, computer, printer, and photocopier.
- b. Councillors ~~are provided~~ with a tablet computer in accordance with Council's IT platform standards.
- c. Information Technology training if requested.
- d. Upon request, ~~Council will provide~~ a Smart phone in accordance with Council's IT standards, for Council business use only. Council will pay the usage costs.
- e. Business cards and Councillor letterhead, if requested.
- f. Car parking in the basement is set aside for the use of Councillors.
- g. Meals on evenings of Council and Committee meetings, Community Forums and Councillor Workshops.
- h. Appropriate protective clothing and equipment when Councillors are required to go onto work sites as part of their civic duty.
- i. ~~Airport lounge membership for the Deputy Mayor and Chairpersons of the Section 360 Council Committees, if required by the Councillor.~~

7.2 Provision of Additional Equipment and Facilities for **the** Mayors

The Mayor is provided with:

- a. an office in the Council administration building;
- b. secretarial support, including telephone and reception duties, word processing, organisation of receptions including catering, preparation of speeches, media releases and correspondence;
- c. a mayoral reception suite for the purposes of conducting civic receptions for visiting dignitaries. The suite contains office furniture, a television and electronic recording media;
- d. an executive-style vehicle, if so required by the Mayor, which may be used for private use. Other Councillors may use the mayoral vehicle while on approved Council business. A dedicated car parking spot in the basement is provided for the Mayor;
- e. ceremonial clothing including mayoral robes, and chains of office;
- f. a corporate credit card to be used only for Council-related business to a maximum value of \$5000; and
- g. airport lounge membership.

~~Council may only pay a Deputy Mayor part of the annual mayoral fee where a Deputy Mayor demonstrably acts in the role of the Mayor.~~

The Deputy Mayor is entitled to an additional fee when acting in the office of the Mayor. The fee will be the equivalent daily rate payable to the Mayor and will be deducted from the Mayor's annual fee.

7.3 Private Use of Equipment and Facilities

In accordance with the Code of Conduct, Council equipment and facilities must not be used for private purposes unless lawfully authorised by the Mayor (for Councillors) or the Council (for the Mayor) and proper payment is made where appropriate. An appropriate commercial rate will be determined depending on the equipment being used.

It is acknowledged that incidental use of Council equipment and facilities may occur from time to time. Such incidental private use is not subject to compensatory payment.

The interest of a Councillor in their re-election is considered to be a personal interest and as such the reimbursement of travel and other expenses incurred on election matters is not appropriate. Council letterhead, Council crest and logo and other information that could give the impression it is official Council material must not be used for these purposes.

8. Advisory Services of a Conduct Reviewer

There may be times when Councillors would benefit from obtaining independent, confidential advice about Code of Conduct issues, particularly in regard to conflicts of interest. Councillors can access the informal advisory service of the nominated Conduct Reviewer by telephone. Council will select this nominated Conduct Reviewer annually from the Council's Panel of Conduct Reviewers.

Councillors will not need to seek approval of the Mayor or General Manager to use the service. To provide a transparent audit trail the invoice to Council will note the name of the Councillor. The content will not be noted.

When the annual Code of Conduct statistics report is provided to Council the number of times this advisory service had been used would be reported to Council along with the cost. The service will be provided at the reviewers' advertised hourly rates, or pro rata where applicable.

~~Other Matters~~

9. Acquisition and Returning of Facilities and Equipment by Councillors

Upon completion of their term, when on extended leave of absence or at the cessation of their civic duties, all Council provided equipment is to be returned by Councillors, and access to the Councillor facilities is no longer available.

Councillors have the option to purchase Council IT equipment previously allocated to them at the cessation of their duties. This will be at a fair and independent market price.

Where the residual value on a particular piece of equipment is determined to be zero, the equipment may be retained by the Councillor for no cost at the cessation of their duties. Any ongoing costs incurred in using such equipment will be met by the Councillor.

Upon the election of a new Mayor, the outgoing Mayor will retain access to all the nominated equipment and facilities applicable for Councillors. All Mayoral equipment is to be returned to Council and access to the Mayoral facilities is no longer available.

AUTHORISATION

Status	Committee	15 October 2012; 19 August 2013; 21 October 2013
	Manex	14 August 2012
	Council	26 November 2012
Owner	Corporate Services - Governance	
Compliance	Mandatory	
Review	This policy will be reviewed to cater for legislative or Council changes.	
History	<p>Revised by Council on 28 June 2004 to update the Facilities section.</p> <p>Revised by Council on 26 March 2007 in accordance with DLG Guidelines.</p> <p>Revised by Council on 24 November 2008, annual review in accordance with the LG Act. Further update after the Council meeting held on Monday, 24 November 2008, by resolution numbers 229/2008, 230/2008 and 232/2008.</p> <p>Revised by Council on 28 September 2009, annual review in accordance with the LG Act.</p> <p>Revised by Council on 28 June 2010, annual review in accordance with the LG Act.</p> <p>Revised after public exhibition late 2010, adopted Council Meeting November 2010.</p> <p>Revised after public exhibition and adopted by Council September 2011.</p> <p>Included in the AlburyCity Public Policy and Procedure Register.</p> <p>Reimbursement of Expenses Form is an attachment to this Policy.</p> <p>Revised after public exhibition and adopted by Council 26 November 2012.</p>	
Last issued	November 2012	Review October 2013 - October 2014
TRIM REFERENCE DOC12/444481 - DOC13/69521		

See attached Monetary Limits for Expenses on following page

MONETARY LIMITS FOR REIMBURSEMENT

Section Name	Expense Type	At Cost	Limit Amount	Comment
Conferences *Including Travel and accommodation	Registration Costs	Actual	Costs of conferences will be detailed in 6 monthly Conference reports presented to Council	All conference attendance approved by Mayor and Deputy Mayor. Conference report to be provided to Council for noting.
Travel	Air travel Rail travel Taxi Bus Parking	Actual	Within reason	Travel arrangements must be approved by the Mayor. See Details for travel arrangements also General travel arrangements
Accommodation	Actual up to daily limit	Actual up to daily limit	1. \$300 per night 2. \$250 per night 3. \$200 per night	1. State Capital Cities and Canberra 2. Regional Cities (eg. Orange, Bathurst, Wollongong). 3. Country.
Accompanying person expenses	Carer or spouse acting as carer	Actual	Reimbursement request to be approved by the Mayor. The General Manager to approve for the Mayor.	See Care and Other Related Expenses
Attendance at dinners and other non-Council functions	Cost of service provided	Actual	None	No payment shall be reimbursed for any component of a ticket which is additional to the service cost of the function, such as a donation to a political party or candidate's electoral fund, or some other private benefit.

Section Name	Expense Type	Reimbursement	Limit Amount	Comment
Care and Other Related Expenses	Personal care or child care expenses up to four hours	Actual	\$80	See Care and Other Related Expenses To cover a four hour engagement of a babysitter or carer when a Councillor is required to attend any Council, Committee Meeting of Council.
Spouse and Partner Expenses	spouse/partner expenses		None/some limited instances	See Spouse and Partner Expenses
Out of Pocket Expenses	Offered by Council for the development of skills and provision of information appropriate to the role of Councillor	Actual up to daily limit.	\$100 per day	Expenses in this category may include: <ul style="list-style-type: none"> Reasonable telephone, facsimile or internet usage Newspapers Tolls Reasonable refreshments Meals not included in registration fees for conference.
Use of Private Motor Vehicle	Payment	Per km allowance as defined in <i>Clause 14 (ix) of the Local Government (State) Award 2010.</i>	Under 2.5 litre 0.65c p.km. Over 2.5 litre 0.75c p.km.	See Payment of Kilometres Clause
Phones including - mobile - Internet Access	Cost of Service provided	Council related business	Council related business. \$60 cap per month	See Communications Costs and Expenses To be eligible must have access to Wi-Fi at home residence to reduce data cost.
Legal assistance for Mayor and Councillors	Cost of Service provided	As determined by Council Resolution	Determined by Council	See Legal Expenses and Obligations