

# Whistleblower Policy

HR05-CP



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## 1. Purpose

- 1.1. The purpose of this policy is to encourage and facilitate disclosures of improper conduct occurring in the MacDonnell Regional Council (MRC) so that MRC's internal controls can be strengthened.
- 1.2. To provide assurance to the community that MRC is committed to good governance and ethical behaviour.
- 1.3. To provide an environment where people are supported in the reporting of improper conduct and that such persons are not victimised for reporting these matters.

## 2. Scope

- 2.1. MRC is classified as a public body in Section 16(1) of *the Independent Commissioner Against Corruption Act 2017 (the Act)*.
- 2.2. Mandatory reporting of suspected improper conduct applies to all public bodies and associated public officers as defined in Section 16(2) of *the Act*.
- 2.3. Whistleblowing protections are applicable to any person reporting suspected improper conduct (a "protected communication" under *the Act*)

## 3. Objectives

- 3.1. This policy is intended to support and protect a person who voluntarily makes a protected communication about improper conduct and to ensure any report of improper conduct is thoroughly investigated and reported appropriately to the Office of the Independent Commission Against Corruption (ICAC).

## 4. Definitions

Anti-democratic conduct (s15)	Means electoral offences under the <i>Electoral Act</i> or the <i>Local Government Act</i> affecting the reputation, power, resources or influence of a political party or a candidate. For example, political donations, push polling and improperly influencing voting behaviour.
Corrupt conduct (s10)	Means conduct engaged in by a public officer or by a public body that is either an offence punishable by a maximum term of imprisonment of at least two years, or conduct which would warrant termination of services (the most serious).
Improper conduct (s9)	Includes corrupt conduct, misconduct, unsatisfactory conduct and anti-democratic conduct.
Misconduct (s11)	Breach of a code of conduct by a public officer while acting in his or her capacity as a public officer, for example discrimination, bullying, harassment, assault (less serious).
ICAC	Office of the Independent Commissioner against Corruption - An independent investigatory Body established to investigate the most serious, sensitive and systematic corrupt conduct of public officers and public agencies.
Protected communication	Means a voluntary reporting of information that a person believes on reasonable grounds:  (a) would tend to show that improper conduct has occurred, is occurring or is at risk of occurring; or (b) would assist the ICAC to perform the ICAC's functions; or (c) would otherwise assist in the administration, or achieving the objects, of the Independent Commissioner Against Corruption Act 2017
Public Body (s.16)	Means, "a Local Government Council" amongst a list of other agencies.
Public Officer	Means a member, officer or employee of a public body.

# Whistleblower Policy

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Retaliation (s.95)	A person engages in retaliation against another person (the victim) if the person causes, or threatens to cause, harm to the victim:  (a) with the intention of discouraging the victim or a third person from taking protected action; or  (b) with the intention of discouraging the victim or a third person from supporting a protected person; or  (c) because of protected action taken, or suspected by the person to have been taken, by the victim; or  (d) because of action taken, or suspected by the person to have been taken, by the victim to support a protected person.
Unsatisfactory conduct (s.12)	Means negligence, impropriety, illegality, incompetence leading to substantial mismanagement of public resources, or the performance of official functions, or detriment to the public interest (systemic).
Whistleblowing	Means the making of a protected communication about improper conduct.
Whistleblower	A person who makes a protected communication about Improper Conduct.

## 5. Policy Statement

- 5.1. MRC is committed to the objectives of *the Act* and to ensure that its responsibilities under *the Act* are properly fulfilled. Disclosures which are made in good faith will be taken seriously and prompt action will be taken to address any alleged improper conduct.
- 5.2. MRC is committed to the principles of natural justice and procedural fairness, namely:
  - 5.2.1. The premise that a person is innocent until proven otherwise;
  - 5.2.2. The right to be heard, which means the right to have a fair hearing, with the opportunity to present one's case;
  - 5.2.3. The right to have a decision made by an unbiased decision-maker;
  - 5.2.4. The right to have the decision based on evidence;
  - 5.2.5. Clear communication of policies, procedures and instructions.
- 5.3. This Policy is designed to complement normal communication channels between MRC management, staff and the public. Employees are encouraged to continue to raise matters at any time with their managers/team leaders. Additionally, people may make a formal disclosure of improper conduct or retaliation under *the Act* in accordance with this policy and any associated procedures and/or guidelines that are developed.
- 5.4. MRC will adhere to *the Act* and any directions and guidelines issued by the ICAC to allow employees or members of the public to provide information in accordance with *the Act*.
- 5.5. MRC is committed to investigating all information supplied in a confidential manner and taking appropriate action.
- 5.6. MRC is committed to ensuring that mandatory reporting of improper conduct to ICAC takes place.
- 5.7. Serious and proven fraud and corruption will be referred to the Northern Territory Police.
- 5.8. Mandatory Reporting of improper conduct to ICAC

# Whistleblower Policy

HR05-CP

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- 5.8.1. MRC will ensure that the Mandatory Reporting directions and guidelines issued by the ICAC are made available to all employees and elected members either electronically or by hard copy.

## 5.9. Whistleblower Protection

- 5.9.1. MRC recognises the value of transparency and accountability in its administrative and management practices and supports reporting that reveals improper conduct involving substantial mismanagement of public resources or conduct involving a substantial risk to public health and safety or the environment.
- 5.9.2. MRC does not tolerate improper conduct by its employees, nor the taking of retaliation against those who come forward to report such conduct.
- 5.9.3. MRC will take every care to keep the identity of any person making a report confidential, subject to any legal requirements that are imposed on MRC to disclose information. The identity of a Whistleblower will be maintained as confidential in accordance with *the Act*. Confidentiality will remain in all circumstances, unless the Whistleblower consents to his/her identity being disclosed or disclosure is otherwise required so that the matter may be properly investigated.
- 5.9.4. Retaliation against a person who discloses alleged improper conduct will not be tolerated and action will be taken in accordance with *the Act* and with MRC's Code of Conduct against persons who engages in retaliation.

## 5.10. Employees who are the Subject of a Protected Disclosure

- 5.10.1. MRC will afford natural justice to the person who is the subject of any protected disclosure report to ICAC. Any investigations conducted will be done so fairly and at the direction of ICAC. Where improper conduct is alleged against an employee, the employee may be the subject of disciplinary action, including the termination of employment.
- 5.10.2. Where investigations do not substantiate a report, the fact that the investigation has been carried out, the results of the investigation, and the identity of the person who is the subject of the report will remain confidential.
- 5.10.3. MRC will give its full support to a person who is the subject of a report to ICAC where the allegations contained in the report are able to be established as clearly wrong or unsubstantiated.
- 5.10.4. If the matter has been reported to ICAC and been the subject of an investigation that proves the allegations to be false the Chief Executive Officer (CEO) will consider any request by that person to issue them with a statement of support setting out that the allegations were false.
- 5.10.5. MRC will follow the strategies outlined in *the Act* and associated regulations and guidelines to ensure that Whistle-blower protections are in place.

## 5.11. Making a disclosure

- 5.11.1. Disclosures can be made verbally, in writing, by telephone or by email.
- 5.11.2. Disclosures can be made anonymously.
- 5.11.3. Disclosures can be submitted to:
  - 5.11.3.1. The CEO or

# Whistleblower Policy

HR05-CP



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5.11.3.2. The Officer delegated by the CEO as the nominated recipient for protected communications or

5.11.3.3. The ICAC.

5.11.4. Disclosures are required to be managed in accordance with the “Guidelines and practice directions regarding voluntary protected communications issues” issued by ICAC.

5.11.5. An employee making a report will be provided with appropriate support including a formal acknowledgement of any protected communication and their protected status as a Whistleblower. A Peer support person and other welfare support services will also be offered to the employee.

## 6. Policy Details

<b>Replaces Policy No: (if applicable)</b>	NA
<b>Responsible Directorate/Department:</b>	Corporate Services – Human Resources
<b>Approval Date:</b>	28 August 2020
<b>Minutes Reference and Resolution number:</b>	OCM Item 15.2 – Resolution No OC2020-087
<b>Review Cycle:</b>	<i>August 2024 - Review every four (4) years or after changes to relevant legislation or Council policy</i>

## 7. Legislation and References

<b>Related Legislation:</b>	<i>Independent Commissioner Against Corruption Act 2017 (NT)</i>
<b>Related Policies:</b>	CP102- Code of Conduct – Members OP231- Code of Conduct – Employee Policy OP223 Conflict of Interest–Staff Policy CP104 Disclosure of Interests – Members
<b>Associated Documents:</b>	Guidelines and practice directions regarding voluntary protected communications issues – ICAC Frameworks and practices for minimising risks of retaliation - ICAC Australian Standard (AS 8004-2003) Whistleblower Protection

## 8. Version Control

Version No	Approval Date	Policy No.	Minutes reference and Resolution number (previous version)
1	28 August 2020	HR05	OCM Item # 15.2 OCM Resolution # OC2020-087