



## **COUNCIL POLICY**

### ***WHISTLEBLOWERS***

**Approved by:** *Audit Committee.  
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**Subsequent Amendments:**  
Nil

**Document Owner**  
Position: Senior Governance Consultant  
Phone: 8203 7459

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# POLICY

## 1. INTRODUCTION

This Policy establishes a system for reporting disclosures of maladministration, corrupt or illegal conduct by the Adelaide City Council (“ACC”) or its people under the *Whistleblowers Protection Act 1993* (“the Act”).

The Policy is designed to facilitate the disclosures to any appointed Responsible Officer of the ACC.

## 2. DEFINITIONS

The **Act** means the *Whistleblowers Protection Act 1993*;

A **Responsible Officer** is a person appointed by the Chief Executive Officer who is authorised to receive and act upon information forwarded from Whistleblowers.

An **Informant** means any person who makes an appropriate disclosure of public interest information in accordance with the Act.

“**Public Interest Information**” means information that tends to show that:

an adult person, (of or above the age of 18 years), body corporate or government agency is or has been involved in:

- an illegal activity; or
- an irregular and unauthorised use of public money; or
- substantial mismanagement of public resources; or
- conduct that causes a substantial risk to public health or safety, or to the environment;

or

that a public officer is guilty of maladministration in or in relation to the performance of official functions.

A “**Public Officer**” includes a member of the Corporation or an officer or employee of the Corporation.

“**Maladministration**” generally includes impropriety or negligence, which may extend to conduct of a serious nature that is;

- Contrary to law; or
- Unreasonable, unjust, oppressive or improperly discriminatory; or
- Based upon improper motives; or
- A result of acting outside the parameters of recommended practice.

A person makes an “**appropriate disclosure**” where that person does so in accordance with Section 5 of the Act which includes the person-

- a) believes on reasonable grounds that the information is true; or
- b) is not in a position to form a belief on reasonable grounds about the truth of the information but believes on reasonable grounds that the information may be true and is of sufficient significance to justify its disclosure so that its truth may be investigated.

A **Whistleblower** is any person who discloses information in the public interest concerning:

- Illegal activity or corruption within the Corporation;
- Maladministration, including impropriety, negligence or waste within the Corporation; and
- Identifies that they wish to access the protection of the Act and this Policy.

Any person not wishing to access the protection of the Act and this Policy should refer to Council's Grievance Policy.

An **Employee** refers to all Corporation employees, trainees, work experience students, volunteers, and contractors undertaking work for the Corporation.

**Corruption** is conduct of a public official involving a breach of that person's duty and/or the misuse of abuse of their position to:

- Gain a reward or benefit; or
- For any dishonest or improper purpose.

**Fraud** is the use of misrepresentations, deception or dishonest conduct in order to obtain an unjust advantage over another, or to cause detriment to the Council.

Examples of fraudulent conduct include:

- Theft of assets;
- Unauthorised and/or illegal use of assets, information or services for private purposes;
- Misappropriation of funds; and/or
- Falsification of records.

### 3. SCOPE

This Policy applies to all ACC employees and/or members of the public who make disclosures to a Responsible Officer of the ACC under the Act.

This policy does not apply to disclosures made in relation to the Lord Mayor and Councillors, which need to be addressed to the Chief Executive Officer pursuant to the "Code of Conduct of the Lord Mayor and Councillors".

### 4. POLICY OBJECTIVES

To encourage and facilitate disclosures of maladministration, corrupt or illegal conduct occurring in the Corporation so that internal controls and procedures can be strengthened to ensure that the Corporation's resources are applied efficiently and efficiently.

To provide assurance to the community that the Corporation is committed to having good governance and supports ethical behaviour.

To provide an environment where people are supported in the reporting of corrupt and illegal practices and that such persons are not victimised for reporting these matters.

### 5. POLICY STATEMENTS

ACC is committed to the objectives of the Act and to ensure that its responsibilities under the Act are properly fulfilled.

ACC is committed to the principles of natural justice and procedural fairness, namely:

- The premise that a person is innocent until proven otherwise;
- The right to be heard, which means the right to have a fair hearing, with the opportunity to present one's case;
- The right to have a decision made by an unbiased decision-maker;
- The right to have the decision based on evidence;
- Clear communication of policies, procedures and instructions.

This Policy is designed to complement normal communication channels between the ACC's management, staff and the public. Employees are encouraged to continue to raise matters at any time with their managers/team leaders. As an alternative, people may make a disclosure of improper conduct or detrimental action under the Act in accordance with this policy and operating guideline.

The ACC will ensure that a framework exists to allow employees or members of the public to provide information to the Corporation in accordance with the Act.

The ACC is committed to investigating all information supplied in a confidential manner and taking appropriate action.

ACC does not tolerate improper conduct by its people, nor the taking of reprisals against those who come forward to disclose such conduct.

ACC recognises the value of transparency and accountability in its administrative and management practices, and supports the making of disclosures that reveal corrupt or illegal conduct involving substantial mismanagement of public resources, or conduct involving a substantial risk to public health and safety or the environment.

ACC will take all reasonable steps to protect people who make such disclosures from any detrimental action in reprisal for making the disclosure. ACC will also afford natural justice to the person who is the subject of the disclosure.

Serious and proven allegations of employee fraud and corruption will be referred to the Anti-Corruption Branch of the South Australian Police.

## **6. CONFIDENTIALITY**

The identity of a Whistleblower will be maintained as confidential in accordance with the Act. Confidentiality will remain in all circumstance, unless the Whistleblower consents to his/her identity being disclosed, or disclosure is otherwise required so that the matter may be properly investigated.

A Whistleblower may wish to remain anonymous. In the event that an anonymous disclosure is made, the Whistleblower must ensure that the allegation is sufficiently supported by the provisions of necessary details and evidence to enable the matter to be properly investigated. Accordingly, if an allegation is not supported by sufficient evidence it will not be investigated under the provisions of the Act.

Except for the identify of the Whistleblower, the Act does not expressly require any other information relating to a public interest disclosure (i.e. the nature of the allegation) to be maintained as confidential. However, such information will be treated confidentially.

## **7. LEGISLATIVE REQUIREMENTS AND CORPORATE POLICY CONTEXT**

The Act requires the informant to assist with any investigation resulting from their discloser.

This Policy is to be read and implemented in conjunction with other relevant policies, strategies and operating guidelines including:

- Whistleblowers Operating Guideline;
- Strategic Plan;
- Anti-Theft & Corruption Operating Guideline;
- Grievance Policy & Procedure;
- Code of Conduct for Employees; and
- Code of Conduct for the Lord Mayor and Councillors of the Adelaide City Council.

## 8. PROCEDURE

Any person wishing to make a disclosure under the Whistleblowers Protection Act can do so by the following means:

- (a) Written disclosures can be made addressed to the Corporate Governance Advisor at the following post office box:  
GPO Box 2586  
Adelaide SA 5001

This is a private post office box which is operated solely for the purposes of the Whistleblowers Protection Act and is cleared weekly on a Monday afternoon.

- (b) Disclosures can be made to any of the following Responsible Officers by in person, over the telephone or in writing:

- |   |           |
|---|-----------|
| • Chief Executive Officer               | 8203 7234 |
| • GM City Planning                      | 8203 7539 |
| • GM City Infrastructure & Public Works | 8203 7432 |
| • GM Finance & Corporate Services       | 8203 7201 |
| • GM City Culture & Community Services  | 8203 7354 |
| • GM City & Organisational Development  | 8203 7361 |
| • Executive Manager Finance & Risk      | 8203 7230 |
| • Senior Governance Consultant          | 8203 7459 |
| • Corporate Manager, People & Culture   | 8203 7528 |

Alternatively the Customer Centre (8203 7203) can connect you.

Further information regarding procedures for Whistle Blowers can be located in the Whistle Blowers Operating Guideline.

## 9. PROTECTION FOR THE WHISTLEBLOWER

The Act provides immunity from criminal or civil liability for Whistleblowers, and protection for Whistleblowers against victimisation. Accordingly the Council will take action as appropriate to protect Whistleblowers from victimisation. Furthermore, in the event that a Whistleblower is victimised, the Council will, immediately refer the matter to the SA Police.

## 10. REVIEW

This Policy will be reviewed biennially or earlier in the event of major changes to legislation or related policies / procedures or if deemed necessary by the Team Leader Risk & Planning.

## **11. FURTHER INFORMATION**

For further information about the Whistleblowers Policy, please contact:

Corporate Governance Advisor  
Adelaide City Council  
25 Pirie Street  
ADELAIDE, SA, 5000