

4. PROTECTED DISCLOSURES ACT 2000 - COUNCIL INTERNAL PROCEDURES

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Corporate Plan Output: Legal Advice	

The purpose of this report is to advise the Council of a proposed Internal Procedures Policy in relation to the Protected Disclosures Act 2000.

Earlier this year Parliament enacted the Protected Disclosures Act 2000 which has its origins in the Whistleblower's Protection Bill which was originally introduced into Parliament in 1996. This Bill, in turn, had its origins in relation to events concerning Mr Neil Pugmire and his employer when Mr Pugmire provided information to the media concerning a patient in his employer's care.

The Protected Disclosures Act 2000 comes into force on 1 January 2001 and has as its purpose:

"...to promote the public interest –

- (a) by facilitating disclosure and investigation of matters of serious wrongdoing in or by an organisation; and*
- (b) by protecting employees who, in accordance with this Act, make disclosures of information about serious wrongdoing in or by an organisation."*

The Act requires that the Council, as a public organisation, must have in place by 1 January, appropriate internal procedures for dealing with information about serious wrongdoing in or by the Council. Those internal procedures must comply with the rules of natural justice, must identify persons in the organisation to whom a disclosure may be made and must also contain other information which is set out in the Act.

The phrase "serious wrongdoing" is at the core of the Act and that is defined as including:

" ...any serious wrongdoing of any of the following types:

- (a) an unlawful, corrupt, or irregular use of public funds or public resources; or*
- (b) an act, omission, or course of conduct that constitutes a serious risk to public health or public safety or the environment; or*
- (c) an act, omission, or course of conduct that constitutes a serious risk to the maintenance of law, including the prevention, investigation, and detection of offences and the right to a fair trial; or*
- (d) an act, omission, or course of conduct that constitutes an offence; or*
- (e) an act, omission, or course of conduct by a public official that is oppressive, improperly discriminatory, or grossly negligent, or that constitutes gross mismanagement,-- whether the wrongdoing occurs before or after the commencement of this Act."*

In very general terms the Act applies to employees of the Council, former employees, persons seconded to the Council, a person contracted under a contract of services, such as a consultant or contractor.

Attached are the internal procedures which set out the process by which an "employee" may disclose information about serious wrongdoing within the Council. The Council is required to publish widely information to employees about its internal procedures and information about how to use those procedures and this must be republished at regular intervals.

The Act provides that employees who make disclosures about serious wrongdoing in accordance with the procedures established are protected from disciplinary action by the Council. There is also immunity from civil and criminal proceedings for making a protected disclosure. It is intended that the Investigations Commissioner, Mr Don Hampton, will be the person within the Council to whom disclosures of serious wrongdoing are made. The Policy has been discussed with the Human Resources Unit and has also been notified to the Unions which operate within the City Council.

Recommendation: That the attached Policy be adopted as the City Council's Protected Disclosures Act Policy.

Chairman's

Recommendation: That the above recommendation be adopted.