



1. Intent of Policy

The objective of this policy is to establish guidelines for an effective internal reporting system which encourages and facilitates the reporting of disclosures in regards to corruption, maladministration and serious and substantial waste.

This policy is designed to complement normal communication channels between supervisors and staff. Staff are encouraged to continue to raise appropriate matters at any time with their supervisors, but as an alternative have the option of making a protected disclosure in accordance with this policy.

2. Scope of Policy

This policy applies to the General Manager, Mayor, Councillors, Directors and Supervisors of Oberon Council.

3. Definitions

Related Parties

A person or entity that is related to the entity that is preparing its financial statements i.e. a related party is party that exhibits control or joint control, or significant influence over the reporting entity or key management personnel of the reporting entity.

Related Party Transactions

A related party transaction is a transfer of resources, services or obligations between a reporting entity and a related party, regardless of whether a price is charged.

Key Management Personnel (KMP)

Key management personnel are those persons having authority and responsibility for planning, directing and controlling the activities of the entity, directly or indirectly. Council's KMP would include the Mayor, Councillors, General Manager, Directors and Supervisors.

Close Family Members

Close family members are people who can be expected to influence or be influenced by key management personnel and include that persons children and spouse or domestic partner; children of that persons spouse or domestic partner; and dependants of that person or that persons spouse or domestic partner.

KMP Compensation

Compensation includes all employee benefits (as defined in AASB 119 Employee Benefits) and include all forms of consideration paid, payable or provided by the entity, or on behalf of

the entity, in exchange for services rendered to the entity. They include short term employment benefits e.g. wages etc.; post employment benefits e.g. pensions; other long term benefits e.g. long service leave; and termination benefits.

Arm's length transaction

A transaction between two related parties that is conducted as if they were unrelated, so that there is no question of conflict of interest.

Control

Is the power to govern the financial and operating policies of an entity so as to obtain benefits from its activities.

Joint Control

Is the contractually agreed sharing of control over an economic activity.

Significant influence

Is the power to participate in the financial and operating policy decisions of an entity, but is not control over those policies. Significant influence may be gained by share ownership, statute or agreement.

Responsible Accounting Officer

A position of Council that has legislative responsibilities under the Local Government (General) Regulation 2005.

Material transaction

Transactions assessed as material based on some or all of the following criteria

- Significance in terms of size
- Carried out on non-market terms
- Outside normal day to day business operations
- Disclosed to regulatory or supervisory authorities
- Reported to senior management.

4. Guidelines

The *Public Interest Disclosures Act* aims to encourage and facilitate disclosure in the public interest by enhancing and augmenting established procedures for making disclosures, protecting persons from reprisals that might otherwise be inflicted on them because of these disclosures, and providing for those disclosures to be properly investigated and dealt with.

Oberon Council is committed to the objectives of the *Public Interest Disclosures Act 1994* and encourages the disclosure of instances of corrupt conduct, maladministration or serious and substantial waste.

This Policy establishes guidelines for the reporting and management of protected disclosures in accordance with the *Public Interest Disclosures Act 1994*.

4.1 Obligation to Report

All Councillors, General Manager, Directors and Supervisors have an obligation under Council's Code of Conduct to:

- Fulfil their statutory duty, to act honestly and exercise a reasonable degree of care and diligence

- Identify and resolve situations which involve a conflict of interest or improper use of their position
- Act in a way which enhances public confidence in the system of local Government
- Report instances of corruption, maladministration and serious and substantial waste.

4.2 What disclosures are protected under the Act?

To be protected under the Act, a disclosure must show or tend to show corrupt conduct, maladministration or serious and substantial waste of public money. It must be more than a mere allegation without substantiation and must include evidence that if substantiated would amount to the alleged conduct.

To be protected the disclosure must be made voluntarily to a person or authority nominated in this policy.

4.3 What disclosures are not protected?

A disclosure is not protected under the Act if it is made by a public official in the exercise of a duty imposed by or under an Act. Protection is also not available for disclosures which:

- Are made frivolously or vexatiously,
- Primarily question the merits of government policy, or
- Are made solely or substantially with the motive of avoiding dismissal or other disciplinary action.

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

4.4 Disclosures to journalist or Member of Parliament

In very limited circumstances disclosures made to journalists or a Member of Parliament will be protected if:

- The person making the disclosure to a journalist or member of Parliament must have already made substantially the same disclosure through the internal reporting system or to the General Manager or an investigating authority in accordance with the Act,
- The investigating authority, council, staff or public official to whom the matter was originally referred has:
 - i. Decided not to investigate the matter, or
 - ii. Decided to investigate the matter but not completed the investigation within six months of the original disclosure, or
 - iii. Investigated the matter but not recommended any action in respect of the matter, or
 - iv. Failed to notify the person making the disclosure, within six months of the disclosure, of whether the matter is to be investigated.
- The responsible officer must have reasonable grounds for believing that the disclosure is substantially true.

5 Examples of Transactions

The following are examples of transactions that are required to be disclosed if they are transacted with a related party:

- Purchase or sale of goods
- Purchase or sale of property and other assets
- Rendering or receiving services

- Leases
- Quotations and/or tenders
- Commitments
- Settlements of liabilities on behalf of Council or by Council on behalf of the related party
- Grants and subsidy payments made to associated entities of Council
- Non-monetary transactions
- Compensation made to key management personnel and their close family members.

6 Review of Related Party Declarations

A review of KMP and their related parties will be completed prior to 5 July each year. Whereby the identified KMP will be required to complete the Related Party Declaration and return this to Council’s Finance Coordinator by 31 July.

The method of identifying the close family members and associated entities of KMP will be by KMP self-assessment. KMP are responsible for keeping the Finance Coordinator updated when any changes to those related parties occur outside of those times.

Particular events, such as a change in Councillors, General Manager, Directors, or Supervisors will trigger a review of Council’s related parties immediately following such an event.

Council’s Finance Coordinator will be responsible for identifying Council subsidiaries, associates and joint ventures. Council’s Finance staff will maintain a register of all declared and identified related parties.

7 Policy Review

This Policy shall be reviewed annually to ensure that it meets the object of the legislation, and facilitates the making of disclosures under the Act.

8 Related Legislative and Regulatory Requirements

NSW Local Government Act
 Accounting Standard AASB 124 Related Party Disclosures
 Accounting Standard AASB 10 Consolidated Financial Statements
 Accounting Standard AASB 11 Joint Arrangements
 Privacy and Personal Information Protection Act 1998 (PPIPA)
 Government Information (Public Access) Act 2009 (GIPA Act)

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