

MANDATORY NOTIFICATION POLICY

Policy Number:	2.4.5
Approved by:	Council
Date Effective:	December 2023
Date of Next Review:	December 2024
Applicable to Unit(s):	Whole Organisation
Responsible Officer:	Chief Executive Officer
Related Policies:	Fraud Control Policy Public Interest Disclosures Policy
Related Documents:	IBAC Directions for making mandatory notifications of suspected corruption – Directions for relevant principal officers.
Statutory Reference:	<i>Independent Broad-based Anti-corruption Commission Act 2011</i> <i>Public Interest Disclosures Act 2012</i> <i>Local Government Act 2020</i> <i>AS 8001-2008 Fraud and Corruption Control</i> <i>Crimes Act 1958</i>

OVERVIEW

To provide a framework for the reporting of corrupt activity at Wellington Shire Council in accordance with the *Independent Broad-based Anti-corruption Commission Act 2011*.

THE POLICY

This policy supports Council's Risk Management Framework and promotes a culture of awareness which encourages staff responsibility and workplace protection against suspected or actual corrupt behavior. Council has a zero-tolerance approach to corruption and will refer any corrupt activity to the appropriate law enforcement or regulatory body for independent investigation.

The Australian Standard AS 8001- 2008 defines corruption as:

"Dishonest activity in which a director, executive, manager, employee or contractor of an entity acts contrary to the interest of the entity and abuses his / her position of trust in order to achieve some personal gain or advantage for him or herself or for another person or entity."

In accordance with the *Independent Broad-based Anti-corruption Commission Act 2011*, the obligation to report suspected corrupt conduct rests with the relevant Principal Officer (Chief Executive Officer) and cannot be delegated. Where another person is acting as the relevant Principal Officer, the obligation applies to that person.

The relevant Principal Officer must notify the Independent Broad-based Anti-corruption Commission (IBAC) of all instances of suspected corrupt conduct occurring in their own organisation, and suspected corrupt conduct occurring in other organisations where it is connected with the relevant principal officer's duties, functions and exercise of powers. There is no legislative obligation for the relevant principal officers to search out corrupt conduct, only to report it when suspected.

Corrupt conduct

Corrupt conduct may occur in plain sight or may be detected during a regular review process (e.g. an internal audit, service review or routine quality assurance review).

Section 4 of the *Independent Broad-based Anti-corruption Commission Act 2011* describes and defines corrupt conduct, summarised here as conduct, or an attempt or conspiracy to engage in conduct that:

- a) adversely affects the honest performance of the functions of a public officer or public body;
- b) constitutes or involves the dishonest performance of the functions of a public officer or public body;
- c) constitutes or involves knowingly or recklessly breaching public trust;
- d) involves the misuse of information or material acquired in the course of the performance of the functions of a public officer or public body;
- e) is intended to adversely affect the effective performance of the functions or powers of a public office or public body and results in the person or their associate obtaining a specified benefit.

In order for conduct to be corrupt conduct, it must also be the case that the conduct would constitute a relevant offence which means an indictable offence against any Act, or the common law offences of attempt to pervert the course of justice, bribery or a public official, perverting the course of justice and misconduct in public office.

Examples of misconduct in public office include:

- deliberately falsifying accounts to conceal or obtain a benefit;
- entering into a secret commission or profit-sharing arrangement with another person;
- colluding to share profits with tender recipients and concealing the overvaluation of tenders;
- using public office to deceive a member of the public to gain a financial advantage;
- misusing power to harm, oppress or disadvantage a person.

What happens when a report is made?

The report will be managed in accordance with the IBAC Directions for making mandatory notifications of suspected corruption – Directions for relevant principal officers.

When must a report be made?

Notifications of suspected corrupt conduct must be made as soon as practicable after the Chief Executive Officer has formed a reasonable suspicion that corrupt conduct may have occurred or may be occurring.

CONFIDENTIALITY

Notifications to IBAC must be made without advising the person(s) to whom the notification relates, and without publicity. All notifications of suspected corrupt conduct to IBAC will be treated in the strictest confidence.

Failure to handle notifications to IBAC confidentially may prejudice any subsequent investigation, whether by IBAC or the public-sector body concerned, and may cause unnecessary reputational or other damage to individuals.

Making a mandatory notification

Complete the IBAC Mandatory Notification form available at:

<https://www.ibac.vic.gov.au/reporting-corruption/notifications>

The mandatory notification form can be submitted by:

Email info@ibac.vic.gov.au

Post Attention: Manager Assessments and Review
IBAC Commissioner
GPO Box 24234
Melbourne VIC 3001

HUMAN RIGHTS

Wellington Shire Council is committed to upholding the Human Rights principles as outlined in the *Charter of Human Rights and Responsibilities Act 2006 (Vic)* and referred to in Council's Human Rights Policy. The Human Rights Checklist has been completed and this policy accords with Council's policy commitment to uphold human rights principles.

REVISION HISTORY

VERSION	DATE	MAJOR / MINOR UPDATE	SUMMARY OF CHANGES
1.0	December 2022	Minor update	Updated link and instructions for completion of mandatory notification form
1.0	December 2023	Minor update	Date of Next Review updated to: December 2024 Formatting and terminology updates Inclusion of what happens when a report is made IBAC Directions for making mandatory notifications of suspected corruption – Directions for relevant principal officers inserted as a Related Document. Approved by: updated from CEO to Council