



AUDIT COMMITTEE

AGENDA & REPORTS

for the meeting

Friday 19 July 2019
at 8.30am

in the Colonel Light Room
Adelaide Town Hall



Membership:	The Lord Mayor 1 Council Member 3 External Independent Members 2 Proxy Council Members
Quorum:	3
Presiding Member	Mr David Powell
Deputy Presiding Member	Mr Ross Haslam
Members	The Right Honourable the Lord Mayor [Sandy Verschoor] [Apology] Councillor Martin Mr Sean Tu
Proxy Members	<i>Councillor Hyde [proxy for the Lord Mayor]</i> <i>Councillor Knoll [proxy for Councillor Martin].</i>

1. Confirmation of Minutes - 3/5/2019 & 7/6/2019

That the Minutes of the meeting of the City of Adelaide Audit Committee held on 3 May 2019 and the Minutes of the Special meeting of the City of Adelaide Audit Committee held on 7 June 2019, be taken as read and be confirmed as an accurate record of proceedings.

2. Acknowledgement of Country

'Council acknowledges that we are meeting on traditional Country of the Kurna people of the Adelaide Plains and pays respect to Elders past and present. We recognise and respect their cultural heritage, beliefs and relationship with the land. We acknowledge that they are of continuing importance to the Kurna people living today.

And we also extend that respect to other Aboriginal Language Groups and other First Nations who are present today.'

3. Presiding Member Reports

4. Reports

- 4.1. Accounting Standards Position Papers [2019/00266] [Page 3]
- 4.2. External Audit Interim Management Letter [2019/00266] [Page 23]
- 4.3. Corporate Complaints Handling Operating Guidelines [2014/05026] [Page 26]
- 4.4. Presiding Member's Annual Report [2014/05026] [Page 39]
- 4.5. Public Interest Disclosure Operating Guideline [2019/01309] [Page 44]

5. Whistleblowing

6. Emerging Key Risks

7. Other Business

8. Item Seeking Exclusion of the Public (If required)

8.1. Exclusion of the Public to Consider [2017/00571] [Page 67]:

For the following items seeking consideration in confidence:

- 9.1 Update on Activities of the Strategic Risk and Internal Audit Group Meetings [s 90(3) (i)]
- 9.2 Internal Audit Progress Update [s 90(3) (b) & (d)]
- 9.3 Confidential Discussion with the Internal Auditor [s 90(3) (b)]

9. Confidential Item (if any)

9.1. Update on Activities of the Strategic Risk and Internal Audit Group Meetings [2012/00053] [Page 72]

9.2. Internal Audit Progress Update [2018/02550] [Page 77]

9.3. Confidential Discussion with the Internal Auditor [2018/02550] [Page 82]

10. Closure

Accounting Standards Position Papers

ITEM 4.1 19/07/2019
Audit Committee

2019/00266
Public

Program Contact:
Tracie Dawber, AD Finance &
Procurement 8203 7002

Approving Officer:
Clare Mockler, Deputy CEO &
Director Culture

EXECUTIVE SUMMARY:

This report has been prepared to further update Audit Committee on the assessment of the impact upcoming changes to the Australian Accounting Standards may have on Council's future reporting.

RECOMMENDATION:

THAT THE AUDIT COMMITTEE

1. Adopts the proposed accounting policy changes to Leases, as contained in Attachment A to Item 4.1 on the Agenda for the meeting of the Audit Committee held on 19 July 2019.
 2. Adopts the proposed accounting policy changes to Income, as contained in Attachment B to Item 4.1 on the Agenda for the meeting of the Audit Committee held on 19 July 2019.
 3. Notes the proposed accounting policy changes in relation to AASB 1058 *Income of Not-for-Profit Entities* will have no impact on the Council's financial statements for 2018-19.
 4. Notes the proposed accounting policy changes in relation to AASB 15 *Revenue from Contracts with Customers* does not have any current impact on Council's income recognition.
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IMPLICATIONS AND FINANCIALS:

City of Adelaide 2016-2020 Strategic Plan	Strategic Alignment - Corporate Activities Financial sustainability is critical to achieving our vision and Council will carefully manage its revenue, costs, debt and assets.
Policy	Not as a result of this report.
Consultation	Not as a result of this report.
Resource	Not as a result of this report.
Risk / Legal / Legislative	<i>Local Government Act 1999 and the Local Government (Financial Management) Regulations 2011</i>
Opportunities	Not as a result of this report.
19/20 Budget Allocation	Not as a result of this report.
Proposed 20/21 Budget Allocation	Not as a result of this report.
Life of Project, Service, Initiative or (Expectancy of) Asset	Not as a result of this report.
19/20 Budget Reconsideration (if applicable)	Not as a result of this report.
Ongoing Costs (e.g. maintenance cost)	Not as a result of this report.
Other Funding Sources	Not as a result of this report.

DISCUSSION

1. From 1 July 2019, Council is required to comply with the following Australian Accounting Standards (AASB):
 - 1.1. AASB 16 *Leases*
 - 1.2. AASB 15 *Revenue from Contracts with Customers*
 - 1.3. AASB 1058 *Income of Not-for-Profit Entities*
2. An assessment has been completed to determine the impact there will be on Council's existing accounting policies as disclosed in Note 1 of the Annual Financial Statements.
3. Administration has consulted and agreed with both Council's external auditor BDO and independent advisory firm Dean Newbery & Partners to ensure they are satisfied with any proposed changes in accounting policies.

AASB 16

4. AASB 16 will be replacing the previous leasing standard, AASB 117 *Leases*. The effect of the new standard for lessees will be to now recognise a right-of-use (ROU) asset and lease liability for all leases. The ROU asset will be depreciated over the life of the lease while interest expenditure will be expensed as the lease liability unwinds.
5. The methodology adopted in calculating the ROU asset and lease liability are as follows:
 - 5.1. No makegood provision is included in the ROU asset as a review undertaken of Council's current leasing arrangements found no material requirements to restore premises to their original condition;
 - 5.2. Subsequent measurement of the ROU assets will be measured at cost in accordance with AASB 116 *Property, Plant and Equipment*;
 - 5.3. CPI adjustments are factored into the lease liability where the amounts are known at commencement date;
 - 5.4. Where lease payments are determined based on annual profits (such as for one of our car park leases) the lease liability is calculated based on current conditions and revalued annually;
 - 5.5. All options to extend have been factored into the lease terms;
 - 5.6. Leases for periods of up to 12 months or of assets with underlying value less than \$10,000 will be expensed on a systematic basis over the life of the lease (no leases currently meet this criteria).
6. From 2019-20, changes noted to the financial statements include:
 - 6.1. Council's net asset position will reduce as the ROU asset depreciates faster than the lease liability unwinds;
 - 6.2. Cash outflows associated with reducing the lease liability will be classed as financing activities in the statement of cash flow (previously classed as operating activities);
 - 6.3. Note 7 – Infrastructure, Property, Plant and Equipment will include a new class of assets, being the ROU assets;
 - 6.4. Note 8 – Liabilities will disclose the lease liability; and
 - 6.5. Lease payment commitments previously disclosed under part (ii) of Note 17 – Operating Leases will be removed.
7. Administration's position on the practical expedients available upon initial adoption of AASB 16 are:
 - 7.1. Council elects for no reassessment of contracts for leases;
 - 7.2. Council applies the modified retrospective approach at initial recognition;
 - 7.3. The right-of-use (ROU) asset is recognised as an amount equal to the lease liability; and
 - 7.4. Council opts to apply a single discount rate to its portfolio of leases.
8. As noted above in paragraph 3, Administration has recommended the adoption of the modified retrospective approach. Under this approach the ROU asset and lease liability are recognised as at 1 July 2019 with no adjustment to the prior year comparatives. The alternative is to adopt the retrospective approach, which recognises the comparatives assuming AASB 16 had always been in place for our current leases. Administration have elected not to adopt this approach due complexities in calculating two of Council's leases dating back to 1972 and 1983, for which the financial information is unavailable.

9. Below is an illustration of how the adoption of AASB 16 will impact the financial statements compared to previous treatment under AASB 117. The example is for a lease with:
- 9.1. annual rent of \$100K;
 - 9.2. remaining lease term of six years;
 - 9.3. rent subject to an annual market review, however the % increase has not been specified; and
 - 9.4. no initial direct costs, makegood provision or lease incentives associated with the agreement.

The example also assumes that the entity has a borrowing rate of 3%.

As demonstrated in the table, at the end of the 2019-20 financial year, the entity will see a reduction in their net assets of \$6,538 and a corresponding increase in their operating expenditure of \$6,538.

As at 30/06/2020	AASB 16 (new)	AASB 117 (previous)	Net Impact (2019-20)
Statement of Financial Position			
ROU Asset @ cost	541,719	-	541,719
Accumulated Depreciation	(90,287)	-	(90,287)
<i>ROU Asset (NWDV)</i>	<u>451,433</u>	-	<u>451,433</u>
Lease Liability	457,971	-	457,971
Net Assets	(6,538)	-	(6,538)
Statement of Comprehensive Income			
Interest Expense	16,252	-	16,252
Depreciation Expense	90,287	-	90,287
Rental Expense	-	100,000	(100,000)
Total	106,538	100,000	6,538

AASB 15 & 1058

10. AASB 15 replaces both AASB 118 Revenue and AASB 111 Construction Contracts and changes the recognition of revenue to align with the achievement of performance obligations within a contract. AASB 1058 replaces most of the not for profit (NFP) provisions of AASB 1004 Contributions by clarifying and simplifying the recognition requirements relating to grants and other forms of income.
11. In order for AASB 15 to apply to a not-for-profit transaction, there are three critical elements regarding recognition of income that are required to be satisfied:
 - 11.1. The agreement between two or more parties must create 'enforceable' rights and obligations;
 - 11.2. The agreement must contain performance obligations to transfers goods or services to another party that are sufficiently specific to enable determination of when the obligation has been satisfied; and
 - 11.3. Not result in the goods or services specified being retained by the entity, i.e. the goods or services will be transferred to the customer or to other parties on behalf of the customer

After the assessment of all of Council's income streams, it has been determined that there will be no impact from the application of AASB 15. Any statutory or user charges or reimbursements are either a fee for service at that point in time or are recognised over the period in which the income is rightly earned (e.g. golf memberships received in advance are treated as income based on the utilisation of the service provided).

12. AASB 1058 replaces most of the NFP provisions of AASB 1004 by clarifying and simplifying income recognition requirements. The purpose of AASB 1058 is to more closely recognise NFP income transactions that are not contracts with customers in accordance with their economic reality.
13. In considering all of the transition options under AASB 1058, it has been agreed that the modified retrospective approach, with utilisation of the practical expedient approach, to be the best option due to the simplicity of its application. Under this approach sufficient disclosures are available around the impact of the change providing more clarity of information for the end user.

ATTACHMENTS

Attachment A – Position Paper – AASB 16

Attachment B – Position Paper – AASB 1058 & AASB 15

- END OF REPORT -

Position Paper – Australian Accounting Standards (AASB) 16 Leases

The Australian Accounting Standards Board (AASB) have issued AASB 16 Leases which replaces the previous leasing standard, AASB 117. The effect of the new standard will be to remove the distinction of leases between operating and finance for the lessee, and instead requires entities to recognise a right-of-use (ROU) asset and corresponding lease liability.

Council is required to comply with AASB 16 for the 2019-20 financial year. This paper provides the methodology adopted by Administration to measure the ROU asset and lease liability as well as Administration's position on transition options available on implementation of the standard.

Accounting Standards

AASB 16 provides guidance on how to assess whether a contract held by the Council may have a lease that will need to be accounted for in accordance with the new standard. For a contract to contain a lease under AASB 16, the standard requires that the customer (i.e. Council) can satisfy both of the following:

- (a) The right to obtain substantially all the economic benefit from the use of the asset; and
- (b) The right to direct the use of the asset¹.

Where a lease is identified to exist, the lessee is required to recognise a ROU asset and lease liability in the balance sheet.

The right-of-use asset comprises:

- (a) the amount of the initial measurement of the lease liability;
- (b) any lease payments made at or before the commencement date, less any lease incentives received;
- (c) any initial direct costs incurred by the lessee; and
- (d) an estimate of the costs Council is contractually required to incur to dismantle or restore the underlying asset to its original condition at the end of the lease².

The lease liability is measured at the present value of the lease payments not yet made at commencement date, discounted using Council's incremental borrowing rate³. Lease payments included in the measurement of the liability comprise:

¹ AASB 16 p9

² AASB 16 p24

³ AASB 16 p26

- (a) fixed payments less any lease incentives receivable;
- (b) variable lease payments that depend on an index or a rate, initially measured using the index or rate as at the commencement date;
- (c) amounts expected to be payable by the lessee under residual value guarantees;
- (d) the exercise price of a purchase option if the lessee is reasonably certain to exercise that option; and
- (e) payments of penalties for terminating the lease, if the lease term reflects the lessee exercising an option to terminate the lease⁴.

Methodology and Assumptions

Council currently have ten leasing arrangements which have been accounted for under AASB 117. Administration have reviewed the above listed criteria to determine the ROU asset and lease liability associated with these leases and adopted the following methodology and assumptions.

Makegood Provision

Administration reviewed the terms of each lease and noted no significant makegood clauses required on cessation of the leasing arrangements. Any costs expected to be incurred would be minimal and cover items such as painting or removal of the fit out to a building. As these items have been deemed immaterial they have not been included in the calculation of the ROU asset.

Subsequent Measurement of the ROU asset

Subsequent measurement of the ROU asset will be at cost less depreciation and impairment losses in accordance with AASB 116 *Property, Plant and Equipment*⁵.

Alternatively, the asset could be measured using the revaluation model⁶, however as it will be remeasured annually to align with the updated lease payments, and Council's leasing arrangements are consistent with market value it is expected the value of the asset will not be materially different had the revaluation model been used.

⁴ AASB 16 p27

⁵ AASB 16 p29

⁶ AASB 16 p35

Variable Lease Payments

Variable lease payments that are unknown at the commencement date of the lease are not factored into the calculation of the lease liability⁷. Therefore, unless the CPI indexation is specified in the lease agreement, the lease liability is determined based on current lease payments and revalued when the CPI increase is applied.

The annual rent for one of Council's car park leases is determined based on the net operating surplus less 25% for the management fee. Similar to above, this lease liability has been determined based on current arrangements and will be revalued as the conditions are updated.

Lease Term

The lease term covers the non-cancellable period of the lease together with both:

- (a) options to extend the lease where the lessee is reasonably certain to exercise that option; and
- (b) options to terminate the lease where the lessee is reasonably certain not to exercise that option⁸.

Administration have taken the approach that where a lease has an option to extend, unless information to the contrary is known, Council will exercise that option.

Short Term or Low Value Leases

Where the lease term is for a period of up to 12 months or the underlying value of the asset is AUD \$10,000 or less, Administration will recognise the lease payments as an expense on a systematic basis over the life of the lease⁹.

There are currently no leases that meet these criteria.

⁷ AASB 16 p27(b)

⁸ AASB 16 p18

⁹ AASB 16 p5 & p6

Financial impact

Below presents an illustrative example of the financial impact AASB 16 will have on the financial accounts. The example is based on a lease which has the following conditions:

- For the 2019-20 financial year the annual payment is \$100K;
- The lease will expire on 30/06/2025, therefore there are six years remaining in the lease term;
- The lease payments are subject to an annual market review, however the % increase has not been specified in the agreement; and
- There are no lease incentives, makegood provision or initial direct costs associated with the lease.

The below example also assumes the entity has an incremental borrowing rate is 3%.

The remaining lease payments for the term of the lease are discounted using the incremental borrowing rate of 3% to determine the ROU asset and lease liability. As at 1 July 2019, these equate to \$541,719. In comparison, under AASB 117 no balance would have been recognised.

	AASB 16 (new)	AASB 117 (previous)	Net Impact (2019-20)
As at 1/07/2019			
Statement of Financial Position			
ROU Asset @ cost	541,719	-	541,719
Accumulated Depreciation	-	-	-
<i>ROU Asset (NWDV)</i>	<i>541,719</i>	<i>-</i>	<i>541,719</i>
Lease Liability	541,719	-	541,719
Net Assets	-	-	-

Table 1: Initial recognition of the ROU asset and lease liability at 1 July 2019

At the end of the 2019-20 financial year, the net asset position will have reduced by \$6,583 compared to treatment under AASB 117 due to the ROU asset depreciating faster than the lease liability unwinding. A corresponding increase in operating expenditure of \$6,538 is recognised and comprises depreciation of \$90,287 and interest of \$16,252, while no rental expenditure (\$100,000) is recorded.

As at 30/06/2020	AASB 16 (new)	AASB 117 (previous)	Net Impact (2019-20)
Statement of Financial Position			
ROU Asset @ cost	541,719	-	541,719
Accumulated Depreciation	(90,287)	-	(90,287)
<i>ROU Asset (NWDV)</i>	<i>451,433</i>	<i>-</i>	<i>451,433</i>
Lease Liability	457,971	-	457,971
Net Assets	(6,538)	-	(6,538)
Statement of Comprehensive Income			
Interest Expense	16,252	-	16,252
Depreciation Expense	90,287	-	90,287
Rental Expense	-	100,000	(100,000)
Total	106,538	100,000	6,538

Table 2: Indicative financial impact of lease with FY 2019-20

While initially there is an increase in operating expenditure, the interest will reduce as the lease liability unwinds. Therefore, at the end of the 2024-25 financial year, compared to the original treatment under AASB 117, there will be a reduction in operating expenditure of approximately \$6,801.

As at 30/06/2025	AASB 16 (new)	AASB 117 (previous)	Net Impact (2024-25)
Statement of Financial Position			
ROU Asset @ cost	541,719	-	541,719
Accumulated Depreciation	(541,719)	-	(541,719)
<i>ROU Asset (NWDV)</i>	-	-	-
Lease Liability	-	-	-
Net Assets	-	-	-
Statement of Comprehensive Income			
Interest Expense	2,913	-	2,913
Depreciation Expense	90,287	-	90,287
Rental Expense	-	100,000	(100,000)
Total	93,199	100,000	(6,801)

Table 3: Indicative financial impact of lease with FY 2024-25

Overall there is nil impact on the operating expenditure over the six years of the lease, rather the impact is seen in the timing of when expenditure is recorded.

Changes to the Financial Statements

From 1 July 2019, Council will note the following changes to the financial statements.

Statement of Financial Position (SOFP)

Infrastructure, Property, Plant & Equipment will increase as the balance incorporates the ROU asset. The asset will be disclosed as a separate class under Note 7.

Trade and Other Payables will have a corresponding increase as the balance incorporates the lease liability. The lease liability will be disclosed separately under Note 8a

Statement of Profit or Loss and Other Comprehensive Income

Finance costs and depreciation charges will increase as the interest incurred on the lease liability and depreciation of the ROU assets are incorporated into these line items. *Materials, Contracts and Other Expenses* will reduce as the operating lease payments are removed.

Other Changes

Statement of Cash Flows (SOFC)

While there will be no impact on the cash outflows associated with the leases, the following changes in how the outflows are reported will be incorporated into the SOCF:

- (a) Financing activities will include a line item for cash repayments of the principal portion of the lease liability; and
- (b) Cash payments from operating activities will have corresponding reduction as the decrease in lease expenditure is offset by the increase in finance costs associated with the lease liability.

Disclosures

Note 13 – *Financial Instruments* will include a maturity analysis on the liquidity of the lease liabilities separate from the other maturity analyses for other financial liabilities.

Note 17 – *Operating Leases* will no longer include *lease payment commitments*, except where Council have a short term or low value lease.

Additional disclosures will also be introduced detailing the qualitative and quantitative information around the leasing activities to allow users of the financial statements to assess the effect the leases have on the financial position, financial performance and cash flows of Council.

Transition Disclosures

Administration have recommended the adoption of the modified retrospective approach (refer to Transition Options). Under this approach, Council will need make disclosures in accordance with AASB 108 *Accounting Policies, Changing in Accounting Estimates and Errors* p28, in particular:

- (a) the nature of the change in accounting policy;
- (b) a description of the transitional provisions;
- (c) the transitional provisions that might have an effect on future periods;
- (d) an explanation as to the circumstances surrounding the election of the modified retrospective approach over the retrospective approach; and
- (e) a description of how and from when AASB 16 has been applied.

AASB 16 Appendix C C12 states however that instead of disclosing the amount of the adjustment to each financial statement line item affected for the current and each prior period presented, as required under AASB 108 p28(f), the following shall be disclosed:

- (a) the weighted average of Council's incremental borrowing rate applied to lease liabilities recognised in the statement of financial position at the date of initial application; and
- (b) an explanation of any difference between:
 - a. operating lease commitments disclosed applying AASB 117 at the end of the 2018-19 financial year, discounted using the incremental borrowing rate at 1 July 2019; and
 - b. lease liabilities recognised in the statement of financial position at the date of initial application.

Additionally, Council must disclose any practical expedients that have been adopted¹⁰.

¹⁰ AASB 16 Appendix C13

Transition Options

A number of transition options are available at implementation under AASB 16 Appendix C. Below are the positions Administration have taken on these options.

Position 1: No reassessment of previous lease contracts

Under the new standard, entities must assess all contracts to determine whether they are, or contain, a lease¹¹. However, AASB 16 allows entities to not reassess all current contracts and rather only account for the leases previously identified.

Administration's position is Council elects for no reassessment of contracts for leases.

Position 2: Adopt the modified retrospective approach

At initial recognition, lessees are permitted to apply AASB 16 retrospectively, being to adjust the comparative information from the 2019 financial year to align with the new standard, or adopt the modified retrospective approach, where the comparative information is not adjusted¹².

To determine the comparatives under the retrospective method Administration would be required to calculate the ROU asset and lease liability as if AASB 16 had been in place from the commencement of the lease for all Council's current leasing arrangements. However, two of Council's leases commenced in 1972 and 1983 of which the historical information regarding lease payments is unavailable, therefore any calculation of comparative balances would not be accurate. Alternatively, under the modified retrospective approach, the ROU asset and lease liability are recognised based on current conditions as at 1 July 2019 and therefore is not impacted by the age of the lease.

Administration therefore recommends Council adopts the modified retrospective approach.

Position 3: Measurement of the ROU asset

Administration recommend measuring the ROU asset as an amount equal to the lease liability, adjusted for any prepaid or accrued lease payments relating to that lease recognised in the statement of financial position immediately before the date of initial application¹³.

¹¹ AASB 16 Appendix C C3

¹² AASB 16 Appendix C C5

¹³ AASB 16 Appendix C C8(b)(ii)

Alternatively, the ROU asset may be recognised as if it has been applied since the commencement date of the leases¹⁴, however, as noted above, two leases date back to 1972 and 1983, therefore accurately determining the value of the ROU asset under this approach would not be practical.

Position 4: Application of a single discount rate to a portfolio of leases

Administration recommend Council elects the option available under AASB 16 to apply a single discount rate to a portfolio of leases with reasonably similar characteristics¹⁵.

¹⁴ AASB 16 Appendix C C8(b)(i)

¹⁵ AASB 16 Appendix C C10(a)

Position Paper – Australian Accounting Standards (AASB) 15 & 1058

The Australian Accounting Standards Board (AASB) have issued AASB 1058 *Income of Not-for-Profit Entities* in conjunction with AASB 15 *Revenue from Contracts with Customers* in which Council will be required to comply with from 1 July 2019.

The primary impact from the introduction of these standards will be the timing of which Council recognises the majority of its grant income. Most income will be recognised on delivery of the performance obligations associated with the funding agreement. Previously under AASB 1004 income had to be recognised once control was taken of the funds which ordinarily would be in advance of Council's expenditure.

Accounting Standards Application

AASB 15

In order for AASB 15 to apply to a not-for-profit transaction, there are three critical elements regarding recognition of income that are required to be satisfied:

- (a) The agreement between two or more parties must create 'enforceable' rights and obligations;
- (b) The contract must contain performance obligations to transfers goods or services to another party that are sufficiently specific to enable determination of when the obligation has been satisfied; and
- (c) not result in the goods or services specified being retained by the entity, i.e. the goods or services will be transferred to the customer or to other parties on behalf of the customer.¹

The determination of whether the performance obligation is 'enforceable' and 'sufficiently specific' is a matter of judgement.

A 'contract' is an agreement between two or more parties that creates 'enforceable' rights and obligations. An agreement is typically enforceable by another party through legal or equivalent means if the agreement is in writing and includes sufficiently specific requirements of the parties².

In assessing whether a promise is 'sufficiently specific', professional judgment is required to be made with the help of the following considerations:

- (a) The nature or type of the goods or services;
- (b) The cost or value of the goods or services;

¹ AASB 1058.IE5 p35

² AASB 15 p10

- (c) The quantity of the goods or services; and
- (d) The period over which the goods or services must be transferred.

AASB 1058

AASB 1058 replaces most of the NFP provisions of AASB 1004 by clarifying and simplifying income recognition requirements. The purpose of AASB 1058 is to more closely recognise NFP income transactions that are not contracts with customers in accordance with their economic reality.

The key considerations of AASB 1058 are:

- (a) Income must first fall outside of the scope of AASB 15 *Revenue from Contracts with Customers*
- (b) The timing of income recognition will depend on whether there is any performance obligation or other liability. This will result in better matching of income and related expenses.
- (c) Lessees will now recognise peppercorn leases as right-of-use assets at fair value.
- (d) There is an opportunity to elect to recognise volunteer services if they can be reliably measured.

Assessment of the impact of these standards to Council

AASB 15 Revenue from Contracts with Customers

After the assessment of all of Council's income streams, it has been determined that there will be no impact from the application of AASB 15. Any statutory or user charges or reimbursements are either a fee for service at that time, or are recognised in the period in which the income is rightly earned i.e. golf memberships received in advance are treated as income based on the utilisation of the service provided.

AASB 1058 Income of Not-for-Profit Entities

The key features of AASB 1058 consider the following income types that have been assessed individually on the potential change to Council's reporting:

Grants

Grants received under enforceable agreements for the construction or acquisition of recognisable non-financial assets will have their income deferred under AASB 1058 where the timing of income recognition will depend on any performance obligations that will result in better matching of income to the delivery

of the performance obligation. The grants received are initially recognised as a financial asset (cash) with a corresponding liability (e.g. obligation to construct a sporting facility). The liability will draw down once the performance obligation is satisfied (i.e. once the construction milestones are met). If the construction spans multiple financial years, a percentage completed or similar approach is utilised to determine when and how much revenue is to be recognised.

AASB 1004 *Contributions* which is current until 30 June 2019, considers a more risk-based approach to income recognition that sees this income mostly recognised in advance of satisfying any performance obligation. This standard considers the following recognition criteria:

- (a) The entity obtains control or the right to receive the contribution;
- (b) It is probable that the economic benefits will flow to the entity;
- (c) The amount of the contribution can be reliably measured³.

Unconditional grants, such as the Financial Assistance, Roads to Recovery and HACC grants will continue to be recognised as contributions in accordance with AASB 1004 *Contributions*.

Please refer to the section 'Transition Requirements' for an analysis on the financial impact the change in accounting standards will have on the recognition of grant income.

Assets received below fair value

From time to time Council may receive gifted assets in the form of infrastructure or property from the State Government. AASB 1058 requires Council to recognise these assets at fair value at the date the asset is acquired. Any excess over the consideration provided as income. This treatment is currently employed by Council in accordance with AASB 116 Property Plant and Equipment and therefore there will be no impact on Council's accounting policies on occurrence of these events.

Volunteer services;

Under paragraph 18, the inflow of services is required to be recognised only if:

- (a) the fair value of those services can be measured reliably, and

³ AASB 1004.12

(b) the services would have been purchased if they had not been donated.

Council currently utilise volunteer services to assist in various operations with the equivalent resourcing of approximately 14 FTE. Management have determined that per (b) above, these services would not be purchased in the instance they were not donated and therefore the requirement to quantify the value and disclose is voluntary. Further to this, the estimated fair value of the services to Council is immaterial to the total employee costs incurred annually and therefore the position will be not to disclose the appropriate fair value of these services.

Prepaid Council Rates;

No change to the current accounting treatment as annual rates are levied in the year they fall due.

Leases entered into that are below market rates

Any leases entered into at below market value (i.e. a peppercorn lease) where Council are the lessee, the right of use asset is required to be measured at fair value. It has been assessed that no such agreements are currently in place.

Transition Requirements

AASB 1058 provides two options for how entities wish to implement the standard being:

- (a) retrospective application to each prior reporting period presented; or
- (b) the modified retrospective approach, where the cumulative effect of the new standard is recognised as an adjustment to retained earnings and no adjustment is made to comparative information⁴.

Under both approaches the standard offers a practical expedient which allows the entities to not restate contracts or transactions that were completed prior to the earliest period presented (retrospective) or date of initial application (modified)⁵. Therefore, where Council have previously recognised income

⁴ AASB 1058 Appendix C C3

⁵ AASB 1058 Appendix C C5(b) & C6

for a project under AASB 1004 *Contributions*, the standard allows for no adjustment to be made in relation to this project as under the previous standard the contract is deemed to have been completed. In this instance, under the modified retrospective approach, as all grant income relating to the projects will be recognised in the 2018-19 FY, no adjustment will be required to be processed for the 2019-20 FY.

A comparison of the two approaches is illustrated below:

Retrospective Approach	Modified Retrospective Approach
An adjustment of \$12m is made to the 2018-19 comparatives in the 2019-20 financial statements.	No adjustment to made to the 2018-19 comparatives in the 2019-20 financial statements.
Disclosure of the amount of the adjustment to each affected line item within the financial statements for the 2019-20 and 2018-19 financial years ⁶ .	<ul style="list-style-type: none"> • Disclosure of the amount of each line item within the financial statements affected in the current reporting period by the application of this Standard as compared to AASB 1004 Contributions before the change; and • An explanation of the reasons for significant changes identified⁷.
Practical Expedient Adopted	
No adjustment to the opening retained earnings at 1 July 2018. The income that has been previously recognised in prior financial reporting periods under AASB 1004 is considered to be completed contracts.	
An adjustment of \$1.5m will be recognised as a liability in the comparative information at 30/06/2019 for projects that started in the 2018-19 financial year.	No adjustment to the opening retained earnings at 1 July 2019. The income that has been previously recognised in prior financial reporting periods under AASB 1004 is considered to be completed contracts. AASB 1058 will be applied to all grant income received in the 2019-20 FY

On consideration of each option, Administration have determined the modified retrospective approach, with utilisation of the practical expedient, to be the best approach due to the simplicity of applying the new policy. Under this approach sufficient disclosures are available around the impact of the change providing more clarity of information for the end user. Accordingly, Administration's position is Council adopts the modified retrospective approach.

⁶ AASB Appendix C C4 & AASB 108 p28(f)

⁷ AASB 1058 Appendix C C7

External Audit Interim Management Letter

ITEM 4.2 19/07/2019
Audit Committee

2019/00266
Public

Program Contact:
Tracie Dawber, AD Finance &
Procurement 8203 7002

Approving Officer:
Clare Mockler, Deputy CEO &
Director Culture

EXECUTIVE SUMMARY:

Under *Section 129* of the *Local Government Act 1999* the auditor must provide to the council a report on particular matters arising from the audit and specifically identify in the report, any irregularity in the council's accounting practices or the management of the council's financial affairs identified by the auditor during the course of the audit.

BDO Chartered Accountants (BDO) completed their interim audit in the months of May and June 2019. As is normal practice and based on their work to date BDO have provided an "[Interim Report on the 2019 External Audit](#)" to the Presiding Member of the Audit Committee.

BDO's Interim Report notes they have identified no material deficiencies in internal controls which would impact audit testing or expose the Council to risk of material misstatement of results for the year ended 30 June 2019. A final report on matters arising from the audit will be provided to the Audit Committee on 18 October 2019.

RECOMMENDATION:

THAT THE AUDIT COMMITTEE

1. Notes the report.
-

IMPLICATIONS AND FINANCIALS:

City of Adelaide 2016-2020 Strategic Plan	Strategic Alignment - Corporate Activities Financial sustainability is critical to achieving our vision and Council will carefully manage its revenue, costs, debt and assets.
Policy	Not as a result of this report.
Consultation	Not as a result of this report.
Resource	Not as a result of this report.
Risk / Legal / Legislative	Section 126(4)(c) of the <i>Local Government Act 1999</i> identifies the functions of an Audit Committee as: <i>“Reviewing the adequacy of the accounting, internal control, reporting and other financial management systems and practices of the council on a regular basis”.</i>
Opportunities	Not as a result of this report.
19/20 Budget Allocation	Not as a result of this report.
Proposed 20/21 Budget Allocation	Not as a result of this report.
Life of Project, Service, Initiative or (Expectancy of) Asset	Not as a result of this report.
19/20 Budget Reconsideration (if applicable)	Not as a result of this report.
Ongoing Costs (eg maintenance cost)	Not as a result of this report.
Other Funding Sources	Not as a result of this report.

DISCUSSION

1. The External Auditors for the Council are BDO Chartered Accountants (BDO). The role of the External Auditor is to provide an opinion to Council with respect to the audited financial statements. In planning the audit, the auditor considers the internal controls in order to determine their audit procedures for the purpose of expressing their opinion on the financial statements and the effectiveness of the financial control environment.
2. Under Section 129 of the *Local Government Act 1999* the auditor must provide to the council a report on particular matters arising from the audit and specifically identify in the report, any irregularity in the council's accounting practices or the management of the council's financial affairs identified by the auditor during the course of the audit.
3. At the meeting of the Audit Committee on 22 February 2019, the Audit Committee endorsed the proposed 2018-19 End of Year financial reporting process and external audit timetable. The associated report highlighted that BDO had scheduled to carry out their audit in two parts with the interim audits conducted in May and June 2019 and the final phase of the audit concentrating on the Corporation's draft financial statements to be carried out at the end of August 2019.
4. BDO have now completed their planning and review of systems as part of the external audit for the year ended 30 June 2019 and have commenced the end of year phase of the audit. As is normal practice and based on their work to date, BDO have provided an "[Interim Report on the 2019 External Audit](#)" to the Presiding Member of the Audit Committee.
5. BDO's Interim Report notes they have identified no material deficiencies in internal controls which would impact audit testing or expose the Council to risk of material misstatement of results for the year ended 30 June 2019.
6. The status of reporting points reviewed during the interim audit visit and per BDO's Interim Report (refer page 2 of the report), with the following confirmed:
 - 6.1. Revaluation, depreciation, useful lives and residual values of Infrastructure, Land and Buildings.
 - 6.2. Capital Work in Progress
 - 6.3. Accounting for newly identified infrastructure assets
 - 6.4. Accounting treatment for grant funding
 - 6.5. Management override of internal controls
 - 6.6. Disclosure impact of new Accounting Standards AASB 15, 16 and the early adoption of new Accounting Standards
 - 6.7. Update on audit opinion in relation to internal controls
7. It is appropriate that the Audit Committee notes the Interim Report on the 2019 External Audit.
In accordance with the agreed timetable endorsed by the Audit Committee at the 22 February 2019 meeting, BDO will present a final report on matters arising from the audit to the Audit Committee on 18 October 2019. This report will include administration comment for each matter.

ATTACHMENTS

Nil

- END OF REPORT -

Corporate Complaints Handling Operating Guidelines

ITEM 4.3 19/07/2019
Audit Committee

2014/05026
Public

Program Contact:
Vanessa Godden, AD Customer
8203 7156

Approving Officer:
Mark Goldstone, Chief Executive
Officer

EXECUTIVE SUMMARY:

The Corporate Complaints Handling Operating Guideline has been reviewed and updated in line with operational processes. The review ensured the guidelines were less prescriptive so that the application can be effectively applied to all areas of council. The new guidelines have a greater focus on achieving better outcomes for our community by reaching a resolution, rather than being process oriented.

Section 270 of the *Local Government Act 1999* Internal Review of Council Decisions procedure is contained within.

RECOMMENDATION:

THAT THE AUDIT COMMITTEE

1. Notes the Corporate Complaints Handling Operating Guideline, including the Section 270 Internal Review of Council Decisions procedure, contained within Attachment A to Item 4.3 on the Agenda for the meeting of the Audit Committee held on 19 July 2019.
-

IMPLICATIONS AND FINANCIALS:

City of Adelaide 2016-2020 Strategic Plan	Strategic Alignment - Corporate Activities To provide a consistent method in managing complaints and requests for review as required under s270 of the <i>Local Government Act 1999</i> .
Policy	Not as a result of this report.
Consultation	Internal consultation with affected teams has been completed when reviewing the Guidelines in their entirety.
Resource	Not as a result of this report.
Risk / Legal / Legislative	Section 270(1) of the <i>Local Government Act 1999</i> requires that a Council must establish procedures for the review of decisions of the Council, employees of the Council, and other persons acting on behalf of the Council.
Opportunities	To provide better customer service to our community.
19/20 Budget Allocation	Not as a result of this report.
Proposed 20/21 Budget Allocation	Not as a result of this report.
Life of Project, Service, Initiative or (Expectancy of) Asset	Not as a result of this report.
19/20 Budget Reconsideration (if applicable)	Not as a result of this report.
Ongoing Costs (eg maintenance cost)	Not as a result of this report.
Other Funding Sources	Not as a result of this report.

DISCUSSION

1. Pursuant to the City of Adelaide Audit Committee work plan, the Audit Committee is presented with the updated Corporate Complaints Handling Operating Guideline (the Guidelines) which includes procedures developed for the purposes of Section 270(1) of the *Local Government Act 1999* (the Act).
2. On 27 August 2018 the Audit Committee was presented with the Section 270 procedure. This report now includes the entire Corporate Complaints Handling Operating Guideline to provide further context and assurance to Committee members.
3. The Guidelines have been reviewed and updated in line with operational processes. The review ensured the guidelines were less prescriptive so that the application can be effectively applied to all areas of council. The new guidelines have a greater focus on achieving better outcomes for our community by reaching a resolution, rather than being process oriented.
4. The legislated Section 270 Internal Review of Council Decisions procedure is contained within the Guidelines.
5. Section 270(1) of the Act requires that a Council must establish procedures for the review of decisions of:
 - 5.1. The Council
 - 5.2. Employees of the Council
 - 5.3. Other persons acting on behalf of the Council
6. The procedures must address the following matters (and may address other matters):
 - 6.1. The manner in which an application for review may be made
 - 6.2. The assignment of a suitable person to reconsider a decision under review
 - 6.3. The matters that must be referred to the council itself for consideration or further consideration
 - 6.4. In the case of applications that relate to the impact that any declaration of rates or service charges may have had on ratepayers – the provision to be made to ensure that these applications can be dealt with promptly and, if appropriate, addressed through the provision of relief or concessions under this Act
 - 6.5. The notification of the progress and outcome of an application for review
 - 6.6. The time frames within which notifications will be made and procedures on a review will be completed.
7. The purpose of the Guidelines including the Section 270 Internal Review of Council Decisions procedure is to:
 - 7.1. Provide a commitment to consistent, accountable and transparent decision-making processes and to provide access to a fair and objective procedure for the internal review of decisions
 - 7.2. Meet Council's legislative requirements under Section 270 of the Act
 - 7.3. Provide a review process for operational complaint handling
 - 7.4. Provide an escalation process on the occasions where a complaint cannot be resolved through established complaint handling procedures or if the complainant requests a review of a decision made by the Council, where existing review processes or statutory appeal processes do not exist
 - 7.5. Inform and assist those persons seeking a formal review of decisions.

ATTACHMENTS

Attachment A – Corporate Complaints Handling Operating Guideline

- END OF REPORT -

CORPORATE COMPLAINT HANDLING OPERATING GUIDELINE

Date this document was adopted

administration

PARENT DOCUMENT: Code of Conduct for Council employees

PURPOSE

The City of Adelaide (CoA) views its management of complaints as an important component of continuously improving the experience of Council's stakeholders. The Council is committed to identifying, investigating and resolving issues that arise from complaints.

The Council is committed to the provision of quality service to customers and regards complaints as an opportunity to improve practices and procedures as well as resolve the matter. The aim of this operating guideline is to provide a fair, consistent and structured process for customers if they are dissatisfied with any of the actions, decisions or services. Lessons learnt from complaint investigations will be used to directly inform service improvements.

OPERATION

COMPLAINTS PROCEDURE

Components of the Complaint Handling procedure

The complaint handling procedure is designed so the complaint is handled by the relevant person or team. Actions resulting from a complaint may include the improvement or addition of processes to improve the customers' experience, or a number of other actions.

Where possible any complaint received by Council will be resolved at first point of contact. Where it cannot be resolved at this point, the following steps will help guide the complaint through to resolution in a timely and efficient manner:

1. The complaint should be documented in the relevant information system
2. All complaints will be acknowledged by a response according to the method in which the complaint was received, or in the preference specified by the customer
3. All complaints are to be investigated and assessed in a timely manner
4. If the council employee receiving the complaint is not able to assess and resolve the issue, they are to escalate the complaint to their immediate manager for action. Members of the Customer Experience team are also available to provide advice to assist Council staff and Managers in responding to complaints
5. Personal information should only be disclosed during this process for addressing the complaint within the Council.
6. Once the complaint has been investigated, the decision is to be relayed to the customer. The decision should include a summary of the complaint, steps taken to investigate it, and the outcome of that investigation (subject to

confidentiality). It may also include future actions that will be taken to improve the customers experience with the Council.

What is a complaint?

We define complaints as dissatisfaction expressed about a situation or action that requires a response and a resolution. This may include unfulfilled service requests, a decision made by Council that affects the complainant, a request for the improvement of a service provided by Council, or the actions or attitude of an employee of Council.

Initial work/service requests, requests for information, suggestions, comments or feedback are not considered complaints under this Guideline. However, Council remains committed to seeing all customer requests through to resolution regardless of their nature.

Who can make a complaint?

Anyone can make a complaint. This includes residents of the Council, customers of the Council, and Council partners. This may include people who live, work, study or conduct business in the Council area, or those who visit, use or enjoy the services, facilities and public places of the City of Adelaide.

How to submit a complaint

Complaints can be submitted through many channels, including:

- Over the phone
- Face to face at the Customer Centre
- Face to face to frontline staff (eg Parking & Information Officers, Cleansing and Horticulture staff)
- Email
- Website contact forms
- Written letter
- City Chat
- Social Media channels
- Raised to an Elected Member.

Who can receive a complaint?

All council employees can receive a complaint. Any council employee receiving a complaint has a responsibility to ensure that the complaint is acknowledged and assessed by the relevant area. If the staff member receiving the complaint is not in a position to assess and resolve the issue, they should escalate the complaint to their immediate manager. Members of the Customer Experience team are available to provide advice to assist Council staff managing and responding to complaints.

UNREASONABLE COMPLAINTS

What is an Unreasonable Complainant?

Council may receive complaints from unreasonable complainants. Unreasonable complainants may include complainants who;

- make frivolous or irrelevant complaints,
- make complaints without basis,
- are abusive or threatening,
- are persistent and/or overly demanding.

Unreasonable Complainant Conduct is divided into five categories of conduct:

- Unreasonable persistence
- Unreasonable demands
- Unreasonable lack of cooperation
- Unreasonable arguments
- Unreasonable behaviours

What are the steps in dealing with an Unreasonable Complainant?

Complaints that escalate to unreasonable complaints will be dealt with in accordance with Council's Unreasonable Complainant Operating Guideline. This document is publicly available on Council's website.

INTERNAL REVIEW OF COUNCIL DECISIONS (section 270)

What is a Section 270 review?

Section 270(1) of the Local Government Act 1999 (the Act) requires the Council to establish procedures for the review of decisions of:

- the Council;
- employees of the Council;
- other persons acting on behalf of the Council.

When a complaint cannot be resolved through the Complaint Handling process (as stated above), a complainant may request a review of a decision of Council, an employee of Council, or other persons acting on behalf of the Council, under Section 270(1) of the Act.,

The procedure for reviewing decisions is based on five principles. These principles are:

1. Fair treatment: which requires impartiality, confidentiality and transparency at all stages of the process.
2. Accessibility: to be accessible there must be broad public awareness about Council's policies and procedures and a range of contact options.
3. Responsiveness: this will be achieved by providing sufficient resources, well trained staff and ongoing review and improvement of the Council's systems.

4. Efficiency: requests and complaints will be resolved as quickly as possible, while ensuring that they are dealt with at a level that reflects their level of complexity.
5. Integration of different areas of Council where the matter under review overlaps functional responsibilities.

An Internal Review of a Council decision is generally a last resort in the complaint handling process and may also be used in situations which are not able to be resolved by other means, such as a complaint about a decision of the Chief Executive Officer (CEO).

Any requests for review concerning Council Members should be directed to the CEO; and any reasonable suspicions of employee corruption, misconduct or maladministration should be referred to the Independent Commissioner Against Corruption (ICAC) as required under the relevant legislation.

Applying for a review

Who can lodge an application for a Section 270 review?

Any person affected by a decision made by Council, an employee of Council, or other persons acting on behalf of Council.

How can a Section 270 review be lodged?

A request for review under section 270(1) of the LGA Act 1999 is to be made in writing. It must include a statement clearly indicating which decision/s the applicant wishes to have reviewed, a statement outlining the reasons the review is requested, the name and contact details of the applicant, and any other relevant information.

How will an Application for Review be Acknowledged?

Applications for review will be responded to within 10 business days, acknowledging receipt, requesting further supporting evidence and advising of the expected timeframe for dealing with the matter.

Best endeavours will be made to ensure that a review of the original decision will be completed within 20 business days of receipt. However, if the decision is to be reviewed by Council, or in more complex cases, a review may take longer.

The applicant will be informed of progress, either by email, letter or telephone.

Which Matters are Outside the Scope of Section 270 Internal Reviews?

An application for review should only be made once the other mechanisms under the Complaints Handling Process have been undertaken as these may resolve the matter more quickly.

Some decisions made by the Council, a council employee or on behalf of the council are subject to review or appeal processes set out in legislation. This procedure cannot override or operate inconsistently with these statutory processes.

Consequently, where legislation provides for the review of, or appeal from, a type of decision, a decision of that type will not be reviewed under this procedure. Examples include:

1. Objections to valuations made by the Council;
2. Appeals against orders made pursuant to section 254 of the Local Government Act;
3. Appeals against the issuing of litter abatement notices under the Local Nuisance and Litter Control Act 2016;
4. Appeals against destruction and control orders issued under the Dog and Cat Management Act 1995;
5. Review of an expiation notice appeal under the Expiation of Offences Act 1996; and
6. External review processes under the Development Act 1993 and the Freedom of Information Act 1991.

Where legislation specifically provides for an internal review process, that process will apply rather than the process set out in this procedure.

Where the application relates to an expiation and the Reviewer considers the expiation has previously been appropriately reviewed under the Expiation of Offences Act 1996, advise the applicant that the decision will not be reviewed again.

In Which Situations May an Application for Review be Refused?

The Council, or a person assigned to consider the application may refuse the application if:

- it is made by an employee of the Council and relates to an issue concerning their employment; or
- it appears to be frivolous or vexatious; or
- the applicant is deemed to have insufficient interest in the matter.

Refusing an application for review will not be done lightly and reasons for the refusal will document the evidence on which a refusal is based.

The Review

Who Will Reconsider a Decision Under Review?

The person or body appointed to conduct a review is the Reviewer.

When the decision of the review was made by Council, a committee of Council, or the CEO the elected Council will be the reviewer. A report will be developed by the administration, or an independent external consultant. The Council will consider the outcome of the review and determine whether to affirm, vary or revoke the reviewed decision.

Where the Elected Council is not the reviewer, a reviewer will be chosen from the following:

- Manager Governance;
- Senior Consultant Risk & Audit; or
- Governance Advisor.

Role of the Reviewer

- Conduct the review in accordance with this Guideline;

- Determine to engage external legal advice to assist in the conduct of the review if considered necessary;
- Determine if an application is to be refused under grounds within this Guideline;
- If the application is to be refused under, notify the applicant of the refusal and reasons for doing so;
- If the Reviewer is the subject of the application, forward the application to another Reviewer to either conduct the review, or appoint another suitable officer to conduct the review;
- Where the application relates to:
 - a decision of the Council;
 - Council endorsed objectives and policies;
 - the internal review of a Council Decision Procedure and the process Council applied; or
 - any other matter the Reviewer determines

coordinate the review and refer it to the Council for consideration and decision.

Considerations of a Review

The role of a review is to review the decision in question to ensure that the decision-maker complied with the following procedural requirements and made the best possible decision in the circumstances:

- The decision-maker was appropriately authorised to make the decision;
- The decision-maker considered all matters which were relevant to the making of the decision, and did not take into account matters which were not relevant to the decision;
- The decision-maker did not make a decision or exercise a power or discretion in bad faith or for an improper purpose;
- The decision-maker ensured that findings of fact were based on evidence;
- The decision was reasonable (a review will include an assessment of the merits of the decision);
- Those affected by the decision were accorded procedural fairness, which includes the principles of natural justice;
- The decision-maker properly considered the application of existing policies and legislation, as they existed at the time of the decision;
- The decision-maker did not exercise a discretionary power at the direction of another person.

The Reviewer will:

- Review all documentation and information relevant to the decision;
- Review all relevant council policies and procedures relied upon in making the decision; and
- Obtain additional information or clarification from the applicant as required.

Providing Procedural Fairness

The principles of procedural fairness (also called 'natural justice') will be observed when exercising statutory powers which could affect the rights and interests of individuals.

Procedural fairness involves:

- Giving an applicant a right to put their case forward. This will generally involve giving an applicant the opportunity to provide all relevant documentary evidence, rather than an oral hearing;
- Ensuring the Reviewer does not have a personal interest in the outcome (is not biased); and
- Acting only on proper evidence that is capable of proving the case.

Applications that relate to the Impact of Declaration of Rates or Service Charges on Ratepayers

If Council receives an application for review of a decision concerning the financial impact of Council rates or services charges, these will be dealt with as a matter of priority. Where circumstances warrant, Council will consider financial relief or the granting of concessions in line with the provisions of the Local Government Act 1999.

Giving Reasons

While there is no statutory requirement to give reasons for a decision, the Reviewer will provide reasons for the decision where practicable.

A Reviewer will always give reasons to explain the outcome where:

- A decision is not in accordance with Council policy;
- A decision is likely to detrimentally affect rights or interests of individuals (or organisations) in a material way; or
- Conditions are attached to any approval, consent, permit, licence or other authorisation.

What if the customer finds the review to be unsatisfactory?

Applicants who do not find the review satisfactory will be advised of other options for review, such as the SA Ombudsman. At any stage of the process, the applicant may direct their complaint to the Ombudsman, however they should be advised the review of decision with Council may be suspended until the outcome of the Ombudsman review is reached.

Reporting of Section 270 reviews

Refer to reporting section of this guideline.

SUGGESTIONS, FEEDBACK & COMMENTS

A complaint under this operating guideline does not include initial service or work requests, requests for information, suggestions, comments or feedback, or any other contact that does not meet the definitional requirement for a complaint.

Although the Council does not deem suggestions, feedback and comments as complaints, they are encouraged and valued as a large component of the Council's commitment to continually improving the way we do business, and making the customer the centre of everything we do. On receipt of a suggestion, feedback or comment, a staff member should forward it to the appropriate area who will make a decision as to whether it will be implemented. The customer should be provided with a reference number, and where possible, the position title of the staff member or area of business, that will receive, and if possible, action their suggestion.

ROLES & RESPONSIBILITIES

Council Employee

It is every staff member's responsibility to assist in managing complaints. If you are in a position to hear a customer complaint it is your responsibility to ensure that the customer knows how to have it resolved. Complaints should be logged in the Council's Information Management Tool.

Customer Experience Team

The Customer Experience team will be the main point of contact for customer complaints. It is their responsibility to resolve the complaint at the first point of contact if possible, or forward the relevant information to the actioning officer.

Customer Advocates receiving a complaint are responsible for liaising with other areas of the business to ensure a timely resolution for the customer, or assisting to manage complex complaints when they reach across different Programs and functions.

Associate Directors

Associate Directors will be responsible for resolving complaints relevant to their Programs. While they may delegate this duty, they will be ultimately be responsible for the actions identified and their implementation in response to a complaint.

CEO & Directors

Directors will be responsible for complaints requiring cross-program resolutions and complaints that have not been able to be resolved at the departmental level.

TRACKING & REPORTING OF COMPLAINTS

Associate Directors, Directors and the CEO can request a complaints report at any time from the Manager, Customer Experience. Reports can be tailored to assist teams to monitor changing customer expectations and needs, assess how well the resolution process is working, and identify improvements to our service delivery.

The Governance Program will report to the Executive Strategic Risk & Internal Audit Group monthly on the progress and resolution of requests for internal reviews under Section 270. An annual report will be prepared detailing the number of Section 270 requests, the types of matters to which they related, outcomes of the reviews, and other matters that may be prescribed by the regulations. This annual report will be presented to Council as part of the Annual Report required by section 131 of the Local Government Act 1999.

OTHER USEFUL DOCUMENTS

Related documents

- Code of Conduct for Council Employees
- Code of Conduct for Council Members
- Unreasonable Complainants Operating Guideline

Relevant legislation

- Local Government Act SA 1999
- Independent Commissioner Against Corruption Act 2012

GLOSSARY

Throughout this document, the below terms have been used and are defined as:

Complaint: An expression of dissatisfaction with a product or service delivered by the Council or its representatives that has failed to reach the standard stated, implied or expected. This includes complaints about a service that has been, or should have been delivered.

Employee: is any person who is in an employment relationship with CoA (which includes, subsidiary staff), volunteers, along with temporary labour and consultants working for the Council.

ADMINISTRATIVE

As part of Council's commitment to deliver the City of Adelaide Strategic Plan, services to the community and the provision of transparent information, all policy documents are reviewed as per legislative requirements or when there is no such provision a risk assessment approach is taken to guide the review timeframe.

This Policy document will be reviewed every **3** years unless legislative or operational change occurs beforehand. The next review is required in **2022**.

Review history:

Trim Reference	Authorising Body	Date/ Decision ID	Description of Edits
ACC2011/141865	Chief Executive Officer	4/11/2011	Development operational process
ACC2011/141865	Chief Executive Officer	December 2016	Minor revision
ACC2019/90360	Audit Committee/ Council	(add decision ID and date)	Major review of document

Contact:

For further information contact the Customer & People Program

City of Adelaide
25 Pirie ST, Adelaide, SA
GPO Box 2252 ADELAIDE SA 5001
+61 8 8203 7203
city@cityofadelaide.com.au

Item 4.3 - Attachment A

Presiding Member's Annual Report

ITEM 4.4 19/07/2019
Audit Committee

2014/05026
Public

Program Contact:
Rudi Deco, Manager Governance
8203 7442

Approving Officer:
Mark Goldstone, Chief Executive
Officer

EXECUTIVE SUMMARY:

The Presiding Member's Report summarises the activities of the Audit Committee during the 2018/19 financial year.

.....

RECOMMENDATION:

THAT THE AUDIT COMMITTEE

1. Receives and notes the Presiding Member's Annual Report for the 2018/19 financial year as included in Attachment A to Item 4.4 on the Agenda for the meeting of the Audit Committee held on 19 July 2019.
-

IMPLICATIONS AND FINANCIALS:

City of Adelaide 2016-2020 Strategic Plan	Corporate Activities The role of the City of Adelaide is diverse and complex. Our core role is to deliver services to the community as a leader, service provider, regulator, advocate, facilitator and owner of assets.
Policy	Pursuant to the Audit Committee Terms of Reference, the Presiding Member shall report annually to Audit Committee and Council summarising the activities of the Committee during the previous financial year.
Consultation	Not in relation to this report
Resource	Not in relation to this report
Risk / Legal / Legislative	Not in relation to this report
Opportunities	Open, transparent and informed decision making.
18/19 Budget Allocation	Not in relation to this report
Proposed 19/20 Budget Allocation	Not in relation to this report
Life of Project, Service, Initiative or (Expectancy of) Asset	Not in relation to this report
18/19 Budget Reconsideration (if applicable)	Not in relation to this report
Ongoing Costs (eg maintenance cost)	Not in relation to this report
Other Funding Sources	Not in relation to this report

DISCUSSION

1. The City of Adelaide Audit Committee was first established in September 2005.
 2. Following the November 2014 Council Elections, the Audit Committee was re-established in December 2014.
 3. During the 2018/19 financial year, the Audit Committee met for four (4) ordinary meetings and two (2) special meetings.
 4. Substantive issues deal with by the Audit Committee during the previous financial year included (but were not limited to):
 - 4.1. Financial Statements;
 - 4.2. Activities of the Strategic Risk and Internal Audit Group;
 - 4.3. Internal Audit Program Updates;
 - 4.4. Internal Controls;
 - 4.5. Section 270 *Local Government Act 1999* Internal Reviews; and
 - 4.6. Audit Committee Terms of Reference.
-

ATTACHMENTS

Attachment A – Presiding Member’s Annual Report for the 2018/19 financial year.

- END OF REPORT -

City of Adelaide Audit Committee

Presiding Member's Report

I am pleased to present the Presiding Member Report for the City of Adelaide Audit Committee for the year ended 30 June 2019.

The Committee was re-established by Council, in December 2014 and during the 2014/2019 term comprised the members listed below. This Committee met six (6) times which included four (4) ordinary meetings and two (2) special meetings for the 2018/2019 year and attendances at these meetings are as follows:

• David Powell (Presiding Member)	5/6
• Ross Haslam (Deputy Presiding Member)	6/6
• Sean Tu (Independent Members)	4/6
• Former Lord Mayor Martin Haese	3/3
• Lord Mayor Sandy Verschoor	3/3
• Councillor Phillip Martin	6/6
• Former Councillor Megan Hender (proxy)	0/0
• Former Councillor David Slama (proxy)	0/0
• Councillor Hyde (proxy)	0/0
• Councillor Knoll (proxy)	0/0

The substantive issues that were dealt with during the year were:

- A review and update of the Terms of Reference of the Committee and recommendation to Council;
- A review of the Corporate Complaints Handling processes, including section 270 internal reviews;
- A review of the Council's Internal Controls and Risk Management Statement for inclusion in the financial statements;
- A review of the Council's Strategic Risk and Internal Audit Group;
- A review of the 2018 financial statements and the accounting policies that are adopted;
- A review of Audit Committee meeting schedule and work plan;
- A review of the end of year financial reporting process and proposed timetable to ensure compliance with the legislative requirements;
- A review of the scope and methodology of the external audit undertaken and a review of the implementation of recommendations proposed;
- A review of climate change;
- A review of the progress of the internal audit program, detailed internal audit reports and implementation of the recommendations on a regular basis;
 - Procurement Compliance
 - Employment Taxes
 - Child Protection Framework
 - Stakeholder Relationship Management
 - Management of Community Park Lands
 - Cyber Security and Data Privacy
 - Confidential Information Handling
 - Rates Revenue Assurance
 - Confidential Orders Review
 - Records Management
 - Credit Card Compliance
- Continuous review of the risk management procedures of Council and the administration; and
- Noted the 2019-20 Budget and revised Long-Term Financial Plan that has been prepared for Public Consultation.

Presentations to the Audit Committee during the year have included:

- Business Improvement Update; and
- Value and Efficiency

The Committee, during its deliberations, considered 8 matters in confidence and applied 8 confidential orders. I am satisfied that these were an appropriate use of the provisions of Section 90 and 91 of the *Local Government Act 1999*.

I have also been asked to present to Council on the 20 August 2019 on Climate Change risks which is a great opportunity to discuss further the level of importance this should play in all decision-making practices. I would like to express my appreciation to the members of the Committee for their participation in the Committee's deliberations, and to management and staff of the Council for their assistance and clarifications where required.



DAVID POWELL

Presiding Member

Date: 20 June 2019

Public Interest Disclosure Operating Guideline

ITEM 4.5 19/07/2019
Audit Committee

2019/01309
Public

Program Contact:
Rudi Deco, Manager
Governance, 8203 7442

Approving Officer:
Mark Goldstone, Chief Executive
Officer

EXECUTIVE SUMMARY:

The Public Interest Disclosure Operating Guideline has been developed to support the implementation of the *Public Interest Disclosure Act 2018* (PID Act) which commenced on 1 July 2019. The PID Act has replaced the *Whistleblowers Protection Act 1993*.

The Operating Guideline sets out the procedure for Council Members, employees and officers of Council in relation to receiving and handling appropriate disclosures in accordance with the PID Act and the Independent Commissioner Against Corruption's Guidelines, issued by the Office of Public Integrity.

The Operating Guideline provides details of the Responsible Officers who have been trained, as per the legislated requirements, by the Office of Public Integrity to administer the PID Act and assist Council Members, employees and officers in complying with the requirements of the PID Act when dealing with appropriate disclosures.

RECOMMENDATION:

THAT THE AUDIT COMMITTEE RECOMMENDS TO COUNCIL

That Council:

1. Notes the new Public Interest Disclosure Operating Guideline contained in Attachment A to Item 4.5 on the Agenda for the meeting of the Audit Committee held on 19 July 2019, which will replace the Whistleblowers Operating Guideline contained in Attachment B to Item 4.5 on the Agenda for the meeting of the Audit Committee held on 19 July 2019.

IMPLICATIONS AND FINANCIALS:

City of Adelaide 2016-2020 Strategic Plan	<p>Strategic Alignment - Corporate Activities</p> <p>The role of the City of Adelaide is diverse and complex. Our core role is to deliver services to the community as a leader, service provider, regulator, advocate, facilitator and owner of assets.</p>
Policy	The Council policy reporting framework of public integrity matters has been altered in accordance with the repeal of the <i>Whistleblowers Protection Act 1993</i> and the commencement of the <i>Public Interest Disclosure Act 2018</i> .
Consultation	Not as a result of this report
Resource	Not as a result of this report
Risk / Legal / Legislative	The mechanism for members of the public or public officers to make an appropriate disclosure of environment and health information or public administration information to a Relevant Authority is defined by the Independent Commissioner Against Corruption Public Interest Disclosure Guidelines, issued through the Office of Public Integrity. To be compliant with the Act and Guidelines, particularly the mechanisms for protecting an informant and timeline requirements in receiving and responding to appropriate disclosures, an Operating Guideline is required.
Opportunities	The new Operating Guideline provides the opportunity to enhance and redefine our position in relation to the protection of informants and the secure handling of appropriate public interest disclosures.
19/20 Budget Allocation	Not as a result of this report
Proposed 20/21 Budget Allocation	Not as a result of this report
Life of Project, Service, Initiative or (Expectancy of) Asset	Not as a result of this report
19/20 Budget Reconsideration (if applicable)	Not as a result of this report
Ongoing Costs (eg maintenance cost)	Not as a result of this report
Other Funding Sources	Not as a result of this report

DISCUSSION

1. Pursuant to clause 7.3 of the Audit Committee's Terms of Reference dealing with Whistleblowing, the Audit Committee shall:
 - 1.1. Review the Council's arrangements for its employees to raise concerns, in confidence, about possible wrongdoings in financial reporting and other matters; and
 - 1.2. Ensure these arrangements allow independent investigations of such matters and appropriate follow-up action.
2. On 27 July 2018, the Audit Committee considered Council's policy framework for the *Whistleblowers Protection Act 1993* and endorsed a revised Operating Guideline (**Attachment B**). Since then, the *Public Interest Disclosure Act 2018* (PID Act) has come into effect on 1 July 2019, repealing the *Whistleblowers Protection Act*.
3. All public sector agencies (including Councils) now have three months to implement internal processes and provide training and awareness on the recently released new requirements.
4. The Public Interest Disclosure Operating Guideline has been developed to support implementation of the *Public Interest Disclosure Act 2018* (PID Act).
5. The Operating Guideline sets out the procedure for Council Members, employees and officers of Council in relation to receiving and handling appropriate disclosures in accordance with the PID Act and the Independent Commissioner Against Corruption's Guidelines, issued by the Office of Public Integrity.
6. The key features of the Public Interest Disclosure regime can be summarised as follows:
 - 6.1. Where an appropriate disclosure is made to a relevant authority (e.g. a council), the informant will be protected from all liability, despite any duties of secrecy or confidentiality or any other restriction on disclosure (statutory or otherwise) which would otherwise apply.
 - 6.2. Relevant authorities have a duty to act promptly upon receipt of an appropriate disclosure to assess the information, decide what action (if any) to take, and notify the informant and the Office for Public Integrity (OPI) of the outcome of that assessment.
 - 6.3. If relevant authorities fail to act in the required timeframes, informants will be similarly protected from liability in relation to a subsequent disclosure of that information to a journalist or a member of Parliament.
 - 6.4. Penalties apply for disclosing the identity of an informant without the consent of the informant, for victimising, or for hindering a person from making an appropriate disclosure.
 - 6.5. Penalties apply for making a false or misleading disclosure.
 - 6.6. Chief Executive Officers are required, within three months of commencement of the PID Act, to designate Responsible Officers who are responsible for the administration of the Act. The role of Responsible Officers and their contact details are listed in the Operating Guideline (**Attachment A**).
 - 6.7. Chief Executive Officers are also required to prepare and maintain a document describing the procedures for persons making appropriate disclosures, and for officers and employees required to deal with disclosures (**Attachment A**). Note, councils are not legally obliged to prepare this document at the present time, however it is in accordance with best practice to do so to ensure compliance with the timeframes for responding to appropriate disclosures.
 - 6.8. The implementation of the PID Act does not eliminate or change other reporting options available, such as the Office of Public Integrity, Independent Commissions Against Corruption, the Ombudsman and the South Australian Police.
7. The purpose of the Public Interest Disclosure Operating Guideline is to:
 - 7.1. Encourage transparency and accountability in the Council's administrative and management practices
 - 7.2. Provide an environment where members of the public are supported in reporting potential substantial risks to public health or safety, or to the environment
 - 7.3. Provide the mechanisms where public officers are supported in reporting corruption, misconduct or maladministration in public administration
 - 7.4. Provide an environment where the identity of an Informant making an appropriate disclosure is protected and the treatment of those involved is fair and objective
 - 7.5. Provide for a fair and objective disclosure, assessment, investigation process (where necessary), ensuring that disclosures are acted upon where practicable

- 7.6. Facilitate the implementation and compliance with the PID Act.
8. As part of the implementation phase of the new legislation the following will occur over the next three months, to ensure CoA is compliant by 30 September 2019:
- 8.1. Elected Members have been provided with an information pack advising them of the changes and responsibilities if a member of the public approaches them with a disclosure.
 - 8.2. Elected Members have been provided with the contact details of Responsible Officers who will provide advice on the implementation of the Act, which are available on the Members Portal (online intranet). Further information, and awareness will be provided to Members late August.
 - 8.3. Three (3) Responsible Officers undertook the OPI Responsible Officer Training on 17 July 2019. The final Responsible Officer will undertake training on 7 August 2019.
 - 8.4. The Risk and Audit Team have developed an internal communications plan to generate awareness of the responsibilities for all employees under the new Act and will be delivering awareness training at team meetings across the organisation, where required.
 - 8.5. The Chief Executive Officer sent an email to all staff early July advising them of the changes and their responsibilities.
9. Subject to feedback provided at the Audit Committee, the draft Operating Guideline will be finalised and approved by the Chief Executive Officer by 31 July 2019.
-

ATTACHMENTS

Attachment A – Public Interest Disclosure Operating Guideline (Draft)

Attachment B – Whistleblowers Protection Operating Guidelines

- END OF REPORT -

Public Interest Disclosure Operating Guideline

31 July 2019

Legislative

PARENT DOCUMENT: *Public Interest Disclosure Act 2018*

PURPOSE

This Operating Guideline has been prepared in accordance with the requirements of section 12(4) and (5) of the *Public Interest Disclosure Act 2018* (PID Act). This guideline provides information for a person who wants to make an appropriate disclosure of environment and health information and public interest information to Council. Furthermore, the guideline provides guidance for Elected Members, officers and employees of Council in dealing with disclosures.

The Principal Officers' intent of this guideline and the implementation and operation of the PID Act is to encourage and facilitate further transparency and accountability in City of Adelaide's administrative and management practices and to encourage the disclosure about information of interest to the public.

There are two types of public interest information –

- a) Environment and health information which means information that raises a potential issue of a substantial risk to the environment or to the health or safety of the public generally or a significant section of the public; and
- b) Public administration information which means information that raises a potential issue of corruption, misconduct or maladministration in public administration.

OPERATION

Application of this document

City of Adelaide is committed to:

- The protection of informants who make public interest disclosures;
- The genuine and efficient consideration of public interest information;
- Referring, as necessary, appropriate Disclosures to another [Relevant Authority](#);
- Where the Disclosure relates to Corruption, or serious or systemic Misconduct or Maladministration in public administration, reporting the Disclosure direct to the Office of Public Integrity (OPI) in accordance with the OPI Guidelines and the [Independent Commissioner Against Corruption Act 2012](#) (ICAC Act);
- Facilitating the investigation (where necessary) of appropriate Disclosures in a manner which promotes fair and objective treatment of those involved; and
- Rectifying any substantiated wrongdoing to the extent practicable in all circumstances.

This Operating Guideline applies to appropriate disclosures of public interest information that are made by members of the public, or by public officers; and to the handling of appropriate disclosures received by public officers. Note, public officers include Council (Elected) Members, Officers and employees of the Council.

Responsible Officer

Pursuant to section 12 (1) the Chief Executive Officer must ensure that 1 or more officers or employees are trained and designated responsible offices; The Responsible Officers below have been trained by OPI to assist members of the public and public officers in making disclosures and administering other parts of the PID Act. Any person wishing to make a disclosure under the PID Act can do so confidentially to any of the following **Responsible Officers** in person, over the telephone or in writing.

Associate Director, Customer & People	8203 7156	v.godden@cityofadelaide.com.au
Manager, Governance	8203 7442	r.deco@cityofadelaide.com.au
Senior Consultant, Risk & Audit	8203 7168	j.dillon@cityofadelaide.com.au
Governance Advisor	8203 7144	f.galbraith@cityofadelaide.com.au

Role and Responsibilities

Role of Responsible Officers:

- Receive appropriate disclosures from members of the public, or public officers, and ensure compliance with the PID Act in handling the information, including provisions to protect the informant and meeting legislative timelines (see appendix A);
- Make recommendations to the CEO in relation to dealing with disclosures;
- Provide advice to Council Members, employees or officers in relation to receiving appropriate disclosures and their compliance with the PID Act;
- Monitoring public interest information and accepting disclosures securely and confidentially over the phone or email and storing information in a TRIM location restricted to Responsible Officers;
- Complete Responsible Officer training delivered by the Office of Public Integrity.

Role of the Principal Officer (CEO)

- Ensuring that one or more appropriately qualified officers or employees of the Council are designated as responsible officers of the Council for the purposes of the PID Act;
- Ensuring that the name and contact details of each responsible officer of the Council are made available to officers and employees of the Council;
- As a matter of discretion, inform Elected Members on a confidential basis of the fact that an investigation of a disclosure has taken place and the outcome of that investigation. Factors that the CEO can take into account in determining whether to inform Elected Members, and the level of detail provided, include:
 - whether the informant has consented to their identity being divulged
 - if applicable, the identity of a person the subject of the disclosure;
 - any impact of the investigation upon the Council's achievement of its objectives under its Strategic Plan or policies; and
 - the impact of any action taken to finalise the matter on Council's operations or budget.
- Where a disclosure or subsequent investigation process is related to Council employees and human resource processes, Elected Members will not be informed of the disclosure or investigation as these matters fall outside the roles and responsibilities of Elected Members under the *Local Government Act 1999*.

Role of Public Officers - Elected Members, employees and officers

- Comply with this Operating Guideline when dealing with any disclosure that may be received from a member of the public;
- Immediately refer any disclosure of environmental and health information to the Responsible Officer, in accordance with the requirement for confidentiality of the informants' identity;
- Upon receipt of a disclosure from a public officer, the Responsible Officer will deal with the disclosure in accordance with this Operating Guideline.

See appendix A for the process to follow if a public officer receives a disclosure.

Protections of the Informant

An informant who makes an appropriate disclosure is protected by several mechanisms:

- A prohibition on disclosure of their identity – the identity of an informant will remain confidential. The recipient of a disclosure may only divulge the identity of an informant in certain circumstances – see appendix A;
- Immunity from criminal or civil liability;
- A prohibition against victimisation; and
- A prohibition against the hindering, obstructing or being prevented from making an appropriate disclosure.

If a public officer (Elected Member, employee or officer) commits an act against these provisions, disciplinary action may be undertaken.

Protection is not provided to people who knowingly make false or misleading disclosures and the offence is prosecutable.

Disclosure type

For an informant to afford the protections of the PID Act, an '**appropriate disclosure**' of public interest information must be made, of which there are two types:

Environment and health information - information that raises a potential issue of a substantial risk to the environment or to the health or safety of the public generally or a significant section of the public.

A person makes an '**appropriate disclosure**' of environmental and health information if:

- the person believes on reasonable grounds that the information is true; or
- 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; and
- the disclosure is made to a Relevant Authority (e.g. Council).

Who can receive this type of information?

Elected Members, Council employees and Officers can receive a disclosure relating to environmental and health information.

Who can disclose this type of information?

Any member of the community can make a disclosure of environmental and health information pertaining to a location within the Council area.

Public administration information - information that raises a potential issue of corruption, misconduct or maladministration in public administration.

A person makes an '**appropriate disclosure**' of public administration information if:

- the person is a public officer; and
- reasonably suspects that the information raises a potential issue of corruption, misconduct or maladministration in public administration; and
- the disclosure is made to a Relevant Authority (e.g. Council).

Who can receive this type of information?

The person responsible for the supervision of the employee that the information relates, or a Responsible Officer can receive a disclosure relating to public administration information.

Who can disclose this type of information?

Only a public officer is able to disclose information about public administration to afford the protections of the Act.

Disclosure Process

When a disclosure is received, there are several matters that need to be considered when handling the disclosure to ensure the informant is protected by the provisions of the PID Act. To ensure compliance with the PID Act, the disclosure process is outlined in Table 1 and detailed in appendix A.

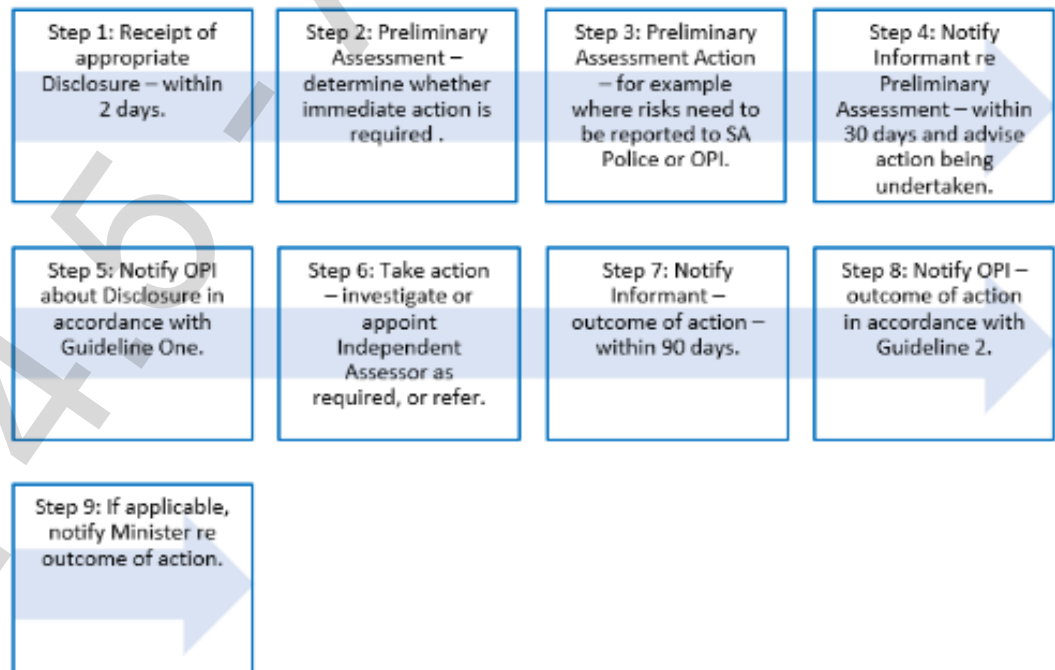


Table 1. Relevant Authority Disclosure Process

Fraud and Corruption

If a disclosure contains allegations of Corruption, the Informant should report the matter to the OPI. If the disclosure is related to Fraud, the Informant may report the matter to SAPOL. In both circumstances, the Responsible Officer is able to receive a report and determine the next step in the reporting or referral process (see appendix A).

Other Reporting Options

The implementation of the PID Act does not change the ability to report directly to other agencies available to public officers and members of the community such as:

- the Office of Public Integrity (OPI);
- the Independent Commissioner Against Corruption (ICAC);
- the Ombudsman; and
- South Australian Police (SAPOL).

OTHER USEFUL DOCUMENTS

Related documents

- Public Interest Disclosure Guidelines, OPI, 1 July 2019
- Code of Conduct for Council Employees
- Code of Conduct for Council Members
- Internal Review of Council Decisions Procedure

Relevant legislation

- Public Interest Disclosure Act 2018 and Public Interest Disclosure Regulations 2019
- Independent Commissioner Against Corruption Act 2012

GLOSSARY

Throughout this document, the below terms have been used (and are consistent with [PID Act](#) definitions) and are defined as:

Disclosure: means an appropriate disclosure of public interest information made by an Informant to a Relevant Authority in accordance with the PID Act.

Relevant Authority: means the person or entity that receives an appropriate disclosure of public interest information in accordance with the PID Act.

Informant: means a person who makes an appropriate disclosure of public interest information to a Relevant Authority.

Public Officer: means a Council Member, an employee or officer of the Council, in accordance with section 4, Schedule 1 of the ICAC Act. An *officer* is defined under the [Corporations Act 2001](#).

ADMINISTRATIVE

As part of Council's commitment to deliver the City of Adelaide Strategic Plan, services to the community and the provision of transparent information, all policy documents are reviewed as per legislative requirements or when there is no such provision a risk assessment approach is taken to guide the review timeframe.

This Policy document will be reviewed every 2 years unless legislative or operational change occurs beforehand. The next review is required in July 2021.

Review history:

Trim Reference	Authorising Body	Date/ Decision ID	Description of Edits
ACC2019/XXXX	Chief Executive Officer	31/07/2019	Operating Guideline commences.

Contact:

For further information contact the Governance Program

City of Adelaide
 25 Pirie ST, Adelaide, SA
 GPO Box 2252 ADELAIDE SA 5001
 +61 8 8203 7203
 city@cityofadelaide.com.au

Process for when a public interest disclosure is made to a Public Officer – Elected Member, Employee or Officer of Council

- This process applies where the informant is intending to make an '**appropriate disclosure**' (see definition in the Operating Guideline) under the PID Act. For complaints management refer to the Corporate Complaints Handling Operating Guideline.
- Where possible, disclosures should be directed to a **Responsible Officer** in the first instance. Contact details are contained in the Operating Guideline.
- Note timelines in step 1, 4 and 7. Failure to undertake this procedure within the required timelines could result in an informant taking their disclosure to the media or a Member of Parliament.

Step	Task	Matters for consideration
1. Receipt of disclosure – within 2 days	<ul style="list-style-type: none"> • Contact a Responsible Officer for assistance • Issue receipt within 2 days based on <i>Governance Program templates</i> for acknowledging receipt of a public interest disclosure. • Store information in a secure location in TRIM only accessible to you, if the informant does not consent to disclosing their identity. In other circumstances, the Responsible Officer will store information in the Trim file accessible to Responsible Officers only. 	<p>'Environment and health information': (see definition in Operating Guideline)</p> <ul style="list-style-type: none"> ✓ Can be disclosed to a Public Officer. <p>'Public administration information': (see definition in Operating Guideline)</p> <ul style="list-style-type: none"> ✓ Can be disclosed to a Public Officer if the Public Officer is the person responsible for the supervision of the Public Officer that the information relates to. <p>Confidentiality of informant</p> <ul style="list-style-type: none"> • If the informant does not consent to their identity being disclosed as a matter of handling the disclosure, the Public Officer must issue the receipt of the disclosure. • <i>The Public Officer must ensure that the identity of the informant is withheld from the Responsible Officer throughout the following process.</i>

		<p>The identity of the informant can be disclosed, to the extent required, only where:</p> <ul style="list-style-type: none"> ✓ The Public Officer believes on reasonable grounds that it is necessary to divulge the identity of the informant in order to prevent or minimise an imminent risk of serious physical injury or death to any person, or ✓ The Public Officer has been issued with a notice from the Office for Public Integrity (OPI) advising that the identity of the informant is required by the OPI, or ✓ The identity of the informant is required for the matter to be properly investigated (or where the informant wants to remain anonymous, sufficient evidence must be supplied).
<p>2. Preliminary assessment of the information</p>	<ul style="list-style-type: none"> • Consult with a Responsible Officer to undertake a preliminary assessment. 	<p>Determine whether:</p> <ul style="list-style-type: none"> • an imminent risk of serious harm exists; • there is a need to refer to OPI, SAPOL or other relevant authority; • other action is required and if so, identify that action • the disclosure is frivolous, vexatious or trivial; or has already been acted upon.
<p>3. Preliminary assessment action</p>	<ul style="list-style-type: none"> • Consult with a Responsible Officer to undertake any preliminary action required. 	
<p>4. Notify Informant re preliminary assessment – within <u>30 days</u> of disclosure</p>	<ul style="list-style-type: none"> • Within 30 days of the disclosure, in consultation with a Responsible Officer, issue a letter to the informant including details of action being undertaken, or advising why no action is to be taken. • Use <i>Governance Program templates</i>. • Store correspondence in secure TRIM location. 	<p>Letter must be from the Public Officer who received the disclosure, if confidentiality of the informants' identity is in place.</p>

5. Notify OPI about disclosure	<ul style="list-style-type: none"> Notify OPI with assistance of a Responsible Officer. Store the record pertaining to receipt of notification from OPI in secure TRIM location. 	<p>OPI's online notification form is at https://icac.sa.gov.au/pid-notification.</p> <p>Details required by OPI are as per Commissioner's Guidelines – Guideline 1.</p>
6. Take action	<ul style="list-style-type: none"> The Responsible Officer will determine whether any action is required including an investigation, <i>where necessary</i>. <p>The Responsible Officer will (where required):</p> <ul style="list-style-type: none"> Appoint an Independent Assessor (external legal expert) to undertake the investigation. Determine whether referring to another Relevant Authority (see section 5(5) PID Act) is required or seeking advice from SAPOL. Consult with the CEO through the process and about any further action proposed. 	<p>Where applicable, the Responsible Officer will manage the Independent Assessor in conducting an investigation, including the production of an investigation report.</p> <p>The report will detail:</p> <ul style="list-style-type: none"> The allegation; Account the relevant information received including rejected evidence; Conclusions reached; Recommendations, including remedial action; Transcripts of verbal evidence taken; Documents, statements accepted as evidence during the course of the investigation.
7. Notify Informant – outcome of action – within 90 days of disclosure	<ul style="list-style-type: none"> Within 90 days, issue a letter to the informant notifying them of the outcome of any action taken. <i>Responsible Officer to assist in drafting the letter.</i> Time extensions: A time extension can be made provided written notice is issued to the informant within the 90-day period. Use <i>Governance Program templates</i>. Store records and correspondence in secure TRIM file. 	<p>Letter must be from the Public Officer who received the disclosure, if confidentiality of the informants' identity is in place.</p>

8. Notify OPI – outcome of action	<ul style="list-style-type: none"> Notify OPI of outcome of action with assistance from Responsible Officer. Store records pertaining to receipt of notification from OPI in secure TRIM location. 	<p>Use the online notification form at https://icac.sa.gov.au/pid-notification.</p> <p>Details required by OPI are as per Commissioner’s Guidelines – Guideline 2.</p>
9. If applicable, notify Minister re outcome of action	<ul style="list-style-type: none"> Letter to be issued by the Principal Officer (CEO) with advice from the Responsible Officer. Use <i>Governance Program template</i>. 	<p><i>Applicable only</i> if the initial disclosure came from a Minister.</p>

Process for when a public interest disclosure is made to a Responsible Officer

- This process applies where the informant is intending to make an **'appropriate disclosure'** (see definition in the Operating Guideline) under the PID Act. For complaints management refer to the Corporate Complaints Handling Operating Guideline.
- Disclosures can be made by phone, in person, in writing, by email.
- The Responsible Officer may provide advice and assistance to the Public Officer where the Public Officer was the original recipient of the disclosure, in accordance with any confidentiality provisions that may apply.
- Note timelines in step 1, 4 and 7. Failure to undertake this procedure within the required timelines could result in an informant taking their disclosure to the media or a Member of Parliament.

Step	Task	Matters for consideration
1. Receipt of disclosure – within <u>2</u> days	<ul style="list-style-type: none"> • Issue receipt within 2 days based on <i>Governance Program templates</i> for acknowledging receipt of a public interest disclosure. • Store information in a secure location in TRIM only accessible to you, if the informant does not consent to disclosing their identity. 	<p>'Environment and health information':</p> <ul style="list-style-type: none"> ✓ Can be disclosed to a Responsible Officer. <p>'Public administration information':</p> <ul style="list-style-type: none"> ✓ Can be disclosed to a Responsible Officer. <p>Confidentiality of informant</p> <ul style="list-style-type: none"> • If the informant may not consent to their identity being disclosed as a matter of handling the disclosure. • <i>The Responsible Officer must put measures in place in handling the disclosure as to not reveal the identity of the informant.</i> <p>The identity of the informant can be disclosed, to the extent required, only where:</p> <ul style="list-style-type: none"> ✓ The Responsible Officer believes on reasonable grounds that it is necessary to divulge the identity of the informant in

		<p>order to prevent or minimise an imminent risk of serious physical injury or death to any person, or</p> <ul style="list-style-type: none"> ✓ The Responsible Officer has been issued with a notice from the Office for Public Integrity (OPI) advising that the identity of the informant is required by the OPI, or ✓ The identity of the informant is required for the matter to be properly investigated (or where the informant wants to remain anonymous, sufficient evidence must be supplied).
2. Preliminary assessment of the information	<ul style="list-style-type: none"> • Undertake preliminary assessment. • Consult with CEO through the course of handling the disclosure. 	<p>Determine whether:</p> <ul style="list-style-type: none"> • an imminent risk of serious harm exists; • there is a need to refer to OPI, SAPOL or other relevant authority; • other action is required and if so, identify that action; • the disclosure if frivolous, vexatious or trivial; or has already been acted upon.
3. Preliminary assessment action	<ul style="list-style-type: none"> • Undertake preliminary action, where required. 	
4. Notify Informant re preliminary assessment – within <u>30 days</u> of disclosure	<ul style="list-style-type: none"> • Within <u>30 days</u> of the disclosure, issue a letter to the informant including details of action being undertaken, or advising why no action is to be taken. • Use <i>Governance Program templates</i>. • Store correspondence in secure TRIM location. 	<p>Letter must be from Responsible Officer, if the disclosure was received by the Responsible Officer.</p>
5. Notify OPI about disclosure	<ul style="list-style-type: none"> • Notify OPI of disclosure received. • Store the record pertaining to receipt of notification from OPI in secure TRIM location. 	<p>OPI's online notification form is at https://icac.sa.gov.au/pid-notification.</p> <p>Details required by OPI are as per Commissioner's Guidelines – Guideline 1.</p>

<p>6. Take action</p>	<p>Action may involve undertaking an investigation, where necessary and include:</p> <ul style="list-style-type: none"> • Appointing an Independent Assessor (external legal expert) to undertake the investigation. • Determining whether referring to another Relevant Authority (see section 5(5) PID Act) is required or seeking advice from SAPOL. <p>The Responsible Officer will consult with the CEO through the investigation process and about any further action proposed.</p>	<p>Where applicable, manage the Independent Assessor in conducting an investigation, including the production of an investigation report.</p> <p>The report will detail:</p> <ul style="list-style-type: none"> • The allegation • Account the relevant information received including rejected evidence • Conclusions reached • Recommendations, including remedial action • Transcripts of verbal evidence taken • Documents, statements accepted as evidence during the course of the investigation.
<p>7. Notify Informant – outcome of action – within <u>90 days</u> of disclosure</p>	<ul style="list-style-type: none"> • Within 90 days, issue a letter to the informant notifying them of the outcome of any action taken. • Time extensions: A time extension can be made as long as written notice is issued to the Informant within the 90-day period. • Use <i>Governance Program templates</i>. • Store records and correspondence in secure TRIM file. 	<p>Letter must be from Responsible Officer, if the disclosure was received by the Responsible Officer.</p>
<p>8. Notify OPI – outcome of action</p>	<ul style="list-style-type: none"> • Notify OPI of outcome of action. • Consult with CEO as to whether Council Members require to be informed about the outcome of an investigation. <i>See PID Operating Guideline for further information on the role of CEO.</i> 	<p>Use the online notification form at https://icac.sa.gov.au/pid-notification</p> <p>Details required by OPI are as per Commissioner's Guidelines – Guideline 2.</p>

	<ul style="list-style-type: none"> • Store records pertaining to receipt of notification from OPI in secure TRIM location. 	
9. If applicable, notify Minister re outcome of action	<ul style="list-style-type: none"> • Letter to be issued by the Principal Officer (CEO) with advice from the Responsible Officer. • Use <i>Governance Program template</i> 	<i>Applicable only if the initial Disclosure came from a Minister.</i>

Item 4.5 - Attachment A

Whistleblowers Protection Operating Guideline

Date this document was adopted

administration

PURPOSE

This operating guideline is designed to ensure the City of Adelaide meets its obligations under the Whistleblowers Protection Act 1993 (the Act), to facilitate disclosures of public interest information, and provide protection for those who make those disclosures.

OPERATION

Where a Public Officer has formed a reasonable suspicion of corruption, or serious or systemic maladministration or misconduct, they **MUST** make a report to the Office of Public Integrity (the OPI).

However, where a Public Officer is aware of an issue which does not fall within the above definition, mechanisms under the Whistleblowers Protection Act 1993 (the Act) can be utilised. Alternatively, a Public Officer is also able to raise these issues through normal management channels, or through the Ombudsman.

Any person (an Informant) is able to make an appropriate disclosure of public interest information under the Act. Where the disclosure is made to a Responsible Officer, or other employee or Elected Member of the Council, the person to whom the disclosure is made will ensure:

- The identity of the person who made the disclosure (the Informant) is not, without the consent of that person, divulged to any other person except so far as may be necessary to ensure the matters are properly investigated by a Responsible Officer;
- An appropriate investigation is conducted into the matter by a Responsible Officer;
- Where the investigation results in the Responsible Officer forming a reasonable suspicion of corruption, or serious or systemic misconduct or maladministration a report will be made to the OPI;
- Wherever practicable and in accordance with the law, the Informant will be advised of the outcome of the investigation.

A Responsible Officer may determine that an investigation may be conducted by an independent party if appropriate, however, in doing so, will not disclose the identity of the Informant without the consent of the Informant.

Informants have obligations under Section 6 of the Act to assist with an investigation of the matters by the police or any other official investigating authority (except an

investigation by an authority or body to which the public interest information relates). Failure to do so, without reasonable excuse, forfeits the protection of the Act.

An Informant may wish to remain anonymous. In the event that an anonymous disclosure is made, the Informant must ensure that the allegation is sufficiently supported by the provision of necessary details and evidence to enable the matter to be properly investigated.

Except for the identity of the Informant, 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 wherever possible and will not be reported to Council, any Committee, or internal group, to avoid any possibility of the identity of the Informant being ascertained.

The person/s the subject of the appropriate disclosure will be afforded procedural fairness throughout the course of any investigation.

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

- (a) Written disclosures can be made addressed to the Senior Consultant Risk & Audit 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 Act and is cleared on a fortnightly basis.

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

Chief Executive Officer	8203 7695
Director Services	8203 7141
Associate Director People & Governance	8203 7256

The Act provides immunity from criminal or civil liability for Informants, and makes it unlawful to victimise any person who has made or intends to make an appropriate disclosure. Accordingly, the City of Adelaide will take action as appropriate to protect Informants from victimisation. Furthermore, in the event that an Informant is victimised, the City of Adelaide will ensure that person is aware of options for support. The Informant may take legal action, or may lodge a complaint under the Equal Opportunity Act 1984.

The Act does not provide protection to people who knowingly make false claims or are reckless about whether their claims are true. People who knowingly make false claims are committing an offence and may be liable for prosecution under the Act.

Other Responsible Officers will advise the Senior Consultant Risk & Audit of the disclosure for the purposes of retaining a record in a confidential file. This advice needs to include that an appropriate disclosure has been received and a general overview of the matter. No personal details or specifics need to be provided.

OTHER USEFUL DOCUMENTS

related documents

- Corporate Complaint Handling Operating Guideline
- Directions & Guidelines for Public Officers issued by the Independent Commissioner Against Corruption

relevant legislation

- Whistleblowers Protection Act 1993
- Independent Commissioner Against Corruption Act 2012

GLOSSARY

Throughout this document, the below terms have been used and are defined as:

Appropriate Disclosure: A person makes an appropriate disclosure of public interest information if, and only if—

- (a) the person—
 - (i) believes on reasonable grounds that the information is true; or
 - (ii) 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; and
- (b) the disclosure is made to a person to whom it is, in the circumstances of the case, reasonable and appropriate to make the disclosure, whether that be a Responsible Officer or another person.

Informant: A person who makes an appropriate disclosure of public interest information under the Whistleblowers Protection Act 1993

Public Interest Information: That an adult person (whether or not a public officer) has been involved in:

- An illegal activity; or
- In 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.

Public Officer: as defined by the Independent Commissioner Against Corruption Act 2012

Responsible Officer: is an employee who has been appointed by the CEO, for the purpose of receiving a disclosure of public interest information under the Act. Appointments of Responsible Officers are made based on the Responsible Officer having the qualifications/experience prescribed by Section 302B of the Local Government Act and associated Regulations.

ADMINISTRATIVE

As part of Council's commitment to deliver the City of Adelaide Strategic Plan, services to the community and the provision of transparent information, all policy documents are reviewed for currency at least annually as part of the review of delegations. Those requiring detailed consideration are flagged in the current forward Council Policy Program.

review history:

*ACC2017/124678: Adopted by Council on 23 May 2017, decision ID#23
Minor additions made*

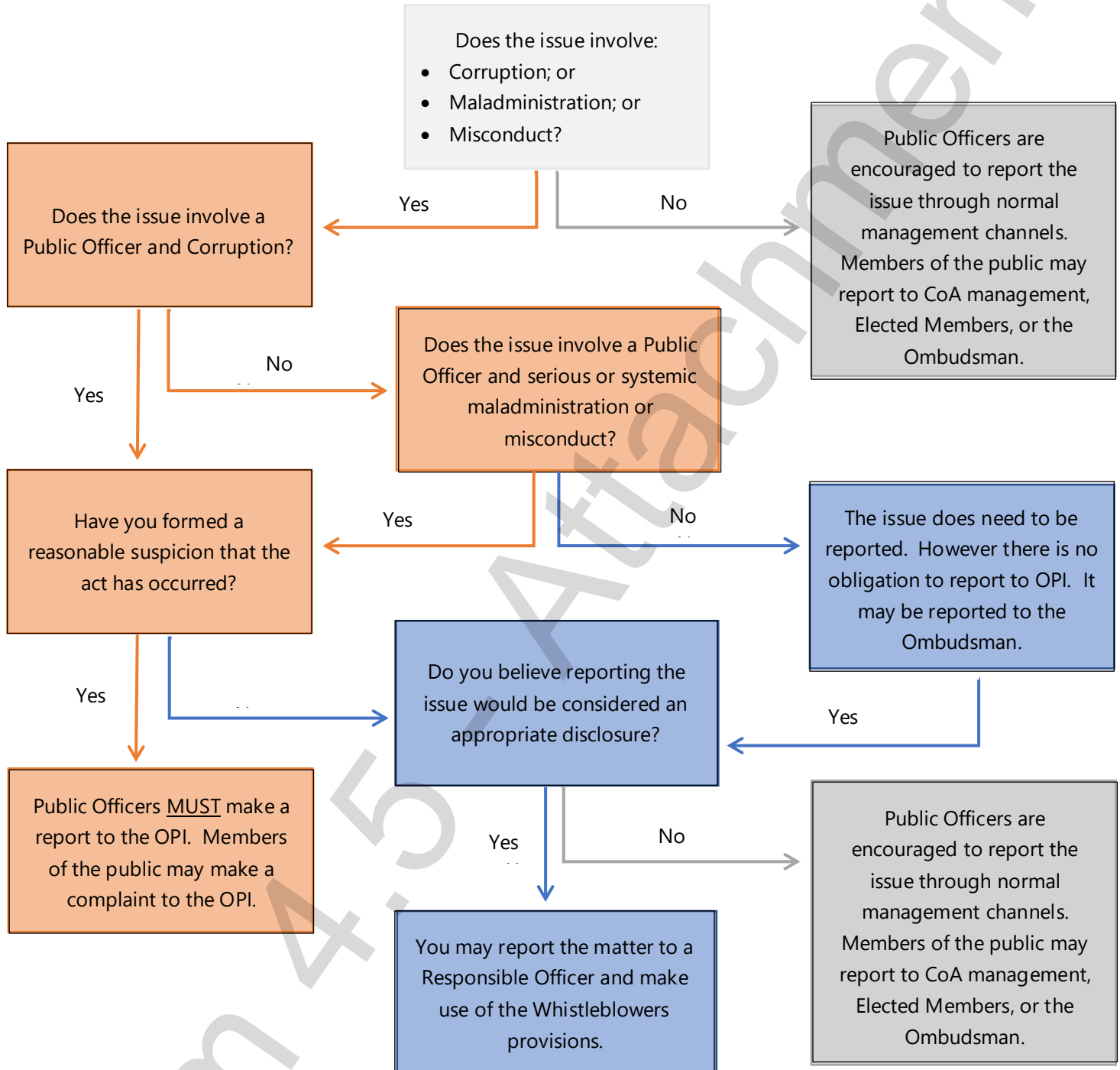
contact:

For further information contact the People & Governance Program (Risk & Audit Team)

City of Adelaide
25 Pirie ST, Adelaide, SA
GPO Box 2252 ADELAIDE SA 5001
+61 8 8203 7203
city@cityofadelaide.com.au

Reporting Mechanisms

If you've come across an issue involving unacceptable conduct of a Public Officer, or a lack of controls which may allow for unacceptable conduct being able to occur, the below process map is designed to guide you in how to report it.



Exclusion of the Public

ITEM 8.1 19/07/2019
Audit Committee

Program Contact:
Rudi Deco, Manager
Governance 8203 7442

2018/04291
Public

Approving Officer:
Mark Goldstone, Chief
Executive Officer

EXECUTIVE SUMMARY:

It is the recommendation of the Chief Executive Officer that the public be excluded from this Committee meeting for the consideration of information and matters contained in the Agenda.

For the following Items:

- 9.1** Update on Activities of the Strategic Risk and Internal Audit Group Meetings [s 90(3) (i)]
- 9.2** Internal Audit Progress Update [s 90(3) (b) & (d)]
- 9.3** Confidential Discussion with the Internal Auditor [s 90(3) (b)]

The Order to Exclude for Items 9.1, 9.2 & 9.3:

1. Identifies the information and matters (grounds) from s 90(3) of the *Local Government Act 1999 (SA)* utilised to request consideration in confidence;
2. Identifies the basis – how the information falls within the grounds identified and why it is necessary and appropriate to act in a meeting closed to the public; and
3. In addition identifies for the following grounds – s 90(3) (b), (d) or (j) - how information open to the public would be contrary to the public interest.

ORDER TO EXCLUDE FOR ITEM 9.1:

THAT COUNCIL:

1. Having taken into account the relevant consideration contained in s 90(3) (i) and s 90(2) & (7) of the *Local Government Act 1999 (SA)*, this meeting of the Audit Committee dated 19/7/2019 resolves that it is necessary and appropriate to act in a meeting closed to the public for the consideration of Item 9.1 [Update on Activities of the Strategic Risk and Internal Audit Group Meetings] listed on the Agenda.

Grounds and Basis

This Item is of a confidential nature because the report includes information on Council litigation.

The disclosure of information in this report could reasonably be expected to prejudice the outcome of Council's actual litigation.

The Audit Committee is satisfied that the principle that the meeting be conducted in a place open to the public has been outweighed in the circumstances because the disclosure of this information relates to the actual litigation of council.

2. Pursuant to s 90(2) of the *Local Government Act 1999 (SA)* this meeting of the Council dated 19/7/2019 orders that the public (with the exception of members of Corporation staff and any person permitted to remain) be excluded from this meeting to enable this meeting to receive, discuss or consider in confidence Item 9.1 [Update on Activities of the Strategic Risk and Internal Audit Group Meetings] listed in the Agenda, on the grounds that such item of business, contains information and matters of a kind referred to in s 90(3) (i) of the Act.

ORDER TO EXCLUDE FOR ITEM 9.2:

THAT COUNCIL:

1. Having taken into account the relevant consideration contained in s 90(3) (b) & (d) and s 90(2) & (7) of the *Local Government Act 1999 (SA)*, this meeting of the Council dated 16/7/2019 resolves that it is necessary and appropriate to act in a meeting closed to the public as the consideration of Item 9.2 [Internal Audit Progress Update] listed on the Agenda in a meeting open to the public would on balance be contrary to the public interest.

Grounds and Basis

This Item is commercial information of a confidential nature (not being a trade secret) the disclosure of which could reasonably be expected to confer a commercial advantage on a person with whom the council is conducting business and prejudice the commercial position of the council.

The disclosure of information in this report could reasonably prejudice the commercial position of the Council in relation to the findings contained within the audit reports regarding data security.

Public Interest

The Audit Committee is satisfied that the principle that the meeting be conducted in a place open to the public has been outweighed in the circumstances because the disclosure of this information may result in the disclosure of Council's commercial position severely prejudice the ability to conduct ordinary business activities whilst maintaining secure systems in relation to third party data.

2. Pursuant to s 90(2) of the *Local Government Act 1999 (SA)*, this meeting of the Council dated 16/7/2019 orders that the public (with the exception of members of Corporation staff and any person permitted to remain) be excluded from this meeting to enable this meeting to receive, discuss or consider in confidence Item 9.2 [Internal Audit Progress Update] listed in the Agenda, on the grounds that such item of business, contains information and matters of a kind referred to in s 90(3) (b) & (d) of the Act.

ORDER TO EXCLUDE FOR ITEM 9.3:

THAT COUNCIL:

1. Having taken into account the relevant consideration contained in s 90(3) (b) and s 90(2) & (7) of the *Local Government Act 1999 (SA)*, this meeting of the Council dated 16/7/2019 resolves that it is necessary and appropriate to act in a meeting closed to the public as the consideration of Item 9.3 [Confidential Discussion with the Internal Auditor] listed on the Agenda in a meeting open to the public would on balance be contrary to the public interest.

Grounds and Basis

This Item in the discussion could reasonably be expected to confer a commercial advantage on a person with whom the Council is conducting business.

The disclosure of information discussed may adversely impact the commercial advantage on a person with whom the Council is conducting business.

Public Interest

The Audit Committee is satisfied that the principle that the meeting be conducted in a place open to the public has been outweighed in the circumstances because the disclosure of this information may result in release of information of 'commercial advantage' of the person conducting business with Council.

2. Pursuant to s 90(2) of the *Local Government Act 1999 (SA)*, this meeting of the Council dated 16/7/2019 orders that the public (with the exception of members of Corporation staff and any person permitted to remain) be excluded from this meeting to enable this meeting to receive, discuss or consider in confidence Item 9.3 [Confidential Discussion with the Internal Auditor] listed in the Agenda, on the grounds that such item of business, contains information and matters of a kind referred to in s 90(3) (b) of the Act.
-

DISCUSSION

1. s 90(1) of the *Local Government Act 1999 (SA)*, directs that a meeting of a Council Committee must be conducted in a place open to the public.
2. s 90(2) of the *Local Government Act 1999 (SA)*, states that a Council Committee may order that the public be excluded from attendance at a meeting if the Council Committee considers it to be necessary and appropriate to act in a meeting closed to the public to receive, discuss or consider in confidence any information or matter listed in s 90(3).
3. s 90(3) prescribes the information and matters that a Council may order that the public be excluded from.
4. s 90(4) of the *Local Government Act 1999 (SA)*, advises that in considering whether an order should be made under s 90(2), it is irrelevant that discussion of a matter in public may:
 - 4.1 cause embarrassment to the council or council committee concerned, or to members or employees of the council; or
 - 4.2 cause a loss of confidence in the council or council committee.’
 - 4.3 involve discussion of a matter that is controversial within the council area; or
 - 4.4 make the council susceptible to adverse criticism.
5. s 90(7) of the *Local Government Act 1999 (SA)* requires that an order to exclude the public:
 - 5.1 Identify the information and matters (grounds) from s 90(3) of the *Local Government Act 1999 (SA)* utilised to request consideration in confidence;
 - 5.2 Identify the basis – how the information falls within the grounds identified and why it is necessary and appropriate to act in a meeting closed to the public; and
 - 5.3 In addition identify for the following grounds – s 90(3) (b), (d) or (j) - how information open to the public would be contrary to the public interest.
6. s 87(10) of the *Local Government Act 1999 (SA)* has been utilised to identify in the Agenda and on the Report for the meeting, that the following matters are submitted seeking consideration in confidence.
 - 6.1 Information contained in Item 9.1 – Update on Activities of the Strategic Risk and Internal Audit Group Meetings:
 - 6.1.1 Is not subject to an Existing Confidentiality Order.
 - 6.1.2 The grounds utilised to request consideration in confidence is s 90(3) (i)
Section 90(3)(i) of the Local Government Act 1999 [litigation]
 - 6.2. Information contained in Item 9.2 - Internal Audit Progress Update:
 - 6.2.1 Is not subject to an Existing Confidentiality Order.
 - 6.2.2 The grounds utilised to request consideration in confidence is s 90(3) (b) & (d)
 - (b) information the disclosure of which –
 - (i) could reasonably be expected to confer a commercial advantage on a person with whom the council is conducting, or proposing to conduct, business, or to prejudice the commercial position of the council; and
 - (ii) would, on balance, be contrary to the public interest;
 - (d) commercial information of a confidential nature (not being a trade secret) the disclosure of which—
 - (i) could reasonably be expected to prejudice the commercial position of the person who supplied the information, or to confer a commercial advantage on a third party; and
 - (ii) would, on balance, be contrary to the public interest;

6.3 Information contained in Item 9.3 – Confidential Discussion with the Internal Auditor:

6.3.1 Is not subject to an Existing Confidentiality Order.

6.3.2 The grounds utilised to request consideration in confidence is s 90(3) (b)

(b) information the disclosure of which –

- (i) could reasonably be expected to confer a commercial advantage on a person with whom the council is conducting, or proposing to conduct, business, or to prejudice the commercial position of the council; and
- (ii) would, on balance, be contrary to the public interest;

ATTACHMENTS

Nil

- END OF REPORT -

Confidential Item 9.1

Update on Activities of the Strategic Risk and Internal Audit Group Meetings

Section 90 (3) (i) of the *Local Government Act 1999 (SA)*

Pages 72 to 76

Confidential Item 9.2

Internal Audit Progress Update

Section 90 (3) (b) & (d) of the *Local Government Act 1999 (SA)*

Pages 77 to 81

Confidential Item 9.3

Confidential Discussion with the Internal Auditor

Section 90 (3) (b) of the *Local Government Act 1999 (SA)*

Pages 82 to 84
