

Whistleblower Policy

Council Policy



Owner	Elected Members		
Responsible Officer	Chief Executive Officer		
Decision Number	R-138-2026		
Document Number		Approval Date	26/05/2026
Records Number	D2026/009567	Next Review Date	2027

1 Purpose

The purpose of this policy is to support the disclosure of suspected improper conduct within Alice Springs Town Council (Council) and provide a framework for the protection of whistleblowers in alignment with the *Independent Commissioner Against Corruption Act 2017* (the Act).

2 Definitions

For the purpose of this policy, the following definitions apply:

Term	Definition
Anti-democratic conduct	As per section 15 of the Act.
Corrupt conduct	As per section 10 of the Act.
Fraud	Dishonestly obtaining a financial benefit or causing an actual or potential loss through deception. The benefit might be of direct value (money) or indirectly (obtaining information which is used to obtain tangible benefits). Fraudulent conduct includes, but is not limited to: • misappropriation of assets, funds, or intellectual property • falsification of records, accounts, or documents for personal gain for themselves or other parties • unauthorised use of Council assets • false or exaggerated payroll claims • misuse of leave entitlements.
Harm	As per the definition in s4 of the Act, harm generally includes any of the following: a) Injury, loss or damage b) Intimidation or harassment c) Discrimination, disadvantage or adverse treatment (including disciplinary action) in relation to employment, career, profession, trade or business.
Improper conduct	As per section 9(1) of the Act a) Corrupt conduct b) Misconduct c) Unsatisfactory conduct d) Anti-democratic conduct e) Conduct constituting an offence against the Act

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	f) Secondary conduct
Misconduct	As per section 11 of the Act.
Nominated recipient	Public officers nominated by Chief Executive Officer to receive protected communications in accordance with section 97 of the Act
Prescribed public officer	The Chief Executive Officer of Council and its nominated recipients.
Protected action	As per section 92 of the Act
Protected communication	As per section 93 of the Act
Protected person/Whistleblower	An individual who reports suspected improper conduct within a public body in accordance with the Act. A whistleblower and protected person have the same meaning and as per the definition in the Act: a) means a person who has taken protected action by reporting suspected improper conduct; and b) In relation to retaliation, includes actions taken against a person believed or suspected to have taken a protected action.
Public body	As per section 16(1) of the Act, a public body includes local government councils
Public officer	As per section 16(2) of the Act, a public officer includes employees of local government councils and elected members
Retaliation	As per section 95 of the Act
Unsatisfactory conduct	As per section 12 of the Act.
Workplace participants	Refers to Elected Members, Council Committee Representatives, the Chief Executive Officer, senior Executive, employees, contractors and volunteers of Alice Springs Town Council

3 **Policy Statement**

3.1 Principles

3.1.1 Council has a zero tolerance of improper conduct, the mismanagement of public resources, and any potential or actual retaliation to whistleblowers.

3.1.2 Council is committed to protecting and supporting whistleblowers who make protected communications in alignment with the *ICAC Act 2017* (the Act).

3.1.3 Council's prescribed officers will uphold confidentiality throughout relevant reporting processes.

3.1.4 This policy and its obligations apply individually to all workplace participants in fulfilling mandatory reporting obligations in accordance with the Act.

3.2 Improper Conduct

Under the ICAC Act and in accordance with this policy, Improper conduct is used to describe conduct by a public officer that is consistent with dishonesty, lacking accountability or unlawful public administration and use of Council resources.

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It can include:

- **corrupt conduct**- such as fraud, bribery, misuse of position, or dishonestly obtaining a benefit to a person
- **misconduct** - serious breaches of legislation, policies, codes of conduct, or official duties
- **unsatisfactory conduct**- conduct that falls below the standard expected of a public officer
- **anti-democratic conduct**- conduct that improperly interferes with democratic processes or public decision-making.

An explanation specific to Council is provided in the Whistleblower Guideline to assist in contextualising the above categories into practical, real-life behaviours and scenarios.

3.3 Nominated Recipients

The Chief Executive Officer (CEO) can nominate one or more eligible public officers to be a nominated recipient of Council. Nominated recipient/s serve as a reporting avenue to the Independent Commissioner Against Corruption (ICAC) by receiving and managing voluntary protected communications internally, and reporting them to the ICAC, fulfilling the mandatory reporting obligation. They are responsible for determining whether a communication satisfies the criteria of a protected communication in accordance with section 98 of the Act. Council will ensure nominated recipients receive any essential training and are identified clearly to the organisation to enable potential voluntary protected communications.

3.3.1 Responsibilities of Nominated Recipient/s

Nominated recipients' responsibilities to Council and whistleblowers include:

- Providing general advice around the process of making disclosures
- Receiving protected communications
- Facilitating the reporting process by ensuring the protected communication reaches the ICAC in accordance with the Act
- Ensuring protection and support for protected persons against retaliation
- Maintaining confidentiality of all disclosures, including protecting the identity of individuals who make protected communications.

3.4 Mandatory Reporting and Voluntary Protected Communication

Workplace participants can fulfil mandatory reporting requirements of suspected improper conduct by reporting directly to the ICAC as a protected communication.

Reporting obligations under this policy may only be considered fulfilled when an individual knows that the matter has already been reported to the ICAC. A detailed explanation of mandatory reporting requirements can be found in Council's Whistleblower Guidelines and the ICAC's *Mandatory Reporting Directions and Guidelines for Public Officers*.

Improper conduct that is suspected to be misconduct or unsatisfactory conduct can be reported to a prescribed public officer (CEO or nominated recipient) as a voluntary protected communication. The CEO and nominated recipients must report suspected misconduct or unsatisfactory conduct to ICAC within four weeks.

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3.3.1 Voluntary Protected Communication

For the purpose of this policy, a voluntary protected communication refers to a protected communication made through Council's Prescribed Public Officers. The mandatory reporting obligation remains until the suspected improper conduct is reported to the ICAC from the Prescribed Public Officers, on behalf of the protected person. A detailed explanation of voluntary protected communications can be found in Council's Whistleblower Guidelines and ICAC's *Dealing with Voluntary Protected Communications – Directions and Guidelines*.

3.5 Suspected Fraud and Corrupt Conduct Reporting

Council is committed to ensuring internal controls are in place to support fraud and corrupt conduct awareness, detection and minimisation.

3.4.1 Fraud

Fraud is a criminal offence under the *Criminal Code Act 1983*. If a workplace participant suspects fraud has occurred, they must report their suspicion as soon as practicable as per Council's Fraud and Corruption Prevention Policy. In local government, fraud may constitute as corrupt conduct, as it results in a party obtaining a benefit from, or causing a loss to, the government (Council), and if so clause 3.4.2 will apply.

3.4.2 Suspected Corrupt Conduct

In accordance with the Act, suspected corrupt conduct is recognised as a form of improper conduct. Council has a mandatory obligation to report to the ICAC and whistleblower protections will apply. Further guidance on identifying and managing corrupt conduct is available in Council's Fraud and Corruption Prevention Policy.

3.6 Complaints and Grievances

Complaints and grievances associated to or with workplace participants are not covered under this policy. Public officers can find this information through:

- Breach of Code of Conduct - Elected Members
- Code of Conduct - Team Members and the Complaints and Grievances Policy, internal to Council

3.7 Retaliation

Engaging in retaliation is a serious offence under section 100 of the Act. Under section 105(1), If retaliation occurs in connection with a person's employment, both the individual responsible, in their capacity as a public officer, and Council, as a public body, may be jointly liable under the Act.

Council acknowledges that Elected Members are public officers under the Act and are afforded protections from retaliation in relation to protected disclosures. Retaliation by a public officer may result in individual liability and may also expose Council, as a public body, to liability where appropriate.

Consistent with Council's principles, Council is committed to fostering an organisation free from retaliation and implementing appropriate internal controls to minimise the risk of retaliation to individuals who make protected disclosures. A detailed explanation of retaliation can be found in Council's Whistleblower Guideline and the *ICAC's Guidelines for the Minimisation or Retaliation Against Protected Persons*.

3.7.1 Compensation

Whistleblowers have the right to seek compensation, under section 102 of the Act, if they suffer harm from someone retaliating against them for making a report, complaint, or disclosure about improper conduct.

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3.7.2 Responsibilities of Whistleblowers

Whistleblowers who experience any form of retaliation may seek confidential support from a prescribed public officer of Council and from the ICAC. The best practice approach for protection against retaliation is not disclosing to people outside of the ICAC and Council's prescribed officers.

3.8 Misleading Information

Council acknowledges it is an offence under the Act to provide false or misleading information in relation to disclosures of improper conduct or to an open investigation. Council will ensure appropriate education and resources are available to workplace participants around the ramifications of providing misleading information.

4 Responsibilities

- The CEO is responsible for the oversight of this policy.
- Manager Governance is responsible for education about whistleblower protections and training for mandatory reporting.

5 Related Legislation and Documents

- *Independent Commissioner Against Corruption Act 2017*
- *Local Government Act 2019*
- *Criminal Code Act 1983*
- Local Government (General) Regulations 2021
- ICAC – Mandatory reporting directions and guidelines for public officers
- ICAC – Dealing with voluntary protected communications, directions and guidelines
- ICAC – Guidelines for the minimisation or retaliation against protected persons
- Whistleblower Guidelines
- Code of Conduct Elected Members, CEO and Team Members
- Complaints and Grievance Policy
- Fraud and Corruption Prevention Policy
- Fraud and Corruption Prevention Manual

6 Communication and Training

Will this policy be communicated through consultation to teams?	Yes
Where will this policy be available?	Council Website
Will training needs arise from this policy? If yes, who will be responsible.	Yes – CEO & Governance