



Name	GOV04 Whistleblowing
Policy Type	Council
Responsible Officer	Chief Executive Officer
Approval Date	19/09/2023
Review Date	18/09/2027

1. Purpose

To encourage and facilitate disclosures of maladministration, corrupt or illegal conduct occurring in the Council so that internal controls and procedures can be strengthened to ensure that the Council's resources are applied efficiently and effectively.

To provide assurance to the community that Council is committed to good governance and ethical behaviour.

To provide an environment where people are supported in the reporting of corrupt and illegal practices and that such persons are not victimised for reporting these matters.

2. Scope

Litchfield Council is classified as a public body in Section 16(1) of *Independent Commissioner Against Corruption 2017 (the Act)*.

Mandatory reporting of suspected improper conduct applies to all public bodies and associated public officers as defined in Section 16(2) of *the Act*.

Whistle-blowing protections are applicable to any person reporting suspected improper conduct and seeks protection under *the Act*.

Comprehensive information regarding disclosure, the role and powers of the Information Commissioner, as well as links to *the Act* and the associated regulations and guidelines, are available on the Public Interest Disclosure website <https://icac.nt.gov.au/home>

3. Definitions

For the purposes of this Policy, the following definitions apply:

Code of Conduct	means the approved Litchfield Council Codes of Conduct as they apply to employees and the Elected Members.
Delegate	means the person delegated by the Chief Executive Officer to receive reports of alleged improper conduct.
Employee	means any person employed by or working for Litchfield Council,

	either as a salaried officer, wages recipient, volunteer, temporary or employment agency staff or Elected Member.
<i>The Act</i>	<i>Independent Commissioner Against Corruption 2017</i>
ICAC	Independent Commissioner Against Corruption
Improper Conduct (as defined in Section 9 of the Act)	<p>(1) Each of the following is improper conduct:</p> <ul style="list-style-type: none"> (a) corrupt conduct; (b) misconduct; (c) unsatisfactory conduct; (d) anti-democratic conduct; (e) conduct constituting an offence against this Act; (f) conduct (the secondary conduct) engaged in by any person in relation to conduct mentioned in paragraphs (a) to (e) (the primary conduct) as provided by subsection (2). <p>(2) For subsection (1)(f), secondary conduct is conduct that would constitute an offence against one of the following sections of the Criminal Code on the assumption that the primary conduct is an offence, whether or not the primary conduct is in fact an offence:</p> <ul style="list-style-type: none"> (a) section 43BF (attempt); (b) section 43BG (complicity and common purpose); (c) section 43BH (innocent agency); (d) section 43BI (incitement); (e) section 43BJ (conspiracy). <p>(3) Secondary conduct is taken to be the same type of improper conduct as the primary conduct to which it relates.</p>
Public Officer	<ul style="list-style-type: none"> a. the holder of an office established under an Act who is appointed by the Administrator or a minister; b. a member, officer or employee of a public body; or

	c. any other person engaged, whether under the <i>Contracts Act</i> or otherwise, by or on behalf of a person mentioned above in relation to the performance of official functions
Whistle-blower	any person who identifies that they wish to access the protection of <i>the Act</i> and this Policy to disclose information in the public interest concerning: <ul style="list-style-type: none"> • Illegal activity or corruption within Litchfield Council; • Maladministration, including impropriety, negligence or waste within Litchfield Council.

4. Policy Statement

4.1. Council Commitment

- 4.1.1. Litchfield Council is committed to the objectives of *the Act* and to ensure that its responsibilities under *the Act* are properly fulfilled. Disclosures which are made in good faith will be taken seriously and prompt action will be taken to address any alleged improper conduct.
- 4.1.2. Litchfield Council is committed to the principles of natural justice and procedural fairness, namely:
- The premise that a person is innocent until proven otherwise;
 - The right to be heard, which means the right to have a fair hearing, with the opportunity to present one's case;
 - The right to have a decision made by an unbiased decision-maker;
 - The right to have the decision based on evidence;
 - Clear communication of policies, procedures and instructions.
- 4.1.3. This Policy is designed to complement normal communication channels between Litchfield Council management, staff and the public. Employees are encouraged to continue to raise matters at any time with their managers/team leaders. Additionally, people may make a formal disclosure of improper conduct or detrimental action under *the Act* in accordance with this policy and associated regulations and guidelines.
- 4.1.4. Litchfield Council will adhere to *the Act* and any directions and guidelines issued by the ICAC to allow employees or members of the public to provide information in accordance with *the Act*.
- 4.1.5. Litchfield Council is committed to investigating all information supplied in a confidential manner and taking appropriate action.
- 4.1.6. Serious and proven fraud and corruption will be referred to the Northern Territory Police.

4.2. Mandatory Reporting

- 4.2.1. Council will ensure that the Mandatory Reporting directions and guidelines issued by the ICAC are made available to all employees and elected members either electronically or by hard copy

4.3. Whistle-blower Protection

- 4.3.1. Litchfield Council recognises the value of transparency and accountability in its administrative and management practices and supports reporting that reveals improper conduct involving substantial mismanagement of public resources or conduct involving a substantial risk to public health and safety or the environment.
- 4.3.2. Litchfield Council does not tolerate improper conduct by its employees, nor the taking of reprisals against those who come forward to report such conduct.
- 4.3.3. Litchfield Council will take every care to keep the identity of any person making a report confidential, subject to any legal requirements that are imposed on Council to disclose information. The identity of a Whistle-blower will be maintained as confidential in accordance with *the Act*. Confidentiality will remain in all circumstances, unless the Whistle-blower consents to his/her identity being disclosed or disclosure is otherwise required so that the matter may be properly investigated.
- 4.3.4. Harassment, intimidation or other reprisal action against a person who discloses alleged improper conduct will not be tolerated and action will be taken in accordance with *the Act* and with Council's Code of Conduct against persons who indulge in harassment, intimidation or reprisal action.

4.4. Employees who are the Subject of Disclosures

- 4.4.1. Litchfield Council will afford natural justice to the person who is the subject of the report.
- 4.4.2. Where investigations do not substantiate a report, the fact that the investigation has been carried out, the results of the investigation, and the identity of the person who is the subject of the report will remain confidential.
- 4.4.3. Litchfield Council will give its full support to a person who is the subject of a report where the allegations contained in the report are clearly wrong or unsubstantiated.
- 4.4.4. If the matter has been reported, the Chief Executive Officer will consider any request by that person to issue a statement of support setting out that the allegations were clearly wrong or unsubstantiated.
- 4.4.5. Litchfield Council will follow the strategies outlined in *the Act* and associated regulations and guidelines to ensure that Whistle-blower protections are in place.

4.5. Making a disclosure

- 4.5.1. Disclosures can be made verbally, in writing, by telephone or by email.
- 4.5.2. Disclosures can be made anonymously.

4.5.3. Disclosures can be submitted to;

- the Chief Executive Officer of the Litchfield Council or
- the Officer delegated by the CEO as the nominated recipient for protected communications or
- the ICAC.

4.5.4. Reporting alleged improper conduct to persons other than the above named, including the media, **will not be** protected under *the Act*.

5. Associated Documents

Litchfield Council – Codes of Conduct (EM02 & HR01)

Litchfield Council – Fraud Policy (FIN10)

Litchfield Council – Delegation Manual

6. References and Legislation

Independent Commissioner Against Corruption 2017 and guidelines

7. Review History

Date Reviewed	Description of changes (Inc Decision No. if applicable)
15/11/2017	Policy Adopted (1718/099)
26/06/2019	Update to conform with <i>Independent Commissioner Against Corruption 2017</i>
10/08/2021	Minor administrative changes made, including formatting and new regulation titles. Policy review date to remain the same.
19/09/2023	Minor amendments to legislation references and minor formatting.