

Protected Disclosures Policy

Date Created	Next Review	Officer Responsible
April 2023	April 2025	Director, People and Organisational Development

Policy Purpose:

The Protected Disclosures Act 2002 (the Act), commonly referred to as the Whistleblowers Act, requires an organisation to have in place internal procedures for the disclosure of information coming within the ambit of the legislation. This policy sets out Council's procedures to facilitate the purpose of the Act.

The legislation is designed to protect employees who raise concerns about serious wrongdoing within their workplace organisation.

Policy:

Scope

This policy applies where an employee is concerned that some serious wrongdoing is occurring, either within Council or by Council. The employee may in these circumstances make a complaint without his or her identity being disclosed.

The definition of "discloser" covers:

- a) Current or former employees
- b) Specified homeworkers
- c) Persons seconded to the organisation
- d) Individuals contracted under contracts for services
- e) Persons concerned in management of the organisation, including Councilors or former councilors
- f) Members of the New Zealand Defence Force
- g) Volunteers

Actions Constituting Serious

Wrongdoing

Serious wrongdoing can be summarised as including, but is not limited to:

Any act, omission, or course of conduct in (or by) any organisation that is an offence

1. Doing, or not doing something that results in, or could result in a serious risk to:
 - a) public health, or
 - b) public safety, or
 - c) the health or safety of any individual; or

- d) the environment
- 2. A serious risk to the maintenance of law, including;
 - a) the prevention, investigation and detection of offences, or
 - b) the right to a fair trial
- 3. An unlawful, a corrupt, or an irregular use of public funds or public resources
- 4. Oppressive, unlawfully discriminatory, or grossly negligent, or that is gross mismanagement, and is done (or is an omission) by:
 - a) an employee
 - b) a person performing (or purporting to perform) a function or duty exercising (or purporting to exercise) a power on behalf of a public sector organisation or the Government

Protected Disclosures

An employee of an organisation may disclose information in the manner provided by the Act if:

- a) the information is about serious wrongdoing in or by that organisation, and
- b) the employee believes on reasonable grounds that the information is true or likely to be true, and
- c) the employee wishes to disclose the information so that the serious wrongdoing can be investigated, and
- d) the employee wishes the disclosure to be protected.

Any disclosure so made is a protected disclosure of the information for the purposes of the Act.

Publication of Internal Procedures for Disclosure

This policy document incorporates Council's internal procedures for receiving and dealing with information about serious wrongdoing.

Council is required to have and promulgate Internal Procedures for Disclosure.

Procedures that are not made in accordance with the Internal Procedures are not protected by the Act.

Protections

- a) The Act includes protection against retaliatory action from the employer under personal grievance procedures and under anti-discrimination provisions of the Human Rights Act, 1993.
- b) An employee who makes a protected disclosure is not liable to any civil, criminal, or disciplinary proceeding because of making, or referring, the disclosure

- c) Protection is not available to anyone who makes false disclosures or otherwise acts in bad faith.
- d) The Act overrides other legislation but excludes disclosure of information protected by legal professional privilege.

Confidentiality

Every person to whom a protected disclosure is made or referred must use his or her best endeavours not to disclose information that might identify the person who made the protected disclosure unless:

- a) That person consents in writing to the disclosure of that information; or
- b) The person who has acquired knowledge of the protected disclosure reasonably believes that disclosure of identifying information:
 - i) is essential to the effective investigation of the allegations in the protected disclosure; or
 - ii) is essential to prevent serious risk to public health or public safety or the environment; or
 - iii) is essential having regard to the principles of natural justice (explained below); or
 - iv) is essential to an investigation by a law enforcement or regulatory agency for the purpose of law enforcement.

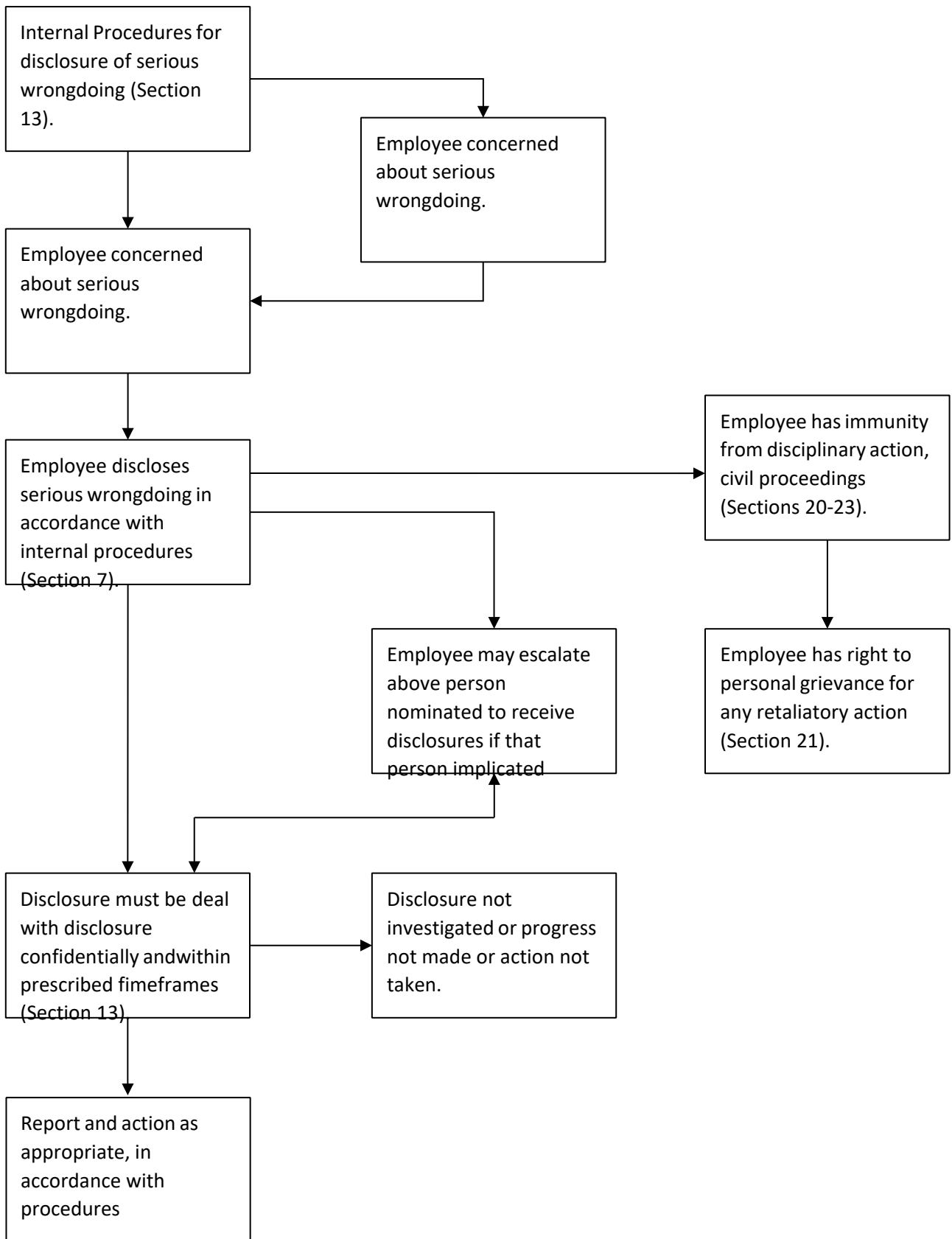
A request for information under the Local Government Official Information and Meetings Act 1987 or Official Information Act 1982 (other than one made by a member of the police for the purpose of investigating an offence) may be refused, as contrary to this Act, if it might identify a person who has made a protected disclosure.

Principles of Natural Justice

Natural justice is a concept that requires the observance of certain minimum standards and procedural fairness. Whilst this statement does not attempt to be exhaustive, two major principles of natural justice should be observed in following procedures developed for the purposes of the Act:

- They must allow for all relevant factual material to be disclosed so that anyone using the procedures can do so with confidence that information will logically support the finding or deciding a course of action.
- The person to whom a disclosure is made must first listen fairly to any information to ascertain if it is relevant or supports an allegation of “serious wrongdoing”.

INTERNAL PROCEDURES DISCLOSURE INDICATIVE GUIDELINES



Empowering Legislation

Section 5: Purpose of the Act

The purpose of this Act is to promote the public interest:

- a) by facilitating the disclosure and investigation of matters of serious wrongdoing in or by an organisation; and
- b) by protecting employees who, in accordance with this Act, make disclosures of information about serious wrongdoing in or by an organisation.

Section 6: Disclosures to which Act applies

1. An employee of an organisation may disclose information in the manner provided by this Act if:
 - a) The information is about serious wrongdoing in or by that organisation; and
 - b) The employee believes on reasonable grounds that the information is true or likely to be true; and
 - c) The employee wishes to disclose the information so that the serious wrongdoing can be investigated; and
 - d) The employee wishes the disclosure to be protected.
2. Any disclosure made in accordance with subsection (1) is a protected disclosure of information for the purposes of this Act.

Section 7: Disclosure must be made in accordance with internal procedures

1. An employee must disclose information in the manner provided by internal procedures established by and published in the organisation, or the relevant part of the organisation, for receiving and dealing with information about serious wrongdoing.

Definition of Serious Wrongdoing

Serious wrongdoing includes any serious wrongdoing of any of the following types:

- a) An unlawful, corrupt, or irregular use of public funds or public resources; or
- b) An act, omission, or course of conduct that constitutes a serious risk to public health or public safety or the environment; or
- c) An act, omission, or course of conduct that constitutes a serious risk to the maintenance of law, including the prevention, investigation, and detection of offences and the right to a fair trial; or
- d) An act, omission or course of conduct that constitutes an offence; or
- e) An act, omission, or course of conduct by a public official that is oppressive, improperly discriminatory, or grossly negligent, or that

constitutes gross mismanagement.

Internal Procedures for Disclosure

1. Disclosures pursuant to the Act will be dealt with on the following basis and in the following order:
 - (a) Disclosures will in the first instance be made to the Head of Department or to the Director - People & Organisational Development.
 - (b) Failing satisfaction they will be made to the Chief Executive.
 - (c) Failing satisfaction they will be made to the Mayor.
 - (d) Failing satisfaction they will be made to an Ombudsman.
 - (e) Failing satisfaction they will be addressed according to any other appropriate remedies as set out in the Act.
 - (f) Disclosures may also be made to an appropriate authority, as defined by the Act, s.25(1), at any time.
2. Disclosure may bypass a person in the event that person may be involved in or party to the act or omission giving rise to the disclosure. In particular, disclosure may be made to the Chief Executive, the Mayor, or an appropriate authority including a Minister of the Crown or an Ombudsman pursuant to Sections 11 to 14 of the Act.

In particular, the disclosure may be escalated where:

- (a) The person of internal procedure reference is or may be involved, or may not be an appropriate person to deal with the reference.
 - (b) The organisation may be involved.
 - (c) Immediate reference is justified by reason of urgency or some other exceptional circumstances.
 - (d) There has been no action within 20 working days.
 - (e) The person to whom referred has decided not to investigate, or has made insufficient progress within a reasonable time, or has investigated but not acted or recommended action, and the employee continues to believe on reasonable grounds that the information disclosed is true or likely to be true.
3. Disclosures may be made orally but the recipient of the disclosure may request that the disclosure be formalised in writing prior to taking action

4. An employee making a disclosure:
 - (a) Must not contact the suspected person.
 - (b) Must not attempt to personally conduct investigations or interviews related to the suspected wrongdoing.

Actions Required in Response to a Disclosure

The person receiving a disclosure must:

- a) Discuss the matter with the employee.
- b) Record the disclosure and the date notification was received. This should include a detailed file note recording the interview, the investigation, and the explanation given to the complainant.
- c) Provide information and guidance to the employee on:
 - i) The kinds of disclosures that are protected by the Act.
 - ii) The protections and remedies available under the Act and the Human Rights Act 1993.
 - iii) How and in what circumstances information disclosed under the Act may be deferred to another appropriate authority under the Act.
- d) Advise the person making the disclosure that the alleged wrongdoings may be brought to the attention of the Head of Department and Chief Executive.
- e) Advise the person making the disclosure that he/she will be advised within 20 days of how the matter has been dealt with.

Further Actions Required by the Person Receiving the Disclosure

The person receiving the disclosure is to:

- a) Ensure that the person who made the disclosure is advised of the action or actions taken within 20 days from the date of disclosure.
- b) Advise the person who made the disclosure aware of his or her rights to take the matter to an appropriate authority (including an Ombudsman) at any time in compliance with Section 11 of the legislation.
- c) Advise the Chief Executive in the event further action is to be taken by reference to an Ombudsman or a Minister of the Crown.

Actions Required by Chief Executive

In this policy the term “Chief Executive” means, in the absence of the Chief Executive, the Acting Chief Executive, and failing such appointment, the Director, Corporate Services, and in his absence, any Director of Council.

In the event the Chief Executive is allegedly implicated, these actions will be required by the person to whom disclosure has been escalated, being the Mayor or an Ombudsman.

The Chief Executive will commission whatever investigative or restorative or disciplinary action or actions are considered necessary to deal with the wrongdoing.

The Chief Executive will ensure the person who received the complaint is advised of how the matter has or is being dealt with, or how it has been resolved, so that the person making the disclosure may be advised of such within 20 days from the date that the disclosure was made.

Promulgation and Training

The Director, People & Organisational Development will:

- a) Promulgate the policy to all new employees on commencement of employment.
- b) Train all new employees on how to use the procedures.
- c) Remind all employees of the existence of the internal procedures on a regular basis, which will be not less than once per year.
- d) Maintain the procedures in the Human Resources Manual.
- e) Maintain the procedures on Council's Intranet.
- f) Publish the procedures to the organisation at regular intervals by way of intranet, email, or other process where staff do not have direct access to the intranet or email.

Sensitive Expenditure Policy

Date Created	Next Review	Officer Responsible
26 January 2023	January 2025	Director, People and Organisational Development

Policy Purpose:

This policy seeks to give effect to the guidance contained in the Controller & Auditor-General's good practice guide, "Controlling sensitive expenditure: Guide for public organisations" (October 2020).

In the guide, the Controller and Auditor-General states: "Spending by a public entity that could be seen to give some private benefit to a staff member, such as overseas travel, can be controversial. We call this type of spending "sensitive expenditure". Although it may be perfectly justified, its potential sensitivity means that careful decision making is needed."

The Controller & Auditor-General states that because councils are dealing with "public money" expenditure should be subject to the standards of probity and financial prudence expected of a public entity; and able to withstand public and political scrutiny. Therefore expenditure decisions should:

- a) have a justifiable business purpose;
- b) preserve impartiality;
- c) be made with integrity;
- d) be moderate and conservative, having regard to the circumstances;
- e) be made transparently;
- f) be made with proper authority; and
- g) be appropriate in all respects;

The policy is aimed at meeting the Controller and Auditor-General's expectations that councils have written policy and processes in place to ensure 'sensitive expenditure' is appropriately controlled. The policy applies to all employees of Rotorua Lakes Council and its subsidiary organisations, and does not affect items of sensitive expenditure specifically provided for by employment agreements.

This policy should be read in conjunction with Auditor-General's good practice guide which provides more comprehensive, principle-based guidance to the management of sensitive

expenditure. The website also provides a range of additional resources to support the management of sensitive expenditure.

5.9.1 Approving Sensitive Expenditure

Approvals should:

- clearly state the business purpose - where this is not clear from supplier documentation a written statement should be included
- be accompanied by original supporting documentation such as tax invoices (credit card statements are not adequate)
- be given before the expenditure is incurred, whenever practical otherwise be submitted soon after expenditure is incurred
- where receipts are not available for minor expenditure (eg parking meters, tips), include a description, date and amounts

Claims should:

- clearly state the business purpose - where this is not clear from supplier documentation a written statement should be included
- be accompanied by original supporting documentation such as tax invoices (credit card statements are not adequate)
- be submitted soon after expenditure is incurred
- where receipts are not available for minor expenditure (eg parking meters, tips), include a description, date and amounts

Credit cards (Purchase cards):

- Refer to separate Purchase Cards (P-cards) Policy

5.9.2 Travel and Accommodation Expenditure

Air travel:

- All travel involving flights, rental cars or one or more nights away, requires advance approval from a more senior manager (or from a DCE or CE where travel is international)
- Where possible air travel should be booked well in advance to secure the most cost effective airfares available.
- All air travel is to be in Economy Class. Any exception requires specific authorisation by the CE.
- Other than Air New Zealand Koru Club membership for the Chief Executive, the council will not pay for membership of airline clubs except where a specific business case is approved by the CE.

Meals and accommodation while travelling

- Current levels approved by the Executive Team allow claims up to \$25 (incl GST) for breakfast, \$30 for lunch, and \$45 for dinner when travelling on council business within New Zealand. Where meals are required to be taken at the hotel being stayed at, 'actual and reasonable' meal expenses may be claimed. Claims need to be supported by receipts.

- A meal expense cannot be claimed if a meal has been provided as part of another package being paid for by Council, e.g. meals are covered and paid for as part of Conference registration fees or a meal has been paid for by another party.
- For overseas travel, 'actual and reasonable' meal expenses may be claimed. Claims need to be supported by receipts.
- Meal reimbursement is not to include alcohol unless previously authorised by the CE or DCE as part of approved business entertainment and hospitality.
- Expenses from hotel room mini bars are the responsibility of the employee.
- Accommodation should be moderate, cost effective and appropriate to requirements, taking into account location, standard, safety and security.
- Where the employee chooses to stay privately and where this will not significantly result in extra travel or other costs being incurred, a daily allowance of \$60 per night may be claimed to allow a gift or contribution to be given to the host.

Motor Vehicles

- The most economical forms of transport, appropriate to the purposes of the travel, are expected to be used.
- The most economical type and size of rental car, consistent with purpose, distance and number of people, is to be used when required for council business.
- Staff members are expected to comply with traffic, parking and other laws when on council business. The driver is responsible for any fines for parking or traffic offences incurred while conducting Council business using council, rental or personal vehicles.
- Private use of a rental vehicle is not permitted except where authorised by the CE, DCE or senior manager, and where an arrangement is made for the cost to be reimbursed to the council by the employee.
- Taxi use should be moderate and cost effective relative to other transport available, and should not usually be used for travel between home and office, except for approved safety or similar reasons relating to work after hours.
- RLC does not provide staff with taxi cards.
- Council vehicles should not usually be used for private purposes (outside of formal employment arrangements).
- Business travel by private motor vehicle should be the exception rather than the rule, be approved in advance and limited only to where other means (eg RLC vehicle, flight, rental car) are less practical and/or less cost effective.
- Reimbursement rates for private vehicle use will be set by RLC from time to time in line with public sector rates, and reimbursement will require a completed signed claim based on distance travelled.

Tipping

- Claims for reimbursement will be accepted for reasonable levels of tipping during international travel, and in places where tipping is local practice.

Private travel linked with official travel

- Staff may be allowed to take private travel before, during or at the end of travel on business provided no additional cost is incurred, the private travel is incidental to the business purpose of the travel and pre-approval is granted.

Travelling spouses, partners or other family members

- Generally travel costs of accompanying persons will not be paid for.

Stopovers

- Stopovers should be pre-approved and have a clear business purpose.

5.9.3 Entertainment & Hospitality Expenditure

Claims for entertainment & hospitality

- Advance approval to incur expenditure for business related entertainment and hospitality is required and should be limited to specific identified staff.
- Claims for reasonable levels of entertainment and hospitality for approved business occasions may include reasonably priced and appropriate levels of food and alcohol.
- It will usually only be for one or more of the following purposes:
 - Building relationships
 - Officially representing RLC
 - Reciprocity where there is a clear business purpose and is within normal bounds
 - Recognising significant business achievement
 - Building revenue
 - Supporting internal organisational development
- Appropriate seasonal events, such as Christmas celebrations, may include some entertainment and hospitality including moderate expenditure on food and alcohol. This is subject to pre-approval by the CE or DCEs, and is to be substantiated by appropriate documentation and reasons for it being provided.

5.9.4 Goods and Services Expenditure

Sale of surplus assets to staff

- Assets should not be sold to staff at discounted rates if a greater value could be realised elsewhere
- Staff disposing of assets should not benefit from the disposal.
- Where practical, assets for disposal to staff should be valued and subject to a tender process that is appropriate to the value of the item.

Loyalty reward schemes

- RLC does not pay for membership of frequent flyer clubs or other loyalty reward programmes
- RLC recognises that staff members required to travel on council business regularly endure some disadvantage or hardship without receiving additional compensation. This includes travelling at weekends and other unsociable times, working additional hours and being away from families and other personal commitments. In recognition of this, and as partial compensation, employees may accrue points on their personal frequent flyer and other loyalty programme accounts and retain personal use of the accrued points, providing use of the specific airline or other service does not incur additional costs to Council, and provided

- bookings are in accordance with the requirements of this policy.
- Approval to retain and use frequent flyer and other loyalty awards is to be acknowledged in staff employment agreements.
- The CE will monitor compliance on an ongoing basis and will review reports on staff travel at quarterly intervals.

Private use of RLC assets

- RLC assets, including photocopiers, stationery, telephones, cell phones, and internet access, should not generally be used for private use unless permitted in defined circumstances.
- Reasonable levels of use of RLC telephones for brief personal non-toll calls are permitted (eg for keeping in touch with children or dependents), or use of data (e.g. seeking directions) but should be kept to a minimum and be undertaken in non-work time where possible.

RLC use of personal assets

- Reimbursement for RLC business use of personal assets may from time to time be approved for reasons such as cost, convenience and availability and where RLC would not fully use such an asset if it acquired it directly. Examples include private motor vehicles, private cell phones, home telephones and computers.
- Staff members must not approve or administer payment to themselves for use of their assets; and managers approving such payments must ensure principles of justified business purpose, impartiality and integrity are applied.

Personal use of RLC suppliers

- Managers are responsible for ensuring that the selection of suppliers is in RLC's interests and is not affected by purchasing privileges available to staff.
- Access to staff preferential purchases from suppliers is subject to:
 - use of such privileges being moderate
 - personal purchases not being made on behalf of third parties (such as family members, friends)
 - payment being made in full
 - RLC not being used as a source of credit
 - Value and quantity limits being set where appropriate
 - Accounting Department monitoring staff purchases to avoid risks to future procurement decisions

5.9.5 Staff Support and Welfare Expenditure

Clothing and grooming

- Other than where uniforms or health and safety clothing are supplied, staff will not usually be entitled to expenses for clothing or grooming (eg dry cleaning, hairdressing etc) for normal business activity.

Care of dependents

- Payments for care of dependents will not normally be considered other than in exceptional circumstances – such as when the staff member is unexpectedly required to work at very short notice).

Financing social club activities

- Any payments by RLC to a staff social club should be prudent and reasonable, and have a justified business purpose (eg organisational development or staff welfare).

Farewells and retirements

- Expenditure on farewells (including cost of functions and gifts) should be moderate and relevant, and pre-approved at CE or DCE level.

Sponsorship of staff or others

- Staff taking part in an activity that is not part of their job (eg a sporting event) may receive sponsorship from RLC through provision of, or payment for specified goods or services (eg t-shirts or tournament entry fees).
- Sponsorship should be moderate and conservative, and have a justified business purpose (eg publicising RLC activities, or organisational development). Payments made without a justified business purpose are deemed 'donations' (see below).
- Where sponsorship relates to non-staff, it should be transparent, and it is preferable that the sponsorship is to an organisation the person belongs to, rather than directly to the individual.

5.9.6 Other Types of Expenditure

Corporate boxes

- RLC will not as a general principle, acquire corporate boxes outside of venues operated by

RLC. Donations

- Where payment (in money or by provision of goods or services) is made without expectation of receiving goods or services in return, it is a donation.
- As a general principle the council does not make donations.
- However on rare occasions where a donation is approved it must be disclosed, consistent with RLC business, lawful, non-political, appropriate in size to the circumstances, and should not result in any counterpart obligation. It should be to a recognised organisation rather than an individual, and be by normal commercial means (eg direct credit).

Gifts

- Gifts usually take the form of a tangible object but may also include, for example, discounted goods or services, or entry to an event.
- Occasions where staff offer gifts require a justified business purpose, and the principles of moderate and conservative expenditure, integrity and preserving impartiality are particularly relevant.
- Staff should take measures to avoid the risk of any gift being excessive or inappropriate, involving an expectation of favour or return, or being a substitute for legitimate payment of remuneration

Receiving gifts

- While the receiving of gifts by staff from suppliers and clients is not strictly RLC 'sensitive expenditure' it does need to be transparent to ensure it does not affect RLC's decision making, as this could be perceived as compromising our impartiality or integrity
- Staff may generally accept unsolicited gifts of low value (e.g. pens, calendars etc) that are offered on an infrequent basis (e.g. at Christmas or during occasional promotions).
- Gifts of more than \$50 in value should be declared to the staff member's departmental manager (or DCE or CE) who will determine whether it is appropriate for the gift to be retained personally by the staff member or used by RLC.
- Higher value gifts (\$100 or more) should be recorded in an RLC Gift Register (TRIM Doc No. RDC-6383) and remain the property of RLC.