

1. Policy Statement

Council is committed to fostering an ethical and transparent culture. In pursuit of this, Council values the disclosure of information regarding suspected wrongdoing in the public sector so it can be properly assessed and, if necessary, appropriately investigated.

Council will provide support to any employee, Public Officer or other person who makes a disclosure about matters in the public interest.

Council is committed (and obligated) to comply with the *Public Interest Disclosure Act 2010* (PID Act) at all times, and in doing so will:

- Promote the public interest by facilitating Public Interest Disclosures (PIDs) of wrongdoing;
- Ensure that PIDs are properly assessed and, where appropriate, properly investigated and dealt with;
- Ensure appropriate consideration is given to the interests of persons who are the subject of a PID; and
- Ensure protection from reprisal is afforded to persons making PIDs.

In accordance with the PID Act, a Public Interest Disclosure (PID) Procedure and a Public Interest Disclosure Management Program (PID Management Program) have been developed. All public interest disclosures will be managed in accordance with the PID Procedure.

2. Scope

This Policy applies to Councillors, employees and contractors working for Council regardless of how they engaged.

For the purposes of this Policy, the term contractor includes on hired temporary labour services (agency staff) and sub-contractors.

3. Responsibility

To deliver its obligations under the PID Act, the Chief Executive Officer (CEO) has designated the Director Corporate and Financial Services (DCFS) as the PID Coordinator. For other nominated roles, refer to the PID Procedure.

Every Councillor or employee of Council has an ethical responsibility to report:

- Suspected misconduct;
- Maladministration;
- Wasting of public funds;
- Substantial and specific danger to public health and safety, the environment or a person with disability; and
- Reprisal action.

Council aims to provide clear guidance to the public, Councillors and employees about how Council will resolve complex issues associated with an ethical dilemma and when faced with potential wrongdoing.

Council recognises a discloser has a right of protection and that Council may be liable if it does not take action to prevent and deter reprisal.

Managers and Supervisors are to ensure employees are aware of their responsibilities in making a PID and are able to provide advice on the appropriate reporting processes.

Councillors and employees must comply with the ethics principles set out in the *Public Sector Ethics Act 1994*. The principle that relates to disclosures of interest is “integrity and impartiality”. This principle is about public trust and an employee’s obligation to maintain and enhance public confidence in the integrity of the Local Government.

Council’s Codes of Conduct also sets out the behavioural standards expected of Council employees.

4. Definitions

Disability, as defined in s11 of the *Disability Services Act 2006*, for the purposes of this policy:

1. Is a person’s condition that:
 - a. Is attributable to:
 - i. An intellectual, psychiatric, cognitive, neurological, sensory or physical impairment; or
 - ii. A combination of impairments mentioned in subparagraph (i); and
 - b. Results in—
 - i. A substantial reduction of the person’s capacity for communication, social interaction, learning, mobility or self-care or management; and
 - ii. The person needing support.
2. For subsection (1), the impairment may result from an acquired brain injury;
3. The disability must be permanent or likely to be permanent; and
4. The disability may be, but need not be, of a chronic episodic nature.

Discloser means a person who makes a disclosure in accordance with the *PID Act*.

Employee is a person engaged by Council under a contract of service.

Investigation means any enquiry undertaken to establish whether the information provided in a PID can be substantiated, including a review or audit.

Maladministration, as defined in schedule 4 of the *PID Act*, is administrative action that:

- a. Was taken contrary to law;
- b. Was unreasonable, unjust, oppressive, or improperly discriminatory;
- c. Was in accordance with a rule of law or a provision of an Act or a practice that is or may be unreasonable, unjust, oppressive, or improperly discriminatory in the particular circumstances;
- d. Was taken:
 - i. For an improper purpose;
 - ii. On irrelevant grounds;
 - iii. Having regard to irrelevant considerations; or
- e. Was an action for which reasons should have been given, but were not given;
- f. Was based wholly or partly on a mistake of law or fact; or
- g. Was wrong.

Natural justice applies to any decision that can affect the rights, interests or expectations of individuals in a direct or immediate way. Natural justice at law is a safeguard applying to an individual whose rights or interests are being affected.

The rules of natural justice, which have been developed to ensure that decision making is fair and reasonable, are:

- Avoid bias;
- Give a fair hearing; and
- Act only on the basis of logically probative evidence.

Public Officer of a public sector entity refers to an employee, member or Officer of Council.

Reprisal is defined under the *PID Act* as causing, attempting to cause or conspiring to cause detriment to another person in the belief that they or someone else:

- Has made or intends to make a disclosure; or
- Has been or intends to be involved in a proceeding under the *PID Act* against any person.

Reprisal under the *PID Act* is a criminal offence and investigations may be undertaken by the Queensland Police Service.

Subject Officer is an officer who is the subject of allegations of wrongdoing made in a disclosure.

Substantial means 'of a significant or considerable degree'. It must be more than trivial or minimal and have some weight or importance; and

Specific means "precise or particular" and refers to conduct or detriment that is able to be identified or particularised as opposed to broad or general concerns or criticisms.

5. Policy

The purpose of this Policy is to set out Council's position in relation to the disclosure of information about suspected wrongdoing in Council.

This Policy is intended to support and encourage the reporting of suspected wrongdoing and ensures that practical and effective procedures are implemented in relation to reports of suspected wrongdoing which comply with the requirements of the *PID Act 2010*.

Council will treat all PIDs appropriately, take concerns seriously and will make every attempt to maintain the privacy and confidentiality of a discloser throughout the process. Council will accept PIDs that are made anonymously however this will often make the disclosure more difficult to investigate.

Council strongly encourages disclosers to identify themselves when making a PID. Strict confidentiality is maintained at all times in relation to the investigation and reporting of PIDs.

Staff are not protected from the consequences of their own wrongdoing because they are using the PID mechanism.

Council will assure the Subject Officer that the PID will be dealt with impartially, fairly and in accordance with the principles of natural justice. Council will ensure confidentiality and the presumption of innocence.

All persons involved in the investigation of a PID must maintain confidentiality and integrity of the process by not discussing it with those unconnected with the matter. All correspondence from Council should be regarded as strictly confidential.

As soon as possible after receiving a PID, the PID Coordinator will determine the level of detection and support appropriate for a discloser by conducting a risk assessment of reprisal using the Queensland Ombudsman's PID Risk Assessment Guide. Review may be undertaken on a regular basis throughout the process until the management of the PID is finalised.

Council will ensure the protection measures in place are proportionate to the risk of reprisal.

Council provides initial training on PIDs as part of its induction process and detailed training is provided by a relevant external agency every two years (2) to appropriate Officers.

The PID Coordinator will provide regular reports to the CEO on the implementation and oversight of the Public Interest Disclosure Procedure and PID Management Program.

The PID Coordinator will also report the required public interest disclosure data to the Queensland Ombudsman as required by Public Interest Disclosure Standard No 3/2019.



Detailed information on how to make a PID, how the PID will be investigated and determined can be found in Council's Public Interest Disclosure Procedure.

6. Legal Parameters


- *Crime and Corruption Act 2001;*
- *Human Rights Act 2019;*
- *Local Government Act 2009;*
- *Ombudsman Act 2001;*
- *Public Interest Disclosure Act 2010;*
- *Public Records Act 2002; and*
- *Public Sector Ethics Act 1994.*

7. Associated Documents

- Public Interest Disclosure Procedure;
- Public Interest Disclosure Management Program;
- Administrative Action Complaints Management Policy;
- Administrative Action Complaints Management Procedure;
- Employee Code of Conduct;
- Code of Conduct for Councillor in Queensland ; and
- Queensland Ombudsman's PID Risk Assessment Guide.

8. Supporting Information

- Public Interest Disclosure Standard No 1/2019;
- Public Interest Disclosure Standard No 2/2019;
- Public Interest Disclosure Standard No 3/2019; and
- Public Interest Disclosure Risk Assessment Guide.

DOCUMENT HISTORY AND STATUS				
Action	Name	Position	Signed	Date
Approved by Council	Kelvin Tytherleigh	CEO		31/08/2021
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