

## 1. Policy Statement

Hinchinbrook Shire Council (“Council”) is committed to the promotion of the public interest and encourages and supports Public Interest Disclosures (“PIDs”) of wrong doing in Council.

## 2. Scope

This policy applies to Councillors and employees and any person making a PID with respect to Council, its Councillors or employees.

## 3. Responsibility

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;
- reprisal action.

Council aims to provide clear guidance to the general public, Councillors and employees on how Council will handle and deal with complex issues associated with an ethical dilemma and when faced with potential wrong doing.

Council recognises that a Discloser has a right of protection and that the 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 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 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

**Council** shall mean Hinchinbrook Shire Council

**Council Officers/Employees** shall mean all persons employed at Council on a permanent, temporary, volunteer or casual basis and may include persons engaged under a contract of service.

**Councillor** shall mean a Councillor of a Council within the meaning of the *Local Government Act 2009*, and includes the Mayor.

**Corruption** shall mean a dishonest activity in which a Council employee, Councillor, consultant or contractor acts contrary to the interest of Council and abuses his/her position of trust in order to achieve some personal gain or advantage for him or herself or for another person or organisation.

**Discloser** shall mean a person who makes a PID in accordance with the Act. A Discloser may or may not wish to remain anonymous.

**Disclosure** see *Public Interest Disclosure*.

**Maladministration** shall mean negligent behaviour, which may extend to conduct of a serious nature that is:

- Contrary to law;
- Unreasonable, unjust, oppressive or improperly discriminatory;
- Based upon improper motives;
- A result of acting outside the parameters of recommended or reasonable practice.

**Reportable Conduct** shall mean any conduct by a person connected with Council which:

- Is dishonest;
- Is fraudulent;
- Is corrupt;
- Is illegal (including theft, drug sale/use, violence or threatened violence and criminal damage against property);
- Constitutes a breach of Legislation or Local Laws;
- Is unethical (either a breach of Council's Code of Conduct for Employees or generally);
- Constitutes serious improper conduct;
- Results in unsafe work practices;
- Is conduct which may cause financial or non-financial loss to the Council or be otherwise detrimental to the Interests of Council;
- Constitutes Gross Mismanagement;
- Causes serious or substantial waste; or
- Constitutes repeated instance of breach of administrative procedures;
- Causes environmental dangers.

**Reprisal** shall mean an occurrence when a person attempts to cause, or causes detriment to anybody because of a belief that a person intends to or has made a PID.

**PID** shall mean Public Interest Disclosure/s.

**Public Interest Disclosure/Disclosure (PID)** shall mean a disclosure of information to a proper authority in accordance with the Act, and includes all information and help given by the Discloser to the proper authority.

## 5. Policy

Council is committed (and obligated) to meet the following principles from the Local Government principles referred to in the *Local Government Act 2009* and *Local Government Regulation 2012*:

- Good governance of, and by, local government; and
- Ethical and legal behavior of Councillors and local government employees.

Council will establish Procedures:

- To create a positive reporting environment that encourages the making of PIDs;
- To provide processes that ensure PIDs are dealt with in a thorough and timely manner;
- To provide appropriate support and protection to Council Officers or members of the public to make a PID;
- To ensure that Council fulfills its responsibility under the *Public Interest Disclosure Act 2010*.
- To ensure that the Discloser is kept informed throughout the process.

The principle of natural justice (procedural fairness) will apply to all investigations of matters the subject of PIDs.

The rights of any person who is subject to, or in some way associated with, a PID will be safeguarded. Council is committed to affording support and protection from reprisals to any person making a PID and appropriately dealing with the employees who take reprisal action.

Council will not tolerate intimidation, harassment or victimisation, assault or any other inappropriate conduct directed towards a person because of a suspicion or belief that the person may or has made a PID. Council will deal with any occurrences under appropriate disciplinary and/or harassment procedures in line with the requirements of relevant legislation and accepted best practice.

Council encourages Disclosers to provide their name, although Council will act on all anonymous PIDs.

If an employee or Councillor maliciously makes an alleged PID which they know to be untrue their actions will be regarded as misconduct and will be dealt with under the appropriate disciplinary procedures.

This Policy should be read in conjunction with its associated Public Interest Procedure Guideline.

## 6. Related Procedures

The Chief Executive Officer can approve any Procedures that may be directly associated with this Policy.

Council will provide suitable authorised officers to undertake investigations with respect to PIDs. These authorised officers will be delegated by the Chief Executive Officer.

## 7. Other : PIDs – further information

The *Public Interest Disclosure Act 2010* distinguishes between disclosures made by:

- A public officer; and
- Anyone else.

PIDs made by public officers must concern either:

- (a) The conduct of another person that could, if proved, be Official misconduct or Maladministration that adversely affects a person's interests in a substantial and specific way; or
- (b) A substantial misuse of public resources (other than alleged misuse based on mere disagreements over policy); or
- (c) A substantial and specific danger to public health or safety; or
- (d) A substantial and specific danger to the environment.

PIDs made by any person must concern;

- a) A substantial and specific danger to the health or safety of a person with a 'disability' as defined in the Disability Services Act 1992; or
- b) A substantial and specific danger to the environment; or
- c) A reprisal taken against anybody as a result of a PID..

PIDs that are wilfully false constitute an offence under the *Public Interest Disclosure Act 2010*.

To ensure the integrity of the investigation process for PIDs, Council will at all times during the investigation of the PIDs commit to:

- Maintain and preserve confidentiality;
- Follow the approved processes in managing PIDs and to protect employees from reprisals;
- Deal decisively with reprisals and possible reprisals;
- Record disclosures;
- Verify disclosures;
- Provide reasonable information to the Discloser on the results of the investigation.

**Electronic version current. Uncontrolled Copy current only at time of printing**

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Council recognises the sensitivities which can be associated with PIDs and the need to maintain public confidence in its process for managing PIDs.

The rights of any person who is subject to, or in some way associated with a PID will be safeguarded. Council is committed to affording support and protection from reprisal to any person making a PID and appropriately dealt with employees who take reprisal action. The Procedure Guideline provides further information regarding the anonymity of the Discloser.

The Chief Executive Officer may intervene directly to protect the Discloser and take immediate action to deal with suspected reprisal.

A Discloser is not protected under the Act if the disclosure involves any wrong doing on the part of the Discloser.

## **8. Review**

This policy will be reviewed when any of the following occur:

1. The related documents are amended or replaced.
2. Other circumstances as determined from time to time by a resolution of Council

Notwithstanding the above, this policy is to be reviewed at intervals of no more than two years.