

PUBLIC INTEREST DISCLOSURE POLICY	
	Council Policy
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1. POLICY STATEMENT

Council is committed to upholding the principles of transparency and accountability in its administrative and management practices and encourages the making of disclosures of public interest information.

2. PURPOSE

2.1 Purpose

The purpose of this Policy is to ensure that Council:

- fulfils its responsibilities under the Public Interest Disclosure Act 2018 (the PID Act)
- encourages and facilitates Disclosures of Public Interest Information in accordance with the objects of the PID Act
- ensures there is appropriate oversight and reporting of all Disclosures of Public Interest Information, whether pertaining to Environmental and Health Information, or Public Interest Information, to the OPI in accordance with the Guidelines and the PID Act
- ensures the protections under the PID Act are afforded to Informants who make a Disclosure under the PID Act
- supports Informants, the Responsible Officer and those Public Officers affected by any appropriate Disclosure.

2.2 Scope

2.2.1 This Policy applies to appropriate Disclosures of Public Interest Information, made by public officers, including elected members, officers and employees of the Council, as well as by members of the public.

2.2.2 This Policy is designed to complement the reporting framework under the Guidelines prepared by the Commissioner in accordance with section 14 of the PID Act, as well as the reporting obligations of public officers under the Independent Commissioner Against Corruption Act 2012 (the ICAC Act) and the Ombudsman Act 1972 (the Ombudsman Act).

2.2.3 The Council is committed to:

- referring appropriate Disclosures to another Relevant Authority where required
- reporting all Disclosures of Public Interest Information, whether pertaining to Environmental and Health Information, or Public Administration Information, to the OPI in accordance with the Guidelines and the PID Act
- facilitating the investigation of appropriate Disclosures in a manner which promotes fair and objective treatment of those involved
- rectifying any substantiated wrongdoing to the extent practicable in all the circumstances.

2.3 Definitions

For the purposes of this Policy the following definitions apply.

Commissioner means the person holding or acting in the office of the Independent Commissioner Against Corruption.

Corruption in public administration is defined in section 5(1) of the ICAC Act.

Detriment is defined at section 9 of the PID Act and includes injury, harm, damage or loss; intimidation or harassment; discrimination, adverse treatment in relation to employment; and threats of reprisal.

Guidelines are those published by the Commissioner pursuant to section 14 of the PID Act, available on the Commissioner's website (www.icac.sa.gov.au).

Disclosure means an appropriate Disclosure of Public Interest Information made by an Informant to a Relevant Authority, as defined in the PID Act.

Fraud is an intentional dishonest act or omission done with the purpose of deceiving.

Independent Assessor means the person designated by the Responsible Officer as being responsible for receiving and taking action in relation to a Disclosure made to a Relevant Authority at the Port Augusta City Council in accordance with the Public Interest Disclosure Procedure.

Informant means a person who makes an appropriate Disclosure of Public Interest Information to a Relevant Authority.

Maladministration in public administration is defined in section 4 of the Ombudsman Act.

Misconduct in public administration is defined in section 4 of the Ombudsman Act.

Public administration defined at section 3 of the Ombudsman Act.

Public Interest Information means:

- Environmental or Health Information, being information that raises a potential issue of a substantial risk to the environment or to the health or safety of the public generally or a significant section of the public; or
- Public Administration Information, being information that raises a potential issue of corruption, misconduct or maladministration in public administration.

Principal Officer under the PID Act means the Chief Executive Officer of the Council.

Public Officer has the meaning given by section 4 and Schedule 1 of the ICAC Act.

Relevant Authority means the person or entity that receives an appropriate Disclosure of Public Interest Information in accordance with section 5 of the PID Act, refer Appendix A.

Responsible Officer means a person designated as a Responsible Officer under section 12 of the PID Act, with the prescribed qualifications, including the completion of any training courses approved by the Commissioner for the purposes of the Public Interest Disclosure Regulations 2019.

Victimisation is defined at section 9 of the PID Act and occurs when a person causes detriment to another on the ground, or substantially on the ground, that the other person (or a third person) has made or intends to make an appropriate Disclosure of Public Interest Information.

2.4 Strategic Reference

5 Governance and Financial Sustainability

5.5 We meet or exceed legislative and accreditation requirements for all relevant programs.

3. PRINCIPLES

3.1 Confidentiality

3.1.1 The identity of an Informant will be kept confidential, subject to the requirements under section 8 of the PID Act and the Guidelines.

3.1.2 A recipient of an appropriate Disclosure may only divulge the identity of an Informant in accordance with the Guidelines and section 12 of the PID Act.

- 3.1.3 The PID Act does not expressly require any other information relating to a Disclosure (including the nature of the allegations) to be kept as confidential, but in considering whether to disclose other information, the Relevant Authority should be mindful of the prohibition against Victimisation under the PID Act.
- 3.1.4 An Informant may wish to remain anonymous, but in that event, must ensure that the allegation is sufficiently supported by the provision of necessary details and evidence to enable the matter to be properly investigated.

3.2 Disclosure Process

- 3.2.1 Disclosures are to be handled by the Council in accordance with the Public Interest Disclosure Procedure.
- 3.2.2 Nothing in this Policy prevents a person from making a Disclosure to a Relevant Authority external to the Council. This is a choice to be made by the Informant at their discretion.
- 3.2.3 Only a public officer may make a Disclosure of Public Administration Information where they reasonably suspect that the information raises a potential issue of corruption, misconduct or maladministration in public administration and the Disclosure is made to a Relevant Authority.
- 3.2.4 Any person may make a Disclosure of Environmental and Health Information where the information raises a potential issue of a substantial risk to the environment or to the health or safety of the public generally or a significant section of the public.
- 3.2.5 A Disclosure may be made to the Council's designated Responsible Officer in person, by telephone or in writing. The relevant contact details are:

Responsible Officers	Director City Services Director Corporate and Community Services Director Infrastructure
Telephone	8641 9100
Email	PIDresponsibleofficer@portaugusta.sa.gov.au
Address	Confidential Responsible Officer - Public Interest Disclosure PO Box 1704 Port Augusta SA 5700

3.3 The Role of the Responsible Officer

- 3.3.1 A designated Responsible Officer for the Council must:
 - a) receive appropriate Disclosures of Public interest information and ensure compliance with the PID Act, and the Public Interest Disclosure Procedure
 - b) make appropriate recommendations to the principal officer of the Council in relation to dealing with Disclosures, including any suggested changes to this Policy or the Public Interest Disclosure Procedure
 - c) provide advice to officers and employees of the Council in relation to the administration of the PID Act
 - d) complete any training courses approved by the Commissioner for the purposes of the Public Interest Disclosure Regulations.
- 3.3.2 A designated Responsible Officer for the Council must carry out any other functions as required under the PID Act.
- 3.3.3 Upon the receipt of a Disclosure, the Responsible Officer will deal with the disclosure in accordance with the Public Interest Disclosure Procedure.
- 3.3.4 In making any determination or taking any action under this Policy, the Responsible Officer:

- a) may seek legal advice from Council's lawyers and/or guidance from SAPOL, the OPI or the Ombudsman in relation to the most appropriate course of action
 - b) is authorised to incur costs in Council's Budget for that purpose.
- 3.3.5 The Responsible Officer will liaise with the Informant and any Independent Assessor in relation to any investigation process undertaken and will ensure that the Informant is provided with support and protection as necessary and appropriate in the circumstances of the Disclosure.

3.4 Information to Elected Body

- 3.4.1 As a matter of discretion, the Chief Executive Officer may inform the elected body, on a confidential basis, of the fact that an investigation of a Disclosure under the PID Act took place and the outcome of the investigation.
- 3.4.2 Factors the Chief Executive Officer will take into account in determining whether to inform the elected body, and the level of detail provided in doing so, include:
- a) if known, the identity of the Informant, and whether the Informant has consented to his/her identity being divulged
 - b) if applicable, the identity of any person the subject of the Disclosure
 - c) the impact of the investigation upon the Council's achievement of its objectives under its Strategic Plan or policies
 - d) the impact of any action taken to finalise the matter upon the Council's operations and/or budget.
- 3.4.3 In the event the Disclosure and/or any subsequent investigation process is confined to issues that impact only upon Council staff and human resource processes, the Chief Executive Officer will not inform the elected body of the Disclosure and/or investigation, being matters that fall outside the roles and responsibilities of elected members under the Local Government Act 1999.

3.5 Protection for the Informant

- 3.5.1 An Informant who makes an appropriate Disclosure of Public Interest Information under the PID Act is entitled to:
- a) immunity from liability (section 5(1) of the PID Act)
 - b) that their identity will be kept confidential, subject to the operation of the Guidelines and the PID Act (section 8 of the PID Act)
 - c) protection against Victimisation (section 9 of the PID Act)
 - c) a prohibition against hindering, obstructing or preventing an Informant from making an appropriate Disclosure (section 11 of the PID Act).
- 3.5.2 The PID Act does not provide any protections to people who knowingly make disclosures that are false or misleading.
- 3.5.3 A person who knowingly makes a Disclosure that is false or misleading in a material particular is guilty of an offence and may be prosecuted.
- 3.5.4 A person who personally commits an act of Victimisation against an Informant is guilty of an offence and may be prosecuted.
- 3.5.5 The Council will take action as appropriate in the circumstances of the relevant Disclosure to protect Informants from Victimisation. Such action may include referring the matter to the SAPOL.
- 3.5.6 Any elected member, or employee or officer of the Council who:

- a) knowingly makes a disclosure that is false or misleading
- b) commits an act of Victimisation in relation to an Informant
- c) acts otherwise than in accordance with this Policy or the Public Interest Disclosure Procedure in relation to a Disclosure

may also face disciplinary action by the Council or the Chief Executive Officer.

4. RESPONSIBILITY & REVIEW

4.1 Responsible Officer

Chief Executive Officer

4.2 Availability

This Policy will be available on Council's website.

4.3 Review

This Policy will be reviewed within 12 months of a General Election for Local Government, or as required to meet other obligations.

5. REFERENCES

5.1 Legislation

Guidelines published by the Commissioner under the Public Interest Disclosure Act 2018
Independent Commissioner Against Corruption Act 2012
Local Government Act 1999
Ombudsman Act 1972
Public Interest Disclosure Act 2018

5.2 Other References

Code of Conduct for Council Employees
Behaviour Standards for Council Members
Fraud & Corruption Prevention Policy
Internal Review of Council Decisions Policy
Public Interest Disclosure Procedure

Appendix A
Relevant Authorities

Where the information relates to...	the relevant authority is...
<p>a public officer*</p> <p>*as defined in section 4 and set out in Schedule 1 of the <i>Independent Commissioner Against Corruption Act 2012</i> - relevantly, this includes elected members, officers and employees of local government bodies</p>	<p>either:</p> <ul style="list-style-type: none"> the person who is designated by the Guidelines as being taken to be responsible for management or supervision of the public officer; or the person who is in fact responsible for the management or supervision of the public officer; or the relevant responsible officer (as designated by the Council in accordance with section 12 of the PID Act)
a public sector agency or public sector employee	<p>either:</p> <ul style="list-style-type: none"> the Commissioner for Public Sector Employment; or the responsible officer for the relevant public sector agency
an agency to which the <i>Ombudsman Act 1972</i> applies	the Ombudsman
a location within the area of a particular council established under the <i>Local Government Act 1999</i>	a member, officer or employee of that Council
a risk to the environment	the Environment Protection Authority
an irregular and unauthorised use of public money or substantial	the Auditor-General
the commission, or suspected commission, of any offence	a member of SAPOL
a judicial officer	the Judicial Conduct Commissioner
a member of Parliament	the Presiding Officer of the House of Parliament to which the member belongs
<p>public interest information - being:</p> <p>environmental and health information (information that raises a potential issue of a substantial risk to the environment or to the health or safety of the public generally or a significant section of the public); or</p> <p>public administration information (information that raises a potential issue of corruption, misconduct or maladministration in public administration)</p>	<ul style="list-style-type: none"> the OPI; a Minister of the Crown; or any other prescribed person or person of a prescribed class