

1.0 PURPOSE

Council is committed to fostering an ethical, transparent culture. In pursuit of this, Council values the disclosure of information about suspected wrongdoing in the public sector so that it can be properly assessed and, if necessary, appropriately investigated. Council will provide support to an employee or others who make disclosures about matters in the public interest. This procedure demonstrates this commitment, and ensures that practical and effective procedures are implemented which comply with the requirements of the *Public Interest Disclosure Act 2010* (PID Act).

By complying with the PID Act, Council 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.
- ensure protection from reprisal is afforded to persons making PIDs.

As required under the PID Act, the Chief Executive Officer will implement procedures to ensure:

- any public officer who makes a PID is given appropriate support.
- PIDs made to Council are properly assessed and, where appropriate, properly investigated and dealt with.
- appropriate action is taken in relation to any wrongdoing which is the subject of a PID.
- a framework for PIDs made to Council, consistent with the standard issued by the Queensland Ombudsman, is developed and implemented.
- public officers who make PIDs are offered protection from reprisal by Council or other public officers of Council.

2.0 SCOPE

This procedure applies to Council employees, Councillors and members of the public that make a disclosure.

3.0 DEFINITIONS/ABBREVIATIONS

Administrative action complaint	means a complaint about an administrative action of Council as outlined in section 268 of the Local Government Act 2009.
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Confidential information - PID	(a) includes — (i) information about the identity, occupation, residential or work address or whereabouts of a person — (A) who makes a public interest disclosure; or (B) against whom a public interest disclosure has been made; and (ii) information disclosed by a public interest disclosure; and (iii) information about an individual's personal affairs; and (iv) information that, if disclosed, may cause detriment to a person; and (b) does not include information publicly disclosed in a public interest disclosure made to a court, tribunal or other entity that may receive evidence under oath, unless further disclosure of the information is prohibited by law.
Corrupt Conduct Detriment	As defined in the Crime and Corruption Act 2001. Personal injury or prejudice to safety; property damage or loss; intimidation or harassment; adverse discrimination, disadvantage or adverse treatment about career, profession, employment, trade or business; financial loss; and damage to reputation, including, for example, personal, professional or business reputation.
Disability - PID	As defined in section 11 of the Disability Services Act 2006, for the purposes of this procedure: (1) A disability 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. (4) The disability may be, but need not be, of a chronic episodic nature.
Employee	Local Government employee - (a) the chief executive officer; or (b) a person holding an appointment under section 196 of the Local Government Act 2009.
Public officer Investigation - PID	An employee, member or officer. Investigation includes any enquiry undertaken to establish whether the information provided in a PID can be substantiated, including a review or audit.

Natural justice	Also referred to as ‘procedural fairness’ applies to any decision that can affect the rights, interests or expectations of individuals in a direct or immediate way. Natural justice is at law 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; and - give a fair hearing. - act only on the basis of logically probative evidence.
Organisational support - PID	For the purposes of this procedure, organisational support means actions such as, but not limited to: - providing moral and emotional support - advising disclosers about agency resources available to handle any concerns they have as a result of making their disclosure - appointing a mentor, confidante or other support officer to assist the discloser through the process - referring the discloser to the agency’s Employee Assistance Program or arranging for other professional counselling - generating support for the discloser in their work unit where appropriate - ensuring that any suspicions of victimisation or harassment are dealt with - maintaining contact with the discloser - negotiating with the discloser and their support officer a formal end to their involvement with the support program when it is agreed that they no longer need assistance.
Maladministration	Maladministration as defined in the Public Interest Disclosure Act 2010.
Proper authority	A person or organisation that is authorised under the Public Interest Disclosure Act 2010 to receive disclosures.
Public Interest Disclosure Framework	Public Interest Disclosure Policy, Procedures and any templates and associated documents.
PID	Public Interest Disclosure
Reasonable belief	A view which is objectively fair or sensible.
Subject officer	An officer who is the subject of allegations of wrongdoing made in a disclosure.
Reprisal	Reprisal as defined under section 40 of the Public Interest Disclosure Act 2010, 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 Act against any person.

Substantial and specific	Substantial means 'of a significant or considerable degree'. It must be more than trivial or minimal and have some weight or importance. Specific means 'precise or particular'. This refers to conduct or detriment that is able to be identified or particularised as opposed to broad or general concerns or criticisms.
Reasonable management action	Action taken by a manager in relation to an employee, includes any of the following taken by the manager— (a) a reasonable appraisal of the employee's work performance; (b) a reasonable requirement that the employee undertake counselling; (c) a reasonable suspension of the employee from the employment workplace; (d) a reasonable disciplinary action; (e) a reasonable action to transfer or deploy the employee; (f) a reasonable action to end the employee's employment by way of redundancy or retrenchment; (g) a reasonable action in relation to an action mentioned in paragraphs (a) to (f); (h) a reasonable action in relation to the employee's failure to obtain a promotion, reclassification, transfer or benefit, or to retain a benefit, in relation to the employee's employment.

4.0 RESPONSIBILITY AND/OR AUTHORITIES

- 4.1 The Chief Executive Officer has designated the following roles and responsibilities for managing PIDs within Council.

Role	Responsibilities	Officer
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PID Coordinator	• principal contact for PID issues within Council. • document and manage implementation of PID management program. • review and update PID procedure annually. • maintain and update internal records of PIDs received. • assess PIDs received. • provide acknowledgment of receipt of PID to discloser. • undertake risk assessments in consultation with disclosers and other relevant officers. • liaise with other agencies about referral of PIDs. • allocate Investigator and Support Officer to PID matter.	Chief Legal Officer
PID Support Officer	• provide advice and information to a discloser, witness or subject officer on Council's PID procedure. • provide personal support and referral to other sources of advice or support as required to a discloser, witness or subject officer. • facilitate updates on progress of investigation. • proactively contact discloser, witness or subject officer throughout PID management process until a determination has been made.	Staff member trained in PID Support and allocated by the PID Coordinator.
Investigator	• conduct investigation of information in PID in accordance with terms of reference. • prepare report for delegated decision-maker.	An appropriate internal or external investigator will be appointed for each PID investigated depending upon the type of disclosure and other relevant considerations.

Delegated decision-maker	review investigation report and determine whether alleged wrongdoing is substantiated.	An appropriate decision-maker will be appointed for each PID investigated.
Employees	report suspected unlawful, corrupt conduct, maladministration, substantial misuse of public resources and those other items mentioned in section 7.3	All employees and Councillors.
Specialist Officer/Unit	- responsible for issues related to the management of PIDs. - report data on PIDs to Queensland Ombudsman.	Senior Governance Officer

5.0 REFERENCES/ASSOCIATED DOCUMENTS

XD-4-002 Public Interest Disclosure Assessment Guide

XD-4-001 Public Interest Disclosure Risk Assessment and Risk Management Guide

XD-4-003 Public Interest Disclosure Support Officer Guide

CP-3-028 Complaints Management Policy

PD-7-350 Administrative Action Complaint Procedure

MD-7-1038 Employee Code of Conduct

CP-3-012 Code of Conduct for Councillors in Queensland

Crime and Corruption Act 2001

Local Government Act 2009

Ombudsman Act 2001 (Qld)

Public Interest Disclosure Act 2010

Public Records Act 2002

Public Sector Ethics Act 1994

Public Interest Disclosure Standards

6.0 DOCUMENT ENQUIRIES

Position Title: Senior Governance Officer

Position Title: Chief Legal Officer

7.0 PROCEDURE

7.1 PID Framework

The Chief Executive Officer has overall responsibility for ensuring that Council develops, implements and maintains a PID framework. Council's PID framework encompasses:

- commitment to encouraging the internal reporting of wrongdoing.
- commitment to providing appropriate support to all employees who make a PID.
- commitment to ensure that PIDs made to Council are properly assessed and when appropriate, properly investigation and dealt with.
- commitment to taking appropriate action in relation to any wrongdoing that is the subject of a PID made to Council.
- senior management endorsement of the value to Council of PIDs and the proper management of PIDs.
- a communication strategy to raise awareness among employees about PIDs and Council's PID procedure.
- a training strategy to give employees access to training about how to make a PID, information on the support available to a discloser, and advice on how PIDs will be managed.
- specialist training and awareness about PIDs for senior management and other staff who may receive or manage PIDs, disclosers or workplace issues relating to PIDs.
- the appointment of a specialist officer/unit to be responsible for issues related to the management of PIDs.
- ensuring effective systems and procedures are in place so that issues and outcomes from PIDs inform improvements to service delivery, business processes and internal controls.
- regular review of the PID procedure and evaluation of the effectiveness of the PID framework.

7.2 Why make a PID?

Employees who are prepared to speak up about public sector corruption, misconduct, wastage of public funds, suspected unlawful activity or danger to health, safety or the environment can be the most important sources of information to identify and address problems in public sector administration. Council supports the disclosure of information about wrongdoing because:

- implementing systems for reporting and dealing with wrongdoing contributes to the integrity of Council.
- the outcomes of PIDs can include improvements to systems that prevent fraud and other economic loss to Council.
- the community's trust in public administration is strengthened by having strong processes in place for reporting wrongdoing.

When making a PID the discloser receives the protections provided under the PID Act, including:

- confidentiality – the discloser's name and other identifying information will be protected to the extent possible except in certain circumstances such as

legislative requirement, use in legal proceedings, to protect health and safety of the discloser, by agreement and if essential, under the principles of natural justice.

- protection against reprisal – the discloser is protected from unfair treatment by Council and employees of Council as a result of making the PID.
- immunity from liability – the discloser cannot be prosecuted for disclosing the information but is not exempt from action if they have engaged in wrongdoing.
- protection from defamation – the discloser has a defence against an allegation of defamation made by any subject officer as a result of making a PID.

7.3 What is a PID?

Under the PID Act, any person can make a disclosure about a:

- substantial and specific danger to the health or safety of a person with a disability.
- the commission of an offence, or contravention of a conditions imposed under a provision of legislation mentioned in Schedule 2 of the PID Act, if the offence or contravention would be a substantial and specific danger to the environment.
- reprisal because of a belief that a person has made, or intends to make a disclosure.

In addition, public sector officers can make a disclosure about the following public interest matters:

- corrupt conduct.
- maladministration that adversely affects a person's interests in a substantial and specific way.
- a substantial misuse of public resources.
- a substantial and specific danger to public health or safety.
- substantial and specific danger to the environment.

A discloser can have a reasonable belief that wrongdoing has occurred, or provide evidence which tends to show the wrongdoing has occurred.

A disclosure amounts to a PID and is covered by the PID Act even if the:

- discloser reports the information as part of their duties – such as an auditor reporting a fraud or an occupational health and safety officer reporting a safety breach.
- disclosure is made anonymously – the discloser is not required to give their name or any identifying information.
- discloser has not identified the material as a PID – it is up to Council to assess information received and decide if it is a PID.
- disclosure is unsubstantiated following investigation – the discloser is protected when the information they provide is assessed as a PID, whether or not it is subsequently investigated or found to be substantiated.

7.4 Who can a PID be disclosed to?

A PID must be made to the proper authority to receive disclosures of the type being made.

Disclosers are encouraged to make a disclosure to an appropriate officer of Council first. If the matter is not resolved, or the discloser is concerned about confidentiality, the disclosure may be made to another appropriate agency.

Who to contact within Council:	Other agencies that can receive PIDs:
Any person (including employees) can make a disclosure to: - Any person in a supervisory or management position - People and Culture team - Chief Executive Officer - Chief Legal Officer	Disclosures can be made to an agency that has a responsibility for investigating the information disclosed: - Crime and Corruption Commission (CCC) for disclosures about corrupt conduct including reprisal. - Queensland Ombudsman for disclosures about maladministration. - Queensland Audit Office for disclosures about a substantial misuse of resources. - Department of Child Safety, Youth, Justice and Multicultural Affairs for disclosures about danger to the health and safety of a child or young person with a disability. - Department of Seniors, Disability Services and Aboriginal and Torres Strait Islander Partnerships for disclosures about danger to the health and safety of a person with a disability. - Office of the Public Guardian for disclosures about danger to the health and safety of a person with a disability. - Department of Environment and Science disclosures about danger to the environment. - A Member of the Legislative Assembly (MP) for any wrongdoing or danger. - The Chief Judicial Officer of a court or tribunal in relation to a disclosure about wrongdoing by a judicial officer.

A disclosure can also be made to a journalist if the following conditions have been met:

- 1) a valid PID was initially made to a proper authority, and

2) the proper authority:

- decided not to investigate or deal with the disclosure, or
- investigated the disclosure but did not recommend taking any action, or
- failed to notify the discloser within six months of making the disclosure whether or not the disclosure was to be investigated or otherwise dealt with.

A person who makes a disclosure to a journalist in these circumstances is protected under the PID Act. However, disclosers should be aware that journalists are not bound under the confidentiality provisions of section 65 of the PID Act.

7.5 How to make a PID

A discloser can make a PID in any way, including anonymously, either verbally or in writing. To assist in the assessment, and any subsequent investigation of a PID, disclosers are requested to provide:

- contact details (this could be an email address that is created for the purpose of making the disclosure or a telephone number)
- as much information as possible about the suspected wrongdoing, including:
 - who was involved
 - what happened
 - when it happened
 - where it happened
 - whether there were any witnesses, and if so who they are
 - any evidence that supports the PID, and where the evidence is located
 - any further information that could help investigate the PID

A PID can be submitted to Council, attention to the PID Coordinator:

- in writing to complaints@bundaberg.qld.gov.au
- over the counter at a service centre
- by post
- verbally by contacting Council's call centre on 1300 883 699.

If you are unsure if your matter is a PID, visit the Queensland Ombudsman website: www.ombudsman.qld.gov.au or call 1800 068 908.

Complaints can be made anonymously however Council would not be able to contact you for additional information or keep the discloser informed about progress in handling the disclosure.

7.6 Deciding whether a matter is a PID

If there is any doubt as to whether a matter is a PID, further information may be obtained to inform the decision. If doubt still remains, the matter will be considered and managed as a PID.

Mere disagreements over policy do not meet the threshold for a PID under the PID Act.

It is an offence under the PID Act to intentionally give false or misleading information intending it be acted on as a PID. Employees may be subject to disciplinary action for intentionally giving false or misleading information in a PID, or during an investigation into a PID.

Where a discloser states they are making a PID, but it is assessed that the matter is not a PID Council will advise the discloser:

- that their information has been received but was not assessed as a PID
- the reasons for the decision
- the review rights available if the discloser is dissatisfied with the decision and how to request review
- any action Council proposes to take in relation to the matter
- any other options the discloser has in relation to the matter.

7.7 Assessing a PID

The disclosure will be assessed in accordance with the PID Act, the PID Standard and Council's PID Framework.

Once the matter has been assessed as a PID, Council will advise the discloser:

- that their information has been received and assessed as a PID.
- the action to be taken by Council in relation to the disclosure, which could include referring the matter to an external agency, or investigating.
- the likely timeframe involved.
- the support available during and after the management of a PID.
- the name and contact details of the Council support officer they can contact for updates or advice.
- of the discloser's obligations regarding confidentiality.
- the protections the discloser has under the PID Act.
- the commitment of Council to keep appropriate records and maintain confidentiality, except where permitted under the PID Act.
- how updates regarding intended actions and outcomes will be provided to the discloser.
- contact details for Council's Employee Assistance Program, if applicable.

If the PID has been made anonymously and the discloser has not provided any contact details, Council will not be able to acknowledge the PID or provide any updates.

7.8 Referring a PID

If Council decides there is another proper authority that is better able to deal with the PID, the PID may be referred to that agency. This may be because:

- the PID concerns wrongdoing by that agency or an employee of that agency.
- the agency has the power to investigate or remedy the matter.

Before referring the PID to another agency, Council will conduct a risk assessment, and will not proceed with the referral if there is an unacceptable risk of reprisal.

It may also be necessary to refer the PID to another agency because of a legislative obligation, for example, refer a matter to the Crime and Corruption Commission where there is a reasonable suspicion that the matter involves or may involve corrupt conduct (as required by section 38 of the *Crime and Corruption Act 2001*).

The confidentiality obligations of the PID Act permit appropriate officers of Council to communicate with another agency about the referral of a PID. Officers will exercise discretion in their contacts with any other agency.

If a PID has not been made to a proper authority and contact details have been supplied by the discloser, the discloser will be contacted to provide consent for the information to be forwarded to the property authority or invited to redirect the information to the proper authority.

The discloser will be advised of the action taken by Council.

7.9 Risk assessment and protection from reprisal

Disclosers should not suffer any form of detriment as a result of making a PID. Upon receiving a PID, Council will conduct a risk assessment to assess the likelihood of the discloser (or witnesses or affected third parties) suffering reprisal action as a result of having made the disclosure. This assessment will take into account the actual and reasonably perceived risk of the discloser (or witnesses or affected third parties) suffering detriment, and will include consultation with the discloser.

A risk assessment will be undertaken if the discloser is anonymous on the basis of information available in the PID. The risk assessment will also take into account the risk to persons who may be suspected of making the PID.

Consistent with the assessed level of risk, Council will develop and implement a risk management plan and arrange any reasonably necessary support or protection for the discloser (or witnesses or affected third parties).

Council will regularly reassess the risk of reprisal while the PID is being managed, in consultation with the discloser, and review the risk management plan if required.

In the event of reprisal action being alleged or suspected, Council will:

- attend to the safety of the discloser (or witnesses or affected third parties) as a matter of priority
- review its risk assessment, risk management plan and any protective measures needed to mitigate any further risk of reprisal
- manage any allegation of a reprisal as a PID in its own right.

7.10 Declining to take action on a PID

Under the PID Act, Council may decide not to investigate or deal with a PID in various circumstances, including:

- the information disclosed has already been investigated or dealt with by another process.
- the information disclosed should be dealt with by another process.
- the age of the information makes it impractical to investigate.

- the information disclosed is too trivial and dealing with it would substantially and unreasonably divert Council from the performance of its functions.
- another agency with jurisdiction to investigate the information has informed Council that an investigation is not warranted.

If a decision is made not to investigate or deal with a PID Council will give the discloser written reasons for that decision.

If the discloser is dissatisfied with the decision they can request a review by writing to the Chief Executive Officer of Council within 28 days of receiving the written reasons for decision.

7.11 Communication with disclosers

Under the PID Act, Council must give reasonable information to a discloser.

Council will acknowledge receipt of the PID in writing as soon as practicable. The discloser will be provided with information that meets the requirements of the PID Act and the standards issued by the Queensland Ombudsman, including:

- the action that will be taken in response to the PID
- the protections under the PID Act
- confidentiality obligations of the discloser and Council
- support arrangements.

Council will maintain contact with the discloser and provide regular updates during the management of the PID.

In accordance with the PID Act, after finalising action in response to the PID, Council will advise the discloser in writing of the action taken and the results of the action.

7.12 Confidentiality

While Council will make every attempt to protect confidentiality, a discloser's identity may need to be disclosed to:

- provide natural justice to subject officers
- respond to a court order, legal directive or court proceedings.

Council will ensure that communication with all parties involved will be arranged discreetly to avoid identifying the discloser wherever possible.

Disclosers should be aware that while Council will make every attempt to keep their details confidential, it cannot guarantee that others will not try to deduce their identity.

7.13 Support for disclosers

Council recognises that providing appropriate support to a discloser is an important feature of effective PID management.

An assessment will be undertaken to identify the support needs of the discloser. Where appropriate, a PID Support Officer will be assigned to the discloser. The PID Support Officer will assist the discloser to access information about PIDs, protections available under the PID Act and the PID management process. The PID Support Officer will proactively contact the discloser to offer support.

Information and support will be provided to the discloser until the matter is finalised. Making a PID does not prevent reasonable management action. That means that the discloser will be continue to be managed in accordance with normal, fair and reasonable management practices during and after the handling of the PID.

7.14 Investigating a PID

If a decision is made to investigate a PID, this will be done with consideration for the:

- principles of natural justice.
- obligation under the PID Act to protect confidential information.
- obligation under the PID Act to protect officers from reprisal.
- interests of subject officers.
- type of disclosure and resources available.

If as a result of investigation, the information about wrongdoing provided in the PID is substantiated, appropriate action will be taken.

Where the investigation does not substantiate wrongdoing, Council will review systems, policies and procedures to identify whether there are improvements that can be made and consider if staff training is required.

7.15 Rights of subject officers

Council acknowledges that for officers who are the subject of a PID the experience may be stressful. Council will protect their rights by:

- assuring them that the PID will be dealt with impartially, fairly and reasonably in accordance with the principles of natural justice.
- confirming that the PID is an allegation only until information or evidence obtained through an investigation substantiates the allegation.
- providing them with information about their rights and the progress and outcome of any investigation.
- referring them to the Employee Assistance Program for support.

Information and support will be provided to subject officer until the matter is finalised.

7.16 Review rights

If the discloser or subject officer is dissatisfied with the PID management process they have the right to internal or external review by making a complaint to the Office of the Queensland Ombudsman within 1 year of receiving a notice of the PID.

7.17 Training strategy

Council's PID framework includes a multi-layered training strategy of:

- Corporate Induction – providing an overview of the PID Act and framework to all new employees.
- Specialist Training – provided by an external agency on a biennial basis to identified officers within Council.
- General advice and training available through by Council's Governance and Legal Services team.

7.18 Supporting information

Visit Public interest disclosures - Queensland Ombudsman

8.0 RECORDS

In accordance with its obligations under the PID Act and the *Public Records Act 2002*, Council will ensure that:

- accurate data is collected about the receipt and management of PIDs.
- anonymised data is reported to the Office of the Queensland Ombudsman in their role as the oversight agency, through the PID reporting database within 30 days of the management of the PID being finalised.

Records about disclosures, investigations and related decisions will be kept secure and assessable only to appropriately authorised people involved in the management of the PID.

This procedure will be reviewed annually and updated as required to ensure it meets the requirements of the PID act and the standards issued by the Queensland Ombudsman.