



Public Interest Disclosure Policy and Management Program

Responsible Manager	Chief Executive Officer
Head of power	<i>Public Interest Disclosure Act 2010 Crime and Corruption Act 2001 Local Government Act 2009 Public Sector Ethics Act 1994 Public Records Act 2002</i>
Authorised by	Council
Authorised on	20 April 2021
Implemented from	April 2021
Last reviewed	N/A
Review history	2021
To be reviewed on	April 2022
Corporate Plan	Accountability: We are honest, reliable and ethical in all that we do.

1. Purpose

Torres Strait Island Regional Council (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 Policy 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).

Council's Public Interest Disclosure Policy and Management Program is available for public viewing at www.tsirc.qld.gov.au. The Public Interest Disclosure Policy and Management Program will be reviewed annually and updated as required by the Manager Risk and Ethics to ensure it meets the requirements of the PID Act and the standards issued by the Queensland Ombudsman.

2. Application

This policy will be applied at all levels of the organisation and recognised and practiced by all Councillors, employees, contractors, and volunteers including those involved with any affiliated entity, program, or initiative.

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
- encourage internal reporting of wrongdoing as defined in the PID Act
- ensure the PID process is managed in accordance with the PID Act and appropriate confidentiality is maintained

3. Legislation/Policies

The *Public Interest Disclosure Act 2010* requires the Chief Executive Officer (CEO) to implement procedures to ensure that:

- 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 management program for PIDs made to Council, consistent with the standards 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.

Other relevant legislation:

- *Crime and Corruption Act 2001*
- *Local Government Act 2009*
- *Public Sector Ethics Act 1994*
- *Public Records Act 2002*

Supporting Information:

- [Public Interest Disclosure Standard No. 1/2019](#)
- [Public Interest Disclosure Standard No. 2/2019](#)
- [Public Interest Disclosure Standard No. 3/2019](#)
- [Disclosure Fact sheet 1: What is a disclosure](#)
- [Disclosure Fact sheet 2: Checklist for making a disclosure](#)
- [Disclosure Fact sheet 3: Discloser information and support](#)

Related Council policies include:

- Fraud and Corruption Prevention Policy
- Complaint Management Policy
- Code of Conduct
- Risk Management Policy
- Complaint against Public Official (CEO) Policy

4. Definitions

What is a Public Interest Disclosure (PID)?

Providing information about wrongdoing in the public sector is commonly known as “whistleblowing”. The legal term for it is “making a public interest disclosure (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 condition 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 (including Local Government) employees 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 either 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.

Key terms in the Public Interest Disclosure Policy and Management Program are defined here:

Term	Definition
Administrative action	<p>(a) means any action about a matter of administration, including, for example:</p> <ul style="list-style-type: none"> (i) a decision and an act; and (ii) a failure to make a decision or do an act, including a failure to provide a written statement of reasons for a decision; and (iii) the formulation of a proposal or intention; and (iv) the making of a recommendation, including a recommendation made to a Minister; and (v) an action taken because of a recommendation made to a Minister; and <p>(b) does not include an operational action of a police officer or of an officer of the Crime and Corruption Commission.</p>
Confidential information	<p>(a) includes —</p> <ul style="list-style-type: none"> (i) information about the identity, occupation, residential or work address or whereabouts of a person — <ul style="list-style-type: none"> (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 <p>(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.</p>
Corrupt conduct	As defined in section 15 of the Crime and Corruption Act 2001

- (1) **Corrupt conduct** means conduct of a person, regardless of whether the person holds or held an appointment, that—
- (a) adversely affects, or could adversely affect, directly or indirectly, the performance of functions or the exercise of powers of—
 - (i) a unit of public administration; or
 - (ii) a person holding an appointment; and
 - (b) results, or could result, directly or indirectly, in the performance of functions or the exercise of powers mentioned in paragraph (a) in a way that—
 - (i) is not honest or is not impartial; or
 - (ii) involves a breach of the trust placed in a person holding an appointment, either knowingly or recklessly; or
 - (iii) involves a misuse of information or material acquired in or in connection with the performance of functions or the exercise of powers of a person holding an appointment; and
 - (c) would, if proved, be—
 - (i) a criminal offence; or
 - (ii) a disciplinary breach providing reasonable grounds for terminating the person's services, if the person is or were the holder of an appointment.
- (2) **Corrupt conduct** also means conduct of a person, regardless of whether the person holds or held an appointment, that—
- (a) impairs, or could impair, public confidence in public administration; and
 - (b) involves, or could involve, any of the following—
 - (i) collusive tendering;
 - (ii) fraud relating to an application for a licence, permit or other authority under an Act with a purpose or object of any of the following (however described)—
 - (A) protecting health or safety of persons;
 - (B) protecting the environment;
 - (C) protecting or managing the use of the State's natural, cultural, mining or energy resources;
 - (iii) dishonestly obtaining, or helping someone to dishonestly obtain, a benefit from the payment or application of public funds or the disposition of State assets;
 - (iv) evading a State tax, levy or duty or otherwise fraudulently causing a loss of State revenue;
 - (v) fraudulently obtaining or retaining an

	<p>appointment; and</p> <p>(c) would, if proved, be—</p> <p>(i) a criminal offence; or</p> <p>(ii) a disciplinary breach providing reasonable grounds for terminating the person’s services, if the person is or were the holder of an appointment.</p>
Detriment	<p>includes –</p> <p>(a) personal injury or prejudice to safety; and</p> <p>(b) property damage or loss; and</p> <p>(c) intimidation or harassment; and</p> <p>(d) adverse discrimination, disadvantage or adverse treatment about career, profession, employment, trade or business; and</p> <p>(e) financial loss; and</p> <p>(f) damage to reputation, including, for example, personal, professional or business reputation.</p>
Disability	<p>As defined in section 11 of the Disability Services Act 2006, for the purposes of this procedure:</p> <p>(1) A disability is a person’s condition that—</p> <p>(a) is attributable to—</p> <p>(i) an intellectual, psychiatric, cognitive, neurological, sensory or physical impairment; or</p> <p>(ii) a combination of impairments mentioned in subparagraph (i); and</p> <p>(b) results in—</p> <p>(i) a substantial reduction of the person’s capacity for communication, social interaction, learning, mobility or self care or management; and</p> <p>(ii) the person needing support.</p> <p>(2) For subsection (1), the impairment may result from an acquired brain injury.</p> <p>(3) The disability must be permanent or likely to be permanent.</p> <p>(4) The disability may be, but need not be, of a chronic episodic nature.</p>
Discloser	<p>A person who makes a disclosure in accordance with the Public Interest Disclosure Act 2010.</p>
Employee	<p>of an entity, includes a person engaged by the entity under a contract of service.</p>
Investigation	<p>For the purposes of this procedure, investigation includes any enquiry undertaken to establish whether the information provided in a PID can be substantiated, including a review or audit.</p>
Journalist	<p>a person engaged in the occupation of writing or editing material intended for publication in the print or electronic news media.</p>

<p>Maladministration</p>	<p>As defined in schedule 4 of the Public Interest Disclosure Act 2010, maladministration is administrative action that—</p> <ul style="list-style-type: none"> (a) was taken contrary to law; or (b) was unreasonable, unjust, oppressive, or improperly discriminatory; or (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; or (d) was taken— <ul style="list-style-type: none"> (i) for an improper purpose; or (ii) on irrelevant grounds; or (iii) having regard to irrelevant considerations; or (e) was an action for which reasons should have been given, but were not given; or (f) was based wholly or partly on a mistake of law or fact; or (g) was wrong.
<p>Natural justice</p>	<p>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.</p> <p>The rules of natural justice, which have been developed to ensure that decision-making is fair and reasonable, are:</p> <ul style="list-style-type: none"> • avoid bias; and • give a fair hearing. • act only on the basis of logically probative evidence.
<p>Organisational support</p>	<p>For the purposes of this procedure, organisational support means actions such as, but not limited to:</p> <ul style="list-style-type: none"> • 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.
Proper authority	A person or organisation that is authorised under the Public Interest Disclosure Act 2010 to receive disclosures.
Public officer	A public officer, of a public sector entity, is an employee, member or officer of the entity.
Reasonable belief	A view which is objectively fair or sensible.
Reasonable management action	<p>Action taken by a manager in relation to an employee, includes any of the following taken by the manager—</p> <ul style="list-style-type: none"> (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.
Reprisal	<p>The term ‘reprisal’ is defined under 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:</p> <ul style="list-style-type: none"> • has made or intends to make a disclosure; or • has been or intends to be involved in a proceeding under the disclosure Act against any person. <p>Reprisal under the Public Interest Disclosure Act 2010 is a criminal offence and investigations may be undertaken by the Queensland Police Service.</p>
Subject officer	An officer who is the subject of allegations of wrongdoing made in a disclosure.
Substantial and specific	<p>Substantial means ‘of a significant or considerable degree’. It must be more than trivial or minimal and have some weight or importance.</p> <p>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.</p>

5. Roles and Responsibilities

The CEO has overall responsibility for ensuring that Council develops, implements and maintains a PID management program. Council's PID management program encompasses:

- commitment to encouraging the internal reporting of wrongdoing
- 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 specific officers, with a designated alternative officer if needed, 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
- ensuring that Council personnel making a PID receive support and protection from reprisal
- all legislative obligations in relation to reporting and investigation are met
- regular review of the Public Interest Disclosure Policy and evaluation of the effectiveness of the PID management program

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

Role:	Responsibilities:	Officer:
PID Coordinator	<ul style="list-style-type: none"> ▪ principal contact for PID issues within Council ▪ document and manage implementation of PID management program ▪ review and update PID policy and management program annually ▪ regularly evaluate and monitor the effectiveness of PID procedures ▪ maintain and update internal records of PIDs received ▪ report data on PIDs to Queensland Ombudsman ▪ assess PIDs received ▪ provide acknowledgment of receipt of PID to discloser ▪ undertake risk 	<p>Primary: Manager Legal Services Julia Maurus p: (07) 4034 5763 m: 0474 951 282 e: julia.maurus@tsirc.qld.gov.au</p> <p>Secondary: Administration Officer Executive Services Cathy David p: (07) 4034 5734 e: cathy.david@tsirc.qld.gov.au</p>

	<p>assessments in consultation with disclosers and other relevant officers</p> <ul style="list-style-type: none"> ▪ liaise with other agencies about referral of PIDs ▪ allocate Investigator and Support Officer to PID matter 	
PID Support Officer	<ul style="list-style-type: none"> ▪ provide advice and information to discloser on Council PID and Complaints Management procedures ▪ provide personal support and referral to other sources of advice or support as required ▪ facilitate updates on progress of investigation ▪ inform the discloser of reasonable information throughout PID management process 	<p>Primary: Manager Risk and Ethics Nerida Carr p: (07) 4034 5727 m: 0437 519 533 e: nerida.carr@tsirc.qld.gov.au</p> <p>Secondary: Head of People and Wellbeing p: (07) 4034 5778 m: 0436 930 442 e: peopleandwellbeing@tsirc.qld.gov.au</p>
Investigator	<ul style="list-style-type: none"> ▪ 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	<ul style="list-style-type: none"> ▪ review investigation report and determine whether alleged wrongdoing is substantiated 	An appropriate decision-maker will be appointed for each PID investigated.
Executive Management Team, Department Heads and Managers, Coordinators and Supervisors	<ul style="list-style-type: none"> ▪ report to the PID Coordinator any PIDs reported to them ▪ maintain an ethical culture and lead by example ▪ provide clear guidance to Council personnel on how to handle complex issues which may involve corrupt conduct, while maintaining confidentiality and the principles of natural 	All Executive Management Team, Department Heads and Managers, Regional and Divisional Managers. Coordinators and Supervisors

	<p>justice or procedural fairness</p> <ul style="list-style-type: none"> ▪ ensure that Council personnel in their business area are aware of their obligations in relation to the requirements of the PID Act ▪ continually monitor and assess the workforce for signs of reprisals against a Discloser or Subject Officer under the principles of natural justice or procedural fairness and take appropriate actions to protect that person or persons ▪ ensure that, if PID allegations are substantiated, investigation and recommendations are implemented quickly to reduce the risk of reoccurrence ▪ notify the PID Coordinator in situations where any detrimental actions are taken against the Discloser and discuss concerns and options for addressing the situation before it escalates 	
All Council Personnel	<ul style="list-style-type: none"> ▪ report PIDs in accordance with this Policy ▪ conduct their duties to high level of professional and ethical standards and act in the public interest in accordance with the Code of Conduct ▪ maintain confidentiality protocols established for the management and investigation of PIDs 	All Council Personnel

6. Public Interest Disclosure Management Process

Employees who are prepared to speak up about public sector 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
- 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 accusation of defamation by any subject officer.

Who can a PID be disclosed too?

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.

<i>Who to contact within Council:</i>	<i>Other agencies that can receive PIDs:</i>
<p>Any person (including employees) can make a disclosure to:</p> <ul style="list-style-type: none"> • any person in a supervisory or management position • the Chief Executive Officer • via an online form under the Contact Us - Complaints Process on Council's website (this may be anonymous) <p>www.tsirc.qld.gov.au/make-complaint</p>	<p>Disclosures can be made to an agency that has a responsibility for investigating the information disclosed:</p> <ul style="list-style-type: none"> • 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 and Women for disclosures about danger to the health and safety of a child or young person with a disability • Department of Communities, Disability Services and Seniors for disclosures about danger to the health and safety of a person with a disability

	<ul style="list-style-type: none"> • 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.
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A disclosure can also be made to a journalist if the following conditions have been met:

a valid PID was initially made to a proper authority, and

- 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.

If you are a Council or public sector employee and you inform a journalist of suspected corruption without first reporting it to a proper authority, you are not covered by any legal protection (that is, under the PID Act) from reprisal.

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)
- provide 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
- provide this information in writing.

Any personal information you consent to give us when you complete our complaint forms (online or paper) is used only for a clear and lawful purpose, as explained on the form. Any correspondence you send us will be kept as a public record and stored according to our legislated obligations.

Council will acknowledge receipt of the complaint or notification within 24 hours.

Anonymous Disclosure

You do not have to give your name, contact details or any other details that will identify who you are or where you work. However, you should be aware that if Council cannot contact you (for example, we need further information), we may be unable to investigate your complaint fully or to let you know what happened.

The likelihood of a successful outcome is greatly increased if, when making either a verbal or written disclosure, the discloser's identity is known. Nonetheless, anonymous disclosures will still be received and where possible, investigated.

If it is decided to disclose anonymously, the Discloser will need to provide sufficient information for the matter to be investigated, as it will not be possible for Council to go back to the Discloser for clarification or additional information to enable proper assessment and investigation of the PID.

Anonymous disclosures exempt themselves from Council's commitment to keeping Disclosers informed on the progress of handling the PID. They cannot be informed of the investigation outcome by reason of their anonymity and as a result, some of the protections afforded by the PID Act may not apply to them.

Information to Disclose

To ensure a comprehensive and successful investigation of perceived wrongdoing, persons making a PID are encouraged to provide all known information that might be relevant, including:

- the circumstances of the incident/matter including dates, times and locations;
- the details of Council personnel or others involved; and
- possible sources of additional information or evidence to support the PID

A person may make a public interest disclosure about:

- events that happened or may have happened, whether before or after the commencement of the PID Act; or
- events that are or may be happening; or
- events that will or may happen.

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 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.

Assessing a PID

The disclosure will be assessed in accordance with the PID Act, the PID standards, Council's Public Interest Disclosure Policy, Council's Complaints Management Procedure, and any other relevant procedure(s).

Once the matter has been assessed as a PID, Council will advise the discloser as early as practicable, but no later than 14 days after the receipt of the notification:

- 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 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 the Council's Employee Assistance Program.

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.

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
- that 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.

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

Risk assessment and protection from reprisal

Disclosers should not suffer any form of detriment because 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 because 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 detrimental actions and will include consultation with the discloser.

A risk assessment will be undertaken if the discloser is anonymous based on information available in the PID. The risk assessment will also consider 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.

Declining to take action on a PID

Under the PID Act, the 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.

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.

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.

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.

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.

Investigations will be carried out under the processes contained in Council's Complaint Management Procedure (SPO9-PR1).

If because 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.

Reporting Responsibilities

The PID Coordinator is responsible for recording and reporting information regarding PIDs received by Council. The PID Coordinator will maintain a record of each PID which includes:

- The name of the person making the PID (if known)
- The subject of the PID
- Any action taken on the PID
- Any other information needed to comply with the reporting requirements of the Queensland Ombudsman

Conflict of Interest/Material Personal Interest in PID Investigation

Conflict of interest (real or perceived) is required to be declared and shall be governed by Council's Conflict of Interest Policy in the following:

- relationship between Discloser and Investigating Officer
- relationship between Subject Officer and Investigating Officer
- relationship between Discloser and Decision-Maker

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 a subject officer until the matter is finalised.

Record-keeping

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.

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

Further Information and Advice

Internal – refer to Section 5, Roles and Responsibilities

External – Queensland Ombudsman Advisory Service

The Queensland Ombudsman has been allocated responsibility for providing advice and guidance to public sector entities and officials to meet their responsibilities created under the *Public Sector Ethics Act 1994* and the *Public Interest Disclosure Act 2010*.

Email pidadmin@ombudsman.qld.gov.au or phone 1800 068 908 for more information about this service.

Manager Responsible for Review:

Chief Executive Officer



Adoption: 21 April 2021

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David Baldwin
A/Chief Executive Officer