

Procedure



REGIONAL COUNCIL

Public Interest Disclosure

November 2022

Document Control

This page will be re-issued every time amendments are made to controlled documents. Amended documents will have their revision status and issue date updated accordingly.

Version	Clause(s)	Changes	Author	Issue Date
0		Initial draft	Susan Boland	01/08/2017
1		Adopted by Council		17/01/2018
2		Amendment to definition "Public Officer" removal of volunteer	Susan Boland	06/03/2018
3		Reviewed	Susan Boland	27/08/2020
4		Approved	Council Meeting (20-24/0157)	14/10/2020
5		Reviewed	Caitlan Natalier	8/11/2022
6		Approved	Council Meeting	16/11/2022

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1. Introduction

The *Public Interest Disclosure Act 2010* facilitates the disclosure, in the public interest, of information about wrongdoing in the public sector and provides protection for those who make such disclosures.

As a public sector entity Lockyer Valley Regional Council is subject to the *Public Interest Disclosure Act 2010* (PID Act) and all Council employees and Councillors are public officers for the purposes of the legislation. Council, therefore, has obligations placed on it related to receiving Public Interest Disclosures (PIDs) and to ensure that persons making such disclosures are protected from reprisals.

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 PID Act.

2. Definitions

The following definitions apply for the purposes of this procedure:

<i>Administrative Action</i>	as defined in Schedule 4 of the PID Act: (a) means any action about a matter of administration, including, for example: <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 (b) does not include an operational action of a police officer or of an officer of the Crime and Corruption Commission.
<i>Chief Executive Officer</i>	is the Chief Executive Officer of the Lockyer Valley Regional Council.
<i>Confidential Information</i>	as defined in Section 65 of the PID Act: (a) includes: <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; orB. 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

Corrupt Conduct

- (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.

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 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.

*Councillor
Detriment*

means all elected representatives of Council, including the Mayor.
as defined in Schedule 4 of the PID Act, includes:
(a) personal injury or prejudice to safety;
(b) property damage or loss;
(c) intimidation or harassment;
(d) adverse discrimination, disadvantage or adverse treatment about career, profession, employment, trade or business;
(e) financial loss; and
(f) damage to reputation, including, for example, personal, professional or business reputation.

Disability

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.

*Discloser
Employee*

is a person who makes a disclosure in accordance with the PID Act.
of Council, includes a person engaged by Council under a contract of service.

Investigation

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 of audit.

Journalist

a person engaged in the occupation of writing or editing material intended for publication in the print or electronic news media.

Maladministration

as defined in Schedule 4 of the PID Act, maladministration is administrative action that:
(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:
(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.
<i>Natural Justice</i>	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: <ul style="list-style-type: none"> • avoid bias; • give a fair hearing; and • act only on the basis of logically probative evidence.
<i>PID Act</i>	means the <i>Public Interest Disclosure Act 2010</i> .
<i>Proper Authority</i>	is a person or organisation that is authorised under the PID Act to receive disclosures.
<i>Public Interest Disclosure (PID)</i>	are broadly defined in the PID Act as being information about suspected wrongdoing in the public sector disclosed to a Proper Authority under Chapter 2 of the PID Act.
<i>Public Officer</i>	is a person who is an employee, member or officer of a public sector entity.
<i>Reasonable Belief</i>	a view which is objectively fair or sensible.
<i>Reasonable Management Action</i>	action taken by a manager in relation to an employee, including any of the following taken by the manager: <ol 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.
<i>Reprisal</i>	occurs when any person causes or attempts or conspires to cause detriment to another person because or in the belief that they or someone else: <ol style="list-style-type: none"> (a) has made or intends to make a disclosure; or (b) has been, or intends to be, involved in a proceeding under the PID Act against any person. Reprisal under the PID Act is a criminal offence and investigations may be undertaken by the Queensland Police Service.
<i>Subject Officer</i>	is an officer who is the subject of allegations of wrongdoing made in a disclosure.
<i>Substantial and Specific</i>	Substantial means 'of a significant or considerable degree'. It must be more than trivial or minimal and have some weight or importance.

Support

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.

for the purposes of this Procedure, support means actions such as, but not limited to:

- (a) providing moral and emotional support
- (b) advising disclosers about agency resources available to handle any concerns they have as a result of making their disclosure;
- (c) appointing a mentor, confidante or other support officer to assist the discloser through the process
- (d) referring the discloser to the agency's Employee Assistance Program or arranging for other professional counselling
- (e) generating support for the discloser in their work unit where appropriate
- (f) ensuring that any suspicions of victimisation or harassment are dealt with
- (g) 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.

Wrongdoing

means conduct or another matter as defined at section 12(1) and section 13(1) of the PID Act.

3. Statement of commitment

By complying with the PID Act, Council will:

- promote the public interest by facilitating 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 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 development and implemented
- Public Officers who make PIDs are offered protection from Reprisal by Council or other Public Officers of Council.

The Public Interest Disclosure Procedure will be reviewed regularly and updated as required to ensure it meets the requirements of the PID Act and the standards issued by the Queensland Ombudsman.

4. PID Management Program

The Chief Executive Officer has overall responsibility for ensuring that Council develops, implements and maintains a PID management program. Council's PID management program, as developed and contained in this procedure, 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 and training strategy to raise awareness among employees about PIDs and Council's PID Procedure
- a communication and training strategy to raise awareness among employees about PIDs and Council's PID Procedure and to give them 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 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
- regulator review of the PID Procedure and evaluation of the effectiveness of the PID management program.

5. Roles and Responsibilities

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 Procedure regularly • maintain and update internal records of PIDs received • report data on PIDs to Queensland Ombudsman • assess PIDs received • provide acknowledgement 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 	Coordinator Governance & Property

PID Support Officer	<ul style="list-style-type: none"> • provide advice and information to discloser on Council's PID Procedure • provide personal support and referral to other sources of advice or support as required • facilitate updates on progress of investigation • proactively contact discloser throughout the PID management process 	An appropriate person nominated by the Chief Executive Officer or the PID Coordinator
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.

6. Why make a PID?

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.

7. What is a PID?

What constitutes a PID depends on who is making the disclosure, with the PID Act distinguishing between disclosures made by a public officer and those made by anyone else.

Any person can report wrongdoing to a proper authority about:

- a) a substantial and specific danger to the health or safety of a person with a disability; or
- b) the commission of an offence, or a contravention of a condition imposed under a provision of environmental legislation mentioned in Schedule 2 of the PID Act, if the offence or contravention would be a substantial and specific danger to the environment; or
- c) the conduct of another person that could, if proved, be a 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 to a proper authority about the following public interest matters:

- a) the conduct of another person that could, if proved, be—
 - i. corrupt conduct; or
 - ii. maladministration that adversely affects a person's interests in a substantial and specific way; or
- b) a substantial misuse of public resources (other than an alleged misuse based on mere disagreement over policy that may properly be adopted about amounts, purposes or priorities of expenditure); or
- c) a substantial and specific danger to public health or safety; or
- d) a substantial and specific danger to the environment.

For a disclosure to be a PID, the discloser can have either:

- a) an honest belief, on reasonable grounds, that wrongdoing has occurred (subjective test) or
- b) provide evidence which tends to show the wrongdoing has occurred, regardless of whether the discloser honestly believes the information (objective test).

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.

8. Who can a PID be disclosed to?

The PID Act only protects PIDs that are made to the “proper authority” to receive disclosures of the type being made. Council is a proper authority for conduct concerning the Council, a councillor or Council employee or behaviour that Council has the power to investigate or remedy.

Disclosures made otherwise than in accordance with this procedure may not attract the protection of the PID Act, including disclosures made to the media (except in special circumstances outlined below and in Part 4 Section 20 of the PID Act), unions or professional associations, federal government departments and agencies, private organisations and organisations operating outside of Queensland.

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:
<p>Any person (including employees) can make a disclosure to:</p> <ul style="list-style-type: none"> • the Chief Executive Officer • the PID Coordinator • their manager or supervisor (if an employee) or a person in a managerial or supervisory position (if a member of the public) • the human resources team. 	<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 Children, 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 for 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:

- 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.

9. 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.

A disclosure may be made anonymously; however, it is difficult in these circumstances to protect the person making the disclosure from any retributive action or reprisal. As such, although anonymous disclosures are permitted under the PID Act, disclosers are encouraged to provide their contact details when making a disclosure.

A disclosure should be in writing, although it may be made orally. If a supervisor or manager receives a PID, they should encourage the discloser to put the information in writing. If the discloser is unable or unwilling to do so, the supervisor or manager should document the disclosure and ask the discloser to confirm the contents before signing it. If circumstances prevent this occurring (e.g. telephone caller who remains anonymous), the supervisor or manager should promptly make a written note recording the precise matters raised and this should be referred to the Chief Executive Officer and the PID Coordinator.

A Public Interest Disclosure (PID) can be made about an unidentified person. A person can involuntarily make a PID if they are legally compelled to do so. A PID can be made in a proceeding in a court or tribunal as part of giving information to the court or tribunal.

A PID can concern an event that happened or may have happened even if the event occurred before the enactment of the PID Act. The PID can also concern a current or potential event that will or may happen.

Each separate allegation should be reported as a separate PID, unless the matters are clearly linked, and it would be reasonable to view them as a single disclosure.

10. 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.

There is no limit to the number of PIDs that can be made. When making a PID, the discloser has the responsibility to provide honest and accurate information. It is an offence under the PID Act to intentionally give false or misleading information intending it to be acted on as a PID. Employees may face disciplinary action and criminal prosecution for intentionally giving false or misleading information in a PID or during an investigation into a PID. Knowingly providing false or misleading information is different to providing information that turns out to be incorrect or unable to be substantiated.

Council encourages persons contemplating the making of a PID to give due prior consideration to that course to ensure that matters raised have substance and are soundly based. Under the PID Act a person is not liable civilly, criminally or under an administrative process, including disciplinary action, for making 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.

11. Assessing a PID

When a disclosure is made to a supervisor or manager, the supervisor or manager must communicate the disclosure immediately to the Chief Executive Officer and the PID Coordinator. The Chief Executive Officer must ensure that a disclosure made to Council or referred to it by another entity or Member of the Legislative Assembly is assessed.

Council cannot decline to receive and/or assess a disclosure as a PID. The disclosure will be assessed in accordance with the PID Act, the PID standards, Council's PID Procedure and any other relevant procedure(s).

In assessing a disclosure, the Chief Executive Officer will determine if:

- the person making the disclosure is able to receive the protection of the *Public Interest Disclosure Act 2010*
- the disclosure concerns a matter about which a PID can be made
- the disclosure meets either the subjective or objective test set out in the *Public Interest Disclosure Act 2010*
- the disclosure has been made to an individual or entity who may receive a PID, and
- the disclosure has been made in accordance with Council's procedure or to a person listed in the *Public Interest Disclosure Act 2010*.

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 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 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.

12. 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. In considering whether there would be an unacceptable risk, Council will, if appropriate, consult with the discloser.

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.

13. 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.

14. 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 if:

- the substance of the disclosure has already been investigated or dealt with by another appropriate process
- the disclosure should be dealt with by another appropriate process
- the age of the information the subject of the disclosure makes it impracticable to investigate
- the disclosure is too trivial to warrant investigation and that dealing with the disclosure would substantially and unreasonably divert the resources of Council from the performance of its functions, or
- another entity that has the jurisdiction to investigate the disclosure has notified Council that investigation of the disclosure is not warranted.

If Council decides not to investigate or deal with a PID, written reasons for this decision will be given to the discloser. 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 the decision.

15. 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 proposed to be taken by Council in response to the PID
- the likely timeframes (if possible)
- the obligations of the discloser in relation to the investigation process and maintaining confidentiality
- the protections under the PID Act
- that Council will keep the information disclosed, including the discloser's identity, confidential, except as allowed under the PID Act
- how they will be advised of progress and outcomes;
- support arrangements; and
- who to contact if they want further information or are concerned about reprisals.

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.

16. 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.

An employee who gains confidential information because he or she receives a PID or is involved in dealing with a PID must not make a record of the information, or intentionally or recklessly disclose the information to anyone, other than:

- for the PID Act
- to discharge a function under another Act including, for example, to investigate something disclosed by a PID
- for a proceeding in a court or tribunal
- if the person to whom the confidential information relates consents in writing to the making of the record or disclosure of the information
- if the employee cannot reasonably obtain consent from the person to whom the confidential information relates and making the record or disclosing the information is unlikely to harm the interests of the person to whom the confidential information relates and is reasonable in all the circumstances
- if the person reasonably believes that making the record or disclosing the information is necessary to provide for the safety or welfare of a person, or
- if authorised under a regulation or another Act.

Making a record of confidential information or disclosing information to anyone (other than for the reasons noted above) is an offence under the *Public Interest Disclosure Act 2010*.

17. Discloser support and protection

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

As soon as possible after receiving a PID, an assessment will be undertaken to determine the level of protection and support appropriate for a discloser by conducting a risk assessment of a reprisal to the discloser and others associated with the discloser (including those who may wrongly be suspected of being a discloser). Council will also take into account any consequences if reprisals do occur.

The Chief Executive Officer will ensure protective measures are in place which are appropriate to the risk of reprisal, and the potential consequences of a reprisal. If the risk is assessed as sufficiently high, Council will prepare a protection plan to protect the discloser. Where feasible, this will be developed in consultation with the discloser and other relevant stakeholders.

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.

18. Managing reprisals

Reprisals are not condoned or tolerated by Council.

The Chief Executive Officer will ensure effective systems and procedures are in place to monitor a discloser's workplace for any signs of reprisal action. In the event of a reprisal being alleged or suspected, Council will act in the interest of the discloser by:

- attending to the safety of the discloser or affected third parties as a matter of priority
- reviewing the risk assessment of reprisal, the protection plan (if any) and any protective measures needed; and
- managing any allegation of a reprisal as a PID in its own right.

Any employees found to have engaged in reprisals will be the subject of disciplinary action up to dismissal. Criminal action may be taken with respect to reprisal and penalties under the PID Act may apply.

Council may be vicariously liable for reprisal actions taken by employees, but may be able to raise as a defence, on the balance of probabilities, that reasonable steps were taken to prevent the employee taking reprisal action.

Making a PID does not prevent reasonable management action. That means that the discloser will continue to be managed in accordance with normal, fair and reasonable management practices during and after the handling of the PID. The manager's or supervisor's reasons for taking the action should be documented.

19. 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.

Where appropriate, an investigator will be engaged to investigate the PID. In all cases the investigator must:

- have the necessary skills or training to perform that task in a professional manner
- not be under the direction of a person being investigated

- be sufficiently removed from the issue as to not have a conflict of interest or perceived conflict of interest when undertaking the investigation, and
- when assessing (and where necessary, investigating and taking action on) a PID, take account of Council's obligations to the subject officer.

The fact that Council is relying on information obtained through a PID for any subsequent disciplinary process does not exempt Council from its obligations to the subject officer.

On conclusion of the investigation, the investigator will provide the Chief Executive Officer with a written report detailing the process followed and their findings.

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.

A person dissatisfied with Council's handling of their PID has an internal right of review to the Chief Executive Officer. Disclosers are also entitled to raise the matter with other entities, such as the Queensland Ombudsman in cases of maladministration.

20. 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.

21. Record keeping and reporting

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.

Council will maintain a confidential file pertaining to each potential PID, with the following minimum requirements:

- the name of the person making the disclosure (if known)
- details of the disclosure

- the determination made in respect of the disclosure; and
- action taken on the disclosure (including review, investigation or other form of managerial response).

All records about PIDs, investigations and related decisions will be kept secure and accessible only to appropriately authorised people involved in the management of the PID. Responsibility for creating records and for fulfilling Council's reporting obligations rests with Council's PID Coordinator who is part of Council's Governance and Property Team.

Council's PID Coordinator will provide reports to the Chief Executive Officer on the implementation and oversight of the PID management program and this Procedure.

Council's PID Coordinator will also provide the Queensland Ombudsman with the required information via the RaPID database in compliance with Public Interest Disclosure Standard No. 3/2019.

22. Relevant Legislation

Crime and Corruption Act 2001

Local Government Act 2009

Public Interest Disclosure Act 2010

Public Records Act 2002

Public Sector Ethics Act 1994

23. Related Documents

Public Interest Disclosure Policy
 Employee Code of Conduct
 Councillor Code of Conduct
 Risk Management Policy
 Risk Management Framework Guideline
 Complaints Management Policy
 Complaints Management Procedure
 Complaints of Corrupt Conduct by Chief Executive Officer Policy
 Fraud & Corruption Control Policy
 Fraud & Corruption Control Plan
 Conflict of Interest Policy
 Conflict of Interest Framework Guideline

24. 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 Face sheet 2: Checklist for making a disclosure](#)

[Disclosure Fact sheet 3: Discloser information and support](#)