



PUBLIC INTEREST DISCLOSURE POLICY

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Responsible Officer: Chief Executive Officer
Department: Executive Office

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2	Review	February 2014	Review January 2015
3	Reviewed and Amended	22 July 2015	Review July 2018
4	Reviewed and Amended	24 July 2018	Review July 2021
5	Reviewed OM-150/21	21 July 2021	Review July 2024

1. LEGISLATIVE AUTHORITY

Local Government Act 2009

Information Privacy Act 2009

Right to Information Act 2009

Public Interest Disclosure Act 2009

Public Sector Ethics Act 1994

Goondiwindi Regional Council Employee Code of Conduct

2. PURPOSE

The purpose of this policy is:

- to establish an internal reporting system for the reporting and management of disclosures of wrongdoing in line with the provisions of the *Public Interest Disclosure Act 2009* (“the Act”);
- to provide special protection and support to Council personnel or members of the public who make public interest disclosures;

- to implement processes to ensure that Public Interest Disclosures are dealt with in a thorough and timely manner;
- to ensure that Council fulfils its obligations under the Act.

3. APPLICATION

This policy applies to all Goondiwindi Regional Council elected members, employees, contractors and consultants (collectively referred to in this policy as 'employees'). This policy applies to public interest disclosures concerning Council employees that are made in accordance with the Act by Council employees or members of the public.

GUIDELINES

Guidelines may be developed to facilitate implementation of this policy. Any guidelines must be consistent with this policy.

4. DEFINITIONS

<i>Administrative action</i>	Defined in schedule 2 of the Act as any action about a matter of administration, including, for example— (b) 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 and (b) does not include an operational action of a police officer or of an officer of the Crime and Corruption Commission.
<i>Appropriate Entity</i>	is a public sector entity to which a public interest disclosure may be made or referred under the Act e.g. Crime and Corruption Commission, Ombudsman.
<i>Authorised Officer</i>	An officer authorised by the Chief Executive Officer to manage/investigate public interest disclosures.
<i>Detriment</i>	includes— (a) personal injury or prejudice to safety; and (b) property damage or loss; and (c) intimidation or harassment; and (d) adverse discrimination, disadvantage or adverse treatment about career, profession, employment, trade or business; and (e) financial loss; and (f) damage to reputation, including, for example, personal, professional or business reputation.

Disability	Defined in section 11 of the <i>Disability Services Act 2006</i> as a permanent (or likely to be permanent) condition which may or may not be of a chronic episodic nature, attributable to an intellectual, psychiatric, cognitive, neurological, sensory or physical impairment, or a combination of impairments, that results in a substantial reduction of the person's capacity for communication, social interaction, learning or mobility and the person needs support.
Discloser	A person who has provided information that may constitute a PID within the meaning of the Act.
Employee	All elected members, employees, contractors and consultants regardless of their employment status i.e. permanent, temporary, casual.
Nominated Officer	An officer authorised by the Chief Executive Officer to accept public interest disclosures.
Public Interest Disclosure	<p>A disclosure under Chapter 2 of the Act to an appropriate entity of perceived wrongdoing by one or more persons within Council concerning an action or activity that the discloser reasonably believes constitutes:</p> <ul style="list-style-type: none"> • Corruption • Corrupt Conduct • Misconduct • A waste of public funds • Danger to public health or safety • Danger to the health or safety of a person with a disability; • Danger to the environment; • A reprisal • and includes all information and help given by the discloser to a proper authority for the disclosure.
Public Sector Entity	<p>(1) A public sector entity is defined in Section 6 of the Act as any of the following—</p> <p>(a) a committee of the Legislative Assembly, whether or not a statutory committee;</p> <p>(b) the parliamentary service;</p> <p>(c) a court or tribunal;</p> <p>(d) the administrative office attached to a court or tribunal;</p> <p>(e) the Executive Council;</p> <p>(f) a department;</p> <p><i>Note—</i></p> <p>The following are, or are included in, departments—</p> <ul style="list-style-type: none"> • the Queensland Ambulance Service • the Queensland Fire and Rescue Service • the Queensland Police Service. <p>(g) a local government;</p>

	<p>(h) a university, university college, TAFE institute or statutory TAFE institute;</p> <p>(i) the agricultural college;</p> <p>(j) an entity established under an Act or under State or local government authorisation for a public, State or local government purpose;</p> <p>(k) an entity, prescribed under a regulation, that is assisted by public funds.</p> <p>(2) However, the following are not public sector entities—</p> <p>(a) a corporate entity, other than to the extent expressly stated in this Act;</p> <p>(b) a GOC, other than to the extent expressly stated in this Act;</p> <p>(c) the following entities under the <i>Education (General Provisions) Act 2006</i>—</p> <p>(i) an advisory committee;</p> <p>(ii) an international educational institution;</p> <p>(iii) a non-State school;</p> <p>(iv) a parents and citizens association;</p> <p>(d) an entity prescribed under a regulation.</p>
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6. Commitment to Public Interest Disclosures

Goondiwindi Regional Council is committed to creating and maintaining a work environment that encourages and facilitates the disclosure of unlawful, corrupt, negligent or improper conduct or maladministration.

Goondiwindi Regional Council encourages any employee who considers that he or she has witnessed wrongdoing to come forward and report it. Goondiwindi Regional Council aspires to an organisational climate where all employees feel confident and comfortable about reporting wrongdoing.

When wrongdoing is reported, Goondiwindi Regional Council commits to:

- investigating the disclosure thoroughly and impartially;
- when some form of wrongdoing is found, taking action to deal with it; and
- keeping the discloser informed of progress and the outcome.

In line with the Code of Conduct, Goondiwindi Regional Council is committed to protecting any employee who raises concerns about wrongdoing from retaliation or reprisals. For the disclosure to receive the unique protections of the Act, it must be a public interest disclosure.

Public Interest Disclosure – Standards and Guidelines

Roles and Responsibilities

The following parties have individual roles and responsibilities in accordance with these Standards and Guidelines with respect to receipt and management of PIDs:

Mayor

Councillors

Chief Executive Officer

Directors

Senior Managers/Managers

Manager Human Resources
All other Employees

Public Interest Disclosures can be made

It is recommended that any person wishing to make a Public Interest Disclosure should do so using the internal reporting pathway in the first instance.

Internal reporting pathways

Disclosures may be made to:

- The person who directly or indirectly supervises or manages the discloser, *i.e. a Supervisor;*
- Any other person in a management position within Council, *i.e. Director or Senior Manager/Manager, including the Manager Human Resources;*
- The Chief Executive Officer (CEO) or his nominated Officer.

Consideration should be given to the best person to receive the disclosure. If it is a matter that can be resolved by the Supervisor, the disclosure should be made to that person. Managers can be one of the best sources of support when employees are disclosing wrongdoing. However if it is believed that the Manager or senior personnel may be involved, the disclosure can be made to the Chief Executive Officer or another Director or the CEO's nominated officer.

External reporting pathways

Any person may choose to make a disclosure to an appropriate external entity rather than to Council. This can be done as a first step or if the person is not satisfied with Council's response to a disclosure. Whilst all persons are urged to disclose to someone within Council, Council will respect and support the person making a disclosure to an appropriate external entity such as the Crime and Corruption Commission (CCC).

A person should be aware when making a disclosure to an external entity, it is very likely that entity will discuss the case with the Chief Executive Officer or his authorised nominated Officer. Council will make every effort to assist and co-operate with any entity dealing with a disclosure, to work towards a satisfactory outcome. If a person makes a disclosure to another person or an organisation that does not have the power to investigate and deal with the matter, disclosers will not receive the protections provided under the Act.

Anonymous disclosure

Complaints received from anonymous disclosures will be considered for investigation, on the proviso that sufficient information is provided to enable an investigation to be conducted. Council advises that its' ability to carry out an investigation may be hindered by an anonymous disclosure in circumstances where insufficient information is provided.

Information to disclose

To ensure a comprehensive and successful investigation of a perceived wrongdoing, persons making a disclosure 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 personnel or others involved; and

- Possible sources of additional information or evidence, *e.g. other people or files.*

Receiving disclosures

Disclosures can be made in any way including:

- In person
- In writing (by letter or email)

On receipt of a Public Interest Disclosure, the authorised officer will:

- Refer as necessary the PID to an appropriate authority, *e.g. the Crime & Corruption Commission or the Ombudsman;*
- Investigate the PID in a manner that promotes fair and objective treatment and protection for those involved; and
- For any substantiated wrongdoing, instigate rectification measures to the extent practicable in the circumstances.

Public Interest Disclosures will be recorded and referred to the appropriate part of the organisation to be dealt with under the oversight of the Authorised Officer.

On duty

Council personnel are considered to be on duty while making a disclosure or formally assisting Council in the investigation of a disclosure.

False or Misleading Information

A person who gives information to a proper authority, knowing that it is false or misleading and intending that it be acted upon as a Public Interest Disclosure, may face disciplinary action and criminal prosecution.

Knowingly providing false or misleading information is different to providing information that turns out to be incorrect or unable to be substantiated.

While any assessment of whether a disclosure is false or misleading will take into account the circumstances of the individual case, indicators that a disclosure could be false or misleading include:

- The discloser has a history of making false or unsubstantiated complaints;
- There is no information to support the allegation in any way;
- The allegation is not serious or sensible and is of such a nature that a reasonable person could not treat it as being genuine; and
- The allegation appears on face value to be without foundation and designed to harass, annoy or embarrass the subject person.

Commitment to Take Action

Council encourages any person, who has actually witnessed wrongdoing within the organisation, or otherwise considers that wrongdoing has occurred, to come forward and make a disclosure.

Council aspires to an organisational culture where all personnel feel confident and comfortable about making a disclosure of wrongdoing. Council believes that it has an obligation to deal with wrongdoing in this organisation. It believes that disclosing wrongdoing is in accordance with this organisation's ethical culture, in particular, acting with integrity. Further, Council believes that personnel who come forward with disclosures of wrongdoing are acting as exemplary organisational citizens assisting in promoting openness, accountability and good management.

When any person comes forward with information about perceived wrongdoing, Council commits to:

- Protecting the discloser from any adverse action taken as a result of making the disclosure;
- Treating any bullying, harassment, unfair treatment, victimisation or discrimination that results from a disclosure being made, as a breach of disciplinary procedures;
- Responding to the disclosure thoroughly and impartially;
- Where some form of wrongdoing has been found, taking appropriate action to deal with it; and
- Keeping the discloser informed of the progress and outcome.

Deciding on what action to take

The Authorised Officer will make a decision on how to best deal with a PID. It may be that the person who receives the disclosure undertakes initial enquiries and decides not to take the matter any further. The discloser will be advised of this. If a PID is referred to another area of Council for investigation or other action, or to an external entity such as the CCC, the discloser will also be informed of this. Where the referral of a disclosure to another entity may create an unacceptable risk of reprisal, Council will if practicable, consult with the discloser before undertaking the referral.

When no action required

The Authorised Officer may decide not to further investigate or deal with a Public Interest Disclosure if:

- The substance of the disclosure has already been investigated or dealt with by another appropriate process; or
- He/she reasonably considers that the disclosure should be dealt with by another appropriate process; or
- The age of the information, the subject of the disclosure, makes it impracticable to investigate; or
- He/she reasonably considers that the disclosure is too trivial to warrant investigation and that dealing with the disclosure would substantially and unreasonably divert resources, or it concerns a frivolous matter or was made vexatiously; or

- Another entity that has jurisdiction to investigate the disclosure has notified Council that investigation of the disclosure is not warranted.

If the Authorised Officer decides not to investigate or deal with a Public Interest Disclosure, he/she will advise the person making the disclosure of that decision and the reasons for that decision. A person dissatisfied with that decision may within 28 days after receiving the written reasons, apply to the Chief Executive Officer for a review of the decision.

Commitment to keeping the discloser informed

If a Public Interest Disclosure is received, the Authorised Officer is to give the party who made the disclosure, reasonable information about the disclosure in writing, including:

- Confirmation that the disclosure was received;
- A description of the action proposed to be taken in relation to the disclosure and the reasons for the decision;
- If action has been taken in relation to the disclosure, a description of the results of the action.
- The Authorised Officer may decide not to give the aforementioned information if giving the information would be likely to adversely affect:
 - Anybody's safety; or
 - The investigation of an offence or possible offence; or
 - Necessary confidentiality about an informant's existence or identity.

Commitment to providing support

The Authorised Officer is to initiate and co-ordinate action to support disclosers, particularly if they are suffering detriment as a result. Actions may include:

- Providing moral and emotional support;
- Advising the discloser about the resources available in the organisation to handle any concerns the discloser may have as a result of making a PID;
- Appointing a mentor, confidante or other support officer to assist the discloser throughout the process;
- For disclosures made by Council personnel, refer the discloser to the Employee Assistance Program or arrange for other professional counselling;
- For disclosures made by Council personnel generating support for the discloser in that individual's work unit if appropriate;
- Ensuring that any suspicions of victimisation or harassment are dealt with;
- Maintaining contact with the discloser; and

- Negotiating with the discloser and the relevant Support Officer and Case Manager a formal end to the discloser's involvement with the Support Program, when it is agreed that the discloser no longer needs assistance.

If support is needed as a result of making a PID, the person is urged to contact the CEO or Authorised Officer. All Senior Officers in the organisation are under an obligation to notify the CEO if it is reported, or they believe, that any person is suffering detriment as a result of making a PID.

Commitment to confidentiality

Maintaining confidentiality is very important in the handling of a disclosure. Confidentiality not only protects the discloser against reprisals, but any other people affected by the disclosure.

The Act does not expressly require that information relating to a Public Interest Disclosure, such as the allegations and evidence, be maintained as confidential. However, such information will be treated confidentially except where the investigation process requires this information to be disclosed, *e.g. where the evidence must be put to the subject person*.

Confidential information in this context includes:

- The fact a disclosure has been made;
- Any information that may identify the discloser or any person who may be the subject of a disclosure;
- The actual information that has been disclosed;
- Information relating to the disclosure that, if known, may cause detriment.

An intentional and unauthorised breach of confidentiality may result in disciplinary or criminal action. The Authorised Officer is to advise the discloser if his/her identity needs to be revealed for any reason and is to seek consent if possible. However the Authorised Officer is to attempt as far as possible to avoid a situation where the discloser's identity will need to be revealed.

In protecting the discloser's confidentiality, the Authorised Officer is to ensure that the details of the disclosure, the investigation and related decisions are kept secure. Authorised release of disclosure information covers those instances where the release is specifically required:

- To provide natural justice to the subject person;
- When responding to a court order or legal directive (*e.g. subpoena, notice to produce*);
or
- In court proceedings.
- While Council is prepared to take all steps necessary to protect the confidentiality of the information that is disclosed, the discloser also has some obligations. The fewer people who know about the disclosure – both before and after it is made – the more likely it is that Council will be able to keep identities confidential and protect persons from any

detrimental action in reprisal. Council encourages disclosers not to talk about their disclosure to their colleagues or anyone other than an authorised person.

Commitment to provide protection and respond to reprisals

Council is committed to ensuring that a discloser does not suffer any form of reprisal action as a result of making a disclosure and, unless he/she has knowingly participated in the wrongful action being disclosed, is not subjected to any disciplinary action.

On receipt or referral of a PID, the person receiving the request, in consultation with his/her direct Supervisor and the CEO's nominated officer must assess the risk to the discloser of reprisal including those instances where the disclosure is referred to another party to deal with.

If a reprisal does occur, the discloser has the right to request that Council take positive action to protect him/her. Should a reprisal occur, the discloser should immediately tell the Authorised Officer who is handling the disclosure.

All Senior Officers in the organisation are under an obligation to notify the CEO if it is reported, or they suspect, that a discloser is suffering reprisal as a result of making a PID. Reprisal by Council Officers would constitute official misconduct, which must be referred to the CMC.

Where the Authorised Officer becomes aware of a reprisal action against a discloser he/she is to take immediate steps to ensure a senior and experienced Officer who has not been involved in dealing with the discloser's initial disclosure, investigates the discloser's concerns of reprisal. The discloser is to be kept informed of the progress of the investigation and the outcome. Version 1, 3.5.11 Page 9

The Authorised Officer is to take all reasonable steps to make the discloser aware of their rights to protection under the Act. Where it is established that reprisal action is occurring, the Authorised Officer is to take action to stop that activity and to protect the discloser. The nature of the action that the Authorised Officer is to take is dependent upon the circumstances and seriousness of the reprisals that the discloser has suffered or is likely to suffer.

Any employees found to have engaged in reprisals will be the subject of disciplinary action.

Commitment to the rights of the subject person(s)

Persons who are the subject of complaints are to be regarded as innocent until such time as sufficient evidence is obtained to prove guilt/substantiate any allegations. Persons who are the subject of a complaint also have the right to respond to allegations made against them before any adverse finding is made. This is usually done in an interview and the subject person has a right to have a suitable support person present with them during the interview.

Aside from the rights outlined in this policy, the subject person has the full rights of any citizen when interviewed by a Law Enforcement Agency (LEA) such as the Queensland Police Service (QPS) or the CMC.

Process for investigating a Public Interest Disclosure

The assessment and investigation of a disclosure is to be undertaken in the manner stated in the policies and standards current at that time.

Record Keeping

The Authorised Officer is to keep a proper record of a disclosure made or referred to Council, including:

- The name (if known) of the person making the disclosure;

- The information disclosed; and
- Any action taken on the disclosure.

Reporting

Statistics on Public Interest Disclosures are to be reported to the Audit Committee and may become public as part of Council's accountability regime.

Review

Council commits to monitoring its performance with respect to implementation of this Policy, and taking into account that performance during the Policy Review.

REVIEW OF POLICY

This Policy is reviewed internally for applicability, continuing effect and consistency with related documents and other legislative provisions when any of the following occurs:

- (1) The related documents are amended.
- (2) The related documents are replaced by new documents.
- (3) Amendments which affect the allowable scope and effect of a Policy of this nature are made to the head of power.
- (4) Other circumstances as determined from time to time by a resolution of Council.