

# 1117 Public Interest Disclosure

## Statutory Policy



### 1. PURPOSE

North Burnett Regional 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.

This Policy demonstrates Councils commitment to comply with the requirements of the *Public Interest Disclosure Act 2010* (PID Act).

### 2. SCOPE

The Chief Executive Officer of an entity must establish and maintain a process for assessing information received by the entity or referred to it by another entity or person or a Member of the Legislative Assembly, to determine whether it is a PID in accordance with section 28 of the PID Act.

### 3. DEFINITIONS

| Term                            | Definition  |
|---------------------------------|---|
| <b>Confidential information</b> | (a) Includes —<br>(i) information about the identity, occupation, residential or work address or whereabouts of a person —<br>(A) who makes a public interest disclosure; or<br>(B) against whom a public interest disclosure has been made; and<br>(ii) information disclosed by a public interest disclosure; and<br>(iii) information about an individual's personal affairs; and<br>(iv) information that, if disclosed, may cause detriment to a person; and<br>(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. |
| <b>Corrupt conduct</b>          | As defined in section 15 of the <i>Crime and Corruption Act 2001</i> .  |
| <b>Detriment</b>                | Includes —<br>(a) personal injury or prejudice to safety; and<br>(b) property damage or loss; and<br>(c) intimidation or harassment; and<br>(d) adverse discrimination, disadvantage or adverse treatment about career, profession, employment, trade or business; and<br>(e) financial loss; and<br>(f) damage to reputation, including, for example, personal, professional or business reputation.   |
| <b>Disability</b>               | As defined in section 11 of the <i>Disability Services Act 2006</i> .   |
| <b>Discloser</b>                | A person who makes a disclosure in accordance with the <i>Public Interest Disclosure Act 2010</i> .   |
| <b>Employee</b>                 | Of an entity, and includes a person engaged by the entity under a contract of service.  |
| <b>Investigation</b>            | For the purposes of this Policy, investigation includes any enquiry undertaken to establish whether the information provided in a PID can be substantiated, including a review or audit.  |
| <b>Journalist</b>               | A person engaged in the occupation of writing or editing material intended for publication in the print or electronic news media.   |
| <b>Maladministration</b>        | As defined in schedule 4 of the <i>Public Interest Disclosure Act 2010</i> .  |
| <b>Natural justice</b>          | 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.   |

| Term                                | Definition   |
|-------------------------------------|--|
|                                     | <p>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"> <li>• avoid bias; and</li> <li>• give a fair hearing.</li> </ul> <p>act only on the basis of logically probative evidence.</p>  |
| <b>Organisational support</b>       | <p>For the purposes of this procedure, organisational support means actions such as, but not limited to:</p> <ul style="list-style-type: none"> <li>• providing moral and emotional support</li> <li>• advising disclosers about agency resources available to handle any concerns they have as a result of making their disclosure</li> <li>• appointing a mentor, confidante or other support officer to assist the discloser through the process</li> <li>• referring the discloser to the agency's Employee Assistance Program or arranging for other professional counselling</li> <li>• generating support for the discloser in their work unit where appropriate</li> <li>• ensuring that any suspicions of victimisation or harassment are dealt with</li> <li>• maintaining contact with the discloser</li> </ul> <p>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.</p> |
| <b>Proper authority</b>             | A person or organisation that is authorised under the <i>Public Interest Disclosure Act 2010</i> to receive disclosures.   |
| <b>Public officer</b>               | A public officer, of a public sector entity, is an employee, member or officer of the entity.  |
| <b>Reasonable belief</b>            | A view which is objectively fair or sensible.  |
| <b>Reasonable management action</b> | <p>Action taken by a manager in relation to an employee, includes any of the following taken by the manager—</p> <p>(a) a reasonable appraisal of the employee's work performance;</p> <p>(b) a reasonable requirement that the employee undertake counselling;</p> <p>(c) a reasonable suspension of the employee from the employment workplace;</p> <p>(d) a reasonable disciplinary action;</p> <p>(e) a reasonable action to transfer or deploy the employee;</p> <p>(f) a reasonable action to end the employee's employment by way of redundancy or retrenchment;</p> <p>(g) a reasonable action in relation to an action mentioned in paragraphs (a) to (f);</p> <p>(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.</p>   |
| <b>Reprisal</b>                     | <p>The term 'reprisal' is defined under the <i>Public Interest Disclosure Act 2010</i> 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"> <li>• has made or intends to make a disclosure; or</li> <li>• has been or intends to be involved in a proceeding under the disclosure Act against any person.</li> </ul> <p>Reprisal under the <i>Public Interest Disclosure Act 2010</i> is a criminal offence and investigations may be undertaken by the Queensland Police Service.</p>   |
| <b>Subject officer</b>              | An officer who is the subject of allegations of wrongdoing made in a disclosure.   |
| <b>Substantial and specific</b>     | <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>  |

## 4. OBJECTIVES

As required under the PID Act Council will ensure, so far as reasonably practicable, that:

- any public officer who makes a PID is given appropriate support
- PIDs 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
- procedures are developed and maintained consistent with the standards issued by the Queensland Ombudsman
- those who make PIDs are offered protection from reprisal.

## 5. POLICY STATEMENT

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 officers can make a disclosure about the following public interest matters:

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

A discloser can have 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.

## 6. PRINCIPLES

Council is committed to:

- encouraging the internal reporting of wrongdoing
- a communication strategy to raise awareness among employees about PIDs and Council's PID procedure
- 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

## 7. RELEVANT LEGISLATION

*Crime and Corruption Act 2001*

*Local Government Act 2009*

*Ombudsman Act 2001*

*Public Interest Disclosure Act 2010*

*Public Records Act 2002*

*Public Sector Ethics Act 1994*

## 8. RELATED POLICY AND PROCEDURE

Administrative Action Complaints

Employee Code of Conduct

Councillor Code of Conduct

Public Interest Disclosure Procedure

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

## 5. RESPONSIBLE OFFICER

Chief Executive Officer

### APPROVAL DATE

24 February 2021

### REVIEW DATE

February 2023 (This Policy will be reviewed every 2 years or updated as required to ensure it meets the requirements of the PID Act and the standards issued by the Queensland Ombudsman).

### REVISION HISTORY

| Version | Meeting | Approval Date    | History |
|---------|---------|------------------|---------|
| 1       | General | 24 February 2021 | New     |

**ACKNOWLEDGEMENT** This policy is based on the *Office of the Queensland Ombudsman Model Public Interest Disclosure Guide 2019*.