

Public Interest Disclosure Policy

Head of Power

Public Interest Disclosure Act 2010
Local Government Act 2009

Related Legislation

Crime and Corruption Act 2001
Ombudsman Act 2001
Public Records Act 2002
Public Sector Ethics Act 1994

Objective

The objective of this policy is to outline Council's commitment to the effective management of public interest disclosures (PIDs). This policy is intended to support and encourage the reporting of suspected wrongdoing within Council and ensure that a practical and effective management program is established and maintained in accordance with section 28 of the *Public Interest Disclosure Act 2010* (the PID Act) and the Queensland Ombudsman's *Public Interest Disclosure Standards*.

Definitions

Council means Moreton Bay Regional Council.

CEO means the Chief Executive Officer of Moreton Bay Regional Council.

Corrupt conduct as defined in section 15 of the *Crime and Corruption Act 2001*.

Detriment as defined in schedule 4 of the PID Act and includes:

- personal injury or prejudice to safety;
- property damage or loss;
- intimidation or harassment;
- adverse discrimination, disadvantage or adverse treatment about career, profession, employment, trade or business;
- financial loss; and
- damage to reputation, including, for example, personal, professional or business reputation.

Discloser means a person who makes a public interest disclosure in accordance with the PID Act and this policy.

Leader means Council team members that have supervisory responsibilities. This includes the Chief Executive Officer, Directors, and Department Managers.

Maladministration as defined in schedule 4 of the PID Act, maladministration is administrative action that:

- was taken contrary to law; or
- was unreasonable, unjust, oppressive, or improperly discriminatory; or
- 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

- was taken—
 - for an improper purpose; or
 - on irrelevant grounds; or
 - having regard to irrelevant considerations; or
- was an action for which reasons should have been given, but were not given; or
- was based wholly or partly on a mistake of law or fact; or
- was wrong.

Natural justice also referred to as ‘procedural fairness’ applies to any decision that can affect the rights, interests or expectations of individuals in a direct or immediate way. Natural justice is at law a safeguard applying to an individual whose rights or interests are being affected. The rules of natural justice, which have been developed to ensure that decision-making is fair and reasonable, are:

- avoid bias; and
- give a fair hearing.
- act only on the basis of logically probative evidence.

PID Coordinator means a Council team member, delegated by the CEO, with responsibility for the implementation of Council’s PID management program, including acting as a principal point of contact with the oversight agency.

Proper Authority means a person or organisation authorised under the PID Act to receive PIDs. For example, a public-sector entity (including a local government) is a proper authority if the disclosure is about the conduct of that entity or its employees.

Public Interest Disclosure or PID means a disclosure of certain types of wrongdoing or danger specified in the PID Act and made to a proper authority including Council.

Reprisal as defined in schedule 4 of the PID Act, reprisal means causing, attempting to cause, or conspiring to cause detriment to another person in the belief that they or someone else:

- has made, or intends to make, a disclosure; or
- has been, or intends to be, involved in a proceeding under the PID Act against any person.

Reprisal under the PID Act is a criminal offence and investigations may be undertaken by the Queensland Police Service.

Substantial means ‘of a significant or considerable degree’. It must be more than trivial or minimal and have some weight or importance.

Team member means all employees of Council, whether employed on a permanent, temporary, or part-time basis. This definition also includes volunteers and employees of businesses and entities contracted to provide services to, or on behalf of, Council.

Application

This policy applies to the Mayor, Councillor and all Council team members. This policy also applies to anyone external to Council including a member of the public wishing to make a disclosure suspected wrongdoing or danger in accordance with the PID Act.

Policy Statement

Council is committed to fostering an ethical, transparent and accountable culture where all team members feel confident and comfortable about reporting suspected wrongdoing or danger. Council is committed to complying with the PID Act at all times and in doing so will:

- promote the public interest by facilitating disclosures of wrongdoing within Council;
- ensure that PIDs are properly assessed and, where appropriate, properly investigated and dealt with;
- ensure that 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;
- ensure that appropriate confidentiality is maintained in the management of PIDs.

The principle of natural justice will apply to all investigations of PIDs. Council is committed to treating PIDs appropriately and making the process fair for both the discloser and the person who is subject to the disclosure.

The rights of any person who is subject to, or in some way associated with, a PID will be safeguarded. Council is committed to affording support and protection from reprisals to any person making a PID and appropriately dealing with employees who take reprisal action.

Leaders are to ensure Council team members are aware of their responsibilities in making a PID and are able to advise other persons of the appropriate reporting process.

What is a public interest disclosure

A public interest disclosure is a disclosure about wrongdoing in the public sector that serves the public interest. For an allegation to be considered a public interest disclosure under the PID Act it must be:

- public interest information about serious wrongdoing or danger;
- an appropriate disclosure; and
- made to a proper authority.

Who can make a public interest disclosure

Anyone, including persons external to Council, can make a PID if they have information about:

- substantial and specific danger to the health or safety of a person with a disability; or
- substantial and specific danger to the environment; or
- reprisal because of a belief that a person has made or intends to make a disclosure.

Only persons internal to Council including the Mayor, Councillors and Council team members can make further disclosures about:

- corrupt conduct;
- maladministration;
- a substantial misuse of public resources; or
- a substantial and specific danger to public health, safety, or the environment.

A person does not need to state that the information (or complaint) is a disclosure for the matter to be assessed under the PID Act.

What is an appropriate disclosure

An appropriate disclosure is where:

- the discloser honestly and reasonably believes the information provided tends to show the conduct or danger; and
- the information tends to show the conduct or danger regardless of the discloser's belief.

Information that 'tends to show' wrongdoing or danger must be more than a mere suspicion. There must be information that indicates or supports a view that the wrongdoing or danger has occurred or will occur. The discloser is not required to undertake any investigative action before making a PID.

Intentionally providing false or misleading information intending it be acted on as a PID is a criminal offence under the PID Act. In addition, the protections under the PID Act are not extended to disclosers who intentionally make a disclosure they know is false.

Identifying the appropriate reporting avenue

A PID must be made to a proper authority with responsibility to investigate the information disclosed.

To identify whether Council is the proper authority to which a disclosure can be made, consideration should be given to whom and what the disclosure is about. Council is authorised to receive a PID where:

- the disclosure is about the conduct of Council or its team members; or
- Council is responsible for investigating the particular issue.

If there is another proper authority that should deal with a disclosure, Council may refer it to that authority, if it is deemed safe to do so after consulting with the discloser about the risk of reprisal.

Who can receive a PID

Anyone can make a disclosure to Council's confidential and externally managed Whistleblower Hotline (<https://secured1.yourcall.com.au/>) or Council's PID Coordinator in the following ways:

- by phone (07) 3205 0555 Monday to Friday 8:30am-5:00pm;
- by email to pids@moretonbay.qld.gov.au;
- by mail to PO Box 159 Caboolture Qld 4510;
- in person at a Council Customer Service Centre.

In addition, Council team members may make a disclosure directly to a Council leader (including immediate Supervisor, Manager, Director, or the CEO). A leader receiving a PID must refer it to the PID Coordinator to ensure that it is appropriately assessed and managed in accordance with the PID Act and Council's PID management program.

A discloser may seek assistance for translation and interpreter services and/or any other reasonable assistance when making a disclosure.

How to make a PID

A PID can be made in any format, verbally or in writing. To enable further assessment and investigation disclosures should:

- be clear and factual;
- avoid speculation, emotive language and embellishment;
- avoid the provision of only vague details.

Supporting information or evidence may include:

- the disclosers name and contact details unless the discloser prefers to remain anonymous;
- the name and position of the person who is the subject of the disclosure;
- information about the wrongdoing or danger, including relevant events, dates and places;
- the names of people who may be able to provide additional information (e.g. any witnesses);
- correspondence or other supporting documents such as file notes or diary of events, where relevant;
- advice about whether anything was done in response to the wrongdoing; and
- any concerns about possible reprisal.

A discloser may use Council's **Public Interest Disclosure Form** or the Whistleblower Hotline report to assist in making a PID.

Council may not assess a PID if there is insufficient information.

Anonymous PIDs

Anonymous disclosures may be made, however, Council prefers that disclosers identify themselves to enable the best assessment and investigation of the PID. It also ensures appropriate support is provided to the discloser.

If a disclosure chooses to remain anonymous it is important that as much information as possible is provided to allow for proper assessment and investigation of the PID. Council may not be able to inform anonymous disclosers of the investigation outcome. As a result, some of the protections in the PID Act may not apply.

PID management program

As required under the PID Act, a public interest disclosure management program has been developed and is detailed in Council's Public Interest Disclosure Procedure. All PIDs will be managed in accordance with this procedure.

Communication with disclosers

In accordance with the PID Act, Council will provide reasonable information to a discloser during the management of a PID, including:

- that their information has been received and assessed as a disclosure;
- the action that will be taken in response to the disclosure;
- the protections under the PID Act;
- confidentiality obligations of the discloser and Council; and
- support arrangements.

Council will maintain contact with the discloser and provide regular updates during the management of the PID. On finalisation of a matter, Council will provide written advice to the discloser about the outcome and finalisation of their PID.

If Council decides not to investigate a disclosure, it will provide the discloser with written advice, explaining why it has decided it is appropriate to take no further action.

Reporting

Council's Governance Branch will provide regular reports to the Chief Executive Officer and Council's Audit Committee on the implementation and oversight of the PID Management Program.

The Governance Branch will also report the required PID data to the Office of the Queensland Ombudsman as required by the *Public Interest Disclosure Standard No. 3/2019*.

Related Documents

This policy complements and is to be implemented in conjunction with other Council policies, directives and relevant documents published by other agencies including, but not limited to:

- Public Interest Disclosure Procedure
- Public Interest Disclosure Form
- Employee Code of Conduct
- Fraud and Corruption Control Policy (2150-031)
- Fraud and Corruption Allegation Reporting Form
- Complaint Management Policy (2150-025)
- Enterprise Risk Management Policy (2150-020)
- Queensland Ombudsman Public Interest Disclosure Standards (01/2019, 02/2019, 03/2019)

Review Triggers

This policy will be reviewed for applicability, effectiveness, and consistency with relevant legislation, Council resolutions, and other Council documents. Reviews of this policy will occur as required, or at least once every four years.

Responsibility

This Policy is to be:

- (1) implemented by Director, Finance and Corporate Services; and
- (2) reviewed and amended in accordance with the "Review Triggers" by the Manager, Governance and Executive Services.

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