

Public Interest Disclosure Policy

1. PURPOSE

The purpose of this policy is to provide information for a person who wants to make an appropriate **disclosure** of public interest information to a **relevant authority** at the Council, and provide guidance for employees receiving and managing such **disclosures** of public interest information. There are two types of public interest information:

- a. **Environmental and health information** – information that raises a potential issue of a substantial risk to the environment, public health or safety of the public generally, or a significant section of the public
- b. **Public administration information** – information that raises a potential issue of corruption, misconduct and maladministration in public administration,

This policy applies to all staff and elected members at the City of Tea Tree Gully.

2. POLICY

The CEO, as the principal officer of Council for the purposes of the *Public Interest Disclosure Act 2018*, expects that the City of Tea Tree Gully upholds the principles of transparency and accountability in Council's practices and is committed to:

- a. encouraging and having processes in place for the making of **disclosures** of public interest information
- b. protection of informants that reveal public interest information
- c. establishing risk management steps for assessing and minimising detriment to both people making **disclosures** and those against whom allegations are made
- d. designating persons that have the responsibility for dealing with **disclosures** in compliance with the PID Act (referred to as **responsible officers**)
- e. genuine and efficient consideration and action on **disclosures**
- f. facilitating the investigation of appropriate **disclosures** in a manner that promotes fair and objective treatment of those involved
- g. referring appropriate **disclosures** to another Relevant Authority (where City of Tea Tree Gully is not the appropriate authority)
- h. appropriate notification of **disclosures** and outcomes
- i. secure receipt and storage of **disclosures** by **responsible officers**

2.1 Public Interest Disclosure Process

The public interest **disclosure** process consists of a number of steps:

- a. determining whether the information disclosed constitutes 'public interest information' (i.e. public administration information or environmental and health information) and whether that disclosure constitutes an appropriate disclosure (refer 2.1.1)
- b. making a **disclosure** (refer 2.1.2)
- c. responsible officer preliminary assessment of **disclosure** (refer 2.1.3)
- d. taking action on / investigating a **disclosure** (refer 2.1.4)
- e. notifying the OPI of the receipt of the **disclosure** (refer 2.1.5)
- f. notifying the informant of the preliminary assessment (refer 2.1.6)
- g. notifying to the informant of the outcome / action taken (refer 2.1.7)
- h. notifying to the OPI of the outcome / action taken (refer 2.1.8)

2.1.1 Disclosure types

The following are considered appropriate **disclosures** pursuant to the PID Act:

- a. **Environmental and health information** – anyone (not just **public officers**) can make a **disclosure** of this type. Disclosure of environmental and health information is appropriate as long as it is made to a **relevant authority** and:
 - i. the person believes on reasonable grounds that the information is true; or
 - ii. not being in a position to form such a belief, the person believes on reasonable grounds that the information may be true and is of sufficient significance to justify its **disclosure** and investigation.
- b. **Public Administration information** – a **disclosure** is an appropriate disclosure if:
 - i. it is made by a **public officer**, not a member of the public;
 - ii. the **public officer** reasonably suspects that the information raises a potential issue of corruption, misconduct or maladministration in public administration; and
 - iii. it is made to a **relevant authority**.

Appropriate **disclosures** are eligible for protection provided by the PID Act. Other types of information **disclosures** are not subject to protection under the PID Act.

2.1.2 Making a disclosure

A person making a **disclosure** should consider:

- a. whether the information they intend to reveal might be considered an appropriate **disclosure** of public interest information, as defined by the PID Act
- b. who is an appropriate authority for the purposes of disclosing the appropriate information
- c. whether they have obligations under the **PID Act** or **ICAC Act**.

Where a **disclosure** relates to a location or practices within the City of Tea Tree Gully, it is encouraged that this **disclosure** be made in writing to a designated **responsible officer** to ensure the informant receives the protections afforded under the PID Act.

To ensure this occurs, **disclosures** can be made in writing via:

- a. electronically via email (pid@cttg.sa.gov.au) titled 'confidential public interest **disclosure**' (noting only the designated responsible officers have access to the nominated email address); or
- b. in hard copy addressed to PO Box 571, Modbury, South Australia, 5092, marked as a 'confidential public interest **disclosure**'

Disclosures made using the above approach will be allocated to a **responsible officer** being one or more of the following:

- a. Ilona Cooper, Manager Corporate Governance; or
- b. Shannon Hockley, Manager People & Capability; or
- c. Leisha Bond, General Manager Corporate Services; or
- d. Felicity Birch, General Manager City Operations.

A person who knowingly makes a **disclosure** that is false or misleading is guilty of an offence and may be prosecuted.

In the event that an informant is of the belief that their **disclosure** is not being dealt with appropriately, the following person can be contacted:

- a. Ryan McMahon, Chief Executive Officer

2.1.3 Responsible officer preliminary assessment of disclosure

Once a **disclosure** has been made to a **responsible officer**, the **responsible officer** must:

- a. acknowledge receipt of the **disclosure** within three (3) business days (if contact details have been provided).
- b. preliminarily assess the information as soon as practicable after the **disclosure** is made to determine whether to take further action, including by considering;
 - i. whether the content of the **disclosure** suggests there is an imminent risk of serious physical injury or death to any person or the public generally
 - ii. whether the City of Tea Tree Gully is the **relevant authority** or whether the matter needs to be reported to an alternative **relevant authority**
 - iii. whether the information is an appropriate **disclosure** (refer 2.1.1)
- c. and either:
 - i. take action in relation to the information (where applicable, this should be done in accordance with the OPI's Directions and Guidelines for Public Officers or the Ombudsman's Directions and Guidelines) (refer 2.1.4); or
 - ii. take no action, if the information disclosed:
 - is frivolous, vexation or trivial;

- does not justify the taking of further action; or
- relates to a matter that has already been investigated or acted on by a relevant authority and there is no good reason to re-examine or take action on the matter.

If the **disclosure** has been assessed as not being an **appropriate disclosure** of public interest information, or if the disclosure is an **appropriate disclosure** but no further action is warranted, the **responsible officer** should advise the **informant** of the preliminary assessment determination (refer 2.1.6).

While the matter may not require further action in accordance with this Policy, the **disclosure** may still be a matter that requires further attention in accordance with other Council policies and procedures.

2.1.4 Taking action on / investigating a disclosure

2.1.4.1 Public Administration information

Taking appropriate action relating to an appropriate **disclosure** of public administration information, is likely to involve:

- a. the **responsible officer** referring it to the relevant investigation process (while protecting the identity of the informant) such as:
 - i. Elected member matters – refer Council’s Elected Member Behavioural Management Policy.
 - ii. Employee matters (including regulatory matters) – refer to the employee’s corporate leader to consider the matter in accordance with either Council’s Employee Conduct Policy and/or General Complaints Policy, and any other relevant Council policies.
 - iii. Fraud or corruption matters (including misconduct or maladministration matters) – refer to Fraud and Corruption Policy.
- b. For matters outside Council jurisdiction – the **responsible officer** to ensure necessary information should be communicated to the **relevant authority** to enable action to be taken.

2.1.4.2 Environmental and health information

Taking appropriate action relating to an appropriate **disclosure** of environmental and health information, is likely to involve:

- a. the **responsible officer** referring it to the relevant investigation process (while protecting the identity of the informant) such as:
 - i. Environmental health matters covered by the *South Australian Public Health Act 2011* or *Supported Residential Facilities Act 1992* and associated regulations – refer to an Environmental Health Officer (eg. Food safety; high risk manufactured water systems; public swimming pools or spas; hairdressing, beauty or skin penetration businesses, Supported residential facilities).

- ii. Health or safety (not environmental health related) – refer to either:
 - the corporate leader responsible for the function; or
 - an employee responsible for regulatory activity (if community safety related); or
 - the work, health and safety team via whs@cctg.sa.gov.au
- c. For matters outside Council jurisdiction – the **responsible officer** to ensure necessary information should be communicated to the **relevant authority** to enable action to be taken.

The corporate leader or employee responsible for internally investigating the matter will keep the **responsible officer** informed of the expected timeframes for completion of the investigation, and if relevant, ensure a report is provided to enable the **responsible officer** to undertake the appropriate reporting on receipt and outcome of the **disclosure** to the Office for Public Integrity.

2.1.5 Notifying the OPI - receipt of a disclosure

The **responsible officer** must notify the OPI as soon as reasonably practicable after reaching a preliminary determination in respect of an appropriate **disclosure**, and notifying the informant of the preliminary determination. The notification to the OPI is submitted via a dedicated notification form on the [OPI website](#). A unique reference number will be provided and must be retained by the **responsible officer**. The type of information required may include:

- a. the date the **disclosure** was received
- b. the name and contact details of the responsible officer
- c. summary of the content of the **disclosure**
- d. assessment made of the **disclosure**
- e. the action taken by the responsible officer including:
 - i. whether the **disclosure** was referred to another relevant authority or person
 - ii. if the **disclosure** was referred:
 - the date of the referral
 - the identity of the relevant authority or person
 - the manner of the referral
 - the action to be taken by the relevant authority or person (if known)
- f. if no action was taken by the responsible officer, the reason why no action was taken
- g. whether the identity of the informant is known only to the responsible officer or if the identity of the informant has been communicated to a relevant authority or person (and if so, the reasons why such communication was made)

2.1.6 Notifying the informant – preliminary assessment

The **responsible officer** must take reasonable steps to notify the informant (if their identity is known) that a preliminary assessment of the information has been made and advise the informant (within 30 days of receipt of the **disclosure**):

- a. of the action being taken as a result of the preliminary assessment (including any referral to another person or authority)
- b. if no action is taken, the reasons why no action is being taken.

2.1.7 Notifying the informant - outcome of disclosure

The **responsible officer** must take reasonable steps to notify the informant (if their identity is known) of the outcome of their determination (within 90 days of receipt of the **disclosure** or such longer period as may be specified by the **responsible officer** within that 90 day period):

- a. of the outcome / action being taken (including any referral to another person or authority)
- b. if no action is taken, the reasons why no action is being taken.

2.1.8 Notifying the OPI - outcome of disclosure

The OPI must also be notified (using the dedicated online form) of any outcome or action taken in relation to the **disclosure**. The notification is to be issued as soon as practicable after the informant is notified of the outcome or action taken (as set out in clause 2.1.7). It is recommended that the following information is provided:

- a. the reference number from the OPI receipt of the **disclosure**
- b. the name and contact details of the responsible officer
- c. the name and contact details of the authority responsible for taking action
- d. what (if any) findings were made in respect of the **disclosure**
- e. the nature of the action taken (if any)
- f. the outcome of any action taken
- g. whether the identity of the informant was disclosed to anyone other than the responsible officer that received the **disclosure**
- h. whether the informant was notified of the action taken, and if so, when the notification was made

2.2 Confidentiality and informant protection

2.2.1 Confidentiality obligations to protect informants

A person who makes an appropriate **disclosure** of public interest information will have their identity protected, which must not knowingly be disclosed without the consent of the informant, unless:

- a. it is necessary to ensure the matter(s) are properly investigated (but only to the extent necessary to ensure proper investigation); or
- b. the recipient believes on reasonable grounds it is necessary to divulge the identity of the informant in order to prevent or minimise an imminent risk of serious

physical injury or death to any person, and the identity is divulged to a person or authority that the recipient believes on reasonable grounds is the most appropriate authority or person to be able to take action to prevent or minimise the imminent risk of serious physical injury or death to any person.

There are financial penalties and criminal offences for divulging an informant's identity outside of the above listed parameters.

An **informant** may wish to remain anonymous, but in that event must ensure that the allegation is sufficiently supported by the provision of necessary details and evidence to enable the matter to be properly investigated.

2.2.2 Informant protection

An **informant** who makes an appropriate **disclosure** to a relevant authority is entitled to:

- a. protection from the disclosure of their identity, subject to the operation of section 8 of the PID Act
- b. immunity from criminal or civil liability in relation to their **disclosure**
- c. protection against victimisation
- d. a prohibition against hindering, obstructing or being prevented from making an appropriate **disclosure**.

Protection is not provided to people who knowingly make disclosures that are false or misleading in a material particular (whether by reason of the inclusion or omission of a particular).

Council has taken the following risk management steps for assessing and minimising detrimental action against a person making a **disclosure**:

- a. dedicated email address for making **disclosures** with access restricted to **responsible officers**
- b. electronic records secured by limiting security access to responsible officers (or those involved in addressing or investigating the **disclosure** directly)
- c. hard copy records secured in a locked cabinet which only responsible officers and the CEO have access to
- d. responsible officers undertaking training on confidentiality and informant protection
- e. appointing an Independent Assessor on a case-by-case basis depending on the nature of the **disclosure**
- f. observing procedural fairness in the treatment of any person making a **disclosure**
- g. considering the information and evidence collected and drawing conclusions objectively and impartially.
- h. any report prepared will not disclose particulars that will, or are likely to, lead to the identification of the informant, unless done so in accordance with section 2.2.1.

Any Council member or employee who knowingly makes a disclosure that is false or misleading in a material particular, commits an act of victimisation or acts otherwise than in accordance with this Policy may also face disciplinary action by the Council or the Chief Executive Officer (as appropriate).

2.2.3 Protection of persons against whom allegations are made

Council has taken the following risk management steps for assessing and minimising detriment to a person whom allegations are made in a **disclosure**:

- a. dedicated email address for making **disclosures** with access restricted to **responsible officers**
- b. electronic records secured by limiting security access to responsible officers (or those involved in addressing or investigating the **disclosure** directly)
- c. hard copy records secured in a locked cabinet which only responsible officers and the CEO have access to
- d. responsible officers undertaking training on confidentiality and informant protection
- e. considering the information and evidence collected and drawing conclusions objectively and impartially
- f. observing procedural fairness in the treatment of any person who is the subject of **disclosure**, and ensuring the person is provided with an opportunity to respond to the **disclosure** within a reasonable timeframe and
- g. appointing an Independent Assessor on a case-by-case basis depending on the nature of the **disclosure**.

2.3 Roles and Responsibilities

Roles and responsibilities are assigned to provide a governance structure to ensure accountability throughout the public interest **disclosure** and investigation. The following roles and responsibilities have been defined:

Informant	<ul style="list-style-type: none"> entitled to withhold consent to their identity being disclosed but must ensure that the allegation is sufficiently supported by the provision of necessary details and evidence to enable the matter to be properly investigated
Elected Members ('the Council') – also 'public officers'	<ul style="list-style-type: none"> immediately refer any disclosure of public interest information on a confidential basis to a responsible officer, noting the requirements to keep the name of the informant confidential maintain confidentiality regarding any information provided by the CEO regarding a disclosure

Principal officer / Chief Executive Officer	<ul style="list-style-type: none"> ensure one or more appropriately qualified employees of the Council are designated as responsible officers for the purposes of the PID Act as a matter of discretion, the CEO may inform the elected members or a relevant Committee, on a confidential basis, of the fact that an investigation of a disclosure took place and the outcome of the investigation.
Responsible officers	<ul style="list-style-type: none"> receive and deal with appropriate disclosures relating to the Council and ensure compliance with the PID Act and relevant ICAC guidelines liaise with and protect the identity of the informant oversee and monitor the disclosure from initial receipt to investigation and outcome/action provide advice to employees and elected members of the Council in relation to administration of the PID Act complete responsible officer training approved by the Commissioner for the purposes of the <i>Public Interest Disclosure Regulations 2019</i> notify the OPI of receipt and outcome of appropriate disclosures seek legal advice where appropriate on operation of the PID Act (including authorisation to incur costs for that purpose) ensure accurate records of an appropriate disclosure are securely and confidentiality maintained
Corporate Leaders	<ul style="list-style-type: none"> undertake disclosure investigations relevant to their functions in accordance with the PID Act, this Policy and other relevant legislation and policies, as a result of referral from a responsible officer
Employees ('public officers')	<ul style="list-style-type: none"> all public officers must comply with the PID Act immediately refer any disclosure of public interest information on a confidential basis to a responsible officer, noting the requirements to keep the name of the informant confidential

3. DEFINITIONS

For the purposes of this Policy, the following definitions apply:

Appropriate disclosure

has the meaning as set out in the PID Act.

CEO

means Chief Executive Officer of the Council. The CEO is the Principal Officer for the purpose of the *Public Interest Disclosure Act 2018*.

Corruption

means corruption in public administration as defined in the ICAC Act.

Disclosure

means a disclosure of public interest information made to a responsible officer.

ICAC Act

refers to the *Independent Commissioner Against Corruption Act 2012*.

Independent Assessor

means the person designated by the Responsible Officer as being responsible for investigating a **disclosure** made to the Council in accordance with the Public Interest **disclosure** Procedure.

Informant

means a person who makes an appropriate **disclosure** of public interest information to a **relevant authority**.

Maladministration

means maladministration in public administration as defined in the Ombudsman Act.

Misconduct

means misconduct in public administration as defined in the Ombudsman Act.

Ombudsman Act

means the *Ombudsman Act 1972*.

OPI

means the Office of Public Integrity.

PID Act

means the *Public Interest Disclosure Act 2018*.

Relevant authority

means the authority responsible for receiving an appropriate **disclosure** of public interest information in accordance with the PID Act.

Responsible officer

is a person who has completed any training courses approved by the Commissioner for the purposes of the *Public Interest Disclosure Regulations 2019* and has been designated by the Council as responsible officer under section 12 of the PID Act.

4. LEGISLATIVE FRAMEWORK

The following legislation applies to this policy:

- a. *Public Interest Disclosure Act 2018*
- b. *Public Interest Disclosure Regulations 2019*
- c. *Independent Commissioner Against Corruption Act 2012*
- d. *Ombudsman Act 1972*

4.1 Other references

Council documents including:

- a. [Fraud and Corruption Policy](#)
- b. [Risk Management Policy](#)
- c. Employee Conduct Policy
- d. [Elected Member Behavioural Management Policy](#)
- e. [Internal Review of Council Decisions Policy](#)
- f. [General Complaints Policy](#)

External document including:

- a. [Directions and Guidelines for Public Officers](#)

5. STRATEGIC PLAN/POLICY

5.1 Organisation Plan

Our Strategic Plan is supported by an Organisation Plan which focuses on five key themes of customer care, learning & growth, future capability and sustainable operations. The key theme most relevant to this policy is sustainable operations, in ensuring that we make consistent, informed decisions which are evidence based.

6. POLICY IMPLEMENTATION

This Policy will be implemented by the CEO or relevant Portfolio Director and managed in accordance with Council's scheme of delegations.

Record number	D23/74722
Responsible Manager	Manager Corporate Governance
Other key internal stakeholders	Chief Executive Officer Manager People & Capability
Last reviewed	28 November 2023
Adoption reference	Council
Resolution number	325
Previous review dates	17/8/22, 2019
Legal requirement	Section 12(4) and (5) of the <i>Public Interest Disclosure Act 2018</i>
Due date next review	2027
Delegations	