



TITLE PANEL			
Policy Name	Public Interest Disclosure Policy and Procedure		
Type	Statutory Policy		
Owner	Executive Manager Governance and Communications		
Responsible Officer	Governance Coordinator		
Decision Number	2021-02/25	Approval Date	February 2021
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DOCUMENT VERSION CONTROL			
VERSION	DATE	RESOLUTION NO.	DETAILS
V1	17/09/2014	147/2014	
V2	19/08/2015	220/2015	Updated
V3	17/02/2021	2021-02/25	Updated to reflect changes in legislation and new resources issued by the Queensland Ombudsman

Introduction

Council is committed to upholding the principles of transparency and accountability in its management and administrative practices. It encourages the making of PIDs in accordance with the Act at the earliest reasonable opportunity. This Policy and Procedure outlines the process by which Council will respond to Public Interest Disclosures.



1 Purpose

By complying with the PID Act, Council will:

- promote the public interest by facilitating public interest disclosures (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; and
- 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 developed and implemented; and
- public officers who make PIDs are offered protection from reprisal by Council or other public officers of Council.

Council's Public Interest Disclosure Policy and Procedure is available for public viewing at Council's website. The Public Interest Disclosure Policy and Procedure will be reviewed annually and updated as required to ensure it meets the requirements of the PID Act and the standards issued by the Queensland Ombudsman.

2 Application of the Policy

This policy applies to Public Interest Disclosures concerning Council personnel that are made in accordance with the Act by Council personnel or members of the public. It is designed to complement the existing communication channels within Council and will operate in conjunction with existing policies.

Overall responsibility for the implementation and operation of this Policy or Procedure rests with Council's Chief Executive Officer. Positions specifically identified by this Policy are also accountable for the responsibilities assigned to them under the Policy and Procedure.

3 Definitions

<i>Term</i>	<i>Definition</i>
Administrative action	is an administrative action of a local government, including the following, for example— <ul style="list-style-type: none">(i) a decision, or a failure to make a decision, including a failure to provide a written statement of reasons for a decision;(ii) an act, or a failure to do an act;



	<ul style="list-style-type: none">(iii) the formulation of a proposal or intention;(iv) the making of a recommendation; and <p>is made by an affected person. An affected person is a person who is apparently directly affected by an administrative action of a local government.</p>
Appropriate External Entity	Is a public sector entity other than Council to which a Public Interest Disclosure may be made or referred under the Act, e.g. Crime and Corruption Commission (CCC), Queensland Ombudsman, Queensland Police Service.
Confidential information	<p>includes —</p> <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; or(B) 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. <p>But 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.</p>
Corrupt conduct	<p>As defined in section 15 of the Crime and Corruption Act 2001</p> <p>(1) <i>Corrupt conduct</i> means conduct of a person, regardless of whether the person holds or held an appointment, that—</p> <ul style="list-style-type: none">(a) adversely affects, or could adversely affect, directly or indirectly, the performance of functions or the exercise of powers of—<ul style="list-style-type: none">(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—<ul style="list-style-type: none">(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—<ul style="list-style-type: none">(i) a criminal offence; or



	<p>(ii) a disciplinary breach providing reasonable grounds for terminating the person's services, if the person is or were the holder of an appointment.</p> <p>(2) <i>Corrupt conduct</i> also means conduct of a person, regardless of whether the person holds or held an appointment, that—</p> <p>(a) impairs, or could impair, public confidence in public administration; and</p> <p>(b) involves, or could involve, any of the following—</p> <p>(i) collusive tendering;</p> <p>(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)—</p> <p>(A) protecting health or safety of persons;</p> <p>(B) protecting the environment;</p> <p>(C) protecting or managing the use of the State's natural, cultural, mining or energy resources;</p> <p>(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;</p> <p>(iv) evading a State tax, levy or duty or otherwise fraudulently causing a loss of State revenue;</p> <p>(v) fraudulently obtaining or retaining an appointment; and</p> <p>(c) would, if proved, be—</p> <p>(i) a criminal offence; or</p> <p>(ii) a disciplinary breach providing reasonable grounds for terminating the person's services, if the person is or were the holder of an appointment.</p>
Detriment	<p>includes –</p> <p>(a) personal injury or prejudice to safety; and</p> <p>(b) property damage or loss; and</p> <p>(c) intimidation or harassment; and</p> <p>(d) adverse discrimination, disadvantage or adverse treatment about career, profession, employment, trade or business; and</p> <p>(e) financial loss; and</p> <p>(f) damage to reputation, including, for example, personal, professional or business reputation.</p>
Disability	<p>As defined in section 11 of the Disability Services Act 2006, for the purposes of this procedure:</p> <p>(1) A disability is a person's condition that—</p> <p>(a) is attributable to—</p>



	<ul style="list-style-type: none">(i) an intellectual, psychiatric, cognitive, neurological, sensory or physical impairment; or(ii) a combination of impairments mentioned in subparagraph (i); and <p>(b) results in—</p> <ul style="list-style-type: none">(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. <p>(2) For subsection (1), the impairment may result from an acquired brain injury.</p> <p>(3) The disability must be permanent or likely to be permanent.</p> <p>(4) The disability may be, but need not be, of a chronic episodic nature.</p>
Discloser	A person who makes a disclosure in accordance with the Public Interest Disclosure Act 2010 .
Employee	of an entity, includes a person engaged by the entity 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 or audit.
Journalist	a person engaged in the occupation of writing or editing material intended for publication in the print or electronic news media.
Maladministration	<p>As defined in schedule 4 of the Public Interest Disclosure Act 2010, maladministration is administrative action that—</p> <ul style="list-style-type: none">(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 circumstances; or(d) was taken—<ul style="list-style-type: none">(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.



Natural justice	<p>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.</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">• avoid bias; and• give a fair hearing.• act only on logically probative evidence.
Organisational support	<p>For the purposes of this Policy and Procedure, organisational support means actions such as, but not limited to:</p> <ul style="list-style-type: none">• providing moral and emotional support;• advising disclosers about agency resources available to handle any concerns they have as a result of making their disclosure;• appointing a mentor, confidante or other support officer to assist the discloser through the process;• referring the discloser to the agency's Employee Assistance Program or arranging for other professional counselling;• generating support for the discloser in their work unit where appropriate;• ensuring that any suspicions of victimisation or harassment are dealt with;• 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.
Personnel	<p>Includes Councillors and Council employees regardless of their employment status, role or position. The term includes permanent, temporary, part-time, casual, relief staff, contractors and volunteers.</p>
Proper authority	<p>A person or organisation that is authorised under the Public Interest Disclosure Act 2010 to receive disclosures.</p>
Public officer	<p>A public officer, of a public sector entity, is an employee, member or officer of the entity.</p>
Reasonable belief	<p>A view which is objectively fair or sensible.</p>



Reasonable management action	<p>Action taken by a manager in relation to an employee, includes any of the following taken by the manager—</p> <ul 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.
Reprisal	<p>The term 'reprisal' is defined under the Public Interest Disclosure Act 2010 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">• has made or intends to make a disclosure; or• has been or intends to be involved in a proceeding under the disclosure Act against any person. <p>Reprisal under the Public Interest Disclosure Act 2010 is a criminal offence and investigations may be undertaken by the Queensland Police Service.</p>
Subject officer	An officer who is the subject of allegations of wrongdoing made in a disclosure.
Substantial and specific	<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 can be identified or particularised as opposed to broad or general concerns or criticisms.</p>
The Act	Is the <i>Public Interest Disclosure Act 2010</i>

4 Policy Statement

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.

By complying with the PID Act, Council will:

- promote the public interest by facilitating public interest disclosures (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; and
- 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 standard issued by the Queensland Ombudsman, is developed and implemented; and
- public officers who make PIDs are offered protection from reprisal by Council or other public officers of Mornington Shire Council.

5 Policy Detail / Procedure

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 encompasses:

- commitment to encouraging the internal reporting of wrongdoing;
- senior management endorsement of the value of PIDs and the proper management of PIDs;
- a communication strategy to raise awareness among employees about PIDs and Council's PID procedure;
- a training strategy to give employees 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/unit 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; and
- regular review of the Public Interest Disclosure Procedure and evaluation of the effectiveness of the PID management program.

The Chief Executive Officer has designated the following roles and responsibilities for managing PIDs:

Role:	Responsibilities:	Officer:
PID Coordinator	<ul style="list-style-type: none">▪ principal contact for PID issues;▪ document and manage implementation of PID management program;▪ review and update PID procedure annually;▪ maintain and update internal records of PIDs received;▪ report data on PIDs to Queensland Ombudsman;	Executive Manager Governance and Communication



	<ul style="list-style-type: none"> ▪ assess PIDs received; ▪ provide acknowledgment 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. 	
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(s); ▪ proactively contact discloser throughout PID management process. 	Governance 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	review investigation report and determine whether alleged wrongdoing is substantiated	The CEO will appoint an appropriate decision-maker will be appointed for each PID investigated.

Making a Public Interest Disclosure

Under the PID Act, any person can make a disclosure to a 'proper authority' 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; and
- 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; and
- 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;
- 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; and



- 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.

Disclosers are encouraged to make a disclosure to the Council first. If the matter is not resolved, or the discloser is concerned about confidentiality, the disclosure may be made to another appropriate agency.

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.

Assessing a PID

Upon receipt of a disclosure, Council's PID Coordinator will conduct a preliminary assessment to determine if the disclosure is a PID for the purposes of the Act. If there is any doubt as to whether a matter is a PID, further information may be obtained to inform the decision. If doubt remains, the matter will be considered and managed as 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; and
- any other options the discloser has in relation to the matter.

Upon acceptance of a PID; the PID Coordinator 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 consider the actual and reasonably perceived risk of the discloser (or witnesses or affected third parties) suffering detriment and will include consultation with the discloser. 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 reassess the risk of reprisal throughout its response to the PID, and where necessary, implement the appropriate risk management strategies to protect the disclosure from reprisal(s).

Once the matter has been assessed as a PID, Council will advise the discloser:

- that their information has been received 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's 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; and
- contact details for the Council's Employee Assistance Program.

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; or
- another agency has the legislative oversight of the subject matter of the PID; or
- another agency has the power to investigate or remedy the matter.

Under the Act, Council may decide not to investigate or deal with a PID, when: -

- the information disclosed has already been investigated or dealt with by another process;
- the information disclosed should be dealt with by another process;
- the age of the information makes it impractical to investigate;
- the information disclosed is too trivial and dealing with it would substantially and unreasonably divert Council from the performance of its functions; and
- another agency with jurisdiction to investigate the information has informed Council that an investigation is not warranted.

If a decision is made not to investigate or deal with a PID Council will give the discloser written reasons for that decision. If the discloser is dissatisfied with the decision, they can request a review by writing to the Chief Executive Officer within 28 days of receiving the written reasons for decision.

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; and
- interests of subject officers.

Throughout an investigation (whether conducted internally, externally or by an external agency), Council will support subject officers 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; and
- referring them to the Employee Assistance Program for support.

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.

In accordance with the PID Act, after finalising action in response to the PID, the Council will advise the discloser in writing of the action taken and the results of the action.

Record Keeping

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; and
- anonymised data is reported to the Office of the Queensland Ombudsman in their role as the oversight agency, through the PID reporting database.

Records about disclosures, investigations, and related decisions will be kept secure and accessible only to appropriately authorised people involved in the management of the PID.

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; or
- 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.

6 Related Legislation, Procedure, Forms, Documents

Related 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

Related Documents

- Complaints Management Policy
- Complaint Involving Public Officials Policy
- Fraud and Corruption Prevention Policy
- Councillor Inappropriate Behaviour Investigation Policy
- Employee Code of Conduct
- Councillor Code of Conduct
- Risk Management Policy



- Public Interest Disclosure Standard No. 1 (Queensland Ombudsman)
- Disclosure Fact sheet 1: What is a disclosure (Queensland Ombudsman)
- Disclosure Fact sheet 2: Checklist for making a disclosure (Queensland Ombudsman)
- Disclosure Fact sheet 3: Discloser information and support (Queensland Ombudsman)

7 Variations

This policy is deemed to be the current policy until altered, changed or replaced by an updated or amended version made by a resolution of Council.

8 Approval

This Policy was adopted at Council's Meeting held 17 February 2021 - Resolution Number 2021-02/25.



Workplace Participant Acknowledgement

I acknowledge:

- Receiving a copy of the Public Interest Disclosure Policy and Procedure;
- That I am required to comply with the policy; and
- That there may be disciplinary consequences if I fail to comply, which may result in the termination of my employment.

Your name:

_____.

Signed:

_____.

Date

_____.