

Policy Details

Directorate:	Organisational Services
Branch:	Corporate Governance
Responsible Manager:	Corporate Governance Manager
Date adopted:	04/12/2019 (minute number 188/2019)
Date for review:	2 years from the date of adoption or date of last review
Legislative basis:	<i>Public Interest Disclosure Act 2010</i> <i>Crime and Corruption Act 2001</i> <i>Local Government Act 2009</i> <i>Public Sector Ethics Act 1994</i> <i>Public Records Act 2002</i>
Related Documents - forms and procedures	Public Interest Disclosure Procedure (DM: 13315438)

1. Policy Purpose

The purpose of this policy is to set out Council’s position in relation to the disclosure of information about suspected wrongdoing in Council.

This policy is intended to support and encourage the reporting of suspected wrongdoing and ensures that practical and effective procedures are implemented in relation to reports of suspected wrongdoing which comply with the requirements of the *Public Interest Disclosure Act 2010* (PID Act).

2. Scope

This policy applies to all Councillors, employees and contractors working for Council regardless of whether they are permanent, temporary, full-time, part-time or casual. For the purposes of this policy, the term contractor includes on-hired temporary labour services (agency staff) and sub-contractors.

3. Policy Statement

Principles

Logan City 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 any employee, public officer or other person who makes a disclosure about matters in the public interest.

Council is committed to complying with the PID Act at all times, and in doing so 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
- ensure protection from reprisal is afforded to persons making PIDs.

Public Interest Disclosure Procedure

As required by the PID Act, a public interest disclosure management program has been developed and is contained in the Public Interest Disclosure Procedure. All public interest disclosures will be managed in accordance with the Public Interest Disclosure Procedure (DM: 13315438).

4. Reporting

Corporate Governance will provide regular reports to the Chief Executive Officer on the implementation and oversight of the Public Interest Disclosure Procedure.

Corporate Governance will also report the required public interest disclosure data to the Queensland Ombudsman as required by Public Interest Disclosure Standard No 3/2019.

5. Definitions

The following definitions apply to this Policy and to the Public Interest Disclosure Procedure.

TERM	DEFINITION
Administrative action	as defined in Schedule 4 of the PID Act: (a) means any action about a matter of administration, including, for example: (i) 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 (b) does not include an operational action of a police officer or of an officer of the Crime and Corruption Commission.
Confidential information	as defined in Section 65 of the PID Act: (a) includes — (i) information about the identity, occupation, residential or work address or whereabouts of a person — 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; and (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.

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Corrupt conduct	<p>as defined in section 15 of the <i>Crime and Corruption Act 2001</i>:</p> <p>(1) Corrupt conduct means conduct of a person, regardless of whether the person holds or held an appointment, that—</p> <p>a) adversely affects, or could adversely affect, directly or indirectly, the performance of functions or the exercise of powers of—</p> <p>i. a unit of public administration; or</p> <p>ii. a person holding an appointment; and</p> <p>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—</p> <p>i. is not honest or is not impartial; or</p> <p>ii. involves a breach of the trust placed in a person holding an appointment, either knowingly or recklessly; or</p> <p>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</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> <p>(2) Corrupt conduct 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>
Councillor	all elected representatives including the Mayor
Detriment	<p>as defined in Schedule 4 of the PID Act:</p> <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>

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	<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 <i>Disability Services Act 2006</i> for the purposes of this procedure:</p> <p>(1) A disability is a person's condition that—</p> <p>a) is attributable to—</p> <p>i. an intellectual, psychiatric, cognitive, neurological, sensory or physical impairment; or</p> <p>ii. a combination of impairments mentioned in subparagraph (i); and</p> <p>b) results in—</p> <p>i. a substantial reduction of the person's capacity for communication, social interaction, learning, mobility or self care or management; and</p> <p>ii. the person needing support.</p> <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 <i>Public Interest Disclosure Act 2010</i> .
Employee	any person employed directly by Logan City Council regardless of their employment status, and contractors undertaking duties on behalf of Council.
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 <i>Public Interest Disclosure Act 2010</i>, maladministration is administrative action that—</p> <p>(a) was taken contrary to law; or</p> <p>(b) was unreasonable, unjust, oppressive, or improperly discriminatory;</p> <p>(c) or</p> <p>(d) 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</p> <p>(e) was taken—</p> <p>i. for an improper purpose; or</p> <p>ii. on irrelevant grounds; or</p> <p>iii. having regard to irrelevant considerations; or</p> <p>(f) was an action for which reasons should have been given, but</p> <p>(g) were not given; or</p> <p>(h) was based wholly or partly on a mistake of law or fact; or</p> <p>(i) was wrong.</p>

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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 • give a fair hearing • act only on the basis of logically probative evidence.
Organisational support	<p>for the purposes of this Policy, 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.
Proper authority	a person or organisation that is authorised under the <i>Public Interest Disclosure Act 2010</i> to receive disclosures.
Public officer	a public officer, of a public sector entity, is an employee, member or officer of the entity.
Reasonable belief	a view which is objectively fair or sensible.
Reasonable management action	<p>action taken by a manager in relation to an employee, includes any of the following taken by the manager—</p> <ol 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.

TERM	DEFINITION
Reprisal	<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"> • 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 <i>Public Interest Disclosure Act 2010</i> 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 is able to be identified or particularised as opposed to broad or general concerns or criticisms.</p>

Document Control

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Amendment History			
Version Number	Description of Change	Author / Branch	Date
1.0	Creation	Corporate Governance	4 December 2019