

PROCEDURE – ADMINISTRATION

Public Interest Disclosure

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1. Document control

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2. Statement of Intent

This procedure has been prepared in accordance with the requirements of sections 12(4) and (5) of the PID Act and ICAC's PID Guidelines.

As Chief Executive Officer (CEO) of the City of Onkaparinga (Council), and designated Principal Officer for the purposes of the *Public Interest Disclosure Act 2018* (PID Act), the intent of this procedure is to encourage and facilitate:

- further transparency and accountability in the Council's administrative and management practices; and

- the Disclosure, in the public interest, of information about substantial risks to public health or safety, or to the environment, and about corruption, misconduct and maladministration in public administration.

This procedure is designed to ensure proper procedures are in place for the making of, and dealing with Disclosures and by providing appropriate protections for those informants who make such Disclosures.

Council is committed to the protection of informants who make public interest Disclosures in accordance with the PID Act, and to the genuine and efficient consideration and action in relation to information provided to the Council via a public interest Disclosure, as contemplated and demonstrated by this procedure.

Any questions about this procedure should be directed in the first instance to the Responsible Officers, whose details are in section 9 of this procedure.

Principal Officer

Chief Executive Officer, City of Onkaparinga

3. Introduction

Council is committed to encouraging the making of appropriate Disclosures of public interest information in accordance with this procedure including:

- The protection of informants who make public interest Disclosures.
- The genuine and efficient consideration and action in relation to information provided in a public interest Disclosure.
- Referring, as necessary, appropriate Disclosures to another Relevant Authority.
- Where the disclosure relates to Corruption, reporting the Disclosure directly to the Office for Public Integrity (OPI) in accordance with the OPI Directions and Guidelines and the requirements of the *Independent Commission Against Corruption Act 2012* (ICAC Act).
- Where the disclosure relates to Misconduct or Maladministration in public administration, reporting the Disclosure directly to the Ombudsman in accordance with the Ombudsman Directions and Guidelines.

This procedure will be available free of charge for inspection at council's offices during ordinary business hours and via council's website

<https://www.onkaparingacity.com/Council/Documents/Policy-and-Procedure>

4. Purpose

This Procedure explains the applicable procedures and processes that Council has in place for when a person makes an appropriate Disclosure of public interest information, to ensure that Council:

- Properly fulfils its responsibilities under the PID Act and the ICAC Act, including the PID Guidelines.
- Appropriately encourages and facilitates Disclosures of public interest information, including environmental and health information regarding a location within the area of Council.
- Provides a process by which Disclosures may be made so that they are properly dealt with.
- Provides appropriate protection for those who make Disclosures in accordance with the PID Act.
- Recognises the need to appropriately support Informants, the Responsible Officer and, as appropriate, those public officers affected by any appropriate Disclosure.

5. Scope

This procedure applies to appropriate Disclosures of public interest information, that are made in accordance with the PID Act, by public officers including elected members, officers and employees of council and by members of the public.

This procedure is intended to support the legislatively required reporting framework under the ICAC Act and the *Ombudsman Act 1972* (the Ombudsman Act), and to operate in conjunction with existing policies, including the:

- Code of Conduct for Council Employees
- Behavioural Standards for Council Members
- Resolution of internal grievances and complaints procedure
- Resolution of external grievances and complaints procedure

6. Definitions

Corruption	Means corruption in public administration and is defined in section 5(1) of the ICAC Act and means conduct that constitutes- an offence against Part 7 Division 4 (Offences relating to public officers) of the <i>Criminal Law Consolidation Act 1935</i> , which includes the following offences: <ul style="list-style-type: none">- bribery or corruption of public officers;- threats or reprisals against public officers;- abuse of public office;- demanding or requiring benefit on basis of public office;
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	<ul style="list-style-type: none"> - offences relating to appointment to public office; or <p>an offence against the <i>Public Sector (Honesty and Accountability) Act 1995</i> or the <i>Public Corporations Act 1993</i>, or an attempt to commit such an offence; or</p> <p>an offence against the <i>Lobbyists Act 2015</i>, or an attempt to commit such an offence; or</p> <p>any of the following in relation to an offence referred to in a preceding paragraph:</p> <ul style="list-style-type: none"> - aiding, abetting, counselling or procuring the commission of the offence; - inducing, whether by threats or promises or otherwise, the commission of the offence; - being in any way, directly or indirectly, knowingly concerned in, or party to, the commission of the offence; - conspiring with others to effect the commission of the offence.
Detriment	<p>Is defined in section 9(7) of the PID Act and includes:</p> <ul style="list-style-type: none"> - loss or damage (including damage to reputation); or - injury or harm (including psychological harm); or - intimidation or harassment; or - discrimination, disadvantage or adverse treatment in relation to a person's employment; or - threats of reprisal.
Disclosure	<p>For the purposes of section 4 of the PID Act means an appropriate Disclosure of public interest information made by an Informant to a Relevant Authority.</p> <p>As per section 5(3) of the PID Act, a person makes an appropriate Disclosure of environmental and health information if the disclosure is made to a relevant authority and the person:</p> <ul style="list-style-type: none"> • believes on reasonable grounds that the information is true; or • is not in a position to form a belief on reasonable grounds about the truth of the information, but believes on reasonable grounds that the information may be true and is of sufficient significance to justify its Disclosure so that its truth may be investigated. <p>As per section 5(4) of the PID Act, a person makes an appropriate Disclosure of public administration information if the disclosure is made to a relevant authority and the public officer reasonably suspects that the information raises a potential issue of corruption, misconduct or maladministration in public administration.</p>
Employee	<p>Means all council employees, trainees, work experience students and contractors undertaking work for council in a full-time, part-time or casual capacity.</p>

Environmental and health information	Means information that raises a potential issue of a substantial risk to the environment or to the health or safety of the public generally or a significant section of the public.
Informant	Means a person who makes an appropriate Disclosure of public interest information to a Relevant Authority.
Maladministration	<p>Means maladministration in public administration and is defined in section 4(2) of the Ombudsman Act and means:</p> <ul style="list-style-type: none"> - conduct of a public officer, or a practice, policy or procedure of a public authority, that results in an irregular and unauthorised use of public money or substantial mismanagement of public resources; or - conduct of a public officer involving substantial mismanagement in or in relation to the performance of official functions; <p>and includes conduct resulting from impropriety, incompetence or negligence; and</p> <p>is to be assessed having regard to relevant statutory provisions and administrative instructions and directions.</p>
Misconduct	Means misconduct in public administration and is defined in section 4(1) of the Ombudsman Act and means an intentional and serious contravention of a code of conduct by a public officer while acting in their capacity as a public officer that constitutes a ground for disciplinary action against the officer.
Public administration	<p>As per section 4(1) of the ICAC Act – an administrative act carried out in the course of public administration.</p> <p>An administrative act is as per the definition in the Ombudsman Act and means:</p> <ul style="list-style-type: none"> (a) an act relating to a matter of administration on the part of an agency to which this Act applies or a person engaged in the work of such an agency; or (b) an act done in the performance of functions conferred under a contract for services with the Crown or an agency to which this Act applies, but does not include— (c) an act done in the discharge of a judicial authority; or (d) an act done by a person in the capacity of legal adviser to the Crown or an agency to which this Act applies; or (e) an act of a class declared by the regulations not to be an administrative act for the purposes of this definition.
Public administration information	Means information that raises a potential issue of corruption, misconduct or maladministration in public administration.
Public Officer	Has the meaning given by section 4 and Schedule 1 of the ICAC Act and includes elected members and an employee or officer of council.

Relevant Authority	Means the person or entity that receives 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 Independent Commissioner Against Corruption for the purposes of the Public Interest Disclosure Regulations 2019 and has been designated by the CEO as the responsible officer under section 12 of the PID Act. Designated to undertake the duties as per section 13 of the PID Act.
Victimisation	As per section 9(1) of the PID Act, occurs when a person causes detriment to another on the ground, or substantially on the ground, that the other person (or a third person) has made or intends to make an appropriate Disclosure of public interest information.

7. Responsibilities

7.1 CHIEF EXECUTIVE OFFICER

Council's CEO is the principal officer for the purposes of the PID Act and is responsible for:

- Ensuring that one or more appropriately qualified officers or employees of Council are designated as responsible officers of Council for the purposes of the PID Act, and they undertake any training required by the Public Interest Disclosure Regulations 2019.
- Ensuring that the name and contact details of each responsible officer of Council are made available to officers or employees of Council.
- The preparation and maintenance of this procedure in accordance with the PID Act and the PID Guidelines.

The CEO will support the Responsible Officers including by ensuring there is a system in place to securely receive and store Disclosures.

7.2 RESPONSIBLE OFFICERS

Council's Responsible Officers may be contacted in person, by telephone or in writing. The relevant contact details are provided in section 9 of this procedure.

A person designated as a Responsible Officer has the following responsibilities:

- Receiving and securely storing appropriate Disclosures relating to council and ensuring compliance with the PID Act and this procedure in relation to any such disclosures.
- Upon receipt of a disclosure, the Responsible Officer will deal with the Disclosure in accordance with the processes described in this procedure and the PID Act.
- Liaising as required with the Informant and ensuring that the Informant is provided with support and protection as necessary and appropriate in the circumstances of the Disclosure.
- Making appropriate recommendations to the CEO in relation to dealing with Disclosures, including any suggested changes to this procedure.
- Providing advice to elected members, officers and employees of Council in relation to the administration of the PID Act.

- Completing any training courses approved by ICAC for the purposes of the PID regulations.
- Carrying out any other functions relating to the PID Act as appropriate to their role.

7.3 EMPLOYEES, ELECTED MEMBERS OR OFFICERS

An elected member, officer or employee of Council is responsible for:

- Ensuring they comply with this procedure when dealing with any Disclosure.
- Immediately referring any Disclosure of environmental and health information made to them by a member of the public, or any Disclosure of public interest information made to them by a public officer, to a Responsible Officer.

8. Disclosure protection

8.1 IMMUNITY

Section 5 of the PID Act provides for protection for Informants where appropriate public interest Disclosures are made:

- By a member of the public or public officer about environmental and health information which the Informant reasonably believes to be true or which the Informant believes may be true and is of sufficient significance to warrant Disclosure, regarding a location within the Council area.
- By a public officer about information that the public officer reasonably suspects raises a potential issue of corruption, misconduct or maladministration in public administration.

8.2 CONFIDENTIALITY

The identity of an Informant will be maintained as confidential in accordance with the PID Act.

The recipient of an appropriate Disclosure may only divulge the identity of an Informant where:

- The recipient believes on reasonable grounds that it is necessary to divulge the identity of the Informant in order to prevent or minimize an imminent risk of serious physical injury or death to any person, and the identity of the Informant is then 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 minimize the imminent risk of serious physical injury or death to any person.
- Doing so is necessary for the matter to be properly investigated (but only to the extent necessary to ensure proper investigation).
- The Informant consents to their identity being disclosed.

The PID Act does not expressly require any other information relating to a Disclosure (including, for example, the nature of the allegations and information provided) to be maintained as confidential. In considering whether to further disclose other information provided as part of an appropriate Disclosure consideration should be given to whether it is necessary and appropriate to do so.

The Responsible Officer will ensure the steps listed in section 9.3 below are followed for the secure receipt and storage of a Disclosure received.

8.3 PROTECTION OF INFORMANTS

Victimisation of Informants is a criminal offence in accordance with the provision of section 9 of the PID Act. A person who causes detriment to another on the grounds, or substantially on the grounds, that the other person or a third person has made or intends to make an appropriate Disclosure of public interest information commits an act of victimisation.

A person must not prevent another person from making an appropriate Disclosure of public interest information or hinder or obstruct another person in making such a disclosure.

A person who personally commits an act of victimisation is guilty of an offence with a maximum penalty of \$20,000 or imprisonment for two years.

8.4 SECURE HANDLING AND STORAGE OF INFORMATION

To ensure confidentiality is maintained and to minimise the likelihood of any victimisation associated with public interest Disclosures, Council has the following steps in place to assess and minimise detrimental action in relation to public interest disclosures:

- Ensuring accurate records of an appropriate Disclosure are securely and confidentially maintained including notes of all discussions, phone calls, and interviews.
- Ensuring all information relating to an appropriate Disclosure is maintained as confidential and securely stored such that access to the records is limited to the Responsible Officer and such other persons as is necessary to ensure compliance with the PID Act and to ensure the matters to which the disclosure relates may be properly investigated.
- In performing their duties, the Responsible Officer will maintain a confidential file of information that relates to a Disclosure and/or is a product of the associated investigation/reporting process. All such information will be recorded in a Confidential Register and be securely stored in a secure location. All electronic records must be stored within council's Records Management System and accessible only to Responsible Officers. All physical records (including hard copy documents, disks, tapes, film or other objects that contain information) will be stored in a locked cupboard or drawer that only the relevant Responsible Officer can access.
- Ensuring any other person involved in investigating the Disclosure is aware of the confidentiality and security requirements, and is provided with the access to support the confidentiality and security steps put in place by Council.
- Ensuring that in the event that a person's appointment as a Responsible Officer is terminated, the person must provide access to the information to the newly-appointed Responsible Officer and having done so will continue to be bound by a duty of confidentiality in respect of an Informant's identity and the information received as a result of the disclosure.

9. Disclosure process

9.1 WHO CAN MAKE A DISCLOSURE

Any person can make an appropriate disclosure of environmental and health information and will be protected from liability because of that disclosure.

Any person can make an appropriate disclosure of public administration information in accordance with the PID Act, however only public officers are protected from liability because of that disclosure. Refer to the definition within the PID Act and this procedure for what is an ‘appropriate disclosure’.

9.2 HOW TO SUBMIT A DISCLOSURE – INFORMANT CONSIDERATIONS

Appropriate Disclosure of public administration information should generally, and wherever possible, be directed in the first instance to the Responsible Officer in person or via email or telephone using the details below:

Position	Director Corporate Director Planning Manager People and Culture Team Leader Human Resources	Manager Governance Manager Fleet, Civil and Waste Team Leader Corporate Governance
Telephone	08 8384 0666	
Email	PID@onkaparinga.sa.gov.au Note – access to this email address is restricted to Responsible Officers only	
Address	PO Box 612 NOARLUNGA SA 5168 Note – Disclosures provided via mail should be in an envelope marked: CONFIDENTIAL – Responsible Officer [include position title], Public Interest Disclosure	

Following the above steps will ensure public interest information is securely received.

Nothing in this procedure prevents a person from making an appropriate Disclosure to another Relevant Authority, including a Relevant Authority external to council. This is a choice to be made by the Informant at their discretion.

The following are further relevant considerations for an Informant in determining where to direct a Disclosure:

- When choosing to make a Disclosure internally, Disclosures relating to an elected member or employee, including the CEO, should be made to a Responsible Officer.
- Any Disclosure relating to a person appointed as a Responsible Officer should be made to another person appointed as a Responsible Officer or failing this, to a Relevant Authority external to Council (such as OPI).
- Any Disclosure relating to public administration information about a public officer who is an elected member or employee of Council may be made to a Responsible Officer, or to the person responsible (either in fact, or as may be designated by the PID Act) for the management or supervision of the public officer the subject of the Disclosure.
- If there is a reasonable suspicion of corruption, it must be reported to OPI in accordance with the OPI Directions and Guidelines.
- Any Disclosure relating to maladministration or misconduct in public administration should be reported to the Ombudsman in accordance with the Ombudsman Directions and

Guidelines. Note such disclosures may also be made to the OPI in accordance with the ICAC Act.

9.3 RECEIPT OF DISCLOSURE

A flowchart outlining the Disclosure Process is at Appendix B to this procedure.

Where a Disclosure is made by telephone, the recipient (noting this is ideally, but not always a Responsible Officer) must take notes of the conversation.

If an elected member, officer or employee receives a Disclosure of public interest information regarding a location with the council area, the recipient of that Disclosure will:

- Ask the Informant whether they consent to the details of their identity being provided to a Responsible Officer, and in doing so advise the Informant that:
 - a failure to provide that consent may mean that the Disclosure cannot be properly investigated; and
 - notwithstanding that the Informant may not consent to their identity being disclosed, it may nonetheless be disclosed if it is necessary to do so to ensure the matters to which the information relates may be properly investigated.
- Refer the Disclosure to the Responsible Officer and, in doing so, comply with the wishes of the Informant with respect to whether details of their identity may be divulged unless it is necessary to disclose their identity contrary to their wishes to ensure matters to which the information relates may be properly investigated.

Where the identity of the Informant is known to the Responsible Officer or is reasonably ascertainable, the Responsible Officer will acknowledge receipt of the Disclosure within two business days and provide a copy of this procedure to the Informant.

To ensure the secure receipt and storage of the Disclosure, upon the receipt of a Disclosure (whether directly, or by referral from an elected member, officer or employee), the Responsible Officer will:

- Ensure that a Disclosure is stored securely in accordance with council's record management system and confidentiality requirements. This includes having any relevant documents restricted to a class that can only be accessed by the relevant Responsible Officer (or those involved in addressing or investigating the Disclosure directly).
- All printed materials are to be kept in a locked cupboard or drawer that only the relevant Responsible Officer can access and any conversations with the Informant are to be conducted privately.

10. Assessment and actions

10.1 PRELIMINARY ASSESSMENT AND ACTION

Upon receipt of a Disclosure, the Responsible Officer will undertake a preliminary assessment to determine the below and what (if any) actions need to be taken:

- If the content of the Disclosure suggests there is an imminent risk of serious physical injury or death to any person or the public generally. If it does, the Responsible Officer must immediately communicate such information as may be necessary to mitigate that risk to the most appropriate agency (e.g. SA Police, SafeWork SA, SA Ambulance Service, Environment

Protection Authority). In doing so the Responsible Officer must have regard to section 8.2 of this procedure.

- If the matter(s) the subject of the Disclosure result in the Responsible Officer forming a reasonable suspicion that they involve corruption in public administration, or misconduct or maladministration in public administration; the Responsible Officer must comply with the reporting obligations under the ICAC Act in accordance with the OPI Directions and Guidelines and reporting expectations under the Ombudsman Act in accordance with the Ombudsman Directions and Guidelines.
- If the Responsible Officer determines the Disclosure warrants referral to an external body or another Relevant Authority, the Responsible Officer will undertake the referral, including ensuring that such information as is necessary to enable action to be taken is communicated to the most appropriate person or relevant authority to take that action.
- If the Disclosure is found to be frivolous, vexatious or trivial, the Responsible Officer may determine no further action will be taken in relation to the Disclosure.
- If the information disclosed involves a matter which has already been investigated or acted upon by a Relevant Authority and there is no reason to re-examine the matter or there are other good reasons why no action should be taken in respect of the matter, the Responsible Officer can determine no further action will be taken in relation to the Disclosure.

Having considered the above, the Responsible Officer can initiate council's usual investigation process noting the requirements of the PID Act around confidentiality and security of information.

If an Informant believes that their Disclosure is not being dealt with appropriately or in accordance with this procedure they should contact the Responsible Officer in the first instance.

10.2 NOTIFICATION OF PRELIMINARY ASSESSMENT

Where the identity of the Informant is known to the Responsible Officer or is reasonably ascertainable, the Responsible Officer will notify the Informant of their determination in writing as soon as is reasonably practicable after the Preliminary Assessment has been made, and in any event within 30 days of receipt of the Disclosure.

In doing so, the Responsible Officer must advise the Informant of:

- any action that has been, or will be, taken in relation to the Disclosure; or
- if no action is being taken in relation to the Disclosure, the reason(s) why.

If the Responsible Officer fails to notify the Informant in accordance with the above, the Informant may be entitled to protection in relation to any subsequent Disclosure of that information to a journalist or Member of Parliament in accordance with the PID Act.

If the Informant is dissatisfied with the Responsible Officer's determination, it is open to them to report the Disclosure to another Relevant Authority external to council.

As soon as reasonably practicable following the Preliminary Assessment and notification to the Informant, the Responsible Officer must use the dedicated online notification form as <https://www.icac.sa.gov.au> to notify OPI of the Disclosure (Initial Notification), and in doing so must ensure that the details required by Guideline 1.4 of the ICAC Public Interest Disclosure Guidelines are included.

The Responsible Officer will retain the unique reference number issued by OPI upon making the Initial Notification and will ensure that reference number is provided to any other person or authority to whom the Disclosure is referred.

10.3 NOTIFICATION OF FURTHER ACTION

Where the identity of the Informant is known to the Responsible Officer or is reasonably ascertainable, the Responsible Officer will notify the Informant of the outcome of their determination in writing as soon as is reasonably practicable after the Further Action has been taken, and in any event within either:

- 90 days of receipt of the Disclosure; or
- such longer period as may be specified by written notice given by the Responsible Officer within that 90 day period.

In doing so, the Responsible Officer must advise the Informant of:

- any action that has been, or will be, taken in relation to the Disclosure; or
- if no action is being taken in relation to the Disclosure, the reason(s) why.

If the Responsible Officer fails to notify the Informant in accordance with the above, the Informant may be entitled to protection in relation to any subsequent Disclosure of that information to a journalist or Member of Parliament in accordance with the PID Act.

If the Informant is dissatisfied with the Responsible Officer's determination, it is open to them to report the Disclosure to another Relevant Authority external to council.

As soon as reasonably practicable following the Preliminary Assessment and notification to the Informant, the Responsible Officer must use the dedicated online notification form at <https://www.icac.sa.gov.au> to notify OPI of the action taken in relation to the Disclosure (Further Notification), and in doing so must ensure that the details required by Guideline 2 of the ICAC Public Interest Disclosure Guidelines are included.

If the Disclosure came to council by way of a referral from a Minister, the Responsible Officer must ensure that the Minister is also notified of the action taken in relation to the Disclosure, and the outcome of any such action. The Minister should be notified in accordance with the above following the Preliminary Assessment if the Responsible Officer determines that no action is to be taken.

11. Relevant legislation and references

Public Interest Disclosure Act 2018

Independent Commission Against Corruption Act 2012

Ombudsman Act 1972

[ICAC PID Guidelines](#)

[OPI Directions and Guidelines](#)

[Ombudsman Directions and Guidelines](#)

LGA model public interest disclosure procedure – April 2024

Appendix A

Relevant Authorities

Where the information relates to...	the relevant authority is...
<p>a public officer*</p> <p>*as defined and set out in Schedule 1 of the ICAC Act - relevantly, this includes elected members, officers and employees of local government bodies</p>	<p>either:</p> <p>the person who is designated by the Guidelines as being taken to be responsible for management or supervision of the public officer; or</p> <p>the person who is in fact responsible for the management or supervision of the public officer; or</p> <p>the relevant responsible officer (as designated by the Council in accordance with section 12 of the PID Act)</p>
a public sector agency or public sector employee	<p>either:</p> <p>the Commissioner for Public Sector Employment; or</p> <p>the responsible officer for the relevant public sector agency</p>
an agency to which the <i>Ombudsman Act 1972</i> applies	the Ombudsman
a location within the area of a particular council established under the <i>Local Government Act 1999</i>	a member, officer or employee of that Council
a risk to the environment	the Environment Protection Authority
an irregular and unauthorised use of public money or substantial	the Auditor-General
the commission, or suspected commission, of any offence	a member of the police force
a judicial officer	the Judicial Conduct Commissioner
a member of Parliament	the Presiding Officer of the House of Parliament to which the member belongs
a person or a matter of a prescribed class	an authority declared by the regulations to be a relevant authority in relation to such information
<p>public interest information - being:</p> <p>environmental and health information (information that raises a potential issue of a substantial risk to the environment or to the health or safety of the public generally or a significant section of the public); or</p> <p>public administration information (information that raises a potential issue of corruption, misconduct or maladministration in public administration)</p>	<p>the OPI;</p> <p>a Minister of the Crown; or</p> <p>any other prescribed person or person of a prescribed class</p>

Appendix B

Notification Process Flowchart

