



Blackall-Tambo Regional Council

Public Interest Disclosure Policy

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Procedure Compiled by: Chief Executive Officer	
Procedure Approved by: Chief Executive Officer	

SCOPE

This policy applies to all Councillors, employees of Council and members of the public.

PURPOSE

The purpose of this policy is to:

- a) Acknowledge Council's obligations as a Public Sector Entity as defined in the *Public Interest Disclosure Act 2010*; and
- b) Establish Council's commitment to the promotion and proper management of Public Interest Disclosures.
- c) To communicate the rights and obligations, and to outline a framework within which provide for the correct process for Councillors and employees of Council to make appropriate disclosures.

REFERENCES / POLICIES

- *Public Interest Disclosure Act 2010*
- *Crime and Corruption Act 2001*
- *Information Privacy Act 2009*
- *Local Government Act 2009*
- *Local Government Regulation 2012*
- *Public Sector Ethics Act 1994*
- *Work Health and Safety Act 2011*
- Councillor Code of Conduct Procedure
- Employee Code of Conduct Policy
- Privacy Policy
- General Complaints (Administrative Actions) Procedure
- General Complaints (Administrative Actions) Policy
- Complaints about the Chief Executive Officer
- Human Rights Policy
- Workplace Health & Safety Policy
- Confidentiality Policy
- Drug and Alcohol Policy
- Bullying and Harassment Governance Policy

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DEFINITIONS

To assist in interpretation the following definitions shall apply:

Administrative Action

As defined in Schedule 4 of the Act:

- (a) 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 formation 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 to a Minister.

Appropriate Disclosure

An appropriate Disclosure is a disclosure about:

- Corrupt Conduct;
- Maladministration that adversely affects a person's interests in a substantial and specific way;
- A substantial misuse of a public resource;
- A substantial and specific danger to public health or safety;
- A substantial and specific danger to the environment;
- A substantial and specific danger to the health and safety of a person with a disability; or
- Reprisal action.

Business Activity

A Business Activity is one where Council trades in goods and services. The competitive neutrality principle requires that an entity that is conducting a Business Activity in competition with the private sector should not enjoy a net advantage over competitors only because the entity is in the public sector.

Competitive Neutrality Complaints

A Competitive Neutrality Complaint is a complaint that:

- Relates to the failure of a local government to conduct a Business Activity in accordance with the competitive neutrality principle; and
- Is made by an Affected Person.

Complainant

A Complainant is a person or entity that makes a complaint.

Corrupt Conduct

As defined in the *Crime and Corruption Act 2001*, conduct of a person, regardless of whether the person holds or held an appointment, that fulfils each of the following elements:

- (a) Adversely affects, or could adversely affect, directly or indirectly, the performance of functions, or the exercise of powers of a unit of public administration or a person holding an appointment;
- (b) Results, or could result, directly or indirectly, in the performance of functions or the exercise of powers mentioned in section (a) in a way that:
 - (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 accordance with the performance of functions or the exercise of power of a person holding an appointment; and
- (c) Would, if proved, be a criminal offence; or a disciplinary breach providing reasonable grounds for terminating the person's services, if the person is or was the holder of an appointment.

Corrupt conduct also means conduct of a person, regardless of whether the person holds or held an appointment that fulfils each of the following elements:

- (a) Impairs, or could impair, public confidence in public administration; and
- (b) Involves, or could involve any of the following:
 - (i) Collusive Tendering;
 - (ii) Fraudulent applications for licences, permits or other authorities under an Act with a purpose or object of any of the following (however described) – protecting health or safety of persons; protecting the environment or protecting or managing the use of the State's natural, cultural, mining or energy resources;
 - (iii) Dishonestly obtaining, or helping someone to dishonestly obtain benefits from the payment of application of public funds of the disposition of State assets;
 - (iv) Evading State taxes, levies, duties or otherwise fraudulently causing a loss of State revenue;
 - (v) Fraudulently obtaining or retaining an appointment; and
- (c) Would, if proved, be a criminal offence; or disciplinary breach providing reasonable grounds for terminating the person's services, if the person is or were the holder of an appointment.

Discloser

A Discloser is a person who makes a Public Interest Disclosure and does not need to be personally affected by the matter they are disclosing.

Employee

Local government employee;

- (a) The Chief Executive Officer; or
- (b) A person holding an appointment under Section 196 of the *Local Government Act 2009*.

Maladministration

As defined in Schedule 4 of the Act: An administration action that was:

- (a) Taken contrary to law; or
- (b) Unreasonable, unjust, oppressive, or improperly discriminatory; or
- (c) 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 impartially discriminatory in the particular circumstances; or
- (d) Taken:
 - (i) For an improper purpose; or
 - (ii) On irrelevant grounds; or
 - (iii) Having regard to irrelevant considerations; or
- (e) An action for which reasons should have been given, but were not given; or
- (f) Based wholly or partly on a mistake of law or fact; or
- (g) Wrong.

PID Act

Public Interest Disclosure Act 2010



PID

Public Interest Disclosure

POLICY STATEMENT

By virtue of their office or position, Council recognises the important role Councillors, Council employees and members of the public can play in the identification of cases of maladministration, official misconduct and the misuse of public resources or contraventions giving rise to dangers to public health and safety, the environment or to persons with disabilities.

In accordance with the objectives of the PID Act, it is Council policy to:

- a) promote the public interest by facilitating Public Interest Disclosures of wrongdoing in the public sector; and
- b) ensure that Public Interest Disclosures are properly made, assessed, and when appropriate, properly investigated and dealt with; and
- c) ensure that appropriate consideration is given to the interests of persons who are the subject of a Public Interest Disclosure; and
- d) afford protection from reprisals to persons making Public Interest Disclosures.

These outcomes (including information regarding how a PID may be made) are achieved via a Public Interest Disclosure Management Procedure which is to be developed and implemented by the Chief Executive Officer in accordance with Section 28(1) of the PID Act and this Policy.

Council recognises the sensitivities which can be associated with Public Interest Disclosures and the need to maintain public confidence in its process for managing Public Interest Disclosures. To that end Council will:

- e) ensure that Public Interest Disclosures are managed appropriately in accordance with the requirements of PID Act;
- f) maintain confidentiality of Public Interest Disclosures received (as per s65 of PID Act);
- g) prosecute any person who provides a false or misleading statement or information to Council with the intention of it being processed as a Public Interest Disclosure (as per s66 of PID Act);
- h) prosecute and/or take disciplinary action against any Councillor or Council employee who takes or attempts to take a reprisal action (refer s40 and s41 of PID Act);
- i) ensure that the proper records of Public Interest Disclosures received (as per s29 of PID Act) are maintained, and that the confidentiality of all records created during the investigation and reporting of Public Interest Disclosures is preserved (as per s65 of PID Act).

Public Interest Disclosures

Public interest disclosure must be:

- (a) Made to a proper authority; and
- (b) Information about the conduct of another person or another matter if:
 - (i) The person honestly believes on reasonable grounds that the information tends to show the conduct or other matter; or
 - (ii) The information tends to show the conduct or other matter, regardless of whether the person honestly believes the information tends to show the conduct or other matter.

A proper authority includes a public sector entity as defined by section 6 of the Act if the information and the subject of the disclosure related to the conduct of the entity, or public sector entity has power to investigate or remedy.

POLICY REVIEW

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This policy will be reviewed when any of the following occur:

1. As required by legislation.
2. The related documents are amended or replaced.
3. Other circumstances as determine by the Chief Executive Officer.

Notwithstanding the above, this policy is to be reviewed at intervals of no more than four (4) years.

Version Control

Version One	21.01.2012
Version Two	20.01.2015
Version Three	20.05.2020
Version Four	16.02.2022



Appendix A

PUBLIC INTEREST DISCLOSURE MANAGEMENT PROCEDURE

1. Introduction

Blackall-Tambo Regional 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. This procedure demonstrates this commitment and ensures that practical and effective procedures are implemented which comply with the requirements of the *Public Interest Disclosure Act 2010 (PID Act)*.

2. Objective/Purpose

By complying with the PID Act, Blackall-Tambo Regional Council will:

- Promote the public interest by facilitating public interest disclosures (PIDs) of wrongdoing.
- Ensure the 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 reprisals 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.
- Public officers who make PIDs are offered protection from reprisal by Council or other public officers of Council.

Council's Public Interest Disclosure Policy is available for public viewing at www.btrc.qld.gov.au. The Public Interest Disclosure Procedure will be updated as required to ensure it meets the requirements of the PID Act and the standard issued by the Queensland Ombudsman.

3. PID Management Program

The Chief Executive Officer has overall responsibility for ensuring that Council develops, implements and maintains a PID management program. The Council PID management program encompasses:

- Commitment to encouraging the internal reporting of wrongdoing
- Senior management endorsement of the value to Council 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.
- 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.
- Regular review of the Public Interest Disclosure Procedure and evaluation of the effectiveness of the PID management program.

The procedure applies to all councillors, staff and members of the public and should be read in conjunction with the Public Interest Disclosure Policy.

4. Procedure

4.1. Why make a PID?

Employees who are prepared to speak up about public sector misconduct, wastage of public funds, suspected unlawful activity or danger to health, safety or the environment can be the most important sources of information to identify and address problems in the public sector administration. Council supports the disclosure of information about wrongdoings because:

- Implementing systems for reporting and dealing with wrongdoing contributes to the integrity of Council
- The outcomes of PIDs can include improvements to systems that prevent fraud and other economic loss to Council
- The community's trust in public administration is strengthened by having strong processes in place for reporting wrongdoing.

When making a PID the discloser receives the protections provided under the PID Act, including:

- Confidentiality – the discloser's name and other identifying information will be protected to the extent possible
- Protection against reprisal – the discloser is protected from unfair treatment by Council and employees of Council as a result of making the PID
- Immunity from liability – the discloser cannot be prosecuted for disclosing the information but is not exempt from action if they have engaged in wrongdoing
- Protection from defamation – the discloser has a defense against an accusation of defamation by any subject officer.

4.2. Reporting a PID

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

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

In addition, those internal to Council, including the Mayor, Councillor, Employees and Contractor may make a PID if they have information about the conduct of another person which could, if proved, be:

- Corrupt Conduct (as defined in the Crime and Corruption Act 2001); and
- Maladministration that adversely affects a person's interest in a substantial and specific way;
- A substantial misuse of public resources;



- A substantial and specific danger to public health or safety; or
- A substantial and specific danger to the environment.

A PID can be reported to:

- The Chief Executive Officer; or
- Any Director or Manager; or
- Direct or indirect supervisor.

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 can also be made to a journalist if the following conditions have been met:

- A valid PID was initially made to a proper authority, and
- The proper authority:
 - Decided not to investigate or deal within six months of making the disclosure whether or not the disclosure was to be investigated or otherwise dealt with.

A person who makes a disclosure to a journalist in these circumstances is protected under the PID Act. However, disclosers should be aware that journalists are not bound under the confidentiality provisions of section 65 of the PID Act.

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 up to Council to assess information received and decide if it is a PID
- 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.

After the receipt of the PID, the officer who received the PID shall refer the PID to the appropriate Authorised Officer for assessment and coordination of investigation in accordance with this procedure.

The Authorised Officer must provide the following information to the discloser in writing:

- Confirmation that the PID has been received.
- A description of the action proposed to be taken.
- The likely timeframe involved.
- The obligations of the Discloser and Council regarding confidentiality.
- Advise the Discloser that people might attempt to guess their identity.
- The protections the Discloser has under the PID Act.
- The Disclosers involvement in the process (e.g. providing further information).
- How the Discloser will be updated on progress and outcomes.
- Who to contact if they want further information or are concerned about reprisal.
- If action has been taken, a description of the results of the action.
- Contact information for Council's employee assistance program.



Council encourages PIDs to be made in writing (whenever possible) and containing as much relevant information as available. However, a PID can be made verbally to Council.

Council's contact details are as follows:

Blackall-Tambo Regional Council
PO Box 21
Blackall Qld 4472

Email: CEO@btrc.qld.gov.au
Telephone: 07 4621 6600

Any person may choose to make a PID to an appropriate external entity rather than to Council (i.e. Crime and Corruption Commission, Queensland Ombudsman etc.). Such organisations may choose to refer the matter directly back to Council.

While anonymous PIDs can be made, Council prefers that Disclosers identify themselves as this enable the best assessment and investigation of the PID and ensures appropriate support is provided to the Discloser.

If a Discloser chooses to remain anonymous, they are asked to provide as much information as possible in their PID to enable proper assessment and investigation.

Anonymous Disclosers cannot be informed of the investigation outcome by reason of their anonymity and as a result some of the protections in the Act may not apply to anonymous Disclosers.

To ensure comprehensive and successful investigation of a perceived wrongdoing, persons making a PID are encouraged to provide all known information that might be relevant including:

- The circumstances of the incident/matter including dates, times and locations;
- The details of personnel or others involved; and
- Possible sources of additional information or evidence e.g. other people or files.

It is an offence to intentionally make false PIDs. A person who gives information to a proper authority, knowing that it is false or misleading and intending that it be acted on as a PID may face disciplinary action and criminal prosecution. Knowingly providing false or misleading information is different to providing information that turns out to be incorrect or unable to be substantiated.

The *Public Interest Disclosure Act 2010* only protects public interest disclosures that are made to a 'proper authority'. Council is a proper authority for conduct concerning the Council, a Councillor or Council employee

4.3. Deciding whether a matter is a PID

If there is any doubt as to whether a matter is a PID further information may be obtained to inform the decision. If doubt still remains the matter will be considered and managed as a PID.

Mere disagreements over policy do not meet the threshold for a PID under the PID Act.



4.4. Investigating a PID

An appropriate Authorised Officer will initially assess the PID to make a decision on how to best deal with that PID. The investigator of a PID will be separate from any workgroup that includes the discloser or subject(s) of the PID. When the allegation is serious, involves senior management or implicates a group of employees, Council will employ outside investigators in order to be objective and remove any potential conflict.

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.
- Interests of subject officers.

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.

4.5. Referring a PID

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 particular agency or an employee of that agency.
- The agency has the power to investigate or remedy the matter.

In these cases the discloser will be advised of the action taken by Council.

It may also be necessary to refer the PID to another agency because of a legislative obligation, for example, refer a matter to the Crime and Corruption Commission where there is a reasonable suspicion that the matter involves or may involve corrupt conduct. Only appropriate officers of Council are permitted to communicate with another agency about the referral of a PID as authorised by the CEO.

4.6. Declining to take action on a PID

Council may decide not to investigate or deal with a PID in various circumstances, including:

- 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.
- 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 the 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 the decision.

4.7. Rights of subject officers

Council acknowledges that for officers who are the subject of a PID, the experience may be stressful. Council will protect their rights 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
- Referring them to the employee assistance program for support.

4.8. Finalising the matter

Once the investigation has been completed the discloser and subject officer/s will be separately informed of the investigation findings and any steps taken as a result.

If a PID is substantiated, the discloser will be advised of this and of any action that will be taken in response. Actions may include one or more of the following:

- Stopping the conduct or prevent it from recurring and how that would be achieved
- Implementing or changing policies, procedures or practices
- Offering mediation or conciliation
- Taking disciplinary action against a person responsible for the conduct
- Referring the conduct to the Queensland Police Service or another person, organisation or entity that has the jurisdiction to take further action (e.g. initiating legal proceedings against those involved in criminal activity).

If a PID is not substantiated the discloser will be advised of the following:

- That Council supports them for having properly raised the matter
- Inform the discloser of the usefulness of the information in preventing such issues from arising the future
- Explain why the PID was not upheld, without breaching confidentiality
- Inform them of where they can go to complain if they believe the outcome is wrong
- Inform them of who to talk to if they are experiencing problems for having spoken up.

4.9. Reprisals

Council is committed to ensure that a Discloser does not suffer any form of reprisals as a result of making a PID. Upon receiving a PID Council 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 If a reprisal does occur Council will take all steps possible to stop the reprisal and to protect the Discloser. The action taken by Council will depend on the circumstances and seriousness of the reprisal. Any employee found to engaging in an activity that is deemed a reprisal under the Act will be subject to disciplinary action.



As per section 150AW of the *Local Government Act 2009* a Councillor must not take detrimental action against a protected person in reprisal for a complaint or notification about the Councillor's conduct.

When an Authorised Officer becomes aware of a reprisal action against a Discloser, they are to take immediate steps to ensure the protection of the Discloser and to immediately commence an investigation into the reprisal.

The reprisal is to be investigated in its own right and not part of the initial PID. The investigation is to be conducted by an officer not involved in the investigation of the initial PID and the Discloser will be informed of the progress and/or outcome of the investigation.

5. Confidentiality

Council is committed to maintaining confidentiality when handling PIDs. An intentional and unauthorized breach of confidentiality may result in disciplinary action.

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.

The Authorised Officer is to ensure that the details of the PID, the investigation and related decisions are kept secure. Council discourages Disclosers discussing their PID to colleagues or anyone other than the Authorised Person.

An employee who gains confidential information because they receive a public interest disclosure or is involved in dealing with public interest disclosures must not make a record of the information, or intentionally or recklessly disclose the information to anyone, except as permitted under the PID Act and any other legislation under which the subject matter of the disclosure is being dealt with.

The PID Act provides that confidential information may be disclosed for natural justice obligations. However, before information can be released, two conditions must be met:

- It is essential to release that information to provide natural justice. If it is possible for a subject officer(s) to answer allegations without the source of the allegations being identified, the release of information cannot be said to be essential,
- It is unlikely that a reprisal will be taken against the discloser.

The Discloser must be notified before their identity is revealed.

6. 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
- Anonymized 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 discussions will be kept secure in Council's official records system and accessible only by Council's public interest disclosure coordinators. Responsibility for creating records and for fulfilling Council's reporting obligations rests with the PID Coordinator. Council is required to provide the Public Service Commission with the following information:

- The date the disclosure was received
- Where the disclosure was referred from, if applicable (Member of Parliament, another entity)
- Public sector entity which the referral was received from
- Type of disclosure
- If a reprisal PID, details of the PID history
- Discloser type
- Discloser's location
- Subject officer type
- Subject officers location'
- Discloser's relationship to subject officer/s
- A summary of the PID
- Date initial reis assessment completed for the discloser
- If agency support officer assigned to the discloser
- Date PID assessment completed
- Assessment decision
- Grounds for decision to take no action
- Date decision to take no action communicated to the discloser
- If discloser requested a review of decision to take no action
- Basis for review request
- Date review of decision to take no action completed
- Outcome of review
- Date investigation of PID commenced
- Date investigation of PID completed
- Outcome of investigation
- If investigation discontinued, an explanation
- Resolution action taken by the entity
- Date outcome of investigation communicated to discloser.

The following optional data should be recorded and reported where practicable to do so:

- Discloser's gender, ATSI identity and language background
- Subject officer's gender, ATSI identity and language background
- Legal proceedings, appeal or complaint processes that arose during or after management of the PID
- Outcome of legal proceedings, appeal or complaint processes
- If the discloser contacted the media
- If so, at what stage of the PID management process.