

MCKINLAY SHIRE COUNCIL



Public Interest Disclosure Policy

AUTHORITY: Statutory

VERSION: 1.0

ADOPTED BY COUNCIL: 15 October 2013

REVISED: Annually

NEXT REVISION DUE: October 2014

CORPORATE PLAN REFERENCE: 1.0

1. OBJECTIVES

1.1 The objectives of this policy are:

- (a) To acknowledge Council's obligations as a Public Sector Entity as defined in the *Public Interest Disclosure Act 2010* ("**PID Act**").
- (b) To 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 provides for the correct process for Councillors and employees of McKinlay Shire Council ("**Council**") to make appropriate disclosures.

2. SCOPE

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

3. POLICY STATEMENT

3.1 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.

3.2 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.

3.3 These outcomes (including information regarding how a PID may be made) are achieved via a Public Interest Disclosure Management Plan 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.

- 3.4 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:
- (a) ensure that Public Interest Disclosures are managed appropriately in accordance with the requirements of PID ACT
 - (b) maintain confidentiality of Public Interest Disclosures received (as per S65 of PID ACT)
 - (c) 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)
 - (d) prosecute and/or take disciplinary action against any Councillor or Council employee who takes or attempts to take a reprisal action (refer SS40&41 of PID Act)
 - (e) 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)

4. DEFINITIONS

- 4.1 **Public Interest Disclosures** are broadly defined in the PID Act as being all information disclosed to a proper authority about a public interest matter referred to pursuant to s12 & s13 of the PID Act.
- 4.2 A Public Interest Disclosure can be made by any person (pursuant to S12 or the PID Act) about—
- (a) a substantial and specific danger to the health or safety of a person with a disability; or
 - (b) the commission of an offence against a provision mentioned in schedule 2* PID Act, if the commission of the offence is or would be a substantial and specific danger to the environment; or
 - (c) a contravention of a condition imposed under a provision mentioned in schedule 2* PID Act, if the contravention is or would be a substantial and specific danger to the environment; or
 - (d) the conduct of another person that could, if proved, be a reprisal.

4.3 Alternatively by a public officer (pursuant to S13) about—

- (a) the conduct of another person that could, if proved, be—
 - (i) official misconduct; or
 - (ii) maladministration that adversely affects a person's interests in a substantial and specific way; or
- (b) a substantial misuse of public resources (other than an alleged misuse based on mere disagreement over policy that may properly be adopted about amounts, purposes or priorities of expenditure); or
- (c) a substantial and specific danger to public health or safety; or
- (d) a substantial and specific danger to the environment.

4.4 Public Interest Disclosures under sections 12 & 13 PID Act must:

- (a) be made to a **proper authority** (as defined in S5 of the PID Act); and
- (b) be 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.

Notes:

*Schedule 2 of the *PID ACT* specifies particular statutory offences or contraventions involving endangering the environment.

4.5 A **proper authority** includes a public sector entity as defined by s6 of the PID Act** if the information the subject of the disclosure relates to the conduct of the entity, or the public sector entity has power to investigate or remedy.

Notes:

** a proper authority may include public sector entities such as the Crime and Misconduct Commission, the Public Service Commission, the Queensland Ombudsman, Anti Discrimination Commission or the Queensland Industrial Relations Commission, it may also include Council itself or another Government department that maintains relevant investigation and/or enforcement powers relating to the nature of the disclosure.

4.6 **Public Officers** of local governments include both Councillors and employees (including persons engaged under a contract of employment).

5. RELATED POLICIES/LEGISLATION/OTHER DOCUMENTS

Document Name	Document Type
Public Interest Disclosure Act 2010	Legislation
Public Sector Ethics Act 1994	Legislation
Local Government Act 2009	Legislation
Crime and Misconduct Act 2001	Legislation
Public Interest Disclosure Standard	Standard
Public Interest Disclosure Management Plan	Internal Plan
McKinlay Shire Council Employee Code of Conduct	Council Policy
McKinlay Shire Council Councillor Code of Conduct	Council Policy