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Public Interest Disclosure - Council Policy

Effective Date	15 May 2013
Policy Owner	Customer Support and Governance Manager
Link to Corporate Plan	Financial Sustainability
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Related Legislation	Public Interest Disclosure Act 2010 Local Government Act 2009 Public Sector Ethics Act 1994 Crime and Corruption Act 2001
Related Documents	Public Interest Disclosure (PID) Management Plan and Procedure Public Interest Standards Complaints Management - Council Policy Complaints Management SWP Investigations - Council Policy

Policy Version	Approval Date	Adopted/Approved
1	15 May 2013	Ordinary Meeting of Council
2	18 December 2013	Ordinary Meeting of Council
3	17 June 2015	Ordinary Meeting of Council
4	18 September 2019	Ordinary Meeting of Council

This policy may not be current as Council regularly reviews and updates its policies. The latest controlled version can be found in the policies section of Council's intranet or Website. **A hard copy of this electronic document is uncontrolled.**

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1. PURPOSE:

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.

To communicate the rights and obligations, and to outline a framework, within which provides for the correct process for Councillors and employees of Western Downs Regional Council ("**Council**") to make appropriate disclosures.

2. SCOPE:

This policy applies to:-

- all Councillors, Officers of Council; and
- any person (members of the public) who make a Public Interest Disclosure in accordance with the *Public Interest Disclosure Act 2010*.

3. POLICY:

By virtue of their office or position, Council recognises the important role Councillors, Council employees and members of the public can play in the disclosure of wrongdoing in the public sector that serves the public interest.

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

- i. promote the public interest by facilitating Public Interest Disclosures in Council;
- ii. encourage reporting of wrongdoing as defined in the PID Act;
- iii. ensure that Public Interest Disclosures are properly assessed, and when appropriate, properly investigated and dealt with;
- iv. ensure that appropriate support is provided to those who make a Public Interest Disclosure and appropriate consideration is given to the interests of persons who are the subject of a Public Interest Disclosure;
- v. afford protection from reprisals to persons making Public Interest Disclosures; and
- vi. if a PID is substantiated, taking appropriate action to deal with any wrongdoing.

These outcomes (including information regarding how a PID may be made) are achieved via a Public Interest Disclosure Procedure 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:

- i. ensure that Public Interest Disclosures are managed appropriately in accordance with the requirements of PID Act;
- ii. maintain confidentiality of Public Interest Disclosures received (as per section 65 of PID Act);
- iii. seek to 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 section 66 of PID Act);
- iv. seek to prosecute and will take disciplinary action against any Councillor or Council employee who takes or attempts to take a reprisal action (refer sections 40 & 41 of PID Act); and
- v. ensure that the proper records of Public Interest Disclosures received (as per section 29 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 section 65 of PID Act).

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Council's organisational commitment to the management and reporting of PID's will be demonstrated by:-

- i. encouraging and supporting PIDs as part of an ethical culture;
- ii. making arrangements for PID awareness/training for Councillors, Managers, Supervisors and staff;
- iii. the appointment of an officer/unit to be responsible for PID management;
- iv. a commitment to ensuring PID outcomes inform improvements; and
- v. providing a mechanism for regular review of PID policies and procedures.

ATTACHMENTS:

Nil.

DEFINITIONS:

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 section 12 and section 13 of the PID Act.

A Public Interest Disclosure can be made by any person (pursuant to section 12 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.

Alternatively by a public officer (pursuant to section 13) about—

- (a) the conduct of another person that could, if proved, be—
 - i. corrupt conduct; 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.

Public Interest Disclosures under sections 12 and 13 of the PID Act must:

- a. be made to a **proper authority** (as defined in section 5 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.

Examples of matters that could give rise to a valid Public Interest Disclosure

- A disclosure of information that would show corrupt conduct as defined under section 15 of the *Crime and Corruption Act 2001*;
- A disclosure of information that a person honestly believes on reasonable grounds that the information tend to show maladministration;

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- A disclosure of information that tends to show the substantial misuse of public resources regardless of whether the person honestly believes the information might display the improper use of such public resources;
- Any other disclosure in accordance with the *Public Interest Disclosure Act 2010*.

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.

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

Notes:

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

** a proper authority may include a member of the Legislative Assembly or public sector entities such as the Crime and Corruption Commission, the Public Service Commission, the Queensland Ombudsman, Queensland Human Rights 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.

REVIEW TRIGGER:

List of factors which require the policy to be reviewed eg:-

- Periodic review - biannual
- Change in legislation