



## **COUNCIL POLICY**

<b>POLICY TITLE:</b>	<b>PUBLIC INTEREST DISCLOSURE POLICY</b>
<b>POLICY NUMBER:</b>	<b>047</b>
<b>INFOPERT REF:</b>	<b>72087</b>
<b>DATE OF ADOPTION:</b>	<b>19 May 2015</b>
<b>TIME PERIOD OF REVIEW</b>	<b>1 Year</b>
<b>DATE OF NEXT REVIEW:</b>	<b>19 July 2018</b>

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### **1. OBJECTIVE**

This policy will assist the Richmond Shire Council, Management and staff by clearly outlining Council's approach to addressing a Public Interest Disclosure (PID) and to provide direction to persons contemplating making a disclosure. This policy is also intended to support other Council reporting mechanisms in relation to any alleged occurrences of wrongdoing or fraud.

The policy provides Councillors and Officers protection in accordance with the Public Interest Disclosure Act 2010, by protecting persons who disclosure unlawful, negligent or improper Council conduct, or conduct which endangers public health or safety or the environment.

### **2. SCOPE**

As a public sector entity the Richmond Shire Council is subject to the requirements of the *Public Interest Disclosure Act 2010* and all Council Employees and Elected Members are public officers for the purposes of the legislation.

Council has obligations under this Act in relation to the receiving of public interest disclosures and ensuring that persons making such disclosures are protected from reprisals.

This policy complies with the *Public Interest Disclosure Act 2010* by providing a consistent and professional response to any PID made to Council in accordance with the Act. At Section 7 of the Act a "public officer" is defined "as an employee, member or officer of the entity". So there can be no confusion, in this policy the term public officer applies to Councillors and Officers of Council.

In addition, the policy is intended to ensure all elected members and Council employees are aware of their responsibilities by reporting serious misconduct and other important matters adversely affecting the public interest or Council operations.

### **3. ROLES AND RESPONSIBILITIES**

Council as an organisation is responsible for ensuring that appropriate measures are in place to support persons who disclose unlawful, negligent or improper public sector conduct or danger to public health or safety or the environment.

The CEO, Directors and Managers are responsible for the implementation and support for this policy and associated procedures.

Employees are responsible for the detection and reporting of fraud or wrongdoing both within their areas of responsibility or where they witness or observe activity they reasonably consider would constitute reportable behaviour under this policy.

### **4. TYPES OF REPORTABLE CONDUCT**

The disclosure of reportable conduct includes:

- corrupt conduct
- maladministration
- negligent or improper management of public funds
- an act which endangers public health or safety or the environment.

The disclosure may concern the conduct of any councillor, staff member or anyone contracting to supply goods or services to council.

### **5. DISCLOSURE PROCESS**

If you wish to make a PID, the Councils preferred approach is that you contact the CEO immediately. Alternately, you can make your disclosure to a Director, Manager or your supervisor, the Crime and Corruption Commission if it concerns misconduct, the Ombudsman if it concerns maladministration or a waste of public funds. If somebody makes a PID to you (as a public officer of Council), the preferred approach is to contact your Manager or Director immediately. If it is in regards to a Councillor, contact the Mayor or CEO.

You should disclose anything you think may be a PID. You do not need proof, as long as you have reasonable grounds to believe that it has occurred.

Where possible, be prepared to give information on:

- a) the name, job title and workplace address of the person the subject of your disclosure
- b) details of relevant events, dates and places
- c) the names of people who may be able to back up what you say
- d) any other evidence that supports your view.

Your disclosure can be made in writing or orally and anonymously if you desire. Where an employee receives an oral PID they should request the discloser to put the details in writing. If they are unable or unwilling to do so the employee receiving the PID should document it and ask the discloser to confirm the contents before signing it.

If circumstances (eg telephone caller who remains anonymous) prevent this occurring, the officer receiving the PID should record the date, time and circumstances of the PID. It should then be forwarded to the CEO.

If you wish to make a disclosure to Council please use the following details:

**By email:** ceo@richmond.qld.gov.au

**By letter:** The Chief Executive Officer  
Richmond Shire Council  
PO Box 18  
RICHMOND QLD 4670

**By phone:** (07) 4741 3277

If you wish to make a complaint in person, please phone first for an appointment. If the PID concerns the CEO it should be made to the Mayor.

## **6. WHAT SUPPORT AND PROTECTION IS AVAILABLE TO ME IF I MAKE A PUBLIC INTEREST DISCLOSURE?**

Council will treat all PID's appropriately, take your concerns seriously and ensure your privacy and confidentially (as far as possible) throughout the appropriate process. You can also be confident of protection against reprisal and bullying and that you will be provided with assistance in contacting the OnBundock Service if you wish to do so.

For more information on how to make a public interest disclosure read "Thinking About Blowing the Whistle: a guide for individuals working in the public sector", which is available from the CCC, QLD Ombudsman and Public Service Commission websites.

For those making a PID, Section 36 of the *Public Interest Disclosure Act 2010* states that a person is not liable civilly, criminally or under an administrative process for making a PID or because of a belief that an employee has made or may make a PID in accordance with the *Public Interest Disclosure Act 2010*.

If you make a disclosure, you are reminded that the matters surrounding the investigation will be confidential and you are requested to maintain the integrity of the process by not discussing it with your work colleagues or others unconnected with this matter. All statements and correspondence in regard to the matter should be regarded as strictly confidential. Please note that the confidentiality provision will not preclude you from sharing this information with your Union representative/support person.

Where required, interpreters or other assistance will be provided to employees or other persons wanting to report misconduct, official misconduct or make a PID.

## **7. WHAT SUPPORT AND PROTECTION IS AVAILABLE TO ME IF SOMEONE MAKES A PUBLIC INTEREST DISCLOSURE AGAINST ME?**

The department is determined to treat disclosures appropriately. The rights of any person who is the subject of, or is in some way associated with a disclosure are important, and as a person against whom a PID is made, you are entitled to confidentiality and the presumption of innocence.

Employees who are the subject of an allegation may seek assistance from their legal representative or union. Employees may also utilise the services of the OnBundock for advice and counselling. This service is a confidential counselling and support to staff through stressful times.

Protection exists for those against whom an intentionally false PID is made. It is an offence under Section 66 of the Public Interest Disclosure Act 2010, punishable by up to two years imprisonment, to intentionally make a false or misleading statement intending it to be acted upon as a PID.

## **6. INVESTIGATION PROCESS**

To ensure the integrity of the investigation process for public interest disclosures, the council will at all times during the investigation of public interest disclosures:

- preserve confidentiality;
- follow approved processes to manage public interest disclosures and to protect staff from reprisals;
- deal decisively with reprisal and possible reprisal;
- record disclosures;
- verify disclosures;
- provide training to staff in the management of public interest disclosures; and
- provide reasonable information to the discloser on the results of the investigation.

All disclosures made under the Act will be investigated by the Public Interest Disclosures Investigation Officer.

## **7. REPORT TO THE DISCLOSER**

The council is committed to making the practice of corporate compliance and ethical conduct an integral part of its culture. To further encourage this, the council will provide the Discloser with feedback on the outcome of the investigation and action taken.

## **8. PROTECTION OF THE DISCLOSER**

A Discloser is not protected under the Act if the disclosure involves any wrongdoing on the part of the Discloser.

The council recognises that the Discloser may not wish to be identified during the course of an investigation. In such circumstances, the council will do everything possible to protect their identity and will not disclose it without their consent except as required by law. If it proves impossible to resolve the matter without revealing the identity of the Discloser, the Public Interest Disclosures Investigations Officer will discuss with them whether and how council will

proceed with the matter, which may include relocating them to another position within council or a leave of absence during the investigation.

The Chief Executive Officer may intervene directly to protect the Discloser and take immediate action to deal with suspected reprisal.

## 9. CONFIDENTIALITY

Strict confidentiality is to be maintained at all times in relation to reporting and investigation of PIDs. All Council records of PID's will be held and securely filed in a discrete area of Council's Corporate Record Section.

## 10. REPRISAL

If a person making a PID has concerns about reprisal being taken against them because of the disclosure, under the Public Interest Disclosure Act 2010, the person can be given special protection to prevent this occurring.

If you feel as though you have been disadvantaged or subjected to a reprisal for making a disclosure, you should raise the issue with the CEO. Section 40 of the Public Interest Disclosure Act 2010 makes it an offence for an employee to take reprisal because of a belief that another person has made, or intends to make a Public Interest Disclosure.

## 11. DEFINITIONS

**Discloser** is a person who makes a public interest disclosure in accordance with the Act. A discloser may or may not wish to remain anonymous.

**Public interest disclosure** is disclosure of public interest information covering unlawful, negligent or improper conduct, or substantial misuse of public resources, or information about a substantial or specific danger to public health or safety or the environment.

**Public Interest Disclosures Investigation Officer** is the council officer designated by the Chief Executive Officer who is responsible for the management and conduct of investigations into public interest disclosures.

**Reportable conduct** is conduct by a person or persons connected with council which is:

- dishonest
- fraudulent
- corrupt
- illegal (including theft, drug sale/use, violence or threatened violence and criminal damage against property)
- a breach of legislation or local laws
- unethical (either a breach of council's Code of Conduct for Staff or generally)
- serious improper conduct
- unsafe work practices
- conduct which may cause financial or non-financial loss to the council or be otherwise detrimental to the interests of the council
- gross mismanagement
- serious or substantial waste or
- repeated instance of breach of administrative procedures.

**Reprisal** occurs when a person attempts to cause, or causes detriment to anybody because of a belief that a person intends to or has made a public interest disclosure.

**Staff** includes councillors, employees, volunteers and all others who perform work on behalf of council.

**Subject officer** is the person about whom the public interest disclosure is made.

## **12. REFERENCES**

Local Government Act 2009

Public Sector Ethics Act 1994

Disability Services Standards

Public Interest Disclosure Act 2010

Crime and Corruption Act 2001

Integrity Act 2009

## **18. IMPLEMENTATION**

This Policy will commence from the Approval Date (see Section 19). This Policy replaces all other Public Interest Disclosure Policies of Richmond Shire Council (whether written or not).

This Policy will be made available to all corporate staff on Council's intranet site/network, and to all outdoor staff at the Depot and via their supervisor/coordinator. Council reserves the right to vary, replace or terminate this Policy from time to time. This Policy will typically be reviewed if related Policies/Procedures or references change, or when legislative requirements change.

## **19. APPROVAL**

Approved by the Chief Executive Officer as follows:

Peter Bennett

17 July 2018.