

	Function: GOVERNANCE	Adopted: 5 th June 2019 Resolution No.: C144:0619
	Policy Number: GOV025	Last Review: 4 th July 2021 Resolution No.: C246:0821
	Version Number: 2.1	Next Review: July 2022
PUBLIC INTEREST DISCLOSURE POLICY		

Policy Statement

1. Introduction

- 1.1. Copper Coast Council (Council) is committed to its obligations to act as a representative, informed and responsible public authority. The Council supports its officers, employees and elected members to uphold the values of honesty, integrity, accountability and transparency, for the purposes of fostering community confidence and trust in the Council specifically, but also in Local Government generally.
- 1.2. Council encourages and facilitates disclosure of certain information in the public interest for making and dealing with such disclosures and by providing protection for persons making such disclosures; and for other purposes. the making of a Disclosure that reveal public interest information in accordance with the *Public Interest Disclosure Act 2018* (PID Act), Council's *Public Interest Disclosure Policy* (Policy) and Council's *Public Interest Disclosure Procedure* (Procedure).

2. Scope

- 2.1. This Policy applies to appropriate Disclosures of Public Interest Information that are made in accordance with the *PID Act*, by public officers including Council Members, Officers and Employees of the Council, and by members of the public and is intended to complement the reporting framework under the *Independent Commissioner Against Corruption Act 2012* (ICAC Act).
- 2.2. Council recognises its responsibilities under the Act, not only to support persons who make an appropriate Disclosure of public interest information, but also to those persons to whom the information relates and the relevant authority to whom the disclosure is made.

3. Council Commitment

- 3.1. Council is committed to:
 - 3.1.1. Upholding the principles of transparency and accountability in its administrative and management practices;
 - 3.1.2. Properly fulfils its responsibilities under the *PID Act*;
 - 3.1.3. Encourage and facilitate Disclosures of public interest information in accordance requirements of the *PID Act*;
 - 3.1.4. Ensure there is appropriate oversight of public interest disclosures about corruption, misconduct and maladministration in public administration;
 - 3.1.5. Supporting and protecting Informants, the Responsible Officer and, as appropriate, those Public Officers affected by any appropriate Disclosure;
 - 3.1.6. Undertake genuine and efficient consideration and action in relation to information provided in a public interest Disclosure;

3.2. Council is also committed to:

- 3.2.1. Referring appropriate Disclosures to another Relevant Authority;
- 3.2.2. Report the Disclosure directly to the Office for Public Integrity (OPI) in accordance with the *ICAC Act*, where a Disclosure relates to Corruption, or serious or systemic Misconduct or Maladministration in public administration;
- 3.2.3. Otherwise facilitating the investigation of appropriate Disclosures in a manner which promotes fair and objective treatment of those involved; and
- 3.2.4. Rectifying any substantiated wrongdoing to the extent practicable in all the circumstances.

4. Applicable Legislation

- 4.1. This Policy is a mandatory requirement under the Local Government Act 1999.
- 4.2. The following legislation applies to this Policy:
 - 4.2.1. Local Government Act 1999
 - 4.2.2. Public Interest Disclosure Act 2018
 - 4.2.3. Independent Commissioner Against Corruption Act 2012
 - 4.2.4. Criminal Law Consolidation Act 1935

5. Integration with Council Objectives

- 5.1. This Policy supports Council's Strategic Plan 2019 - 2029:
Governance Objective – Leadership
To provide leadership and ensure resources are managed efficiently and effectively.
- 5.2. This Policy is also designed to complement the existing communication channels within Council, and operate in conjunction with other existing policies, including:
 - 5.2.1. Fraud, Corruption, Misconduct and Maladministration Prevention Policy;
 - 5.2.2. Internal Review of Council Decision Policy
 - 5.2.3. Code of Conduct for Council Employees;
 - 5.2.4. Code of Conduct for Council Members; and
 - 5.2.5. Code of Conduct for Volunteers.

6. Definitions

For the purposes of this Policy the following definitions apply:

- 6.1. **CEO** means Chief Executive Officer
- 6.2. **Commissioner** means the person holding or acting in the office of the Independent Commissioner Against Corruption.
- 6.3. **Corruption in public administration** under section 5 (1) of the *ICAC Act* and means:
 - 6.3.1. An offence against Part 7 Division 4 (Offences relating to public officers) of the *Criminal Law Consolidation Act 1935*, which includes offences:
 - (a) Bribery or corruption of public officers;
 - (b) Threats or reprisals against public officers;
 - (c) Abuse of public office;
 - (d) Demanding or requiring benefit on basis of public office;
 - (e) Offences relating to appointment to public office; or

- 6.3.2. An offence against the Public Sector (Honesty and Accountability) Act 1995 or the Public Corporations Act 1993, or an attempt to commit an offence; or
- 6.3.3. An offence or attempt to commit, against the *Lobbyists Act 2015*; or
- 6.3.4. Any other offence (including an offence against Part 5 (Offences of dishonesty) of the *Criminal Law Consolidation Act 1935*) committed by a public officer while acting in his or her capacity as a public officer or by a former public officer and related to his or her former capacity as a public officer, or by a person before becoming a public officer and related to his or her capacity as a public officer, or an attempt to commit such an offence; or
- 6.3.5. Any of the following in relation to an offence:
 - (a) Aiding, abetting, counselling or procuring the commission of the offence;
 - (b) Inducing, whether by threats or promises or otherwise, the commission of the offence;
 - (c) Being in any way, directly or indirectly, knowingly concerned in, or party to, the commission of the offence;
 - (d) Conspiring with others to effect the commission of the offence
- 6.4. **Council** means Copper Coast Council.
- 6.5. **Detriment** includes injury, harm (including psychological harm), damage (including damage to reputation) or loss; intimidation or harassment; discrimination, disadvantage or adverse treatment in relation to a person's employment; and/or threats of reprisal, which may be express or implied and/or conditional or unconditional.
- 6.6. **Directions and Guidelines** is a reference to the Directions and Guidelines issued pursuant to section 20 of the *ICAC Act* and/or section 14 of the *PID Act*, which are available on the Commissioner's website (www.icac.sa.gov.au).
- 6.7. **Disclosure** means an appropriate disclosure of public interest information made by an Informant to a Relevant Authority.
 - 6.7.1. A person makes an appropriate disclosure of environmental and health information if:
 - (a) The person 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; and
 - (b) The disclosure is made to a Relevant Authority.
 - 6.7.2. A person makes an appropriate disclosure of public administration information if:
 - (a) The person is a public officer and reasonably suspects that the information raises a potential issue of corruption, misconduct or maladministration in public administration; and
 - (b) The disclosure is made to a Relevant Authority.
- 6.8. **Employee** refers to all the Council's employees, whether they are working in a full-time, part-time or casual capacity.

- 6.9. **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.
- 6.10. **Fraud** includes an intentional dishonest act or omission done with the purpose of deceiving.
- 6.11. **ICAC Act** is the *Independent Commissioner Against Corruption Act 2012*.
- 6.12. **Independent Assessor** means the person designated by the Responsible Officer as being responsible for investigating a disclosure made to Copper Coast Council in accordance with the *Public Interest Disclosure Procedure*.
- 6.13. **Informant** means a person who makes an appropriate disclosure of public interest information to a Relevant Authority.
- 6.14. **Maladministration in public administration** under section 5(4) of the *ICAC Act*, means
- 6.14.1. 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
 - 6.14.2. Conduct of a public officer involving substantial mismanagement in or in relation to the performance of official functions; and
 - 6.14.3. Includes conduct resulting from impropriety, incompetence or negligence; and
 - 6.14.4. Is to be assessed having regard to relevant statutory provisions and administrative instructions and directions.
- 6.15. **Misconduct in public administration** under section 5(3) of the *ICAC Act*, means:
- 6.15.1. Contravention of a code of conduct by a public officer while acting in his or her capacity as a public officer that constitutes a ground for disciplinary action against the officer; or
 - 6.15.2. Other misconduct of a public officer while acting in his or her capacity as a public officer.
- 6.16. **Office for Public Integrity (OPI)** is the office established under the *ICAC Act* that has the function to:
- 6.16.1. Receive and assess complaints about public administration from members of the public;
 - 6.16.2. Receive and assess reports about corruption, misconduct and maladministration in public administration from the Ombudsman, the Council and public officers;
 - 6.16.3. Refer complaints and reports to inquiry agencies, public authorities and public officers in circumstances approved by the Commissioner or make recommendations as to whether and by whom complaints and reports should be investigated;
 - 6.16.4. Give directions or guidance to public authorities in circumstances approved by the Commissioner;
 - 6.16.5. Perform other functions assigned to the Office by the Commissioner.
- 6.17. **Public administration** defined at section 4 of the *ICAC Act* and, without limiting the acts that may comprise public administration, an administrative act within the meaning of the *Ombudsman Act 1972* will be taken to be carried out in the course of public administration.

- 6.18. **Public administration information** means information that raises a potential issue of corruption, misconduct or maladministration in public administration.
- 6.19. **Public interest information** means environmental or health information, or public administration information.
- 6.20. **PID Act** means the *Public Interest Disclosure Act 2018*.
- 6.21. **Principal Officer** for the purposes of the *PID Act* means the *CEO* of the Council.
- 6.22. **Public Officer** has the meaning given by section 4 and Schedule 1 of the *ICAC Act*, and includes a Council member; and an employee or officer of the Council;
- 6.23. **Relevant Authority** means the person or entity that receives an appropriate disclosure of public interest information in accordance with the *PID Act*, as set out in *Appendix A* to this Policy.
- 6.24. **Responsible Officer** is a person who has completed any training courses approved by the Commissioner for the purposes of the *PID Regulations 2019* and has been designated by the Council as Responsible Officer under section 12 of the *PID Act*.
- 6.25. **Victimisation** 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. Confidentiality

- 7.1. The *PID Act* establishes a scheme to facilitate the appropriate Disclosure of public interest information to a relevant authority.
- 7.2. Informant's identity will be maintained confidential in accordance with the *PID Act*.
- 7.3. The recipient of a Disclosure may only divulge the identity of an Informant where:
 - 7.3.1. The recipient believes on reasonable grounds that it is necessary to divulge the identity of the Informant in order to prevent or minimise 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 minimise the imminent risk of serious physical injury or death to any person;
 - 7.3.2. The recipient has been issued with a notice from the OPI advising that the identity of the Informant is required by the OPI, in which case the recipient must disclose the identity of the Informant to the OPI;
 - 7.3.3. Doing so is necessary for the matter to be properly investigated (but only to the extent necessary to ensure proper investigation); or
 - 7.3.4. The Informant may wish to remain anonymous, but in that event must ensure that the allegation is sufficiently supported by the provision of necessary details and evidence to enable the matter to be properly investigated.
 - 7.3.5. The Informant consents to his/her identity being disclosed.
- 7.4. The *PID Act* does not expressly require any other information relating to a Disclosure (including, for example, the nature of the allegations) to be maintained as confidential, but in considering whether to further disclose other information provided as part of an appropriate Disclosure the Council should be mindful of the prohibition against Victimisation in the *PID Act*.

8. Disclosure Process

8.1. A Disclosure may be made to the Council's designated Responsible Officer in person, by telephone or in writing (post, email or website). The relevant contact details are:

Telephone	(08) 8828 1200
Email	info@coppercoast.sa.gov.au
Address	Confidential - Responsible Officer, Public Interest Disclosure PO Box 396, KADINA SA 5554

8.2. A Disclosure can also be made to a Relevant Authority external to the Council (eg the Ombudsman or the OPI). This is a choice to be made by the Informant.

8.3. Disclosures are to be handled by Council in accordance with the *PID Procedure*.

9. Role and Responsibilities

9.1. The Principal Officer is responsible for:

9.1.1. Ensuring that one or more appropriately qualified officers or employees of the Council are designated as Responsible Officers of Council for the purposes of the *PID Act*.

9.1.2. The Principal Officer is required to ensure:

9.1.2.1. Responsible Officers undertake training as required by the *PID Regulations*;

9.1.2.2. Responsible Officers names and addresses are made available to officers and employees of Council;

9.1.2.3. Council members are informed (if warranted) without impacting the investigation and finalisation of the Disclosure; and

9.1.2.4. A review of this Policy and *PID Procedure* is undertaken in accordance with the requirements of the *PID Act*.

9.2. The Responsible Officer is responsible to receive appropriate Disclosures, undertake investigation, make appropriate recommendations, and provide advice in relation to the compliance and administration of the *PID Act*, this Policy and as detailed in the *PID Procedure*.

9.3. A Council member, employee or officer of the Council is responsible at all times to comply with the *PID Act*, this Policy and *PID Procedure* when dealing with a Disclosure; and immediately refer Disclosures 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 the Responsible Officer.

10. Protection for the Informant

10.1. An Informant who makes an appropriate Disclosure is protected by:

10.1.1. Immunity from criminal or civil liability under section 5(1) of the *PID Act*;

10.1.2. A prohibition on disclosure of his/her identity under section 8 of the *PID Act*;

10.1.3. A prohibition against Victimisation under section 9 of the *PID Act*; and

10.1.4. A prohibition against hindering, obstructing or preventing an Informant from making an appropriate Disclosure under section 11 of the *PID Act*.

- 10.2. The *PID Act* does not provide any protection to persons who knowingly make Disclosures that are false or misleading in a material particular (whether by reason of the inclusion or omission of a particular) and may be prosecuted.
- 10.3. A person who personally commits an act of Victimisation against an Informant is guilty of an offence and may be prosecuted.
- 10.4. The Council will take action as appropriate in the circumstances of the relevant Disclosure/s to protect Informants from Victimisation. Such action may include acting in accordance with the risk minimisation steps set out in the *PID Procedure* and/or referring the matter to the SA Police.
- 10.5. Any Council Member or employee or officer of the Council who knowingly makes a disclosure that is false or misleading in a material particular; or commits an act of Victimisation in relation to an Informant; or
- 10.5.1. Acts otherwise than in accordance with this Policy and the *PID Procedure* (including with respect to divulging the identity of an Informant) in relation to a Disclosure may also face disciplinary action by the Council or the CEO (as appropriate).

11. Adoption and Review

- 11.1. This Policy shall be reviewed every four (4) years, or more frequently, if legislation or Council requires by Executive Services and a report provided to Council for consideration and adoption.

12. Records Management

- 12.1. All documents, notes, photographs and correspondence must be retained and stored in accordance with Council's adopted *Records Management Policy* as required by section 125 of the *Local Government Act 1999*.

13. Availability of Policy

- 13.1. This Policy will be available for inspection without charge at the Council's Principal Office during normal business hours and via the Council's website www.coppercoast.sa.gov.au
- 13.2. A copy of this Policy may be obtained on payment of a fee in accordance with the Council's Schedule of Fees and Charges.

Signed	 _____ Mayor	 _____ Chief Executive Officer
Date	5 th August 2021 _____	

Appendix A

Relevant Authorities

Where the information relates to...	the relevant authority is...
a public officer* *as defined and set out in Schedule 1 of the <i>Independent Commissioner Against Corruption Act 2012</i> - relevantly, this includes members, officers and employees of local government bodies	either: - the person who is designated by the Guidelines as being taken to be responsible for management or supervision of the public officer; or - the person who is in fact responsible for the management or supervision of the public officer; or - the relevant responsible officer (as designated by the Council in accordance with section 12 of the PID Act)
a public sector agency or public sector employee	either: - the Commissioner for Public Sector Employment; or - the responsible officer for the relevant public sector agency
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 ¹	an authority declared by the regulations to be a relevant authority in relation to such information
public interest information - being: - 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 - public administration information (information that raises a potential issue of corruption, misconduct or maladministration in public administration)	- the OPI; - a Minister of the Crown; or - any other prescribed person or person of a prescribed class

¹ at this stage, no prescribed persons or classes have been identified