

PUBLIC INTEREST DISCLOSURE OPERATING GUIDELINE

11 April 2022

Legislative

PARENT DOCUMENT: *Public Interest Disclosure Act 2018*

PURPOSE

This Operating Guideline has been prepared in accordance with the requirements of section 12(4) and (5) of the *Public Interest Disclosure Act 2018* (**PID Act**). This Operating Guideline provides information for a person who wants to make an appropriate disclosure of public interest information to a Relevant Authority at the Council for the purposes of the PID Act. Furthermore, the Operating Guideline provides guidance for City of Adelaide Elected Members, officers and employees in receiving and managing such disclosures.

The Principal Officer's (the **CEO**) intent in preparing this Operating Guideline, in the implementation and operation of the PID Act, is to encourage and facilitate further transparency and accountability in City of Adelaide's administrative and management practices, and to encourage the disclosure of public administration information.

There are two types of public interest information –

- a) **Environment and health information**, which 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; and
- b) **Public administration information**, which means information that raises a potential issue of corruption, misconduct or maladministration in public administration.

OPERATION

APPLICATION OF THIS DOCUMENT

City of Adelaide is committed to:

- The protection of informants who make a disclosure of public interest information;
- The genuine and efficient consideration of disclosures of public interest information;
- Referring, as necessary, appropriate disclosures to another [Relevant Authority](#);
- reporting the disclosure directly to the Office for Public Integrity (**OPI**) in accordance with the Guidelines prepared by the Commission under section 14 of the PID Act, as well as the reporting obligations of public officers under the *Independent Commissioner Against Corruption Act 2012* (the **ICAC Act**) and the *Ombudsman Act 1972* (the **Ombudsman Act**);
- Facilitating the investigation (where necessary) of appropriate Disclosures in a manner which promotes fair and objective treatment of those involved; and
- Rectifying any substantiated wrongdoing to the extent practicable in all circumstances.

RESPONSIBLE OFFICER

Pursuant to section 12(1) of the PID Act, the Chief Executive Officer (the **CEO**), as Principal Officer under that Act, must ensure that 1 or more officers or employees are designated as responsible offices and complete any training courses approved by the Commissioner for the purposes of the *Public Interest Disclosure Regulations 2019*.

The Responsible Officers below have undertaken the relevant training to assist members of the public and public officers in making disclosures of public interest information to a relevant authority, and in carrying out the functions as required under the PID Act.

Any person wishing to make a disclosure under the PID Act can do so on a confidential basis, subject to the provisions under section 8 of the PID Act and the Guidelines prepared by the Commission, to any of the following **Responsible Officers** in person, over the telephone or in writing.

Mick Petrovski, Manager Governance	8203 7119	M.Petrovski@cityofadelaide.com.au
Jess Dillon, Team Leader, Corporate Governance	8203 7168	J.Dillon@cityofadelaide.com.au
Jenny McFeat, Team Leader, Council Governance	8203 7447	J.McFeat@cityofadelaide.com.au
Janet Crook, Advisor, Legal Governance	8203 7632	J.Crook@cityofadelaide.com.au

ROLE AND RESPONSIBILITIES

Role of Responsible Officers:

- Receive appropriate disclosures of public interest information from members of the public, or public officers, and ensure compliance with the PID Act in handling the information, including provisions to protect the informant and meeting legislative timelines (defined in the CoA Work Instruction);
- Make recommendations to the CEO in relation to dealing with disclosures, including any suggested changes to this Operating Guideline;
- Provide advice to Council Members, employees or officers in relation to receiving appropriate disclosures of public interest information, and their obligations under the PID Act;
- Monitoring public interest information and receiving disclosures securely, on a confidential basis, over the telephone or by email, and storing that information in a TRIM location restricted to Responsible Officers;
- Complete Responsible Officer training approved by the Commissioner for the purposes of the *Public Interest Disclosure Regulations 2019*.

Role of the Principal Officer (CEO)

- Ensuring that one or more appropriately qualified officers or employees of the Council are designated as Responsible Officers of the Council for the purposes of the PID Act, who must undertake any training as required by the *Public Interest Disclosure Regulations 2019*;

- Ensuring that the name and contact details of each Responsible Officer of the Council are made available to officers and employees of the Council;
- As a matter of discretion, inform Elected Members on a confidential basis of the fact that an investigation of a disclosure has taken place and the outcome of that investigation.
- Factors that the CEO will take into account in determining whether to inform Elected Members, and the level of detail provided, include:
 - whether the informant has consented to their identity being divulged;
 - if applicable, the identity of a person the subject of the disclosure;
 - any impact of the investigation upon the Council's achievement of its objectives under its Strategic Plan or policies; and
 - the impact of any action taken to finalise the matter on Council's operations or budget.
- Where a disclosure or subsequent investigation process is related to Council employees and human resource processes, Elected Members will not be informed of the disclosure and/or investigation as these matters fall outside the roles and responsibilities of Elected Members under the *Local Government Act 1999*.

Role of Public Officers – City of Adelaide Elected Members, officers and employees

- Always handle information of this nature on a confidential basis and contact a Responsible Officer as soon as practicable for guidance on the recipient of a disclosure in the first instance;
- Comply with this Operating Guideline when dealing with any disclosure that may be received from a member of the public;
- Immediately refer any disclosure of public interest information made to them by a public officer, or a member of the public, to the Responsible Officer, noting the requirements to keep the name of the informant confidential in accordance with section 8 of the PID Act and the Guidelines;
- Where the public officer forms a reasonable suspicion that the disclosure involves corruption, misconduct or maladministration in public administration, the public officer must comply with any reporting obligations that may exist under the ICAC Act or the Ombudsman Act.

See the [CoA Work Instruction](#) for the process to follow if a Public Officer receives a disclosure.

PROTECTIONS OF THE INFORMANT

An informant who makes an appropriate disclosure of public interest information to a relevant authority is entitled to:

- a protection from the disclosure of their identity, subject to the operation of section 8 of the PID Act and the Guidelines (see Informant Confidentiality below);
- immunity from criminal or civil liability;

- protection against victimisation; and
- a prohibition against hindering, obstructing or being prevented from making an appropriate disclosure.

If a public officer (City of Adelaide Elected Member, officer or employee):

- knowingly makes a disclosure that is false or misleading;
- commits an act of victimisation in relation to an Informant;
- acts otherwise than in accordance with this Operating Guideline in relation to a disclosure

may also face disciplinary action by the Council or the Chief Executive Officer.

The PID Act does not provide any protections to persons who knowingly make a false or misleading disclosures. A person who knowingly makes a disclosure that is false or misleading in a material particular is guilty of an offence and may be prosecuted.

INFORMANT CONFIDENTIALITY

The informant is entitled to withhold consent to their identity being disclosed in the receipt and handling the disclosure.

The recipient of a disclosure may only divulge the identity of an informant in accordance with section 8 of the PID Act, and the Guidelines, and to the extent required, where:

- 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 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 harm; or
- the recipient has been issued with a notice from the OPI advising that the identity of the informant is required by the OPI; or
- it is necessary to divulge the identity of the informant to ensure that the matters to which the information relates are properly investigated.

DISCLOSURE TYPE

For an informant to be afforded the protections under the PID Act, an appropriate disclosure of public interest information must be made to a relevant authority.

Public Interest Information means:

- **Environment and health information** – being 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** - being information that raises a potential issue of corruption, misconduct or maladministration in public administration

A person makes an **appropriate disclosure of environmental and health information** if:

- 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
- the disclosure is made to a Relevant Authority (for example, a Responsible Officer, Elected Member, employee or officer of the Council).

Any member of the community, or a public officer, can make a disclosure of environmental and health information pertaining to a location within the Council area.

A person makes an **appropriate disclosure of public administration information** if:

- 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
- the disclosure is made to a Relevant Authority (for example, City of Adelaide Elected Member, officer, or employee).

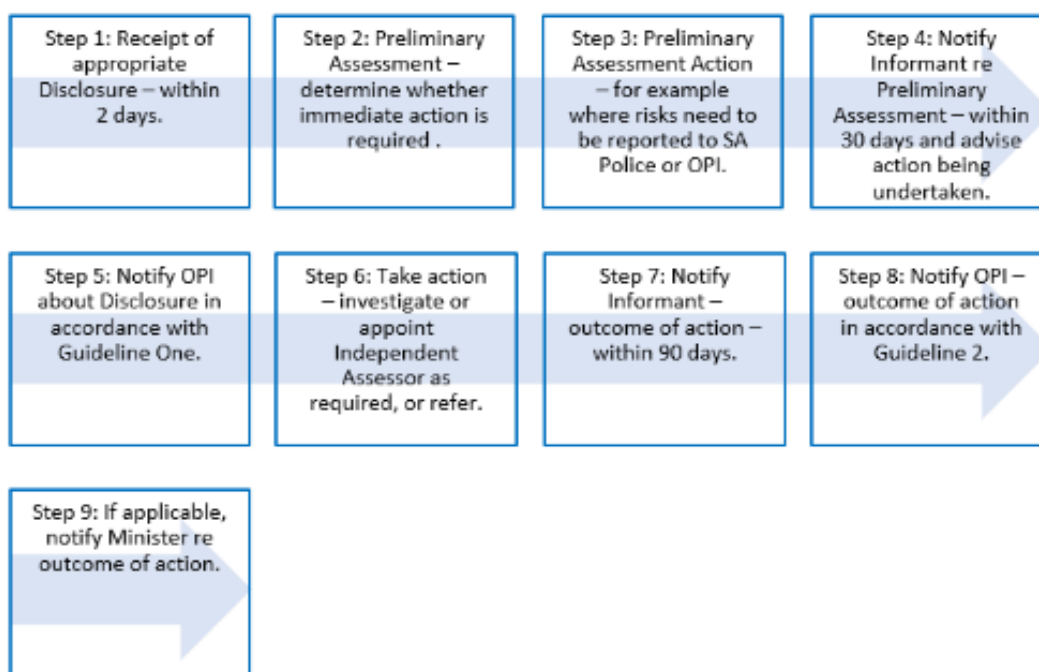
Only a public officer who makes a disclose of public administration is afforded the protections under the PID Act.

The Council will not be responsible for investigating disclosures of public administration information (being information that raises a potential issue of corruption, misconduct or maladministration in public administration) in the absence of a direction or referral to do so from the Director of the OPI or the Ombudsman.

DISCLOSURE PROCESS

When a disclosure is received by a relevant authority at the Council, to ensure the informant receives the protections afforded under the PID Act, the disclosure process is outlined in Table 1 and detailed in the [CoA Work Instruction](#).

Table 1. Relevant Authority Disclosure Process



OTHER REPORTING OPTIONS

Nothing in this Operating Guideline prevents a person from making a disclosure to another relevant authority, including a relevant authority external to the Council. This is a choice to be made by the Informant at their discretion

This may include:

- the OPI – where information relates to corruption in public administration;
- the Ombudsman – where the information relates to maladministration or misconduct in public administration, or where the information relates to an agency to which the Ombudsman Act applies;
- the South Australian Police (SAPOL) – where information relates to fraud or corruption, or to the commission, or suspected commission, of any other offence.

In certain circumstances, a disclosure may be referred to another relevant authority (defined under section 5(5) of the PID Act) for receipt and action. This may include, but is not limited to:

- the Commissioner for Public Sector Employment – where information relates to a public sector agency or public sector employee; or
- the Environment Protection Authority (EPA) – where the information relates to a risk to the environment; or
- the Auditor-General – where the information relates to an irregular and unauthorised use of public money or substantial mismanagement of public resources.

OTHER USEFUL DOCUMENTS

Related documents

- Public Interest Disclosure Guidelines, Commissioner, 1 July 2019
- Code of Conduct for Council Employees
- Code of Conduct for Council Members
- Corporate Complaints Handling Operating Guidelines
- [CoA Work Instructions](#)

Relevant legislation

- *Public Interest Disclosure Act 2018* and *Public Interest Disclosure Regulations 2019*
 - *Independent Commissioner Against Corruption Act 2012*
 - *Ombudsman Act 1972*
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GLOSSARY

Throughout this document, the below terms have been used (and are consistent with the definitions as contained under [PID Act](#), the [ICAC Act](#) and the Ombudsman Act).

Disclosure: means an appropriate disclosure of public interest information made by an informant to a relevant authority in accordance with the PID Act.

Relevant Authority: means the person or entity that receives an appropriate disclosure of public interest information in accordance with the PID Act.

Informant: means a person who makes an appropriate disclosure of public interest information to a relevant authority.

Public Officer: means a Council Member, an employee or officer of the Council, in accordance with section 4, Schedule 1 of the ICAC Act.

Corruption in public administration: is defined in [section 5\(1\) of the ICAC Act](#).

Misconduct in public administration: is defined in [4 of the Ombudsman Act](#).

Maladministration in public administration: is defined in [4 of the Ombudsman Act](#).

ADMINISTRATIVE

As part of the Council's commitment to deliver the City of Adelaide Strategic Plan, services to the community and the provision of transparent information, all policy documents are reviewed as per legislative requirements or when there is no such provision a risk assessment approach is taken to guide the review timeframe.

This Policy document will be reviewed every **3** years unless legislative or operational change occurs beforehand. The next review is required in **January 2025**.

Review history:

Trim Reference	Authorising Body	Date/ Decision ID	Description of Edits
ACC2022/11862	Chief Executive Officer	11 April 2022	Review and amendments to reflect updated Legislative changes
ACC2019/117624	Chief Executive Officer	30 July 2019	Commencement.

Contact:

For further information contact the Governance Program.

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