Public Interest Disclosure Policy

Strategic Reference	Outcome 5 – Leadership Strategy 3.1 – Council is an organisational leader, reinforcing our position as a leading local government body. Strategy 3.5 – Council reports openly and transparently on its performance. Strategy 3.6 – Council staff and Council Members act with integrity and accountability
File reference	AR19/14159
Responsibility	Chief Executive Officer
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Applicable Legislation	Criminal Law Consolidation Act 1935 Independent Commissioner Against Corruption Act 2012 Local Government Act 1999 Ombudsman Act 1972 Public Interest Disclosure Act 2018
Related Policies	Fraud, Corruption, Misconduct and Maladministration Prevention Policy Code of Conduct for Council Employees Behavioural Management Policy – Council Members Internal Review of Council Decisions Procedure
Related Documents	Public Interest Disclosure Guidelines

1. Introduction

1.1. Coorong District Council is committed to upholding the principles of transparency and accountability in its administrative and management practices and, therefore, encourages the making of disclosures that reveal public interest information.

1.2. The purpose of this Policy is to ensure that Coorong District Council:

- properly fulfils its responsibilities under the *Public Interest Disclosure* (PID) *Act 2018*;
- encourages and facilitates Disclosures of Public Interest Information in accordance with the objects and requirements of the PID Act ;
- ensures there is appropriate oversight of public interest disclosures about corruption, misconduct and maladministration in public administration;

- provides appropriate protection for those who make Disclosures in accordance with the Act; and
- acknowledges the need to appropriately support Informants, the Responsible Officer and, as appropriate, those Public Officers affected by any appropriate Disclosure.

1.3. Council will review and update this Policy every third year as part of its policy review cycle.

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 Elected Members, Officers and Employees of the Council, members of the public, and is intended to complement the reporting framework under the Independent Commissioner Against Corruption (ICAC) Act.

2.2. This Policy is also designed to complement the existing communication channels within Council, and operate in conjunction with other existing policies, including:

- Fraud, Corruption, Misconduct and Maladministration Prevention Policy;
- Code of Conduct for Council Employees;
- Behavioural Management Policy – Council Members; and
- Internal Review of Council Decisions Procedure under section 270 of the *Local Government Act 1999*.

2.3. Council is committed to:

- upholding the principles of transparency and accountability in its administrative and management practices and supports the making of Disclosures that reveal Public Interest Information;
- referring, as necessary, appropriate Disclosures to another Relevant Authority;
- where the Disclosure relates to Corruption, or serious or systemic Misconduct or Maladministration in public administration, reporting the Disclosure directly to the OPI in accordance with the Guidelines and the requirements of the ICAC Act;
- protecting Informants who make appropriate Public Interest Disclosures and supporting other persons as required through the Disclosure process;
- otherwise facilitating the investigation of appropriate Disclosures in a manner which promotes fair and objective treatment of those involved; and
- taking action where relevant and rectifying any substantiated wrongdoing to the extent practicable in all the circumstances.

3. Definitions

For the purposes of this Policy the following definitions apply:

3.1. ***Commissioner*** means the person holding or acting in the office of the Independent Commissioner Against Corruption.

3.2. ***Corruption in public administration*** is defined in section 5(1) of the ICAC Act and means:

3.2.1. an offence against Part 7 Division 4 (Offences relating to public officers) of the *Criminal Law Consolidation Act 1935*, which includes the following offences:

(i) bribery or corruption of public officers;

(ii) threats or reprisals against public officers;

(iii) abuse of public office;

(iv) demanding or requiring benefit on basis of public office;

(v) offences relating to appointment to public office; or

i. an offence against the *Public Sector (Honesty and Accountability) Act 1995* or the *Public Corporations Act 1993*, or an attempt to commit such an offence; or

3.2.2. an offence against the *Lobbyists Act 2015*, or an attempt to commit such an offence; or

3.2.3. 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

3.2.4. any of the following in relation to an offence referred to in a preceding paragraph:

(i) aiding, abetting, counselling or procuring the commission of the offence;

(ii) inducing, whether by threats or promises or otherwise, the commission of the offence;

(iii) being in any way, directly or indirectly, knowingly concerned in, or party to, the commission of the offence;

(iv) conspiring with others to effect the commission of the offence

3.3. ***Council*** means Coorong District Council.

3.4. ***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).

3.5. ***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).

3.6. ***Disclosure*** means an appropriate disclosure of public interest information made by an Informant to a Relevant Authority.

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

> the person:

i. believes on reasonable grounds that the information is true; or

ii. 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.

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

(a) the person:

i. is a public officer;

ii. 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.

3.7. ***Employee*** refers to all the Council's employees, whether they are working in a full-time, part-time or casual capacity.

3.8. ***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.

3.9. ***Fraud*** includes an intentional dishonest act or omission done with the purpose of deceiving.

3.10. **ICAC Act** is the *Independent Commissioner Against Corruption Act 2012.*

3.11. ***Independent Assessor*** means the person designated by the Responsible Officer as being responsible for investigating a disclosure made to Coorong District Council in accordance with the Public Interest Disclosure Procedure. For transparency, the Independent Assessor must not have had any involvement with the matter(s) to which the disclosure relates.

3.12. **Informant** means a person who makes an appropriate disclosure of public interest information to a Relevant Authority.

3.13. ***Maladministration in public administration*** is defined in section 5(4) of the ICAC Act and means:

(i) 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

(ii) conduct of a public officer involving substantial mismanagement in or in relation to the performance of official functions; and

3.13.1. includes conduct resulting from impropriety, incompetence or negligence; and

3.13.2. is to be assessed having regard to relevant statutory provisions and administrative instructions and directions.

3.14. ***Misconduct in public administration*** is defined in section 5(3) of the *ICAC Act* and means:

3.14.1. 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

3.14.2. other misconduct of a public officer while acting in his or her capacity as a public officer.

3.15. ***Office for Public Integrity (OPI)*** is the office established under the *ICAC Act* that has the function to:

3.15.1. receive and assess complaints about public administration from members of the public;

3.15.2. receive and assess reports about corruption, misconduct and maladministration in public administration from the Ombudsman, the Council and public officers;

3.15.3. 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;

3.15.4. give directions or guidance to public authorities in circumstances approved by the Commissioner;

3.15.5. perform other functions assigned to the Office by the Commissioner.

3.16. ***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.

3.17. ***Public administration information*** means information that raises a potential issue of corruption, misconduct or maladministration in public administration.

3.18. ***Public interest information*** means environmental or health information, or public administration information.

3.19. ***PID Act*** means the *Public Interest Disclosure Act 2018*.

3.20. ***Principal Officer*** for the purposes of the PID Act means the Chief Executive Officer of the Council.

3.21. ***Public Officer*** has the meaning given by section 4 and Schedule 1 of the ICAC Act, and includes:

- an Elected Member; and
- an employee or officer of the Council;

3.22. ***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.

3.23. ***Responsible Officer*** is a person who has completed any training courses approved by the Commissioner for the purposes of the *Public Interest Disclosure Regulations 2019* and has been designated by the Council as responsible officer under section 12 of the PID Act.

3.24. ***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.

4. Types of Disclosure

This Policy covers disclosures made as follows:

Public Interest Area	**Disclosure relates to**	**Protection available under PID Act for**
Environmental and Health Information	A substantial risk to the environment or to public health and safety	All persons
Public Administration	Potential corruption, misconduct or maladministration of public administration	Public Officers[1]

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

[1] Members of the public have protections under the ICAC Act in relation to disclosures that relate to potential corruption, misconduct or maladministration in public administration. Disclosures should be made directly to the Office for Public Integrity (www.icac.sa.gov.au)

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

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

- the person:
  - is a public officer;
  - 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

5. Confidentiality

5.1. The identity of an Informant will be maintained as confidential in accordance with the PID Act.

5.2. A recipient of an appropriate Disclosure may only divulge the identity of an Informant where:

5.2.1.1.1. 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;

5.2.1.1.2. 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;

5.2.1.1.3. doing so is necessary for the matter to be properly investigated (but only to the extent necessary to ensure proper investigation); or

5.2.1.1.4. the Informant consents to his/her identity being disclosed.

5.3. If the Informant's name is disclosed under any of these circumstances, the Informant will be advised of this action.

5.4. 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.

5.5. An 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.

6. Disclosure Process

6.1. Disclosures are to be handled by Council in accordance with the Public Interest Disclosure Procedure.

6.2. Nothing in this Policy prevents a person from making a Disclosure to a Relevant Authority external to the Council (ie. the Ombudsman or the OPI). This is a choice to be made by the Informant at his/her discretion. The Council recommends an Informant have regard to the factors at the relevant clause of the Public Interest Disclosure Procedure when deciding where to direct a Disclosure.

6.3. A Disclosure may be made to the Council's designated Responsible Officer in person, by telephone or in writing. The relevant contact details are:

- Director Community & Corporate: Mr Myles Somers
- Organisational Development Coordinator: Mr Ben Jarvis

Telephone	1300 785 277 (please direct enquiries to the Responsible Officer for Public Interest Disclosure)
Postal	Confidential Responsible Officer, Public Interest Disclosure Coorong District Council PO Box 399 TAILEM BEND SA 5260
Email	publicdisclosure@coorong.sa.gov.au

7. Responsibilities

Role	Responsibilities
Chief Executive Officer (Principal Officer)	Commitment to a Statement of Intent (Appendix B). Ensure that one or more appropriately qualified employees of the Council are designated and trained as Responsible Officers for the purposes of the PID Act and Regulations. Promulgate the name and contact details of each Responsible Officer. Ensure that relevant Council documents are maintained to comply with requirements of the PID Act.
Responsible Officers	Receive appropriate Disclosures relating to the Council and ensure compliance with the PID Act and Council's adopted Policy and Procedure, in relation to any such Disclosures. Manage Disclosures in accordance with this document. Make appropriate recommendations to the Chief Executive Officer in relation to dealing with Disclosures, including any suggested changes to this Policy and Procedure, or other relevant documents. Provide advice to Council employees in relation to the administration of the PID Act. Complete relevant PID training courses approved by the Commissioner. Carry out other appropriate functions relating to the PID Act.

8. Information to Elected Body

8.1. As a matter of discretion, the Chief Executive Officer may inform the elected body, on a confidential basis, of the fact that an investigation of a Disclosure took place and the outcome of the investigation.

8.2. Factors the Chief Executive Officer will take into account in determining whether to inform the elected body under paragraph 8.1 above and the level of detail provided in doing so are to include:

8.2.1. if known, the identity of the Informant, and whether the Informant has consented to his/her identity being divulged;

8.2.2. if applicable, the identity of any person the subject of the Disclosure;

8.2.3. the impact (if any) of the investigation upon the Council's achievement of its objectives under its Strategic Plan and/or policies; and

8.2.4. the impact of any action taken to finalise the matter upon the Council's operations and/or budget.

8.3. In the event the Disclosure and/or any subsequent investigation process is confined to issues that impact only upon Council staff and human resource processes, the Chief Executive Officer will not inform the elected body of the fact of the Disclosure and/or investigation (since these matters fall outside the roles and responsibilities of council members under the *Local Government Act 1999*).

9. Protection for the Informant

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

9.1.1. immunity from criminal or civil liability as provided for in section 5(1) of the PID Act;

9.1.2. a prohibition on disclosure of his/her identity as provided for in section 8 of the PID Act;

9.1.3. a prohibition against Victimisation as provided for in section 9 of the PID Act; and

9.1.4. a prohibition against hindering, obstructing or preventing an Informant from making an appropriate Disclosure as provided for in section 11 of the PID Act.

9.2. The PID Act does not provide any protection to people who knowingly make disclosures that are false or misleading in a material particular (whether by reason of the inclusion or omission of a particular).

9.3. 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.

9.4. A person who personally commits an act of Victimisation against an Informant is guilty of an offence and may be prosecuted.

9.5. 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 Public Interest Disclosure Procedure and/or referring the matter to the SA Police.

9.6. Any Elected Member or employee or officer of the Council who:

9.6.1. knowingly makes a disclosure that is false or misleading in a material particular; or

9.6.2. commits an act of Victimisation in relation to an Informant; or

9.6.3. acts otherwise than in accordance with this Policy or the Public Interest Disclosure 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 Chief Executive Officer (as appropriate).

10. Delegation

10.1. The Chief Executive Officer, in consultation with the Responsible Officer(s) has the delegation to approve, amend and review any supporting procedures that shall be consistent with this Policy.

11. Availability/Accessibility

This policy is available for inspection at Council's offices during normal business hours & Council's website and will be emailed to interested parties on request (please lodge request in writing via email to council@coorong.sa.gov.au).

12. Document History

This policy shall be reviewed at least every three (3) years or more frequently if legislation or Council requires.

Version	Adopted	Minute No	Description of change(s)
1	20 August 2019	232/19	New policy
2	29 June 2021	138/21	Strategic references updated to align with Community Vision Plan 2021 – 2025 No legislative changes Cosmetic changes to document layout
3	21 April 2026	092/26	Minor formatting Policy scope refined Types of disclosure(s) inserted Responsibilities of the Principal Officer and Responsible Officers more clearly outlined in tabular format (clause 7) Principal Officer – Statement of Intent inserted as Appendix (as also replicated in inward facing procedure)

Appendix A: Relevant Authorities

Where the information relation to…	the relevant authority is…
a public officer* * *as defined and set out in Schedule 1 of the* Independent Commissioner Against Corruption Act 2012 – *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 *Ombudsman Act 1972* applies	the Ombudsman
a location within the area of a particular council established under the *Local Government Act 1999*	a member, officer or employee of that Council
a risk to the environment	the Environment Protection Authority
an irregular and authorized 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

Appendix B: Principal Officer – Statement of Intent

Council's Public Interest Disclosure Policy has been prepared in accordance with the requirements of sections 12(4) and (5) of the *Public Interest Disclosure Act 2018* (PID Act).

As Interim Chief Executive Officer of Coorong District Council, and designated Principal Officer for the purposes of the PID Act, I expect that the implementation and operation of the PID Act will encourage and facilitate:

- further transparency and accountability in the Council's administrative and management practices; and
- the Disclosure, in the public interest, of information about substantial risks to public health or safety, or to the environment, and about corruption, misconduct and maladministration in public administration.

Council's Public Interest Disclosure Policy is designed to enable that to occur, by ensuring that proper procedures are in place for the making of such Disclosures and for dealing with such Disclosures, and by providing appropriate protections for those who make such Disclosures.

I, and the other employees and Elected Members at Coorong District Council remain deeply committed to the protection of informants who make public interest disclosures in accordance with the objectives of the PID Act, and to the genuine and efficient consideration and action in relation to information provided to the Council via a public interest disclosure, as contemplated and demonstrated by this document.

Any questions about Council's Public Interest Disclosure Policy should be directed in the first instance to Council's Responsible Officers, whose details are at clause 6.3 of this document.

Myles Somers
Principal Officer
Interim Chief Executive Officer, Coorong District Council