

Public Interest Disclosure Procedure



Procedure Author	General Manager Strategy and Corporate
Date of next review	July 2023

Principal Officer – Statement

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

As Chief Executive Officer 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, about corruption, misconduct and maladministration in public administration.

This Procedure 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 staff, officers and Council Members at the City of Playford 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 Procedure.

Any questions about this Procedure should be directed in the first instance to the Responsible Officers, whose details are at Clause 6.3.5 of this Procedure.

Mr Sam Green
Principal Officer
Chief Executive Officer
City of Playford

1. Statement of Intent

1.1 The Council is committed to:

- upholding the principles of transparency and accountability in its administrative and management practices;
- the protection of informants who make Public Interest Disclosures; and
- the genuine and efficient consideration and action in relation to information provided in a Public Interest Disclosure

and, therefore, encourages the making of appropriate disclosures that reveal public interest information in accordance with this Procedure.

1.2 The Council is also committed to:

- 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 Office for Public Integrity (OPI) in accordance with the Public Interest Disclosure Guidelines and the requirements of the *Independent Commissioner Against Corruption Act 2012 (ICAC Act)*;
- otherwise facilitating the investigation 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 the circumstances.

1.3 This document explains the applicable procedures and processes that the Council has in place for making and dealing with appropriate disclosures of public interest information, to ensure that the Council:

- properly fulfils its responsibilities under the *PID Act* and the *ICAC Act*;
- appropriately encourages and facilitates Disclosures of Public Interest Information, including environmental and health information regarding a location within the area of the Council;
- provides a process by which disclosures may be made so that they are properly investigated;
- provides appropriate protection for those who make disclosures in accordance with the *PID Act*; and
- recognises the need to appropriately support Informants, the Responsible Officers and, as appropriate, those Public Officers affected by any appropriate disclosure.

- A Responsible Officer may be contacted in person, by telephone or in writing. The relevant contact details are:

Responsible Officers:

- Susie Reichstein, Manager - Governance
- Sarah Schutz, Executive Assistant - General Manager City Assets & City Services
- Joy O'Keefe-Craig – Senior Governance Officer

Telephone: (08) 8256 0333

Email: disclosures@playford.sa.gov.au

Address:

Strictly Confidential

Responsible Officer, Public Interest Disclosure
12 Bishopstone Rd, Davoren Park SA 5113

Website: www.playford.sa.gov.au/disclosures

2. References and Supporting Documentation

- *Public Interest Disclosure Act 2018 and Public Interest Disclosure Regulations 2019*
- Public Interest Disclosure Guidelines
- *Independent Commissioner Against Corruption (ICAC) Act 2012*
- Fraud and Corruption Control Policy
- Code of Conduct for Council Employees
- Code of Conduct for Council Members
- Worker Code of Conduct
- Code of Conduct – Council Members Complaint Handling Procedure
- Complaints Handling Policy
- Complaints Handling Procedure

3. Application

Principal Officer (Chief Executive Officer)	<p>Ensure that one or more appropriately qualified employees of the Council are designated as Responsible Officers for the purposes of the <i>PID Act 2018</i> and undertake any training required by the <i>Public Interest Disclosure Regulations 2019</i>.</p> <p>The name and contact details of each Responsible Officer of the Council are made available to officers, employees and Council Members.</p> <p>This Procedure in accordance with the requirements of the <i>PID Act</i>, the ICAC Directions and Guidelines, and in particular the Public Interest Disclosure Guidelines.</p>
---	---

Responsible Officer(s)	<p>Receive appropriate disclosures relating to the Council and ensure compliance with the <i>PID Act</i>, and this Procedure, in relation to any such disclosures.</p> <p>Make appropriate recommendations to the Principal Officer of the Council in relation to dealing with disclosures, including any suggested changes to this Procedure.</p> <p>Provide advice to employees of the Council in relation to the administration of the <i>PID Act</i></p> <p>Complete any training courses approved by the Commissioner for the purposes of the <i>Public Interest Disclosure Regulations 2019</i>.</p>
Public Officer (As per the ICAC Act includes Council Members/Employees or Officers)	<p>Comply with this Procedure when dealing with any disclosure.</p> <p>Immediately referring any disclosure 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 a Responsible Officer.</p>

4. Procedure

4.1 Confidentiality

- 4.1.1 The identity of an Informant will be maintained as confidential in accordance with the *PID Act*.
- 4.1.2 A recipient of an appropriate disclosure may only divulge the identity of an Informant 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 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;
 - 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;
 - Doing so is necessary for the matter to be properly investigated (but only to the extent necessary to ensure proper investigation); or
 - The Informant consents to his/her identity being disclosed.
- 4.1.3 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*.

- 4.1.4 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.

4.2 Disclosure Process

- 4.2.1 Relevantly for the purposes of this Procedure, the *PID Act* provides for protection for Informants where Public Interest Disclosures are made:
- a) by a member of the public or a Public Officer about environmental and health information which the Informant reasonably believes to be true or which the Informant believes may be true and is of sufficient significance to warrant disclosure, regarding a location within the Council area of a particular council; and/or
 - b) by a Public Officer with a reasonable suspicion about public administration information regarding either a location within a Council area or a Public Officer who is a member, officer or employee of the Council.
- 4.2.2 Disclosures should generally, and wherever possible, be directed in the first instance to the Responsible Officer, who has the responsibility for receiving appropriate disclosures relating to the Council.
- 4.2.3 However, nothing in this Procedure 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 his/her discretion.
- 4.2.4 The following are relevant considerations for an Informant in determining where to direct a disclosure:
- a) when choosing to make a disclosure internally, disclosures relating to an Council Member or a member of council staff, including the Chief Executive Officer (or person acting in that position), should usually be made to a Responsible Officer;
 - b) any disclosure relating to a person appointed as a Responsible Officer should be made to the other person appointed as a Responsible Officer or failing this, to a Relevant Authority external to the Council (such as the OPI);
 - c) any disclosure relating to public administration information about a Public Officer who is a member, officer or employee of the Council may be made to a Responsible Officer, or to the person responsible (either in fact, or as may be designated by the *PID Act*) for the management or supervision of the Public Officer the subject of the disclosure;
 - d) any disclosure relating to maladministration or misconduct in public administration may be reported to OPI in accordance with the *ICAC Act*;
 - e) if there is a reasonable suspicion of corruption, or of maladministration or misconduct that is serious or systemic, it must be reported to the OPI in accordance with the *ICAC Directions and Guidelines*.
- 4.2.5 A disclosure may be made in person, by telephone or in writing (either by post, email or at the website as listed in Clause 6.3.5. Where a disclosure is made by telephone, the recipient must take notes of the conversation.

4.3 Receipt of a Disclosure

4.3.1 A flowchart outlining the disclosure process is at Appendix A to this Procedure.

If a Council Member, employee or officer receives a disclosure of public interest information regarding a location within the Council area, the recipient of that disclosure will:

- a) ask the Informant whether they consent to the details of their identity being provided to the Responsible Officer, and in doing so advise the Informant that a failure to provide that consent may mean that the disclosure cannot be properly investigated; and
- b) refer the disclosure to the Responsible Officer and, in doing so, comply with the wishes of the Informant with respect to whether details of their identity may be divulged.

4.3.2 Upon the receipt of a disclosure (whether directly, or by referral from a Council Member, employee or officer), the Responsible Officer will:

- a) immediately undertake an Assessment in accordance with clause 4.4 of this Procedure; and
- b) as soon as practicable thereafter, in accordance with Part 4 of this Procedure:
 - i. notify the OPI of the disclosure; and
 - ii. confirm receipt of the disclosure with the Informant; and
 - iii. subject to the outcome of the Assessment, then take appropriate action, including, where required:
 - notifying the informant of the outcome of any action, in accordance with clauses 4.5 and 4.6 of this Procedure; and
 - notifying the OPI of the outcome of any action taken in accordance with clauses 4.5 and 4.6 of this Procedure; and/or
 - reporting the outcome of any action taken to the Minister in accordance with clause 4.6 of this Procedure; and
 - make recommendations, if required, to the Principal Officer or Council in relation to dealing with such disclosures.

4.4 Assessment of Disclosure

4.4.1 Where the identity of the informant is known to the Responsible Officer or is reasonably ascertainable, the Responsible Officer will acknowledge receipt of the disclosure and in doing so, will provide a copy of this Procedure to the Informant.

Upon receipt of a disclosure, the Responsible Officer will undertake an assessment to determine:

- a) if the content of the disclosure suggests there is an imminent risk of serious physical injury or death to any person or the public generally;
 - b) if the matter/s the subject of the disclosure involve corruption in public administration, or serious or systemic misconduct or maladministration in public administration; or
 - c) if the information disclosed justifies further action, including a decision as to whether the disclosure:
 - i. is frivolous, vexatious or trivial (in which case, no further action will be taken in relation to the disclosure);
 - ii. involves a matter which has already been investigated or acted upon by a Relevant Authority and there is no reason to re-examine the matter or there is other good reason why no action should be taken in respect of the matter (in which case, no further action will be taken in relation to the disclosure);
 - iii. requires referral to another Relevant Authority external to the Council.
- 4.4.2 Where the disclosure relates to public administration information about a Public Officer who is an member, officer or employee of the Council and it is made to the person responsible for the management or supervision of the Public Officer the subject of the disclosure (the Supervisor), the Supervisor will conduct the Assessment instead of the Responsible Officer, and will then report the outcome of his/her determination following the Assessment to the Responsible Officer to action.
- 4.4.3 The Responsible Officer must report the outcome of his/her determination following the Assessment to the Chief Executive Officer (unless the Disclosure relates to the Chief Executive Officer). Any report prepared in accordance with this Part will not disclose particulars that will or are likely to lead to the identification of the informant, unless the circumstances in Clause 4.1.2 of this Procedure apply.
- 4.4.4 Where the Responsible Officer (or Supervisor) determines that the content of the disclosure suggests there is an imminent risk of serious physical injury or death to any person or to the public generally, the Responsible Officer (or Supervisor) must immediately communicate such information as may be necessary to mitigate that risk to the most appropriate agency (for example, South Australia Police, SafeWork SA, SA Ambulance, Environment Protection Authority). In doing so, the Responsible Officer or Supervisor must also have regard to Clause 4.1.2 of this Procedure.
- 4.4.5 Where the Responsible Officer (or Supervisor) forms a reasonable suspicion that the matter/s the subject of the Disclosure involve corruption in public administration, or serious or systemic misconduct or maladministration in public administration, the Responsible Officer (or Supervisor) must comply with his/her reporting obligations under the ICAC Act in accordance with the Directions and Guidelines.
- 4.4.6 Where the Responsible Officer determines the Disclosure warrants referral to an external body or another Relevant Authority, the Responsible Officer will undertake the referral, including ensuring that such information as is necessary to enable action to be taken is communicated to the most appropriate person or relevant authority to take that action. Where the Assessment is being undertaken by the Supervisor, the Supervisor will include this recommendation in his/her report to the Responsible Officer for the Responsible Officer to action.

- 4.4.7 Where the Responsible Officer determines the disclosure requires any other action to ensure the matter the subject of the disclosure is properly addressed, the Responsible Officer will include in his/her determination details of that other recommended action. Where the Assessment is being undertaken by the Supervisor, the Supervisor will include this recommendation in his/her report to the Responsible Officer for the Responsible Officer to action.

4.5 Notification of Assessment

- 4.5.1 So long as the identity of the informant is known to the Responsible Officer or is reasonably ascertainable, the Responsible Officer will notify the informant of the outcome of his/her determination in writing as soon as is reasonably practicable after the Assessment has been made, and in any event **within 30 days of receipt** of the Disclosure. In doing so, the Responsible Officer must advise the Informant of:
- a) any action that has been, or will be, taken in relation to the disclosure; or
 - b) if no action is being taken in relation to the disclosure, the reason/s why.
- 4.5.2 If the Responsible Officer fails to notify the Informant in accordance with clause 4.5.1 above, the Informant may be entitled to protection in relation to any subsequent disclosure of that information to a journalist or Member of Parliament in accordance with the PID Act.
- 4.5.3 If the Informant is dissatisfied with the Responsible Officer's determination, it is open to him/her to report the disclosure to another Relevant Authority external to the Council.
- 4.5.4 As soon as reasonably practicable following the Assessment and notification to the informant, the Responsible Officer must use the dedicated online notification form at icac.sa.gov.au to notify OPI of the Disclosure (Initial Notification), and in doing so must ensure that the details required by Guideline 1.4 of the Public Interest Disclosure Guidelines are included in the initial notification.
- 4.5.5 The Responsible Officer will retain the unique reference number issued by the OPI upon making the Initial Notification, and will ensure that reference number is provided to any other person or authority to whom the Disclosure is referred.

4.6 Notification of Further Action

- 4.6.1 So long as the identity of the informant is known to the Responsible Officer or is reasonably ascertainable, the Responsible Officer will notify the Informant of the outcome of his/her determination in writing as soon as is reasonably practicable after the Further Action has been taken and, in any event, **within either**:
- a) 90 days of receipt of the Disclosure; or
 - b) such longer period as may be specified by written notice given by the Responsible Officer within that 90-day period.
- 4.6.2 In doing so the Responsible Officer must advise the informant of:
- a) any action that has been, or will be, taken in relation to the disclosure; or
 - b) if no action is being taken in relation to the disclosure, the reason/s why.

- 4.6.3 If the Responsible Officer fails to notify the Informant in accordance with clauses 4.6.1 and 4.6.2 above, the informant may be entitled to protection in relation to any subsequent disclosure of that information to a journalist or Member of Parliament in accordance with the *PID Act*.
- 4.6.4 If the informant is dissatisfied with the Responsible Officer's determination or the action taken it is open to him/her to report the disclosure to another Relevant Authority external to the Council.
- 4.6.5 As soon as reasonably practicable following the Assessment and notification to the informant, the Responsible Officer must use the dedicated online notification form at icac.sa.gov.au to notify OPI of the action taken in relation to the Disclosure (Further Notification) and, in doing so, must ensure that the details required by Guideline 2 of the Public Interest Disclosure Guidelines are included in the further notification.
- 4.6.6 If the Disclosure came to the Council by way of a referral from a Minister, the Responsible Officer must ensure that the Minister is also notified of the action taken in relation to the disclosure, and the outcome of any such action. The Minister should be notified in accordance with this clause following the assessment if the Responsible Officer determines that no action is to be taken.

4.7 Final Report and Recommendation

- 4.7.1 Upon finalising any action required in relation to a disclosure, the Responsible Officer must prepare a report that will contain the following details:
 - a) the subject of the disclosure;
 - b) an account of the steps taken by the Responsible Officer in accordance with this Procedure;
 - c) conclusions reached as a result of the steps taken in response to the disclosure and the basis for them; and
 - d) any recommendations arising from the conclusions, including any remedial action which should be taken by the Council.
- 4.7.2 Any report prepared in accordance with this Part will not disclose particulars that will or are likely to lead to the identification of the Informant, unless the circumstances in clause 4.1.2 of this Procedure apply.
- 4.7.3 The Responsible Officer's Report must be provided to the Chief Executive Officer to action as he/she considers appropriate.
- 4.7.4 The Chief Executive Officer may, in his/her discretion, inform the elected body, on a confidential basis, about a disclosure in accordance with clause 4.1 of these Procedures.

4.8 Secure Handling and Storage of Information

- 4.8.1 The Responsible Officer must ensure accurate records of an appropriate disclosure are securely and confidentially maintained including notes of all discussions, phone calls, and interviews.

- 4.8.2 The Responsible Officer will ensure all information relating to an appropriate disclosure is maintained as confidential and as such, will be solely responsible for the secure storage of this information.
- 4.8.3 In performing his/her duties, the Responsible Officer will maintain a confidential file of information (including written documents, disks, tapes, film or other objects that contain information) that relates to a disclosure and/or is a product of the associated investigation/reporting process. All such information will be recorded in a register which is to remain confidential and be securely stored.
- 4.8.4 In the event that a person's appointment as a Responsible Officer is terminated, the person must provide this information to the newly-appointed Responsible Officer and having done so will continue to be bound by a duty of confidentiality in respect of an informant's identity and the information received as a result of the disclosure.

4.9 Protection for the Informant

- 4.9.1 Although the PID Act does not provide any protection to people who knowingly make disclosures that are false or misleading in a material particular, an Informant who makes an appropriate disclosure will ordinarily be protected by:
 - a) immunity from criminal or civil liability;
 - b) a prohibition on disclosure of his/her identity, other than in limited specific circumstances;
 - c) a prohibition against victimisation; and
 - d) a prohibition against hindering, obstructing or preventing an Informant from making an appropriate disclosure.
- 4.9.2 A person who personally commits an act of victimisation against an informant is guilty of an offence and may be prosecuted.
- 4.9.3 The Council will take action as appropriate in the circumstances of the relevant disclosure/s to protect informants from victimisation, and/or from being hindered or obstructed in making a disclosure. Such action may include acting in accordance with the following risk minimisation steps:
 - a) set out in this Procedure and/or referring the matter to the SA Police
 - b) disciplinary action by the Council or the Chief Executive Officer (as appropriate) for any failure to act otherwise than in accordance with this Procedure (including with respect to divulging the identity of an Informant) in relation to a disclosure.

5. Feedback

Your feedback on this procedure is invited and can be directed to the Manager Governance via email to governance@playford.sa.gov.au or by calling the Customer Contact Team on 8256 0333

Administration use only

ECM document set no.	3932780
Version no.	2
Policy link	N/A
Procedure author	General Manager – Strategy & Corporate
Endorsed by	CEO
Resolution no.	
Legal requirement	<i>Section 12(4) and (5) Public Interest Disclosure Act 2018</i>
Review schedule	2 Years
Date of current version	June 2021
Date of next review	July 2023

Version history

Version no.	Approval date	Approval by	Change
1	20 August 2019	Chief Executive Officer	New Procedure
2	1 June 2021	Chief Executive Officer	Updated to new corporate template. Removed references to independent assessor as this is not provided for in the Act
2.1	27 September 2021	Chief Executive Officer	Administrative update to include newly appointed Responsible Officer

Appendix A – Relevant Authorities

Where the information relates to...	the relevant authority is...
a public officer*	<p>either:</p> <ul style="list-style-type: none"> 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)
<p>*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</p> <p>a public sector agency or public sector employee</p>	<p>either:</p> <ul style="list-style-type: none"> 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

¹ presently, no prescribed persons or classes have been identified