PUBLIC INTEREST DISCLOSURE PROCEDURE

1. Scope:
This policy applies to all Rockhampton Regional Council Councillors, employees and members of the public.

2. Purpose:
This procedure aims to:
- Ensure the prompt and efficient action of all disclosures and compliance with the Public Interest Disclosure Act 2010;
- Outline the disclosure processes and the required responsibilities of all employees;
- Allow for a prompt investigation into disclosure complaints; and
- Ensure that appropriate action is taken when required.

3. Related Documents:
Primary
Public Interest Disclosure Act 2010
Public Interest Disclosure Policy

Secondary
Aboriginal Cultural Heritage Act 2003
Anti-Discrimination Act 1991
Crime and Misconduct Act 2001
Criminal Code Act 1899
Disability Services Act 2006
Environmental Protection Act 1994
Fisheries Act 1994
Forestry Act 1959
Greenhouse Gas Storage Act 2009
Industrial Relations Act 1999
Information Privacy Act 2009
Integrity Act 2009
Land Act 1994
Local Government Act 2009
Local Government Regulation 2012
Mineral Resources Act 1989
Nature Conservation Act 1992
Ombudsman Act 2001
Petroleum Act 1923
Petroleum and Gas (Production and Safety) Act 2004
Public Sector Ethics Act 1994
Queensland Heritage Act 1992

Corporate Improvement and Strategy use only

Adopted/Approved: Approved 30 January 2014
Department: Office of CEO
Version: 1
Section: Office of CEO
Reviewed Date: Page 1 of 7
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Right to Information 2009  
Torres Strait Islander Cultural Heritage Act 2003  
Water Act 2000  
Work Health and Safety Act 2011

Actionable Communications and General Complaints Procedure  
Administrative Action Complaint Management Procedure  
Code of Conduct  
Complaint Management Policy  
Discipline Procedure  
Drug and Alcohol Policy  
Drug and Alcohol Procedure (Councillors)  
Drug and Alcohol Procedure (Workers)  
Environmental Policy  
Fitness for Work Policy  
Grievance Procedure  
Handling of Confidential Information Policy  
Human Resource Management Delegations Policy  
Information Public Disclosure Procedure  
Investigation Procedure  
Performance Achievement Policy - Employee  
Performance Achievement Procedure - Employee  
Prevention of Workplace Harassment and Discrimination Policy  
Privacy Policy  
Privacy Complaint Handling Procedure  
Reporting Official Misconduct Policy  
Reporting Official Misconduct Procedure  
Right to Information Policy  
Workplace Health and Safety Policy

4. Definitions:

To assist in interpretation, the following definitions shall apply:

<table>
<thead>
<tr>
<th>Act</th>
<th>The Public Interest Disclosure Act 2010</th>
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| Administrative action | Any action about a matter of administration, including for example:  
- A decision and an act; and  
- A failure to make a decision or do an act, including a failure to provide a written statement of reason for a decision; and  
- The formulation of a proposal or intention; and  
- The making of a recommendation, including a recommendation made to a Minister; and  
- An action taken because of a recommendation to a Minister. |
| CEO | Chief Executive Officer |
| | Means a person who holds an appointment under section 194 of the Local Government Act 2009. This includes a person acting in the position. |
| Council | Rockhampton Regional Council |
| Councillor | The Mayor and/or Councillor of Rockhampton Regional Council, within the meaning of the Local Government Act 2009. |
| Environment | Ecosystems and their constituent parts, including people and communities; and |
- All natural and physical resources; and
- The qualities and characteristics of locations, places and areas, however large or small, that contribute to their biological diversity and integrity, intrinsic or attributed scientific value or interest, amenity, harmony and sense of community; and
- The social, economic, aesthetic and cultural conditions that affect, or are affected by things mentioned above.

**Maladministration**

An administrative action that was:
- taken contrary to law; or
- unreasonable, unjust, oppressive, or improperly discriminatory; or
- in accordance with a rule of law or a provision of an Act or a practice that is or may be unreasonable, unjust, oppressive, or improperly discriminatory in the particular circumstances; or
- taken –
  - For an improper purpose; or
  - On irrelevant grounds; or
  - Having regard to irrelevant considerations; or
- an action for which reasons should have been given, but were not given; or
- based wholly or partly on a mistake of law or fact; or
- wrong.

**Natural Justice**

The principles and procedures that govern the adjudication of disputes between persons or organisations.

The principles of Natural Justice are:
- All parties will have the right to be heard and judged without bias.
- All issues are investigated thoroughly and justly.

**Official Misconduct**

Conduct that involves the exercise of a person’s official powers in a way that is:
- Not honest or impartial; or
- Is a breach of the trust placed in the person as a public officer; or
- Involves a misuse of Council assets, materials or official information; and
- Constitutes a criminal offence or is serious enough to justify a dismissal.

**Person**

A human being regarded as an individual, whether or not the individual is a public officer (members of the public).

**Proper Authority**

A public sector entity or a member of the Legislative Assembly.

**Public Interest Disclosure**

All information disclosed to a proper authority about a public interest matter referred to pursuant to s12 and s13 of the *Public Interest Disclosure Act 2010*.

**Public Officer**

All Rockhampton Regional Council’s Councillors and employees including persons engaged under a contract of employment.

**Public Sector Entity**

A committee of the Legislative Assembly, the parliamentary service, a court or tribunal, the Executive Council, a Government department that maintains relevant investigation and/or enforcement powers relating to the nature of the disclosure, a local government and others as prescribed by legislation.

A proper authority may include public sector entities such as the Crime Corporate Improvement and Strategy use only
and Misconduct Commission, the Public Service Commission, the Queensland Ombudsman, Anti-Discrimination Commission or the Queensland Industrial Relations Commission

| Reprisal | A person must not cause, or attempt or conspire to cause, detriment to another person because, or in the belief that:
| • The other person or someone else has made, or intends to make a public interest disclosure; or
| • The other person or someone else is, has been, or intends to be, involved in a proceeding under the Act against any person. |

W&S Workforce and Strategy

5. Procedure:

Everyone plays an important role in identifying cases of maladministration, official misconduct and the misuse of public resources or contraventions giving rise to dangers to public health and safety, the environment or to persons with disabilities. All disclosures will be handled in the same manner regardless if the disclosure is made from a person or a public official. Disclosures must be made to the proper authority, namely a public sector entity and Council can only pursue disclosures where the information and the subject of the disclosure relates to the conduct of Council or that Council has the power to investigate.

5.1 Responsibilities

5.1.1 Chief Executive Officer and General Managers

The Leadership Team members are responsible for ensuring:

• The communication of expectations that all employees are required to conduct their duties to high professional and ethical standards and always act in the public interest, (Code of Conduct);

• Reasonable procedures are in place to deal with a disclosure and that those procedures are published to enable persons and public officials to access them;

• That disclosures are properly assessed, investigated and dealt with, including appropriate action being taken in relation to any wrongdoing in a disclosure;

• That employees making a disclosure receive support and protection from reprisal;

• That all legislative obligations in relation to reporting and investigation are met; and

• That all matters involving suspected official misconduct are referred to the Crime and Misconduct Commission pursuant to the Crime and Misconduct Act 2001. Refer to Council Reporting Official Misconduct Policy and Procedure.

5.1.2 Supervisors

All supervisors are responsible for maintaining an ethical culture and leading by example to:
Provide clear direction to employees on how to raise matters that involve official misconduct, while maintaining confidentiality and natural justice;

Ensure that employees in their operational area are aware of their obligations in relation to the requirements of the Public Interest Disclosure Policy and this procedure; and

Monitor the workplace for signs of reprisal against a Discloser or an employee who is the subject of a disclosure under the principles of natural justice.

5.1.3 Employees
All employees are responsible for:

- Complying with the Public Interest Disclosure Policy and this procedure and Council’s Code of Conduct;
- Reporting their concerns about suspected misconduct or unethical behavior in accordance with the Public Interest Disclosure Policy and this procedure; and
- Participating in various awareness training programs.

5.2 Making a Disclosure

5.2.1 A disclosure can be made in writing (preferable) or orally and anonymously, although a person making an anonymous disclosure should disclose as much information as possible to enable Council to respond appropriately.

5.2.2 The disclosure will be forwarded to the responsible officer within W&S who will assess the disclosure and determine whether it constitutes a disclosure and whether it requires investigation or referral to another unit or State Government agency. The responsible officer will make a recommendation to appropriate senior management and a statement of reasons for action before proceeding with an investigation or another course of action.

5.2.3 Any disclosures pertaining to the CEO or a Councillor shall be dealt with in accordance with current statutory provisions.

5.2.4 A person should disclose anything that they think may constitute a disclosure, and be prepared to provide evidence to support the disclosure to the investigating officer. All disclosures will be treated with strict confidentiality and shall not be discussed (including any correspondence) with any other person other than chosen support persons.

5.2.5 Under section 46 of the Act, Disclosers have a right of appeal or review, internally and externally on the management of and/or a decision regarding their disclosure. External review avenues include the Queensland Ombudsman and the Crime and Misconduct Commission.

5.2.6 Some disclosures are not protected by the Act, including disclosures made to the media, frivolous or vexatious disclosures, those that question the merits of Council policy and those that are made to avoid disciplinary action.

5.2.7 To intentionally make a false disclosure is an offence under section 66 of the Act.

5.2.8 Disclosures can be made directly to the Crime and Misconduct Commission regarding misconduct, or the Ombudsman concerning maladministration or a Member of Parliament.
5.3 Support and Protection

5.3.1 Management and responsible officers from W&S must treat all disclosures in the strictest of confidence, including disclosures which do not qualify as an actual disclosure as defined in legislation. All concerns are taken seriously and privacy and confidentiality must be protected as far as possible throughout any investigation process.

5.3.2 As an employee you may share information with Council’s Employee Assistance Program provider, your union representative or an appointed support person.

5.3.3 Under section 36 of the Act a person is not liable civilly, criminally or under an administrative process for making a disclosure. An employee cannot be dismissed on the basis of making a disclosure or intending to make a disclosure in accordance with the Act.

5.3.4 Council is responsible under the Act for preventing any disclosures from reprisals and bullying, under section 40 of the Act it is also an offence for an employee to make a reprisal because of a belief that another person has made or intends to make a disclosure.

5.3.5 If a person feels as though they have been disadvantaged or subjected to a reprisal for making a disclosure they should raise the matter immediately with their senior management or W&S.

5.3.6 Council will ensure that all people involved in an investigation of a disclosure, either as a Discloser or subject, will be offered an appropriate level of support and case management. Action will be taken to ensure where possible that people’s identities and the details of the disclosure remain confidential.

5.3.7 Subject officers are assumed to be innocent of any adverse allegations until there is evidence to the required standard of proof to show otherwise. The rules of natural justice apply to any subject officer under investigation in respect of an allegation made against them.

5.3.8 It is the responsibility of the responsible W&S officer to provide feedback to the Discloser about the progress and the outcome of the disclosure. Council also undertakes to keep the Discloser who is not a public officer informed of the progress of their disclosure.

5.3.9 Any apparent conflict between disclosure and confidentiality is risk managed by Council through a clear focus on the prevention of fraud, wrongdoing and unethical behaviour.

5.4 Workforce and Strategy Responsibilities

5.4.1 Once Council receives a disclosure it is referred to the responsible W&S officer to ensure that the matter meets the criteria under the Act and if so the responsible officer prepares recommendations for appropriate management consideration.

5.4.2 If a disclosure pertains to an administrative action, environment or safety concerns the responsible officer refers the disclosure to the relevant Council section or the appropriate State Government Department or agency.

5.4.3 If a disclosure requires an investigation, responsible officers within W&S commence the processes outlined within Council’s Investigation Procedure. In some instances certain investigations may be referred to external organisations for referral or completion.
5.4.4 The responsible officer within W&S will liaise directly with the relevant State Government Department or agency as required, maintain the required registers, and complete all legislative reporting requirements.

5.4.5 Where a disclosure investigation has identified a discipline breach, the responsible W&S officer makes the appropriate recommendations for action in accordance with Council’s Discipline Procedure and Human Resource Management Delegations Policy for the relevant management’s consideration.

5.4.6 W&S will update the appropriate senior management on the progress of any disclosure investigations and processes.

5.4.7 W&S facilitate educational awareness programs pertaining to the Public Interest Disclosure Policy and this procedure.

6. Review Timelines:

This Procedure will be reviewed when any of the following occur:
1. The related information is amended or replaced; or
2. Other circumstances as determined from time to time by the CEO.

7. Responsibilities:

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<th>Sponsor</th>
<th>Chief Executive Officer</th>
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<tbody>
<tr>
<td>Business Owner</td>
<td>Chief Executive Officer</td>
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<tr>
<td>Procedure Owner</td>
<td>Chief Executive Officer</td>
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<tr>
<td>Procedure Quality Control</td>
<td>Corporate Improvement and Strategy</td>
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EVAN PARDON
CHIEF EXECUTIVE OFFICER