

PUBLIC INTEREST DISCLOSURE POLICY

STATUTORY POLICY



1 Scope

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

2 Purpose

The purpose of this policy is to:

- (a) Acknowledge Council's obligations as a public sector entity as defined in the *Public Interest Disclosure Act 2010*; and
- (b) Establish Council's commitment to the promotion and management of public interest disclosures.

3 Related Documents

3.1 Primary

Public Interest Disclosure Act 2010

3.2 Secondary

Aboriginal Cultural Heritage Act 2003

Anti-Discrimination Act 1991

Crime and Corruption 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

Human Rights Act 2019

Industrial Relations Act 2016

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

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Ombudsman Act 2001
Petroleum Act 1923
Petroleum and Gas (Production and Safety) Act 2004
Public Sector Ethics Act 1994
Queensland Heritage Act 1992
Right to Information 2009
Torres Strait Islander Cultural Heritage Act 2003
Transport Operations (Marine Pollution) Act 1995
Water Act 2000
Work Health and Safety Act 2011
 Administrative Action Complaint Procedure
 Code of Conduct
 Code of Conduct for Councillors in Queensland
 Complaint Management Policy
 Corrupt Conduct Policy
 Corrupt Conduct Procedure
 Councillor Investigation Policy
 Discipline Procedure
 Drug and Alcohol Policy
 Drug and Alcohol Procedure (Councillors)
 Drug and Alcohol Procedure (Workers)
 Environmental Policy
 Handling of Confidential Information Policy
 Information Public Disclosure Procedure
 Investigation Procedure
 Privacy Policy
 Public Interest Disclosure Procedure
 Right to Information Policy
 Workplace Bullying, Discrimination and Sexual Harassment Policy
 Workplace Health and Safety Policy

4 Definitions

To assist in interpretation, the following definitions apply:

Act	<i>Public Interest Disclosure Act 2010</i>
Administrative Action	As defined in Schedule 4 of the Act: (a) Any action about a matter of administration, including for example: (i) A decision and an act; and (ii) A failure to make a decision or do an act, including a failure to provide a written statement of reasons for a decision; and

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	<ul style="list-style-type: none"> (iii) The formulation of a proposal or intention; and (iv) The making of a recommendation, including a recommendation made to a Minister; and (v) An action taken because of a recommendation to a Minister.
Corrupt Conduct	<p>As defined in the <i>Crime and Corruption Act 2001</i>, conduct of a person, regardless of whether the person holds or held an appointment, that fulfils each of the following elements:</p> <ul style="list-style-type: none"> (a) Adversely affects, or could adversely affect, directly or indirectly, the performance of functions, or the exercise of powers of a UPA or a person holding an appointment; (b) Results, or could result, directly or indirectly, in the performance of functions or the exercise of powers mentioned in section (a) in a way that: <ul style="list-style-type: none"> (i) Is not honest or is not impartial; or (ii) Involves a breach of the trust placed in a person holding an appointment, either knowingly or recklessly; or (iii) Involves a misuse of information or material acquired in or in connection with the performance of functions or the exercise of powers of a person holding an appointment; and (c) Would, if proved, be a criminal offence; or a disciplinary breach providing reasonable grounds for terminating the person's services, if the person is or were the holder of an appointment. <p>Corrupt conduct also means conduct of a person, regardless of whether the person holds or held an appointment that fulfils each of the following elements:</p> <ul style="list-style-type: none"> (a) Impairs, or could impair, public confidence in public administration; and (b) Involves, or could involve any of the following; <ul style="list-style-type: none"> (i) Collusive tendering; (ii) Fraudulent applications for licences, permits or other authorities under an Act with a purpose or object of any of the following (however described) – protecting health or safety of persons; protecting the environment or protecting or managing the use of the State's natural, cultural, mining or energy resources; (iii) Dishonestly obtaining, or helping someone to dishonestly obtain, benefits from the payment or application of public funds or the disposition of State assets; (iv) Evading State taxes, levies, duties or otherwise fraudulently causing a loss of State revenue; (v) Fraudulently obtaining or retaining an appointment; and (c) Would, if proved, be a criminal offence; or a disciplinary breach providing reasonable grounds for terminating the person's services, if the person is or were the holder of an appointment.
Council	Rockhampton Regional Council
Councillor/s	The Mayor and Councillors of Rockhampton Regional Council, within the meaning of the <i>Local Government Act 2009</i> .
Detriment	<p>As defined in Schedule 4 of the Act. Includes:</p> <ul style="list-style-type: none"> (a) Personal injury or prejudice to safety; and (b) Property damage or loss; and (c) Intimidation or harassment; and (d) Adverse discrimination, disadvantage or adverse treatment about career, profession, employment, trade or business; and

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	<p>(e) Financial loss; and</p> <p>(f) Damage to reputation, including for example, personal, professional or business reputation.</p>
Disability	<p>As defined in Schedule 4 of the Act: A person's condition that:</p> <p>(a) Is attributable to:</p> <p>(i) An intellectual, psychiatric, cognitive, neurological, sensory or physical impairment; or</p> <p>(ii) A combination of impairments listed above; and</p> <p>(b) Results in:</p> <p>(i) A substantial reduction of the person's capacity for communication, social interaction, learning, mobility or self care or management; and</p> <p>(ii) The person needing support.</p>
Employee	<p>Local government employee:</p> <p>(a) The Chief Executive Officer; or</p> <p>(b) A person holding an appointment under section 196 of the <i>Local Government Act 2009</i>.</p>
Environment	<p>As defined in Schedule 4 of the Act: Includes:</p> <p>(a) Ecosystems and their constituent parts, including people and communities; and</p> <p>(b) All natural and physical resources; and</p> <p>(c) 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</p> <p>(d) The social, economic, aesthetic and cultural conditions that affect, or are affected by things mentioned above.</p>
Maladministration	<p>As defined in Schedule 4 of the Act: An administrative action that was:</p> <p>(a) Taken contrary to law; or</p> <p>(b) Unreasonable, unjust, oppressive, or improperly discriminatory; or</p> <p>(c) 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</p> <p>(d) Taken:</p> <p>(i) For an improper purpose; or</p> <p>(ii) On irrelevant grounds; or</p> <p>(iii) Having regard to irrelevant considerations; or</p> <p>(e) An action for which reasons should have been given, but were not given; or</p> <p>(f) Based wholly or partly on a mistake of law or fact; or</p> <p>(g) Wrong.</p>
Person	<p>A human being regarded as an individual, whether or not the individual is a public officer (members of the public).</p>
Proper Authority	<p>As defined in section 5 of the Act, a public sector entity or a member of the Legislative Assembly.</p>
Public Interest Disclosure	<p>As defined in section 11 of the Act, all information and help given by the discloser to a proper authority about a public interest matter referred to, in accordance with sections 12 and 13 of the Act.</p>

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Public Officer	All Rockhampton Regional Council's Councillors and employees.
Public Sector Entity	<p>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 the Act.</p> <p>A proper authority may include public sector entities such as the Crime and Corruption Commission, the Public Service Commission, the Queensland Ombudsman, the Queensland Human Rights Commission or the Queensland Industrial Relations Commission.</p>
Reprisal	<p>As defined in section 40 of the Act:</p> <p>A person must not cause, or attempt or conspire to cause, detriment to another person because, or in the belief that:</p> <p>(a) The other person or someone else has made, or intends to make, a public interest disclosure; or</p> <p>(b) The other person or someone else is, has been, or intends to be, involved in a proceeding under the Act against any person.</p>
UPA	<p>Unit of Public Administration</p> <p>As defined in the <i>Crime and Corruption Act 2001</i>, includes the following:</p> <p>(a) The Legislative Assembly, and the parliamentary service;</p> <p>(b) The Executive Council;</p> <p>(c) A department;</p> <p>(d) The police service;</p> <p>(e) A local government;</p> <p>(f) A corporate entity established by an Act or that is of a description of a corporate entity provided for by an Act which, in either case, collects revenues or raises funds under the authority of an Act;</p> <p>(g) A noncorporate entity, established or maintained under an Act, that is:</p> <p>(i) Funded to any extent with State moneys; or</p> <p>(ii) Financially assisted by the State;</p> <p>(h) A State court, of whatever jurisdiction, and its registry and other administrative offices; and</p> <p>(i) Another entity prescribed under a regulation.</p>

5 Policy Statement

In accordance with the objectives of the Act, it is Council policy to:

- (a) Promote the public interest by facilitating public interest disclosures of wrongdoing in the public sector;
- (b) Ensure that public interest disclosures are properly made, assessed, and when appropriate, properly investigated and dealt with;
- (c) Ensure that appropriate consideration is given to the interests of persons who are the subject of a public interest disclosure; and
- (d) Afford protection from reprisals to persons making public interest disclosures.

Council recognises the important role Councillors, Council employees and members of the public can play in the identification of cases of maladministration, corrupt conduct and the misuse of public resources or contraventions giving rise to dangers to public health and safety, the environment or to persons with disabilities.

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5.1 Public Interest Disclosures

Public interest disclosure must be:

- (a) Made to a proper authority; and
- (b) Information about the conduct of another person or another matter if:
 - (i) The person honestly believes on reasonable grounds that the information tends to show the conduct or other matter; or
 - (ii) The information tends to show the conduct or other matter, regardless of whether the person honestly believes the information tends to show the conduct or other matter.

A proper authority includes a public sector entity as defined by section 6 of the Act if the information and the subject of the disclosure relates to the conduct of the entity, or the public sector entity has power to investigate or remedy.

5.2 Information that may be disclosed and who may disclose it

5.2.1 Disclosure by any Person

A public interest disclosure can be made by any person about:

- (a) A substantial and specific danger to the health or safety of a person with a disability; or
- (b) The commission of an offence against a provision mentioned in Schedule 2* of the Act, if the commission of the offence is or would be a substantial and specific danger to the environment; or
- (c) A contravention of a condition imposed under a provision mentioned in Schedule 2* of the Act, if the contravention is or would be a substantial and specific danger to the environment; or
- (d) The conduct of another person that could, if proved, be a reprisal.

*Schedule 2 of the Act specifies particular statutory offences or contraventions involving endangering the environment.

5.2.2 Disclosure by a Public Officer

In addition to 5.2.1, public officers can also make a public interest disclosure about:

- (a) The conduct of another person that could, if proved, be:
 - (i) Corrupt conduct; or
 - (ii) Maladministration that adversely affects a person's interests in a substantial and specific way; or
- (b) A substantial misuse of public resources (other than an alleged misuse based on mere disagreement over policy that may properly be adopted about amounts, purposes or priorities of expenditure); or
- (c) A substantial and specific danger to public health or safety; or
- (d) A substantial and specific danger to the environment.

5.2.3 Referral to Another Public Sector Entity

Referral to another public sector entity may occur in the following circumstances:

- (a) When the public interest disclosure received relates to the conduct of another public sector entity or a public officer of another public sector entity; or
- (b) If another entity has the necessary jurisdiction, expertise and technical knowledge to investigate or take other action.

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5.3 Management of Public Interest Disclosures

Council recognises the sensitivities which can be associated with public interest disclosures and the need to maintain public confidence in its process for managing public interest disclosures. Council will:

- (a) Ensure public interest disclosures are managed appropriately in accordance with the requirements of the Act and are achieved via the Public Interest Disclosure Procedure;
- (b) Maintain confidentiality of public interest disclosures received;
- (c) Consider prosecution of any person who provides a false or misleading statement or information to Council with the intention of it being processed as a public interest disclosure;
- (d) Consider prosecution and/or disciplinary action against any Councillor or employee who takes or attempts to take a reprisal action;
- (e) Facilitate public interest disclosure educational awareness programs for employees and make available applicable information for members of the public;
- (f) Ensure the disclosure regime facilitates continuous improvement of Council, its overall service delivery, systems, processes and employees; and
- (g) Ensure records of public interest disclosures received are maintained, and that the confidentiality of all records created during the investigation and reporting of public interest disclosures is preserved.

6 Review Timelines

This policy is reviewed when any of the following occur:

- (a) As required by legislation;
- (b) The related information is amended or replaced; or
- (c) Other circumstances as determined from time to time by the CEO.

7 Document Management

Sponsor	Chief Executive Officer
Business Owner	Chief Executive Officer
Policy Owner	Manager Workforce and Governance
Policy Quality Control	Legal and Governance

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