

# PUBLIC INTEREST DISCLOSURE PROCEDURE



## 1 Scope

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

## 2 Purpose

The purpose of this procedure is to:

- (a) Communicate the rights and obligations, and to outline the process for Councillors, employees and members of the public to make appropriate disclosures;
- (b) Ensure the prompt, efficient and appropriate action of all disclosures and compliance with the *Public Interest Disclosure Act 2010*; and
- (c) Outline the disclosure processes and the required responsibilities of all employees.

## 3 Related Documents

### 3.1 Primary

Public Interest Disclosure Policy

### 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*

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*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*  
*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*

Public Interest Disclosure Standard No 1 – Public Interest Disclosure Management Program  
 Public Interest Disclosure Standard No. 2/2019 – Assessing, Investigating and Dealing with Public Interest Disclosures  
 Public Interest Disclosure Standard No. 3/2019 – Public Interest Disclosure Data Recording and Reporting  
 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  
 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>
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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 (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.
CEO	Chief Executive Officer A person who holds an appointment under section 194 of the <i>Local Government Act 2009</i> . This includes a person acting in the position.
Corrupt Conduct	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 <b>each</b> of the following elements: (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: (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.  Corrupt conduct also means conduct of a person, regardless of whether the person holds or held an appointment that fulfils <b>each</b> of the following elements: (a) Impairs, or could impair, public confidence in public administration; and (b) Involves, or could involve, any of the following: (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

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Councillor/s	The Mayor and Councillors of Rockhampton Regional Council, within the meaning of the <i>Local Government Act 2009</i> .
Employee/s	Local government employee: (a) The CEO; or (b) A person holding an appointment under section 196 of the <i>Local Government Act 2009</i> .
Environment	As defined in Schedule 4 of the Act, includes: (a) Ecosystems and their constituent parts, including people and communities; and (b) All natural and physical resources; and (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 (d) The social, economic, aesthetic and cultural conditions that affect, or are affected by things mentioned above.
Maladministration	As defined in Schedule 4 of the Act, an administrative action that was: (a) Taken contrary to law; or (b) Unreasonable, unjust, oppressive, or improperly discriminatory; or (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 (d) Taken: (i) For an improper purpose; or (ii) On irrelevant grounds; or (iii) Having regard to irrelevant considerations; or (e) An action for which reasons should have been given, but were not given; or (f) Based wholly or partly on a mistake of law or fact; or (g) Wrong.
Natural Justice	The principles and procedures that govern the adjudication of disputes between persons or organisations. The principles of natural justice are: (a) All parties will have the right to be heard and judged without bias. (b) All issues are investigated thoroughly and justly.
Person	A human being regarded as an individual, whether or not the individual is a public officer (members of the public).
Proper Authority	As defined in section 5 of the Act, a public sector entity or a member of the Legislative Assembly.
Public Interest Disclosure	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.
Public Officer	All Rockhampton Regional Council's Councillors and employees.
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 the Act.  A proper authority may include public sector entities such as the Crime and Corruption Commission, the Public Service Commission, the Queensland

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	Ombudsman, the Queensland Human Rights Commission or the Queensland Industrial Relations Commission.
Reprisal	As defined in section 40 of the Act: A person must not cause, or attempt or conspire to cause, detriment to another person because, or in the belief that: (a) The other person or someone else has made, or intends to make a public interest disclosure; or (b) The other person or someone else is, has been, or intends to be, involved in a proceeding under the Act against any person.
Subject Officer	A person about whom a public interest disclosure is made.
UPA	Unit of Public Administration As defined in the <i>Crime and Corruption Act 2001</i> , includes the following: (a) The Legislative Assembly, and the parliamentary service; (b) The Executive Council; (c) A department; (d) The police service; (e) A local government; (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; (g) A noncorporate entity, established or maintained under an Act, that: (i) Is funded to any extent with State moneys; or (ii) Is financially assisted by the State; (h) A State court, of whatever jurisdiction, and its registry and other administrative offices; and (i) Another entity prescribed under a regulation.
Workforce Relations and Ethics Unit	Workforce Relations and Ethics Unit, Workforce and Governance

## 5 Procedure

Everyone plays an important role in identifying 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.

All disclosures will be handled in the same manner regardless if the disclosure is made from a person or a public officer.

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.

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 section entity; or
- (b) If another entity has the necessary jurisdiction, expertise and technical knowledge to investigate or take other action.

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## 5.1 Responsibilities

### 5.1.1 CEO, Deputy Chief Executive Officer and General Managers

CEO, Deputy Chief Executive Officer and general managers are responsible for ensuring:

- (a) 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);
- (b) Reasonable procedures are in place to deal with a public interest disclosure and are published to enable persons and public officers to access them;
- (c) Disclosures are properly assessed, investigated and dealt with, including appropriate action being taken in relation to any wrongdoing in a disclosure;
- (d) Employees making a disclosure receive support and protection from reprisal;
- (e) Legislative obligations in relation to reporting and investigation are met; and
- (f) Matters involving suspected corrupt conduct are assessed and referred, as required to the Crime and Corruption Commission in accordance with the *Crime and Corruption Act 2001*. Refer to Council's Corrupt Conduct Policy and Procedure.

### 5.1.2 Supervisors

Supervisors are responsible for maintaining an ethical culture and leading by example to:

- (a) Provide clear direction to employees on how to raise matters that involve corrupt conduct, while maintaining confidentiality and natural justice;
- (b) Ensure 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
- (c) 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

Employees are responsible for:

- (a) Complying with the Public Interest Disclosure Policy, this procedure and the Code of Conduct;
- (b) Reporting their concerns about suspected corrupt conduct or unethical behaviour in accordance with the Public Interest Disclosure Policy and this procedure; and
- (c) Participating in various educational awareness training programs.

## 5.2 Making a Disclosure

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.

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. The only exception would be when a disclosure is required by law.

Some disclosures are not protected by the Act, including disclosures made to the media, false or misleading information, those that question the merits of Council policy and those that are made to avoid disciplinary action. Section 20 of the Act highlights the circumstances when a disclosure can be made to a journalist.

In accordance with section 45 of the Act, making a disclosure does not prevent reasonable management action.

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To intentionally make a false disclosure is an offence under section 66 of the Act and may lead to disciplinary action.

Disclosures can be made directly to the Crime and Corruption Commission regarding corrupt conduct, or the Ombudsman concerning maladministration or a Member of Parliament.

### 5.3 Process for the Handling of Disclosures

Disclosures will be forwarded to the Workforce Relations and Ethics Unit who will assess and determine if it constitutes a disclosure and if it requires investigation.

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.

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

Under section 46 of the Act, public officers 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 Corruption Commission.

### 5.4 Support and Protection

Management and responsible officers from the Workforce Relations and Ethics Unit 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.

Employees may share information with Council's Employee Assistance Program provider, their union representative or an appointed support person.

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.

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.

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 the Workforce Relations and Ethics Unit.

Council will ensure all persons involved in a disclosure investigation, 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.

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.

Council undertakes to keep the discloser who is not a public officer informed of the progress of their disclosure.

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.

### 5.5 Workforce Relations and Ethics Unit Responsibilities

The Workforce Relations and Ethics Unit responsibilities include:

- (a) Assessment to ensure that the matter meets the criteria under the Act.
- (b) Prepare recommendations for appropriate management consideration.

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- (c) If a disclosure relates to an administrative action, environment or safety concerns the responsible officer will refer the disclosure to the relevant Council section or the appropriate State Government Department or agency.
- (d) If a disclosure requires an investigation, commence the processes outlined in the Investigation Procedure. In some instances investigations may be referred to external organisations for referral or completion.
- (e) Liaise directly with the relevant State Government Department or agency as required.
- (f) Provide feedback to the discloser about the progress and outcome of the disclosure.
- (g) The Public Interest Disclosure Standard No. 1, No. 2 and No. 3 place an obligation on Council to possess a secure and confidential reporting system to receive and manage disclosure information; the Workforce Relations and Ethics Unit will oversee this process.
- (h) Where an investigation has identified a discipline breach, the responsible officer may make recommendations for action in accordance with the Discipline Procedure for the relevant management's consideration.
- (i) Update the appropriate senior management on the progress of disclosure investigations.
- (j) Where applicable, ensure the disclosure regime facilitates continuous improvement of Council, its overall service delivery, systems, processes and employees.
- (k) Facilitate educational awareness programs relating to the Public Interest Disclosure Policy and this procedure.
- (l) The provision of relevant information to the oversight agency through completion of the Queensland Ombudsman's Public Interest Disclosure database.

## 6 Review Timelines

This procedure is reviewed when any of the following occur:

- (a) The related information is amended or replaced; or
- (b) Other circumstances as determined from time to time by the Manager Workforce and Governance.

## 7 Document Management

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



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