

Public Interest Disclosure Management Plan

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Responsible Officer	Manager Development and Governance	Date Approved:	19/07/2023
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Author:	Senior Compliance Officer	Commencement:	19/07/2023

1. PURPOSE

Mareeba Shire Council (Council) is committed to fostering an ethical, transparent culture. In pursuit of this, Council values the disclosure of information about suspected wrongdoing in the public sector so that it can be properly assessed and, if necessary, appropriately investigated. Council will provide support to an employee or others who make disclosures about matters in the public interest.

This *Public Interest Disclosure Management Plan* (PID Plan) demonstrates this commitment and ensures that practical and effective procedures are implemented which comply with the requirements of the *Public Interest Disclosure Act 2010* (Qld) (PID Act) and any relevant standards.

By complying with the PID Act,¹ Council will:

- promote the public interest by facilitating public interest disclosures (PIDs) of wrongdoing
- ensure that PIDs are properly assessed and, where appropriate, properly investigated and dealt with
- ensure appropriate consideration is given to the interests of persons who are the subject of a PID
- ensure protection from reprisal is afforded to persons making PIDs

As required under the PID Act,² the Chief Executive Officer will implement procedures to ensure that:

- any employee who makes a PID is given appropriate support
- PIDs made to Council are properly assessed and, where appropriate, properly investigated and dealt with
- appropriate action is taken in relation to any wrongdoing which is the subject of a PID
- a management program for PIDs made to Council, consistent with the PID Standard³ issued by the Queensland Ombudsman, is developed and implemented
- public officers who make PIDs are offered protection from reprisal by Council or other public officers of Council.

Council's PID Plan is available for public viewing via Council's website. The PID Plan will be reviewed annually and updated as required to ensure it meets the requirements of the PID Act and the relevant standard⁴ issued by the Queensland Ombudsman.

2. SCOPE

This PID Plan applies across Council and to members of the public.

This PID Plan establishes procedures for:

¹ See *Public Interest Disclosure Act 2010* (Qld) s 3.

² Ibid s 28.

³ See *Public Interest Disclosure Standard No. 1/2019* s 8 Standard 1.1.

⁴ Ibid s 8 Standard 1.2.

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- Persons wishing to make a PID to Council in accordance with the PID Act
- The receipt, assessment and management of a PID
- Assisting public officers (i.e. discloser and subject officer) affected by a PID.

3. PID MANAGEMENT PROGRAM

The Council PID management program encompasses:

- commitment to encouraging the internal reporting of wrongdoing
- senior management endorsement of the value to Council of PIDs and the proper management of PIDs
- a communication strategy to raise awareness among employees about PIDs and Council's PID procedure
- a training strategy to give employees access to training about how to make a PID, information on the support available to a discloser, and advice on how PIDs will be managed
- specialist training and awareness about PIDs for senior management and other staff who may receive or manage PIDs, disclosers or workplace issues relating to PIDs
- the appointment of a specialist officer/unit to be responsible for issues related to the management of PIDs
- ensuring effective systems and procedures are in place so that issues and outcomes from PIDs inform improvements to service delivery, business processes and internal controls
- regular review of the Public Interest Disclosure Procedure and evaluation of the effectiveness of the PID management program.

The Chief Executive Officer has designated the following roles and responsibilities for managing PIDs within Council:

Role	Responsibilities	Officer
PID Coordinator	<ul style="list-style-type: none"> • Principal contact for PID issues within Council • Documents and manages implementation of PID management program • Reviews and updates PID procedure annually • Maintains and updates internal records of PIDs received • Reports data on PIDs to Queensland Ombudsman • Assesses PIDs received • Provides acknowledgment of receipt of PID to discloser • Undertakes risk assessments in consultation with disclosers and other relevant officers • Liaises with other agencies about referral of PIDs • Allocates Investigator and Support Officer to PID matter 	<p>Manager Development and Governance</p> <p>Contact number: 1300 308 461 or 07 4086 4605</p> <p>Email: info@msc.qld.gov.au</p>
PID Support Officer	<ul style="list-style-type: none"> • Provides advice and information to discloser on Council PID procedure • Assesses the immediate protection needs of the discloser 	As assigned by PID Coordinator

	<ul style="list-style-type: none"> • Coordinates and provides support to the discloser • Works with management to foster a supportive work environment • Proactively contacts discloser throughout PID management process and provides updates on progress of investigation • Keeps records of all aspects of case management of the discloser, including all contact and follow-up-action 	
Investigator	<ul style="list-style-type: none"> • Conducts investigation of information in PID in accordance with terms of reference • Prepares report for delegated decision-maker 	An appropriate internal or external investigator will be appointed for each PID investigated depending upon the type of disclosure and other relevant considerations

4. WHAT IS A PUBLIC INTEREST DISCLOSURE?

Under the PID Act, any person can make a disclosure⁵ about a:

- substantial and specific danger to the health or safety of a person with a disability
- substantial and specific danger to the environment
- reprisal because of a belief that a person has made, or intends to make a disclosure.

In addition, public sector officers can make a disclosure⁶ about the following public interest matters:

- corrupt conduct
- maladministration that adversely affects a person's interests in a substantial and specific way
- a substantial misuse of public resources
- a substantial and specific danger to public health or safety
- substantial and specific danger to the environment.

A discloser can have either a 'reasonable belief' that wrongdoing has occurred or provide evidence which tends to show the wrongdoing has occurred.

A disclosure amounts to a PID and is covered by the PID Act even if the:

- discloser reports the information as part of their duties – such as an auditor reporting a fraud
- or an occupational health and safety officer reporting a safety breach
- disclosure is made anonymously – the discloser is not required to give their name or any identifying information⁷
- discloser has not identified the material as a PID – it is up to Council to assess information received and decide if it is a PID⁸
- disclosure is unsubstantiated following investigation – the discloser is protected when the information they provide is assessed as a PID, whether or not it is subsequently investigated or found to be substantiated.

⁵ See *Public Interest Disclosure Act 2010* (Qld) s 12.

⁶ *Ibid* s 13.

⁷ *Ibid* s 21.

⁸ *Ibid* ss 11-13, 15, 17.

5. WHO CAN A PUBLIC INTEREST DISCLOSURE BE DISCLOSED TO?

A PID must be made to the ‘proper authority’ to receive disclosures of the type being made. Disclosers are encouraged to make a disclosure to an appropriate officer of Council⁹ first. If the matter is not resolved, or the discloser is concerned about confidentiality, the disclosure may be made to another appropriate agency.

Whom to contact within Council	Other agencies that can receive PIDs:
<p>Any person (including employees) can make a disclosure to:</p> <ul style="list-style-type: none"> • The employee's direct supervisor • The employee's manager • The Manager Organisational Development • The Senior Human Resources Advisor • The Manager Development & Governance • The Chief Executive Officer or another member of the Executive Management Team 	<p>Disclosures can be made to an agency that has a responsibility for investigating the information disclosed:</p> <ul style="list-style-type: none"> • Crime and Corruption Commission (CCC) for disclosures about corrupt conduct including reprisal • Queensland Ombudsman for disclosures about maladministration • Queensland Audit Office for disclosures about a substantial misuse of resources • Department of Child Safety, Youth and Women for disclosures about danger to the health and safety of a child or young person with a disability • Department of Communities, Disability Services and Seniors for disclosures about danger to the health and safety of a person with a disability • Office of the Public Guardian for disclosures about danger to the health and safety of a person with a disability • Department of Environment and Science about disclosures about danger to the environment • A Member of the Legislative Assembly (MP) for any wrongdoing or danger • The Chief Judicial Officer of a court or tribunal in relation to a disclosure about wrongdoing by a judicial officer.

6. HOW TO MAKE A PUBLIC INTEREST DISCLOSURE

A discloser can make a PID either verbally or in writing.¹⁰ To assist in the assessment, and any subsequent investigation of a PID, disclosers should:

- provide contact details (this could be an email address that is created for the purpose of making the disclosure or a telephone number)
- provide as much information as possible about the suspected wrongdoing, including:
 - who was involved
 - what happened
 - when it happened
 - where it happened
 - whether there were any witnesses, and if so who they are

⁹ Ibid s 6(g).

¹⁰ Ibid ss 17, 65.

- any evidence that supports the PID, and where the evidence is located
- any further information that could help investigate the PID.

A PID also can be made anonymously however the discloser is encouraged to provide their name and contact details. Disclosing a PID anonymously can make it difficult to investigate the issue, to seek clarification or more information, or to provide the discloser with feedback. If the discloser decides to disclose anonymously, they will need to provide sufficient information for the matter to be investigated, as it will not be possible for Council to contact the discloser asking for clarification or more information.

A person who gives information to a proper authority, knowing that it is false or misleading, and intending that it be acted upon as a PID, commits a criminal offence under the PID Act.¹¹ If the individual is an employee the person may also face disciplinary action for providing intentionally false information.

Any protections under the PID Act are not extended to those who intentionally make a PID that they know is false. This is different from information that turns out to be incorrect or unable to be substantiated.

7. ASSESSING A PUBLIC INTEREST DISCLOSURE

Once the matter has been assessed as a PID, Council will advise the discloser:¹²

- that their information has been received and assessed as a PID
- the action to be taken by Council in relation to the disclosure, which could include referring the matter to an external agency, or investigating
- the likely timeframe involved
- the name and contact details of the Council support officer they can contact for updates or advice
- of the discloser's obligations regarding confidentiality
- the protections the discloser has under the PID Act
- the commitment of Council to keep appropriate records and maintain confidentiality, except where permitted under the PID Act
- how updates regarding intended actions and outcomes will be provided to the discloser
- contact details for the Council Employee Assistance Program.

If the PID has been made anonymously and the discloser has not provided any contact details, Council will not be able to acknowledge the PID or provide any updates.

Upon receiving a PID, Council will conduct a risk assessment to assess the likelihood of the discloser suffering reprisal action because of having made the disclosure. This assessment will take into account the actual and reasonably perceived risk of the discloser suffering detriment, and will include consultation with the discloser.¹³

Consistent with the assessed level of risk, Council will arrange any reasonably necessary support or protection for the discloser.

8. REFERRING A PUBLIC INTEREST DISCLOSURE

If Council decides there is another proper authority that is better able to deal with the PID, the PID may be referred to that agency.¹⁴ This may be because:

- the PID concerns wrongdoing by that agency or an employee of that agency
- the agency has the power to investigate or remedy the matter.

In these cases, the discloser will be advised of the action taken by Council. It may also be necessary to refer the PID to another agency because of a legislative obligation, for example, refer a matter to the Crime and

¹¹ See *Public Interest Disclosure Act 2010* (Qld) s 66.

¹² See *Public Interest Disclosure Act 2010* (Qld) ss 32, 36-41. See also *Public Interest Disclosure Standard No. 2/2019* s 8 Standard 2.2 s 2.2.2.

¹³ See *Public Interest Disclosure Standard No. 2/2019* s 8 Standard 2.4 s 2.4.2.

¹⁴ See *Public Interest Disclosure Act 2010* (Qld) s 31.

Corruption Commission where there is a reasonable suspicion that the matter involves or may involve corrupt conduct (as required by section 38 of the *Crime and Corruption Act 2001*).

The confidentiality obligations of the PID Act permit appropriate officers of Council to communicate with another agency about the referral of a PID. Officers will exercise discretion in their contacts with any other agency.

9. DECLINING TO TAKE ACTION ON A PUBLIC INTEREST DISCLOSURE

Under the PID Act, Council may decide not to investigate or deal with a PID in various circumstances, including:

- the information disclosed has already been investigated or dealt with by another process
- the information disclosed should be dealt with by another process
- the age of the information makes it impractical to investigate
- the information disclosed is too trivial and dealing with it would substantially and unreasonably divert Council from the performance of its functions
- another agency with jurisdiction to investigate the information has informed Council that an investigation is not warranted.

If a decision is made not to investigate or deal with a PID Council will give the discloser written reasons for that decision. If the discloser is dissatisfied with the decision they can request a review by writing to the Chief Executive Officer of Council within 28 days of receiving the written reasons for decision.¹⁵

10. INVESTIGATING A PUBLIC INTEREST DISCLOSURE

If a decision is made to investigate a PID, this will be done with consideration for the:

- principles of natural justice
- obligation under the PID Act to protect confidential information¹⁶
- obligation under the PID Act to protect officers from reprisal¹⁷
- interests of subject officers.

If as a result of investigation, the information about wrongdoing provided in the PID is substantiated, appropriate action will be taken.

Where the investigation does not substantiate wrongdoing, Council will review systems, policies and procedures to identify whether there are improvements that can be made and consider if staff training is required.

The discloser and subject officer(s) should be separately informed of the investigation findings and any steps taken as a result. If a PID is substantiated, the discloser should receive advice of this and of any action that will be taken in response. Actions may include one or more of the following:

- stopping the conduct or preventing it from recurring (e.g. providing training and awareness)
- implementing or changing policies, procedures or practices
- offering mediation or conciliation
- taking disciplinary action against a person responsible for the conduct
- referring the conduct to the Queensland Police Service or another person, organisation or entity that has the jurisdiction to take further action.

If the discloser is dissatisfied with Council's response to a PID they made they may raise the matter with the Chief Executive Officer. Disclosers are also entitled to raise the matter with other appropriate entities if they are dissatisfied with Council's response.

¹⁵ Ibid s 30.

¹⁶ Ibid s 65.

¹⁷ Ibid ss 40-42.

11. ORGANISATIONAL SUPPORT FOR DISCLOSERS

Disclosers should not suffer any form of detriment as a result of making a PID. In the event of reprisal action being alleged or suspected, Council will:

- attend to the safety of disclosers or affected third parties as a matter of priority
- review its risk assessment and any protective measures needed to mitigate any further risk of reprisal
- manage any allegation of a reprisal as a PID in its own right.

Details about disclosures, investigations, and related decisions will be kept secure and accessible only to the people involved in the management of the PID. Council will ensure that communication with all parties involved will be arranged discreetly to avoid identifying the discloser wherever possible.

While Council will make every attempt to protect confidentiality, a discloser's identity may need to be disclosed to:

- provide natural justice to subject officers
- respond to a court order, legal directive or court proceedings.

Disclosers should be aware that while Council will make every attempt to keep their details confidential,¹⁸ it cannot guarantee that others will not try to deduce their identity. Information and support will be provided to the discloser until the matter is finalised.

Making a PID does not prevent reasonable management action. That means that the discloser will continue to be managed in accordance with normal, fair and reasonable management practices during and after the handling of the PID.

12. RIGHTS OF SUBJECT OFFICERS

Council acknowledges that for officers who are the subject of a PID the experience may be stressful. Council will protect their rights by:

- assuring them that the PID will be dealt with impartially, fairly and reasonably in accordance with the principles of natural justice
- confirming that the PID is an allegation only until information or evidence obtained through an investigation substantiates the allegation
- providing them with information about their rights and the progress and outcome of any investigation
- referring them to the Employee Assistance Program for support.

Information and support will be provided to subject officer until the matter is finalised.

13. RECORD KEEPING

In accordance with its obligations under the PID Act and the *Public Records Act 2002*,¹⁹ Council will ensure that:

- accurate data is collected about the receipt and management of PIDs²⁰
- anonymised data is reported to the Office of the Queensland Ombudsman²¹ in their role as the oversight agency, through the PID reporting database.

The following details should be recorded about PIDs received by Council:

- the name of the discloser, if known

¹⁸ Ibid s 65.

¹⁹ See *Public Interest Disclosure Act 2010* (Qld) s 66. See also *Public Records Act 2002* s 7(1)(a).

²⁰ See *Public Interest Disclosure Act 2010* (Qld) s 29.

²¹ See *Public Interest Disclosure Standard No. 3/2019* Standard 3.2.

- the information disclosed
- any action taken on the PID
- any other information required by a standard issued under the PID Act.

If a Member of Parliament or other entity refers a PID to Council, the name of the MP or other entity must also be recorded.

If a PID was made orally, Council will ensure a written version of the PID is accepted as accurate by the discloser.

14. REPORTING

The PID coordinator will report on a quarterly basis to the EMT:

- The total number of PIDs received during the quarter
- How many PIDs were resolved and the nature of the resolved PIDs
- The length of time to resolve PIDs.

15. DEFINITIONS

Council – means the Mareeba Shire Council including all elected representatives, employees, contractors, volunteers, a Standing or Joint Standing Committee, committee members and any entity under direct Council ownership, management, sponsorship or financial control.

Corrupt Conduct: As defined within the *Crime and Corruption Act 2001*:²²

(1) Corrupt conduct means conduct of a person, regardless of whether the person holds or held an appointment, that—

(a) adversely affects, or could adversely affect, directly or indirectly, the performance of functions or the exercise of powers of—

- (i) a unit of public administration; or
- (ii) a person holding an appointment; and

(b) results, or could result, directly or indirectly, in the performance of functions or the exercise of powers mentioned in paragraph (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) is engaged in for the purpose of providing a benefit to the person or another person or causing a detriment to another person; and

(d) would, if proved, be—

- (i) a criminal offence; or
- (ii) a disciplinary breach providing reasonable grounds for terminating the person's services, if the person is or were the holder of an appointment.

(2) Without limiting subsection (1), conduct that involves any of the following could be corrupt conduct under subsection (1)—

- (a) abuse of public office;
- (b) bribery, including bribery relating to an election;
- (c) extortion;
- (d) obtaining or offering a secret commission;
- (e) fraud;

²² See *Crime and Corruption Act 2001* s 15.

- (f) stealing;
- (g) forgery;
- (h) perverting the course of justice;
- (i) an offence relating to an electoral donation;
- (j) loss of revenue of the State;
- (k) sedition;
- (l) homicide, serious assault or assault occasioning bodily harm or grievous bodily harm;
- (m) obtaining a financial benefit from procuring prostitution or from unlawful prostitution engaged in by another person;
- (n) illegal drug trafficking;
- (o) illegal gambling.

Detriment: includes

- (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
- (e) financial loss; and
- (f) damage to reputation, including, for example, personal, professional or business reputation.

Discloser: a person who makes a disclosure in accordance with the PID Act.

Maladministration: As defined within the PID Act²³, maladministration is administrative action that—

- (a) was taken contrary to law; or
- (b) was unreasonable, unjust, oppressive, or improperly discriminatory; or
- (c) was 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) was taken—
 - (i) for an improper purpose; or
 - (ii) on irrelevant grounds; or
 - (iii) having regard to irrelevant considerations; or
- (e) was an action for which reasons should have been given, but were not given; or
- (f) was based wholly or partly on a mistake of law or fact; or
- (g) was wrong.

Natural Justice: Natural justice applies to any decision that can affect the rights, interests or expectations of individuals in a direct or immediate way. Natural justice is at law a safeguard applying to an individual whose rights or interests are being affected. The rules of natural justice, which have been developed to ensure that decision-making is fair and reasonable, are: avoid bias; and give a fair hearing. Act only on the basis of logically probative evidence.

Organisational support: for the purposes of this procedure, organisational support means actions such as, but not limited to:

- providing moral and emotional support
- advising disclosers about agency resources available to handle any concerns they have as a result of making their disclosure
- appointing a mentor, confidante or other support officer to assist the discloser through the process
- referring the discloser to the agency's Employee Assistance Program or arranging for other professional counselling
- generating support for the discloser in their work unit where appropriate
- ensuring that any suspicions of victimisation or harassment are dealt with

²³ See *Public Interest Disclosure Act 2010* (Qld) sch 4

- maintaining contact with the discloser
- negotiating with the discloser and their support officer a formal end to their involvement with the support program when it is agreed that they no longer need assistance.

Proper Authority: A person or organisation that is authorised under the PID Act to receive disclosures.

Public officer: A public officer, of a public agency, is an employee, member or officer of the entity.

Reprisal: The term 'reprisal' is defined within the PID Act²⁴ as causing, attempting to cause or conspiring to cause detriment to another person in the belief that they or someone else:

- has made or intends to make a disclosure; or
- has been or intends to be involved in a proceeding under the PID Act against any person.

Reprisal within the PID Act is a criminal offence and investigations may be undertaken by the Queensland Police Service.

Subject officer: An officer who is the subject of allegations of wrongdoing made in a PID.

16. RELATED DOCUMENTS AND REFERENCES

Administrative Action Complaint Management Policy (MSC)

Bullying and Occupational Violence Policy (MSC)

Councillor Code of Conduct (MSC)

Crime and Corruption Act 2001 (Qld)

Employee Code of Conduct (MSC)

Enterprise Risk Management Policy (MSC)

Local Government Act 2009 (Qld)

Misconduct and Discipline Policy (MSC)

Ombudsman Act 2001 (Qld)

Public Interest Disclosure Act 2010 (Qld)

Public Interest Disclosure Policy (MSC)

Public Interest Disclosure Standard No. 1/2019 - PID Management Program

Public Interest Disclosure Standard No. 2/2019 - PID Assessing, Investigating and Dealing with PIDs

Public Interest Disclosure Standard No. 3/2019 - PID Recording and Reporting

Public Records Act 2002 (Qld)

Public Sector Ethics Act 1994 (Qld)

Staff Grievance Policy (MSC)

17. REVIEW

It is the responsibility of the Manager Development and Governance to monitor the adequacy of this procedure and implement and approve appropriate changes. This procedure will be formally reviewed every 12 months (1 year) or as required by Council.

²⁴ Ibid s 40