

Public Interest Disclosure Management Program & Procedure

Approved by CEO – 1 June 2015



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Acknowledgements

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involved in the development of this document.

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1. Introduction

The *Public Interest Disclosure Act 2010* replaces the *Whistleblowers Protection Act 1994*. This management program and procedure has been prepared in accordance with the Public Interest Disclosure Act 2010 (the Act) and the Public Interest Disclosure Standard (the Standard) issued by the Queensland Public Service Commission (PSC). The Standard requires the Chief Executive Officer (CEO) to develop, implement and maintain a management program and reasonable procedures for dealing with public interest disclosures.

1.1 Purpose

This management program and procedure sets out the management program and procedures for managing public interest disclosures received by the Sunshine Coast Regional Council (council) about wrongdoing at council.

1.2 Application

This management program and procedure applies to:

- The Mayor and Councillors;
- All council Employees; and
- Any external person making a disclosure in accordance with the Act.

1.3 Council commitment

The Mayor, Councillors and council's CEO are committed to encouraging the reporting of wrongdoing and to create an environment where public interest disclosures are properly assessed, investigated and dealt with. Senior management endorses the value of public interest disclosures to council and recognises the importance of the proper management of public interest disclosures including the protection of all parties involved.

References

Section 28(1) *Public Interest Disclosure Act 2010*

2. Important Information about Public Interest Disclosures

2.1 Introduction

Part 2 provides general information on public interest disclosures and applies to all parties who may be impacted by public interest disclosures.

2.2 What is a “public interest disclosure”?

A public interest disclosure is:

- a) a disclosure of information specified in the Act (refer to 2.3);
- b) made in the public interest; and
- c) to an appropriate public sector entity.

2.3 Who can make a “public interest disclosure”?

Anyone, including persons external to council, may make a public interest disclosure if they have information about:

- a substantial and specific danger to the health and safety of a person with a disability;
- a substantial and specific danger to the environment; or
- the conduct of another person that could, if proved, be a reprisal.

In addition, those internal to council including the **Mayor, Councillors and Employees** may make a public interest disclosure if they have information about the conduct of another person, which could, if proved, be:

- corrupt conduct (as defined in the *Crime and Corruption Act 2001*);
- maladministration that adversely affects a person’s interest in a substantial and specific way;
- a substantial misuse of public resources;
- a substantial and specific danger to public health or safety; or
- a substantial and specific danger to the environment.

2.4 Confidentiality and protection from reprisal

The Act provides confidentiality and protection from reprisal to those who make public interest disclosures. Please refer to part 6 for more information.

2.5 Disclosures not protected by the Act

Some disclosures are not protected by the Act, including disclosures:

- made to the media;
- deemed frivolous or vexatious disclosures;
- that question the merits of government or agency policy; and
- made to avoid disciplinary action.

2.6 False disclosures

Under the Act it is an offence to intentionally make false disclosures.

2.7 Format and content of a disclosure

There is no specific format required for use in making a public interest disclosure. However to enable the best assessment and investigation outcome, public interest disclosures should be made in writing (whenever possible) and contain all available information. A disclosure can be made verbally.

A Discloser must be prepared to provide supporting evidence to assist the investigation of the disclosure.

To assist Disclosers in making a public interest disclosure, council has prepared a [Public Interest Disclosure Form](#). Council encourages Disclosers to use this form when making a disclosure.

2.8 Does the Discloser need to identify themselves?

Whilst anonymous disclosures can be made, Council prefer that Disclosers identify themselves as this enables the best assessment and investigation of the public interest disclosure and ensures appropriate support is provided to the Discloser. If a discloser chooses to remain anonymous they are asked to provide as much information as possible in their disclosure to enable proper assessment and investigation of the public interest disclosure. Anonymous disclosers will not be informed of the investigation outcome and as a result some of the protections in the Act may not apply to anonymous disclosers.

2.9 Who should I make the disclosure to?

Public interest disclosures should be made to the Public Interest Disclosure Coordinator. In addition Employees may also make a disclosure to a supervisor, manager, executive director or the CEO.

Council's contact details are as follows:

Phone: (07) 5475 7272

Attention PID Coordinator Locked Bag 72, Sunshine Coast MC Qld 4560

Email: integrity@sunshinecoast.qld.gov.au

A disclosure can also be made to a proper authority. A proper authority is an authority that is responsible for investigating the particular issues. Some information on proper authorities is provided in the table below.

If a Disclosers' information relates to more than one type of disclosure, they may contact the appropriate entities suggested below for advice.

When the disclosure relates to:	The appropriate entities are:
Corrupt conduct	Sunshine Coast Regional Council Crime and Corruption Commission
Maladministration	Sunshine Coast Regional Council Queensland Ombudsman
Substantial misuse of public funds	Sunshine Coast Regional Council Queensland Audit Office
Substantial danger to public health or safety	Sunshine Coast Regional Council Health Quality and Complaints Commission
Substantial danger to health or safety of a person with a disability	Sunshine Coast Regional Council Disability and Community Care Services Adult Guardian
Substantial danger to the environment	Sunshine Coast Regional Council Department of Environment & Resource Management or other appropriate State Department or Agency.

Reprisal	Sunshine Coast Regional Council Crime and Corruption Commission
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2.10 Assumption that a disclosure is a public interest disclosure

If on initial assessment it is unclear whether a disclosure is a public interest disclosure under the Act, it will be assumed that the disclosure is a public interest disclosure and accordingly the Act will apply.

2.11 Disclosers obligations once a disclosure is made

Disclosers are required to provide evidence to support their disclosure and to maintain confidentiality to ensure the integrity of the investigation process. This includes:

- not discussing the details of the disclosure with others (noting the exception contained in 3.3);
- not disclosing any relevant correspondence;
- not discussing the investigation process.

2.12 Combined disclosures

Where council receives information that contains multiple issues including a public interest disclosure, the issues should be separated and the public interest disclosure referred to the Public Interest Disclosure Coordinator.

2.13 Multiple allegations contained in a single disclosure

Where a public interest disclosure contains multiple allegations, each allegation will be assessed and managed separately unless the matters are clearly linked and it would be reasonable to view them as a single disclosure. This assessment should be made by the Public Interest Disclosure Coordinator.

2.14 Officer responsibilities

Position:	Public Interest Disclosure Responsibilities
CEO and nominated delegates	<ul style="list-style-type: none"> • Communicating the expectation 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); • Ensuring reasonable procedures are in place to deal with a disclosure and that those procedures are published to enable members of the public and Employees to access them; • Ensuring disclosures are properly assessed, investigated and dealt with, including appropriate action being taken in relation to any wrongdoing in a disclosure; • Ensuring Employees making a disclosure receive support and protection from reprisal; • Ensuring all legislative obligations in relation to reporting and investigation are met; • Ensuring all matters involving suspected corrupt conduct are referred to the CCC; and • Continual improvement of council's policies and procedures or internal controls.
Public Interest Disclosure Coordinator	<ul style="list-style-type: none"> • Initial assessment to determine whether disclosure is a public interest disclosure; • General advice about disclosures and the Act; • Coordination of disclosure reporting system; • Appointment of an investigator (internal); • Establishing and maintaining a confidential filing system; • CEO liaison; including recommendations for changes to procedures or internal controls; • Annual review of procedures & guideline; and • Statistical reporting to the oversight agency in accordance with the Standard.

Investigator	<ul style="list-style-type: none"> • Appointment of an external investigator (if required); • Overseeing and coordinating of investigations; • Advising the discloser of the investigation outcome; • Establishing and maintaining a confidential filing system; • Carrying out investigations; and • Providing the Discloser and Subject Officer with information about the investigation.
Case Manager (Executive Office or HR)	<ul style="list-style-type: none"> • Advising the Discloser about what making a disclosure means; • Assessing the immediate protection needs of the Discloser; • Listening and responding to any concerns of harassment, intimidation or victimisation in reprisal for making a disclosure; • Coordinating and providing support to the Discloser (support plan); • Working with management to foster a supportive work environment; • Advising the Discloser of progress regarding reprisal issues; • Keeping records of all aspects of case management of the Discloser, including all contact and follow-up action; and • Ensuring the expectations of the Discloser are realistic.

2.15 Assessment and investigation of disclosures

All disclosure will be forwarded to the Public Interest Disclosure Coordinator who will assess the disclosure and determine whether it requires investigation. Please refer to parts 4 and 5 for more information on this aspect of the process.

2.16 Informing disclosers

The Investigator will keep the Discloser informed throughout the investigation process. If an anonymous Discloser has provided a contact point then the anonymous Disclosure should be updated using the contact point provided.

2.17 Natural justice

The Subject Officer(s) of any public interest disclosure will be afforded natural justice.

Affording natural justice does not mean that council must advise the Subject Officer(s) of the allegation as soon as it is received or an investigation is commenced. Furthermore, the Subject Officer(s) need not be told about the allegation if enquiries confirm the allegation is unfounded and council takes no further action. The particular requirements of natural justice will vary between cases.

Section 65 of the Act provides that confidential information may be disclosed for natural justice obligations. However, before information can be released it must be clear that:

- the release of the information is essential to provide natural justice. If it is possible for a Subject Officer(s) to answer allegations without the source of the allegations being identified, the release of information cannot be said to be essential; and
- the risk of reprisal against the Discloser is low.

Before the identity of the Discloser can be released by the Public Interest Disclosure Coordinator or the Case Manager, the Discloser should be notified that their identity is to be revealed and the reason for that release. No other person is authorised to release the identity of the Discloser without the approval of the Public Interest Disclosure Coordinator.

2.18 Appealing the outcome of a disclosure

Under the Act Disclosers have a right of appeal or review regarding the management and/or outcome of their disclosure. The review can be an internal or external review. External review avenues include the Public Service Commission, Queensland Ombudsman and the Crime and Corruption Commission (CCC).

References
<i>Public Interest Disclosure Act 2010</i> – chapters 2, 3 and 4
Public Interest Disclosure Standard
Public Service Commission Publication – Thinking about blowing the whistle? (A guide for individuals)
Public Service Commission Publication – Has one of your staff blown the whistle? (A guide for managers)
Public Service Commission Publication – Managing a public interest disclosure program (A guide for public sector organisations)
Public Service Commission Publication – Public Interest Disclosures Frequently Asked Questions

3. Provision of Appropriate Support

3.1 Introduction

Part 3 provides information on the support available to disclosers and applies to:

- Case Manager;
- Discloser;
- Subject Officer; and
- Managers and Supervisors

For more information on your responsibilities see the [responsibilities table](#) at the end of part 3.

3.2 Council commitment

Council will ensure that all people involved in disclosures (the Discloser or the Subject Officer) are offered an appropriate level of support and case management. Action will be taken to ensure that, where possible, people's identities and the details of the disclosure remain confidential.

3.3 What support and protection is available to a Discloser after the disclosure is made?

All disclosures will be treated with the strictest confidence, including disclosures which do not qualify as public interest disclosures. The Discloser's concerns will be taken seriously and their privacy and confidentiality protected as far as possible throughout any investigation process.

A Discloser may share information with their Employee Assistance Program provider, their union representative or a support person. Further information and support for Disclosers is available from the CCC, Queensland Ombudsman and PSC websites.

The Act states Disclosers are not liable (civilly, criminally or under an administrative process) for making a public interest 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 for protecting all Disclosers from reprisal including members of the public and anonymous disclosers. An assessment of the risk of reprisal should be conducted on the information provided to council and where possible support should be provided to the Discloser.

It is an offence for an Employee to make or cause to be made 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 issue immediately with the Public Interest Disclosure Coordinator.

3.4 What support and protection is available to a Subject Officer after the disclosure is made?

Subject Officers, who have had a disclosure made against them, are assumed to be innocent of any adverse allegation 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.

A Subject Officer may share information with and receive support from their Employee Assistance Program provider, their union representative or a support person.

It is the responsibility of the Investigator to provide feedback to the Discloser about the outcome of the investigation resulting from the disclosure. A Discloser who is not an Employee will also be informed of progress and outcome of the investigation resulting from his or her disclosure.

Any apparent conflict between disclosure and confidentiality will be risk-managed through a clear focus on the prevention and investigation of fraud, wrongdoing and unethical behaviour.

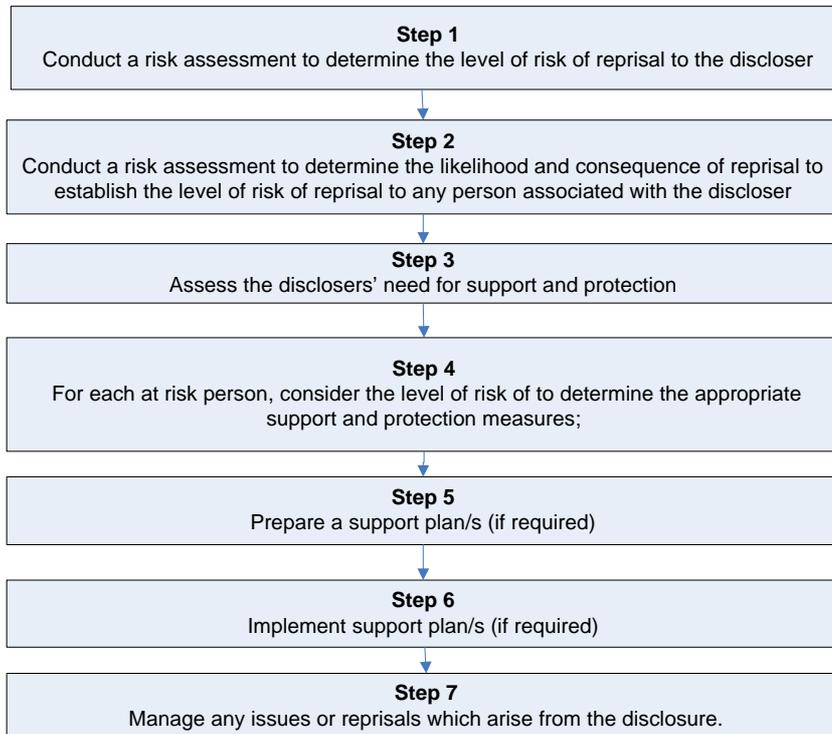
3.5 Support plan

The support plan is intended to detail, in consultation with the Discloser, steps council will take to ensure the risk of reprisal is minimised and the Discloser has adequate support mechanisms in place.

A support plan should include:

- reference to the direction from the Chief Executive Officer (or his delegate) on how to handle the disclosure;
- the name of the Discloser;
- the name/s of the Subject Officer/s;
- the working relationship between the disclosure and Subject Officer/s;
- the risks identified for possible reprisal;
- the key concerns around the risk of reprisal against the Discloser; and
- the support systems implemented.

If a support plan is required, the following steps must be followed and documented:



3.6 Negotiations with the Discloser

It is important that when considering a support plan the Public Interest Disclosure Coordinator and/or Case Manager discuss the content of the support plan with the Discloser. The focus of these discussions should be to ascertain any concerns regarding reprisal that the Discloser may have.

These discussions will be confined to the contents of the support plan and will not involve any discussions on the information contained within the disclosure or the progress of the investigation.

3.7 Support regarding reprisal

The Public Interest Coordinator and/or Case Manager are to advise the Discloser that the role of the Case Manager is to:

- discuss any concerns regarding reprisal;
- draft a support plan to address any such concerns as much as possible;
- not to discuss the disclosure; and
- provide all information regarding the disclosure to the Investigator at the appropriate time to preserve the integrity of the investigation.

3.8 Details of the disclosure not to be provided to Case Manager

The Case Manager will not be provided with the detail of the disclosure, this is a deliberate separation of duties where the Investigator is not part of the development of the support plan and the Case Manager is not involved in the investigation (discussions regarding the disclosure detail).

3.9 Possible support mechanisms

The support mechanisms provided to the Discloser may include:

- acknowledging that making the public interest disclosure was the right thing to do and is valued;
- making a clear statement that the entity will support the Discloser;
- appointing an appropriate person (separate from the investigation function) with sufficient authority to ensure the Discloser has appropriate support and protection from reprisals for example a senior officer who the Discloser trusts;
- appointing a mentor, confidante or other support officer to assist the Discloser throughout the process;
- regularly checking on the Discloser's well-being, where this is warranted;
- providing moral and emotional support;
- advising the Discloser about the resources available in the organisation to handle any concerns the Discloser may have as a result of making a public interest disclosure;
- ensuring any suspicions of victimisation or harassment are dealt with;
- maintaining contact with the Discloser; and
- negotiating with the Discloser a formal end to the Discloser's involvement with the Support Program, when it is agreed that the Discloser no longer needs assistance.

The following additional support is available for Employees who make disclosures:

- where the health of the Discloser becomes a concern, liaising with officers responsible for occupational workplace health and safety;
- relocating the Employee within the workplace (refer to 3.10);
- refer the Discloser to the Employee Assistance Program or arrange for other professional counselling; and
- generating support for the Discloser in that individual's work unit if appropriate.

It is important to note that the lists above are not exhaustive and are a guide. It is at the discretion of the Public Interest Coordinator and/or Case Manager to determine what mechanisms are appropriate to provide the necessary support systems to the Discloser.

3.10 Relocation of an Employee

An Employee who makes a public interest disclosure has a right to apply for relocation if:

- a) it is likely a reprisal will be taken against the Employee if the Employee continues in their existing work location; and
- b) the only practical way to remove or substantially remove the risk of a reprisal is to relocate the Employee.

HR may consider other factors (including HR guidelines) when determining whether to relocate a Discloser.

3.11 Storing of the support plan

Support plans for Disclosers should be treated as confidential documentation and stored accordingly. Access to the support plans will be restricted to the Public Interest Coordinator and/or Case Manager. Support plans will not be provided to the Discloser. However this information may be sought through an information privacy application.

3.12 Unrelated human resources action

The implementation support mechanisms for a Discloser do not prevent a manager taking reasonable routine management action, provided the reasons for taking such action does not include the fact that the person has made the public interest disclosure. The management action may include:

- a reasonable appraisal of the Employee's work performance;
- a reasonable requirement that the Employee undertake counselling;
- a reasonable suspension of the Employee from the employment workplace;
- a reasonable disciplinary action;
- a reasonable action to transfer or deploy the Employee;
- a reasonable action to end the Employee's employment by way of redundancy or retrenchment;
- a reasonable action in relation to an action mentioned in paragraphs (a) to (f);
- a reasonable action in relation to the Employee's failure to obtain a promotion, reclassification, transfer or benefit, or to retain a benefit, in relation to the Employee's employment.

3.13 Organisational responsibility

Employees have a responsibility to:

- make a commitment to, and act in accordance with, the Act and this document;
- prevent, discourage and refrain from any act of reprisal against a person where it is believed that the person has or will make a public interest disclosure;
- accept and implement actions from the support plan as directed by the Case Manager or Public Interest Disclosure Coordinator; and
- familiarise themselves with their obligations under the Act, this document and the policies outlined in part 11.3.

3.14 Public Service Commission's Process for managers & supervisors

The Public Service Commission (PSC) has developed a process to assist managers and supervisors in receiving, assessing and handling a public interest disclosure for more information refer to [Public Service Commission Publication- Has one of your staff blown the whistle?](#)

Responsible Officer	Responsibilities
Case Manager	Conduct a risk assessment and then prepare and implement the support plan.
Managers & Supervisors	Provide support as required.
Disclosers	Work with the Case Manager to develop and implement a support plan.
Subject Officers	Work with the Case Manager to develop and implement a support plan.

References
<i>Public Interest Disclosure Act 2010</i> – section 28(1)(a)
Public Interest Disclosure Standard – section 6.6
Public Service Commission Publication - Thinking about blowing the whistle? (A guide for individuals)
Public Service Commission Publication - Has one of your staff blown the whistle? (A guide for managers)
Public Service Commission Publication - Managing a public interest disclosure program (A guide for public sector organisations)
Public Service Commission Publication - Public Interest Disclosures Frequently Asked Questions

4. Proper Assessment of a Public Interest Disclosure

4.1 Introduction

Part 4 provides information on the assessment of public interest disclosures and applies to the:

- Public Interest Disclosure Coordinator;
- Investigator;
- Discloser; and
- Managers and Supervisors.

For more information on your responsibilities see the [responsibilities table](#) at the end of part 4.

4.2 Assessment

When a disclosure is made it will be properly assessed to determine if the disclosure:

- a) was made by an appropriate person (refer to 4.3);
- b) concerns a matter about which a public interest disclosure can be made (refer to 4.4);
- c) meets the subjective or objective test (refer to 4.5);
- d) has been made to an individual or entity that may receive a public interest disclosure (refer to 4.6); and
- e) has been made in accordance with council's public interest disclosure procedure or to a person listed in the Act (refer to 4.6).

If the answer is yes to all the points above then, the information disclosed is a public interest disclosure and must be properly investigated by council.

4.3 Who can make a public interest disclosure?

Anyone, including persons external to council, may make a public interest disclosure if they have information about:

- a substantial and specific danger to the health and safety of a person with a disability;
- a substantial and specific danger to the environment; or
- the conduct of another person that could, if proved, be a reprisal.

In addition, those internal to council including the **Mayor, Councillors and Employees** may make a public interest disclosure if they have information about the conduct of another person, which could, if proved, be:

- corrupt conduct (as defined in the *Crime and Corruption Act 2001*);
- maladministration that adversely affects a person's interest in a substantial and specific way;
- a substantial misuse of public resources;
- a substantial and specific danger to public health or safety; or
- a substantial and specific danger to the environment.

4.4 Does the disclosure concern a matter about which a public interest disclosure can be made

The disclosure must concern one of the matters discussed below.

Conduct	Definition
Corrupt conduct is wrongdoing by a public officer in carrying out their duties or exercising their powers.	Pursuant to ss. 14-15 of the <i>Crime and Corruption Act 2001</i> , it must involve one of the following: <ul style="list-style-type: none"> • dishonesty or lack of impartiality; • breach of the trust placed in a person by virtue of their position; or • misuse of officially obtained information. The conduct must also be a criminal offence or serious enough to justify dismissal if proven.
Maladministration that adversely affects a person's interest in a substantial and specific way	Defined in schedule 4 of the Act, maladministration is widely defined to cover: <p>an act or failure to do an act that was unlawful, unreasonable, unfair, improper, unjust, improperly discriminatory or based on a mistake of law or fact or otherwise wrong.</p> It must adversely affect someone's interest in a substantial and specific way.
A substantial misuse of public resources	This involves a substantial misuse of public resources. A public interest disclosure cannot be based on an individual disagreeing with a policy or policies that may properly be adopted about amounts, purposes or priorities of expenditure.
A substantial and specific danger to public health or safety	This includes any substantial and specific danger to the health or safety of the public. This includes the health or safety of individuals who are: <ul style="list-style-type: none"> • under lawful care or control (i.e. students, patients, prisoners); • using community facilities; • public or private sector services; or • in a workplace.
A substantial and specific danger to the health and safety of a person with a disability	This includes any substantial and specific danger to the health or safety of a person with a disability.
A substantial and specific danger to the environment	This refers to any conduct that is an offence, or the contravention of a condition imposed, under Queensland environmental legislation (as listed in the <i>Public Interest Disclosure Act</i> , schedule 2).
The conduct of another person that could, if proved, be a reprisal	A reprisal is a form of detriment to a person because it is believed that somebody has made or intends to make a public interest disclosure see part 6 below.

4.5 Is the disclosure an appropriate disclosure?

For the disclosure to be considered an appropriate disclosure, the disclosure must satisfy the subjective or objective test. The disclosure must satisfy the subjective test, unless the Discloser's motives are in doubt or the Discloser is unaware they have made a disclosure in which case the objective test applies.

Subjective Test

The subjective test takes into account:

- a) the honest belief of the Discloser; and
- b) whether that belief is reasonable.

If the Discloser honestly believes on reasonable grounds that the information provided in the disclosure tends to show the conduct alleged, then the disclosure is an appropriate disclosure. The

Discloser is protected when making an appropriate disclosure even if the information contained in the disclosure is proven incorrect or unsubstantiated.

Objective Test

This test applies where a Discloser's motives are in doubt or where the Discloser does not know that the information they have provided is a public interest disclosure.

If the information tends to demonstrate probable conduct covered by the Act, regardless of the Discloser's beliefs, it is considered an appropriate disclosure. The objective test only takes into account the quality and credibility of the information received.

4.6 How and to whom a disclosure can be made?

Council's procedure:

Public interest disclosures should be made to the Public Interest Disclosure Coordinator. Employees may also make a disclosure a supervisor, manager, executive director or the CEO.

Council's contact details are as follows:

Phone: (07) 5472 7575

Attention PID Coordinator Locked Bag 72, Sunshine Coast MC Qld 4560

Email: integrity@sunshinecoast.qld.gov.au

To assist Disclosers in making a public interest disclosure, council has prepared a [Public Interest Disclosure Form](#). Council encourages Disclosers to use this form when making a disclosure.

Persons listed in the Act:

A disclosure can also be made to a proper authority. A proper authority is an authority that is responsible for investigating the particular issues. Some information on proper authorities is provided in the table below.

If a Disclosers' information relates to more than one type of disclosure, they may contact the appropriate entities suggested below for advice.

When the disclosure relates to:	The appropriate entity is:
Corrupt conduct	Sunshine Coast Regional Council Crime and Corruption Commission
Maladministration	Sunshine Coast Regional Council Queensland Ombudsman
Substantial misuse of public funds	Sunshine Coast Regional Council Queensland Audit Office
Substantial danger to public health or safety	Sunshine Coast Regional Council Health Quality and Complaints Commission
Substantial danger to health or safety of a person with a disability	Sunshine Coast Regional Council Disability and Community Care Services Adult Guardian
Substantial danger to the environment	Sunshine Coast Regional Council Department of Environment & Resource Management or other appropriate State Department or Agency.
Reprisal	Sunshine Coast Regional Council Crime and Corruption Commission

4.7 When no action is required

Council may determine not to take any action on a public interest disclosure if any of the following occur:

- the substance of the disclosure has already been investigated or dealt with;
- council reasonably considers that the disclosure should be dealt with by an alternative process;
- it is impractical to investigate the disclosure due to the age of the information contained in the disclosure;
- council reasonably believes the disclosure is too trivial to warrant investigation and that dealing with the disclosure would substantially and unreasonably divert the resources of council from their use in the performance of its functions; or
- another entity, that has jurisdiction to investigate the disclosure, has notified council that investigation of the disclosure by council is not warranted.

A decision to take no action on a public interest disclosure should be considered carefully.

The details of the public interest disclosure and the reasons for not taking any action must be recorded in the public interest disclosure register and the discloser must be notified in writing of the reasons for the decision not to take action.

Note: the decision to take no action on a public interest disclosure does not mean that the Discloser does not need support and protection, the process for determining whether a support plan is required should still be followed.

4.8 Managing misuse or abuse of the Act

The following information is an extract from the Public Service Commissioner's Publication [Managing a Public Interest Disclosure Program](#).

The following information would not amount to a Public Interest Disclosure:

- False or misleading information (i.e. intentional);
- Information which does not satisfy a subjective or objective test (i.e. not based on an honest reasonable belief about, and/or does not tend to show, wrongdoing);
- Entirely a policy dispute;
- Entirely an Employee complaint; or
- Frivolous (abuse of process).

As a consequence there is no trigger for legal protection or investigation for such disclosures.

The following information would not necessarily be investigated (even though the discloser may still require protection for having made the disclosure):

- Incorrect information (e.g. unintentional);
- Trivial matters;
- Old matters; or
- Matters already investigated, litigated or more appropriate for litigation.

4.9 Referring a disclosure

Council may refer a disclosure to another public sector entity (referral entity) if the disclosure relates to conduct of the referral entity or an officer of the referral entity. A referral may also occur if the referral entity has the power to investigate or remedy the conduct of the entity that is subject to the disclosure. This might include the CCC or Department of Local Government.

Responsible Officer	Responsibilities
Public Interest Disclosure Coordinator	Assessment of the public interest disclosure and referral as appropriate.
Investigator	Receiving the disclosure.
Discloser	Providing any information they possess to the Public Interest Disclosure Coordinator to enable the proper assessment of the disclosure.
Managers and Supervisors	Assessment of the public interest disclosure and referral as appropriate.

References
<i>Public Interest Disclosure Act 2010</i> – section 28(1)(b), section 30 (no action) & section 31 (referral)
Public Interest Disclosure Standard – section 6.3.2
Public Service Commission Publication -Thinking about blowing the whistle? (A guide for individuals)
Public Service Commission Publication - Has one of your staff blown the whistle? (A guide for managers)
Public Service Commission Publication - Managing a public interest disclosure program (A guide for public sector organisations)
Public Service Commission Publication - Public Interest Disclosures Frequently Asked Questions

5. Investigating a Public Interest Disclosure

5.1 Introduction

Part 5 provides information on the investigation process that will be used to investigate a public interest disclosure and applies to:

- Investigator;
- Discloser;
- Employees; and
- Subject Officer.

For more information on your responsibilities see the [responsibilities table](#) at the end of Part 5.

5.2 Investigation process

The investigation process followed by the investigator will vary depending on the nature of the disclosure. The table below provides guidance on the relevant investigation process for each type of disclosure:

When the disclosure relates to:	Investigation Process:	Relevant References:
Corrupt conduct	Crime and Corruption Commission	<i>Crime and Corruption Act 2001</i> CCC Guidance Material including Corruption in Focus
Maladministration – Employees	Complaints Management Process	Complaints Management Process
Maladministration – Councillors	Local Government Act Process	<i>Local Government Act 2009</i>
Substantial misuse of public funds – Employees	Complaints Management Process	Complaints Management Process
Substantial misuse of public funds – Councillors	Local Government Act Process	<i>Local Government Act 2009</i>
Substantial danger to public health or safety	Refer to the appropriate State Agency	Relevant legislation
Substantial danger to health or safety of a person with a disability	Refer to the appropriate State Agency	Relevant legislation
Substantial danger to the environment	Refer to the appropriate State Agency or Complaints Management Process	Relevant legislation Complaints Management Process
Reprisal	Crime and Corruption Commission or Complaints Management Process	<i>Crime and Corruption Act 2001</i> CCC Guidance Material including Corruption in Focus Complaints Management Process

5.3 Finalising the investigation

Note: Where the investigation has been conducted under a predefined process (eg. Crime and Corruption Commission or Complaints Management Process) and that process stipulates how the investigation will be finalised, the following will only apply to the extent that is it not inconsistent.

Substantiated public interest disclosures

Council will separately advise the Discloser and the Subject Officer(s) that the disclosure has been substantiated, where appropriate this advice will include details of any action taken in response to the investigation finding.

Action taken may include one or more of the following:

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

Unsubstantiated disclosures

Council will separately inform the Discloser and the Subject Officer(s) where a disclosure has not been substantiated.

Some Disclosers may be dissatisfied with the investigation finding. In this instance, council may:

- reinforce the importance of the role they have played;
- reaffirm that council supports them for having properly raised the matter;
- inform the Discloser of the usefulness of the information in preventing such issues from arising in the future;
- explain why the public interest disclosure was not upheld, without breaching confidentiality;
- inform them of where they can go to complain, if they believe the outcome is wrong;
- inform them of who to talk to if they are experiencing problems for having spoken up; or
- refer the Discloser to the Queensland Ombudsman or other appropriate authority.

Additional steps

Once a matter is finalised, council may, debrief Employees individually or in groups to:

- clarify any decisions or outcomes;
- emphasise the opportunities to learn from the situation.

Council may decide not to debrief where the debrief:

- may breach confidentiality; or
- is inappropriate for some other reason.

Responsible Officer	Responsibilities
Investigator	Conduct the investigation.
Discloser	Cooperate with the investigator and provide all information required.
Employees	Cooperate with the investigator and provide all information required.
Subject Officer	Cooperate with the investigator and provide all information required.

References
<i>Public Interest Disclosure Act 2010</i> – section
Public Interest Disclosure Standard – section
CCC Publication - Corruption in Focus
Public Service Commission Publication - Thinking about blowing the whistle? (A guide for individuals)
Public Service Commission Publication - Has one of your staff blown the whistle? (A guide for managers)
Public Service Commission Publication - Managing a public interest disclosure program (A guide for public sector organisations)
Public Service Commission Publication - Public Interest Disclosures Frequently Asked Questions

6. Protection From Reprisal

6.1 Introduction

Part 6 provides information on reprisals and how council will receive and assess an allegation of reprisal and applies to:

- Case Manager;
- Managers and Supervisors;
- Public Interest Disclosure Coordinator;
- Investigator;
- Discloser;
- Employees; and
- Subject Officer.

For more information on your responsibilities see the [responsibilities table](#) at the end of part 6.

6.2 What is a reprisal?

A reprisal, or the taking of a reprisal, is when a person causes, or attempts to conspire to cause, detriment to another person because, or in the belief that, another person has made or may make a public interest disclosure. There must be a causal link between the detriment and the public interest disclosure or the intention to make a public interest disclosure.

Detriment includes one or more of the following:

- personal injury or prejudice to safety;
- property damage or loss;
- intimidation or harassment;
- adverse discrimination, disadvantage or adverse treatment about career, profession, employment, trade or business;
- financial loss; or
- damage to reputation, including, for example, personal, professional or business reputation.

6.3 Reporting a reprisal

A Discloser should immediately report a reprisal to their Case Manager or the Public Interest Discloser Coordinator. A manager must notify the Case Manager or the Public Interest Coordinator if the manager becomes aware of an allegation that a reprisal action has occurred, they suspect a reprisal action has occurred, or there is an increased risk of reprisal. A Discloser has the right to report a reprisal and request council take positive action to investigate the reprisal and protect the Discloser from further reprisal.

6.4 Handling an allegation of reprisal

Each allegation of reprisal must be taken seriously, reported and responded to. Each reprisal must be assessed separately from the initial allegation as a separate public interest disclosure under the Act and consideration will be given, by the Public Interest Disclosure Coordinator, as to whether a new Case Manager and/or investigator should deal with the issue of reprisal.

In the event of a reprisal being alleged or suspected, council must act in the interest of the discloser by:

- attending to the safety of the Discloser or affected third parties as a matter of priority (refer to part 3);

- reviewing and updating the risk assessment of reprisal and any protective measures needed (refer to part 3); and
- managing any allegation of a reprisal as a public interest disclosure in its own right (refer to parts 4 and 5).

Disclosers of a reprisal will be informed of the progress of the investigation and the outcome of any investigation into the reprisal.

6.5 Where a reprisal has occurred

Where evidence of a reprisal is established council will take all steps possible to stop the reprisal and protect the Discloser. The action taken by Council will depend on the circumstances and seriousness of the reprisal. Any Employee found to be engaging in an activity that is deemed a reprisal under the Act and will be subject to disciplinary action.

Responsible Officer	Responsibilities
Case Manager	Monitor the implementation of the support plan to ensure that reprisals do not occur. Report reprisals.
Managers and Supervisors	Not to behave in a manner that causes, or attempts to conspire to cause, detriment to another person because, or in the belief that, another person has made or may make a Public Interest Disclosure.
Public Interest Disclosure Coordinator	Report reprisals.
Investigator	Investigate reprisals.
Discloser	Report reprisals.
Subject Officer	Not to behave in a manner that causes, or attempts to conspire to cause, detriment to another person because, or in the belief that, another person has made or may make a Public Interest Disclosure.
Employees	Not to behave in a manner that causes, or attempts to conspire to cause, detriment to another person because, or in the belief that, another person has made or may make a Public Interest Disclosure. Report reprisals.

References

<i>Public Interest Disclosure Act 2010</i> – section 28(1)(e) and section 40
Public Interest Disclosure Standard – section 6.7
Public Service Commission Publication - Thinking about blowing the whistle? (A guide for individuals)
Public Service Commission Publication - Has one of your staff blown the whistle? (A guide for managers)
Public Service Commission Publication - Managing a public interest disclosure program (A guide for public sector organisations)
Public Service Commission Publication - Public Interest Disclosures Frequently Asked Questions

7. Reporting

7.1 Introduction

Part 7 provides information on how council will record, store and report on public interest disclosures and applies to:

- Public Interest Disclosure Coordinator; and
- Investigator.

For more information on your responsibilities see the [responsibilities table](#) at the end of part 7.

7.2 Recording disclosures

Council will maintain a public interest disclosure register in accordance with the Act including the information set out in 7.4. The Public Interest Disclosure Coordinator will maintain the register.

7.3 Storage of disclosure documentation

All documentation hard and soft copies relating to a disclosure will remain the property of council and will be stored securely with restricted access. No details will be placed on personnel files.

7.4 Reporting system

Council will develop, implement and maintain a disclosure register to capture the following information in relation to all public information disclosures:

- the date the disclosure was received, and where it was received from;
- the status of the Discloser (e.g. entity staff, staff from another entity, member of the public, anonymous);
- the gender and status of the Subject Officer (staff member, non-staff member);
- the relationship between the Discloser and the Subject Officer;
- the location of the Subject Officer (geographical region);
- a summary of the allegation/information received;
- the involvement of an external agency/party;
- the action taken to minimise any risk of reprisal;
- date inquiry/investigation commenced and completed;
- the outcome of the assessment, inquiry or investigation;
- the date the public interest disclosure was resolved or closed;
- when the outcome was advised to the discloser;
- if no action was taken, the reason for the decision; and
- other legal processes associated with the disclosure.

7.5 External reporting

Council will provide reports to the oversight agency as required. These reports will include the information contained in the register.

Responsible Officer	Responsibilities
Public Interest Disclosure Coordinator	Keep and maintain the Public Interest Disclosure Register
Investigator	To provide relevant information to the Public Interest Disclosure Coordinator

References

Public Interest Disclosure Act 2010 – section 29

Public Interest Disclosure Standard – section 6.1.2 and section 7

[Public Service Commission Publication - Managing a public interest disclosure program \(A guide for public sector organisations\)](#)

8. Communication Strategy

8.1 Introduction

Part 8 provides information on how council will communicate the public interest disclosure process to all relevant parties and applies to:

- Case Manager;
- Public Interest Disclosure Coordinator;
- Investigator;
- Discloser;
- Employees;
- Subject Officer;
- Managers and Supervisors; and
- The Mayor and Councillors.

For more information on your responsibilities see the [responsibilities table](#) at the end of part 8.

8.2 Communication strategy

Council will develop, implement and maintain a communication strategy to raise staff awareness about public interest disclosure and associated procedures. The communication strategy will include:

- periodic messages to:
 - reconfirm council's commitment to the Act; and
 - provide other information about the public interest disclosures reporting system;
- creating and maintaining public interest disclosure page on council's staff intranet and internet sites;
- providing contact details for council's nominated Public Interest Disclosures Coordinator in council's staff directory;
- ensuring information about public interest disclosures is provided in council's induction program for new Employees; and
- training for Employees.

Responsible Officer	Responsibilities
Manager Human Resources	Develop and implement the communication strategy.
Executive Office	Develop and implement the communication strategy.

References

Public Interest Disclosure Act 2010 – section 28(2)

Public Interest Disclosure Standard – section 6.1.1

[Public Service Commission Publication - Managing a public interest disclosure program \(A guide for public sector organisations\)](#)

9. Training Strategy

9.1 Introduction

Part 9 provides information on how council will train staff on council's public interest disclosure process and applies to:

- Manager Human Resources.

For more information on your responsibilities see the [responsibilities table](#) at the end of part 9.

9.2 Training strategy

Council's Code of Conduct training will incorporate information on council's management of Public Interest Disclosures including:

- how to identify wrongdoing;
- how to make or identify a public interest disclosure;
- the support and protection to be afforded to disclosers; and
- how public interest disclosures will be managed by council.

In addition, members of the Executive Leadership Team will receive training on their obligations in relation to handling public interest disclosures and resources will be made available to deliver additional training as needs are identified.

Responsible Officer	Responsibilities
Manager Human Resources	Development and implementation of the training strategy.

References

Public Interest Disclosure Standard – section 6.1.1

[Public Service Commission Publication - Managing a public interest disclosure program \(A guide for public sector organisations\)](#)

10. Regular Evaluation

10.1 Introduction

Part 10 provides information on the evaluation of the public interest disclosure program and the effectiveness of systems and procedures and applies to:

- Public Interest Disclosure Coordinator.

For more information on your responsibilities see the [responsibilities table](#) at the end of part 10.

10.2 Identify system improvements

At the conclusion of a public interest disclosure investigation, the Investigator in conjunction with the Public Interest Disclosure Coordinator will be responsible for assessing whether any change is needed to council's policies and procedures or internal controls.

10.3 Mechanism for regular evaluation and monitoring

The Public Interest Disclosure Coordinator will conduct a review of the effectiveness of council's public interest disclosure process every two years or in accordance with any legislative changes.

Responsible Officer	Responsibilities
Public Interest Disclosure Coordinator	Regular evaluation and monitoring of the Public Interest Disclosure Process
Investigator	Regular evaluation and monitoring of the Public Interest Disclosure Process

References

Public Interest Disclosure Standard – section 6.1.1

[Public Service Commission Publication - Managing a public interest disclosure program \(A guide for public sector organisations\)](#)

11. Miscellaneous

11.1 Definitions

Discloser is a person who makes a public interest disclosure.

Employees includes all of Council's employees (regardless of their employment status or type – e.g. permanent, maximum-term, casual, full-time or part-time), contractors, agency casuals and volunteers.

Subject Officer is an officer who is the subject of a public interest disclosure.

11.2 Legislation

Crime and Corruption Act 2001

Local Government Act 2009

Public Interest Disclosure Act 2010

Public Sector Ethics Act 1994

11.3 Related Policies

Council has a number of policies which may be relevant when making a public interest disclosure including:

- Councillor Code of Conduct
- Employee Code of Conduct
- Enterprise Risk Management Policy & Guideline
- Fraud Control Plan and Guide
- Grievance Management Policy

Please refer to council's internet and intranet sites for more information.

11.4 Reference Material

Public Interest Disclosures Frequently Asked Questions (PSC)

Public Interest Disclosure Standard (PSC)

Thinking about blowing the whistle? (A guide for individuals) (PSC)

Has one of your staff blown the whistle? (A guide for managers) (PSC)

Managing a public interest disclosure program (A guide for public sector organisations) (PSC)

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