

	Public Interest Disclosure Procedure	
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Principal Officer – Statement of Intent

This Procedure has been prepared in accordance with the requirements of sections 12(4) and (5) of the *Public Interest Disclosure Act 2018* (PID Act).

As Chief Executive Officer of Adelaide Plains Council, and Principal Officer for the purposes of the PID Act, I expect that the implementation and operation of the PID Act will encourage and facilitate:

- further transparency and accountability in the Council's administrative and management practices; and
- the disclosure, in the public interest, of information about substantial risks to public health or safety, or to the environment, and about corruption, misconduct and maladministration in public administration.

This Procedure is designed to enable that to occur, by ensuring that proper procedures are in place for the making of such Disclosures and for dealing with such Disclosures, and by providing appropriate protections for those who make such Disclosures.

I, and the other staff, officers and Council members at Adelaide Plains Council remain deeply committed to the protection of informants who make Disclosures in accordance with the PID Act, and to the genuine and efficient consideration and action in relation to information provided to the Council via a Disclosure, as contemplated and demonstrated by this Procedure.

Any questions about this Procedure should be directed in the first instance to a Responsible Officer, whose details are at Part 4 of this Procedure.

James Miller, Principal Officer
Chief Executive Officer, Adelaide Plains Council

1. Introduction

1.1. Adelaide Plains Council is committed to:

- upholding the principles of transparency and accountability in its administrative and management practices;
- the protection of informants who make Disclosures; and
- the genuine and efficient consideration and action in relation to information provided in a Disclosure

and, therefore, encourages the making of Disclosures that reveal public interest information in accordance with this Procedure.

1.2. Council is also committed to:

- referring, as necessary, Disclosures to another Relevant Authority;
- where the Disclosure relates to Corruption, or serious or systemic Misconduct or Maladministration in public administration, reporting the Disclosure directly to the OPI in accordance with the ICAC Directions and Guidelines;
- otherwise facilitating the investigation of Disclosures in a manner which promotes fair and objective treatment of those involved; and
- rectifying any substantiated wrongdoing to the extent practicable in all the circumstances.

1.3. This document explains the applicable procedures and processes that Adelaide Plains Council has in place for making and dealing with Disclosures of public interest information, to ensure that Council:

- properly fulfils its responsibilities under the PID Act and the ICAC Act;
- appropriately encourages and facilitates Disclosures of Public Interest Information, including environmental and health information regarding a location within the area of Adelaide Plains Council;
- provides a process by which Disclosures may be made so that they are properly investigated;
- provides appropriate protection for those who make Disclosures in accordance with the Act; and
- recognises the need to appropriately support Informants, the Responsible Officer and, as appropriate, those Public Officers affected by any Disclosure.

2. Scope

- 2.1. This Procedure applies to appropriate Disclosures of Public Interest Information, that are made in accordance with the PID Act, by:
- 2.1.1. public officers including members, officers and employees of Council; and
 - 2.1.2. members of the public.
- 2.2. This Procedure is intended to complement the reporting framework under the ICAC Act, and designed to complement the existing communication channels within Council and to operate in conjunction with other existing policies and procedures, including the:
- Code of Conduct for Council Employees;
 - Code of Conduct for Council Members;
 - Human Resource Management Policy; and
 - Internal Review of Council Decisions Policy and Procedure under section 270 of the *Local Government Act 1999*.

3. Definitions

For the purposes of this Procedure the following definitions apply.

- 3.1. **Authorised Officer** means a person appointed as an authorised officer of the Council under in Act relating to a Regulatory Activity of the Council.
- 3.2. **Commissioner** means the person holding or acting in the office of the Independent Commissioner Against Corruption.
- 3.3. **Corruption in public administration** is defined in section 5(1) of the ICAC Act and means:
- 3.3.1. an offence against Part 7 Division 4 (Offences relating to public officers) of the *Criminal Law Consolidation Act 1935*, which includes the following offences:
 - (i) bribery or corruption of public officers;
 - (ii) threats or reprisals against public officers;
 - (iii) abuse of public office;
 - (iv) demanding or requiring benefit on basis of public office;
 - (v) offences relating to appointment to public office; or
 - 3.3.2 an offence against the *Public Sector (Honesty and Accountability) Act 1995* or the *Public Corporations Act 1993*, or an attempt to commit such an offence; or

- 3.3.3 an offence against the *Lobbyists Act 2015*, or an attempt to commit such an offence; or
- 3.3.4 any other offence (including an offence against Part 5 (Offences of dishonesty) of the *Criminal Law Consolidation Act 1935*) committed by a public officer while acting in his or her capacity as a public officer or by a former public officer and related to his or her former capacity as a public officer, or by a person before becoming a public officer and related to his or her capacity as a public officer, or an attempt to commit such an offence; or
- 3.3.5 any of the following in relation to an offence referred to in a preceding paragraph:
- (i) aiding, abetting, counselling or procuring the commission of the offence;
 - (ii) inducing, whether by threats or promises or otherwise, the commission of the offence;
 - (iii) being in any way, directly or indirectly, knowingly concerned in, or party to, the commission of the offence;
 - (iv) conspiring with others to effect the commission of the offence

3.4. **Council** means Adelaide Plains Council.

3.5. **Detriment** includes:

- injury, harm (including psychological harm), damage (including damage to reputation) or loss;
- intimidation or harassment;
- discrimination, disadvantage or adverse treatment in relation to a person's employment; and/or
- threats of reprisal (which may be express or implied, and/or conditional or unconditional).

3.6. **Disclosure** means an appropriate Disclosure of public interest information made by an Informant to a Relevant Authority within the meaning of the PID Act.

A person makes an **appropriate Disclosure of environmental and health information** if:

- (a) the person:
 - i. believes on reasonable grounds that the information is true; or
 - ii. is not in a position to form a belief on reasonable grounds about the truth of the information, but believes on reasonable grounds that the information may be true and is of sufficient significance to justify its Disclosure so that its truth may be investigated; and

(b) the Disclosure is made to a Relevant Authority.

A person makes an **appropriate Disclosure of public administration information** if:

(a) the person:

- i. is a public officer; and
- ii. reasonably suspects that the information raises a potential issue of corruption, misconduct or maladministration in public administration; and

(b) the Disclosure is made to a Relevant Authority.

3.7. **Employee** refers to all the Council's employees, whether they are working in a full-time, part-time or casual capacity.

3.8. **Environmental and health information** means information that raises a potential issue of a substantial risk to the environment or to the health or safety of the public generally or a significant section of the public.

3.9. **Fraud** includes an intentional dishonest act or omission done with the purpose of deceiving.

3.10. **ICAC Act** is the *Independent Commissioner Against Corruption Act 2012*.

3.11. **ICAC Directions and Guidelines** means the Directions and Guidelines for Public Officers issued by the Commissioner pursuant to the ICAC Act.

3.12. **Informant** means a person who makes an appropriate Disclosure of public interest information to a Relevant Authority.

3.13. **Maladministration in public administration** is defined in section 5(4) of the ICAC Act and

3.13.1. means:

- (i) conduct of a public officer, or a practice, policy or procedure of a public authority, that results in an irregular and unauthorised use of public money or substantial mismanagement of public resources; or
- (ii) conduct of a public officer involving substantial mismanagement in or in relation to the performance of official functions; and

3.13.2. includes conduct resulting from impropriety, incompetence or negligence; and

3.13.3. is to be assessed having regard to relevant statutory provisions and administrative instructions and directions.

3.14. **Misconduct in public administration** is defined in section 5(3) of the ICAC Act and means:

- 3.14.1. contravention of a code of conduct by a public officer while acting in his or her capacity as a public officer that constitutes a ground for disciplinary action against the officer; or
- 3.14.2. other misconduct of a public officer while acting in his or her capacity as a public officer.
- 3.15. **OPI** means the Office for Public Integrity established under the *ICAC Act* that has the function to:
- 3.15.1. receive and assess complaints about public administration from members of the public;
- 3.15.2. receive and assess reports about corruption, misconduct and maladministration in public administration from the Ombudsman, the Council and public officers;
- 3.15.3. refer complaints and reports to inquiry agencies, public authorities and public officers in circumstances approved by the Commissioner or make recommendations as to whether and by whom complaints and reports should be investigated;
- 3.15.4. give directions or guidance to public authorities in circumstances approved by the Commissioner;
- 3.15.5. perform other functions assigned to the Office by the Commissioner.
- 3.16. **Public administration information** means information that raises a potential issue of corruption, misconduct or maladministration in public administration.
- 3.17. **Public interest information** means environmental and health information, or public administration information.
- 3.18. **PID Guidelines** means the Guidelines issued by the Commissioner pursuant to the PID Act.
- 3.19. **PID Act** means the *Public Interest Disclosure Act 2018*.
- 3.20. **Principal Officer** for the purposes of the PID Act means the Chief Executive Officer of the Council.
- 3.21. **Public Officer** has the meaning given by section 4 and Schedule 1 of the ICAC Act, and includes
- a Council member; and
 - an employee or officer of the Council;
- 3.22. **Regulatory Activity** has the same meaning as in the *Local Government Act 1999*.
- 3.23. **Relevant Authority** means the person or entity that receives an appropriate Disclosure of public interest information in accordance with the PID Act, as set out in Appendix A to this Procedure.

- 3.24. **Responsible Officer** is a person who has completed any training courses approved by the Commissioner for the purposes of the *Public Interest Disclosure Regulations 2019* and has been designated by the Principal Officer as a responsible officer under section 12 of the PID Act. Where this Procedure refers to “a” or “the” Responsible Officer, it means any Responsible Officer unless the context requires otherwise.
- 3.25. **Victimisation** occurs when a person causes detriment to another on the ground, or substantially on the ground, that the other person (or a third person) has made or intends to make an appropriate Disclosure of public interest information.

4. Responsibilities

- 4.1. The Principal Officer is responsible for:
- 4.1.1. ensuring that one or more appropriately qualified officers or employees of the Council are designated as Responsible Officers of the Council for the purposes of the PID Act and undertake any training required by the *Public Interest Disclosure Regulations 2019*; and
 - 4.1.2. ensuring that the name and contact details of each Responsible Officer of the Council are made available to officers and employees of the Council; and
 - 4.1.3. the preparation and maintenance of this Procedure in accordance with the requirements of the PID Act, the ICAC Directions and Guidelines, and the PID Guidelines.
- 4.2. A person designated as a Responsible Officer for Council:
- 4.2.1. must:
 - 4.2.1.1. receive Disclosures relating to the Council and ensure compliance with the PID Act, and this Procedure, in relation to any such Disclosures;
 - 4.2.1.2. make appropriate recommendations to the Principal Officer of the Council in relation to dealing with Disclosures, including any suggested changes to this Procedure; and
 - 4.2.1.3. provide advice to officers and employees of the Council in relation to the administration of the PID Act; and
 - 4.2.1.4. complete any training courses approved by the Commissioner for the purposes of the *Public Interest Disclosure Regulations 2019*; and

- 4.2.2. may carry out any other functions relating to the PID Act;
- 4.2.3. may seek legal advice from Council's lawyers and/or guidance from SAPOL or the Ombudsman in relation to the most appropriate course of action to pursue and is authorised to incur costs in accordance with the Council's Budget for that purpose.
- 4.3. A Council member, employee or officer of the Council is responsible for:
 - 4.3.1. ensuring they comply with this Procedure when dealing with any Disclosure;
 - 4.3.2. immediately referring any Disclosure of environmental and health information made to them by a member of the public to the Manager – Regulatory or the Responsible Officer; and
 - 4.3.3. immediately referring any Disclosure of public interest information made to them by a public officer, to the Responsible Officer.
- 4.4. Upon receipt of a Disclosure:
 - 4.4.1. the Responsible Officer will deal with the Disclosure in accordance with the processes described in this Procedure and the PID Act;
 - 4.4.2. the Manager – Regulatory will determine whether the matter falls within the scope of Council's responsibilities to investigate as a Regulatory Activity and if the matter does not, refer the matter to the Responsible Officer to deal with in accordance with this Procedure.
- 4.5. If an Informant believes that his/her Disclosure is not being dealt with appropriately or in accordance with this Procedure, is encouraged to contact the Responsible Officer in the first instance. Where the matter cannot be resolved, an Informant may request the Principal Officer review the handling of their disclosure in accordance with Council's *Internal Review of Council Decisions Procedure*.
- 4.6. The Responsible Officer may be contacted in person, by telephone or in writing. The relevant contact details are:

Responsible Officer No. 1: Sheree Schenk
 General Manager
 Governance & Executive Office

- Telephone (08) 8527 0220
- Email sschenk@apc.sa.gov.au
- Address Confidential

Responsible Officer No. 1, Public Interest Disclosure
 PO Box 18
 Mallala SA 5502

Responsible Officer No. 2:

Alyssa Denicola

Manager Governance & Administration

- Telephone (08) 8527 0216
- Email adenicola@apc.sa.gov.au
- Address Confidential

Responsible Officer No. 2, Public Interest Disclosure

PO Box 18

Mallala SA 5502

5. Confidentiality

- 5.1. The identity of an Informant will be maintained as confidential in accordance with the PID Act and PID Guidelines.
- 5.2. A recipient of a Disclosure may only divulge the identity of an Informant where:
 - 5.2.1. the recipient believes on reasonable grounds that it is necessary to divulge the identity of the Informant in order to prevent or minimise an imminent risk of serious physical injury or death to any person, **and** the identity of the Informant is then divulged to a person or authority that the recipient believes on reasonable grounds is the most appropriate authority or person to be able to take action to prevent or minimise the imminent risk of serious physical injury or death to any person;
 - 5.2.2. the recipient has been issued with a notice from the OPI advising that the identity of the Informant is required by the OPI, in which case the recipient must disclose the identity of the Informant to the OPI;
 - 5.2.3. doing so is necessary for the matter to be properly investigated (but only to the extent necessary to ensure proper investigation); or
 - 5.2.4. the Informant consents to his/her identity being disclosed.
- 5.3. The PID Act does not expressly require any other information relating to a Disclosure (including, for example, the nature of the allegations) apart from the identity of the Informant to be maintained as confidential, but in considering whether to further disclose other information provided as part of a Disclosure the Council will be mindful of the prohibition against Victimisation in the PID Act.
- 5.4. An Informant may wish to remain anonymous, but in that event must ensure that the allegation is sufficiently supported by the provision of necessary details and evidence to enable the matter to be properly investigated.

6. Disclosure Process

- 6.1. Relevantly for the purposes of this Procedure, the PID Act provides for protection for Informants where Disclosures are made:
 - 6.1.1. by a member of the public or a public officer about environmental and health information which the Informant reasonably believes to be true or which the Informant believes may be true and is of sufficient significance to warrant Disclosure, regarding a location within the Council area of a particular council; and/or
 - 6.1.2. by a public officer with a reasonable suspicion about public administration information regarding either a location within a Council area or a public officer who is a member, officer or employee of the Council.
- 6.2. Disclosures should generally, and wherever possible, be directed in the first instance to the Responsible Officer, who has the responsibility for receiving Disclosures relating to the Council.
- 6.3. However, nothing in this Procedure prevents a person from making a Disclosure to another Relevant Authority, including a Relevant Authority external to the Council (e.g. the Ombudsman or OPI). This is a choice to be made by the Informant at his/her discretion.
- 6.4. The following are relevant considerations for an Informant in determining where to direct a Disclosure:
 - 6.4.1. when choosing to make a Disclosure internally, Disclosures relating to an elected member or a member of council staff, including the Chief Executive Officer (or person acting in that position), should usually be made to a Responsible Officer;
 - 6.4.2. any Disclosure relating to a person appointed as a Responsible Officer should be made to the other person appointed as a Responsible Officer or failing this, to a Relevant Authority external to the Council (such as the OPI);
 - 6.4.3. any Disclosure relating to public administration information about a public officer who is a member, officer or employee of the Council may be made to a Responsible Officer, or to the person responsible (either in fact, or as may be designated by the PID Act) for the management or supervision of the public officer the subject of the Disclosure;
 - 6.4.4. any Disclosure relating to Maladministration or Misconduct in public administration may be reported to OPI in accordance with the ICAC Act;
 - 6.4.5. if there is a reasonable suspicion of Corruption, or of Maladministration or Misconduct in public administration that is

serious or systemic, and the Informant is a public officer, the matter must be reported to the OPI in accordance with the ICAC Directions and Guidelines;

- 6.5. A Disclosure may be made in person, by telephone or in writing (either by post or email). Where a Disclosure is made by telephone, the recipient should take notes of the conversation.
- 6.6. The following steps will be taken to ensure that a Disclosure is received securely:
 - 6.6.1. Responsible officer telephone lines and email address will only be accessible to Responsible Officers and, to the minimum extent necessary, information technology staff (see Part 13 of this Procedure); and
 - 6.6.2. Mail addressed to a Responsible Officer will not be opened by any person within the Council prior to being provided to the Responsible Officer.

7. Receipt of a Disclosure

- 7.1. If a Council member, employee or officer receives what they consider may be a Disclosure of public interest information regarding a location within the Council area, the recipient of that potential Disclosure will:
 - 7.1.1. ask the Informant whether they consent to the details of their identity being provided to the Responsible Officer or other officers of Council, and in doing so advise the Informant that a failure to provide that consent may mean that the Disclosure cannot be properly investigated (for example, *'Do you consent to your name and contact details being provided to council officers responsible for managing and investigating your complaint? While you are not obliged to do so, failure to agree might impact Council's ability to deal with your complaint.'*); and
 - 7.1.2. refer the Disclosure in accordance with clause 4.3 of this Procedure.
- 7.2. Upon the receipt of a Disclosure (whether directly, or by referral from a Council member, employee or officer):
 - 7.2.1. the Responsible Officer will:
 - 7.2.1.1. immediately undertake a Preliminary Assessment in accordance with Part 8 of this Procedure; and
 - 7.2.1.2. as soon as practicable thereafter, in accordance with Part 9 of this Procedure:
 - 7.2.1.3. notify the OPI of the Disclosure; and

- 7.2.1.4. notify the Informant of whether and what action is being taken; and
- 7.2.1.5. if the original recipient of the Disclosure was a member, officer or employee of the Council—provide confirmation to that person that the OPI and the Informant have been duly notified; and
- 7.2.1.6. subject to the outcome of the Preliminary Assessment, then take appropriate action, including, where required:
 - 7.2.1.6.1. refer the Disclosure for investigation in accordance with Part 10 of this Procedure; and
 - 7.2.1.6.2. notifying the Informant of the outcome of any action, including any investigation in accordance with Part 11 of this Procedure; and
 - 7.2.1.6.3. notifying the OPI of the outcome of any action taken in accordance with Part 11 of this Procedure; and/or
 - 7.2.1.6.4. reporting the outcome of any action taken to the Minister in accordance with Part 11 of this Procedure; and
 - 7.2.1.6.5. preparing and issuing a final report to the Principal Officer in accordance with Part 12 of this Procedure;
- 7.2.2. the Manager – Regulatory will:
 - 7.2.2.1. immediately undertake a Preliminary Assessment in accordance with Part 8 of this Procedure; and
 - 7.2.2.2. subject to the outcome of the Preliminary Assessment, then take appropriate action, including, where required:
 - 7.2.2.2.1. referring the matter for investigation by an appropriate Authorised Officer of the Council in accordance with the Council’s ordinary investigative procedures for dealing with Regulatory Activities;
 - 7.2.2.2.2. informing the Responsible Officer so that they may undertake the steps required by Part 9, 11 and 12 of this Procedure as the case requires.
- 7.3. Where a matter is referred to the Council by an external Relevant Authority as a result of a Disclosure received by that external Relevant Authority, the matter will be dealt with in accordance with the PID Act and the PID Guidelines.

- 7.4. The Responsible Officer will be the primary point of contact for liaising with any external Relevant Authority. The processes in this Procedure should be followed as closely as possible for dealing with matters referred to the Council by an external Review Agency, subject to necessary modifications in the discretion of the Responsible Officer.

8. Preliminary Assessment of Disclosure

- 8.1. Upon receipt of a potential Disclosure, the Responsible Officer (or, where relevant, the Manager – Regulatory with the assistance of the Responsible Officer) will immediately conduct an assessment to determine whether the potential Disclosure meets the definition in clause 3.6 of this Procedure. In particular, the officer will assess:
- 8.1.1. Whether the information disclosed is Public Interest Information;
 - 8.1.2. If the matter relates to public administration information: whether the Informant is a public officer and therefore eligible for the protection of the PID Act;
 - 8.1.3. Whether the relevant subjective elements in Sections 5(3)(a) or (b) or 5(4) of the PID Act are present (i.e. belief/reasonable suspicion on the part of the Informant);
 - 8.1.4. Whether the person who received the disclosure was a Relevant Authority for the purpose of receiving that particular kind of Public Interest Information;
- 8.2. If the officer does not consider that the definition in clause 3.6 of this Procedure is met, then the officer has discretion as to how to communicate this to the Informant, and this Procedure no longer applies.
- 8.3. Where the officer is satisfied that the Disclosure meets the definition in clause 3.6 of this Procedure, the officer will undertake further assessment to determine:
- 8.3.1. if the content of the Disclosure suggests there is an imminent risk of serious physical injury or death to any person or the public generally;
 - 8.3.2. if the matter/s the subject of the Disclosure involve corruption in public administration, or serious or systemic misconduct or maladministration in public administration; or
 - 8.3.3. if the information disclosed justifies further action, including a decision as to whether the Disclosure:
 - 8.3.3.1. is frivolous, vexatious or trivial (in which case, no further action will be taken in relation to the Disclosure);

- 8.3.3.2. involves a matter which has already been investigated or acted upon by a Relevant Authority and there is no reason to re-examine the matter or there is other good reason why no action should be taken in respect of the matter (in which case, no further action will be taken in relation to the Disclosure);
 - 8.3.3.3. otherwise does not justify the taking of further action;
 - 8.3.3.4. requires referral to another Relevant Authority external to the Council; or
 - 8.3.3.5. warrants investigation in accordance with the relevant Council procedure for a Disclosure of that kind.
- 8.4. Where the Disclosure relates to public administration information about a public officer who is a member, officer or employee of the Council and it is made to the person responsible for the management or supervision of the public officer the subject of the Disclosure (**the Supervisor**), the Supervisor will conduct the Preliminary Assessment instead of the Responsible Officer, and will then report the outcome of his/her determination following the Preliminary Assessment to the Responsible Officer to action. If the Supervisor is unable to provide the identity of the Informant to the Responsible Officer due to none of the circumstances in clause 5.2 of this Procedure applying, then the Supervisor will be responsible for providing notice to the Informant in accordance with clause 9.1 and, if applicable, clause 11.1 (instead of the Responsible Officer).
- 8.5. The Responsible Officer must (or, where relevant, the Manager – Regulatory with the assistance of the Responsible Officer) report the outcome of his/her determination (or Supervisor’s determination) following the Preliminary Assessment to the Chief Executive Officer (unless the Disclosure relates to the Chief Executive Officer). Any report prepared in accordance with this Part will not disclose particulars that will or are likely to lead to the identification of the Informant, unless the circumstances in clause 5.2 of this Procedure apply.
- 8.6. Where the Responsible Officer (or, where relevant, the Manager – Regulatory or Supervisor) determines that the content of the Disclosure suggests there is an imminent risk of serious physical injury or death to any person or to the public generally, the Responsible Officer (or Supervisor) must immediately communicate such information as may be necessary to mitigate that risk to the most appropriate agency (for example, South Australia Police, SafeWork SA, SA Ambulance, Environment Protection Authority). In doing so, the officer must also have regard to clause 5.2.1 of this Procedure.
- 8.7. Where the Responsible Officer (or, where relevant, the Manager – Regulatory or Supervisor) forms a reasonable suspicion that the matter/s the subject of the Disclosure involve corruption in public administration, or serious or systemic misconduct or maladministration in public administration, the officer must

comply with his/her reporting obligations under the ICAC Act in accordance with the ICAC Directions and Guidelines.

- 8.8. Where the Responsible Officer (or, where relevant, the Manager – Regulatory or Supervisor) determines the Disclosure warrants referral to an external body or another Relevant Authority, the Responsible Officer will undertake the referral, including ensuring that such information as is necessary to enable action to be taken is communicated to the most appropriate person or relevant authority to take that action. Where the Preliminary Assessment is being undertaken by the Manager – Regulatory or Supervisor, the officer will include this recommendation in his/her report to the Responsible Officer for the Responsible Officer to action.
- 8.9. Where the:
 - 8.9.1. Responsible Officer determines the Disclosure warrants further investigation, the Responsible Officer will refer the matter for investigation in accordance with the Council's usual procedure for handling Disclosures of that kind (for example, Council's *Complaints Handling Procedure under Council Members' Code of Conduct* or *Employee Grievance Resolution Procedure*). Where the Preliminary Assessment is being undertaken by the Supervisor, the Supervisor will include this recommendation in his/her report to the Responsible Officer for the Responsible Officer to action.
 - 8.9.2. Manager – Regulatory determines the Disclosure warrants further investigation the officer will refer the matter for investigation by an appropriate Authorised Officer of the Council in accordance with the Council's ordinary investigative procedures for dealing with Regulatory Activities.
- 8.10. Where the Responsible Officer determines the Disclosure requires any other action to ensure the matter the subject of the Disclosure is properly addressed, the Responsible Officer will include in his/her determination details of that other recommended action. Where the Preliminary Assessment is being undertaken by the Supervisor, the Supervisor will include this recommendation in his/her report to the Responsible Officer for the Responsible Officer to action.

9. Notification of Preliminary Assessment

- 9.1. So long as the identity of the Informant is known to the Responsible Officer or is reasonably ascertainable, the Responsible Officer will notify the Informant of the outcome of his/her determination (or Manager – Regulatory or Supervisor’s determination) in writing as soon as is reasonably practicable after the Preliminary Assessment has been made, and in any event **within 30 days of receipt** of the Disclosure. In doing so, the Responsible Officer must advise the Informant of:
 - 9.1.1. any action that has been, or will be, taken in relation to the Disclosure; or
 - 9.1.2. if no action is being taken in relation to the Disclosure, the reason/s why.
- 9.2. If the Responsible Officer fails to notify the Informant in accordance with clause 9.1 above, the Informant may be entitled to protection in relation to any subsequent Disclosure of that information to a journalist or member of Parliament in accordance with the PID Act.
- 9.3. If the Informant is dissatisfied with the Responsible Officer’s determination, it is open to him/her to report the Disclosure to another Relevant Authority external to the Council.
- 9.4. As soon as reasonably practicable following the Preliminary Assessment and notification to the Informant, the Responsible Officer must use the dedicated online notification form at icac.sa.gov.au to notify OPI of the Disclosure (**Initial Notification**), and in doing so must ensure that the details required by the PID Guidelines are included in the Initial Notification.
- 9.5. The Responsible Officer will retain the unique reference number issued by the OPI upon making the Initial Notification, and will ensure that reference number is provided to any other person or authority to whom the Disclosure is referred.
- 9.6. If a Council member, officer or employee of the Council was the original recipient of the Disclosure, the Responsible Officer will:
 - 9.6.1. provide confirmation to that person that the Informant has been notified under clause 9.1, as soon as practicable after that notification has occurred;
 - 9.6.2. provide confirmation to that person that OPI has been notified under clause 9.4, as soon as practicable after that notification has occurred;
 - 9.6.3. provide that person with the unique reference number issued by the OPI.

10. Investigation Procedure

- 10.1. Where the officer determines, following a Preliminary Assessment, that a Disclosure warrants an investigation in accordance with the relevant Council procedure for investigating a Disclosure of that kind, that procedure applies.
- 10.2. Upon finalising an investigation, the person undertaking the investigation in accordance with Council's procedure will prepare a report to the Responsible Officer that will contain the following details:
 - 10.2.1. the allegation(s);
 - 10.2.2. the conclusions reached and the basis for them; and
 - 10.2.3. the action taken in accordance with Council's procedure for dealing with a Disclosure of that kind.
- 10.3. Any report prepared in accordance with this Part will not disclose particulars that will or are likely to lead to the identification of the Informant, unless the circumstances in clause 5.2 of this Procedure apply.

11. Notification of Further Action

- 11.1. So long as the identity of the Informant is known to the Responsible Officer or is reasonably ascertainable, the Responsible Officer will notify the Informant of the outcome of any further action taken under this Procedure in writing as soon as is reasonably practicable after the further action has been taken and, in any event, **within either:**
 - 11.1.1. **90 days of receipt** of the Disclosure; or
 - 11.1.2. such longer period as may be **specified by written notice** given by the Responsible Officer within that 90 day period.
- 11.2. In doing so the Responsible Officer must advise the Informant of:
 - 11.2.1. any action that has been, or will be, taken in relation to the Disclosure; or
 - 11.2.2. if no action is being taken in relation to the Disclosure, the reason/s why.
- 11.3. If the Responsible Officer fails to notify the Informant in accordance with clauses 11.1 and 11.2 above, the Informant may be entitled to protection in relation to any subsequent Disclosure of that information to a journalist or member of Parliament in accordance with the PID Act.
- 11.4. If the Informant is dissatisfied with the Responsible Officer's determination or the action taken it is open to him/her to report the Disclosure to another Relevant Authority external to the Council.
- 11.5. As soon as reasonably practicable following the Preliminary Assessment and notification to the Informant, the Responsible Officer must use the dedicated online notification form at icac.sa.gov.au to notify OPI of the action taken in

relation to the Disclosure (**Further Notification**) and, in doing so, must ensure that the details required by the PID Guidelines are included in the Further Notification.

- 11.6. If the Disclosure came to the Council by way of a referral from a Minister, the Responsible Officer must ensure that the Minister is also notified of the action taken in relation to the Disclosure, and the outcome of any such action. The Minister should be notified in accordance with this clause following the Preliminary Assessment if the Responsible Officer determines that no action is to be taken.

12. Final Report

- 12.1. Upon finalising any action required in relation to a Disclosure, the Responsible Officer must prepare a report that will contain the following details:
 - 12.1.1. the subject of the Disclosure;
 - 12.1.2. an account of the steps taken by the Responsible Officer in accordance with this Procedure, including, where appropriate, enclosing a copy of any report received under clause 10.2;
 - 12.1.3. the action taken in accordance with Council's procedure for dealing with Disclosures of that kind; and
 - 12.1.4. any recommendations arising from the conclusions, including any remedial action which should be taken by the Council (separately from the action already taken under Council's procedure for dealing with a Disclosure of that kind).
- 12.2. Any report prepared in accordance with this Part will not disclose particulars that will or are likely to lead to the identification of the Informant, unless the circumstances in clause 5.2 of this Procedure apply.
- 12.3. The Responsible Officer's Report must be provided to the Chief Executive Officer to action as he/she considers appropriate.
- 12.4. As a matter of discretion, the Chief Executive Officer may inform the elected body, on a confidential basis, of the fact that an investigation of a Disclosure took place and the outcome of the investigation.

13. Secure Handling and Storage of Information

- 13.1. The Responsible Officer must ensure accurate records of Disclosures are securely and confidentially maintained including notes of all discussions, phone calls, and interviews.
- 13.2. Each Responsible Officer will be provided with the following:
 - 13.2.1. telephone line and email address which is only accessible to that particular Responsible Officer and, to the minimum extent necessary, information technology staff;
 - 13.2.2. a directory on the Council's computer systems which is only accessible to that particular Responsible Officer and, to the minimum extent necessary, information technology staff;
 - 13.2.3. a lockable compartment or compartments at Council offices which is only accessible by that particular Responsible Officer; and
 - 13.2.4. such other facilities as determined by the Principal Officer.
- 13.3. The Responsible Officer (and/or Supervisor, Manager – Regulatory, person undertaking an investigation under a Council procedure or Authorised Officer as the case may be) will:
 - 13.3.1. ensure all information relating to Disclosure is maintained as confidential and as such, will be responsible for the secure storage of this information;
 - 13.3.2. in performing his/her duties, maintain a confidential file of information (including written documents, disks, tapes, film or other objects that contain information) that relates to a Disclosure and/or is a product of the associated investigation/reporting process. All such information will be recorded in a register which is to remain confidential and be securely stored.
- 13.4. In the event that a person's appointment as a with the Council is terminated, the person must provide all necessary information, keys, passwords and other credentials to the newly-appointed officer and having done so will continue to be bound by a duty of confidentiality in respect of an Informant's identity and the information received as a result of any Disclosure.

14. Protection for the Informant

- 14.1. An Informant who makes a Disclosure will be protected by:
 - 14.1.1. immunity from criminal or civil liability;
 - 14.1.2. a prohibition on Disclosure of his/her identity, other than in limited specific circumstances;
 - 14.1.3. a prohibition against Victimisation; and
 - 14.1.4. a prohibition against hindering, obstructing or preventing an Informant from making a Disclosure.
- 14.2. The PID Act does not provide any protection to people who knowingly make disclosures that are false or misleading in a material particular (whether by reason of the inclusion or omission of a particular).
- 14.3. A person who knowingly makes a Disclosure that is false or misleading in a material particular is guilty of an offence and may be prosecuted.
- 14.4. The Council will take action as appropriate in the circumstances of the relevant Disclosure/s to protect Informants from Victimisation, and/or from being hindered or obstructed in making a Disclosure. The Council will also take action to protect other persons, including persons against whom allegations are made in a Disclosure, from undue detriment because of a Disclosure.
- 14.5. If any person covered by this Procedure forms the view that a person may be or has been the subject of victimisation or detriment on the basis of a Disclosure, they must immediately raise this directly with the relevant Responsible Officer dealing with the matter (or, if there is not yet any Responsible Officer dealing with the matter, any Responsible Officer) who will assess the matter and how to most appropriately minimise any detriment.
- 14.6. Action to minimise detriment may include, among other things, any of the following:
 - 14.6.1. talking or writing to any affected parties;
 - 14.6.2. referring the matter to the Principal Officer for proposed reassigning of work tasks or other human resources adjustments;
 - 14.6.3. referring the matter to the SA Police or other appropriate law enforcement body;
 - 14.6.4. disciplinary action by the Council or the Chief Executive Officer (as appropriate) for any failure to act otherwise than in accordance with this Procedure or the PID Act (including with respect to divulging the identity of an Informant) in relation to a Disclosure.

15. Related Documents

Code of Conduct for Council Members

Complaints Handling Policy

Complaints Handling Procedure Under Council Members' Code of Conduct

Employee Grievance Resolution Procedure

Human Resource Management Policy

Internal Review of Council Decisions Policy

Internal Review of Council Decisions Procedure

16. Records Management

All documents relating to this Procedure will be registered in Council's Electronic Document Records Management System and remain confidential where identified.

17. Document Review

This Procedure will be reviewed every two (2) years.

18. References

Independent Commissioner Against Corruption Act 2012

ICAC Directions and Guidelines

Local Government Act 1999

Public Interest Disclosure Act 2018

PID Guidelines

Public Interest Disclosure Regulations 2019

19. Further Information and Availability of the Procedure

This Procedure will be available free of charge for inspection at Council's Offices during ordinary business hours and via Council's website www.apc.sa.gov.au. Copies will also be provided to the public upon request and upon payment of a fee in accordance with Council's Schedule of Fees and Charges.

Any queries in relation to this Procedure must be in writing and directed to the General Manager – Governance and Executive Office.