

Burke Shire Council

Public Interest Disclosure (PID) Policy



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Version History

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| DCEO | Whole document | Content reformatted into new Policy format - no changes to content. |

1. Purpose

Burke Shire Council (Council) is committed to the promotion of the public interest and encourages and supports public interest disclosures of wrongdoing in Council. Council will ensure that public interest disclosures are assessed and investigated properly, in accordance with the Public Interest Disclosure Act 2010 (PID Act) and PID Standard No. 1. This Policy provides clarity regarding how Council will investigate public interest disclosures.

2. Policy Provisions

Principles

Council aims to conduct its business with integrity, honesty, transparency and fairness so as to comply with all relevant laws, legislation, acts, regulations, codes and corporate standards. As such, the reporting of public interest disclosures is encouraged.

Council will investigate all public interest disclosures in a confidential manner and anyone making a disclosure will be provided protection from reprisal as outlined under the Public Interest Disclosure Act 2010.

Council will make use of PIDs, particularly where they are substantiated, to improve internal systems, process and governance.

This policy applies to all employees of the Council, Councillors, and members of the public who wish to make a public interest disclosure to the Burke Shire Council in accordance with the PID Act.

Responsibilities

The Chief Executive Officer or Mayor are responsible for the coordination of the Council's PID processes, this includes:

- Reporting PIDs;
- Monitoring investigations;
- Resolution of PIDs;
- Managing support and protection of the disclosers; and
- Maintain confidentiality and keep appropriate records.

Executive Management, Managers and supervisors must:

- Maintain an ethical culture and lead by example (for example, make a PID through appropriate channels when wrongdoing is identified);
- Raise awareness with all staff about PIDs and encourage staff to report wrongdoings
- Support disclosers and minimise the risk of reprisal;
- Notify the CEO if they believe any staff member is suffering detriment as a result of making a PID; and
- Maintain confidentiality and keep appropriate records.

Council employees and officers must act ethically at all times and report any suspected wrongdoing or danger to the proper authority and maintain appropriate confidentiality.

Members of the public may disclose information about the conduct of employees and officers of the Burke Shire Council regarding a substantial and specific danger to the health or safety of a person with a disability and any substantial and specific danger to the environment or reprisal.

Council will provide appropriate training to all staff in the understanding and management of PIDs.

Disclosure Process

Council encourages employees to report PIDs internally to their direct manager or supervisor. Employees may choose other internal reporting pathways including reporting to another manager, an executive manager or to the CEO. Employees have the right to choose to report PIDs externally to another appropriate authority as a first step, or if dissatisfied with Council's response to a disclosure.

Any person, including Council employees, may make a PID about any Council employee/s' conduct that may be:

- a substantial and specific danger to the health or safety of a person;
- a substantial and specific danger to the environment;
- reprisal.

Council employees may also make PIDs regarding:

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

Members of the public are encouraged to report PIDs regarding Council employees to the CEO or a member of the Executive Management Team. Members of the public, may choose to report PIDs externally to another appropriate entity as a first step, or if dissatisfied with Council's response to a disclosure.

PID Information

Ideally, PID information should include:

- the name and job title of the person who is the subject of the disclosure;
- specific information about relevant events, dates and places;
- the name of people who may be able to provide additional information; and
- other information relevant to the disclosure.

A disclosure need not include all this information to be considered a PID. For example, a PID may include information about an event and date with the names of the person involved unknown.

Disclosures may be made in any way, including verbally (in person or by telephone) or in writing (by letter or email). Disclosers are encouraged to provide contact details so Council can provide support and feedback. Anonymous disclosures will be accepted and Council is committed to assessing and, where appropriate, investigating anonymous PIDs where sufficient information has been provided. Anonymous disclosures are advised that declining to provide name and contact information means it may not be possible to keep the discloser informed of the progress in handling the disclosure or of the PID Act protections.

False or Misleading Information

It is an offence under the PID Act to intentionally make a false or misleading statement intending it be acted upon as a public interest disclosure. It is an indictable offence which carries a maximum penalty of 2 years imprisonment or a fine. A Council employee who makes a false or misleading statement may be subject to disciplinary action.

Investigation Process

To ensure the integrity of the investigation process for public interest disclosures, the Council will at all times during the investigation of public interest disclosures:

- preserve confidentiality;
- follow approved processes to manage public interest disclosures and to protect staff from reprisals (i.e. GOV-PRO-001 Public Information Disclosure (PID) Procedure);
- deal decisively with reprisal and possible reprisal;
- record disclosures; and
- provide training to staff in the management of public interest disclosures.

All disclosures made under the Act will be investigated by either the CEO, or an appropriate delegate appointed by the CEO or Mayor.

Informing the Disclosers

The CEO or their representative must provide the discloser or the entity the referred the disclosure, reasonable information under section 32 of the PID Act. Council must also advise the discloser:

- the likely timeframes for the investigation;
- their involvement in the investigation process;
- the importance of maintaining confidentiality;
- the protections under the PID Act that will apply;
- that council will keep the information disclosed, including the disclosers identity confidential, except as allowed under the PID Act;
- how the discloser will be advised of the progress and outcomes; and
- who to contact if they want further information or are concerned about reprisals.

Regular follow up with the discloser should be arranged by agreement to advise on the progress of resolving the PID.

Protection of the Discloser

Council is committed to protecting disclosers from detriment, such as unfair treatment, harassment or victimisation as a result of making a PID. When a disclosure is made, the Council will assess the risk of reprisal and offer the discloser appropriate support.

If a discloser believes detrimental action has been taken in connection a PID, or a manager identifies possible detrimental action, this should immediately be reported to the appointed manager for the PID or the CEO so that the matter can be assessed and, where appropriate support action implemented.

Making a PID does not protect the discloser from disciplinary or criminal action if the discloser has been involved in improper conduct. A discloser remains subject to reasonable management action in regards to their work conduct. Where reprisal action is identified, the Chief Executive Officer will act to protect the discloser. The nature of the protection is dependent upon the circumstances and seriousness of the reprisal. Any employee found to have engaged in reprisals will be the subject of disciplinary action.

Protecting Confidentiality

Council is committed to maintaining confidentiality relating to all PIDs. This is done by:

- Protecting the identity of the discloser, the subject and any witnesses
- Limiting access to information about the disclosure
- Securely maintaining records of the disclosure and investigation

Public Interest Disclosures to Journalists

If Council receives a PID and decides not to act or does not notify the disclosure within six months of the disclosure, the discloser may provide the same information to a journalist in accordance with s20 of the PID Act. In that case the discloser will have the same protections under the PID Act.

3. Definitions

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| Discloser | A person who makes a public interest disclosure in accordance with the PID Act and may remain anonymous. |
| Public Interest Disclosure (PID) | A public interest disclosure (PID) is a disclosure of information about suspected wrongdoing in the public sector that serves the public interest. |
| Public Sector Agency | This includes a local government. |
| Subject Officer | The person about whom a PID is made. |

4. Key Responsibilities

| Position | Responsibility |
|--------------------------|---|
| Mayor | To lead councillors in their understanding of this policy. |
| CEO | To lead staff (either directly or through delegated authority) in their understanding of, and compliance with, this policy. |
| Executive Managers | To communicate, implement and comply with this policy. |
| Managers and Supervisors | To implement this policy and related procedures. |
| All Council staff | To comply with this policy and consider its implications for related projects and programs. |

5. Related Documents

| Legislation/Regulations | Awards | BSC Policies | Procedures |
|---|--------|---|--|
| <i>Anti-discrimination Act 1991</i> | | <i>HRM-POL-001 Performance and Misconduct Policy</i> | <i>GOV-PRO-001 Public Information Disclosure (PID) Procedure</i> |
| <i>Crime and Misconduct Act 2001</i> | | <i>HRM-POL-002 Workplace Complaint Policy</i> | |
| <i>Industrial Relations Act 2016</i> | | <i>HRM-POL-005 Discrimination, Harassment and Bullying Policy</i> | |
| <i>Judicial Review Act 1991</i> | | | |
| <i>Local Government Act 2009</i> | | | |
| <i>Public Interest Disclosure Act 2010</i> | | | |
| <i>Public Sector Ethics Act 1994</i> | | | |
| <i>Queensland Ombudsman Public Interest Disclosure Standard No. 1</i> | | | |