



ADMINISTRATIVE Procedure

Public Interest Disclosure

Procedure Number:	PR152		
Procedure Owner:	Chief Executive Officer	Record Number:	19/84647 [v2]
Responsible Officer:	Governance Officer	Minute Reference:	244/2022
Date Adopted:	14/12/2022	Next Review Date:	December 2026

1. PROCEDURE OBJECTIVES

This procedure explains the processes that the Yorke Peninsula Council (Council) has in place for making and dealing with appropriate Disclosures of Public Interest Information, to ensure that it properly fulfils its responsibilities under the Public Interest Disclosure Act 2018 (PID Act).

2. SCOPE

This procedure applies to appropriate Disclosures of Public Interest Information that are made in accordance with the PID Act by Public Officers, including Elected Members, Officers and Employees of the Council, and by members of the public.

3. DEFINITIONS

Refer to Attachment 1.

4. PROCEDURE STATEMENT

This procedure is intended to compliment the reporting framework under the Independent Commission Against Corruption Act 2012 (ICAC Act) and Council's PO171 Public Interest Disclosure Policy (Policy).

4.1. Making Disclosures

Disclosures should be directed, in the first instance to a Responsible Officer, who has the responsibility for receiving appropriate Disclosures relating to the Council.

A Disclosure may be made to a Responsible Officer in person, by telephone or in writing. The relevant contact details are:

Telephone 08 8832 0000
Email admin@yorke.sa.gov.au
Address Confidential
Responsible Officer, Public Interest Disclosure
Yorke Peninsula Council
PO Box 57
MAITLAND SA 5573

Where a Disclosure is made by telephone, the recipient must take notes of the conversation and, where possible, should ask the Informant to verify and sign the notes.

Any Disclosure relating to Public Administration Information about a Public Officer who is an Elected 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 who is the subject of the Disclosure.

Any Disclosure relating to a person appointed as a Responsible Officer should be made to the another person appointed as a Responsible Officer or, failing this, to another Relevant Authority external to the Council.

Nothing in the Policy or this procedure, however, prevents a person from making a Disclosure to another Relevant Authority, including a Relevant Authority external to the Council. This is a choice to be made by the Informant at their discretion.

4.2. Corruption

Disclosures relating to Corruption will be reported directly to the Office for Public Integrity (OPI) in accordance with the Directions and Guidelines and the requirements of the ICAC Act.

4.3. Receipt of a Disclosure

If an Elected member, Employee or Officer receives a Disclosure of Public Interest Information, the recipient of that Disclosure will:

- Ask the Informant whether they consent to the details of their identity being provided to the Responsible Officer and advise the Informant that a failure to provide that consent may mean that the Disclosure cannot be properly investigated;
- Refer the Disclosure to the Responsible Officer and comply with the wishes of the Informant with respect to whether details of their identity may be divulged.

Upon the receipt of a Disclosure, the Responsible Officer will immediately undertake a Preliminary Assessment (Clause 4.4) and, as soon as practicable thereafter, notify the OPI of the Disclosure (Clause 4.4). Where the identity of the Informant is known to the Responsible Officer, or is reasonably ascertainable, the Responsible Officer will acknowledge receipt of the Disclosure to the Informant within ten (10) business days and will provide a copy of the Policy and this procedure to the Informant.

Subject to the outcome of the Preliminary Assessment, the Responsible Officer will then take appropriate action.

4.4. Preliminary Assessment of Disclosure

Upon receipt of a Disclosure, the Responsible Officer will undertake a Preliminary Assessment to determine 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;
- Involves Corruption in Public Administration, or intentional and serious Misconduct or Maladministration in Public Administration;
- Justifies further action;
- Is frivolous, vexatious or trivial (in which case, no further action will be taken in relation to the Disclosure);
- 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 another good

reason(s) as to why no action should be taken (in which case, no further action will be taken in relation to the Disclosure);

- Requires referral to another Relevant Authority external to the Council;
- Warrants referral to an Independent Assessor for a formal investigation.

Report to Supervisor

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 that Public Officer (the Supervisor), the Supervisor will conduct the Preliminary Assessment instead of the Responsible Officer. The Supervisor will then report the outcome of the Preliminary Assessment to the Responsible Officer to action.

Preliminary Assessment Outcome

The Responsible Officer must report the outcome of the Preliminary Assessment to the Chief Executive Officer (CEO) (unless the Disclosure relates to the CEO). Particulars that will or are likely to lead to the identification of the Informant, unless the circumstances in Clause 4.1 of the Policy apply, will not be disclosed.

Risk of Injury

Where the Responsible Officer (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 etc.). In doing so, the Responsible Officer (or Supervisor) must also have regard to Clause 4.1 of the Policy.

Reasonable Suspicion of Corruption

Where the Responsible Officer (or Supervisor) forms a reasonable suspicion that the matter(s) that are the subject of the Disclosure involve Corruption in Public Administration the Responsible Officer (or Supervisor) must comply with the reporting obligations under the ICAC Act in accordance with the Directions and Guidelines.

Disclosure Warrants Referral to External Body

Where the Responsible Officer 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 Supervisor, the Supervisor will include this recommendation in the Preliminary Assessment report to the Responsible Officer for the Responsible Officer to action.

Where the Responsible Officer determines the Disclosure warrants further investigation, the Responsible Officer will, having regard to available resources, appoint the Independent Assessor and refer the Disclosure to the Independent Assessor for investigation. Where the Preliminary Assessment is being undertaken by the Supervisor, the Supervisor will include this recommendation in the Preliminary Assessment report to the Responsible Officer for the Responsible Officer to action.

Disclosure Requires Other Action

Where the Responsible Officer determines that the Disclosure requires any other action, to ensure the matter the subject of the Disclosure is properly addressed, the Responsible Officer will include the recommendation in the Preliminary Assessment. Where the Preliminary Assessment is being undertaken by the Supervisor, the Supervisor will include this recommendation in the Preliminary Assessment report to the Responsible Officer for the Responsible Officer to action.

Notification of Preliminary Assessment

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 the Preliminary Assessment, 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 or a longer period as may be specified by written notice to the Informant, given by the Responsible Officer, within that 30 day period. The Responsible Officer must advise the Informant of:

- Any action that has been, or will be, taken in relation to the Disclosure; or
- If no action is being taken in relation to the Disclosure, the reason(s) why.

Informant Dissatisfaction

If the Informant is dissatisfied with the Responsible Officer's determination, the Informant may report the Disclosure to another Relevant Authority external to the Council.

Responsible Officer Fails to Notify Informant

If the Responsible Officer fails to notify the Informant in accordance with the 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.

Notify OPI of Disclosure

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 www.publicintegrity.sa.gov.au to notify OPI of the Disclosure (Initial Notification), and must ensure that the details required by the Public Interest Disclosure Guidelines are included.

The Responsible Officer will retain the unique reference number issued by the OPI within Council's electronic records management system, 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.

4.5. Investigation

Referral to Independent Assessor

Where the Responsible Officer determines, following a Preliminary Assessment, that a Disclosure warrants referral to an Independent Assessor for a formal investigation, the Responsible Officer will appoint an Independent Assessor to investigate the Disclosure.

The Independent Assessor will be appointed on a case-by-case basis depending on the nature of the Disclosure.

The objectives of the investigation process are:

- To investigate the substance of the Disclosure and to determine whether there is evidence in support of the matters raised;
- To consider and collate information relating to the allegation as quickly as possible;

- to consider the information collected and to draw conclusions objectively and impartially;
- To observe procedural fairness in the treatment of any person who is subject of the Disclosure;
- To make recommendations arising from the conclusions drawn concerning remedial or other appropriate action.

The Independent Assessor will observe the principles of natural justice throughout the investigation process. The investigation will be conducted in an efficient manner and will involve a thorough and balanced assessment of the available evidence and any other factors deemed relevant to making a fair and reasonable judgement about the matter.

Notify Subject of Disclosure

Upon receipt of a Disclosure referral the Independent Assessor will bring the fact of the Disclosure to the attention of the person who is the subject of it in writing, within five (5) days, and provide them with an opportunity to respond to the Disclosure within a reasonable timeframe (either in writing or by meeting in person, in which case a record of the discussion will be documented by the Independent Assessor). The full details of any allegations contained in the Disclosure need not be brought to the person's attention if the Independent Assessor considers that doing so will compromise the investigation.

Support Person

During any interview with the Independent Assessor, the person who is the subject of a Disclosure may be accompanied by any person providing support (including a lawyer) as the person who is the subject of a Disclosure considers fit (Support Person). Any costs incurred in relation to obtaining the assistance of a Support Person are the personal expenses of the person who is the subject of the Disclosure. The Support Person is bound by a duty of confidentiality in relation to any matter discussed during such an interview.

Investigation in Confidence

The investigation will be undertaken in confidence. So long as the identity of the Informant is known to the Responsible Officer or is reasonably ascertainable, the Independent Assessor will keep the identity of the Informant confidential unless the circumstances in Clause 4.1 of the Policy apply.

Investigation Report

The Independent Assessor will keep the Responsible Officer informed of the expected timeframes for completion of the investigation and the provision of the investigation report to the Responsible Officer.

Upon finalising an investigation the Independent Assessor must prepare an investigation report to the Responsible Officer that will contain the following details:

- The allegation(s);
- An account of the background;
- An account of all relevant information received, including any rejected evidence, and the reasons why the rejection occurred;
- The conclusions reached and the basis for them;
- Any recommendations arising from the conclusions, including any remedial action that is recommended be taken by the Council.

The report is to be accompanied by:

- A record of any verbal evidence taken, including any tape recordings;

- All documents, statements or other exhibits received by the Independent Assessor and accepted as evidence during the course of the investigation.

Any investigation report prepared will not disclose particulars that will or are likely to lead to the identification of the Informant, unless the circumstances in Clause 4.1 of the Policy apply.

Recommendation to Principal Officer

The Responsible Officer must make a recommendation to the Principal Officer, or in the case where the Principal Officer is the subject of the Disclosure, to the Mayor, as to what action is considered appropriate in the circumstances, having regard to the matters identified in the Independent Assessor's report.

The Principal Officer, or in the case where the Principal Officer is the subject of the Disclosure, the Mayor, must take whatever action is, at their discretion, considered appropriate in the circumstances having regard to the matters identified in the Independent Assessor's report.

Notification of Action

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 the determination in writing as soon as is reasonably practicable, within either:

- 90 days of receipt of the Disclosure; or
- Such longer period as may be specified by written notice given by the Responsible Officer within that 90 day period.

The Responsible Officer must advise the Informant of any action that has been, or will be, taken in relation to the Disclosure or if no action is being taken in relation to the Disclosure, the reason(s) why.

Responsible Officer Fails to Notify Informant

If the Responsible Officer fails to notify the Informant in accordance with the requirements specified 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.

Notify OPI of Action

As soon as reasonably practicable following the determination of the Disclosure and notification to the Informant, the Responsible Officer must notify OPI, via www.publicintegrity.sa.gov.au and using the unique reference number issued following the Initial Notification, of the action taken in relation to the Disclosure (Further Notification), ensuring that the details required by the Public Interest Disclosure Guidelines are included.

Minister Notification

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 and the outcomes in relation to the Disclosure including, following the Preliminary Assessment if the Responsible Officer determines that no action is to be taken.

4.6. Final Report and Recommendation

The Responsible Officer must prepare a final report (Final Report) that will contain the following details:

- The subject of the Disclosure;

- An account of the background;
- An account of the steps taken by the Responsible Officer in accordance with this procedure, including, where appropriate, enclosing a copy of any Independent Assessor's report;
- An account of all relevant information received, including any rejected evidence, and the reasons why the rejection occurred;
- Conclusions reached as a result of the steps taken in response to the Disclosure and the basis for them;
- Any recommendations arising from the conclusions, including any remedial action which is recommended should be taken.

The Final Report will not disclose particulars that will or are likely to lead to the identification of the Informant, unless the circumstances in clause 4.1 of the Policy applies.

The Final Report must be provided to the CEO to action, or in the case where the CEO is the subject of the Disclosure, the Mayor, or as the CEO (or the Mayor) considers is appropriate.

4.7. Information to Elected Body

The CEO, or in the case where the CEO is the subject of the Disclosure, the Mayor, may at the discretion of the CEO (or the Mayor), inform the Elected Members, on a confidential basis, about a Disclosure.

Factors the CEO will take into account in determining whether to inform the Elected Members and the level of detail provided in doing so are to include:

- If known, the identity of the Informant, and whether the Informant has consented to their identity being divulged;
- The identity of the person(s) who is the subject of the Disclosure;
- Any impact upon the Council's achievement of its objectives;
- Any impact of any action taken to finalise the matter upon the Council's operations and/or budget.

Issues Impacting Employees

In the event that the Disclosure and/or any subsequent investigation process is confined to issues that impact only upon Employees and human resource processes, the CEO will not inform the Elected Members of the fact of the Disclosure and/or investigation (since these matters fall outside the roles and responsibilities of Elected Members under the Local Government Act 1999).

4.8. Secure Handling and Storage of Information

The Responsible Officer must ensure accurate records of an appropriate Disclosure are securely and confidentially maintained, including notes of all discussions, phone calls, and interviews.

A confidential file of information that relates to a Disclosure and/or is a product of any associated investigation/reporting process, will be maintained securely in accordance with the Council's PO063 Records Management Policy (including written documents, disks, tapes, film or other objects that contain information).

Although the Responsible Officer is ultimately responsible to ensure Public Interest Information is securely received and stored, the security and confidentiality obligations also apply to any person who necessarily has access to the information that relates to a

Disclosure and/or is a product of any associated investigation/reporting process, including any Independent Assessor appointed in relation to any Investigation.

4.9. Appeal Process

If an Informant or a person who is the subject of a Disclosure believes that the Disclosure is not being dealt with appropriately or is dissatisfied with the Responsible Officer's response, determination or the action taken, they should contact the Responsible Officer in the first instance.

The Informant may contact another Relevant Authority external to the Council in relation to the Disclosure at any time.

5. POLICY AVAILABILITY

This procedure will be available for inspection at the Council's Offices during ordinary business hours and via the Council's website (www.yorke.sa.gov.au). Copies will also be provided to the public upon request, and upon payment of a fee in accordance with the Council's Fees and Charges Register (available on Council's website).

6. COMPLAINTS

Complaints about this procedure can be made in writing to the Governance Officer and will be managed in accordance with PO147 Council's Complaint Policy.

7. REVIEW

This procedure will be reviewed every four years and as necessary in consideration of any changes to legislation and relevant standards, codes, guidelines and audit findings.

8. TRAINING

Council will ensure that Responsible Officers are appropriately trained and is committed to supporting Employees in complying with this procedure.

Training needs will be identified through performance reviews, audit and training needs analysis processes. Training will also occur and as necessary in response to changes to legislation and relevant standards, codes, guidelines and audit findings.

9. RECORDS

Records shall be maintained as required by Council's Records Management Policy (PO063) and relevant legislation.

10. RELATED COUNCIL POLICIES/PROCEDURES AND DOCUMENTS

PO014 Employee Code of Conduct Policy

PO026 Fair Treatment Policy

PO037 Internal Review of Council Decision Policy

PO063 Records Management Policy

PO146 Support Disciplinary and Performance Management Policy

PO147 Complaints Policy

PO148 Fraud Corruption Misconduct and Maladministration Prevention Policy

PO150 Gifts and Benefits Policy

PO171 Public Interest Disclosure Policy

Fees and Charges Register

11. REFERENCES AND LEGISLATION

Public Interest Disclosure Act 2018

Independent Commission Against Corruption Act 2012

Ombudsman Act 1972

Local Government Act 1999

Behavioural Standards for Council Members

Behavioural Standards for Council Employees

Local Government Association Model Public Interest Disclosure Policy

12. COUNCIL DELEGATION

Provide a summary of any relevant delegation in the table provided.

Details of Delegation:	Nil
Delegate:	

13. VERSION HISTORY

Provide a brief summary of what has changed.

Version No	Issue Date	Description of Change
1	09/10/2019	New Document
2	09/01/2023	Legislative Update and full revision.

ATTACHMENT 1: DEFINITIONS

Term/Reference	Definition
Commissioner	The person holding or acting in the office of the Independent Commissioner Against Corruption.
Corruption in Public Administration	<p>As defined in section 5(1) of the ICAC Act and means:</p> <p>An offence against Part 7 Division 4 (Offences relating to Public Officers) of the Criminal Law Consolidation Act 1935, which includes the following offences:</p> <ul style="list-style-type: none">(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 <p>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</p> <p>An offence against the Lobbyists Act 2015, or an attempt to commit such an offence; or</p> <p>Any of the following in relation to an offence referred to in a preceding paragraph:</p> <ul style="list-style-type: none">(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
Directions and Guidelines	A reference to the Directions and Guidelines issued:

Term/Reference	Definition
	<ul style="list-style-type: none">(i) by the OPI pursuant to section 18B of the ICAC Act, available on the OPI website (www.publicintegrity.sa.gov.au); and/or(ii) by the Commissioner pursuant to section 14 of the PID Act, available on the Commissioner's website (www.icac.sa.gov.au); and/or(iii) by the Ombudsman SA pursuant to section 12D(1) of the Ombudsman Act 1972, available on the Ombudsman SA website (www.ombudsman.sa.gov.au).
Disclosure	<p>Means an appropriate disclosure of Public Interest Information made by an Informant to a Relevant Authority.</p> <p>A person makes an appropriate Disclosure of Environmental and Health Information if:</p> <ul style="list-style-type: none">(a) the person:<ul style="list-style-type: none">(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. <p>A person makes an appropriate disclosure of Public Administration Information if:</p> <ul style="list-style-type: none">(a) the person:<ul style="list-style-type: none">(i) is a Public Officer;(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.
Employee	<p>For the purposes of this policy and its supporting procedures, includes persons who have entered into an employment contract with the Council, volunteers, trainees, work experience placements, casual personnel, agency personnel,</p>

Term/Reference	Definition
	independent consultants and contractors and/or other persons undertaking work for/on behalf of the Council.
Environmental and Health Information	Information that raises a potential issue of a substantial risk to the environment and/or to the health or safety of the public generally or a significant section of the public.
Fraud	An intentional dishonest act or omission done with the purpose of deceiving.
Frivolous	No reasonable or sound basis in fact or law, is without merit.
Independent Assessor	The person designated by the Responsible Officer as being responsible for investigating a Disclosure made to Council in accordance with this procedure.
Informant	A person who makes an appropriate disclosure of Public Interest Information to a Relevant Authority.
Maladministration in Public Administration	<p>As defined in section 4(2) of the Ombudsman Act 1972 and means:</p> <ul style="list-style-type: none">(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(iii) includes conduct resulting from impropriety, incompetence or negligence; and(iv) is to be assessed having regard to relevant statutory provisions and administrative instructions and directions.
Misconduct in Public Administration	<p>As defined in section 4(1) of the Ombudsman Act 1972:</p> <p>An intentional and serious contravention of a code of conduct by a Public Officer while acting in their capacity as a Public Officer that constitutes a ground for disciplinary action against the Officer.</p>
Officer	A term used in the PID Act that is not defined in the PID Act but is likely to include, but not be limited to, persons undertaking work for/on behalf of the Council as defined in Employee.

Term/Reference	Definition
Office for Public Integrity (OPI)	<p>The office established under section 17 of the ICAC Act that has the function to:</p> <ul style="list-style-type: none">(i) receive and assess complaints about Public Administration from members of the public;(ii) receive and assess reports about Corruption, Misconduct and Maladministration in Public Administration from Public Officers, inquiry agencies and public authorities;(iii) refer complaints and reports to inquiry agencies, public authorities and Public Officers or to determine to take no action.
Principal Officer	<p>For the purposes of the PID Act means the Chief Executive Officer of the Council.</p>
Public Administration	<p>Defined at section 4 of the ICAC Act. Without limiting the acts that may comprise Public Administration, an administrative act within the meaning of the Ombudsman Act 1972 will be taken to be carried out in the course of Public Administration.</p>
Public Administration Information	<p>Information that raises a potential issue of Corruption, Misconduct or Maladministration in Public Administration.</p>
Public Interest Information	<p>Environmental and/or Health Information, or Public Administration Information.</p>
Public Officer	<p>Has the meaning given by section 4 and Schedule 1 of the ICAC Act, and includes:</p> <ul style="list-style-type: none">(i) a Council member (Elected Member); and(ii) an Employee or Officer of the Council.
Relevant Authority	<p>The person or entity that receives an appropriate Disclosure of Public Interest Information in accordance with the PID Act, as set out in Attachment 2 to the Policy.</p>
Responsible Officer	<p>A person who has completed any training courses approved by the Commissioner for the purposes of the PID Regulations and has been designated by the Council as a Responsible Officer under section 12 of the PID Act.</p> <p>For purposes of the PID Regulations the Manager People and Culture and Governance Officer have been appointed by the</p>

PR152 – Public Interest Disclosure Procedure

Term/Reference	Definition
	Council as a Responsible Officers under section 12 of the PID Act.
Trivial	Of very little importance/insignificant.
Vexatious	A primary intention to harass, discredit or subdue another person.