

Procedure Document
PUBLIC INTEREST DISCLOSURE PROCEDURE

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References and related Policies & Procedures: <i>Criminal Law Consolidation Act 1935</i> <i>Independent Commissioner Against Corruption Act 2012</i> <i>Lobbyists Act 2015</i> <i>Local Government Act 1999</i> <i>Ombudsman Act 1972</i> <i>Public Corporations Act 1993</i> <i>Public Interest Disclosure Act 2018</i> <i>Public Interest Disclosure Regulations 2019</i> <i>Public Sector (Honesty and Accountability) Act 1995</i> <i>State Records Act 1997</i> DCSB-G-09.01 Code of Conduct for Elected Members DCSB-HR-12.02 Code of Conduct for Council Employees DCSB-G-09.10 Complaints Handling Procedure under Council Members Code of Conduct DCSB-G-09.12 Elected Members Records Management Policy DCSB-G-09.08 Fraud and Corruption Prevention Policy (currently under review) DCSB-IFM-13.05 Personal Information Security Policy DCSB-IFM-13.01 Records Management Policy DCSB-SM-18.00 Risk Framework DCSB-SM-18.01 Risk Policy		

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 the District Council of Streaky Bay, and designated Principal Officer for the purposes of the PID Act, I expect 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, and the Council's Public Interest Disclosure Policy, are 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 the District Council of Streaky Bay remain deeply committed to the protection of informants who make public interest Disclosures in accordance with the objectives of the PID Act, and to the genuine and efficient consideration and action in relation to information provided to the Council via a public interest Disclosure, as contemplated and demonstrated by this Procedure.

Any questions about this Procedure or the Council's Public Interest Disclosure Policy should be directed in the first instance to the Responsible Officer, whose details are at Part 4 of this Procedure.

Principal Officer

**Chief Executive Officer
District Council of Streaky Bay**

Contents

1.	Introduction	1
2.	Scope	2
3.	Definitions.....	2
4.	Responsibilities	6
5.	Confidentiality.....	7
6.	Disclosure Process.....	7
7.	Receipt of a Disclosure.....	9
8.	Preliminary Disclosure of Assessment	10
9.	Notification of Preliminary Assessment.....	12
10.	Investigation Procedure.....	12
11.	Notification of Further Action.....	14
12.	Final Report and Recommendation	14
13.	Secure Handling and Storage of Information	15
14.	Protection of Informant	15
15.	Review.....	16
16.	Records.....	16
17.	Availability of the Procedure	17
	Appendix A – Relevant Authorities	18
	Appendix B – Notification Process Flowchart	20

The *Model Public Interest Disclosure Procedure* has been prepared by HWL Ebsworth Lawyers for the Local Government Association of SA (LGA) for the guidance of and use by member Councils. The LGA is the statutory peak body for Local Government in South Australia, representing all 68 Councils in the State.

Enquiries regarding this publication should be directed to the LGA on 8224 2000.

1. Introduction

- 1.1. The District Council of Streaky Bay (the Council) is committed to:
 - upholding the principles of transparency and accountability in its administrative and management practices;
 - the protection of informants who make public interest Disclosures; and
 - the genuine and efficient consideration and action in relation to information provided in a public interest Disclosure;
and therefore, encourages the making of appropriate Disclosures that reveal public interest information in accordance with this Procedure.
- 1.2. The Council is also committed to:
 - referring, as necessary, appropriate 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 Guidelines and the requirements of the ICAC Act;
 - otherwise facilitating the investigation of appropriate 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 the Council has in place for making and dealing with appropriate Disclosures of public interest information, to ensure that the 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 the District Council of Streaky Bay;
 - 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 PID Act; and
 - recognises the need to appropriately support Informants, the Responsible Officer and, as appropriate, those Public Officers affected by any appropriate Disclosure.
- 1.4. The Council will review and update this Procedure each year as part of its annual policy review.

2. Scope

- 2.1 This Procedure applies to appropriate Disclosures of Public Interest Information, made in accordance with the PID Act, by Council Members, officers and employees of the Council and by 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, including the:
- Public Interest Disclosure Policy;
 - Fraud & Corruption Prevention Policy;
 - Code of Conduct for Council Employees;
 - Code of Conduct for Council Members; and
 - Internal Review of Council Decisions Policy under section 270 of the [Local Government Act 1999](#).

3 Definitions

For the purposes of this Procedure the following definitions apply.

- 3.1 **Commissioner** means the person holding or acting in the office of the Independent Commissioner Against Corruption.
- 3.2 **Corruption in public administration** is defined in section 5(1) of the ICAC Act and means:
- 3.2.1 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
- 3.2.2 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
- 3.2.3 an offence against the [Lobbyists Act 2015](#), or an attempt to commit such an offence; or

3.2.4 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

3.2.5 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

3.3 **Council** means District Council of Streaky Bay.

3.4 **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).

3.5 **Directions and Guidelines** is a reference to the Directions and Guidelines issued pursuant to section 20 of the ICAC Act and/or section 14 of the PID Act, which are available on the Commissioner's website (www.icac.sa.gov.au).

3.6 **Disclosure** means an appropriate Disclosure of public interest information made by an Informant to a Relevant Authority.

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** is 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 **Independent Assessor** means the person designated by the Responsible Officer as being responsible for investigating a Disclosure made to the Council in accordance with [Part 10](#) of this Procedure.

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 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

3.13.1 includes conduct resulting from impropriety, incompetence or negligence; and

3.13.2 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 **Office for Public Integrity (OPI)** is the office 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** is defined in section 4 of the ICAC Act and, 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.
- 3.17 **Public administration information** means information that raises a potential issue of corruption, misconduct or maladministration in public administration.
- 3.18 **Public interest information** means environmental and health information, or public administration information.
- 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 **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.
- 3.23 **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 Council as responsible officer under section 12 of the PID Act.

- 3.24 **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; 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 and the Directions and Guidelines, in particular the Public Interest Disclosure Guidelines.
- 4.2 A person designated as a Responsible Officer for the Council:
- 4.2.1 **must** receive appropriate Disclosures relating to the Council and ensure compliance with the PID Act, and this procedure, in relation to any such Disclosures;
 - 4.2.2 **must** make appropriate recommendations to the Principal Officer of the Council in relation to dealing with Disclosures, including any suggested changes to this procedure or the Public Interest Disclosure Policy; and
 - 4.2.3 **must** provide advice to officers and employees of the Council in relation to the administration of the PID Act; and
 - 4.2.4 **must** complete any training courses approved by the Commissioner for the purposes of the Public Interest Disclosure Regulations; and
 - 4.2.5 **may** carry out any other functions relating to the PID Act.
- 4.3 A Council Member, employee or officer of the Council is responsible for
- 4.3.1 ensuring they comply with this procedure and the Public Interest Disclosure Policy when dealing with any Disclosure; and
 - 4.3.2 immediately referring any Disclosure of environmental and health information made to them by a member of the public, or any Disclosure of public interest information made to them by a public officer, to the Responsible Officer.
- 4.4 Upon receipt of a Disclosure, the Responsible Officer will deal with the Disclosure in accordance with the processes described in this procedure, and within the authority granted by the Public Interest Disclosure Policy and the PID Act.
- 4.5 If an Informant believes that his/her Disclosure is not being dealt with appropriately or in accordance with this procedure or the Public Interest Disclosure Policy, they should contact the Responsible Officer in the first instance.
- 4.6 The Responsible Officers may be contacted in person, by telephone or in writing. The relevant contact details are:

- Name Sandra Brice
- Telephone (08) 8626 1001
- Email bricesandra@streakybay.sa.gov.au
- Address Confidential

Responsible Officer, Public Interest Disclosure
 Public Administration Information
 PO Box 179
 Streaky Bay SA 5680

5 Confidentiality

- 5.1 The identity of an Informant will be maintained as confidential in accordance with the PID Act.
- 5.2 A recipient of an appropriate 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. 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) to be maintained as confidential, but in considering whether to further disclose other information provided as part of an appropriate Disclosure the Council should 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 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 public interest 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 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 appropriate Disclosures relating to the Council.
 - 6.3 Nothing in this Procedure 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 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 that is serious or systemic, it must be reported to the OPI in accordance with the Directions and Guidelines;
 - 6.4.6 if a Disclosure contains allegations of Fraud or Corruption, the Informant should report the matter in accordance with the Council's Fraud and Corruption Policy, which provides that:
 - 6.4.6.1 if the Disclosure relates to Corruption in public administration it will be reported to the OPI; and
 - 6.4.6.2 if the Disclosure relates to Fraud, it may be reported to the Responsible Officer or direct to SAPOL.
 - 6.4.7 A Disclosure may be made in person, by telephone or in writing (either by post, email or at the website www.streakybay.sa.gov.au). 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.
 - 6.4.8 The following steps will be taken to ensure that a Disclosure is received securely:
 - 6.4.8.1 emails will be received to the pid@streakybay.sa.gov.au email only.

- 6.4.8.2 Where emails are sent to Relevant Authorities, including staff or Elected Members directly, they will be referred directly to the relevant Responsible Officer's personal email after advising that officer that a public interest disclosure has been received and is being forwarded to them. Forwarding of such emails may only occur when the informant has granted permission for their identity to be divulged to the Responsible Officer for investigation purposes.
- 6.4.8.3 Once a disclosure is received the relevant Responsible Officer will create a folder in the Records Management system which restricts access to only that officer.
- 6.4.8.4 Responsible Officers will keep a confidential list of all disclosures they have dealt with by folder number only. This will ensure that should information be required for Freedom of Information, ICAC investigations etc, and the Responsible Officer is no longer with the Council, that information will be able to be found and provided.
- 6.4.8.5 Hard copies of all documents made or received in regards to any investigation will be kept in a locked cabinet throughout the investigation and until its conclusion.
- 6.4.8.6 Once the investigation is concluded the Responsible Officer will commit the hard copy documents to the Records Management System in a sealed container. That container (envelope, records box etc) will be labelled as follows:
- the Responsible Officer's name;
 - the number of the folder the records are stored in in the Records Management System;
 - the relevant dates (when the disclosure was received and the date the investigation concluded);
 - an "Access Determination" to limit who may access the documents within Council should the records need to be retrieved (these may include Responsible Officers for the PID Act and / or the FOI Act);
 - the words "Document contents are confidential pertaining to a public interest disclosure received on [date]"; and
 - space should be left to identify who is completing the transfer from Council to State Archives when this occurs.
- 6.4.8.7 Public Interest Disclosures are permanent records for the purposes of the PID Act.
- 6.4.8.8 All Disclosures and the documents subsequently created in regard to them shall be managed as per the *State Records Act 1997*.

7 Receipt of a Disclosure

- 7.1 A flowchart outlining the Disclosure Process is at [Appendix B](#) to this Procedure.
- 7.2 If a Council Member, employee or officer receives a Disclosure of public interest information regarding a location within the Council area, the recipient of that Disclosure will:

- 7.2.1 ask the Informant whether they consent to the details of their identity being provided to the Responsible Officer, and in doing so advise the Informant that a failure to provide that consent may mean the Disclosure cannot be properly investigated; and
- 7.2.2 refer the Disclosure to the Responsible Officer and, in doing so, comply with the wishes of the Informant with respect to whether details of their identity may be divulged.
- 7.3 Upon the receipt of a Disclosure (whether directly, or by referral from a Council Member, employee or officer), the Responsible Officer will:
 - 7.3.1 immediately undertake a Preliminary Assessment in accordance with [Part 8](#) of this procedure; and
 - 7.3.2 as soon as practicable thereafter, in accordance with [Part 9](#) of this procedure:
 - 7.3.2.1 notify the OPI of the Disclosure; and
 - 7.3.2.2 confirm receipt of the Disclosure with the Informant; and
 - 7.3.3 subject to the outcome of the Preliminary Assessment, then take appropriate action, including, where required:
 - 7.3.3.1 appointing an Independent Assessor to further investigate the Disclosure in accordance with [Part 10](#) of this procedure; and
 - 7.3.3.2 notifying the Informant of the outcome of any action, including any investigation in accordance with [Part 11](#) of this procedure; and
 - 7.3.3.3 notifying the OPI of the outcome of any action taken in accordance with [Part 11](#) of this procedure; and/or
 - 7.3.3.4 reporting the outcome of any action taken to the Minister in accordance with [Part 11](#) of this procedure; and
 - 7.3.3.5 preparing and issuing a final report to the Principal Officer in accordance with [Part 12](#) of this procedure.

8 Preliminary Disclosure of Assessment

- 8.1 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 within 3 days and in doing so, will provide a copy of Council's Public Interest Disclosure Policy to the Informant.
- 8.2 Upon receipt of a Disclosure, the Responsible Officer will undertake a preliminary assessment to determine:
 - 8.2.1 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;
 - 8.2.2 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
 - 8.2.3 if the information disclosed justifies further action, including a decision as to whether the Disclosure:
 - 8.2.3.1 is frivolous, vexatious or trivial (in which case, no further action will be taken in relation to the Disclosure);
 - 8.2.3.2 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);

8.2.3.3 requires referral to another Relevant Authority external to the Council; or

8.2.3.4 warrants referral to an Independent Assessor for a formal investigation and report to Council.

- 8.3 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** 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.
- 8.4 The Responsible Officer must report the outcome of his/her 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.
- 8.5 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). In doing so, the Responsible Officer or Supervisor must also have regard to [clause 5.2.1](#) of this procedure.
- 8.6 Where the Responsible Officer (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 Responsible Officer (or Supervisor) must comply with his/her reporting obligations under the ICAC Act in accordance with the Directions and Guidelines.
- 8.7 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 his/her report to the Responsible Officer for the Responsible Officer to action.
- 8.8 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 his/her report to the Responsible Officer for the Responsible Officer to action.
- 8.9 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 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 Guideline 1.4 of the Public Interest Disclosure 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.

10 Investigation Procedure

- 10.1 Where the Responsible Officer determines, following a Preliminary Assessment, that a Disclosure warrants referral to an Independent Assessor for a formal investigation and report to Council, the Responsible Officer will appoint an Independent Assessor in accordance with this Part to investigate the Disclosure.
- 10.2 The Independent Assessor will be appointed on a case-by-case basis depending on the nature of the Disclosure. The Council may prepare a list of pre-approved persons who may be appointed as an Independent Assessor in any given circumstances, in which case the Responsible Officer must have regard to this list in appointing the Independent Assessor.
- 10.3 The objectives of the investigation process are:
- 10.3.1 in appropriate circumstances, to investigate the substance of the Disclosure and to determine whether there is evidence in support of the matters raised or, alternatively, to refute the report made;

- 10.3.2 to collate information relating to the allegation as quickly as possible. This may involve taking steps to protect or preserve documents, materials and equipment;
 - 10.3.3 to consider the information collected and to draw conclusions objectively and impartially;
 - 10.3.4 to observe procedural fairness in the treatment of any person who is subject of the Disclosure; and
 - 10.3.5 to make recommendations arising from the conclusions drawn concerning remedial or other appropriate action.
- 10.4 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.
- 10.5 Upon receipt of a Disclosure referral under this Part, 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 5 days, and provide them with an opportunity to respond to the Disclosure within a reasonable timeframe (either in writing or in person). 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.
- 10.6 During any interview with the Independent Assessor, the person who is the subject of a Disclosure may be accompanied by any person providing support to him/her (including a lawyer) as he/she considers fit. Any costs incurred in relation to obtaining the assistance of a support person are the personal expenses of the person subject of the Disclosure. The support person is bound by a duty of confidentiality in relation to any matter discussed during such interview.
- 10.7 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 5.2](#) of this procedure apply.
- 10.8 The Independent Assessor will keep the Responsible Officer informed of the expected timeframes for completion of the investigation and the provision of his/her investigation report to the Responsible Officer.
- 10.9 Upon finalising an investigation the Independent Assessor must prepare an investigation report to the Responsible Officer that will contain the following details:
- 10.9.1 the allegation(s);
 - 10.9.2 an account of all relevant information received including any rejected evidence, and the reasons why the rejection occurred;
 - 10.9.3 the conclusions reached and the basis for them; and
 - 10.9.4 any recommendations arising from the conclusions, including any remedial action which should be taken by the Council.

The report is to be accompanied by:

- 10.9.5 the transcript or other record of any verbal evidence taken, including tape recordings; and

- 10.9.6 all documents, statements or other exhibits received by the Independent Assessor and accepted as evidence during the course of the investigation.
- 10.10 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.
- 10.11 The Responsible Officer must take whatever action is, in his/her discretion, considered appropriate in the circumstances having regard to the matters identified in the Independent Assessor's report.

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 his/her determination 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 Guideline 2 of the Public Interest Disclosure 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 and Recommendation

- 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 Independent Assessor's report;
 - 12.1.3 conclusions reached as a result of the steps taken in response to the Disclosure and the basis for them; and
 - 12.1.4 any recommendations arising from the conclusions, including any remedial action which should be taken by the Council.
- 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 The Chief Executive Officer may, in his/her discretion, inform the elected body, on a confidential basis, about a Disclosure in accordance with Part 7 of the Public Interest Disclosure Policy.

13 Secure Handling and Storage of Information

- 13.1 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.
- 13.2 The Responsible Officer will ensure all information relating to an appropriate Disclosure is maintained as confidential and as such, will be solely responsible for the secure storage of this information, which will be stored according to Council's Records Management Policy.
- 13.3 In performing his/her duties, the Responsible Officer will 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 as per the details outlined in clause 6.4.8.
- 13.4 In the event that a person's appointment as a Responsible Officer is terminated, the person must provide this information to the newly-appointed Responsible 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 the Disclosure.
- 13.5 Although the Responsible Officer is ultimately responsible to ensure public interest information will be securely received and stored, the security and confidentiality obligations outlined in this Part also apply to any Independent Assessor appointed pursuant to this Procedure in relation to any Investigation.

14 Protection of Informant

- 14.1 Although the PID Act does not provide any protection to people who knowingly make Disclosures that are false or misleading, an Informant who makes an appropriate Disclosure will ordinarily 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 an appropriate Disclosure.
- 14.2 A person who personally commits an act of Victimisation against an Informant is guilty of an offence and may be prosecuted.
- 14.3 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. Such action may include acting in accordance with the following risk minimisation steps:
- 14.3.1 Where an employee of Council is accused of or has failed to protect the identity of an informant, Council's Managing Unsatisfactory Performance Guideline will be applied and disciplinary action managed through the Performance Management Framework.
 - 14.3.2 Where an employee has victimised an informant, this will be determined to be Serious and Wilful Misconduct as described in the Managing Unsatisfactory Performance Guideline, and the CEO will act investigate and manage the employee through the steps required in the Guideline. The CEO will report any proved victimisation to the police as per the requirements of the Act.
 - 14.3.3 Where an Elected Member is accused or has failed to protect the identity of an informant, the person receiving the complaint will refer that complaint immediately to the CEO or the Mayor. The CEO and Mayor will be responsible for investigating the allegation and applying the Code of Conduct for Elected Members should that prove necessary.
 - 14.3.4 Where an Elected Member has victimised an informant, this will be reported immediately by the CEO and / or Mayor to the OPI. The CEO will report any proved victimisation to the police as per the requirements of the Act.

15 Review

- 15.1 This procedure will be reviewed every four (4) years unless circumstances require earlier review.

16 Records

- 16.1 Recording of all information relating to a public interest disclosure will be maintained and kept by the relevant officer as per the requirements of the *Public Interest Disclosure Act 2018*.
- 16.2 All records must be kept in accordance with Council's Records Management Guidelines, including the Elected Members Records Management Policy, and destroyed as per the current General Disposal Schedule and within the guidelines of the *Public Interest Disclosure Act 2018*.

17 Availability of the Procedure

- 17.1 This Procedure will be available free of charge for inspection at the Council's Offices during ordinary business hours and via the Council's website www.streakybay.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 Schedule of Fees and Charges.

District Council of Streaky Bay Principle Office
29 Alfred Terrace
Streaky Bay SA 5680

18 History

Document History:	Version No:	Issue Date	Description of Change
	1.0	17 October 2019	New Policy
	1.1	8 June 2021	Minor update – added Review, Records and Availability headings. No other changes

Appendix A – Relevant Authorities

Where the information relates to...	the relevant authority is...
<p>a public officer*</p> <p>*as defined and set out in Schedule 1 of the <i>Independent Commissioner Against Corruption Act 2012</i> - relevantly, this includes members, officers and employees of local government bodies</p>	<p>either:</p> <ul style="list-style-type: none"> • the person who is designated by the Guidelines as being taken to be responsible for management or supervision of the public officer; or • the person who is in fact responsible for the management or supervision of the public officer; or • the relevant responsible officer (as designated by the Council in accordance with section 12 of the PID Act)
<p>a public sector agency or public sector employee</p>	<p>either:</p> <ul style="list-style-type: none"> • the Commissioner for Public Sector Employment; or • the responsible officer for the relevant public sector agency
<p>an agency to which the <i>Ombudsman Act 1972</i> applies</p>	<p>the Ombudsman</p>
<p>a location within the area of a particular council established under the <i>Local Government Act 1999</i></p>	<p>a member, officer or employee of that Council</p>
<p>a risk to the environment</p>	<p>the Environment Protection Authority</p>
<p>an irregular and unauthorised use of public money or substantial</p>	<p>the Auditor-General</p>
<p>the commission, or suspected commission, of any offence</p>	<p>a member of the police force</p>
<p>a judicial officer</p>	<p>the Judicial Conduct Commissioner</p>
<p>a member of Parliament</p>	<p>the Presiding Officer of the House of Parliament to which the member belongs</p>
<p>a person or a matter of a prescribed class¹</p>	<p>an authority declared by the regulations to be a relevant authority in relation to such information</p>

¹ presently, no prescribed persons or classes have been identified

Where the information relates to...	the relevant authority is...
<p>public interest information - being:</p> <ul style="list-style-type: none"> • environmental and health information (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); or • public administration information (information that raises a potential issue of corruption, misconduct or maladministration in public administration) 	<ul style="list-style-type: none"> • the OPI; • a Minister of the Crown; or • any other prescribed person or person of a prescribed class

Appendix B – Notification Process Flowchart

