DISTRICT COUNCIL OF Streaky Bay
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PUBLIC INTEREST DISCLOSURE POLICY

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Strategic Plan link: **Strategy 1.1.7** Ensure compliance of relevant Council policies and procedures with legislative requirements.		

References and related Policies, Procedures and Forms:

Criminal Law Consolidation Act 1935
Independent Commission Against Corruption Act 2012
Lobbyists Act 2015
Local Government Act 1999
Local Government (Elections) Act 1999
Ombudsman Act 1972
Public Corporations Act 1993
Public Interest Disclosure Act 2018
Public Interest Disclosure Regulations 2019
Public Sector (Honesty and Accountability) Act 1995
DCSB-G-09.01 Code of Conduct for Council 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, Corruption, Misconduct and Maladministration Prevention Policy
DCSB-IFM-13.05 Personal Information Security Policy
[DCSB REFERENCE] Public Interest Disclosure Act Procedure
DCSB-IFM-13.01 Records Management Policy
DCSB-SM-18.00 Risk Framework
DCSB-SM-18.01 Risk Policy

Contents

1. Introduction 3
2. Scope 3
3. Definitions 4
4. Confidentiality 6
5. Disclosure Process 7
6. The Role of the Responsible Officer 7
7. Information to Elected Body 8
8. Protection for the Informant 9
9. Review 9
10. Records 9
11. Availability of the Policy 10
12. History 10
Appendix A – Relevant Authorities 11

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 and, therefore, encourages the making of appropriate disclosures of public interest information.

1.2 The purpose of this Policy is to ensure that the Council:

- fulfils its responsibilities and obligations under the *Public Interest Disclosure Act 2018* (the **PID Act**), including as amended from time to time;
- encourages and facilitates disclosures of public interest information in accordance with the objects, and requirements of, the PID Act;
- ensures there is appropriate oversight of disclosures of public administration information, pertaining to corruption, misconduct and maladministration in public administration;
- ensures the protections under the PID Act are afforded to Informants who make disclosures in accordance with the PID Act; and
- acknowledges its responsibilities under the PID Act to appropriately support the Informant, the Responsible Officer and, as appropriate, any public officers affected by any appropriate disclosure of public interest information.

1.3 The Council will review and update this Policy every four (4) years, as part of its policy review process.

2. Scope

2.1 This Policy applies to all appropriate disclosures of public interest information made in accordance with the PID Act, by Council Members, employees of the Council, and members of the public.

2.2 The Policy is intended to complement the reporting framework under the Guidelines prepared by the Commissioner in accordance with section 14 of the PID Act, as well as the reporting obligations of public officers under the *Independent Commission Against Corruption Act 2012* (the **ICAC Act**) and the *Ombudsman Act 1972* (the **Ombudsman Act**).

2.3 This Policy is designed to complement the existing communication channels within Council, and operate in conjunction with existing policies, including, but not limited to:

- Fraud, Corruption, Misconduct and Maladministration 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*.

2.4 The Council is committed to:

- referring, as necessary, appropriate disclosures of public interest information to another Relevant Authority;
- where the disclosure relates to Corruption, 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 and the Ombudsman Act;
- otherwise facilitating the investigation of appropriate disclosures of public interest information 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.

3. Definitions

For the purposes of this Policy the following definitions apply.

3.1 ***Appropriate Disclosure*** means a disclosure of public interest information made by an informant to a relevant authority in the manner described in clause 5 of this Policy.

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;

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.

3.2 ***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 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 District Council of Streaky Bay.

3.5 ***Detriment*** includes:

- loss or damage (including damage to reputation); or
- injury, harm (including psychological harm); or
- intimidation or harassment; or
- 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 ***Employee*** refers to all of the Council's employees and includes trainees, work experience students, volunteers, and contractors, whether they are working in a full-time, part-time or casual capacity.

3.7 ***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, whether occurring before or after the commencement of the PID Act..

3.8 ***Fraud*** is an intentional dishonest act or omission done with the purpose of deceiving.

3.9 ***Guidelines*** is a reference to the Guidelines published by the Commissioner pursuant to section 14 of the PID Act, which are available on the Commissioner's website (www.icac.sa.gov.au).

3.10 ***ICAC Act*** is the *Independent Commission 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 a Relevant Authority at the Council in accordance with this Policy.

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 4 of the Ombudsman Act and means:

3.13.1 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

3.13.2 conduct of a public officer involving substantial mismanagement in or in relation to the performance of official functions; and

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

3.13.4 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 4 of the Ombudsman Act and means an intentional and serious contravention of a code of conduct by a public officer whilst acting in their capacity as a public officer that constitutes a ground for disciplinary action:

3.15 ***Office for Public Integrity*** (the **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 inquiry agencies, public authorities and public officers;

3.15.3 refer complaints and reports to inquiry agencies, public authorities and public officers or to determine to take no action as appropriate.

3.16 ***Public Administration*** is defined at 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, whether occurring before, or after, the commencement of the PID Act.

3.18 ***Public Interest Information*** means environmental or 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 (the **CEO**) 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*** is defined at section 5(5) of the PID Act and 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 Policy.

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* (the **Regulations**) and has been designated by the Principal Officer as a Responsible Officer under section 12 of the PID Act.

3.24 ***Victimisation*** has the same meaning given by section 9 of the PID Act and 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. Confidentiality

4.1 The identity of an Informant will be maintained as confidential in accordance with the PID Act.

4.2 In accordance with section 8 of the PID Act, and Guideline 3 of the Guidelines published by the Commissioner, it is a criminal offence for the identity of an Informant to be disclosed in the absence of their consent.

4.3 Absent this consent, a recipient of an appropriate disclosure may only divulge the identity of an Informant where:

4.3.1 doing so is necessary for the matter to be properly investigated (but only to the extent necessary to ensure proper investigation); **or**

4.3.2 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**

4.3.3 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; **or**

4.3.4 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.

4.4 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. However, in considering whether to further disclose other information provided as part of an appropriate Disclosure, the recipient should be mindful of the prohibition against Victimisation under the PID Act.

4.5 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.

5. Disclosure Process

5.1 Disclosures are to be handled by the Council in accordance with this Policy, as well as the Public Interest Disclosure Procedure.

5.2 Nothing in this Policy prevents a person from making a Disclosure to a Relevant Authority external to the Council, such as the Ombudsman or the OPI. This is a choice to be made by the Informant at his/her discretion.

5.3 The Council recommends an Informant have regard to the factors at clause 6.4 of the Public Interest Disclosure Procedure when deciding where to direct a Disclosure.

5.4 A Disclosure may be made to the Council's designated Responsible Officer in person, by telephone or in writing. The relevant contact details are:

Telephone	(08) 8626 1001
Email	dcstreaky@streakybay.sa.gov.au
Address	Confidential Responsible Officer, Public Interest Disclosure PO Box 179 Streaky Bay SA 5680

6. The Role of the Responsible Officer

6.1 A person designated as a Responsible Officer for the Council must:

6.1.1 receive appropriate Disclosures of public interest information relating to the Council and ensure compliance with the PID Act, and the Public Interest Disclosure Procedure, in relation to any such Disclosures;

6.1.2 make appropriate recommendations to the Principal Officer of the Council in relation to dealing with an appropriate Disclosure, including any suggested changes to this Policy or the Public Interest Disclosure Procedure;

6.1.3 provide advice to Officers and employees of the Council in relation to the administration of the PID Act;

6.1.4 complete any training courses approved by the Commissioner for the purposes of the Regulations; and

6.1.5 carry out any other functions as required under the PID Act.

6.2 Upon the receipt of an appropriate Disclosure of public interest information, the Responsible Officer will deal with the disclosure in accordance with the Public Interest Disclosure Procedure.

6.3 In making any determination, taking any action under this Policy, or pursuant to the Public Interest Disclosure Procedure:

6.3.1 the Responsible Officer may seek legal advice from Council's Lawyers and/or guidance from the South Australia Police (**SAPOL**) or the Ombudsman in relation to the most appropriate course of action to pursue; and

6.3.2 is authorised to incur costs in accordance with the Council's budget for that purpose.

6.4 The Responsible Officer will liaise as required with the Informant and any Independent Assessor in relation to any investigation process undertaken in accordance with the Public Interest Disclosure Procedure, and will ensure that the Informant is provided with support and protection as necessary and appropriate in the circumstances of the Disclosure.

7. Information to Elected Body

7.1 As a matter of discretion, the Principal 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.

7.2 Factors the Principal Officer will take into account in determining whether to inform the elected body under clause 7.1, and the level of detail provided in doing so are to include:

7.2.1 if known, the identity of the Informant, and whether the Informant has consented to his/her identity being divulged;

7.2.2 if applicable, the identity of any person the subject of the Disclosure;

7.2.3 the impact (if any) of the investigation upon the Council's achievement of its objectives under its Strategic Plan and/or policies; and

7.2.4 the impact of any action taken to finalise the matter upon the Council's operations and/or budget.

7.3 In the event the Disclosure and/or any subsequent investigation process is confined to issues that impact only upon Council employees and human resource processes, the Principal Officer will not inform the elected body 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*).

8. Protection for the Informant

8.1 Subject to the provisions of the PID Act, an Informant who makes an appropriate Disclosure of public interest information to a Relevant Authority is protected by:

8.1.1 immunity from criminal or civil liability as provided for in section 5(1) of the PID Act;

8.1.2 a prohibition on disclosure of his/her identity as provided for in section 8 of the PID Act and Guideline 3 of the Guidelines;;

8.1.3 a prohibition against Victimisation as provided for in section 9 of the PID Act; and

8.1.4 a prohibition against hindering, obstructing or preventing an Informant from making an appropriate Disclosure as provided for in section 11 of the PID Act.

8.2 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).

8.3 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.

8.4 A person who personally commits an act of Victimisation against an Informant is guilty of an offence and may be prosecuted.

8.5 The Council will take action as appropriate in the circumstances of the relevant Disclosure(s) to protect Informants from Victimisation. Such action may include acting in accordance with the risk minimisation steps set out in the Public Interest Disclosure Procedure and/or referring the matter to SAPOL.

8.6 Any Council Member, employee or Officer of the Council who:

8.6.1 knowingly makes a disclosure that is false or misleading in a material particular; or

8.6.2 commits an act of Victimisation in relation to an Informant; or

8.6.3 acts otherwise than in accordance with this Policy or the Public Interest Disclosure Procedure (including with respect to divulging the identity of an Informant) in relation to a Disclosure.

may also face disciplinary action by the Council or the Principal Officer (as appropriate).

9. Review

9.1 This policy will be reviewed every four (4) years, unless circumstances require earlier review.

10. Records

10.1 Recording of all information relating to a disclosure of public interest information will be maintained and kept by the Responsible Officer, and/or Principal Officer, in accordance with the requirements of the *Public Interest Disclosure Act 2018*.

10.2 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*.

11. Availability of the Policy

11.1 This Policy will be available 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 Principal Office
29 Alfred Terrace
Streaky Bay SA 5680

12. History

Document History:	Version No:	Issue Date	Description of Change
	1.0	20 June 2019	New Policy
	1.1	8 June 2021	Minor update – added Review, Records and Availability headings. No other changes
	1.2	1 June 2022	Amendments made as a result of the commencement of the *Independent Commissioner Against Corruption (CPIPC Recommendations) Amendment Act 2021*
	2.00	18 March 2025	No Change

Appendix A – Relevant Authorities

Where the information relates to…	the relevant authority is…
a public officer* *as defined and set out in section 4 and Schedule 1 of the *Independent Commission Against Corruption Act 2012* - relevantly, this includes members, officers and employees of local government bodies	either: • 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)
a public sector agency or public sector employee	either: • the Commissioner for Public Sector Employment; or • the Responsible Officer for the relevant public sector agency
an agency to which the *Ombudsman Act 1972* applies	the Ombudsman
a location within the area of a particular council established under the *Local Government Act 1999*	a Member, Officer or employee of that Council
a risk to the environment	the Environment Protection Authority
an irregular and unauthorised use of public money or substantial	the Auditor-General
the commission, or suspected commission, of any offence	a member of SAPOL
a judicial officer	the Judicial Conduct Commissioner
a Member of Parliament	the Presiding Officer of the House of Parliament to which the member belongs
a person or a matter of a prescribed class[1]	an authority declared by the regulations to be a relevant authority in relation to such information
Any Disclosure of Public Interest Information - being: • 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)	• the OPI; • a Minister of the Crown; or • any other prescribed person or person of a prescribed class

[1] at this stage, no prescribed persons or classes have been identified