



NAME OF POLICY: Public Interest Disclosure Policy & Procedure

POLICY MANUAL: Governance

1. BACKGROUND

The City of Norwood Payneham & St Peters (the Council) is committed to its obligations to act as a representative, informed and responsible public authority and supports its officers, employees and Elected Members, to uphold the values of honesty, integrity, accountability and transparency, for the purposes of fostering community confidence and trust in the Council and in Local Government generally.

Through this Policy & Procedure, the Council is giving effect to its obligations under the *Public Interest Disclosure Act 2018* (the Act), to encourage and facilitate disclosures of Public Interest Information, by ensuring that proper procedures are in place for making and dealing with such Disclosures and by providing protections, in accordance with the Act, for persons who make Disclosures.

The Act replaces the former *Whistleblowers Protection Act 1993*, which was repealed by the commencement of the new Act on 1 July 2019. Disclosures of Public Interest Information about matters that occurred before 1 July 2019 will be afforded the protections under the new Act.

2. SCOPE

This Policy & Procedure applies to all officers, employees, and Elected Members of the Council, as well as to all persons who make an Appropriate Disclosure of Public Interest Information to a Relevant Authority at the Council for the purposes of the Act.

This Policy & Procedure is designed to act in conjunction with the Council's existing Codes, Policies and Procedures, including (without limitation):

- Fraud & Corruption Prevention Policy;
- Code of Conduct for Council Members;
- Behaviour Standards Policy & Code of Conduct for Council Employees; and
- Review of Decisions Policy.

The Appropriate Disclosure of Public Interest Information by a Public Officer under the Act, does not negate the obligations on the Public Officer under the *Independent Commissioner Against Corruption Act 2012 (SA)* (ICAC Act) to report matters reasonably suspected of involving corruption, or serious or systemic misconduct or maladministration, in public administration, to the Office for Public Integrity (OPI).

However, where a Public Officer makes a report direct to the OPI it may also be treated as an Appropriate Disclosure under the Act, as the OPI is a Relevant Authority for the purposes of the Act.

3. PURPOSE

- 3.1 This Policy & Procedure has been developed to ensure that the Council, in meeting its obligations under the Act, encourages and facilitates Appropriate Disclosures of Public Interest Information and, in doing so, provides protections in accordance with the Act for persons making such Disclosures.
- 3.2 This Policy & Procedure:
 - 3.2.1 provides a process by which an Appropriate Disclosure of Public Interest Information may be made by a person to a Relevant Authority at the Council;
 - 3.2.2 specifies the manner in which the Relevant Authority at the Council will receive such a Disclosure, including the manner in which the information may be safely received and stored;
 - 3.2.3 sets out the criteria that will be applied in the assessment of an Appropriate Disclosure of Public Interest Information and the manner in which the details of the assessment will be securely stored; and
 - 3.2.4 specifies the manner in which an Informant will be notified as to action taken in respect of an Appropriate Disclosure of Public Interest Information.
- 3.3 The Council recognises its responsibilities under the Act to not only support persons who make an Appropriate Disclosure of Public Interest Information, but also to those persons to whom the information relates.

4. DEFINITIONS

- 4.1 **Act** means the *Public Interest Disclosure Act 2018 (SA)*.
- 4.2 **Appropriate Disclosure** means a disclosure of Public Interest Information made in the manner described in clause 5 of this Policy.
- 4.3 **Chief Executive Officer** means the Chief Executive Officer of the Council, being the principal officer of the Council for the purposes of the Act.
- 4.4 **Council** is a comprehensive term and is to be read, as necessary, as encompassing officers, employees and Elected Members of the Council.
- 4.5 **Detriment** takes its meaning from section 9(7) of the Act and includes loss or damage (including damage to reputation); or injury or harm (including psychological harm); or intimidation or harassment; or discrimination, disadvantage or adverse treatment in relation to a person's employment; or threats of reprisal.
- 4.6 **Environmental and Health Information** is 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 Act.
- 4.7 **ICAC Act** means the *Independent Commissioner Against Corruption Act 2012 (SA)*.
- 4.8 **ICAC Guidelines** means the *Public Interest Disclosure Guidelines* published by the ICAC/OPI.

- 4.9 **Independent Assessor** means the person responsible for investigating an Appropriate Disclosure referred by a Responsible Officer. The Independent Assessor will be appointed by the Responsible Officer on a case-by-case basis (depending upon the nature of the Disclosure) in accordance with clause 3.4 of the Procedure. 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.
- 4.10 **Informant** means a person who makes an Appropriate Disclosure of Public Interest Information under the Act.
- 4.11 **OPI** means the Office for Public Integrity established under the ICAC Act.
- 4.12 **Public Administration Information** is information that raises a potential issue of:
- 4.12.1 Corruption in Public Administration – as defined in the ICAC Act and including bribery of corruption of Public Officers, threats or reprisals against Public Officers or abuse of public office; or
 - 4.12.2 Misconduct in Public Administration – as defined in the ICAC Act and including contravention of a code of conduct by a Public Officer while acting in his or her capacity as a Public Officer; or
 - 4.12.3 Maladministration in Public Administration – as defined in the ICAC Act and including conduct that results in an irregular or unauthorised use of public money or a substantial mismanagement of public resources,
- whether occurring before or after the commencement of the Act.
- 4.13 **Public Interest Disclosure** and **Disclosure** are used interchangeably in this Procedure and mean an Appropriate Disclosure of Public Interest Information under the Act.
- 4.14 **Public Interest Information** means:
- 4.14.1 Environmental and Health Information; or
 - 4.14.2 Public Administration Information.
- 4.15 **Public Officer** has the same meaning as in the ICAC Act and includes officers, employees and Elected Members of the Council.
- 4.16 **Recipient** includes a Relevant Authority to whom an Appropriate Disclosure has been made, a Relevant Authority to whom such a Disclosure is referred (which includes a Responsible Officer or the Chief Executive Officer).
- 4.17 **Regulations** means the *Public Interest Disclosure Regulations 2019*, including as amended from time-to-time.
- 4.18 **Relevant Authority** is defined at section 5(5) of the Act and includes, but is not limited to;
- 4.18.1 where the information relates to a Public Officer, a person who is responsible for the management or supervision of the Public Officer, or a Responsible Officer; and
 - 4.18.2 where the information relates to a location within the area of the Council, a member, officer or employee of the Council.
- 4.19 **Responsible Officer** means a person designated as a Responsible Officer by the Chief Executive Officer under section 12 of the Act and is also a Relevant Authority for purposes of the Act.

5. MAKING AN APPROPRIATE DISCLOSURE

(See Section 5 of the Act)

- 5.1 The Act establishes a scheme to encourage and facilitate the Appropriate Disclosure of Public Interest Information to a Relevant Authority.
- 5.2 Subject to the provisions of the Act, if a person makes an Appropriate Disclosure of Public Interest Information to a Relevant Authority, the person will not be subject to any liability as a result of that Disclosure and is entitled to have their identity kept confidential.
- 5.3 Informants who make a Public Interest Disclosure must provide sufficient detail and evidence to the Relevant Authority for the matter to be assessed.
- 5.4 Public Interest Information means:
 - 5.4.1 Environmental and Health Information; and
 - 5.4.2 Public Administration Information.
- 5.5 Immunity for an Appropriate Disclosure of Public Interest Information will follow if:
 - 5.5.1 a person makes an Appropriate Disclosure of Environmental and Health Information; or
 - 5.5.2 a Public Officer makes an Appropriate Disclosure of Public Administration Information.
- 5.6 Whilst anyone can make a disclosure of Public Administration Information, **only Public Officers** who make such a disclosure are eligible for the protections provided under the Act.

Environmental and Health Information

- 5.7 A person makes an Appropriate Disclosure of Environmental and Health Information for the purposes of the Act if the Disclosure is made to a Relevant Authority and the person:
 - believes on reasonable grounds that the information is true; or
 - not being in a position to form such a belief, 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.
- 5.8 Where the information relates to a location within the area of the Council, a person may make a Disclosure to an elected member, officer or employee of the Council.
- 5.9 Where the information relates to a risk to the environment, a person should consider making the Disclosure to the Environment Protection Authority.

Public Administration Information

- 5.10 A Public Officer makes an Appropriate Disclosure of Public Administration Information for the purposes of the Act, if the Disclosure is made to a Relevant Authority and the Public Officer reasonably suspects that the information raises a potential issue of corruption, misconduct or maladministration in public administration, as those terms are defined under the ICAC Act.

- 5.11 Where the information relates to a Public Officer, a person who is designated under the ICAC Guidelines or a person who is responsible for the management or supervision of that Public Officer or a Responsible Officer, are relevant authorities for the purposes of the Act.
- 5.12 For the avoidance of doubt, where the Public Administration Information relates to a location within the area of the Council, an elected member, officer or employee of the Council **are also** Relevant Authorities for the purposes of the Act.
- 5.13 In all cases, the OPI is a Relevant Authority for the purposes of making an Appropriate Disclosure of Public Interest Information.
- 5.14 The South Australian Ombudsman is a Relevant Authority for the purposes of making an Appropriate Disclosure of Public Interest Information where the information relates to an agency to which the *Ombudsman Act 1972* applies (including the Council).

Scope of Authority

- 5.15 If the Appropriate Disclosure of Public Interest Information **does not** pertain to a Public Officer of the Council, or a location within the area of the Council, and, accordingly, the recipient Public Officer of the Council is not a Relevant Authority for the purposes of the Disclosure, they are still required to:
- 5.15.1 advise the Informant to report the Public Interest Information to a Relevant Authority;
- 5.15.2 keep the details of the Public Interest Information and the Disclosure confidential;
- 5.15.3 comply with the requirements relating to protection for Informants and victimisation as set out in this Policy & Procedure and the Act.

Responsible Officer Contact Details

- 5.16 An Appropriate Disclosure of Public Interest Information can be securely received by the Responsible Officer of the Council in person, by telephone, in writing or via email. The relevant contact details are:

General Manager, Governance & Civic Affairs

- Telephone: 8366 4549
- Email: pid@npsp.sa.gov.au
- Address: PO Box 204, Kent Town SA 5071

Manager, Governance & Legal

- Telephone: 8366 4626
- Email: pid@npsp.sa.gov.au
- Address: PO Box 204, Kent Town SA 5071

- 5.17 Where a Disclosure is made in writing all correspondence should be clearly marked CONFIDENTIAL and addressed to the Responsible Officer.
- 5.18 Where a Disclosure is made by telephone, the Responsible Officer must take notes of the conversation and, where possible ask the Informant to verify and sign the notes.

Anonymity

- 5.19 Informants may choose to make a Public Interest Disclosure without revealing their identity (for instance, by making an Appropriate Disclosure to a Relevant Authority in person, without providing their name).
- 5.20 There are only limited circumstances under the Act in which the Informant's identity can be lawfully disclosed.
- 5.21 Subject to the provisions of the Act and the Guidelines, the Council cannot provide any guarantee that the identity of the Informant will not be required to be disclosed in the lawful management of the Disclosure.
- 5.22 If an Informant wishes to receive updates on any action taken regarding the Disclosure, the Informant will be required to disclose their identity.
- 5.23 If the Informant's identity becomes known or is revealed in the course of taking action in relation to the Disclosure, the Act provides various protections for the Informant.

CHIEF EXECUTIVE OFFICER'S STATEMENT

Pursuant to Section 12(4) of the Act and Guideline 4 of the ICAC Guidelines:

As the Chief Executive Officer of the City of Norwood Payneham & St Peters (the Council), I am also the Principal Officer of the Council for the purposes of the Public Interest Disclosure Act 2018 (the Act).

In giving effect to my role as Chief Executive Officer, I have caused the preparation of this Policy & Procedure which sets out the process for a person (an Informant) who wishes to make an Appropriate Disclosure of Public Interest Information to the Council under the Act. It also sets out the process for officers, employees and Elected Members of the Council in dealing with such Disclosures.

The Council is committed to the protection of Informants, as well as to the genuine and efficient consideration and action of Appropriate Disclosures of Public Interest Information made under the Act.

In my capacity as Chief Executive Officer and Principal Officer, I expect that all Appropriate Disclosures of Public Interest Information made to a Relevant Authority at the Council will be dealt with in the strictest confidence and with the utmost priority.

In preparing this Policy & Procedure, the Council is giving effect to its obligations under the Act to encourage and facilitate disclosures of Public Interest Information by ensuring that proper procedures are in place for making and dealing with such Disclosures and by providing protections for persons who make Disclosures in accordance with the Act.

Mario Barone PSM
CHIEF EXECUTIVE OFFICER

PUBLIC INTEREST DISCLOSURE PROCEDURE

This Procedure sets out the processes to be followed by a Relevant Authority of the Council to whom an Appropriate Disclosure of Public Interest Information is made.

1. ASSESSMENT OF A DISCLOSURE

(See Section 7 of the Act; ICAC Guideline 1)

General

- 1.1 A Relevant Authority of the Council to whom an Appropriate Disclosure of Public Interest Information is made, must assess the information as soon as practicable after its disclosure.
- 1.2 If the Relevant Authority of the Council who receives the Disclosure is an officer, employee or elected member, the Recipient must refer the Disclosure to a **Responsible Officer** of the Council (or the Chief Executive Officer, in circumstances where the disclosure relates to the Responsible Officer(s)) for assessment.
- 1.3 If the Disclosure relates to the Chief Executive Officer (or a person acting in that position), the Responsible Officer will immediately refer the Disclosure to the Ombudsman for investigation, as the Ombudsman deems appropriate.
- 1.4 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 within two (2) business days and in doing so, will provide a copy of this Policy & Procedure to the Informant.

Initial Assessment

- 1.5 The criteria that will be applied to the initial assessment of the information, which is the subject of the Disclosure, will include (but will not necessarily be limited to), whether the information:
 - 1.5.1 relates to information within the scope of the Act, namely whether it pertains to Environmental and Health Information and/or Public Administration Information;
 - 1.5.2 raises matters that are within the Council's scope of authority (ie whether the Recipient is a Relevant Authority for the purposes of the Act, as set out at clause 5.15 of the Policy), including if the information relates to a location within the area of the Council, or to an officer, employee or elected member of the Council;
 - 1.5.3 justifies the taking of further action, include consideration of whether:
 - 1.5.3.1 the information relates to a matter that has already been investigated or acted upon by a Relevant Authority (whether by the Council or another Relevant Authority) and there is no reason to re-examine the matter; or
 - 1.5.3.2 there is sufficient evidence to facilitate an assessment of the Public Interest Information or
 - 1.5.3.3 there is other good reason why action should not be taken in respect of the matter; and
 - 1.5.4 gives rise to a concern of imminent risk of serious physical injury or death to any person, or the public generally, in which case, the Relevant Authority will need to give immediate consideration to the matters set out at clause 1.9 below.

- 1.6 Nothing in this Procedure, or under the Act, prevents a Responsible Officer of the Council (or the Chief Executive Officer of the Council, in circumstances where the Disclosure relates to the Responsible Officer(s)) from obtaining legal advice from the Council's legal advisors or other consultants, or from seeking guidance from the OPI or SAPOL as to the best course of action to pursue.
- 1.7 In giving effect to the above, consideration must be carefully given as to whether the identity of the Informant is required to be disclosed, noting that Section 8 of the Act requires that the identity of an Informant is to be kept confidential, **except so far as may be necessary to ensure that the matters to which the information relates are properly investigated.**
- 1.8 The Responsible Officer of the Council responsible for the assessment and management of the Disclosure will observe the principles of natural justice throughout the assessment process. The assessment 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.
- 1.9 Following the assessment of the information, subject of the Disclosure:
 - 1.9.1 if the content of the Disclosure gives rise to a concern of imminent risk of serious physical injury or death to any person, or the public generally, the Responsible Officer must immediately communicate such information as may be necessary to mitigate that risk to the most appropriate agency (including, without limitation, South Australia Police, SafeWorkSA, SA Ambulance or the Environment Protection Authority);
 - 1.9.2 if the Responsible Officer forms a reasonable suspicion that the matter(s) the subject of the Disclosure involve(s) corruption in public administration, or serious or systemic misconduct or maladministration, the Responsible Officer **must** also comply with his or her reporting obligations under the ICAC Act; and
 - 1.9.3 in the event that the Responsible Officer determines that the Disclosure warrants further investigation by the Council, the Responsible Officer may appoint an Independent Assessor for this purpose under clause 3.4 of this Policy.

2 NOTIFYING THE OPI OF A DISCLOSURE

(See Section 7 of the Act; ICAC Guideline 1)

- 2.1 Following receipt and assessment of a Public Interest Disclosure, irrespective of whether the Responsible Officer determines that further action is, or is not, required, the Responsible Officer, **must** notify the OPI as soon as reasonably practicable that they are in receipt of a Public Interest Disclosure.
- 2.2 Notification is to occur by way of the notification form on the ICAC website (www.icac.sa.gov.au) and **must include** the following information:
 - 2.2.1 the date the Disclosure was received;
 - 2.2.2 the name and contact details of the Recipient of the Disclosure (being the Relevant Authority with the Council who initially received the Disclosure);
 - 2.2.3 a summary of the content of the Disclosure;
 - 2.2.4 the assessment made of the Disclosure;

- 2.2.5 the action taken by the Recipient of the Disclosure, including:
 - 2.2.5.1 whether the Disclosure was referred to another Relevant Authority (including to a Responsible Officer, or the Chief Executive Officer of the Council), public authority, Public Officer, or another person; and
 - 2.2.5.2 if the Disclosure was referred to another Relevant Authority, public authority, Public Officer or another person:
 - 2.2.5.2.1 the date of the referral;
 - 2.2.5.2.2 the identity of that Relevant Authority, public authority, Public Officer or another person;
 - 2.2.5.2.3 the manner of the referral; and
 - 2.2.5.2.4 the action to be taken by that Relevant Authority, public authority or Public Officer or another person (if known).
- 2.2.6 whether the identity of the Informant is known only to the Recipient of the Disclosure, or if the identity of the Informant has been communicated to another Relevant Authority, public authority, Public Officer or other person (and if so, the reasons why such communication was made); and
- 2.2.7 if no action was taken by the Recipient of the Disclosure, the reasons why.
- 2.3 The Recipient of the Disclosure must retain the unique reference number issued by the OPI upon making a notification and must provide this unique reference number to any other person or Relevant Authority to whom the Disclosure is referred.

3 NOTIFICATION OF ASSESSMENT

(See Section 7 of the Act; ICAC Guideline 1)

Informant

- 3.1 If the Responsible Officer assesses the content of the Disclosure as **requiring no further action**, the Responsible Officer must notify the Informant (if his or her identity is known) **within thirty (30) days** after the Informant made the Disclosure, that:
 - 3.1.1 an assessment of the information has been made;
 - 3.1.2 no action is being taken in relation to the information; and
 - 3.1.3 the reasons why no action is being taken in relation to the information.
- 3.2 If the Responsible Officer assesses the content of the Disclosure as **requiring further action**, the Responsible Officer must notify the Informant (if his or her identity is known) **within thirty (30) days** after the Informant made the Disclosure:
 - 3.2.1 that an assessment of the information has been made;
 - 3.2.2 of the action being taken in relation to the information;
 and must ensure that:
 - 3.2.3 such action as appropriate in the circumstances is taken to ensure the matter(s), subject of the Disclosure, are properly addressed; or

- 3.2.4 if such action consists of referring the Disclosure (whether to the Chief Executive Officer of the Council, or to another Relevant Authority, or to an Independent Assessor), such information as is necessary to enable action to be taken is communicated to the most appropriate person or Relevant Authority to take such action.

Note: the Responsible Officer may, in the first instance, determine to provide notification to the Informant by telephone or email (where provided). Where providing written notification, the Responsible Officer will endeavour to do so within twenty-three (23) days after the Informant made the Disclosure, to allow for delivery times by ordinary post.

Chief Executive Officer

- 3.3 The Responsible Officer must report the outcome of his/her determination under clauses 3.1-3.2 to the Chief Executive Officer (unless the Disclosure relates to the Chief Executive Officer, in which case it is to be dealt with pursuant to clause 1.3 of the Procedure).
- 3.4 Where the Responsible Officer determines that 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.

4 REVIEW OF ASSESSMENT

(See Section 12 of the Act; ICAC Guideline 4)

- 4.1 If an Informant is dissatisfied with the manner in which his or her Disclosure has been managed, or otherwise believes that his or her Disclosure has been dealt with inappropriately, the Informant may contact a Responsible Officer at the Council, (or the Chief Executive Officer if their concern pertains to the Responsible Officer(s)) to express their concern at the first instance.
- 4.2 Following which, the Responsible Officer (or the Chief Executive Officer), will review the Disclosure and confirm with the Informant the assessment made, and the action to be taken.
- 4.3 If the Informant remains dissatisfied following the further assessment made by a Responsible Officer (or the Chief Executive Officer, as the case may be), it is open to the Informant to make the Public Interest Disclosure to an alternative Relevant Authority, such as the Ombudsman or the OPI.

5 NOTIFICATION OF ACTION TAKEN

(See Section 7 of the Act; ICAC PID Guideline 2)

Note: the Responsible Officer **will not** be responsible for investigating disclosures of Public Administration Information **in the absence of a direction to do so from the Manager OPI or the ICAC.**

OPI and Informant

If action is taken by the Council in response to the receipt of a Public Interest Disclosure, or if such action consists of referring the Disclosure to another person, the Responsible Officer, or the person to whom the Disclosure is referred, must:

- 5.1 as soon as reasonably practicable, provide the **OPI** with information in relation to the outcome of the action taken by way of the online notification form (www.icac.sa.gov.au) detailing:
- 5.1.1 the unique identification number issued by the OPI upon notification of the original Disclosure;
 - 5.1.2 the name and contact details of the notifier;
 - 5.1.3 the name and contact details of the person or authority responsible for taking the action;
 - 5.1.4 what (if any) findings were made in respect of the Disclosure;
 - 5.1.5 the nature of the action taken (if any);
 - 5.1.6 the outcome of any action taken;
 - 5.1.7 whether the identity of the Informant was disclosed to a person other than the original Recipient of the Disclosure; and
 - 5.1.8 whether the Informant was notified of the action taken and, if so, when that notification was made;
- and
- 5.2 **within ninety (90) days** after the Informant made the Disclosure, take reasonable steps to notify the **Informant** (if their identity is known) of the outcome of that action (or such longer period as may be specified by written notice given within the period of ninety (90) days).

Chief Executive Officer

- 5.3 If action is taken in response to the receipt or referral of a Public Interest Disclosure, the Responsible Officer (or the Independent Assessor, where relevant) must prepare a report in relation to the outcome of the action taken, which must contain the following information (Final Report):
- 5.3.1 the information the subject of the Disclosure;
 - 5.3.2 an account of all relevant information received including any evidence that could not be substantiated or was otherwise not relied upon, and the reasons why;
 - 5.3.3 the conclusions reached and the reasons for them;
 - 5.3.4 any recommendations arising from the conclusions; and
 - 5.3.5 any remedial action which should be taken by the Council,
- and which will be accompanied by:
- 5.3.6 the transcript or other record of any verbal evidence taken, including tape recordings; and
 - 5.3.7 all documents, statements or other exhibits received by the officer and accepted as evidence during the course of the assessment of the Disclosure.
- 5.4 The Final Report must be provided to the Chief Executive Officer to action as he/she considers appropriate.

6 CONFIDENTIALITY

(See Section 8 of the Act; ICAC PID Guideline 3)

- 6.1 In accordance with section 8 of the Act, it is a **criminal offence** for a person to whom a Public Interest Disclosure has been made, or a person to whom such a Disclosure is referred, or who otherwise knows that such a Disclosure has been made, to knowingly divulge the identity of an Informant without the consent of the Informant, unless:
- 6.1.1 it is necessary to divulge the identity of the Informant to ensure that the matters to which the information relates are properly investigated;
 - or
 - 6.1.2 the Recipient of the Public Interest Disclosure, or other Relevant Authority of the Council to whom a Disclosure has been referred, believes on reasonable grounds that it is necessary to divulge the identity of the Informant to prevent or lessen an imminent risk of serious harm to any person; and
 - 6.1.3 the identity of the Informant is divulged to a person or authority that the Recipient, or other Relevant Authority of the Council to whom a Disclosure has been referred, 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 harm;
 - or
 - 6.1.4 the Recipient of the Public Interest Disclosure, or other Relevant Authority of the Council to whom a Disclosure has been referred, 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 or other Relevant Authority (as the case may be) must disclose the identity of the Informant to the OPI.

7 PROTECTION FOR INFORMANTS

(See Sections 9, 12 of the Act; ICAC PID Guideline 4)

- 7.1 In accordance with section 12 of the Act, the CEO must ensure there are risk management steps for assessing and minimising detrimental action against people as a result of a Public Interest Disclosure, and Detriment to people against whom allegations are made in a Public Interest Disclosure.
- 7.2 The Council commits to providing the same protections to persons against whom allegations are made in a Public Interest Disclosure as to Informants, which will include, but not necessarily be limited to:
- 7.2.1 keeping the identity of the Informant, and the subject of the Disclosure, confidential;
 - 7.2.2 flexibility as to when and where meetings are held, if and when necessary;
 - 7.2.3 the opportunity to make reasonable requests in relation to how and when the Relevant Authority of the Council makes contact with them in relation to the Disclosure, to minimise the potential for the person to be subject to Detriment;
 - 7.2.4 at any time the Relevant Authority of the Council is required to communicate with the person the subject of a Disclosure and/or other witnesses for the purposes of the assessment, the Relevant Authority will ensure that the relevant person is aware of the reason for and purpose of the communication, and such notification will be provided to the relevant person at least 48 hours before such communication is to take place; and

7.2.5 during any interview with the Relevant Authority of the Council, 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 the subject of the Disclosure. The support person is bound by a duty of confidentiality in relation to any matter discussed during such interview.

7.3 A person who causes Detriment to another on the ground that the other person (or a third person) has made or intends to make a Public Interest Information Disclosure commits an act of victimisation and may face a maximum penalty of \$20,000 or two (2) years imprisonment, pursuant to Section 9 of the Act.

8 FALSE OR MISLEADING DISCLOSURES

(See Section 10 of the Act)

A person who makes a Disclosure of Public Interest Information knowing that it is false or misleading will not be protected by the Act and may be liable to a maximum penalty of \$20,000 or two (2) years imprisonment, pursuant to Section 10 of the Act.

9 SECURE RECEIPT AND STORAGE

(See Section 12 of the Act; ICAC PID Guideline 4)

9.1 The Responsible Officer(s) of the Council are required to ensure, so far as reasonably practicable, that all information in relation to a Public Interest Disclosures is received and stored in a secure and confidential manner.

9.2 The details of a Public Interest Disclosure and its assessment (including written documents, electronic files, film, photographs, disks or other objects that contain information), will be securely stored in confidential electronic and/or hard copy files by the Council and will only be accessible by the Responsible Officer(s) of the Council (or the Chief Executive Officer, in circumstances where the Disclosure relates to the Responsible Officer(s)). All such information will be recorded in a register which is to remain confidential and be securely stored.

9.3 The Recipient of the Public Interest Disclosure and the Responsible Officer (or other Relevant Authority of the Council to whom a Disclosure has been referred) must ensure that accurate records of the assessment process are maintained, including notes of all discussions, phone calls, and interviews. It is recommended that the interviewee sign written records of interviews and interviews be taped, but only where the interviewee has consented to this. Witness statements should also be signed.

9.4 In giving effect to their responsibilities, a Responsible Officer may also employ security measures including, but not limited to:

9.4.1 keeping all printed material in secure files that are clearly marked as "CONFIDENTIAL";

9.4.2 keeping all printed material in a locked cabinet that is only accessible to the Responsible Officer(s) of the Council (or the Chief Executive Officer, in circumstances where the Disclosure relates to the Responsible Officer(s));

9.4.3 assigning specific password protections to all electronic material, which are provided to only the Responsible Officer(s) of the Council (or the Chief Executive Officer, in circumstances where the Disclosure relates to the Responsible Officer(s));

- 9.4.4 ensuring that all electronic material is only accessible by the Responsible Officer(s) of the Council (or the Chief Executive Officer, in circumstances where the Disclosure relates to the Responsible Officer(s));
- 9.4.5 conducting all telephone calls and meetings in relation to a Public Interest Disclosure privately and in the strictest of confidence; and
- 9.4.6 creating a secure and confidential email address for the receipt of Public Interest Disclosures.

10 INFORMATION TO THE ELECTED MEMBERS

- 10.1 As a matter of discretion, the Responsible Officer may inform the Elected Members of the Council, on a confidential basis, of the fact that an assessment of a Public Interest Disclosure took place and the outcome of the investigation.
- 10.2 Factors which the Responsible Officer will take into account in determining whether to inform the Elected Members under clause 10.1 and the level of information provided will depend on factors such as:
 - 10.2.1 the identity of the person subject of the Disclosure; and
 - 10.2.2 the nature of the impact of any action taken in relation to the Disclosure upon the Council's operations and/or budget.
- 10.3 In the event that the Public Interest Disclosure and assessment process is confined only to issues impacting upon Council staff and human resource processes, it is at the discretion of the Responsible Officer to inform the Elected Members of the Disclosure and/or the assessment or action undertaken in relation to the Disclosure, as these matters fall outside the roles and responsibilities of Elected Members under the *Local Government Act 1999*.

REVIEW PROCESS

The Council will review this Policy & Procedure within three (3) years of the adoption date, or as required as a consequence of amendments to the Act, Regulations, ICAC Guidelines or the public integrity statutory framework generally.

INFORMATION

The contact officer for further information at the City of Norwood Payneham & St Peters is the Council's General Manager, Governance & Civic Affairs, telephone 8366 4549 or email lmara@npsp.sa.gov.au

ADOPTION OF THE POLICY & PROCEDURE

This Policy & Procedure was adopted by the Council on 5 August 2019.
This Policy & Procedure was reviewed and adopted by the Council on 4 October 2022.

TO BE REVIEWED

October 2025