



PUBLIC INTEREST DISCLOSURE POLICY & PROCEDURES

1. BACKGROUND AND CONTEXT

The State Government's Public Interest Disclosure Act 2010 requires public entities in Queensland, including local government, to develop and implement procedures for dealing with public interest disclosures.

2. PURPOSE AND SCOPE

The purpose of this policy is to ensure compliance with the Public Interest Disclosure Act 2010 by stating our commitment to dealing with public interest disclosures in an appropriate way and by providing guidelines for how public interest disclosures are dealt with at Etheridge Shire Council. This policy applies to all public officers of Etheridge Shire Council.

3. DEFINITIONS

Discloser	the person who makes a PID
Proper authority	a public sector entity or a member of the Legislative Assembly.
Public interest disclosure	(PID) is a disclosure under Chapter 2 of the Public Interest Disclosure Act 2010 and includes all information and help given by the discloser to a proper authority for the disclosure. The PID Act provides unique protections from reprisal for public officers disclosing information in the public interest to an appropriate entity about: <ul style="list-style-type: none">• official misconduct• maladministration• waste of public funds• negligent or improper management, or• a danger to public health, safety or the environment.
Public officer	an employee, councillor or officer of Council.
Public sector entity	includes a local government.
Subject officer	the person about whom a PID is made.

4. POLICY PROVISIONS

4.1 Roles and Responsibilities

The **Chief Executive Officer** (CEO) is responsible for:

- implementing and maintaining Council's management/training program for PIDs,
- raising awareness of PID policy and procedures,
- either acting as or appointing a PID Officer to be responsible for issues related to the management of PIDs.

The **PID Officer** is responsible for:

- determining which complaints meet the requirements of the PID Act for treatment as a PID,
- monitoring the investigation and resolution of PIDs,
- coordinating support and protection for disclosers,
- collecting, reporting and reviewing data about PIDs received, and
- providing clear guidance to staff about how to make a PID.

4.2 How PIDs can be made

4.2.1 Disclosures must be made in accordance with Council's PID Procedure.

4.2.2 Disclosures may be made to:

- the chief executive officer,
- any councillor or the mayor,
- for public officers - their direct supervisor or manager, or
- an officer who has the function of receiving or taking action on the type of information being disclosed. For example, a health officer where the information being disclosed is regarding a substantial and specific danger to public health or safety (*PID Act s13(1)(c)*).

4.3 Commitments

Etheridge Shire Council makes the following commitments with regard to PIDs:

- 4.3.1 Council will take appropriate action to deal with all PIDs. While disclosers are encouraged to provide their name, Council will act on anonymous PIDs.
- 4.3.2 Council will provide disclosers with feedback regarding the status of their disclosure and its investigation.
- 4.3.3 All PIDs will be kept confidential. Any breach of confidentiality is an offence and will be reported to the appropriate authorities.
- 4.3.4 Any person providing false or misleading information may face disciplinary action in accordance with the Employee Code of Conduct.
- 4.3.5 The risk of reprisal to the discloser will be assessed by the PID Officer and reasonable steps will be taken to protect the discloser from reprisals
- 4.3.6 Allegations of reprisal will be investigated by the PID Officer. Any person found to have made a reprisal will face disciplinary action in accordance with the Code of Conduct.
- 4.3.7 The subject officer will be given the opportunity to respond to any allegations made in a PID. No action will be taken against the subject officer until and unless allegations are confirmed. Details of the subject officer will be kept confidential at all times.
- 4.3.8 The PID Officer will record details of each PID in the PID Register. Appropriate document security will be applied to the register to ensure access is restricted to the CEO/PID Officer.
- 4.3.9 Details of all PIDs will also be entered into the State-wide PID reporting database by the CEO/PID Officer, in accordance with the requirements of the Public Service Commission. PID data for Etheridge Shire Council will only be available to the CEO/PID Officer.

6. AUTHORITIES AND ACCOUNTABILITIES

It is the legislative responsibility of the CEO to ensure the implementation of this policy.

7. RELATED DOCUMENTATION

Public Sector Ethics Act 1994 (PSE Act)
Public Interest Disclosure Act 2010 (PID Act)
Etheridge Shire Council Employee Code of Conduct

8. APPROVAL TABLE

Approved by Council		Meeting number and date	
GMCCS4 – 18 th May 2011 Resolution No. 2011/GM298		GMCCS -18 May 2011	
		Resolution number	
		RESOLUTION NO. 2011/GM298	
Approval by CEO			
Effective date		Review date	
18 May 2011		18 May 2018	
Policy Author			
Director Corporate & Community Services			
Current incumbent			
David Munro			
Implementation Officer			
Chief Executive Officer			
Current incumbent		Contact number	Official file no.
Norman Garsden		4079 9090	

PROCEDURE FOR MAKING A PID BY ANY PERSON

Making a PID

A PID can be made by any person (whether or not the person is a public officer) to a proper authority.

Who to disclose to?

Any person can make a disclosure to the Chief Executive Officer (CEO). Disclosures can be made in any way, including:

- in person
- in writing (by letter, fax, or email)
- by telephone.

A disclosure can also be made to an agency external to council. While persons are encouraged to raise matters directly with council, disclosures may also be made to an appropriate external agency.

Disclosing anonymously

A person may make a disclosure to a proper authority in any way, including anonymously.

Keeping disclosers informed

Council will provide the following advice in writing (where possible):

- confirmation the disclosure has been received
- a description of the action proposed to be taken
- if action has been taken, a description of the results of the action.

When disclosures are made, council will inform the discloser of:

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

Protecting disclosers

As soon as possible after receiving a PID, council must determine the level of protection and support appropriate for a discloser by conducting a risk assessment of a reprisal to the discloser and others associated with the discloser (including those who may wrongly be suspected of being a discloser).

Council will ensure protective measures are in place which will be proportionate to the risk of reprisal and the potential consequences of a reprisal. If the risk is assessed as sufficiently high, council will prepare a protection plan to protect the discloser. Where feasible, this should be developed in consultation with the discloser and other relevant stakeholders.

Taking action on a PID

After receiving a PID, council will make a decision on how to best deal with the disclosure. In some cases council may decide not take any action (under s30 of the Act) or council's action may be to refer the disclosure to another agency (under s31 of the Act). Council may decide not to investigate or deal with a public interest disclosure if:-

- a) the substance of the disclosure has already been investigated or dealt with by another appropriate process; or
- b) council reasonably considers that the disclosure should be dealt with by another appropriate process; or
- c) the age of the information the subject of the disclosure makes it impracticable to investigate; or
- d) council reasonably considers that the disclosure is too trivial to warrant investigation and that dealing with the disclosure would substantially and unreasonably divert the use of council's resources; or
- e) another entity that has jurisdiction to investigate the disclosure has notified council that investigation of the disclosure is not warranted.

If council decides not to investigate or deal with a public interest disclosure, council must give written reasons for its decision to the person making the disclosure.

Responding to reprisals

Council is committed to ensuring that no adverse action, including reprisals, occurs as a result of a disclosure. Under s40 of the Act, "A person must not cause, or attempt or conspire to cause, detriment to another person because, or in the belief that - (a) the other person or someone else has made, or intends to make, a public interest disclosure; or (b) the other person or someone else is, has been, or intends to be, involved in a proceeding under the Act against any person."

Disclosers should not suffer any form of detrimental action as a result of making a disclosure, including: • unfair treatment • harassment • intimidation • victimisation • unlawful discrimination.

Privacy and Confidentiality

Maintaining confidentiality is very important in the handling of a disclosure. Confidentiality not only protects the discloser against reprisals, but any other people affected by the disclosure. Confidential information includes:

- the fact a disclosure has been made
- any information that may identify the discloser or any person who may be the subject of a disclosure
- the actual information that has been disclosed
- information relating to the disclosure that, if known, may cause detriment.

While every attempt to protect confidentiality will be made, there will be occasions when revealing the identity of the discloser is necessary. These include:

- providing information to a referral or oversight agency
- responding to a court order or legal directive (eg subpoena, notice to produce, direction by a parliamentary committee)
- court proceedings.

Protecting the Rights of Subject Officer(s)

All PIDs are to be assessed and managed impartially, fairly and reasonably. The rules of natural justice apply to any subject officer under investigation in respect of an allegation raised against them. Accordingly, subject officers are to be advised of the nature of allegations against them at the appropriate time and are to be afforded an opportunity to respond.

Record Keeping and Reporting

The Act requires council to keep an adequate record of PIDs, including details of the discloser (where known), the nature of the information disclosed and action taken by council, even where the disclosure is investigated and found to be incorrect.

Disclosing False or Misleading Information

Disclosures are not to be made if the information is known to be malicious, false, misleading or vexatious. Disclosers need to be prepared to demonstrate reasonable grounds for their suspicions. It is an offence, to which significant penalties apply, if a person makes a statement intending that it be acted upon as a PID and the person intentionally provides false or misleading information.