

Public Interest Disclosure Procedure

Classification	Procedure
Responsible Officer	Chief Executive Officer
Relevant Legislation	<i>Independent Commission Against Corruption Act 2012</i> <i>Public Interest Disclosure Act 2018</i> <i>Ombudsman Act 1972</i> <i>Local Government Act 1999</i>
Related Policies	Employee Code of Conduct Behavioural Management Policy Fraud and Corruption Prevention Policy
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1. Introduction

- 1.1. The Council is committed to encouraging the making of appropriate disclosures of public interest information in accordance with this Procedure, including:
- the protection of informants who make public interest disclosures;
 - the genuine and efficient consideration and action in relation to information provided in a public interest disclosure;
 - referring, as necessary, appropriate disclosures to another Relevant Authority;
 - where the disclosure relates to corruption, reporting the disclosure directly to the Office for Public Integrity (OPI) in accordance with the [OPI Directions and Guidelines](#) and the requirements of the *Independent Commission Against Corruption Act 2012 (ICAC Act)*; and
 - where the disclosure relates to misconduct or maladministration in public administration, reporting the disclosure directly to the Ombudsman in accordance with the [Ombudsman Directions and Guidelines](#).

2. Scope

- 2.1. This Procedure applies to appropriate disclosures of public interest information, that are made in accordance with the *Public Interest Disclosure Act 2018 (PID Act)*, by Public Officers, including Council Members, officers and employees of the Council, and by members of the public.
- 2.2. This Procedure is intended to support the legislatively required reporting framework under the *ICAC Act* and *Ombudsman Act 1972 (Ombudsman Act)*, and to operate in conjunction with existing policies, including the:
- Employee Code of Conduct;
 - Behavioural Management Policy; and
 - Fraud and Corruption Prevention Policy.

3. Procedure statement

3.1. Disclosure protection information

3.1.1. Immunity

- 3.1.1.1. Section 5 of the *PID Act* provides for protection for informants where appropriate public interest disclosures are made:
- by a member of the public or a Public Officer about environmental and health information which the informant reasonably believes to

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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; and

- by a public officer about information that the Public Officer reasonably suspects raises a potential issue of corruption, misconduct or maladministration in public administration.

3.1.2. Confidentiality and security of information

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

3.1.2.2. The recipient of an appropriate Disclosure may only divulge the identity of an informant where:

- 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 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;
- doing so is necessary for the matter to be properly investigated (but only to the extent necessary to ensure proper investigation); and
- the informant consents to their identity being disclosed.

3.1.2.3. The *PID Act* does not expressly require any other information relating to a disclosure (including, for example, the nature of the allegations and information provided) to be maintained as confidential. In considering whether to further disclose other information provided as part of an appropriate disclosure, consideration should be given to whether it is necessary and appropriate to do so.

3.1.2.4. The Responsible Officer will ensure the steps listed in part 3.1.3 below are followed for the secure receipt and storage of a disclosure received.

3.1.3. Protection of informants

3.1.3.1. The *PID Act* provides for protection for informants where public interest disclosures are made:

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- 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; and/or
- by a Public Officer about information that the Public Officer reasonably suspects raises a potential issue of corruption, misconduct or maladministration in public administration.

3.1.3.2. Victimisation of informants is a criminal offence in accordance with the provisions of section 9 of the *PID Act*. A person who 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 commits an act of victimisation. Detriment includes:

- loss or damage (including damage to reputation); or
- injury or harm (including psychological); or
- intimidation or harassment; or
- discrimination, disadvantage or adverse treatment in relation to a person's employment; or
- threats of reprisal – which may be express or implied, or conditional or unconditional.

3.1.3.3. A person must not prevent another person from making an appropriate disclosure of public interest information or hinder or obstruct another person in making such a disclosure.

3.1.4. Risk management steps and processes – confidentiality and protection

3.1.4.1. To ensure confidentiality is maintained and to minimise the likelihood of any victimisation associated with public interest disclosures, Council has the following steps in place to assess and minimise detrimental action in relation to public interest disclosures:

- ensuring accurate records of an appropriate disclosure are securely and confidentially maintained including notes of all discussions, phone calls and interviews;
- ensuring all information relating to an appropriate disclosure is maintained as confidential and securely stored such that access to the records is limited to the Responsible Officer and such other persons as is necessary to ensure compliance with the *PID Act* and

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to ensure the matters to which the disclosure relates may be properly investigated;

- ensuring any other person involved in investigating the disclosure is aware of the confidentiality and security requirements and is provided with access to support the confidentiality and security steps put in place by Council; and
- ensuring that in the event that a person's appointment as a Responsible Officer is terminated, the person must provide access to the 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.

3.2. Disclosure process information

3.2.1. Who can make a disclosure?

- 3.2.1.1. Refer to the definitions within the *PID Act* (section 4 and 5) and as included in this Procedure for what is an 'appropriate disclosure'.
- 3.2.1.2. Any person can make an appropriate disclosure of environmental and health information and will be protected from liability because of that disclosure.
- 3.2.1.3. Any person can make an appropriate disclosure of public administration information in accordance with the *PID Act*, however, only Public Officers are protected from liability because of that disclosure.

3.2.2. How to submit disclosure – informant considerations

- 3.2.2.1. Appropriate disclosures of public administration information should generally, and wherever possible, be directed in the first instance to the Responsible Officer in person or via email or telephone using the details below:

Name	Team Leader People, Governance & Risk - Jim Dickens
Telephone	8342 7127 or 0481 003 850
Email	jdickens@walkerville.sa.gov.au
Address	Physical: 66 Walkerville Terrace, Gilberton, SA, 5081 Postal: PO Box 55, Walkerville, SA, 5081

Name	Senior Governance Officer - Yazmin King
Telephone	8342 7100 or 0467 788 491

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Email	yking@walkerville.sa.gov.au
Address	Physical: 66 Walkerville Terrace, Gilberton, SA, 5081 Postal: PO Box 55, Walkerville, SA, 5081

Note – Disclosures provided via mail or in person should be in an envelope marked:
CONFIDENTIAL – Responsible Officer, Public Interest Disclosure

3.2.2.2. Nothing in this Procedure prevents a person from making an appropriate disclosure to another Relevant Authority, including a Relevant Authority external to the Council. This is a choice to be made by the informant at their discretion.

3.2.2.3. The following are further relevant considerations for an informant in determining where to direct a disclosure:

- when choosing to make a disclosure internally, disclosures relating to a Council Member or employee, including the Chief Executive Officer, should be made to a Responsible Officer;
- 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);
- any disclosure relating to public administration information about a Public Officer who is a Council Member 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;
- if there is a reasonable suspicion of corruption, it must be reported to the OPI in accordance with the OPI Directions and Guidelines; and/or
- any disclosure relating to maladministration or misconduct in public administration should be reported to the Ombudsman in accordance with the Ombudsman Directions and Guidelines. Note: such disclosures may also be made to the OPI in accordance with the *ICAC Act*.

3.2.3. Receipt of disclosure

3.2.3.1. A flowchart outlining the Disclosure Process is at Appendix C to this Procedure.

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- 3.2.3.2. Where a Disclosure is made by telephone, the recipient (noting this is ideally, but not always the Responsible Officer) must take notes of the conversation.
- 3.2.3.3. If a Council Member, officer or employee receives a disclosure of public interest information regarding a location within the Council area, the recipient of that disclosure will:
- ask the Informant whether they consent to the details of their identity being provided to the Responsible Officer, and in doing so advise the Informant that:
 - a failure to provide that consent may mean that the disclosure cannot be properly investigated; and
 - notwithstanding that the informant may not consent to their identity being disclosed, it may nonetheless be disclosed if it is necessary to do so to ensure the matters to which the information relates may be properly investigated;
 - 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 unless it is necessary to disclose their identity contrary to their wishes to ensure the matters to which the information relates may be properly investigated.
- 3.2.3.4. 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 days and, in doing so, will provide a copy of this Procedure to the informant.
- 3.2.3.5. To ensure the secure receipt and storage of the disclosure, upon the receipt of a disclosure (whether directly, or by referral from a Council Member, officer or employee), the Responsible Officer will ensure that a disclosure is stored securely in accordance with Council's record management system and confidentiality requirements.

3.3. Assessment and actions

3.3.1. Preliminary assessment and action

- 3.3.1.1. Upon receipt of a disclosure, the Responsible Officer will undertake a preliminary assessment to determine the below and what (if any) actions need to be taken:
- 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. If it does, the Responsible Officer must immediately

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communicate such information as may be necessary to mitigate that risk to the most appropriate agency (for example, to South Australia Police, SafeWork SA, SA Ambulance, Environment Protection Authority). In doing so, the Responsible Officer must also have regard to part 3.1.1 of this Procedure;

- if the matter/s the subject of the disclosure result in the Responsible Officer forming a reasonable suspicion that they involve corruption in public administration, or misconduct or maladministration in public administration, the Responsible Officer must comply with their reporting obligations under the *ICAC Act* in accordance with the OPI Directions and Guidelines and reporting expectations under the *Ombudsman Act* in accordance with the Ombudsman Directions and Guidelines;
- if 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;
- if the disclosure is frivolous, vexatious or trivial, the Responsible Officer may determine no further action will be taken in relation to the Disclosure; and/or
- if the information disclosed 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, the Responsible Officer can determine no further action will be taken in relation to the disclosure.

3.3.1.2. Having considered the above, the Responsible Officer can initiate Council's usual investigation process, noting the requirements of the *PID Act* around confidentiality and security of information.

3.3.1.3. If an informant believes that their disclosure is not being dealt with appropriately or in accordance with this Procedure, they should contact the Responsible Officer in the first instance.

3.3.2. Notification of Preliminary Assessment

3.3.2.1. 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 their determination in writing as soon as is reasonably practicable after the Preliminary Assessment has been

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made, and in any event within 30 days of receipt of the disclosure. In doing so, the Responsible Officer must advise the Informant of:

- any action that has been, or will be, taken in relation to the disclosure; or
- if no action is being taken in relation to the disclosure, the reason/s why.

3.3.2.2. If the Responsible Officer fails to notify the informant in accordance with the above, the informant may be entitled to protection in relation to any subsequent disclosure of that information to a journalist or member of Parliament in accordance with the *PID Act*.

3.3.2.3. If the informant is dissatisfied with the Responsible Officer's determination, it is open to them to report the disclosure to another Relevant Authority external to the Council.

3.3.2.4. 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 <https://www.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.

3.3.2.5. The Responsible Officer will retain the unique reference number issued by the OPI upon making the Initial Notification and will ensure that the reference number is provided to any other person or authority to whom the disclosure is referred.

3.3.3. Notification of further action

3.3.3.1. 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 their determination in writing as soon as is reasonably practicable after the further action has been taken and, in any event, within either:

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

3.3.3.2. In doing so, the Responsible Officer must advise the Informant of:

- any action that has been, or will be, taken in relation to the disclosure; or

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- if no action is being taken in relation to the disclosure, the reason/s why.
- 3.3.3.3. If the Responsible Officer fails to notify the informant in accordance with clauses 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*.
- 3.3.3.4. If the Informant is dissatisfied with the Responsible Officer's determination or the action taken it is open to them to report the disclosure to another Relevant Authority external to the Council.
- 3.3.3.5. 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 <https://www.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.
- 3.3.3.6. 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.

4. Availability of Procedure

- 4.1. This Procedure will be available for inspection at Council's principal office during ordinary business hours and on Council's website www.walkerville.sa.gov.au
- 4.2. Copies will also be provided to interested members of the community upon request and payment of associated fees in accordance with Council's schedule of fees and charges.

5. Review

- 5.1. Council will undertake a review and evaluation of this Procedure at least once every four years. Council may, in any event, conduct a review and evaluation of the effectiveness of this Procedure at any time.

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Appendix A - 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)* and the PID Guidelines.

As Chief Executive Officer of the Town of Walkerville (the Council), and designated Principal Officer for the purposes of the *PID Act*, I expect that 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 is 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 employees, officers and Members of the Council remain deeply committed to the protection of informants who make public interest disclosures in accordance with 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 in Part 5.2 of this Procedure.

Principal Officer

Chief Executive Officer, Town of Walkerville

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Appendix B – Definitions

Commission	Means the Independent Commission Against Corruption
Commissioner	Means the person holding or acting in the office of the Independent Commissioner Against Corruption
Corruption in public administration	Is defined in section 5(1) of the ICAC Act and means conduct that constitutes: <i>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> <i>bribery or corruption of public officers;</i> <i>threats or reprisals against public officers;</i> <i>abuse of public office;</i> <i>demanding or requiring benefit on basis of public office;</i> <i>offences relating to appointment to public office; or</i> <i>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</i> <i>an offence against the Lobbyists Act 2015, or an attempt to commit such an offence; or</i> <i>any of the following in relation to an offence referred to in a preceding paragraph:</i> <i>aiding, abetting, counselling or procuring the commission of the offence;</i> <i>inducing, whether by threats or promises or otherwise, the commission of the offence;</i> <i>being in any way, directly or indirectly, knowingly concerned in, or party to, the commission of the offence;</i> <i>conspiring with others to effect the commission of the offence.</i>
Detriment	As per section 9(7) of the PID Act detriment includes: <i>loss or damage (including damage to reputation); or</i> <i>injury or harm (including psychological harm); or</i> <i>intimidation or harassment; or</i> <i>discrimination, disadvantage or adverse treatment in relation to a person's employment; or</i> <i>threats of reprisal.</i>
Disclosure	For the purposes of the PID Act means an appropriate Disclosure of public interest information made by an Informant to a Relevant Authority. ¹
Appropriate Disclosure of environmental and health information	As per section 5(3) of the PID Act, a person makes an appropriate Disclosure of environmental and health information if the disclosure is made to a relevant authority and the person: - believes on reasonable grounds that the information is true; or - 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.
Appropriate Disclosure of	As per section 5(4) of the PID Act, a person makes an appropriate Disclosure of public administration information if the disclosure is

¹ PID Act, section 4

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public administration information	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.
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. ²
Informant	Means a person who makes an appropriate Disclosure of public interest information to a Relevant Authority. ³
Maladministration in public administration	As per section 4(2) of the <i>Ombudsman Act 1972</i> (the Ombudsman Act): <i>Means:</i> <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 conduct of a public officer involving substantial mismanagement in or in relation to the performance of official functions; and includes conduct resulting from impropriety, incompetence or negligence; and is to be assessed having regard to relevant statutory provisions and administrative instructions and directions.</i>
Misconduct in public administration	As per section 4(1) of the Ombudsman Act means <i>an intentional and serious contravention of a code of conduct by a public officer while acting in their capacity as a public officer that constitutes a ground for disciplinary action against the officer.</i>
Ombudsman Directions and Guidelines	Means the directions and guidelines issued pursuant to section 12D(1) of the Ombudsman Act relating to reporting matters of suspected misconduct or maladministration in public administration.
Office for Public Integrity (OPI)	Established by the ICAC Act to <i>manage complaints about public administration with a view to— the identification of corruption, misconduct and maladministration in public administration; and ensuring that complaints about public administration are dealt with by the most appropriate person or body.</i> ⁴ The functions of OPI are: <i>(a) to receive and assess complaints about public administration from members of the public;</i> <i>(b) to receive and assess reports about corruption, misconduct and maladministration in public administration from inquiry agencies, public authorities and public officers;</i> <i>(c) to refer complaints and reports to inquiry agencies, public authorities and public officers or to determine to take no action in accordance with this section.</i> ⁵
OPI Directions and Guidelines	Is a reference to the directions and guidelines issued by OPI pursuant to section 18B of the ICAC Act in relation to reporting matters of suspected corruption in public administration.
Public administration	As per section 4(1) of the ICAC Act - an administrative act carried out in the course of public administration. An administrative act is as per the definition in the Ombudsman Act 1972 and means:

² PID Act, section 4

³ PID Act, section 4

⁴ ICAC Act, section 3(1)(b)

⁵ ICAC Act, section 17(1)

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	(a) an act relating to a matter of administration on the part of an agency to which this Act applies or a person engaged in the work of such an agency; or (b) an act done in the performance of functions conferred under a contract for services with the Crown or an agency to which this Act applies, but does not include— (c) an act done in the discharge of a judicial authority; or (d) an act done by a person in the capacity of legal adviser to the Crown or an agency to which this Act applies; or (e) an act of a class declared by the regulations not to be an administrative act for the purposes of this definition.
Public administration information	Means information that raises a potential issue of corruption, misconduct or maladministration in public administration. ⁶
PID Guidelines	Is a reference to the Guidelines issued by ICAC pursuant to section 14 of the PID Act.
Principal Officer	For the purposes of the PID Act means the Chief Executive Officer of the Council. ⁷
Public Officer	Has the meaning given by section 4 and Schedule 1 of the ICAC Act and includes council members and an employee or officer of the Council.
Relevant Authority	Means the person or entity that receives an appropriate Disclosure of public interest information in accordance with the PID Act. ⁸
Responsible Officer	Is a person who has completed any training courses approved by the Commissioner for the purposes of the <i>Public Interest Disclosure Regulations 2019</i> and has been designated by the Chief Executive Officer as the responsible officer under section 12 of the PID Act. Designated to undertake the duties as per section 13 of the PID Act.
Victimisation	As per section 9(1) of the PID Act, 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. Refer to definition of 'detriment' in this table and section 9(7) of the PID Act.

⁶ PID Act, section 4

⁷ PID Act, section 4

⁸ PID Act, section 5(5)

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Appendix C – Notification Process Flowchart

