

Title:	Public Interest Disclosure Policy
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Version	Decision Number	Adoption Date	History
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1 Policy Summary

The Public Interest Disclosure Act 2008 came into effect on 31 July 2009. This Act provides for the investigation of allegations of improper conduct by public officers and/or public bodies, and makes provision for the protection from retribution to persons who make these disclosures.

The Act makes it a criminal offence to disclose of the identity of a person or persons reporting alleged improper conduct and also to undertake action detrimental that person or persons.

The Act prescribes specific procedures that must be followed to protect persons reporting alleged improper conduct.

In 2010 the Executive Leadership Team recommended that the City of Darwin Policy No. 167 – Whistleblower Policy be withdrawn; subsequently the Policy was rescinded by Council on 23 February 2010.

Council's original whistleblower policy was developed prior to the introduction of the Public Interest Disclosure Act. Since the introduction of the Act the Public Interest Disclosure Commissioner has issued guidelines for agencies on how to implement the Act.

2 Policy Objectives

This policy ensures that the provisions of the Public Interest Disclosure Act 2008 are effectively implemented within City of Darwin (Council).

This policy does not replace existing Council grievance processes.

This policy applies to all Council employees regardless of the status of their employment and is to be followed by an employee or a member of the public who elects to make a disclosure of alleged improper conduct and seeks protection under the Act.

3 Background

The Public Interest Disclosure Act 2008 came into effect on 31 July 2009.

This policy applies to all employees and the Elected Members of the City of Darwin.

4 Policy Statement

Disclosures which are made in good faith will be taken seriously by Council and prompt action will be taken to address any alleged improper conduct.

Council will take every care to keep the identity of any person making a disclosure confidential, subject to any legal requirements that are imposed on Council to disclose information.

All disclosures made under this policy must be made to either :

- the Chief Executive Officer of the City of Darwin; or
- the Manager People, Culture & Capability; or
- the Commissioner for Public Interest Disclosures.

Reporting alleged improper conduct to persons other than the above named, including the media, **will not be** protected under the Act.

Harassment, intimidation or other reprisal action against a person who discloses alleged improper conduct will not be tolerated and action will be taken in accordance with the Act and with Council's code of conduct against persons who indulge in harassment, intimidation or reprisal action.

4.1 Procedures for Reporting Improper Conduct

Reporting Internally

Any employee can make a confidential report directly to Council's authorised delegate (either the Chief Executive Officer or the Manager Employee Relations).

The Manager People, Culture & Capability (MPCC) is independent of executive management and will act as the primary support person for the person making a disclosure. Following initial discussion, the MPCC may arrange for the person to meet with the Chief Executive Officer.

Employees may elect to report alleged improper conduct directly to the Chief Executive Officer.

Reports can be made verbally, in writing, by telephone, by email

Reports can be made anonymously.

4.2 Reporting to the Commissioner for Public Interest Disclosures

An employee is not required to make a disclosure internally; they may elect to report alleged improper conduct externally.

In these circumstances they must contact the **Office of the Commission for Public Interest Disclosures** by telephone **1800 250 918**; in person at the Commissioner's Offices; or by email blowthewhistle@nt.gov.au

Comprehensive information regarding disclosure and the role and powers of the Commissioner is available on the PID website: www.blowthewhistle.nt.gov.au

4.3 Council Response to a Disclosure of Alleged Improper Conduct

On receipt of a disclosure, Council's Delegate will assess whether the disclosure has been made in accordance with Part 2 of the Act and so constitutes a public interest disclosure.

If the disclosure has been made in accordance with Part 2 of the Act, the Delegate must report the matter to the Commissioner for Public Interest Disclosures within 14 days of receipt of the disclosure.

If the Delegate determines that the disclosure should not be dealt with under the Act, the person who made the disclosure will be notified and advised why that decision was made.

In the event that the person who made the disclosure believes that the decision is incorrect, they may choose to make a disclosure directly to the Commissioner.

4.4 Public Interest Disclosure Investigations

If a matter has been referred to the Commissioner by the Council Delegate, or a disclosure has been made directly to the Commissioner, PID investigators will assess the allegations against the definition of improper conduct prescribed in the Act.

Any person who has made a disclosure may be asked to provide additional information to the Commissioner or may be asked to attend for an interview, which is undertaken under oath.

Requests from the Commissioner cannot be refused and it is an offence to provide false or misleading information to the Commissioner.

Although the person who made the disclosure will not be entitled to know the specifics of the investigation (such as who was interviewed and what was said), they will be kept informed on its overall progress (wherever possible), in addition to any findings and recommendations made by the Commissioner.

At the completion of the investigation, if the Commissioner is contemplating making a report adverse to the interests of any person, that person will be made aware of the nature of the allegation, given the chance to respond and their point of view will be fairly represented in the final report.

The final report can contain recommendations for change within the department. These changes could relate to policies and procedures and would be designed to prevent the recurrence of improper conduct. If these recommendations are not complied with, the report is presented to the Minister, and must be tabled.

4.5 Employees who are the Subject of Disclosures

Where PID investigations do not substantiate disclosures, the fact that the investigation has been carried out, the results of the investigation, and the identity of the person who is the subject of the disclosure will remain confidential.

Council will give its full support to a person who is the subject of a disclosure where the allegations contained in the disclosure are clearly wrong or unsubstantiated.

If the matter has been publicly disclosed, the Chief Executive Officer will consider any request by that person to issue a statement of support setting out that the allegations were clearly wrong or unsubstantiated.

Council will follow the strategies outlined in the PID Guidelines to ensure that Whistleblower protections are in place.

5 Legislation, Terminology And References

5.1 Definitions

Act (the): means the Public Interest Disclosure Act 2008 and regulations thereto

Award (the): means the City of Darwin Certified Agreement 2011

Code of Conduct: means the approved City of Darwin Codes of Conduct as they apply to employees and the Elected Members

Delegate: means the person authorised by the Executive Leadership Team to receive reports of alleged improper conduct (currently the Chief Executive Officer and the Manager People, Culture & Capability)

Employee: means any person employed by or working for the City of Darwin, either as a salaried officer, wages recipient, volunteer or Elected Member

Commissioner: means the Commissioner for Public Interest Disclosure

Council: means the City of Darwin

Improper Conduct (as defined in Section 5 of the Public Interest Disclosure Act)

- a. if the conduct involves one or more of the following and constitutes a criminal offence or, if engaged in by a public officer, constitutes reasonable grounds for terminating the services of the public officer:

- (i) seeking or accepting a bribe or other improper inducement;
 - (ii) any other form of dishonesty;
 - (iii) inappropriate bias;
 - (iv) a breach of public trust;
 - (v) misuse of confidential information; or
- b. the conduct involves one or more of the following (whether or not the conduct constitutes a criminal offence or, if engaged in by a public officer, reasonable grounds for terminating the services of the public officer):
- (i) substantial misuse or mismanagement of public resources;
 - (ii) substantial risk to public health or safety;
 - (iii) substantial risk to the environment; or
 - (iv) substantial maladministration that specifically, substantially and adversely affects someone's interests.

The following acts also constitute improper conduct:

- (i) unauthorised removal of Council assets, both tangible and intangible;
- (ii) altering mandated tender processes to ensure a contract is awarded to a favoured applicant;
- (iii) inappropriate use of position to obtain goods or services;
- (iv) an act of reprisal; or
- (v) a conspiracy or attempt to engage in improper conduct that constitutes a criminal offence.

5.2 Referenced Documents

Public Interest Disclosure Act 2008 (NT)
Public Interest Disclosure Regulations
Public Interest Disclosure Guidelines
City of Darwin - Code of Conduct
City of Darwin – Fraud Policy

6 Implementation and Delegation

The Executive Leadership Team is responsible for the adoption and implementation of this policy.

The Executive Leadership Team is responsible for the administration of this policy.

General Manager City Performance is responsible for implementation of this policy by making available the Manager People, Culture & Capability to act as an independent support officer.

6 Evaluation and Review

This policy will be reviewed every four years.