

MP-040 Public Interest Disclosures

TRIM Reference: D19/191518 Due for Review: January 2023
Responsible Officer: Manager Governance and Risk

Purpose

This policy outlines Surf Coast Shire Council's (Council's) commitment to the handling of public interest disclosures and compliance to the Public Interest Disclosures Act 2012 (the Act).

Policy Principles

The key principles supported by Council in this policy are to:

- Promote integrity and accountability;
- Encourage the making of public interest disclosures;
- Ensure Councillors, Officers, members of Special Committees and members of the public are supported and protected from any adverse consequences as a result of the disclosure; and
- Ensure public interest disclosure investigations are supported or carried out in accordance with the legislation.

Scope

This policy applies to Councillors, employees and members of special committees. It applies to disclosures made by members of the public about employees, members of special committees and Councillors.

Policy

Council is committed to the aims and objectives of the Public Interest Disclosure Act 2012 in ensuring that people who report improper conduct or serious professional misconduct by its Councillors, officers or members of special committees appointed by Council can do so in the knowledge that protections exist to safeguard personal privacy and prevent reprisals including bullying, harassment or legal action.

Council recognises the value of transparency and accountability in its administrative and management practices, and supports the making of disclosures that reveal improper conduct including conduct involving a substantial mismanagement of public resources, substantial risk to public health, safety or the environment.

Council will take all reasonable steps to protect people who make such disclosures from any detrimental action in reprisal for making the disclosure, including the welfare of the person making the disclosure and confidentiality of information.

Council will ensure a framework is in place that:

- encourages reporting;
- ensures accessibility both internally and externally to the organisation;
- educates staff in how to make a disclosure and ensures guidance is available on the website for external parties;
- ensures a Public Interest Disclosure Coordinator and Officer are in place to receive and handle disclosures;
- information is treated with confidentiality;
- disclosures are forwarded to the relevant investigating body in a timely fashion;
- protects disclosers from reprisals, including appointment of a welfare officer (where appropriate);
- investigations are conducted or supported in a way that complies with the Act;
- ensures compliance with records management and reporting requirements.

Definitions

Public Interest Disclosure	Disclosure of information by a natural person that shows / tends to show or information that the person reasonably believes shows / tends to show improper conduct or detrimental action (previously a protected disclosure or whistleblower complaint).
Improper Conduct	<p>(1) Improper conduct is defined as;</p> <p>(a) corrupt conduct; or</p> <p>(b) conduct of a public officer or public body engaged in by the public officer or public body in their capacity as a public officer or a public body that constitutes—</p> <ul style="list-style-type: none"> (i) a criminal offence; or (ii) serious professional misconduct; or (iii) dishonest performance of public functions; or (iv) an intentional or reckless breach of public trust; or (v) an intentional or reckless misuse of information or material acquired in the course of the performance of the functions of the public officer or public body; or (vi) a substantial mismanagement of public resources; or (vii) a substantial risk to the health or safety of one or more persons; or (viii) a substantial risk to the environment; or <p>(c) conduct of any person that—</p> <ul style="list-style-type: none"> (i) adversely affects the honest performance by a public officer or public body of their functions as a public officer or public body; or or (ii) is intended to adversely affect the effective performance or exercise by a public officer or public body of the functions or powers of the public officer or public body and results in the person, or an associate of the person, obtaining— <ul style="list-style-type: none"> (A) a licence, permit, approval, authority or other entitlement under any Act or subordinate instrument; or (B) an appointment to a statutory office or as a member of the board of any public body under any Act or subordinate instrument; or (C) a financial benefit or real or personal property; or (D) any other direct or indirect monetary or proprietary gain— that the person or associate would not have otherwise obtained; or <p>(d) conduct of any person that could constitute a conspiracy or attempt to engage in any of the conduct referred to in paragraph (a), (b) or (c).</p> <p>(2) Despite subsection (1), conduct that is trivial does not constitute improper conduct for the purposes of the Act.</p>
Detrimental Action	<p>Action that is taken in reprisal for making a Public Interest Disclosure. It includes:</p> <ul style="list-style-type: none"> • Action causing injury, loss or damage; • Intimidation or harassment; and • Discrimination, disadvantage or adverse treatment in relation to a person's employment, careers, profession, trade or business, including the taking of disciplinary action. <p>It is an offence for a person to take detrimental action against a person in reprisal for making a public interest disclosure.</p>
Serious Professional Misconduct	<ul style="list-style-type: none"> • Not defined in the Act but includes: conduct that constitutes a serious breach of an established professional code of conduct and/or other serious departures from the person's professional responsibilities. • serious failure to exhibit the skills and experience required to perform

	<p>the functions of the office, as well as non-compliance with professional codes of conduct or the policies, procedures and laws that govern behaviour in the public sector and the workplace.</p> <ul style="list-style-type: none">• serious breach of delegated duties.
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Related Procedure

MPR-040 Public Interest Disclosures.

References

Public Interest Disclosures Act 2012

Document History

Version	Document History	Approved by – Date
1	<i>Amended</i>	<i>EMT 8 January 2020</i>