POLICY	ROXBY COUNCIL	Responsible Department	Governance
		Original Adoption Date	31.07.2019
		Current Adoption Date	**26.02.2026**
		Date of Next Review	26.02.2029

PUBLIC INTEREST DISCLOSURE

Latest Review Changes	Policy Rewrite
Previous Council Reviews	31.07.19, 27.07.22

Applicable Legislation

Public Interest Disclosure Act 2018
Local Government Act 1999
Independent Commissioner Against Corruption Act 2012
Ombudsman Act 1972
Criminal Law Consolidation Act 1935,

- *Part 5, in relation to offences of dishonesty committed by a Public Officer or former Public Officer*
- *Part 7, Division 4 in relation to offences relating to Public Officers*

Related Policies

Fraud Corruption Misconduct and Maladministration Policy
Code of Conduct for Council Employees;
Internal Review of Council Decisions Policy under section 270 of the Local Government Act 1999.

Related Procedures

Public Interest Disclosure Procedure

Reference Documents

Local Government Association Public Interest Disclosure Model Procedure

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1. PURPOSE

The Municipal Council of Roxby Downs (Roxby Council) is committed to upholding the principles of transparency and accountability in its administrative and management practices and, therefore, encourages the making of disclosures that reveal public interest information.

The purpose of this Policy is to define Roxby Council's approach to managing public interest disclosures. This policy will:

- Encourage and facilitate disclosures of public interest information about substantial risk to public health, safety and the environment or in relation to corruption, misconduct or maladministration
- Provide information for a person to make an appropriate disclosure of public interest information
- Outline responsibilities and obligations in accordance with the Public Interest Disclosure Act 2018
- Outline protections and support for those who make disclosures
- Ensure appropriate oversight and reporting of all disclosure of public interest information pertaining to public administration and/or environment and health information.

This Policy applies to

- All Public Officers including Council employees, contractors and consultants;
- Any person, including volunteers, who seek to make an appropriate disclosure of public interest information.

2. POLICY STATEMENT

Roxby Council is committed to promoting transparency and accountability in its operations.

This Policy outlines Council's approach to making and managing disclosures of public interest information, in accordance with the *Public Interest Disclosure Act 2018* (SA). It aims to encourage the reporting of wrongdoing, ensure disclosures are appropriately managed, and raise awareness of protections for individuals who make such disclosures.

This policy supports the following acts

i. *Public Interest Disclosure Act 2018 (PID Act);*
ii. *Local Government Act 1999;*
iii. *Independent Commissioner Against Corruption Act 2012 (ICAC Act); and*
iv. *Ombudsman Act 1972.*

and should be read in conjunction with Council's:

i. Public Interest Disclosure Procedure
ii. Fraud Corruption Misconduct and Maladministration Policy
iii. Code of Conduct for Council Employees;
iv. Internal Review of Council Decisions Policy under section 270 of the *Local Government Act 1999*.

This Policy does not prevent any person (internal or external) from making a disclosure to a Relevant Authority.

Public Officers making appropriate public interest disclosures under the PID Act, must still meet their obligations under the 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 PID Act, as the OPI is a Relevant Authority for the purposes of the PID Act.

Roxby Council is committed to:

- referring, as necessary, appropriate Disclosures to another Relevant Authority;

- where the Disclosure relates to Corruption, or serious or systemic Misconduct or Maladministration in public administration, reporting the Disclosure directly to the OPI in accordance with the Guidelines and the requirements of the ICAC Act;
- otherwise facilitating the investigation of appropriate Disclosures in a manner which promotes fair and objective treatment of those involved; and
- rectifying any substantiated wrongdoing to the extent practicable in all the circumstances.

2.1. Types of Public Interest Information

There are two types of public interest information:

1) **Environmental and health information** – information that raises a potential issue of a substantial risk to the environment, public health or safety of the public generally, or a significant section of the public.
2) **Public administration information** – information that raises a potential issue of corruption, misconduct and maladministration in public administration.

2.2. Appropriate Disclosures

Any person can make a disclosure of environmental and health information, but only Public Officers can make a disclosure of public administration information.

Appropriate disclosures include:

Appropriate Disclosure of Environmental and Health Information

Any person can make a disclosure of environmental and health information if:

- 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; and
- the disclosure is made to the Relevant Authority.

Where the information relates to a location within the Municipal Council of Roxby Downs, a person may make a disclosure to an employee of Council.

Appropriate Disclosure of Public Administration Information

A Public Officer or Council volunteer can make a disclosure of public administration information if:

- they reasonably suspect that the information raises a potential issue of corruption, misconduct or maladministration in public administration; and
- the disclosure is made to the Relevant Authority.

Where the public administration information relates to a location within the Municipal Council of Roxby Downs, an employee of the Council are Relevant Authorities for the purposes of the PID Act.

2.3. Making Disclosures and Mandatory Reporting Obligations

The PID Act establishes a process for the appropriate disclosure of public interest information to a Relevant Authority, which may include:

i. Council
ii. Ombudsman
iii. Office of Public Integrity

A list of Relevant Authorities relating to the type of information being disclosed is in Attachment 1.

2.3.1. Disclosures to Council

Appropriate disclosures of public interest information can be made to Council's Responsible Officer in writing via email or hard copy:

Email pid@roxbycouncil.com.au

Hard copy Addressed to:
Confidential
Public Interest Disclosure Responsible Officer
PO Box 124,
Roxby Downs, South Australia 5725

2.3.2. Disclosures to Relevant Authorities

Disclosures of public information can be made to the Relevant Authority.

Appendix A provides a list of Relevant Authorities relating to the type of information being disclosed.

Where a person is uncertain of the Relevant Authority, a disclosure can be made to Council's Responsible Officer, who will:

- Provide advice on the Relevant Authority, or
- Complete the Public Interest Disclosure Process (refer to section 2.4).

Further details regarding disclosing to a Relevant Authority can be found in the Public Interest Disclosure Procedure and the Fraud and Corruption Policy.

2.3.3. Mandatory Reporting Obligations

Under the ICAC Act, Public Officers must report any actual or reasonably suspected instances of corruption in public administration to the OPI.

This is a mandatory reporting requirement and must be made in accordance with OPI directions and guidelines.

2.4. Council's Disclosure Management Process

Council's approach to managing public interest disclosures requires Council's Responsible Officers to:

1) Assess the Disclosure
2) Notify the Relevant Authority
3) Investigate
4) Report Findings and Recommendations
5) Notification of Determination

The Public Interest Disclosure Procedure provides further details regarding this process.

2.5. COUNCIL ASSIGNED RESPONSIBLE OFFICERS

Council assigns the following roles and responsibilities for the purposes of the PID Act:

Principal Officer Chief Executive Officer

Responsible Officers Corporate Governance & Strategy Manager

Regulatory & Licencing Officer

2.6. Confidentiality

All disclosures will be managed with strict confidentiality, as required by the PID Act. The identity of an informant will not be disclosed except where permitted by the PID Act, which includes:

- with informant consent
- where necessary to prevent serious risk to public health or safety
- as required by law.

Confidentiality obligations apply to all parties involved in managing the disclosure.

2.7. Protections

A person who makes an appropriate disclosure under the PID Act is entitled to the following:

- Immunity from civil and criminal liability or disciplinary action
- Protection of identity
- Protection from victimisation
- Protection from a person hindering, obstructing or preventing an appropriate disclosure.

Council will take appropriate action to prevent victimisation of informants. This can include referring matters to the SA Police

2.8. False or Misleading Disclosures

The PID Act does not provide any protection to people who knowingly make disclosures that are false or misleading in a material particular (whether by reason of the inclusion or omission of a particular). A person who knowingly makes a false or materially misleading disclosure is committing an offence and could be prosecuted.

2.9. Roles and Responsibilities

Audit & Risk Committee	The Audit & Risk Committee will: - Review this Policy and make recommendations for amendments as appropriate - Comply with this Policy and the Public Interest Disclosure Procedure when receiving or dealing with an appropriate disclosure - Ensure any appropriate disclosures received from a member of public or Public Officer are referred to Council's Responsible Officer.
Chief Executive Officer	The Chief Executive Officer will: - Encourage and facilitate disclosures of public interest information about substantial risk to public health, safety and the environment or in relation to corruption, misconduct or maladministration - Follow the requirements as the designated Principal Officer (refer to Principal officer responsibilities).
Senior Leadership	Senior Leaders will: - Support and promote appropriate disclosures in accordance with this policy - Comply with this policy when receiving an appropriate disclosure - Ensure any appropriate disclosures received from a member of public or Public Officer are referred to Council's Responsible Officer.
Employees	Employees will: Comply with this policy when receiving with an appropriate disclosure

	Ensure any appropriate disclosures received from a member of public or Public Officer are referred to Council's Responsible Officer.
Informants	Informants will: - Comply with this policy when making a disclosure - Be provided appropriate protections as outlined within this policy - Choose to withhold the disclosure of their identity in line with confidentiality provisions within this policy.
Principal Officer	The Principal Officer will: - Ensure that one or more appropriately qualified officers or employees of the Council are designated as responsible officers of the Council for the purposes of the PID Act and undertake any training required by the Public Interest Disclosure Regulations - Ensure that the name and contact details of each responsible officer of the Council are made available to officers and employees of the Council - Ensure preparation and maintenance of this policy and procedure in accordance with the requirements of the PID Act, directions and guidelines.
Responsible Officer	The Responsible Officer will: - Receive appropriate disclosures relating to the Council and ensure compliance with the PID Act, and the Public Interest Disclosure Procedure, in relation to any such disclosures - Make appropriate recommendations to the principal officer of the Council in relation to dealing with disclosures, including any suggested changes to this Policy or the Public Interest Disclosure Procedure - Provide advice to Public Officers of the Council in relation to the administration of the PID Act - Complete any training courses approved by the Commissioner for the purposes of the Public Interest Disclosure Regulations - Carry out the functions of the PID Act.
Volunteers	Volunteers are not ordinarily considered to be public officers, however there are some circumstances where they might be depending on their role and actions. A volunteer who is not a public officer should still report any conduct they suspect to be public interest information, as per the policy even though there is no obligation to do so.

3. DEFINITIONS

For the purposes of this Policy the following definitions apply.

Appropriate Disclosure	The disclosure of public interest information and in accordance with the *Public Interest Disclosure Act 2018* and in section 2.3 of this Policy
Commissioner	Refers to the person holding or acting in the office of the Independent Commission Against Corruption
Corruption	As defined in section 5(1) of the ICAC Act and means conduct that constitutes: - An offence against Part 7 Division 4 (Offences relating to public officers) of the *Criminal Law Consolidation Act 1935*, which includes the following offences: o bribery or corruption of Public Officers o threats or reprisals against Public Officers o abuse of public office o demanding or requiring benefit on the basis of public office; and o offences relating to appointment to public office; or - Any of the following in relation to an offence referred to in a preceding paragraph: o aiding, abetting, counselling or procuring the commission of the offence o inducing, whether by threats or promises or otherwise, the commission of the offence o being in any way, directly or indirectly, knowingly concerned in, or party to, the commission of the offence o conspiring with others to effect the commission of the offence.
Council	Refers to the Municipal Council of Roxby Downs
Directions and Guidelines	Refers to the Directions and Guidelines issued pursuant to section 20 of the ICAC Act and/or section 14 of the PID Act, which are available on the Commissioner's website (www.icac.sa.gov.au).
Employee	Refers to all the Council's employees, whether they are working in a full-time, part-time or casual capacity.
Environmental and health information	Refers to 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
Fraud	Refers to and includes an intentional dishonest act or omission done with the purpose of deceiving.
ICAC Act	*Independent Commission Against Corruption Act 2012.*
Independent Assessor	The person designated by the Responsible Officer as being responsible for investigating a disclosure made to the Council in accordance with the Public Interest Disclosure Procedure.

Informant	A person who makes an appropriate disclosure of public interest information to a Relevant Authority
Maladministration (in public administration)	As defined in Section 4(1) of the *Ombudsman Act 1972*, 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.
Misconduct (in public administration)	As defined in Section 4(2) of the Ombudsman Act 1972 and means: - 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.
Office for Public Integrity (OPI)	The office established under the ICAC Act that has the function to: - receive and assess complaints about public administration from members of the public - receive and assess reports about corruption, misconduct and maladministration in public administration from the Ombudsman, the Council and Public Officers - refer complaints and reports to inquiry agencies, public authorities and Public Officers in circumstances approved by the Commissioner or make recommendations as to whether and by whom complaints and reports should be investigated - give directions or guidance to public authorities in circumstances approved by the Commissioner - perform other functions assigned to the Office by the Commissioner.
Public Administration	As defined in section 4 of the ICAC Act and means (without limitation) an administrative act within the meaning of the Ombudsman Act 1972 taken to be carried out in the course of public administration.
Public Administration Information	Information that raises a potential issue of corruption, misconduct or maladministration in public administration.
Public Interest Information	Environmental or health information, or public administration information
PID Act	*Public Interest Disclosure Act 2018*.
Principal Officer	The person or entity that appoints Responsible Officers, ensures public interest information is documented and publicly accessible in accordance with the PID Act.
Public Officer	As listed in Schedule 1 of the ICAC Act. Relevant in the context of this Policy a Public Officer includes:

	- an officer or employee of Council (including a person performing contract work) . - an Independent Member of a Council Committee or subsidiary of Council. - An officer or employee of the Local Government Association of South Australia.
Relevant Authority	In an authority defined in section 5(5) of the PID Act and for the purposes of this Policy includes, but is not limited to: - 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 - where the information relates to a location within the Municipal Council of Roxby Downs, an employee of the Council
Responsible Officer	A person who has been designated by Council as a Responsible Officer under section 12 of the PID Act and has completed any training courses approved by the Commissioner for the purposes of the Public Interest Disclosure Regulations 2019.
Senior Leadership	Any employee who directly supervises other employees or volunteers and is responsible for the management of a Council department.
Victimisation	Refers to and 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.

4. REVIEW

The Public Interest Disclosure policy will be reviewed every 3 (three) years to ensure compliance with Legislation.

This Policy is available for inspection at the Council Office, 6 Richardson Place during ordinary business hours and is also available from Council's website www.roxbydowns.sa.gov.au

5. AVAILABILITY OF THE POLICY

This Policy will be available for inspection at the Council's Offices during ordinary business hours and via the Council's website www.roxbydowns.sa.gov.au. Copies will also be provided to the public upon request, and upon payment of a fee in accordance with the Council's Schedule of Fees and Charges.

APPENDIX A - RELEVANT AUTHORITIES

Where the information relates to…	the relevant authority is…
a public officer* **as defined and set out in Schedule 1 of the Independent Commissioner Against Corruption Act 2012 - relevantly, this includes council members, officers and employees of local government bodies*	either: the person who is designated by the Guidelines as being taken to be responsible for management or supervision of the public officer; or the person who is in fact responsible for the management or supervision of the public officer; or the relevant responsible officer (as designated by the Council in accordance with section 12 of the PID Act)
a public sector agency or public sector employee	either: the Commissioner for Public Sector Employment; or the responsible officer for the relevant public sector agency
an agency to which the *Ombudsman Act 1972* applies	the Ombudsman
a location within the area of a particular council established under the *Local Government Act 1999*	a member, officer or employee of that Council
a risk to the environment	the Environment Protection Authority
an irregular and unauthorised use of public money or substantial	the Auditor-General
the commission, or suspected commission, of any offence	a member of the police force
a judicial officer	the Judicial Conduct Commissioner
a member of Parliament	the Presiding Officer of the House of Parliament to which the member belongs
a person or a matter of a prescribed class	an authority declared by the regulations to be a relevant authority in relation to such information
public interest information - being: environmental and health information (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); or public administration information (information that raises a potential issue of corruption, misconduct or maladministration in public administration)	the OPI; a Minister of the Crown; or any other prescribed person or person of a prescribed class