

Public Interest Disclosure Procedures

Policy statement

The City of Whittlesea (**Council**) is committed to the aims and objectives of the *Public Interest Disclosures Act 2012 (the Act)*. It does not tolerate improper conduct by its employees, officers, or members, nor the taking of reprisals against those who come forward to disclose such conduct. Council recognises the value of transparency and accountability in its administrative and management practices and supports the making of disclosures that reveal corrupt conduct, conduct involving a substantial mismanagement of public resources, or conduct involving a substantial risk to public health and 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. It will also afford natural justice to the person who is the subject of the disclosure.

Purpose

The purpose of these procedures is to establish processes for receiving and handling disclosures of improper conduct engaged in, or detrimental action taken by the Council or its employees.

These procedures explain:

- what a disclosure is;
- how to make a disclosure;
- how Council will assess and manage a disclosure; and
- how Council will manage and protect the person making a disclosure.

Scope

These procedures are a resource for all members of the public as well as employees, Councillors, Administrators, contractors and volunteers of Council.

Alignment to Whittlesea 2040

The Public Interest Disclosure Procedures primarily guides Council's work toward the following Goal as outlined in *Whittlesea 2040: A place for all: **High Performing Organisation***

This policy enables the achievement of a High Performing Organisation Key Direction 5.2 *More informed Council decisions based on strong advice and community consultation and engagement.*

All City of Whittlesea policies comply with the *Victorian Charter of Human Rights and Responsibilities*. Additionally, this Policy is informed by:

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Council's Privacy and Data Protection Policy

Public Interest Disclosure Act 2012 (Vic)

Independent Broad-based Anti-corruption Commission Act 2011 (Vic)

Local Government Act 2020 (Vic)

The Charter of Human Rights and Responsibilities Act 2006 (Vic)

Freedom of Information Act 1982 (Cth)

Privacy and Data Protection Act 2014 (Vic)

Equal Opportunity Act 2010 (Vic)

Overarching Governance Principles

The development of this Policy considered the *Local Government Act 2020's* Overarching Governance Principles and the following were applied:

Lawful	<input checked="" type="checkbox"/>	Community engagement	<input checked="" type="checkbox"/>	Transparent	<input checked="" type="checkbox"/>
Best community outcome	<input checked="" type="checkbox"/>	Consistent with government plans	<input checked="" type="checkbox"/>	Collaboration with government bodies	<input checked="" type="checkbox"/>

Gender Equality, Climate Change, Human Rights and Child Safe Compliance All City of Whittlesea policies comply with the *Victorian Charter of Human Rights and Responsibilities, Gender Equality Act, Climate Change Act* and the *Child Safe Standards*.

Context/Rationale

The Act commenced operation on 10 February 2012. The purpose of the Act is to encourage and facilitate disclosures of improper conduct by public officers and public bodies. The Act provides protection to persons who make disclosures in accordance with the Act (**disclosers**) and establishes a system for the matters disclosed to be assessed and, if they constitute public interest complaints, investigated. Council might also, depending on the outcome of an investigation, be required to take rectifying action.

Please note that:

- Disclosures relating to **Councillors** are to be made directly to the **Independent Broad-based Anti-Corruption Commission (IBAC)**, to the **Local Government Inspectorate (LGI)** OR to the **Victorian Ombudsman (VO)**.
- Disclosures relating to the **Chief Executive Officer (CEO)** are to be made by the Executive Manager Office of Council & CEO directly to **IBAC**.

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Definitions of Key Terms

Three key concepts in the reporting system are public interest disclosure, public interest complaint, improper conduct, serious professional misconduct, and detrimental action.

Definitions of these terms are set out below.

Public Interest Disclosure

A Public Interest Disclosure (PID) is defined as a disclosure by a natural person of:

- Information that shows or tends to show or
- Information that the person reasonably believes shows or tends to show:
 - A person, public officer or public body has engaged, is engaging or proposes to engage in improper conduct or
 - A public officer or public body has taken, is taking, or proposed to take detrimental action against a person.

Public Interest Complaint

A Public Interest Complaint (PIC) is defined as a public interest disclosure that has been determined by IBAC, the Victorian Inspectorate or the Integrity and Oversight Committee to be a Public Interest Complaint.

Improper conduct

A disclosure may be made about improper conduct by a public body or public official.

Improper conduct is defined by section 4 of the Act as follows:

- (1) For the purposes of the Act, **improper conduct** means corrupt conduct or conduct that constitutes:
 - a) a criminal offence
 - b) serious professional misconduct
 - c) dishonest performance of public functions
 - d) intentional or reckless breach of public trust
 - e) intentional or reckless misuse of information or material acquired during the performance of the function of the public officer
 - f) substantial mismanagement of public resources
 - g) substantial risk to health or safety of one or more persons
 - h) substantial risk to the environment
 - i) conduct of any person that adversely affects the honest performance by a public officer of their functions and
 - j) conduct of any person that is intended to adversely affect the effective performance by a public officer of their functions for the benefit of the other person.

Less serious or trivial conduct is excluded from the definition of improper conduct.

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Serious professional misconduct

Serious professional misconduct is included with the intention to broaden the types of disclosures that receive protection under the scheme.

This may include:

- A serious failure to exhibit the skills and experience required to perform functions of the office or
- Non-compliance with professional codes of conduct or the policies, procedures and laws that govern behaviour in the public sector and workplace.

Detrimental action

The Act makes it an offence for a person to take detrimental action against a person in reprisal for making a PID.

Detrimental action can be defined as *Action taken, or threatened action, against a person who has made a protected disclosure that causes:*

- injury, loss, or damage
- intimidation or harassment
- discrimination, disadvantage, or adverse treatment in relation to a person's employment, career, profession, trade of business (including disciplinary action).

Detrimental action is NOT:

- legitimate management action where there are good and sufficient grounds that would justify the action against any other person in the same circumstances.

Examples of improper conduct and detrimental action

Examples of improper conduct:

- A Council employee takes a bribe or receives a payment other than their wages in exchange for the discharge of a public duty
- An employee sells/exchanges confidential information for a personal gain or
- An employee favours an application for jobs or permits by friends and relatives.

Examples of a detrimental action:

- A Manager demotes, transfers, isolates a discloser in the workplace or changes the duties of a person who has made a disclosure as a result of making a disclosure
- A person threatens, abuses, or carries out other forms of harassment directly or indirectly against the person who makes or is suspected of making a disclosure and their family or friends or
- A public body discriminates against the person who makes a disclosure or their family and associates in subsequent applications for jobs, permits or tenders.

Unreasonable Complainant Conduct

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Council's Unreasonable Complainant Conduct will be referred to, if required, dependant on the nature of complaints received. The Unreasonable Complainant Conduct refers to any behaviour by a current or former complainant which, because of its nature or its frequency, raises substantial wellbeing or safety concerns for our organisation, staff, other service users or the complainant themselves. It can also be in response to threats to damage and/or vandalise Council or third party owned assets and infrastructure.

The Reporting System

Contact persons within Council

Disclosures of improper conduct or detrimental action by Council or its members, officers, or employees, may be made to the following officers:

- **The Public Interest Disclosure Coordinator**
Jacinta Stevens, Executive Manager Office of Council & CEO
pid@whittlesea.vic.gov.au
- **The Public Interest Disclosure Officers**
Jordan Glancy, Chief Customer Officer
Anna Micallef, Senior Employee Relations Advisor

Contact can be made with the nominated staff mentioned above by calling 9217 2170.

All correspondence, phone calls and emails from persons making a disclosure to someone other than the Public Interest Disclosure Coordinator or the Public Interest Disclosure Officer will be referred, at first instance, to the Public Interest Disclosure Coordinator.

Where a person is contemplating making a disclosure and is concerned about approaching the Public Interest Disclosure Coordinator or a Public Interest Disclosure Officer in the workplace, they can call the relevant officer and request a meeting in a discreet location away from the workplace.

Alternative contacts

A disclosure about improper conduct or detrimental action by Council or its members, officers, or employees, may also be made directly to:

IBAC

Office: Level 1, North Tower, 459 Collins Street, Melbourne, Victoria 3000

Mailing address: GPO Box 24234, Melbourne, Victoria 3001

Phone: 1300 735 135 Monday – Friday (excluding public holidays)
10.00am - 3.00pm

Email: info@ibac.vic.gov.au

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Internet: www.ibac.vic.gov.au

Local Government Inspectorate

Office and mailing address: Level 27, 1 Spring Street, Melbourne, Victoria 3000

Phone: 1800 469 359 Monday – Friday 9.00am - 5.00pm

Email: inspectorate@lgi.vic.gov.au

Internet: www.lgi.vic.gov.au/local-government-inspectorate

Victorian Ombudsman

Office and mailing address: Level 2, 570 Bourke Street, Melbourne, Victoria 3000

Phone: 1800 806 314 Monday – Friday 9.00am - 5.00pm

Email: ombudsmanvic@ombudsman.vic.gov.au

Internet: www.ombudsman.vic.gov.au

The following table sets out where disclosures should be made.

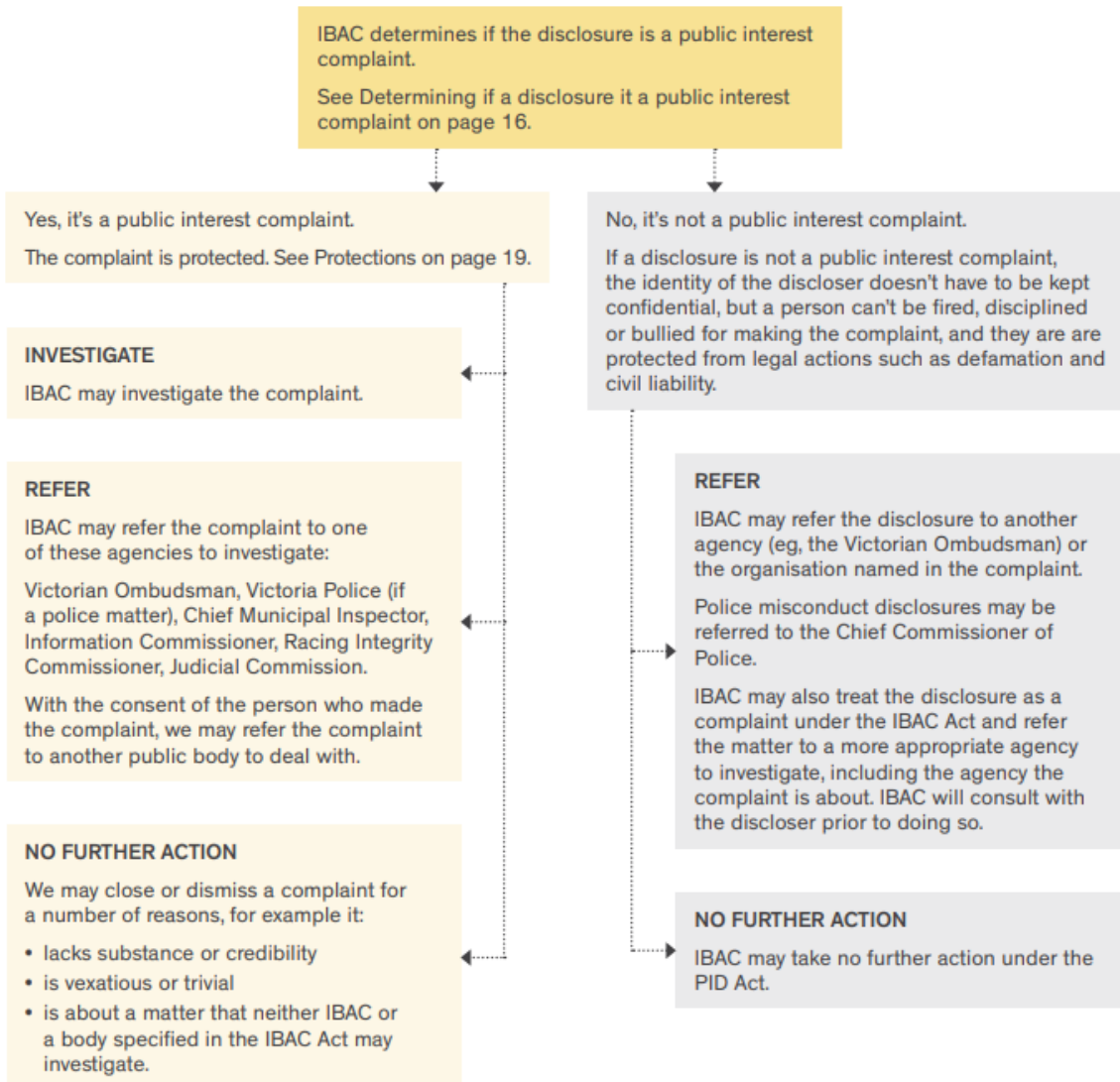
Person who is the subject of the disclosure	Person/body to whom the disclosure must be made
Chief Executive Officer	Council’s Public Interest Disclosure Coordinator or IBAC
Employee of Council	Council or IBAC
Councillor	IBAC, Local Government Inspectorate or the Victorian Ombudsman
Member of Parliament (Legislative Assembly)	Speaker of the Legislative Assembly
Member of Parliament (Legislative Council)	President of the Legislative Council
Ombudsman Officer	IBAC or the Victorian Inspectorate
The IBAC or an IBAC Officer	The Victorian Inspectorate
Chief Commissioner of Police	IBAC
Member of the police force	A member of police personnel with a rank of sergeant or above or IBAC

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What happens when IBAC is sent a disclosure.

As outlined in the [Guidelines of handling public interest disclosures \(January 2020\)](#), the following flow chart outlines what happens when IBAC receives a notification of a public interest disclosure from an organisation that is authorised to receive disclosures.



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Roles and Responsibilities

Employees

Employees are encouraged to report known or suspected incidences of improper conduct or detrimental action in accordance with these procedures. All Council employees have an important role to play in supporting those who have made a legitimate disclosure. They must refrain from any activity that is, or could be perceived to be, victimisation or harassment of a person who makes a disclosure. Furthermore, they should protect and maintain the confidentiality of a person they know or suspect to have made a disclosure.

Public Interest Disclosure Officer

The Public Interest Disclosure Officer will:

- Be a contact point for general advice about the operation of the Act for any person wishing to make a disclosure about improper conduct or detrimental action
- Receive any disclosure directed to the Public Interest Disclosure Officer made orally or in writing (including by telephone, email, and letter) from members of the public or employees seeking to make a disclosure
- Commit to writing any disclosure made orally
- Make arrangements for a disclosure to be made privately and discreetly and, if necessary, away from the workplace
- Impartially assess the allegation and form a view as to whether it is a disclosure made in accordance with Part 2 of the Act (i.e., a public interest disclosure)
- Take all necessary steps to ensure the identity of the person making the disclosure and the identity of the person who is the subject of the disclosure are kept confidential
- Forward all disclosures, supporting evidence and recommendations to the Public Interest Disclosure Coordinator for assessment and final determination of whether the disclosure is a Public Interest disclosure.

Public Interest Disclosure Coordinator

The Public Interest Disclosure Coordinator has a central clearinghouse role in the internal reporting system. They will:

- Receive all disclosures forwarded from the Public Interest Disclosure Officer for assessment and final determination of whether the disclosure is a Public Interest disclosure
- Receive any disclosure directed to the Public Interest Disclosure Coordinator made orally or in writing (including by telephone, email, and letter) from members of the public or employees seeking to make a disclosure
- Commit to writing any disclosure made orally
- Make arrangements for a disclosure to be made privately and discreetly and, if necessary, away from the workplace
- Impartially assess each disclosure to determine whether it is a disclosure made in accordance with Part 2 of the Act (i.e., a Public Interest disclosure)

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- Within 28 days of receipt, notify a disclosure which the Public Interest Disclosure Coordinator thinks is a Public Interest disclosure to the IBAC for assessment
- Appoint the Chief People Officer or their nominated delegate as Welfare Manager to support the discloser and to protect them from any reprisals
- Take all necessary steps to ensure the identity of the person making the disclosure and the identity of the person who is the subject of the disclosure are kept confidential
- Advise, to the extent possible, the discloser of the progress of an investigation into the Public Interest disclosure (it is noted that any investigation will be managed by the IBAC, meaning that Council may have limited information about its progress)
- Establish and manage a confidential filing system
- Collate and publish statistics on disclosures made and
- Liaise with the Chief Executive Officer.

Welfare Manager

The Welfare Manager is responsible for looking after the general welfare of the discloser. The Welfare Manager will:

- Examine the immediate welfare and protection needs of a discloser and seek to foster a supportive work environment
- Advise the discloser of the legislative and administrative protections available to them
- Listen and respond to any concerns of harassment, intimidation, or victimisation in reprisal for making disclosure
- Ensure the confidentiality of the identity of the discloser and the content of the disclosure in accordance with the Act
- Ensure the expectations of the discloser are realistic.

Independent Broad-Based Anti-Corruption Commission (IBAC)

In relation to Local Government, a suspected disclosure will be forwarded to IBAC who determine if a disclosure meets the criteria to be a public interest complaint. IBAC will either take carriage of the complaint or may refer the disclosure back to Council for follow up.

Council Employees

Members of Council staff are encouraged to report known or suspected incidences of improper conduct or detrimental action and must maintain confidentiality of any person involved in a disclosure if their identify is known or suspected. All employees must refrain from any action that is or could be perceived as detrimental action.

These procedures complement normal communication channels between supervisors and employees and employees are encouraged to raise matters of concern at any time with their supervisors. Alternatively, if an employee reports a disclosure to their immediate supervisor, the complaint must be forwarded to the Public Interest Disclosure Coordinator immediately. Confidentiality by supervisors must be maintained.

Members of the public

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These procedures complement Council's normal complaint handling process and members of the public are encouraged to contact Council under the complaints process in the first instance. If the matter involves improper conduct or detrimental action a member of the public may then wish to submit a public interest disclosure.

Confidentiality

Council will take all reasonable steps, in accordance with sections 52 and 53 of the Act, to protect and keep confidential the content of the disclosure and the identity of the person making it. Maintaining confidentiality is crucial in ensuring that reprisals are not made against a discloser.

The Act prohibits any person who receives information via a public interest disclosure from disclosing the content, or information about the content, of that disclosure, or the identity of the person making it, except in certain limited circumstances. Disclosure of information in breach of section 52 or 53 constitutes an offence that is punishable by a maximum fine of 120 penalty units or imprisonment for 12 months or both for a natural person and 600 penalty units for a body corporate.

The circumstances in which a person may disclose information obtained about a Public Interest disclosure include circumstances where:

- The discloser has given their consent, in writing, to the disclosure of their identity
- The IBAC has determined that an assessable disclosure is not a Public Interest disclosure (then the confidentiality provisions cease to apply)
- It is necessary for the purpose of the exercise of Council's functions under the Act;
- It is necessary for the purpose of obtaining legal advice
- It is necessary to use an interpreter for persons who require such assistance
- The information is disclosed to a parent or guardian of a person who is under 18 years of age or
- The information is disclosed to an independent person for the purpose of enabling a person who is suffering a disability to understand an obligation under the Act.

While Council is required to include certain information about Public Interest disclosures in its Annual Report, the Act prohibits the inclusion of particulars in any report or recommendation that are likely to lead to the identification of the discloser or the person who is the subject of the disclosure.

Council will ensure all files, whether paper or electronic, are kept in a secure space (online or physical) and can only be accessed by the Public Interest Disclosure Coordinator, Public Interest Disclosure Officer, or the Welfare Manager (in relation to welfare matters). The Welfare Manager will be given access only to those files which relate to the discloser in respect of whom, and the disclosure in respect of which, they have been appointed.

All printed material will be kept in files that are clearly marked as a Public Interest Disclosure Act matter and warn of the criminal penalties that apply to any unauthorised divulging of information concerning a public interest disclosure. All electronic files will be produced and stored in a secure

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online location with access permissions. All other types of materials relevant to public interest disclosure, such as tapes from interviews, will also be stored securely with the disclosure files.

Council will not email documents deemed private or sensitive to a public interest disclosure matter and will ensure all phone calls and meetings are conducted in private.

Collating and Publishing Statistics

Section 70 of the Act requires Council to include in its Annual Report, the number of public Interest disclosures notified to the IBAC during the preceding financial year.

For this purpose, the Public Interest Disclosure Coordinator will establish a secure register to record that information, and to generally keep account of the status of disclosures made to Council. The register will be confidential and will not record any information that may identify the discloser.

The register will contain the following information:

- The number and types of disclosures made to Council during the year
- The number of disclosures assessed by Council to be public interest disclosures and notified to the IBAC during the year
- The number and types of disclosures assessed by Council not to be Public Interest disclosures
- The numbers and types of Public Interest disclosures investigated, referred, or dismissed by the IBAC (to the extent that Council has access to that information) and
- Any recommendations made by the IBAC or the Ombudsman that relate to Council.

Receiving and Assessing Disclosures

Where a disclosure has been received by the Public Interest Disclosure Officer or the Public Interest Disclosure Coordinator, they will assess whether the disclosure has been made in accordance with Part 2 of the Act and is, therefore, a Public Interest disclosure.

Has the disclosure been made to the appropriate person?

For Council to treat the disclosure as a disclosure made under the Act, it must concern an employee, member, or officer of the Whittlesea City Council. A disclosure can be made:

- To the Chief Executive Officer
- To Council's Public Interest Disclosure Coordinator or a Public Interest Disclosure Officer
- If the person making the disclosure is an employee or officer of the Council, to an employee who directly or indirectly supervises or manages that person
- If the disclosure relates to an employee or officer of a Council, to an employee who directly or indirectly supervises or manages that person.

If the disclosure concerns a member, officer or employee of another public body, Council will endeavour to advise the person who has made the disclosure of the correct person or body to whom

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the disclosure should be directed (see the table in paragraph 5.2 above). If the disclosure has been made anonymously, it should be referred to the IBAC.

If a disclosure concerns a Councillor, it must be made to the IBAC or the Ombudsman. If a disclosure concerning a Councillor is made to Council, the discloser will be advised of the correct person to whom, or body to which, the disclosure should be directed.

Does the disclosure contain the essential elements of a Public Interest disclosure?

To be a Public Interest disclosure, a disclosure must satisfy the following criteria:

- Did a natural person (that is, an individual person rather than a corporation) make the disclosure?
- Does the disclosure relate to conduct of a member, officer or employee of Council acting in their official capacity?
- Is the alleged conduct either improper conduct or detrimental action taken against a person in reprisal for making a Public Interest disclosure?
- Does the person making the disclosure have reasonable grounds for believing that the alleged conduct has occurred?

Where a disclosure is received by a Public Interest Disclosure Officer, the Public Interest Disclosure Officer will make an initial assessment about whether it is a Public Interest disclosure. The Public Interest Disclosure Coordinator will determine whether the disclosure is a public interest disclosure.

Where the Public Interest Disclosure Coordinator determines that a disclosure is a Public Interest disclosure, they will notify the Public Interest disclosure to the IBAC. That notification must be made within 28 days of receiving the disclosure and the person making the disclosure must also be notified of it.

Where a disclosure is assessed not to be a public interest disclosure, Council must notify the person making the disclosure of that decision and the matter does not need to be dealt with under the Act. The Public Interest Disclosure Officer will decide how the matter should be responded to in consultation with the Public Interest Disclosure Coordinator, and the person making the disclosure will be advised of alternative complaint mechanisms available for addressing the allegations comprising the original disclosure.

In reaching a conclusion as to whether a disclosure is a Public Interest disclosure, the Public Interest Disclosure Coordinator will consider whether the disclosure would, if proved true, show, or tend to show, that the member, officer, or employee of Council to whom the disclosure relates:

- Has engaged, is engaging or proposes to engage in improper conduct in his or her capacity as a member, officer, or employee of Council or
- Has taken, is taking, or proposes to take detrimental action in reprisal for the making of the Public Interest disclosure.

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Where the Public Interest Disclosure Coordinator concludes that the disclosure amounts to a Public Interest disclosure, they will:

- Notify the person who made the disclosure of that conclusion and*
- Notify the disclosure to the IBAC for formal determination as to whether it is a public Interest disclosure complaint.

Managing the Welfare of the Discloser

Commitment to Protecting Disclosers

Council is committed to the protection of persons making genuine disclosures against detrimental action taken in reprisal for the making of Public Interest disclosures. The Public Interest Disclosure Coordinator is responsible for ensuring disclosers are protected from direct and indirect detrimental action, and that the culture of the workplace is supportive of public Interest disclosures being made.

The Public Interest Disclosure Coordinator will appoint a Welfare Manager (Chief People Officer or delegate) to all persons who have made a public Interest disclosure. The Welfare Manager will undertake the responsibilities set out in paragraph 6.5 above in respect of a discloser to whom they are appointed.

All employees will be advised that it is an offence for a person to take detrimental action in reprisal for a public Interest disclosure. The maximum penalty is a fine of 240 penalty units or two years imprisonment or both. The taking of detrimental action in breach of this provision can also be grounds for making a disclosure under the Act and can result in an investigation.

The Welfare Manager must not divulge any details relating to the disclosed matter to any person other than the Public Interest Disclosure Coordinator (or the Public Interest Disclosure Officer, as the case may be). All meetings between the Welfare Manager and the discloser must be conducted discreetly to protect the confidentiality of the disclosure and the discloser.

Other statutory protections (contained in the Act) applicable to a person who makes a public Interest disclosure include:

- Immunity from civil and criminal liability and disciplinary action for the making of the disclosure (section 39)
- Immunity from liability for breaching a confidentiality provision (section 40)
- Protection from actions in defamation (section 41)
- Provision of a statutory right to sue for damages for reprisals made (section 45)
- Provision of a statutory right to apply for reinstatement where detrimental action involves termination or variation of employment (section 46); and
- Provision of a statutory right to apply to the Supreme Court for an injunction or order requiring detrimental action to be remedied (section 49).

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Keeping the Discloser Informed

The Public Interest Disclosure Coordinator will ensure the discloser is kept informed of action taken in relation to his or her disclosure, and the time frames that apply. To the extent possible, the discloser will be informed of the conduct of an investigation (if any), the findings of an investigation, and the steps taken by Council to address any improper conduct that has been found to have occurred. All communication with the discloser will be in plain English.

Occurrence of Detrimental Action

If a discloser reports an incident of harassment, discrimination or adverse treatment that would amount to detrimental action taken in reprisal for the making of the disclosure, the Welfare Manager will:

- Record details of the incident
- Advise the discloser of his or her rights under the Act and
- Advise the Public Interest Disclosure Coordinator of the detrimental action.

The taking of detrimental action in reprisal for the making of a disclosure can be an offence against the Act as well as grounds for making a further disclosure. Where such detrimental action is reported, the Public Interest Disclosure Coordinator will assess the report as a new disclosure under the Act. Where the Public Interest Disclosure Coordinator is satisfied that the disclosure is a Public Interest disclosure, they will notify it to the IBAC for assessment and, if the IBAC sees fit, action.

Disclosers Implicated in Improper Conduct

Where a person who makes a disclosure is implicated in misconduct, Council will handle the disclosure and protect the discloser from reprisals in accordance with the Act and these procedures. Council acknowledges that the act of making a disclosure should not shield the person making the disclosure from the reasonable consequences flowing from any involvement in improper conduct.

Section 42 of the Act specifically provides that a person's liability for his or her own conduct is not affected by their disclosure of that conduct under the Act. However, in some circumstances, an admission may be a mitigating factor when considering disciplinary or other action.

The Chief Executive Officer will make the final decision, on the advice of the Public Interest Disclosure Coordinator, as to whether disciplinary or other action will be taken against a person making a disclosure. Where disciplinary or other action relates to conduct that is the subject of the relevant disclosure, the disciplinary or other action will only be taken after the disclosed matter has been appropriately dealt with.

In all cases where disciplinary or other action is being contemplated, the Chief Executive Officer must be satisfied that it has been clearly demonstrated that:

- The intention to proceed with disciplinary action is not causally connected to the making of the disclosure (as opposed to the content of the disclosure or other available information)

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- There are good and sufficient grounds that would fully justify action against any other person (i.e., not making the disclosure) in the same circumstances
- There are good and sufficient grounds that justify exercising any discretion to institute disciplinary or other action.

The Public Interest Disclosure Coordinator will thoroughly document the process, including recording the reasons why the disciplinary or other action is being taken, and the reasons why the action is not in retribution for the making of the disclosure. The Public Interest Disclosure Coordinator will clearly advise the discloser of the proposed action to be taken, and of any mitigating factors that have been considered.

Management of the Person Against Whom a Disclosure has been Made

Council recognises that employees against whom disclosures are made must also be supported during the handling of disclosures. Council will take all reasonable steps to ensure the confidentiality of the person who is the subject of the disclosure.

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

Misdirected Disclosures

The legislation provides a ‘no wrong door’ provision. This allows for a PID made to the wrong receiving entity to be redirected to another receiving entity, without the discloser losing the protections of the PID scheme where:

- The receiving entity must be ordinarily able to receive a PID
- The person making the disclosure must, in good faith, believe the receiving entity was the appropriate entity to receive the disclosure and
- The discloser will be notified that their disclosure was initially directed to the incorrect entity and will be forwarded.

As an example, if Whittlesea Council was incorrectly sent a disclosure that was meant for another Local Council, Whittlesea will direct that disclosure to the correct entity. Beyond the notification to the correct entity, Whittlesea will not disclose any information likely to reveal the identity of the person who made it.

External Disclosures

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‘External disclosures’ are defined as a PID made to a person/body who is not an entity which can normally receive a PID under the Act.

The purpose of External disclosures is to:

- Allow relief for people who have made a PID
- Are subject to confidentiality restrictions relating to that disclosure and
- In situations where the disclosure has not been adequately addressed.

It allows for people who have made a PID to make a further disclosure of the same subject matter to external parties if:

- The original disclosure was not made anonymously
- The original disclosure was determined to be a PIC and the discloser was notified of that; and
- One of the following applies:
 - The discloser has not been notified of any action within six months of determination as a PIC and not received a response 30 days after requesting an update on progress
 - An investigation has not been completed 12 months after a PIC is determined and the discloser has not received a response 30 days after requesting an update on progress
 - An investigation has not been completed 12 months after a PIC is determined and, even if discloser received a response within 30 days after requesting an update on the progress, the discloser received no further update advising the investigation had been completed six months after that response.

A discloser is to be made aware that an external disclosure must not contain information that may prejudice a criminal investigation, criminal proceeding, or other legal proceeding, nor disclose investigative methods used by IBAC or VicPol.

An example of an entity that can receive an external disclosure could be a Politician or a Journalist. The protections under the Act will also apply to external disclosures.

Criminal Offences

Council will ensure that officers appointed to handle public Interest disclosures and all other employees are aware of the following offences created by the Act:

- It is an offence for a person to take detrimental action against a person in *reprisal for a public Interest disclosure being made*. The Act provides a maximum penalty of a fine of 240 penalty units or two years imprisonment or both.
- It is an offence for a person to disclose information about the content of a Public Interest disclosure without legislative authority. The Act provides a maximum penalty of 120 penalty units or six months imprisonment or both for a natural person and 600 penalty units for a body corporate.

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- It is an offence for a person to obstruct IBAC Officers or the Ombudsman in the performance of their responsibilities under the Act. The Act provides a maximum penalty of 120 penalty units or 12 months imprisonment or both.
- It is an offence for a person to knowingly provide false information under the Act with the intention that it be acted on as a disclosed matter. The Act provides a maximum penalty of 120 penalty units or 12 months imprisonment or both.

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