

Public Interest Disclosures Policy

Corangamite Shire

August 2023



**CORANGAMITE
SHIRE**

Council Policy



Public Interest Disclosures

Introduction

The *Public Interest Disclosures Act 2012 (PID Act)* is a legislative framework to encourage and assist people to report improper conduct in the public sector, including by public bodies and public officers, and to report detrimental action that may be taken in reprisal for being involved in a disclosure. The PID Act provides protections for those who make a disclosure (**a discloser**) and ensures the confidentiality of disclosers and also the content of Disclosures.

The Independent Broad-based Anti-corruption Commission (**IBAC**) is Victoria's anti-corruption agency responsible for preventing and exposing public sector corruption and police misconduct. It is formed from the *Independent Broad-based Anti-Corruption Commission Act 2011 (IBAC Act)*.

Further information can be obtained from the IBAC website: www.ibac.vic.gov.au.

Council is committed to the aims and objectives of the PID Act. We recognise the value of transparency and accountability and will not tolerate improper conduct by the organisation, its employees or councillors. We support the making of disclosures that reveal improper conduct, or which reveal detrimental action taken against anyone who is involved in a disclosure.

Purpose

The purpose of this policy is to ensure that Corangamite Shire Council (**Council**) has an effective process for managing the receipt of protected disclosures and their assessment and notification. It also aims to provide protection for those who make a public interest disclosure, are the subject of a public interest disclosure, and those who might be cooperating in a public interest disclosure.

This policy should be read in conjunction with Council's *Making and Handling Public Interest Disclosures Procedures*, which have been developed to facilitate, handle and manage public interest disclosures, as well as to establish procedures for protecting people against detrimental action.

Scope

This policy applies to disclosures of improper conduct or detrimental action which concern the Council or its employees or councillors, and are made in accordance with the PID Act. Disclosures may be about conduct that has taken place in the past, is still occurring, or is believed is intended to be taken.

Any person or group of people (not an organisation or company) can make a disclosure under the PID Act about improper conduct by Council, councillors or employees. The individual or group of people could be from within the organisation or from the public.

Definitions

Detrimental Action: Action threatened or taken by a person or group of people against a person(s) in reprisal for their involvement in a protected disclosure.

Discloser: A person who makes a complaint, allegation or disclosure in accordance with the PID act

Disclosure: Any complaint, concern or allegation which is made in accordance with the PID Act and requires notification to the IBAC or relevant integrity agency.

Improper Conduct: The definition of improper conduct specifies the following categories:

- corrupt conduct;
- a criminal offence;
- serious professional misconduct;
- dishonest performance of public functions;
- an intentional breach or reckless breach of public trust;
- an intentional or reckless misuse of information;
- a substantial mismanagement of public resources;
- a substantial risk to the health or safety of a person;
- a substantial risk to the environment;

- Conduct of any person that adversely affects the honest performance by a public officer of their functions.
- 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.

Misdirected Disclosure: 'No wrong door' provisions. A Public Interest Disclosure made to the wrong receiving entity can be redirected to another receiving entity, without the discloser losing the protections of the PID Act.

Public Interest Complaint: A disclosure which has been determined and assessed by IBAC to be a protected disclosure in accordance with Part 2 of the PID Act.

Public Interest Disclosures Procedure: Procedures established by Council to facilitate and encourage the making or disclosures under the PID Act, the management of disclosures by Council, and to describe how Council will manage the welfare of persons connected with protected disclosures.

Public Officer: Public office includes but is not limited to Local Government Councillors and Council employees or officers.

Public Body: A public sector body within the meaning of section 4(1) of the *Public Administration Act 2004* (Vic), or a Council established under the *Local Government Act 1989* (Vic) or a body performing a public function on behalf of the State.

References

The primary legislative obligations applying to Council's treatment of protected disclosures are contained in the PID Act and the IBAC Act. Other relevant legislation, guidelines and sources are listed below:

- Council's *Making and Handling Public Interest Disclosure Procedures*;
- Council's Employee Code of Conduct;
- Council's Councillor Code of Conduct;
- *Local Government Act 2020* (Vic);
- *Victorian Charter of Human Rights and Responsibilities 2006*;
- *IBAC Guidelines for handling public interest disclosures January 2020*; and
- *IBAC Guidelines for public interest disclosure welfare management January 2020*

Policy Detail

Council has obligations under the PID Act which it takes very seriously, including the requirement to protect the identity of a discloser and the matters raised by a discloser. Maintaining confidentiality in relation to public interest disclosures is critical in ensuring reprisals are not made against a discloser.

Council will take all reasonable steps to protect people who make public interest disclosures from any detrimental action in reprisal for making a disclosure. It will also afford natural justice to the person who is the subject of the disclosure.

Council has developed processes and procedures to manage disclosures, including misdirected disclosures, and including notifications to IBAC. Council has also established procedures to protect people against detrimental action that might be taken against them in reprisal for making a public interest disclosure, or against people cooperating with a public interest complaint investigation.

Council will:

- Have a secure management system for the handling, storage and notification of public interest disclosures including the identification of the roles and responsibilities of those in the reporting structure;
- Have a secure process for receiving disclosures including misdirected disclosures;
- Have a secure means of notifying IBAC of assessable disclosures;
- Ensure mandatory notification to IBAC by the CEO of any matter the CEO suspects on reasonable grounds to involve corrupt conduct occurring or having occurred;
- Have Public Interest Disclosure Procedures that are accessible to the public and to employees and councillors;
- Have appropriate education and training for councillors and employees to raise awareness in relation to the PID Act;
- Have appropriate education and training for relevant staff in the receipt, handling, assessment and notification of disclosures, and in the welfare management of those associated with a protected disclosure;
- Ensure the confidentiality of information received or obtained in connection to a protected disclosure;
- Take the appropriate disciplinary action and/or other action against any employees who are engaged in detrimental action; and

- Have a way to collect and collate statistics on public interest disclosures for the purpose of annual reporting

Review Date

August 2027

It is considered that this Policy does not impact negatively on any rights identified in the *Charter of Human Rights and Responsibilities Act 2006*.

No significant or direct public impact – No GIA undertaken.

The *Gender Equality Act 2020* requires Council to undertake gender impact assessments when developing or reviewing any policy, program or service which has a direct and significant impact on the public. This policy **will not** have a direct and significant public impact and a Gender Impact Assessment has not been undertaken.