

# Public Interest Disclosure Procedure

<b>Approval date:</b>	20/12/2022
<b>Review cycle:</b>	Every four years or upon significant change to the Act, the Regulations or IBAC's guidelines.
<b>Review Date:</b>	20/12/2026
<b>Responsible Officer:</b>	Chief Executive Officer
<b>Owner:</b>	Governance
<b>Responsible Director:</b>	Corporate Performance
<b>Relevant Legislation:</b>	<i>Public Interest Disclosures Act 2012 (Vic)</i> <i>Local Government Act 2020 (Vic)</i> <i>Independent Broad-based Anti-corruption Commission Act 2011 (Vic)</i>
<b>DOCSETID:</b>	3119555

## 1. 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 City or its employees.

These procedures explain:

- (a) what a disclosure is;
- (b) how to make a disclosure;
- (c) how the City will assess and manage a disclosure; and
- (d) how the City will manage and protect the person making a disclosure.

## 2. BACKGROUND

The City supports a workplace culture where people can feel safe to speak up without fear of reprisal. It is imperative that people who report Improper Conduct and corruption can do so knowing they will be protected from reprisal or Detrimental Actions.

The *Public Interest Disclosures Act 2012 (Vic)* (**Act**) came into effect on 1 January 2020. The Act supports the City's commitment to the principles of open, honest and accountable governance. The Act provides protections for people who make disclosures about improper conduct and detrimental action in the public sector (commonly known as 'whistleblowers').

For complaints that do not meet the criteria for a Public Interest Disclosure, the discloser should follow the process outlined in the City's Complaint Handling Policy.

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### 3. SCOPE

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

Note: All disclosures about Councillors must be made directly to IBAC or the Victorian Ombudsman. Disclosures about Councillors cannot be made to the City.

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### 4. WHAT IS A PUBLIC INTEREST DISCLOSURE?

4.1 Public interest disclosures are disclosures about:

- (a) **improper conduct** of public bodies (such as the City) or public officers (such as Councillors or City employees); or
- (b) **detrimental action** that a public officer or public body has taken against a person in reprisal for them (or another person) having made a public interest disclosure or cooperated with the investigation of a public interest disclosure.

4.2 A public interest disclosure can relate to conduct or action that may have already taken place, may be occurring now or may happen in the future.

4.3 Someone can still make a disclosure even if they can't identify the person or the organisation to which the disclosure relates.

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### 5. WHAT IS IMPROPER CONDUCT?

5.1 The Act defines improper conduct as corrupt conduct or any of the following conduct by a public officer or public body in their capacity as a public officer or public body:

- (a) criminal offence;
- (b) serious professional misconduct;
- (c) dishonest performance of public functions;
- (d) intentional or reckless breach of public trust;
- (e) an intentional or reckless misuse of information or material acquired in the course of the performance of public functions;
- (f) a substantial mismanagement of public resources;
- (g) a substantial risk to health or safety of a person;
- (h) a substantial risk to the environment;
- (i) conduct by a third party that adversely affects the honest performance of a public officer or public body or is intended to adversely affect effective performance of a public officer or public body while obtaining an advantage for the third party; or
- (j) conduct by a third party that could constitute a conspiracy or attempt to engage in any of the above.

5.2 Common examples of improper conduct include (this list is not exhaustive):

- taking or offering bribes;
- using internal information to buy farmland that is later rezoned for housing;
- stealing or taking items from work without proper permission;
- contractors lying about their qualifications to win a City contract;
- using City credit cards to pay for holidays or non-work related items;
- suppliers or contractors claiming payment for work that was never delivered;
- employees receiving 'kickbacks' for giving City jobs to people;
- employees falsely declaring they have no conflict of interest when they do;
- selling a list of ratepayers' personal details online;
- employees engaging friends as contractors or employees without proper process;
- dishonestly using influence; and
- committing fraud, theft or embezzlement.

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## **6. WHAT IS DETRIMENTAL ACTION?**

6.1 It is an offence for a person to take, threaten to take or allow another person to take detrimental action against another person in reprisal for making a public interest disclosure.

6.2 Detrimental action includes:

- (a) action causing injury, loss or damage;
- (b) intimidation or harassment;
- (c) discrimination, disadvantage or adverse treatment in relation to a person's employment, career, profession, trade or business, including the taking of disciplinary action; or
- (d) threatening to take any of the above action or inciting or permitting someone else to do so.

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## **7. MAKING A PUBLIC INTEREST DISCLOSURE**

7.1 Who can make a disclosure?

- (a) Anyone can make a disclosure about improper conduct or detrimental action - both members of the public and employees of a public body. A company or business cannot itself make a public interest disclosure, but its officers or employees can.
- (b) A disclosure can be made as an individual or with a group of individuals who are making joint disclosures.

- (c) A disclosure can be made anonymously (i.e. by using an unverifiable email address or through an anonymous phone call).

## 7.2 Who can receive the disclosure?

- (a) You may make your disclosure to the relevant person or body listed in the table below.

Person who is the subject of the disclosure	Person/body to whom the disclosure can be made
A <b>public officer</b> of the City (excluding a Councillor), such as an employee, contractor or volunteer.	<p>You can make your disclosure to:</p> <p><b>IBAC</b>  Level 1, North Tower  459 Collins Street  Melbourne Vic 3000  Telephone: 1300 735 135  Postal address: GPO Box 24234, Melbourne Vic 3001  Website: <a href="https://www.ibac.vic.gov.au/reporting-corruption/report/complaints-form">https://www.ibac.vic.gov.au/reporting-corruption/report/complaints-form</a></p> <p><b>Public Interest Disclosure Coordinator</b>  Mr Anthony Petherbridge  Acting Manager Governance  Greater Bendigo City Council  189-229 Lyttleton Tce  Bendigo Vic 3550  Email: a.petherbridge@Bendigo.vic.gov.au</p> <p>There are several internal positions which are also authorised to receive your disclosure.</p>
	<p><b>CEO</b>  Mr Andrew Cooney  Greater Bendigo City Council  189-229 Lyttleton Tce  Bendigo Vic 3550  Email: a.cooney@bendigo.vic.gov.au</p>
	<p><b>Public Interest Disclosure Officer</b>  Mr Ryan Millard  Coordinator Legal Services  Greater Bendigo City Council  189-229 Lyttleton Tce  Bendigo Vic 3550  Email: r.millard@bendigo.vic.gov.au</p>
	<p><b>Your manager</b> (for staff)</p>
	<p><b>The manager of the person subject to the disclosure</b> (for staff)</p>

<p><b>A Councillor</b></p>	<p>You can make your disclosure to either IBAC <b>or</b> the Victorian Ombudsman. Details are directly below:</p> <p><b>IBAC</b>  Level 1, North Tower  459 Collins Street  Melbourne Vic 3000  Telephone: 1300 735 135  Postal address: GPO Box 24234, Melbourne Vic 3001  Website: <a href="https://www.ibac.vic.gov.au/reporting-corruption/report/complaints-form">https://www.ibac.vic.gov.au/reporting-corruption/report/complaints-form</a></p> <p><b>Victorian Ombudsman</b>  Level 9, North Tower  459 Collins Street  Melbourne VIC 3000  Telephone: 03 9613 6222  Website: <a href="http://www.ombudsman.vic.gov.au">www.ombudsman.vic.gov.au</a>  Email: <a href="mailto:ombudvic@ombudsman.vic.gov.au">ombudvic@ombudsman.vic.gov.au</a></p>
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***Note:** If the named Public Interest Disclosure Coordinator, Public Interest Disclosure Officer or CEO leave the City, or move into other roles unsuited to retaining their responsibilities under this procedure, the person taking over the role of CEO, Manager Governance or Coordinator Legal Services (as the case may be) will assume the relevant role in this procedure.*

*This document will be updated to include relevant contact details as soon as possible and that change will be made administratively without requirement for re-endorsement by the City's Executive Management Team.*

(b) Public Interest Disclosure Coordinator

The Public Interest Disclosure Coordinator is the primary contact at the City for making a public interest disclosure as they have a central role in the internal reporting system and will:

- be the contact point for external and internal persons making disclosures and has the authority to make enquiries of officers within the organisation;
- receive disclosures from the Public Interest Disclosure Officer and Authorised Persons listed in the table above;
- make arrangements for a disclosure to be made privately and discreetly and (if necessary), away from the workplace;
- commit to writing any disclosure made orally;
- be a contact point for general advice about the operation of the Act and for integrity agencies such as IBAC;
- assess each disclosure impartially to determine whether it is a public interest disclosure and whether the disclosure should be notified to IBAC for assessment;

- take all necessary steps to ensure the identity of the person making a public interest disclosure and the identity of the person who is the subject of the disclosures are kept confidential at all times;
- advise the discloser, appropriately and in accordance with the Act, the progress of the disclosure and the stage reached at a given time (whether it has been notified to the IBAC for assessment etc);
- liaise with IBAC with regards to the Act;
- coordinate the centralised reporting system used by the City;
- be responsible for ensuring the City carries out its responsibilities under the Act and IBAC guidelines;
- liaise with the CEO of the City;
- collate statistics on disclosures made;
- establish and manage a confidential filing system; and
- offer a designated Welfare Manager to support and manage the welfare of the discloser and to protect them from any detrimental action taken in reprisal for making a public interest disclosure.

(c) Public Interest Disclosure Officer

If you make your disclosure to the Public Interest Disclosure Officer, they will:

- make arrangements for a disclosure to be made privately and discreetly and, if necessary, away from the workplace;
- receive any disclosure made orally or in writing from internal or external sources;
- commit to writing any disclosure made orally;
- forward all disclosures and supporting evidence to the Public Interest Disclosure Coordinator for further action in accordance with the Act;
- take all necessary steps to ensure the information disclosed, including the identity of the discloser and any persons involved, is secured, remains private and confidential;
- offer to remain a support person for the discloser in dealing with the Public Interest Disclosure Coordinator; and
- act in the role of Public Interest Disclosure Coordinator in the absence or unavailability of that officer.

(d) Managers and the CEO

If you make a disclosure to the CEO, your manager or the manager of the person subject to the disclosure, they will:

- immediately bring the matter to the attention of the Public Interest Disclosure Coordinator for further action in accordance with the Act;
- commit to writing any disclosures made orally;
- take all necessary steps to ensure the information disclosed, including the identity of the discloser and any persons involved, is secured and remains private and confidential; and
- offer to remain a support person for the discloser in dealing with the Public Interest Disclosure Coordinator.

(e) Misdirected disclosures

If the City receives a disclosure about an employee, officer or member of another public body, the City will advise the person making the disclosure of the correct person or body to whom the disclosure must be made.

### 7.3 How can a public interest disclosure be made?

- (a) A disclosure must be made in accordance with Part 2 of the Act. Part 2 of the Act permits a person to make a disclosure verbally or in writing. The disclosure may also be anonymous.

Private verbal disclosure	<p>A verbal disclosure may be made in person, by telephone or by leaving a voicemail.</p> <p><b>Verbal disclosures must be made in private.</b> This means that you must reasonably believe that only the following people (other than you) are present or able to listen to the conversation:</p> <ul style="list-style-type: none"> <li>• a lawyer representing you (if there is one, however this is not strictly required to make a disclosure)</li> <li>• one or more people to whom a disclosure can be made</li> </ul> <p>This does not preclude a group of individuals from making a joint disclosure.</p> <p>If the disclosure is made verbally, the person receiving the disclosure should make notes at the time. This person can also record the conversation, but should give prior warning that the conversation will be recorded. The conversation should not be recorded if the discloser objects.</p>
Written disclosure	<p>A written disclosure can be made by:</p> <ul style="list-style-type: none"> <li>• delivering it in person to the City office located at 15 Hopetoun Street, Bendigo Victoria;</li> <li>• mailing it to the City of Greater Bendigo, PO Box 733 Bendigo, Vic 3552;</li> <li>• emailing to the email address of the Public Interest Disclosure Coordinator <a href="mailto:j.clarkehong@Bendigo.vic.gov.au">j.clarkehong@Bendigo.vic.gov.au</a>, or to the official email address of an Authorised Person nominated to receive a disclosure</li> </ul>

	<ul style="list-style-type: none"> <li>• completing online forms available on the IBAC website or the Victorian Ombudsman website.</li> </ul> <p>A disclosure cannot be made by fax.</p> <p>Written disclosure must be sealed in an envelope which is clearly marked with one or more of the following:</p> <ul style="list-style-type: none"> <li>• “To the personal attention of the Public Interest Disclosure Coordinator”;</li> <li>• “Re: Public Interest disclosure”; or</li> <li>• “Private and Confidential: for Addressee Only”</li> </ul> <p>Where a public interest disclosure is sent via email, it is recommended that the subject line refer to ‘Public Interest Disclosure’.</p>
Anonymous disclosure	<p>A person doesn’t need to identify themselves to make a disclosure.</p> <p>An anonymous disclosure can be made by using unverifiable email addresses, through anonymous phone calls, or in a face-to-face conversation or meeting where the person refuses to identify themselves (provided the meeting or conversation takes place in private in accordance with the <i>Public Interest Disclosure Regulations</i>).</p> <p>If the disclosure comes from an email address where the identity of the person making the disclosure cannot be determined, the disclosure should be treated as an anonymous disclosure.</p>

(b) Keep your disclosure private

For the protections of the Act to apply a public interest disclosure **must** be made in private so it is imperative that you are only making your disclosure to the Public Interest Disclosure Coordinator or another authorised person/body. If your disclosure is made to someone who is not authorised to receive it, your disclosure will not be a public interest disclosure and you will not be protected under the Act.

Where in doubt, you should always make your disclosure directly to IBAC.

(c) Disclosures which may not be protected

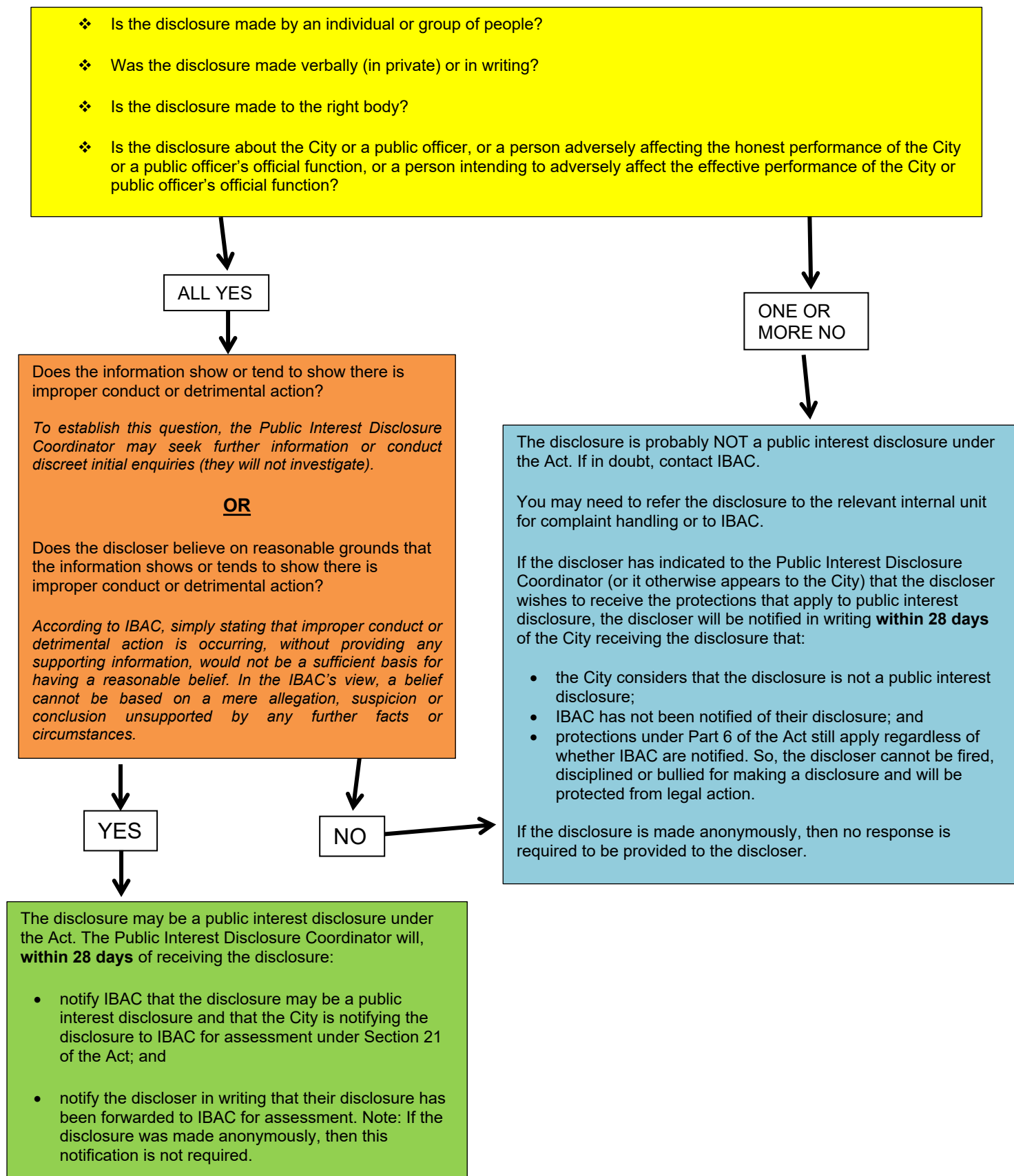
Your disclosure **may not** be protected under the Act if:

- you have made a disclosure to someone other than the Public Interest Disclosure Coordinator or a relevant person/body listed in the Reporting Table (Fig.1);
- the discloser expressly states in writing at the time the disclosure is made that it is not a disclosure for the purposes of the Act;
- the disclosure is made by an officer or employee of an investigative entity in the course of his or her duties or functions unless the person expressly states in writing at the time the disclosure is made that it is a disclosure and the disclosure is otherwise made in accordance with the Act; or
- the disclosure does not meet all the requirements under Part 2 of the Act and the prescribed guidelines.



## 8. HANDLING DISCLOSURES

The following flowchart explains how the City will assess and action each disclosure:



## 8.1 Can a discloser ask that a complaint not be dealt with as a public interest disclosure?

Yes. A discloser can advise that they do not want the disclosure treated as a public interest disclosure by stating so in writing at the time of making the disclosure or within 28 days of making the disclosure.

## 8.2 If urgent action is required while assessing the disclosure

- (a) In some situations, the disclosure may be about conduct that may pose an immediate threat to the health and safety of individuals, preservation of property or may consist of serious criminal conduct. Examples could include a public officer lighting bush fires or threatening to poison the water supply or a child protection worker allegedly sexually assaulting children in care.
- (b) In these situations, the City can take immediate action while considering whether or not the disclosure is an assessable disclosure that should be notified to IBAC or where IBAC is assessing the disclosure. The appropriate action could include reporting the content of the disclosure to Victoria Police for immediate investigation or taking management action against an employee to prevent future conduct.
- (c) While the Act limits the release of information about disclosures, section 52(3)(a)(iii) of the Act allows the City to disclose the content of the disclosure *"to the extent necessary for the purpose of taking lawful action in relation to the conduct that is the subject of the assessable disclosure including a disciplinary process or action"*. However, the identity of the discloser must remain confidential.

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## 9. **ASSESSMENT BY IBAC**

### 9.1 Disclosure that **is not** deemed a public interest disclosure complaint

- (a) Once the City notifies the disclosure to IBAC, IBAC must determine whether it is, in its view, a public interest disclosure complaint. IBAC must inform the City of its determination as to whether the disclosure is a public interest disclosure complaint in writing and within a reasonable time after making the determination. In making its assessment, IBAC may seek additional information from the City or from the discloser if IBAC considers there is insufficient information to make a decision.
- (b) If IBAC determines the disclosure **is not** a public interest disclosure complaint, IBAC must advise the discloser in writing and within a reasonable time that:
  - (i) IBAC has determined that the disclosure is not a public interest disclosure complaint;
  - (ii) the disclosure will not be investigated as a public interest disclosure complaint;
  - (iii) their identity does not have to be kept confidential; and
  - (iv) regardless of whether IBAC has determined that the disclosure is a public interest complaint, the protections under Part 6 apply to a public interest disclosure.
- (c) IBAC will advise the City of its determination and the matter will then be handled by the City as a complaint in accordance with its Complaint Handling Policy.

- (d) IBAC may also consider treating the disclosure as a complaint under the IBAC Act which engages its powers to refer the matter to a more appropriate agency to investigate, including the agency the complaint is about. IBAC will consult with the discloser prior to doing so.

## 9.2 Disclosure that **is** deemed a public interest disclosure complaint

- (a) If IBAC determines that the disclosure **is** a public interest disclosure complaint, IBAC will decide whether to:
- (i) dismiss the disclosure;
  - (ii) investigate the disclosure; or
  - (iii) refer the disclosure to another body for investigation, such as Victoria Police or the Ombudsman.
- (b) If IBAC decides to investigate or refer the complaint it must provide a written statement advising the discloser that it is an offence to disclose IBAC's action.
- (c) IBAC must advise the discloser in writing and within a reasonable time.
- (d) Regardless of whether IBAC has determined that the disclosure is a public interest complaint, the protections under Part 6 apply to the discloser.
- (e) IBAC may decide not to notify the discloser or the entity that has notified the disclosure if it considers that notifying would cause the adviser consequences set out in section 49(4) of the Act. These consequences include prejudging an investigation or risk to health and safety.

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## 10. **WELFARE MANAGEMENT**

### 10.1 Appointment of a Welfare Manager

- (a) In appropriate circumstances, the City will appoint a suitable Welfare Manager to protect a discloser or a co-operator (someone who cooperates or intends to cooperate with an investigation of a disclosure). A Welfare Manager's role is to monitor the specific needs of the discloser or cooperate and provide them with practical advice and support.
- (b) The following questions should be considered by the City in deciding if a Welfare Manager needs to be appointed:
- Are there any real risks of detrimental action against the person, taking into account their particular circumstances?
  - Can the City ensure that it will take the person seriously and treat them with respect?
  - Can the City ensure that it will give the person effective support? (This includes keeping them informed of the status of their disclosure).
  - Can the City protect the person from suffering repercussions by dealing with the matter discreetly and confidentially?

- Can the City respond swiftly and fairly to any allegations the person has, in fact, suffered retribution?
- (c) If the answer to the first dot point question above is 'yes' then IBAC recommends the appointment of a Welfare Manager. If the answer to the first question is 'no' and the City can meet the needs set out in the remainder of the questions, IBAC suggests there may be no need for a Welfare Manager to be appointed for that case.
- (d) In most circumstances, a Welfare Manager will only be required where a public interest complaint proceeds to investigation, but each public interest disclosure received by the City will be assessed on its own merits. A Welfare Manager will be appointed where the City believes that one is required to ensure that the appropriate support can be provided to the discloser or co-operator. If appointed, the Welfare Manager will, in addition to providing the general support:
- examine the immediate welfare and protection needs of a person making a disclosure and seek to foster a supportive work environment;
  - advise the discloser or co-operator of the legislative and administrative protections available to him or her;
  - listen and respond to any concerns of harassment, intimidation or victimisation in reprisal for making a disclosure;
  - not divulge any details relating to the public interest disclosure to any person other than the Public Interest Disclosure Coordinator or the Chief Executive Officer;
  - ensure all meetings between the Welfare Manager and the discloser or co-operator are conducted discreetly to protect the person from being identified as being involved in the public interest disclosure;
  - keep contemporaneous records of all aspects of the case management of the person making the disclosure, including all contact and follow up action; and
  - ensure the expectations of the discloser are realistic and reasonable, and that the discloser or co-operator understands the limits of the support the City is able to reasonably provide in the particular circumstances. This is particularly the case where a Welfare Manager has been appointed in relation to an external discloser or co-operator.

## 10.2 Welfare management of persons who are the subject of the public interest disclosures

- (a) The City will afford natural justice to the subject of a disclosure prior to any decision being made about the allegations. If the matter has been investigated by an investigating entity, then the investigating entity will be responsible for ensuring consultations with the subject include the provision of natural justice to him or her. It is important to remember that until a public interest complaint is resolved, the information about the person is only an allegation.
- (b) The City will also meet the welfare needs of a person who is the subject of a public interest disclosure. The City will make a decision about whether or when the subject of a disclosure will be informed about a public interest disclosure involving an allegation made against them. It is possible that the subject of the disclosure may never be told about the disclosure if it is

not determined to be a public interest complaint, or if a decision is made to dismiss the disclosure.

- (c) The Act limits the disclosure of information about the content of an assessable disclosure and the identity of the discloser to certain specified circumstances set out in Part 7 of the Act. The City may give information about the disclosure to the subject of the disclosure if it is directed or authorised to do so by the relevant investigating entity, or for the purpose of taking action with respect to the conduct alleged, including disciplinary action.
- (d) Investigating entities may also inform the subject of the public interest complaint in the course of their investigation of the fact that the investigation is being conducted and of any actions that they propose to take as a result of the investigation.
- (e) The person who is the subject of a disclosure and is made aware of their status as such may have a Welfare Manager appointed by the City. Alternatively, the Public Interest Disclosure Coordinator will provide support and advice to a person the subject of a disclosure, particularly in relation to their rights and obligations under the Act, City's internal reporting system, these procedures, and any other relevant law or code of conduct. The City will consider each matter on a case by case basis, taking into account the particular circumstances of the person and the disclosure.

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## **11. PROTECTIONS FOR PERSONS MAKING A PUBLIC INTEREST DISCLOSURE**

### **11.1 Protections available to disclosers**

- (a) Part 6 of the Act sets out the protections provided to persons who make a disclosure that is a 'public interest disclosure', that is, one that is made in accordance with Part 2 of the Act. In summary, they are as follows:
  - (i) the discloser is not subject to any civil or criminal liability for making the public interest disclosure;
  - (ii) the discloser is not subject to any administrative action (including disciplinary action) for making the public interest disclosure;
  - (iii) by making the public interest disclosure, the whistle-blower is not committing an offence against the Constitution Act 1975 or any other law that imposes obligations of confidentiality or otherwise restricts the disclosure of information;
  - (iv) by making the public interest disclosure, the discloser is not breaching any other obligation (made by oath, rule of law or practice) requiring them to maintain confidentiality; and
  - (v) the discloser cannot be held liable for defamation in relation to information included in a public interest disclosure made.
- (b) The protections in Part 6 apply from the time at which the disclosure is made. They apply even if the City does not notify the disclosure to the IBAC, and even if the IBAC has determined that the public interest disclosure is not a public interest disclosure complaint. The protections also apply to further information relating to a public interest disclosure made by the original discloser, if further information has been provided verbally or in writing, to:
  - (i) the entity to which the public interest disclosure was made;

- (ii) the IBAC; or
- (iii) any investigative entity investigating the public interest disclosure.

#### 11.2 Limitations on protections

- (a) Several protections in Part 6 of the Act do not apply if a discloser:
  - (i) provides information intending that it be acted on as a public interest disclosure, or further information that relates to a public interest disclosure, knowing it to be false;
  - (ii) claims that a matter is subject of a public interest disclosure knowing the claim to be false; or
  - (iii) falsely claims that a matter is the subject of a disclosure that IBAC has determined to be a public interest disclosure complaint.
- (b) A person who makes a disclosure is not protected against legitimate management action being taken in relation to them.

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## 12. CONFIDENTIALITY

The Act imposes several confidentiality requirements in relation to the receipt and handling of assessable disclosures to minimise the risks of detrimental action for making a disclosure. Breaching these confidentiality restrictions, without lawful excuse, is an offence.

#### 12.1 The content of a public interest disclosure must be kept confidential

- (a) The Act prohibits the disclosure of the content, or information about the content, of any disclosure that has been assessed as a public interest disclosure.
- (b) This restriction applies to a person or body that receives a disclosure or is provided information about the disclosure by an investigating entity assessing or investigating it.
- (c) This restriction does not apply to the discloser.

#### 12.2 The identity of a person making a public interest disclosure must be kept confidential

- (a) The Act prohibits the disclosure of information that would be likely to lead to the identification of a person who has made a public interest disclosure.
- (b) This restriction applies to any person or body, other than the discloser.

#### 12.3 Exceptions to confidentiality requirements

There are certain circumstance where the confidentiality requirements do not apply:

- when a body is exercising its functions under the Act;
- it is disclosed by an investigating entity for the purpose of the exercise of functions under the Act that authorises that investigating entity to investigate a public interest complaint;

- IBAC, the Victorian Inspectorate or the Integrity and Oversight Committee determines the disclosure is not a public interest complaint;
- when a disclosure is to Victoria Police where an investigating entity has previously disclosed information to the Chief Commissioner of Police relating to actual or potential criminal conduct and the information is relevant to an investigation by Victoria Police of the criminal conduct;
- it is for the purpose of a proceeding or for a disciplinary process under a relevant legislation;
- the disclosure is necessary for the discloser to obtain legal advice or representation, interpretive services, the advice of a parent or guardian (for disclosers under 18 years), the advice of an independent person (for disclosers who are illiterate or have mental or physical impairments);
- the disclosure is for the purpose of assisting the discloser to seek advice or support from a registered health practitioner or trade union or employee assistance program;
- where the disclosure is in accordance with a direction or authorisation from the investigating entity that is investigating the public interest complaint;
- where the disclosure is necessary for taking lawful action in relation to the conduct that is the subject of the disclosure; or
- where the discloser gives written consent to waive confidentiality.

#### 12.4 Steps taken by the City to ensure confidentiality

##### (a) Receipt of disclosures

- (i) Any staff of the City receiving telephone calls that appear to amount to a public interest disclosure or public interest disclosure enquiry must not enquire into the circumstances of the disclosure and must refer the caller to the Public Interest Disclosure Coordinator or Public Interest Disclosure Officer.
- (ii) The contents of disclosure telephone calls or mail are confidential and a person divulging any matter relating to a disclosure will be subject to prosecution for offences and any penalties under the Act.
- (iii) If the disclosure is received in the mail or in some other written form, the letter must be immediately and personally delivered to the Public Interest Disclosure Coordinator without opening it or recording any details of the letter in any correspondence system (such as ECM). Hard copy documents will not be delivered by internal mail to a generally accessible area.

##### (b) Information management

- (i) The City will ensure all files are securely stored. Those files will be accessible only by the Public Interest Disclosure Coordinator, the Public Interest Disclosure Officer or the Welfare Manager (if one is appointed) involved in a particular matter.



- (ii) All printed and electronic material will be kept in files that are clearly marked as Public Interest Disclosure Act matters and, where possible, warn of the criminal penalties that apply to any unauthorised access, use or divulging of information concerning a public interest disclosure;
- (iii) All meetings between any relevant persons, including Public Interest Disclosure Coordinator, the Welfare Manager and disclosers will be conducted discreetly to protect the confidentiality of the person making a public interest disclosure.
- (iv) Where necessary, a Welfare Manager may be able to gain access (where appropriate) to related welfare matters. The Welfare Manager will not divulge any details relating to the disclosed matter to any person other than the Public Interest Disclosure Coordinator or an investigator appropriately authorised under the Act or the *Independent Broad-based Anti-corruption Commission Act 2011* (Vic).
- (v) The City will not use unsecured email to transmit documents in connection with a disclosure and will ensure all telephone calls in connection to disclosures are conducted privately and in the strictest of confidence.
- (vi) The Act provides that information held in relation to public interest disclosures is not subject to the *Freedom of Information Act 1982* (Vic).

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### 13. OFFENCES

Taking disciplinary or other action against a person who has made a disclosure creates the perception that it is being taken in reprisal for the disclosure. Where disciplinary or other action is being contemplated, the Chief Executive Officer or other responsible public officer must be able to clearly demonstrate that:

- the fact that a person has made a public interest disclosure is not any part of the reason for taking action against the employee;
- there are good and sufficient grounds that would fully justify action against any other person in the same circumstances;
- there are good and sufficient grounds that justify exercising any discretion to institute disciplinary or other action.

If the City cannot demonstrate the above conditions have been met, it leaves itself open to allegations of taking detrimental action against a person for having made a disclosure.

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### 14. COLLATING AND PUBLISHING STATISTICS

Council is required to publish certain statistics about the Act in its annual reports. That information relates mainly to how these procedures may be accessed, and the number of disclosures notified to the IBAC for assessment under s 21 of the Act during the financial year.

The Public Interest Disclosure Coordinator will establish a secure register to record such information, and to generally keep account of the status of disclosures made under the Act. The Act prohibits the inclusion of any details, in any report or recommendation, that is likely to lead to the identification of a discloser.



The Act also prohibits the identification of the person who is the subject of the disclosure in any particulars included in an annual report or any reports to Parliament.

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## 15. RELATED POLICIES AND PROCEDURES

- The City's Complaint Handling Policy
- The City's Fraud and Corruption Policy
- IBAC's Guidelines for handling public interest disclosures
- IBAC's Guidelines for public interest disclosure welfare management

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## 16. DOCUMENT HISTORY

<b>Date Approved</b>	<b>Responsible Officer</b>	<b>Unit</b>	<b>Change Type</b>	<b>Version</b>	<b>Next Review Date</b>
<i>May 2013</i>	<i>CEO</i>	<i>Governance</i>	<i>Develop</i>	1	<i>2015</i>
<i>June 2020</i>	<i>CEO</i>	<i>Governance</i>	<i>Review</i>	2	<i>2022</i>
<i>December 2022</i>	<i>CEO</i>	<i>Governance</i>	<i>Review</i>	3	<i>2026</i>
<i>October 2024</i>	<i>CEO</i>	<i>Governance</i>	<i>Administrative change – new CEO and Governance Manager</i>	4	<i>2026</i>