

Public Interest Disclosure Procedures



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RESPONSIBLE EXECUTIVE	General Manager Corporate Services
POLICY OWNER	Manager Governance

1. Purpose

This procedure outlines how to make a Public Interest Disclosure. Council are committed to effective management of Public Interest Disclosures as reflected in the Good Governance Framework cornerstone; 'Integrity – Live it'.

This procedure describes:

- how to report improper conduct or detrimental action by Council or its employees.
- how reports are managed, assessed and notified to the Independent Broad-based Anti-corruption Commission (IBAC)
- welfare and support for individuals or groups who make a disclosure
- the protections afforded under the Public Interest Disclosure Act

2. Scope

This procedure applies to individuals and groups, both internal and external to Council who report serious improper conduct or detrimental action by Councillors and staff.

3. Definitions

Act:	Public Interest Disclosure Act 2012
Assessable disclosure:	Any disclosure received by Council that must be notified to IBAC. This includes any disclosure that Council considers may be a public interest disclosure
CEO:	Chief Executive Officer
Council:	Kingston City Council
discloser:	A person who makes a public interest disclosure under the Act
disclosure:	any complaint, concern, matter, allegation or disclosure (however described) made in accordance with Part 2 of the Act
EAP:	Employee Assistance Program
Guidelines:	The Guidelines published by IBAC under s 57 of the Act, available from: Guidelines for handling public interest disclosures. Guidelines for public interest disclosure welfare management

IBAC Act:	Independent Broad-based Anti-corruption Commission Act 2011
IBAC:	Independent Broad-based Ant-corruption Commission
Manager:	Manager of a Council department
Public interest complaint:	A disclosure that is assessed by IBAC to be a public interest complaint
Public interest disclosure:	Any report, notification, complaint, (however described) made in accordance with Part 2 of the Act
Supervisor:	Employee's Team Leader or Coordinator

4. Council Plan Alignment

Goal 5 - A Well Managed and Effective Organisation

Outcome 5.4 - A responsive and well-managed organisation.

5. Related Documents?

- Public Interest Disclosure Act 2012 (Vic)
- Freedom of Information Act 1982 (Vic)
- Guidelines for Making and Handling Public Interest Disclosures, IBAC 2020
- Council's Disciplinary Policy
- Council's Resolving Workplace Grievances Policy

6. Delegation Authority

The CEO to staff instrument of delegation includes delegated provisions for the Public Interest Disclosure Coordinator and Public Interest Disclosure Officer.

7. Policy

Council is committed to supporting those who speak up against serious improper conduct. Council will take all reasonable steps to protect individuals or groups who make a disclosure from any detrimental action. Council does not tolerate improper conduct, detrimental action on making a disclosure or detrimental action against those who co-operate with an investigation.

8. Roles and Responsibilities

Everyone is responsible for speaking up about improper conduct or detrimental action against those for making a disclosure. This includes any known or suspected acts of improper conduct or detrimental action.

On the occasion that an individual or group of disclosers is known or suspected, employees and Councillors must maintain confidentiality and refrain from any actual or perceived detrimental action.

8.1. Public Interest Disclosure Coordinator/Officer

The Public Interest Disclosure Coordinator and Public Interest Disclosure Officer receive and manage disclosures.

Responsibility of this role includes:

- receiving disclosures made by internal and external persons or groups
- assessment to determine whether the disclosure should be referred to IBAC or appropriately triaged for complaint/notification management
- ensuring confidentiality and security of; information received or obtained regarding the disclosure, the identities of the discloser(s) and the person(s) subject to the disclosure
- assessment of the risk of reprisal and impact to health and wellbeing
- arranging welfare support for the discloser, including appointing a Welfare Manager
- liaising with integrity agencies such as IBAC, Victorian Ombudsman, Local Government Inspectorate
- statistic collation on disclosures made

8.2. CEO

The CEO:

- may receive verbal or written disclosures (from internal or external sources)
- must immediately refer the disclosure to the Public Interest Disclosure Coordinator
- must take all necessary steps to ensure the confidentiality of; the person making the disclosure, the subject(s) of the disclosure, and the content of the disclosure.

8.3. Managers and supervisors

Managers and supervisors:

- may receive disclosures made about an employee
- must immediately refer the disclosure to the Public Interest Disclosure Coordinator
- must take all necessary steps to ensure the confidentiality of; the person making the disclosure, the subject(s) of the disclosure, and the content of the disclosure.

8.4. Welfare Manager

The Welfare Manager is responsible for providing general welfare of a person making a Public Interest Disclosure. The Welfare Manager will be appointed through the Employee Assistance Program (EAP). This role includes:

- assessment of welfare and protection needs of a person who has made a disclosure
- listen and respond to any concerns of detrimental action
- keep records of all interactions with the discloser
- take all reasonable steps to ensure confidentiality of the person and matter
- liaise with the Public Interest Disclosure Coordinator and/or CEO, as appropriate.

A Welfare Manager may also be appointed for a person who is the subject of a public interest disclosure (if they are aware of the disclosure) or may be referred to the EAP.

9. Making a Disclosure

9.1. Who can make a disclosure?

Anyone can make a disclosure about improper conduct or detrimental action, verbally or in writing. A disclosure can be made by an individual or group of people who make a joint disclosure.

Council's Public Interest Disclosure Coordinator and Public Interest Disclosure Officers can only receive disclosures that relate to an employee of Council. Disclosures that relate to Councillors must be made directly to IBAC.

9.2. What is a disclosure?

A disclosure may be made about two things under the Act:

- improper conduct of public bodies or public officers
- detrimental action taken by public bodies or public officers in reprisal of making a public interest disclosure or cooperating with an investigation process.

A disclosure can relate to conduct or action that occurred in the past, is current or may happen in the future.

9.3. What is improper conduct?

Improper conduct relates to intentional or reckless actions and behaviours of a serious nature. Examples of improper conduct include: corrupt conduct, conduct that amounts to a criminal offence, serious professional misconduct, the dishonest performance of public function, intentional or reckless misuse of public trust, intentional or reckless misuse of information, substantial mismanagement of public resources, substantial risk to health or safety, substantial risk to the environment.

9.4. What is detrimental action?

Detrimental action includes any incident of harassment, discrimination or adverse treatment taken in reprisal for the making of the disclosure.

If detrimental action occurs, the discloser must notify the Public interest disclosure Coordinator who will assess the report as a new disclosure for possible notification to IBAC. If the detrimental action is of a serious nature and likely to amount to a criminal offence, the Public Interest Disclosure Coordinator may report the matter to police.

9.5. How to make a disclosure?

Disclosures can be made verbally or in writing to the persons listed in the table below. It is important to maintain confidentiality and ensure privacy in communication. Anonymous disclosures can be received.

Verbal Disclosure

A disclosure can be made verbally whether in person, telephone or voicemail.

Written Disclosures

A disclosure can be made in writing and marked confidential to Council via post, email or delivered in person.

Public Interest Disclosure Coordinator	Manager Governance Email: PID@kingston.vic.gov.au Phone: 9581 4710
Public Interest Disclosure Officer	Organisational Governance Coordinator Email: PID@kingston.vic.gov.au Phone: 9581 4907 General Manager Corporate Services Email: PID@kingston.vic.gov.au Phone: 9581 4704
Chief Executive Officer	Office of Chief Executive Officer Email: PID@kingston.vic.gov.au Phone: 9581 4706
Supervisor/Manager	A disclosure made to a supervisor or manager will be immediately referred to the Public Interest Disclosure Coordinator.

Disclosures can also be made direct to IBAC by:

- submitting an [online form](#)
- by telephone on - 1300 735 135
- attending in person to IBAC, Level 1, North Tower, 459 Collins Street, Melbourne, VIC 3001
- by post addressed to IBAC, GPO Box 24234, Melbourne, VIC 3000

10. Handling disclosures

10.1. Receiving and assessing a disclosure

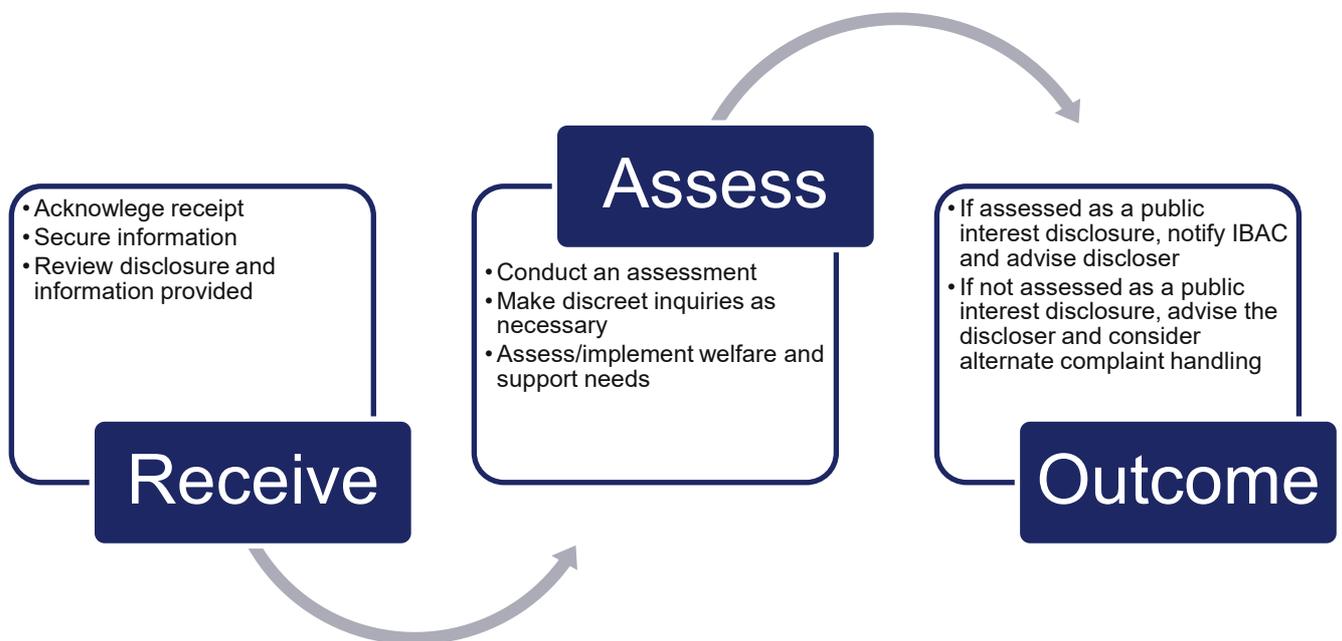
The Public Interest Disclosure Coordinator or Public Interest Disclosure Officer will acknowledge the discloser as soon as practicable and secure the information received. Assessment of the disclosure will consider:

- if the disclosure shows, or tends to show, serious improper conduct or detrimental action for the making of a public interest disclosure.
- if the discloser believes on reasonable grounds that the information shows or tends to show there is improper conduct or detrimental action. A reasonable belief requires the belief to be based on facts that would be sufficient to make a reasonable person believe there was improper conduct or detrimental action.

10.2. Assessment Outcome

Within 28 days, the Public Interest Disclosure Coordinator or Public Interest Disclosure Officer will advise the discloser if the matter was assessed as a Public Interest Disclosure. IBAC will be notified of the matter if assessed to be a Public Interest Disclosure.

The below flow chart outlines the steps taken by the Public Interest Disclosure Coordinator in handling a disclosure.



11. Welfare Management

11.1. Welfare Management of persons making a public interest disclosure

Council is committed to the protection of disclosers against detrimental action. Council will support disclosers by:

- Listen and responds to any concerns
- keeping them informed of the process, actions taken, and outcomes achieved
- assessing and reviewing welfare needs and risk of reprisal
- provide proactive and clear offer of support
- provide information of the steps taken to protect them and the relevant information
- Appointment of a welfare manager

11.2. Welfare Management of persons who are the subject of public interest disclosure

Council will assess the welfare needs of a person who is the subject of a public interest disclosure. This will be performed on a case by case basis, considering the circumstances of the person, the nature of the complaint. Welfare and support options may include referral to the EAP or appointment of a Welfare Manager (also facilitated through EAP).

12. Protections for persons making a public interest disclosure

The protections provided to persons who make a disclosure that is a 'public interest disclosure', include:

- the discloser is not subject to any civil or criminal liability for making the public interest disclosure
- the discloser is not subject to any administrative action (including disciplinary action) for making the public interest disclosure
- by making the public interest disclosure, the discloser 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
- by making the public interest disclosure, the discloser is not breaching any other obligation (made by oath, rule of law or practice) requiring him or her to maintain confidentiality
- the discloser cannot be held liable for defamation in relation to information included in a public interest disclosure made

13. Confidentiality

13.1. General obligation of confidentiality on Council and all individuals

Council will take all reasonable steps to protect the identity of the discloser and the matter.

It is also in the best interest of disclosers to maintain confidentiality by not discussing the matter or any related matters other than with authorised persons within Council, officers of IBAC, or other persons authorised by law.

13.2. Steps taken by Council to ensure confidentiality

13.2.1. Information Management

Council will ensure all files, whether paper or electronic, are kept in a secure manner and can only be accessed by the Public Interest Disclosure Coordinator or Public interest Disclosure Officer involved. Where necessary, a Welfare Manager may be able to gain access to related welfare matters.

13.2.2. Exemption from the Freedom of Information Act 1982 ("FOI Act")

Although the FOI Act provides a general right of access to documents, exemptions apply to information relating to a disclosure made in accordance with Public Interest Disclosure legislation, guidelines and requirements.

13.2.3. Penalties apply for unauthorised disclosure of confidentiality

The Act contains several offence provisions relating to unauthorised disclosure of information by either disclosers or persons who have received disclosures. The relevant penalties include imprisonment, financial payments or both.

The criminal offences set out in the Act relating to confidentiality include:

- divulging information obtained in connection or because of the handling or investigation of a public interest disclosure without legislative authority.
- disclosing that a disclosure has been notified to IBAC for assessment under the Act.
- disclosing that a disclosure has been assessed by IBAC or the Victorian Inspectorate to be a public interest disclosure complaint under the Act.

14. Review

These procedures will be reviewed as required to ensure they meet the objectives of the Act, any regulations and guidelines.