

	<h2>Public Interest Disclosure Procedures</h2>
File No.	HCC14/517
Adopted by CEO	31 March 2022
Date for Review	March 2025
Responsible Officer	Senior Integrity Officer
Department	Governance

Table of Contents

1.	Purpose	2
2.	Scope	2
3.	What is a Public Interest Disclosure?.....	2
4.	Who can make a PID?	3
5.	Who can you make a PID to?	4
6.	How do you make a PID?	5
7.	What happens once a PID is received by Council?	6
8.	Notifications	9
9.	Welfare Management	10
10.	Detrimental Action	11
11.	Protections for Persons making a PID	12
12.	Confidentiality	13
13.	Training for staff	15
14.	Notification to IBAC	16
15.	Council's Internal Reporting Structures	16
16.	Collating and publishing statistics	17
17.	Definitions	17
18.	Human Rights Statement.....	20
19.	Relevant Legislation and Guidelines.....	20

1. Purpose

The main objective of the Public Interest Disclosure Act 2012 (the Act) is to encourage and facilitate the making of disclosures of improper conduct by public officers and public bodies, and establish a system for matters to be investigated.

The Act provides protection from detrimental action to any person affected by a public interest disclosure whether it is a person who makes a disclosure, a witness, or a person who is the subject of an investigation.

Hume City Council (Council) is committed to the aims and objectives of the Act and encourages and supports the disclosure of improper conduct by public officers or public bodies in accordance with the Act.

Under the Act, councils may receive disclosures regarding improper conduct of council staff. However, disclosures regarding councillors must be made directly to the Independent Broad-based Anti-corruption Commission (IBAC).

The Act requires that Council must establish procedures:

- a) to facilitate the making of disclosures;
- b) for the handling of disclosures and, where appropriate, for notification of those disclosures to an appropriate entity.
- c) for the protection of persons making disclosures from detrimental actions.

These Procedures establish a system for reporting disclosures of improper conduct or detrimental action by Council; its Councillors, employees, volunteers, contractors and consultants.

Disclosures may be made to Council by employees, volunteers, contractors, or consultants or by members of the public.

Employees are encouraged to continue to raise matters at any time with their supervisors. Alternatively, employees may make a disclosure of improper conduct or detrimental action under the Act in accordance with these Procedures to Council's Public Interest Disclosure Coordinator or the Chief Executive Officer.

2. Scope

These Procedures apply to Council employees, volunteers, contractors and consultants, and members of the public.

Council is required to ensure these Procedures are readily available to members of the public as well as internally to all Councillors, employees, officers, volunteers, contractors, and consultants of the Council.

3. What is a Public Interest Disclosure?

A Public Interest Disclosure (PID) is a disclosure made 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.

3.1. Improper Conduct

A PID may be made about improper conduct by a public body or public official in the performance of their functions as a public body or public officer.

There is an expectation that members of the community may rely on and trust their public bodies and officials to act honestly. The expectation is that public officers will not use their positions for personal advantage or use the influence of their public office for improper purposes where there is a duty to act objectively and impartially.

Disclosers or the Council will need to identify that there is a link between the alleged improper conduct of a person or an organisation and their function as a public officer or a public body.

Improper conduct has a specific meaning under the Act, please see the definition in Section 17 below.

3.2. 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 has a specific meaning under the Act, please see the definition in Section 17 below.

In addition, detrimental action includes making threats to take such action. Further, the detrimental action need not necessarily have been taken (or threatened to be taken) against a person making a PID, but against any person connected with a PID.

4. Who can make a PID?

Anyone (both members of the public and employees of Council) can make a PID about improper conduct or detrimental action relating to Council or a Council officer.

A PID may:

- only be made by a natural person
- be made anonymously; (see 6.1 below)
- be made even where the discloser is unable to identify precisely the individual or the organisation to which the disclosure relates; and
- also be a complaint, notification or disclosure (however described) made under another law.

A complaint or allegation that is already in the public domain will not normally be a PID. Such material would, for example, include matters which have already been subject to media or other public commentary.

5. Who can you make a PID to?



Part 2 of the Act requires that PIDs are been made to a body authorised under the Act to receive the disclosure.

A PID about a public officer or a public body may be made to:

- IBAC;
- The Ombudsman; or
- The Victorian Inspectorate.

Council cannot receive PIDs about Councillors. PIDs about Councillors must be made to IBAC.

PIDs made by Councillors must be made to IBAC.

Council can receive PIDs that relate to the conduct of Council or of an employee, volunteer, contractor or consultant of Council from anyone.

Council can also receive PIDs from its employees, volunteers, contractors and consultants about any public officer or public body unless:

1. the disclosure is required to be made to another entity under section 14 or 17(3) of the Act; or
2. the disclosure relates to a member of Parliament.

PIDs made to Council must be made to Council's Public Interest Disclosure Coordinator, or CEO:

Public Interest Disclosure Coordinator	Contact details for Hume City Council's Public Interest Disclosure Coordinator can be viewed under the 'Who Can Make a PID' tab on the Public Interest Disclosures page on Council's website by following this link .
Chief Executive Officer	Sheena Frost Chief Executive Officer SheenaF@hume.vic.gov.au 9205 2200 PO Box 119 Dallas 3047

Information about how to make a PID to IBAC, the Victorian Ombudsman or the Victorian Inspectorate can be found on their websites:

IBAC	IBAC - Public Interest Disclosures
Victorian Ombudsman	Victorian Ombudsman - Reporting improper conduct
Victorian Inspectorate	Victorian Inspectorate - Make a public interest disclosure

6. How do you make a PID?

A PID must be made in accordance with Part 2 of the Act, the discloser does not have to specifically refer to the Act or the protections in the Act for the disclosure to be a PID.

A PID may be made orally or in writing (in private) to Council's Public Interest Disclosure Coordinator. A PID may be made anonymously. A PID made by email from an address from which the identity of the discloser cannot be ascertained will be treated as an anonymous disclosure. PIDs cannot be made by fax.

A PID must be made in private. For a verbal disclosure, this means the discloser must reasonably believe that only the following people are present or able to listen to the conversation:

- the discloser (including any other individuals making a joint disclosure at the same time);
- any lawyer representing the discloser; and
- one or more people to whom a disclosure is permitted to be made under the Act or the Regulations.

For written disclosures Council recommends that the discloser ensures that the disclosure be sealed in an envelope which is clearly marked "Private and Confidential" and addressed to Council's Public Interest Disclosure Coordinator or CEO.

For email disclosures Council recommends that the discloser emails the disclosure to PID@hume.vic.gov.au

A disclosure is not a PID if the person making the disclosure expressly states in writing that the disclosure is not a PID.

Alternately, a PID may be made directly to the IBAC. As Victoria's agency responsible for preventing and exposing public sector corruption and misconduct, it can also receive PIDs that relate to Council officers and Council operations. The procedure that IBAC adopts for assessing public interest disclosures is completely independent of Council, and unrelated to these Council Procedures. Information about making a public interest disclosure through IBAC can be found on the website ibac.vic.gov.au/reporting-corruption/report/complaints-form

6.1. Anonymous PIDs

A PID may be made anonymously. It is noted this may create difficulties in the Council being able to communicate with the discloser, and some of the notification requirements imposed on the Council in relation to disclosures will not apply in relation to an anonymously made disclosure. In addition, it may impede the Council's ability to properly assess whether the complaint or allegation is a PID for the purposes of the Act.

6.2. Misdirected PIDs

Where Council is not the correct body to receive the PID, the PID will be referred to IBAC.

7. What happens once a PID is received by Council?

7.1. Receiving a PID

When the Council receives a complaint, report or allegation of improper conduct or detrimental action, the first step will be to ascertain whether it has been made in accordance with Part 2 of the Act.

If the complaint, report or allegation satisfies Part 2 of the Act, the discloser is entitled to receive protections under Part 6 of the Act.

7.2. Assessing a disclosure

When Council receives a complaint, report or allegation of improper conduct or detrimental action, the first step is to determine whether the disclosure has been made to the right person or body and then whether the matter falls under the Act.

If the disclosure satisfies the requirements of Part 2 of the Act, Council is required to determine whether the complaint, report or allegation may be a PID by going through the 2 step assessment process recommended by IBAC as follows.

This will be the case even if the discloser does not refer to the Act or require the protections of the Act. The initial assessment is made on the nature of the information disclosed or on the belief that the discloser has about the nature of the information, and not the discloser's intention.

7.2.1. First Step

This requires the Council to ascertain whether the information satisfies the 'elements' of improper conduct or detrimental action, as defined in the Act and whether any of the relevant exceptions apply. This may require the Council to:

- seek further information;
- conduct a discreet initial enquiry;
- seek (further) evidence from the discloser;
- ascertain whether there is sufficient supporting material to demonstrate that the conduct or actions covered by the Act have occurred, are occurring or are likely to occur.

If it is not clear that the information disclosed does show or tend to show that there is improper conduct or detrimental action, then the Council will go on to the second step below.

7.2.2. Second Step

This requires the Council to ask whether the discloser believes on reasonable grounds that the information shows or tends to show there is improper conduct or detrimental action. That is, does the person actually believe that the information shows, or tends to show, there is improper conduct or detrimental action? A reasonable belief requires the allegation(s) to be based on facts that would be sufficient to make a reasonable person believe there was improper conduct or detrimental action.

This reasonable belief does not have to be based on actual proof that the improper conduct or detrimental action in fact occurred, is occurring, or will occur but there must be some information supporting this belief. According to IBAC, simply stating that improper conduct or detrimental action is occurring, without providing any supporting information or evidence, would not be a sufficient basis for having a reasonable belief. In IBAC's view, a belief cannot be based on a mere allegation or conclusion that is unsupported by any further facts or circumstances.

Other matters that IBAC suggests the Council can consider are:

- the reliability of the information provided by the discloser, even if it is second- or third-hand. For example, how would the discloser have obtained the information?
- The amount of detail that has been provided in the information disclosed; and
- the credibility of the discloser, or of those people who have provided the discloser with information.

7.3. Where urgent action is required while an assessment is still being made

In some circumstances, the complaint, report or allegation may be about improper conduct that may pose an immediate threat to health and safety of individuals, preservation of property, or may consist of serious criminal conduct.

General examples of this provided by IBAC include where the disclosure may be about:

- a child protection worker allegedly sexually assaulting children in care;
- a council worker allegedly lighting bush fires; or
- person threatening to poison the water supply.

In these cases the Council can take immediate action while considering whether or not it is an assessable disclosure that must be notified to IBAC or awaiting IBAC's decision on a notified matter.

In some cases Council is mandated by Child Safe Standards of the Commission for Children and Young People to report certain matters i.e. suspicions of child abuse. Please see Council's Child Safe Policy and Child Safe Reporting Process for more information.

It may also be necessary to report suspicions of criminal conduct to Victoria Police for immediate investigation or take management action against an employee to prevent future conduct.

The Act allows the Council to disclose the content of the disclosure by a person or body "to the extent necessary for the purpose of taking lawful action in relation to the conduct that is the subject of an assessable disclosure including disciplinary process or action".

However, IBAC notes that this does not allow the identity of the discloser to be revealed. Reporting the alleged conduct to the Victoria Police as criminal conduct, or taking legitimate management action against the subject of the disclosure in order to prevent future conduct, may be appropriate courses of action in these circumstances.

7.4. Assessment decisions

At the conclusion of the assessment, the Council must decide whether it considers the complaint, report or allegation to be a PID. If the Council decides it may be a PID it must notify IBAC of the disclosure. If the Council does not consider it to be a PID, then it may be a matter that the Council otherwise deals with through any other relevant internal complaint or grievance management processes.

8. Notifications

8.1. If Council does not consider the disclosure to be a PID

If Council determines the disclosure is not a PID, and the discloser has indicated to Council (or it otherwise appears to the Council) that the discloser wishes to receive the protections that apply to a PID under the Act, the discloser will be notified in writing, within 28 days of the Council receiving the disclosure, that:

- Council considers the disclosure is not a PID;
- the disclosure has not been notified to IBAC for assessment under the Act; and
- regardless of whether the disclosure is notified to IBAC for assessment under the Act, the protections under Part 6 of the Act apply.

Notifications to a discloser do not need to be provided by Council in response to an anonymously made disclosure.

8.2. If Council considers the disclosure may be a PID

If Council considers the disclosure may be a PID under the Act, the Council will, within 28 days of receiving the disclosure:

- notify IBAC that:
 - the Council is notifying the disclosure to IBAC for assessment under s21 of the Act; and
- notify the discloser that:
 - the disclosure has been notified to IBAC for assessment under the Act; and
 - it is an offence under s74 of the Act to disclose that the disclosure has been notified to IBAC for assessment under the Act.

In addition, at the time of notifying IBAC under s21 of the Act or at any later time, Council may also provide IBAC with any information obtained by the Council regarding the disclosure in the course of its enquiries leading up to its notification of the disclosure to IBAC.

There will be situations where Council receives an allegation of improper conduct or detrimental action, but the person making the allegation has not referred to the Act. If an allegation raises issues that may fall within the provisions of the Act, Council should assess the allegations in terms of the Act.

The protections of the Act may apply to a disclosure regardless of whether or not the individual making the disclosure specifically requests the protections of the Act. The assessment is made on the nature of the disclosure and not the intention of the individual making it.

Once a PID is received the Public Interest Disclosure Coordinator will:

- Assess whether the complaint is a PID and a disclosure that can be accepted by Council;
- Conduct a welfare risk assessment to ensure appropriate action is taken to protect the discloser;

- Notify the discloser within 28 days of their assessment and whether they have determined your complaint to be a PID or not;
- Refer the complaint to IBAC if it is determined to be a PIC. If the matter is not assessed as a PIC, the PIC will explore the next steps and options with the complainant to resolve your complaint;
- Continue to liaise with the complainant on any further actions that may be taken and your welfare needs.

If the PID is referred to IBAC, IBAC will then make its own assessment as to whether it is a PID.

IBAC will advise the complainant of its determination and the action proposed to be taken unless it considers that notification would have certain adverse consequences. IBAC may contact the complainant directly or via Council's Public Interest Disclosure Coordinator.

9. Welfare Management

Council is committed to the protection of genuine disclosers against detrimental action taken in reprisal for the making of PIDs.

9.1. Appointing a Welfare Manager

The Manager Human Resources is appointed as Council's Welfare Manager for the purposes of the Act and these Procedures. In circumstances where the Manager Human Resources has a real or perceived conflict of interest, the Public Interest Disclosure Coordinator will appoint an interim Welfare Manager to protect and support a discloser.

In most circumstances, the Welfare Manager will only be required where a PID proceeds to investigation, but each matter will be assessed on its own merits.

Welfare Manager will:

- Listen and responds to any concerns of harassment, intimidation or victimisation in reprisal for making a disclosure;
- Not divulge any details relating to the PID or discloser to anyone other than the Public Interest Disclosure Coordinator;
- Ensure all meetings between the Welfare Manager and the person making the disclosure are conducted discreetly to protect the person from being identified.
- Ensure access to Council's Employee Assistance Program for internal disclosers;
- Ensure the expectations of the discloser are realistic and reasonable, and that the discloser understands the limits of the support the Council 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.

9.2. Welfare Management of persons who are the subject of PIDs

The Council will also meet the welfare needs of a person who is the subject of a PID. It is important to remember that until a PID complaint is resolved, the information about the person is only an allegation.

The Council will make a decision about whether or when the subject of a disclosure will be informed about a PID involving an allegation made against him or her. It is possible that the subject of the disclosure may never be told about the disclosure if it is not determined to be a PID complaint, or if a decision is made to dismiss the disclosure.

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 Council may give information about the disclosure to the subject of the disclosure if it is directed or authorised to do so by the investigative entity investigating the PID complaint, or for the purpose of taking action with respect to the conduct alleged, including disciplinary action.

Investigative entities may also inform the subject of the PID complaint in the course of their investigation for the purposes of conducting that investigation, or any actions that they propose to take as a result of the investigation.

A person the subject of a disclosure who is made aware of their status as such may have a welfare manager appointed by the Council, or be referred to the Council's EAP program for welfare assistance. 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, Council's internal reporting system, these Procedures, and any other relevant law or code of conduct. The Council will consider each matter on a case by case basis, taking into account the particular circumstances of the person and the PID complaint.

10. Detrimental Action

It is a criminal offence to take detrimental action against another person in reprisal for a PID under the Act.

If any person reports an incident of harassment, discrimination or adverse treatment that may amount to detrimental action apparently taken in reprisal for a disclosure, the Welfare Manager or Public Interest Disclosure Coordinator must record details of the incident and advise the person of their rights under the Act.

A person takes detrimental action against another person in reprisal for a PID if:

- the person takes, or threatens to take, detrimental action against the other person because, or in the belief that:
 - the other person or anyone else has made, or intends to make, the disclosure; or
 - the other person or anyone else has cooperated, or intends to cooperate, with an investigation of the disclosure; or
- for either of the reasons above, the person incites or permits someone else to take or threaten to take detrimental action against the other person.

The taking of detrimental action in reprisal for making a disclosure can be grounds for a person to make a further disclosure with respect to that conduct. The disclosure of this allegation will then be assessed by the Council as a new disclosure under Part 2 of the Act.

Where the detrimental action is of a serious nature likely to amount to a criminal offence, the Council will also consider reporting the matter to the police or IBAC (if the matter was not already the subject of a disclosure notified to IBAC).

A discloser of a PID may also:

- take civil action against the person who took detrimental action against the discloser and seek damages;
- take civil action against Council jointly and severally to seek damages if the person who took detrimental action against the discloser took that action in the course of employment with, or while acting as an agent of Council; and
- apply for an order or an injunction from the Supreme Court.

11. Protections for Persons making a PID

11.1. Protections available to disclosers

Part 6 of the Act sets out the protections provided to persons who make a PID:

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

The protections in Part 6 apply from the time at which the disclosure is made by the discloser. They apply even if the Council receiving the disclosure does not notify the disclosure to IBAC, and even if IBAC has determined that the PID is not a PID complaint.

11.2. Loss of protections caused by actions of the discloser

A discloser is not protected if they commit an offence under section 72 or section 73 of the Act:

- If they provide false or misleading information, or further information that relates to a PID, that the person knows to be false or misleading in a material particular, intending that the information be acted on as a PID;
- If they claim that a matter is the subject of a PID knowing the claim to be false;
- If they falsely claim that a matter is the subject of a disclosure that IBAC has determined to be a PID complaint.

11.3. Other limitations on protections afforded to disclosers

A discloser is not protected against legitimate management action being taken by the Council in accordance with the Act.

In addition, although the discloser of a PID is not subject to criminal or civil liability for making the disclosure, the Act specifically provides that a person remains liable for their own conduct even though the person has made a disclosure of that conduct under the Act. Therefore, the discloser will still be held liable for their own conduct that they disclose as part of making a PID.

Where a discloser is implicated in improper conduct, Council will handle the disclosure and protect the discloser from reprisals in accordance with the Act, IBAC's guidelines and these Procedures. Council acknowledges that the act of disclosing should not shield disclosers from the reasonable consequences flowing from any involvement in improper conduct. However, in some circumstances, an admission may be a mitigating factor when considering disciplinary or other action.

The management of the welfare of a discloser may become complicated when that person is implicated in misconduct, whether or not that misconduct is related to the disclosure.

Taking disciplinary or other action against a person who has made a PID invariably creates the perception that it is being taken in reprisal for the disclosure.

Where disciplinary or other action relates to conduct that is the subject of the disclosure, the disciplinary or other action will only be taken after the disclosed matter has been appropriately dealt with.

The Council will take all reasonable steps to thoroughly document its decision-making process, including recording the reasons why the disciplinary or other action is being taken, and the reasons why the action is not being taken in retribution against the discloser for making the disclosure, so that it will be able to clearly demonstrate that the disciplinary or other action was taken for the appropriate and permitted reasons under the Act.

12. Confidentiality

Council will take all reasonable steps to protect the identity of the discloser and the matters disclosed by a discloser. Maintaining confidentiality in relation to PID matters is crucial, among other things, in ensuring reprisals are not made against a discloser.

The obligation of confidentiality extends to any person receiving a disclosure or making a disclosure. It is in the interest of the discloser to ensure he or she does not discuss any related matters other than with authorised persons within Council, officers of IBAC, or other persons authorised by law.

Consistently with Council's confidentiality obligations under the Act as outlined in these Procedures, the fact that a disclosure has been made, whether it has been notified to IBAC for assessment, any information received from IBAC or another investigative entity and the identities of persons involved will not be divulged.

Council will take all reasonable steps to ensure the confidentiality of the subject of a disclosure during any assessment and any ensuing investigation. Where the disclosure is dismissed or investigations do not substantiate the allegations made against the

person, the fact that the investigation was undertaken, its results, and the identity of the person subject of the disclosure will still be kept confidential.

12.1. Information Management

Council will ensure all files, whether paper or electronic, are kept securely. Those files will be accessible only by the Public Interest Disclosure Coordinator involved in a particular matter.

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 Public Interest Disclosures Act 2012 or the IBAC Act 2011.

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 PID.

All printed material will be kept in files that are clearly marked as Public Interest Disclosure Act matters and warn of the criminal penalties that apply to any unauthorised access, use or divulging of information concerning a PID. All other materials in connection with a PID will also be stored securely with the PID file.

Council will ensure all telephone calls and meetings in connection to disclosures are conducted privately and in the strictest of confidence.

12.2. Freedom of Information

The Freedom of Information Act 1982 (FOI Act) provides a general right of access for any person to seek documents in the possession of Council. However, the Act provides that certain information related to PIDs as contained in documents in the possession of Council will be exempt from the application of the FOI Act.

Such information excluded from the operation of the FOI Act includes:

- any information relating to a disclosure made in accordance with the Act; and
- any information that is likely to lead to the identification of a discloser.

Council is required to contact IBAC prior to providing any document originating from IBAC or relating to a PID, if that document is sought under the FOI Act.

12.3. Limited exceptions permitted by the Act

The Act makes it a crime to disclose information connected with a disclosure made in accordance with the Act. Limited exceptions to the prohibition on disclosure are specified by the Act, include circumstances such as:

- where disclosure is required by Council (or one of its officers) in the exercise of functions of Council under the Act;
- where necessary for the purpose of the exercise of functions under the Act;
- by an investigating entity for the purpose of exercising that entity's functions under the IBAC Act;
- in accordance with a direction or authorisation given by the investigating entity that is investigating the disclosure;

- to the extent necessary for the purpose of taking lawful action in relation to the conduct that is the subject of an assessable disclosure including a disciplinary process or action;
- where IBAC or the Victorian Inspectorate has determined that the assessable disclosure is not a PID and the discloser or Council subsequently discloses the information;
- when an investigative entity had published a report to Parliament, in accordance with its confidentiality obligations;
- for the purpose of obtaining legal advice in relation to matters specified in the Act;
- in order to enable compliance with the Act:
 - where a person does not have a sufficient knowledge of the English language, to obtain a translation from an interpreter;
 - where a person is under 18 years of age, to a parent or guardian of a;
 - where a person is suffering a disability and is not able to understand, to an independent person;
- in disciplinary actions or legal proceedings for certain offences in the Act or other specified Acts.

It is important to note that 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.

12.4. Penalties apply for breach of confidentiality

The Act contains a number of offence provisions relating to unauthorised disclosure of information by either disclosers or persons who have received disclosures. The penalties for breaching the confidentiality required by the Act include imprisonment, financial payments or both.

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

- Divulging information obtained in connection or as a result of the handling or investigation of a PID without legislative authority. Maximum penalty;
- 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 VI to be a PID complaint under the Act.

13. Training for staff

Council will:

- ensure that staff, employees, officers and members have access to a copy of these Procedures in hard or soft copy;
- incorporate into its induction procedures training about Council's general obligations under the Act and the rights and obligations of all employees, staff and members;
- provide additional training and assistance to:

- any members of the Council with specific responsibilities and functions to handle and manage PIDs under the Act, including the Public Interest Disclosure Coordinator and people involved in welfare management;
- its complaint handling staff to ensure that any complaints received will be dealt with consistently and in accordance with the Act as required;
- any staff with functions and duties under the FOI Act or with responsibilities for information management, to ensure that no prohibited information is disclosed under the Act and to ensure there is appropriate liaising with the staff of IBAC or other investigative agencies where required in response to a request for access under the FOI Act; and
- all staff and employees dealing with customers to ensure any potential disclosures received from external sources can be handled appropriately in accordance with the Act and these Procedures.

14. Notification to IBAC

In accordance with Section 57(1) of the IBAC Act the Chief Executive Officer must notify the IBAC of any matter which the person suspects on reasonable grounds involves corrupt conduct occurring or having occurred. Corrupt conduct is defined in Section 4 of the IBAC Act 2011 and detailed in Section 17 of these Procedures.

15. Council's Internal Reporting Structures

Council supports a workplace culture where the making of PIDs is valued by the organisation and the right of any individual to make a PID taken seriously.

Council will:

- ensure these Procedures, including detailed information about how PIDs may be made and to whom, are accessible on its website and available internally and externally to Councillors, employees, volunteers, contractors and consultants, and any individual in the broader community;
- ensure that appropriate training is provided at all levels of the organisation to raise awareness of how a PID may be made, and to take all reasonable steps to ensure staff, employees and Councillors are familiar with the Council's Public Interest Disclosure Policies, Procedures and any relevant legislation and Codes Of Conduct;
- ensure its reporting system is centralised and accessible only by appropriately authorised officers, allowing the flow of information to be tightly controlled to enhance confidentiality and minimising risks of reprisals being taken against disclosers;
- ensure the reporting system protects the confidentiality of information received or obtained in connection with a PID in accordance with the Act;
- ensure the reporting system protects the identity of persons connected with a PID in accordance with the Act;
- not tolerate the taking of detrimental action in reprisal against any person for making a PID, including to take any reasonable steps to protect such persons from such action being taken against them;
- afford natural justice and treat fairly those who are the subject of allegations contained in disclosures;

- take the appropriate disciplinary and other action against any staff, Councillors or employees engaged in the taking of detrimental action;
- ensure any staff involved with handling PIDs are trained to receive and manage PIDs;
- ensure that the Council as a whole handles PIDs consistently and appropriately in accordance with its obligations under the Act, the Regulations, IBAC's Guidelines and these Procedures; and
- be visible, approachable, openly communicative and lead by example in establishing a workplace that supports the making of PIDs.

16. 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 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.

17. Definitions

Assessable disclosure means:

1. a disclosure that, under section 21(2), must be notified to IBAC, the Victorian Inspectorate or the Integrity and Oversight Committee;
2. a disclosure that, under section 21(3), may be notified to IBAC, the Victorian Inspectorate or the Integrity and Oversight Committee;
3. a disclosure that, under section 36(2), must be notified to IBAC, the Victorian Inspectorate or the Integrity and Oversight Committee;
4. a disclosure made to IBAC in accordance with Division 2 of Part 2;
5. a disclosure made to the Victorian Inspectorate under section 14(b);
6. a disclosure made to the Integrity and Oversight Committee under section 14(a);
7. a police complaint disclosure that, under section 22, must be notified to IBAC;
8. a police complaint disclosure made to IBAC;

Corrupt conduct has the meaning given by section 4 of the Independent Broad-based Anti-Corruption Commission Act 2011

1. For the purposes of this Act, corrupt conduct means of any person that adversely affects the honest performance by a public officer or public body of his or her or its functions as a public officer or public body; or
 - a) of a public officer or public body that constitutes or involves the dishonest performance of his or her or its functions as a public officer or public body; or
 - b) of a public officer or public body that constitutes or involves knowingly or recklessly breaching public trust; or
 - c) of a public officer or a public body that involves the misuse of information or material acquired in the course of the performance of his or her or its functions as a public officer or public body, whether or not for the benefit of the public officer or public body or any other person; or

- d) of a person (the first person) intended to adversely affect the effective performance or exercise by a public officer or public body of the functions or powers of the public officer or public body and result in the first person or an associate of the first person obtaining:
 - i. a licence, permit, approval, authority or other entitlement under any Act or subordinate instrument; or
 - ii. an appointment to a statutory office or as a member of the board of any public body under any Act or subordinate instrument; or
 - iii. a financial benefit or real or personal property; or
 - iv. any other direct or indirect monetary or proprietary gain that they would not have otherwise obtained; or
 - e) that could constitute a conspiracy or an attempt to engage in any conduct referred to in paragraph (a), (b), (c), (d) or (da)— being conduct that would constitute a relevant offence.
2. Conduct may be corrupt conduct for the purposes of this Act if:
- a) all or any part of the conduct occurs outside Victoria, including outside Australia; and
 - b) the conduct would be corrupt conduct if it occurred in Victoria.

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.

Improper conduct means:

- a) corrupt conduct; or
- b) conduct of a public officer or public body engaged in by the public officer or public body in their capacity as a public officer or a public body that constitutes:
 - i. a criminal offence; or
 - ii. serious professional misconduct; or
 - iii. dishonest performance of public functions; or (iv) an intentional or reckless breach of public trust; or
 - iv. an intentional or reckless misuse of information or material acquired in the course of the performance of the functions of the public officer or public body; or
 - v. a substantial mismanagement of public resources; or
 - vi. a substantial risk to the health or safety of one or more persons; or
 - vii. a substantial risk to the environment; or
- c) conduct of any person that:
 - i. adversely affects the honest performance by a public officer or public body of their functions as a public officer or public body; or

- ii. is intended to adversely affect the effective performance or exercise by a public officer or public body of the functions or powers of the public officer or public body and results in the person, or an associate of the person, obtaining:
 - a) a licence, permit, approval, authority or other entitlement under any Act or subordinate instrument; or
 - b) an appointment to a statutory office or as a member of the board of any public body under any Act or subordinate instrument; or
 - c) a financial benefit or real or personal property; or
 - d) any other direct or indirect monetary or proprietary gainthat the person or associate would not have otherwise obtained; or
- iii. conduct of any person that could constitute a conspiracy or attempt to engage in any of the conduct referred to in paragraph (a), (b) or (c).

Trivial conduct is excluded from the definition of improper conduct.

Investigating entity means—

- a) IBAC;
- b) the Chief Commissioner of Police;
- c) the Ombudsman;
- d) the Victorian Inspectorate

IOC means – the Integrity and Oversight Committee established by section 5(a) of the Parliamentary Committees Act 2003

Ombudsman means the person appointed as the Ombudsman under section 3 of the Ombudsman Act 1973

Public Interest Disclosure (PID)– disclosure by a natural person of information that shows / tends to show or information that the person reasonably believes shows / tends to show improper conduct or detrimental action.

- 1. A public interest disclosure is a disclosure by a natural person of:
 - a) information that shows or tends to show:
 - i. a person, public officer or public body has engaged, is engaging or proposes to engage in improper conduct; or
 - ii. a public officer or public body has taken, is taking or proposes to take detrimental action against a person in contravention of section 45; or
 - b) information that the person reasonably believes shows or tends to show—
 - i. a person, public officer or public body has engaged, is engaging or proposes to engage in improper conduct; or
 - ii. a public officer or public body has taken, is taking or proposes to take detrimental action against a person in contravention of section 45.
- 2. A public interest disclosure may be about conduct that has occurred before the commencement of this section.
- 3. A disclosure regarding the conduct of, or actions taken by, any of the following is not a public interest disclosure:
 - a) the Office of the Special Investigations Monitor;

- b) the Special Investigations Monitor;
- c) a court;
- d) an investigating panel;
- e) a member of an investigating panel.

Public Interest Complaint – a public interest disclosure that has been determined by IBAC, the Victorian Inspectorate or IOC to be a Public Interest Complaint.

Public Interest complaint means— A disclosure that has been determined under section 26, 31 or 31B to be a Public Interest Complaint.

Public body means—

- a) a public body within the meaning of section 6 of the Independent Broad-based Anticorruption Commission Act 2011; or
- b) IBAC; or
- c) the Victorian Inspectorate; or
- d) any other body or entity prescribed for the purposes of this definition.

Public officer means—

- a) a public officer within the meaning of section 6 of the Independent Broad-based Anticorruption Commission Act 2011; or
- b) an IBAC Officer; or
- c) a Victorian Inspectorate Officer; or
- d) a Public Interest Monitor; or
- e) any other person prescribed for the purposes of this definition public sector means the sector comprising all public bodies and public officers.

Public sector means the sector comprising all public bodies and public officers.

18. Human Rights Statement

These Procedures prepared under the PID Act 2012 have considered the rights embodied under the Charter of Human Rights and Responsibilities Act (2006).

19. Relevant Legislation and Guidelines

- Public Interest Disclosure Act 2012
- Public Interest Disclosure Regulations 2019
- Child Safe Policy and Child Safe Reporting Process
- Child Wellbeing and Safety Act 2005
- Freedom of Information Act 1982
- Local Government Act 2020
- Privacy and Data Protection Act 2014
- Independent Broad-based Anti-Corruption Commission Act 2011

20. Authorised

NAME: SHEENA FROST

TITLE: CHIEF EXECUTIVE OFFICER

SIGNATURE: 

DATE: 31 MARCH 2022