

Public Interest Disclosures Policy

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1. POLICY OBJECTIVE (OR PURPOSE)

The Greater Dandenong City Council (GDCC) is a public body subject to the *Public Interest Disclosures Act 2012* (as amended).

A public interest disclosure is a report made by a person about improper conduct of public bodies or public officers performing public functions, and any person who adversely affects the honest performance by a public officer or public body of their official functions. The person making the disclosure may be an employee of Council, a Councillor or a person external to Council.

The *Public Interest Disclosures Act 2012* (the Act) creates a framework for dealing with public interest disclosures and the people who make them. The purpose of the Act is to:

- encourage and assist people to make a disclosure of improper conduct and detrimental action by public officers, public bodies and certain private individuals
- provide certain protections for people who make a disclosure, or those who may suffer detrimental action in reprisal for a disclosure
- ensure that disclosures are properly assessed, and investigated when necessary
- ensure that certain information about a disclosure is kept confidential - the identity of the person making the disclosure, and the content of that disclosure.

The Greater Dandenong City Council is committed to the aims and objectives of the Act.

GDCC recognises the value of transparency and accountability in its administrative and management practices and supports the making of disclosures that reveal improper conduct. It does not tolerate improper conduct by the organisation, nor its employees, Councillors, volunteers or contractors. Likewise, any reprisal against those who come forward to disclose such conduct is not tolerated.

This policy outlines how the *Public Interest Disclosures Act 2012* operates within Council.

2. BACKGROUND

The *Public Interest Disclosures Act 2012* (The Act) repealed what was then known as the *Protected Disclosure Act 2012* on 1st January 2020. Prior versions of this policy gave effect to the Council's transition to the *Public Interest Disclosures Act 2012*, as well as incorporating the changes to Section 57A of the *IBAC Act 2011*.

This version results from internal review and legislative amendments made after January 2020.

3. SCOPE

This policy applies to all Councillors, Staff (including agency staff), Contractors and volunteers of the City of Greater Dandenong.

A person or group of people can make a public interest disclosure. A company or business cannot make a public interest disclosure. If you ask someone else to make a disclosure on your behalf, that person, and not you, will be entitled to the protections in Part 6 of the PID Act for making the disclosure.

4. DEFINITIONS

Unless otherwise specified within this policy, the following words and phrases are defined to mean the following in terms of this policy.

Council	The Greater Dandenong City Council - Also: "CGD", "GDCC", or "City of Greater Dandenong"
Detrimental action	Any action causing injury, loss or damage, any action seen as intimidation or harassment or any discrimination, disadvantage or adverse treatment shown toward a person's employment, career, profession, trade, or business, including the taking of disciplinary action.
Discloser	A person who (purports to) make a complaint, allegation, or disclosure (however described) under the Act.
Disclosure	Any complaint, concern, matter, allegation, or disclosure (however described) purported to be made in accordance with the Act.
External Investigating Entity	Any one of the 8 bodies authorised to investigate a PID complaint, being the IBAC, the VO, the Chief Commissioner of Police, the Victorian Inspectorate, the Judicial Commission, the Racing Integrity Commissioner, the Information Commissioner, or the Chief Municipal Inspector. Other relevant body, e.g. eSafety Commissioner, to which a matter is referred
IBAC	Independent Broad-based Anti-Corruption Commission (Victoria)
Improper conduct	Any corrupt conduct or conduct that would constitute a criminal offence or reasonable grounds for dismissal. This includes specified conduct as outlined in the Act. The conduct or action being disclosed may have taken place, is still occurring, or is believed will occur or be engaged in.
PID Act / the Act	<i>Public Interest Disclosures Act 2012</i>
Principal Officer	Section 3 of the Independent broad based Anti-corruption Act 2011 defines relevant principal officer to include the Chief Executive Officer of a Council
Public interest disclosure (PID)	Any complaint, concern, matter, allegation or disclosure (however described) made in accordance with Part 2 of the PID Act
Public interest complaint (PIC)	A disclosure which has been determined and assessed by the IBAC to be a public interest complaint in accordance with ss 26, 31 or 31B of the PID Act
Public body	Primarily: a public service body established under the <i>Public Administration Act 2004</i> , or a Council that is established under the <i>Local Government Act 1989</i> , or a body performing a public function on behalf of the State.
Public Officers	Includes, but is not limited to, Local Government Councillors and Council employees, staff or officers.
Regulations	<i>Public Interest Disclosure Regulations 2019</i>
VO	Victorian Ombudsman

5. POLICY

5.1 MAKING DISCLOSURES

Under sections 57 and 58 of the Public Interest Disclosures Act 2012, Council is required to establish and publish a set of procedures in accordance with Guidelines published by IBAC. Council is required to ensure these procedures are readily available to members of the public as well as internally to all Councillors, employees, contractors and volunteers of Council.

Councillors, employees, contractors and volunteers are not required to exhaust the internal disclosure process but may make a disclosure to an external body in the first instance.

Therefore this policy and GDCC's procedures can be accessed through: [Public Interest Disclosure Procedures - Greater Dandenong Council](#).

Copies of the procedures can also be provided during normal office hours at Council customer service centres. The procedures document who can receive such disclosures - Council, IBAC and the Victorian Ombudsman, and how disclosures are made to each of these.

The Act allows for disclosures to be made in several ways, including anonymously, in writing or verbally. An individual does not need to identify the person or body about whom the disclosure is made.

A disclosure that can be received by Council can be made to:

- Council's Chief Executive Officer (Principal Officer), Public Interest Disclosure Coordinator, Public Interest Disclosure Officers, or
- the manager or supervisor of a discloser, or the manager or supervisor of the person about whom the disclosure pertains.

5.2 INVESTIGATING DISCLOSURES

Council can only receive a disclosure that relates to the conduct of itself or its own employees, staff, contractors, or volunteers. These disclosures can also be made to IBAC or the VO directly. For the latter, the issue must be within the Ombudsman's authority to investigate.

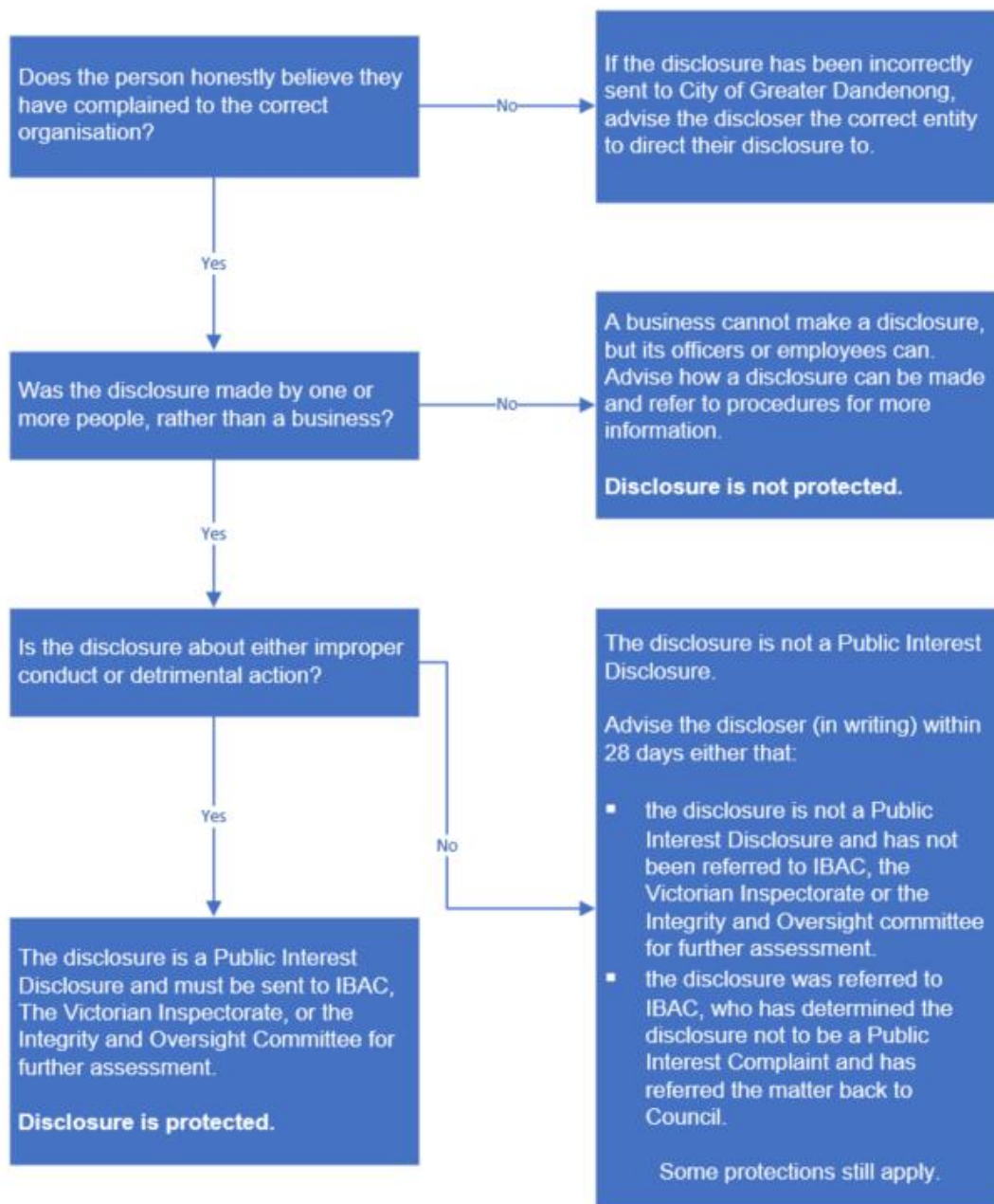
Council cannot receive or investigate a disclosure made in relation to a Councillor. These disclosures must be made to IBAC or VO directly. If a matter is reported to GDCC, and it falls within S.14 e) (i) - *it relates to allegations about a Councillor or Councillors* - the matter *must* be referred to the CEO, who then must pass the matter to IBAC.

If Council believes a disclosure may be a Public Interest Disclosure made in accordance with the Act, the principal officer shall notify IBAC of the disclosure. IBAC will then assess the disclosure and nominate whether it is a public interest disclosure complaint as defined by the Act.

If a disclosure is deemed to be a public interest disclosure complaint, IBAC will investigate the disclosure. If a disclosure is deemed not to be a public interest disclosure, IBAC may refer the disclosure back to Council to investigate it under the PID Act or Council's *Dispute Resolution Process*.

The decision-making process for matters that could be a disclosure under the PID Act will be undertaken in accordance with the following flow chart.

More specific steps and processes are detailed in the *Disclosures under the Public Interest Disclosures Act 2012* procedures.



5.3 CONFIDENTIALITY

Council will protect the identity of any discloser and the matter disclosed.

Maintaining confidentiality in relation to public interest disclosure matters is crucial for ensuring that reprisals are not made against a discloser.

It is a criminal offence under the Act to divulge information connected with a disclosure made in accordance with the Act, including information about the identity of a discloser. The penalties for breaching confidentiality obligations in this instance include financial penalties and imprisonment.

5.4 COUNCIL’S COMMITMENT TO THE PID ACT

The Greater Dandenong City Council supports a workplace culture where the making of disclosures under the PID Act is valued by the organisation and the right of any individual to make a disclosure under the Act is taken seriously.

Council will:

- ensure this policy (and associated procedures) is accessible to the public and to its employees, staff, officers and Councillors
- ensure the appropriate training is provided at all levels of the organisation to raise awareness in relation to *Public Interest Disclosures Act 2012*
- ensure its reporting system for Public Interest Disclosures is centralised, secure and accessible only by appropriately authorised officers
- ensure the confidentiality of information received or obtained in connection to a disclosure
- not tolerate any detrimental action in reprisal against any person for making a public interest disclosure and will take all reasonable steps to protect such persons from such action being taken
- afford natural justice and fairly treat anyone the subject to allegations contained in a disclosure
- take the appropriate disciplinary action and other action against any employees, staff, officers or Councillors engaged in the taking of detrimental action
- ensure Council officers involved with handling Public Interest Disclosures are trained to receive and manage such disclosures appropriately
- ensure that Council handles Public Interest Disclosures consistently and appropriately in accordance with its obligations under the PID Act and IBAC's Guidelines; and
- continue to be visible, approachable, and communicative in establishing a workplace that supports the making of Public Interest Disclosures

MORE INFORMATION

Council has appointed the Manager, People, Culture and Innovation as its Public interest Disclosure Coordinator to handle enquiries and meet its obligations under the Act. Details related to contacting this person are available online at [Public Interest Disclosure Procedures - Greater Dandenong Council](#).

Council also has a whistleblowing service through a consultant (**Grant Thornton**) who offer an independent, confidential anonymous way for employees and other stakeholders to report misconduct under public interest disclosure 24 hours a day. The following information is also available on GDCC's Intranet and website.

Phone: 1300 924 705
Email: GDCC@myvault.net.au
Mail: Greater Dandenong City Council
C/- Fraud & Forensic Consulting
GPO Box 4736
MELBOURNE VIC 3001

Alternatively, for those without internet access, contact details can be provided by the People, Culture and Innovation department.

Information about Public Interest Disclosures or the Victorian integrity system is available from IBAC at www.ibac.vic.gov.au or by telephone 1300 735 135.

General complaints will continue to be handled under GDCC's Complaints Policy available at Council's customer service centres or at [Customer Service Charter and Dispute Resolution Guidelines](#).

6. RESPONSE TO THE OVERARCHING GOVERNANCE PRINCIPLES OF THE LOCAL GOVERNMENT ACT 2020

The PID Act is compatible with and supports and upholds the overarching governance principles of Section 9 of the *Local Government Act 2020*, particularly, but not restricted to:

- (a) Council decisions are to be made and actions taken in accordance with the relevant law
- (f) collaboration with other Councils and Governments and statutory bodies is to be sought
- (g) the ongoing financial viability of the Council is to be ensured
- (i) the transparency of Council decisions, actions and information is to be ensured.

As this *Public Interest Disclosures Policy* aims to ensure that Council meets the requirements of the PID Act, it also supports and demonstrates the above governance principles. Additionally, it is a mechanism to ensure that the following principles of the *Local Government Act 2020* are supported:

- (b) the public transparency principles (section 58)
- (d) the financial management principles (section 101)
- (e) the service performance principles (section 106)

The processes outlined in this policy overtly provides for making the policy available to the public and provides access to reporting mechanisms. Stewardship of the policy and its associated actions is suitably delegated and resourced within the existing budget.

Associated procedures - including the management of documentation and identifying information - allow for both privacy and confidentiality (under the *Charter of Human Rights and Responsibilities*; see below), whilst broader transparency is also provided by Council being subject to internal and external audit and FOI access (as applicable).

Further transparency is ensured by having an external provider for whistle-blower situations, and providing direct contact details for independent, external bodies (IBAC, VO) that can call on Council to make information available.

Additionally, the mechanism of public interest disclosure allows for the investigation and recovery of Council funds, in fraudulent scenarios, and serves as a deterrence for fraud and corruption. This helps ensure that GDCC uses its financial and other resources for serving the community.

7. CHARTER OF HUMAN RIGHTS AND RESPONSIBILITIES ACT 2006 - COMPATIBILITY STATEMENT

All matters relevant to the Victorian Charter of Human Rights and Responsibilities have been considered in the preparation of this policy and are consistent with the standards set by the Charter. The particular areas in the Victorian Charter of Human Rights and Responsibilities that relate to this policy are:

- Section 8 - Right to recognition and equality before the law
- Section 13 - Right to privacy and reputation
- Section 15 - Right to freedom of expression
- Section 18 - Right to have the opportunity to take part in public life and to vote
- Section 24 - Right to a fair hearing

8. RESPONSE TO THE GENDER EQUALITY ACT 2020

Council's *Diversity, Access and Equity Policy* and the *Gender Equality Act 2020* have been considered in the preparation of this policy but are not relevant to its contents. There is no apparent need for a Gender Impact Assessment of this policy. This is because the policy:

- is purely administrative in its nature; it does not have the potential to influence broader social norms and gender roles
- is purely administrative in nature and does not benefit any one gender group over any other

9. CONSIDERATION OF CLIMATE CHANGE AND SUSTAINABILITY

This policy has no obvious impact on Council's *Declaration on a Climate and Ecological Emergency* or *Climate Change Emergency Strategy 2020-2030* or the requirements of the *Local Government Act 2020* in relation to the overarching governance principle on climate change and sustainability; this policy is purely administrative in nature without potential to influence climate change adaptation, sustainability initiatives, or emissions reduction.

10. RESPONSIBILITIES

The following responsibilities summarise the detailed information provided in the *Disclosures under the Public Interest Disclosures Act 2012* procedures (internal document).

10.1 COUNCIL OFFICERS, EMPLOYEES, STAFF AND COUNCILLORS

Everyone in the Council is encouraged to raise matters of concern relating to GDCC's activities, expenditure, commercial or other relationships, or other relevant circumstances, including about other staff, under this policy.

No detrimental action (or inaction) should occur, involving a person that has made - or is suspected of making - a report under the PID Act, and their privacy and the confidentiality of their disclosure must be protected. This also applies to any persons assisting in the investigation of the PID.

10.2 DIRECT AND INDIRECT SUPERVISORS AND MANAGERS

Staff of the Council who wish to make a PID may make that disclosure to their direct or indirect supervisor or manager. An officer receiving such a disclosure must therefore follow the steps outlined in the *Disclosures under the Public Interest Disclosures Act 2012* procedures.

10.3 PID OFFICER

The Greater Dandenong City Council has nominated three PID Officers. From time to time, it may be necessary to appoint other or additional PID Officers. Council will take all reasonable steps to publicise the contact details of these officers as widely as possible. These officers can:

- receive disclosures made internally by any employee or externally from any member of the public.
- serve as a central contact point for general confidential advice about the operation of the PID Act for any person wishing to make a disclosure.
- will, under the guidance of the PID Coordinator, determine whether a disclosure should be notified to IBAC under section 21 of the PID Act.

PID Officers will follow the *Disclosures under the Public Interest Disclosures Act 2012* procedures.

10.4 PID COORDINATOR

The Greater Dandenong City Council's PID Coordinator has a central role in the internal reporting system and maintains oversight of the system. (Further elements of these responsibilities are outlined in the *Disclosures under the Public Interest Disclosures Act 2012* procedures).

10.5 WELFARE MANAGER

The Welfare Manager is responsible for looking after the general welfare of a discloser and any persons cooperating with the investigation of a PID. (Further elements of these responsibilities are outlined in the *Disclosures under the Public Interest Disclosures Act 2012* procedures).

10.6 CHIEF EXECUTIVE OFFICER

Refers disclosures to IBAC or other appropriate Investigating Entity, as defined in the *Public Interest Disclosures*

Act 2012 and IBAC Act 2011, as relevant.

11. REPORTING, MONITORING AND REVIEW

This policy is formally reviewed every two years. In the interim, changes to the legislative framework, or relevant associated developments (eg VO or IBAC bulletins, cases or briefings, etc) will be reviewed to determine if changes to this policy (and the associated procedures) are necessary. Responsibility for any review lies with the Public Interest Disclosure Coordinator.

Additionally, Council's whistle-blower service provider, **Grant Thornton** (see above), also provides relevant updates and commentary arising in this domain. At the time of review of this policy, Grant Thornton has also delivered PID and fraud awareness training to Council staff, and this learning will be repeated, at quarterly intervals, to cover all staff. Support information will be distributed on GDCC's intranet, also quarterly.

The Protected Disclosures Coordinator receives regular training to effectively manage the procedures and carry out their responsibilities under the Act.

The Public Disclosure framework (including this policy) is also subject to regular review by the Internal Auditor.

12. REFERENCES AND RELATED DOCUMENTS

Legislation

- *Charter of Human Rights and Responsibilities Act 2006*
- *Gender Equality Act 2020*
- *IBAC Guidelines for handling public interest disclosures*
<http://www.ibac.vic.gov.au/publications-and-resources/article/guidelines-for-making-and-handling-protected-disclosures>; (URL current as at 17.10.2022)
- *IBAC Guidelines for Public interest disclosure welfare management*
<https://www.ibac.vic.gov.au/publications-and-resources/article/guidelines-for-protected-disclosure-welfare-management> (URL current as at 17.10.2022)
- *Independent Broad-Based Anti-Corruption Commission Act 2011 (Vic)*
- *Local Government Act 2020*
- *Planning and Environment Act 1987*
- *Protected Disclosures Regulations 2019*
- *Public Interest Disclosures Act 2012*

Related Council and Other Policies, Procedures, Strategies, Protocols, Guidelines

- *Child Safe Standards Policy*
- *Code of Conduct Staff*
- *Code of Conduct Councillors*
- *Customer Service Charter, Complaints Policy, and Dispute Resolution Guidelines*
- *Diversity, Access and Equity Policy*
- *Fraud and Corruption Prevention and Control Policy*
- *Fraud and Corruption Response Procedure* (contained within the above policy)
- *GDCC Delegations*
- *Greater Dandenong Disclosures under the Public Interest Disclosures Act 2012 procedures*