

Public Interest Disclosures Act Policy

Date developed - January 2020

Responsible Service Area: Finance & Governance

Purpose

The purpose of this Policy is to ensure all Councillors, employees and volunteers of Maroondah City Council (Council) comply with the *Public Interest Disclosures Act 2012 (The Act)*, and to encourage and facilitate the reporting of disclosures of improper conduct and detrimental action.

Background/context

Maroondah City Council is a public body subject to the provisions of the Public Interest Disclosures Act 2012. Council is committed to the aims and objectives of the Act and is committed to providing a safe and supportive environment for people who wish to make a report on known or suspected incidents of improper conduct or detrimental action.

Council does not tolerate improper conduct by its Councillors or employees and values transparency and accountability in administrative and management practices. Council supports disclosures that reveal corrupt conduct, conduct involving substantial mismanagement of public resources or conduct involving substantial risk to public health and safety to the environment.

Relationship to the Maroondah 2040 Community Vision

<i>Community Outcome:</i>	A well Governed and Empowered Community
<i>Key Directions:</i>	Maroondah is an empowered community that is actively engaged in Council decision making through processes that consider the needs and aspirations of all ages and popular groups. Council provides strong and responsive leadership, ensures transparency, while working with the community to advocate for the 'champion' local needs.

Scope

All Councillors, employees and volunteers of Maroondah City Council must comply with the provisions of The Act, the policy and the accompanying procedure.

Any person may make a disclosure under the Act. The disclosure may come from an employee within the organisation or any member of the public.

Policy Control Schedule

Policy Title: Public Interest Disclosures Act Policy		Policy type: Statutory
Current version approved: August 2021	Current version number: 1	Policy review date: August 2023
Parent policy:	Child policy/policies:	Policy responsibility: Risk, Information and Integrity

This Policy and the procedure have been prepared in accordance with the Act and the guidelines of the Independent Broad-Based Anti-Corruption Commission (IBAC). Under section 57 of the Act, Council is required to develop procedural guidelines relating to a Public Interest Disclosure (PID).

Objective of the Public Interest Disclosures Act 2012

The object of this Act is:

- to encourage and facilitate the disclosure of:
 - **improper Conduct** by public officers and public bodies
 - **detrimental action** taken in reprisal for a person making a disclosure under this Act
- to provide protection for:
 - people who make those disclosures
 - people who may suffer detrimental action in reprisal for those disclosures
- to provide confidentiality of the content of the disclosure and the identity of people who make disclosures
- to provide confidentiality of all people involved and cooperating with the disclosure investigation.

Definition of key terms

Improper conduct	Includes corrupt conduct, criminal offences and other conduct specified in the procedure and the Act. A link is required to be identified between the conduct and the official function of a public officer or public body.
Detrimental action	Includes threats of, or an action causing, injury, loss, damage, intimidation or harassment; and discrimination, disadvantage or adverse treatment in relation to a person's employment, career, profession, trade or business, including disciplinary action.
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.
Public Interest Complaint (PIC)	A public interest disclosure that has been determined by IBAC, The Victorian Inspectorate, or the Integrity and Oversight Committee to be a public interest complaint.

For full terms and definitions, refer to the Public Interest Disclosure Procedure.

Roles and responsibilities

All Employees are responsible for familiarising themselves, and complying with the Act, the Policy and the procedure; and not engage in improper conduct or detrimental action.

All employees and members of the public are encouraged to report known or suspected incidences of improper conduct or detrimental action.

Council has appointed a **Public Interest Disclosure Coordinator** (PID Coordinator) and **Public Interest Disclosure officers** to manage all enquiries relating to the obligations under the Act. If you wish to speak to the PID Coordinator confidentially, please contact 9294 5699 or via a confidential email pid@maroondah.vic.gov.au

Risk, Information and Integrity are responsible for overseeing the facilitation of the Act, providing support and guidance, and implementing the Policy and Procedure. For general inquiries, please contact 9294 5699, 9298 4211 or risk_management@maroondah.vic.gov.au

In addition to complying with the requirements under the Act, **Supervisors and Senior Management** are required to provide additional support to employees who are disclosing a matter, or an employee implicated in the disclosure. Confidentiality *must* be maintained.

The Independent Broad-Based Anti-Corruption Commission (IBAC) is responsible for receiving and assessing possible Public Interest Disclosures (PID) to determine if it meets the criteria of a Public Interest Complaint (PIC). IBAC may take carriage of the investigation, dismiss the disclosure, refer the matter to another agency (such as the Victorian Ombudsman or the Local Government Inspectorate) or refer the matter back to Council to manage under the normal complaint/disciplinary process. <https://www.ibac.vic.gov.au/>

Policy Position

For full details on how to report a disclosure, roles and responsibilities, confidentiality, and welfare management, please refer to the Public Interest Disclosure procedure on Council's website.

<https://www.maroondah.vic.gov.au/About-Council/Our-organisation/Public-Interest-Disclosures>

A disclosure can be made:

- In person (away from the workplace if requested)
- In writing (letter or email) or
- anonymously

Welfare Management

Welfare Management in a PID is a critical role in overseeing the safety and welfare of all person's involved in a disclosure. The PID Coordinator will appoint a Welfare Manager who will provide appropriate support to the discloser and ensure they are protected from direct and indirect detrimental action. They must maintain confidentiality at all times.

Confidentiality and record keeping

Council will take all reasonable steps to protect the identity of a person making a disclosure. If an employee knows the identity or suspects the identity of any involved, they must maintain confidentiality.

The Act prohibits any person who receives information via a disclosure from disclosing content or information except in certain limited circumstances, including:

- where it is necessary to do so in exercising the functions of the public body under the Act
- when obtaining legal advice in relation to the rights, liabilities, obligations and privileges under the Act
- when an interpreter is required to assist a person, who does not have sufficient knowledge of the English language.
- Assisting the discloser to seek support from a registered health practitioner, trade union, employee assistance program, WorkCover or the Fair Work Commission.

Council will ensure all records (electronic or hard copy) are kept secure where only the PID Coordinator, PID officers, Director Corporate Services or Welfare Manager (where relevant) can access.

Records will be maintained in accordance with the Information Management Policy and the Public Records Act 1973.

Unauthorised access or releasing any information relating to a Public Interest Disclosure is in breach of sections 52 & 53 of the Act and may constitute a criminal offence and/or result in disciplinary action.

Alternatives to making a disclosure

The Act is designed to complement normal complaint methods of Maroondah City Council. Members of the public are encouraged to contact Council with any complaints or concerns they may have about Council or Council employees in the first instance. For more information, please see the general complaints process.

<https://www.maroondah.vic.gov.au/Customer-service/Issues-and-requests/Service-complaints-and-escalating-an-issue>

Related legislation and documents

- Independent Broad-Based Anti-Corruption Commission Act 2011
- Local Government Act 2020
- Local Government (Governance and Integrity) Regulations 2020
- Public Interest Disclosure Act 2012 (Vic)
- Victorian Civil and Administrative Tribunal Act 1998
- Victorian Inspectorate Act 2011
- Employee Code of Conduct HR06-06
- Councillor Code of Conduct
- Discipline Policy HR06-02
- Information Management Policy
- Employee Assistance Program HR11-01
- Fraud and Corruption Control Policy and Plan

Publishing statistics

While Council is required to include certain information about public interest disclosures in the Annual Report, details that are likely to lead to the identification of the people involved in the disclosure will be omitted.

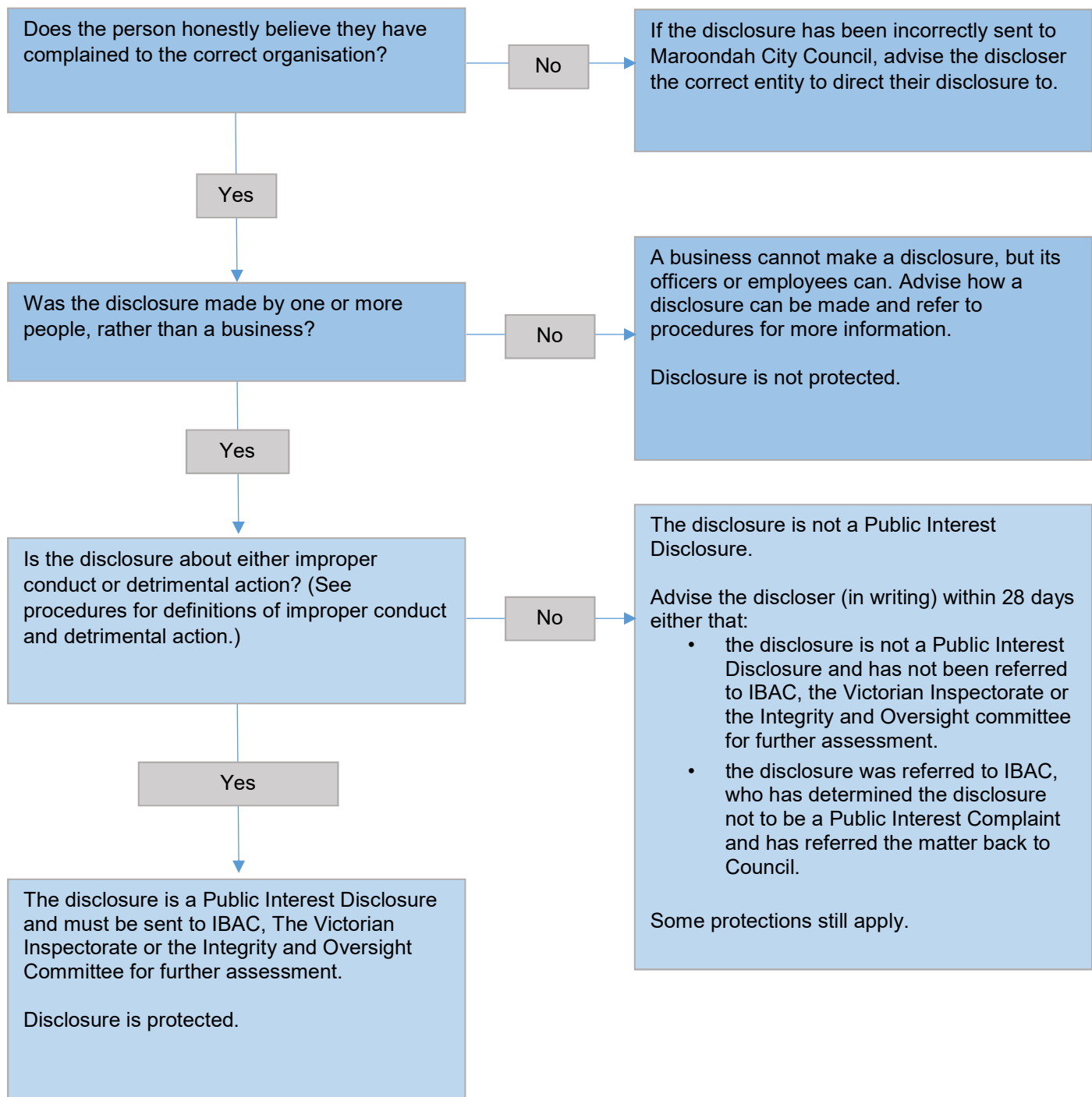
Appendix

Appendix 1 - Assessing Disclosures flowchart

Appendix 2 - Welfare support table

Appendix one - Public Interest Disclosure flowchart

Maroondah City Council is a public body authorised to receive disclosures and must comply with the provisions of the Act.



Appendix two - Welfare support table

(located on IBAC's website: "Guidelines for Public Interest disclosure welfare management"

<https://www.ibac.vic.gov.au/publications-and-resources/article/guidelines-for-protected-disclosure-welfare-management>)

Inform	<p>At a minimum:</p> <ul style="list-style-type: none"> • Confirm the disclosure has been received. • Outline the legislative or administrative protections available. • Describe the action you propose be taken. • If action has been taken, provide details about the results.
Provide active support	<p>Acknowledge the person for having come forward.</p> <ul style="list-style-type: none"> • Provide the person with assurance they have done the right thing and the organisation appreciates it. • Make a clear offer of support - consider appointment of welfare manager and/or employee assistance program. • Assure them that all reasonable steps will be taken to protect them. • Give them an undertaking to keep them informed.
Manage expectations	<p>Have an early discussion with them:</p> <ul style="list-style-type: none"> • What outcome do they want? • Are their expectations realistic? • What will the organisation be able to deliver?
Maintain confidentiality	<p>The identity of the discloser and the subject matter of their disclosure need to be kept confidential:</p> <ul style="list-style-type: none"> • Make sure other staff cannot infer the identity of the discloser or a person cooperating with the investigation from any information they receive. • Remind the discloser not to reveal themselves or give out information that would enable others to identify them as a discloser. • Make sure that hard-copy and electronic files relating to the disclosure are accessible only to those who are involved in managing disclosures.
Assess the risks of detrimental action being taken in reprisal	<p>Be proactive and do not wait for a complaint of victimisation.</p> <ul style="list-style-type: none"> • Actively monitor the workplace, anticipate problems and deal with them before they develop.
Protect those involved in the disclosure	<p>Examine the immediate welfare and protection needs of the person and foster a supportive work environment.</p> <ul style="list-style-type: none"> • Listen and respond to any concerns the person may have about harassment, intimidation or victimisation in reprisal for their actions. • Assess whether the concerns the person may have about harassment, intimidation or victimisation might be due to causes other than those related to a public interest disclosure.
Manage the impact of any investigation	<p>Prevent the spread of gossip and rumours about an investigation into the disclosure.</p>
Keep records	<p>Keep contemporaneous records of all aspects of the case management of the person, including all contact and follow-up action.</p> <p>Document the findings or investigation report. This may include an executive summary, introduction or background about complaint and investigation, outline the evidence and its analysis (such as documents or interviews), and the outlining of findings and recommendations.</p>