

Public Interest Disclosures Policy

Responsible Service Area: Governance & Performance

Last updated: July 2024

Purpose

The purpose of this Policy is to:

1. Ensure all Councillors, employees and volunteers of Maroondah City Council comply with the *Public Interest Disclosures Act 2012*
2. Encourage and facilitate the reporting of disclosures of improper conduct and detrimental action.

Background

Maroondah City Council is a public body subject to the provisions of the *Public Interest Disclosures Act 2012* (the Act).

The Act seeks to facilitate the disclosure and investigation of wrongdoing and maladministration in the public sector (including local government) and to promote the integrity and accountability of the public sector by:

- encouraging and facilitating the disclosure of information of suspected wrongdoing within the public sector
- ensuring that public officials who make public interest disclosures are supported and protected from adverse consequences, and
- ensuring that disclosures are properly investigated and dealt with.

The Act encourages Councillors, employees, former employees, members of the public and other individuals as prescribed by the Act to provide disclosures that reveal corrupt conduct, conduct involving substantial mismanagement of public resources, or conduct involving substantial risk to public health and safety within the environment.

Under legislation, people who report improper conduct and corruption in the Victorian public sector (whistle blowers) can do so under the assurance that they will be protected. The Act provides protections for people who make disclosures and subsequently requires agencies to take appropriate action. Protections include keeping the identity of the person(s) reporting improper conduct confidential and protecting them from reprisals including bullying, harassment or legal action.

This Policy has been prepared in accordance with the Act and the guidelines provided by 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).

Policy Control Schedule

Policy Title: Public Interest Disclosures Policy		Policy type: Statutory
Current version approved: 15 July 2024		Current version number: 2
Parent policy: Fraud and Corruption Control Policy		Policy review date: July 2028
Child policy/policies:	Policy responsibility: Manager Governance and Performance	

Scope

1. All Councillors, employees and volunteers of Maroondah City Council must comply with the provisions of The Act and this Policy.
2. Any person may make a disclosure under the Act. The disclosure may come from a Councillor, a current or former employee or any member of the public.

Objective

The objectives of this Policy are to:

- Define the applicability of the *Public Interest Disclosures Act 2012* on Council operations.
- Encourage and facilitate the disclosure of:
 - **improper conduct** by Council, including corrupt conduct, conduct involving substantial mismanagement of public resources, or conduct involving substantial risk to public health and safety within the environment.
 - **any detrimental action** made in reprisal for a person making a disclosure under this Act.
- Ensure protection for:
 - people who make those disclosures.
 - people who may suffer detrimental action in reprisal for those disclosures.
- Provide confidentiality relating to the content of the disclosure and the identity of the person(s) who make disclosures.
- Provide confidentiality of all persons involved and cooperate with the disclosure investigation.

Policy Statements

In accordance with 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.
- Does not tolerate improper conduct by its Councillors or employees.
- Values transparency and accountability in all administrative and management practices.
- Supports disclosures that reveal corrupt conduct, conduct involving substantial mismanagement of public resources or conduct involving substantial risk to public health and safety within the environment.
- Will take all reasonable steps to protect the people who make such disclosures from any detrimental action and reprisal when making the disclosure.
- Will afford natural justice to the person who is the subject of the disclosure.

Policy Implementation

Making a disclosure

Disclosures regarding Maroondah City Council employees should be made directly to Council's Protected Interest Disclosure (PID) Coordinator (or a PID Officer should the PID Coordinator be unavailable). Disclosures regarding Council employees can also be made directly to the Independent Broad-Based Anti-Corruption Commission (IBAC).

A disclosure can be made:

- In person (away from the workplace if requested)
- By email to PID@maroondah.vic.gov.au
- anonymously

Disclosures regarding Maroondah's Councillors should be made directly to IBAC by phone, mail, or via an online form. More details may be found at: <https://www.ibac.vic.gov.au/report>

Further details on how to report a disclosure can be found on Council's website:

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

Consideration of disclosures

If Council determines that the information disclosed is likely to constitute a Public Interest Complaint, Council will refer the matter to IBAC for review. IBAC will determine who will investigate the matter and may refer the disclosure back to Council depending on the nature of the complaint. Specific timeframes apply, with the discloser being informed of actions taken throughout the process.

Welfare Management

Welfare Management relating to a public interest disclosure is critical to ensure the safety and welfare of all parties involved. 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. The PID Coordinator, Welfare Manager and person making the disclosure must always maintain confidentiality.

Confidentiality and record keeping

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

The Act prohibits any person who receives information via a disclosure from disclosing content or information except in a limited number of 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, where language barriers exist.
- 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, Welfare Manager (where relevant) and the line management of these appointed officers (Manager Governance and Performance and Chief Financial Officer) can access them.

Records will be held and retained in accordance with Council's 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 process of making a public interest disclosure under the Act is designed to complement other Council complaint handling procedures.

Members of the public are encouraged to contact Maroondah City Council with any complaints or concerns they may have about Council, or Council employees in the first instance.

For more information, see Council's general complaints process:

<https://www.maroondah.vic.gov.au/Customer-service/Forms-and-permits/Forms-and-permits/Customer-feedback-compliments-and-complaints-form>

If contact is made with IBAC regarding a matter, instead of making a formal complaint about alleged corruption, IBAC can receive information that could trigger an investigation or helps the Commission to find ways to prevent corruption. More details on this can be found at: <https://www.ibac.vic.gov.au/report>

Reporting

Whilst Council is required to include certain summary level information about public interest disclosures in its Annual Report, any details that are likely to lead to the identification of the individuals involved in the disclosure will be omitted.

Roles and responsibilities

Role	Responsibilities
All employees (current and former)	<ul style="list-style-type: none"> Ensure they familiarise themselves and comply with the Act and the provisions of this Policy. Ensure they do not engage in improper conduct, or detrimental action. Encourage reporting of known or suspected incidences of improper conduct, or detrimental action, as defined by the Act.
Councillors	<ul style="list-style-type: none"> Ensure they familiarise themselves and comply with the Act, and provisions of this Policy. Ensure they do not engage in improper conduct, or detrimental action. Encourage reporting of known or suspected incidences of improper conduct, or detrimental action as defined by the Act.
Employees with Supervisory Responsibilities	<ul style="list-style-type: none"> Implement this Policy within their own area of responsibility. Ensure employee awareness of this policy. Provide additional support to employees who are disclosing a matter, or an employee implicated in the disclosure. Confidentiality <u>must</u> be maintained. Display behaviours and work practices consistent with Council's values thereby promoting an ethical culture that actively discourages improper conduct, or detrimental action.
Members of the public	<ul style="list-style-type: none"> Encourage the reporting of known or suspected incidences of improper conduct, or detrimental action as defined by the Act.
Governance and Performance service area	<ul style="list-style-type: none"> Oversee the development, implementation and review of this Policy. Provide support and guidance regarding the provisions of this Policy. Ensure awareness of this policy across Council.
Public Interest Disclosure Coordinator (PID Coordinator)	<ul style="list-style-type: none"> Oversee all enquiries and disclosures relating to Council's obligations under the Act. Be the initial point of contact for any phone calls, emails and letters from members of the public, Councillors or employees of Council seeking to make a disclosure about improper conduct. Ensure Council carries out its responsibilities under the PID Act where a disclosure may be made about improper conduct or detrimental action.
Public Interest Disclosure Officer (PID Officer)	<ul style="list-style-type: none"> Support the PID Coordinator in Council's obligations under the Act. Be an alternate point of contact for phone calls, emails and letters from members of the public, Councillors or employees of Council, seeking to make a disclosure about improper conduct. Support processes that ensure Council carries out its responsibilities under the PID Act where a disclosure is made about improper conduct or detrimental action.
IBAC (Independent Broad-based Anti-Corruption Commission)	<ul style="list-style-type: none"> Receive complaints and notifications regarding public sector corruption and misconduct. Receive details of reportable public interest disclosures from Council relating to Council employees. Directly receive complaints and notifications of public sector corruption and misconduct relating to Councillors. Upon receipt of a disclosure, determine whether the matter(s) are to be handled by the Commission or referred back to Council. Investigate matters associated with serious corruption and misconduct arising from a disclosure.

Council has appointed a **Public Interest Disclosure Coordinator** (PID Coordinator) and **Public Interest Disclosure officers** to manage all enquiries relating to Council obligations under the Act. If you wish to speak to the PID

Coordinator confidentially, please make contact via phone on (03) 9294 5747 or via confidential email pid@maroondah.vic.gov.au

For general inquiries regarding Council obligations under the Act, please contact a member of Council's Risk and Integrity team via email at: risk.management@maroondah.vic.gov.au

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, or dismiss the disclosure, or refer the matter back to Council to manage under the normal complaint/disciplinary process. <https://www.ibac.vic.gov.au/>

Definition of key terms

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.
IBAC	The Independent Broad-based Anti-Corruption Commission (IBAC) is responsible for preventing and exposing public sector corruption and Victoria Police misconduct in Victoria. This also includes the local government sector.
Improper conduct	Includes corrupt conduct, criminal offences and other conduct specified in the Act. A link is required to be identified between the conduct and the official function of a public officer or public body. Improper conduct includes: 1. Corrupt conduct and/or any of the following conduct carried out by a public officer or public body in their capacity as a public officer or public body: <ul style="list-style-type: none"> • a criminal offence • serious professional misconduct • dishonest performance of public functions • an intentional breach or reckless breach of public trust • an intentional or reckless misuse of information or material acquired during the performance of public functions. • a substantial mismanagement of public resources • a substantial risk to the health or safety of one or more persons • a substantial risk to the environment. 2. Conduct by a third party that adversely affects the honest performance of a public officer or public body, or is intended to adversely affect effective performance of a public officer or public body while obtaining an advantage for the third party; and/or 3. Conduct by a third party that could constitute a conspiracy or attempt to engage in any of the above.
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.
Public Interest Disclosure Coordinator (PID Coordinator)	A nominated Council employee oversees all enquiries and disclosures relating to Maroondah City Council's obligations under the Act. Under Council delegation, this role is held by Council's Coordinator Corporate Planning, Risk and Information.

Relationship to the Maroondah 2040 Community Vision

<i>Community Outcome:</i>	A well governed and empowered community
<i>Key Directions:</i>	8.1 Provide community inspired governance that is transparent, accessible, inclusive and accountable. 8.2 Ensure responsible and sustainable management of Maroondah City Councils resources, assets, infrastructure and natural environment.

Related legislation and policies

Legislation and Regulations

- Independent Broad-Based Anti-Corruption Commission Act 2011
- Local Government (General) Regulations 2015
- Local Government Act 2020
- Public Interest Disclosure Act 2012 (Vic)
- Victorian Civil and Administrative Tribunal Act 1998
- Victorian Inspectorate Act 2011

Council policies

- Employee Code of Conduct HR06-06
- Councillor Code of Conduct
- Discipline Policy HR06-02
- Information Management Policy
- Employee Assistance Program HR11-01

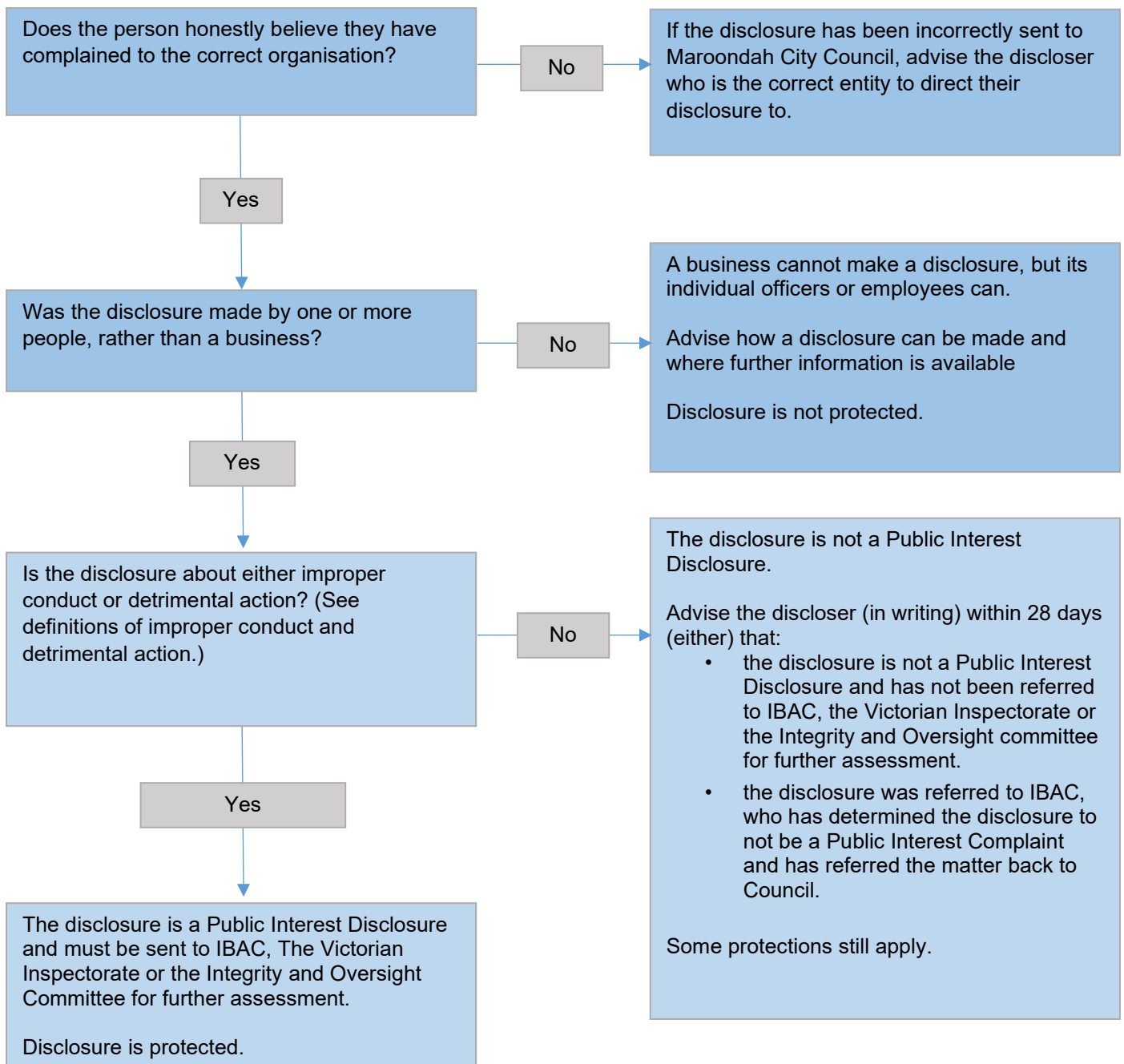
Appendices

- Appendix 1 - Public Interest Disclosure assessment
- Appendix 2 - Guidelines on welfare support

Appendix 1 - Public Interest Disclosure Assessment

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

The workflow process below illustrates the steps involved in the assessment of a Public Interest Disclosure received by Council.



Appendix 2 - Guidelines on welfare support

For the *Public Interest Disclosures Act 2012* and Maroondah City Council's Public Interest Disclosure Policy to be effective, any persons who shines a spotlight on improper conduct needs to be confident that they will be protected from reprisal. Support and protection also need to be provided for those who cooperate as witnesses during the investigation(s).

IBAC have established guidelines to manage the welfare of:

- a person who makes a public interest disclosure
- a person who is a witness in an investigation of a public interest complaint
- a person who is the subject of such an investigation.

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

A summary of key considerations is detailed below:

Inform	At a minimum: <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	Acknowledge the person for having come forward. <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. • Assure them that all reasonable steps will be taken to protect them. • Give them an undertaking to keep them informed.
Manage expectations	Have an early discussion with them: <ul style="list-style-type: none"> • What outcome are they seeking? • Are their expectations realistic? • What will the organisation be able to deliver?
Maintain confidentiality	The identity of the discloser and the subject matter of their disclosure needs to remain confidential: <ul style="list-style-type: none"> • Make sure other employees 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 in the organisation.
Assess the risks of detrimental action	Be proactive and do not wait for a complaint of victimisation. <ul style="list-style-type: none"> • Actively monitor the workplace, anticipate problems and deal with them before they develop.
Protect the discloser/ co-operator	Examine the immediate welfare and protection needs of the discloser/co-operator and foster a supportive work environment: <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	Prevent the spread of gossip and rumours about an investigation.
Keep records	Keep up-to-date confidential records of all aspects of the case management of the person, including all contact and follow-up action.