



**Southern Grampians**  
SHIRE COUNCIL

# Public Interest Disclosures Procedures

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## PUBLIC INTEREST DISCLOSURE PROCEDURES

These procedures have been published by the Southern Grampians Shire Council (Council) in compliance with s58 of the Public Interest Disclosures Act 2012 (the Act) and the Guidelines published by the Independent Broad-based Anti-corruption Commission (IBAC) as at October 2016.

### 1. INTRODUCTION

Council is required to ensure these procedures are readily available to members of the public, as well as internally to Councillors and staff of Council (including employees, contractors, students and volunteers).

This procedure sets out how Council will meet its obligations under the Act.

Council values transparency and accountability in its administrative and management practices and fully supports the disclosure of improper conduct or detrimental action.

Council will appropriately protect people who notify it about improper conduct or detrimental action and will manage disclosures confidentially.

Council will similarly appropriately protect people who disclose directly to IBAC, where it becomes aware of such disclosures.

The purpose of this document is to establish procedures for facilitating and managing the receipt of public interest disclosures and appropriately protecting people against detrimental action.

### 2. ABOUT THE ACT

The Act has three key purposes:

- To encourage and assist people to report improper conduct and detrimental action taken in reprisal for a public interest disclosure.
- To provide certain protections for people who make a disclosure, or those who may suffer detrimental action in reprisal for a disclosure.
- To ensure that certain information about a disclosure is kept confidential – the identity of the person making the disclosure and the content of the disclosure.

### 3. OFFENCES UNDER THE PUBLIC INTEREST DISCLOSURES ACT 2012 (VIC)

Council will comply with the Act and the corresponding Regulations and IBAC guidelines.

The Act sets out a number of offences relating to breaches of the requirements of the Act. These offences can be punished monetarily, by a term of imprisonment, or both.

Under the Act it is an offence for a person to:

- take detrimental action against another person in reprisal for a public interest disclosure;
- disclose the content, or information about the content, of a disclosure that has been notified to IBAC, or to disclose information likely to lead to the identification of the person who made the disclosure;

- make a false disclosure, with the intent it be acted on as a disclosed matter, or to knowingly provide further information that is false or misleading about a public interest disclosure they have made;
- disclose that a disclosure has been notified to IBAC for assessment, or to disclose that IBAC has determined a disclosure to be a public interest complaint, unless permitted to do so by the Act; and
- claim that a matter is the subject of a disclosure that IBAC has determined to be a public interest complaint, knowing that claim to be false.

#### 4. DEFINITION OF KEY TERMS

**Public Interest Disclosure** – a disclosure is a report made by a natural person or group of people about past, present or proposed improper conduct by Council or its staff. A disclosure can also be made about detrimental action taken against a person by Council or a staff member in reprisal for a disclosure.

For a disclosure to be a public interest disclosure it must be made in accordance with the requirements of Part 2 of the Act and in accordance with the procedures set out in section 9 of the Public Interest Disclosure Regulations 2013.

A complaint or allegation that is already in the public domain will not normally be a public interest disclosure. The term disclosure is interpreted under the Act in the ordinary sense of the word as a revelation to the person receiving it.

**Public Interest Complaint** – 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.

**Assessable disclosure** – a disclosure that has been considered by Council and determined to meet the requirements of a public interest disclosure and, as such, requires notification to IBAC.

**Misdirected disclosure** – where a disclosure is made to an entity which ordinarily can receive disclosures and which the discloser believes to be the correct place for the disclosure but it not the correct place for the disclosure, the disclosure can still be notified to IBAC for assessment as a public interest complaint and will receive the protections of the disclosure regime. This is also known as the ‘no wrong door’ approach.

**Detrimental action** – means action taken, or threatened, against another person in reprisal for someone making a public interest disclosure. The detrimental action need not be taken against the person making the disclosure, but against any person and can include inciting someone else to take the action.

The Act makes it a punishable offence for a person to take detrimental action, which is defined as:

- action causing injury, loss or damage;
- intimidation or harassment; or
- discrimination, disadvantage or adverse treatment in relation to a person’s employment, career, profession, trade or business, including taking inappropriate or unwarranted disciplinary action.

**Improper conduct** – means corrupt conduct or conduct that constitutes:

- a criminal offence;
- serious professional misconduct;
- dishonest performance of public functions;
- intentional or reckless breach of public trust;
- intentional or reckless misuse of information or material acquired in the course of their role as a public officer or public body;
- substantial mismanagement of public resources;
- substantial risk to the health and safety of one or more persons;
- substantial risk to the environment;
- conduct that adversely affects the honest performance of a public officer or public body;
- conduct that intends to adversely affect the effective performance of a public officer or public body while obtaining an advantage;
- conduct that could constitute a conspiracy or attempt to engage in any of the above.

Less serious or trivial complaints are excluded from the definition of improper conduct.

### **Independent Broad-based Anti-Corruption Commission (IBAC)**

IBAC is Victoria's independent anti-corruption commission. IBAC:

- receives complaints and notifications of public sector corruption and police misconduct;
- investigates and exposes corruption and police misconduct; and
- informs the public sector and community about the risks and impacts of corruption and police misconduct, and ways it can be prevented.

**Staff** – includes employees, contractors, students and volunteers.

**Victorian Inspectorate** – is the key oversight body in Victoria's integrity system. Its objectives include enhancing the compliance of IBAC and IBAC personnel with the Independent Broad-based Anti-corruption Act 2011 (Vic). The inspectorate has the power to receive and investigate certain complaints made to it about IBAC.

**Victorian Ombudsman** – is a key part of Victoria's integrity framework and encourage people to report improper conduct in the public sector, and support action to investigate and address that conduct. The Victorian Ombudsman has the power to receive and investigate certain complaints regarding Councillors.

**Integrity and Oversight Committee (IOC)** – is a new joint committee established under the Parliamentary Committees Act 2003. The IOC can receive public interest disclosures regarding the Victorian Inspectorate.

## **5. PROCEDURES**

These procedures establish a system for reporting disclosures of improper conduct or detrimental action by Council or its staff members. Council has nominated a Public Interest

Disclosure Coordinator (PIDC) who is responsible for assessing if disclosures made to Council are assessable disclosures.

In compliance with the IBAC guidelines, Council will have:

- secure information management systems for the receipt, storage, assessment and notification of public interest disclosures
- a secure process for receiving disclosures
- a means of identifying a person (or persons) who can receive disclosures (known as a Public Interest Disclosure Coordinator)
- a secure means of notifying IBAC of assessable disclosures
- education for selected staff in the receipt, handling, assessment and notification of disclosures
- education and training for selected staff in the welfare management of those associated with a public interest disclosure
- a way to collect and collate statistics on public interest disclosures for annual reporting.

Council is committed to promoting this procedure and encouraging a workplace culture that supports the making of public interest disclosures.

## 6. WHO CAN MAKE A DISCLOSURE?

Any person can make a disclosure about improper conduct engaged in, or detrimental action taken by, Council or one of its staff members.

A disclosure may be made by an individual or a group of individuals. A company or business cannot make a disclosure.

You may ask someone else to make a disclosure on your behalf. However, if someone makes a disclosure on your behalf, only they will receive the full protection of the Act in relation to that disclosure. Your protection will be limited to confidentiality and protection against detrimental action taken against you in reprisal for the disclosure.

## 7. WHO DO I MAKE A DISCLOSURE TO?

The Act only allows certain people and entities to receive disclosures and their ability to receive disclosures depends upon whom the disclosure is made about. As such, Southern Grampians Shire Council can only receive disclosures about Southern Grampians Shire Council and its staff.

If Southern Grampians Shire Council receives a public interest disclosure concerning another public body, the Southern Grampians Shire Council will notify the disclosure to IBAC for assessment as a public interest complaint and the protections under the Act will apply.

If in doubt, a disclosure should be made to IBAC, unless the disclosure is about IBAC or one of its officers, in which case it should be made to the Victorian Inspectorate.

If your disclosure concerns Southern Grampians Shire Council, or one of its staff members, you may make your disclosure to one of the internal contacts listed below or directly to IBAC.

### **Southern Grampians Shire Council Internal contacts**

Within Council, disclosures may be made to:

- the PIDC
- the Chief Executive Officer of the Southern Grampians Shire Council;
- your manager or supervisor, if you are a staff member of Council; or
- the manager or supervisor of the person who is the subject of your disclosure.

The PIDC is authorised to manage disclosures made to Council about improper conduct or detrimental action by Council or its staff members, and will ultimately receive all disclosures for assessment, regardless of whom they are made to initially. As such, the PIDC is the recommended person to whom disclosures should be made:

Karly Saunders  
Public Interest Disclosure Coordinator  
111 Brown Street  
Hamilton VIC 3300  
Phone: (03) 5573 0425  
Email: ksaunders@sthgrampians.vic.gov.au

### External contacts

A disclosure about improper conduct or detrimental action by Council or its staff members may also be made directly to IBAC. Please note the below table outlines the different integrity agencies and the types of disclosures they can receive:

| Integrity Agency   | What kind of disclosure?  | Contact Details  |
|--|---|--|
| The Independent Broad-based Anti-corruption Commission (IBAC) Victoria | Improper Conduct or detrimental action by Council, its staff members or a disclosure about a Councillor | Level 1, North Tower, 459 Collins Street, Melbourne VIC 3001<br>Phone: 1300 735 135<br>Mail: IBAC, GPO Box 24234, Melbourne VIC 3000<br>Internet: www.ibac.vic.gov.au<br>Email: see the website above for the secure email disclosure process, which also provides for anonymous disclosures |
| Victorian Ombudsman  | Disclosures about Councillor(s)   | Level 1, 459 Collins Street (North Tower) Melbourne Victoria 3000<br>Phone: 1800 806 314<br>Internet: www.ombudsman.vic.gov.au   |
| Local Government Inspectorate  | Disclosures about IBAC.   | Level 27, 1 Spring Street Melbourne Victoria 3000<br>Phone: 1800 469 359<br>Email: inspectorate@lgi.vic.gov.au   |
| Integrity and Oversight Committee (IOC)                                | Disclosures about the Victorian Inspectorate  | Parliament of Victoria<br>Integrity and Oversight Committee<br>Parliament House, Spring Street<br>EAST MELBOURNE VIC 3002<br>Phone: 03 8682 2815<br>Email: ioc@parliament.vic.gov.au   |

## 8. HOW DO I MAKE A DISCLOSURE?

Your disclosure must be made in private to someone who is listed above as able to receive a disclosure. You may make a public interest disclosure verbally (in person, by phone or by leaving a voicemail message) or in writing (by post, personal delivery or email – please mark as confidential).

You may not make a disclosure to Council by fax, as this is not a suitably private or secure means of communication.

You may make your disclosure anonymously, however this may impact the ability to investigate the disclosure and you will not be notified of the outcome of any investigation.

Where you are contemplating making a disclosure and are concerned about approaching someone who is able to receive disclosures in the workplace, you can request a meeting in a discreet location away from the workplace.

When making a disclosure, you do not need to specifically refer to the Act, or the protections under the Act, for your disclosure to be a public interest disclosure.

You may make a disclosure and specifically request that it not be treated as a public interest disclosure.

## 9. WHAT CAN I MAKE A DISCLOSURE ABOUT?

Your disclosure must be about the conduct of a person, public officer or public body.

The conduct may be improper conduct or detrimental action, as defined in this document in the Definition of Key Terms (4).

You may make a disclosure if you believe (as opposed to know) on reasonable grounds that improper conduct or detrimental action has occurred, is occurring or is likely to occur. However, this requires you to have information that would lead a reasonable person to believe that the information shows, or tends to show, improper conduct or detrimental action.

## 10. WHAT WILL HAPPEN AFTER I MAKE A DISCLOSURE?

Please note the following relates to disclosures made directly to Council. Disclosures made directly to IBAC will be handled in accordance with IBAC's guidelines and procedures.

### 10.1.1 Receipt of disclosure

Where a disclosure is made to anyone other than the PIDC, they will be responsible only for receiving and promptly referring the disclosure and any supporting evidence to the PIDC. They should inform you at the time you make your disclosure that it will be referred to the PIDC for assessment.

### 10.1.2 Acknowledgement of disclosure

The receipt of your disclosure to Council will be acknowledged by the PIDC verbally or in writing (if a postal or email address is known). You will be advised of the key steps in the process of handling your disclosure, including the timeframes involved.

### 10.1.3 Assessment of disclosure

Following the acknowledgement of your disclosure, the PIDC will assess if your disclosure meets the requirements of the Act and is an assessable disclosure. In doing so, the PIDC may discuss the matter with the CEO, if they are not implicated in the matter.



In assessing whether the disclosure is a public interest disclosure the PIDC will be checking

- That it has been made by an eligible party or parties
- That it has been made verbally or in writing;
- That it has been made to the right body and if it has not, it will be provided to IBAC as a misdirected disclosure;
- That it is about a public body or public officer or a person adversely affecting the honest performance of a public body or public officer's official function; and
- Whether the information shows or tends to show that there was improper conduct or detrimental action or whether the discloser believes on reasonable grounds that the information shows or tends to show that there was improper conduct or detrimental action.

#### ***Notification when a disclosure is considered an assessable disclosure***

Where your disclosure is determined to meet the requirements of the Act, the PIDC will notify you in writing within 28 days after your disclosure was made that:

- IBAC has been notified; and
- it is an offence under section 74 of the Act to disclose that the disclosure has been notified to IBAC.

#### ***Notification when a disclosure is not considered an assessable disclosure***

Where the PIDC does not consider your disclosure to be a Public interest disclosure, the matter does not need to be dealt with under the Act. You will be notified within 28 days after your disclosure was made that:

- Council does not consider the disclosure to be a public interest disclosure matter;
- IBAC has not been notified of the disclosure; and
- the protections provided under Part 6 of the Act still apply.

Should this determination be made, the PIDC will consider progressing your disclosure through another avenue and may discuss the consideration of available options with you.

#### **10.1.4 Notification to IBAC**

Where your disclosure has been determined to be an assessable disclosure, the PIDC will notify IBAC in writing within 28 days of your disclosure being made.

#### **10.1.5 Assessment of your disclosure by IBAC**

Once IBAC is notified, it must assess whether, in its view, your disclosure is a Public interest disclosure. Additional information from you and/or Council may be sought to assist IBAC to make this determination.

#### ***Where IBAC determines your complaint is a public interest disclosure***

If IBAC determines your disclosure is a public interest disclosure, it becomes a public interest complaint and IBAC must determine which actions to take.

Under section 58 of the *Independent Broad-based Anti-corruption Act 2011* (Vic), IBAC may dismiss, investigate or refer a matter to the Victorian Inspectorate or the Ombudsman. IBAC will also be able to refer complaints back to agencies for action, with the consent of complainants and agencies.

IBAC will provide you, within a reasonable time, a written statement advising you that they have determined your disclosure is a public interest complaint and the action they propose to take. If IBAC decides to investigate or refer your public interest complaint, it must provide a written statement advising you that it is an offence under section 184 of the IBAC Act to disclose IBAC's action.

IBAC's advice to you must include a copy of certain sections and Parts of the Act, along with an explanation of the effect of those sections and Parts. The prescribed sections and Parts are:

- section 72 – Offence to make false disclosure or provide further false information;
- section 74 – Offence to disclose certain advice;
- Part 6 – Protection of person making public interest disclosure; and
- Part 7 – Confidentiality of disclosures.

If IBAC decides to dismiss the public interest complaint, it must provide you with reasons for the decision.

Once a disclosure has been declared a public interest complaint by IBAC, section 55(4) of the IBAC Act states that you cannot withdraw it. However, IBAC has discretion, under section 68(2)(e) of the IBAC Act, to dismiss a public interest complaint if you request that it not be investigated.

#### ***Where IBAC determines your complaint is not a public interest disclosure***

If IBAC determines your disclosure is not a public interest complaint, it must notify you in writing, within a reasonable time that:

- IBAC has determined your disclosure is not a public interest complaint;
- the disclosure will not be investigated as a public interest complaint; and
- the confidentiality provisions under Part 7 of the Act no longer apply in relation to the disclosure (but protections under Part 6 apply to the disclosure).

IBAC will also notify Council of its determination and may recommend that Council investigate the matter or take other appropriate action.

**Regardless of whether IBAC determines your disclosure is a public interest disclosure or not, you will still receive the protections under the Act. This includes protection from detrimental action taken in reprisal for you making the disclosure.**

#### **10.1.6 When urgent action is required while an assessment is being made**

In some circumstances a disclosure may be about actions that pose an immediate threat to the health and safety of individuals, the need to preserve property, or may consist of allegations of serious criminal conduct.

In these cases, Council can take immediate action while considering whether or not your disclosure is an assessable disclosure requiring notification to IBAC or while waiting on IBAC's decision on a matter.

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

#### **10.1.7 If a person who has made a public interest complaint is not satisfied with the way it is being handled, what can they do?**

A mechanism exists in the Act that allows relief for people who have made a public interest disclosure and are subject to confidentiality restrictions relating to that disclosure, in situations where the disclosure has not been adequately addressed.

People who have made a public interest disclosure can make a further disclosure of substantially the same subject matter to external parties (i.e. those not authorised to receive public interest disclosures, such as journalists or politicians) if:

- The original disclosure was not made anonymously
- The original disclosure was determined to be a public interest complaint and the discloser was notified of that determination; and
- One of the following applies:
  - The discloser has not been notified of any action taken in relation to the disclosure within six months of determination as a public interest complaint and has not received a response 30 days after requesting an update on progress
  - An investigation has not been completed 12 months after the determination as a public interest complaint and the discloser has not received a response 30 days after requesting an update on progress
  - An investigation has not been completed 12 months after determination as a public interest complaint and, although the discloser received a response within 30 days after requesting an update on progress, the discloser received no further update advising the investigation had been completed six months after that response.
- The protections provided to public interest disclosures under Part 6 of the Act will also apply to these external disclosures.
- Any external disclosure must not contain information that may prejudice a criminal investigation, criminal proceeding or other legal proceeding of which the person making the external disclosure is aware and must not contain information that is likely to disclose investigative methods used by IBAC or Victoria Police.

## **11. WHAT PROTECTION WILL I RECEIVE?**

Council recognises that the welfare and protection against detrimental action of people making genuine public interest disclosures is essential for the effective implementation of the Act.

Certain protections are provided to disclosers under Part 6 of the Act. These protections apply from the time your disclosure is made, whether to Council or directly to IBAC. They also apply regardless of whether or not Council notifies your disclosure to IBAC or whether

or not IBAC or the Victorian Inspectorate determines your disclosure to be a public interest complaint.

These protections include:

- immunity from any civil or criminal liability or administrative action (including disciplinary action) for making the disclosure (section 39 of the Act);
- immunity from committing an offence against the Constitution Act 1975 or any other Act that imposes obligations of confidentiality or any other restriction on the disclosure of information (section 40 of the Act);
- immunity from breaching any other obligation (made by oath, rule of law or practice) requiring the maintenance of confidentiality or otherwise restricting confidentiality (section 40 of the Act); and
- that you cannot be held liable for defamation in relation to information included in a public interest disclosure (section 41 of the Act).

It is important to understand that:

- you will not receive these protections if someone else made the disclosure on your behalf. In that situation, the protections apply to the person making the disclosure on your behalf;
- these protections do not apply if you make a false disclosure or knowingly provide false information and you may face appropriate disciplinary action for a false disclosure;
- a person making a disclosure that reveals details of their own misconduct or inappropriate action is not protected from legitimate management action taken in response to that conduct.

## 12. HOW WILL MY WELFARE BE MANAGED?

Council is committed to the protection of people making genuine public interest disclosures and to protect the welfare of people who have cooperated or intend to cooperate with an investigation of a public interest complaint, including members of the public who may be clients or users of Council services.

As an employer, Council has legislative and administrative obligations to ensure the health and wellbeing of staff members. If you are a staff member, the PIDC will advise you that you may access the Employee Assistance Program (EAP) for confidential advice and welfare support.

The Council will consider each matter on a case by case basis, taking into account the particular circumstances of the person and the public interest complaint.

In some instances, in addition to the EAP services, Council may appoint a welfare manager to provide assistance.

## 13. HOW AM I PROTECTED AGAINST DETRIMENTAL ACTION?

It is a criminal offence for a person to take detrimental action in reprisal for a public interest disclosure and that detrimental action itself can be grounds for a new disclosure under the Act.

As noted earlier in this document, the detrimental action need not be taken against the person who made a disclosure, but against any person and can include inciting someone else to take the action.

### **13.1.1 Occurrence of detrimental action**

If you experience an incident of harassment, discrimination or adverse treatment that would amount to detrimental action apparently taken in reprisal for the making of a public interest disclosure, you should immediately report this to the PIDC who will:

- record details of the incident;
- advise you of your rights under the Act; and
- where the detrimental action is of a serious nature likely to amount to a criminal offence, give consideration to reporting the matter to the police.

The PIDC will assess the report as a new disclosure under the Act. As with other disclosures, if satisfied it is an assessable disclosure, they will notify IBAC and inform you of this notification. If not, you will be informed that your disclosure has not been notified to IBAC and you may request that it be dealt with under a separate avenue at Council. If you have not done so yet, you may wish to access the EAP for confidential welfare support.

### **13.1.2 Transfer of officers**

If you are a staff member at Council who has made a disclosure, and you believe on reasonable grounds that detrimental action will be, is being or has been taken against you in reprisal for a disclosure, you may request a transfer of employment under section 51 of the Act.

The transfer can be temporary or permanent.

## **14. WHAT IF I AM IMPLICATED IN THE CONDUCT I DISCLOSE?**

Making a disclosure does not give you immunity for your own wrongdoing. If your disclosure implicates you in improper conduct, you are not protected from any reasonable consequences flowing from your actions.

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

Where a Council staff member is implicated in the conduct that they have disclosed, the matter will be referred to the CEO for consideration.

Where disciplinary action is subsequently taken, it will accord with Council policies and other workplace requirements. The CEO must be able to clearly demonstrate that:

- the fact a person has made a public interest disclosure is not a substantial reason for their taking of the action against the staff member;
- there are good and sufficient grounds that would fully justify action against any other person in the same circumstances; and
- there are good and sufficient grounds that justify exercising any discretion to institute disciplinary action.

In the event of disciplinary action being taken, it will be in accordance with Council policies with all factors, including any mitigating circumstances, taken into consideration. Council staff members will thoroughly document the process, including recording the reasons why the action is being taken, and the reasons why the action is not retribution for making the disclosure.

## 15. WHAT HAPPENS IF A DISCLOSURE IS MADE AGAINST ME?

Council recognises that staff members against whom disclosures are made must also be supported and that the complaint is only an allegation until resolved.

If you are the subject of a disclosure that Council is aware of, all reasonable steps will be taken by the PIDC to ensure your confidentiality during the assessment and investigation process. If you are made aware that a disclosure has been made about you, Council may provide you with welfare support, for example, advising you that the EAP is available.

It is possible you may never be told you are the subject of a disclosure; for example, if the disclosure is not determined to be a public interest complaint, if the disclosure is dismissed or if Council is not authorised to tell you due to the limitations in the Act on disclosing the content of a public interest disclosure.

The PIDC may give you information about a disclosure made about you if directed or authorised to do so by IBAC, or for the purpose of taking action with respect to the alleged conduct, including disciplinary action. IBAC or another investigating entity may also inform you of an investigation, for the purpose of conducting that investigation or any actions they propose to take as a result.

If you are the subject of a disclosure, you must be afforded natural justice prior to a decision being made about your conduct. Natural justice means if a decision is to be made about your conduct, you have a right to:

- be informed about the substance of the allegations against you;
- be given an opportunity to answer the allegations before a final decision is made;
- be informed about the substance of any adverse comment that may be included in any report arising from an investigation; and
- have your defence set out fairly in any report.

The responsibility for this consultation process will fall to the investigating entity that is carrying out the investigation, whether IBAC, the Victorian Inspectorate, Victoria Police or the Victorian Ombudsman.

Where a disclosure about you is not pursued due to lack of substance or where the allegations are investigated and found to be wrong or unsubstantiated, Council will ensure there are no adverse consequences arising out of the disclosure or investigation. The fact that a disclosure has been made, the results of an investigation (when one is undertaken) and your identity will remain confidential.

However, if a matter has been publicly disclosed or the information pertaining to a disclosure has become well-known across Council or the area where you work, the CEO will consider any request from you to issue a statement of support setting out that the matter was not pursued or the allegations were clearly wrong or unsubstantiated.

## 16. ARE CONFIDENTIALITY REQUIREMENTS IMPOSED BY LAW?

There are a number of confidentiality obligations which arise under the Act and other laws relating to the receipt and investigation of public interest disclosures.

If you repeat your disclosure to someone who is not provided for in these procedures, or permitted in the Act, you may lose the protections provided for under the Act. If you are considering disclosing information about your disclosure, you may wish to speak to the PIDC or your welfare manager (where appointed).

The Act prohibits the disclosure of information received in relation to a disclosure that has been notified to IBAC by Council, except in certain limited circumstances.

Council will only disclose information about you or your disclosure in accordance with the law, including the Act. The Act prohibits disclosing information that is likely to lead to your identification, unless permitted to do so in accordance with the Act.

IBAC or the relevant investigating entity may disclose your identity and the content of your disclosure if it is necessary for the purposes of their investigative action. In such circumstances, the public body or public officer to whom the information is disclosed is bound by the same confidentiality requirements.

#### **16.1.1 Who can a discloser share information about their public interest disclosure / public interest complaint with?**

A discloser is restricted from sharing certain information they receive from IBAC about their public interest disclosure and from disclosing information they receive about the results of any investigation.

After an investigation is initiated, IBAC and some other investigating bodies may determine that disclosure of further types of information (such as evidence or information given to OBAC or the fact that a disclosure has been notified for assessment under the Act) is likely to prejudice the inquiry or investigation, the safety, or reputation of a person or the fair trial of a person. In those circumstances, an investigating body is empowered to issue a confidentiality notice on a person which will further restrict what information that person can share.

However, even where a confidentiality notice is in place, exceptions apply to allow information to be shared where necessary to , among other things, seek legal advice, get support of a health practitioner or trade union or make a compensation claim to WorkCover, unless there is a direction that those standard exceptions do not apply.

A discloser is not restricted from disclosing the subject matter of a public interest discloser to another person if they are not under a confidentiality notice, however, the protections will not apply to protect the discloser if that additional disclosure results in retribution or detrimental action.

## **17. INFORMATION MANAGEMENT**

Council will ensure all files, whether paper or electronic, are kept securely. Those files will be accessible to only the PIDC. Where necessary, a Welfare Manager may be able to gain access (where appropriate), but will not divulge any details relating to the disclosed matter to any person other than the PIDC or an investigator appropriately authorised under the Act or the IBAC Act.

All meetings between the relevant persons, including the PIDC, Welfare Manager and disclosers will be conducted discreetly to protect the confidentiality of the person making a public interest disclosure.

All printed material will be kept in files that are clearly marked as Public Interest Disclosure Act matters, and be locked away.

All electronic files will be produced and stored in Council's secure information management system, with restricted access and password protection.

Council will not use unsecured email to transmit documents in connection with a disclosure and will ensure all telephone calls and meetings in connection with disclosures are conducted privately and in the strictest of confidence.

Hardcopy documents relating to disclosures will not be delivered by internal mail to a generally accessible area, and where possible, will be delivered in person by the PDC.

## 18. FREEDOM OF INFORMATION ACT 1982

Certain documents in the possession of the Council, relating to public interest disclosures will be exempt from the application of the Freedom of Information Act (FOI Act).

This includes any information relating to a disclosure made in accordance with the Act, any information relating to a disclosure notified to IBAC for assessment by the Council and any information that is likely to lead to the identification of a discloser.

## 19. PUBLISHING STATISTICS

The Council is required to publish certain statistics about the Act in its annual report. The information relates to how these procedures may be accessed and the number of disclosures notified to the IBAC for assessment under s21 of the Act during the financial year. The PIDC will securely record such information.



## 20.ASSESSMENT AND NOTIFICATION FLOW CHART

