



Public Interest Disclosures

Any person may under the *Public Interest Disclosures Act 2012* (the Act) make a disclosure about corrupt or improper conduct by Council, our staff or Councillors.

The main objective of the Act is to encourage and facilitate the making of disclosures of improper conduct by Council, our staff and Councillors. The Act is also designed to establish a system for matters to be investigated independently to Council.

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

What is a public interest disclosure?

A disclosure may be made about corrupt or improper conduct by Council, our staff or Councillors. Broadly speaking, improper conduct is defined in section 4 of the Act to mean:

- Corrupt Conduct; or
- Any of the following conduct by a public officer or public body in their capacity as a public officer or public body:
 - * a criminal offence; or
 - * serious professional misconduct; or
 - * dishonest performance of public functions; or
 - * An intentional or reckless breach of public trust; or
 - * An intentional or reckless misuse of information or material; or
 - * A substantial mismanagement of public resources; or
 - * A substantial risk to the health or safety of one or more persons; or
 - * A substantial risk to the environment
- 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
- Conduct by a third party 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.

Please refer to the Act for the full definition of improper conduct.

A disclosure may also be made about the detrimental action taken in reprisal against a person for the making of a public interest disclosure.

Who can make a public interest disclosure?

Any individual (or group of individuals) can make a public interest disclosure.

A Corporation or body cannot make a public interest disclosure.

How can a public interest disclosure be made?

You can make a public interest disclosure :

- orally;
- in writing;
- electronically; or
- anonymously.

Who can a disclosure be made to?

Disclosures can be made directly to Council's Public Interest Disclosure Coordinators —details on the back of this page.

Disclosures can also be made to authorities such as the Independent Broad-based Anti-corruption Commission (IBAC), the Chief Commissioner of Police, the Ombudsman and the Victorian Inspectorate.

Note - Disclosures regarding Councillors **must** be made to the IBAC. Council cannot accept a disclosures about a Councillor.

Assessing a disclosure

Council is required to assess a disclosure made and reach a conclusion within 28 days of receiving it as to whether we believe it is a public interest disclosure under the Act or not. Council will then notify the person who made the disclosure of the outcome of the assessment.

This will include that the disclosure:

- is a public interest disclosure and the IBAC has been notified and requested to investigate; or
- is not a public interest disclosure and how the complaint will now be dealt with.

Council may in some instances refer the public interest disclosure to the IBAC for assessment.

Confidentiality

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

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

Detrimental action

The Act specifies that it is an offence for a person to take detrimental action against a person who has made a public interest disclosure.

This includes:

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

It should be noted that a person can have taken detrimental action without having taken the action itself, detrimental action includes threatening to take action against a person who has made a public interest disclosure, or any person connected with that person or the public interest disclosure.

Offences

It is a criminal offence to reveal information about the content of a public interest disclosure, including the identity of the person who made the disclosure.

Public Interest Disclosure Coordinators

The following staff have been identified in our Public Interest Disclosure Procedures as a person who may receive public interest disclosures:

Charmaine Calis
Governance & Risk Coordinator
5018 8103
charmaine.calis@mildura.vic.gov.au

Richard Sexton
Manager Corporate Administration
5018 8189
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Chris Parham
General Manager Corporate
5018 8160
chris.parham@mildura.vic.gov.au

Further Information

Enquiries regarding Public Interest Disclosures can also be made to the Independent Broad-based Anti-Corruption Commission on:

Phone: 1300 735 135
Email: info@ibac.vic.gov.au
Website: www.ibac.vic.gov.au