



**CORANGAMITE
SHIRE**

Protected Disclosure Policy

Corangamite Shire

May 2017

Council Policy



Protected Disclosures

Introduction

The *Protected Disclosure Act 2012* (PD Act) is a legislative framework to encourage and assist people to report improper conduct by public bodies and public officers, and to report detrimental action that may be taken in reprisal for being involved in a disclosure. The PD Act provides protections for those who make a disclosure (a discloser) and ensures the confidentiality of disclosers and also the content of disclosures.

The Independent Broad-based Anti-corruption Commission (IBAC) is Victoria's anti-corruption agency responsible for preventing and exposing public sector corruption and police misconduct. It is formed from the *Independent Broad-based Anti-Corruption Commission Act 2011* (IBAC Act)

Further information can be obtained from the Independent Broad-based Anti-Corruption Commission: www.ibac.vic.gov.au

Purpose

The purpose of this policy is to ensure that there is an effective process for managing the receipt of protected disclosures and their assessment and notification. It also aims to provide protection for those who make a protected disclosure, are the subject of a protected disclosure, and those who might be cooperating in a protected disclosure.

This policy should be read in conjunction with the Protected Disclosure Management Procedures and the Making and Handling Protected Disclosures Procedures, which have been developed to facilitate, handle and manage disclosures, as well as establishing procedures for protecting people against detrimental action.

Scope

This Policy applies to disclosures of improper conduct or detrimental action by Council or its officers, which are made in accordance with the PD Act.

Any person or group of individuals (not an organisation or company) can make a disclosure under the PD Act about improper conduct by public officers or a public body. The individual or group of individuals could be from within the organisation or from the public.

Definitions

Detrimental Action	Is action threatened or taken by a person or group of people against a person(s) in reprisal for their involvement in a protected disclosure.
Discloser:	A person who makes a complaint, allegation or disclosure
Disclosure:	Any complaint, concern or allegation made in accordance with the PD Act
Improper Conduct	Is corrupt conduct including misconduct in public office that would, if proven at trial, constitute a relevant offence or: Specified conduct covers a broader range of conduct where that conduct would, if proven, constitute a criminal offence or reasonable grounds for dismissal. It includes all types of corrupt conduct and: <ul style="list-style-type: none">• Conduct of a public officer or public body in their official capacity that:<ul style="list-style-type: none">○ Involves substantial mismanagement of public resources○ Involves substantial risk to public health or safety, or○ Involves substantial risk to the environment
Protected Disclosure	A disclosure which has been determined and assessed by the IBAC to be a protected disclosure in accordance with Part 2 of the PD Act
Complaint:	
Protected Disclosure Procedures:	Procedures established by Council to facilitate and encourage the making of disclosures under the Act, the management of disclosures by Council, and to describe how Council will manage the welfare of persons connected with protected disclosures.
Public Officer :	Public officer includes but is not limited to Local Government Councillors and Council employees or officers.
Public Body:	A public sector body within the meaning of section 4(1) of the <i>Public Administration Act 2004</i> , or a Council established under the <i>Local Government Act 1989</i> or a body performing a public function on behalf of the State.

References

The primary legislative obligations applying to Council's treatment of protected disclosures are contained in the *Protected Disclosure Act 2012* and the *Independent Broad-based Anti-corruption Commission Act 2011*. Other relevant legislation, guidelines and sources are listed below:

- Making and Handling Protected Disclosure Procedures
- Protected Disclosures Management Procedures
- *Local Government Act 1989*

- Victorian Charter of Human Rights and Responsibilities
- Code of Conduct for Staff
- IBAC Guidelines for making and handling protected disclosures October 2016
- IBAC Guidelines for protected disclosure welfare management
- Councillor Code of Conduct

Policy Detail

Corangamite Shire Council is committed to the aims and objectives of the PD Act. We recognise the value of transparency and accountability and will not tolerate improper conduct by the organisation, its employees or Councillors. We support the making of disclosures that reveal improper conduct, or detrimental action taken against anyone who is involved in a disclosure.

Council has obligations under the Act which it takes very seriously, including the requirement to protect the identity of the discloser and the matters raised by a discloser. Maintaining confidentiality in relation to protected disclosures is critical in ensuring reprisals are not made against a discloser.

Council will take all reasonable steps to protect people who make protected disclosures from any detrimental action in reprisal for making the disclosure. It will also afford natural justice to the person who is the subject of the disclosure.

Council has developed processes and procedures to manage disclosures, including notifications to IBAC. Council has also established procedures to protect people against detrimental action that might be taken against them in reprisal for making a protected disclosure, or against people cooperating with a protected disclosure complaint investigation.

Council will:

- Have a secure management system for the handling, storage and notification of protected disclosures including:
 - Identification of the roles and responsibilities of those in the reporting structure
- Have a secure process for receiving verbal or written disclosures
- Have a means of identifying a Protected Disclosure Coordinator
- Have a secure means of notifying IBAC of assessable disclosures
- Have Protected Disclosure Procedures that are accessible to the public and to employees and Councillors
- Have appropriate education and training for Councillors and employees to raise awareness in relation to the PD Act

- Have appropriate education and training for relevant staff in the receipt, handling, assessment and notification of disclosures, and in the welfare management of those associated with a protected disclosure
- Ensure the confidentiality of information received or obtained in connection to a protected disclosure
- Take the appropriate disciplinary action and/or other action against any employees who are engaged in detrimental action
- Have a way to collect and collate statistics on protected disclosures for the purpose of annual reporting.

Human Rights

It is considered that this Policy does not impact negatively on any rights identified in the *Charter of Human Rights and Responsibilities Act 2006*.

Review Date

May 2020