



# Public Interest Disclosure Policy

## TABLE OF CONTENTS

<b>Purpose</b> .....	<b>2</b>
<b>Scope</b> .....	<b>2</b>
<b>Policy Context</b> .....	<b>2</b>
<b>Policy Statement</b> .....	<b>2</b>
<b>Review</b> .....	<b>4</b>
<b>Administrative Updates</b> .....	<b>4</b>
<b>Roles and Responsibilities</b> .....	<b>5</b>
<b>References and Supporting Documents</b> .....	<b>8</b>
<b>Applicable Legislation:</b> .....	<b>8</b>
<b>Applicable Policy and Procedure:</b> .....	<b>8</b>
<b>Supporting Documents:</b> .....	<b>8</b>
<b>Privacy and Human Rights Consideration</b> .....	<b>9</b>
<b>Definitions</b> .....	<b>9</b>
<b>Revision History and Review</b> .....	<b>11</b>

## Purpose

The purpose of this policy is to declare East Gippsland Shire Council's (Council) commitment to the *Public Interest Disclosure Act 2012* (the Act) and document the system for receiving, assessing and reporting disclosures of improper conduct or detrimental action by Council and Council staff. It establishes the standards Council will abide by in protecting those making public interest disclosures and meeting the welfare needs of those who are the subject of a public interest disclosure.

## Scope

This policy applies to all Councillors, Council staff, and relatives and dependents of these people. The policy is available to the public via the Council's website.

## Policy Context

The intent of the Act is to ensure transparency and accountability in the workings of the public sector as well as encouraging and facilitating the making of public interest disclosures of improper conduct, including corrupt conduct.

Public interest disclosures can only be made about public bodies (such as East Gippsland Shire Council) or public officers (such as Council staff or Councillors), regarding conduct of a person that adversely affects the honest performance of an official function by a public body or public officer, or that intends to adversely affect the effective performance of a public officer or public body. This includes associates and relatives and dependants of public officers and public bodies.

The Act provides protection from detrimental action to any person affected by a public interest disclosure; including the discloser (often colloquially referred to as a whistleblower) and co-operators.

## Policy Statement

Council is committed to ensuring transparency and accountability throughout the organisation and in compliance with the Act.

Council encourages and facilitates the making of public interest disclosures by any person or group of people (not a company), including Council staff or Councillors that reveal suspected improper conduct or detrimental action taken by Council, its Council staff, and associates and relatives/dependents of these people.

Council will take all reasonable steps to protect people who make such public interest disclosures from any detrimental action in reprisal for making the public interest disclosure. It will also protect the welfare and confidentiality of the person(s) who are the subject of the public interest disclosure.

A public interest disclosure relating to a Councillor must be made to the Independent Broad-based Anticorruption Commission (IBAC) or the Ombudsman:

**Contact details:**

IBAC  
Level 1, North Tower  
459 Collins Street, MELBOURNE VIC 3000  
Postal: GPO Box 24234, MELBOURNE VIC 3001  
Website: [www.ibac.vic.gov.au](http://www.ibac.vic.gov.au)  
Telephone: 1300 735 135

See Ombudsman website for details of how to make a Disclosure to the Ombudsman:  
<https://www.ombudsman.vic.gov.au/reporting-improper-conduct/>

A public interest disclosure relating to Council staff should be made to the Chief Executive Officer (CEO), the Public Interest Disclosure Coordinator (PIDC) or the Public Interest Disclosure Officer (PIDO) at the following details:

**Public Interest Disclosure Coordinator (PIDC)**

Manager Governance  
PO Box 1618, BAIRNSDALE VIC 3875  
Phone: 03 5153 9500  
Email: [whistleblowers2@eqipps.vic.gov.au](mailto:whistleblowers2@eqipps.vic.gov.au)

**Public Interest Disclosure Officer (PIDO)**

Governance and Compliance Coordinator  
PO Box 1618  
BAIRNSDALE VIC 3875  
Phone: 03 5153 9500  
Email: [whistleblowers3@eqipps.vic.gov.au](mailto:whistleblowers3@eqipps.vic.gov.au)

**Chief Executive Officer (CEO)**

PO Box 1618, BAIRNSDALE VIC 3875  
Phone: 03 5153 9500  
Email: [whistleblowers1@eqipps.vic.gov.au](mailto:whistleblowers1@eqipps.vic.gov.au)

All public interest disclosures will be assessed by the PIDC and matters determined as assessable disclosures must be submitted to IBAC for further assessment and investigation. While Council may gather information necessary to assess whether a public interest disclosure is an assessable disclosure, including considering the reasonableness of the discloser's belief, the reliability of the information and the credibility of the discloser or their sources (see section 6 of Public Interest Disclosure Procedure and page 12 of the IBAC - *Guidelines for handling public interest disclosures* for more details), it must stop short of actively investigating the allegations made in the public interest disclosure, this being the role of IBAC. The relevant discloser must be notified of the submission to IBAC.

All dealings relating to a public interest disclosure must be kept confidential, subject to any exceptions in the Act. Heavy penalties apply for breaching the confidentiality of a discloser's identity, or for victimising or threatening them in reprisal for making a public interest disclosure.

A welfare manager may be appointed by the CEO to assist any person making a public interest disclosure, any co-operators, or any person who is the subject of a public interest disclosure investigation.

## Review

This Policy will be reviewed at least every three years. Unless otherwise indicated, this policy will remain applicable beyond the proposed review date until that review has been finalised.

## Administrative Updates

From time-to-time circumstances may change, leading to the need for minor administrative changes to this document. Where an update does not materially alter this document, such a change may be made administratively.

Administrative changes including updating to the latest style or template for policy, change to the name of Council Directorates or business units, change to the name of the responsible person or position title, change of State or Federal department, or minor update to legislation which does not have a material impact such as section or definition changes in the Act.

## Roles and Responsibilities

These management positions are responsible for the implementation, communication and compliance monitoring of the policy in their work areas:

Party / Parties	Roles and Responsibilities
Chief Executive Officer	<p>The Chief Executive Officer may receive public interest disclosures.</p> <p>Where a public interest disclosure is assessed to be an assessable disclosure the Chief Executive Officer will notify the public interest disclosure to IBAC for investigation no later than 28 days after the public interest disclosure is made. However, the aim will always be to notify IBAC 'as soon as practicable' after the Chief Executive Officer has been notified that the public interest disclosure is an assessable disclosure, as is required in the case of notifications of suspected corrupt conduct.</p> <p>The Chief Executive Officer will appoint a welfare manager where he or she believes doing so is appropriate.</p> <p>Having considered the advice of the PIDC and the Disciplinary Process Procedure, the Chief Executive Officer will decide whether any disciplinary action will be taken against a discloser implicated in improper conduct, taking into account detrimental action considerations, and will advise the discloser of the action to be taken and the reasons why this action is not a detrimental action.</p>
Council staff	<p>Council staff are encouraged to report known or suspected incidences of improper conduct or detrimental action in accordance with these procedures.</p> <p>Council staff have an important role to play in supporting those who have made a legitimate public interest disclosure and co-operators. They must refrain from any activity that is, or could be perceived to be, victimisation or harassment of a person who makes a public interest disclosure. Furthermore, they should protect and maintain the confidentiality of person(s) they know or suspect to have made a public interest disclosure or be the subject of a public interest disclosure.</p>
Councillor	Adopt and maintain the currency of this Policy.
Discloser	<p>The discloser must ensure that the public interest disclosure is made in accordance with the Act.</p> <p>The discloser must not reveal that an assessment is being undertaken by Council.</p> <p>The discloser must not reveal that an investigation is being carried out by IBAC.</p> <p>The discloser must not provide false or misleading information or falsely claim that a matter is the subject of a public interest disclosure.</p>
Executive Leadership Team	Ensure staff are aware of and adhere to the policy and procedures.

Party / Parties	Roles and Responsibilities
<p>Public Interest Disclosure Coordinator (PIDC)</p>	<p>The Public Interest Disclosure Coordinator has a central 'clearing house' role in the internal reporting system. They will:</p> <ul style="list-style-type: none"> <li>• receive all public interest disclosures forwarded from the PIDOs;</li> <li>• receive all phone calls, emails and letters from members of the public or Council staff seeking to make a public interest disclosure;</li> <li>• impartially assess each public interest disclosure to determine whether it is a public interest disclosure made in accordance with Part 2 of the Act (that is, 'a public interest disclosure');</li> <li>• prepare an organisational, welfare and safety risk assessment of the risks faced by each discloser and/or co-operators;</li> <li>• develop a risk management plan to manage the welfare of those involved in every public interest disclosure;</li> <li>• notify all public interest disclosures to IBAC within 28 days;</li> <li>• assist IBAC where required;</li> <li>• ensure all disclosers and co-operators are protected from direct and indirect detrimental action, and that the culture of the workplace is supportive of public interest disclosures being made –this may necessitate the appointment of a welfare manager;</li> <li>• assess whether it is necessary to appoint a welfare manager to support the discloser and/or any co-operators to protect them from any detrimental actions;</li> <li>• if necessary, provide support, advice and contact information for the Council Employee Assistance Program and/or appoint an internal welfare manager, and consider the appointment of an external welfare professional to assist the person against whom a public interest disclosure has been made;</li> <li>• advise the discloser of the progress of the assessment into the disclosed matter;</li> <li>• manage the welfare of a discloser and advise them of protections available under the Act;</li> <li>• establish and manage a secure filing system and processes to ensure confidentiality;</li> <li>• take all necessary steps to ensure the identity of the discloser and the identity of the person who is the subject of the public interest disclosure are kept confidential;</li> <li>• liaise with the CEO, including advising about the appointment of a welfare manager and any cases where disclosers have been implicated in improper conduct; and</li> <li>• clearly document the reasons for any disciplinary action taken by Council.</li> </ul> <p>This role is fulfilled by the Manager Governance.</p>

Party / Parties	Roles and Responsibilities
Public Interest Disclosure Officer (PIDO)	<p>Public Interest Disclosure Officers will:</p> <ul style="list-style-type: none"> <li>• be a contact point for general advice about the operation of the Act for any person wishing to make a public interest disclosure;</li> <li>• make arrangements for a public interest disclosure to be made privately and discreetly and if necessary, away from the workplace;</li> <li>• receive any public interest disclosure made orally or in writing (from internal and external disclosers);</li> <li>• commit to writing any public interest disclosure made orally;</li> <li>• take all necessary steps to ensure the identity of the discloser and the identity of the person who is the subject of the public interest disclosure are kept confidential; and</li> <li>• forward all public interest disclosures and supporting evidence to the Public Interest Disclosure Coordinator.</li> </ul> <p>This role is fulfilled by the Chief Executive Officer and Governance and Compliance Coordinator.</p>
Welfare manager	<p>The welfare manager is responsible for looking after the general welfare of the discloser and, if considered appropriate by the CEO, the person who is the subject of the public interest disclosure.</p> <p>The welfare manager will:</p> <ul style="list-style-type: none"> <li>• examine the immediate welfare and protection needs of a person who has made a public interest disclosure (and co-operators where relevant) and, where the discloser is Council staff, while maintaining the confidentiality of all concerned, seek to foster a supportive work environment;</li> <li>• prepare an organisational, welfare and safety risk assessment for the discloser and/or co-operators;</li> <li>• develop a risk management plan to manage the welfare of those involved in every public interest disclosure</li> <li>• advise the discloser (and co-operators as relevant) of the legislative and administrative protections available to him or her and keep them informed of the actions being taken;</li> <li>• hear and respond to any concerns of harassment, intimidation or victimisation in reprisal for making public interest disclosure;</li> <li>• advise the Public Interest Disclosure Coordinator of any allegations of detrimental action;</li> <li>• keep a constantly updated confidential record of all aspects of the case management of the discloser (and co-operators as relevant), including all contact and follow-up action; and</li> <li>• ensure the expectations of the discloser are realistic.</li> </ul> <p>The welfare manager is to be appointed by the CEO (if the CEO decides to appoint one) and will usually be:</p> <p style="padding-left: 40px;">Manager People, Performance and Culture or Human Resources Coordinator PO Box 1618 BAIRNSDALE VIC 3875</p>

# References and Supporting Documents

## Applicable Legislation:

*Charter of Human Rights and Responsibilities Act 2006*  
*Equal Opportunity Act 2010*  
*Freedom of Information Act 1982*  
*Health Records Act 2001*  
*Independent Broad-based Anticorruption Commission Act 2011*  
*Integrity and Accountability Legislation Amendment (Public Interest Disclosures, Oversight and Independence) Act 2019*  
*Local Government Act 2020*  
*Occupational Health and Safety Act 2004*  
*Ombudsman Act 1973*  
*Privacy and Data Protection Act 2014*  
*Privacy Act 1988 (Commonwealth)*  
*Public Interest Disclosures Act 2012*  
*Public Administration Act 2004*

## Applicable Policy and Procedure:

Anti-bullying and Harassment Policy  
Bullying and Harassment Resolution Procedure  
Disciplinary Process Policy  
Fraud and Corruption Control Policy  
Public Interest Disclosure Procedure  
Workplace Health and Safety Policy

## Supporting Documents:

IBAC Guidelines for handling public interest disclosures:

<https://www.ibac.vic.gov.au/publications-and-resources/article/guidelines-for-making-and-handling-protected-disclosures>

IBAC Guidelines for public interest disclosure welfare management:

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

IBAC Controlling fraud and corruption; a prevention checklist:

<https://www.ibac.vic.gov.au/publications-and-resources/article/controlling-fraud-and-corruption-a-prevention-checklist>

IBAC Information Sheet – Public interest disclosure procedures key issues to consider:

<https://www.ibac.vic.gov.au/publications-and-resources/article/information-sheet---public-interest-disclosure-procedures-key-issues-to-consider>

IBAC Podcast eight - Directions for making mandatory notifications:

<https://www.ibac.vic.gov.au/publications-and-resources/article/podcast-eight-mandatory-notifications>

## Privacy and Human Rights Consideration

All personal information collected by East Gippsland Shire Council in connection with the Public Interest Disclosure Policy or Public Interest Disclosure Procedure will be handled in accordance with all applicable privacy legislation and will be used only for the purpose of assessing a public interest disclosure and all information received will be treated with the utmost confidence.

The Public Interest Disclosure Policy has been assessed as compliant with the obligations and objectives of the Victorian *Charter of Human Rights and Responsibilities Act 2006*.

## Definitions

Term	Meaning
Act	The <i>Public Interest Disclosures Act 2012</i> .  Can be sourced on the Victorian Legislation website: <a href="https://www.legislation.vic.gov.au/in-force/acts/public-interest-disclosures-act-2012/025">https://www.legislation.vic.gov.au/in-force/acts/public-interest-disclosures-act-2012/025</a>
Assessable disclosure	The meaning given in the Act for <i>assessable disclosure</i> .
Co-operator	A person who has co-operated or intends to co-operate with an investigation of a public interest disclosure, e.g. a witness.
Corrupt conduct	The meaning given by section 4 of the <i>Independent Broad-based Anti-corruption Commission Act 2011</i> .
Council	East Gippsland Shire Council.
Councillor	A person who has been elected to the office of Councillor of East Gippsland Shire Council.
Council staff	All staff engaged by East Gippsland Shire Council, including all full-time, part-time and casual employees, labour hire agency staff, contractors (and their employees and subcontractors) and volunteers.
Detrimental action	The meaning given in the Act for <i>detrimental action</i> .
Discloser	Person making a public interest disclosure.
Independent Broad-based Anticorruption Commission (IBAC)	The meaning given in the Act for <i>IBAC</i> .
Improper conduct	The meaning given in the Act for <i>improper conduct</i> .
Ombudsman	The person appointed as the Ombudsman under section 3 of the <i>Ombudsman Act 1973</i> .
Public body	The meaning given in the Act for <i>public body</i> .
Public Interest Complaint	The meaning given in the Act for <i>public interest complaint</i> .

Term	Meaning
Public Interest Disclosure	The meaning given in the Act for <i>public interest disclosure</i> .
Public Interest Disclosure Coordinator (PIDC)	Recommended first point of contact for any enquiries and assessing any disclosures to determine if a public interest disclosure has been made.  At East Gippsland Shire Council this role is fulfilled by the Manager Governance.
Public Interest Disclosure Officers (PIDO)	Designated council officers who will provide general advice regarding the operation of the Act for any person wishing to make a public interest disclosure concerning improper conduct or detrimental action by a Councillor or Council Staff member.  At East Gippsland Shire Council this role is fulfilled by the Chief Executive Officer, Manager Governance and the Governance and Compliance Coordinator. The PIDC role in this case may also fulfil the duties of the PIDO.
Public officer	The meaning given in the Act for <i>public officer</i> .
Welfare manager	The person assigned by the CEO to be responsible for looking after the general welfare of the discloser or person under investigation. This responsibility will normally be assigned by the CEO to the Human Resources Coordinator or Manager People, Performance and Culture.

## Revision History and Review

Version Control	Approved Amended Rescinded	Date Effective	Approved By	ECM Document Reference	Summary of Changes
1	Approved	27/02/02	Council		
2	Amended	31/07/06	Management		
3	Amended	6/10/09	Council	3720457	
4	Approved	02/07/13	Council	5304017	
5	Approved	31/10/14	Acting CEO	5942730	Administrative Updates
6	Approved	05/09/17	Council	7287920	Two-year review. Significant changes to content, structure and format to improve readability and clarity.
7	Approved	03/03/20	Council	8350757	New template. Update legislation changes from 1/7/19. Updated changes from 1/1/20, Public Interest Disclosure.
8	Approved	24/08/21	Council	9143350	Administrative updates to ensure terminology is consistent with legislation. Outline the role of the Ombudsman in public interest disclosures. Improve clarity in roles and responsibilities.