



Public Interest Disclosure Policy

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Purpose

The purpose of this policy is to declare East Gippsland Shire Council's 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 East Gippsland Shire Council, its employees, contractors or volunteers. It establishes the standards East Gippsland Shire Council will abide by in protecting those making disclosures and meeting the welfare needs of those who are the subject of a disclosure.

Scope

This policy applies to all Councillors, Council staff, contractors (and their employees), volunteers and relatives/dependents of these people.. The policy is available to the public via the Council's website and at all Service Centres and Outreach Centres.

Policy Context

The Act was introduced by the Victorian Government and commenced operation on 10 February 2013. The intent of the Act is to ensure transparency and accountability in the workings of the public sector as well as encourage and facilitate the making of disclosures of improper and **corrupt conduct**.

Disclosures can only be made about public bodies (such as East Gippsland Shire Council) or public officers (such as Council employees or Councillors), or about conduct of a person that adversely affects the honest performance of an official function by a public body or public officer (such as contractors or volunteers).

The Act provides protection from detrimental action to any person affected by a public interest disclosure; including the **discloser** (the person making the disclosure, sometimes referred to as the 'whistleblower') and **co-operators** (e.g. assisting witnesses).

Policy Statement

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

East Gippsland Shire Council encourages and facilitates the making of disclosures by any person or group of people (not a company), including East Gippsland Shire Council employees or Councillors that reveal suspected improper conduct or detrimental action taken by East Gippsland Shire Council, its employees, contractors (and their employees), volunteers and relatives/dependents of these people.

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

A disclosure relating to a Councillor must be made to the **Independent Broad-based Anti-corruption Commission (IBAC)**¹:

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
Telephone: 1300 735 135

A disclosure relating to a staff member, contractor or volunteer should be made to the Chief Executive Officer, the **Public Interest Disclosure Coordinator (PIDC)** or the **Public Interest Disclosure Officer (PIDO)** at the following details:

- Public Interest Disclosure Coordinator
Governance and Compliance Coordinator
PO Box 1618, BAIRNSDALE VIC 3875
Phone: 03 5153 9500
Email: whistleblowers2@egipps.vic.gov.au
- Public Interest Disclosure Officer
General Manager Business Excellence
PO Box 1618, BAIRNSDALE VIC 3875
Phone: 03 5153 9500
Email: whistleblowers3@egipps.vic.gov.au
- Chief Executive Officer (CEO)
PO Box 1618, BAIRNSDALE VIC 3875
Phone: 03 5153 9500
Email: whistleblowers1@egipps.vic.gov.au

All disclosures will be assessed by the PIDC and matters determined as public interest disclosures must be submitted to IBAC for further assessment and investigation. While East Gippsland Shire Council may gather information necessary to assess public interest disclosure status, including considering the seriousness of the conduct, the reasonableness of the discloser's belief, the reliability of the information and the credibility of the discloser or their sources², it must stop short of actively investigating the allegations made in the 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. Heavy penalties apply for breaching the confidentiality of a whistleblower's identity, or for victimising or threatening them.

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

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	Appoint appropriate staff to receive and assess a public interest disclosure
Executive Leadership Team	Ensure staff are aware of and adhere to the policy and procedures

References and Supporting Documents

Council Plan 2017-2021:

This policy reflects East Gippsland Shire Council's prime accountability and integrity values.

- "We will take responsibility for our actions and decisions in an open and transparent way"
- "We will honour our commitments and conduct ourselves in an honest, ethical way"

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 Anti-corruption Commission Act 2011

Integrity and Accountability Legislation Amendment (Public Interest Disclosures, Oversight and Independence) Act 2019

Local Government Act 1989

Occupational Health and Safety Act 2004

Privacy and Data Protection Act 2014

Privacy Act 1988 (Commonwealth)

Public Interest Disclosure 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)

<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)

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

IBAC Controlling fraud and corruption; a prevention checklist:

Public Interest Disclosure Policy

Date approved: 3 March 2020

Document owner: Governance and Compliance Coordinator

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<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 will be handled in accordance with all applicable privacy legislation and will be used only for the purpose of assessing a 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
Co-operator	A person who has co-operated or intends to co-operate with an investigation of a Public Interest Disclosure complaint, e.g., a witness

Corrupt Conduct	<p>As defined by section 4 of the Independent <i>Broad-based Anti-corruption Commission Act 2011</i>, corrupt conduct means conduct:</p> <ul style="list-style-type: none"> (a) of any person that adversely affects the honest performance by a public officer or public body of his or her or its functions as a public officer or public body; or (b) of a public officer or public body that constitutes or involves the dishonest performance of his or her or its functions as a public officer or public body; or (c) of a public officer or public body that constitutes or involves knowingly or recklessly breaching public trust; or (d) of a public officer or a public body that involves the misuse of information or material acquired in the course of the performance of his or her or its functions as a public officer or public body, whether or not for the benefit of the public officer or public body or any other person; or (da) of a person (the first person) intended to adversely affect the effective performance or exercise by a public officer or public body of the functions or powers of the public officer or public body and result in the first person or an associate of the first person obtaining— <ul style="list-style-type: none"> (i) a licence, permit, approval, authority or other entitlement under any Act or subordinate instrument; or (ii) an appointment to a statutory office or as a member of the board of any public body under any Act or subordinate instrument; or (iii) a financial benefit or real or personal property; or (iv) any other direct or indirect monetary or proprietary gain— that they would not have otherwise obtained; or (e) that could constitute a conspiracy or an attempt to engage in any conduct referred to in paragraph (a), (b), (c), (d) or (da) — being conduct that would constitute a relevant offence, i.e., either an indictable offence, or under common law pervert or attempt to pervert the course of justice or involve bribery of an official.
Detrimental Action	<p>Section 3 of the Act makes it a criminal offence, with considerable penalties, for a person to take detrimental action against an individual in reprisal for making a public interest disclosure. Detrimental action includes:</p> <ul style="list-style-type: none"> (a) action causing injury, loss or damage; (b) intimidation or harassment; and (c) discrimination, disadvantage or adverse treatment in relation to a person’s employment, career, profession, trade or business, including the taking of disciplinary action.
Discloser	Person making allegation of improper conduct
Disclosure	Any suspicion, complaint, concern, matter or allegation to be made in accordance with part 2 of the Act
Independent Broad-Based Anti-corruption Commission (IBAC)	The Commission was established under the <i>Independent Broad-based Anti-corruption Commission Act 2011</i> to expose and prevent public sector corruption and police misconduct. Website: http://www.ibac.vic.gov.au/

<p>Improper Conduct</p>	<p>As defined by section 4 of the Act</p> <p>(1) Improper conduct means:</p> <ul style="list-style-type: none"> (a) corrupt conduct; or <ul style="list-style-type: none"> (b) conduct of a public officer or public body engaged in by the public officer or public body in their capacity as a public officer or a public body that constitutes -(i) a criminal offence; or (ii) serious professional misconduct; or (iii) dishonest performance of public functions; or (iv) an intentional or reckless breach of public trust; or (v) an intentional or reckless misuse of information or material acquired in the course of the performance of the functions of the public officer or public body; or (vi) a substantial mismanagement of public resources; or (vii) a substantial risk to the health or safety of one or more persons; or (viii) a substantial risk to the environment; or <p>(c) conduct of any person that –</p> <ul style="list-style-type: none"> (i) adversely affects the honest performance by a public officer or public body of their functions as a public officer or public body; or (ii) is intended to adversely affect the effective performance or exercise by a public officer or public body of the functions or powers of the public officer or public body and results in the person, or an associate of the person, obtaining - <ul style="list-style-type: none"> (A) a licence, permit, approval, authority or other entitlement under any Act or subordinate instrument; or (B) an appointment to a statutory office or as a member of the board of any public body under any Act or subordinate instrument; or (C) a financial benefit or real or personal property; or (D) any other direct or indirect monetary or proprietary gain <p>that the person or associate would not have otherwise obtained; or</p> <p>(d) conduct of any person that could constitute a conspiracy or attempt to engage in any of the conduct referred to in paragraph (a), (b) or (c).</p> <p>(2) Despite subsection (1), conduct that is trivial does not constitute improper conduct for the purposes of this Act.</p>
<p>Public Interest Disclosure Coordinator (PIDC)</p>	<p>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 Governance and Compliance Coordinator.</p>
<p>Public Interest Disclosure Officers (PIDO)</p>	<p>Are the designated council officers who will provide general advice regarding the operation of the Act for any person wishing to make a 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 General Manager Business Excellence and the Governance and Compliance Coordinator. The PIDC role in this case may also fulfil the duties of the PIDO.</p>

Welfare Manager	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
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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.