

Public Interest Disclosures Policy



Policy Type:	Organisational
Version:	V2
Date Adopted:	7 June 2023
Service Unit	Democratic Support & Corporate Governance
Directorate:	Democratic Support & Corporate Governance
Review Date:	2025

1. Purpose

Moorabool Shire Council (Council) is a public body under the *Public Interest Disclosures Act 2012* (PID Act). The purpose of the PID Act is to encourage and facilitate the making of disclosures of improper conduct by public officers and public bodies, including Council as an organisation, Council officers, Councillors, providers and volunteers, and to ensure disclosures are properly assessed and investigated.

This Policy establishes Council's commitment to maintaining integrity and ensuring its compliance with the PID Act.

2. Definitions

A full list of definitions is outlined in **Attachment A**

For the purposes of this policy, the reference to fraud will refer to fraud and corruption collectively.

3. Scope

This policy applies to all Councillors, employees, council appointed Committee members, contractors, volunteers and any agents and contractors either engaged by Council or by an authorised contractor of Council undertaking activity for or on behalf of the Council. Councillors are also obliged to maintain standards as mandated by Part 6 Division 5 of the Local Government Act 2020 (Councillor Conduct).

Agents of Council extend to include contractors working in-house, employees on exchange, members of Delegated Committees, Community Asset Committees and Advisory Committees; volunteers, work- experience students or graduate placements who perform work for Council as well as external suppliers and other related contractors and subcontractors.

4. Non-Compliance

Subject to the requirements of the *Public Interest Disclosure Act 2013* and Independent Broad-based *Anti-Corruption Commission Act 2011*, breaches of this policy by employees, or any allegations of fraud, are to be investigated thoroughly and any action will be taken in accordance with the relevant disciplinary and termination procedures.

Additionally, the consequences for breaching confidentiality under this policy include financial penalties and imprisonment.

5. Policy

Council is committed to the purpose and objectives of the PID Act and recognises the value of disclosers coming forward to report improper conduct or detrimental action.

Council officers, Councillors, providers and volunteers, must act with integrity at all times and should never engage in fraud, corruption, improper conduct or detrimental action.

Council has established an organisational culture where transparency, accountability, integrity and stewardship are embraced. Council will ensure all staff and councillors have an awareness of expectations in relation to fraud and corruption and the process for reporting incidents.

Any fraud or corruption event committed or attempted against the Council will be thoroughly investigated irrespective of the suspected wrongdoer's position, length of service or relationship to Council.

Council recognises the value of transparency and accountability in its administrative and management practices and supports the making of disclosures that reveal improper conduct. Council will not tolerate the taking of reprisals or detrimental action against those who come forward to disclose improper conduct.

Council is committed to ensuring employees feel confident to speak up about suspected fraud and corruption and maintains a Protected Interest Disclosure Coordinator (PDC) to assist employees. The Council does not tolerate detrimental action being taken in reprisal against employees who speak up about their concerns.

5.1. Responsibilities

A full list of roles and responsibilities is attached at **Attachment B**.

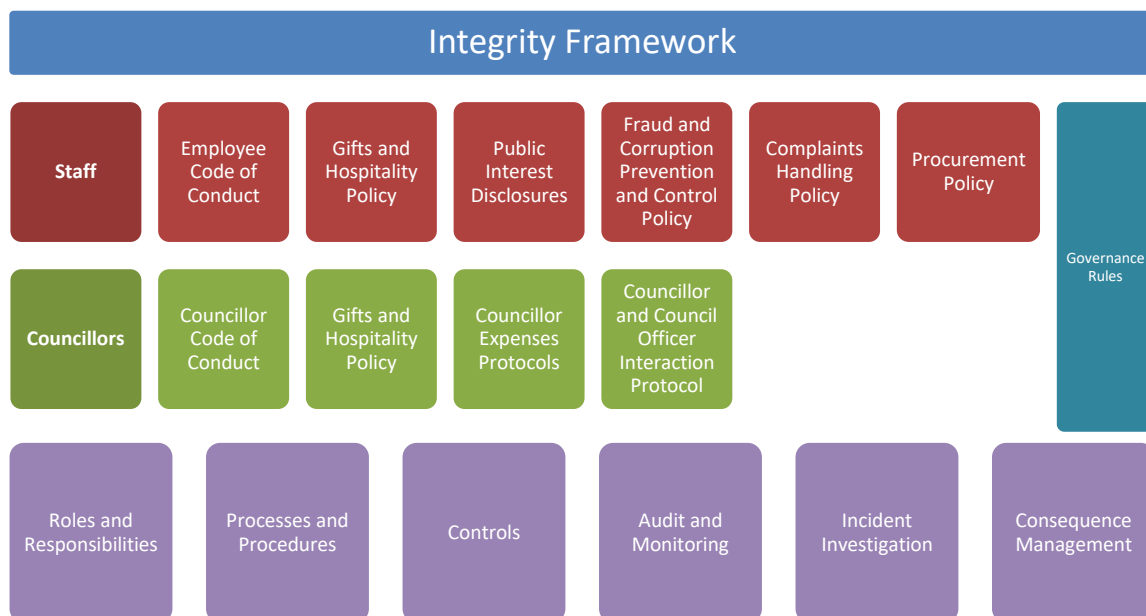
6. Integrity Framework

In addition to this Policy, Council has developed the following:

- **Fraud and Corruption Prevention and Control Policy** describing Council's overarching commitment fraud management.
- **Fraud and Corruption Prevention and Control System** describing Council's fraud management approach
- **Fraud and Corruption Reporting and Investigation Procedure** to guide Council officers in the process for reporting and conducting an internal investigation when an incident of suspected fraud or corruption is detected.
- **Public Interest Disclosures Procedure (PID Procedure)** setting out how Council will encourage and facilitate the making of disclosures, provide protecting and support for disclosers and witnesses, and ensure confidentiality and appropriate reporting of disclosures.

Public Interest Disclosures Policy

This Policy is complementary to and is to be read in conjunction with the above suite of documents, and is intrinsically linked to Council’s other key ethical guidance policies and procedures as outlined in the following diagram:



7. Public Interest Disclosure Requirements

7.1. What can a disclosure be made about?

Disclosures may be made about improper conduct on the part of Council, Council officers, Councillors, providers and volunteers.

Disclosures may also be made about detrimental action taken (or suspected may be taken) in reprisal against a person in connection with a disclosure made about improper conduct.

The conduct or action being disclosed may have taken place, still be occurring, or is believed will occur. A disclosure must be made confidentially or in private – it is not a disclosure if it is broadcast or already publicly known (for example, made in public, in the media/ on social media etc.).

If Council’s Public Interest Disclosure Coordinator (PID Coordinator) believes a disclosure may be a public interest disclosure made in accordance with the PID Act, they will notify the disclosure to the IBAC for further assessment and direction.

7.2. Who can make a disclosure?

Any individual natural person (that is, not an organisation or company) may make a disclosure under the PID Act. The individual may be a person within the organisation, or any member of the public. Individuals may also make a joint disclosure.

Disclosures may be made verbally (in person, by phone or voicemail) or in writing (delivering in person, by mail, email or by online form). A disclosure can also be made anonymously by phone or email, or by face-to-face meeting where a person refuses to identify themselves.

7.3. How to make a disclosure?

Council's Public Interest Disclosures Procedure (PID Procedure) details making a disclosure under the PID Act and sets out how Council handles any disclosures it receives. The PID Procedure details information about who can receive a disclosure, and how to make a disclosure to Council or IBAC, and the support available to disclosers.

The PID Procedure is available on Council's website.

If a person would like a copy sent to them, please contact Council's Customer Service on 5366 7100 or email to info@moorabool.vic.gov.au

7.4. Confidentiality

Council takes its obligations under the PID Act seriously. This includes taking all reasonable steps to protect the identity of the discloser and the matters raised by a discloser.

Maintaining confidentiality in relation to public interest disclosure matters is crucial to prevent reprisals and afford natural justice and procedural fairness to all involved.

It is a criminal offence under the PID Act to disclose information connected with a disclosure made in accordance with the PID Act, including the identity of the discloser.

The consequences for breaching confidentiality include financial penalties and imprisonment.

8. Further information

Council has appointed the Executive Manager Democratic Support & Corporate Governance as its PID Coordinator to receive and initially assess any disclosures. The PID Coordinator can be contacted by telephone on 5366 7100 or by email to governance@moorabool.vic.gov.au

The PID Coordinator can be contacted for more information, to receive a disclosure, or to arrange a confidential meeting to discuss any matters.

Disclosures relating to Council as an organisation, or Council officers, can also be made directly to IBAC on 1300 735 135 or online at IBAC's website.

Disclosures about Councillors can only be made directly to IBAC or the Victorian Ombudsman. For more information, contact:

- IBAC or visit its website www.ibac.vic.gov.au; or
- The Victorian Ombudsman at its website <https://www.ombudsman.vic.gov.au>

Public Interest Disclosures Policy



9. Related Legislation

- *Local Government Act 1989*
- *Local Government Act 2020*
- *Public Interest Disclosures Act 2012*
- *Independent Broad-based Anti-corruption Commission Act 2011*
- Fraud and Corruption Prevention and Control Policy
- Fraud and Corruption Prevention and Control System
- Fraud Reporting and Investigation Procedure
- Public Interest Disclosures Procedure
- Privacy Policy
- *Privacy Act 1988*
- *Privacy and Data Protection Act 2014*

10. Council Plan Reference

Objectives: providing good governance and leadership

Context: Our people
Our business and systems

11. Review

As a minimum, this policy will be reviewed every two years.

Attachment A – Definitions

Term	Definition
Assessable Disclosure	Any report, complaint, concern, matter, allegation or disclosure (however described) purported to be made in accordance with Part 2 of the Act.
Assets	Includes money, property (land and buildings), materials, stock, vehicles, plant, equipment, furniture, chattels and all other similar possessions and items. Assets also include information and records including transactional records.
Corruption	<p>Corruption or corrupt conduct includes asking for, or receiving a benefit of any kind, the acceptance of a bribe, in any form, which is punishable under law by the Victorian common law offence of 'Bribery of a Public Official' and offences under the <i>Local Government Act 1989</i> (Vic).</p> <p>Section 4 (1) of the <i>Independent Broad-Based Anti-corruption Commission Act 2011</i> defines corrupt conduct as any conduct:</p> <ul style="list-style-type: none"> • 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 • 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 • of a public officer or public body that constitutes or involves knowingly or recklessly breaching public trust; or • 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
Council personnel	The Chief Executive Officer, members of Council staff, (permanent, temporary, agency, casual, full and part time), volunteers, trainees, students, Audit and Risk Committee members, Delegated Committee members and Community Asset Committee members.
Councillor	A person who holds the office of an elected representative of Moorabool Shire Council.
Detrimental action	<p>action causing injury, loss or damage</p> <p>intimidation or harassment</p> <p>discrimination, disadvantage or adverse treatment in relation to a person's employment, career, profession, trade or business, including the taking of disciplinary action</p>
Fraud	A dishonest activity causing actual or potential financial loss to any person or entity including theft of moneys or other property by persons internal or external to the organisation and where deception is used at the time, immediately before or immediately following the activity. This also includes the deliberate falsification, concealment, destruction or use of falsified documentation used or intended for

Public Interest Disclosures Policy



Term	Definition
	<p>use for a normal business purpose or the improper use of information or position for personal financial benefit”</p> <p>The theft of property belonging to Council where deception is not used is also considered ‘fraud’ for the purposes of this policy. (Australian Standards AS8001-2021: Fraud and Corruption Control). Fraud is not restricted to tangible benefits only and includes intangibles such as information. A fraudulent act can also be committed by an act of omission, dishonesty or deceitful and misleading behaviour.</p>
Improper Conduct	<p>The Public Interest Disclosures Act 2012 captures fraudulent and corrupt behaviour and specifically the following conduct by a public officer or public body in their capacity as a public officer or public body:</p> <ul style="list-style-type: none">• Corrupt conduct and/or• Any of the following conduct by a public officer or public body in their capacity as a public officer or public body:<ul style="list-style-type: none">○ A criminal offence○ Serious professional misconduct*○ Dishonest performance of public functions○ An intentional breach or reckless breach of public trust○ An intentional or reckless misuse of public trust○ An intentional or reckless misuse of information or material acquired in the course of the performance of public functions○ A substantial mismanagement of public resources○ A substantial risk to the health or safety of one or more persons○ A substantial risk to the environment. <p>* The Act does not define serious professional misconduct</p>
Natural Justice	<p>A principle of Common Law that says a person has the right to be:</p> <ul style="list-style-type: none">• informed about the substance or the allegations against them• given the opportunity to answer the allegations before a final decision is made• informed about the substance of any adverse comment that may be included in an investigation report and have their defence fairly included in the report.
Public Interest Disclosure	<p>Any complaint, concern, matter, allegation or disclosure (however described) determined to be made in accordance with Part 2 of the PID Act. A public interest disclosure is one which is made by a natural person or group of people who has reasonable grounds for the belief that a public officer or public body has engaged in or intends to engage in improper conduct in their official capacity, or detrimental action.</p>

Attachment B – Roles and Responsibilities

Role	Responsibility
<p>Protected Disclosure Coordinator</p> <p>Executive Manager, Democratic Support & Corporate Governance</p>	<p>The Public Interest Disclosures Coordinator has the central role in coordinating the public interest disclosure process for Council.</p> <ul style="list-style-type: none"> • receive a disclosure made verbally or in writing from a discloser • make arrangements for a disclosure to be made privately and, if necessary, away from the workplace • take detailed notes of any disclosure made verbally • if appropriate, make discreet enquiries - including accessing system data - to attempt to obtain any additional evidence in relation to a disclosure. This will not include an 'investigation' of a disclosure (which is determined and directed by IBAC) • receive all disclosures and supporting evidence forwarded from Officers • consider each disclosure impartially, and determine whether it may be a public interest disclosure and should be notified to IBAC for assessment under the Act • take necessary steps to ensure information disclosed, including the identity of the discloser, the subject of an allegation, and any witnesses, is secured and remains confidential • be a central contact for integrity agencies such as IBAC and the Victorian Inspectorate, and act as chief liaison with IBAC or an investigating agency for any public interest complaints and matters • provide general advice about the Act, relevant regulations and guidelines, and Council's policies and procedure • arrange appropriate welfare support for the discloser, including appointing a Welfare Manager to support the discloser • advise the discloser (appropriately and in accordance with the Act) of the stage the disclosure is at, for example, whether it has been notified to IBAC for assessment, or whether the disclosure has not met the Act requirements and is being dealt with through Council's internal procedures • establish and manage a confidential filing system for disclosures • coordinate Council's disclosure reporting system, including statistics on disclosures for the annual report • coordinate awareness training for Council officers, including specialist training for Executives and Managers
<p>Employees, Councillors, providers and volunteers</p>	<p>Council employees, Councillors, providers and volunteers are encouraged to raise matters of concern, including reporting known or suspected incidences of improper conduct or detrimental action that has either taken place, is still occurring, or is suspected may occur.</p> <p>Council employees, Councillors, providers and volunteers have an important role to play in supporting anyone who has made a legitimate disclosure under the Act. They will protect and maintain the confidentiality of a person they know (or suspect) to have made a disclosure. They will not take part in any action that is, or could be perceived to be, victimisation or harassment of a person who makes a disclosure or participates in an investigation.</p>

Public Interest Disclosures Policy



Role	Responsibility
Direct and Indirect Supervisors and Managers	<ul style="list-style-type: none">• Direct or indirect (line) supervisor/manager of the discloser• Direct or indirect (line) supervisor/manager of the subject of the disclosure <p>Employees can make a disclosure to their direct or indirect supervisor. If a person wishes to make a disclosure about a Council employee, they can make the disclosure to that employee’s direct or indirect supervisor.</p> <p>The officer receiving the disclosure will:</p> <ul style="list-style-type: none">• receive a disclosure made verbally or in writing from a discloser• make arrangements for a disclosure to be made privately and, if necessary, away from the workplace• as soon as possible, confidentially advise the Public Interest Disclosures Coordinator of the disclosure (for further action in accordance with the Act)• take necessary steps to ensure the information disclosed, including the identity of the discloser and any people involved, is secured and remains confidential• offer to act as a support person for the discloser if meeting with the Public Interest Disclosures Coordinator• undertake mandatory training on receiving a disclosure (in line with the Act and the Procedure).