

## Disclosures under the Protected Disclosures Act 2012

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### 1. Purpose

The City of Greater Dandenong is a public body subject to the *Protected Disclosures Act 2012*. The purpose of the Act is to:

- encourage and facilitate disclosures of improper conduct by public officers and public bodies, which includes the City of Greater Dandenong and its staff and Councillors;
- encourage and facilitate disclosures of detrimental action taken in reprisal for a person making a disclosure under this Act;
- provide protection for persons who make disclosures under the Act;
- provide protection for persons who may suffer detrimental action in reprisal for those disclosures; and
- provide for the confidentiality of the content of those disclosures and the identity of persons who make those disclosures.

The City of Greater Dandenong is committed to the aims and objectives of the Act. It recognises the value of transparency and accountability in its administrative and management practices, and supports the making of disclosures that reveal improper conduct. It does not tolerate improper conduct by the organisation, its employees or its Councillors, nor the taking of reprisals against those who come forward to disclose such conduct.

This policy outlines how the Protected Disclosures Act 2012 operates within the City of Greater Dandenong.

### 2. Background

The *Protected Disclosures Act 2012* (The Act) repealed the *Whistleblowers Protection Act 2001* on 10 February 2013. This policy gives effect to the City of Greater Dandenong's transition to the *Protected Disclosures Act 2012* regime which must be completed by 10 August 2013.

### 3. Scope

This policy applies to all Council, its employees, staff, officers and Councillors.

Any individual natural person (not a group, organisation or company) may make a disclosure under the Act. The individual could be a person within the organisation or may be a member of the public.

### 4. Victorian Charter of Human Rights and Responsibilities Statement

All matters relevant to the Victorian Charter of Human Rights and Responsibilities have been considered in the preparation of this policy and are consistent with the standards set by the Charter. The particular areas in the Victorian Charter of Human Rights and Responsibilities that relate to this policy are:

- Freedom of expression
- Right to vote and to participate in public life
- Right to a fair hearing
- Right to be free from discrimination and to be equal before the law
- Right to privacy.

### 5. References

Associated references that relate to the implementation of the policy are as follows:

- Adopted at the Ordinary Council Meeting on 22 July 2013
- Protected Disclosures Act 2012
- Protected Disclosures Regulations 2013
- *Victorian Charter of Human Rights and Responsibilities 2006*
- CGD Procedures – Disclosures under the *Protected Disclosure Act 2012*
- Current CGD Delegations
- Supersedes CGD Procedures – *Whistleblowers Protection Act 2001*

### 6. Definitions

Council	The City of Greater Dandenong.
Detrimental action	Is any action causing injury, loss or damage, any action seen as intimidation or harassment or any discrimination, disadvantage or adverse treatment shown toward a person's employment, career, profession, trade or business, including the taking of disciplinary action.
Discloser	A person who (purports to) make a complaint, allegation or disclosure (however described) under the Act.

Council	The City of Greater Dandenong.
Disclosure	Any complaint, concern, matter, allegation or disclosure (however described) purported to be made in accordance with the Act.
IBAC	Independent Broad-based Anti-corruption Commission.
Improper conduct	Any corrupt conduct or conduct that would constitute a criminal offence or reasonable grounds for dismissal. This includes specified conduct as outlined in the Act. The conduct or action being disclosed may have taken place, is still occurring or is believed will occur or be engaged in.
Investigating entity	IBAC, the Chief Commissioner of Police, Victorian Ombudsman or the Victorian Inspectorate.
Protected disclosure	A disclosure made in accordance with Part 2 of the PD Act.
Protected disclosure complaint	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
Public body	Primarily any public service body established under the Public Administration Act 2004 or any Council established under the Local Government Act 1989 or a body performing a public function on behalf of the State.
Public Officers	Includes, but is not limited to, Local Government Councillors and Council employees, staff or officers.
The Act	<i>Protected Disclosure Act 2012 and Protected Disclosure Regulations 2013</i> if they apply
VI	Victorian Inspectorate
VO	Victorian Ombudsman

## 7. Council Policy

### Making Disclosures

As required under the Act, Council has established procedures to facilitate and encourage the making of disclosures under the Act and describe how Council handles any such disclosure received by it.

Council's Procedures - Disclosures made under the *Protected Disclosures Act 2012* are available on Webstar and at [www.greaterdandenong.com](http://www.greaterdandenong.com) or by inspection during normal office hours at Council's customer service centres. This document contains detailed information about who can receive disclosures such as Council, IBAC and VO and how any person can make such disclosures to these bodies.

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A disclosure may be made in a number of ways as set out in the Act including anonymously, in writing or verbally. An individual does not need to identify the person or body about whom the disclosure is made.

A disclosure that can be received by Council can be made to Council's Chief Executive Officer, Protected Disclosure Coordinator, Protected Disclosure Officers, a manager or supervisor of a discloser or the manager or supervisor of the person who is the subject of a disclosure.

## **Investigating Disclosures**

Council can only receive a disclosure that relates to the conduct of itself or its own employees, staff and officers. These disclosures can also be made to IBAC or the VO (if it is within the Ombudsman's jurisdiction to investigate) directly.

Council cannot receive or investigate a disclosure made in relation to a Councillor. These disclosures must be made to IBAC or VO directly.

If Council believes a disclosure may be a protected disclosure made in accordance with the Act, it will notify IBAC of the disclosure. IBAC will then assess the disclosure and nominate whether it is a protected disclosure complaint as defined by the Act.

If a disclosure is deemed to be a protected disclosure complaint, IBAC will investigate the disclosure. If a disclosure is deemed not to be a protected disclosure, IBAC may refer the disclosure back to Council to investigate it under the PD Act or Council's Dispute Resolution Process.

## **Confidentiality**

Council takes its obligations under the Act seriously and will protect the identity of any discloser and the matter disclosed by a discloser. Maintaining confidentiality in relation to protected disclosure matters is crucial for ensuring that reprisals are not made against a discloser. It is a criminal offence under the Act to disclose information connected with a disclosure made in accordance with the Act, including information about the identity of a discloser. The penalties for breaching confidentiality obligations in this instance include financial penalties and imprisonment.

## **Council's Commitment to the PD Act**

The City of Greater Dandenong supports a workplace culture where the making of disclosures under the PD Act is valued by the organisation and the right of any individual to make a disclosure under the Act is taken seriously. Council will:

- ensure these procedures are accessible to the public and to its employees, staff, officers and Councillors;
- ensure the appropriate training is provided at all levels of the organisation to raise awareness in relation to Protected Disclosure Act 2012;
- ensure its reporting system for protected disclosures is centralised, secure and accessible only by appropriately authorised officers;

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- ensure the confidentiality of information received or obtained in connection to a protected disclosure;
- not tolerate the taking of detrimental action in reprisal against any person for making a protected disclosure and will take all reasonable steps to protect such persons from such action being taken;
- afford natural justice and treat those who are the subject of any allegations contained in a disclosure fairly;
- take the appropriate disciplinary action and other action against any employees, staff, officers or Councillors engaged in the taking of detrimental action;
- ensure Council officers involved with handling protected disclosures are trained to receive and manage such disclosures appropriately;
- ensure that Council handles protected disclosures consistently and appropriately in accordance with its obligations under the PD Act and IBAC's Guidelines; and
- continue to be visible, approachable and communicative in establishing a workplace that supports the making of protected disclosures

## More information

Council has appointed the Director Corporate Services as its Protected Disclosure Coordinator to handle enquiries and meet its obligations under the Act. Details related to contacting this person are available in Council's Procedures – Disclosures made under the *Protected Disclosure Act 2012* available online at [www.greaterdandenong.com](http://www.greaterdandenong.com).

Information about protected disclosures or the Victorian integrity system is generally available from IBAC at [www.ibac.vic.gov.au](http://www.ibac.vic.gov.au) or by telephone 1300 735 135

General complaints will continue to be handled under Council's Dispute Resolution Guidelines available at Council's customer service centres or at [www.greaterdandenong.com](http://www.greaterdandenong.com).

## 8. Related Documents

CGD Procedure – Disclosures made under the *Protected Disclosure Act 2012*