



WELFARE MANAGEMENT – PUBLIC INTEREST DISCLOSURES



Campaspe
Shire Council

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1. Introduction

1.1. Statement of support for public interest disclosures

Campaspe Shire Council (CSC) is committed to the aims and objectives of the *Public Interest Disclosures Act 2012* (the PID Act). Council does not tolerate improper conduct by its elected representatives or employees, nor the taking of reprisals against those who come forward to disclose such conduct.

CSC recognises the value of transparency and accountability in its administrative and management practices, and supports the making of disclosures that reveal corrupt conduct, conduct involving a substantial mismanagement of public resources, or conduct involving a substantial risk to public health and safety or the environment.

CSC will take all reasonable steps to protect people who make such disclosures from any detrimental action in reprisal for making the disclosure.

These procedures should be read in conjunction with CSC's Public Interest Disclosures Procedure which explains what a public interest disclosure is, what an organisation should do when it receives a disclosure, and the protections provided under the PID Act,

2. Welfare management

The protection of persons making genuine public interest disclosures about improper conduct or detrimental action is essential for the effective implementation of the PID Act. In addition, the PID Act extends the need for welfare management to those people who have cooperated or intend to cooperate with an investigation of a public interest complaint (referred to as co-operators).

CSC is responsible for ensuring both those who make disclosures (referred to as disclosers) and co-operators, are protected from direct and indirect detrimental action. CSC's workplace culture supports people making public interest disclosures and those who cooperate with a public interest disclosure.

2.1. Protection for disclosers and co-operators

A person making a public interest disclosure, or co-operating with an investigation, may be employed by CSC or a member of the public.

CSC has an obligation to protect all disclosers and co-operators from detrimental action taken in reprisal for a public interest disclosure. This also applies to organisations that cannot receive a disclosure, but can be the subject of a disclosure made to the IBAC or other specified organisations.

Ensuring confidentiality is one of the ways that disclosers and other people involved in public interest disclosure investigations are protected. The PID Act restricts the disclosure of information about the content of disclosures, or information which could identify the discloser. When CSC obtains this information, it must be kept confidential. This includes when an investigating entity provides the information to CSC while making investigative enquiries or to assist a person to access welfare support.

If the IBAC determines that a disclosure is a public interest complaint, CSC must protect the identity of the discloser and the content of the person's disclosure to ensure confidentiality.

While the obligation to protect extends to both employees and members of the public, the welfare management of each may be different as specific legislative responsibilities apply to persons internal to the organisation. That legislation may not apply to members of the public who are disclosers or co-operators, even if they are clients or users of CSC's services.

2.2. Providing welfare services

Welfare support should be provided by CSC for the discloser or co-operator on an ongoing basis, even if a welfare manager has not been appointed.

2.3. Appointing a welfare manager

CSC will appoint a suitable welfare manager (when considered appropriate) to protect a discloser or a co-operator. The following matters will be taken into consideration by CSC when deciding to appoint a welfare manager in a particular circumstance:

- Are there any real risks of detrimental action against the discloser or co-operator, taking into account their particular circumstances?
- Can CSC ensure the person will be treated with respect?
- Can the person be given effective support, including keeping them informed of the status of the disclosure?
- Can the person be protected from suffering repercussions, by dealing with the matter discreetly and confidentially?
- Can CSC respond swiftly and fairly to any allegations that the person has, in fact, suffered retribution?

If the answer to the first question is 'yes', then the IBAC recommends the appointment of a dedicated welfare manager. If the answer is 'no' and CSC can meet the needs set out in the remainder of the questions, the IBAC suggests there may be no need for a dedicated welfare manager to be appointed for that particular case.

2.4. The role of the welfare manager

A welfare manager's role is to monitor the specific needs of the discloser or co-operator and provide them with practical advice and support.

In most circumstances, a welfare manager will only be required when a public interest complaint proceeds to investigation. However, each case needs to be assessed on its own merits.

A welfare manager (if appointed) cannot be expected to go beyond what is reasonable for a public body in providing support to the discloser or co-operator. The welfare manager must discuss the issue of reasonable expectations with the discloser or co-operator.

For internal disclosers, CSC may make use of the Employee Assistance Program (EAP) to provide welfare support.

Welfare Management – Public Interest Disclosures

A welfare manager must not divulge any details relating to the disclosed matter to any person other than the public interest disclosure coordinator, or the Chief Executive Officer. All meetings between the welfare manager and the person must be conducted discreetly to protect the person from being identified as being involved in a disclosure.

2.5. Welfare support

The welfare support available for the discloser or co-operator includes, but is not limited to:

Inform	<p>At a minimum:</p> <ul style="list-style-type: none"> • Confirm the disclosure has been received. • Outline the legislative or administrative protections available. • Describe the action proposed to be taken. • If action has been taken, provide details about the results.
Provide active support	<p>Acknowledge the person for having come forward.</p> <ul style="list-style-type: none"> • Provide the person with assurance that they have done the right thing, and that CSC is appreciative. • Make a clear offer of support. • Assure the person that all reasonable steps will be taken to protect them. • Give an undertaking to keep them informed.
Manage expectations	<p>Have an early discussion with the person:</p> <ul style="list-style-type: none"> • What outcome do they want? • Are their expectations realistic? • What will CSC be able to deliver?
Maintain confidentiality	<p>The identity of the discloser and the subject matter of their disclosure must be kept confidential:</p> <ul style="list-style-type: none"> • Make sure other staff cannot infer the identity of the discloser or a person cooperating with the investigation from any information they receive. • Remind the discloser not to reveal themselves or give out information that would enable others to identify them as a discloser. • Make sure that hard copy and electronic files relating to the disclosure are accessible only to those who are involved in managing disclosures in CSC.
Assess the risks of detrimental action	<p>Be proactive and do not wait for a complaint of victimisation.</p> <ul style="list-style-type: none"> • Actively monitor the workplace, anticipate problems and deal with them before they develop.
Protect the discloser/co-operator	<p>Examine the immediate welfare and protection needs of the person and seek to foster a supportive work environment.</p>

	<ul style="list-style-type: none"> • Listen and respond to any concerns the person may have about harassment, intimidation or victimisation in reprisal for their actions. • Assess whether the concerns the person may have about harassment, intimidation or victimisation might be due to other causes, other than those related to a public interest disclosure.
Manage the impact of any investigation	Prevent the spread of gossip and rumours about an investigation into the disclosure.
Keep records	Keep contemporaneous records of all aspects of the case management of the person, including all contact and follow up action.

3. Meeting the welfare needs of persons who are the subject of a public interest disclosure

Until a public interest complaint is resolved (either by dismissing or investigating it) the information about the person who is the subject of the disclosure is only an allegation.

CSC therefore needs to meet the welfare needs of the subject of the disclosure as they may also need support once they become aware an allegation has been made against them.

CSC will consider each matter on a case-by-case basis, taking into account the particular circumstances of the person. A referral to CSC’s Employee Assistance Program may be appropriate.

3.1. Informing the subject of a disclosure

Whether the person, who is the subject of a disclosure, is informed about the allegation made against them depends on the circumstances. It is possible the subject may never be told about the disclosure if it is not determined to be a public interest complaint, or a decision is made to dismiss the matter.

The PID Act restricts the release of information about the content of disclosures or which would be likely to identify a discloser. This generally means CSC cannot reveal this information to the person who is the subject of a disclosure.

However, CSC may give information to the subject of the disclosure about the allegation made against them in some circumstances, such as:

- If it is directed or authorised to do so by the entity investigating the disclosure.
- For the purpose of taking action with respect to the alleged conduct, including disciplinary action.

These exceptions do not allow CSC to reveal information that would be likely to identify the discloser.

Investigating entities may also inform the subject of the disclosure for the purposes of conducting their investigation or taking action as a result of the investigation.

3.2. Confidentiality

All reasonable steps to ensure the confidentiality of the person about whom the public interest disclosure has been made, should be taken during the assessment and any ensuing investigation.

If the disclosure is dismissed or investigations do not substantiate the allegations, confidentiality should be maintained in relation to the subject's identity, as well as the fact of the investigation and any results.

3.3. Natural justice

The person must be afforded natural justice before a decision is made about their conduct.

Natural justice means the person has the right to:

- Be informed about the substance of the allegations against them.
- Be given the opportunity to answer the allegations before a final decision is made.
- Be informed about the substance of any adverse comment that may be included in any report arising from an investigation.
- Have his/her defence set out fairly in any report.

If the matter has been investigated, the investigating entity (such as the IBAC) is responsible for carrying out this consultation.

3.4. If allegations are wrong or unsubstantiated

If a person has been the subject of allegations that are wrong or unsubstantiated, then it is necessary to ensure that there are no adverse consequences for the person arising out of the disclosure or its investigation.

This is particularly crucial if information has been publicly disclosed that has identified the person, but also when such information has become well-known across CSC, should the person work at CSC.

4. Review

These procedures will be reviewed regularly to ensure they meet the objectives of the PID Act and Regulations, and accord with the IBAC Guidelines.

Appendix A Glossary of key terms

Key Term	Definition
Public interest disclosure (PID)	A disclosure by a natural person of information that shows or tends to show, or information that the person reasonably believes shows or tends to show, improper conduct or detrimental action (where the particular disclosure relates to an earlier PID). PIDs were previously known as protected disclosures.
Public interest complaint (PIC)	A PID that has been determined by the IBAC, the Victorian Inspectorate, or the Integrity and Oversight Committee to be a PIC. PICs were previously known as protected disclosure complaints.
Detrimental action	Includes: <ul style="list-style-type: none">• Action causing injury, loss or damage.• Intimidation or harassment.• Discrimination, disadvantage or adverse treatment in relation to a person's employment, career, profession, trade or business, including the taking of disciplinary action.