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# PUBLIC INTEREST DISCLOSURE POLICY



## PURPOSE

This policy recognises the importance of the management of improper conduct and/or detrimental action in corporate governance. It establishes the governance structures necessary to support the making and handling of disclosures of improper conduct and/or detrimental action. It requires the provision of legislated protections, confidentiality, and appropriate welfare support for disclosers.

## SCOPE

This policy applies to all people elected to, employed by, and working within Wyndham City Council: Councillors, Advisory Committee Members, Staff (including temporary and contracted) and Volunteers (registered and student).

Note: A minimum appointment period of 1 month is required for scope inclusion of temporary and contracted staff and students

## POLICY STATEMENT

Wyndham City Council does not tolerate improper conduct by its people or reprisals against those who come forward to disclose such conduct or participate in its investigation.

We are an entity authorised to receive disclosures under the Public Interest Disclosure Act 2012 and are required to comply with its obligations. Compliance breaches of these obligations can incur civil and criminal penalties. The Act aims to facilitate the making of disclosures of suspected improper conduct and provides protection to those who make disclosures. Disclosers have a variety of reporting avenues available to them, this includes reporting anonymously via the Whistle-blower Hotline or to IBAC directly. Any disclosures involving Councillors must be referred to IBAC directly. Council's Public Interest Disclosure Officers will ensure that we handle disclosures consistently and in accordance with our obligations and ensure the welfare of the discloser is considered. Note, the CEO is required report any other suspected corruption directly to IBAC, ensuring they receive notice of any known corrupt conduct.

This policy should be read in conjunction with the Fraud and Corruption Control Policy.



## POLICY OBJECTIVES

1. Wyndham City Council will seek to balance public value creation and public value preservation in line with community expectations and integrity standards.
2. Wyndham City Council will foster a constructive culture which values integrity and takes proportionate action in circumstances where conduct is not appropriate.
3. Wyndham City Council will embed fraud and corruption control management practices at all levels of the organisation to deliver procedural fairness and facilitate natural justice.
4. Wyndham City Council will require our people to act with integrity in the performance of their roles and promptly report conduct which is improper and/or unethical; including taking of detrimental action.

## DEFINITIONS

**Fraud and Corruption Management System** – the process of planning, organising leading and controlling activity, in order to direct and control the organisation with regard the implementation of anti-fraud and anti-corruption strategies (including anti-bribery strategies).

**Improper conduct** – at its lowest threshold level, is either criminal or serious enough to result in a person’s dismissal. It may include:

- corrupt conduct;
- criminal offences;
- serious professional misconduct;
- dishonest performance of public functions;
- intentional or reckless breach of public trust;
- intentional or reckless use of information;
- substantial mismanagement of public resources;
- substantial risk to health or safety of a person;
- substantial risk to the environment;
- conduct of any person that adversely affects the honest by a public of their functions; and
- conduct of any person that is intended to adversely affect the effective performance by a public officer of their functions for the benefit of the other person.

**Detrimental action** – is taken or threatened to be taken against another person in reprisal for making or cooperating with a public interest disclosure. This includes action causing injury, loss or damage; intimidation or harassment; and discrimination, disadvantage or adverse treatment in relation to a person’s employment, career, profession, trade or business, including the taking of disciplinary action.

**Disclosure** – is a report about improper conduct or detrimental action of Wyndham City Council or its officer(s) made by an individual or group. The conduct may have occurred in the past, is currently occurring or may happen in future. It is not a disclosure if the complaint or allegation is already in the public domain.

## DEFINITIONS

**Assessable Disclosure** – is a disclosure which has been assessed by the Public Interest Disclosure Officer(s), subject to mandatory reporting to IBAC, which satisfies one of two tests:

1. the information shows or tends to show that there is improper conduct or detrimental action; or
2. the discloser believes on reasonable grounds that the information shows or tends to show that there is improper conduct or detrimental action.

The Coordinator(s) will consider the seriousness of the conduct in terms of consequences and identify that there is a link between the conduct and the official function of Wyndham City Council or its officer(s).

**Public Interest Disclosure** – has been assessed by IBAC and meets the following criteria:

- it has been made by an individual or group of people;
- it is made verbally (in private) or in writing to a person authorised to receive a disclosure; and
- there is information or reasonable grounds for the discloser to believe that there is information, which shows or tends to show improper conduct or detrimental action.

**Protections for Disclosers** – apply from when the disclosure is made, regardless of whether the matter is referred to IBAC, and includes the subsequent provision of any further information. These include:

- a person is not subject to civil / criminal liability or administrative action;
- a person is not committing an offence against any legal Act which imposes obligations of confidentiality or restrictions on information disclosure;
- a person is not breaching any other confidentiality obligation made by oath, rule or law or practice; and
- a person cannot be held liable for defamation in relation to information provided.

These protections do not apply where a discloser has knowingly provided false or misleading information.



## BREACH OF POLICY

Our people are bound to act in line with our Code of Conduct and in compliance with the law. As public sector employees, we are required to perform our duties in accordance with our values and meet the obligations of our roles, as communicated in our organisations policies. Contravention of policy may constitute misconduct and result in disciplinary outcomes, including termination of employment.

There are circumstances where breach of these obligations may result in civil or criminal prosecution of individuals. The *Crimes Act 1958* (VIC) classifies all acts of deception, dishonesty, and illicit financial advantage against public or civil citizens as fraud offences. Section 81 of the Act defines and prescribes punishments for all offenders. The crime of fraud and obtaining by deception carries a maximum penalty of 10 years imprisonment. The *Public Interest Disclosures Act 2012* (VIC) classifies all acts of false disclosure as offences and protects those making disclosures from reprisal. Division 1 of the Act defines and prescribes penalties for such offences and can include up to 2 years imprisonment and monetary fines for individuals. *The Independent Broad-based Anti-Corruption Act 2011* outlines a wide range of offences and penalties in relation to hindering or obstructing an IBAC Officer or Investigation and can include imprisonment monetary fines for individuals.

## REFERENCES

[Charter of Human Rights and Responsibilities Act 2006](#)

[Independent Broad-based Anti-Corruption Commission Act 2011](#)

[Public Interest Disclosures Act 2012](#)

[AS 8001:2021 Fraud and Corruption Control](#)

[AS ISO 37001:2019 Anti-bribery management systems – Requirements with guidance for use](#)

IBAC: [Guidelines for making and handling public interest disclosures](#)

IBAC: [Guidelines for public interest disclosure welfare management](#)

IBAC: [Reference guide: Managing an internal investigation into misconduct](#)