

# Local Government Inspectorate

Encouraging higher standards of integrity, accountability and transparency in local government

## The role of the Public Interest Disclosure Coordinator during LGI enquiries and investigations

The *Public Interest Disclosures Act 2012* (PID Act) encourages people to report improper conduct and detrimental action by protecting people who make disclosures and those who cooperate with investigations. Employed by public sector agencies, Public Interest Disclosure Coordinators (PID Coordinators) are nominated to receive and notify the Independent Broad-based Anti-corruption Commission (IBAC) of potential public interest disclosures.

PID Coordinators also play a vital role in public interest complaint enquiries and investigations by:

- assisting IBAC officers and Local Government Inspectorate (LGI) inspectors
- supporting the welfare of disclosers and others involved in investigations
- ensuring staff are aware of the public interest disclosure legislation.

### Starting an investigation

The LGI is permitted to investigate PIDs referred to it by IBAC. PID Coordinators should refer PIDs to IBAC for assessment and referral to the LGI (section 21 of the PID Act).

A disclosure is not a public interest disclosure if the person making the disclosure expressly states in writing that the disclosure is not a public interest disclosure; the written statement must be made no later than 28 days after the disclosure is made (section 19 PID Act). Consequently, the disclosure is not required to be notified to IBAC or assessed and the protections under the PID Act do not apply.

Councils can receive disclosures that relate to the conduct of councillors and staff members, or disclosures made by their own members, officers or employees. Disclosures about councils can also be made to IBAC, or to the Victorian Ombudsman or the Victorian Inspectorate.

Once a complaint has been referred to the LGI by IBAC, LGI investigates the complaint. In specific circumstances the CMI must or may refuse to investigate certain complaints. At the beginning of an investigation, LGI may contact a PID Coordinator to provide assistance. LGI can request documents and/or information from a PID Coordinator.

### Maintaining confidentiality

The Public Interest Disclosures Act contains strict confidentiality provisions. Part 7 of the Public Interest Disclosures Act makes it an offence to disclose the content of a disclosure or the identity of the discloser, except in limited circumstances (such as for the purposes of assisting an investigation).

To prevent breaches of confidentiality and to minimise the risk of detrimental action, public sector agencies must establish a secure electronic and/or paper filing system, which can only be accessed by authorised people.

### Discreetly responding to requests for information

When LGI asks the PID Coordinator to gather information to assist with an enquiry or investigation into a public interest complaint, LGI expects that the PID Coordinator:

- will not reveal they are gathering information in relation to a public interest complaint, unless authorised by LGI inspectors
- will obtain information discreetly or contact LGI inspectors if they are unable to do so
- will provide information by the due date agreed with LGI or contact LGI inspectors before that date if they cannot
- will help identify other documents and data that may be relevant
- will contact LGI if they are unsure about any aspect of what they have been asked to do.

If LGI requests a large amount of information, LGI inspectors may ask the PID Coordinator to provide the information as it becomes available.

Generally, LGI prefers that information is provided electronically, via email or secure file sharing software. Copies of documents should be provided, rather than originals.

Given the sensitive and confidential nature of some of the material LGI inspectors request, it is vital that the inspectors respect the requests of the PID Coordinator and ensure that the anonymity of the disclosure is always maintained.

A large agency, or an agency with offices in several locations, may appoint a number of Public Interest Disclosure Inspectors to help the PID Coordinator respond to LGI's requests. In such cases, LGI recommends that the PID Coordinator maintains oversight to ensure inspectors are aware of their legal obligations and that full and accurate information is provided to LGI.

## Ensuring people's welfare

Public bodies have a responsibility to ensure the welfare of disclosers and any person who has cooperated or intends to cooperate with an investigation (including witnesses). Managing a person's welfare can involve monitoring their specific needs, ensuring they are reasonably provided with practical advice or support and taking steps to protect them from detrimental action.

Public bodies also have a responsibility to ensure the welfare of their staff where they are the subject of the disclosure.

LGI inspectors may refer a discloser, a person who is cooperating with an investigation or the subject of a disclosure to the PID Coordinator for welfare support.

## Advising staff of their rights and obligations

LGI inspectors may refer witnesses and subjects of investigations to the PID Coordinator for general advice about their rights and obligations. The PID Coordinator should ensure that witnesses and subjects are familiar with policies, procedures and the relevant parts of the legislation, particularly their confidentiality obligations and the consequences of breaching the relevant Acts.

LGI inspectors may also refer a witness to the PID Coordinator if:

- the witness needs help to arrange leave from work to attend an interview with LGI inspectors
- the witness seeks legal advice or representation for an interview or to respond to a LGI report.

## Further information for public interest disclosure coordinators

Resources for PID coordinators, including online training modules and guidance materials on receiving, notifying and dealing with public interest disclosures, are available from IBAC's website [www.ibac.vic.gov.au/](http://www.ibac.vic.gov.au/)

If you would like to discuss the role of the PID Coordinator during investigations, please use the details provided below.

✉ [inspectorate@lgi.vic.gov.au](mailto:inspectorate@lgi.vic.gov.au)

☎ 1800 469 359

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