

Policy Name	Public Interest Disclosures Procedure
Version number	3.1
Policy date	February 2020
Date to be reviewed	February 2022 or upon significant change to the Act, the Regulations or the IBAC Guidelines
Responsibility	Executive Manager Corporate Services
Related Policies and Procedures	Public Interest Disclosures Policy Employee Code of Conduct Board Code of Conduct Conflict of Interest Procedure Fraud and Corruption Prevention Policy Fraud and Corruption Prevention Procedure Child Safe Policy

Purpose

Yarra Plenty Regional Library (YPRL) is required to establish and publish procedures under the Public Interest Disclosures Act 2012. This procedure establishes YPRL's public interest disclosure procedures for the public and YPRL employees.

Scope

This procedure applies to all YPRL employees and to members of the public seeking to make a public interest disclosure.

Related Legislation

- Public Interest Disclosures Act 2012;
- Integrity and Accountability Legislation Amendment (Public Interest Disclosures, Oversight and Independence) Act 2019.

Definitions

For the purposes of this procedure only, the following definitions shall mean:

Act	Public Interest Disclosures Act 2012
Detrimental Action	The Act makes it a criminal offence for a person to take or threaten to take detrimental action against a person in reprisal for making or being connected with a public interest disclosure. Detrimental action includes: <ul style="list-style-type: none"> • Action causing injury, loss or damage; • Intimidation or harassment;

	<ul style="list-style-type: none"> • Discrimination, disadvantage or adverse treatment in relation to a person’s employment, career, profession, trade or business, including the taking of disciplinary action (unless the substantive basis can be demonstrated as not in reprisal, and there are good and sufficient grounds that would fully justify action against any other person in the same circumstances). <p>Examples of detrimental action: <i>refusing a deserved promotion to a person who makes a disclosure; demoting or transferring a person due to the making of a disclosure; threats to a person’s personal safety or property; intimidating and/or harassing a discloser or a discloser’s family or friends.</i></p>
IBAC	Independent Broad-based Anti-Corruption Commission
Improper Conduct	<p>Improper conduct means any one of the following:</p> <ul style="list-style-type: none"> • Corrupt conduct; • 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"> ○ Criminal offence; ○ Serious professional misconduct (conduct that constitutes a serious breach of an established professional code of conduct and/or other serious departures from the person’s professional responsibilities); ○ Dishonest performance of public functions; ○ Intentional or reckless breach of public trust; ○ Intentional or reckless misuse of information; ○ Substantial mismanagement of public resources; ○ Substantial risk to health or safety of one or more people; ○ Substantial risk to the environment; • Conduct of any person: <ul style="list-style-type: none"> ○ that adversely affects the honest performance by a public officer of their functions; ○ that is intended to adversely affect the effective performance by a public officer of their functions for the benefit of the other person. • Conduct that could constitute a conspiracy or an attempted conspiracy. <p>Examples of Improper Conduct: <i>A YPRL employee takes a bribe or receives a payment other than their wages in exchange for discharging their public duty, favours unmeritorious employment applications from friends and family, or sells confidential information.</i></p>
Principal Officer	YPRL CEO
Public Interest Disclosure	<p>A public interest disclosure is 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 (previously known as a protected disclosure). YPRL is a public body for the purposes of the Act and a public officer can be a YPRL employee (including temporary/contract employees) or Board member.</p>
Public Interest disclosure Complaint	<p>A public interest disclosure that has been determined by IBAC to be a public interest complaint (previously known as a protected disclosure complaint)</p>

<p>Public Interest Disclosure Coordinator</p>	<p>Coordinates the receipt and recording of disclosures and IBAC responses, as well as considering discloser welfare management. At YPRL the Public Interest Disclosure Coordinator is:</p> <p>Kate Karrasch Executive Manager Corporate Services Phone: 9088 3422 Email: kkarrasch@ypri.vic.gov.au</p>
<p>Specified Conduct</p>	<p>Is any one of the above types of Improper Conduct, or conduct that involves substantial:</p> <ul style="list-style-type: none"> • Mismanagement of public resources; or • Risk to public health or safety or the environment; or • Corruption. <p>The specified conduct must be criminal in nature or a matter, on reasonable grounds, for which an Officer could be dismissed.</p> <p>Examples of specified conduct: <i>A YPRL employee misappropriates revenue for their own private expenditure, uses a YPRL credit card for their own private purposes, steals books from the YPRL collection.</i></p>

Procedure

The three main purposes of the Public Interest Disclosures Act 2012 are:

1. To encourage and assist people to make a disclosure of improper conduct and detrimental action by public officers and public bodies;
2. To provide certain protections to people who make a disclosure, or those who suffer detrimental action in reprisal for a disclosure;
3. To ensure that certain information about a disclosure is kept confidential – the identity of the person making the disclosure and the content of the disclosure.

Disclosures can be made direct to the Independent Broad-based Anti-Corruption Commission (IBAC):

Address: IBAC, GPO Box 24234, Melbourne, Victoria, 3001

Website: www.ibac.vic.gov.au

Phone: 1300 735 135

The remainder of this procedure relates only to disclosures made directly to YPRL.

Public Interest Disclosures Reporting Process

Anyone (both members of the public and employees of a public body) can make an oral or written disclosure about improper conduct or detrimental action relating to YPRL or an officer.

To make a public interest declaration contact YPRL's Public Disclosure Coordinator:

Kate Karrasch
Executive Manager Corporate Services
Mail: Bag 65, Bundoora Vic 3083*
Phone: 9088 3422
Email: kkarrasch@ypri.vic.gov.au

An oral disclosure must be made in private and may be made in person, or by telephone to YPRL's Public Disclosure Coordinator (including by leaving a voicemail message on the specified telephone number), or by some other form of non-written electronic communication.

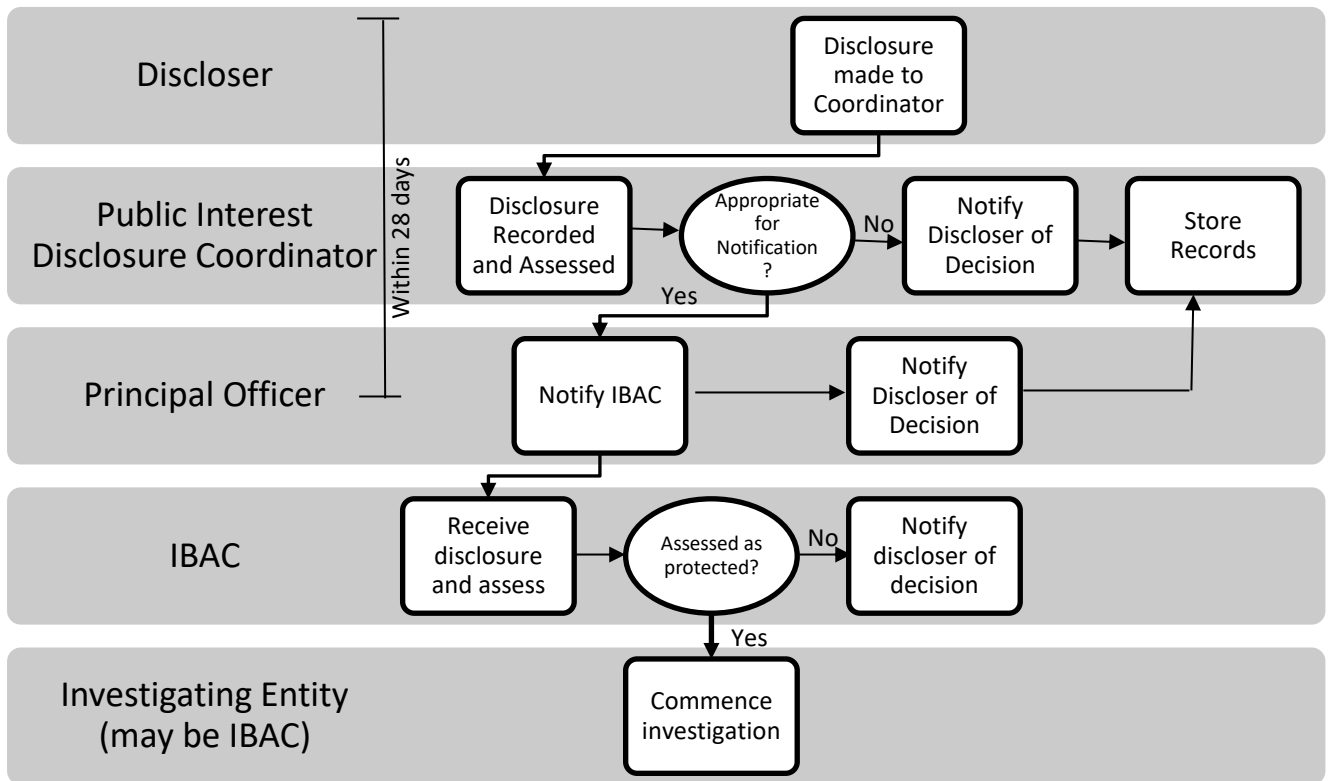
A written disclosure to YPRL must be delivered personally to YPRL's head office at Suite 6, 1 Danaher Drive, South Morang Vic 3752, or sent by email to the official email address of YPRL's Public Disclosure Coordinator.

* Where a written disclosure is being provided by post, YPRL recommends that the disclosure be sealed in an envelope which is clearly marked with one of more of the following:

- Private & Confidential: Public Interest Disclosure
- To the personal attention of the Public Interest Disclosure Coordinator

In the event a disclosure is being emailed to a YPRL email address other than the official email address of the Public Disclosure Coordinator, YPRL recommends that the discloser insert in the email subject line one of the above labels set out above to posted items.

Flowchart 1: Public Interest Disclosures Reporting Process



If the disclosure is about the Public Interest Disclosure Coordinator, report directly to the Principal Officer.

If the disclosure is about the Principal Officer, report directly to the Public Interest Disclosure Coordinator or Chair of the YPRL Board.

If the disclosure is about a YPRL Board member, it must be made to IBAC. If a disclosure concerning a YPRL Board member is made to YPRL, the discloser will be advised of the correct body to which the misdirected disclosure should be directed.

If YPRL is not the correct body to receive the disclosure, the misdirected disclosure will be referred to IBAC.

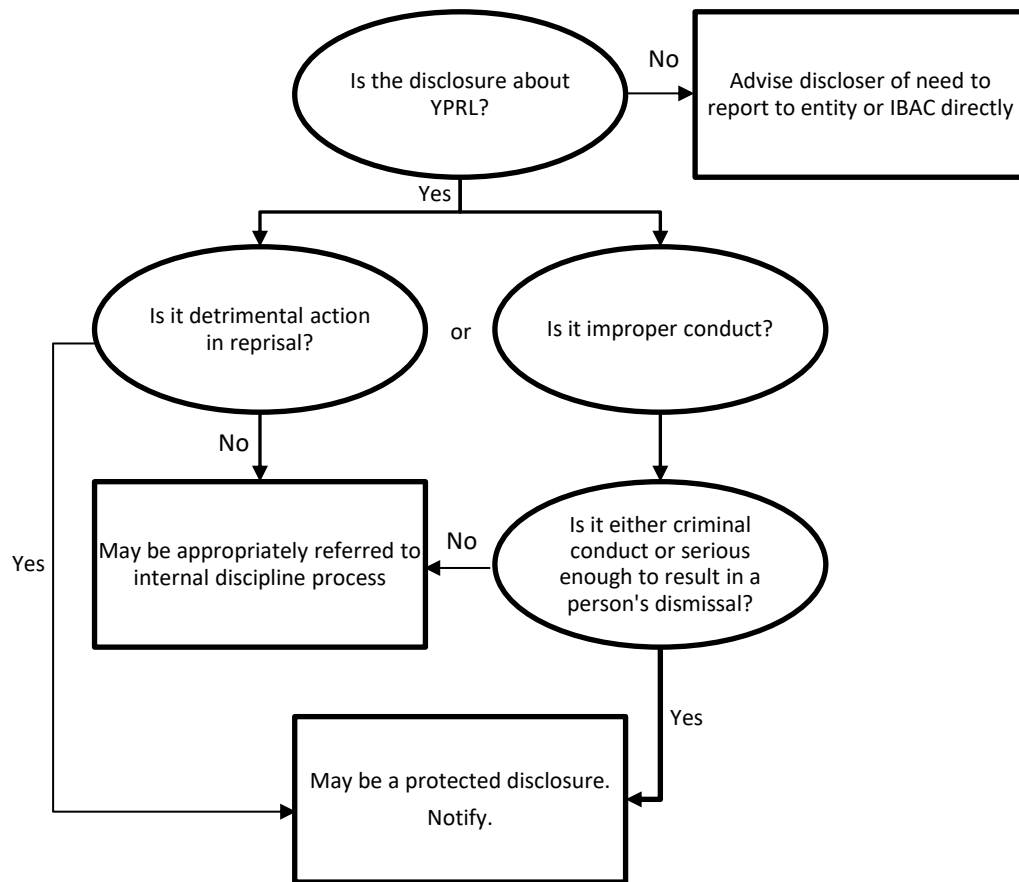
Assessing whether the disclosure has been made in accordance with the Act

A public interest disclosure must be made by a natural person (that is, an individual person or a group of individuals making a joint disclosure, rather than a corporation).

Where a disclosure by a natural person has been received by the Public Interest Disclosure Coordinator they will assess whether the disclosure has been made in accordance with the Act and is, therefore a public interest disclosure using Flowchart 2 below.

Careful consideration will also be given to understanding the discloser's connection to the alleged conduct, how they came to know about the conduct, how detailed the information is that that been provided to enable consideration of whether there is improper conduct or detrimental action, and the reliability of the information.

Flowchart 2: Is it a public interest disclosure?



A public officer, which includes a YPRL officer or employee, is given specific protections under the Act to provide information to other public officers or to the IBAC in dealing with a disclosure they have received. When a public officer acts in good faith and in accordance with the Act, Regulations and the IBAC Guidelines, the public Officer does not commit an offence under laws imposing a duty to maintain confidentiality or restricting the disclosure of information.

Confidentiality and Records Management

YPRL will take all reasonable steps to protect the identity of the discloser and the content of the disclosure. The Act makes it a crime to disclose information connected with a disclosure made in accordance with the Act. The Act requires any person who receives information as part of handling or investigating a public interest disclosure, not to disclose that information except in certain circumstances. The limited circumstances in which a person may disclose information about a public interest disclosure include:

- Where disclosure is required by YPRL (or one of its officers) in the exercise of functions of YPRL under the Act;
- Where necessary for the purpose of the exercise of functions under the Act;
- In accordance with a direction or authorisation given by the entity (i.e., IBAC) investigating the disclosure;
- To the extent necessary for the purpose of taking lawful action in relation to conduct that is the subject of an assessable disclosure including a disciplinary process or action;

- Where IBAC has determined that an assessable disclosure is not a Public Interest disclosure and the discloser or YPRL subsequently discloses the information;
- When an investigative entity has published a report to Parliament, in accordance with its confidentiality obligations;
- For the purpose of obtaining legal advice in relation to matters specified in the Act;
- In order to enable compliance with Act:
 - Where a person does not have a sufficient knowledge of the English language, to obtain a translation from an interpreter;
 - Where a person is under 18 years of age, to a parent or guardian;
 - Where a person with a disability is not able to understand, to an independent person;
- In disciplinary actions or legal proceedings for certain offences in the Act or other specified Acts;
- The discloser has given their consent, in writing, to the disclosure of their identity;
- When publishing statistics in the annual report of a public body.

The discloser of a public interest complaint may always seek advice and support from specified categories of persons without seeking permission. This enables information and content about an assessable disclosure to be provided to a registered health practitioner, trade union, employee assistance program, the Victorian WorkCover Authority, or, for the purposes of an application, to the Fair Work Commission.

The Act prohibits the inclusion of particulars in any report or recommendations that are likely to lead to the identification of the discloser. The Act also prohibits the identification of the person who is subject to the disclosure in any particulars included in an annual report.

YPRL will ensure all files, whether paper or electronic, are kept in a secure location and can be accessed only by the Public Interest Disclosure Coordinator and Principal Officer. All printed material will be kept in files that are clearly marked:

“Public Interest Disclosure Act matter.

Warning: Criminal penalties apply to any unauthorised accessing or divulging of information concerning a public interest disclosure.”

All electronic files will utilise the highest level of security available including password protection for all documents. All materials relevant to an investigation, such as interview records, will also be stored securely with the discloser files.

Register and Reporting

The Public Interest Disclosure Coordinator will establish a secure register to record the information required to be published in the annual report, and to generally keep account of the status of disclosures. The register will be confidential and will not record any information that may identify a discloser.

The register will contain:

- The number and types of disclosures made during the year;
- The number of disclosures referred to IBAC for determination;
- The number and types of disclosed matters referred to IBAC for investigation.

The Executive Manager Public Participation will ensure that YPRL's annual report includes information about how to access YPRL's Public Interest Disclosure Procedures and the number of disclosures notified to IBAC under the Act during the financial year.

Managing the welfare of the discloser

Commitment to protecting disclosers

YPRL is committed to the protection of disclosers against detrimental action taken in reprisal for the making of public interest disclosures. The Public Interest Disclosure Coordinator will determine whether the discloser is at risk of detrimental action, and take all reasonable steps to ensure such detrimental action does not occur including:

- Examining the immediate welfare and protection needs of a discloser and taking proactive steps to ensure personal and professional support is available within the workplace;
- Advising the discloser of the legislative and administrative protections available to them;
- Listening and responding to any concerns of harassment, intimidation or victimisation in reprisal for making a disclosure;
- Keeping record of all aspects of the case management of the discloser including all contact and follow-up action; and
- Ensuring the expectations of the discloser are realistic.

It should be noted that some of the protections set out in the Act protecting a Public Interest discloser are only available to the person who makes a disclosure. The IBAC has pointed out that the consequence of this is, if a person makes a disclosure on behalf of another individual, then it is the notifier who may receive those protections, and not the person on whose behalf they have made the disclosure. The person on whose behalf the disclosure has been made will only be entitled to protections against detrimental action taken against them in reprisal for the disclosure made by the notifier.

Occurrence of detrimental action

If a discloser reports an incident of harassment, discrimination or adverse treatment that would amount to detrimental action taken in reprisal for the making of the disclosure, the Public Interest Disclosure Coordinator will:

- Record details of the incident;
- Advise the discloser of their rights under the Act;
- Advise the Principal Officer of the detrimental action.

The Principal Officer must ensure that all YPRL employees refrain from any activity that is or could be perceived to be, victimisation or harassment of a person who makes a disclosure, while upholding the protections and confidentiality required.

The taking of detrimental action in reprisal for the making of a disclosure can be an offence against the Act as well as grounds for making a further public interest disclosure.

Loss of protections caused by actions of the discloser

A discloser is not protected if they commit an offence under the Act, including:

- Providing false or misleading information, or further information that relates to a public interest disclosure that the person knows to be false or misleading;
- Claiming that a matter is the subject of a public interest disclosure knowing the claim to be false;
- Falsely claiming that a matter is the subject of a disclosure that IBAC has determined to be a public interest disclosure complaint.

A discloser is not protected against legitimate management action being taken by the Corporation in accordance with the Act.

The discloser will still be held liable for their own conduct that they disclose as part of making a public interest disclosure.

Education and Training for employees

YPRL will:

- Ensure appropriate training is provided at all levels of YPRL to raise awareness of how a public interest disclosure may be made, and to take reasonable steps to ensure employees are familiar with YPRL's Public Interest Disclosures Policy and Procedure;
- Ensure employees have access to a copy of these procedures in hard or soft copy;
- Incorporate into its induction procedures training about YPRL's general obligations under the Act and the rights and obligations of all employees;
- Introduce periodic refresher training for existing employees about their rights and obligations under the Act;
- Provide additional training and assistance to any YPRL employees with specific responsibilities and functions to handle and manage Public Interest Disclosures under the Act, including the Public Interest Disclosure Coordinator.

Responsibilities

The **CEO** is responsible for:

- As Principal Officer the CEO must notify IBAC, as soon as practicable, if there is a reasonable suspicion that corrupt conduct may have occurred or be occurring.

The **Chair of the YPRL Board** is responsible for:

- Notifying IBAC, as soon as practicable, if there is reasonable suspicion that corrupt conduct may have occurred or may be occurring which involves the CEO.

The **Public Interest Disclosure Coordinator** is responsible for:

- Receiving disclosures and making assessments as to whether notification to IBAC is required, and ensuring all disclosers are aware of their ability to submit to IBAC directly;
- Notifying disclosers of YPRL's decision regarding IBAC notification;
- Regardless of whether the disclosure is notified to IBAC, ensuring that the protections set out in the Act are afforded to the discloser;
- Establishing and managing a confidential public interest disclosure records management system;
- Collating non-identifying statistics on disclosures made;
- Taking all necessary steps to ensure the identity of the discloser, the identity of the person who is the subject of the disclosure and the nature of the matter, are kept confidential; and
- Liaising with IBAC as required.

The **Executive Manager Public Participation** is responsible for:

- Publishing non-identifying statistics on disclosures made in the annual report.

All employees are responsible for:

- Complying with this procedure should the Act and YPRL Policy require them to make a public interest disclosure or participate in an investigation arising from a public interest disclosure;
- Reporting known or suspected incidences of improper conduct or detrimental action;
- Supporting those who have made a legitimate disclosure;
- Refraining from any activity that is, or could be perceived to be, victimisation or harassment of a person who makes a disclosure;
- Protecting and maintaining the confidentiality of a person they know or suspect to have made a disclosure.

Breach of Procedure

All employees are required to comply with this procedure. If an employee breaches this procedure they may be subject to disciplinary action. In serious cases this may include termination of employment.