

Public Interest Disclosures Procedure

Procedure
CTD/003037



Purpose

This Procedure is developed to ensure Lower Murray Water (LMW) complies with section 58 of the Victorian *Public Interest Disclosures Act 2012* (PID Act).

The purpose of the PID Act is to encourage and facilitate the making of disclosures of:

- improper conduct by public officers, public bodies and other persons,
- detrimental action taken in reprisal for a person making a disclosure under the PID Act

The PID Act provides for the protection and support for:

- persons who make disclosures, and
- persons who may suffer detrimental action in reprisal for said disclosures

The PID Act provides the framework to ensure that disclosures are properly assessed and, where necessary, investigated. The PID Act provides confidentiality of the disclosure content and the identity of the person(s) who make them.

Lower Murray Water actively encourages and expects all employees to uphold the requirements necessary to avoid improper conduct. Conduct involving a substantial mismanagement of public resources, or conduct involving a substantial risk to public health and safety or the environment is not tolerated.

LMW values integrity and supports the making of disclosures that reveal corrupt conduct. LMW will take all reasonable steps to protect the person(s) making disclosures from any unfavourable action in reprisal.

Scope

This Procedure outlines the expectations for the receipt and handling of disclosures, and the processes to protect any persons from potential reprisals for making a disclosure. LMW is not a public organisation prescribed under the PID Act to receive public interest disclosures.

Any disclosures regarding LMW or retaining to its employees, officers, or members must be made directly 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

References

- [Public Interest Disclosure Act 2012 \(Vic\)](#)
- [Public Interest Disclosure Regulations 2013 \(Vic\)](#)
- [Independent Broad-based Anti-Corruption Commission Act 2011 \(Vic\)](#)
- [IBAC – Guidelines for Making and Handling Public Interest Disclosures](#)
- [IBAC – Guidelines for Public Interest Disclosure Welfare Management](#)

Definitions

Term/Abbreviation	Description
LMW	Lower Murray Water
EDRMS	Electronic Documents and Records Management System
Detrimental Action	Any action taken against a person in retaliation for making a public interest disclosure. This includes injury, loss, damage, intimidation, harassment, discrimination, adverse treatment in employment, or disciplinary action. It is an offence under the PID Act.

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Discloser	A person who makes a complaint, allegation, or disclosure under the PID Act.
Disclosure	A report or allegation of improper conduct or detrimental action made in accordance with the PID Act.
IBAC	Independent Broad-Based Anti-Corruption Commission – the principal body responsible for assessing and investigating public interest disclosures in Victoria.
Improper Conduct	Serious misconduct by a public organisation or official that may justify criminal prosecution or dismissal. Includes corruption, substantial mismanagement of public resources, risks to health, safety or the environment, dishonest public service, and attempts or conspiracies to engage in such conduct.
Investigation	A formal process of gathering evidence to determine whether conduct breaches criminal law or organisational policies and standards.
Investigative Organisation	One of four authorised bodies that may investigate public interest disclosure complaints: IBAC, Victorian Ombudsman, Chief Commissioner of Police, and Integrity Oversight Victoria.
Public Interest Disclosure	A report of improper conduct or detrimental action made in accordance with the PID Act.
Public Interest Disclosure Complaint	A disclosure that has been assessed by IBAC and determined to meet the criteria for a formal complaint under the PID Act.
Public Interest Disclosure Coordinators	Designated officers responsible for managing public interest disclosures at LMW – currently the General Manager People and Customer and the Company Secretary.

Process

Confidentiality

1. LMW will take all reasonable steps to protect the identity of the discloser. Maintaining confidentiality is crucial in ensuring reprisals are not made against a discloser.
2. The PID Act requires any person who receives information due to the handling or investigation of a public interest disclosure not to disclose that information except in certain limited circumstances.
3. The circumstances in which a person may disclose information obtained about a public interest disclosure include:
 - in accordance with a direction or authorisation given by the organisation investigating the disclosure and
 - when publishing statistics in the annual report.
4. The PID Act prohibits the inclusion of particulars in any report or recommendation that is likely to lead to the identification of the discloser. The PID Act also prohibits the identification of the person who is the subject of the disclosure in any particulars included in an annual report.
5. LMW will ensure all files, whether paper or electronic, are kept securely and can only be accessed by the coordinator, a welfare manager (in relation to welfare matters) if appointed, and investigators.
6. All printed material will be kept in files that are clearly marked as a Public Interest Disclosure Act Matter and warn of the criminal penalties that apply to any unauthorised divulging of information concerning a public interest disclosure.

7. All electronic files will be produced and stored in the Electronic Documents and Records Management System with appropriate Access Controls. All materials relevant to an investigation, such as tapes from interviews, will also be stored securely with the relevant Public Interest Disclosure Act Matter files.
8. The PID Act provides that information held in relation to public interest disclosure is not subject to the Freedom of Information Act 1982.

Register and Reporting

The Coordinator will establish a secure register to record statistical 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 disclosers or others involved in the disclosure.

The register will contain:

- the number and types of disclosures made during a financial year in relation to LMW
- the number of disclosures referred to IBAC for determination, and
- the number and types of matters referred to IBAC for investigation.

The Coordinator will ensure that LMW's annual report includes information about how to access LMW's Public Interest Disclosure Procedures and the number of disclosures notified to IBAC under section 21 (2) of the PID Act in the financial year.

Managing Welfare

LMW is committed to protecting the welfare of:

- genuine disclosers
- cooperators (people who have cooperated or intend to cooperate with an investigation), and people who are the subject of a public interest disclosure complaint against direct and indirect detrimental action taken either in reprisal for the making of public interest disclosure or because a disclosure has been made about them.

LMW will ensure disclosers are aware that:

- immunity from liability under s39 of the PID Act is awarded to disclosers
- confidentiality provisions do not apply under s40 of the PID Act, and
- protection from defamation action under s41 of PID Act applies.

LMW is not able to receive disclosures so we will only be made aware that a person requires protection under the PID Act if we receive advice from IBAC or the Victorian Inspectorate or another organisation investigating a public interest disclosure complaint. Once LMW has been made aware of the identity of a discloser, and any other relevant information about the public interest disclosure, LMW will keep all information it receives confidential, and will manage the welfare of any relevant persons in accordance with its obligations under the PID Act.

If the discloser or cooperator is an employee, officer or member of LMW, LMW will ensure a supportive work environment and respond in accordance with these procedures and IBAC's guidelines to any reports of intimidation or harassment against the person.

If the discloser or cooperator is not an employee, officer or member of LMW, the coordinator will take reasonable steps to provide appropriate support and discuss reasonable expectations with the person receiving welfare management in connection with a public interest disclosure.

In supporting a discloser or cooperator the coordinator will:

- examine the immediate welfare and protection needs of a discloser who has made a disclosure and, where the discloser is an employee, seek to foster a supportive work environment
- advise the discloser of the legislative and administrative protections available to them

- listen and respond to any concerns of harassment, intimidation or victimisation in reprisal for making disclosure
- keep a contemporaneous record of all aspects of the case management of the discloser including all contact and follow-up action, and
- ensure the expectations of the discloser are realistic.

LMW will also meet the welfare needs of a person who is the subject of a public interest disclosure.

Until a public interest disclosure complaint is resolved, the information about the person and their conduct is only an allegation.

The coordinator will decide about whether or when the subject of a disclosure will be informed regarding an allegation made against them.

It is possible that the subject of the disclosure may never be told about the disclosure if it is not determined to be a public interest disclosure complaint, or if a decision is made to dismiss the disclosure. It may depend on the stage at which the relevant investigative organisation informs LMW of the identity of the subject of a disclosure.

The PID Act limits the disclosure of information about the content of an assessable disclosure and the identity of the discloser to certain specified circumstances set out in Part 7 of the PID Act. LMW may give information about the disclosure to the subject of the disclosure if it is:

- directed or authorised to do so by the organisation investigating the public interest disclosure complaint, and
- required for the purpose of acting with respect to the alleged conduct, including disciplinary action.

Investigative organisations may inform the subject of the public interest disclosure complaint during their investigation for the purposes of conducting that investigation, or any actions that they propose to take as a result of the investigation.

If a person is made aware that they are the subject of a disclosure, the coordinator will consider the matter on a case-by-case basis, considering the information provided by the investigative organisation and the person's particular circumstances.

Detrimental Action

LMW is committed to the protection of disclosers against detrimental action taken in reprisal for the making of public interest disclosure. The coordinator is responsible for ensuring disclosers are protected from direct and indirect detrimental action, and that the culture of the workplace is supportive of public interest disclosure being made.

Detrimental action includes:

- 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).

In appropriate circumstances, the coordinator will appoint a welfare manager to protect a discloser or a cooperator. In deciding whether to appoint a welfare manager, the coordinator will take into consideration:

- whether there are any real risks of detrimental action against the discloser or cooperator, considering their particular circumstances
- whether LMW can take the discloser or cooperator seriously and treat them with respect

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- whether LMW will give the discloser or cooperator effective support, including keeping the discloser informed of the status of the disclosure (as far as the LMW has been provided with such information by a relevant investigative organisation), and
- whether LMW can protect the person from suffering repercussions, by dealing with the matter discreetly and confidentially and responding swiftly and fairly to any allegations that the discloser or cooperator has in fact suffered retribution.

Normally a welfare manager will only be required if a public interest disclosure complaint proceeds to investigation and the coordinator believes that a welfare manager is required to ensure appropriate support.

In addition to providing general support, the welfare manager will:

- advise the discloser or cooperator of the available legislative and administrative protections, and give practical advice
- listen and respond to any concerns of harassment, intimidation or victimisation in reprisal for making a disclosure
- not divulge any details relating to the public interest disclosure to any person other than the coordinator
- ensure all meetings are conducted discreetly to protect the person from being identified as being involved in the public interest disclosure and ensure the discloser or cooperator's expectations are realistic and reasonable, and that they understand the limits of the support LMW is able to reasonably provide in particular circumstances, specifically where they are not LMW employees, officers or members.

If a discloser or cooperator 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 coordinator will:

- record details of the incident
- advise the discloser of his or her rights under the Act, and
- advise the managing director of the detrimental action.

The taking of detrimental action in reprisal for the making of a disclosure can be an offence against the PID Act as well as grounds for making a further disclosure. Where the detrimental action is of a serious nature likely to amount to a criminal offence, LMW will consider reporting the matter to the police or IBAC.

Supporting Documentation

Doc ID	Title
CTD/003612	LMW Fraud, Corruption and Other Losses Control Framework
CTD/000897	LMW Fraud, Corruption and Other Losses Control Policy
CTD/000083	LMW Risk Management Policy

Roles and Responsibilities

Position	Responsibility
Employees	Employees are encouraged to report known or suspected incidences of improper conduct or detrimental action in accordance with this set of procedures. Employees of LMW have an important role to play in supporting the making of legitimate disclosures. This support is demonstrated in refraining from any activity that is, or could be perceived to be, victimisation or harassment of a person who makes a disclosure. Furthermore, they should protect and maintain the confidentiality of a person they know or suspect to have made a disclosure.

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Public Interest Disclosure Coordinator	LMW has two Public Interest Disclosure Coordinators who are responsible for how LMW manages obligations under the <i>Public Interest Disclosure Act 2012</i> (Vic). LMW's Public Interest Disclosure Coordinators are the General Manager People and Customer and the Corporate Secretary. The coordinator is the main contact for enquiries about public interest disclosure, whether they are from LMW employees or members, or from people outside the organisation, but is unable to receive disclosures. The coordinator will ensure: • all employees, officers and members of LMW and the public have access to LMW's Public Interest Disclosure Procedures • that employees, officers and members of LMW know to direct anyone attempting to make a disclosure to IBAC or if unsure to direct the enquiry to the coordinator. • for anonymous disclosures: ◦ determine whether the disclosure has been made in accordance with the Public Interest Disclosure Regulations and under section 13 of the PID Act, ◦ impartially assess each disclosure to determine whether it is a public interest disclosure, and ◦ refer all public interest disclosure to IBAC for assessment. • where a disclosure is not considered to be a public interest disclosure, advise the discloser that LMW considers the disclosure is not a public interest disclosure and the disclosure has not been notified to IBAC for assessment. • regardless of whether the discloser is notified to IBAC ensure that the protections set out in Part 6 of the PID Act are afforded to the discloser • where possible, advise the discloser of the progress of an investigation into the disclosed matter and ◦ establish and manage a confidential filing system ◦ collate and publish statistics on disclosures made ◦ take all necessary steps to ensure the identity of the discloser and the identity of the person who is the subject of the disclosure are kept confidential ◦ liaise with IBAC as required
Welfare Manager	In appropriate circumstances, the coordinator will appoint a welfare manager to protect a discloser or a cooperator. More information on the role and responsibilities of welfare manager is in Section 5.4 - Managing welfare.

Document History and Review

This procedure is subject to the organisation's Records Management Policy, which outlines the procedures for creating, storing, and managing records at Lower Murray Water and the responsibilities of all staff members in effective records management. Refer to the [Records Management Policy – CTD/000005](#) for detailed guidance.

It is the responsibility of the Custodian of this procedure to ensure it is reviewed as per the review due date listed in the table below and the controlled document metadata within the Electronic Documents and Records Management System (EDRMS).

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Version	Date Approved	Review Due Date	Review Notes
A	May 2016	May 2018	See record notes in EDRMS
B	Dec 2020	Dec 2022	See record notes in EDRMS
C	Oct 2025	Oct 2027	

Procedure users are requested to notify the Custodian if amendments are required prior to the scheduled review date. Please note that only Custodians or their delegates are authorised to make changes, and all amendments must be approved by the designated Approver before being distributed to LMW.

Refer to the 'Notes' section of the controlled document in the EDRMS to view amendments made during reviews, and if applicable, to access earlier versions.

Custodian	Approver
General Manager Business Services	Managing Director
Subject Matter Experts	Endorsed By (if applicable)
Manager Corporate Services	N/A

Location of Document

- Electronic Documents and Records Management System
- Intranet