



City of **HOBART**

City of Hobart

Whistleblowing Policy

Version 1.0

Document Control

Policy Name	Whistleblowing Policy
First issued/approved	16 January 2025
Last reviewed	
Next review date	16 January 2027
Version number	1.0
Responsible Officer	Manager Rates, Procurement and Risk
Department responsible for policy development	Corporate Services
Strategic Plan references	Strategy 8.1.1, 8.2.7 and 8.2.11
File Reference:	BTID-1544725601-86970

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1 Introduction

The City of Hobart (the City) has adopted a zero-tolerance approach to fraud, corruption and improper conduct at Council and is committed to effective fraud and corruption risk management.

The *Public Interest Disclosures Act 2002* (the Act) is Tasmania's whistleblowing legislation. The Act gives protections to people blowing the whistle about serious or significant improper conduct at Council. This is called making a Disclosure under the Act.

The purpose of the Act is to:

- encourage and facilitate Disclosures of improper conduct by public officers,
- protect persons making a Disclosure from reprisals,
- provide for matters disclosed to be properly investigated and dealt with, and
- provide all parties involved with those Disclosures with procedural fairness/natural justice.

All staff, contractors and volunteers are actively encouraged to report suspected incidents of improper conduct. Fraud or corruption against the City is a serious offence under various legislative provisions and may result in Police involvement. It also constitutes serious misconduct.

2 Objectives

The City, in adopting a Whistleblowing Policy, aims to ensure that its elected members, employees, contractors, sub-contractors and members of the public are aware of the requirements and supported in blowing the whistle about serious or improper conduct.

The aim of this policy is to:

- Encourage reports of suspected improper conduct within the City.
- Set out the City's clear position on safeguards in place when making reports of improper conduct.
- Provide reassurance that reprisals or victimisation for whistleblowing in the public interest will not be tolerated.
- Demonstrate the City's commitment to treat all Disclosers fairly, in a timely manner providing natural justice for all parties involved.
- Demonstrate the City's zero tolerance commitment to tackling fraud and corruption.
- Ensure a sound ethical and professional culture at the City.
- Protect public monies, the City's assets, information and reputation.
- Establish a framework for the reporting, investigation and resolution of allegations of fraud and corruption.

3 Scope

This policy applies to all Elected Members, officers and City employees (as public officers), contractors, employees of contractors and sub-contractors; and members of the public who wish to raise concerns about suspected improper conduct or wrongdoing at the City.

4 Policy

The City does not and will not tolerate improper conduct by its employees, officers or Elected Members, nor the taking of reprisals against those who come forward to disclose such conduct.

The City will take all reasonable steps, including providing support to the Discloser and maintaining confidentiality as outlined in section 4.3 below, to protect those who make a Disclosure from any detrimental action in reprisal for making the Disclosure and to protect their welfare. It will also afford fairness and natural justice to the person who is the subject of the Disclosure, and to all parties involved in the investigation of a Disclosure.

4.1 Public Interest Disclosures

Public Interest Disclosures are complaints about serious or improper conduct by a public officer. Improper conduct also relates to any detrimental or retaliatory action (reprisal) by a public officer or public body such as the City against someone who makes a protected Disclosure under the Act.

Under the Act, Improper Conduct means:

- conduct that constitutes an illegal or unlawful activity; or
- corrupt conduct; or
- conduct that constitutes maladministration; or
- conduct that constitutes professional misconduct; or
- conduct that constitutes a waste of public resources; or
- conduct that constitutes a danger to public health or safety, or to both public health and safety; or
- conduct that constitutes a danger to the environment; or
- misconduct, including breaches of applicable codes of conduct; or
- conduct that constitutes detrimental action against a person who makes a public interest Disclosure under this Act;

that is serious or significant as determined in accordance with guidelines issued by the Ombudsman.

A Disclosure is automatically protected if it complies with Part 2 of the Act, and is:

- made by a public officer or a contractor;
- made to the correct entity under the Act;
- related to the conduct of a public officer or a public body;
- made by a discloser who believes that the public officer or public body has engaged, is engaging or proposes to engage in improper conduct;
- related to conduct that could fall within the definition of improper conduct.

There is a low threshold for what constitutes a protected Disclosure. This is to encourage public officers to report concerns about wrongdoing, and for the Discloser to be protected under the Act. If the criteria are met, the City must notify the Discloser that their Disclosure is a 'protected disclosure'.

Anonymous disclosures may also be made, if the person receiving the disclosure is satisfied the disclosure is being made by a public officer or a contractor.

In assessing the disclosure there must be evidence or an indication, rather than an allegation, that evidence can be found to show or demonstrate the existence of improper conduct.

The improper conduct must be considered serious or significant and factor in such considerations as to whether it demonstrates a course of conduct; the seniority of the person; and the harm or potential harm associated with the conduct or misconduct.

If it is determined that the conduct disclosed is not serious or significant, the City will action the matter using its People and Culture Disciplinary Policy and procedures.

4.2 How to make a Disclosure

All those who become aware of suspected fraudulent and corrupt incidents are required to report the matter immediately in accordance with City's *Public Interest Disclosures Procedures*.

All persons must maintain strict confidentiality on any suspected fraud or corrupt matter of which they have knowledge.

Disclosures of suspected improper conduct may be made to the Chief Executive Officer or to a delegated Public Interest Disclosure Officer.

A suspicion of fraud or corruption can be reported face-to-face or via email or telephone. Where a person is contemplating making a disclosure and is concerned about approaching the persons above in the workplace, they can call the relevant officer and request a meeting in a discreet location away from the workplace.

Disclosures of suspected fraud and corruption incidents may also be made directly to the Ombudsman or the Tasmanian Integrity Commission using the following contact details:

The Ombudsman GPO Box 960 Hobart, TAS 7001 (99 Bathurst Street) www.ombudsman.tas.gov.au E: ombudsman@ombudsman.tas.gov.au T: 1800 001 170	Tasmanian Integrity Commission GPO Box 822 Hobart, TAS 7001 (Level 2, Surrey House, 199 Macquarie St) www.integrity.tas.gov.au E: integritycommission@integrity.tas.gov.au T: 1300 720 289
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If the Disclosure is about an Elected Member or the Chief Executive Officer it should always be reported to the Ombudsman.

4.3 Confidentiality and Support for the Discloser

The City will take all reasonable steps to protect the identity of a Discloser. Maintaining confidentiality is crucial to ensure that detrimental action is not taken against the Discloser in reprisal for making the Disclosure. All reasonable care will be taken to protect the privacy of witnesses and of the person against whom the disclosure has been made.

The Chief Executive Officer or the Public Interest Disclosure Officer will appoint a Welfare Manager to support all persons who have made a Protected Disclosure. This will occur within three working days of the Protected Disclosure being received.

A risk assessment will be undertaken as soon as possible after the disclosure has been assessed as being a Protected Disclosure under the Act to determine the risk mitigation action required. All reasonable steps to reduce risks of reprisal will be taken. Possible strategies are set out in attachment 2 of the City's Public Interest Disclosure Procedures and these will be determined in consultation with the Discloser and other parties as required.

The City of Hobart will ensure that all relevant files, whether paper or electronic, are kept securely and can only be accessed by the Principal Officer, Public Interest Disclosure Officer/s, the investigator, and (in relation to welfare matters only) the Welfare Manager.

The Principal Officer or the Public Interest Disclosure Officer will ensure that the discloser is kept informed of action taken in relation to their disclosure and the timeframes that apply.

4.4 Investigation

The City will investigate every Disclosure it receives and has determined is a public interest disclosure, including disclosures referred to it by the Ombudsman.

Where an incidence of fraud, corruption or improper conduct is reported that may require an investigative response, the Chief Executive Officer will appoint an investigator to carry out the investigation. The investigator may be a person from within the organisation or a consultant engaged for that purpose.

The investigator will be given formal terms of reference, signed by the Chief Executive Officer that outlines the matters to be investigated, the date by which the investigation is to be concluded, the requirement for regular reports to the Chief Executive Officer and the resources available to the investigator for the purposes of the investigation.

The completion date will be as soon as practicable and, in any event, not more than six months from the date of the determination that the Disclosure is a public interest disclosure.

Procedural fairness and natural justice will be observed in the course of the investigation for all parties involved.

4.5 Referrals

The City may refer the investigation of a public interest disclosure to the Ombudsman where it considers that its own investigation is being obstructed, or that it is not within the capacity of the City to complete the investigation.

The City may also refer a Protected Disclosure to the Integrity Commission if it is considered the disclosure relates to misconduct as defined in the *Integrity Commission Act 2009*.

If conduct appears criminal in nature, the City may contact/refer the matter to Tasmania Police or the Ombudsman.

4.6 Protection from Reprisal

Under the Act, it is illegal to take reprisal action against someone who has blown the whistle. This is considered to be detrimental action. A person can be fined and / or imprisoned for taking detrimental action against a person in reprisal for them having made a disclosure.

The fear of reprisals is a significant deterrent to disclosers coming forward with information. Protections are offered to disclosers under the Act for detrimental action that includes:

- 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; and
- threats of detrimental action.

This applies also if a protected disclosure does not meet the threshold test of being a public interest disclosure insofar as the protections of making a disclosure will still apply.

If a whistle-blower believes that someone has taken detrimental action against them for making a Disclosure, they can make a further disclosure about this to the appropriate authority (refer to the section above, 'How to Make a Disclosure'). Detrimental action itself is considered to be improper conduct, and the process for making and assessing the disclosure is the same.

5 Definitions

Discloser	A public officer or a contractor making a disclosure about improper conduct or detrimental action
Disclosure (Protected)	A disclosure about improper conduct at the City or detrimental action, made in accordance with Part 2 of the Public Interest Disclosures Act 2002
Public Officer	Elected Members, officers and employees of the City of Hobart
Principal Officer	The person at the City of Hobart who has primary responsibility for ensuring the provisions of the Act are implemented and is the Chief Executive Officer.

Public Interest Disclosure Officer	Appointed by the Principal Officer under the Act and delegated certain statutory powers and functions including to receive disclosures.
Investigator	Appointed by the Principal Officer to investigate a public interest disclosure
Welfare Manager	A person appointed to look after the general welfare of the Discloser..

6 Legislation, Terminology and References

Public Interest Disclosures Act 2002

Integrity Commission Act 2009

Personal Information Protection Act 2004

Right to Information Act 2009

City of Hobart Fraud and Corruption Control Plan

City of Hobart Public Interest Disclosure Procedures

City of Hobart Employee Code of Conduct

City of Hobart Issue Resolution Policy

City of Hobart Issue Resolution Procedure and Form

City of Hobart Disciplinary Policy

City of Hobart Disciplinary Procedure

City of Hobart Workplace Behaviour Policy