

1. PURPOSE

EPA requires its staff to act with integrity and is committed to the detection of any situations which may be regarded as demonstrating behaviour which do not meet ethical standards.

The purpose of this policy and procedure is to guide the conduct of EPA staff and external parties associated with EPA, in the making and handling of disclosures of improper conduct (including corrupt conduct) engaged in, and/or detrimental action taken, by the EPA and/or its public officers.

This Policy and Procedure supersedes the *Protected Disclosure Policy and Procedure* (v3.1 November 2017).

2. APPLICATION

This policy applies to all individuals working for EPA, at all levels and grades, including (but not limited to) the following collectively referred to as 'EPA staff' in this policy:

- EPA Governing Board and subcommittees;
- CEO, Executive Directors, Directors and Managers;
- Employees (whether permanent, fixed-term or temporary);
- Contractors¹, consultants, recruitment agency staff and trainees; and
- Seconded staff from other Victorian Government organisations.

3. RULES AND PRINCIPLES

EPA is committed to the objectives of the *Public Interest Disclosures Act 2012* (PID Act) (formerly the *Protected Disclosure Act 2012*). Under the PID Act, the Independent Broad-based Anti-corruption Commission (IBAC) has a key role in receiving, assessing and investigating public interest disclosures. The PID Act:

- Facilitates the making of disclosures about improper conduct (including corrupt conduct) by public bodies, or public officers and individuals who may seek to influence public officers. The PID Act also facilitates the making of disclosures about detrimental action;
- Prescribes a system for such matters to be confidentially disclosed and impartially investigated; and
- Provides the discloser and their family with protection from detrimental action.

3.1 POLICY RULES

- Reports of improper conduct (including corrupt conduct) and detrimental action by an individual or group of individuals may attract certain protections to a person/s who raises/s such concerns.
- EPA is a public body subject to the PID Act, but the EPA is not authorised to receive public interest disclosures under the PID Act.
- Reports of improper conduct (including corrupt conduct) and detrimental action involving the EPA and/or its officers must be reported directly to IBAC for assessment against the public interest disclosure assessment framework.
- A public interest disclosure that is assessed by IBAC as a public interest complaint will attract protections from detrimental action or reprisals for the discloser.
- EPA will keep information about the identity of a discloser and the content of a public interest disclosure confidential.

¹ Note the application of clause 1.4 of the Code of conduct for Victorian public sector employees to the engagement of contractors and consultants. Contractors and consultants are only bound by the code if explicitly required by their contract for services.

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- EPA will provide appropriate welfare support to a discloser and may appoint a Welfare Officer to that person.
- EPA will undertake a risk assessment for each public interest disclosure it receives.

3.2 KEY PRINCIPLES

EPA supports a culture which encourages EPA staff and members of the public to report known or suspected incidences of improper conduct (including corrupt conduct) and /or detrimental action that involves EPA or EPA staff. EPA expects its representatives to:

- At all times act honestly and with integrity;
- Adhere to the VPS Code of Conduct;
- Report law violation, corrupt conduct or resource mismanagement to the appropriate authority.

4. DEFINITIONS

4.1 DETRIMENTAL ACTION

Includes action 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.

Examples of detrimental action

- EPA demotes, transfers, isolates in the workplace or changes the duties of a person who has made a disclosure or due to the making of a disclosure.
- An EPA staff member threatens, abuses or carries out other forms of harassment directly or indirectly against the person who makes a disclosure and against his or her family or friends.
- EPA discriminates against the person who makes a disclosure or against his or her family and associates in subsequent applications for jobs or tenders.

4.2 IMPROPER CONDUCT (INCLUDING CORRUPT CONDUCT)

Defined as:

- Corrupt conduct² and/or;
- Any of the following conduct by a public officer or public body in their capacity as a public officer or public body:
 - a criminal offence
 - serious professional misconduct³
 - dishonest performance of public functions
 - an intentional breach or reckless breach of public trust
 - an intentional or reckless misuse of information or material acquired in the course of the performance of public functions
 - a substantial mismanagement of public resources
 - a substantial risk to the health or safety of one or more persons
 - a substantial risk to the environment.

² Dishonest activity in which a director, executive, manager, employee or other workplace participant of an entity acts contrary to the interest of the entity and abuses his/her position of trust in order to achieve some personal gain or advantage for themselves or for another person or entity.

³A serious failure to exhibit the skills and experience required to perform the functions of the office, as well as a serious breach of professional codes of conduct or the policies, procedures and laws that govern behaviour in the public sector and the workplace.

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- conduct by a third party that adversely affects the honest performance of a public officer or public body or is intended to adversely affect effective performance of a public officer or public body while obtaining an advantage for the third party; and /or
- conduct by a third party that could constitute a conspiracy or attempt to engage in any of the above.

Less serious or trivial conduct is excluded from the definition of improper conduct.

Examples of improper conduct

- An EPA officer takes a bribe or receives a payment other than his or her wages in exchange for the discharge of a public duty.
- An EPA officer sells confidential information.
- An EPA officer favours unmeritorious applications for jobs by friends and relatives.

4.3 PUBLIC INTEREST COMPLAINT

A public interest disclosure that has been determined by IBAC to be a public interest complaint.

4.4 PUBLIC INTEREST DISCLOSURE

A disclosure is a report made by a person/s about:

- Improper conduct (including corrupt conduct) of EPA or EPA staff.
- Detrimental action taken by EPA or EPA staff against a person in reprisal for them (or another person) having made a public interest disclosure or cooperated with the investigation of a public interest disclosure.

The disclosure can relate to conduct or action that:

- May have already taken place;
- May be occurring now; or
- May happen in future.

A disclosure:

- Must be made by an individual or group of individuals.
- Cannot be made by a business or company.

5. RESPONSIBILITIES

EPA Chairperson

The EPA Chairperson is required to notify IBAC of any matter that appears to involve corrupt conduct.

EPA Staff

All staff play an important role in supporting those who have made a public interest disclosure.

All EPA staff are required to understand and discharge their responsibilities in relation to public interest disclosures including:

- Reporting known or suspected incidences of improper conduct (including corrupt conduct) and/or detrimental action to IBAC directly (refer Appendix A);
- Refraining from any activity that is, or could be perceived to be, victimisation or harassment of a person who makes a disclosure; and
- Protecting and maintaining the confidentiality of a person they know or suspect to have made a disclosure including keeping the subject matter of the disclosure confidential.

EPA People Leaders

People Leaders may, in the performance of their duties receive disclosures from staff or the public, that may be public interest disclosures. If a people leader receives a disclosure, they suspect of being a public interest disclosure, they should:

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- Advise the discloser to make their disclosure to IBAC; and
- Ensure both the identity of the person who made the disclosure, the person who is the subject of the disclosure and the subject matter of the disclosure are kept confidential.

Independent Broad-based Anti-corruption Commission (IBAC)

Under the PID Act, the Independent Broad-based Anti-corruption Commission (IBAC) has a key role in receiving, assessing and investigating public interest disclosures (refer Appendix B).

Integrity Officer (Risk and Compliance Unit)

The Integrity Officer has a central role in operating the Integrity Framework and is responsible for:

- Facilitating training and communication to educate all EPA staff regarding their responsibilities in relation to public interest disclosures; and
- Giving general advice about the making of disclosures under the PID Act.

Principal Officer (CEO)

EPA liaison person with IBAC in relation to specific public interest disclosures. Obligated to notify IBAC when there are reasonable grounds to suspect corruption is occurring or has occurred at the EPA.

Public Interest Disclosures Coordinator

The Public Interest Disclosure Coordinator has a central role in public interest disclosure handling and is responsible for ensuring that EPA carries out its responsibilities under the PID Act and under any associated documentation issued by IBAC including (but not limited to):

- Providing general advice about the operation of the PID Act and for the making of disclosures under the PID Act including helping person/s decide if a public interest disclosure is the most appropriate avenue (refer Section 6 Alternatives to Making a Public Interest Disclosure)
- Advising a discloser that reports a disclosure to EPA that no protections or confidentiality obligations for that disclosure currently apply and that their disclosure should be redirected to IBAC if they want it to be assessed or protected under the public interest disclosure regime;
- Being EPA's main contact with IBAC in relation to the PID Act;
- Taking all necessary steps to ensure information received or obtained in connection with a disclosure, including the identities of the discloser and the person(s) to whom the disclosure relates, are kept secured and confidential at all times;
- Undertaking a risk assessment for each public interest disclosure received;
- Arranging any necessary and appropriate welfare support for the discloser, including (if appropriate) appointing a Welfare Officer to support a person entitled to be protected and to protect him / her from any reprisals; and
- Collating statistics required to be reported by EPA in its annual reports under the PID Act.

The Public Interest Disclosures Coordinator is the Board Secretary & Corporate Executive Director (public.interest.disclosures@epa.vic.gov.au).

Welfare Officer

The Welfare Officer has responsibilities for the welfare of an EPA staff member who has made a disclosure however, the Welfare Officer may not be involved with the content of the disclosure. The Welfare Officer is solely responsible for ensuring that EPA handles the welfare management of persons connected with public interest disclosure matters including:

- Examining the immediate welfare and protection needs of a discloser who has made a disclosure and seeking to foster a supportive work environment;
- Advising the discloser of the legislative and administrative protections available to him/her;

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- Listening and responding to any concerns of harassment, intimidation or victimisation in reprisal for making disclosure; and
- Ensuring the expectations of the discloser are realistic.

6. ALTERNATIVES TO MAKING A PUBLIC INTEREST DISCLOSURE

- EPA staff are encouraged to raise matters with their supervisors and managers at any time.
- Members of the public are encouraged to contact EPA at contact@epa.vic.gov.au about any complaints or concerns they have with the services provided by EPA.
- EPA duty holders (such as an EPA-licensed or non-licensed businesses) who want to submit a complaint about the conduct of one of EPA's authorised officers should refer to the EPA Website - www.epa.vic.gov.au/about-us/authorised-officer-complaints.

RELATED INFORMATION

This Policy and Procedure supersedes the *Protected Disclosure Policy and Procedure* (v3.1 November 2017). It forms part of the EPA Integrity Framework and should be read in conjunction with:

- *Conflict of Interest Policy – Board*;
- *Conflict of Interest Policy – Employees*;
- *Gifts, Benefits and Hospitality Policy*;
- *Fraud and Corruption Control Policy and Procedure*; and
- Other related documentation on the [EPA Integrity intranet site](#).

7. FURTHER INFORMATION

EPA staff who are uncertain in relation to how to comply with this policy should seek advice from the Public Interest Disclosures Coordinator (email: public.interest.disclosures@epa.vic.gov.au) or the Integrity Officer (email: integrity.officer@epa.vic.gov.au).

8. REGULATORY FRAMEWORK AND BACKGROUND INFORMATION

The *Public Interest Disclosures Act 2012* (PID Act) came into effect on 1 January 2020 and replaces the *Protected Disclosure Act 2012*.

The EPA Chairperson, under sections 54C to 54F of the [Environment Protection Act 1970 and under section 37 of the Environment Protection Act 2017](#), must notify IBAC of apparent corrupt conduct of which he/she becomes aware in the performance of his/her statutory functions or duties or the exercise of his/her statutory powers.

9. REFERENCES

Environment Protection Act 1970 and Environment Protection Act 2017

Establishes the powers, duties and functions of EPA, including the Chairperson's requirement to notify IBAC of apparent corrupt conduct.

Victorian Law Library Website: legislation.vic.gov.au

Independent Broad-based Anti-corruption Commission Act 2011

Establishes IBAC and facilitates the making of disclosures about, and investigation of, serious improper conduct by public bodies, or public officers.

IBAC Website: ibac.vic.gov.au

Public Interest Disclosures Act 2012

Establishes a legislative framework for receiving public interest disclosures and protecting those who make them.

Victorian Law Library Website: legislation.vic.gov.au

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Direct link to PID Act:

[http://www.legislation.vic.gov.au/domino/Web_Notes/LDMS/LTObject_Store/ltobjst10.nsf/DDE300B846EED9C7CA257616000A3571/F70453729265E9A0CA2584E70015E065/\\$FILE/12-85aa024%20authorised.pdf](http://www.legislation.vic.gov.au/domino/Web_Notes/LDMS/LTObject_Store/ltobjst10.nsf/DDE300B846EED9C7CA257616000A3571/F70453729265E9A0CA2584E70015E065/$FILE/12-85aa024%20authorised.pdf)

Guidelines for Handling Public Interest Disclosures



A [resource](#) for disclosers, investigating entities and Victorian public service bodies on developing internal procedures, making, assessing and handling a disclosure, notifying IBAC, protections provided to disclosers and protecting disclosers from detrimental action.

Direct link to document: https://www.ibac.vic.gov.au/docs/default-source/guidelines/guidelines-for-handling-public-interest-disclosures.pdf?sfvrsn=eb8b6875_14

10. BREACH OF POLICY

Offences as set out in the PID Act resulting from breach of requirements are set out in the PID Act. EPA staff are bound by the [Public Administration Act 2004](#). Section 7(b) requires all public sector employees and other public officials to act honestly in the performance of their duties and report improper conduct. This is reinforced by section 3 of the [Code of Conduct for Victorian Public Sector Employees](#). The code is binding on EPA staff and a contravention of it may constitute misconduct resulting in disciplinary outcomes.

11. DOCUMENT APPROVAL

Date	Content authorisation		Date	Quality assurance authorisation	
	Name	Signature		Name	Signature
5 February 2020	Tony Matthews Board Secretary and Corporate Executive Director			Sandra Stoklossa, Chief Financial Officer	

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APPENDIX A – MAKING A DISCLOSURE: OVERVIEW

<p>How do I make a disclosure?</p>	<p>To IBAC directly in writing or verbally (can be anonymous). If the EPA believes that a disclosure may be a public interest disclosure made in accordance with the PID Act, it will ask you to make that disclosure to IBAC.</p>
<p>Who can make a disclosure?</p>	<p>Any individual or group of individuals within the EPA or any member of the public. A disclosure cannot be made by a business or company.</p>
<p>What can I make a disclosure about?</p>	<p>Improper conduct (including corrupt conduct) and/or detrimental action taken by public bodies or public officers performing public functions and members of the public seeking to improperly influence public officers. This includes the EPA and/or its officers or members of the public in relation to the agency.</p>
<p>Who can I make a disclosure to?</p>	<p>If you wish to make a public interest disclosure about the EPA or any of its employees and/or officers, or an individual who may be seeking to influence the EPA or its officers you may contact:</p> <p>Independent Broad-based Anti-corruption Commission (IBAC) Level 1, North Tower 459 Collins Street Melbourne Vic 3000</p> <p>PO Box 24234 Melbourne VIC 3001</p> <p>Telephone: 1300 735 135 Website: www.ibac.vic.gov.au</p>

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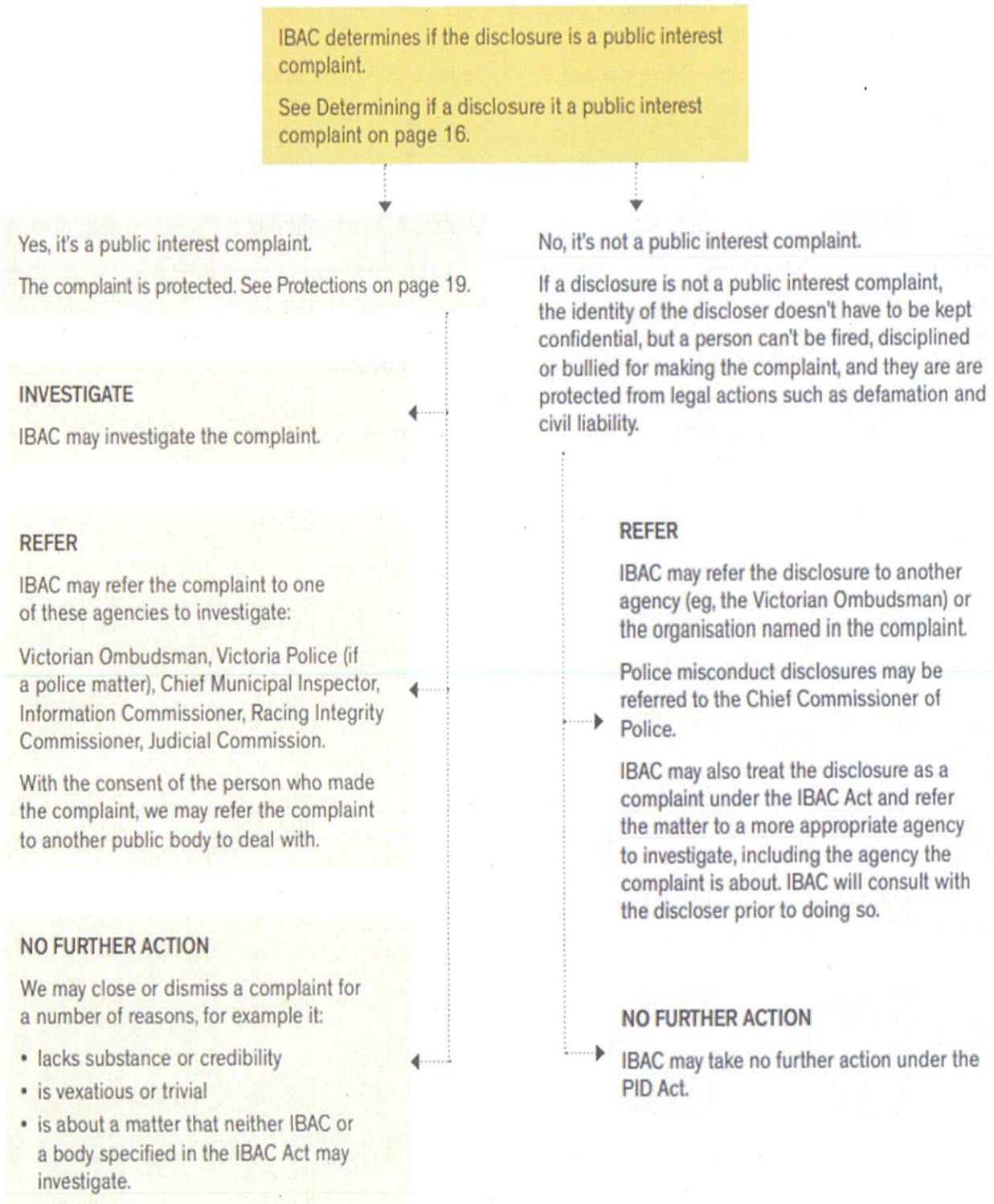
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APPENDIX B - WHAT HAPPENS WHEN IBAC IS SENT A DISCLOSURE

This chart outlines, at a high level, what happens when IBAC receives a notification of a public interest disclosure. For more details about this process, please refer to the guidelines below.

Source: Page 15 of IBAC guidelines for handling public interest disclosures.

https://www.ibac.vic.gov.au/docs/default-source/guidelines/guidelines-for-handling-public-interest-disclosures.pdf?sfvrsn=eb8b6875_14



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