# Public Interest Disclosure Management in DEECA





[deeca.vic.gov.au](https://delwpvicgovau.sharepoint.com/Users/fionadurante/Downloads/deeca.vic.gov.au)

## The Public Interest Disclosures Act 2012 (PID Act)

1. facilitates the making of disclosures about corrupt or improper conduct by public bodies, or public officers and individuals who may seek to influence public officers
2. prescribes a system for such matters to be confidentially disclosed and impartially investigated
3. provides the discloser and their family with protection from detrimental action.

This document has been prepared in accordance with the PID Act and the guidelines of the Independent Broad-based Anti-corruption Commission (IBAC) which are available on the IBAC website ([www.ibac.vic.gov.au](http://www.ibac.vic.gov.au)).

## Purpose

The purpose of this document is to describe the management of public interest disclosures by DEECA.

## Roles and Responsibilities

### Public Interest Disclosure Coordinators

Public Interest Disclosure Coordinators have a central role in the internal reporting system and are responsible for:

Receiving, acknowledging and recording the disclosure:

* liaises with discloser
* assesses the disclosure to determine whether it is a referable disclosure according to the PID Act
* advises reporting options and procedural requirements to discloser
* provides the discloser with the outcome of the assessment including an outline of the steps taken and reason for the decision or outcome:
* if it is assessed as a PID:
	+ - advises IBAC immediately
		- advises the discloser to be discreet and not discuss the matter with anyone while waiting for the outcome from IBAC
		- if it is not a PID consults with discloser on alternative courses of action.
* cooperates with investigation body by providing requested documents or information maintaining confidentiality of complainant and the investigation
* provides a regular check in with the discloser regarding welfare or appoints a Welfare Manager.

### Employees

Employees should report known or suspected incidents of corrupt conduct, improper conduct, or detrimental action to the Public Interest Disclosure Coordinators.

If an employee receives what they believe may be a public interest disclosure, because the matter relates to corrupt or improper conduct, the employee must treat the disclosure in the following way:

* if the disclosure is a verbal disclosure about the department or a departmental employee, refer the disclosure immediately, to the Public Interest Disclosure Coordinator and keep the information strictly confidential
* if the disclosure is a verbal disclosure about another public body, refer the person directly to the Public Interest Disclosure Coordinator of that public body or to IBAC
* if the disclosure is in writing, whether it is about DEECA or another public body, refer the correspondence to the Public Interest Disclosure Coordinator immediately for assessment
* if the disclosure is being made anonymously, immediately refer the disclosure to the Public Interest Disclosure Coordinator. If in doubt consult the Public Interest Disclosure Coordinator.

All employees have an important role to play in supporting those who have made a public interest disclosure. Employees must maintain the confidentiality of a disclosure they have referred, or suspect has been made. It is an offence under the PID Act to disclose the content or identity of a public interest disclosure. All employees must refrain from any activity that is, or could be perceived to be, victimisation or harassment of a person who makes a public interest disclosure. Taking detrimental action is also an offence and may be grounds for disciplinary action.

### Managers and Supervisors

Managers and supervisors may, in the performance of their duties receive disclosures from staff or the public, that may be public interest disclosures.

When a manager or a supervisor receives a disclosure, they suspect of being a public interest disclosure, they are responsible for:

* forwarding disclosures and any supporting evidence to the Public Interest Disclosure Coordinator immediately for assessment and providing any information the Public Interest Disclosure Coordinator may need to assess the disclosure
* ensuring both the identity of the person who made the disclosure and the person who is the subject of the disclosure are kept confidential.

If a manager/supervisor is unsure whether a complaint or report is a public interest disclosure, the manager/supervisor should immediately consult the Public Interest Disclosure Coordinator.

Where suspected corrupt or improper conduct poses an immediate threat to the health and safety of individuals or preservation of property, the department may need to take immediate action before it has determined whether or not the disclosure meets all of the requirements in the PID Act to be a public interest disclosure. In some circumstances, it may be necessary to report criminal conduct to Victoria Police for immediate investigation or to take action against an employee to prevent future dangerous or unlawful conduct. A manager or supervisor must consult with the Public Interest Disclosure Coordinator prior to taking any action in such circumstances.

## Management of a Disclosure

### Dealing with detrimental action

The department will take precautions to prevent its employees and agents from taking detrimental action in reprisal for a public interest disclosure. This includes identifying, assessing, controlling and monitoring potential risks of reprisals faced by disclosers and witnesses.

The precautions taken by the department will depend on individual circumstances and the disclosers and witnesses will, where possible, be consulted about any action that is taken.

Any reports of harassment, discrimination or adverse treatment may amount to detrimental action, and therefore should be made to the Public Interest Disclosure Coordinator. A disclosure of detrimental action is itself a public interest disclosure and will be assessed by the Public Interest Disclosure Coordinator.

Where the detrimental action is of a serious nature, that is likely to amount to a criminal offence, it may be necessary to report the matter to the police. In these situations, the Public Interest Disclosure Coordinator will consult with a manager/supervisor, the welfare manager and the Executive Directors of Legal and Governance Division and People and Culture Division, prior to taking any action.

If an employee has made a disclosure and believes on reasonable grounds that detrimental action is being taken against them as a result, they may request a transfer of employment. The request may be granted if:

* There are reasonable grounds to suspect detrimental action has, is or will be taken against the employee
* the transfer will avoid, reduce or eliminate the risk of detrimental action
* the head of the proposed transfer destination consents to the transfer
* the transfer may be within their current department or may be to another public body.

The transfer can be temporary or permanent and the employee's service in the new public body is regarded as continuous with their pre-transfer service.

## What is a public interest disclosure?

A public interest disclosure is a complaint or allegation made about corrupt conduct, improper conduct or detrimental action that attracts protections for disclosers (previously known as whistleblowers).

Corrupt or improper conduct is described within the PID Act as:

* corrupt conduct and/or
* any of the following conduct by a public officer or public body in their capacity as a public officer or public body:
* criminal offence
* serious professional misconduct
* dishonest performance of public functions
* intentional or reckless breach of public trust
* an intentional or reckless misuse of information
* 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 health or safety of a person
* a substantial risk to the environment
* 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

### Managing public interest disclosure information

The Public Interest Disclosure Coordinator will keep all files relating to a public interest disclosure, whether paper or electronic, in a locked cabinet that can only be accessed by the Public Interest Disclosure Coordinator.

All printed material held in the department concerning public interest disclosure matters 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 person disclosing information concerning a public interest disclosure. This includes the content of a public interest disclosure or the identity of a discloser.

All electronic files will be stored outside the department’s computer network and be given password protection. These records will not be held on any electronic document management system or content management system that resides on the department’s network.

Care will be taken when emailing information relevant to a public interest disclose matter and all phone calls and meetings will be conducted in private. Additionally, hard copy documents for transmission will be placed in two successive windowless envelopes which are sealed and marked “private and confidential” and “to be opened by addressee only”, and personally delivered wherever possible.

### Collating and publishing statistics

The department is required to collect and publish in its annual report, for each financial year, information about:

* how to access the procedures established by the department under the PID Act; and
* the number of disclosures notified to IBAC for determination.

## Definitions

**Corrupt conduct:** 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 of for another person or entity.

**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.

**Improper conduct:** A substantial mismanagement of public resources, including:

* corrupt conduct
* activities that create substantial risk to public health or safety
* activities that create a risk to the environment
* actions that would constitute a criminal offence
* actions that would be reasonable grounds for the termination of public employment.

**Principal officer:** Obliged to notify IBAC when there are reasonable grounds to suspect corruption is occurring or has occurred in an agency.

**Public interest complaint (PIC):** A Public Interest Disclosure (PID) that has been determined by the Independent Broad-based Anti-corruption Commission (IBAC), the Victorian Inspectorate, or the Integrity and Oversight Committee to be a PIC.

**Public interest disclosure (PID):** A report made by a person about corrupt conduct or improper conduct of public bodies or public officers. A disclosure can also be made about detrimental action against a person by public bodies or public officers in reprisal for the making of a public interest disclosure by any person. The disclosure can relate to corrupt conduct, improper conduct or detrimental action against a person that may already have taken place, may be occurring now, or may be intending to be taken in the future.

**Public Interest Disclosure Coordinator:** Person appointed by the department to receive and manage public interest disclosures and notify IBAC of potential public interest disclosures.

**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.

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| **How do I make a disclosure?**  | Verbally or in writing (but not by fax) to IBAC or the **DEECA** Public Disclosure Coordinator (see below). |
| **How do I make a disclosure?** | Any individual or group of individuals.A disclosure cannot be made by a business or company. |
| **What can I make a disclosure about?** | Corrupt or improper 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 department and/or its officers or members of the public in relation to the agency. |
| **Who can I make a disclosure to?** | If you wish to make a public interest disclosure about this department or any of its employees and/or officers, or an individual who may be seeking to influence the department or its officers you may contact:Telephone: 1800 903 877Email: disclosures@delwp.vic.gov.auIn writing: Public Interest Disclosure CoordinatorDepartment of Energy, Environment and Climate ActionPO Box 500East Melbourne 8002orIndependent Broad-based Anti-corruption Commission (IBAC)Level 1, North Tower459 Collins StreetMelbourne Vic 3000PO Box 24234 Melbourne VIC 3001Telephone: 1300 735 135Website: [www.ibac.vic.gov.au](http://www.ibac.vic.gov.au)If you wish to make a disclosure about any other statutory entity that falls within the department's portfolio, you should make your disclosure to IBAC |

## Overview

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