

# Protected Disclosure Procedures

## QUICK REFERENCE GUIDE TO PROTECTED DISCLOSURES

<b>Who can make a disclosure?</b>	<p>Any individual or group of individuals. A disclosure cannot be made by a business or company.</p> <p>(refer to Part 2 of these procedures for more information)</p>
<b>How do I make a disclosure?</b>	<p>Verbally or in writing (but not by fax) in accordance with specific procedures.</p> <p>(refer to Part 3 of these procedures for more information)</p>
<b>What can I make a disclosure about?</b>	<p>Improper conduct engaged in, and/or detrimental action taken by, public bodies or public officers performing public functions.</p> <p>This includes the Victorian Building Authority (<b>VBA</b>) and its officers and employees as well as Members of the Building Appeals Board.</p> <p>(refer to Part 4 of these procedures for more information)</p>
<b>Who can I make a disclosure to?</b>	<p>If you wish to make a protected disclosure about the VBA and/or its officers or employees, you must contact:</p> <ul style="list-style-type: none"><li>• The Independent Broad-based Anti-corruption Commission (<b>IBAC</b>)</li></ul> <p>Level 1, North Tower 459 Collins Street Melbourne Vic 3000 GPO Box 24234, Melbourne, VIC 3001 Telephone: 1300 735 135 Website: <a href="http://www.ibac.vic.gov.au">www.ibac.vic.gov.au</a></p> <p>If you wish to make a protected disclosure about a Member of the Victorian Building Authority or a Member of the Building Appeals Board, you must contact IBAC.</p> <p>(refer to Part 5 of these procedures for more information)</p>

## 1. Background and purpose

- 1.1. The Victorian Building Authority (**VBA**), its employees or officers, the Chief Executive Officer and Members of the Building Appeals Board encourage employees and members of the public to report known or suspected incidences of corrupt or improper conduct.
- 1.2. The VBA will not tolerate the taking of reprisals against those who come forward to disclose any improper conduct. The VBA will take all reasonable steps to protect those who make disclosures from any detrimental action in reprisal for making the disclosure.
- 1.3. Natural justice will be afforded to the person or body who is the subject of any disclosure.
- 1.4. The purpose of this document is to establish procedures for how:
  - a) a person (whether a VBA employee (past or present) or member of the public) can make a disclosure about the VBA or any of the other persons listed above;
  - b) the VBA will protect persons who make a disclosure against detrimental action for making a disclosure;
  - c) the VBA will ensure natural justice is afforded to the person or body who is the subject of any disclosure; and
  - d) the welfare of disclosers will be managed by the VBA.

These procedures have been prepared in accordance with the *Protected Disclosure Act 2012* (Vic) (**Act**) and the Guidelines of the Independent Broad-based Anti-corruption Commission (**IBAC**) which are available on IBAC's website: ([www.ibac.vic.gov.au](http://www.ibac.vic.gov.au)).

## 2. Who can make a protected disclosure?

- 2.1. Any person can make a protected disclosure about improper conduct engaged in, or detrimental action taken by, the VBA and/or its officers or employees (or any other public sector employee).
- 2.2. You can make a protected disclosure if you are a member of the public, an employee or officer of the VBA.
- 2.3. You can make a disclosure as an individual or together with a group of individuals.
- 2.4. A company or business cannot make a protected disclosure.
- 2.5. You can ask someone else to make a disclosure on your behalf. However, if you ask someone else to make a disclosure on your behalf, only that person will receive the full protection of the Act in relation to that disclosure. Your protection will be limited to confidentiality and protection against detrimental action taken against you in reprisal for the disclosure that has been made.
- 2.6. You do not have to specifically refer to the Act or the protections in the Act for your disclosure to be a 'protected disclosure'. You may also advise that you do not want your disclosure to be treated as a 'protected disclosure'.

### 3. How do I make a protected disclosure?

#### 3.1. You may make a protected disclosure:

- a) in person;
- b) by phone;
- c) by leaving a voicemail message;
- d) in writing by post, personal delivery or email;
- e) by any other form of electronic communication; and/or anonymously.

#### 3.2. You may **not** make a protected disclosure by fax.

#### 3.3. A protected disclosure must be made in private so it is important that only the person to whom you are making the disclosure can hear or receive your disclosure. For example, if you make your disclosure by email, your disclosure should be sent to the email address of the person to whom you are making the disclosure, rather than a group email. You can make a joint disclosure with a group of individuals at the same time.

#### 3.4. If you are making your disclosure verbally, the person receiving your disclosure may take notes of your discussion. The person receiving your disclosure may also want to record the conversation, but will only do so with your permission.

#### 3.5. You do not have to identify yourself when making a disclosure. However, if your disclosure is anonymous, this may affect how the disclosure is investigated and you will not be notified of the outcome of any investigation.

#### 3.6. If you cannot be identified from the disclosure, the disclosure will be treated as an anonymous disclosure.

### 4. What can I make a protected disclosure about?

#### 4.1. You may make a protected disclosure about information that shows or tends to show, or that you believe on *reasonable grounds* shows or tends to show, that:

- a) a person, public officer or public body;
- b) is engaging in, or proposing to engage in;
- c) '*improper conduct*' and/or '*detrimental action*'.

#### **Public officer and public body**

#### 4.2. The conduct you are disclosing must have occurred in the performance of a person or body's function as a public officer or public body. In other words, there must be a link between the alleged improper conduct and/or detrimental action and the person or body's functions as a public officer or public body.

#### 4.3. The VBA is a public body. Its officers and employees are public officers.

#### 4.4. For a full definition of 'public body' and 'public officer' see Schedule 2 of these procedures.

## Improper conduct and detrimental action

4.5. The conduct you are disclosing must be improper conduct and/or detrimental action.

4.6. The definitions of improper conduct and detrimental action are explained in the diagram below.

**'Improper conduct' is defined as:  
'CORRUPT CONDUCT' or 'SPECIFIED CONDUCT'**

### Corrupt conduct is:

Conduct that:

- adversely affects the honest performance of functions by a public officer or public body;
- involves the dishonest performance of functions by a public officer or public body;
- involves a breach of public trust;
- involves a misuse of information acquired in the performance of functions as a public officer or public body; or
- involves a conspiracy or an attempt to engage in any of the above conduct,

AND

- would constitute:
  - an indictable offence;
  - an attempt to pervert the course of justice;
  - bribery of a public official; or
  - perverting the course of justice.

### Specified conduct is:

'Corrupt conduct' that would not constitute an indictable offence, but would constitute either a criminal offence or reasonable grounds for dismissing or terminating the services of the officer engaged in the conduct

OR

Conduct that:

- involves a substantial mismanagement of public resources;
- involves a substantial risk to public health and safety; or
- involves a substantial risk to the environment

AND

- would constitute a criminal offence, or reasonable grounds for dismissing or terminating the services of the officer engaged in the conduct, an attempt to pervert the course of justice, bribery of a public official or perverting the course of justice.

### 'Detrimental conduct' is defined as:

Action taken against a person who has made a disclosure which:

- causes injury, loss or damage;
- intimidation or harassment; or
- discrimination, disadvantage or adverse treatment in relation to a person's employment, career, profession, trade or business (including disciplinary action).

#### Detrimental action is not:

- legitimate management action where there are good and sufficient grounds that would justify the action against any other person in the same circumstances.

### Examples of detrimental action

1. A public body demotes transfers, isolates in the workplace or changes the duties of a person who has made a disclosure due to the making of a disclosure.
2. A public officer threatens abuses or carries out other forms of harassment directly or indirectly against the person who makes a disclosure and his or her family or friends.
3. A public body discriminates against the person who makes a disclosure or his or
4. her family and associates in subsequent applications for jobs, permits or tenders.

### Examples of improper conduct

A public officer takes a bribe or receives a payment other than his or her wages in exchange for the discharge of a public duty.

A public officer sells confidential information.

A public officer favours unmeritorious applications for jobs by friends and relatives.

### Reasonable grounds'

- 4.7. Your belief that improper conduct or detrimental action has occurred, is occurring, or will occur does not have to be based on actual proof. It is enough if you *believe* (as opposed to *know*) that improper conduct or detrimental action has occurred, is occurring or will occur. However, you must have *reasonable grounds* for your belief.
- 4.8. mere suspicion, allegation or conclusion that is unsupported by further information, facts or circumstances will not be protected by the Act. For example, it is not enough to say 'I know X is corrupt'. You must have information that would lead a reasonable person to believe that the information shows, or tends to show, improper conduct or detrimental action.

### 5. Who do I make my protected disclosure to?

- 5.1. Who you can make your protected disclosure to depends on the person or body your disclosure is about as only certain persons and entities can receive protected disclosures.
- 5.2. If your disclosure is made to a person or entity that is not authorised under the Act to receive your disclosure, your disclosure will **not** be a protected disclosure and you will **not** be protected under the Act. It is therefore important that you check that you are providing your disclosure to the right person or body. If in doubt, disclosures should be made directly to IBAC, **unless** the disclosure is about IBAC or one of its officers.

### Making a disclosure about the Victorian Building Authority Office and/or its employees and officers

- 5.3. If you wish to make a protected disclosure about the VBA or any of its employees and/or officers, you may make your disclosure to:

- a) IBAC (Independent Broad-based Anti-Corruption Commission)  
Assessment and Review Unit  
GPO Box 24234  
Melbourne, VIC 3001  
Email: [submit@ibac.vic.gov.au](mailto:submit@ibac.vic.gov.au)  
Telephone: 1300 735 135  
Website: [www.ibac.vic.gov.au](http://www.ibac.vic.gov.au)

OR

- b) Victorian Ombudsman

In some circumstances you may make your disclosure to the Ombudsman. Details on how to make such a disclosure may be obtained by contacting the Victorian Ombudsman at:

Level 9, North Tower  
459 Collins Street  
Melbourne Vic 3000  
Telephone: (03) 9613 6222 / 1800 806 314  
Website: [www.ombudsman.vic.gov.au](http://www.ombudsman.vic.gov.au)

- 5.4. If you wish to make a disclosure about a Member of the Building Appeals Board, you must make your disclosure to IBAC.
6. What will happen after I make a disclosure?
- 6.1. Disclosures made to IBAC or the Ombudsman (as the case may be) will be handled in accordance with IBAC's and the Victorian Ombudsman's guidelines and processes respectively.

### Assessment by IBAC

- 6.2. IBAC is responsible for identifying, investigating, exposing and preventing serious corrupt conduct across the whole of the Victorian public sector.
- 6.3. If IBAC determines that your disclosure is a protected disclosure, it must decide to either:
- a) dismiss your disclosure;
  - b) investigate your disclosure; or
  - c) refer your disclosure to another body for investigation, such as the Victoria Police, the Ombudsman or the Victorian WorkCover Authority.
- 6.4. Regardless of whether IBAC determines your disclosure is a protected disclosure or not, you will still receive the protections under the Act. This includes protection from detrimental action taken in reprisal for you making the disclosure.
- 6.5. However, if IBAC determines that your disclosure is not a protected disclosure, the confidentiality requirements set out in Part 11 of these procedures no longer apply in relation to your disclosure.

## 7. What protections will I receive?

- 7.1.** The Act sets out the protections provided to persons who make a disclosure in accordance with the Act. These include:
- a) immunity from civil or criminal liability as well as administrative action (including disciplinary action) for making the disclosure;
  - b) immunity from committing an offence under the *Constitution Act 1975* or any other Act that imposes obligations of confidentiality or otherwise restricts the disclosure of information;
  - c) immunity from breaching any other obligation (made by oath or rule of law or practice) requiring the maintenance of confidentiality or otherwise restricting the disclosure of information; and
  - d) protection from an action for defamation.
- 7.2.** These protections apply to a disclosure from the time you make the disclosure and continue to apply even if IBAC determines that the disclosure is not a 'protected disclosure'.
- 7.3.** The protections in the Act do not apply if you provide false or misleading information or claim that a matter is the subject of a protected disclosure knowing that claim to be false.
- 7.4.** The protections will apply to further information relating to a protected disclosure that you provide to:
- a) VBA;
  - b) IBAC; or
  - c) an investigating entity.
- 7.5.** In addition to these protections, the VBA recognises that the welfare and protection from detrimental action of persons making genuine protected disclosures is essential for the effective implementation of the Act and is relevant to the VBA's obligation to create a safe working environment under the *Occupational Health and Safety Act 2004 (Vic)*, the *Charter of Human Rights and Responsibilities Act 2006 (Vic)*, the *Public Administration Act 2004 (Vic)* and the common law.

## 8. Welfare Management

- 8.1.** The VBA will provide welfare support to a discloser or a witness in an investigation as the circumstances require.
- 8.2.** The VBA will also consider appointing a welfare manager when a person has made a protected disclosure or is cooperating, or intending to cooperate, with an investigation of a protected disclosure.
- 8.3.** A welfare manager is responsible for:
- a) examining the discloser and/or witness's immediate welfare and protection needs and, where that person is an employee, fostering a supportive work environment;
  - b) providing practical advice and support;
  - c) advising the discloser and/or witness of the protections available under the Act;

- d) receiving and responding to any disclosures of detrimental action in reprisal for making the disclosure (eg harassment, intimidation or victimisation);
- e) ensuring that the discloser and/or witness's expectations of the process and outcomes are realistic;
- f) maintaining confidentiality; and
- g) operating discreetly to protect the discloser and/or witness from being identified as being involved in a protected disclosure.

**8.4.** In determining whether to appoint a welfare manager in any particular case, the VBA will consider:

- a) whether the disclosure has proceeded, or is likely to proceed, to an investigation;
- b) whether there are any real risks of detrimental action against the persons involved, taking into account their particular circumstances;
- c) whether the VBA can provide effective support to the persons involved, including keeping them informed of the progress of the disclosure; and
- d) whether it is within the VBA's power to protect the person/s involved from suffering repercussions.

**8.5.** The VBA may appoint an internal person as welfare manager or engage a contractor to provide welfare management services. The VBA will also consider referring an employee to its Employee Assistance Program.

**8.6.** If a welfare manager is appointed to look after a discloser or witness, the welfare manager will only be required to provide reasonable support and should discuss the reasonable expectations with the person(s) they are supporting.

## **9. Protection from detrimental action**

**9.1.** The VBA will take precautions to prevent its officers, employees and agents from taking detrimental action in reprisal for a protected disclosure. This includes identifying, assessing, controlling and monitoring risks of reprisals faced by disclosers and witnesses.

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

**9.3.** A disclosure of detrimental action is itself a protected disclosure and will be assessed as a new disclosure in accordance with these procedures.

**9.4.** Where the detrimental action is of a serious nature that is likely to amount to a criminal offence, the VBA may consider reporting the matter to the police or IBAC.

**9.5.** If you are an employee who has made a protected disclosure and you believe on reasonable grounds that detrimental action will be, is being, or has been taken against you, you may request a transfer of employment to another government agency on terms and conditions that are no less favourable overall to you. Note that all requests of this nature will be considered, but a number of conditions must be satisfied before they are granted, including:



- a) the Chief Executive Officer of the Victorian Building Authority must be satisfied there are reasonable grounds to suspect detrimental action will be, is being, or has been taken against you;
  - b) the Chief Executive Officer must consider that the transfer will avoid, reduce or eliminate the risk of detrimental action; and
  - c) the head of the 'receiving' government agency consents to the transfer.
- 9.6.** If you have sustained injury, loss or damage as a result of detrimental action taken against you in reprisal for making a disclosure, the Act sets out remedies that are available to you. You may wish to obtain legal advice about this.
- 9.7.** Whilst there are these protections, there are also responsibilities. You must not take detrimental action against another person in reprisal for a protected disclosure.
- 9.8.** Making a disclosure does not provide you with immunity for your own wrongdoing. If you have been involved in improper conduct or detrimental action which is the subject of your disclosure, you will still be held liable for your own involvement.
- 9.9.** You must not disclose the content, or information about the content, of a disclosure made to IBAC or any information which is likely to lead to the identification of the person who made that disclosure unless permitted by the Act. See Part 11 of these procedures for further information.

## **10. What happens if a protected disclosure is made against me?**

- 10.1.** The VBA recognises that employees against whom disclosures are made must also be supported during the handling and investigation of disclosures. In accordance with the principles of natural justice, if you are the subject of a disclosure, the VBA will provide welfare support to you during the handling and investigation of a disclosure as the circumstances require.
- 10.2.** The VBA will only disclose information about the subject of a disclosure in accordance with the law, including the Act (and as explained in these procedures).
- 10.3.** Where any investigations following a disclosure involving you do not substantiate the disclosure made, the fact that the investigation has been carried out, the results of the investigation and the identity of the person who is the subject of the disclosure will remain confidential.
- 10.4.** The VBA will give its full support to a person who is the subject of a disclosure where the allegations contained in a disclosure are clearly wrong or unsubstantiated. If the matter has been publicly disclosed by the VBA, the Chief Executive Officer will consider any request by that person to issue a statement of support.

## **11. Confidentiality**

- 11.1.** There are a number of confidentiality obligations which arise under the Act and other laws relating to the receipt and investigation of protected disclosures.
- 11.2.** If you repeat your disclosure to someone other than as provided for in these procedures or permitted by the Act, you may lose the protections provided for in the Act. For example, if a disclosure is repeated to

the media and the media reports on it, you may not be protected from defamation action. You may also breach your confidentiality obligations.

- 11.3.** If you are considering disclosing information about a disclosure made by you under the Act, you may wish to speak to the Protected Disclosure Coordinator, your welfare manager and/or obtain legal advice first.
- 11.4.** The VBA will only disclose information about you or your disclosure in accordance with the law, including the Act.
- 11.5.** The circumstances in which you may disclose information about the protected disclosure you have made to IBAC include disclosure:
- a) in accordance with a direction or authorisation given by the investigating entity that is investigating the disclosure;
  - b) to the extent necessary for the purpose of taking lawful action in relation to the conduct that is the subject of the disclosure including disciplinary process or action;
  - c) where IBAC or the Ombudsman has determined that the disclosure is not a protected disclosure;
  - d) where necessary for the purpose of exercising functions under the Act;
  - e) by an investigating body where necessary for the purpose of the exercise of functions under the *Independent Broad-based Anti-corruption Commission Act 2011 (Vic)*;
  - f) for the purpose of a proceeding for an offence under a relevant Act or provision;
  - g) for the purpose of disciplinary proceedings or action in respect of conduct that would constitute an offence;
  - h) for the purpose of obtaining legal advice or representation;
  - i) to an interpreter, parent, guardian or independent person for the purpose of understanding the confidentiality obligations under the Act; and
  - j) where an investigating body has published a report to Parliament or otherwise made public the content of the disclosure consistent with the confidentiality requirements of the Act.
- 11.6.** The Act also prohibits disclosing information that is likely to lead to your identification except in accordance with the Act.
- 11.7.** IBAC or the relevant investigating entity may disclose your identity and the content of your disclosure if it is necessary for the purposes of their investigative action. In that case, the public body or public officer to whom the information is disclosed is bound by the same confidentiality requirements as the investigating entity.

## 12. Criminal offences

There are a number of offences set out in the Act relating to breaches of the requirements of the Act. Key aspects of the Act to be aware of are that it is an offence to:

- a) take detrimental action against another person in reprisal for a protected disclosure;

- b) disclose the content, or information about the content, of a disclosure that has been notified to IBAC by the VBA or information which is likely to lead to the identification of the person who made that disclosure unless such disclosure is permitted by the Act;
- c) for any person to:
  - I. provide false or misleading information, or further information that relates to a protected disclosure, that the person knows to be false or misleading in a material particular, intending that the information be acted on as a protected disclosure;
  - II. claim that a matter is the subject of a protected disclosure knowing the claim to be false;
  - III. falsely claim that a matter is the subject of a disclosure that IBAC has determined to be a protected disclosure complaint;
  - IV. disclose that a disclosure has been notified to IBAC for assessment unless permitted to do so by the Act; and
  - V. disclose that a disclosure has been determined to be a protected disclosure complaint unless permitted to do so by the Act.

### **13. Protected Disclosure Coordinator**

**13.1.** The VBA has appointed a Protected Disclosure Coordinator to be a contact point for general advice about the operation of the Act for any staff member of the VBA (including both employees and contractors) thinking about making a disclosure. The Protected Disclosure Coordinator is also involved in referring a person who wishes to make a disclosure or report detrimental action to the relevant authorised investigative authority, such as IBAC. For VBA staff, the Coordinator provides a confidential source of advice, with whom staff or employees can raise any conduct related concerns about their line managers, colleagues or supervisors.

#### **13.2. The Protected Disclosure Coordinator will:**

- a) make arrangements for a discussion to be made privately and discreetly and, if necessary, away from the workplace;
- b) take all necessary steps to ensure that if information is disclosed to an authorised investigative authority, and the VBA becomes aware of this information (including the identity of the discloser and any person involved), that information is secure, remains private and confidential;
- c) refer anyone wanting to make a disclosure or report detrimental action to the relevant investigative authority, such as IBAC; and
- d) offer to remain a support person for the discloser or person against whom a disclosure has been made in dealing with any welfare manager, where one is appointed.
- e) when dealing with matters that relate to corruption, first deal with the matter as a protected disclosure, and if IBAC is not notified of the matter as a protected disclosure, then discuss the matter with the CEO for consideration under the IBAC mandatory notification requirements.

### 13.3. The Protected Disclosure Coordinator appointed by the VBA is:

**Amanda Stevens, Director, Strategy and Performance** and her contact details are:

**Email:** [protected.disclosure@vba.vic.gov.au](mailto:protected.disclosure@vba.vic.gov.au)

**Telephone:** (03) 9618 9186

### 13.4. Training for all staff

#### 13.5. The VBA will:

- a) ensure that staff, employees, officers and members have access to a copy of these procedures in hard or soft copy;
- b) incorporate into its induction program training about the VBA's general obligations under the Act and the rights and obligations of its employees, staff and members;
- c) periodically provide refresher courses for existing staff, employees and members about their rights and obligations under the Act; and
- d) provide additional training assistance to:
  - I. Any staff with functions and duties under the *Freedom of Information Act 1982* (Vic) or with responsibilities for information management, to ensure that no prohibited information is disclosed under the Act and to ensure there is appropriate liaising with IBAC staff or other investigative agencies where required in response to a request for access under the FOI Act; and
  - II. All staff and employees dealing with customers to ensure that any potential disclosures received from external sources are handled appropriately in accordance with the Act and these procedures.

## 14. Managing protected disclosure information

- 14.1. The Protected Disclosure Coordinator should keep all central files relating to a protected disclosure, whether paper or electronic, in a locked safe that can only be accessed by the Protected Disclosure Coordinator.
- 14.2. All printed material held by the Protected Disclosure Coordinator concerning protected disclosure matters should be kept in files that are clearly marked as a Protected Disclosure Act matter, and warn of the criminal penalties that apply to any unauthorised person disclosing information concerning a protected disclosure, including the content of a protected disclosure or the identity of a discloser.
- 14.3. All electronic files should be stored outside the VBA's computer network (such as on an approved portable storage device) and be given password protection. These records should not be registered on TRIM as, while it is possible to specify access rights, this does not remove the ability of high level TRIM administrators to view them.
- 14.4. Care must be taken when emailing information relevant to a protected disclosure matter and all phone calls and meetings must be conducted in private. Additionally, hard copy documents for transmission should 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.

## **15. Collating and Publishing Annual Report Information**

- 15.1.** The VBA is required to publish certain information about the Act in its annual reports. That information relates mainly to how these procedures may be accessed and information about its educative role during the financial year.
- 15.2.** The Protected Disclosures Liaison Coordinator will establish a secure register to record such information.

## **16. Alternatives to making a 'protected disclosure'**

- 16.1.** These procedures are designed to complement usual methods of submitting complaints to the VBA.
- 16.2.** Members of the public are encouraged to use the VBA's feedback process to communicate complaints or concerns with the services provided by the VBA. More information is available in the Enquiry section of the Victorian Building Authority's website: ([www.vba.vic.gov.au](http://www.vba.vic.gov.au)).
- 16.3.** Employees are encouraged to raise matters with their supervisors and managers at any time.

## **17. Review**

- 17.1.** These procedures are reviewed regularly to ensure they meet the objectives of the Act and accord with IBAC's guidelines as amended from time to time.

## Schedule 1 - Welfare services to be provided by the VBA

<b>Inform</b>	<p>At a minimum:</p> <ul style="list-style-type: none"> <li>• make information about the legislative or administrative protections available to the person available;</li> <li>• describe the action proposed to be taken; and</li> <li>• if action has been taken, provide details about results of the action.</li> </ul>
<b>Provide active support</b>	<ul style="list-style-type: none"> <li>• Acknowledge the discloser for having come forward.</li> <li>• Provide the person with assurance that they have done the right thing and the VBA appreciates it.</li> <li>• Make a clear offer of support.</li> <li>• Assure the discloser that all reasonable steps will be taken to protect them.</li> <li>• Give the discloser an undertaking to keep them informed.</li> </ul>
<b>Manage expectations</b>	<p>Have an early discussion with the discloser about:</p> <ul style="list-style-type: none"> <li>• what outcome they want;</li> <li>• whether their expectations are realistic; and</li> <li>• what the VBA is be able to deliver.</li> </ul>
<b>Maintain confidentiality</b>	<p>The identity of the discloser and the subject matter of their disclosure must be kept confidential. To achieve this:</p> <ul style="list-style-type: none"> <li>• Make sure that other staff cannot infer the identity of the discloser or a person cooperating with the investigation from any information they receive or are asked to provide.</li> <li>• Remind the discloser not to reveal themselves or give out information that would enable others to identify them as a discloser.</li> <li>• Make sure that hardcopy and electronic files relating to the disclosure are kept in accordance with this policy and are accessible only to those who are involved in dealing with the disclosure.</li> </ul>
<b>Assess the risks of detrimental action taken in reprisal</b>	<ul style="list-style-type: none"> <li>• Be proactive.</li> <li>• Do not wait for a complaint of victimisation.</li> <li>• Actively monitor the workplace, anticipate problems and deal with them before they develop.</li> </ul>
<b>Protect the discloser/witness</b>	<ul style="list-style-type: none"> <li>• Examine the immediate welfare and protection needs of the person and seek to foster a supportive work environment.</li> <li>• Listen and respond to any concerns the person may have about harassment, intimidation or victimisation in reprisal for their actions.</li> <li>• Assess whether the concerns the person may have about harassment, intimidation or victimisation might be due to causes other than those related to a protected disclosure.</li> </ul>
<b>Manage the impact of any investigation</b>	<ul style="list-style-type: none"> <li>• Prevent the spread of gossip and rumours about an investigation into the disclosure.</li> </ul>
<b>Keep records</b>	<ul style="list-style-type: none"> <li>• Keep contemporaneous records of all aspects of the case management of the person, including all contact and follow-up action.</li> <li>• Keep the records in accordance with the guidance provided in paragraph 15 of these procedures</li> </ul>

The content in this table is adapted from Queensland Ombudsman, *Handling a public interest disclosure: A guide for public sector managers and supervisors*, 2011, pp21-27.

## Schedule 2 - What is a public body and what is a public officer?

### A public body is:

- a) a public sector body within the meaning of s 4(1) of the *Public Administration Act 2004*;
- b) a body, whether corporate or unincorporated, established by or under an Act for a public purpose, including a university;
- c) the Electoral Boundaries Commission constituted under the *Electoral Boundaries Commission Act 1982*;
- d) a Council;
- e) a body that is performing a public function on behalf of the State or a public body or public officer (whether under contract or otherwise); and
- f) any other body or entity prescribed for the purposes of this definition.

### A public officer is:

- a) a person employed in any capacity or holding any office in the public sector within the meaning of section 4(1) of the *Public Administration Act 2004*;
- b) a person to whom a provision of the *Public Administration Act 2004* applies as a result of the application of Part 7 of that Act;
- c) an ongoing employee or temporary employee in the teaching service under the *Education and Training Reform Act 2006*;
- d) a judicial employee employed under Division 3 of Part 6 of the *Public Administration Act 2004*;
- e) a Ministerial officer employed under Division 1 of Part 6 of the *Public Administration Act 2004*;
- f) an electorate officer within the meaning of the *Parliamentary Administration Act 2005*;
- g) a Parliamentary adviser employed under Division 2 of Part 6 of the *Public Administration Act 2004*;
- h) a Parliamentary officer within the meaning of the *Parliamentary Administration Act 2005*;
- i) a member of police personnel;
- j) a responsible Minister of the Crown;
- k) a member of the Legislative Assembly or the Legislative Council;
- l) a Councillor within the meaning of section 3(1) of the *Local Government Act 1989*;
- m) a member of Council staff employed under the *Local Government Act 1989*;
- n) a judge, a magistrate, a coroner or a member of VCAT;
- o) an associate judge or a judicial registrar;

- p) a Crown Prosecutor;
- q) the Chief Crown Prosecutor;
- r) the Director of Public Prosecutions;
- s) the Governor, the Lieutenant-Governor or the Administrator of the State;
- t) the Auditor-General;
- u) the Ombudsman;
- v) the Electoral Commissioner;
- w) the holder of any other statutory office or any other prerogative office;
- x) any other person in the service of the Crown or a public body;
- y) a person that is performing a public function on behalf of the State or a public officer or public body (whether under contract or otherwise);
- z) a person who holds, or a person who is a member of a class of persons who hold, an office prescribed to be a public office for the purposes of this definition; and
- aa) an employee of, or any person otherwise engaged by, or acting on behalf of, or acting as a deputy or delegate of, a public body or a public officer.

\*Except as otherwise indicated, references above are to Victorian I