

# Protected Disclosure Policy

ACCS recognises the value of transparency and accountability, and supports the making of disclosures that reveal improper conduct. ACCS is committed to the aims and objectives of the *Protected Disclosure Act 2012 (Vic.)* (the “**Act**”) and will not tolerate improper conduct by its employees, or victimisation or reprisals against those who come forward to disclose such conduct.

ACCS will take all reasonable steps to protect those who make disclosures from any detrimental action in reprisal for making the disclosure. This Policy is prepared in accordance with the Act and Independent Broad-based Anti-corruption Commission (**IBAC**) guidelines.

IBAC has responsibility for receiving and investigating disclosures. This Policy explains how to make a protected disclosure about ACCS to IBAC and how ACCS protects people who make protected disclosures.

## 1. SCOPE

This Policy applies to all employees, directors, agency staff and contractors (“**Employees**”) and members of the public who wish to make a protected disclosure about ACCS.

## 2. WHAT IS A PROTECTED DISCLOSURE?

The Act creates a framework for dealing with protected disclosures and the people who make them.

The purpose of the Act is to:

- Encourage and assist people to make a disclosure of improper conduct and detrimental action by public officers, public bodies and certain private individuals;
- Provide certain protections for people who make a disclosure, or those who may suffer detrimental action in reprisal for a disclosure; and
- Ensure that certain information about a disclosure is kept confidential – the identity of the person making the disclosure, and the content of that disclosure.

A protected disclosure is a report made by a person about improper conduct of public bodies or public officers performing public functions, and any person who adversely affects the honest performance by a public officer or public body of their official functions.

Improper conduct includes corrupt conduct, the dishonest performance of public functions, knowingly or recklessly breaching public trust, misuse of information or materials, substantial mismanagement of public resources or conduct involving substantial risk to public health or safety, or to the environment. It also includes the conduct of any person (private individual) that adversely affects the honest performance by a public officer or public body of their official functions.

A protected disclosure can also be made about detrimental action taken against a person by public bodies or public officers in reprisal for the making of a protected disclosure. Detrimental action

includes action causing injury, loss or damage, intimidation, harassment, discrimination, disadvantage or adverse treatment. It includes actual action as well as the threat of action.

### 3. HOW TO MAKE A DISCLOSURE

#### *Who can make a disclosure?*

An individual or group of individuals. A disclosure cannot be made by a business or a company.

#### *What can I make a disclosure about?*

Improper conduct engaged in, and/or detrimental action taken by, public bodies or public officers performing public functions or certain individuals. This includes ACCS and/or its officers.

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:

- A person public officer or public body;
- Is engaging in or proposing to engage in;
- 'Improper conduct' and/or 'detrimental action' in reprisal for having made a protected disclosure.

The conduct you are disclosing must be the performance of a person or body's function as a public officer or public body, or private individuals who try to improperly influence public officers or public bodies in the performance of their official functions.

#### *Who can I make a disclosure to?*

Under the Act, the **ACCS cannot receive** disclosures about ACCS or its employees that alleges improper conduct or detrimental action. This means that if you make a disclosure about improper conduct or detrimental to ACCS, it will not be considered a 'protected disclosure' under the Act and you will not receive the protections under the Act. In those circumstances, ACCS may still be obliged to notify IBAC if the information that is disclosed is about corrupt conduct within the meaning of the *Independent Broad-Based Anti-Corruption Act 2011*.

If you wish to make a protected disclosure about ACCS or any employee at ACCS, you **must make the disclosure directly to IBAC:**

Level 1 North Tower, 459 Collins Street, MELBOURNE VIC 3000  
GPO Box 24234, MELBOURNE VIC 3001  
Phone: 1300 735 135

IBAC can also be contacted through the National Relay Service (NRS).

- TTY users can phone 1800 555 677 and ask for 1300 735 135
- Speak and Listen users can phone 1800 555 727 and ask for 1300 735 135
- Internet relay users can connect to the NRS and ask for 1300 735 135

Refer to IBAC's website - [www.ibac.vic.gov.au](http://www.ibac.vic.gov.au) for more information on making a protected disclosure and their contact details.

### ***How do I make a disclosure?***

You may make a disclosure to IBAC:

- In person
- In writing (including by using IBAC's complaint forms on their website)
- By phone (including by leaving a voicemail message)
- By email.

You may make a disclosure anonymously.

You may not make a protected disclosure by fax.

## **4. WELFARE MANAGEMENT**

ACCS is committed to ensuring the welfare of those who make or co-operate with protected disclosures. As ACCS cannot receive protected disclosures under the Act, ACCS may not be aware someone has made a protected disclosure about ACCS.

IBAC will only notify ACCS of a protected disclosure made about ACCS if it decides it is necessary. If IBAC does notify ACCS of the identity of a discloser, or someone cooperating with an investigation, such notifications will be kept confidential and ACCS will be responsible for providing that person with reasonable welfare support.

Where relevant, ACCS will 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.

A welfare manager is responsible for:

- Considering the welfare and protection needs of the discloser and/or witnesses and fostering a supportive work environment;
- Monitoring a specific discloser or co-operator;
- Providing practical advice and support;
- Advising the discloser and/or witness of the protections available under the Act;
- Receiving and responding to any disclosures of detrimental action in reprisal for making the disclosure (e.g. harassment, intimidation or victimisation);
- Ensuring that the discloser and/or witness' expectations of the process and outcomes are realistic; and
- Maintaining confidentiality.

In determining whether to appoint a welfare manager in any particular case, ACCS will consider:

- Whether the disclosure has proceeded, or is likely to proceed, to an investigation;
- Whether there are any real risks of detrimental action against the persons involved, taking into account their particular circumstances;
- Ways ACCS can ensure that the person is taken seriously and treated with respect;
- How ACCS can provide effective support to the persons involved, including keeping them informed of the progress of the disclosure; and
- Whether it is within ACCS' power to protect the person(s) involved from suffering repercussions.

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

## 5. OFFENCES UNDER THE ACT

There are a number of offences set out in the Act relating to breaches of the requirements of the Act.

The key offences to be aware of are:

1. It is an offence to take or threaten detrimental action against another person in reprisal for a protected disclosure.
2. It is an offence to disclose the content, or information about the content, of a disclosure that has been notified to IBAC, or information which is likely to lead to the identification of the person who made that disclosure unless permitted to by the Act
3. It is an offence for any person to:
  - a. 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;
  - b. Claim that a matter is the subject of a protected disclosure knowing the claim to be false; or
  - c. Falsely claim that a matter is the subject of a disclosure that IBAC has determined to be a protected disclosure complaint.
4. It is an offence for any person to:
  - a. Disclose that a disclosure has been notified to IBAC for assessment unless permitted to do so by the Act; or
  - b. Disclose that a disclosure has been determined by IBAC to be a protected disclosure complaint unless permitted to do so by the Act.

## 6. ALTERNATIVES TO MAKING A 'PROTECTED DISCLOSURE'

Although ACCS cannot receive protected disclosures, ACCS can still receive complaints about its services. Complaints can be made in accordance with ACCS' Complaints Policy which can be accessed from our website and ACCS will address all complaints in accordance with the process outlined in the policy.

Employees are encouraged to raise matters with their supervisors and managers at any time.

## 7. CO-OPERATION WITH IBAC

ACCS will co-operate with IBAC. This will include:

- facilitating any review of this Policy by IBAC; responding, upon request to recommendations made by IBAC; and
- providing assistance to IBAC or any other external investigations.

You should also be aware that if information is provided to ACCS that is about corrupt conduct, but is not a protected disclosure under the Act, ACCS may still be obliged to notify IBAC in accordance with the *Independent Broad-based Anti-corruption Commission Act 2011*.

## 8. REPORTING

ACCS must provide information about how to access this Policy in its annual report.

## 9. QUESTIONS ABOUT THIS POLICY

If you have any questions about this Policy, please contact the Board Secretary at (03) 9940 1079.

## 10. REVIEW

This Policy will be reviewed regularly to ensure they meet the objectives of the Act and are consistent with IBAC's guidelines.

## 11. VERSION CONTROL

Date	Version	Change Summary
February 2019	1.0	Development
March 2019	1.1	Updated to reflect RAF comments
March 2019	1.2	Updated to reflect Board comments
April 2019	1.3	Updated to reflect Board Chair's comments

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