

Public Interest Disclosures Policy



Policy no: 01/2020
Approved by: Executive Team
Date approved: 15 June 2020

1. BACKGROUND & OBJECTIVES:

On 10 February 2013, the *Protected Disclosure Act 2012* came into operation, replacing the *Whistleblowers Protection Act 2001*. The *Protected Disclosure Act 2012* was updated on 1 January 2020 and is now called the *Public Interest Disclosures Act 2012*.

The Royal Botanic Gardens Victoria (RBGV) is a public body subject to the Act but is not authorised to receive public interest disclosures. Any disclosure about the RBGV must be made directly to the Independent Broad-based Anti-Corruption Commission (IBAC).

The purpose of the *Public Interest Disclosures Act 2012* ('Act') and this policy is to encourage and facilitate the making of disclosures of improper conduct by public officers and public bodies, including the Royal Botanic Gardens Victoria (RBGV), its staff and Board members.

It also provides information regarding the protection of persons making disclosures from detrimental actions under section 45 of the Act.

2. POLICY STATEMENT:

The RBGV is committed to the aims and objectives of the *Public Interest Disclosures Act 2012*. It does not tolerate improper conduct by the organisation, its employees, officers or Board members, nor the taking of detrimental action in reprisal against those who come forward to disclose such conduct.

The RBGV recognises the value of transparency and accountability in its administrative and management practices and supports the making of disclosures that reveal improper conduct.

2.1 What is a Public Interest Disclosure?

A Public Interest Disclosure (PID) is a disclosure by a natural person of information that shows/tends to show, or information that the person reasonably believes shows/tends to show improper conduct or detrimental action. The disclosure relates to improper conduct and corruption in the Victorian public sector and the person disclosing can do so in the knowledge that they will be protected.

Protections include keeping the identity of the person reporting improper conduct confidential and protecting them from reprisals including bullying, harassment or legal action.

2.2 What can disclosures be made about?

Disclosures may be made about 'improper conduct' on the part of a public body or its staff and Board members. Disclosures may also be made about 'detrimental action' taken (or suspected to be taken) in reprisal or in connection with a disclosure made about improper conduct.

The conduct or action being disclosed may have taken place, still be occurring, or may be believed to have occurred or be occurring.

The Act provides definitions about improper conduct and detrimental action. For more information about what those terms mean, refer to Definitions in section 3.

2.3 Who can make a disclosure?

Any individual (i.e. not an organisation or company) may make a disclosure under the Act. The individual could be a person within the RBGV or any member of the public.

Disclosures may be made in a number of ways set out in the Act, including anonymously, in writing or verbally. A discloser need not identify the person or body about whom the disclosure is made. For further information regarding the making of a disclosure, please refer to the RBGV's Public Interest Disclosure Procedure.

2.4 Who can a Public Interest Disclosure be made to?

The RBGV is not permitted to receive disclosures made under the Act. Therefore, if you wish to make a disclosure about the RBGV, its officers, Board members or employees, you will need to make that disclosure directly to IBAC.

For information about the Act or anything contained in this policy, please contact the Manager People and Culture.

2.5 RBGV's role in a Public Interest Disclosure

It is important to note that the IBAC is not required to contact the RBGV about any disclosure you make so you should not discuss any disclosure you make to the IBAC with the RBGV or any person in the RBGV unless you have first obtained the permission of IBAC to do so, or unless IBAC has directed you to do so, or IBAC has contacted the RBGV to provide it with information in order to allow RBGV to provide you with any necessary welfare and support.

As required under the Act, the RBGV has systems in place to facilitate and encourage the making of disclosures under the Act, and how we will manage the welfare of persons connected with public interest disclosures.

Please refer to RBGV's Public Interest Disclosure Procedure for further information regarding this.

2.6 Confidentiality

The RBGV takes its obligations under the Act seriously. This includes the requirement to protect the identity of the discloser and the matters disclosed by a discloser. Maintaining confidentiality in relation to public interest disclosure matters is crucial, among other things, in ensuring reprisals are not made against a discloser. It is a criminal offence under the Act to disclose information connected with a disclosure made in accordance with the Act, including the identity of the discloser. The penalties for breaching confidentiality obligations include financial penalties and imprisonment.

3. DEFINITIONS:

Act refers to the *Public Interest Disclosures Act 2012*

Detrimental action or **reprisal** means action taken against a person who has made a Public Interest Disclosures and includes action causing injury, loss or damage, intimidation or harassment and discrimination, disadvantage or adverse treatment in relation to a person's employment, career, profession, trade or business. It includes the taking of disciplinary action.

Discloser is a person who (purports to) make(S) a complaint, allegation or disclosure (however described) under the Act.

IBAC is the Independent Broad-based Anti corruption Commission

Improper conduct is defined in the Act to mean:
Corrupt conduct; or

Conduct of a public officer or body that constitutes:

- a criminal offence;
- serious professional misconduct;
- dishonest performance of public functions;
- intentional or reckless breach of public trust;
- intentional or reckless misuse of information;
- substantial mismanagement of public resources;
- substantial risk to the health or safety of one or more persons; or
- substantial risk to the environment.

"Improper conduct" might also be the conduct of any person that:

- adversely affects the honest performance by a public officer or body of their functions; or
- is intended to adversely affect the effective performance by a public officer or body of their functions for the benefit of the other person (for example resulting in the other person obtaining a licence, permit or approval, appointment, financial benefit or other direct or indirect monetary or proprietary gain).

The conduct must be serious. Less serious or trivial conduct is excluded from the definition of "improper conduct".

Protected discloser is a person who makes a public interest disclosure

Public Interest Disclosure (PID) is a disclosure by a natural person of information that shows / tends to show or information that the person reasonably believes shows / tends to show improper conduct or detrimental action

Public Interest Complaint (PIC) is a public interest disclosure that has been determined by IBAC, the Victorian inspectorate or the Integrity and Oversight Committee (IOC) to be a Public Interest Complaint (previously a protected disclosure complaint).

4. RELEVANT LEGISLATION/GUIDING PRINCIPLES

Public Interest Disclosures Act 2012 (Vic)
Independent Broad-based Anti-corruption Commission Act 2011 (Vic)
Charter of Human Rights and Responsibilities Act 2006 (Vic)
Victorian Public Sector Code of Conduct

5. RELATED RBGV POLICY, PROCEDURES & SIMILAR DOCUMENTS:

Public Interest Disclosures Procedure

6. RELATED FORMS:

Not applicable.

7. SCOPE OF POLICY:

This policy applies to all RBGV sites and all RBGV employees, executives, officers and Board Members. 'Employees' includes fixed term and permanent, casuals, volunteers, and contractors who provide services to or on behalf of the RBGV.

8. CONTACT:

Staff who have queries about this policy or its operation should contact the Manager People and Culture.

Persons wishing to make a disclosure should refer to RBGV's Public Interest Disclosures Procedure.

9. ACKNOWLEDGEMENTS:

10. REVIEW DATE:

This Policy shall be reviewed three years after its approval by the Executive Team or upon reform of the *Public Interest Disclosures Act 2012 (Vic)*.

11. REVIEWING OFFICER:

Manager People and Culture

12. REFERENCES:

Information sheet – Key changes in relation to public interest disclosures (Independent Broad-based Anti-corruption Commission)

13. APPENDICES:

Appendix A – Public Service Bodies

State Government departments:

- Department of Education & Training
- Department of Environment, Land, Water and Planning
- Department of Health and Human Services
- Department of Jobs, Precinct and Regions
- Department of Justice and Community Safety
- Department of Premier and Cabinet
- Department of Transport
- Department Treasury and Finance

Administrative offices:

- Family Safety Victoria
- Latrobe Valley Authority
- Local Government Inspectorate
- Major Transport Infrastructure Authority
- Office of Projects Victoria
- Office of the Chief Parliamentary Counsel
- Office of the Governor
- Office of the Victorian Government Architect
- Public Record Office Victoria
- Safer Care Victoria
- Service Victoria
- Victorian Agency for Health Information
- Victorian Government Solicitors Office

All local councils

Victorian Public Sector Commission

14. VERSION CONTROL

Document Name	Version	Policy Number	Effective Date
Protected Disclosure Policy	1	04/2013	25 June 2013
Protected Disclosure Policy	2	xx/2016	xx September 2016
Public Interest Disclosure	3	xx/2020	1 June 2020