

PURPOSE:

To outline a system for the protection of persons who make a protected disclosure under the Public Interest Disclosures Act 2012 (Vic) (*The Act*) from detrimental action.

SCOPE: REDHS Board of Directors, all REDHS staff and members of the public

DEFINITIONS:

IBAC

Independent Broad-based Anti-Corruption Commission

Public Body:

Victorian public sector organisations about which a disclosure can be made to IBAC or other investigating entities, but which are not able to receive a disclosure. This includes Rochester and Elmore District Health Service (REDHS).

Corrupt Conduct includes:

- Conduct by any person (not necessarily an employee) that adversely affects honest performance of an employee or the functions of the organisation;
- An employee performing their function dishonestly or with inappropriate partiality;
- Conduct by an employee, a former employee or by REDHS that amounts to a breach of public trust;
- A misuse of information or material acquired in the course of performing their official functions;
- A conspiracy, or attempted conspiracy to engage in corrupt conduct.

Detrimental Action is action taken or threatened against a person disclosing alleged improper conduct and includes:

- Action causing injury, loss or damage
- Intimidation or harassment;
- Discrimination, disadvantage or adverse treatment to a person's employment, career, profession, trade or business;
- The taking of disciplinary action because of the fact of a disclosure of alleged improper conduct.

Improper Conduct means conduct that:

- Is corrupt;
- Is a substantial mismanagement of REDHS resources;
- Involves substantial risk to public health or safety or to the environment

The improper conduct must be sufficiently serious to establish (if proved) a criminal offence or reasonable grounds for dismissal from employment. A disclosure of alleged improper conduct may relate to REDHS or to an employee of REDHS.

Improper Conduct:

- corrupt conduct
- 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 health or safety of a person
- substantial risk to the environment
- conduct of any person that adversely affects the honest performance by a public officer of their functions
- conduct of any person that is intended to adversely affect the effective performance by a public officer of their functions for the benefit of the other person.

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

Public Interest Disclosure (PID) – 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 (previously a protected disclosure) - [See Fact Sheet](#).

One made under Part 2 of the Act including:

- Disclosure or improper conduct or detrimental action (note it is not necessary to identify the person or body to whom a disclosure relates).
- Complaints, notifications and disclosures under other Acts may also be relevant disclosures

The Disclosure is determined to be protected under sections 26 or 31 of the Act

Public Interest Complaint – a public interest disclosure that has been determined by IBAC, the Victorian Inspectorate or IOC to be a Public Interest Complaint (previously a protected disclosure complaint).

BACKGROUND:

This policy document is in accordance with the requirements of the [Public Interest Disclosures Act 2012 \(Vic\)](#) which provides for the disclosure of improper conduct by public bodies and public officials and for the protection for those who come forward with a disclosure.

The management of the Act is the responsibility of the Independent Broad-based Anti-Corruption Commission (IBAC).

Further information about the types of public bodies and public officers about whom disclosures can be made can be found in the [Public Administration Act 2004](#) and the [Independent Broad-based Anti-corruption Commission Act 2011](#).

POLICY STATEMENT:

- **REDHS is committed to the highest standards of ethics and probity in its performance of its duties and the delivery of its services to the community.**
- **REDHS is a public body and, as such, cannot receive public interest disclosures. See Appendix 1 – Bodies that can receive PIDs. However REDHS has an obligation to protect people against detrimental action that might be taken against them if they choose to make a protected disclosure.**
- **Disclosures of improper or corrupt conduct that don't meet the definition of a protected disclosure under the Act, and are therefore not made to IBAC, workplace grievances or complaints will be investigated under relevant REDHS policies and procedures.**

PROCEDURE:

1. Where a person wishes to make a public interest protected disclosure, the person will be directed to the Chief Executive Officer (CEO), or appointed delegate in their absence.
2. If the Protected Disclosure concerns the CEO, the individual shall be directed to the Board Chair for assistance.
3. The CEO (or Board Chair) will ensure that the person is immediately referred to IBAC and provided with all contact information:
Phone: 1 300 735 135
4. Protected disclosures may be made anonymously, in writing or online to <https://www.ibac.vic.gov.au/reporting-corruption/report>
5. Disclosures may be in the form of [a complaint or the provision of information](#). If the person is unable to complete [IBAC's online form](#), call 1 300 735 135 for assistance
6. If the person making the public interest disclosure is a REDHS employee, they will be provided with contact details for the Employee Assistance Program.
7. Any communications from IBAC are to be directly referred to the CEO (unless the PID concerns the CEO).

8. The CEO:
- may seek legal advice to assist in the performance of their duty under the [Public Interest Disclosures Act 2012 \(Vic\)](#)
 - must maintain the security and confidentiality of all information they may have been given in relation to the disclosure and ensure disposal is secure;
 - must ensure that no detrimental actions are taken against any person known to be making a protected disclosure

Mandatory reporting

In accordance with *FRD 22I Sec 8.1 – Standard Disclosures in the Report of Operations (July 20215)*, REDHS' Annual Report of Operations will include a summary of the application and operation of the Public Interest Disclosure Act 2012 (the Act), including disclosures required by the Act.

As a public body that cannot receive disclosures, there is no requirement to report any information regarding referrals to IBAC or requests for information on reporting.

Note: The requirements for mandatory reporting by registered health practitioners of notifiable conduct, as defined in the [Health Practitioner Regulation National Law \(Victoria\) 2009](#), is covered in [REDHS Mandatory Reporting of Health Practitioner Policy](#).

REFERENCES:

- [Public Interest Disclosures Act 2012](#)
- [IBAC](#)
- [Independent Broad-based Anti-corruption Commission Act 2011](#)
- [Department of Treasury and Finance FRD 22I Standard Disclosures in the Report of Operations \(July 2021\)](#)

CONTRIBUTORS			
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Appendix 1 – Bodies that can receive Public Interest Disclosures

A person may make a public interest disclosure to the following bodies:

- Independent Broad-based Anti-corruption Commission (IBAC)
- Victorian Ombudsman
- Victorian Inspectorate (in relation to IBAC and the Public Interest Monitor)
- Victoria Police
- Public Service Bodies (within the meaning of the Public Administration Act 2004 – for a full list of public service bodies, see Appendix 2)
- local councils
- Judicial Commission of Victoria
- Integrity and Oversight Committee (in relation to the Victorian Inspectorate)
- President of the Legislative Council (limited to members of the Legislative Council)
- Speaker of the Legislative Assembly (limited to members of the Legislative Assembly).

State Government departments:

- Department of Education
- Department of Energy, Environment and Climate Action
- Department of Health
- Department of Jobs, Skills, Industry and Regions
- Department of Justice and Community Safety Victoria
- Department of Premier and Cabinet
- Department of Transport and Planning
- Department of Treasury and Finance Victoria

Administrative offices:

- Family Safety Victoria
- Latrobe Valley Authority
- Local Government Inspectorate
- 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 Solicitor's Office.
- Victorian Infrastructure Delivery Authority
- All local councils
- Victorian Public Sector Commission