



Attachment 1



GIPPSLAND WATER

PUBLIC INTEREST DISCLOSURE PROCEDURE

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GIPPSLAND
WATER

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OPERATIONAL PROCEDURE

PUBLIC INTEREST DISCLOSURE PROCEDURE –

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1 Introduction

1.1 Purpose

Gippsland Water takes its responsibilities seriously in relation to anyone who may make a Public Interest Disclosure (Disclosure) about improper conduct. It has established this procedure to ensure the confidentiality of the identity of the discloser and their welfare, are protected.

Gippsland Water is committed to the value of transparency and accountability in its operational, administrative and management practices, and supports the disclosure of improper conduct.

Gippsland Waters' Protected Interest Disclosure Coordinator will at all times comply with our obligations and work with the investigating body as requested in the instance of a Public Interest Complaint Investigation.

1.2 Scope

Section 58 of the *Public Interest Disclosures Act 2012* (the Act) requires a public body to establish written procedures for handling disclosures. The procedures seek to facilitate the protection of persons making disclosures from detrimental actions by Gippsland Water officers or employees.

This procedure is designed to adhere with Gippsland Waters' obligations under the *Public Interest Disclosure Act 2012 (vic)* and the Independent Broad-based Anti-corruption Commission (IBAC) guidelines, required under Part 9 of the Act.

A Disclosure is a complaint of improper conduct by a public officer or a public body. Gippsland Water is a public body for the purposes of the Act and a public officer can be a Gippsland Water employee (including temporary/contract staff), director or independent committee member. A Disclosure may be made even if the person making the Disclosure cannot identify the person or the body to whom or to which the Disclosure relates.

A Disclosure can be made anonymously.

2 Procedure

2.1 Key Definitions

Assessable disclosure means:

- a disclosure that, under sections 21(2), 21(3) or 36(2) of the Act must be notified to IBAC, the Victorian Inspectorate or the Integrity and Oversight Committee;
- a disclosure made in accordance with Division 2 of Part 2 of the Act directly to IBAC;
- a disclosure made under section 14(a) of the Act to the Integrity and Oversight Committee;
- a disclosure made under section 14(b) of the Act to the Victorian Inspectorate;
- a police complaint disclosure made directly to IBAC.

Corrupt conduct has the meaning given by section 4 of the *Independent Broad-based Anti-corruption Commission Act 2011* as:

- conduct of any person that adversely affects the honest performance by a public officer or public body of his or her or its functions as a public officer or public body;
- conduct of a public officer or public body that constitutes or involves the dishonest performance of his or her or its functions as a public officer or public body;
- conduct of a public officer or public body that constitutes involves knowingly or recklessly breaching public trust;
- conduct of a public officer or a public body that involves the misuse or information or material acquired in the course of the performance of his or her or its functions as a public officer or public body, whether or not for the benefit of the public officer or public body or any other person; or
- conduct that could constitute a conspiracy or an attempt to engage in any conduct referred to above - being conduct that would, if the facts were found proved beyond reasonable doubt at a trial, constitute a relevant offence.

Detrimental action

If the fact that an employee has made a Disclosure forms **any** part of the reason for which action is taken against that employee, it will constitute detrimental action and includes –

- action causing 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 the threat of or taking of disciplinary action.

It is important to note that **any** detrimental action is itself a reportable Disclosure and a criminal offence.

IBAC

The Independent Broad-based Anti-corruption Commission (IBAC) established under Section 6 of the *Independent Broad-based Anti-corruption Commission Act 2011*.

Improper Conduct involves: –

- a) Corrupt conduct; or

- b) Conduct of a public officer or public body engaged by the public officer or public body in their capacity as a public officer or a public body that constitutes-
- a criminal offence; or
 - serious personal misconduct; or
 - dishonest performance of public functions; or
 - an intentional or reckless breach of public trust; or
 - an intentional or reckless misuse of information or material acquired in the course of the performance of the functions of the public officer or public body; or
 - a substantial mismanagement of public resources; or
 - a substantial risk to the health or safety of one or more persons; or
 - a substantial risk to the environment; or
- c) Conduct of any person that-
- adversely affects the honest performance by a public officer or a public body of their functions as a public officer or public body; or
 - is intended to adversely affect the effective performance or exercise by a public officer or public body of the functions or powers of the public officer or public body and results in the person, or an associate of the person obtaining –
 - a licence, permit, approval, authority or other entitlement under any Act or subordinate instrument; or
 - an appointment to a statutory office or as a member of the board of any public body under any Act or subordinate instrument; or
 - a financial benefit or real or personal property; or
 - any other direct or indirect monetary or proprietary gain that the person or associate would not have otherwise obtained; or
- d) Conduct of any person that could constitute a conspiracy or attempt to engage in any of the conduct referred to above.

Public Interest Disclosure

Disclosure of a 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

A disclosure that has been determined by IBAC, the Victorian Inspectorate or the Integrity and Oversight Committee to be a public interest complaint.

Public body

For the purposes of this procedure public body means Gippsland Water

Public officer

For the purposes of this procedure, public officer includes employees, directors, independent committee members and temporary/contract staff

2.2 Roles and Responsibilities

Public Interest Disclosure Coordinator

The Public Interest Disclosure Coordinator is appointed by the Managing Director. The current coordinator is the Corporate Secretary.

The Public Interest Disclosure Coordinator will:

- ensure all disclosers are advised to direct their Disclosures to a receiving body for assessment;
- ensure that the protections set out in Part 6 of the Act apply to the discloser;
- liaise with IBAC or other investigating bodies as required;
- establish and manage a confidential filing system;
- if advised or inadvertently made aware of the identity of the discloser, take all necessary steps to ensure their identity and the identity of the person who is the subject of the Disclosure (if known) are kept confidential; and
- if necessary, arrange for appropriate welfare support for the person making a Disclosure.

The Public Interest Disclosure Coordinator will be the investigating bodies' chief liaison throughout any investigation.

The Public Interest Disclosure Coordinator will not divulge any details relating to the disclosed matter to any person other than the investigating body or Public Interest Disclosure Welfare Manager.

Public Interest Disclosure Welfare Manager (Manager Organisational Development)

The Public Interest Disclosure Welfare Manager is appointed by the Managing Director. The current Welfare Manager is the Manager Organisational Development.

Gippsland Water is committed to the protection of anyone against detrimental action taken in reprisal for the making of a Disclosure.

The Public Interest Disclosure Welfare Manager *may* be engaged by the Public Interest Disclosure Coordinator to oversee the welfare of the discloser.

The Public Interest Disclosure Welfare Manager will:

- examine the immediate welfare and protection needs of the discloser who has made a Disclosure and, where the discloser is an employee, seek to foster a supportive work environment;
- advise the discloser of the legislative and administrative protections available to him or her;
- listen and respond to any concerns of harassment, intimidation or victimisation in reprisal for making the Disclosure;
- keep a contemporaneous record of all aspects of the case management of the discloser including all contact and follow-up action; and
- ensure the expectations of the discloser are realistic.

The Public Interest Disclosure Welfare Manager will not divulge any details relating to the disclosed matter to any person other than the Public Interest Disclosure Coordinator.

All meetings between the Public Interest Disclosure Welfare Manager and the person making a Disclosure will be conducted discreetly to protect the confidentiality of the person making the Disclosure.

Investigating Bodies

Once a Disclosure has been made, IBAC will decide if the Disclosure progresses to a Public Interest Complaint (Complaint). IBAC will investigate the Complaint or, refer it to a more suitable Victorian Government Department. The investigating body will be primarily responsible for the investigation of the Complaint. The Investigating Agency will;

- Coordinate the investigation;
- liaise with the Public Interest Disclosure Coordinator throughout the investigation;
- liaise with the discloser and keep them informed as to the progress of the investigation;
- give guidance and advice to the discloser throughout the investigation process;
- provide information to the discloser at the end of the investigation; and
- ensure the confidentiality of the discloser and only discuss details of the investigation with Gippsland Water's Public Interest Disclosure Coordinator.

2.3 How to make a Public Interest Disclosure

Any person may make a Disclosure:

- orally;
- in writing (but not by facsimile at this is not permitted by the Act);
- electronically – if the Disclosure comes from an email address from which the identity of the person making the Disclosure cannot be determined, the Disclosure will be treated as being anonymous; or
- anonymously including from unverified email addresses, phone, conversation or meeting.

2.4 To whom can a public interest disclosure be made?

Gippsland Water is unable to receive a Disclosure

You can make a Disclosure both orally and in writing to a large number of agencies:

- Independent board-based anti-corruption commission (IBAC); or
- Victorian Ombudsman;
- Victorian Inspectorate;
- Victoria Police;
- Public Service Bodies;
- Department of Education and Training;
- Department of Environment, Land, Water and Planning;
- Department of Health and Human Services
- Department of Jobs, Precincts and Regions;
- Department of Justice and Community Safety;
- Department of Premier and Cabinet;
- Department of Transport
- Department of Treasury and Finance;
- Family Safety Victoria;
- Latrobe Valley Authority;
- Local Government Inspectorate;
- Major Transport Infrastructure Authority;

- Office of Projects Victoria;
- Office of the Chief Parliamentary Council;
- Office of the Governor;
- Office of the Victorian Government Architect;
- Public Records office Victoria;
- Safer Care Victoria;
- Service Victoria;
- Victorian Agency for Health Information;
- Victorian Government Solicitors Office;
- 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);
or
- Speaker of the Legislative Assembly (limited to members of the Legislative Assembly).

However it is only IBAC that can determine if the Disclosure will become a Complaint.

For more information click the below link:

[Make a Public Interest Disclosure- IBAC](#)

2.5 Occurrence of detrimental action

If a discloser reports an incident of harassment, discrimination or adverse treatment that would amount to detrimental action taken in reprisal for the making of the Disclosure, the Public Interest Disclosure Welfare Manager will:

- record details of the incident; and
- advise the discloser of his or her rights under the Act.

The Public Interest Disclosure Coordinator will:

- Inform the investigating agency of the detrimental action, and
- Co-operate with the investigating body.

The taking of **any** detrimental action in reprisal for the making of a Disclosure constitutes a Public Interest Disclosure in itself and is a **criminal offence**.

2.6 Confidentiality

Section 52 of the Act requires any person who receives information due to the handling or investigation of an assessable Disclosure, not to disclose that information except in certain limited circumstances. These circumstances include:

- in accordance with section 54 of the Act;
- in accordance with a direction or authorisation given by the entity investigating the Disclosure.

The Act prohibits the:

- Inclusion of particulars in any report or recommendation that is likely to lead to the identification of the person making a Disclosure; and
- disclosure of particulars in an annual report and other reports to parliament that might lead to the identification of a person against whom a Disclosure is made.

A breach of section 52 constitutes a **criminal offence**.

2.7 Confidential electronic filing system

To prevent breaches of the confidentiality requirements and to minimise the possibility of detrimental action, Gippsland Water has established a secure electronic filing system.

The system will ensure that:

- all electronic files are secure and can only be accessed by authorised officers;
- all electronic files will be saved on Gippsland Waters Electronic Records Management System (EDRMS) HPE Content Manger with full security and active audit event control;
- the Protected Disclosure Coordinator has access to create secure folders, without requiring administrative support;
- all printed material is kept in files that are clearly marked as a Public Interest Disclosure matter and include a prominent warning on the front of the file that criminal penalties apply to any unauthorised divulging of information concerning a disclosure and are immediately destroyed when made electronic;
- any other material, such as tapes from interviews, are stored securely with access only by authorised officers; and
- there is security of communication, that is sensitive information or documents are not emailed or faxed to a machine or computer address to which staff have general access.

3 Further information

3.1 Compliance

All Gippsland Water directors and employees must comply with this Procedure.

All directors and employees shall be required to undergo training in this Procedure to ensure their understanding of their obligations under the *Public Interest Disclosures Act 2012*.

Gippsland Water will ensure all officers and employees are aware of the criminal offences under the Act.

3.2 Procedure Application

This Procedure must be approved by the Executive Leadership Team.

3.3 Procedure Review

This Procedure will be reviewed annually by the Corporate Secretary and submitted to the Executive Leadership Team for approval, to ensure it reflects current day business realities, relevance, and continued application.