

Glenelg Hopkins



C M A

PROTECTED DISCLOSURE POLICY

Policy No: BP.CR.7
Version No: V.2

Review Schedule

A&RCo to Endorse: **Yes: (D)**
Last Review: April 2017
Review Cycle: 3 yearly
Next Review Due: April 2020
Responsible Officer: Business & Finance Program Manager

Review Notes: *Reviews to occur 3 yearly or upon significant change to the Act, the Regulations or the IBAC guidelines.*

Related Policies: BP.F.5 Fraud Control
BP.CR.3 Privacy Policy

Related Procedures: OP.CR.6 Protected Disclosure Procedure
OGP.HR.1 Resolution of Grievances Guideline and Procedure
OGP.HR.3 Equal Employment Opportunity, Harassment, Bullying and Discrimination Guideline and Procedure
OP.HR.7 Performance & Discipline Procedure
OP.HR.19 Values and Behaviours Guidelines
OG.HR.6 Health & Wellbeing Guideline

Related Resources: GHGMA's Employee Assistance Program
Protected Disclosures Act 2012
Protected Disclosure Regulations 2013
Independent Broad-based Anti-corruption Commission Act 2011
IBAC Guidelines issued June 2013 under s 57 of the Protected Disclosure Act 2012:
www.ibac.vic.gov.au/report-corruption-or-misconduct/protected-disclosure
a. *Guidelines for making and handling protected disclosures*
b. *Guidelines for Protected Disclosure Welfare Management:*
Freedom of Information Act 1982
Information Privacy Act 2000
Charter of Human Rights and Responsibilities Act 2006

Policy Approval and Revision:

This Policy was first approved by the Directors of Glenelg Hopkins CMA:

Version 1: 23 August 2013 {Resolution No. 1682.00}
Version 2: 20 April 2017 {Resolution No. 2020.00}

CHAIRPERSON

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Purpose

The purpose of this policy is to outline Glenelg Hopkins Catchment Management Authority's (CMA) responsibilities, as a public body, under the *Protected Disclosure Act 2012* ("Act"). The main responsibilities are:

- To encourage and facilitate the making of disclosures to the Independent Broad-based anti-corruption Commission (IBAC) in regard to improper conduct by public officers and public bodies, and
- To protect people connected with protected disclosures against detrimental action that might be taken against them in reprisal for the making of such disclosures.

It is important to note the CMA is not permitted to receive disclosures on behalf of an individual. All disclosures must be submitted direct to IBAC.

Application of Policy

This policy applies to all Directors, members of Board Committees, members of Advisory Groups, and employees of the CMA.

Background

The *Protected Disclosure Act 2012* supersedes the *Whistleblowers Protection Act 2001*.

It requires the CMA to establish a Protected Disclosure Procedure to facilitate and encourage the making of disclosures under the Act and provide protection for people connected with protected disclosures against detrimental action that might be taken against them in reprisal for the making of a protected disclosure.

Policy

The CMA is committed to the aims and objectives of the Act. It recognises the value of transparency and accountability in its administrative and management practices, and supports the making of disclosures that reveal improper conduct. It does not tolerate improper conduct by the organisation, its Directors or employees, nor the taking of detrimental action in reprisal against those who come forth, or intend to come forth, to disclose such improper conduct.

The Directors, members and employees will adhere to the Victorian Public Sector Code of Conduct to ensure transparent and appropriate conduct as public servants.

What can disclosures be made about?

Disclosures may be made about "improper conduct" on the part of a public body or its staff, employees and Directors. Disclosures may also be made about "detrimental action" taken (or suspected may 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 is believed will occur or be engaged in.

What constitutes improper conduct

A disclosure may be made about improper conduct by a public body or public official in the performance of their functions as a public body or public officer. Central to the notion of improper conduct is the notion of the "public trust".

"Public trust" is a concept that provides the basis 'for obligations of honesty and fidelity in public officers that exist to serve, protect and advance the interests of the public'.³

A person acting in their official capacity is exercising 'public power' that is derived from their public office holding and may be controlled or influenced by legislative provisions, administrative directions, or constitutional principles or conventions.

There is an expectation that members of the community may rely on and trust their public bodies and officials to act honestly. The expectation is that public officers will not use their positions for personal advantage, or use the influence of their public office for improper purposes where there is a duty to act objectively and impartially.

Disclosers will need to identify that there is a link between the alleged improper conduct of a person or an organisation and their function as a public officer or a public body.

Improper conduct is defined in the Act to mean either corrupt conduct or specified conduct (both terms are also defined by the Act and the IBAC Act).

The Act provides definitions about improper conduct and detrimental action. For more information about what those terms mean, see the CMA's Protected Disclosure Procedures (see further below about how to access or obtain a copy of those procedures).

Who can make a disclosure?

Any individual natural person (e.g., not organisation or company) may make a disclosure under the Act. The individual could be a person within the organisation, or any member of the public externally.

Disclosures may be made in a number of ways set out in the Act, including anonymously, in writing or orally. A discloser need not identify the person or body about whom the disclosure is made.

How to make a disclosure

According to the Independent Broad-based Anti-corruption Commission ("IBAC"), the CMA is not permitted to receive disclosures made under the Act. Therefore, to make a disclosure about the CMA, its officers, members or employees, the disclosure must be made directly to the IBAC.

Role of the Authority

It is important to note that the IBAC is not required to contact the CMA about any disclosure made, so this should not be discussed with the CMA or any disclosure you make to the IBAC *unless* permission has been obtained from IBAC prior, or unless the IBAC has directed the individual to do so, or the IBAC has contacted the CMA to provide it with information in order to allow the CMA to provide necessary welfare and support.

As required under the Act, the CMA has established procedures to facilitate and encourage the making of disclosures under the Act, and how the CMA will manage the welfare of persons connected with protected disclosures ("**Protected Disclosure Procedures**"). The CMA's Protected Disclosure Procedures are available at

http://www.ghcma.vic.gov.au/media/uploads/Protected_Disclosures_Procedure.pdf by inspection during normal office hours of the CMA at 79 French Street HAMILTON VIC 3300. A copy of this Procedure is available from the CMA's Protected Disclosure Coordinator on 03 5571 2526 or by email k.connoley@ghcma.vic.gov.au

Confidentiality

The CMA 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 protected 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.

For More Information

For more information about protected disclosures or the Victorian integrity system generally, also see <http://www.ibac.vic.gov.au/report-corruption-or-misconduct/protected-disclosure>.

End.