



# Protected Disclosure Act (Vic)

## Guideline

October 2024

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## Document properties

<b>Identifier</b>	DOC19/49024		
<b>Document title</b>	Protected Disclosure Act (Vic)	<b>Document type</b>	Guideline
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<b>Approver signature</b>	Approved via email	<b>Approved date</b>	26/09/2024

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## Revision history

Rev	Date	Status	Originator	SME check by	Assurance review by
0.1	24/09/2019	Issued for review	K. Hart		P. Cook
0.2	27/09/2019	Issued for review	K. Hart		P. Cook
0.3	10/10/2019	Issued for approval	K. Hart		P. Cook
1.0	10/10/2019	Issued for use	K. Hart		P. Cook
1.1	10/12/2020	Issued for review	T. Clare	P. de Silva	D. Lammiman
1.2	14/12/2020	Minor changes	P. de Silva		D. Lammiman
1.3	24/09/2021	Issued for review	T. Clare		M. Webb
1.4	29/09/2021	Issued for approval	T. Clare		M. Webb
2.0	29/09/2021	Issued for use	T. Clare		M. Webb
2.1	01/10/2024	Issued for review	P. de Silva		A. Ogilvie
3.0	01/10/2024	Issued for use			
<b>Last review date</b>	1 October 2024				
<b>Next review date</b>	1 October 2026				

## Security Classification

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# 1 Introduction

The NHVR is committed to an ethical, transparent culture. In pursuit of this, the NHVR values the disclosure of information about suspected wrongdoing within the NHVR, including corrupt conduct and maladministration. It also recognises the value in NHVR officers identifying such wrongdoing.

Disclosure of information allows wrongdoing to be properly assessed and, if necessary, appropriately investigated.

This guideline applies to wrongdoing and its disclosure within Victoria. However, given the NHVR's operations across various jurisdictions, if necessary, the NHVR's PID Coordinator will determine the relevant jurisdiction under which the disclosure will be actioned.

The NHVR's *Fraud and Corrupt Conduct Policy* outlines the reporting obligations for fraud and corrupt conduct upon NHVR staff and CEO. Please refer to that policy to ascertain *when* to report such conduct.

This guideline outlines *how* such conduct (and other relevant conduct) is to be reported so as to comply with the *Protected Disclosure Act 2012 (VIC)* (PD Act (VIC)). The NHVR will provide support to an employee or others who make disclosures about matters in the public interest. This guideline demonstrates this commitment and ensures that practical and effective procedures are implemented that comply with the PD Act (VIC).

# 2 Purpose

This guideline, prepared in accordance with the PD Act (Vic) and IBAC guidelines, outlines the process for making and dealing with disclosures of improper conduct under the PD Act (Vic) within the NHVR and to the Independent Broad-based Anti-corruption Commission (IBAC) if required.

By complying with the Act, the NHVR will:

- encourage and facilitate disclosures of improper conduct by public officers and disclosures of any detrimental action taken in reprisal for a person making a disclosure
- provide protection for persons who make those disclosures and protection to persons who may suffer detrimental action in reprisal for those disclosures
- provide for the confidentiality of the content of those disclosures and the identity of persons who make those disclosures.

The NHVR's *Public Interest Disclosure – Policy* is available on the NHVR website at [nhvr.gov.au](http://nhvr.gov.au). The policy and this guideline will be reviewed annually and updated as required.

# 3 What can a disclosure be made about?

A protected disclosure may be made about information that shows or tends to show, or that the discloser believes on reasonable grounds shows or tends to show a person, public officer or public body is engaging in, or proposing to engage in, either **improper conduct** or **detrimental action**, which has occurred at any time, including before the Act was enacted.

For the definitions of 'public officer' and 'public body', see [14 Definitions](#).

## 3.1.1 Improper conduct and corrupt conduct

**Improper conduct** is defined in section 4 of the PD Act (Vic)—which is set out in [Appendix A. Improper conduct](#)— is, in essence, either:

- corrupt conduct
- specified conduct.

Essentially, improper conduct is criminal conduct or conduct serious enough to result in a person's dismissal.

**Corrupt Conduct** has the meaning in s 4 of the *Independent Broad-based Anti-corruption Commission Act 2011* (IBAC Act). In summary, it is conduct:

- of any person that adversely affects the honest performance by a public officer or public body in their official functions; or

- of a public officer or public body that involves:
  - the dishonest performance of their official functions; or
  - knowingly or recklessly breaching a public trust; or
  - misuse of information or material that was obtained in an official capacity; or
- that could constitute a conspiracy or attempt to engage in conduct referred to above; or
- intended to adversely affect the performance of a public officer or public body which leads to a benefit.

### 3.1.2 Detrimental action

Detrimental action relating to a protected disclosure is actual or threatened action against a person in reprisal for a protected disclosure.

Detrimental action may be:

- action causing injury, loss or damage
- intimidation or harassment
- discrimination, disadvantage or adverse action in relation to a person's employment, business or career, including disciplinary action.

Detrimental action is not legitimate management action.

**Examples of detrimental action** may include:

- dismissal, demotion, transfer, isolation or a changing of duties of the discloser
- discrimination against the discloser, or the disclosure's family or associates, in subsequent job applications.

## 3.2 Belief on 'reasonable grounds'

For a belief to be on 'reasonable grounds', there needs to be more than bare or idle speculation—there must be some evidence sufficient for a reasonable person to suspect improper conduct.

The discloser does not have to believe that the alleged conduct is improper conduct or that the conduct has actually occurred. A belief on reasonable grounds must be based on an objective assessment of available information.

## 4 Who can make a disclosure?

Any person can make a disclosure about improper conduct, or detrimental action, undertaken by the NHVR or one of its employees or officers. A person can make a disclosure as an individual or with a group of individuals. A company, business or unincorporated body cannot make a protected disclosure.

A person may ask another person to make a disclosure on their behalf. However, only the person making the disclosure will receive the full protection of the Act in relation to that disclosure. The protection of the first person is limited to confidentiality and protection against detrimental action.

## 5 How is a protected disclosure made and who can it be made to?

A disclosure about conduct of the NHVR, its employees or officers may be made to the NHVR's PID Coordinator—see [Method for making a disclosure](#) below.

The NHVR's PID Coordinator is the officer authorised by the NHVR's CEO for the purposes of administering the PD Act (Vic).

For a disclosure to become a protected disclosure, it must be made confidentially to the relevant body. A person who makes a public statement about alleged improper conduct or adverse action does not receive the protections under the Act.

## 5.1 Anonymous disclosures

A disclosure may be made anonymously. However, an anonymous disclosure may affect the way the disclosure is investigated and the discloser may not be able to be notified of the outcome of any investigation if the NHVR does not have the discloser's contact details. Where a person cannot be identified from the disclosure, the disclosure will be treated as an anonymous disclosure.

## 5.2 Method for making a disclosure

A disclosure to the NHVR's PID Coordinator may be made by one of the following methods:

<b>Email:</b>	PID@nhvr.gov.au
<b>Post:</b>	PID Coordinator National Heavy Vehicle Regulator GPO Box 492 Fortitude Valley Qld 4006
<b>By phone</b>	The Whistle-Blower's Hotline: (07) 3309 8889
<b>In person</b>	A private conversation with the NHVR's PID Coordinator.

Alternatively, the disclosure may be made to either:

- the manager of the person who is the subject of the disclosure
- if the discloser is an employee of the NHVR, their manager or supervisor
- the Victorian Public Sector Commissioner
- a person acting in any of the above roles.

Alternatively, the disclosure may be made to IBAC via its website – [www.ibac.vic.gov.au](http://www.ibac.vic.gov.au). The website also includes alternate IBAC contact details.

Disclosure of fraud or corrupt conduct may be made by NHVR staff (note that this is not a publicly available service) using the NHVR Whistleblower Hotline. A quick guide for the hotline and how to use it is available under Policies and Procedures in the NHVR Intranet.

## 6 What happens after a disclosure is made?

In accordance with these guidelines, if a disclosure is made to a supervisor or manager of an NHVR employee or officer, the disclosure must (unless the complaint is about the PID Coordinator) be referred to the NHVR's PID Coordinator for assessment, investigation (if required) and management of the disclosure.

If the complaint is about the PID Coordinator, the matter should be referred to the NHVR's CEO for consideration of whether to authorise a new PID Coordinator for the purpose of that matter. Following receipt of a disclosure, the person who receives the disclosure or the PID Coordinator must consider the following:

- If the content of the disclosure suggests that there is an imminent risk of serious physical injury or death to any person or the public generally, information should be immediately communicated to the most appropriate agency (e.g. Victoria Police Service) to mitigate that risk.

**Note:** In a high risk situation, the person who receives the disclosure must immediately communicate the risk to the appropriate agency. If that person is not the PID Coordinator, then they must then immediately notify the PID Coordinator.

- If the person to whom the disclosure is made, or the PID Coordinator, forms a reasonable suspicion that the nature of the disclosure involves corrupt conduct, that such conduct has occurred or is occurring, and that such conduct may be an indictable offence or relevant common law offence (for instance, attempt to pervert the course of justice, bribery of a public officer), the matter must be reported under the IBAC Act.

**Note:** If a person receiving a disclosure indicating corruption is not the PID Coordinator, they must immediately report it to the PID Coordinator. The PID Coordinator is then responsible for organising the reporting of the conduct to IBAC.

Disclosures will also be handled consistent with guidelines issued by IBAC, being the [Guidelines for making and handling protected disclosures](#) and the [Guidelines for protected disclosure welfare management](#) (the guidelines are published on [IBAC's website](#)). The relevant requirements from the guidelines are discussed below.

**Note:** A high-level view of the disclosure process is provided in [Appendix B – Protected Disclosure Act \(Vic\)](#).

## 6.1 Receipt of disclosure

The PID Coordinator will acknowledge the disclosure no later than 14 days after receipt of the disclosure (unless the disclosure is made anonymously and the discloser has not provided contact details) and inform the discloser of the process and timeframes for handling the disclosure.

## 6.2 Assessing whether the disclosure may be a Protected Disclosure

If the PID Coordinator determines that the disclosure does not comply with the requirements of the PD Act (Vic), the PID Coordinator will advise the discloser within 28 days of receiving the disclosure.

In that event, the discloser may wish to make a new disclosure or have the disclosure dealt with under the NHVR's employee complaints handling procedure or the customer complaints handling procedure as outlined in the [NHVR Customer Complaints Management Policy](#) published on the NHVR website at [nhvr.gov.au](http://nhvr.gov.au).

The NHVR must assess the disclosure and if it determines that the disclosure may be a protected disclosure:<sup>1</sup>

- notify the disclosure to IBAC, in writing, within 28 days of the disclosure being made to the NHVR
- advise the discloser, within 28 days of receiving the disclosure, that the disclosure has been notified to IBAC and that it is an offence under the Act to inform anyone the disclosure has been notified to IBAC.

The NHVR may also provide information obtained during the NHVR assessment of the disclosure to IBAC.

### 6.2.1 IBAC responsibilities

IBAC is responsible for identifying, investigating, exposing and preventing serious corrupt conduct in the Victorian public sector, including the NHVR. It is the determination by IBAC which makes a disclosure a protected disclosure.

Once the NHVR notifies the disclosure to IBAC, IBAC must assess the disclosure within a reasonable time as to whether the disclosure is a protected disclosure. It may seek additional information from the discloser and/or the NHVR to make its decision.

If IBAC determines the disclosure is a protected disclosure, it must deal with the disclosure in accordance with the IBAC Act. IBAC must either:

- dismiss the disclosure
- investigate the disclosure itself, if it meets the criteria for investigation by IBAC
- refer the disclosure to the Victorian Ombudsman, for investigation.

If IBAC determines that the disclosure is not a protected disclosure, it must advise the discloser and the PID Coordinator.

If the matter is referred to IBAC, the discloser receives the protections under the Act regardless of whether IBAC determines a disclosure is a protected disclosure or not. However, if IBAC determines the disclosure is not a protected disclosure, the confidentiality requirements may no longer apply in relation to the disclosure.

## 6.3 Completing a risk assessment

### 6.3.1 Conducting a risk assessment

Although not an explicit requirement under the PD Act (Vic), the PID Coordinator will, as soon as possible after receipt of the disclosure, conduct a risk assessment to:

- assess the likelihood of the discloser suffering a detriment as a result of having made the disclosure

<sup>1</sup> In terms of determining whether a disclosure is a protected disclosure and what, if any, action is to be taken, the PID Coordinator may consult or engage with those persons whom they consider it necessary, e.g., the Director, Legal Services, the Director, People, Safety, and Culture, etc.

- as far as is reasonably practicable, manage any alleged or suspected detriment.<sup>2</sup>

A risk management plan may be developed, depending on the level of risk, in consultation with the discloser (where their identity is known), the Director, People, Safety, and Culture, and any other individual as identified by the PID Coordinator. The risk management plan will be reviewed and amended if required until such time as the disclosure is finalised.

Whether or not a management plan has been developed, the PID Coordinator must, in consultation with the Director, People, Safety, and Culture, so far as reasonably practicable, manage any allegations of detrimental action or suspected detrimental action taken against the discloser.

When conducting the risk assessment and considering appropriate measures to manage the risk of detrimental action being taken against the discloser, the PID Coordinator will have regard to the principles in the [Public Interest Disclosure Risk Assessment and Risk Management Guide](#) published by the Queensland Ombudsman.

If the discloser is concerned or suspects that they may have been or will be the subject of detrimental action on the grounds of having made or being about to make a protected disclosure, they are encouraged to report that suspicion by either:

- raising the concern or suspicion with the PID Coordinator
- contacting an investigating authority, such as the Ombudsman (Vic) (e.g. if the concern relates to the PID Coordinator).

### 6.3.2 Concern about detrimental action

If the discloser is concerned or suspects that they may have been or will be the subject of detrimental action they are encouraged to report that suspicion to the PID Coordinator or their support officer if one has been appointed, or the Ombudsman (Vic) (for instance, if the concern relates to the PID Coordinator).

## 6.4 Investigation of the disclosure

If IBAC decides to investigate a protected disclosure, or if the protected disclosure is referred to the Ombudsman to investigate, this will be done with consideration of the:

- principles of natural justice
- obligation under the Act to protect confidential information and to protect officers from reprisal
- interests of subject officers.

If as a result of investigation, the information about wrongdoing provided in the protected disclosure is substantiated, consideration will be given as to the appropriate action required. The discloser will be informed of the outcome of the investigation.

### 6.4.1 IBAC

At the conclusion of the investigation, IBAC must advise the discloser and the NHVR of the outcome, including any actions taken and any recommendations for further action. Based on the advice from IBAC, the NHVR will decide on any action to be taken (for instance, disciplinary action).

Where the investigation does not substantiate wrongdoing, the PID Coordinator may recommend that the NHVR review its systems, policies and procedures to identify whether there are improvements that can be made and consider if staff training is required.

However, IBAC does not have to provide information to either the discloser or the NHVR if it considers the disclosure might result in any of the possible adverse outcomes specified in section 163(4) of the IBAC Act.

### 6.4.2 Ombudsman

If the protected disclosure was referred to the Ombudsman, the Ombudsman must inform the discloser of the results of the investigation or other action taken and recommendations made.

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<sup>2</sup> The PID Coordinator may consult or engage with the Director, Legal Services, and the Director, People, Safety, and Culture (or their respective nominees) in relation to the risk assessment.



Under the *Ombudsman Act 1973 (Vic)*, the Ombudsman must not provide this information to the discloser if they consider that the disclosure might result in any of the possible adverse outcomes specified in section 24(3) of that Act (e.g. it would not be in the public interest or would cause unreasonable damage to a person's reputation).

## 7 Protections for disclosers

The PD Act (Vic) provides disclosers with appropriate protections including:

- statutory immunities for disclosers
- protection from detrimental action
- confidentiality.

These protections are discussed in the sections that follow.

### 7.1 Statutory immunities for disclosers

The PD Act (Vic) sets out the protections provided to people who make a disclosure in accordance with the Act.

These include:

- immunity from civil or criminal liability as well as administrative action (including disciplinary action) for making the disclosure
- immunity from committing an offence under the *Constitution Act 1975 (Vic)* or any other Act that imposes obligations of confidentiality or otherwise restricts the disclosure of information
- immunity from breaching any other obligation (made by oath or rule of law or practice) requiring the maintenance of confidentiality or otherwise restricting the disclosure of information
- protection from an action for defamation.

These protections apply to a disclosure from the time it is made and continue to apply even if the NHVR determines the disclosure does not comply with the requirements of the PD Act (Vic) or if IBAC determines that the disclosure is not a protected disclosure.

A person who honestly and in good faith provides information that on investigation turns out to be incorrect has the benefit of these protections. However, the protections do not apply to a person who knowingly provides false or misleading information or claims a matter is the subject of a protected disclosure knowing that claim to be false.

### 7.2 Confidentiality

A number of confidentiality obligations arise under the PD Act (Vic) and other laws relating to the receipt and investigation of protected disclosures.

If a discloser repeats their disclosure to someone other than as permitted by the PD Act (Vic), they may lose the protections of the PD Act (Vic). The NHVR will only disclose information about a discloser and the disclosure in accordance with the PD Act or other relevant law.

IBAC or the Ombudsman may disclose the identity of the discloser and the content of a disclosure if it is necessary to conduct the investigation.

## 8 Protections for the subject of the complaint

The NHVR acknowledges that for officers who are the subject of a disclosure the experience may be stressful. The NHVR will protect their rights by:

- assuring them that the disclosure will be dealt with impartially, fairly and reasonably in accordance with the principles of natural justice
- noting that the disclosure is an allegation only until information or evidence obtained through an investigation substantiates the allegation
- providing them with information about their rights and the progress and outcome of any investigation
- if they are an employee of the NHVR, referring them to the Employee Assistance Program for support.

Information and support will be provided to the subject officer until the matter is finalised.

## 9 Welfare management

The NHVR recognises that providing appropriate support to a discloser is important. Not all persons will require welfare support, and persons may need varying levels of welfare support during the process. An assessment will be undertaken to identify the support needs of the discloser and where appropriate, the NHVR will provide the discloser with a Support Officer.

Welfare support will be provided in accordance with the IBAC's [Guidelines for protected disclosure welfare management](#) (including where relevant management of the welfare of a person who is a witness in an investigation of a protected disclosure complaint).

The Support Officer will assist the discloser to access information about protected disclosures, protections available under the PD Act and the protected disclosure management process. The Support Officer will proactively contact the discloser to offer support.

Making a protected disclosure does not prevent reasonable management action. That means that the discloser will continue to be managed in accordance with normal, fair and reasonable management practices during and after the handling of the disclosure.

## 10 Offences

There are a number of offences set out in the PD Act (Vic) relating to breaches of the requirements of the Act—for example, it is an offence:

- to take detrimental action against another person in reprisal for a protected disclosure
- to disclose the content, or information about the content, of a disclosure that the NHVR has notified to IBAC or information which is likely to lead to the identification of the person who made that disclosure unless permitted by the Act
- for any person to:
  - 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
  - claim that a matter is the subject of a protected disclosure knowing the claim to be false
  - falsely claim that a matter is the subject of a disclosure that IBAC has determined to be a protected disclosure complaint
  - disclose that a disclosure has been notified to IBAC for assessment unless permitted to do so by the Act
  - disclose that a disclosure has been determined to be a protected disclosure complaint unless permitted to do so by the Act.

## 11 The NHVR's reporting obligations

The NHVR is obliged to include in its annual report details of guidelines for dealing with disclosures as well as the number of disclosures notified to IBAC during the financial year. In publishing this information the NHVR must not breach confidentiality or provide information from which the identity of a discloser or person the subject of a disclosure may be ascertained.

## 12 Discloser's right of review

If a discloser is concerned or believes that the disclosure is not being dealt with appropriately by the NHVR, the discloser may:

- contact other relevant authorities such as the Vic Ombudsman
- raise the matter with the NHVR's CEO for review and consideration of authorising another PID Coordinator for the disclosure
- make an independent disclosure to IBAC.

## 13 Roles and responsibilities

The following roles are responsible for the activities in this guideline.

Role	Responsibilities
Chief Executive Officer/Principal Officer	<ul style="list-style-type: none"> <li>• appoints one or more officers as the PID Coordinator</li> <li>• ensures the name and contact details of the NHVR's PID Coordinator is made available to all NHVR employees and officers</li> <li>• ensures procedures are made available for a person who wants to make an appropriate disclosure of public interest information to the NHVR in accordance with these guidelines.</li> </ul>
PID Coordinator Director, Governance, Risk, and Assurance	<ul style="list-style-type: none"> <li>• designated by the NHVR's CEO to: <ul style="list-style-type: none"> <li>○ receive disclosures about improper conduct or detrimental action relating to the NHVR, its employees or officers</li> <li>○ encourage the discloser to raise any concerns they have about potential detrimental outcomes that may be caused from the disclosure</li> <li>○ assess the disclosure and if it may be a protected disclosure, refer it to IBAC</li> <li>○ ensure compliance with the PD Act (Vic)</li> <li>○ ensure that the person making the disclosure is kept informed of progress in the investigation into the disclosure</li> <li>○ provide advice to NHVR staff in relation to their obligations, protections and offences under PD Act (Vic) and about this guideline.</li> </ul> </li> </ul>
Chiefs/Executive Directors/Directors/Managers/Supervisors	<ul style="list-style-type: none"> <li>• maintains a workplace culture that values professionalism, integrity and diligence</li> <li>• demonstrates positive ethical standards through their own conduct and communications at work and values all employees</li> <li>• creates a supportive reporting environment that encourages employees to report any concerns about wrongdoing</li> <li>• provides appropriate confidential support to employees who report suspected wrongdoing and provide assurance to them by making clear statements of support</li> <li>• liaises with the PID Coordinator and Manager People and Culture (HR) to ensure appropriate protective measures are in place for the discloser</li> <li>• monitors the workplace and taking all reasonable steps to minimise the risk of reprisal action towards the discloser</li> <li>• implements appropriate controls to prevent harm to the NHVR's assets and resources.</li> </ul>
Director, People, Safety, and Culture	<ul style="list-style-type: none"> <li>• appoints a welfare manager(s) for a disclosure matter.</li> </ul>
Welfare Manager	<ul style="list-style-type: none"> <li>• monitors the specific needs of the discloser or cooperator and provide them with practical advice and support</li> <li>• provides advice and information to discloser on the NHVR's protected disclosure procedure</li> <li>• provides personal support and referral to other sources of advice or support as required</li> <li>• facilitates updates on progress of investigation</li> <li>• proactively contacts discloser throughout the disclosure management process.</li> </ul>
Investigator	<ul style="list-style-type: none"> <li>• conducts investigation of information in a disclosure in accordance with terms of reference</li> <li>• prepares report for delegated decision-maker.</li> </ul>

Role	Responsibilities
Employee	<ul style="list-style-type: none"> <li>• conducts their duties to a high professional and ethical standard</li> <li>• seeks appropriate guidance if they have an ethical issue</li> <li>• immediately reports a matter, to a relevant authority, if they honestly believe that some wrongdoing has occurred</li> <li>• maintains confidentiality about the fact that a disclosure has been made, the information disclosed and the identity of those referred to in the disclosure</li> <li>• be prepared to assist in an investigation of the disclosure if requested by an investigator to provide information</li> <li>• reports any reprisal action to their workplace manager or appropriate NHVR officer.</li> </ul>

## 14 Definitions

The following terms are specific to this management standard.

Term	Definition
Corrupt conduct	<p>Corrupt conduct is defined in the IBAC Act, being to the effect that it is conduct, or an attempt or conspiracy to engage in conduct (whether it takes place inside or outside of Victoria), that either:</p> <ul style="list-style-type: none"> <li>• adversely affects the honest performance of the functions of a public officer or public body</li> <li>• constitutes or involves the dishonest performance of the functions of a public officer or public body</li> <li>• constitutes or involves knowingly or recklessly breaching public trust</li> <li>• involves the misuse of information or material acquired in the course of the performance of the functions of a public officer or public body</li> <li>• is intended to adversely affect the effective performance of the functions or powers of a public officer or public body and results in the person or their associate obtaining a specified benefit.</li> </ul> <p>Corrupt conduct is generally deliberate or intentional and not the result of a mistake or negligence.</p>
Detrimental action	<p>Action causing, comprising or involving any of the following:</p> <ul style="list-style-type: none"> <li>• injury, damage or loss</li> <li>• intimidation or harassment</li> <li>• discrimination, disadvantage or adverse treatment in relation to employment</li> <li>• dismissal from, or prejudice in, employment</li> <li>• disciplinary proceeding.</li> </ul>
Discloser	A person who makes a disclosure that may be a protected disclosure.
Entity that can receive disclosure	An investigating entity, a public service body within the meaning of the <i>Public Administration Act 2004 (Vic)</i> , a council (established under <i>Local Government Act 1989 (Vic)</i> ), or a public body or public officer prescribed for the purposes of the PD Act (Vic).

Term	Definition
Investigating entity	<p>Any of the following:</p> <ul style="list-style-type: none"> <li>• IBAC</li> <li>• the Victorian Ombudsman</li> <li>• the Victorian Police</li> <li>• the Victorian Inspectorate.</li> </ul> <p>In relation to disclosures about the conduct NHVR or its officers, only the first two are relevant.</p>
Independent Broad-based Anti-corruption Commission (IBAC)	A statutory corporation created by the IBAC Act. The principal functions of IBAC are listed in the IBAC Act.
IBAC Act	<i>Independent Broad-based Anti-corruption Commission Act 2011 (Vic).</i>
Protected disclosure	A disclosure that meets has been determined by IBAC under the PD Act (Vic) as meeting the requirements of the PD Act (Vic).
Public body	A public body within the meaning of the IBAC Act, IBAC, or any other body or entity prescribed for the purposes of this definition.
Public officer	A public officer within the meaning of the IBAC Act, an IBAC officer, or any other person prescribed for the purposes of this definition.
Public service body	A department, an administrative office, or the Victorian Public Sector Commission.
PID Coordinator	The Director, Governance, Risk, and Assurance or any officer authorised by the NHVR's Chief Executive Officer for the purposes of administering the PD Act (Vic).
Support Officer	The person nominated or appointed by the NHVR to support the discloser.

## 15 References

### 15.1 Other policies and procedures

- *Public Interest Disclosure Policy*
- *Code of Conduct Policy*
- *Conflict of Interest Policy*
- *Customer Complaints Management Policy*
- *Fraud and Corrupt Conduct Policy*
- *Whistle Blower Hotline Quick Guide*

### 15.2 Legislation

- *Protected Disclosure Act 2012 (Vic)*
- *Independent Broad-based Anti-corruption Commission Act 2011 (Vic)*

## Appendix A – Improper Conduct

As defined in section 4 of the PD Act (Vic).

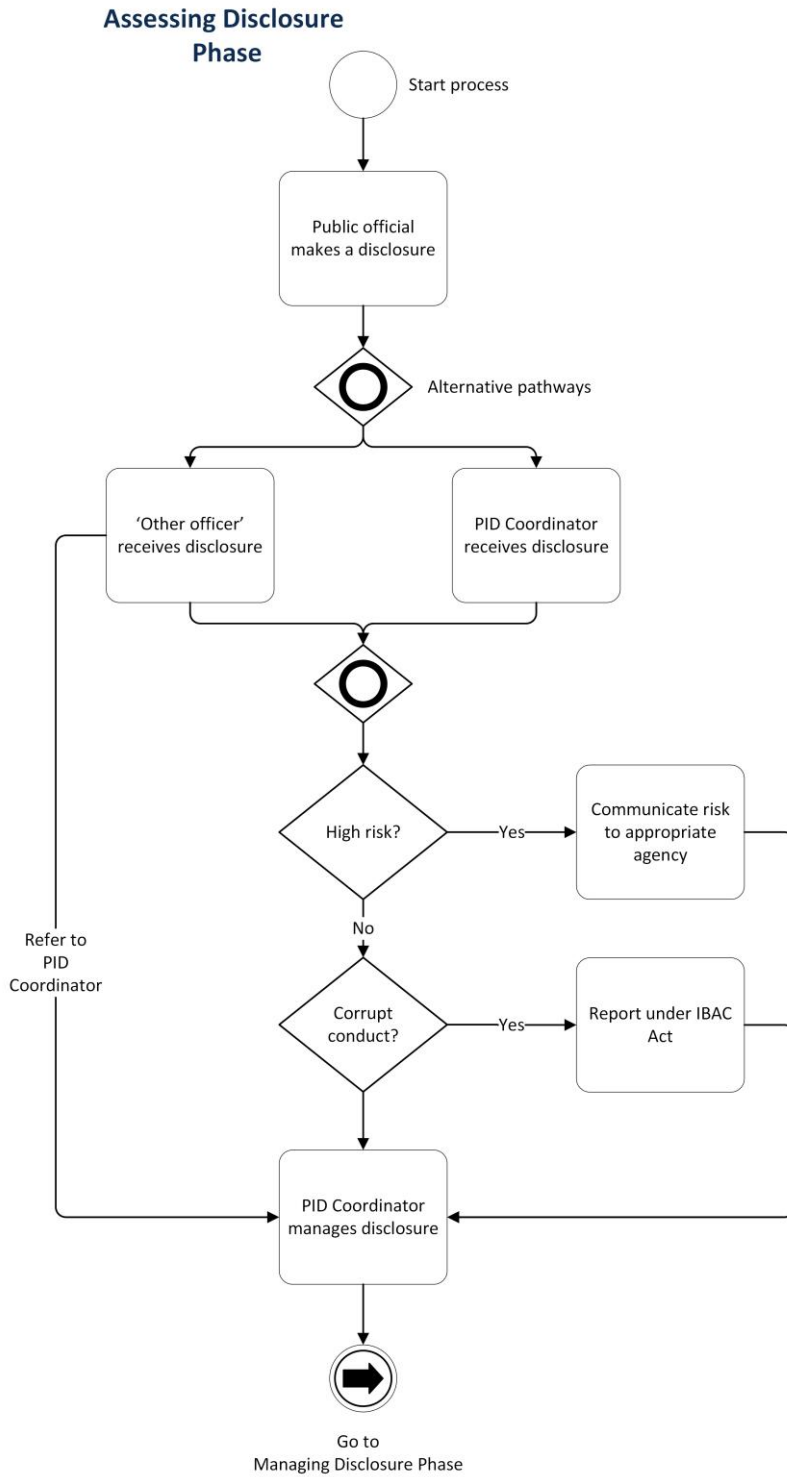
1. Improper conduct means—
  - (a) corrupt conduct; or
  - (b) conduct specified in subsection (2) that is not corrupt conduct but that, if proved, would constitute—
    - (i) a criminal offence; or
    - (ii) reasonable grounds for dismissing or dispensing with, or otherwise terminating, the services of the officer who was, or is, engaged in that conduct.
2. For the purposes of subsection (1)(b), specified conduct is conduct—
  - (a) 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; or
  - (b) 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; or
  - (c) of a public officer or public body that constitutes or involves knowingly or recklessly breaching public trust; or
  - (d) of a public officer or public body that involves the misuse of 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
  - (e) that could constitute a conspiracy or an attempt to engage in any conduct referred to in paragraph (a), (b), (c) or (d); or
  - (f) of a public officer or public body in his or her capacity as a public officer or its capacity as a public body that—
    - (i) involves substantial mismanagement of public resources; or
    - (ii) involves substantial risk to public health or safety; or
    - (iii) involves substantial risk to the environment.

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

1. For the purposes of this Act, corrupt conduct means conduct—
  - (a) 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; or
  - (b) 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; or
  - (c) of a public officer or public body that constitutes or involves knowingly or recklessly breaching public trust; or
  - (d) of a public officer or a public body that involves the misuse of 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
  - (da) of a person (the first person) 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 result in the first person or an associate of the first person obtaining—
    - (i) a licence, permit, approval, authority or other entitlement under any Act or subordinate instrument; or
    - (ii) an appointment to a statutory office or as a member of the board of any public body under any Act or subordinate instrument; or
    - (iii) a financial benefit or real or personal property; or
    - (iv) any other direct or indirect monetary or proprietary gain—
    - (v) that they would not have otherwise obtained; or
  - (e) that could constitute a conspiracy or an attempt to engage in any conduct referred to in paragraph (a), (b), (c), (d) or (da)— being conduct that would constitute a relevant offence.

# Appendix B – Protected Disclosure Act (Vic)

## Assessing disclosure phase



# Managing disclosure phase

