

## Public Interest Disclosure Procedure

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<b>Responsible executive:</b>	Chief Executive Officer
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## 1. Background

Ports Victoria encourages employees and members of the public to report known or alleged incidents of improper conduct. Ports Victoria does not tolerate the taking of reprisals against those who come forward to disclose improper conduct and will take all reasonable steps to protect those who made disclosures, or are connected with a disclosure, from any detrimental action in reprisal.

**It is important to note that anyone wishing to make a disclosure of improper conduct by Ports Victoria must do so directly with the Independent Broad-based Anti-Corruption Commission (IBAC)** (for further details, refer to “How do I make a public interest disclosure”).

## 2. About the Public Interest Disclosure Act

The *Public Interest Disclosures Act 2012 (Vic)* (Act):

- Encourages and facilitates disclosures about:
  - **Improper conduct**<sup>1</sup> by public officers, public bodies, or other persons
  - **Detrimental action**<sup>2</sup> taken against someone in retaliation for making a disclosure under the Act.
- Provides protection for:
  - Persons who make disclosures
  - Persons who may face reprisals or detrimental actions due to their disclosures.
- Ensures proper assessment and investigation of disclosures when necessary.
- Guarantees confidentiality regarding the content of the disclosures and the identity of the persons making them.

## 3. Who can make a public interest disclosure?

Any individual person or group of individuals can make a public interest disclosure about information that shows or tends to show, or that they believe, on reasonable grounds, shows or tends to show that:

- A public officer or public body
- Is engaging in, or proposing to engage in
- Improper conduct and/or detrimental action in reprisal against a person for making a public interest disclosure.

A company or a business cannot make a public interest disclosure.

### **Public officer and public body**

Ports Victoria is a public body and its employees are public officers. The improper conduct or detrimental action that is being alleged against a public officer must be linked to that person’s functions as a public officer or public body.

### *Improper conduct and detrimental action*

In assessing whether a complaint should be given public interest disclosure status, specific criteria set out in the Act will be used. A complaint should clearly show or suggest *improper conduct* or *detrimental action* by a public officer. The definitions of these terms can be found in **Attachment 1**. Anyone seeking protection under the Act should carefully consider whether their complaint meets these thresholds before reporting.

Examples of *improper conduct* may include where a Ports Victoria’s employee:

- takes a bribe or receives a payment other than his or her wages in exchange for the discharge of a public duty

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<sup>1</sup> Definition of improper conduct as per the Act included as a definition in Attachment 1.

<sup>2</sup> Definition of detrimental action as per the Act included as a definition in Attachment 1.

- sells confidential information
- favours unmeritorious applications for jobs by friends and relatives.

Examples of *detrimental action* may include:

- where a public body demotes, transfers, isolates in the workplace or changes the duties of a person who has made a disclosure due to the making of a disclosure
- A public officer threatens abuses or carries out other forms of harassment directly or indirectly against the person (and his or her family or friends) who makes a disclosure
- Where the public body discriminates against the person who makes a disclosure or his or her family and associates in subsequent applications for jobs, permits or tenders.

**Reasonable grounds:** You must believe (as opposed to know) that the improper conduct or detrimental action has occurred, is occurring or will occur and you must have reasonable grounds for that belief. This means that you need to have more than a suspicion or allegation. For example, it is not enough to say 'I know that X is corrupt'. You must have information that would lead a reasonable person to believe that the information shows, or tends to show, improper conduct or detrimental action.

## 4. How do I make a public interest disclosure?

If you wish to make a public interest disclosure about Ports Victoria or one of its employees, you should make that disclosure directly to IBAC at:

Level 1, North Tower  
459 Collins Street  
Melbourne VIC 3000

GPO Box 24234  
Melbourne VIC 3001

Phone: 1300 735 135

Information on making a disclosure can be found on the IBAC website [www.ibac.vic.gov.au](http://www.ibac.vic.gov.au) where you can find a secure online form to make a complaint or provide information. A protected disclosure must be made in private so it is important that only the person to whom you are making the disclosure can hear or receive your disclosure.

You do not have to identify yourself when making a disclosure. However, if your disclosure is anonymous, this may affect how the disclosure is investigated and you will not be notified of the outcome of any investigation. If you are making your disclosure verbally, the person receiving your disclosure may take notes of your discussion. The person receiving your disclosure may also want to record the conversation but will only do so with your permission. If you cannot be identified from the disclosure, the disclosure will be treated as an anonymous disclosure.

Where a complaint or feedback is made to Ports Victoria, we may refer the matter on to an appropriate external entity as authorised or required by law. Someone else can make a disclosure on your behalf, however, only that person will receive the full protection of the Act in relation to that disclosure. Your protection may be limited to confidentiality and protection against detrimental action taken against you in reprisal for the disclosure that has been made. You do not have to specifically refer to the Act or the protections in the Act for your disclosure to be a protected disclosure. You may also advise that you do not want your disclosure to be treated as a protected disclosure.

You may wish to bring the issue to Ports Victoria's attention directly regardless of the avenues under this procedure and the available protections you would receive under the Act otherwise. In doing so, your complaint will fall outside of this procedure, will not be treated as a public interest disclosure and will be dealt with in accordance with internal fraud and corruption policies and other applicable policies of Ports Victoria.

## 5. What will happen after I make a disclosure

Disclosures made directly to IBAC will be assessed and handled in accordance with the Act, their guidelines and processes. If IBAC determines that your complaint is not a disclosure about improper conduct or detrimental action, it may refer you to another agency or back to Ports Victoria.

## 6. What protections will I receive?

Pending IBAC assessment of your notification to IBAC, protections you may receive under the Act 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* 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; and
- Protection from an action for defamation.

These protections will not apply if you provide to IBAC false or misleading information or claim that a matter is the subject of a protected disclosure knowing that claim to be false.

In addition to these protections, Ports Victoria recognises that the welfare and protection from detrimental action of persons making genuine protected disclosures is essential for the effective implementation of the Act.

While the Act offers certain protections, you remain accountable for your own conduct. If you are personally involved in the reported improper conduct, you may still face reasonable consequences, including disciplinary action under the Act. In this instance, you may be referred to Ports Victoria's Chief Executive Officer (or delegate) to determine whether disciplinary or other action is appropriate. If the matter is under investigation by IBAC, Ports Victoria will consult with IBAC as needed before proceeding. Before taking any disciplinary action, the Chief Executive Officer (or delegate) must be satisfied that:

- the action is not linked to the act of disclosure itself, but to your actual conduct
- there are sufficient and justifiable grounds, as would apply to anyone else in the same circumstances
- it is reasonable and appropriate to exercise discretion to take disciplinary or other action.

Ports Victoria's Chief Executive Officer will:

- thoroughly document the reasons for any action taken
- inform you of the proposed action and any mitigating factors considered
- and consider whether an admission of involvement may be treated as a mitigating factor.

### Criminal offences

The Act establishes a number of criminal offences regarding public interest disclosures. These are outlined in the table contained in **Attachment 2**.

## 7. Ports Victoria's responsibilities

Although Ports Victoria cannot receive public interest disclosures under the Act, it may become aware of a disclosure such as when an external body (such as IBAC) commences an investigation involving Ports Victoria or its employees.

In such cases, Ports Victoria will:

- Cooperate with investigations
  - Respond promptly to requests for information from the investigating body

- Investigations will be coordinated by the Board Secretary and Senior Legal Counsel, unless the matter involves the Board Secretary and Senior Legal Counsel - in which case the Chief Executive Officer (or delegate) will manage Port Victoria's involvement.
- Maintain confidentiality
  - Keep your identity and the details of your disclosure confidential
  - Limit access to records to authorised personnel only
  - Take steps to prevent speculation or identification of your identity or cooperating persons.
- Manage risk of reprisal
  - Assess the risk of detrimental action related to the disclosure
  - Monitor the workplace, anticipate issues, and take early steps to address any concerns.
- Protect its employees (if known)
  - Provide welfare support and a safe working environment
  - Respond to concerns about harassment, intimidation, or victimisation
  - Offer support through Port Victoria's Employee Assistance Program
  - If the employee reports harassment or other adverse treatment, advise that such actions may form the basis of a further public interest disclosure and inform them of their right to report it to IBAC or another authorised entity.
  - Protect others involved
- For the person subject to the disclosure:
  - Acknowledge that the information is an allegation until proven and that they will be treated fairly in accordance with the rules of natural justice.
  - Maintain confidentiality and ensure no adverse consequences if the allegations are unsubstantiated.
  - Manage organisational impact and foster a supportive working environment.
  - Keep accurate and confidential records including actions, correspondence, and key discussions relating to the disclosure and investigation.

## 8. Public Interest Disclosure Coordinator

Ports Victoria's Public Interest Disclosure Coordinator (PIDC) has a central role with respect to disclosure matters, and in particular, for ensuring that the welfare of persons connected with a public interest disclosure is properly managed. The PIDC will:

- Provide a confidential source of advice for employees who can raise any conduct related concerns about their line managers, colleagues or supervisors.
- Be a contact point for general advice about the Act and for integrity agencies such as IBAC.
- Refer anyone wanting to make a disclosure or report detrimental action to the relevant investigative authority, such as IBAC.
- Be Ports Victoria's chief point of contact with IBAC about the Act.
- Take all necessary steps to ensure information received or obtained in relation to a disclosure is kept secure, private and confidential.
- Be responsible for arranging any necessary and appropriate welfare supports, including appointing a welfare manager.
- Report any required statistics under the Act in Port Victoria's Annual Reports.

The Public Interest Disclosure Coordinator for Ports Victoria is:

Mr John Giacchi  
Board Secretary and Senior Legal Counsel  
Ports Victoria  
East 1E, 13 – 35 Mackey Street  
NORTH GEELONG VIC 3215

As is the case for all public interest disclosures about Ports Victoria’s employees, if you wish to make a disclosure about the Public Interest Disclosures Coordinator, you must make your disclosure directly to IBAC.

## 9. Procedure Administration

Port Victoria’s Board Secretary and Senior Legal Counsel is responsible for the administration and maintenance of this Procedure. They are also the nominated Protected Interest Disclosure Coordinator. Their details are found above.

This procedure will be reviewed every three years unless required sooner. Changes in current legislative provisions and references and details of the Public Interest Disclosure Coordinator can be amended without the need for formal approval.

## 10. Related documents

1.	Guidelines for Handling Public Interest Disclosures IBAC <a href="https://www.ibac.vic.gov.au/publications-and-resources/article/guidelines-for-making-and-handling-protected-disclosures">https://www.ibac.vic.gov.au/publications-and-resources/article/guidelines-for-making-and-handling-protected-disclosures</a>
2.	Guidelines for Public Interest Disclosure Welfare Management IBAC <a href="https://www.ibac.vic.gov.au/publications-and-resources/article/guidelines-for-protected-disclosure-welfare-management">https://www.ibac.vic.gov.au/publications-and-resources/article/guidelines-for-protected-disclosure-welfare-management</a>

## 11. Version history

Version	Date	Name	Details
1.0	December 2022	Audit Committee	Approved by the Audit Committee
		Brendan Webb	Approved by CEO
2.0	25 March 2026	Audit Committee	For review by the Audit Committee
2.1	17 April 2026	John Giacchi	Minor edits made in response to Audit Committee suggestions
2.1	29 April 2026	Board	Approved by the Board

## Attachment 1 – Definition of “improper conduct” and “detrimental action”

Term	Definition
Improper conduct	<p>Improper conduct is defined as meaning: <sup>3</sup></p> <ul style="list-style-type: none"><li>a. corrupt conduct;</li><li>b. conduct that constitutes:<ul style="list-style-type: none"><li>i. a criminal offence;</li><li>ii. serious professional misconduct;</li><li>iii. dishonest performance of public functions;</li><li>iv. an intentional or reckless breach of public trust;</li><li>v. an intentional or reckless misuse of information or material acquired in the course of the performance of the functions of the public body or public officer;</li><li>vi. substantial mismanagement of public resources;</li><li>vii. substantial risk to the health or safety of one or more persons;</li><li>viii. substantial risk to the environment;</li></ul></li><li>c. conduct of any person that:<ul style="list-style-type: none"><li>i. adversely affects the honest performance by a public body or public officer of their functions as a public body or public officer;</li><li>ii. is intended to adversely affect the effective performance or exercise by a public body or public officer of their functions or powers as a public body or public officer and result in the person, or an associate of the person, obtaining an approval, appointment, financial benefit or monetary or proprietary gain that the person or associate would not have otherwise obtained; or</li></ul></li><li>d. conduct of any person that could constitute a conspiracy or attempt to engage in any of the conduct referred to above.</li></ul> <p>Conduct that is trivial or less serious is excluded from the definition of improper conduct.</p>
Detrimental action	<p>The Act makes it an offence for a person to take detrimental action against another person in reprisal for a public interest disclosure (that is, detrimental action taken against a person because a public interest disclosure has been made). Detrimental action is in the Act to include: <sup>4</sup></p> <ul style="list-style-type: none"><li>a. action causing injury, loss or damage;</li><li>b. intimidation or harassment; and</li><li>c. discrimination, disadvantage or adverse treatment in relation to a person’s employment, career, profession, trade or business, including the taking of disciplinary action.</li></ul>

## Attachment 2 – List of criminal offences

The Act establishes a number of criminal offences regarding public interest disclosures. These are outlined in the table below.

<sup>3</sup> Section 4.

<sup>4</sup> Section 3.

Offence	Penalty (maximum)	Section of Act
Taking detrimental action against a person in reprisal for a public interest disclosure being made	240 penalty units or two years imprisonment or both <i>Civil penalties may also apply – a court may order the offender to pay damages to compensate for injury, loss or damage.</i>	Section 45
Disclosing information about the content of an assessable disclosure without legislative authority	Individuals: 120 penalty units or 12 months imprisonment or both Bodies corporate: 600 penalty units	Section 52
Disclosing information likely to lead to the identification of a person who has made an assessable disclosure without legislative authority	Individuals: 120 penalty units or 12 months imprisonment or both Bodies corporate: 600 penalty units	Section 53
Knowingly providing false information with the intention that the information is to be acted on as a public interest disclosure	120 penalty units or 12 months imprisonment or both	Section 72(1)
Knowingly providing further information in relation to a public interest disclosure that the person knows is false or misleading	120 penalty units or 12 months imprisonment or both	section 72(2)
Falsely claiming that a matter is the subject of a public interest disclosure	120 penalty units or 12 months imprisonment or both	section 73(1)
Falsely claiming that a matter has been determined to be a public interest disclosure complaint by IBAC or the Inspectorate	120 penalty units or 12 months imprisonment or both	section 73(2)