

# Protected Disclosure Policy

## Policy Objective

In accordance with section 58 (5) of the *Protected Disclosure Act 2012 (the Act)*, this policy establishes:

- a system for the protection of persons who make a protected disclosure under *the Act* from detrimental action by officers, members, employees and contractors of TAFE Gippsland; and
- ensures that all other requirements of *the Act* are met.

## Scope

This policy covers all operations of TAFE Gippsland. This policy does not apply to allegations of improper conduct, workplace grievances or complaints which are not within the scope of the Act, and which are dealt with under other TAFE Gippsland policies and procedures (see Supporting Documents: Internal Policy & Procedures).

Officers, employees and contractors of TAFE Gippsland, and members of the public, may make a disclosure of improper conduct or detrimental action under the Act to the Independent Broad-based Anticorruption Commission (IBAC), the Ombudsman and TAFE Gippsland Protected Disclosures Co-ordinator. A disclosure can be verbal or in writing and can be anonymous.

A disclosure must be about the conduct of a person, public officer or public body in their capacity as a public body or public officer.

A disclosure may:

- only be made by a natural person (or a group of individuals making joint disclosures), disclosures cannot be made by a company or an organisation;
- be made anonymously;
- be made even where the discloser is unable to identify precisely the individual or the organisation to which the disclosure relates; and
- also be a complaint, notification or disclosure (however described) made under another law.

Disclosures of improper or corrupt conduct that do not meet the definition of a protected disclosure under *the Act* and are therefore not made to IBAC, will be investigated in accordance with TAFE Gippsland's policies and procedures.

This policy operates independently of TAFE Gippsland's specific policies, procedures and guidelines for the resolution of complaints against employees.

## Commitment

TAFE Gippsland is committed to the aims and objectives of *the Act* which are:

- to encourage and facilitate disclosures of improper conduct by public officers and public bodies; and
- to provide protection for persons who:
  - make those disclosures, and
  - may suffer reprisals in relation to those disclosures; and
- to provide for the matters disclosed to be properly investigated and dealt with.

*The Act* encourages and facilitates making disclosures of improper conduct by Public Bodies their employees, and protects persons who make those disclosures.

TAFE Gippsland does not tolerate improper conduct by its employees or officers, or the taking of reprisals against those who come forward to disclose such conduct. TAFE Gippsland supports the making of disclosures that reveal corrupt conduct, conduct involving a substantial mismanagement of public resources, or conduct involving a substantial risk to public health and safety or the environment.

TAFE Gippsland will take all reasonable steps to protect people who make such disclosures from any detrimental action in reprisal for making the disclosure.

A discloser is not protected against legitimate management action being taken by TAFE Gippsland in accordance with *the Act*.

Where a disclosure is made to TAFE Gippsland, to assess whether there is improper conduct or detrimental action, an independent investigator will look critically at all available information about the alleged conduct and about the discloser. If any person reports an incident of harassment, discrimination or adverse treatment that may amount to detrimental action apparently taken in reprisal for a disclosure, the Risk and Compliance Manager must record details of the incident and advise the person of their rights under *the Act*.

If the disclosure satisfies the requirements of Part 2 of *the Act*, TAFE Gippsland is required to determine whether the disclosure may be a protected disclosure by going through the two step assessment process recommended by the IBAC. (**Refer CMT018GDE – Protected Disclosure Guidelines**).

If TAFE Gippsland decides the disclosure may be a protected disclosure, it will notify IBAC of the disclosure. If TAFE Gippsland does not consider the disclosure to be a protected disclosure, then it may be a matter that TAFE Gippsland otherwise deals with through any other relevant internal complaint or grievance management processes.

TAFE Gippsland will support disclosers and co-operators by:

- keeping them informed;
- providing active support;
- managing their expectations by undertaking an early discussion with them;
- maintaining confidentiality;
- protecting the discloser or co-operator.

In appropriate circumstances, the TAFE Gippsland will appoint a Welfare Manager to protect a discloser or a co-operator.

TAFE Gippsland will afford natural justice to the subject of a disclosure prior to any decision being made about the allegations.

This policy is publicly available on the TAFE Gippsland website.

## Roles and Responsibilities

### Employees, Staff, and Contractors

Employees, staff and contractors are encouraged to:

- raise matters of concern in relation to TAFE Gippsland, including about any employee, staff or contractor;
- report known or suspected incidences of improper conduct or detrimental action in accordance with this policy and associated guidelines, whether such conduct or action has taken place, is suspected will take place, or is still occurring;
- support those who have made a legitimate disclosure in accordance with *the Act*;
- refrain from any activity that is, or could be perceived to be, victimisation or harassment of a person who makes a disclosure; and
- protect and maintain the confidentiality of a person they know or suspect to have made a disclosure.

### Direct and Indirect Supervisors and Managers

Employees of TAFE Gippsland who wish to make a protected disclosure may make that disclosure to their direct or indirect supervisor or manager.

If a person wishes to make a Protected Disclosure about an employee of TAFE Gippsland, that person may make the disclosure to that employee's direct supervisor or a manager.

The supervisor or manager receiving the disclosure will:

- immediately bring the matter to the attention of the Risk and Compliance Manager for further action in accordance with *the Act*;
- commit to writing down any disclosures made orally;
- take all necessary steps to ensure the information disclosed, including the identity of the discloser and any persons involved, is secured, remains private and confidential; and
- offer to remain a support person for the discloser in dealing with the Risk and Compliance Manager.

### Risk and Compliance Manager

The Risk and Compliance Manager will:

- provide general advice about the operation of *the Act* for any person wishing to make a disclosure about improper conduct or detrimental action;
- make arrangements for a disclosure to be made privately and discreetly and, if necessary, away from the workplace;
- receive any disclosure made orally or in writing from internal or external sources;
- commit to writing any disclosure made orally;
- take all necessary steps to ensure the information disclosed, including the identity of the discloser and any persons involved, is secured, remains private and confidential;
- impartially assess the allegation and consider whether it is a disclosure required to be notified to the IBAC for assessment under s 21 of *the Act*; and
- where appropriate, support a discloser and to protect them from any detrimental action taken in reprisal for making a Protected Disclosure.

## Related Legislation/Regulation

- [Protected Disclosure Act 2012 \(Vic\)](#)
- [Freedom of Information Act 1982 \(Cth\)](#)
- [Independent Broad-based Anti-Corruption Commission Act 2011 \(Vic\)](#)

## Related Policy and Procedures

- CMT021POL - Fraud and Corruption Policy
- CMT021PLN - Fraud and Corruption Control Plan
- CMT017POL - Gifts, Benefits and Hospitality Policy
- PAC021COC- Staff Code of Conduct
- PAC019POL – Employee Performance Management and Misconduct Policy
- PAC003POL – Grievance Resolution Policy

## Related Documents

- CMT018GDE – Protected Disclosure Guidelines
- [Guide to Protected Disclosures Protected Disclosure Act 2012 \(Vic\)](#)
- [Guidelines for handling public interest disclosures, January 2020 - IBAC](#)
- [Guidelines for public interest disclosure welfare management, January 2020 - IBAC](#)

## Definitions

<b>Disclosure</b>	The term disclosure is interpreted under <i>the Act</i> in the ordinary sense of the word, for example, as a “revelation” to the person receiving it. The IBAC considers that a complaint or allegation that is already in the public domain will not normally be a protected disclosure. Such material would, for example, include matters which have already been subject to media or other public commentary.
<b>IBAC</b>	<a href="#">Independent Broad-based Anti-Corruption Commission Victoria</a>

<b>Improper Conduct (s4 the Act)</b>	<p>Means:</p> <p>(1) For the purposes of this Act, improper conduct means—</p> <ul style="list-style-type: none"> <li>(a) corrupt conduct; or</li> <li>(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.</li> </ul> <p>(2) For the purposes of subsection (1)(b), specified conduct is conduct—</p> <ul style="list-style-type: none"> <li>(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</li> <li>(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</li> <li>(c) of a public officer or public body that constitutes or involves knowingly or recklessly breaching public trust; or</li> <li>(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</li> <li>(e) that could constitute a conspiracy or an attempt to engage in any conduct referred to in paragraph (a), (b), (c) or (d); or</li> <li>(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.</li> </ul> <p>(3) This Act does not apply to any conduct of any person that can be considered by the Court of Disputed Returns in proceedings in relation to a petition under Part 8 of the <i>Electoral Act 2002</i>.</p>
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## Version Control

Item	Summary of Update	Version	Review Date
1	Original Document	1.0	30/06/2014
2	Revised	2.0	01/08/2019
3	Document reviewed and updated to adopt new template and naming conventions.	2.1	25/01/2023

## Appendices

Nil.