

Public Interest (Whistleblower) Disclosure Policy

Section 1 - Background and Purpose

(1) To inform staff and students about how the University manages the welfare of persons entitled to be protected under the [Public Interest Disclosures Act 2012](#).

Section 2 - Scope

(2) This Policy applies to all campuses, all staff, and all Council members.

Section 3 - Policy Statement

(3) The University is committed to the aims and objectives of the [Public Interest Disclosures Act 2012](#). It encourages the reporting of alleged improper conduct relating to the University or a member, officer or employee of the University directly to the [Independent Broad-based Anti-corruption Commission \(IBAC\)](#), and will take all reasonable steps to protect a person who discloses improper conduct from any detrimental action in reprisal from making the disclosure. In addition, it will manage the welfare of those persons and others connected with or the subject of a protected disclosure in accordance with the requirements of the [Act](#).

Section 4 - Procedures

Part A - Who Can Make a Public Interest Disclosure?

(4) Any person can make a Public Interest Disclosure. Disclosures cannot be made by a company or an organisation.

Part B - What is a Public Interest Disclosure?

(5) The broad definition of a Public Interest Disclosure refers to any allegation of corrupt or improper conduct relating to a public sector body such as the University.

(6) A disclosure may be made about:

- a. improper conduct of public bodies or public officers (including the University, employees and Council members);
or
- b. detrimental action taken by public bodies or public officers in reprisal against a person for making a public interest disclosure.

(7) The conduct or action being disclosed about may be one which has taken place, is still occurring, or is believed is intended to be taken or engaged in.

Improper Conduct

(8) Improper conduct is defined in the [Public Interest Disclosures Act 2012](#) and refers to the following categories of conduct:

- a. Corrupt conduct (defined by [IBAC Act 2011](#))
- b. Criminal offense
- c. Serious professional misconduct
- d. Dishonest performance of public functions
- e. Intentional or reckless breach of public trust
- f. Intentional or reckless misuse of information
- g. Substantial mismanagement of public resources
- h. Substantial risk to the environment
- i. Conduct of any person that adversely affects the honest performance by a public officer of their functions
- j. Conduct of any person that is intended to adversely affect the effective performance by a public officer of their functions for the benefit of the other person

Detrimental Action

(9) Detrimental action is defined by the [Public Interest Disclosures Act 2012](#) and includes:

- a. action causing injury, loss or damage;
- b. intimidation or harassment; and
- c. discrimination, disadvantage or adverse treatment in relation to a person's employment, career, profession, trade or business, including the taking of disciplinary action.

(10) A person takes detrimental action against another person in reprisal for a public interest disclosure if:

- a. the person takes, or threatens to take, detrimental action against the other person because, or in the belief that:
 - i. the other person or anyone else has made, or intends to make, the disclosure; or
 - ii. the other person or anyone else has cooperated, or intends to cooperate, with an investigation of the disclosure; or
- b. for either of the reasons above, the person incites or permits someone else to take or threaten to take detrimental action against the other person.

Part C - How Can a Disclosure Be Made?

(11) If a person wishes to make a public interest disclosure, they should make the disclosure directly to [IBAC](#).

(12) The Act permits disclosures to be made verbally or in writing. The disclosure can be anonymous. The disclosure need not necessarily identify the person or organisation complained about.

(13) Verbal disclosures must be made in private to IBAC or the Victorian Ombudsman. All forms of non-written electronic communication are acceptable i.e. voicemails.

(14) IBAC prefers that written disclosures are made via their [online form](#). If a disclosure is made by an unidentifiable email, the disclosure will be treated as an anonymous disclosure.

(15) For further information about how to make a disclosure to IBAC, please refer to the [IBAC Guidelines for Handling](#)

Can the University receive Public Interest Disclosures?

(16) The University is not a body that may receive public interest disclosures. Therefore, if a person wishes to make a disclosure about the University or its staff, they should make that disclosure to [IBAC](#).

Part D - Protections Available

Protections Available to Disclosers and Persons who are Subject of Public Interest Disclosures

(17) The University will provide appropriate support to disclosers and persons who are subject of disclosures, this includes:

- a. protecting the confidentiality of the disclosers and subjects identity and information that is likely to lead to the identification of the disclosers;
- b. protecting the discloser and subject from victimisation or reprisal action or detrimental action against a person in reprisal for a disclosure; and
- c. providing appropriate welfare support given the circumstances of the case.

Limitations on Protections Afforded to Disclosers

(18) A discloser will lose legal protection if they provide false or misleading information, or falsely claim that a matter has been determined by IBAC to be a public interest disclosure.

(19) A discloser or subject is not protected against legitimate management actions taken by the University.

(20) The discloser or subject is held liable for their own conduct that they disclose as part of making a public interest disclosure.

If the Discloser is Implicated in the Improper Conduct

(21) The University acknowledges that the act of disclosing should not shield disclosers from the reasonable consequences flowing from any involvement in improper conduct. However, in some circumstances, an admission may be a mitigating factor when considering disciplinary or other action.

Part E - Welfare Support

(22) The University will take reasonable steps to provide appropriate welfare support to, disclosers, subjects and people who have cooperated or intend to cooperate with an investigation of a public interest disclosure complaint ("co-operators").

(23) The University will support disclosers and co-operators by:

- a. Keeping them informed to the extent possible
- b. Providing active support
- c. Managing their expectations
- d. Proactively assessing the risk of detrimental action
- e. Examine the immediate welfare and protection needs of the person
- f. Appoint a welfare manager to coordinate welfare support if a disclosure is assessed to require additional support

- g. Maintaining confidentiality

Part F - Public Interest Disclosure Coordinator

(24) The University's Public Interest Disclosure Coordinator (who is noted below) has a central role in dealing with all public interest disclosure matters and ensuring that the welfare of any persons connected with a public interest disclosure is properly managed.

(25) The Public Interest Disclosure Coordinator is:

- a. the contact point for general advice about the operation of the Act and for integrity agencies such as IBAC;
- b. responsible for ensuring that the University carries out its responsibilities under the Act, any regulations made pursuant to the Act and any guidelines issued by IBAC;
- c. the University's chief liaison with IBAC in regard to the [Public Interest Disclosures Act 2012](#);
- d. to take all necessary steps to ensure information received or obtained in connection with a disclosure, including the identities of the discloser and the person(s) to whom the disclosure relate, are kept secured, private and confidential at all times;
- e. responsible for arranging any necessary and appropriate welfare support for the discloser, including appointing a Welfare Manager to support a person entitled to be protected and to protect them from any reprisals; and
- f. to collate statistics required to be reported by the University in its annual reports under the Act.

(26) The Public Interest Disclosure Coordinator appointed by the University is:

Senior Manager, Risk, Audit & Insurance
Public Interest Disclosure Coordinator
La Trobe University Bundoora Victoria 3086
Tel: (03) 9479 6788
Email: risk.services@latrobe.edu.au

Part G - Confidentiality

(27) The University will take all reasonable steps to protect the identity of the discloser and the matters disclosed by them. These reasonable steps extend to protecting the identity of co-operators and subjects where required.

(28) Disclosers may consider whether it is in their best interests not to discuss any related matters other than with officers of IBAC, another investigative entity, or other persons authorised by law.

Information Management

(29) The University will ensure all files, whether paper or electronic, are kept in a secure manner. All printed material will be kept in files that are clearly marked as a 'Public Interest Disclosure Act' matter. All electronic files will be password-protected or have strict limitations on access rights. Backup files will be kept on suitable removable medium to which access will also be strictly restricted.

(30) Sensitive information will not be emailed to a machine or account to which staff have general access.

(31) The Welfare Manager will not divulge any details relating to the disclosed matter to any person other than the Public Interest Disclosure Coordinator or an investigator appropriately authorised under the Act or the [IBAC Act](#). All phone calls and meetings will be conducted discreetly and in private.

Exemption from the Freedom of Information Act 1982 (“FOI Act”)

(32) The [Public Interest Disclosures Act 2012](#) provides that certain information related to public interest disclosures as contained in documents in the possession of the University will be exempt from the application of the FOI Act. Such information excluded includes:

- a. any information relating to a disclosure made in accordance with the Act; and
- b. any information that is likely to lead to the identification of a discloser.

(33) The University is required to contact IBAC prior to providing any document originating from IBAC or relating to a public interest disclosure sought under the FOI Act.

Section 5 - Definitions

(34) For the purpose of this Policy and Procedure:

- a. discloser: A person who (purports to) make(s) a complaint, allegation or disclosure (however described) under the Act.
- b. disclosure: Any complaint, concern, matter, allegation or disclosure (however described) purported to be made in accordance with Part 2 of the Act.
- c. Guidelines: The Guidelines published by IBAC under s57 of the Act [IBAC Guidelines for Handling Public Interest Disclosures](#).
- d. IBAC: Independent Broad-based Anti-corruption Commission.
- e. IBAC Act: [Independent Broad-Based Anti-Corruption Commission Act 2011](#).
- f. public interest disclosure: Any complaint, concern, matter, allegation or disclosure (however described) made in accordance with Part 2 of the [Public Interest Disclosures Act 2012](#).
- g. public interest disclosure complaint: A public interest disclosure which has been determined and assessed by IBAC to be a public interest disclosure complaint under s 26 of the Act.

Status and Details

Status	Current
Effective Date	15th February 2022
Review Date	15th February 2025
Approval Authority	Vice-Chancellor
Approval Date	15th February 2022
Expiry Date	Not Applicable
Responsible Manager - Policy	Linda Robertson General Counsel & Director of Assurance
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