

## Public Interest Disclosure Policy

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### 1 Introduction

As a public body, Geelong Regional Library Corporation (GRLC) is subject to the Public Interest Disclosures Act 2012 (the Act). GRLC supports the making of Public Interest Disclosures and will take all reasonable steps to protect people who make such disclosures from any detrimental action in reprisal for making the disclosure.

### 2 Purpose

This purpose of this policy's objectives are to:

- complement normal communication channels between supervisors and employees;
- encourage the reporting of wrongdoing;
- outline the procedure for making a Public Interest Disclosure;
- enable GRLC to investigate reports from disclosers appropriately and in compliance with GRLC's legal and regulatory obligations; and
- ensure individuals who disclose wrongdoing can do so safely, securely and with confidence that they will be protected and supported.

This Policy has been drafted to comply with the Act.

### 3 Scope

This Policy applies to any individual (or group of individuals) making a Public Interest Disclosure, that is, a disclosure of Improper Conduct or Detrimental Action, engaged in by:

- GRLC; or
- an employee of GRLC; or
- a person that is adversely affecting (or is intended to adversely affect) the honest performance of GRLC or an employee of GRLC.

GRLC can also receive disclosures made by its own members, officers or employees.

## 4 Definitions

**Corrupt Conduct** - Corrupt Conduct (within the meaning given by section 4 of the Independent Broad-based Anti-Corruption Act 2011 (Vic)) means conduct, other than trivial conduct:

- Of any person (whether or not a public officer) that adversely affects the honest performance of a public officer's or public body's functions;
- Of a Public Officer or Public Body that constitutes or involves the dishonest performance of their or its functions as a public officer or public body;
- Of a Public Officer or Public Body that constitutes or involves knowingly or recklessly breaching public trust;
- Of a Public Officer or Public Body that involves the misuse of information or material acquired in the course of the performance of their or its official 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;
- That could constitute a conspiracy or an attempt to engage in any of the above conduct

**Detrimental Action** - Detrimental Action includes:

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

**IBAC** - Independent Broad-based Anti-corruption Commission

**Improper Conduct** - Improper Conduct means:

- (a) Corrupt Conduct;
- (b) Conduct of a Public Officer or Public Body in their capacity as a Public Officer or a Public Body that constitutes:
  - i) a criminal offence;
  - ii) Serious Professional Misconduct;
  - iii) dishonest performance of public functions;
  - iv) an intentional or reckless breach of public trust;
  - v) an intentional or reckless misuse of information or material acquired in the course of the performance of the functions of the public officer or public body;
  - vi) a substantial mismanagement of public resources;
  - vii) a substantial risk to health or safety of one or more persons;
  - viii) a substantial risk to the environment; or
- (c) Conduct of any person that:
  - i) adversely affects the honest performance by a Public Officer or Public Body of their functions as a Public Officer or Public Body; or
  - ii) is 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 person, or an associate of the person, obtaining:

- a licence, permit, approval, authority or other entitlement under any Act or subordinate instrument;
- an appointment to a statutory office or as a member of the board of any public body under any Act or subordinate instrument;
- a financial benefit or real or personal property; or
- any other direct or indirect monetary or proprietary gain that the person or associate would not have otherwise obtained; or

iii) that would constitute a conspiracy or attempt to engage in any of the conduct referred to above in (e) i) – ii).

**Public Body** - Public Body is defined at section 6 of the Public Interest Disclosures Act to mean:

- (a) *a public body within the meaning of section 6 of the Independent Broad-based Anti-corruption Commission Act 2011; or*
- (b) the IBAC; or
- (ba) the Victorian Inspectorate; or
- (c) any other body or entity prescribed for the purposes of this definition.

**Public Interest Disclosure** - A disclosure of:

- a) Information that shows or tends to show:
  - i. a person, Public Officer or Public Body has engaged, is engaging or proposes to engage in Improper Conduct; or
  - ii. a Public Officer, or Public Body has taken, is taking or proposes to take Detrimental Action against a person because they have made, or are believed to have made, a public interest disclosure;
- b) Information that the person reasonably believes, shows or tends to show:
  - i. a person, Public Officer or Public Body has engaged, is engaging or proposes to engage in Improper Conduct; or
  - ii. a Public Officer, or Public Body has taken, is taking or proposes to take Detrimental Action against a person because they have made, or are believed to have made, a Public Interest Disclosure.

**Public Interest Disclosures Act** - *Public Interest Disclosures Act 2012 (Vic)*.

**Public Officer** - Public Officer is defined at section 6 of the Public Interest Disclosures Act to mean:

- (a) *a public officer within the meaning of section 6 of the Independent Broad-based Anti-corruption Commission Act 2011; or*
- (b) an IBAC Officer; or
- (ba) a Victorian Inspectorate Officer; or
- (bb) a Public Interest Monitor; or

any other person prescribed for the purposes of this definition.

**Serious Professional Misconduct** - Serious Professional Misconduct will include conduct that:

- involves a serious failure to exhibit the skills or experience required to perform the responsibilities of the office; and/or
- constitutes a serious breach of an established professional code of conduct; and/or other serious departures from the person's professional responsibilities.

Factors that will be considered when assessing whether misconduct is serious are:

- persistent, repeated or premeditated behaviour;
- risks posed to others or the consequences of the behaviour (including for the public officer and others);
- the level of public trust and responsibility attached to the public office;
- the amount of money involved in the wrongdoing;
- how the conduct is perceived by the person's peers;
- whether the conduct would result in significant disciplinary or potentially criminal penalties;
- the size of the discrepancy between what the person should have done and what they did; and
- whether it should have been apparent to the person that they were wrong.

**Staff** - All GRLC employees (including permanent, part-time, fixed-term, temporary, intern, secondee and casual employees) and volunteers engaged to undertake activities for or on behalf of GRLC.

## **5 What should be reported under this Policy?**

- 5.1 You may make a disclosure of Improper Conduct or Detrimental Action under this Policy. For a disclosure to be assessed by GRLC, the disclosure must be about the conduct of those individuals or organisations identified above.
- 5.2 Your disclosure can relate to conduct or action that may have already taken place, may be occurring now, or may happen in the future.
- 5.3 Where a disclosure concerns a public officer of a public body other than GRLC, and GRLC is satisfied that you honestly believed that GRLC was the appropriate entity to make a disclosure to, GRLC may assess the disclosure in accordance with this Policy and notify IBAC, the Victorian Inspectorate or the Integrity and Oversight Committee (as applicable and if appropriate). Otherwise, you will be advised of the correct person to whom, or body to which, the disclosure should be directed.

## 6 How should a disclosure be made?

- 6.1 You may make a Public Interest Disclosure, including an anonymous disclosure (see below at 6.6), to the following recipients, over the phone (or by leaving a voicemail message), in person, or in writing (by post, personal delivery or email) to:

Position	Name/s	Phone/s	Email/s	Address/s
Public Interest Disclosures Coordinator, Finance and Payroll Coordinator	Amanda Daniels	(03) 4201 0506	amanda.daniels@grlc.vic.gov.au	51 Little Malop Street, Geelong VIC 3220

If you are an employee of GRLC you may also make a disclosure to your supervisor or the Chief Executive Officer.

- 6.2 All verbal disclosures must be made in private, between you and the Public Interest Disclosures Coordinator, and your lawyer or support person (if applicable).
- 6.3 All correspondence, phone calls and emails from internal or external persons who make Public Interest Disclosures will be referred at first instance to the Public Interest Disclosures Coordinator.
- 6.4 The Public Interest Disclosures Coordinator will confirm that your disclosure has been received within 5 working days.
- 6.5 Alternatively, a Public Interest Disclosure may be made directly to any of the following bodies:

### The Independent Broad-based Anti-Corruption Commission:

Address: Level 1, North Tower, 459 Collins Street, Melbourne, Victoria 3001  
GPO Box 24234, Melbourne, Victoria 300  
Internet: [www.ibac.vic.gov.au](http://www.ibac.vic.gov.au)  
Email: [info@ibac.vic.gov.au](mailto:info@ibac.vic.gov.au)  
Phone: 1300 735 135  
TTY users phone: 1800 555 677

### The Victorian Ombudsman

Address: Level 2, 570 Bourke Street, Melbourne, Victoria 3000  
DX210174 Melbourne  
Internet: [www.ombudsman.vic.gov.au](http://www.ombudsman.vic.gov.au)  
Phone: 03 9613 6222 (1800 806 314 – regional only)  
TTY users phone: 133 667 then 03 9613 6222  
Telephone Interpreter: 131 450

### The Victorian Inspectorate

Address: PO Box 617, Collins St West 8007

## **6.6 Making an anonymous disclosure or a complaint you wish not to be dealt with as a Public Interest Disclosure**

6.6.1 You do not need to identify yourself to make a disclosure. An anonymous disclosure can be made by:

- (a) using an unverifiable email address;
- (b) through an anonymous phone call; or
- (c) having a face-to-face conversation or meeting where you refuse to identify yourself (provided the meeting or conversation takes place in private).

6.6.2 If you do not want your complaint to be treated as a Public Interest Disclosure, you should state so in writing at the time, or within 28 days, of making the disclosure.

## **7 Receiving and assessing disclosures**

### **7.1 Assessment by GRLC**

7.1.1 Where a disclosure is received by the Public Interest Disclosures Coordinator, the Public Interest Coordinator will make an initial assessment about whether it is a Public Interest Disclosure. That initial assessment will be documented in writing. You will be given prior warning if the conversation will be recorded and you may object to the recording if you wish.

7.1.2 The Public Interest Disclosures Coordinator may make reasonable inquiries in order to form their view as to whether the disclosure is a Public Interest Disclosure. You will be advised of the outcome of this assessment within 28 days.

### **7.2 Where a disclosure is assessed to be a Public Interest Disclosure**

7.2.1 Where the Public Interest Disclosures Coordinator concludes that the disclosure amounts to a Public Interest Disclosure, they will:

- (a) notify IBAC, the Victorian Inspectorate or the Integrity and Oversight Committee (as appropriate) of the Public Interest Disclosure and provide relevant information about the Public Interest Disclosure to that body; and
- (b) notify you that the disclosure has been notified to the relevant body for assessment.

7.2.2 IBAC, the Victorian Inspectorate or the Integrity and Oversight Committee (as appropriate) will then assess the Public Interest Disclosure in accordance with the Act to determine whether it should be dealt with by that body. The relevant body to whom your disclosure has been notified will then notify you and GRLC of its decision.

### **7.3 Where a disclosure is assessed not to be a Public Interest Disclosure**

7.3.1 Where the Public Interest Disclosures Coordinator concludes that the disclosure is not a Public Interest Disclosure, he or she will notify you that:

- (a) GRLC does not consider that the disclosure shows or tends to show Improper Conduct or Detrimental Action;
- (b) the disclosure has not been notified to IBAC, the Victorian Inspectorate or the Integrity and Oversight Committee for assessment under the Act; and
- (c) your identity does not need to be kept confidential, but the protections under Part 6 of the Act continue to apply.

7.3.2 GRLC will consider whether your disclosure should be dealt with according to its normal complaint handling procedures.

## **8 What protections and support will a discloser receive?**

### **8.1 Welfare management**

8.1.1 GRLC may appoint a welfare manager to coordinate any necessary welfare support for you, or any person who is involved in the investigation of your disclosure (i.e. any witnesses).

8.1.2 The welfare manager will monitor your specific needs and provide you with practice advice and support, if required and as is reasonable.

### **8.2 Protection against Detrimental Action**

8.2.1 It is an offence for a person to take, threaten to take or allow another person to take Detrimental Action against you in reprisal for making a Public Interest Disclosure and any such action will not be tolerated GRLC.

8.2.2 You are encouraged to report any incident of Detrimental Action to your Welfare Manager or the Public Interest Disclosures Coordinator as soon as possible. GRLC will investigate any such report and initiate disciplinary action against any staff who take (or are involved with) Detrimental Action. In certain circumstances, you may also request a permanent or temporary transfer of your employment.

8.2.3 You may also make a Public Interest Disclosure about Detrimental Action being taken against you in reprisal for making an earlier disclosure. If this occurs, GRLC will treat this as a new disclosure under this Policy and the Act.

8.2.4 The Act does not prevent a manager from taking reasonable management action against you, provided that the making of the Public Interest Disclosure is not the reason for the management action being taken.

### **8.3 Confidentiality**

8.3.1 GRLC takes its obligations under the Act seriously, including those related to confidentiality.

8.3.2 GRLC is prohibited from disclosing the content of the Public Interest Disclosure and any information likely to lead to your identification unless, among other things:

- (a) it is exercising its functions under the Act;
- (b) IBAC determines the disclosure is not a public interest complaint;

- (c) the disclosure is for the purpose of assisting you to seek advice or support from a registered health practitioner or trade union or employee assistance program;
- (d) the disclosure is to WorkCover for a workers compensation claim or to the Fair Work Commission for an application;
- (e) in accordance with a direction of IBAC or another investigating entity who is investigating the disclosure, and if necessary for taking lawful action in relation to the conduct that is the subject of the disclosure (including disciplinary action); or
- (f) you have provided written consent for information that would identify you to be disclosed.

8.3.3 To comply with these obligations, GRLC will:

- (a) advise the Public Interest Disclosures Coordinator that it is an offence (with a fine and/or imprisonment resulting if proven) to breach these confidentiality obligations;
- (b) store all paper files in relation to public interest disclosures securely, accessible only by the Public Interest Disclosures Coordinator, or a welfare manager (in relation to welfare matters); and
- (c) store all electronic files on a secure network location and be given password protection.

## **8.4 Protections under the Act**

8.4.1 If your complaint is assessed by GRLC as a Public Interest Disclosure, you will receive immunity from:

- (a) civil or criminal liability, or liability by way of administrative action (including disciplinary proceedings) in relation to the making of the disclosure (rather than its subject matter);
- (b) 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;
- (c) 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
- (d) liability for defamation in respect of the information included in the disclosure.

8.4.2 These protections apply to a Public Interest Disclosure from the time it is made and continue to apply, irrespective of whether the disclosure is notified to IBAC, or IBAC determines that the disclosure is a public interest complaint.

8.4.3 However, a number of these protections will not apply if you:

- (a) knowingly provide false or misleading information; or
- (b) claim that a matter is the subject of a Public Interest Disclosure knowing the claim to be false.

8.4.4 You will also still be liable for your own conduct, even if you have disclosed that conduct.

## **9 What protections and support will a person implicated in the disclosure receive?**

- 9.1 Welfare support will be offered to the subject of a Public Interest Disclosure, on a case by case basis. However, given the confidentiality obligations under the Act, it is possible that the subject of a disclosure will not be notified of the disclosure.
- 9.2 GRLC may give information to the subject of the disclosure about the allegation made against them in some circumstances, such as:
  - 9.2.1 if it is directed or authorised to do so by the entity investigating the disclosure; or
  - 9.2.2 for the purpose of taking action with respect to the alleged conduct, including disciplinary action.
- 9.3 GRLC will take all reasonable steps to ensure the person's confidentiality during the assessment and any ensuing investigation. Where the disclosure is dismissed or investigations do not substantiate the allegations, confidentiality will be maintained in relation to the subject's identity, as well as the fact of the investigation and any results.
- 9.4 The subject of an allegation must be afforded natural justice before a decision is made about their conduct, including being informed of the substance of the allegations against them and having an opportunity to answer the allegations before a final decision is made.
- 9.5 If someone has been the subject of allegations that are wrong or unsubstantiated, GRLC and the investigating entity will take steps to prevent any adverse consequences for the person arising out of the disclosure or its investigation.

## **10 Review**

This Policy will be reviewed from time to time or as legislation is amended, in light of current good practice and regulatory advice.

It replaces GRLC Policy and Procedure – Protected Disclosure.