Making, handling and managing protected disclosures

Procedures for the Department of Education and Training

**CONTENTS**

| If you wish to make a protected disclosure, contact the Department’s Protected Disclosure Coordinator, or any of the Protected Disclosure Officers, whose contact details are found on page 6 of this document. |
| --- |

[INTRODUCTION 3](#_Toc521924707)

[WHAT IS A DISCLOSURE? WHAT CAN IT BE ABOUT? 4](#_Toc521924712)

[HOW IS A PROTECTED DISCLOSURE MADE? WHO SHOULD IT BE MADE TO? 5](#_Toc521924712)

WHO CAN A DISCLOSURE BE MADE TO IN THE DEPARTMENT? 6

WHAT PROCESS NEEDS TO BE FOLLOWED IN MAKING A DISCLOSURE? 7

[WHAT HAPPENS AFTER A DISCLOSURE IS MADE? 7](#_Toc521924712)

[PROTECTIONS, OBLIGATIONS AND OFFENCES 8](#_Toc521924713)

PROTECTIONS, OBLIGATIONS AND OFFENCES APPLICABLE TO DISCLOSERS 9

Protections to disclosers 9

Obligations and offences 9

PROTECTIONS, OBLIGATIONS AND OFFENCES APPLICABLE TO OTHERS 10

Protections 10

Obligations and offences 10

[WELFARE MANAGEMENT 11](#_Toc521924720)

WELFARE SUPPORT TO A DISCLOSER OR CO-OPERATOR 11

WELFARE SUPPORT TO PEOPLE WHO ARE THE SUBJECT OF PROTECTED DISCLOSURES 12

[INFORMATION SECURITY, REPORTING AND REVIEW 13](#_Toc521924723)

INFORMATION SECURITY 13

REPORTING AND REVIEW 14

FIGURE 1 - ASSESSMENT AND NOTIFICATION FLOW CHART 15

SCHEDULE 1: WHO CAN RECEIVE DISCLOSURES ABOUT THE DEPARTMENT OF EDUCATION AND TRAINING AND ITS OFFICERS/EMPLOYEES 16

SCHEDULE 2: SUMMARY OF ROLES AND RESPONSIBILITIES IN RELATION TO PROTECTED DISCLOSURES 17

SCHEDULE 3: WELFARE SERVICES THAT SHOULD BE PROVIDED BY THE DEPARTMENT 19

# INTRODUCTION

The *Protected Disclosure Act 2012* (**the Act**) encourages and facilitates people to make disclosures of improper conduct by public officers and public bodies, and detrimental action taken in reprisal for a person making a disclosure under the Act, and protects persons who make those disclosures.

The Department of Education and Training (**the Department**) is committed to the aims and objectives of the Act. The Department actively promotes the Department’s values which include integrity and accountability in its administrative and management practices, and supports the making of disclosures that reveal corrupt conduct, conduct involving substantial mismanagement of public resources, or conduct involving a substantial risk to public health and safety or the environment.

This document explains the Department's procedures in relation to making, handling and managing protected disclosures under the Act. It is aimed at:

* people who are thinking about making, or who have made, a disclosure of improper conduct to the Department, including both employees of the Department and members of the public
* departmental employees who may handle disclosures about improper conduct, including managers and supervisors
* people who are affected by disclosures of improper conduct, including employees who cooperate in an investigation and employees who are the subject of disclosures.

The procedures have been prepared in accordance with the Act and taking into account guidelines issued by the Independent Board-based Anti-corruption Commission (**IBAC**) which are available at [www.ibac.vic.gov.au](http://www.ibac.vic.gov.au)

The procedures are designed to complement the usual ways complaints can be made to the Department and other public bodies within its portfolio.

* Members of the public can find information to make a complaint about government schools, childcare or children’s services, curriculum and examinations, regulation of schools, Victorian Registered Training Organisations and Department employees in the Complaints section on the Department’s website: <https://www.education.vic.gov.au/about/contact/Pages/complaintslanding.aspx>
* Employees are encouraged to raise matters with their managers at any time
* Employees can report suspected fraud, corruption and serious conflicts of interest to the Department’s Speak Up service on 1800 633 462 or by email to [educationspeakup@pkf.com.au](mailto:educationspeakup@pkf.com.au) or directly to the Department’s Fraud and Corruption Control Unit at [fraud.control@edumail.vic.gov.au](mailto:fraud.control@edumail.vic.gov.au)

# WHAT IS A DISCLOSURE? WHAT CAN IT BE ABOUT?

A **disclosure** is a report about:

* **Improper conduct** by a person, public officer or public body, or
* **Detrimental action** that a public officer or public body has taken against a person in reprisal for them having made a protected disclosure or cooperated with the investigation of a protected disclosure.

A disclosure can be made where a person has information that is based on **‘reasonable grounds’** that shows, or tends to show, that such conduct or action has occurred, may be occurring now or may happen in the future.

Reasonable grounds does not have to be based on actual proof however must be more than ‘mere suspicion’ or conclusion that is unsupported by further information, facts or circumstances.

A **protected disclosure** is a disclosure which meets requirements specified in the Act.

A **public body** includes the Department, a statutory authority and a government school council, and a **public officer** includes an employee in the Department, a statutory authority, or a school council employee.

An employee includes (is not limited to) a person who is employed in any capacity or holding any office in the public sector, within the meaning of section 4(1) of the *Public Administration Act 2004*, and an ongoing employee or temporary employee in the teaching service under the *Education and Training Reform Act 2006*.

Section 6(1)(y) of the *Independent Broad-based Anti-corruption Commission Act 2011* (**IBAC Act**) specifies a public officer includes ‘a person that is performing a public function on behalf of the State or a public officer or public body (whether under contract or otherwise). Therefore, contractors and consultants that are engaged to perform public functions on behalf of the Department are included where the term **employee** is referred to throughout this document.

**Improper conduct** must, at its lowest threshold level, be either criminal conduct or conduct serious enough to result in a person's dismissal. It is defined to include 'corrupt conduct' or 'specified conduct'.

**Corrupt conduct** is conduct:

* of any person that adversely affects the honest performance by a public officer or public body of their official functions
* of a public officer or public body that:
  + - 1. constitutes or involves a dishonest performance of their official functions
      2. constitutes or involves knowingly or recklessly breaching public trust
      3. involves misuse of information or material that was obtained in their official capacity
* that could constitute a conspiracy or attempt to engage in any of the above conduct
* intended to adversely affect the effective performance of a public officer or public body which leads to a benefit as described in the Act.

AND WOULD CONSTITUTE:

* an indictable offence against an Act (offences punishable for 5 years or more are presumed to be indictable offences), or
* the common law offences of attempting to pervert the course of justice, perverting the course of justice, bribery of a public official or misconduct in public office.

**Specified conduct** is conduct:

* captured by corrupt conduct (as described above), or
* conduct of a public officer or public body in their official capacity that:
  + - 1. involves a substantial mismanagement of public resources
      2. involves a substantial risk to public health or safety, or
      3. involves a substantial risk to the environment.

AND WOULD CONSTITUTE:

* a criminal offence, or
* a reasonable ground for dismissing a person.

**Detrimental action** is action (including threatened action) taken against a person in reprisal for making a protected disclosure where that action includes:

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

Detrimental action does not include legitimate management action taken in relation to an employee who has made a protected disclosure; for example, management action where there are good and sufficient grounds that would justify the action against any other employee in the same circumstances.

# HOW IS A PROTECTED DISCLOSURE MADE? WHO SHOULD IT BE MADE TO?

The Act only allows certain people and entities to receive disclosures and their ability to receive disclosures depends on whom the disclosure is about. It also requires disclosures to be made in particular ways. If a disclosure is made to the wrong person, or in the wrong way, it will not be given the protections available under the Act.

The Department may only receive disclosures about its conduct or the conduct of its employees. Disclosures about the Department and its employees and officers can also be made to IBAC, who can receive disclosures about any public officer or public body (except IBAC or an IBAC officer). For a list of where a disclosure about persons or bodies related to the Department can be made to see**Schedule 1**.

If in doubt about who to make a disclosure to, unless it is about IBAC, make it to IBAC (this can be done on its website [www.ibac.vic.gov.au](http://www.ibac.vic.gov.au) or via telephone 1300 735 135).

## Who can a disclosure be made to in the Department?

A disclosure about the Department or its employees can be made to these Departmental officers:

* the Department's Protected Disclosure Coordinator or Deputy Coordinator:

Jonathan Kaplan

Protected Disclosure Coordinator

Executive Director, Integrity and Assurance Division

Department of Education and Training

Phone: (03) 7022 0119

Email: [kaplan.jonathan.e@edumail.vic.gov.au](mailto:kaplan.jonathan.e@edumail.vic.gov.au)

Bella Stagoll

Deputy Protected Disclosure Coordinator

Director Integrity, Integrity and Assurance Division

Department of Education and Training

Phone: (03) 7022 0120

Email: [stagoll.bella.v@edumail.vic.gov.au](mailto:stagoll.bella.v@edumail.vic.gov.au)

* If they are unavailable, these Protected Disclosure Officers:

Ashley Hurrell

Manager, Fraud & Corruption Control Unit

Integrity and Assurance Division

Department of Education and Training

Phone: (03) 7022 0121

Email: [hurrell.ashley.k@edumail.vic.gov.au](mailto:hurrell.ashley.k@edumail.vic.gov.au)

Kylie Leah

Principal Investigator, Fraud & Corruption Control Unit

Integrity and Assurance Division

Department of Education and Training

Phone: (03) 7022 0135

Email: [leah.kylie.k@edumail.vic.gov.au](mailto:leah.kylie.k@edumail.vic.gov.au)

Jeevanie Amarasekera

Ombudsman and IBAC Coordinator

Integrity and Assurance Division

Department of Education and Training

Phone: (03) 7022 0122

Email: [amarasekera.jeevanie.t@edumail.vic.gov.au](mailto:amarasekera.jeevanie.t@edumail.vic.gov.au)

* These other officers of the Department:
  + - 1. if the person making a disclosure is an employee of the Department: a supervisor or manager of that employee
      2. if the disclosure relates to an employee of the Department: a supervisor or manager of the employee, or
      3. the Secretary of the Department.

## What process needs to be followed in making a disclosure?

Some key points are:

* only an individual or group of individuals can make a disclosure. A company or business cannot make one itself (although its officers or employees can)
* it is not necessary for a person making a disclosure to refer to the Act or to say that they want their disclosure to be a protected disclosure for it to be treated as a disclosure under the Act and have the protections under the Act
* a person making a disclosure can say they do not want the disclosure to be treated as a protected disclosure, but they must do so in writing at the time the disclosure is made
* a person may make a disclosure anonymously.

A disclosure may be made **orally** or **in writing**.

An **oral** (or verbal) disclosure must be made:

* + - 1. in person to a person listed above, or
      2. by telephone or voice mail message to a person listed above

AND

* + - 1. in private.

**In private** means that the person making the disclosure reasonably believes that the only people who are present or able to listen to the conversation are themselves, a person authorised to receive the disclosure and a lawyer (if any) representing the discloser.

A **written** disclosure must be:

* + - 1. delivered personally to the Department, or
      2. sent by post addressed to the Department, or
      3. sent by email to the official email address of a person listed above.

A written disclosure cannot be made by another method (e.g. it cannot be made by fax).

If a written disclosure is made by email, it should only be sent to the email address of the person to whom the disclosure is being made, rather than a group email, or copying others to the email.

If a disclosure is made orally, the person receiving the disclosure should make notes. They can also record the conversation, but only if the discloser gives permission.

# what happens after a disclosure is made?

A disclosure made to the Department, if not made to the Protected Disclosure Coordinator, must be referred to the Protected Disclosure Coordinator as soon as possible. Managers and supervisors who receive protected disclosures must notify the Protected Disclosure Coordinator, or a Protected Disclosure Officer if the Coordinator is not available, by telephone or email at the details provided above. They must also follow the information security procedures outlined in page 13 of this document.

The Protected Disclosure Coordinator will then assess whether the disclosure meets the requirements of the Act.

* This must be done within 28 days.
* In order to do this assessment, the Protected Disclosure Coordinator or a Protected Disclosure Officer may need to seek further information from the discloser.

The Protected Disclosure Coordinator will also consider what welfare support the Department should provide to the discloser and any precautions that should be taken to prevent detrimental action being taken in reprisal for the disclosure having been made. This is discussed further in pages 11 to 13 below.

Sometimes, a disclosure may be about conduct that may pose an immediate threat to the health and safety of people, or the preservation of property, or may constitute serious criminal conduct. In those circumstances, the Department may take action, including referring a matter to Victoria Police, before it has completed its assessment.

When the Protected Disclosure Coordinator has made an assessment:

* if they consider that the disclosure ***meets*** the requirements of the Act: they will notify IBAC and inform the discloser that IBAC has been notified
* if they consider that the disclosure ***does not meet*** the requirements of the Act: they will inform the discloser of this.

If the Protected Disclosure Coordinator determines that a disclosure does not meet the requirements of the Act, it may still (if appropriate) be dealt with under the relevant Department complaint handling process.

Where the Department has notified a matter to IBAC, IBAC must then, within a reasonable time, notify the discloser whether it has determined that the disclosure is a 'protected disclosure complaint' or not.

A diagram containing more detail of the Department’s and IBAC’s processes is at **Figure 1**.

A number of people in the Department have roles and responsibilities in relation to protected disclosures. These are summarised in the table at **Schedule 3**.

# protections, obligations and offences

In order to facilitate the making of disclosures, and the proper assessment and investigation of disclosures, the Act contains a number of protections, obligations and offences. These apply to:

* persons who make disclosures, and
* public officers and others with knowledge of the disclosure.

## Protections, obligations and offences applicable to disclosers

### Protections to disclosers

The Act contains a number of protections for a discloser, including:

* 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
* protection from an action for defamation, and
* protections from detrimental action taken in reprisal for the making of a protected disclosure.

These protections apply to a protected disclosure from the time a disclosure is made, even if the Department does not notify the disclosure to IBAC.

However, these protections will not apply if a discloser provides information intending that it be acted on as a protected disclosure, or further information that relates to a protected disclosure, knowing it to be false or misleading.

Further, these protections will not:

* affect any liability of a discloser for their own conduct if they have disclosed that conduct under the Act
* protect the discloser from legitimate management action being taken in relation to them
* apply to any disclosures made to other individuals or agencies outside the process of the Act. For example, they would not apply if a protected disclosure is repeated in public.

### Obligations and offences

Confidentiality obligations are imposed on disclosers. In particular, it is an offence for a discloser to disclose that:

* a disclosure has been referred to IBAC for assessment
* IBAC has determined that a disclosure is a protected disclosure complaint, and
* IBAC has decided to investigate or refer a protected disclosure complaint.

There are limited exceptions to these offence provisions, which include disclosures for the purpose of obtaining legal advice or to a person's spouse or domestic partner. However, those other persons will also be subject to the same confidentiality obligations.

It is also an offence for a discloser to:

* provide information intending that it be acted on as a protected disclosure, or further information that relates to a protected disclosure, knowing it to be false or misleading; and
* falsely claim that a matter is a protected disclosure or a protected disclosure complaint.

## Protections, obligations and offences applicable to others

### Protections

The Act provides protections to an employee of the Department who discloses, in good faith and in accordance with the scheme of the Act, information to another officer of the Department or to IBAC in dealing with a disclosure. They include:

* 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
* immunity from civil or criminal liability as well as administrative action (including disciplinary action) for disclosing the information.

### Obligations and offences

The Act imposes confidentiality obligations in relation to disclosures that may be protected disclosures.

It is an offence for a person or body who received such a disclosure, or who receives information about a disclosure from IBAC, to disclose information about the content of such a disclosure. A number of exceptions apply to this offence provision, including where the disclosure is:

* + - 1. necessary for the purpose of exercising functions under the Act
      2. for the purpose of obtaining legal advice or representation
      3. after IBAC has determined that such a disclosure is not a protected disclosure complaint
      4. in accordance with a direction or authorisation from IBAC (or, in some cases, the Victorian Ombudsman)
      5. necessary for the purpose of taking lawful action in relation to the conduct that is the subject of the disclosure, including a disciplinary process or action.

It is also an offence for any person or body to disclose information likely to lead to the identification of a person who has made such a disclosure. Some exceptions apply to this offence provision, including where the disclosure is:

* + - 1. necessary for the purpose of exercising functions under the Act
      2. for the purpose of obtaining legal advice or representation
      3. after IBAC has determined that such a disclosure is not a protected disclosure complaint
      4. by IBAC after and in accordance with the consent of the discloser.

A person who receives information under the exceptions to the confidentiality obligations will also be subject to the obligations themselves.

The Act also creates a number of offences and protections in relation to detrimental action.

* It is an offence to take, or threaten to take, detrimental action against another person because the other person has made, or intends to make a disclosure, or has cooperated with, or intends to cooperate with, an investigation of a disclosure.
* Civil liabilities can also be imposed against a person who takes detrimental action against another person in reprisal for a protected disclosure.
* An employee of the Department who has made a protected disclosure and reasonably believes that detrimental action will be, has been or may be taken against them, may request a transfer of employment.

A disclosure of detrimental action may itself be a protected disclosure which must also be dealt with in accordance with these procedures.

## welfare management

The Department recognises that the welfare and protection from detrimental action of people who make protected disclosures, and people who cooperate with the investigation of protected disclosures, is essential for the effective implementation of the Act.

The Department has obligations under the Act to prevent employees taking detrimental action against people who make disclosures and against people who cooperate with investigations into disclosures. The Department also has obligations under the Act to keep confidential information about the identity of a person who has made a protected disclosure and information about the content of such a disclosure.

The Department has additional obligations as both an employer and public body to ensure a safe working environment. These arise under the *Occupational Health and Safety Act 2004*, the *Public Administration Act 2004* and the common law. The *Charter of Human Rights and Responsibilities Act 2006* will also be relevant to the decisions and actions the Department takes.

Given the Department's obligations, in its handling of protected disclosures, the Department will provide welfare support to:

* people who make protected disclosures
* people who cooperate with investigations of protected disclosures, and
* people who are the subject of protected disclosures.

The type of support provided will be dependent on the individual circumstances.

## Welfare support to a discloser or co-operator

Welfare support to a discloser or co-operator should be provided as outlined in **Schedule 3**. It may also be provided through the appointment of a welfare manager.

A welfare manager may be an internal person or a person engaged as a contractor. The Department will also consider referring an employee to its Employee Assistance Program. In determining whether to appoint a welfare manager in any particular case, the Department will consider:

* whether the disclosure has proceeded, or is likely to proceed, to an investigation
* whether there are any real risks of detrimental action against the persons involved, taking into account their particular circumstances
* whether the Department can provide effective support to the persons involved, including keeping them informed of the progress of the disclosure, and
* whether it is within the Department's power to protect the person(s) involved from suffering repercussions.

A welfare manager is responsible for:

* examining the discloser and/or co-operator's immediate welfare and protection needs and, where that person is an employee, fostering a supportive work environment
* providing practical advice and support
* advising the discloser and/or co-operator of the protections available under the Act
* receiving and responding to any disclosures of detrimental action in reprisal for making the disclosure (e.g. harassment, intimidation or victimisation)
* ensuring that the discloser and/or witness' expectations of the process and outcomes are realistic
* maintaining confidentiality, and
* operating discreetly to protect the discloser and/or co-operator from being identified as being involved in a protected disclosure.

If a welfare manager is appointed to look after a discloser or witness, the welfare manager will only be required to provide reasonable support and will discuss the issue of reasonable expectations with the person(s) they are supporting.

The welfare of a discloser or co-operator is also supported by the confidentiality obligations and protections from detrimental action explained in more detail in pages 9 to 11 above. In particular, an employee of the Department who has made a protected disclosure and reasonably believes that detrimental action will be, has been or may be taken against them, may request a transfer of employment. Whether a transfer can or will be made in a particular case will, however, be dependent on a number of factors.

## Welfare support to people who are the subject of protected disclosures

Until a protected disclosure complaint is resolved (either by dismissing or investigating it) the information about a person who is the subject of a disclosure only constitutes an allegation.

Whether a person who is the subject of a disclosure is informed about an allegation made against them depends on the circumstances. It is possible the subject may never be told about the disclosure if it is not determined to be a protected disclosure complaint, or if a decision is made to dismiss the matter.

Nevertheless, there will be circumstances when the subject of a disclosure will be given information about the content of an allegation made against them, particularly where IBAC or another investigating entity investigates a protected disclosure complaint or where the Department takes action in respect of the conduct. Where this occurs, the Department will provide welfare support as appropriate, including through a referral to the Department's Employee Assistance Program.

The Department will take reasonable steps to ensure the confidentiality of an employee who is the subject of a disclosure during an assessment of a disclosure and any subsequent investigation. Where a disclosure is dismissed, or investigations do not substantiate the allegations, confidentiality should be maintained in relation to the subject’s identity, as well as the fact of the investigation and any results.

If an employee has been the subject of allegations that are wrong or unsubstantiated, then the Department or IBAC (or other investigating entity) will take steps to ensure there are no adverse consequences for the employee arising out of the disclosure or its investigation. This is particularly crucial where information has been publicly disclosed that has identified the employee, but is also important where such information has become well known across the area where the employee works.

# information security, reporting and review

## Information security

To ensure the confidentiality of protected disclosure matters, the following must occur:

* The **Protected Disclosure Coordinator** must ensure that all central files relating to a protected disclosure, whether paper or electronic, are kept in a locked receptacle or appropriately secure system that can only be accessed by protected disclosure officers.
* All printed material held in the Department concerning protected disclosure matters must be kept in files that are clearly marked as a Protected Disclosure Act matter, and warn of the criminal penalties that apply to any unauthorised person disclosing information concerning a protected disclosure, including the content of a protected disclosure or the identity of a discloser.
* The Protected Disclosure Coordinator must ensure that all electronic protected disclosure records that are registered in the Department’s records management systems, have:
  + - 1. adequate security restrictions on all files
      2. no ability for high level data administrators to view them.
* All electronic files that are stored outside the Department’s computer network (such as on an approved portable storage device) must be given password protection.
* **All employees** must take care to preserve the confidentiality of information in relation to protected disclosures. For example:
  + - 1. care must be taken when emailing information relevant to a protected disclosure. For example, ensure that only the discloser has access to the email account
      2. all phone calls and meetings in relation to a protected disclosure must be conducted in private
      3. hard copy documents for transmission should be placed in two successive windowless envelopes which are sealed and marked “private and confidential” and “to be opened by addressee only”, and personally delivered wherever possible.

## Reporting and review

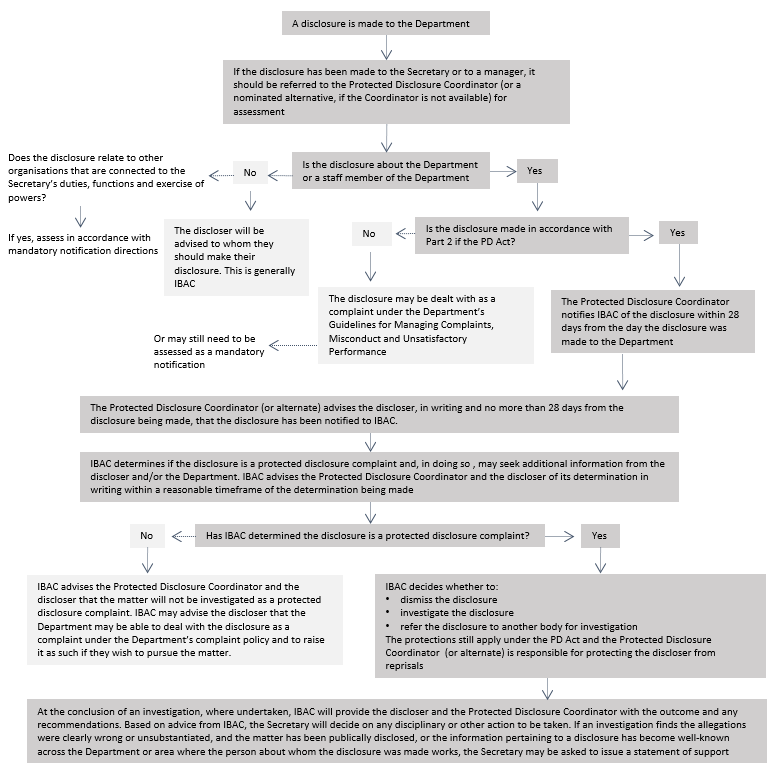
The Department must collect and publish in its annual report, for each financial year, information about:

* how to access the procedures established by the Department under the Act, and
* the number of disclosures notified to IBAC for determination.

The Protected Disclosure Coordinator is responsible for collecting this information.

These procedures must be reviewed regularly to ensure they meet the objectives of the Act and accord with IBAC's guidelines.

# figure 1: Assessment and notification flow chart



# schedule 1: Who can receive disclosures about the Department of Education and Training and its officers/employees

|  |  |
| --- | --- |
| **The subject of the disclosure** | **Who to make the disclosure to** |
| The Department of Education and Training | Department or IBAC |
| The Department of Education and Training employee/s, including contractors, consultants and school based employees | Department or IBAC |
| The Department of Education and Training officer/s | Department or IBAC |
| Merit Protection Board | Department or IBAC |
| Disciplinary Appeals Boards | Department or IBAC |
| Children’s Services Coordination Board | Department or IBAC |
| Victorian Children’s Council | Department or IBAC |
| A University | IBAC |
| A TAFE | IBAC |
| A School Council | IBAC |
| Victorian Curriculum and Assessment Authority | IBAC |
| Victorian Registration and Qualifications Authority | IBAC |
| Adult, Community and Further Education Board | IBAC |
| Adult Migrant English Service (AMES) | IBAC |
| Centre for Adult Education (CAE) | IBAC |
| Victorian Institute of Teaching | IBAC |
| Victorian Skills Commission | IBAC |
| Freedom of Information Commissioner | IBAC or the Ombudsman |
| Privacy Commissioner | IBAC or the Ombudsman |

# Schedule 2: Summary of roles and responsibilities in relation to protected disclosures

| Person | Roles and responsibilities |
| --- | --- |
| Employees | Become familiar with these procedures  Report known or suspected incidents of improper conduct or detrimental action to the Protected Disclosure Coordinator, a manager (either their own manager or the manager of the person to whom the allegations relate), the Secretary or IBAC  Maintain the confidentiality of disclosures they make, including their identity, the content of the disclosure and if the disclosure has been referred to IBAC |
| Managers/supervisors | Become familiar with these procedures  Report known or suspected incidents of improper conduct or detrimental action to the Protected Disclosure Coordinator  Receive disclosures either about people who report to them (directly or indirectly) or from people who report to them (directly or indirectly)  When receiving disclosures, being responsible for:   * making sure they are received in private, away from the workplace if necessary * receiving disclosures verbally or in writing, and recording verbal disclosures in writing * forwarding disclosures and supporting material in a secure way and in a timely manner to the Protected Disclosure Coordinator, or any of the Department’s Protected Disclosure Officers, if the Protected Disclosure Coordinator is not available * assisting the Protected Disclosure Coordinator to assess information about a disclosure * taking necessary steps to ensure the identity of a person who has made a disclosure is kept confidential * considering whether any immediate action should be taken with respect to a disclosure. Any potential action should be discussed with the Protected Disclosure Coordinator before it is taken. * support, and maintain the confidentiality of, people who may have made a protected disclosure * do not disclose the content of a disclosure, including the identity of the person who the disclosure is about, unless an exception applies * do not do anything that is, or may be reasonably perceived to be, victimisation or harassment of a person who has made a protected disclosure (this does not include legitimate management action) |
| Protected Disclosure Coordinator | Give general advice about the making of disclosures  Receive disclosures about the Department, its employees and officers  Receive disclosures which have been made to the Secretary and managers or supervisors  Assess whether a disclosure may be a protected disclosure  Notify IBAC of protected disclosures and provide relevant information to IBAC  Inform people who make disclosures of the result of the Department's assessment of their disclosure  If a disclosure is notified to IBAC, inform the discloser that it is an offence under the Act to inform anyone that the disclosure has been notified to IBAC  Consider appropriate welfare support for a discloser and others involved in a protected disclosure, including the appointment of a welfare manager  Liaise with managers and supervisors about the appropriateness of taking immediate action  Facilitate the provision of information to IBAC and/or the Victorian Ombudsman in relation to the investigation of protected disclosure complaints  Maintain systems to keep information confidential, including by maintaining information security systems  Compile statistics and information for the Department's annual report  Ensure procedures are reviewed regularly |
| Secretary | Receive disclosures  Consider transfer of employees subject to detrimental action  Ensure appropriate systems are in place  Ensure a safe working environment |

# Schedule 3: Welfare services that should be provided by the Department

|  |  |
| --- | --- |
| **Inform** | At a minimum:   * confirm that the disclosure has been received * make information about the legislative or administrative protections available to the person * describe the action proposed to be taken * if action has been taken, provide details about results of the action |
| **Provide active support** | * Acknowledge the discloser for having come forward * Provide the person with assurance that they have done the right thing and the Department appreciates it * Make a clear offer of support * Assure the discloser that all reasonable steps will be taken to protect them * Give them an undertaking to keep them informed |
| **Manage expectations** | Have an early discussion with the discloser about:   * what outcome they want * whether their expectations are realistic * what the Department is be able to deliver |
| **Maintain confidentiality** | The identity of the discloser and the subject matter of their disclosure must be kept confidential:   * Make sure that other staff cannot infer the identity of the discloser or a person cooperating with the investigation from any information they receive * Remind the discloser not to reveal themselves or give out information that would enable others to identify them as a discloser * Make sure that hardcopy and electronic files relating to the disclosure are kept in accordance with this policy and are accessible only to those who are involved in dealing with the disclosure |

|  |  |
| --- | --- |
| **Assess the risks of detrimental action taken in reprisal** | * Be proactive * Do not wait for a complaint of victimisation * Actively monitor the workplace, anticipate problems and deal with them before they develop |
| **Protect the discloser/witness** | * Examine the immediate welfare and protection needs of the person and seek to foster a supportive work environment * Listen and respond to any concerns the person may have about harassment, intimidation or victimisation in reprisal for their actions * Assess whether the concerns the person may have about harassment, intimidation or victimisation might be due to causes other than those related to a protected disclosure |
| **Manage the impact of any investigation** | * Prevent the spread of gossip and rumours about an investigation into the disclosure |
| **Keep records** | * Keep contemporaneous records of all aspects of the case management of the person, including all contact and follow-up action * Keep the records in accordance with the guidance provided in these procedures |