

## GPAC Protected Disclosure Guidelines

### 1. Purpose

This document aims to establish a system for the protection of persons who make a protected disclosure under the Protected Disclosure Act 2012 (Vic) (“the PD Act”), from detrimental action by officers, members, employees and contractors of GPAC.

#### 1.1. Scope

These guidelines and procedures apply to all GPAC staff, volunteers, contractors, visitors as well as members of the public.

These guidelines and procedures do not apply to allegations of conduct, workplace grievances or complaints which are not within the scope of the Act. 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 GPAC’s Financial Code of Practice or other relevant policy as required by the circumstances or by agencies external to GPAC.

Disclosures of improper conduct or detrimental action under the Act are to be made to the Independent Broad-based Anti-Corruption Commission (“IBAC”).

#### 1.2. What is a protected disclosure?

A protected disclosure is a report made by a person about improper conduct of public bodies or public officers to any of the organisations specified in Part 2 of the PD Act. A disclosure can also be made about detrimental action against a person by public bodies or public officers in reprisal for the making of a protected disclosure by any person.

A complaint or allegation that is already in the public domain will not normally be a protected disclosure, for example if the matter has already been subject to media or other public commentary. The term 'disclosure' is interpreted under the PD Act in the ordinary sense of the word as a 'revelation' to the person receiving it.

The disclosure can relate to improper conduct or detrimental action against a person that may already have taken place, may be occurring now, or the public officer or public body may be going to do it in the future. Disclosures can be made about conduct that occurred prior to the commencement of the PD Act on 10 February 2013.

#### 1.3. About what can a disclosure be made?

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

Examples of improper conduct include:

- i) Knowingly or recklessly breaching public trust by a public officer or public official;
- ii) Misuse of information obtained by a public officer or public official;
- iii) A conspiracy to commit or attempt to commit the above conduct;
- iv) Conduct that implies:
  - A substantial mismanagement of public resources
  - A substantial risk to public health and safety
  - A substantial risk to the environment

Detrimental action involves action taken in reprisal for someone making a protected disclosure. Section 3 of the PD Act defines detrimental action by a person as including the following:

- i) Action causing injury, loss or damage
- ii) Intimidation or harassment
- iii) Discrimination, disadvantage or adverse treatment in relation to a person’s employment, career, profession, trade or business, including the taking of disciplinary action.

## GPAC Protected Disclosure Guidelines

- b) The person need not have actually taken the action, but can just have threatened to do so. Further, the person need not have taken or threatened to take the action against the person themselves, but can have incited someone else to do so. The detrimental action need not be taken against a discloser, but against any person.

### 1.4. Who can make a protected disclosure?

Anyone can make a disclosure under the PD Act, including employees, Trustees, patrons, customers, suppliers and members of the public.

A company or a business cannot make a disclosure. The person making the disclosure must be an individual or a group of individuals making joint disclosures.

A disclosure can be made anonymously. However, this creates potential difficulties in being able to assess whether a complaint is a protected disclosure under the PD Act.

### 1.5. How can a protected disclosure be made?

Disclosures must be made directly to the Independent Broad-based Anti-corruption Commission (IBAC). IBAC states that any complaint delivered to IBAC must be in writing, unless it is determined by IBAC that there are exceptional circumstances as to why it is unable to be provided in this form. Complaints may also be made anonymously.

a) Complaints can be delivered to IBAC using one of these three options which can be found at [www.ibac.vic.gov.au](http://www.ibac.vic.gov.au) or [here](#):

- completing the secure online form
- download a complaint and return to IBAC by email, fax or post; or
- telephone IBAC on 1300 735 135 to request a form be sent to you.

To discuss any aspect of the complaints process, IBAC can be contacted as follows:

- **Phone:** 1300 735 135
- **Fax:** (03) 8635 6444
- **Street address:** Level 1, North Tower, 459 Collins Street, Melbourne, VIC 3000
- **Postal address:** GPO Box 24234, Melbourne, VIC 3001
- **Email:** For general email enquiries use the form located [here](#).

### 1.6. Managing the welfare of those making protected disclosures.

GPAC endeavours to support the aims and objectives of the PD Act. Persons making protected disclosures under the PD Act will be supported where GPAC is notified of this disclosure. GPAC will endeavour to protect individuals from detrimental action being taken against them in reprisal for the making of protected disclosures.

Accordingly:

- a) neither improper conduct by employees, members, officers or contractors, nor the taking of detrimental action against those who disclose such conduct will be tolerated;
- b) the making of disclosures to IBAC that reveal improper conduct, corrupt conduct, conduct involving a substantial mismanagement of public resources or conduct involving a substantial risk to public health and safety or the environment is encouraged and supported;
- c) reasonable steps will be taken to support and protect persons who make disclosures, from any detrimental action in contravention of section 45 of the Act, where we have notice of such disclosure;
- d) reasonable steps will be taken to support and protect people who have cooperated or intend to cooperate with an investigation into a protected disclosure complaint, from any detrimental action in contravention of section 45 of the Act, where we have notice of such disclosure;

## GPAC Protected Disclosure Guidelines

- e) all information provided by IBAC to GPAC about a protected disclosure complaint will be handled confidentially. GPAC will take all reasonable steps to protect the identity of the discloser and ensure that the content and information about the content of the person's disclosure remains confidential;
- f) resources will be provided to implement GPAC Protected Disclosure Guidelines including training for all personnel involved in protecting persons from detrimental action.

### 1.7. Persons implicated in improper Conduct

Where a person who makes a protected disclosure is implicated in any misconduct, GPAC will endeavour to protect the individual from detrimental action due to, and specifically for, making that disclosure.

GPAC acknowledges that the act of making a protected disclosure complaint does not shield individuals 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. The General Manager of GPAC will make the final decision about disciplinary or other action to be taken against the person who made the protected disclosure complaint and in doing so will consider the advice, of IBAC, if any.

Where disciplinary or other action relates to conduct that is the subject of the person's complaint, the disciplinary or other action will only be taken after the disclosed matter has been appropriately dealt with.

In all cases where disciplinary or other action is being contemplated, the General Manager of GPAC must be satisfied that it has been clearly demonstrated that:

- a) the intention to proceed with disciplinary action is not causally connected to the making of the disclosure (as opposed to the content of the disclosure or other available information);
- b) there are valid and sufficient grounds that would justify action against a non-complainant in the same or similar circumstances;
- c) there are valid and sufficient grounds that justify exercising any discretion to institute disciplinary or other action.

GPAC will document the disciplinary process, record the reasons for the disciplinary or other action, and the reasons why the action is not in retribution for the making of the disclosure. The Finance & Administration Manager or General Manager will advise the affected individual of the proposed action and any mitigating factors that have been taken into account.

### 1.8. Confidentiality

The PD Act requires any person who is able to receive information due to the handling or investigation of a protected disclosure, not to disclose that information except in certain limited circumstances. Disclosure of confidential information constitutes an offence under the PD Act.

GPAC, if informed of any details of a protected disclosure, will treat the disclosure and any information received in the investigation of a disclosed matter in the strictest of confidence. Reasonable steps will be taken to protect the identity of the discloser.

## GPAC Protected Disclosure Guidelines

### 2. Related material

- IBAC complain forms and contacts
  - <http://www.ibac.vic.gov.au/corruption-and-misconduct/report-corruption-and-police-misconduct>
- Protected Disclosure Act 2012
- IBAC Guidelines for Making and Handling Protected Disclosures
- IBAC Guidelines for Protected Disclosure Welfare Management
- <http://www.ibac.vic.gov.au/>

#### 2.1. Related GPAC policies, procedures and other documents

- Framework – Fraud Control

#### 2.2. Update Notes:

- Protected Disclosure Guidelines replacing Whistleblower policy due to new legislation introduced 10 February 2013.