

Protected Disclosure Policy

Section 1 - Purpose / Objectives

(1) This Policy states the University's commitment to meeting its obligations under the [Protected Disclosure Act 2012](#) (the PD Act).

(2) Staff and students should note that the processes and obligations established by the PD Act are significantly different from those created by its predecessor legislation, the Whistleblowers Protection Act 2001.

(3) Any member of the University community considering making a disclosure should carefully read both this Policy and the accompanying Protected Disclosure Procedures.

Section 2 - Scope / Application

(4) This Policy applies across the University.

Section 3 - Definitions

(5) Improper Conduct is defined in the Protected Disclosure Act 2012 (Vic) [the Act] to mean either 'corrupt conduct' or 'specified conduct' (both terms are also defined by the Act and the IBAC Act).

(6) Corrupt conduct means any one of the following:

- a. conduct 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;
- b. conduct 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;
- c. conduct of a public officer or public body that constitutes or involves knowingly or recklessly breaching public trust;
- d. conduct of a public officer or a 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
- e. conduct that could constitute a conspiracy or an attempt to engage in any of the conduct referred to above; and
- f. if that conduct could be proved beyond reasonable doubt at a trial, amounts to:
 - i. an indictable offence; or
 - ii. one of the following 3 types of common law offences committed in Victoria:
 - perverting the course of justice; or
 - attempting to pervert the course of justice; or
 - bribery of an official.

(7) Specified conduct is any one of the above types of conduct, or conduct that involves substantial mismanagement of public resources, risk to public health or safety, or risk to the environment, which would not constitute 'corrupt conduct' but would nevertheless, if proved, constitute either:

- a. a criminal offence; or
- b. reasonable grounds for dismissing or terminating the employment of the officer who engaged or is engaging in that conduct.

It should be noted the risk in relation to mismanagement or public health and safety or the environment must be "substantial", requiring significant or considerable mismanagement, or significant or considerable risks to public health, safety or the environment.

Section 4 - Policy Statement

(8) Victoria University (the University) is a public body subject to the [Protected Disclosure Act 2012](#) (the PD Act). The purpose of the PD Act is to encourage and facilitate the making of disclosures of improper conduct by public officers and public bodies, including the University and its employees.

(9) The University is committed to the aims and objectives of the PD Act. It recognises the value of transparency and accountability in its administrative and management practices, and supports the making of disclosures that reveal improper conduct.

(10) The University does not tolerate improper conduct by the organisation, its employees, officers or members, nor the taking of detrimental action in reprisal against those who come forward to disclose such conduct.

(11) VU will take all reasonable steps to protect people who make such disclosures from any detrimental action in reprisal for making the disclosures. It will also afford natural justice to the person or body who is the subject of the disclosures.

(12) Disclosures may be made about:

- a. "improper conduct" on the part of a public body or its staff, employees and members.
- b. "detrimental action" taken (or suspected may be taken) in reprisal or in connection with a disclosure made about improper conduct.

(13) The conduct or action being disclosed may have taken place, still be occurring, or is believed will occur or be engaged in.

Part A - Who can make a disclosure?

(14) Any individual natural person (e.g., not organisation or company) may make a disclosure under the PD Act. The individual could be a person within the organisation, or any member of the public externally.

(15) Disclosures may be made in a number of ways set out in the PD Act, including anonymously, in writing or orally. A discloser need not identify the person or body about whom the disclosure is made.

Part B - How to make a disclosure

(16) According to the Independent Broad-based Anti-corruption Commission (IBAC), Victoria University is not permitted to receive disclosures made under the PD Act. Therefore, if you wish to make a disclosure about the University, its officers, members or employees, you will need to make that disclosure directly to the IBAC.

(17) If the University believes a disclosure may be a protected disclosure made in accordance with the PD Act, it will

ask you to make that disclosure to the IBAC. The IBAC will deal with the disclosure.

(18) It is important to note that the IBAC is not required to contact the University about any disclosure you make, so you should not discuss any disclosure you make to the IBAC with the University or any person in the University unless:

- a. you have first obtained the permission of the IBAC to do so, or
- b. the IBAC has directed you to do so, or
- c. the IBAC has contacted the University to provide it with information in order to allow the University to provide you with any necessary welfare and support.

(19) As required under the PD Act, the University has established a [Protected Disclosure Procedure](#) to facilitate and encourage the making of disclosures under the act, and how the University will manage the welfare of persons connected with protected disclosures.

Part C - Confidential Conversations

(20) While the University is not able to receive protected disclosures, the University wants all staff to be free to engage the University's internal processes in the first instance when issues of concern arise. Some concerns may not involve matters that would give rise to protected disclosures, and may be able to be resolved constructively and transparently within the University's own structure.

(21) The Public Interest Disclosure Coordinator (Mr [John Lambrick](#), Head of Legal Services, 9919 5280), will remain available for individuals to make reports or raise concerns with the assurance of confidentiality.

(22) If these conversations raise matters that could form the subject of a protected disclosure, the Public Interest Disclosure Coordinator will advise the staff member that they should make the disclosure to the IBAC following the process detailed in the Procedures.

Part D - Confidentiality

(23) Victoria University takes its obligations under the PD Act seriously. This includes the requirement to protect the identity of the discloser and the matters disclosed by a discloser.

(24) Maintaining confidentiality in relation to protected disclosure matters is crucial, among other things, in ensuring reprisals are not made against a discloser.

(25) It is a criminal offence under the PD Act to disclose information connected with a disclosure made in accordance with the PD Act, including the identity of the discloser. The penalties for breaching confidentiality obligations include financial penalties and imprisonment.

Section 5 - Procedures

(26) [Protected Disclosure Procedure](#)

Section 6 - Guidelines

(27) Nil

Status and Details

Status	Historic
Effective Date	5th September 2014
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Approval Authority	University Council
Approval Date	5th September 2014
Expiry Date	26th March 2020
Accountable Officer	Lucy Franzmann Chief Financial Officer
Responsible Officer	Lucy Franzmann Chief Financial Officer
Enquiries Contact	Lucy Franzmann Chief Financial Officer