

## Public Interest Disclosures (formerly whistleblowing)

### Table of Contents

1.0	Purpose .....	1
2.0	Scope .....	2
3.0	References .....	2
4.0	Definitions.....	3
4.1	Improper Conduct.....	3
4.2	Corrupt Conduct .....	4
4.3	Detrimental Action .....	5
5.0	Procedure .....	5
5.1	Making a disclosure.....	5
5.2	Roles and Responsibilities .....	6
5.2.1	Employees and Contractors.....	6
5.2.2	Public Interest Disclosure Manager .....	6
5.2.3	Confidentiality .....	7
5.2.4	Confidential Register and annual reporting .....	7
5.3	Managing the welfare of the discloser.....	8
5.3.1	Commitment to protecting disclosers .....	8
5.3.2	Commitment to protecting disclosers .....	8
5.4	Review.....	8
6.0	Documented Information .....	8
7.0	Version Control Table .....	9

### 1.0 Purpose

Greater Western Water (GWW) is a public body subject to the Public Interest Disclosures Act 2012 (the Act).

The purposes of the Act include encouraging and facilitating disclosures of:

1. improper conduct by public officers and public bodies (including GWW) and other persons; and
2. detrimental action taken in reprisal for a person making a disclosure under the Act.

Such disclosures are an important tool in the prevention and detection of corruption and other forms of malpractice, and can generate benefits such as:

- a) more effective compliance with relevant laws;

- b) more efficient fiscal management of the entity through, for example, the reporting of waste and improper tendering practices;
- c) a healthier and safer work environment through the reporting of unsafe practices;
- d) more effective management;
- e) improved morale within the entity; and
- f) improved public confidence.

The Act provides protection to persons who make disclosures and persons who may suffer detrimental action in reprisal for those disclosures.

The Act also provides for the confidentiality of the content of disclosures and the identity of persons who make disclosures.

GWW is committed to the aims and objectives of the Act. It does not tolerate improper conduct by its employees, officers, Directors or contractors, nor the taking of reprisals against those who come forward to disclose such conduct.

GWW recognises the value of transparency and accountability in its administrative and management practices, and supports the making of disclosures that reveal corrupt conduct, conduct involving a substantial mismanagement of public resources, or conduct involving a substantial risk to public health and safety or the environment.

GWW will take all reasonable steps to protect people who make such disclosures from any detrimental action in reprisal for making the disclosure. It will also afford natural justice to the person who is the subject of the disclosure.

## 2.0 Scope

The scope of the Act includes all activities of GWW. The Procedure will cover all employees and responsible persons associated with GWW, including Directors, Executives, contractors and staff.

GWW is not able to receive (as defined in the Act) disclosures under section 13 of the Act.

However, as required under section 58 of the Act, GWW has established procedures setting out how GWW will protect people against detrimental action that might be taken against them in reprisal for making a public interest disclosure.

## 3.0 References

This procedure and the procedures it outlines are based upon, and consistent with, guidelines issued by the *Independent Broad-Based Anti-Corruption Commission* Victoria (IBAC), as updated over time, including "Guidelines for handling public interest disclosures", and "Guidelines for public interest disclosure welfare management"

Further details on the *Public Interest Disclosures Act 2012* and the IBAC guidelines can be found at the IBAC website: <http://www.ibac.vic.gov.au>

### 4.0 Definitions

Three key concepts in the reporting system are improper conduct, corrupt conduct and detrimental action. Definitions of these terms are set out below.

#### 4.1 Improper Conduct

A disclosure may be made about improper conduct by a public body or public official. A public official includes all GWW employees, officers, Directors and contractors.

Improper conduct means:

- (a) corrupt conduct; or
- (b) conduct by a public officer or public body that constitutes:
  - i. a criminal offence; or
  - ii. serious professional misconduct; or
  - iii. dishonest performance of public functions; or
  - iv. an intentional or reckless breach of public trust; or
  - 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; or
  - vi. a substantial mismanagement of public resources; or
  - vii. a substantial risk to public health and safety; or
  - viii. a substantial risk to the environment; or
- (c) conduct by 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 results in the person, or an associate of the person, obtaining:
    - A. a licence, permit, approval or authority or other entitlement under any Act or subordinate instrument; or
    - B. an appointment to a statutory office or as a member of the board of any public body under any Act or subordinate instrument; or
    - C. a financial benefit or real or personal property; or
    - D. any other direct or indirect monetary or proprietary gain- that the person or associate would not otherwise have obtained; or

- (d) conduct of any person that could constitute a conspiracy or attempt to engage in paragraph (a), (b) or (c).

If the conduct is trivial it will not meet the threshold of improper conduct.

### **Examples**

To avoid closure of a town's only industry, an environmental health officer ignores or conceals evidence of illegal dumping of waste

An agricultural officer delays or declines imposing quarantine to allow a financially distressed farmer to sell diseased stock

A building inspector tolerates poor practices and structural defects in the work of a leading local builder

## **4.2 Corrupt Conduct**

Corrupt conduct means conduct:

- (a) 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; or
- (b) 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) of a public officer or public body that constitutes or involves knowingly or recklessly breaching public trust;
- (d) 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;
- (e) of a person intended to adversely affect the effective performance or exercise by a public officer or public body of their functions and result in the person or an associate of the person obtaining:
  - A. a licence, permit, approval, authority or other entitlement under any Act or subordinate instrument; or
  - B. an appointment to a statutory office or as a member of the board of any public body under any Act or subordinate instrument; or
  - C. a financial benefit or real or personal property; or
  - D. any other direct or indirect monetary or proprietary gain – that they would not have otherwise obtained; or
- (f) conduct that could constitute a conspiracy or an attempt to engage in any conduct referred to in the bullet points above;

being conduct that would constitute an indictable offence against an Act; or constitute attempting to pervert the course of justice, bribery of a public official, perverting the course of justice, or misconduct in public office.

### Examples

A public officer takes a bribe or receives a payment other than his or her wages or salary in exchange for the discharge of a public duty

A public officer favours unmeritorious applications for jobs or permits by friends and relatives

A public officer sells confidential information

### 4.3 Detrimental Action

The Act makes it an offence for a person to take detrimental action against a person in reprisal for a public interest disclosure. 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.

### Examples

A public body refuses a deserved promotion of a person who makes a disclosure

A person threatens, abuses or carries out other forms of harassment directly or indirectly against the discloser, his or her family or friends

A public body discriminates against the discloser or his or her family and associates in subsequent applications for jobs, permits or tenders

## 5.0 Procedure

### 5.1 Making a disclosure

Any person may make a disclosure under the Act. The individual may be a person within GWW, or any member of the public.

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

GWW is **not permitted** to receive disclosures made under the Act. Therefore, disclosures about GWW, its employees, officers, Directors or contractors, must be made directly to IBAC – the detailed process for reporting a disclosure can be found at <http://www.ibac.vic.gov.au>.

IBAC will acknowledge receipt of all disclosures and will write to anyone who makes a disclosure by letter or email within approximately 60 days to advise of their assessment. Feedback cannot be provided on anonymous disclosures.

IBAC is not required to contact GWW about any disclosure it receives. Disclosures should not be discussed with GWW unless permission has been obtained from IBAC, or unless IBAC has directed so, or IBAC has contacted GWW to provide it with information in order to allow GWW to provide any necessary welfare and support.

Persons making a public interest disclosure must not provide information known to be false or misleading in a material particular – making such is an offence under the Act.

### **5.2 Roles and Responsibilities**

#### 5.2.1 Employees and Contractors

Employees and contractors are encouraged to report known or suspected incidences of improper conduct or detrimental action in accordance with this procedure.

All employees and contractors of GWW have an important role to play in supporting those who have made a legitimate disclosure. They must refrain from any activity that is, or could be perceived to be, victimisation or harassment of a person who makes a disclosure. Furthermore, they should protect and maintain the confidentiality of a person they know or suspect to have made a disclosure.

#### 5.2.2 Public Interest Disclosure Manager

The Public Interest Disclosure Manager for GWW is the Chief Financial Officer, and is responsible for liaising with IBAC as required, and coordinating welfare support for the discloser.

The Public Interest Disclosure Manager will:

- as required, clarify expectations and messaging about what conduct is unacceptable, and raise awareness within GWW of responsibilities to disclose and how to do this;
- advise staff of their right to disclose to IBAC;
- advise staff they can seek advice confidentially and anonymously from the Public Interest Disclosure Manager or other nominated person ;
- initiate disciplinary action against staff who take (or are involved with) detrimental action;
- ensure GWW handles public interest disclosures consistently and appropriately;
- take all necessary steps to ensure the identity of the discloser and the identity of the person who is the subject of the disclosure are kept confidential;

- liaise with IBAC as required; and
- compile relevant information for inclusion in the confidential register.

If GWW does receive a disclosure that ought to have been made to IBAC in accordance with the Act, the Public Interest Disclosure Manager will advise the discloser to make the disclosure directly to IBAC. If the disclosure has been mistakenly made to GWW and is anonymous, the Public Interest Disclosure Manager will provide the disclosure to IBAC for consideration.

### 5.2.3 Confidentiality

GWW will take all reasonable steps to protect the identity of the discloser. Maintaining confidentiality is crucial in ensuring reprisals are not made against a discloser. It is a criminal offence under the Act to disclose information connected with a disclosure made in accordance with the Act, including the identity of the discloser. The penalties for breaching confidentiality obligations include financial penalties and imprisonment.

The Act requires any person who receives information due to the handling or investigation of a public interest disclosure, not to disclose that information except in certain limited circumstances.

The circumstances in which a person may disclose information obtained about a public interest disclosure include:

- in accordance with section 54 of the Act; and
- in accordance with a direction or authorisation given by the entity investigating the disclosure.

GWW will ensure all files related to any disclosure (including the welfare management of the discloser, and any correspondence with IBAC) are kept securely and are only accessible to the Public Interest Disclosure Manager. All printed material will be kept in paper files that are clearly marked as a Public Interest Disclosure Act matter, and warn of the criminal penalties that apply to any unauthorised divulging information concerning a public interest disclosure.

Any electronic files will be produced and stored on a dedicated network drive and be given password protection. Backup files will be kept on network backup discs.

### 5.2.4 Confidential Register and annual reporting

The Public Interest Disclosure Manager will establish a secure register to record the information required to be published in the annual report, and to generally keep account of the status of disclosures. The register will be confidential and will not record any information that may identify the discloser.

The Public Interest Disclosure Manager will ensure that GWW's Annual Report includes information about how to access GWW's Public Interest Disclosures Procedure, and how to make a disclosure to IBAC.

### 5.3 Managing the welfare of the discloser

#### 5.3.1 Commitment to protecting disclosers

GWW is committed to the protection of disclosers against detrimental action taken in reprisal for the making of public interest disclosures. The Public Interest Disclosure Manager is responsible for ensuring disclosers – both for those inside or outside GWW (including the public) - are protected from direct and indirect detrimental action, and that the culture of the workplace is supportive of public interest disclosures being made.

The Public Interest Disclosure Manager will:

- Examine the immediate welfare and protection needs of a discloser who has made a disclosure and, where the discloser is an employee, seek to foster a supportive work environment;
- Advise the discloser of the legislative and administrative protections available to them;
- Listen and respond to any concerns of harassment, intimidation or victimisation in reprisal for making disclosure;
- Keep a contemporaneous record of all aspects of the case management of the discloser including all contact and follow-up action; and
- Ensure the expectations of the discloser are realistic.

#### 5.3.2 Commitment to protecting disclosers

If a discloser reports an incident of harassment, discrimination or adverse treatment that would amount to detrimental action taken in reprisal for the making of the disclosure, the Public Interest Disclosure Manager will:

- Record details of the incident;
- Advise the discloser of their rights under the Act; and
- Advise the Managing Director of the detrimental action.

The taking of detrimental action in reprisal for the making of a disclosure can be an offence against the Act as well as grounds for making a further disclosure.

### 5.4 Review

This procedure will be reviewed annually to ensure it meets the objectives of the Act and accords with the IBAC's guidelines.

## 6.0 Documented Information

IBAC-issued general Guidelines, as updated over time:

- Guidelines for handling public interest disclosures
- Guidelines for public interest disclosure welfare management

## **7.0 Version Control Table**

<b>Version Number</b>	<b>Document Owner's Position Title</b>	<b>Purpose/Change</b>	<b>Date</b>
V3-0	General Counsel & Corporate Secretary	Combining City West Water and Western Water policies for the purpose of the Greater Western Water integration	10/05/2021