



Public Interest Disclosures Policy

Policy Owner: Royal Botanic Gardens Board

Date approved: 21 June 2023

Reviewing Officer: Manager, Governance & Projects

POLICY STATEMENT

RBGV is committed to the aims and objectives of the *Public Interest Disclosures Act 2012*. It does not tolerate improper conduct by the organisation, its employees, officers, or Board members, nor the taking of detrimental action in reprisal against those who come forward to disclose such conduct.

RBGV recognises the value of transparency and accountability in its administrative and management practices and supports the making of disclosures that reveal improper conduct.

CONTEXT

The *Public Interest Disclosures Act 2012* (the Act) allows people to make disclosures about improper conduct, corruption or detrimental action by public officers and public bodies.

The Royal Botanic Gardens Victoria (RBGV) is a public body subject to the Act but is not authorised to receive public interest disclosures. Any disclosure about RBGV must be made directly to the Independent Broad-based Anti-Corruption Commission (IBAC).

The purpose of the Act and this Policy is to encourage and facilitate the making of disclosures, including about RBGV, its employees and Board members. The Policy also provides information regarding the protection of individuals making disclosures from detrimental actions under the Act.

APPLICATION

This Policy applies to all members of the public, RBGV employees and RBG Board members. Any individual (either within RBGV or any member of the public) may make a disclosure under the Act.

POLICY PRINCIPLES

What is a Public Interest Disclosure?

A Public Interest Disclosure (disclosure) is a complaint or allegation made about corrupt conduct, improper conduct or detrimental action in the Victorian public sector. A person making a disclosure can do so in the knowledge that they will be protected.

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Protections include keeping confidential the identity of the person making the disclosure and protecting them from reprisals including bullying, harassment, or legal action.

What can disclosures be made about?

Disclosures may be made about improper conduct on the part of a public body or its individual employees and Board members. Disclosures may also be made about detrimental action taken (or suspected to be taken) in reprisal or in connection with a disclosure made about improper conduct.

The conduct or action being disclosed may have taken place, still be occurring, or may be believed to have occurred or be occurring.

The Act provides definitions about improper conduct and detrimental action (see Definitions below).

Who can make a disclosure?

Any individual may make a disclosure under the Act, however organisations, groups and companies are not eligible to make disclosures. The individual could be a person within RBGV 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 verbally. A discloser need not identify the person or body about whom the disclosure is made.

Who can a Public Interest Disclosure be made to?

RBGV is not permitted to receive disclosures made under the Act. Therefore, if you wish to make a public interest disclosure about RBGV, its employees or Board members, you will need to make that disclosure directly to IBAC (www.ibac.vic.gov.au).

RBGV's role in a Public Interest Disclosure

It is important to note that IBAC is not required to contact RBGV about any disclosure you make so you should not discuss any disclosure you make to IBAC with RBGV or any person in RBGV unless:

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

As required under the Act, RBGV has systems in place to facilitate and encourage the making of disclosures under the Act, and how we will manage the welfare of individuals connected with public interest disclosures. These are outlined in the Public Interest Disclosure Procedure.

Confidentiality

RBGV takes its obligations under the Act seriously. This includes the requirement to protect the identity of the discloser and the matters disclosed by a discloser. Maintaining confidentiality in relation to public interest disclosure matters is crucial, among other things, 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.

DEFINITIONS

Corrupt conduct

Dishonest activity in which an employee or Board member acts contrary to the interest of that body and abuses their position of trust in order to achieve personal gain or advantage for themselves or for another person or entity.

Corrupt conduct can include:

- taking or offering bribes
- dishonesty using influence
- committing fraud, theft or embezzlement
- misusing information or material acquired at work
- conspiring or attempting to engage in the above corrupt activity.

Corruption can occur through:

- improper or unlawful actions by public officers or public bodies
- failure of public officers or public bodies to act
- actions of private individuals who try to improperly influence public sector functions or decisions.

Detrimental action or reprisal

Action taken against a person who has made a Public Interest Disclosure, including action causing injury, loss or damage, intimidation or harassment, or discrimination, disadvantage or adverse treatment in relation to a person's employment, career, profession, trade or business. It includes the taking of disciplinary action.

Discloser

A person who (purports to) make(s) a complaint, allegation or disclosure (however described) under the Act (may also be described as a Public Interest Discloser or Whistleblower).

IBAC

The Independent Broad-based Anti-corruption Commission.

Improper conduct

Is defined in the Act to mean:

- Corrupt conduct
- Conduct of a public officer or body that constitutes:
 - a criminal offence;
 - serious professional misconduct;
 - dishonest performance of public functions;
 - intentional or reckless breach of public trust;
 - intentional or reckless misuse of information;
 - substantial mismanagement of public resources;
 - substantial risk to the health or safety of one or more people; or
 - substantial risk to the environment.
- the conduct of any person that:
 - adversely affects the honest performance by a public officer or public body of their functions; or

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- is intended to adversely affect the effective performance by a public officer or public body of their functions for the benefit of themselves or another person (for example resulting in the person obtaining a licence, permit or approval, appointment, financial benefit or other direct or indirect monetary or proprietary gain).

The conduct must be a serious breach of an established professional code of conduct and/or other serious departures from the person's professional responsibilities. Less serious or trivial conduct is excluded from the definition of improper conduct.

Public Interest Disclosure (PID)

A report made by a person about corrupt conduct or improper conduct of public bodies or public officers. 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 public interest disclosure by any person. The disclosure can relate to corrupt conduct, improper conduct or detrimental action against a person that may already have taken place, may be occurring now, or may be intending to be taken in the future.

Public Interest Complaint (PIC)

A public interest disclosure that has been determined by IBAC, the Victorian inspectorate or the Integrity and Oversight Committee to be a Public Interest Complaint.

BREACH OF POLICY

Any breaches of this policy will be addressed via the appropriate channel subject to whether it is determined to be unsatisfactory performance or misconduct.

RELATED DOCUMENTATION

- Public Interest Disclosures Procedure

FURTHER INFORMATION

- *Public Interest Disclosures Act 2012 (Vic)*
- *Independent Broad-based Anti-corruption Commission Act 2011 (Vic)*
- *Charter of Human Rights and Responsibilities Act 2006 (Vic)*
- Victorian Public Sector Code of Conduct

CONTACT

Employees who have queries about this policy or its operation should contact the Manager Governance & Projects.

Individuals wishing to make a disclosure should refer to the IBAC website (www.ibac.vic.gov.au) and RBGV's Public Interest Disclosures Procedure.

VERSION CONTROL

Policy Name	Version No.	Approved By	Date
Protected Disclosure Policy	1	Executive Team	25 June 2013
Protected Disclosure Policy	2	Executive Team	September 2016
Public Interest Disclosures Policy	3	Executive Team	1 June 2020
Public Interest Disclosures Policy	4	RBG Board	21 June 2023

REVIEW

This policy will be reviewed every three years or earlier as required.