

# Making and Handling Public Interest Disclosures Procedure

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# Making and Handling Public Interest Disclosures Procedure

Greyhound Racing Victoria (GRV) encourages and supports both employees and non-employees to report known or suspected incidences of corrupt or improper conduct.

The purpose of this document is to outline the procedures for the receiving and handling of disclosures of improper conduct engaged in, and/or detrimental action taken, by GRV and/or its employees.

These procedures have been prepared in accordance with the *Public Interest Disclosures Act 2012* (the Act) and the guidelines of the Independent Broad-based Anti-corruption Commission (IBAC) which are available on the IBAC website ([www.ibac.vic.gov.au](http://www.ibac.vic.gov.au)).

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. The Act also protects persons who make those disclosures and seeks to ensure that those disclosures are properly assessed, and where necessary, investigated.

## Scope

These procedures apply to all GRV staff and officers and any other persons, including members of the public, who make disclosures of improper conduct related to GRV.

## 1. Who can make a public interest disclosure?

Any person can make a public interest disclosure about improper conduct engaged in, or detrimental action taken by, GRV or one of its officers.

You can make a public interest disclosure if you are a member of the public, or an employee, officer or member of GRV.

You can make a disclosure as an individual or together with a group of individuals.

A company or business cannot make a public interest disclosure.

You can ask someone else to make a disclosure on your behalf. However, if you ask someone else to make a disclosure on your behalf, only that person will receive the full protection of the Act in relation to that disclosure. Your protection will be limited to confidentiality and protection against detrimental action taken against you in reprisal for the disclosure that has been made.

You do not have to specifically refer to the Act or the protections in the Act for your disclosure to be a 'protected disclosure'. You may also advise that you do not want your disclosure to be treated as a 'public interest disclosure'.



## 2. What can I make a public interest disclosure about?

You may make a public interest disclosure about information that shows or tends to show, or that you believe on reasonable grounds shows or tends to show, that a person, public officer or public body is engaging in, or proposing to engage in, 'improper conduct' and/or 'detrimental action'.

### Public officer and public body

The conduct you are disclosing must be in the performance of a person or body's function as a public officer or public body. In other words, there must be a link between the alleged improper conduct and/or detrimental action and the person or body's functions as a public officer or public body.

Public bodies or public officers include Greyhound Racing Victoria and its management and staff.

### Improper conduct and detrimental action

The conduct you are disclosing must be improper conduct and/or detrimental action.

The definitions of improper conduct and detrimental action are explained below

**Improper conduct** is defined to include corrupt conduct (defined below) and / or any of the following:

- a criminal offence
- serious professional misconduct
- dishonest performance of public functions
- intentional or reckless breach of public trust
- intentional or reckless misuse of information acquired in the performance of their official capacity
- substantial mismanagement of public resources
- substantial risk to the health or safety of a person or persons
- substantial risk to the environment

It also includes conduct of any person that:

- adversely affects the honest performance by a public officer of their functions
- is intended to adversely affect the effective performance by a public officer of their functions for the benefit of the other person.

**'Corrupt conduct'** is conduct that:



- adversely affects the honest performance of functions by a public officer or public body;
- involves the dishonest performance of functions by a public officer or public body;
- involves a breach of public trust by a public officer or public body;
- involves a misuse of information or material acquired in the performance of functions as a public officer or public body; or
- involves a conspiracy or an attempt to engage in any of the above conduct

AND

- would constitute:
  - an indictable offence
  - an attempt to pervert the course of justice;
  - bribery of a public official; or
  - perverting the course of justice.

**'Detrimental action'** is defined as action taken against a person who has made a protected disclosure which:

- causes 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 (including disciplinary action).

'Detrimental action' is not:

- legitimate management action where there are good and sufficient grounds that would justify the action against any other person in the same circumstances.

## **'Reasonable grounds'**

Your belief that improper conduct or detrimental action has occurred, is occurring, or will occur does not have to be based on actual proof. It is enough if you believe (as opposed to know) that improper conduct or detrimental action has occurred, is occurring or will occur. However, you must have reasonable grounds for your belief.

A mere suspicion, allegation or conclusion that is unsupported by further information, facts or circumstances will not be protected by the Act. For example, it is not enough to say 'I know X is corrupt'. You must have information that would lead a reasonable person to believe that the information shows, or tends to show, improper conduct or detrimental action.



### 3. Who do I make my protected disclosure to?

Who you can make your protected disclosure to depends on the person or body your disclosure is about as only certain persons and entities can receive protected disclosures.

If your disclosure is made to a person or entity that cannot receive your disclosure, your disclosure will not be a protected disclosure and you will not be protected under the Act. It is therefore important that you check that you are providing your disclosure to the right person or body.

Disclosures should be made directly to IBAC unless the disclosure is about IBAC or one of its officers.

#### How to make a disclosure about GRV and/or its employees and staff

If you wish to make a disclosure about GRV or any of its appointed officers or staff, you are required to make your disclosure to the IBAC at the following details:

Telephone: 1300 735 135

Website: [www.ibac.vic.gov.au](http://www.ibac.vic.gov.au)

Online Form: [www.ibac.vic.gov.au/report](http://www.ibac.vic.gov.au/report)

### 4. What will happen after I make a disclosure?

Disclosures made to IBAC will be handled in accordance with IBAC's guidelines and processes.

IBAC is responsible for identifying, investigating, exposing and preventing serious corrupt conduct across the whole of the Victorian public sector.

IBAC must assess within a reasonable time whether (in its view) your disclosure is a protected disclosure. It may seek additional information from you to make its decision.

If IBAC determines that your disclosure is a public interest disclosure, it must decide to either:

- a) dismiss your disclosure
- b) investigate your disclosure, or
- c) refer your disclosure to another body for investigation, such as Victoria Police, the Ombudsman or Work Safe Victoria.

Regardless of whether IBAC determines your disclosure is a public interest disclosure or not, you will still receive the protections under the Act. This includes protection from detrimental action taken in reprisal for you making the disclosure.

However, if IBAC determines that your disclosure is not a public interest disclosure, the confidentiality requirements set out in Part 10 of these procedures no longer apply in relation to your disclosure.



## 5. What protections will I receive?

The Act sets out the protections provided to persons who make a disclosure in accordance with the Act. These include:

- a) immunity from civil or criminal liability as well as administrative action (including disciplinary action) for making the disclosure
- b) 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
- c) immunity from breaching any other obligation requiring the maintenance of confidentiality or otherwise restricting the disclosure of information, and
- d) protection from an action for defamation.

These protections apply to a disclosure from the time you make the disclosure and continue to apply even if the department determines the disclosure does not comply with the requirements of the Act or IBAC determines that the disclosure is not a 'public interest disclosure'.

The protections in the Act do not apply if you provide false or misleading information or claim that a matter is the subject of a public interest disclosure knowing that claim to be false.

The protections will apply to further information relating to a public interest disclosure that you provide to:

- a) IBAC, or
- b) an investigating entity.

In addition to these protections, GRV recognises that the welfare and protection from detrimental action of persons making genuine public interest disclosures is essential for the effective implementation of the Act; and is relevant to the its obligation to create a safe working environment under the Occupational Health and Safety Act 2004, the Charter of Human Rights and Responsibilities Act 2006, the Public Administration Act 2004 (Vic) and the common law.

If you wrongly make a disclosure to a receiving entity in the belief that they are the correct entity for your disclosure, the entity may redirect the disclosure (a misdirected disclosure) to another entity without you losing the protections of the public interest disclosure.

## 6. Welfare management

GRV will provide welfare support to a discloser or a witness in an investigation as the circumstances require.

GRV will also consider appointing a welfare manager when a person has made a public interest disclosure or is cooperating, or intending to cooperate, with an investigation of a public interest disclosure.

A welfare manager is responsible for:



- a) supporting the discloser and/or witness' immediate welfare and protection needs and, where
- b) that person is an employee, fostering a supportive work environment
- c) providing practical advice and support
- d) advising the discloser and/or witness of the protections available under the Act
- e) operating discreetly and maintaining confidentiality

GRV may appoint an internal person as welfare manager or engage a contractor to provide welfare services. We will also consider referring an employee to its Employee Assistance Program.

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 should discuss the reasonable expectations with the person(s) they are supporting.

## 7. Protection from detrimental action

GRV will take precautions to prevent its employees and agents from taking detrimental action in reprisal for a public interest disclosure. This includes identifying, assessing, controlling and monitoring risks of reprisals faced by disclosers and witnesses.

The precautions taken by GRV will depend on individual circumstances and the disclosers and witnesses will, where possible, be consulted about any action that is taken.

If a person reports an incident of harassment, discrimination or adverse treatment that may amount to detrimental action, the person receiving the report (irrespective of their role) will record details of the incident and advise the person of the protection they will receive under the Act (as set out in Part 5 of these procedures).

A disclosure of detrimental action is itself a public interest disclosure and will be referred to IBAC in accordance with these procedures.

With these protections, there are also responsibilities. You must not take detrimental action against another person in reprisal for a public interest disclosure and, if you have been involved in the improper conduct or detrimental action which is the subject of your disclosure, you will still be held liable for your own involvement. Making a disclosure will not provide you with immunity from any of your own wrongdoing.

You must not disclose the content, or information about the content, of a disclosure that has been notified to IBAC or information which is likely to lead to the identification of the person who made that disclosure unless permitted to by the Act. See Part 9 of these procedures for further information.

## 8. What happens if a public interest disclosure is made against me?

GRV recognises that employees against whom disclosures are made must also be supported during the handling and investigation of disclosures and will provide welfare support to an





employee during the handling and investigation of a disclosure as the circumstances require.

GRV will only disclose information about the subject of a disclosure in accordance with the law.

Where investigations do not substantiate disclosures, the fact that the investigation has been carried out, the results of the investigation and the identity of the person who is the subject of the disclosure will remain confidential.

## 9. Confidentiality

There are a number of confidentiality obligations which arise under the Act and other laws relating to the receipt and investigation of public interest disclosures.

If you repeat your disclosure to someone other than as provided for in these procedures or permitted by the Act, you may lose the protections provided for in the Act. You may also breach your confidentiality obligations.

If you are considering disclosing information about your disclosure, you may wish to speak to IBAC and/or obtain legal advice first.

The circumstances in which a person may disclose information obtained about a public interest disclosure that has been notified to IBAC or information which is likely to lead to the identification of the person who made that disclosure include:

- a) in accordance with a direction or authorisation given by the investigating entity that is investigating the disclosure
- b) to the extent necessary for the purpose of taking lawful action in relation to the conduct that is the subject of the disclosure including disciplinary process or action
- c) the IBAC or the Victorian Inspectorate has determined that the disclosure is not a public interest disclosure
- d) where necessary for the purpose of the exercise of functions under the Act
- e) by an investigating body where necessary for the purpose of the exercise of functions under the Independent Broad-based Anti-corruption Commission Act 2011
- f) for the purpose of a proceeding for an offence under a relevant Act or provision
- g) for the purpose of disciplinary process or action in respect of conduct that would constitute an offence
- h) for the purpose of obtaining legal advice or representation
- i) to an interpreter, parent, guardian or independent person for the purpose of understanding the confidentiality obligations under the Act, and
- j) an investigating body has published a report to Parliament or otherwise made public the content of the disclosure consistent with the confidentiality requirements of the Act.

The Act also prohibits disclosing information that is likely to lead to your identification unless permitted to do so in accordance with the Act.



IBAC or the relevant investigating entity may disclose your identity and the content of your disclosure if it is necessary for the purposes of their investigative action.

## 10. What alternatives are there to making a 'public interest' disclosure?

These procedures are designed to complement the usual methods of submitting complaints in relation to GRV and its employees.

Members of the public are encouraged to use the feedback process on the GRV website ([www.grv.org.au/about-grv/contact-us/](http://www.grv.org.au/about-grv/contact-us/)) to communicate complaints or concerns with the services provided by the GRV or its staff.

GRV employees are encouraged to raise matters with their Manager or a member of People Services at any time. However, if an employee wishes to make a confidential and/or an anonymous report of misconduct, they can contact GRV's independent and external provider, Your Call.

### Your Call

Your Call is an independent and external reporting process, ensuring GRV employees can report concerns of misconduct.

Your Call and GRV are committed to maintaining your confidentiality and protecting your decision to remain anonymous. GRV's Service Agreement with GRV specifically prevents Your Call from disclosing your identity without your consent unless there is a legal obligation to do so.

To contact Your Call to report misconduct:

Phone: 1300 790 228 (Mon – Fri 9am – 12am AEST, ex Public Holidays)

Online Form: [yourcall.com.au/report](http://yourcall.com.au/report) (24 hours a day, 7 days a week)

Quote GRV's ID: GRV

Your Call's operators will listen to your concerns and provide direction, where required. Your Call acts as an independent conduit in the communication process and reviews all messages and information before sharing with the relevant party.

You can remain anonymous throughout the process.

Your Call does not offer protections for disclosure of a "public interest" disclosure.



## Quick reference guide

**Who can make a disclosure?**

Any individual or group of individuals.

A disclosure cannot be made by a business or company.

(refer to the '[Scope](#)' and [Part 1](#) of these procedures for more information)

**How do I make a disclosure?**

Verbally or in writing in accordance with specific procedures.

([refer to Part 3](#) of these procedures for more information)

**What can I make a disclosure about?**

Improper conduct engaged in, and/or detrimental action taken by, public bodies or public officers performing public functions, which includes GRV and its officers.

(refer to [Part 2](#) of these procedures for more information)

**Who can I make a disclosure to?**

If you wish to make a public interest disclosure in relation to Greyhound Racing Victoria or any of its appointed officers or employees, you may contact the Independent Broad-based Anti-corruption Commission (IBAC) on the following details:

Telephone: 1300 735 135

Website: [www.ibac.vic.gov.au](http://www.ibac.vic.gov.au)

Online form: [www.ibac.vic.gov.au/report](http://www.ibac.vic.gov.au/report)

(refer to [Part 3](#) of these procedures for more information)





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