

# Whistleblowers Protection Policy

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## 1.0 PURPOSE

This policy provides information and guidance for reporting disclosures of improper conduct or detrimental action by Wannon Water Directors or its employees under the Protected Disclosures Act 2012 (**the Act**). The policy enables such disclosures to be made to the nominated Officer at the Department of Environment, Land, Water and Planning (DELWP) or to the Independent Broad-Based Anti-Corruption Commission of Victoria (IBAC). Disclosures may be made by Wannon Water employees or by members of the public.

A person making a Protected Disclosure has previously been referred to as a whistleblower and for the purposes of this policy “whistleblower” and “a person making a protected disclosure” are identical terms.

## 2.0 SCOPE

Wannon Water is committed to the aims and objectives of the Protected Disclosures Act 2012. It does not tolerate improper conduct by employees, or the taking of reprisals against those who come forward to disclose such conduct.

Wannon Water 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.

Wannon Water 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.

## 3.0 PERFORMANCE STANDARDS

The Protected Disclosures Act 2012 commenced operation on 10 February, 2013 replacing the Whistleblowers Protection Act 2001. The purpose of the Act is to encourage and facilitate the making of disclosures of improper conduct by public officers and public bodies. The Act provides protection to persons making protected disclosures in accordance with the Act, and establishes a system for the matters disclosed to be investigated and for rectifying action to be taken.

## 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 Corrupt Conduct

Corrupt conduct means 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; or
- 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; or
- of a public officer or public body that constitutes or involves knowingly or recklessly breaching public trust; or

- 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
- that constitutes a conspiracy or an attempt to engage in any conduct referred to above;

being conduct that would, if the facts were found proved beyond reasonable doubt at a trial, constitute an offence against the Independent Broad-based Anti-corruption Commission Act 2011 or any of the following common law offences committed in Victoria:

- attempt to pervert the course of justice;
- bribery of a public official;
- perverting the course of justice.

The definition of corrupt conduct contemplates dishonesty or at least the foregoing of public interest for a private benefit.

## 4.2 Detrimental Action

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

## 4.3 Improper Conduct

Improper conduct means corrupt conduct, or specified conduct that is not corrupt conduct but that, if proved, would constitute a criminal offence, or reasonable ground toward dismissing or dispensing with, or otherwise terminating, the services of the officer who was, or is, engaged in that conduct.

## 4.4 Public Body

Wannon Water is a public body for the purposes of the Act.

## 4.5 Specified Conduct

Specified conduct includes:

- conduct of any person that adversely affects the honest performance of a public officer's or public body's functions
- conduct of a public officer or public body that constitutes or involves the dishonest performance of a public officer's or public body's functions
- conduct of a public officer, former public officer or a public body that amounts to knowingly or recklessly breaching public trust
- conduct by a public officer or a public body that amounts to the misuse of information or material acquired in the course of the performance of their official functions, or
- a conspiracy or attempt to engage in any of the above conduct
- conduct of a public officer or public body that involves:
  - a substantial mismanagement of public resources, or
  - a substantial risk to public health or safety, or a substantial risk to the environment.

## 5.0 LEGISLATION/REGULATIONS

Protected Disclosures Act 2012.

## 6.0 REPORTING SYSTEM

### 6.1 Reporting or Making an Enquiry about a Protected Disclosure

A person wishing to make a Protected Disclosure or make an enquiry about a Protected Disclosure should contact the Privacy Coordinator, Legal Services Branch, at DELWP, IBAC or the Victorian Ombudsman directly. Protected Disclosures may be made in person, or by mail, by telephone call or by email.

### 6.2 Investigation

A report of improper conduct, corrupt conduct and detrimental action to the Privacy Coordinator at DELWP will be referred to IBAC within 28 days to determine if the matter is a Protected Disclosure under the Act. If the matter has been deemed to be a Protected Disclosure, IBAC will refer it to the most appropriate investigative body such as Victoria Police or the Ombudsman.

### 6.3 Contact Details for Protected Disclosure Enquiries or Reporting

Disclosures of improper conduct by Wannon Water, its Board members, officers or employees can be made to the Department of Environment and Primary Industries or IBAC as follows:

#### **Protected Disclosures Coordinator**

**Department of Environment, Land, Water and Planning (DELWP)**

**PO Box 500 East Melbourne Victoria. 3002**

**Ph: 1800 903 877**

**Email: [protected.disclosures@delwp.vic.gov.au](mailto:protected.disclosures@delwp.vic.gov.au)**

or

**Independent Broad-Based Anti-Corruption Commission Victoria (IBAC)**

**Level 1, North Tower, 459 Collins Street, Melbourne Victoria 3001.**

**GPO Box 24234, Melbourne Victoria. 3000**

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

**Phone: 1300 735 135**

**Email: see the website above for the secure email disclosure process, which also provides for anonymous disclosures.**

or

**The Victorian Ombudsman**

**Level 2, 570 Bourke Street**

**Melbourne, Vic. 3000**

**Ph: 1800 806 314**

**Email: [ombudvic@ombudsman.vic.gov.au](mailto:ombudvic@ombudsman.vic.gov.au)**

## **6.4 Confidentiality**

DELWP, IBAC or the Victorian Ombudsman must not disclose the information provided by the person making the Protected Disclosure, except in limited circumstances which are allowed by the Act, which includes giving evidence in criminal proceedings for certain offences under the Act. A person making a protected disclosure to DELWP, IBAC or the Victorian Ombudsman should not discuss any of the information contained in that protected disclosure with any third party, except for purposes related to an investigation of the improper conduct. An employee making a Protected Disclosure should ensure that the method of making the Protected Disclosure protects (e.g, in person, by mail, email or telephone), as far as practicable, that employee's confidentiality.

## **6.5 Protection from Reprisals**

A person who makes a Protected Disclosure is protected against any detrimental action taken against the Whistleblower when making a protected disclosure. If an employee of Wannon Water considers that detrimental action has been taken against them as a result of making a protected disclosure, that employee should contact the Protected Disclosure Officer at DELWP, IBAC or the Victorian Ombudsman.

## **6.6 Notification of outcome of investigation**

DELWP, IBAC or the Victorian Ombudsman will inform the Whistleblower of the outcome of any investigation in writing as soon as possible after the investigation has been completed.

## **6.7 Welfare Arrangements**

If as a result of making a Protected Disclosure an employee of Wannon Water suffers stress or otherwise and wishes to seek independent counselling, the employee may access the Employee Assistance Program referred to in the Wannon Water Counselling Services policy.

## **6.8 Making False Disclosures**

It is an offence for a person to make a disclosure under the Act which is false or misleading in a material way, intending that information to be acted on as a Protected Disclosure. A person must not provide information relating to a Protected Disclosure made by that person that the person knows to be false or misleading in a particular way. A person must not claim that a matter is the subject of a Protected Disclosure knowing that claim to be false. Providing such false information is a criminal offence, the penalty of which can be a fine or imprisonment, or both. Making a false claim also constitutes serious misconduct which would be likely to lead to the termination of employment if made by an employee of Wannon Water.

## **7.0 REFERENCES**

- Protected Disclosures Act 2012.
- Independent Broad-based Anti-corruption Commission Interim Guidelines 2012.
- DELWP Guide to Making a Protected Disclosure
- Complaints; Good Practice Guide for Public Sector Agencies-September 2016
- Code of Conduct for Victorian Public Sector Employees (No.1) 2007.

## 8.0 MEASURES OF SUCCESS

This policy will include outcomes demonstrating its successful implementation. Measures will include:

| MEASURE   | OUTCOME  |
|---|--|
| Employees understanding of reporting improper conduct or detrimental actions they may know to be occurring in the Wannon Water workplace. | People Matter Survey Results demonstrate improvement in understanding of Whistleblower Policy. |

Only the Board may authorise development and approval of Board policies. The policy development and approval process is coordinated and documented in the agenda and minutes of the Board. For document control purposes, the approver detailed below is the relevant employee responsible for managing the Policy on behalf of the Board.

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|-----------------|--|
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| Approver        | General Manager People & Business Services |
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