

Protected Disclosure Policy



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1 Reporting improper or corrupt conduct

If you wish to make a disclosure about improper or corrupt conduct on the part of AVS or an employee or officer of AVS, and wish for that disclosure to be protected, you should make the disclosure directly to the Independent Broad-based Anti-Corruption Commission (IBAC).

2 What it's about

The law provides particular protections to people who make a “protected disclosure” (a process commonly known as “whistleblowing”) under the Protected Disclosure Act 2012 (Vic) (the PD Act).

The purpose of these protections is to ensure that those making disclosures are not subject to detrimental action taken in reprisal against them.

AVS is committed to transparency and accountability.

AVS does not tolerate improper conduct, misconduct or reprisals against persons who disclose such conduct.

You can help ensure that AVS is free from corruption and serious misconduct by coming forward and providing information if you have concerns.

Here we explain the key concepts and procedures that apply to protected disclosures.

3 What is a protected disclosure?

A protected disclosure is a complaint or a report on reasonable grounds about the conduct of public bodies or public officers that is “improper conduct.”

Public officers include members, officers and/or employees of AVS. Improper conduct includes:

Type of conduct	Meaning
Corrupt conduct	Conduct that would, if proved beyond reasonable doubt at trial, constitute: <ul style="list-style-type: none"> ○ A criminal offence that is indictable (e.g. serious); or The criminal offences of: attempting to pervert the course of justice, perverting the course of justice, or bribery of a public official.
Other specified conduct	Conduct that if proved would constitute: <ul style="list-style-type: none"> ○ a criminal offence that is not indictable (i.e. a more minor criminal offence); or ○ reasonable grounds for dismissal from employment.

Protected disclosures can also be made on reasonable grounds about detrimental action that has occurred, is occurring or is likely to be engaged in by a public body or a public officer.

For a disclosure to be a protected disclosure it must be made in accordance with the requirements of Part 2 of the PD Act.

3.1 ‘Reasonable grounds’

You do not require proof of improper conduct or detrimental action.

It is enough if you believe on reasonable grounds that improper conduct or detrimental action has occurred, is occurring or will occur.

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.

4 Reporting other types of improper conduct

If the improper conduct you wish to make a complaint or report about does not fall into the above categories, you can make a complaint directly to the CEO or HR Manager of AVS.

All such complaints or reports will be handled in accordance with the Managing Misconduct Policy and Investigations Procedure.

5 Who can make a protected disclosure?

Any person can make a disclosure about improper conduct by public bodies and public officers. This includes a person who is a member, officer or employee of a public body or public officer. However, the making of disclosure is not limited only to 'internal' disclosers.

A company or a business cannot make a disclosure. The disclosure must be by an individual or a group of individuals.

A disclosure can be made anonymously.

A person can also make a disclosure in circumstances where they cannot identify the person or the organisation to which the disclosure relates.

5.1 CEO's mandatory notification obligation

Pursuant to the obligations under the Independent Broad-Based Anti-Corruption Commission Act 2011, the CEO of AVS must notify IBAC of any matter that he or she suspects involves corrupt conduct:

- occurring in AVS; or
- occurring in other organisations where connected to the CEO's duties, functions and exercise of power at AVS.

6 How to make a protected disclosure

Protected disclosures may be made in a number of ways set out in the PD Act, including anonymously, in writing or orally.

If you wish to make a protected disclosure in relation to AVS, you should make it directly to IBAC.

In person: IBAC Victoria

Level 1, North Tower 459 Collins Street Melbourne

Victoria 3001 By mail:

IBAC Victoria GPO Box 24234

Melbourne VIC 3000

Online: www.ibac.vic.gov.au

By phone: 1300 735 135

While disclosures made directly to AVS may receive some alternative protection under the Corporations Act 2001 (Cth), AVS recommends all disclosures regarding Improper Conduct, or detrimental action, be made directly to IBAC to ensure they are protected.

If you have made a complaint or disclosure to IBAC about an AVS officer or employee, you should not let AVS know.

7 What if your disclosure to IBAC is not about improper conduct or detrimental action?

If IBAC decides that your complaint is not a disclosure about improper conduct or detrimental action, IBAC may refer you back to AVS for your complaint to be dealt with in accordance with the Managing Misconduct Policy and Investigations Procedure.

8 Protections and welfare management

Any person within the scope of this policy is protected from detrimental action taken against that person in reprisal for a protected disclosure.

Part 6 of the PD Act sets out the protections provided to persons who make a disclosure that is a ‘protected disclosure’ made in accordance with Part 2 of the PD Act. These protections include (but are not limited to), immunity from liability, protection from defamation and protection from detrimental action in reprisal for a protected disclosure.

The protections apply whether or not IBAC has determined that it is a protected disclosure complaint.

The protections also apply to further information relating to a protected disclosure made by the original discloser, if the further information has been provided, verbally or in writing, to:

- IBAC, or
- an investigating entity investigating the protected disclosure.

8.1 Requesting a transfer

If you are an employee who has made a protected disclosure and you believe on reasonable grounds that detrimental action will be, is being, or has been taken against you in reprisal for making your protected disclosure, you may request a transfer of employment to another government agency on terms and conditions that are no less favourable overall to you. Note that all requests of this nature will be considered, but a number of conditions must be satisfied before they are granted, including:

- a) AVS must be satisfied there are reasonable grounds to suspect detrimental action will be, is being, or has been taken against you
- b) AVS must consider that the transfer will avoid, reduce or eliminate the risk of detrimental action
- c) The head of the ‘receiving’ public sector body consents to the transfer.

If you have sustained injury, loss or damage as a result of detrimental action taken against you in reprisal for making a disclosure, the Act sets out remedies that are available to you. You may wish to obtain legal advice about this.

9 If AVS becomes aware of a protected disclosure

AVS is committed to protecting the welfare of those who make protected disclosures.

AVS will not typically be notified by IBAC of a protected disclosure unless it is necessary to further an investigation into the protected disclosure.

Should AVS become aware of a protected disclosure (or otherwise receives or becomes aware of a disclosure relating to improper conduct or detrimental action), it will endeavour to ensure the welfare of the discloser and others cooperating in the matter (co-operators) by performing the following steps as appropriate and as otherwise instructed by IBAC (or other relevant investigating authorities):

Cooperating with IBAC / Authorities	Cooperating with instructions and guidance as provided by IBAC or other investigating authorities to ensure the well-being of the person and to facilitate any investigation.
Maintaining confidentiality	Making sure that other staff cannot infer the identity of the discloser or a person cooperating with the investigation from any information they receive; Reminding the discloser and co-operators not to reveal themselves or give out information that would enable others to identify them;

Assessing the risks of detrimental action being taken	Being proactive and not waiting for a complaint of victimisation; and Actively monitoring the workplace, anticipating problems and dealing with them before they develop.
Protecting the discloser / co-operator	Examining the immediate welfare and protection needs of the person and fostering a supportive work environment; Listening and responding to any concerns the person may have about harassment, intimidation or victimisation in reprisal for their actions.
Managing the impact of any investigation	Prevent the spread of gossip and rumours about an investigation into the disclosure.
Keeping records	Keeping contemporaneous records of all aspects of the case management of the person, including all contact and follow-up action.

10 What happens if a protected disclosure is made against you?

AVS recognises that employees against whom disclosures are made must also be supported during any investigation process. AVS will endeavour to meet the welfare needs of any employee that has become aware of an allegation made against them.

If the matter is referred to AVS by IBAC, investigations into allegations made against employees will be conducted in accordance with the AVS Managing Misconduct Policy and Investigations Procedure.

11 Policy Review & Approval

This policy is reviewed in accordance with the requirements of the AVS Policy Development & Review Policy.

This policy is a Category B Policy and reviews are approved by the AVS ARMC.