

Protected Disclosure Guidelines

Compliance Guideline: Summary



Overview

These guidelines are about protected disclosures (PDs). Making a PD is also known as “whistleblowing”. PDs can be about improper conduct by ACM employees/officers/contractors/agents, and/or reprisals taken against someone for making a PD or cooperating with the investigation of a PD. ACM’s commitment to the PD scheme is embedded in *The Role You Play* and our core values of Leadership, Community, Care More and Creativity. The word ‘disclosure’ is used in the ordinary sense to mean a “revelation” to the person receiving it. A PD is a report made by a person about improper conduct of public bodies or officers to an organisation specified in Part 2 of the *Protected Disclosure 2012 Act* (PD Act).

How to make a disclosure

You are encouraged to disclose improper conduct whenever it comes to your attention. This disclosure could be made to your supervisor or someone else in authority at ACM. While ACM will do everything it can to protect the confidentiality of a disclosure it receives, a disclosure made to ACM will not have the protection afforded by the *Independent Broad-based Anti-corruption Commission Act 2011* (“IBAC Act”). This is because the IBAC Act does not authorise ACM to receive disclosures.

If you want to make a disclosure about ACM or an employee or officer of ACM, and want that disclosure to be protected, you must make the disclosure to IBAC. IBAC’s contact details are:

Level 1, North Tower, 459 Collins St Melbourne VIC 3001	GPO Box 24234 Melbourne VIC 3001	T: 1300 735 135 W: www.ibac.vic.gov.au
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IBAC investigations

IBAC will determine whether a disclosure is a PD or not, and may investigate a PD in accordance with the IBAC Act. If ACM becomes aware of an IBAC investigation, ACM must take all reasonable steps to ensure that its own work does not prejudice the IBAC investigation. While ACM is not allowed by the IBAC Act to receive a PD, IBAC or another entity may provide information to ACM about a PD or investigation.

Detrimental action

It is an offence to take detrimental action against a person for making a disclosure. See below for the meaning of “detrimental action”.

Dealing with detrimental action

ACM should record the details of any report of detrimental action taken in reprisal for a PD, and advise the reporting person of their legal right to make a disclosure to IBAC. If detrimental action is serious or could amount to a criminal offence, the General Counsel may determine that it should be reported to police or IBAC.

Transfer of employee

An ACM employee may request a transfer of employment if they have made a PD and believes on reasonable grounds that detrimental action may be taken against them in reprisal for the PD. The employee may be transferred internally or to another public service body if:

- ACM’s Chief Executive Officer (CEO) has reasonable grounds to suspect that detrimental action will be, is being, or has been taken against the employee; and
- ACM’s CEO considers that the transfer will avoid, reduce or eliminate the risk of detrimental action; and
- where transfer to another body is proposed, that body consents to the transfer.

The transfer may be temporary or permanent and must be on no less favourable terms and conditions to the employee. The employee’s service with a new body is seen as a continuation of their pre-transfer service.

Welfare management

ACM has various obligations to ensure the health and wellbeing of employees (e.g. under the *Occupational Health and Safety Act 2004* and *Enterprise Agreement 2012*). If IBAC provides ACM with information about a PD or investigation, ACM may (on a case-by-case basis) appoint a “welfare manager” to support the person who made the disclosure or is co-operating with an IBAC investigation. ACM will take reasonable steps to support the welfare of a person about whom a disclosure is made.

ACM provides a free, confidential and independent Employee Assistance Program (EAP) to ACM team members and their families. Davidson Trahaire Corpsych (DTC) can be contacted on 1300 361 008.

Confidentiality

ACM must keep any information it receives about a disclosure confidential and secure. This includes the discloser’s identity and the identity of the person about whom the disclosure was made. This information can only be accessed by a welfare manager or a person authorised by the CEO. ACM may disclose such information in very limited circumstances, and only with the approval of the General Counsel.

Quick Reference Guide

Who can make a disclosure?	Any individual or group of individuals (but not a business or company).
How do I make a disclosure?	Verbally or in writing (but not by fax) in accordance with specific procedures.
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. This includes ACM and/or its staff. For more information visit www.ibac.vic.gov.au .
Who can I make a disclosure to?	Protected disclosures about ACM or any of its staff may be made to: Independent Broad-based Anti-corruption Commission (IBAC) Level 1, North Tower 459 Collins Street T: 1300 735 135 GPO Box 24234 W: www.ibac.vic.gov.au Melbourne VIC 3001 Disclosures to IBAC will be handled under IBAC's guidelines and processes.
What is “detrimental action”?	Action taken, threatened or incited against a person who has made a protected disclosure (or is involved in investigating a protected disclosure) which: <ul style="list-style-type: none"> • causes injury, loss or damage; • intimidation or harassment; or • discrimination, disadvantage or adverse treatment relating to a person's employment, career, profession, trade or business (incl. disciplinary action). Detrimental action is NOT legitimate management action where the grounds would justify the action against any other person in the same circumstances.
Examples of detrimental action	<ol style="list-style-type: none"> 1. ACM demotes, transfers, isolates in the workplace or changes the duties of a person who has made a disclosure due to the making of a disclosure. 2. A person threatens, abuses or carries out other forms of harassment directly or indirectly against the person who makes a disclosure and his or her family or friends. 3. ACM discriminates against the person who makes a disclosure or his or her family and associates in subsequent applications for jobs, permits or tenders.

Supporting Documentation

a) Related Policies, Operating Procedures and Legislation

<i>Independent Broad-based Anti-corruption Commission Act 2011</i>	<i>Fairness, Respect & Diversity Operating Policy</i>
<i>Protected Disclosure Act 2012</i>	<i>Performance & Conduct Improvement Procedure</i>
<i>Occupational Health and Safety Act 2004</i>	<i>Health & Safety Policy</i>
<i>Charter of Human Rights & Responsibilities Act 2006</i>	<i>Issue Resolution (Health and Safety) Procedure</i>
<i>Australian Human Rights Commission Act 1986 (Cth)</i>	<i>Feedback & Complaints Handling Procedure</i>
<i>Fraud, Corruption & Other Losses Prevention & Management Policy</i>	<i>The Role You Play</i>
<i>Enterprise Agreement 2015</i>	<i>Code of Conduct Policy</i>

Governance

a) Responsibility

Policy Owner	Director, Governance & Strategy
Approving body	RMAC

b) Version Control and Change History

Version No.	Approval Date	Approved by	Amendment
2.0	September 2016	RMAC	Redrafted to provide greater clarity as to ACM obligations, welfare management and confidentiality requirements in line with legislation.
1.0	February 2014	COO	First version, replacing Whistleblower Policy due to new legislation introduced 10/02/2013
Post Implementation Review			
Due Date			December 2017