


Title	Public Interest Disclosures			
Department	Corporate	Section	Organisation	
Approved by	CEO	Document Type	Policy	

POLICY

The *Public Interest Disclosures Act 2012* replaces the former *Protected Disclosure Act 2012* which in turn replaced the *Whistleblowers Protection Act 2001*. It forms part of Victoria's anti-corruption laws. It enables individuals to make a disclosure about the improper conduct of and detrimental action taken by public bodies or public officers performing public functions– this includes health services – and provides protection for those individuals.

South Gippsland Hospital (SGH) is committed to the aims and objectives of the *Public Interest Disclosures Act 2012* and to complying with the requirements of the Act.

The purpose of the **Public Interest Disclosures Act** is to:

- Encourage and facilitate disclosures of improper conduct and detrimental action made in reprisal by public officers and public bodies
- Provide protection for people who make disclosures or who may suffer detrimental action in reprisal for those disclosures
- Provide confidentiality of the content of disclosures and the identity of people who make them.

Improper conduct and detrimental action against another person in reprisal for a public interest disclosure are strictly prohibited. SGH will not tolerate its staff (public officers) engaging in such conduct. SGH supports the making of disclosures that reveal such conduct so that appropriate action can be taken to address the conduct. All SGH staff are encouraged to identify and report, in accordance with this policy, any incidences of such conduct.

PROCEDURE

Definition of Key Terms

Corrupt conduct means the following types of conduct that would (if proved) be an indictable criminal offence or the offence of perverting the course of justice, attempting to pervert the course of justice or bribery of a public official:

- Conduct of any person that adversely affects the honest performance of the functions of a public body or a public officer; or
- Dishonest performance of the functions of the public body or public officer; or
- Conduct of a public body or public officer that involves knowingly or recklessly breaching public trust; or
- The misuse by a public body or a public officer of information or material acquired in the course of the performance of their official functions whether or not for the benefit of the entity or individual(s); or
- A conspiracy or attempt to engage in the above types of conduct.


Detrimental action includes:

- Action causing injury, loss or damage; or
- Intimidation or harassment; or
- Discrimination, disadvantage or adverse treatment (including disciplinary action) in relation to a person's employment, career, profession, trade or business.
- Personal injury, property damage or loss and demotion, transfer or isolation in the workplace.

Detrimental action in reprisal for a public interest disclosure occurs when a person or organisation:

- Takes or threatens to take detrimental action against another person because (or in the belief that) any person has made or intends to make the disclosure or has co-operated or intends to co-operate with an investigation of the disclosure; or
- Incites or permits someone else to take or threaten to take detrimental action against the other person because any person has made or intends to make the disclosure or has co-operated or intends to co-operate with an investigation of the disclosure.

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IBAC means the Independent Broad-Based Anti-corruption Commission, which is a public body set up under the *Independent Broad-Based Anti-corruption Commissioner Act 2011*. IBAC has a range of functions including investigation and education and prevention functions.

Improper Conduct means:

- Corrupt conduct; or
- Any of the following types of conduct, which is not corrupt conduct but (if proved) would be a criminal offence or reasonable grounds for dismissal or termination of the public officer who engaged in that conduct:
 - Conduct of any person that adversely affects the honest performance of the functions of a public body or public officer; or
 - Dishonest performance of the functions of the public body or a public officer; or
 - Conduct of a public body or a public officer that involves knowingly or recklessly breaching public trust; or
 - The misuse by a public body or a public officer of information or material acquired in the performance of the public body's or public officer's functions, whether or not for the benefit of any entity or individual(s); or
 - Conduct of a public body or a public officer in his or her official capacity that involves substantial mismanagement of public resources, or substantial risk to public health or public safety of the environment.

Public body includes IBAC, a public sector body, and includes a public health service such as SGH.

Public officer includes a person employed in any capacity or holding any office in the public sector (which includes health services such as SGH).

THE REPORTING SYSTEM

Relationship with other SGH complaint and communication processes

The procedures in this guideline apply to improper conduct, and detrimental action against another person in reprisal for a public interest disclosure. These procedures do not replace the normal complaint-handling processes or communication channels for other concerns. Complaints from patients or their relatives or carers about patient care, grievances regarding employment matters and privacy complaints should continue to be handled in accordance with the relevant policy.

Public Interest disclosure about SGH


In order for a disclosure to be a public interest disclosure, it must be made to the appropriate body. A public interest disclosure about SGH, including its public officers, cannot be made directly to SGH. Any disclosures made directly to SGH (whether about SGH or another body) will not be a public interest disclosure.

A public interest disclosure about SGH should be made directly to the Independent Broad-Based Anti-corruption Commission (IBAC). Public interest disclosures can be made directly to IBAC orally or in writing and may be made anonymously. IBAC's website contains information about how to make a public interest disclosure. IBAC's details are:

Independent Broad-based Anti-corruption Commission
Phone: 1300 735 135

Post: IBAC, GPO Box 24234, Melbourne Vic 3000
Web: www.ibac.vic.gov.au

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If IBAC receives a disclosure about SGH, it will assess whether it is a public interest disclosure. If it is a public interest disclosure, IBAC can investigate the matter under the Independent Broad-based Anti-Corruption Commission Act 2011. If it is not a public interest disclosure, IBAC may advise the discloser that they should make a complaint directly to SGH.

It is an offence for a person to provide information to IBAC intending it to be a public interest disclosure if he or she knows it is false or misleading in any way.

It is also possible to contact the Department of Health and Human Services Public Interest Disclosure Hotline on 1300 131 431; email: public.interest.disclosures@dhhs.vic.gov.au or write to DHHS Public Interest Disclosures, GPO Box 4057, Melbourne VIC 3001

Protection

Once an allegation has been formally assessed as a public interest disclosure, the discloser receives:

- Immunity from civil and criminal liability and disciplinary action for making the disclosure
- Immunity from liability for breaching confidentiality provisions
- Protection from actions in defamation for making the disclosure
- The right to sue for damages or to seek an injunction to stop actions in reprisal
- Protection of their identity and any information that would lead to their identification.

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