



GMA Policy

Protected Disclosure & Fraud

(previously Whistleblower & Fraud Policy)

(As at 27 June 2019 V5.0)

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Foreword

The Game Management Authority ('GMA') has been established to facilitate the effective management of Victoria's game resources and the promotion of responsible game hunting across the state.

Our Vision

Game hunting in Victoria meets community expectations as a sustainable and well-regulated activity based on science and conducted in a responsible manner.

Our purpose

We regulate through education, research and enforcement to achieve responsible and sustainable game hunting in Victoria.

1. Objective

The objectives of the Protected Disclosure and Fraud Policy are to:

- Provide a clear statement regarding the GMA's position on fraud and corruption
- Inform management of their key leadership responsibilities regarding fraud and corruption prevention
- Inform all employees, Board members and Committees' members of their responsibilities regarding fraud and corruption, and detail the actions required when fraud is suspected
- Summarise the anti-fraud and anti-corruption strategies
- Outline protected disclosure procedures

2. Scope

This policy sets out the GMA's principles and procedures in relation to protected disclosures and fraud. It applies to all Board members and employees at all times in the performance of their duties.

3. Terms and Definitions

3.1 Corruption

Corruption is defined as a dishonest activity in which a Director, Executive, Manager, Employee or Contractor of an entity acts contrary to the interests of the authority and abuses his or her

position of trust in order to achieve some personal gain or advantage for him or herself or for another person or entity. Corrupt conduct is:

- a) Conduct of any person that adversely affects the honest performance of an employee or the GMA's functions;
- b) Conduct of an employee of the GMA that constitutes or involves the dishonest performance of his or her or its functions as a public officer or public body;
- c) Conduct of a current or former employee of the GMA that constitutes or involves knowingly or recklessly breaching public trust; or
- d) Conduct of a current or former employee of the GMA that amounts to the misuse of information or material acquired in the course of the performance of their functions as such (whether for the benefit of that person or body or otherwise);
- e) A conspiracy or attempt to engage in any conduct referred to in paragraphs (a) to (d) above; or
- f) Being conduct that would, if the facts were found proved beyond reasonable doubt at a trial, constitute:
 - Any offence under the *Independent Broad-based Anti-Corruption Commission (IBAC) Act*; or
 - An attempt to pervert the course of justice; or
 - Bribery of a public official; or
 - Perverting the course of justice.

Conduct may be corrupt if all or any part of the conduct occurs outside Victoria, including outside Australia, and the conduct would be 'corrupt conduct' if it occurred in Victoria.

Examples of corrupt conduct include but are not limited to:

- payment of secret commissions (bribes or gratuities) in money, or some other value, to other businesses, individuals or public officials
- receipt of bribes or gratuities from other businesses, individuals or public officials
- release of confidential information, for other than a proper business purpose, sometimes in exchange for either a financial or non-financial advantage
- an employee manipulating a tendering process to achieve a desired outcome
- a conflict of interest involving an employee acting in his or her own self-interest rather than the interests of the GMA

3.2 Fraud

Fraud is defined as an intentional act by one or more individuals among management, those charged with governance, employees or third parties, involving the use of deception to obtain an unjust or illegal advantage. A fraud can typically result in actual or potential financial loss to any person or entity however this is not always the case.

Examples of fraud could include, but are not limited to:

- misappropriation of funds, securities, stock, supplies or other assets including use of assets for private purposes
- causing a loss to the GMA or creating a liability for the GMA by deception
- impropriety in the handling or reporting of money or financial records
- profiting from insider knowledge of the GMA's' activities
- accepting or seeking anything of value from contractors, vendors or persons providing services or goods to the GMA
- false invoicing for goods or services never rendered or backdating agreements
- submission of exaggerated or wholly fictitious accident, harassment or injury claims
- misuse of sick or family leave

3.3 Detrimental action

Detrimental action includes:

- action causing injury, loss or damage; or
- intimidation or harassment; or
- discrimination, disadvantage or adverse treatment in relation to a person's employment, career, profession, trade or business, including the taking of disciplinary action;

but does not include management action in relation to an employee taken for a substantial reason other than the employee having made a protected disclosure.

For detrimental action to occur, it must be taken, or threatened to be taken by the GMA or a public officer, against the person making the protected disclosure or any person in reprisal for the making, intent to make, cooperation or intent to cooperate in relation to a protected disclosure or its investigation. Detrimental action can also occur if a person has incited another person to take detrimental action.

3.4 Disclosure

Disclosure means a report made by a person about improper conduct or, detrimental action in reprisal for making a protected disclosure, by public bodies or public officers in accordance with Part 2 of the *Protected Disclosure (PD) Act 2012*. A disclosure may be made in accordance with the PD Act 2012 even if it is a complaint made under another Act.

3.5 Improper conduct

Improper conduct is:

- corrupt conduct; or
- conduct:
 - a) of any person that adversely affects the honest performance of an employee of the GMA of his or her or its functions; or
 - b) of an employee of the GMA that constitutes or involves the dishonest performance of his or her or its functions; or
 - c) conduct of a current or former employee of the GMA that constitutes or involves knowingly or recklessly breaching public trust; or
 - d) of a current or former employee of the GMA that amounts to the misuse of information or material acquired in the course of the performance of their functions as such (whether for the benefit of that person or body otherwise); or
 - e) that could constitute a conspiracy or attempt to engage in any conduct referred to in paragraphs (a) to (d) above;
 - f) of a current or former employee of the GMA in their capacity of a public officer or public body that
 - involves a substantial mismanagement of public resources; or
 - involves conduct involving substantial risk to public health or safety; or
 - involves conduct involving substantial risk to the environment;
 - that would, if proved, constitute a criminal offence or reasonable grounds for dismissing or dispensing with, or otherwise terminating, the services of an employee or GMA Board member who was, or is, engaged in that conduct.

3.6 Protected disclosure

Protected disclosure means a disclosure that satisfies Part 2 of the PD Act 2012. It includes a disclosure of information by an individual that shows or tends to show, or a disclosure of information that the individual believes on reasonable grounds that the information shows or tends to show, that the GMA, an employee or former employee:

- has engaged, is engaging or proposes to engage in improper conduct in their capacity as a public officer or public body; or
- has taken, is taking or proposes to take detrimental action as a public officer or public body in contravention of section 45 of the PD Act 2012.

3.7 Protected disclosure coordinator

The protected disclosure coordinator is the person at the GMA who is appointed to liaise between the GMA and IBAC and the Ombudsman.

3.8 Substantial mismanagement of public resources

IBAC advises that the use of the word 'substantial' has the effect of confining the definition to a situation in which the mismanagement is of a significant or considerable degree. Mismanagement should not be confused with 'misuse'.

3.9 Substantial risk to public health, safety or the environment

IBAC advises that the use of 'substantial' has the effect of confining the definition to conduct that puts public health, safety or the environment at considerable or great risk.

3.10 Person making a protected disclosure

Is any person internal or external to the GMA who makes a disclosure of alleged improper conduct or detrimental action by the GMA or an employee to IBAC in accordance with the PD Act. A person making a protected disclosure may be anonymous.

3. 11 Protected Disclosure Coordinator

Executive Director Ministerial and Portfolio Services

Level 13, 1 Spring St

Melbourne

8392 6978

4. Policy Principles

4.1 Context

Fraud is a deliberate, intentional and premeditated dishonest act or omission acted out with the purpose of deceiving to gain advantage from a position of trust and authority. It includes amongst other acts such as theft, making false statements/representation, evasion, manipulation of information, criminal deception and abuse of GMA property or time.

Fraud control is the responsibility of all GMA employees, consistent with the requirements of the Victorian Public Sector (VPS) Code of Conduct. The VPS Code of Conduct must be read in conjunction with this policy.

The GMA will establish a Fraud Control Program to prevent, detect and deal with any incidents of fraud. The Program is the implementation of the Fraud Control Plan as defined by the Australian Standard for Fraud Control.

The Program includes resourcing to manage and coordinate planning, risk management, training, an accountability structure, mitigation strategies for risks, infringement sanctions as well as reporting and monitoring.

4.2 Policy

The GMA is committed to establishing and maintaining an organisational culture which will ensure that effective control of fraud is an integral part of all activities.

4.3 Policy objectives

In line with the requirements of the VPS Code of Conduct and the Australian Standard on Fraud, the objectives of the Fraud Control Policy are to:

- ensure senior management commitment for its responsibility for identifying risk exposures to corrupt and fraudulent activities, and for establishing controls and procedures for prevention and detection of such activities;
- reinforce the prohibition of all employees, officers and representatives of the GMA to engage in fraudulent activities and maladministration and encourage the reporting of any instance of fraud;
- ensure that all employees, officers and representatives of the GMA are aware of their responsibilities in relation to the ethical conduct of themselves and other persons they may be responsible for; and
- ensure that regular assessment of the risks of corruption and fraud is undertaken, and all suspected corrupt and fraudulent activity is dealt with appropriately.

4.4 Statement of attitude to fraud control

The GMA does not tolerate fraud and has a responsibility to address fraud risks, protect assets and its reputation. Fraud control is the responsibility of all Board members, executives, managers and employees. This includes the prevention, detection and reporting of suspected fraud. This approach is consistent with obligations under the *Public Administration Act 2004*.

The GMA is strongly committed to an environment of sound governance, robust internal controls and a culture that will safeguard funds and property under its control from fraud.

Under this policy, all cases of suspected or actual theft, arson, irregularity, fraud or corruption in connection with the receipt or disposal of money, stores or other property of any kind under the control of the GMA is a responsibility of management, and all employees have an obligation to support fraud control efforts.

4.5 Fraud control plan implementation

Successful implementation of the policy objectives will require recognition and incorporation of the following elements within the Fraud Control Plan:

a. Governance and fraud control

Fraud control and management is an integral component of effective governance which builds upon the requirement for transparent and accountable processes consistent with sound business practices and organisational standards of compliance. Embedding these requirements into the day-to-day operations of the GMA will reduce the likelihood that it will suffer financial loss or damage to its reputation as a result of misconduct by employees and others.

b. Executive and management commitment

The executives and managers of the GMA need to have a high level of commitment to controlling the risks of fraud against the GMA. This commitment is consistent with the *Public Administrations Act 1994* and AS 8001:2008 Fraud and Corruption Control.

Senior management need to ensure that the GMA's people do not engage in fraudulent behaviour in their dealings with other parties. There is a need to ensure that there is a consideration of fraud as a serious risk.

All executives and managers should ensure there are mechanisms in place within their area of control to:

- Assess the risk of corruption and fraud, controls and treatments;
- Promote employee awareness of good governance and ethics, and
- Educate employees about fraud prevention and detection.

Operational line management (e.g. supervision) must display a behaviour that is consistent with the GMA's values and an appropriate attitude towards compliance with the GMA's policy and procedures, laws, rules and regulations. They should ensure that they undertake a fraud risk assessment, understand fraud 'red flags' that can potentially lead to fraudulent conduct, or other wrongful acts and respond appropriately. Most importantly they should establish and maintain adequate internal controls that provide for the security and accountability of resources and prevent/reduce the opportunity for any inappropriate activities.

c. All employees

All GMA employees are employed under Part 3 of the *Public Administration Act 2004 (Vic)*. Any behaviour relating to fraud is considered to be a breach by employees of the Victorian Public Sector Code of Conduct and is treated seriously. The fraud control policy, procedures and plan is applicable to all employees.

d. Reporting suspected fraud

All employees have the responsibility to report suspected fraudulent activity. Any employee that suspects such activity must immediately notify his or her supervisor or the Director Game or CEO.

In situations where the supervisor is suspected of involvement in fraudulent activity then the matter should be notified only to the Director Game or CEO. Employees opting to retain anonymity of a disclosure are to be protected under the *Protected Disclosure Act 2012*. Reporting of fraud is to comply with the requirements of the *Financial Management Act*.

e. Dealing with reports/complaints

All complaints of suspected fraudulent behaviour must be reported for appropriate action. The protection of those individuals making the complaint and ensuring natural justice for those individuals being the subject of such a complaint must also be ensured.

f. Investigation of complaints and recovery

The GMA supports the vigorous investigation of all suspected instances of fraud. All suspected cases of fraud will be handled, investigated and dealt with in a professional, discreet and professional manner, in accordance with the principles of natural justice.

All reports will be investigated and a determination made as to the most appropriate course of action which may lead to legal action, disciplinary hearing. Where there is proven evidence of fraud, appropriate disciplinary action will be taken in accordance with DJPR People and Culture policies and procedures.

Criminal proceedings and civil action aimed at recovery of misappropriated public property will be instituted where appropriate.

g. Remediation of internal controls

To ensure that any control weaknesses are rectified, operational management should perform a review of the internal control environment after an incident of fraud. In cases of material fraud, the CEO may initiate an internal control review to evaluate the effectiveness of the internal controls in preventing further such incidences.

h. Recruitment and contractor screening

In order to make an informed decision, the GMA must conduct pre-employment screening in order to gain a reasonable understanding of a candidate or contractor's employment history. New employees and contractors must accept and consent to information verification checks which may include:

- Contacting referees
- Verifying transcripts, qualifications, publications and other certifications of documentation
- Ensuring recruitment presents no conflicts of interest
- Criminal background checks

i. Employee development and training

Training for fraud prevention, fraud detection and other related issues will form part of the overall GMA professional development program. Fraud risk assessment workshops are conducted within the GMA and contact should be made with the Risk and Audit Services team.

4.6 Fraud and corruption control

The Victorian Government *Protected Disclosure Act 2012* ("the PD Act"), the *Independent Broad-based Anti-Corruption Commission Act 2011* ("the IBAC Act") and the *Ombudsman Act 1973* ("the Ombudsman Act") aim to encourage and facilitate the making of disclosures of improper conduct or detrimental action, in contravention of those Acts, by public officers and public bodies. They provide protection to persons who make disclosures in accordance with the PD Act and establish systems for the matters disclosed to be investigated and for remedial action to be taken.

The GMA is a public body under the IBAC Act. Employees at the GMA are public officers under the IBAC Act.

It is the complainant's right and responsibility to elect to take a complaint of improper conduct or detrimental action in reprisal for a protected disclosure to IBAC or the Ombudsman.

Any person contemplating making a disclosure of improper conduct or detrimental action related to the GMA should contact IBAC in the first instance. The GMA's protected disclosure coordinator is not authorised under the PD Act and IBAC Act to receive or assess a disclosure.

Any person who chooses to make a complaint directly to the GMA, rather than to IBAC or the Ombudsman, will have their complaint dealt with under the GMA's policies and procedures, unless the GMA is otherwise instructed by IBAC or the Ombudsman.

The GMA does not tolerate improper conduct by employees, or any person performing public services or public functions on behalf of the GMA. The GMA does not tolerate the taking of reprisals against those people who disclose such conduct.

The GMA implements the PD Act, the IBAC Act and the Ombudsman Act by:

- encouraging its employees and stakeholders to raise matters of improper conduct and/or detrimental action in reprisal for a protected disclosure directly to IBAC;
- taking steps to support employees where the identity of the employee is known in any subsequent investigation of a protected disclosure complaint by IBAC or the Ombudsman;
- taking steps to protect employees against detrimental action taken in reprisal for the making of protected disclosures, where the identity of the employee is known;
- recognising that employees against whom protected disclosure complaints are made may also need support during any investigation, where their identity is known;
- taking steps to ensure that the identity of the employee, the person who is subject to disclosure and the witnesses are kept confidential, where their identity is known; and
- working constructively and cooperatively with IBAC and the Victorian Ombudsman.

This procedure does not replace existing conduct and compliance policies and procedures. Generally, activity that is primarily directed at an employee, such as harassment or bullying, is personal grievances and fall outside this procedure. This procedure should only be followed if an employee or member of the public elects to make a disclosure of alleged improper conduct or detrimental action and the disclosure is in accordance with Part 2 of the PD Act.

Employees of the GMA must not engage in any breach of the PD Act, IBAC Act or Ombudsman Act. Any breach will be treated with the utmost seriousness and may result in disciplinary action up to and including termination of employment.

4.7 Making a disclosure to IBAC or the Victorian Ombudsman

Any member of the public or employee can make a disclosure alleging improper conduct or detrimental action by the GMA or an employee or former employee. It does not matter if the person engaging in the conduct cannot be identified, or the person making the disclosure has made the same disclosure to another person or the body.

In order for the protected disclosure protections to apply under the applicable legislation, a disclosure alleging improper conduct or detrimental action may only be made to IBAC or the Ombudsman. A person contemplating making a disclosure should refer to IBAC for more information.

Disclosures may be made anonymously, in writing or orally. Written disclosures may be delivered personally, mailed or sent by email to IBAC or the Ombudsman. IBAC and the Ombudsman also have online forms.

4.8 Receiving and assessing a disclosure

Any employee who receives information that may be a protected disclosure should refer the person who gave them that information to contact the protected disclosure coordinator or advise the person who gave them that information that they should contact IBAC or the Ombudsman directly.

If a disclosure is made directly to the protected disclosure coordinator, the protected disclosure coordinator will advise the person making the disclosure of their right to make the disclosure directly to IBAC or the Ombudsman.

A disclosure is in accordance with Part 2 of the PD Act if it is made to IBAC or the Ombudsman and satisfies the following criteria, that:

- a natural person (that is, an individual person rather than a corporation) made the disclosure; and
- the disclosure relates to conduct of the GMA, or an employee or former employee acting in their official capacity; and
- the alleged conduct concerns:
 - a) improper conduct; or
 - b) detrimental action taken against a person in reprisal for making a protected disclosure; and
- the information shows or tends to show, or the person making a disclosure believes on reasonable grounds that the information shows or tends to show, that the GMA, an employee or former employee:
 - a) has engaged, is engaging or proposes to engage in improper conduct in their capacity as a public officer or public body; or
 - b) has taken, is taking or proposes to take detrimental action as a public officer or public body in contravention of section 45 of the PD Act.

Where IBAC or the Ombudsman advise the person making the disclosure that the matter disclosed is not a protected disclosure complaint, the person may make a complaint under the applicable policies and procedures.

4.9 Managing protected disclosures

Where IBAC determines the disclosure not to be a protected disclosure complaint, IBAC will notify the person in writing and may advise the person to make a complaint directly to the GMA.

If IBAC determines the disclosure has been made in accordance with Part 2 of the PD Act, IBAC will notify the person of its determination and the action IBAC intends to take. IBAC must do this within a reasonable time.

Under the PD Act, IBAC may decide not to notify the person of its decisions if it considers that this action may have adverse consequences such as putting a person's safety at risk or prejudicing an investigation under the IBAC Act.

Where IBAC or the Ombudsman investigate a protected disclosure complaint, and the identity of the person is made known to the GMA, the GMA will consider the appointment of a welfare manager for the person and other relevant people as required.

For further information on the responsibilities of the welfare manager, refer to IBAC's Guidelines for protected disclosures and welfare management.

Where the GMA is made aware by IBAC or the Ombudsman of the identity of a person and/or the contents of the disclosure the GMA will keep that information confidential. A welfare manager will not disclose details relating to the disclosure to any person in accordance with the PD Act and with the authorisation of IBAC or the Ombudsman.

The Acts make it a criminal offence for a person, and in some cases the GMA, to:

- take or threaten detrimental action in reprisal because, or in the belief that, the other person or anyone else has made, or intends to make, the disclosure, or where the other person or anyone else has cooperated, or intends to cooperate, with an investigation of the disclosure (see Section 5.12 below, Detrimental Action);
- incite or permit someone else to take or threaten to take detrimental action against the other person, when a protected disclosure is made, has been made or intended to be made, or where the other person or anyone else has cooperated, or intends to cooperate, with an investigation of the disclosure (see Section 5.12 below, Detrimental Action);
- divulge information likely to lead to the identification of the person who made the assessable disclosure, unless written consent from the person is provided in accordance with the PD Act;

- divulge information regarding an assessable disclosure unless it is in accordance with the PD Act;
- obstruct IBAC in performing IBAC's responsibilities under the Act including by attempting to mislead IBAC;
- knowingly provide false information under the PD Act with the intention that it be acted on as a protected disclosure matter, or provide false or misleading information relating to a protected disclosure;
- claim that information is a protected disclosure knowing that it is not; or
- disclose that a matter is with IBAC or the Ombudsman for assessment of investigation.

A person may take civil action against a person where detrimental action has been or may have been taken against them for reprisal against the protected disclosure.

4.10 Investigating a protected disclosure complaint

Where IBAC assesses a protected disclosure to be a protected disclosure complaint, it may dismiss the matter, investigate the matter, or refer the matter to the Ombudsman for investigation.

If IBAC or the Ombudsman investigates a protected disclosure complaint, the CEO and/or the protected disclosure coordinator will liaise with IBAC or the Ombudsman as required to:

- comply with all directions of IBAC or the Ombudsman;
- consider the appointment of a welfare manager for the employee, where their identity is known; and
- consider the appointment of a welfare manager for the person who is the subject of the disclosure or a witness in an investigation, where their identity is known.

4.11 Reporting and managing investigation outcome

IBAC or the Ombudsman will liaise with the GMA following an investigation into a protected disclosure complaint.

Any contact between the person making the protected disclosure, the person who is the subject of the protected disclosure complaint and/or any witnesses, and the GMA will be under the authorisation and management of IBAC or the Ombudsman. Information will only be disclosed to the GMA and these identified people by IBAC or the Ombudsman in accordance with the PD Act, the IBAC Act and/or the Ombudsman Act and on a case by case basis.

4.12 Detrimental action

It is an offence against the PD Act to take or threaten detrimental action against a person in reprisal, because, or in the belief that

- the other person or anyone else has made, or intends to make, the disclosure; or
- the other person or anyone else has cooperated, or intends to cooperate, with an investigation of the disclosure.

It is an offence against the PD Act to incite or permit someone else to take or threaten to take detrimental action for the above two reasons.

Employees of the GMA must not under any circumstances take or threaten to take detrimental action or incite or permit someone else to take or threaten to take detrimental action, in breach of the PD Act. Any employee who breaches this direction will be subject to disciplinary action up to and including termination of employment.

A person who considers detrimental action has been taken against them for the making of their original protected disclosure, may make a further disclosure to IBAC or the Ombudsman. This further disclosure may be assessed as a protected disclosure and investigated separately to the original disclosure.

If IBAC subsequently determines the matter to be a protected disclosure complaint, IBAC may investigate the matter or refer it to the Ombudsman for investigation as outlined in the PD Act and Ombudsman Act.

Where concerns of possible detrimental action against the person or a witness are notified by IBAC or the Ombudsman to the GMA, consideration will be given by the GMA on ways to protect the person making the protected disclosure.

4.13 Managing persons implicated in improper conduct

Where it is made known to the GMA that a person who makes a disclosure is implicated in misconduct, the GMA will liaise with IBAC and/or the Ombudsman in accordance with the PD Act and IBAC's guidelines. The GMA acknowledges that the act of making a protected disclosure should not shield that person from the reasonable consequences flowing from their involvement in any improper conduct. Section 42 of the PD Act specifically provides that a person's liability for his or her own conduct is not affected by the person's disclosure of that conduct under the PD Act.

The protected disclosure coordinator will liaise with IBAC or the Ombudsman as to whether disciplinary or other action can be taken against a person making a protected disclosure. Where disciplinary or other action relates to conduct that is the subject of the disclosure, the disciplinary or other action will usually only be taken after the disclosed matter has been appropriately dealt with under the PD Act.

In all cases where disciplinary or other management action is being contemplated, the CEO must be satisfied that it has been clearly demonstrated that the intention to proceed with disciplinary or other management action against the person is not undertaken for the substantial reason that the person made a protected disclosure (as opposed to the content of the disclosure or other available information).

The protected disclosure coordinator will document the process including recording the reasons why the disciplinary or other management action is being taken, and the reasons why the action is not in retribution for the making of the protected disclosure. The protected disclosure coordinator will ensure that the person is advised of the proposed action to be taken, and of any mitigating factors that have been taken into account.

4.14 Management of the person against whom a disclosure has been made

The GMA recognises that employees and GMA Board members against whom disclosures are made should also be supported during the handling and investigation of disclosures. This procedure aims to avoid unnecessary harm to the person against whom a disclosure has been made, and give the individual the appropriate support, particularly as an investigation might exonerate that person from any wrongdoing.

The GMA will take steps to protect the confidentiality of the person who is the subject of the disclosure, where known, during the investigation process in accordance with the IBAC's guidelines and in liaison with IBAC or the Ombudsman. Where investigations do not substantiate disclosures, the fact that the investigation has been carried out, and the results of the investigation will be kept confidential by the GMA, subject to specific exceptions contained in this procedure (see Section 5.15, Confidentiality).

If IBAC or the Ombudsman investigates a protected disclosure complaint, it will be responsible for providing natural justice to the person who is the subject of the investigation, including that the person:

- is informed as to the substance of the allegations;
- is given the opportunity to answer the allegations before a final decision is made;

- is informed as to the substance of any adverse comment that may be included in any report arising from the investigation; and
- have his or her response set out fairly in any report.

The GMA will support a person who is the subject of a disclosure where the allegations contained in a disclosure are, after investigation by IBAC or the Ombudsman unsubstantiated. If the matter has been publicly disclosed, the CEO will consider any request by that person to issue a statement of support setting out that the allegations were investigated and found to be unsubstantiated that can be made subject to confidentiality obligations in the Acts.

4.15 Confidentiality

Subject to the exceptions under the PD Act, the confidentiality provisions of the Acts apply as soon as IBAC determines the disclosure is an assessable disclosure. The Acts prohibit disclosure of the content of a disclosure or disclosure of information likely to lead to the identification of a person who made the disclosure.

It is also an offence to reveal that a disclosure has been referred to the IBAC, and to reveal that the IBAC has determined a disclosure to be a protected disclosure, whether this information is received directly or indirectly.

Persons making protected disclosures are required to keep disclosures confidential by only discussing the disclosure or related matters with IBAC or the Ombudsman or the protected disclosure coordinator on authorisation of IBAC or the Ombudsman, or officers of IBAC's Office or the Ombudsman's Office or other persons authorised by the PD Act. The PD Act allows for exceptions such as for the person to speak to a legal practitioner for the purpose of obtaining legal advice. The fewer people who know about the protected disclosure, the more likely the identity of the person making the disclosure can be protected and they can be protected from detrimental action.

If a disclosure is investigated it is often necessary for IBAC or the Ombudsman to interview employees in the area where the suspected wrongdoing occurred. While efforts are made to keep the matter confidential, the conduct of these interviews may result in persons becoming aware of the disclosure, and their identity, the identity of the person against whom the disclosure is made or forming suspicions and guessing about these matters. It is an offence under the PD Act for any person who becomes aware of the identity of the person making a protected disclosure or the content of the disclosure to reveal that information unless the act of revealing the information is exempted under the PD Act.

If the protected disclosure coordinator is aware of a protected disclosure complaint investigation, he or she will manage a confidential and secure filing system for all files in relation to the disclosure. He or she will also take all necessary steps to seek to ensure that the identity of the person and the identity of the person who is the subject of the disclosure are kept confidential.

There are some very limited exceptions to some of the confidentiality provisions protecting the protected disclosure complaint and the identity of the person making the disclosure under Part 7 of the PD Act. These exceptions apply only to specific persons and types of information, and include:

- The GMA taking lawful action (including disciplinary action) in relation to the conduct that is the subject of the disclosure;
- Where necessary for the purpose of the exercise of functions under the Acts; and
- Where necessary for a person to obtain legal advice.

If in doubt, the information should not be disclosed. It is advisable to check with IBAC or the Ombudsman before disclosing anything at all about the disclosure.

Section 78 of PD Act states that the Freedom of Information Act ('FOI') does not apply to a document that relates to a protected disclosure, relates to an assessable disclosure or is likely to lead to the identification of a person who made the protected disclosure.

4.16 Responsibilities

All employees and GMA Board members must comply with the PD Act, the IBAC Act, the Ombudsman Act and this procedure. Any failure to do so may lead to disciplinary action up to and including termination of employment or appointment.

The protected disclosure coordinator has a central role to liaise with IBAC and/or the Ombudsman. In addition, the protected disclosure coordinator will:

- be responsible for ensuring that the GMA carries out its responsibilities under the Acts and the IBAC Guidelines;
- liaise with IBAC and the Ombudsman in any investigation into a protected disclosure complaint as required by the Acts;
- where necessary, appoint a welfare manager to support the person making the disclosure;
- on the advice of IBAC or the Ombudsman, advise the person making the disclosure of the progress of an investigation into the disclosed matter;

- establish and manage a confidential filing system;
- take all necessary steps to ensure their identity and the identity of the person who is the subject of the disclosure are kept confidential;
- seek to ensure that persons making protected disclosures are protected from detrimental action, where their identity is known, and that the culture of the workplace is supportive of protected disclosures being made;
- ensure these procedures are accessible; and
- liaise with the CEO of the GMA.

The welfare manager appointed for the person making the protected disclosure will:

- make contact with them;
- consider the immediate welfare and protection needs of the person who has made a disclosure and seek to foster a supportive work environment;
- advise them of the legislative and administrative protections available to him or her;
- listen and respond to any concerns of harassment, intimidation or victimisation in reprisal for making a disclosure;
- maintain their support for them throughout any investigation;
- keep a contemporaneous record of all aspects of the case management of the person making the disclosure, including all contact and follow-up action; and
- endeavour to ensure that their expectations are realistic.

The role of IBAC under the PD Act is to:

- determine whether disclosures are protected disclosure complaints;
- investigate, dismiss or refer matters disclosed in protected disclosure complaints;
- prepare and publish guidelines for the procedures to be followed by the GMA in relation to the PD and IBAC Acts;
- review the procedures and implementation by the GMA in relation to the Acts; and
- report findings as required under the Acts.

4.17 Board and senior management responsibility

The Board and senior management are ultimately responsible for setting the tone at the top and have a responsibility to:

- ensure there is effective fraud and corruption risk management framework in place
- understand the fraud and corruption risks that the GMA is exposed to
- maintain oversight of the fraud risk assessment and the controls in place to mitigate the risks identified
- monitor reports on fraud risks, policies and control activities which include obtaining assurance that the controls are effective

4.18 Audit and Risk Management Committee

The Audit and Risk Management Committee (A&RMC) is responsible for reviewing and recommending approval by the Board of policies and procedures to prevent and investigate fraud. In addition, the A&RMC is responsible for reviewing and recommending approval by the Board of policies and procedures for controlling or mitigating the risk of fraud or misconduct.

The A&RMC appoints independent internal auditors to review the effectiveness of controls and processes to mitigate and control risk.

The A&RMC reviews all instances of reported fraud including the appropriateness and adequacy of actions resulting from investigation and changes to prevent future recurrence.

Members of the A&RMC have the primary responsibility to endorse policies relating to:

- Assessing the risk of corruption and fraud
- Promoting awareness of ethics
- Educating all employees, Board members and Committee members about corruption and fraud prevention and detection
- Investigating fraud and sign-off satisfactory outcomes of any fraud investigation

4.19 Procedures for reporting fraud

Any employee who suspects fraud or corrupt activity has the ability to confidentially report the matter through the following options:

- Notifying their immediate manager, Director Game or CEO
- Contact the protected disclosure coordinator to speak to an independent person.

It is the responsibility of all employees to report all suspected, attempted or actual fraud or corruption incidents. All information received is treated confidentially by Faircall or any member of the risk team and its relevant supporting functions (asset protection, human resources, and internal audit).

4.20 Protected Disclosure protection

In 2012 the Victorian Government introduced the *Protected Disclosure Act 2012* which applies to all public bodies. The purpose of the Act is to encourage and facilitate disclosures of improper conduct by public officers and public bodies and to provide protection for all parties who make the disclosures. Under the Act, a person who makes a protected disclosure is not subject to any civil or criminal liability, or any liability arising by way of administrative process (including disciplinary action) for making the protected disclosure. It is a violation of the Act for any individual to be discriminated against for reporting fraud or corruption or co-operating, giving evidence, or participating in an investigation, proceeding or hearing.

4.20.1 Confidentiality

An individual's identity will be protected as best as possible when he or she raises a concern. However, the investigation process may reveal the source of the information and a statement by the individual may be required as part of the evidence.

4.20.2 Untrue allegations

If an allegation is made in good faith, no action will be taken against the originator, If, however, individuals make malicious and false allegations, action may be considered against the individual making the allegation.

4.21 Contact persons within the GMA

Protected disclosure coordinator

The "protected disclosure coordinator" is the person at the DJPR who has the central role under this "Protected Disclosure and Fraud policy".

IBAC

A disclosure about improper conduct or detrimental action by the GMA or its employees, and queries about complaints, should be made directly to the Independent Broad-based Anti-corruption Commission (IBAC).

The Victorian Ombudsman

Enquiries about making a protected disclosure may also be made to the Ombudsman.

4.22 Internal Reporting

The protected disclosure coordinator should advise the CEO of any matters reported, or if the matter concerns the CEO, the Chair of the GMA Board. If the matter involves both the Chair and the CEO, the Chair of the Audit and Risk Management Committee is to be advised.

The Board should be advised if there are any protected disclosure matters being investigated but all details of any matter reported should remain confidential.

5. Relevant Obligations

Board members and employees will respond to any protected disclosure and fraud issues in accordance with all relevant obligations including:

- Independent Broad-based Anti-Corruption Commission Act 2011
- Ombudsman Act 1973
- Protected Disclosure Act 2012
- Victorian Public Service Code of Conduct
- Standing Directions of the Minister for Finance
- AS8001-2008 Fraud and Corruption Control Standard
- ISO 37001 Anti-bribery management systems
- Other Legislation / Other Policy requirements

6. Related Policies

- Audit & Risk Management Committee Charter
- Conflicts of Interest and Duty Policy
- Gifts, Benefits and Hospitality Policy
- DJPR Financial code of practice
- DJPR disclosure management procedure
- Risk Management Policy
- People and Culture Policy
- Other policies as required

7. Review

The Board will review this policy on three-year basis or more frequently, if required, to keep up-to-date with changes to laws, government policies, etc. Any proposed changes to this policy must be approved by the Board.

This procedure is to be reviewed by **27 June 2022**

8. Version History

| Version | Authorised by | Approval date | Effective date | Sections modified |
|---------|---------------|---------------|----------------|---|
| 1.0 | Board | 03/10/2014 | 03/10/2014 | |
| 2.0 | Board | 01/10/2015 | 01/10/2015 | Foreword, 5, 7, Appendix 3 |
| 3.0 | Board | 28/10/2016 | 28/10/2016 | |
| 4.0 | Board | 23/02/2018 | 23/02/2018 | |
| 5.0 | Board | 27/06/2019 | 27/06/2019 | Our vision Our mission Section, 3.1 Corruption, 3.11 Protected Disclosure Coordinator, 6 Related Policies, 7 Review 4.22- informing the Governance level of the GMA of protected disclosure matters. |

Appendix 1

Fraud reporting and investigation policy

| | |
|---|--|
| Where the incident occurred: | |
| Date of incident (and/or date incident was discovered): | |
| When (over what period of time) incident occurred: | |
| Nature/Type of incident: | |
| Source of information leading to investigation, including name of person, if appropriate: | |
| Name and job title of persons believed to be involved in incident and the basis for such belief: | |
| Detail how the incident is believed to have occurred: | |
| Where money or other valuable assets are involved, estimate the suspected loss: | |
| Summarise any other relevant information including whether the incident resulted from a breakdown in internal controls: | |

Prepared by: _____

Date: _____

Appendix 2

Protected disclosure and improper conduct log

| Case No. | Initial Call | Caller ID/method of contact | Details & Actions | Audit Resource | Status [open/closed] If closed, detail how matter resolved |
|-----------------|---------------------|------------------------------------|------------------------------|-----------------------|---|
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |

Appendix 3

Checklist for a person wanting to make a complaint about improper conduct, or detrimental action, in contravention of section 45 of the *Protected Disclosure Act 2012 (the PD Act)*

If you have information about improper conduct, corrupt conduct, the dishonest performance of an employee, a breach of public trust, the misuse of information or resources, and/or fraud, you may wish to find out if the information would constitute a protected disclosure in accordance with the PD Act. Use this simple checklist as a guide, and follow the steps below if you tick all the boxes.

Step 1

- 1. You are a person, not an organisation¹
- 2. Who has information² that shows or tends to show, or information that you believe on reasonable grounds, shows or tends to show that;
- 3. The GMA³ and/or employee⁴ of the GMA and/or a former employee⁵ of the GMA has either:
- 4. Engaged, is engaging or proposes to engage in improper conduct⁶ in their capacity as a public officer⁷ or public body⁸; or
- 5. Taken, is taking or proposes to take detrimental action⁹ as a public officer¹⁰ or public body¹¹ in contravention of section 45 of the *Protected Disclosure Act*.

Step 2

If you ticked boxes 1, 2, and 3 and either 4 or 5, then contact one of the following:

¹ You must be a person, not an entity (company or organisation). Your complaint may be anonymous.

² Your information may not always be in the form of documents, for example you may have heard the information and want to pass it on to the appropriate person.

³ The GMA is a public body under the Act.

⁴ An employee of the GMA is considered to be a Public Officer under the Act.

⁵ A former employee's actions may be included if they were an employee at the time the conduct occurred.

⁶ The PD Act states at section 4 the meaning of improper conduct.

⁷ A public officer is an employee.

⁸ The GMA is a public body.

⁹ Detrimental action is defined in the PD Act in section 3.

¹⁰ A public officer is an employee.

¹¹ The GMA is a public body.

- The Independent Broad-based Anti-corruption Commission ('IBAC')¹²
- The Victorian Ombudsman¹³

IBAC or the Ombudsman will be able to provide you with information on the next steps that will be taken.

If you have not ticked all the boxes 1-3 and either box 4 or 5, your complaint may be more appropriately dealt with by the GMA under one of its policies or procedures. Other relevant policies are:

- Gift, Benefits and Hospitality Policy
- Conflicts of Interest and Duty Policy
- Audit and Risk Management Committee Charter

a) Responsiveness – public officials should demonstrate responsiveness by –

- Providing frank, impartial and timely advice to the Government; and
- Providing high quality services to the Victorian community; and
- Identifying and promoting best practice;

b) Integrity – public officials should demonstrate integrity by –

- Being honest, open and transparent in their dealings; and
- Using powers responsibly; and
- Reporting improper conduct; and
- Avoiding any real or apparent conflicts of interest; and
- Striving to earn and sustain public trust of a high level;

c) Impartiality – public officials should demonstrate impartiality by –

- Making decisions and providing advice on merit and without bias, caprice, favouritism or self-interest; and
- Acting fairly by objectively considering all relevant facts and fair criteria; and
- Implementing Government policies and programs equitably;

¹² www.ibac.vic.gov.au

¹³ www.ombudsman.vic.gov.au

- d) Accountability – public officials should demonstrate accountability by –
- Working to clear objectives in a transparent manner; and
 - Accepting responsibility for their decisions and actions; and
 - Seeking to achieve best use of resources; and
 - Submitting themselves to appropriate scrutiny;
- e) Respect – public officials should demonstrate respect for colleagues, other public officials and members of the Victorian community by –
- Treating them fairly and objectively; and
 - Ensuring freedom from discrimination, harassment and bullying; and
 - Using their views to improve outcomes on an ongoing basis;
- f) Leadership – public officials should demonstrate leadership by actively implementing, promoting and supporting these values;
- g) Human rights – public officials should respect and promote the human rights set out in the Charter of Human Rights and Responsibilities by –
- making decisions and providing advice consistent with human rights; and
 - actively implementing, promoting and supporting human rights.