



**PUBLIC INTEREST DISCLOSURES ACT 2012  
PROCEDURES FOR MAKING A DISCLOSURE ABOUT A MEMBER OF PARLIAMENT**

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## **1. Statement of support for persons making public interest disclosures**

The Parliament of Victoria is committed to the aims and objectives of the *Public Interest Disclosures Act 2012* (Vic) (the PID Act). Improper conduct by Members of the Parliament of Victoria is not tolerated, nor the taking of reprisals against those who come forward to disclose such conduct.

The Parliament of Victoria recognises the value of transparency and accountability in its administrative and management practices and supports the making of disclosures about Members of Parliament that reveal improper conduct.

The Parliament of Victoria will take all reasonable steps to protect people who make such disclosures from any detrimental action in reprisal for making the disclosure. The Parliament of Victoria will also afford fairness to the Member who is the subject of the disclosure.

## **2. Purpose of these procedures**

These procedures have been issued by the Presiding Officers under section 65 of the PID Act. The Presiding Officers (the Speaker of the Legislative Assembly and the President of the Legislative Council) are the Members of Parliament elected to preside over meetings of their respective Houses.

These procedures establish a system for reporting disclosures of improper conduct or detrimental action by Members of Parliament. The system enables such disclosures to be made to the Speaker of the Legislative Assembly, if the disclosure relates to a Member of the Legislative Assembly, or the President of the Legislative Council, if the disclosure relates to a Member of the Legislative Council. Specified officers may receive disclosures on behalf of the Speaker or President. Disclosures may be made by employees or by members of the public.

The PID Act also enables disclosures to be made about ministerial officers, parliamentary officers, parliamentary advisers and electorate officers. However, these disclosures must be made directly to the Independent Broad-based Anti-corruption Commission (IBAC).

These procedures principally relate to a disclosure about a current Member of Parliament made to a Presiding Officer. The Presiding Officers can also receive disclosures about the Victorian Inspectorate and Victorian Inspectorate officers. If the Presiding Officer considers a disclosure about the Victorian Inspectorate or a Victorian Inspectorate officer may be a public interest disclosure, they will notify it to the Integrity and Oversight Committee (IOC) for assessment.

These procedures are designed to complement normal communication channels between supervisors and employees. Employees are encouraged to continue to raise appropriate matters at any time with their supervisors. As an alternative, employees may make a disclosure of improper conduct or detrimental action under the PID Act in accordance with these procedures.

## **3. Objects of the *Public Interest Disclosures Act 2012* (Vic)**

The purpose of the PID Act is to encourage and facilitate the making of disclosures of improper conduct by public officers and public bodies and establish a system for matters to be investigated. The PID Act provides protection from detrimental action to any person affected by a public interest disclosure whether it is a discloser, a witness or a person who is subject of an investigation.

Section 17 of the PID Act enables people to make public interest disclosures relating to Members of Parliament and Ministers of the Crown to either the Speaker of the Legislative Assembly or the President of the Legislative Council.

## 4. Definitions of key terms

Throughout these procedures, the term 'discloser' means a person making a disclosure under the PID Act. Three key concepts in the reporting system are improper conduct, corrupt conduct and detrimental action. Definitions of these terms, as well as specified conduct, are set out below.

### 4.1 Improper conduct

A disclosure may be made about improper conduct by a Member of Parliament. Improper conduct means conduct that falls within any of the following categories:

- corrupt conduct; or
- conduct by a Member of Parliament in their capacity as a public officer that constitutes —
  - a criminal offence; or
  - serious professional misconduct; or
  - dishonest performance of public functions; or
  - intentional or reckless breach of public trust; or
  - intentional or reckless misuse of information; or
  - substantial mismanagement of public resources; or
  - substantial risk to health or safety of a person; or
  - substantial risk to the environment; or
  - conduct of any person that adversely affects the honest performance by a public officer of their functions; or
  - conduct of any person that is intended to adversely affect the effective performance by a public officer of their functions for the benefit of the other person.

Serious professional misconduct is conduct that may constitute a serious breach of an established professional code of conduct and/or other serious departures from a person's professional responsibilities.

Trivial conduct is excluded from the definition of improper conduct.

#### Examples

*To avoid closure of a town's only industry, a Member of Parliament ignores or conceals evidence of illegal dumping of waste.*

*A Member tries to delay the imposing of quarantine to allow a financially distressed farmer to sell diseased stock.*

See 4.2 for specific examples of corrupt conduct.

### 4.2 Corrupt conduct

Corrupt conduct means:

- conduct of a person (whether or not a public official) that adversely affects the honest performance of a Member of Parliament's or a public body's functions; or
- a Member of Parliament acting dishonestly in the performance of his or her official functions; or
- conduct of a Member of Parliament that constitutes or involves knowingly or recklessly breaching public trust; or
- conduct by a Member of Parliament that amounts to the misuse of information or material acquired in the course of the performance of his or her official functions; or
- a conspiracy or attempt to engage in any of the above conduct; or
- conduct intended to adversely affect the effective performance of a public officer (including a Member of Parliament) or a public body which leads to a benefit as described in the *Independent Broad-based Anti-corruption Commission Act 2011* (Vic) (IBAC Act).

The corrupt conduct must be conduct that would constitute an **indictable** offence or one of the common law offences of attempting to pervert the course of justice, perverting the course of justice, bribery of a public official or misconduct in public office.

#### Examples

*A Member of Parliament takes a bribe or receives a payment other than his or her wages or salary in exchange for the discharge of a public duty.*

*A Member of Parliament sells confidential information.*

### 4.3 Detrimental action

The PID Act makes it an offence for a person to take detrimental action against a person in reprisal for a public interest disclosure. Detrimental action includes:

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

A person does not need to have actually taken the detrimental action, but can have threatened to do so, or incited or permitted someone else to do so.

#### Examples

*A Member isolates the discloser in the workplace or asks him or her to undertake tasks inappropriate to their level of skill and responsibility, because the person has made a disclosure.*

*A Member threatens, abuses or carries out other forms of harassment directly or indirectly against the discloser, his or her family or friends.*

## 5. The reporting system

### 5.1 Contacts within the Parliament of Victoria

Disclosures of improper conduct or detrimental action may be made to the officers listed in 6.2. All correspondence, phone calls and emails from internal or external disclosers will be referred to the appropriate Presiding Officer.

Where a person is contemplating making a disclosure and is concerned about approaching a Presiding Officer or a public interest disclosure officer in the workplace, he or she can call the relevant officer and request a meeting at a discreet location away from the workplace.

### 5.2 Contacts for disclosures not related to Members of Parliament

These guidelines cover disclosures to the Presiding Officers about Members of Parliament. The Presiding Officers can also receive disclosures about the Victorian Inspectorate and Victorian Inspectorate officers, but it is preferred that these disclosures are made directly to the IOC as only the IOC can assess and investigate these disclosures.

Disclosures about improper conduct or detrimental action by public bodies, or their officers, should be made to the relevant person/body. The following table sets out where other disclosures under the PID Act must be made.

Person who is the subject of the disclosure	Person/body to whom the disclosure must be made
Employee of a public service body	That public service body or the IBAC
Councillor	The Ombudsman or the IBAC
Chief Commissioner of Police	The IBAC
Member of the police force	The IBAC or a member of the police force with a rank, including an acting rank, of sergeant or above
Ministerial officer, parliamentary adviser, electorate officer or parliamentary officer	The IBAC
VAGO officer or Ombudsman officer	The IBAC or the Victorian Inspectorate
IBAC officer	The Victorian Inspectorate

<p><b>Independent Broad-based Anticorruption Commission</b>            GPO Box 24234            Melbourne Victoria 3001</p> <p>Internet: <a href="http://www.ibac.vic.gov.au">www.ibac.vic.gov.au</a>            Email: <a href="mailto:info@ibac.vic.gov.au">info@ibac.vic.gov.au</a>            Ph: 1300 735 135</p> <p>Commissioner: Hon. Robert Redlich QC</p>	<p><b>Ombudsman Victoria</b>            Level 9, 459 Collins Street (North Tower)            Melbourne Victoria 3000</p> <p>Internet: <a href="http://www.ombudsman.vic.gov.au">www.ombudsman.vic.gov.au</a>            Email: <a href="mailto:ombudvic@ombudsman.vic.gov.au">ombudvic@ombudsman.vic.gov.au</a>            Ph: (03) 9613 6222            Toll Free: 1800 806 314</p> <p>Ombudsman: Ms Deborah Glass</p>
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## 6. Roles and responsibilities

### 6.1 Members of Parliament and Employees

Members of Parliament and employees should report known or suspected incidences of improper conduct or detrimental action in accordance with these procedures. Public sector employees and members of the public are also able to report incidents of improper conduct or detrimental action involving Members of Parliament.

All Members and employees of the Parliament of Victoria have an important role to play in supporting those who have made a legitimate disclosure. They must not engage in any activity that is, or could be perceived to be, victimisation or harassment of a person who makes a disclosure. Furthermore, they must protect and maintain the confidentiality of a person they know or suspect to have made a disclosure.

### 6.2 Public interest disclosure officers

**For disclosures relating to Members of the Legislative Assembly, the public interest disclosure officers are:**

- Hon. Maree Edwards MP  
Speaker of the Legislative Assembly  
Parliament House, Spring Street, East Melbourne 3002  
Ph (03) 9651 8575  
speaker@parliament.vic.gov.au
- Ms Bridget Noonan  
Clerk of the Legislative Assembly  
Parliament House, Spring Street, East Melbourne 3002  
Ph (03) 9651 8550
- Mr Robert McDonald  
Deputy Clerk of the Legislative Assembly  
Parliament House, Spring Street, East Melbourne 3002  
Ph (03) 9651 8551

**For disclosures relating to Members of the Legislative Council, the public interest disclosure officers are:**

- Hon. Nazih Elasmr MLC  
President of the Legislative Council  
Parliament House, Spring Street, East Melbourne 3002  
Ph (03) 9651 8675  
president@parliament.vic.gov.au
- Mr Andrew Young  
Clerk of the Legislative Council  
Parliament House, Spring Street, East Melbourne 3002  
Ph (03) 9651 8670
- Ms Anne Sargent  
Deputy Clerk of the Legislative Council  
Parliament House, Spring Street, East Melbourne 3002  
Ph (03) 9651 8671

**Where a person wishes to make a disclosure about either the Speaker or the President, the procedures in 6.5 apply.**

Public interest disclosure officers will:

- be a contact point for general advice about the operation of the PID Act for any person wishing to make a disclosure about improper conduct or detrimental action;
- make arrangements for a disclosure to be made privately and discreetly and, if necessary, away from the workplace;
- receive and respond to written and oral inquiries about making a disclosure;
- receive written and oral disclosures;
- record in writing any oral disclosures;
- take all necessary steps to ensure the identity of the person making the disclosure and the identity of the person who is the subject of the disclosure are kept confidential;
- forward all disclosures and supporting evidence to the relevant public interest disclosure coordinator.

### 6.3 Public interest disclosure coordinators

The public interest disclosure coordinators are the Presiding Officers, namely:

- The Speaker of the Legislative Assembly (for disclosures relating to Members of the Legislative Assembly);
- The President of the Legislative Council (for disclosures relating to Members of the Legislative Council).

Either Presiding Officer can receive disclosures about the Victorian Inspectorate and Victorian Inspectorate officers.

The Presiding Officer has a central 'clearing house' role in the internal reporting system. He or she will:

- receive all disclosures forwarded from the public interest disclosure officers;
- receive and respond to written and oral inquiries from any person about making a disclosure;
- receive written and oral disclosures from any person;
- receive all telephone calls, emails and letters from persons making a disclosure once a disclosure has been referred to him or her by a public interest disclosure officer;
- impartially assess each disclosure to determine whether it may be a public interest complaint in accordance with Part 2 of the PID Act;
- determine whether to notify a disclosure to the IBAC, Victorian Inspectorate or IOC;
- appoint a welfare manager to support the discloser and to protect him or her from any reprisals;
- take all necessary steps to ensure the identity of the discloser and the identity of the Member who is the subject of the disclosure are kept confidential.

### 6.4 Administrative responsibilities

The Clerk of the Legislative Assembly (for disclosures relating to Members of the Assembly) and the Clerk of the Legislative Council (for disclosures relating to Members of the Council) will, in conjunction with the Presiding Officers:

- establish and manage a confidential filing system;
- collate statistics on disclosures made.

### 6.5 Disclosures relating to the Speaker or the President

Where a person wishes to make a disclosure against either the Speaker or the President the following procedure applies:

- disclosures relating to the Speaker should be made to Clerk or Deputy Clerk of the Legislative Assembly and those relating to the President should be made to the Clerk or Deputy Clerk of the Legislative Council. Contact details are provided in 6.2;
- for the purposes of such disclosures only, all the obligations of the Presiding Officers will be carried out by the Deputy Speaker or Deputy President, as Deputy Presiding Officers, as appropriate;
- the Clerk or Deputy Clerk may refer the disclosure direct to the Deputy Presiding Officer for consideration.

### 6.6 Welfare manager

The welfare manager will be the Manager Organisation Development in the Department of Parliamentary Services or such other suitably qualified person appointed by the Presiding Officer. He or she is responsible for looking after the general welfare of the discloser and will:

- examine the immediate welfare and protection needs of a person who has made a disclosure and, in the case of an internal discloser, seek to foster a supportive work environment;
- advise the discloser of the legislative and administrative protections available to him or her if their disclosure is a public interest complaint;
- listen and respond to any concerns of harassment, intimidation or victimisation in reprisal for making disclosure;
- consider any discloser's request for a transfer of employment in accordance with the PID Act;
- ensure the expectations of the discloser are realistic.

## 7. Confidentiality

The Parliament of Victoria will take all reasonable steps to protect the identity of any person making a public interest disclosure. Maintaining confidentiality is crucial in ensuring reprisals are not made against those making public interest disclosures.

The PID Act requires any person who receives information in the course of the handling or investigation of a public interest disclosure not to disclose that information except in certain limited circumstances. Disclosure of

information in breach of section 52 or 53 of the PID Act constitutes an offence that is punishable by a maximum fine of 120 penalty units or twelve months imprisonment or both.

The circumstances in which a person may disclose information obtained about a public interest disclosure include:

- where exercising the functions of the Presiding Officers under the PID Act;
- when making a report or recommendation under the PID Act;
- in criminal proceedings for certain offences in the PID Act;
- for the purpose of a proceeding or a disciplinary process under a relevant Act.

However, the PID Act prohibits the inclusion of particulars in any report or recommendation that is likely to lead to the identification of the person making the public interest disclosure.

The Parliament of Victoria will ensure all files, whether paper or electronic, are kept in a secure location and can only be accessed by the relevant Presiding Officer, public interest disclosure officer, welfare manager (in relation to welfare matters) or other persons authorised to perform functions under the PID Act. All printed material will be kept in files that are clearly marked as a PID Act matter and warn of the criminal penalties that apply to any unauthorised divulging of information concerning a public interest disclosure. All electronic files will be stored on CD or other disc (not on the network server) and be given password protection. The Clerk of the Legislative Assembly and Clerk of the Legislative Council, as appropriate, will be responsible for all electronic files.

The Parliament of Victoria will not email documents relevant to a public interest disclosure and will ensure all phone calls and meetings are conducted in private.

## **8. Collating and publishing statistics**

The Presiding Officers will ensure a secure register is established to keep account of the status of public interest disclosures. This register will be used to publish statistical information in the relevant annual reports of the Department of the Legislative Assembly and the Department of the Legislative Council. The register will be confidential and will not record any information that may identify a discloser.

The register will contain the following information:

- the number and types of disclosures made to a Presiding Officer during the year;
- the number and types of disclosures notified by the Presiding Officer to the IBAC or IOC for determination;
- any recommendations made by the IBAC that relate to the Parliament of Victoria or its Members;
- the number and types of disclosed matters that were substantiated upon investigation and the action taken on completion of the investigation.

## **9. Receiving and assessing disclosures**

### **9.1 Does the disclosure appear to be a public interest complaint?**

A Presiding Officer will assess whether the disclosure has been made in accordance with Part 2 of the PID Act and, therefore, appears to be a public interest complaint.

A complaint made by a Member of Parliament about an alleged contravention of the *Members of Parliament (Standards) Act 1978 (Vic)* that may involve conduct constituting a criminal offence does not fall within the scope of these procedures. Those complaints must be referred by the Presiding Officer to the appropriate law enforcement agency.

#### **9.1.1 Has the disclosure been made to the appropriate person?**

For the disclosure to be responded to by a Presiding Officer, it must concern a Member of the Legislative Assembly or Legislative Council, the Victorian Inspectorate or Victorian Inspectorate officers.

If the disclosure concerns an employee, officer or member of a public body, the person who has made the disclosure must be advised of the correct person or body to whom the disclosure should be directed: see the table in 5.2. If the disclosure has been made anonymously, it will be referred to the IBAC, Victorian Inspectorate or the IOC if the Presiding Officer considers it may be a public interest disclosure.

## 9.1.2 Does the disclosure contain the essential elements of a public interest disclosure?

A Presiding Officer can receive a public interest disclosure if it satisfies the following criteria:

- Did a natural person (that is, an individual person or group of people rather than a corporation) make the disclosure?
- Does the disclosure relate to conduct of a Member of Parliament acting in his or her official capacity (including as a Minister), the Victorian Inspectorate or a Victorian Inspectorate officer?
- Is the alleged conduct either improper conduct or detrimental action taken against any person in reprisal for making a public interest disclosure by any person?
- Does the information show or tend to show there is improper conduct or detrimental action or does the discloser have reasonable grounds to believe that the information he or she has provided shows or tends to show there is improper conduct or detrimental action?

The phrase 'reasonable grounds for belief' requires more than a suspicion and the belief must have supporting facts and circumstances. For reasonable grounds of belief, the usual test applied is whether a reasonable person would have formed that belief, having regard to all the circumstances. This test is an objective one, that is, whether a reasonable person, possessed of the same information that the person making the disclosure holds, would believe that the information shows or tends to show that there is improper conduct or detrimental action. Reasonable grounds for a belief are also taken to require something more than a reasonable suspicion.

A belief cannot be held to be based on reasonable grounds where it is based on a mere allegation, or conclusion, which is unsupported by any facts or circumstances. The existence of evidence is required to show that the reasonable grounds are probable. For example, it is not sufficient for a person to base a disclosure on the statement 'I know X is accepting bribes to grant planning permits to Y developer'. This is a mere allegation unsupported by any further facts and circumstances.

However, the requirement for facts and circumstances to be present to support a belief does not mean that it is necessary that the person have a prima facie case, merely that the belief be reasonably based.

In some circumstances, hearsay or second-hand information may be used to establish reasonable grounds for the belief, provided that the information and its source appears credible. This may depend on how the person obtained the information and the detail of the information.

The credibility of the person making a disclosure or individuals who have provided them with information may also be considered in determining if the individual has reasonable grounds for the belief.

## 9.2 Discretion of Presiding Officer to notify disclosure to the IBAC, Victorian Inspectorate or IOC

Where the Presiding Officer considers that a disclosure may be a public interest disclosure, the Presiding Officer may notify the disclosure to the IBAC, Victorian Inspectorate or IOC who will determine whether it is a public interest complaint. In exercising their discretion, the Presiding Officers may consider, but are not limited to, the following factors:

- Is the disclosure trivial, frivolous or vexatious?
- Does the information provided show, or tend to show, support for the alleged conduct?
- Is the matter the subject of any other investigation?
- Was there any delay in disclosing information and, if so, what explanation was given for such delay?

The Presiding Officer will use reasonable endeavours to determine whether a public interest disclosure should be notified to the IBAC, Victorian Inspectorate or IOC within 28 days of the receipt of the disclosure.

Where the Presiding Officer concludes that the disclosure may be a public interest disclosure and it should be notified to the IBAC, Victorian Inspectorate or IOC, he or she:

- may notify the person who made the disclosure of that conclusion;
- will notify the disclosure to the IBAC, Victorian Inspectorate or IOC for determination as to whether the disclosure is a public interest complaint.

Where the Presiding Officer concludes that the disclosure is not a public interest disclosure, or exercises discretion not to notify a public interest disclosure to an investigating entity, he or she may notify the person who made the

disclosure of that conclusion. In these circumstances the matter does not need to be dealt with under the PID Act and the Member of Parliament is not advised that a disclosure has been made about him or her.

Notification to the person who made the disclosure is not possible where the disclosure has been made anonymously.

### **9.3 Is the disclosure a public interest complaint?**

Where the Presiding Officer notifies a disclosure, the IBAC, Victorian Inspectorate or IOC will assess within a reasonable time whether it is a public interest disclosure and, if so, determine it to be a public interest complaint.

The IBAC, Victorian Inspectorate or IOC will notify the Presiding Officer of his or her decision and also contact the person who made the public interest disclosure to advise them of the decision made. Where the disclosure is a public interest disclosure complaint, the IBAC, Victorian Inspectorate or IOC must either carry out an investigation (IBAC could refer the matter to another investigating entity for investigation, such as the Ombudsman), or dismiss it (with reasons).

## **10. Managing the welfare of the persons making public interest disclosures**

### **10.1 Commitment to protecting persons making public interest disclosures**

The Parliament of Victoria is committed to the protection of disclosers against detrimental action taken in reprisal for the making of public interest disclosures. The Presiding Officers are responsible for ensuring they are protected from direct and indirect detrimental action and that the culture of the workplace is supportive of public interest disclosures being made.

The relevant Presiding Officer will appoint a welfare manager for all disclosers. The welfare manager will:

- examine the immediate welfare and protection needs of a discloser who has made a disclosure and, where the discloser is an employee, seek to foster a supportive work environment;
- advise the discloser 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 disclosure;
- consider any discloser's request for a transfer of employment in accordance with the PID Act;
- keep a contemporaneous and confidential record of all aspects of the case management of the discloser including all contact and follow-up action;
- ensure the expectations of the discloser are realistic.

All employees will be advised that it is an offence for a person to take detrimental action in reprisal for a public interest disclosure. The maximum penalty is a fine of 240 penalty units or two years imprisonment or both. The taking of detrimental action in breach of this provision can also be grounds for making a disclosure under the PID Act and can result in an investigation.

Detrimental action includes:

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

### **10.2 Keeping the discloser informed**

The Presiding Officer will ensure the discloser is kept informed of action taken in relation to his or her disclosure, and the time frames that apply, noting that an external disclosure may be made by the discloser if a response from the Presiding Officer does not comply with statutory requirements. The discloser will be informed by the IBAC, Victorian Inspectorate, IOC or the relevant investigating entity about the action they have taken, and any recommendations made as a result of an investigation, subject to the exceptions specified in the relevant legislation. They will be informed of any steps taken by the Parliament of Victoria to address any improper conduct that has been found to have occurred. All communication will be in plain English.

### **10.3 Occurrence of detrimental action**

If a discloser reports an incident of harassment, discrimination or adverse treatment that would amount to detrimental action taken in reprisal for the making of the disclosure, the welfare manager will:

- record details of the incident;
- advise the person of his or her rights under the PID Act;
- advise the Presiding Officer of the detrimental action.

The taking of detrimental action in reprisal for the making of a disclosure can be an offence against the PID Act as well as grounds for making a further disclosure. Where such detrimental action is reported, the Presiding Officer will assess the report as a new disclosure under the PID Act. Where the Presiding Officer is satisfied that the evidence produced shows, or tends to show, support for the alleged conduct, he or she may refer it to the IBAC, Victorian Inspectorate or IOC as appropriate. If the IBAC, Victorian Inspectorate or IOC subsequently determines the matter to be a public interest complaint, they may investigate the matter or refer it to another body for investigation as outlined in the PID Act.

## **10.4 Discloser implicated in improper conduct**

The Parliament of Victoria acknowledges that the act of making a public interest disclosure should not shield a person from the reasonable consequences flowing from any involvement in improper conduct. Section 42 of the 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 Act. However, in some circumstances, an admission may be a mitigating factor when considering disciplinary or other action.

The management of the welfare of a discloser may therefore become complicated when that person is implicated in misconduct, whether or not that misconduct is related to the disclosure. If a discloser is employed by the Parliament, disciplinary action will only be taken if the Presiding Officer (in relation to electorate officers) or relevant Department Head (in relation to parliamentary officers) is satisfied that it has been clearly demonstrated that:

- the intention to proceed with disciplinary action is not causally connected to the making of the disclosure (as opposed to the content of the disclosure or other available information);
- there are good and sufficient grounds that would fully justify action against any person in the same circumstances;
- there are good and sufficient grounds that justify exercising any discretion to institute disciplinary or other action.

The Presiding Officer or relevant Department Head will ensure the process is thoroughly documented, including the recording of reasons why the disciplinary or other action is being taken and the reasons why the action is not in retribution for the making of the disclosure. They will clearly advise the discloser of the proposed action to be taken, and of any mitigating factors that have been taken into account.

## **11. Management of the Member against whom a disclosure has been made**

Where the IBAC determines that a disclosure about a Member is a public interest complaint, the Presiding Officer will discuss with the IBAC Commissioner whether it is appropriate to notify the Member of the complaint. If the matter is one of significant public interest, with the consent of the IBAC Commissioner, the Presiding Officer may also make a statement in the House advising that the matter has been notified to the IBAC.

The Parliament of Victoria will give its full support to a Member who is the subject of a disclosure where the allegations contained in a disclosure are clearly wrong or unsubstantiated. If the matter has been publicly disclosed, the Presiding Officer will consider any request by that person to issue a statement of support setting out that the allegations were clearly wrong or unsubstantiated.

## **12. Criminal offences**

The Parliament of Victoria will ensure officers appointed to handle public interest disclosures and all other employees are aware of the following offences created by the PID Act:

- It is an offence for a person to take detrimental action against a person in reprisal for a public interest disclosure being made. The PID Act provides a maximum penalty of a fine of 240 penalty units or two years imprisonment or both;
- It is an offence for a person to divulge information obtained as a result of the handling or investigation of a public interest disclosure without legislative authority. The PID Act provides a maximum penalty of 120 penalty units or 12 months imprisonment or both;
- It is an offence for a person to obstruct an IBAC Officer in performing his or her responsibilities under the IBAC Act. That Act provides a maximum penalty of 120 penalty units or 12 months imprisonment or both;

- It is an offence for a person to provide information under the PID Act that the person knows is false or misleading in a material particular, with the intention that it be acted on as a public interest disclosure. The PID Act provides a maximum penalty of 120 penalty units or 12 months imprisonment or both.