# Purpose

The purpose of this Procedure is to define the processes and avenues for disclosing, investigating and externally reporting on allegations of fraud, corrupt conduct and improper conduct.

This Procedure also contains information about making a disclosure, for the purposes of the *Public Interest Disclosure Act 2011* (**PID Act**), about improper conduct and detrimental action (**PID Conduct**) of Melbourne Water, or an officer or employee of Melbourne Water. Melbourne Water is not authorised to receive Public Interest Disclosures (**PIDs**) under the PID Act. However, PIDs may be made to an authorised organisation about Melbourne Water or public officers of Melbourne Water.

This Procedure also includes procedures for the protection of persons from detrimental action in reprisal for reporting allegations of fraud, corrupt or improper conduct.

# Scope

This Procedure applies to everyone who works at or carries out work for Melbourne Water, including employees, contractors, consultants, students on placement, apprentices, other self-employed persons and volunteers (**Workplace Participants**). It also applies to members of the public who make PIDs about PID Conduct in respect to Melbourne Water, or a Workplace Participant of Melbourne Water, and require the protections set out under the PID Act.

# Definitions

* 1. **Fraud**

Fraud is dishonest activity causing actual or potential gain or loss to any person or organisation including theft of moneys or other property by persons internal and/or external to the organisation and/or where deception is used at the time, immediately before or immediately following the activity.

Examples of fraud include but are not limited to:

* theft of physical, financial or intellectual assets belonging to Melbourne Water;
* providing false or misleading information to Melbourne Water or failing to provide it where there is an obligation to do so;
* acting on conflicts of interest to gain a personal advantage;
* obtaining a financial advantage or other benefit from Melbourne Water by deception;
* falsifying or forging documents (for example, medical certificates, timesheets, leave balances or invoicing);
* accounting fraud (e.g. manipulation, falsification or alteration of financial information); or
* unauthorised or inappropriate use of Melbourne Water’s credit card or credit card number, or use of stolen or fraudulently generated credit card numbers.
  1. **Corrupt Conduct**

Corrupt conduct (also referred to in this Policy as “corruption”) means conduct that:

* adversely affects the honest performance of the functions of a public officer or public body; or
* constitutes or involves the dishonest performance of the functions of a public officer or public body; or
* constitutes or involves knowingly or recklessly breaching public trust; or
* involves the misuse of information, or material acquired in the course of the performance of the functions of a public officer or public body; or
* is intended to adversely affect the effective performance of the functions or powers of a public officer or public body and results in the person or their associate obtaining a specified benefit.

Corrupt conduct includes conspiracy or an attempt to engage in any of the abovementioned conduct. The conduct must constitute an indictable offence against any Act, or any of the common law offences of perverting, or attempting to pervert the course of justice, bribery of a public official or misconduct in public office.

Examples of corrupt conduct include but are not limited to:

* falsifying accounts to conceal or obtain a benefit;
* entering into a secret commission or profit-sharing arrangement with another person or persons;
* collusive tendering (colluding to share profits with tender recipients);
* using public office to deceive a member of the public to gain a financial advantage;
* misuse of power to harm, oppress or disadvantage a person;
* conflicts of interest between public duties and private interests;
* payment or receipt of secret commissions (e.g. bribes);
* payment or receipt of gifts, benefits or hospitalities;
* release of confidential information, for other than a proper or authorised purpose, in exchange for some form of benefit or advantage accruing to the Workplace Participant releasing the information.
  1. **Improper Conduct**

Improper conduct means corrupt conduct or the conduct of a public body or public officer that is:

* conduct that constitutes a criminal offence;
* serious professional misconduct (see below for further information);
* dishonest performance of public functions;
* intentional or reckless breach of public trust;
* intentional or reckless misuse of information or material acquired in the course of performance of the functions of a public officer or public body;
* substantial mismanagement of public resources;
* substantial risk to health or safety of a person; or
* substantial risk to the environment.

Improper conduct also means conduct of any person that:

* adversely affects the honest performance by a public officer or public body of their functions; or
* is intended to adversely affect the effective performance by a public officer or public body of their functions or powers for the benefit of the person or their associate.

Improper conduct includes conduct that could constitute a conspiracy or attempt to engage in any of the abovementioned conduct.

However, conduct that is trivial is not improper conduct.

* 1. **Serious** **professional** **misconduct**

Serious professional misconduct includes but is not limited to:

* a serious breach of Melbourne Water’s Code of Conduct or other policies and procedures;
* a serious breach or non-compliance with codes of conduct, policies, procedures or laws governing the behaviour of persons engaged in the public sector;
* systemic breaches or non-compliance with the above;
* a serious failure to exhibit the skills and experience required to perform the functions of a person’s office.

When considering whether a person has engaged in serious professional misconduct, the following factors should be considered:

* has the person behaved in a way that is inconsistent with the expectations, skills and responsibilities of their office/position?
* was the behaviour the person engaged in, in their capacity as a public officer?
* is the behaviour misconduct of a serious nature?
  1. **Detrimental action**

For the purpose of this procedure 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; and

which occurs in reprisal for a person making a disclosure under this Procedure or cooperating with a PID investigation or other investigation under this Procedure.

* 1. **Public interest disclosures**

A Public Interest Disclosure (**PID**) is a disclosure of information that shows or tends to show, or there are reasonable grounds for the discloser to believe, that there has been or is proposed to be:

* improper conduct by a public officer, public body, or other person; or
* detrimental action by a public officer or public body.

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# How to report Fraud, Corruption and PID Conduct

# Many reports of fraud, corrupt conduct and improper conduct will meet the definition of a PID, as set out above. Therefore, any person wishing to report fraud, corrupt conduct and/or improper conduct should first consider whether their report may be a PID. If it meets the definition of a PID and the discloser wants the protections available under the PID Act (see section 6), they should follow the reporting procedure in section 4.3 below.

If the report does not meet the PID definition or the discloser does not want to take advantage of the protections available under the PID Act, they should follow the procedure in section 4.4 below.

***I’m not sure if my concern meets the definition of a PID – what should I do?***

If you’re not sure if the conduct you would like to report meets the definition of a PID, or if you are uncertain whether you want to make a PID, you should speak to the PID Co-ordinator (see below for contact details).

# Assessment of disclosures

All allegations/disclosures of conduct that may amount to fraud, corrupt conduct and/or improper conduct received by Melbourne Water will be assessed to determine if they meet the definition of a PID. If Melbourne Water considers they are or may be a PID, it will refer the discloser to the process set out in section 4.3 below. If Melbourne Water determines that the disclosure is not a PID, it will be dealt with in accordance with Melbourne Water’s internal procedures such as the Respectful Workplace Policy or the Performance Improvement and Disciplinary Policy.

The outcome of the assessment will be notified to the discloser within 28 days.

Melbourne Water may need to conduct some preliminary investigations as part of this assessment.

# How to report Public Interest Disclosures

Melbourne Water is not an organisation authorised to receive PIDs under the PID Act.

As Melbourne Water is not an organisation authorised to receive PIDs, any disclosures made to Melbourne Water which are intended to be PIDs will not receive the relevant protections under the PID Act (see section 6). Therefore, anyone who would like to make a PID should contact the Independent Broad-based Anti-corruption Commission (**IBAC**) on the details set out below.

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| Contact | Information |
| **Independent Broad-based Anti-corruption Commission (IBAC)** | Disclosures should be made directly to IBAC in writing, by phone or using the online form available on the IBAC website. A disclosure cannot be made by fax.  You can also make an anonymous disclosure to IBAC by, for example, using unverifiable email addresses or through an anonymous phone call.  T: 1300 735 135  |  F: 03 8635 6444  Street Address: Level 1, North Tower, 459 Collins Street, Melbourne, VIC, 3001  Postal Address: GPO Box 24234, Melbourne, VIC, 3001  Website: [www.ibac.vic.gov.au](http://www.ibac.vic.gov.au) |
| If you would like further information about PIDs or information on how to disclose an allegation to IBAC, please contact the PID Coordinator on the details set out below.  Jay Dimitri – General Counsel  E: [Jay.Dimitri@melbournewater.com.au](mailto:Jay.Dimitri@melbournewater.com.au)  The PID Coordinator is responsible for how Melbourne Water manages its obligations under the PID Act. The PID Coordinator is the main contact for enquiries about PIDs, whether the enquiries are from Workplace Participants or members of the public. The PID Coordinator will advise anyone who wishes to make a disclosure how to submit a PID to IBAC (or another organisation authorised to receive PIDs). | |

# *What will happen after I make a disclosure to IBAC?*

IBAC will assess the disclosure and determine whether it is a public interest complaint. In making that assessment, it may seek further information from the discloser.

If IBAC determines that the disclosure is a public interest complaint, IBAC will either:

* investigate the complaint;
* refer the complaint to the Victorian Ombudsman or Victoria Police (if a police matter) for investigation;
* refer the matter back to Melbourne Water to investigate internally; or
* close or dismiss the complaint.

IBAC will advise the discloser of its determination and what action it will take. If it decides to take no further action, it will advise of the reasons for this decision.

If IBAC determines that the disclosure is not a public interest complaint it may:

* refer the complaint to another agency or Melbourne Water to investigate; or
* take no further action.

# How to make a Non-Public Interest Disclosure

If you do not wish for your allegation to be dealt with as a PID, or do not consider the conduct meets the definition of a PID, you should report the alleged conduct to one of the individuals set out below. You should set out the details of your allegation(s) in writing and confirm in writing that you do not want your disclosure to be dealt with as a PID.

All allegations of fraud, corrupt conduct and improper conduct will be assessed by Melbourne Water as a potential PID and referred to the PID Coordinator. The PID Coordinator will consider the allegation and provide the person who made the complaint with information as to how to make a PID (if relevant). You should advise the PID Coordinator as soon as possible if you do not wish to submit a PID and would prefer the matter dealt with internally.

If you wish to make an allegation of fraud, corrupt conduct or improper conduct, you may do so via the following avenues:

| Contact | Role and Responsibility |
| --- | --- |
| **Management** | Workplace Participants can report any allegations of fraud, corruption or improper conduct to their Manager, or General Manager, if they feel comfortable to do so.  Upon receipt of the allegation, management personnel should refer the allegation to the PID Coordinator or their delegate.  Management personnel are required to keep the matter confidential, and not disclose any information regarding the disclosure other than to the PID Coordinator. |
| **PID Coordinator** | Allegations of fraud, corruption and improper conduct can be made directly to the PID Coordinator.  Jay Dimitri – General Counsel  E: [jay.dimitri@melbournewater.com.au](mailto:jay.dimitri@melbournewater.com.au)  990 Latrobe St, Docklands, VIC 3008  PO Box 4342 Melbourne VIC 3001 |
| **STOPLINE** | STOPline is an alternative, external and independent avenue to raise concerns about fraud, corrupt or improper conduct. STOPline provides a confidential and impartial advice service and can assist you in determining where to direct your complaint. STOPline officers do not advocate on your behalf or investigate matters.  STOPline can refer matters on your behalf to the PID Coordinator or their delegate. If you wish to remain anonymous or do not wish for matters to be referred to the PID Coordinator or their delegate, you must clearly state so to the STOPline officer.  **T**: 1300 304 550 toll free between 0800-2100 hours (Mon-Fri) 0900-1700 (weekends & Public Holidays) **E:** [Melbournewater@stopline.com.au](mailto:Melbournewater@stopline.com.au) Online: melbournewater.stoplinereport.com In Writing: Melbourne Water C/- The STOPline, Locked Bag 8, Hawthorn Vic 3122 |
| **Customer Service Centre (CSC)** | CSC is **only** available to members of the public. CSC are instructed to immediately direct all allegations of fraud, corrupt or improper conduct to the PID Coordinator or their delegate.  T: 131 722 | Overseas: +613 9679 7100  Level 1, 990 Latrobe St, Docklands 3008, PO Box 4342 Melbourne VIC 3001 |

# Melbourne Water’s mandatory reporting obligations

Melbourne Water has a mandatory obligation to notify IBAC of any matter that it suspects on reasonable grounds involves corrupt conduct. Any disclosures brought to the attention of the PID Coordinator which involve corrupt conduct will therefore be referred to Melbourne Water’s Principal Officer (in this case the Managing Director) for the purposes of the mandatory notification requirements. The Managing Director must notify IBAC as soon as practicable after they have formed a reasonable suspicion that corrupt conduct may have occurred or may be occurring.

In some circumstances, Melbourne Water may need to take immediate internal action (up to and including disciplinary action) while a PID is being assessed or investigated by IBAC. For example, any PIDs brought to the attention of Melbourne Water which involve alleged conduct that poses an immediate threat to the health and safety of individuals or the preservation of property, or consists of serious criminal conduct, can be investigated internally by Melbourne Water or referred to Victoria Police (if criminal in nature). Melbourne Water will ensure it complies with any confidentiality or disclosure of identity requirements under the PID Act in respect to any immediate action it takes.

# Investigating Fraud, Corruption and Improper Conduct

The following outlines the general investigation steps if an allegation is made in respect to fraud, corruption and/or improper conduct.

| No. | Owner | Process Step |
| --- | --- | --- |
| **1.** | **Public Interest Disclosure Coordinator** | The PID Coordinator must determine whether the allegation constitutes actual or potential fraud, corrupt conduct or improper conduct. (If No, the allegation is excluded from this Procedure).  The PID Coordinator should first consider whether immediate action is required, such as where there is an immediate threat to the health and safety of individuals or the preservation of property, or the disclosure involves serious criminal conduct.  If the allegation constitutes corrupt conduct, the PID Coordinator must determine whether it qualifies for notification to IBAC and assist Melbourne Water’s Managing Director with the making of the notification to IBAC.  If it is apparent to the PID Coordinator that the discloser had intended to make a PID (or is unaware of the protections unavailable under the PID Act), the PID Coordinator must advise the person to direct the PID to IBAC or otherwise confirm that they want the matter dealt with internally.  If the discloser does not wish to make a PID and wants the matter dealt with internally, and the matter is not about corrupt conduct, the PID Coordinator should consider whether it is appropriate for People and Capability or the Internal Audit Manager to investigate the complaint.  If the discloser has been referred to IBAC by the PID Coordinator, the PID Coordinator must nonetheless determine whether the nature of the complaint requires Melbourne Water to take any urgent action.  The PID Coordinator should consider whether Melbourne Water’s internal risk management and audit team and the CFO should be notified of the complaint of suspected fraudulent, corrupt or improper conduct (whichever is relevant), noting any confidentiality obligations required to be afforded to the individuals involved. |
| **2.** | **IBAC** | IBAC may determine the extent of PIDs made directly to them or corrupt conduct that has been referred to them by the Melbourne Water and whether an investigation will be conducted directly by IBAC or the matter referred back to Melbourne Water for investigation. Alternatively, IBAC may decide to take no action.  The PID Coordinator will liaise with IBAC where required and support IBAC with any investigation. |
| **3.** | **Internal Audit Manager** | Having received notification from the PID Coordinator about alleged fraudulent, corrupt or improper conduct, which Melbourne Water has clearance to investigate, the Internal Audit Manager should determine whether the allegation is considered a potential criminal matter, and whether the Police need to be notified. If criminal, notify Police and await response. If not criminal (of the Police have indicated they are happy for Melbourne Water to proceed with an investigation), move to investigation. |
| **4.** | **Internal Audit Manager** | Declare an incident under [GEMS](http://livelink/livelink/livelink.exe/open/7155579) and establish the incident team in accordance with agreed GEMS requirements for fraud and corruption events. |
| **5.** | **Internal Audit Manager** | Select an investigation team to undertake an investigation process ensuring adequate investigation skills and qualifications (generally complex cases or cases involving suspected internal persons may be investigated through qualified external investigators). |
| **6.** | **Internal Audit Manager** | Conduct or support the investigation where required. |
| **7.** | **Internal Audit Manager** | Arrange close out of the investigation. |

# Protection from Detrimental Action

Melbourne Water is committed to protecting the welfare of:

* disclosers of allegations of fraud, corrupt conduct or improper conduct under this Procedure (**Disclosure**); and
* co-operators (people who have co-operated or intended to co-operate with an investigation of a Disclosure),

from direct and indirect detrimental action taken either in reprisal for the making of a Disclosure.

The protection from detrimental action does not protect the discloser from reasonable management action being taken in relation to their involvement in the conduct that is the subject of the Disclosure.

**6.1. Welfare Management**

The PID Coordinator will consider whether it is appropriate to appoint a welfare manager to protect a discloser or a co-operator or a Workplace Participant who is the subject of a Disclosure.

In deciding whether to appoint a welfare manager, the PID Coordinator will take into consideration:

* whether there are any real risks of detrimental action against the individual, taking into account their particular circumstances,
* whether Melbourne Water can give the individual effective support, including keeping the discloser informed of the status of the Disclosure (as far as the Melbourne Water has been provided with such information by a relevant investigative organisation),

A welfare manager’s role is to monitor the needs of the discloser, co-operator or person who is the subject of the Disclosure and provide them with practical advice and support. A welfare manager is subject to the confidentiality requirements set out below. All meetings between a Welfare Manager and the person they have been appointed to support should be conducted discreetly to protect the person from being identified as being involved in a Disclosure.

Any Workplace Participant involved in a Disclosure is also able to access Melbourne Water’s Employee Assistance Program.

**6.2. Confidentiality**

Where a Disclosure has been assessed as a PID, Melbourne Water will keep the identity of the discloser and the subject matter of their disclosure confidential, subject to the exceptions set out in the PID Act, including where the discloser has provided their consent for their identity to be revealed*.*

Any person who receives information due to the handling or investigation of a PID must not disclose that information except in certain limited circumstances including:

* in accordance with section54 of the PID Act;
* in accordance with a direction or authorisation given by the organisation investigating the disclosure; and
* when publishing statistics in the annual report (however, information or particulars that disclose the identity of the discloser or are likely to lead to the identification of the discloser are prohibited).

Information held by Melbourne Water in relation to PIDs is not subject to the *Freedom of Information Act 1982.*

**6.3 If detrimental action occurs**

If a discloser or co-operator reports an incident of detrimental action, the PID Coordinator will:

* record details of the incident;
* advise the individual of their rights under the Act; and
* advise the managing director of the detrimental action.

The taking of detrimental action in reprisal for the making of a Disclosure, even if only part of the reason for the action, can be an offence against the PID Act as well as a potential criminal offence.

Where the detrimental action is of a serious nature likely to amount to a criminal offence, Melbourne Water will consider reporting the matter to the police or IBAC.

**6.4 Register and Reporting**

The PID Coordinator will establish a secure register to record information relating to Disclosures, including statistical information required to be published in the annual report. The register will be confidential and will not record any information that may identify disclosers or others involved in the Disclosure.

1. **Review**

This procedure will be reviewed every two years to ensure it meets the best practice guidance under the Standard, the objectives of the PID Act and accords with IBAC’s guidelines.

# References

| Title |
| --- |
| [Melbourne Water Code of Conduct](http://inflo/inflo/cs.exe/open/15109814) |
| [Fraud and Corruption Control Policy](http://inflo/inflo/cs.exe/open/25657767) |
| [Public Interest Disclosure Procedure](http://inflo/inflo/cs.exe/open/24903888) |
| [Gifts, Benefits & Hospitality Policy](http://inflo/inflo/cs.exe/open/22477446) |
| [Conflict of Interest Policy](http://inflo/inflo/cs.exe/open/25685962) |
| [Conflict of Interest Procedure](http://inflo/inflo/cs.exe/open/25685641) |
| [Performance Improvement & Disciplinary Policy & Procedure](http://inflo/inflo/cs.exe/open/3522637) |
| [Fair and Just Framework](http://inflo/inflo/cs.exe/28834462/MWA436_Fair_Just_Diagram_FA01.3_For_Export-Fair_and_Just_Framework.jpg?func=doc.Fetch&nodeid=28834462) |

# Document History

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| Date | Reviewed/  Actioned By | Version | Action |
| January 2020 | Enterprise Risk and Compliance Manager | 4 | Updated with new name for Public Interest Disclosures Act and adding document history table. |
| December 2021 | Manager Risk and Resilience | 5 | Minor updates to definitions, hyperlinks and minor grammatical changes. |
| November 2023 | Senior Manager Enterprise Risk and Compliance | 6 | Legal team updated sections including addition of new section Protection from Detrimental Action |