

NAME OF DOCUMENT	GOV015 Public Interest Disclosure Procedure
FRAMEWORK	Policies and Procedures
DEPARTMENT	Governance
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FIRST APPROVER	Department Head
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PURPOSE

The Kardinia Park Stadium Trust (the Trust) is subject to the *Public Interest Disclosures Act 2012* (PID Act). The purpose of the PID Act is to encourage and facilitate the making of disclosures of improper conduct of public officers and public bodies, including the Trust, its employees, and officers. The Trust is committed to the aims and objectives of the PID Act. It does not tolerate improper conduct by its employees, nor the taking of reprisals against those who come forward to disclose such conduct.

The Trust recognises the value of transparency and accountability in its decision making, administrative and management practices, and supports the making of disclosures that reveal improper conduct. The Trust will take all reasonable steps to protect people who make such disclosures from any detrimental action in reprisal for making the disclosure. It will also afford natural justice to the person who is the subject of the disclosure and ensure as far as is possible that the confidentiality obligations protecting the identity and other information about disclosers and the subject of disclosures as set out in the Act are strictly complied with.

This document, prepared in accordance with the PID Act, outlines the procedures for making disclosures of improper conduct engaged in, or detrimental action taken by, the Trust and its employees and contractors.

The purpose of this document is to establish procedures for:

- a person (employee or member of the public) to make a disclosure about the Trust, its employees or officers
- how the Trust will protect disclosers against detrimental action in reprisal for having made a disclosure
- addressing welfare management arrangements for disclosers.

These procedures have been published by the Trust in compliance with section 58 of the PID Act and guidelines published by the Independent Broad-based Anti-Corruption Commission (IBAC).

SCOPE

This document applies to all Kardinia Park Stadium Trust employees, including the Chief Executive Officer (CEO), and Trustees, who are referred to in this document as employees.

These procedures complement the Trust's established processes for responding to and resolving complaints and the Trust's Human Resource policies and procedures. Matters determined as not being public interest disclosures may be handled under one of these other internal frameworks.

MAKING A PUBLIC INTEREST DISCLOSURE

The purpose of the PID Act is to encourage and facilitate the making of disclosures of improper conduct and detrimental action by public officers and public bodies. The Act provides protection to people who make disclosures in accordance with the Act and establishes a system for investigation and subsequent remedial action. An essential component of this protection is to ensure that information connected to a public interest disclosure, including the identity of a discloser and the contents of that disclosure, are kept strictly confidential.

Important information about making disclosures

Kardinia Park Stadium Trust is **not** a body that may receive public interest disclosures.

A disclosure must be made to an external body that has the authority to receive the disclosure under the *Public Interest Disclosure Act 2012*.

Quick guide to public interest disclosures

Who can I make a disclosure to?	If you wish to make a public interest disclosure about Kardinia Park Stadium Trust or any of its employees, you must contact: <ul style="list-style-type: none">• IBAC• the Ombudsman• the Victorian Inspectorate.
Who can make a disclosure?	Any individual or group of individuals. A disclosure cannot be made by a business or company.
How do I make a disclosure?	<ul style="list-style-type: none">• Verbally (in person, by phone).• In writing (post, personal delivery). Electronic communication (but not fax). A disclosure can be made anonymously.
What can I make a disclosure about?	Any information that you reasonably believe shows improper conduct engaged in, and/or detrimental action taken by, a person, public body or public officer performing public functions. This includes the Trust and any of its employees.

If you want to discuss details of a potential public interest disclosure, do so directly with IBAC. Disclosures revealed to entities not authorised to receive public interest disclosures under the Public Interest Disclosures Act 2012 may neither be protected nor investigated by IBAC.

If the Trust receives a complaint, report, or allegation of improper conduct or detrimental action that it views to be a public interest disclosure, it will advise the discloser to make their disclosure to IBAC.

IBAC can be contacted in writing at:

IBAC
GPO Box 24234 or
Level 1, North Tower 459 Collins Street
Melbourne Vic 3000

IBAC also provides an [online form](#).

WHAT CAN A DISCLOSURE BE MADE ABOUT?

A public interest disclosure can be made about:

- the improper conduct of public bodies or public officers and/or
- detrimental action taken in reprisal against a discloser

Improper conduct is defined to mean conduct:

- of any person that:
 - adversely affects the honest performance by a public officer or public body of his or her or its functions as a public officer or public body
 - is intended to adversely affect the effective performance or exercise of functions or powers by a public officer or public body and result in that person (or their associate) obtaining a gain, benefit or entitlement they would not have otherwise obtained, irrespective of whether the public officer or public body engages in any corrupt conduct or other misconduct
- of a public officer or public body that:



- constitutes or involves the dishonest performance of his or her or its functions as a public officer or public body
- constitutes or involves knowingly or recklessly breaching public trust
- involves the misuse of information or material acquired in the course of the performance of his or her or its functions as a public officer or public body, whether or not for the benefit of the public officer or public body or any other person
- is engaged in by the public officer or public body in their capacity as a public officer or a public body that constitutes any of the following:
 - a criminal offence
 - serious professional misconduct
 - dishonest performance of public functions
 - an intentional or reckless breach of public trust
 - an intentional or reckless misuse of information or material acquired in the course of the performance of the functions of the public officer or public body
 - a substantial mismanagement of public resources
 - a substantial risk to the health or safety of one or more persons
 - a substantial risk to the environment.
- that could constitute a conspiracy or an attempt to engage in any of the conduct referred to above.

Conduct that is trivial will not constitute improper conduct for the purpose of the PID Act.

Detrimental action

It is an offence under the Act for the Trust or any of its employees to take detrimental action against a discloser in reprisal for making a public interest disclosure. There are two essential components here: whether there is in fact detrimental action, as defined by the PID Act, and whether that action is being taken in reprisal against a person for making or being connected with a public interest disclosure.

Detrimental action as defined by the Act 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.

In addition, a person can have taken detrimental action just by threatening to take such action. Further, the detrimental action need not necessarily have been taken (or threatened) against a person making a public interest disclosure, but against any person connected with a public interest disclosure.

Examples of detrimental action prohibited by the Act include:

- threats to a person's personal safety or property, including intimidating or harassing a discloser or the discloser's family or friends or otherwise causing personal injury or prejudice to the safety or damaging property of a discloser or the discloser's family or friends
- the demotion, transfer, isolation or change in duties of a discloser due to having made a disclosure
- discriminating or disadvantaging a person in their career, profession, employment, trade or business
- discriminating against the discloser or the discloser's family and associates in subsequent applications for promotions, jobs, permits, or tenders resulting in financial loss or reputational damage.

Legitimate management action where there are good and sufficient grounds that would justify the action against any other person in the same circumstances is not detrimental action.

The person (or the person incited to take detrimental action) must take or threaten the detrimental action, because, or in the belief that the:

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



PROTECTIONS FOR DISCLOSERS

The PID Act sets out the protections for people making a disclosure in accordance with the PID Act, which include:

- Immunity from civil or criminal liability as well as administrative action (including disciplinary action) for making the disclosure.
- Immunity from committing an offence under the *Constitution Act 1975* or any other Act that imposes obligations of confidentiality or otherwise restricts the disclosure of information.
- Immunity from breaching any other obligation (made by oath or rule of law or practice) requiring the maintenance of confidentiality or otherwise restricting the disclosure of information.
- Protection from an action for defamation.

These protections apply to a disclosure from the time it is made and continue to apply, irrespective of whether IBAC has determined that the disclosure is a public interest disclosure.

The protections in the PID Act do not apply if a person knowingly provides false or misleading information or incorrectly claims that a matter is the subject of a public interest disclosure.

The protections apply to further information relating to a public interest disclosure that a person has made to IBAC.

CONFIDENTIALITY

Consistent with the Trust's obligations under the PID Act, the fact that a disclosure has been made, any information received from the IBAC, or another investigating entity and the identities of persons involved will not be divulged.

The Trust will take all reasonable steps to protect the identity of the discloser and the matters disclosed by a discloser.

The Trust will also take all reasonable steps to ensure that the confidentiality of a person who is the subject of a public interest disclosure is maintained during the assessment and any ensuing investigation. Where the disclosure is dismissed or investigations do not substantiate the allegations, confidentiality will still be maintained in relation to the subject's identity, as well as the fact of the investigation and any results.

Disclosers should consider whether it is in their best interests not to discuss any related matters other than with officers of the IBAC, another investigating entity, or other persons authorised by law.

WELFARE MANAGEMENT

The protection of genuine disclosers who make public interest disclosures about improper conduct or detrimental action is essential for the effective implementation of the Act. The Act also extends the need for welfare management to people who have cooperated or intend to cooperate with an investigation of a disclosure.

The Trust is committed to protecting genuine disclosers against detrimental action taken in reprisal for making a public interest disclosure. Where the Trust is made aware of a public interest disclosure by IBAC, it undertakes, as circumstances require, to provide welfare support to the discloser and to any witness in an investigation.

In appropriate circumstances, the Trust will appoint a welfare manager to coordinate welfare support for a discloser or co-operator.

Where a person who makes a disclosure is implicated in misconduct, the Trust will handle the disclosure and protect the discloser from reprisals in accordance with the Act, the Ombudsman's guidelines and these procedures. The Trust acknowledges that the act of disclosing should not shield disclosers from the reasonable consequences flowing from any involvement in improper conduct.

The Trust recognises that employees against whom disclosures are made must also be supported during the handling and investigation of disclosures. The Trust will take all reasonable steps to ensure the confidentiality of the person who is the subject of the disclosure during the assessment and investigation process. Where investigations do not substantiate disclosures, the fact that the investigation has been carried out, the results of the investigation, and the identity of the person who is the subject of the disclosure will remain confidential.

The Trust will support a person 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 Trust's Chief Executive Officer will consider any request by that person to issue a statement of support setting out that the allegations were clearly wrong or unsubstantiated.

ALTERNATIVES TO MAKING A PUBLIC INTEREST DISCLOSURE

This procedure is designed to complement usual methods of submitting complaints to the Trust.

Employees are encouraged to raise matters with their supervisors and managers at any time. Members of the public are encouraged to use the Trust's feedback processes to communicate complaints or concerns with services provided.

Complaints can be directed to enquiries@kardinipark.vic.gov.au.

STAFF TRAINING

The Trust will:

- ensure that employees have access to a copy of these procedures
- provide periodic refresher courses for existing staff about their rights and obligations under the Act.

RELEVANT LEGISLATION

Public Interest Disclosures Act 2012

Public Administration Act 2004

Independent Board-based Anti-Corruption Commission Act 2011

RELATED DOCUMENTS

HRPOL005 Grievance Handling Policy and Procedure

VERSION CONTROL AND CHANGE HISTORY

VERSION NUMBER	DATE	DETAILS OF CHANGE
1	21/03/2017	First version
2	22/12/2017	Update
3	12/04/2024	Updated to procedure to meet requirements of Public Interest Disclosure Act 2012 as amended, and IBAC guidance.

