

Purpose:

To outline the mandatory notification requirements in relation to suspected corruption and to encourage and to facilitate the making of disclosures of improper conduct engaged in by employees and to establish a system for such conduct to be investigated.

Scope:

This policy applies to all employees including Board Directors, the CEO, Executive Directors, contractors and volunteers of the Royal Victorian Eye and Ear Hospital. This Policy includes the mandatory notification requirements of suspected corruption under the Directions made pursuant to section 57A of the Independent Broad-based Anti-corruption Commission Act 2011 (**IBAC Act**) and the requirements under the Protected Disclosure Act 2012 (**PD Act**).

Policy:***Mandatory Notification***

The CEO has an obligation to report suspected corruption in accordance with section 57A of the IBAC Act, the CEO as 'relevant principal officer' has an obligation to report to IBAC any matter notified to him or her that she/he suspects on reasonable grounds to involve corrupt conduct occurring or having occurred. The obligation cannot be delegated.

The CEO must report any suspected corrupt conduct occurring at the Eye and Ear and suspected corrupt conduct occurring in other organisations connected with the Eye and Ear where it is connected with the CEO's duties, functions and exercise of powers.

These notifications constitute a statutory obligation and have effect despite any duty of secrecy or other restriction on disclosure.

All notifications of suspected corrupt conduct to IBAC will be treated in the strictest confidence.

Reporting of inappropriate conduct

All staff are expected to report other inappropriate conduct in line with relevant procedures outlined in the Linked Policy & Procedure below (page 4)

Reporting of Fraud (refer to Fraud Policy)

Where an act of Fraud is suspected the incident should be reported to Executive Director, Finance & Corporate Services and/or CEO and/or Board Chair as appropriate along in accordance with the Eye and Ear Fraud Policy.

Protected Disclosures

Complaints by individuals about certain serious misconduct or corruption involving public health services in Victoria can be made directly to the Independent Broad-based Anti-corruption Commission (**IBAC**) under the PD Act.

The Royal Victorian Eye and Ear Hospital (**Eye and Ear**) encourages individuals to raise their concerns directly with IBAC if they wish those disclosures to remain protected. If an individual believes some detrimental action has been taken, or may be taken against them if they make a complaint, they should contact IBAC directly.

IBAC can be contacted on 1300 735 135 or via their website at:
<http://www.ibac.vic.gov.au>.

Protecting individuals from detrimental action

The Eye and Ear is committed to extend the protections under the PD Act, where possible, to individuals who make protected disclosures under that Act or who cooperate with investigations into protected disclosures. The PD Act is designed to encourage people to come forward to make complaints by offering legal protection.

The Eye and Ear has policies and procedures in place to ensure all employees and officers know that it is an offence for a person to take, incite, or to threaten detrimental action against any person because of, or because of a substantial belief that:

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

The Eye and Ear will take all reasonable action to ensure that:

- All employees and officers are aware that taking or threatening to take detrimental action may constitute a criminal offence and that fines, imprisonment and damages awards may apply.
- A person who reports actual or threatened detrimental action to a staff member or officer of the Eye and Ear will be instructed to report the matter directly to IBAC. The Eye and Ear CEO and the Board Chair will also be informed of such report. If any report concerns the CEO, the Board Chair will be notified rather than the CEO.
- The Eye and Ear has procedures in place to ensure that all staff and officers comply with the confidentiality provisions of the PD Act and are aware that a breach of confidentiality may result in criminal penalties.

How can a disclosure be made by individuals under the PD Act?

- The hospital is not an entity that can receive protected disclosures under the PD Act.
- Disclosures by individuals under the PD Act should be made directly to IBAC, unless the disclosure is about IBAC or one of its officers in which case disclosures should be made to the Victorian Inspectorate.
- This to ensure the individual reporting the improper conduct is protected under the Act.
- Where suspected corrupt conduct has been notified to IBAC under the PD Act, it will be assessed and treated as a notification under the IBAC Act and there is not a requirement for the CEO to separately notify under the IBAC Act.

Definitions:

Detrimental action includes:

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

Corrupt conduct includes:

The IBAC Act (section 4) describes and defines corrupt conduct, summarised here as conduct, or an attempt or conspiracy to engage in conduct (whether it takes place inside or outside of Victoria), that:

- adversely affects the honest performance of the functions of a public officer or public body
- constitutes or involves the dishonest performance of the functions of 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 the functions of a public officer or public body
- 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.

In order for conduct to be corrupt conduct, it must also be the case that the conduct would constitute a relevant offence which means an indictable offence against any Act, or the common law offences of attempt to pervert the course of justice, bribery of a public official, perverting the course of justice and misconduct in public office.

Misconduct in public office is a broad offence and may be established if:

- a public officer in the course of, or connected to, their public office wilfully misconducts themselves whether by act or omission, without any reasonable excuse or justification, and
- the misconduct is serious and meriting criminal punishment having regard to the responsibilities of the public office, the importance of the public objects they serve and the nature and extent of the departure from those responsibilities and objects.

Examples of misconduct in public office include:

- deliberately falsifying accounts to conceal or obtain a benefit
- entering into a secret commission or profit sharing arrangement with another person
- colluding to share profits with tender recipients and concealing the overvaluation of tenders
- using public office to deceive a member of the public to gain a financial advantage
- misusing power to harm, oppress or disadvantage a person.

Legislation:

Current legislation may be sourced at

http://www.austlii.edu.au/au/legis/vic/consol_act/pda2012233/

The Protected Disclosure Act 2012 (Vic)

Independent Broad-based Anti-corruption Commission Act 2011

Standard:

NSQHS National Standard 1.1 Implementing a governance system that sets out the policies and procedures and/or protocols

Suspected Corruption and Protected Disclosure Policy

References:

Guidelines published by the Independent Broad-based Anti-corruption Commission (IBAC):

[IBAC Directions for making mandatory notifications of suspected corruption](#)

Mandatory notification form and information go to www.ibac.vic.gov.au/notifications.

IBAC - Guidelines for making and handling protected disclosures.

Linked Policy & Procedure:

The following are Eye and Ear procedures that enable staff to report inappropriate conduct including

Policies	Procedures
<ul style="list-style-type: none"> • Fraud Policy • Governance Policy • People & Culture Policy • Legislative Compliance Policy • Risk Management Policy • Code of Conduct 	<ul style="list-style-type: none"> • Bullying Prevention Procedure • Equal Opportunity Procedure • Consumer Feedback Procedure • Procedure for Handling Research Related Complaints • Disciplinary Action Procedure • Grievance Procedure • Employee Complaints and Investigation Procedure

Policy Reviews:

This Policy will be reviewed at least biennially.

Reporting Lines:

Responsible Executive: CEO

Operational Reporting Committee: Executive Committee

Board Reporting Committee: Audit Committee

Author / Contributors:

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Policy Details:

Details	
Policy No:	P20.0
Manual:	Policy
Section:	Corporate
NSQHSS	National Standard 1 – Governance for Safety and Quality in Health service organisations
Legislation Section:	Section B - Provision of Health Care Services (Public)
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