

Complaints & Public Interest Disclosure Policy

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Melbourne Recital Centre (the Centre) amends its policies from time to time. This version was correct at **30/08/2022**. To confirm that this is the latest version of this policy, please refer to the Centre's intranet or contact the policy owner.

Policy Owner	Director of Corporate Services
Policy Category	Integrity & Employment

Purpose

To provide advice and guidance on the Centre's approach to making, receiving and handling of Feedback, Complaints and Public Interest Disclosures (PID) that relate to Improper Conduct.

Scope

This policy applies to any individual, including employees, contractors, board member, volunteer or associated third parties connected to the Centre, who wishes to provide Feedback, make a Complaint or disclose Improper Conduct.

Out of scope are:

1. Refunds or complaints relating to ticketing which are covered in the Ticketing policy.
2. Incident management which is covered in the Workplace Health & Safety policy.
3. Work-related grievances or disciplinary action arising from legitimate performance management issues which are covered in the Performance Management policy.

Authority

1. The policy is set and approved by the Board and made under the:
 - a. [Corporations Act 2001](#)
 - b. Melbourne Recital Centre Constitution
2. For the purposes of following best practice, this policy is informed by:
 - a. [Department of Treasury & Finance Victoria - Public Interest Disclosure](#)
 - b. [Victorian Public Sector Code of Conduct \(VPSCC\)](#)
 - c. [VPSC - Code of Conduct for Directors](#)
 - d. [Charter of Human Rights and Responsibilities Act 2006](#)
3. This policy supports the compliance associated with:
 - a. [Public Interest Disclosures Act 2012 \(PIDA\)](#)
 - b. [Independent Broad-based Anti-corruption Commission Act 2011 \(IBACA\)](#)
 - i. [IBAC](#)
 - c. [Ombudsman Act 1973](#)
 - d. [Public Administration Act 2004 \(PAA\)](#)
 - e. [Occupational Health & Safety Act 2004](#)

This policy should be read in conjunction with the Centre's other integrity- and safety-related policies on:

1. Fraud, Corruption & Other Losses
2. Conflict of Interest
3. Gift, Benefits & Hospitality
4. Respectful Behaviours
5. Child Safe
6. Workplace, Health & Safety

Policy

1. The Centre seeks to maintain the highest possible standards of impartiality, integrity and public trust consistent with the VPSCC and the Centre's integrity- and safety-related policies.
2. The Centre is committed to providing a transparent and accessible complaint, feedback and public interest disclosure handling procedure to meet the quality and service needs of our visitors, patrons, contractors, artists, hirers and staff.
3. The Centre does not tolerate fraud, corruption, misconduct, criminal or improper conduct including Detrimental Action being taken in reprisal against staff who speak up about their concerns.
4. The Centre:
 - a. Is committed to promoting and supporting a positive culture of corporate compliance and good governance, as well as honest, ethical and respectful behaviour by individuals connected with the Centre;
 - b. Expects transparency and accountability in its management practices;
 - c. Encourages individuals to disclose genuine concerns regarding Improper Conduct or Serious Professional Misconduct through their line management or Key Management Personnel;
 - d. Supports and protects the individuals who make Complaints including PIDs, and respects the wish of those who choose to make disclosures anonymously;
 - e. Is committed to the prompt response, investigation and effective resolution of Complaints and PIDs; and
 - f. May conduct internal investigation or engage in the expertise of a third party to investigate Complaints, PIDs or other breaches to the Centre's policies, as appropriate.

5. The Centre will maintain the integrity, security and confidentiality of records relating to Complaints, Feedback and PIDs, in accordance with its policies on Privacy, Information & Data Management, and Complaints & Public Interest Disclosures.
6. The Centre will meet its legislative or external reporting obligations when handling Complaints, which may not necessarily be aligned with wishes of the individual making a Complaint.
7. Breaches to this policy may be directed to the Director of Corporate Services in the first instance to assess best approach for resolution. The Centre may take disciplinary action, including dismissal, where a staff member breaches this policy in making an allegation in bad faith or victimises an individual who made or may have made a public interest disclosure.

Procedural Principles

Complaint Management

The Centre's complaint management approach is underpinned by the following principles, outlined below.

1. When an individual makes a complaint, they will be:
 - a. Provided with information on our Complaint Handling Procedure;
 - b. Listened to, and treated with dignity and respect by our staff;
 - c. Given opportunities to actively be involved in the complaint process where it is possible, appropriate and safe to do so, including whether the complaint should be treated informally or formally; and
 - d. Provided with reasons for our decision(s) and any options for redress or review.
2. The Centre will deal with complaints in a confidential manner and protect the identity of individuals making complaints where this is practical and appropriate. Personal information that identifies individuals will only be disclosed or used by the Centre as permitted under relevant privacy laws, legislative and confidentiality obligations.
3. The Centre will accept anonymous complaints and will carry out an investigation of the issues raised where there is enough information provided, noting that this may impact on the Centre's ability to resolve the complaint.

4. The Centre will ensure that information about how and where complaints may be made to or about the Centre is well publicised, accessible and well understood, particularly by people from cultural or linguistically diverse backgrounds, as well as disadvantaged and vulnerable people who may require assistance and support in making complaints.
5. The Centre is committed to providing a culturally safe environment for individuals of diverse backgrounds who wish to make a complaint. The Centre will ensure individuals are informed of their right to have a support person, family member or advocate present to assist or represent them through the complaint making process.
6. The Centre will assess and prioritise complaints in accordance with the urgency and seriousness of the issues raised and inform the individual after the assessment is made.

In making these assessments, the Centre will consider:

- a. How serious, complicated or urgent the matter is;
 - b. Whether the complaint raises concerns about people's or children's health and safety;
 - c. How the parties involved in the complaint are being affected; and
 - d. Whether resolution requires the involvement of other organisations.
7. The Centre will ensure that the complaint investigation process is impartial with no assumptions made or actions taken until all relevant information has been collected and considered. The person handling the complaint will be different from the employee or individual whose service or conduct is being complained about.
 8. Complaints received by any individual will be assigned an investigating officer who is internal and is chosen on the basis of experience, knowledge of the subject matter or confidentiality of the matter as defined by a decision matrix. The investigating officer will conduct a fact-finding exercise which will lead to a preliminary assessment that makes further recommendations such as:
 - a. Proposing that the matter be addressed informally;
 - b. Proposing that the matter be addressed via mediation or alternate dispute resolution process;
 - c. Referring the complaint for formal investigation;
 - d. Rejecting the complaint if it is shown to be malicious, vexatious, misconceived or lacking in substance;
 - e. Recommend interim actions as necessary to address any immediate concerns regarding any person's health, wellbeing and safety and participation in work.

The CEO may also decide to appoint an external to review the case, depending on complexity and nature of the incident breach or if the recommendation is for formal investigation to occur.

9. The Centre will ensure that complaints are free from repercussions for the individual and no victimisation will occur to anyone making a complaint.
10. Complaints will be reviewed regularly to identify service improvements.
11. Complaints will be recorded securely and/or de-identified when reporting to senior management, such as the Board, for review and follow up of serious matters, particularly in relation to meeting mandatory legislative obligations such as external reporting to regulators (eg WorkSafe).
12. Individuals who wish to make a Complaint should check other related Centre policies in case additional specific information is indicated separately in that policy (eg Respectful Behaviours, Child Safe, Ticketing) and then follow the Complaint Handling Procedure.
13. Before making a complaint, individuals should consider the following:
 - a. Be clear about the issues you want to discuss;
 - b. Focus on the facts and the things that affect you;
 - c. Acknowledge that you may not be in possession of all the facts;
 - d. Think about how the matter could be resolved and your preferred outcomes.
14. The Centre will endeavour to acknowledge the receipt of a complaint within three working days and respond to all complaints within four weeks of receipt of receiving all relevant information. Where resolution of complaints cannot be made in that timeframe, an interim response will be made to the individual providing an indicative timeframe for resolution.

Feedback Management

1. Individuals are encouraged to submit positive or negative feedback via our website at [Contact Us](#).
2. Feedback will be recorded securely, treated as confidential and reviewed regularly to identify service improvements.
3. Feedback may be passed onto to other areas of the Centre to identify the best staff member to respond or act on the feedback.

Public Interest Disclosures - Making

1. Any person can make a PID about Improper Conduct or Detrimental Action. A mere suspicion, allegation or conclusion that is unsupported by further information, facts or circumstances will not be protected by the *PIDA*.
2. Disclosures can be made as an individual or together as a group of individuals but cannot be made by a company or business. A person can make a disclosure on behalf of someone else.
3. PIDs may be made in person, by phone, in writing, by email or other forms of electronic communication but not by fax.
4. PIDs must be made in private so it is important that only the person to whom the disclosure is made can hear or receive the disclosure (as distinct from sending disclosure by group or generic email). The person receiving a disclosure may take notes or record the conversation with the permission of the individual making the disclosure.
5. A person does not have to identify themselves when making a disclosure or can report disclosures anonymously; however, this may affect how the disclosure is investigated and the individual will not be notified of the outcome of the investigation. If a person can't be identified from the disclosure, the disclosure will be treated as an anonymous disclosure.
6. A person does not have to specifically refer to the *PIDA* or the protections in the *PIDA* for the disclosure to be 'public interest disclosure'. Individuals have the option of advising that the disclosure not be treated as a 'public interest disclosure'.
7. Under the *PIDA*, the Centre is not authorised or eligible to receive disclosures directly and as such any disclosures made to an employee of the Centre will not be considered a 'public interest disclosure' and therefore not be afforded protections under the *PIDA*.

Instead, all PIDs must be made directly to IBAC, via the contact details below, who will assess the disclosure and inform the Centre of its findings and next steps. IBAC will treat disclosure as potential protected disclosure and then make recommendations for action.

IBAC
 Level 1, North Tower
 459 Collins Street
 Melbourne VIC 3000
 GPO Box 24234 Melbourne VIC 3001
 T: 1300 735 135 W: www.ibac.vic.gov.au
<https://www.ibac.vic.gov.au/reporting-corruption/report/complaints-form>

8. Any person intending to make a PID is strongly encouraged to read the resources on the IBAC website and then obtain independent legal advice to ensure that the disclosable matter meets the threshold requirement under the *PIDA*. Alternative approaches such as registering a Complaint, discussing matters with line management or providing internal Feedback mechanisms should also be considered.

Individuals may also seek out advice from the *Public Interest Disclosures Coordinator*, Department of Treasury & Finance (E: protected.disclosure@dtf.vic.gov.au, T: 03 7005 9593).

Public Interest Disclosures - Handling

1. IBAC is responsible for identifying, investigating, exposing and preventing serious corrupt conduct across the whole of the Victorian public sector and will assess within a reasonable time frame (determined by IBAC) whether a disclosure is considered a 'public interest disclosure'. It may seek additional information for the person making the disclosure or the Centre in order to make its decision.
2. If IBAC determines that the disclosure is a 'public interest disclosure', it must decide either to:
 - a. Dismiss the disclosure
 - b. Investigate the disclosure; or
 - c. Refer the disclosure to another body for investigations, such as the Victorian Police, the Ombudsman or the Victorian WorkCover Authority (WorkSafe).
3. As a result of IBAC's investigations, the Centre may be then be notified and required to conduct further investigations and follow guidelines or recommendations set out by IBAC.

Public Interest Disclosure - Protections

1. The *PIDA* sets out protections provided to individuals who make a disclosure in accordance with the *PIDA*. These include:
 - a. Immunity from civil or criminal liability as well as administrative action (including disciplinary action) for making the disclosure;
 - b. Immunity from committing an offence under the *Constitution Act 1975* or any other Act that imposes obligations of confidentiality or otherwise restricts the disclosure information;
 - c. 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;
 - d. Protection from an action of defamation; and
 - e. Protection from detrimental action.

2. The protections apply to a disclosure from the time an individual makes the disclosure and continues to apply even if IBAC determines that the disclosure is not a 'public interest disclosure'. However, confidentiality of the disclosure may no longer apply if the disclosure is found to be not a 'public interest disclosure'.

3. A person can make a PID on someone else's behalf; however, only that person making the actual disclosure will receive the full protection of the *PIDA*. The person on whose behalf the disclosure is made will receive protection but it will be limited to confidentiality and protection against detrimental action taken against the individual in reprisal for the PID that has been made.

4. The protections in the *PIDA* do not apply if false or misleading information has been provided or if an individual makes a claim that is known to be false or made in bad faith.

5. The Centre recognises that the welfare and protection from detrimental action of individuals making genuine PIDs is essential for the effective implementation of the *PIDA* and is relevant to creating a safe working environment.

6. As there are a number of confidentiality obligations that arise under the *PIDA*, it is important that individuals seek legal advice to understand what information may be shared outside of IBAC's disclosure procedures (eg talking to the media during investigations) in case the discloser loses protections or breaches confidentiality obligations. This also applies to the Centre who has obligations to maintain confidentiality and only disclose information in accordance with the law.

7. The Centre will take precautions to prevent staff from taking detrimental action in reprisal for PID by applying a risk-based approach to identifying, assessing and monitoring risks faced by disclosures and witnesses and putting controls in place to best mitigate risks.

Public Interest Disclosure - Welfare Management

1. The Centre will offer welfare support via its [Employee Assistance Program](#) services to both the individual making the PID, any witnesses to a disclosure as well as any employee who may be the subject of a PID.
2. The Centre may also assess whether a welfare manager is required to be assigned to affected individuals who may be an internal staff member such as HR Manager or external contractor specifically engaged for this person.
3. The Welfare Manager is responsible for:
 - a. Examining the immediate welfare and protection needs including fostering a supportive work environment in that case the person is an employee;
 - b. Providing advice and support including protections under the Act;
 - c. Receiving and responding to any disclosures of detrimental action in reprisal for making the disclosure (eg harassment, intimidation, victimisation)
 - d. Managing expectations of the process and outcomes and for providing reasonable support; and
 - e. Maintaining confidentiality and protecting individuals as being involved in a PID.
4. In determining whether to appoint a welfare manager in any case, the Centre will consider issues such as:
 - a. Whether there are any real risks of detrimental action being taken against the persons involved;
 - b. Whether the Centre can provide effective support to the persons involved; and
 - c. Whether it is within the Centre's power to protect the persons involved from suffering repercussions.

Roles & Responsibilities

Board	For exercising specific authority in setting and approving this policy, and also providing advice and guidance.
Chief Executive Officer (CEO)	For exercising specific authority under the policy and for providing organisational leadership which encourages promulgation and compliance to policies and procedures including dispute resolution.
Director of Corporate Services (DCS)	For exercising specific authority under this policy, maintaining the policy and procedures, and ensuring external reporting and compliance obligations are met via the support of the Corporate Services team. As the Centre is not authorised to receive disclosures under the <i>Act</i> , there exists no formal role of the Protected Disclosures Officer.
Policy Owner	For providing advice to the Centre's employees, contractors and volunteers on the intent and operation of the policy for which they are responsible; for identifying potential changes and updates to the policy; and for leading the process of change and approval for updating and implementation of policies and procedures.
All employees, contractors, volunteers and committee members	For complying with the requirements of this policy and developing requisite awareness of the Centre's policies and procedures to the extent required for discharging their duties of their roles.

Internal References

Complaint Handling Procedure [Tempo](#)

Feedback Submission [Melbourne Recital Centre Website - Contact Us](#)

Policies [Tempo](#)

- Child Safe
- Conflict of Interest
- Fraud, Corruption & Other Losses
- Gifts, Benefits & Hospitality
- Information & Data
- Management
- Performance Management
- Privacy
- Respectful Behaviours
- Workplace, Health & Safety

Workplace Health & Safety Framework [Tempo](#)

Definitions

Complaint - informal - formal	<p>An incident or expression of dissatisfaction related to one or more of the following:</p> <ol style="list-style-type: none"> 1. Services or interactions with individuals; 2. Allegations of abuse or misconduct by a staff member, contractor, volunteer or other individual associated with the Centre; 3. Disclosure of abuse or harm made by an individual; 4. Conduct of an individual at the Centre; 5. Inadequate handling of a prior concern; 6. General concerns about the safety of a group of individuals or activity. <p>Most complaints are initiated at an individual's request which is then received, investigated and resolved. The matter may be internally investigated or externally investigated with the expertise of third-party specifically engaged for that matter. Depending on the nature of the complaint, there may be an additional mandatory requirement imposed on the Centre to notify or formally report to external organisation or regulator (eg the Victorian Government, Victorian police).</p> <p>Complaints may be <i>informal</i> in which there is a focus on resolution of the matter whereas <i>formal</i> complaints focus on proving that the complaint is substantiated.</p> <p>Complaints that relate to improper conduct and serious professional misconduct of the public sector can be made directly to IBAC, outside of the Centre, in the form of a disclosure. In this scenario, a very specific process will be followed as dictated by IBAC investigations.</p>
Detrimental Action	<p>Adverse action taken in reprisal against someone who has made a public interest disclosure. It may include one or more of the following:</p> <ol style="list-style-type: none"> 1. A public body demotes, transfers, isolates in the workplace or changes the duties of a person who has made a disclosure due to the making of the disclosure; 2. A person threatens, abuses or carries out other forms of harassment directly or indirectly against the person who makes a disclosure and their family or friends; 3. A public body discriminates against the person who makes a disclosure or their family or associates in subsequent applications for jobs, permit or tenders.

Feedback	Positive or negative comments about a service or issue. Individuals providing feedback are not necessarily wanting a response from the Centre.
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Incident	Similar to complaint except that the event is not necessarily brought forward at the request of an individual who has expressed dissatisfaction.
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Improper Conduct	<p>Corrupt conduct and/or any of the following conduct by a public officer or public body in their capacity as a public officer or public body including:</p> <ol style="list-style-type: none"> 1. A criminal offence; 2. Serious professional misconduct; 3. Dishonest performance of public functions; 4. An intentional breach or reckless breach of public trust; 5. An intentional or reckless misuse of information or material acquired in the course of the performance of public functions; 6. A substantial risk to the health or safety of one or more persons; or 7. A substantial risk to the environment. <p>It also includes conduct by a third party that:</p> <ol style="list-style-type: none"> 1. Affects the honest performance of a public officer or public body or is intended to adversely affect effective performance of a public officer or public body while obtaining an advantage for the third party; and/or 2. Could constitute a conspiracy or attempt to engage in any of the above. <p>Information that shows, tends to show, or that is believed <i>on reasonable grounds</i> to show or tends to show Improper Conduct, Serious Professional Misconduct or Detrimental Action can be the subject of a disclosure.</p> <p>Corrupt conduct is generally deliberate or intentional and not the result of a mistake or negligence. It is behaviour that can result in dismissal or termination of services.</p>
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Key Management Personnel	This includes the members of the Board and its sub-committees as well as the CEO and members of the senior leadership team.
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Misconduct (serious professional)	<p>May include conduct that constitutes a serious breach of an established professional code of conduct and/or other serious departures from a person's professional responsibilities including:</p> <ol style="list-style-type: none"> 1. Serious failure to exhibit the skills and experience required to perform the functions of the office; 2. Non-compliance with professional codes of conduct or the policies, procedures that govern behaviour in the public sector and workplace.
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Public Interest Disclosure (PID)/ Disclosure

The *Public Interest Disclosure Act 2012* provides legal protection to people who make disclosures about improper conduct in the public sector without fear of reprisal. IBAC will receive a complaint and decide if the matter is in the public's interest. The matter may be improper conduct or serious professional misconduct by a public officer or body (or person trying to influence a public officer or body) or detrimental action taken, or threatened to be taken, by a public officer or body against a person in reprisal for a public interest disclosure. Refer <https://www.ibac.vic.gov.au/reporting-corruption/public-interest-disclosures>.

The *Corporations Act 2001* also provides legal protection to people who make disclosures about improper conduct in the private sector without fear of reprisal. Companies are required to designate 'eligible recipients' such as board members and/or senior management to be authorised to receive and action disclosures. Due to the Centre's structure and classification as a public body according to the *PAA*, *PIDA* and *IBACA*, the Centre's preferred approach to the management of disclosures is to align with the *Public Interest Disclosure Act 2012* rather than the *Corporations Act 2001*.

Public Interest Disclosures have previously been known as 'Protected Disclosure' or 'Whistle-blower' complaints.

Public Body

Generally taken to mean an entity that is recognised as a part of the Victorian public sector and is classified according to <https://vpsc.vic.gov.au/about-public-sector/employer-public-sector-bodies/>. The term Public Body is more specifically defined within various Acts but the relevant legislation to the Centre is the *PAA* and *PIDA*.

Public Officer

With respect to the Centre, a public officer is any person employed in any capacity or holding any office in the public sector.

Version History

Version	Approved By	Effective Date	Sections Modified
1	Board	30 August 2022	Triennial review of Complaints & Public Interest Disclosure Policy (formerly Protected Disclosures Policy).
2			
3			
5			
6			