

Whistleblowers

Department of Human Services



Corporate Integrity
Information and Resolutions Unit

CIIRu

A Victorian
Government
initiative



What is the Whistleblowers Protection Act?

The *Whistleblowers Protection Act 2001* (“the Act”) supports the Government’s commitment to the principles of open, honest and accountable governance. It is designed to protect the public interest by:

- exposing serious public sector wrongdoing;
- ensuring public organisations are responsible and accountable; and
- protecting whistleblowers from detrimental action and protecting their privacy.

How does it work?

The Act provides protections to individuals who make an allegation that is formally assessed as a ‘protected disclosure.’ In order to be a protected disclosure under Part 2 of the Act:

- the allegation must be about *improper conduct* or *detrimental action*;
- the conduct must be in regard to a public officer’s official role; and
- the whistleblower must believe on reasonable grounds that the conduct occurred.

‘Improper conduct’ is defined in the Act as any of the following:

- corrupt conduct;
- substantial mismanagement of public resources;
- conduct involving substantial risk to public health or safety; or
- conduct involving substantial risk to the environment.

The conduct must also be serious enough that, if proved, it would also be a criminal offence, or would constitute reasonable grounds for the dismissal of the officer.

An allegation about ‘detrimental action’ must be in relation to action taken or threatened against an existing whistleblower. See also “*What protection do I receive as a whistleblower?*” below.

How do I become a whistleblower?

A whistleblower is any person who makes an allegation about improper conduct by staff of the Department of Human Services (“the department”) or funded agency.

Making a disclosure under the Act can be done either orally or in writing and may be done anonymously.

If you have a whistleblower complaint that involves an agency funded by the department, you can contact either the Corporate Integrity and Information unit (CIIRu) or the Ombudsman directly for advice.

What happens once I make a disclosure?

Once a disclosure is made to the department, the Protected Disclosure Coordinator (“PDC”) must first assess whether the disclosure meets the criteria of Part 2 of the Act to be a protected disclosure. (see above under the heading ‘How does it work?’). If Part 2 of the Act is satisfied, the PDC must then determine if the information also satisfies Part 4 of the Act to be a public interest disclosure.

Alternatively, if the PDC determines that the disclosure is not a protected disclosure, the whistleblower will be advised that they may request that the matter is referred to the Ombudsman for reconsideration.

What happens once the PDC determines that a protected disclosure has been made?

Once the PDC determines that a ‘protected disclosure’ has been made, the PDC must assess whether it also constitutes a ‘public interest disclosure.’ In order for the PDC to be satisfied that a public interest disclosure exists, the disclosure must show that a public body or public officer:

- has engaged, is engaging or proposes to engage in improper conduct in their capacity as a public officer or public body; or
- has taken, is taking or proposes to take detrimental action.

If the PDC determines that a ‘public interest disclosure’ exists, the whistleblower will be notified of the decision and the disclosure will be referred to the Ombudsman for final determination as to whether it is a ‘public interest disclosure.’

If the PDC determines that the disclosure is not a ‘public interest disclosure’, the whistleblower will be advised that they may request that the ‘protected disclosure’ is referred to the Ombudsman for reconsideration.

Allegations or complaints that are not considered to be ‘public interest disclosures’ may still need to be investigated and responded to by the department under standard complaint handling processes.

What protection do I receive as a whistleblower?

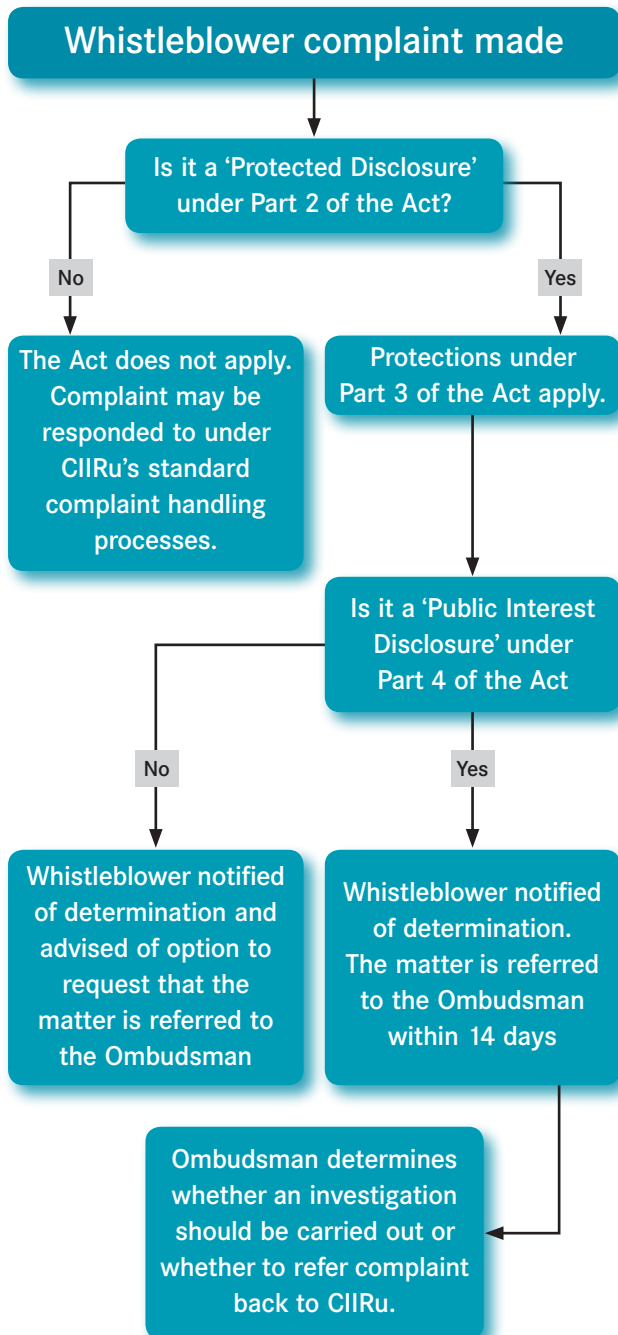
Once an allegation has been formally assessed as a ‘protected disclosure’, Part 3 of the Act provides the following protections:

- immunity from civil and criminal liability and disciplinary action for making the disclosure;
- immunity from liability for breaching confidentiality provisions;
- protection from actions in defamation for the making of the disclosure;
- the right to sue for damages or to seek an injunction to stop actions in reprisal; and
- the identity of the whistleblower or information that would lead to the whistleblowers identification cannot be revealed.

As well as being able to make a disclosure about ‘detrimental action’, the Act creates mechanisms to protect whistleblowers against ‘detrimental action’, which is defined in the Act as including:

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

How CIIRu handles whistleblower complaints



Need more information?

If you would like to make a Whistleblower complaint, please contact Ellen-Jane Browne, the Protected Disclosure Coordinator on: 1300 131 431.

Please note: Your call will go through to an automated answering service and will only be received by the Protected Disclosure Coordinator.

For further general information on Whistleblowers consult:

- Ellen-Jane Browne, Manager CIIRu/Whistleblowers on (03) 9096 7312
- John Braine, Manager Fraud Control/Whistleblowers on (03) 9096 8060
- Andrew Patterson, Manager Complaints Systems/Whistleblower on (03) 9096 8054
- the DHS Whistleblower guidelines on the DHS website: www.dhs.vic.gov.au/pdpd/ciiru/downloads/dhs_whistleblowers_guidelines.doc
- the Ombudsman's Whistleblowers Guidelines on the Ombudsman's website: www.ombudsman.vic.gov.au

Corporate Integrity Information and Resolutions Unit (CIIRu)

Department of Human Services

Corporate Integrity Information and Resolutions Unit

Your avenue to information and resolution of complaints.

Ph: 1300 884 706

Email: complaints.reception@dhs.vic.gov.au

GPO Box 4057

Melbourne Vic 3001

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