



Whistleblowers Protection Policy

Policy Statement:

Stawell Regional Health (SRH) is committed to the aims and objectives of the Whistleblowers Protection Act 2001 (the Act). The Service does not tolerate improper conduct by its employees, officers or members, nor the taking of reprisals against those who come forward to disclose such conduct. SRH recognises the value of transparency and accountability in its administration and management practices and supports the making of disclosures that reveal corrupt conduct, conduct involving a substantial mismanagement of public resources or conduct involving a substantial risk to public health and safety or the environment. SRH will take all reasonable steps to protect people who make such disclosures from any detrimental action in reprisal for making the disclosure. SRH will also afford natural justice to the person who is the subject of the disclosure.

Purpose

The procedures outlined in this policy establish a system for reporting disclosures of improper conduct or detrimental action by SRH or its employees. The system enables such disclosures to be made to the protected disclosure coordinator or to one of the nominated protected disclosure officers. Disclosures may be made by employees or by members of the public. These procedures are designed to complement normal communication channels between supervisors and employees. Employees are encouraged to continue to raise appropriate matters at any time with their supervisors. As an alternative, employees may make a disclosure of improper conduct or detrimental action under the Act in accordance with these procedures.

Objects of the Act:

The Whistleblowers Protection Act 2001 commenced on 1 January 2002. The purpose of the Act is to encourage and facilitate the making of disclosures of improper conduct by public officers and public bodies. The Act provides protection to whistleblowers that make disclosures in accordance with the Act and establishes a system for any matters disclosed to be investigated and rectifying action to be taken. The procedures adopted by SRH in regard to the Whistleblowers act will be published each year in the Annual Report, together with the number and types of disclosures made during the year.

Definitions of Key Terms:

Three key concepts in the reporting system are improper conduct, corrupt conduct and detrimental action. Definitions of these terms are set out below.

Improper Conduct

Improper conduct means conduct that is corrupt, a substantial mismanagement of public resources, or conduct involving substantial risk to public health or

safety or to the environment. The conduct must be serious enough to constitute, if proved, a criminal offence or reasonable grounds for dismissal.

Corrupt Conduct

Corrupt conduct includes:

- The conduct of any person (whether or not a public official) that adversely affects the honest performance of a public officer's or public body's functions;
- The performance of a public officer's functions dishonestly or with inappropriate partiality;
- The conduct of a public officer, former public officer or a public body that amounts to a breach of public trust;
- The conduct by a public officer, former public officer or a public body that amounts to the misuse of information or material acquired in the course of the performance of their official functions; and/or
- A conspiracy or attempt to engage in the above conduct.

Detrimental Action

Detrimental action includes:

- Action causing injury, loss or damage;
- Intimidation or harassment; and/or
- Discrimination, disadvantage or adverse treatment in relation to a person's employment career profession, trade or business, including the taking of disciplinary action.

The Reporting System:

Disclosures of improper conduct or detrimental action by SRH or its employees may be made to the following officers.

The Protected Disclosure Coordinator

Primary Care Manager (Telephone 53588506)

Protected Disclosure Officers

Risk Manager (Telephone 53588537)

Quality Manager - (Telephone 53588576)

All correspondence, phone calls and e-mails from internal or external whistleblowers will be referred to the Protected Disclosure Coordinator. When a person is contemplating making a disclosure and is concerned about approaching the protected disclosure coordinator or a Protected Disclosure Officer in the workplace, he or she can call the relevant officer and request a meeting in a discreet location away from the workplace.

Alternative Contact persons

A disclosure about improper conduct or detrimental action by SRH or its employees, may be made directly to the Ombudsman:

The Ombudsman Victoria,
Level 22, 459 Collins St,
Melbourne. Vic 3000 Ph. 1800 806 314

Roles and Responsibilities:

Employees:

All employees are encouraged to report known or suspected incidences of improper conduct or detrimental action in accordance with these procedures. All employees of SRH have an important role to play in supporting those who have made a legitimate disclosure. They must refrain from any activity that is, or could be perceived to be, victimisation or harassment of a person who makes a disclosure. Furthermore, they should protect and maintain the confidentiality of a person they know or suspect to have

made a disclosure.

Protected Disclosure Officers:

Protected Disclosure Officers will:

- be a contact point for general advice about the operation of the Act for any person wishing to make a disclosure about improper conduct or detrimental action
- make arrangements for a disclosure to be made privately and discreetly and, if necessary, away from the workplace
- receive any disclosure made orally or in writing (from internal and external whistleblowers)
- commit to writing any disclosure made orally
- impartially assess the allegation and determine whether it is a disclosure made in accordance with Part 2 of the Act (that is protected disclosure)
- take all necessary steps to ensure the identity of the whistleblower and the identity of the person who is the subject of the disclosure are kept
- confidential; and
- forward all disclosures and supporting evidence to the Protected Disclosure Coordinator.

Protected Disclosure Coordinator:

The Protected Disclosure Coordinator has a central clearinghouse role in the internal reporting system. He or she will:

- receive all disclosures forwarded from the protected disclosure officers;
- receive all phone calls, e-mails, and letters from the public or employees seeking to make a disclosure;
- impartially assess each disclosure to determine whether it is a public interest disclosure;
- refer all public interest disclosures to the Ombudsman;
- be responsible for carrying out, or appointing an investigator to carry out an investigation referred to the public body by the Ombudsman;
- be responsible for overseeing and coordinating an investigation where an investigator has been appointed;
- appoint a Welfare Manager to support the whistleblower and to protect him or her from any reprisals;
- advise the whistleblower of the progress of an investigation into the disclosed matter;
- establish and manage a confidential filing system;
- collate and publish statistics on disclosures made;
- take all necessary steps to ensure the identity of the whistleblower and the identity of the person who is the subject of the disclosure are kept confidential; and

liaise with the Chief Executive Officer of SRH.

Appointment of Investigator:

SRH will appoint an investigator to investigate every complaint. The investigator will generally be the **Director of Finance**. SRH may also appoint an alternate person from either inside or outside the organisation to undertake investigations. The investigator will be responsible for carrying out the internal investigation into a disclosure where the Ombudsman has referred a matter to the public body.

Welfare Manager:

SRH will appoint a Welfare Manager to protect the interests of the whistleblower. The Welfare Manager for SRH will be the **Social Worker** who is responsible for looking after the general welfare of the whistleblower.

The Welfare Manager will:

- examine the immediate welfare and protection needs of the whistleblower who has

- made a disclosure and seek to foster a supportive work environment;
- advise the whistleblower of the legislative and administrative protection's available to him or her;
- listen and respond to any concern of harassment, intimidation or victimisation in reprisal for making disclosures; and
- ensure that the expectations of the whistleblower are realistic.

Confidentiality:

SRH will take all reasonable steps to protect the identity of the whistleblower. Maintaining confidentiality is crucial in ensuring reprisals are not made against the whistleblower. The Act requires any person who receives information due to the handling or investigation of a protected disclosure, not to disclose that information except in certain limited circumstances. Disclosure of information in breach of section 22 of the Act constitutes an offence that is punishable by a maximum fine of 60 penalty points or six months imprisonment or both.

The circumstances in which a person may disclose information obtained about a protected disclosure include:

- where exercising the functions of the public body under the Act;
- when making a report or recommendation under the Act;
- when publishing statistics in the annual report of a public body; and
- in criminal proceedings for certain offences in the Act.

However, the Act prohibits the inclusion of particulars in any report or recommendation that is likely to lead to the identification of the whistleblower. The Act also prohibits the identification of the person who is the subject of the disclosure in any particulars included in the annual report. SRH will ensure all files, whether paper or electronic, are kept in a secure room and can only be accessed by the Protected Disclosure Coordinator, Protected Disclosure Officer, the investigator or Welfare Manager. All printed material will be kept in files that are clearly marked as a Whistleblower Protection Act matter, and warn of the criminal penalties that apply to any unauthorised divulging of information concerning a protected disclosure. All electronic files will be produced and stored with password protection. All materials relevant to an investigation, such as tapes from interviews will also be stored securely with the whistleblower file. SRH will not e-mail documents relevant to a whistleblower matter and will ensure all telephone calls and meetings are conducted in private.

Collating and Publishing Statistics:

The Protected Disclosure Coordinator will establish a secure register to record the information required to be published in the Annual Report and to generally keep account of the status of whistleblower disclosures. The register will be confidential and will not record any information that may identify the whistleblower.

The register will contain the following information:

- The number and types of disclosures made to SRH during the year.
- The number of disclosures referred to the Ombudsman for determination as to whether they are public interest disclosures.
- The number and types of disclosed matters referred to SRH by the Ombudsman for investigation.
- The number and types of disclosures referred from SRH to the Ombudsman for investigation.
- The number and types of investigations taken over from SRH by the Ombudsman.
- The number of requests made by a whistleblower to the Ombudsman to take over an investigation by SRH
- The number and types of disclosed matters that SRH has declined to investigate.
- The number and types of disclosed matters that were substantiated upon investigation and the action taken on completion of the investigation.
- Any recommendations made by the Ombudsman that relates to the public body.

Receiving and Assessing Disclosures:

For the disclosure to be responded to by SRH, it must concern an employee, member or officer of SRH. If the disclosure has been made anonymously and concerns another public body, it should be referred to the Ombudsman.

To be a protected disclosure, a disclosure must satisfy the following criteria:

- Did a natural person (that is, an individual person rather than a corporation) make the disclosure?
- Does the disclosure relate to conduct of a public body or public officer acting in their official capacity?
- Is the alleged conduct either improper conduct or detrimental action taken against a person in reprisal for making a protected disclosure?
- Does the person making the disclosure have reasonable grounds for believing the alleged conduct has occurred?

Where a disclosure is assessed to be a protected disclosure, it is referred to the Protected Disclosure Coordinator. The Protected Disclosure Coordinator will determine whether the disclosure is a public interest disclosure. Where a disclosure is assessed not to be a protected disclosure, the matter does not need to be dealt with under the Act. The Protected Disclosure Officer will decide how the matter should be responded to on consultation with the Protected Disclosure Coordinator.

Is the disclosure a public interest disclosure?

Where the Protected Disclosure Officer or the Coordinator has received a disclosure that has been assessed to be a protected disclosure, the Protected Disclosure Coordinator will determine whether the disclosure amounts to a public interest disclosure. This assessment will be made within 45 days of the receipt of the disclosure.

In reaching a conclusion as to whether a protected disclosure is a public interest disclosure, the Protected Disclosure Coordinator will consider whether the disclosure **shows or tends to show** that the public officer to whom the disclosure relates has:

- engaged, is engaging or proposes to engage in improper conduct in his or her capacity as a public officer; or has
- taken, is taking or proposes to take detrimental action in reprisal for the making of the protected disclosure.

Where the Protected Disclosure Coordinator concludes that the disclosure amounts to a public interest disclosure, he or she will:

1. Notify the person who made the disclosure of that conclusion; and
2. Refer the disclosure to the Ombudsman for formal determination as to whether it is indeed a public interest disclosure.

Where the Protected Disclosure Coordinator concludes that the disclosure is not a public interest disclosure, he or she will;

1. Notify the person who made the disclosure of that conclusion; and
2. Advise that person that he or she may request SRH to refer the disclosure to the Ombudsman for a formal determination as to whether the disclosure is a public interest disclosure and that this request must be made within 28 days of the notification. In either case the Protected Disclosure Coordinator will make the notification and the referral within 14 days of the conclusion being reached by SRH. Notification to the whistleblower is not necessary where the disclosure has been made anonymously.

Investigations:

Where the Ombudsman refers a protected disclosure to SRH for investigation, the Protected Disclosure Coordinator will appoint an investigator to carry out the investigation.

The objectives of the investigation will be:

- to collate information relating to the allegation as quickly as possible. This may involve taking steps to protect and preserve documents, materials and equipment;
- to consider the information collected and to draw conclusions objectively and impartially;
- to maintain procedural fairness in the treatment of witnesses and the person who is the subject of the disclosure; and
- to make recommendations arising from the conclusions drawn concerning remedial or other appropriate action.

Terms of Reference:

Before commencing an investigation, the Protected Disclosure Coordinator will draw up terms of reference and obtain authorisation for those terms by the Chief Executive. The terms of reference will set a date by which the investigation report is to be concluded and will describe the resources available to the investigator to complete the investigation within the set time. The Protected Disclosure Coordinator may approve, if reasonable, an extension of time requested by the investigator. The terms of reference will require the investigator to make regular reports to the Protected Disclosure Coordinator who, in turn, is to keep the Ombudsman informed of general progress

Investigation Plan:

The investigator will prepare an investigation plan for approval by the Protected Disclosure Coordinator. The plan will list the issues to be substantiated and describe the avenue of inquiry. It will address the following issues:

- What is being alleged?
- What are the possible findings or offences?
- What are the facts in issue?
- How is the inquiry to be conducted?
- What resources are required?

Natural Justice:

The principles of natural justice will be followed in any investigation of a public interest disclosure. The principles of natural justice concern procedural fairness and ensure a fair decision is reached by an objective decision-maker. Maintaining procedural fairness protects the rights of individuals and enhances public confidence in the process. SRH will have regard to the following issues ensuring procedural fairness:

- the person who is the subject of the disclosure is entitled to know the allegations made against him or her and must be given the right to respond;
- if the investigator is contemplating making a report adverse to the interests of any person, that person should be given the opportunity to put forward further material that may influence the outcome of the report and that person's defense should be fairly set out in the report;
- all relevant parties to the matter should be heard and all submissions should be considered;
- a decision should not be made until all reasonable inquiries have been made;
- the investigator or any decision maker should not have a personal or direct interest in the matter being investigated;
- all proceedings must be carried out fairly and without bias. Care should be taken to exclude perceived bias from the process; and
- the investigator must be impartial in assessing the credibility of the whistleblower and any witnesses. Where appropriate, conclusions as to the credibility should be included in the investigation report.

Management of the person against whom the disclosure has been made

SRH recognises that employees against whom disclosures are made must also be supported during the handling and investigation of disclosures. SRH 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 subject to the disclosures will remain confidential. The Protected Disclosure Coordinator will ensure the person who is the subject of any disclosure investigated by or on behalf of a public body is:

- informed as to the substance of the allegation;
- given the opportunity to answer the allegation before a final decision is made;
- informed as to the substance of any adverse comment that may be included in any report arising from the investigation; and has
- his or her defense set out fairly in any report.

SRH will give its full support to 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 Chief Executive of SRH will consider any request by that person to issue a statement of support setting out that the allegations were clearly wrong or unsubstantiated.

Outcome:

- All allegations concerning corrupt conduct, conduct involving a substantial mismanagement of public resources or conduct involving a substantial risk to public health and safety or the environment, are dealt with in accordance with the *Whistleblowers Protection Act 2002* and the procedures outlined in this policy.
- The Whistleblowers Protection Policy of SRH is published on its web page and the number and type of disclosures are published each year in its Annual Report.

Standard:

Whistleblowers Protection Act 2001

References:

- Whistleblowers Protection Act, 2001
- Whistleblowers Protection Regulations, 2001
- Whistleblowers Protection (Amendment) Regulations, 2001
- The Ombudsman's Guidelines to the Whistleblowers Protection Act, 2001

Focus Area(s):

- ACHS EQuIP - Support Function - Human Resources Management

Linked PP:

- [Code of Conduct Policy](#)
- [Privacy and Confidentiality Policy](#)

Departments:

- **Organisational Wide**

Revision History:

Date Issued:	25/3/2010
Date of Last Review:	25/3/2010
Date of Next Review:	25/3/2013
Committee(s):	Executive Meetings
Approved By:	Chief Executive
Identifier:	956

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