



3.9 Reporting & Investigating Improper Conduct (R&IC)

Human Resources

Applies to	Last reviewed and version No.	Next review date
Staff, Students, Volunteers	June 2012	CURRENTLY UNDER REVIEW IMPORTANT YOU CONTACT HUMAN RESOURCES FOR ACCURATE INFORMATION Due 22.11.13

Policy context (this policy relates to)

Standards or other external requirements	
Legislation or other requirements	<ul style="list-style-type: none"> • <i>Whistleblowers Protection Act 2001</i> (Vic); • <i>Children, Youth and Families Act 2005</i> (Vic)
Contractual obligations	

Policy

VACCA will investigate any allegations/reports of Improper Conduct. VACCA has based this policy on the Ombudsman's Guidelines under the *Whistleblowers Protection Act 2001* (Vic). The definition of Improper Conduct is at [Policy number 3.7.3](#).

Procedure

The flow chart on the following page shows an overview of the process for reporting and investigating improper conduct. The policies and procedures outlined from 3.9.1 to 3.9.15, provide very specific details for reporting and investigating allegations of Improper Conduct.



Roles & Responsibilities (described in detail at [3.9.6](#)):

The roles below will be allocated as each situation arises. They are not set positions. Who fills the roles will depend on the nature of the allegation and the person(s) involved. There must not be any conflict of interest for any person filling the following roles. If a conflict of interest is identified, the role must be allocated to somebody else.

Protected Disclosure Coordinator (will usually be the CEO, a Program Manager or a Coordinator):

- Receives written reports from Whistleblower, Protected Disclosure Officer, or the Ombudsman.
- Refers public interest disclosures to the Ombudsman
- Appoints a Welfare Manager and an independent (non-biased) Investigator.
- Ensures person(s) “accused” are informed that an investigation will occur without disclosing the details of the allegations. Ensures their identity is not disclosed.
- Maintains all files and collates statistics.

Protected Disclosure Officers:

- Contact point for general advice about the *Whistleblowers Protection Act 2001* (Vic) and making reports.
- Assists person making report to put allegations in writing along with any supporting evidence.
- Informs person of their rights especially in regards to their identity not being disclosed.
- Forwards all written reports to the Protected Disclosure Coordinator.

Investigator:

- The independent Investigator (external person) will interview all witnesses including the Whistleblower and person(s) “accused”. Must be a person who can carry out investigation in a non-biased manner.

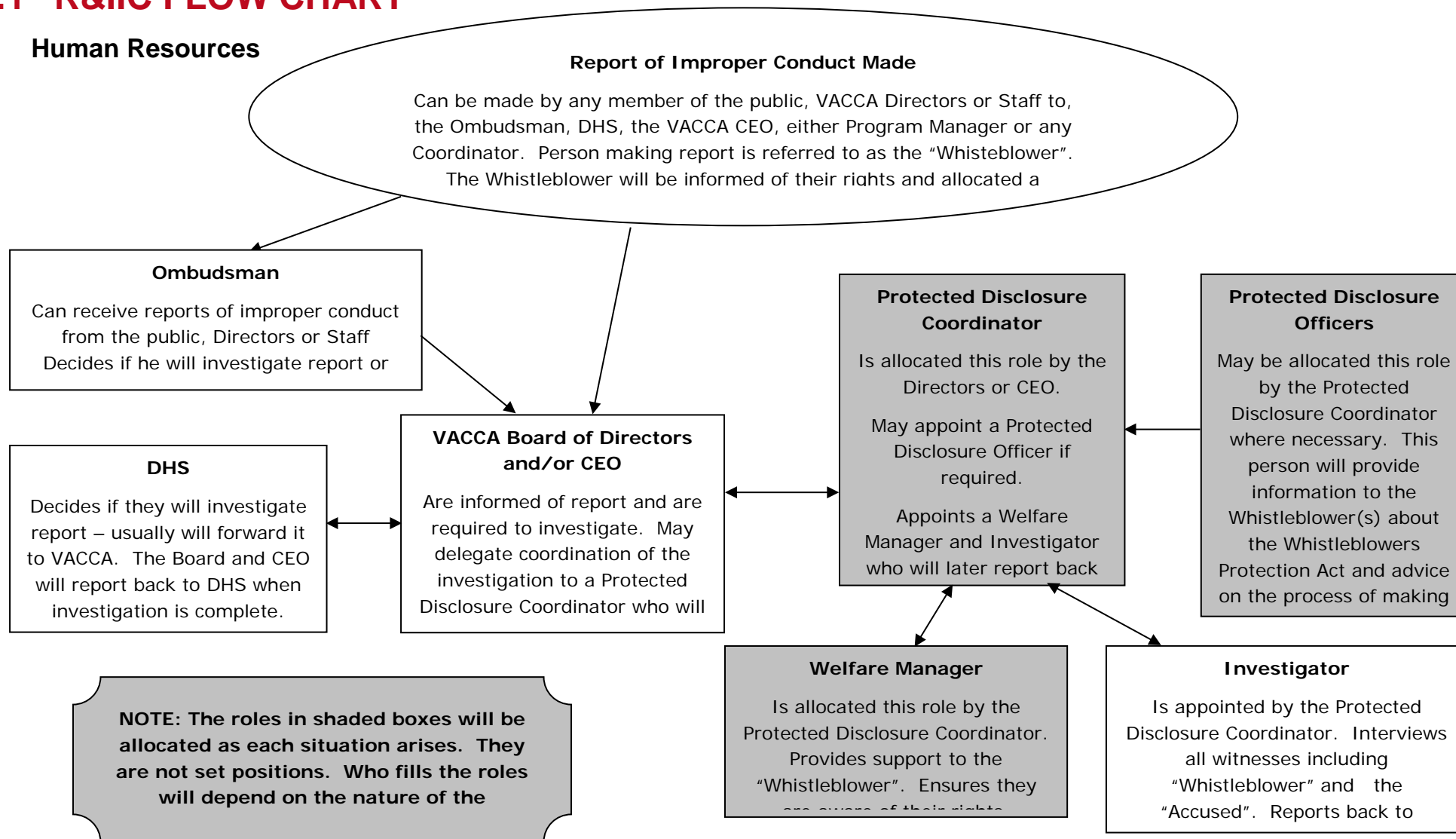
Welfare Manager:

- Provides support to the Whistleblower and ensures their rights are explained



3.9.1 R&IIC FLOW CHART

Human Resources





3.9.2 STATEMENT OF SUPPORT FOR “WHISTLEBLOWERS

Policy

VACCA is committed to the aims and objectives of the *Whistleblowers Protection Act 2001* (Vic) (the Act). It does not tolerate improper conduct by its staff, Directors, or volunteers, nor the taking of revenge or punishment against those who come forward to disclose such conduct.

The Act refers to people who report improper conduct as “Whistleblowers”. Some people may feel this term is rather negative, which could be due to a culture where it is seen as “dobbing”, and “dobbing” may not have been encouraged. However, improper conduct is totally unacceptable at VACCA and all staff, Directors, volunteers and clients are encouraged to make reports of such.

VACCA values transparency and accountability in its administrative and management practices, and supports the making of reports in regards to improper conduct.

VACCA will take all reasonable steps to protect people who make such disclosures from any negative action in punishment for making the disclosure. Proper procedures will be followed to address the subject of the disclosure.

3.9.3 PURPOSE OF THESE PROCEDURES

Policy

These procedures establish a system for reporting disclosures of improper conduct or negative action by VACCA or its staff. The system enables such disclosures to be made. Disclosures may be made by Staff, Clients, Directors, volunteers or members of the public.

These procedures are designed to complement normal communication channels between Team Leaders and staff. Staff are encouraged to continue to raise appropriate matters at any time with their Team Leaders. As an alternative, staff may make a disclosure of improper conduct under the Act, and as set out in these procedures.

3.9.4 OBJECTIVES OF THE ACT

Policy

The *Whistleblowers Protection Act 2001* (Vic) commenced operation on 1 January 2002. The purpose of the Act is to encourage and facilitate the making of disclosures of improper conduct by any public servant or public organisation. The Act provides protection to Whistleblowers who make disclosures and to persons who may suffer reprisals in relation to those disclosures, and establishes a system for the matters disclosed to be properly investigated and dealt with.



On December 16, 1998, VACCA became a Gazetted Aboriginal agency under Part 1, Section 6 of the *Children & Young Persons Act 1989* (Vic). As a Gazetted agency, VACCA shall adhere to the requirements of the Whistleblowers Act.

3.9.5 DEFINITIONS OF KEY TERMS

Policy

The term “public body” is used throughout the Act and is broadly defined. A public body is usually a government agency. VACCA defines as a public body as, explained in 3.9.3, under the, VACCA is the Gazetted agency who responds and attends to protective notifications of Aboriginal children in conjunction with the Department of Human Services.

“**Public officer**” is staff member, Director or Member of a public body.

Three key terms used in the Act are improper conduct, corrupt conduct and detrimental or negative action. Definitions of these terms are set out below.

Improper conduct

A disclosure may be made about improper conduct by VACCA, its Directors, members or staff. Improper conduct means a breach of VACCA’s Code of Conduct or any of its policies and procedures that is illegal behaviour and/or behaviour that warrants dismissal. This conduct may be corrupt, could involve 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 means:

- Conduct of any person that negatively affects (or could affect) the honest performance of a VACCA Director, Member or Staff, or any of VACCA’s functions;
- The performance of a public officers functions dishonestly or with inappropriate bias;
- Conduct of a VACCA Director, Member or staff member (past or present) that amounts to a breach of public trust;
- Conduct by a VACCA Director, Member or staff member (past or present) that amounts to the misuse of information or material acquired in the course of the performance of their official functions (whether for their benefit or VACCA’s or otherwise); or



- A conspiracy or attempt to engage in the above conduct.

Examples

A VACCA Director, member or staff member takes a bribe or receives a payment other than his or her wages or salary in exchange for the discharge of a public duty.

A VACCA Director, member or staff member favours unworthy or inappropriate applications for jobs or consultancy by friends and relatives.

A VACCA Director, member or staff member sells confidential information.

Detrimental action

Section 18 of the Act makes it an offence for a person to take detrimental action against a person in reprisal for a protected disclosure. Detrimental action includes:

- 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.

Anyone who believes on reasonable grounds that a VACCA Director, Member or staff member has taken, is taking or proposes to take detrimental action in contravention of s18 can make a protected disclosure to the Ombudsman or any VACCA Director, the CEO, a Program Manager, any Coordinator or a nominated staff member.

Examples

VACCA refuses a deserved promotion of a person who makes a disclosure.

VACCA demotes, transfers, isolates in the workplace or changes the duties of a Whistleblower due to the making of a disclosure.

A person threatens, abuses or carries out other forms of harassment directly or indirectly against the Whistleblower, his or her family or friends.

VACCA discriminates against the Whistleblower or his or her family and associates in subsequent applications for jobs, permits or tenders.



3.9.6 THE REPORTING SYSTEM

Policy

Contact persons within VACCA

Disclosures of improper conduct or detrimental action by VACCA or its staff, may be made to any VACCA Director, the CEO, a Program Manager, any Coordinator or a nominated staff member.

Once a Protected Disclosure Coordinator is appointed, all correspondence, phone calls and emails from internal or external Whistleblowers will be referred to them.

Where a person is contemplating making a disclosure and is concerned about approaching any person within VACCA's workplace, he or she can request a meeting in a discreet location away from the workplace.

Alternative Contact Persons

A disclosure about improper conduct or detrimental action by VACCA or its staff, may also be made directly to the Ombudsman:

Victorian Ombudsman
 Level 9, North Tower
 459 Collins Street
 Melbourne Victoria 3000
 (DX 210174)
 Internet: www.ombudsman.vic.gov.au
 Email: ombudvic@ombudsman.vic.gov.au
 Tel: (03) 9613 6222
 Toll Free (regional only): 1800 806 314
 Fax: (03) 9614 0246
 Ombudsman: Dr Barry Perry Tel: (03) 9613 6202



3.9.7 ROLES AND RESPONSIBILITIES

Policy

Directors and Staff

Directors and staff of VACCA are encouraged to report known or suspected incidences of improper conduct or detrimental action. The process for reporting such is set out within these procedures.

All staff and Directors must refrain from any activity that is, or could be perceived to be, victimization or harassment of a person who makes a disclosure. They should protect and maintain the confidentiality of a person they know or suspect to have made a disclosure.

Protected Disclosure Coordinator

Once appointed by VACCA's Directors and/or the CEO, the Protected Disclosure Coordinator will:

- Receive all phone calls, emails and letters from members of the public or staff 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 VACCA 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 CEO (where the Protected Disclosure Coordinator is not the CEO).

Protected Disclosure Officers

The Protected Disclosure Coordinator will decide if they require support and assistance. This may occur when the allegations of improper conduct involve several people or when



there is more than one Whistleblower. If required to be appointed, 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, a 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 appointed Protected Disclosure Coordinator.

Investigator

The Investigator will be responsible for carrying out an independent investigation into a disclosure. An Investigator must be a person who is not connected to the situation or a consultant engaged to carry out the investigation.

Welfare Manager

The Welfare Manager is appointed by the person coordinating the investigation. The Welfare Manager is responsible for looking after the general welfare of the Whistleblower. The Welfare Manager will:

- Examine the immediate welfare and protection needs of a Whistleblower who has made a disclosure and seek to foster a supportive work environment;
- Advise the Whistleblower of the legislative and administrative protections available to him or her;
- Listen and respond to any concerns of harassment, intimidation or victimisation in revenge for making disclosure; and
- Ensure the expectations of the Whistleblower are realistic.



3.9.8 CONFIDENTIALITY & THE WHISTLEBLOWERS ACT

Policy

VACCA will take all reasonable steps to protect the identity of the Whistleblower. Maintaining confidentiality is crucial in ensuring revenge or paybacks are not made against a Whistleblower.

Section 22 of 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 constitutes an offence that is punishable by a maximum fine of 60 penalty units (\$6000) 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 VACCA under the Act;
- When making a report or recommendation under the Act;
- When publishing statistics in the annual report of VACCA; 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 an annual report.

VACCA will ensure all files, whether paper or electronic, are kept in a secure location and can only be accessed by a Director, the CEO, the person who coordinated the investigation, the Investigator or Welfare Manager (in relation to welfare matters). 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 revealing of information concerning a protected disclosure.

All electronic files will be produced and stored on a stand-alone computer and be given password protection. All materials relevant to an investigation, such as tapes from interviews and backup disks, will also be stored securely with the Whistleblower files.

VACCA will not email documents relevant to a Whistleblower matter and will ensure all phone calls and meetings are conducted in private.



3.9.9 COLLATING AND PUBLISHING STATISTICS

Policy

The CEO or delegated Protected Disclosure Officer(s) will establish and maintain 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 VACCA 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 VACCA by the Ombudsman for investigation;
- The number and types of disclosures referred by VACCA to the Ombudsman for investigation;
- The number and types of investigations taken over from the public body by the Ombudsman;
- The number of requests made by a Whistleblower to the Ombudsman to take over an investigation by VACCA;
- The number and types of disclosed matters that VACCA 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; and
- Any recommendations made by the Ombudsman that relate to VACCA.

3.9.10 RECEIVING AND ASSESSING DISCLOSURES

Policy

Has the disclosure been made in accordance with Part 2 of the Act?

Where a disclosure has been received by VACCA, the appointed Protected Disclosure Coordinator will assess whether the disclosure has been made in accordance with Part 2 of the Act and is, therefore, a protected disclosure.



Has the disclosure been made to the appropriate person?

For the disclosure to be responded to by VACCA, it must concern a staff member or Director of VACCA. If the disclosure concerns a staff member, officer or member of another public body, the person

Who has made the disclosure must be advised of the correct person or body to whom the disclosure should be directed. If the disclosure has been made anonymously, it should be referred to the Ombudsman.

Does the disclosure contain the essential elements of a protected disclosure?

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 VACCA Director, Member or staff member acting in their official capacity?
- Is the alleged conduct either improper conduct or detrimental action taken against a person in revenge for making a protected disclosure?
- Does the person making a 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 appointed 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.

Is the Disclosure a Public Interest Disclosure?

Where the appointed Protected Disclosure 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 appointed Protected Disclosure Coordinator will consider whether the disclosure **shows, or tends to show that** VACCA's Director, Member or Staff member to whom the disclosure relates:

- Has engaged, is engaging or proposes to engage in improper conduct in his or her capacity as an official or Staff member of VACCA; or



- Has taken, is taking or proposes to take detrimental action in reprisal for the making of the protected disclosure.

Where the appointed 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 appointed 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 VACCA 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 VACCA.

Notification to the Whistleblower is not necessary where the disclosure has been made anonymously.

3.9.11 INVESTIGATIONS

Policy

Introduction

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

The objectives of an investigation will be:

- To collate information relating to the allegation as quickly as possible. This may involve taking steps to protect or 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 CEO and/or the Board of Directors. 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 time set. 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 CEO, VACCA Directors, and/or 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?

At the commencement of the investigation, the Whistleblower should be:

- Notified by the Investigator that he or she has been appointed to conduct the investigation;
- Asked to clarify any matters; and
- Asked to provide any additional material he or she might have.



The Investigator will be sensitive to the Whistleblower's possible fear of reprisals and will be aware of the statutory protections provided to the Whistleblower.

Fair Procedures

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.

VACCA will have regard to the following issues in 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. (This does not mean the person must be advised of the allegation as soon as the disclosure is received or the investigation has commenced);
- 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 defence should be fairly set out in the report;
- All relevant parties to a 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 Whistleblowers and any witnesses. Where appropriate, conclusions as to credibility should be included in the investigation report.

Conduct of the Investigation

The Investigator will make simultaneous notes of all discussions and phone calls, and all interviews with witnesses will be taped. All information gathered in an investigation will be stored securely. Interviews will be conducted in private and the Investigator will take all reasonable steps to protect the identity of the Whistleblower.



Where disclosure of the identity of the Whistleblower cannot be avoided, due to the nature of the allegations, the Investigator will warn the Whistleblower and his or her Welfare Manager of this probability.

It is at the discretion of the Investigator to allow any witness to have legal or other representation or support during an interview. If a witness has a special need for legal representation or support, or specifically requests such, permission should be granted.

Referral of an Investigation to the Ombudsman

The appointed Protected Disclosure Coordinator will make a decision regarding the referral of an investigation to the Ombudsman where, on the advice of the Investigator:

- The investigation is being obstructed by, for example, the non-cooperation of key witnesses; or
- The investigation has revealed conduct that may constitute a criminal offence.

Reporting Requirements

The appointed Protected Disclosure Coordinator will ensure the Whistleblower is kept regularly informed concerning the handling of a protected disclosure and an investigation.

The Protected Disclosure Coordinator will report to the CEO, Directors and/or the Ombudsman about the progress of an investigation.

VACCA Directors and/or CEO may be required to report to DHS about the progress of an investigation.

Where the Ombudsman, DHS, or the Whistleblower requests information about the progress of an investigation, that information will be provided within 28 days of the date of the request.



3.9.11 ACTION TAKEN AFTER AN INVESTIGATION

Policy

Investigator's Final Report

At the conclusion of the investigation, the Investigator will submit a written report of his or her findings to the appointed Protected Disclosure Coordinator. The report will contain:

- The allegation/s;
- An account of all relevant information received and, if the Investigator has rejected evidence as being unreliable, the reasons for this opinion being formed;
- The conclusions reached and the basis for them; and
- Any recommendations arising from the conclusions.
- Where the Investigator has found that the conduct disclosed by the Whistleblower has occurred, recommendations made by the Investigator will include:
 - The steps that need to be taken by VACCA to prevent the conduct from continuing or occurring in the future; and
 - Any action that should be taken by VACCA to remedy any harm or loss arising from the conduct. This action may include bringing disciplinary proceedings against the person responsible for the conduct, and referring the matter to an appropriate authority for further consideration.

The report will be accompanied by:

- The transcript or other record of any oral evidence taken, including tape recordings; and
- All documents, statements or other exhibits received by the officer and accepted as evidence during the course of the investigation.

Where the Investigator's report is to include an adverse comment against any person, that person will be given the opportunity to respond and his or her defence will be fairly included in the report.

The report will not disclose particulars likely to lead to the identification of the Whistleblower.

Action to be Taken

If the appointed Protected Disclosure Coordinator is satisfied that the investigation has found that the disclosed conduct has occurred, he or she will recommend to the CEO and/or Board of Directors, the action that must be taken to prevent the conduct from continuing or occurring in the future. The Protected Disclosure Coordinator may also recommend that action be taken to remedy any harm or loss arising from the conduct.



The Protected Disclosure Coordinator and/or CEO will provide a written report to the Department of Human Services, Minister for Community Services, the Ombudsman and the Whistleblower, setting out the findings of the investigation and any remedial steps taken.

Where the investigation concludes that the disclosed conduct did not occur, the Protected Disclosure Coordinator and/or CEO will report these findings to the Ombudsman and to the Whistleblower where requested.

3.9.12 MANAGING THE WELFARE OF THE WHISTLEBLOWER

Policy

Commitment to Protecting Whistleblowers

VACCA is committed to the protection of genuine Whistleblowers against detrimental action taken in reprisal for the making of protected disclosures.

The appointed Protected Disclosure Coordinator is responsible for ensuring Whistleblowers are protected from direct and indirect detrimental action, and that the culture of the workplace is supportive of protected disclosures being made.

The Protected Disclosure Coordinator will appoint a Welfare Manager to all Whistleblowers who have made a protected disclosure. The Welfare Manager will:

- Examine the immediate welfare and protection needs of a Whistleblower who has made a disclosure and, where the Whistleblower is an Staff member, seek to foster a supportive work environment;
- Advise the Whistleblower of the legislative and administrative protections available to him or her;
- Listen and respond to any concerns of harassment, intimidation or victimisation in reprisal for making disclosure;
- Keep a simultaneous record of all aspects of the case management of the Whistleblower including all contact and follow-up action; and
- Ensure the expectations of the Whistleblower are realistic.

All staff and Directors will be advised that it is an offence for a person to take detrimental action in reprisal for a protected disclosure. The Act stipulates that the maximum penalty is a fine of 240 penalty units (\$24,000) or two years imprisonment or both. The taking of detrimental action in breach of this provision can also be grounds for making a disclosure under the Act and can result in an investigation.



Detrimental action includes:

- 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).

Keeping the Whistleblower Informed:

The appointed Protected Disclosure Coordinator will ensure the Whistleblower is kept informed of action taken in relation to his or her disclosure, and the time frames that apply. The Whistleblower will be informed of the objectives of an investigation, the findings of an investigation, and the steps taken by VACCA to address any improper conduct that has been found to have occurred. The Whistleblower will be given reasons for decisions made by VACCA in relation to a protected disclosure. All communication with the Whistleblower will be in plain English.

Occurrence of Detrimental Action:

If a Whistleblower reports an incident of harassment, discrimination or adverse treatment that would amount to detrimental action taken in reprisal for the making of the disclosure, the Welfare Manager will:

- Record details of the incident;
- Advise the Whistleblower of his or her rights under the Act; and
- Advise the appointed Protected Disclosure Coordinator or CEO of the detrimental action.

The taking of detrimental action in reprisal for the making of a disclosure can be an offence against the Act as well as grounds for making a further disclosure. Where such detrimental action is reported, the Protected Disclosure Coordinator will assess this as a new disclosure under the Act. Where the Protected Disclosure Coordinator is satisfied that the disclosure is a public interest disclosure, he or she will refer it to the Ombudsman. If the Ombudsman subsequently determines the matter to be a public interest disclosure, the Ombudsman may investigate the matter or refer it to another body for investigation as outlined in the Act.

Whistleblowers Implicated in Improper Conduct:

Where a person who makes a disclosure is implicated in misconduct, VACCA will handle the disclosure and protect the Whistleblower from reprisals in accordance with the Act, the Ombudsman's guidelines and these procedures. VACCA acknowledges that the act of whistleblowing should not shield Whistleblowers from the reasonable consequences flowing from any involvement in improper conduct. Section 17 of the Act specifically provides that a person's liability for his or her own conduct is not affected by the person's



disclosure of that conduct under the Act. However, in some circumstances, an admission may be a mitigating factor when considering disciplinary or other action.

The CEO will make the final decision on the advice of the appointed Protected Disclosure Coordinator as to whether disciplinary or other action will be taken against a Whistleblower. Where disciplinary or other action relates to conduct that is the subject of the

Whistleblower's disclosure, the disciplinary or other action will only be taken after the disclosed matter has been appropriately dealt with.

In all cases where disciplinary or other action is being contemplated, the CEO must be satisfied that it has been clearly demonstrated that:

- The intention to proceed with disciplinary action is not causally connected to the making of the disclosure (as opposed to the content of the disclosure or other available information);
- There are good and sufficient grounds that would fully justify action against any non-Whistleblower in the same circumstances; and
- There are good and sufficient grounds that justify exercising any discretion to institute disciplinary or other action.

The appointed Protected Disclosure Coordinator will thoroughly document the process including recording the reasons why the disciplinary or other action is being taken, and the reasons why the action is not in retribution for the making of the disclosure. The Protected Disclosure Coordinator will clearly advise the Whistleblower of the proposed action to be taken, and of any mitigating factors that have been taken into account.

3.9.13 MANAGEMENT OF THE PERSON AGAINST WHOM A DISCLOSURE HAS BEEN MADE

Policy

VACCA recognises that staff against whom disclosures are made must also be supported during the handling and investigation of disclosures.

VACCA 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 appointed Protected Disclosure Coordinator will ensure the person who is the subject of any disclosure investigated by or on behalf of VACCA is:

- Informed as to the substance of the allegations;
- Given the opportunity to answer the allegations 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 defence set out fairly in any report.

Where the allegations in a disclosure have been investigated, and the person who is the subject of the disclosure is aware of the allegations or the fact of the investigation, the Protected Disclosure

Coordinator will formally advise the person who is the subject of the disclosure of the outcome of the investigation.

VACCA 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 CEO of VACCA will consider any request by that person to issue a statement of support setting out that the allegations were clearly wrong or unsubstantiated.

3.9.14 CRIMINAL OFFENCES

Policy

VACCA will ensure people who are appointed to handle protected disclosures and all other staff are aware of the following offences created by the Act:

1. It is an offence for a person to take detrimental action against a person in reprisal for a protected disclosure being made. The Act provides a maximum penalty of a fine of 240 penalty units (\$24,000) or two years imprisonment or both.
2. It is an offence for a person to divulge information obtained as a result of the handling or investigation of a protected disclosure without legislative authority. The Act provides a maximum penalty of 60 penalty units (\$6,000) or six months imprisonment or both.
3. It is an offence for a person to obstruct the Ombudsman in performing his responsibilities under the Act. The Act provides a maximum penalty of 240 penalty units (\$24,000) or two years imprisonment or both.
4. It is an offence for a person to knowingly provide false information under the Act with the intention that it be acted on as a disclosed matter. The Act provides a maximum penalty of 240 penalty units (\$24,000) or two years imprisonment or both.



3.9.15 REVIEW

Policy

These procedures will be reviewed annually to ensure they meet the objectives of the Act and the Ombudsman's guidelines. The CEO will delegate responsibility for ensuring the review takes place.

Documentation related to this policy

Related policies	<ul style="list-style-type: none"> Improper Conduct is at Policy number 3.7.3; Roles & Responsibilities (described in detail at 3.9.6);
Forms, record keeping or other organisational documents	

Reviewing and approving this policy

Frequency	Policy Sponsor	Policy Committee Approval	CEO Approval
TBC	Corporate Services (Director)	TBC	TBC