|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| cid:_1_0AD1E6F80AD1E48C001123AECA257D0A | | Governance e-alert No. 3 - August 2014 | | |
|  |  | |
| cid:_2_07B8407C07B83E10001123AECA257D0A | Welcome Welcome to Department of Environment and Primary Industries' (DEPI's) governance e-alerts. This edition focuses on the Independent Broad-based Anti-corruption Commission, caretaker conventions for Victoria’s State election, procurements practices, and the DataVic Access policy. | | |
| cid:_2_0B67BD5C0B67BAF0001123AECA257D0A | 1. Independent Broad-based Anti-corruption Commission Victoria’s Independent Broad-based Anti-corruption Commission (IBAC) deals with allegations of ‘improper conduct’ in the Victorian public sector. This includes allegations of improper conduct by board members and staff of DEPI agencies. What is ‘improper conduct’? Improper conduct is defined in section 4 of the *Protected Disclosure Act 2012* (‘the Act’) as:   * corrupt conduct, within the meaning of section 4 of the *Independent Broad-based Anti-corruption Commission Act 2011* (‘IBAC Act’); or * conduct of the following type(s) which, if proved, would be a criminal offence or provide reasonable grounds for dismissal:   + adversely effecting the honest performance by a public officer/official of their functions   + dishonest performance of public functions   + knowingly or recklessly breaching public trust   + misuse of information obtained in an official capacity   + conspiracy or attempt to commit the above conduct   + substantial mismanagement of public resources   + substantial risk to public health or safety or to the environment.  Who can make a protected disclosure? The Actenables a person with knowledge of improper conduct in a DEPI agency to make a ‘protected disclosure’ to IBAC and be protected by law from reprisal. A protected disclosure cannot be received by the DEPI agency itself (except by the EPA). What should your agency do if it receives an allegation of improper conduct? Anyone wishing to make a protected disclosure about a DEPI agency should go straight to IBAC.  However, occasionally a DEPI agency is contacted by a person who alleges that improper conduct is occurring in the agency (or has or is about to occur). The complainant may be a member of the public or a ‘whistleblower’ from within the agency itself (e.g. a board member or staff member).  Any information received in the course of referring a complainant to IBAC must be treated with strict confidentiality. It is advisable to make a note at the time to document the advice provided to the complainant when referring them to IBAC. Ensure that this record of the phone call (or other communication) is kept strictly confidential. This will help to counter any possible allegations that may arise later as to the content of the discussion and the advice given.  Complainants who contact your agency should be advised as soon as possible to contact IBAC, so as not to jeopardise their opportunity to receive protection under the Act by revealing too much information to your agency (or to anyone else). What does IBAC do when it receives an allegation? When IBAC receives a disclosure from a member of the public or from a board member or staff member of a DEPI agency it will assess whether the allegation is a ‘protected disclosure complaint’ under the Act.   * If it is a protected disclosure complaint:   + IBAC may investigate the alleged improper conduct or may refer it to the Victorian Ombudsman (or in limited circumstances to Victoria Police) for investigation.   + The complainant will be notified of the action to be taken by IBAC (except in exceptional circumstances).   + The protections and confidentiality provisions in Parts 6 and 7 of the Act will apply.   If it is not a protected disclosure complaint:   * + IBAC will not investigate the allegation as a protected disclosure complaint.   + The protections in Part 6 of the Act will continue to apply.   + The confidentiality provisions in Part 7 of the Act will no longer apply.   + The complainant will be notified of IBAC’s determination.   At the same time that IBAC receives a disclosure and assesses it under the Act, it will also consider whether the disclosure constitutes a complaint about ‘corrupt conduct’ under section 4 of the IBAC Act. If so, IBAC will make a determination as to whether it will investigate, refer or dismiss the complaint. IBAC may refer a complaint for investigation to the Victorian Ombudsman or to another person or entity, depending on the circumstances. This may include referring the matter back to your agency for investigation in accordance with your agency’s usual complaints procedures. Urgent remedial action In the course of referring a complainant to IBAC, your agency may receive information which indicates that urgent remedial action is required to address a substantial risk to public health, safety or the environment, or similar. If this occurs, your agency should:   * assess what (if any) urgent remedial action is required and implement that action; * protect the confidentiality of the complainant and their rights under the Act; and * contact IBAC as soon as possible to advise that this is occurring.  Allegations that do not relate to improper conduct If your agency receives an allegation of a less serious nature – i.e. one that does not relate to improper conduct as defined in section 4 of the Act – the complainant should be advised that:   * although they have the right to contact IBAC, the allegation does not appear to relate to improper conduct; * they can request the Victorian Ombudsman to investigate their complaint; * your agency can investigate the allegation in accordance with its usual complaints handling processes (which will include suitable confidentiality procedures).  Procedures for protecting against detrimental action Under the Act, it is an offence to take detrimental action against a person in reprisal for a protected disclosure. By law, all public bodies in Victoria, including all DEPI agencies, must have procedures in place for protecting people against detrimental action that might be taken against them because they made a protected disclosure, and for ensuring the welfare of all parties. Further information and upcoming seminars by IBAC  * Further information is available from the [IBAC website](http://www.ibac.vic.gov.au/about-ibac/what-we-do). * Board and staff members of DEPI agencies can register for IBAC’s upcoming [information seminars](http://www.ibac.vic.gov.au/news-and-publications/events/event/2014/06/25/default-calendar/an-introduction-to-ibac-information-sessions). These free, two hour seminars will cover IBAC’s role and functions; identifying corrupt conduct and police misconduct; how and when to report corruption; and the protections that apply for persons making a disclosure. * You can sign up for IBAC’s [electronic news](http://www.ibac.vic.gov.au/news-and-publications/events/event/2014/06/25/default-calendar/an-introduction-to-ibac-information-sessions). | | |
|  | 2. Caretaker conventions and the Victorian state election The Department of Premier and Cabinet (DPC) has advised that the caretaker conventions for this year’s Victorian State Election will begin on 4 November 2014.  As DEPI Secretary, I am responsible for ensuring that the department and its portfolio agencies observe and comply with these conventions. Agency heads are also responsible for ensuring that their agency observes and complies with these conventions.  The conventions will be formally set out in the *2014 Guidelines on the Caretaker Conventions,* which will be released by DPC prior to the caretaker period. I will provide you with these guidelines when they become available. Support for DEPI agencies and DEPI staff I have established a DEPI Caretaker Working Group to provide a central contact point for DEPI agencies and departmental staff who require advice about the caretaker period. Please email any caretaker questions to [caretaker@depi.vic.gov.au](mailto:caretaker@depi.vic.gov.au).  I look forward to working with you over the coming months to ensure our compliance with all aspects of the caretaker conventions. Nomination of your agency's contact person If you are the CEO or other senior executive of a DEPI agency, please ensure that your agency nominates a contact person to the DEPI Caretaker Working Group, so that they can keep your agency up-to-date with any additional information on caretaker as required.  To nominate your agency's representative, please arrange for their name and contact details to be emailed to [caretaker@depi.vic.gov.au](mailto:caretaker@depi.vic.gov.au) by **10 September 2014** with the subject heading of 'Nominee - DEPI caretaker working group'. | | |
|  | 3. Procurement practices – minimum requirements The Victorian Government Purchasing Board (VGPB) sets procurement policies that must be complied with by Victorian government departments. These requirements are also mandatory for certain portfolio agencies, including two DEPI agencies: the Game Management Authority and the Commissioner for Environmental Sustainability.  It is recommended that other DEPI agencies also ensure that their purchasing policies are consistent with these requirements.  At a minimum, your agency must be able to demonstrate that it has an open and transparent procurement policy in place, including processes for declaring and managing any conflicts of interest that arise in relation to procurement.  I encourage all DEPI agencies to ensure that their policy and practice aligns with best practice government procurement.  To assist agencies to ensure that they have suitable procurement practices in place into the future, I recently wrote to the CEOs of all major DEPI agencies to provide information about the VGPB’s current [reform initiatives](http://vgpb.vic.gov.au/CA2575BA0001417C/pages/procurement-reform) and the potential these offer for agencies to adopt best practice. Further information For further information about the Victorian Government’s procurement reform framework, DEPI agencies can contact Stuart Baker, Manager Procurement, DEPI (phone 9637 8754). Also see the [VGPB website](http://vgpb.vic.gov.au/domino/web_notes/vgpb/procport.nsf?Open). | | |
|  | 4. Datavic Access policy The [DataVic Access policy](http://www.dtf.vic.gov.au/Publications/Victoria-Economy-publications/IP-and-DataVic/DataVic-Access-Policy) is issued by the Department of Treasury and Finance (DTF) on behalf of the Victorian Government. It requires public sector agencies to make certain data (e.g. research surveys and statistics) available in a ‘machine readable format, reusable, and open format’ for public use.  The policy (which should be read in conjunction with the whole of Victorian Government [Intellectual Property policy](http://www.dtf.vic.gov.au/Victorias-Economy/Victorian-Government-intellectual-property-and-data-policies/Intellectual-Property-Policy)) sets out which ‘datasets’ to release, and when a dataset should not be released. The required datasets must be made available on the [Victorian Government Data Directory](http://www.data.vic.gov.au/) (see below).  The aim of the policy is to enable public access to government data at minimal or no cost to users, so as to ‘support research and education, promote innovation, support improvements in productivity and stimulate growth in the Victorian economy’ and to ‘assist evidence-based decision making in the public sector’. Does this policy apply to my agency? The Victorian government ‘expects all Victorian public sector agencies’ to adopt the [DataVic Access policy](http://www.dtf.vic.gov.au/Publications/Victoria-Economy-publications/IP-and-DataVic/DataVic-Access-Policy). The policy specifically applies to all ‘public bodies’ that provide an annual report to Parliament under the Financial Management Act (FMA) and ‘controlled entities’ that report in the Annual Financial Report for the State of Victoria (AFR). For details, including a list of controlled entities, see Attachment 1 of this e-alert. Victorian Government Data Directory Data made available under the policy is added to the [Victorian Government Data Directory](http://www.data.vic.gov.au/). The directory, which is managed by the [Department of State Development, Business & Innovation](http://www.diird.vic.gov.au/), is a specialised website ‘portal’ that helps readers find and link directly to raw data and data tools on other government websites – e.g. [environmental data](http://www.data.vic.gov.au/data/group/environment) on the websites of agencies such as the Environment Protection Authority and Sustainability Victoria. Benefits for your agency The [Victorian Government Data Directory](http://www.data.vic.gov.au/) is a useful way for your agency to:   * find information provided by other public sector agencies on topics such as [Business](http://www.data.vic.gov.au/data/group/business) / [Community](http://www.data.vic.gov.au/data/group/community) / [Communication](http://www.data.vic.gov.au/data/group/communication) / [Education](http://www.data.vic.gov.au/data/group/education) / [Employment](http://www.data.vic.gov.au/data/group/employment) / [Environment](http://www.data.vic.gov.au/data/group/environment) / [Finance](http://www.data.vic.gov.au/data/group/finance) / [General](http://www.data.vic.gov.au/data/group/general) / [Health](http://www.data.vic.gov.au/data/group/health) / [Planning](http://www.data.vic.gov.au/data/group/planning) / [Recreation](http://www.data.vic.gov.au/data/group/recreation) / [Science & Technology](http://www.data.vic.gov.au/data/group/science-technology) / [Society](http://www.data.vic.gov.au/data/group/society) / [Transport](http://www.data.vic.gov.au/data/group/transport) / [Spatial Data](http://www.data.vic.gov.au/data/group/spatial-data). * provide information that both members of the public and other public sector agencies can use to assist their business and personal decision-making, research, innovations, etc.  Would you like to attend a free seminar on this topic? DEPI and DTF are organising a joint seminar on the DataVic Access policy. This will be a free, one hour session. It will be held at 1 MacArthur place (near Parliament station). The speaker will be Greg Gough, DTF’s Manager, DataVic Access Policy Implementation. The seminar will cover what information needs to be provided under the policy (and how) and what information is available in the Victorian Government Data Directory that may be useful to your agency.  If you are interested in attending the seminar, please email [governance@depi.vic.gov.au](mailto:governance@depi.vic.gov.au) with the subject line “DataVic Access policy seminar”. When we have gauged the level of interest, we will email you details of what is being arranged. Further information Further information about the DataVic Access policy is available from the Department of Treasury and Finance. Please contact Greg Gough, Manager, DataVic Access Policy Implementation (phone 9651 1880). | | |
| cid:_2_0B015B780B01590C001123AECA257D0A | How else can we help?On Board – ‘one-stop-shop’ for governance information [On Board](http://www.depi.vic.gov.au/about-us/boards-and-governance) ([www.depi.vic.gov.au/onboard](http://www.depi.vic.gov.au/onboard)), is a one-stop-shop for DEPI agencies to obtain governance information that is tailored to meet their needs. [Support modules](http://www.depi.vic.gov.au/about-us/boards-and-governance/on-board-governance-guides-and-resources/support-modules) on key governance topics contain model policies, templates, guidance notes, governance guides, and direct links to the topic on other websites (e.g. Victorian Public Sector Commission). Current modules include:   * [annual reporting](http://www.depi.vic.gov.au/about-us/boards-and-governance/on-board-governance-guides-and-resources/annual-reporting/_edit) * [board meetings and decision-making](http://www.depi.vic.gov.au/about-us/boards-and-governance/on-board-governance-guides-and-resources/meetings-and-decision-making) * [code of conduct](http://www.depi.vic.gov.au/about-us/boards-and-governance/on-board-governance-guides-and-resources/code-of-conduct/_nocache) * [committees of management](http://www.depi.vic.gov.au/about-us/boards-and-governance/on-board-governance-guides-and-resources/committees-of-management) * [conflict of interest](http://www.depi.vic.gov.au/about-us/boards-and-governance/on-board-governance-guides-and-resources/conflict-of-interest/_nocache) * [dispute resolution](http://www.depi.vic.gov.au/about-us/boards-and-governance/on-board-governance-guides-and-resources/dispute-resolution) * [gifts, benefits and hospitality](http://www.depi.vic.gov.au/about-us/boards-and-governance/on-board-governance-guides-and-resources/gifts-benefits-and-hospitality) * [induction (governance essentials](http://www.depi.vic.gov.au/about-us/boards-and-governance/on-board-governance-guides-and-resources/governance-essentials/_nocache)) * [performance assessment](http://www.depi.vic.gov.au/about-us/boards-and-governance/on-board-governance-guides-and-resources/performance-assessment) * [Public Administration Act](http://www.depi.vic.gov.au/about-us/boards-and-governance/on-board-governance-guides-and-resources/public-administration-act/_nocache).  Further information and queries In addition to the resources available from [On Board](http://www.depi.vic.gov.au/about-us/boards-and-governance), DEPI offers support to its agencies through DEPI divisions and regional offices. If you are a member of a DEPI agency and have a governance query, please contact your agency’s usual relationship manager or team. Alternatively, contact DEPI’s Customer Service Centre on 136 186. Other subscriptions you may like If you like DEPI's governance e-alerts, you may also be interested in subscribing to:   * Victorian Public Sector Commission's [e-news](http://www.ssa.vic.gov.au/subscribe-to-enews.html) and [governance insights](http://vpsc.vic.gov.au/products/a-z/view-products/governance-insights.html) * Victorian Ombudsman's [media alerts](https://www.ombudsman.vic.gov.au/Media/Register-for-Media-Alerts) * Victorian Auditor-General's Office [news service](http://www.audit.vic.gov.au/about_us/subscribe_newsletters.aspx). | | |
|  | How you can helpShare your ideas for improvement To help us improve the governance services/resources that DEPI offers please email [governance@depi.vic.gov.au](mailto:governance@depi.vic.gov.au) to:   * provide feedback or suggestions about [On Board](http://www.depi.vic.gov.au/about-us/boards-and-governance) * request we develop a resource (e.g. model policy, guidance note, e-alert) on a particular topic * share your ideas about how DEPI can improve governance.  Other interested readers If you know a board member or staff member of a DEPI agency, or a staff member of the department, who may be interested in receiving DEPI governance e-alerts, please forward this email to them. Interested readers can register for e-alerts by emailing [governance@depi.vic.gov.au](mailto:governance@depi.vic.gov.au). | | |
|  | Background information for new readersWhat are e-alerts? DEPI e-alerts offer information on key governance topics such as:   * new laws and government policies * governance news * developments in governance best practice * updates to DEPI's governance website On Board (e.g. new model policies, guidance notes).   E-alerts are tailored to the needs of board members, executives and staff of agencies in the DEPI portfolio. Why have l been sent this email? You have been sent this email because:   * you are the chair, CEO, or other nominated contact of a DEPI agency; or * you have registered for DEPI governance e-alerts as an interested reader.   (If you are not the correct person to receive this e-alert please help us to update our records by emailing [governance@depi.vic.gov.au](mailto:governance@depi.vic.gov.au).) Who sends e-alerts and how often? DEPI governance e-alerts are issued by DEPI Legal Services. E-alerts will be issued when there are new developments relating to key governance topics. | | |
|  |  | | |
|  | Regards,  Adam Fennessy   |  |  |  | | --- | --- | --- | |  |  |  | | **Adam Fennessy | Secretary**  Department of Environment and Primary Industries Level 17, 8 Nicholson St, East Melbourne, Victoria 3002  **T:** 03 9637 8765 | **E:** adam.fennessy@depi.vic.gov.au | | [www.depi.vic.gov.au](file:///C:/Users/af45/AppData/Local/Temp/notes986B08/www.depi.vic.gov.au) | | |
|  | Subscriber options Please [**subscribe**](mailto:governance@depi.vic.gov.au?subject=Please%20register%20me%20for%20DEPI%20governance%20e-alerts) me to DEPI governance e-alerts.  Please [unsubscribe](mailto:governance@depi.vic.gov.au?subject=Please%20unsubscribe%20me%20from%20DEPI%20governance%20e-alerts) me.  If you would prefer to receive your e-alerts as a WORD attachment, please email us at [governance@depi.vic.gov.au](mailto:governance@depi.vic.gov.au). E-alert ‘library' E-alerts (past and present) and their attachments can be downloaded from [On Board](http://www.depi.vic.gov.au/about-us/boards-and-governance/on-board-governance-guides-and-resources/e-alerts-and-news) Disclaimer: e-alerts and their attachments may be of assistance to you but the State of Victoria and its employees do not guarantee that the information is without flaw of any kind or is wholly appropriate for your particular purposes and therefore disclaims all liability for any error, loss or other consequence which may arise from you relying on it.Attachments | | |
|  |  | | | |