

1. PURPOSE

This Policy establishes a system for the protection of persons who make a public interest disclosure or complaint under the Public Interest Disclosures Act 2012 (Vic) (PID Act) from detrimental action by officers, learners, employees and contractors of Holmesglen Institute in accordance with section 58(5) of the PID Act and ensures that all other requirements of the PID Act are met.

2. SCOPE

Applies to public officers, learners, employees and contractors of Holmesglen.

This policy does not apply to allegations of improper conduct, workplace grievances or complaints which are not in the scope of the PID Act and which are dealt with under other Institute policies and procedures, or by agencies external to Holmesglen Institute.

3. POLICY STATEMENT

Holmesglen Institute is not permitted to receive disclosures made under the PID Act.

Public officers, learners, employees and contractors of Holmesglen Institute, as well as members of the public, may make a disclosure or complaint of improper conduct, detrimental action or serious professional misconduct under the PID Act to the Independent Broad-based Anti-Corruption Commission (IBAC).

Disclosures of improper or corrupt conduct that do not meet the definition of public interest disclosure or complaint under the PID Act and are therefore not made to IBAC will be investigated in accordance with other Institute policies and procedures.

The aims and objectives of the PID Act are supported, and persons making public interest disclosures or complaints under the PID Act will be supported where the Institute is notified of the disclosure.

4. PRINCIPLES

- 4.1 Improper conduct by officers, learners, employees and contractors of Holmesglen Institute or the taking of detrimental action against those who come forward to disclose such conduct will not be tolerated.
- 4.2 The making of disclosures to IBAC that reveal improper conduct, corrupt conduct, serious professional misconduct or conduct involving a substantial risk to public health and safety or the environment is encouraged and supported.
- 4.2 People who attempt to make a disclosure or complaint directly to the Institute will be advised to make the disclosure to IBAC.
- 4.3 All reasonable steps will be taken to support and protect people who make disclosures or complaints from any detrimental action taken against them in contravention of Section 45 of the PID Act where the Institute has notice of such a disclosure or complaint. This protection also extends to people who have co-operated or intend to co-operate with an investigation of a protected interest disclosure or complaint.
- 4.4 Detrimental action of a serious nature, likely to amount to a criminal offence, will be reported to the police or IBAC. Penalties will apply to a person/s for actions deemed a criminal offence in accordance with the PID Act.
- 4.5 The welfare needs of a person who is the subject of a public disclosure or complaint will be met where the Institute has notice of such a disclosure or complaint.
- 4.6 The identity of a discloser or complainant, and/or the contents of the disclosure or complaint must be kept confidential.
- 4.7 The Institute will only disclose personal information as required by an authorised investigating body.

5. ACCOUNTABILITIES

Action	Accountability
Report all instances of suspected corrupt conduct to IBAC as soon as practicable after forming reasonable suspicion that corrupt conduct has or may be occurring.	Chief Executive
Responsible for the welfare of a person who has made a public interest disclosure or complaint or is cooperating with a public interest disclosure complaint investigation once the Institute has notice of a disclosure or complaint.	
Co-ordinate responses to IBAC, the Victorian Inspectorate or the Ombudsman and record any reported detrimental action against a discloser once the Institute has notice of a disclosure.	Public Interest Disclosures Co-Ordinator (Associate Director Human Resources)
Conduct themselves in accordance with the Conduct Rule.	Officers and All employees

6. DEFINITIONS

Term	Meaning
Corrupt conduct	<p>Defined by Section 4 of the Independent Broad-based Anti-corruption Commission Act 2011(Cth) (IBAC Act) as conduct:</p> <ul style="list-style-type: none"> (i) of any person that adversely affects the honest performance by a public officer or public body of his or her or its functions as a public officer or public body; or (ii) of a public officer or public body that constitutes or involves the dishonest performance of his or her or its functions as a public officer or public body; or (iii) of a public officer or public body that constitutes or involves knowingly or recklessly breaching public trust; or (iv) of a public officer or a public body that involves the misuse of information or material acquired in the course of the performance of his or her or its functions as a public officer or public body, whether or not for the benefit of the public officer or public body or any other person; or (v) that could constitute a conspiracy or an attempt to engage in any conduct referred to in (i) to (iv) above being conduct that would, if the facts were found proved beyond reasonable doubt at a trial, constitute a relevant offence. <p>Conduct may be corrupt conduct for the purposes of the IBAC Act if:</p> <ul style="list-style-type: none"> (a) all or any part of the conduct occurs outside Victoria, including outside Australia; and (b) the conduct would be corrupt conduct if it occurred in Victoria.
Detrimental action	<p>Action as defined in Section 3 of the PID Act as:</p> <ul style="list-style-type: none"> (i) action causing injury, loss or damage; (i) intimidation or harassment; (ii) discrimination, disadvantage or adverse treatment in relation to a person's employment, career, profession, trade or business, including the taking of disciplinary action.

Term	Meaning
	Such actions that are deemed a criminal offence against subsection 45 (1) of the PID Act carries a penalty of 240 penalty units or two years imprisonment or both for the person committing a crime
IBAC	Independent Broad-based Anti-corruption Commission.
Improper Conduct	<p>Conduct under Section 4 of the PID Act including:</p> <ul style="list-style-type: none"> (i) corrupt conduct; and/or (ii) any of the following conduct by a public officer or public body in their capacity as a public officer or public body: <ul style="list-style-type: none"> (a) a criminal offence; (b) serious professional misconduct; (c) dishonest performance of public functions; (d) an intentional breach or reckless breach of public trust; (e) an intentional or reckless misuse of information or material acquired in the course of the performance of public functions; (f) a substantial mismanagement of public resources; (g) a substantial risk to the health or safety of one or more persons; (h) a substantial risk to the environment. (iii) conduct by a third party that adversely 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 (iv) conduct by a third party that could constitute a conspiracy or attempt to engage in any of the above
Public interest complaint	Complaint determined to be protected under sections 26 or 31 of the PID Act.
Public interest disclosure	<p>Means one made under Part 2 of the PID Act including:</p> <ul style="list-style-type: none"> (i) disclosure of improper conduct or detrimental action (it is not necessary to identify a person or body to make a disclosure) (ii) complaints, notifications and disclosures under other Acts may also be relevant disclosures.
Public Body	As defined by Section 6 of the Independent Broad-based Anti-corruption Commission Act 2011 and includes any prescribed (for the purposes of the Act) body, including Holmesglen Institute.
Public Officer	Any person prescribed under Section 6 of the Independent Broad-based Anti-corruption Commission Act 2011 and includes all officers and employees of Holmesglen Institute.

Term	Meaning
Serious professional misconduct	<p>The Public Interest Disclosures Act 2012 (PID Act) does not define serious professional misconduct.</p> <p>In accordance with the intention to broaden the types of disclosures that receive protection under the scheme, this may include conduct that constitutes a serious breach of an established professional code of conduct and/or other serious departures from the person's professional responsibilities.</p> <p>This may include a serious failure to exhibit the skills and experience required to perform the functions of the office, as well as non-compliance with professional codes of conduct or the policies, procedures and laws that govern behaviour in the public sector and the workplace.</p>
Specified conduct	<p>Conduct:</p> <ul style="list-style-type: none"> (i) of any person that adversely affects the honest performance by a public officer or public body of his or her or its functions as a public officer or public body; or (ii) of a public officer or public body that constitutes or involves the dishonest performance of his or her or its functions as a public officer or public body; or (iii) of a public officer or public body that constitutes or involves knowingly or recklessly breaching public trust; or (iv) of a public officer or public body that involves the misuse of information or material acquired in the course of the performance of his or her or its functions as a public officer or public body, whether or not for the benefit of the public officer or public body or any other person; or (v) that could constitute a conspiracy or an attempt to engage in any conduct referred to in (i), (ii), (iii) or (iv) above; or (vi) of a public officer or public body in his or her capacity as a public officer or its capacity as a public body that: <ul style="list-style-type: none"> (a) involves substantial mismanagement of public resources; or (b) involves substantial risk to public health or safety; or (c) involves substantial risk to the environment.

7. CONTEXT AND/OR REFERENCED DOCUMENTS

Internal

Complaints Policy (Learners)
 Fraud and Corruption Control Rule
 Holmesglen Code of Conduct

External

[Freedom of Information Act 1982 \(Vic\)](#)
[Independent Broad-based Anti-corruption Commission Act 2011 \(Cth\)](#)
[Public Interest Disclosures Act \(2012\)](#)
[IBAC Guidelines for making and handling protected interest disclosures 2020](#)
[IBAC Guidelines for protected interest disclosure welfare management 2020](#)

8. REVIEW

8.1 This policy must be reviewed no later than three years from the date of approval.

8.2 The policy will remain in force until such time as it has been reviewed and re-approved or rescinded. The policy may be withdrawn or amended as part of continuous improvement prior to the scheduled review date.

9. VERSION HISTORY

Version Number	Date	Summary of changes
1	November 2013	Rule for Protected Disclosure
2	June 2018	Translated from the former Rule for Protected Disclosure to Protected Disclosure Policy in accordance with the Board's Rule for Governance Framework
3	February 2020	Change of legislation name to Public Interest Disclosures Act. Amended definition of improper conduct and inclusion of serious professional misconduct.