	<b>TITLE: Mandatory Notifications to the IBAC of Suspected Corrupt Conduct</b>		
<b>Document Type:</b>	Procedure	<b>Approved by:</b>	Chief Executive Officer
<b>Department:</b>	Office of the CEO	<b>Section:</b>	Governance
<b>Author/Prepared by:</b>	Sam Costanzo	<b>Position:</b>	Executive Director Finance

## DEFINITIONS:

**Corrupt Conduct** is defined to mean conduct or an attempt or conspiracy to engage in conduct (whether it takes place inside or outside of Victoria) that:

- adversely affects the honest performance of the functions of a public officer or public body; or
- constitutes or involves the dishonest performance of the functions of a public officer or public body; or
- constitutes or involves knowingly or recklessly breaching public trust by a public officer or public body; or
- involves the misuse of information or material acquired in the course of the performance of the functions of a public officer or public body; or
- is intended to adversely affect the effective performance of the functions or powers of a public officer or public body and results in the person or their associate obtaining a specified benefit.

In order for conduct to be corrupt conduct, it must also be the case that the conduct would constitute a 'relevant offence'. Relevant offence is defined in the Independent Broad-based Anti-corruption Commission (IBAC) Act to mean an indictable offence against any Act, or the common law offences of attempting to pervert the course of justice, perverting the course of justice, bribery or a public official and misconduct in public office. Examples of indictable offences and common law offences that may be relevant to Goulburn Valley Health (GV Health) are set out in [Appendix 2](#) and [Appendix 3](#) respectively.

IBAC has also published several case studies of its investigations of alleged corrupt conduct (see [Appendix 4](#) for IBAC case study links).

The **Directions** mean the *'Directions for making mandatory notifications of Suspected Corruption'* as published by Government Gazette on 1 December 2016 and which can be accessed on IBAC's website ([www.ibac.vic.gov.au/notifications](http://www.ibac.vic.gov.au/notifications)).


**GV Health** means Goulburn Valley Health.

The **IBAC** means the Independent Broad-based Anti-Corruption Commission established under the IBAC Act.

The **IBAC Act** means the *Independent Broad-based Anti-corruption Commission Act 2011* (Vic).

**Public sector body** includes the IBAC, a public sector body, a body established under an Act for a public purpose, a Council, a body performing a function of the State or a Public Body. Examples include: State Government Departments, public health services (such as GV Health), bodies performing a function of the State whether under contract or otherwise, the officers of the Health Complaints Commissioner, Freedom of Information Commissioner, Privacy Commissioner and the Ombudsman, Victoria Police, Victorian Auditor-General's Office, Victorian Civil and Administration Tribunal, Victorian Inspectorate.

**Public officer** includes a person employed in any capacity or holding any office in the public sector, any other person in the service of a public body (such as employees or contractors of GV Health), a person performing a public function on behalf of a public officer or public body (whether under

	<b>TITLE: Mandatory Notifications to the IBAC of Suspected Corrupt Conduct</b>		
<b>Document Type:</b>	Procedure	<b>Approved by:</b>	Chief Executive Officer
<b>Department:</b>	Office of the CEO	<b>Section:</b>	Governance
<b>Author/Prepared by:</b>	Sam Costanzo	<b>Position:</b>	Executive Director Finance

contract or otherwise) and an employee of, or any person otherwise engaged by, or acting on behalf of, or acting as a delegate of, a public body or public officer.

**Relevant principal officer** includes the public sector body Head within the meaning of Section 4(1) of the *Public Administration Act 2004* (Vic) in relation to the public body of which he or she is the public sector body Head and the public officers employed by that public body. Examples include: the heads of State government departments and many statutory authorities (such as the Chief Executive Officer of GV Health).

### CONTEXT:

This Procedure establishes a system for making mandatory notifications to the IBAC of suspected corrupt conduct and reflects the legislative requirements set out in the *Independent Broad-based Anti-corruption Commission Act 2011* (Vic).

### RESPONSIBILITY:

#### Employees

Understand their obligations and responsibilities in relation to this procedure.

#### The Chief Executive Officer of GV Health

Ensure that mandatory notifications are made to the IBAC and that the requirements set out in the IBAC Act are complied with.

#### Executive Director of Workforce and Manager Employee Relations

Ensure employees and the Chief Executive Officer of GV Health understand their obligations and responsibilities in relation to this procedure.

### OUTCOMES:

The purpose of this Procedure is to achieve the following goals:

1. Ensure that all instances of matters suspected by the Chief Executive Officer of GV Health, on reasonable grounds, to involve corrupt conduct are notified to the IBAC;
2. Ensure that the requirements set out in the IBAC Act are complied with.


### METHOD:

#### Procedure:

#### 1. Mandatory Notification Requirement

The Chief Executive Officer of GV Health must notify IBAC of any matter which the Chief Executive Officer suspects on reasonable grounds involves 'corrupt conduct' occurring or having occurred (see Section 57 of the IBAC Act).

This obligation has effect despite any duty of secrecy or other restriction on disclosure. Notifications made in good faith protect the Chief Executive Officer from any criminal or civil liability.

	<b>TITLE: Mandatory Notifications to the IBAC of Suspected Corrupt Conduct</b>		
<b>Document Type:</b>	Procedure	<b>Approved by:</b>	Chief Executive Officer
<b>Department:</b>	Office of the CEO	<b>Section:</b>	Governance
<b>Author/Prepared by:</b>	Sam Costanzo	<b>Position:</b>	Executive Director Finance

Importantly, the obligation must not be delegated. Where another person is acting as the Chief Executive Officer, the obligation applies to that person and vicariously GV Health.

The IBAC Act does not identify any specific sanctions for non-compliance with the above obligation.

## 2. What types of corrupt conduct must be notified to the IBAC?

All instances of matters suspected by the Chief Executive Officer of GV Health, on reasonable grounds, to involve corrupt conduct must be notified to the IBAC. This includes instances of suspected corrupt conduct occurring at GV Health and suspected corrupt conduct occurring in other organisations where it is connected with the Chief Executive Officer's duties, functions and exercise of powers (for example, where GV Health is involved in a tender with another public health service and the Chief Executive Officer becomes aware that public officers in the other public health service have colluded to share profits with tender recipients or where GV Health works in collaboration with another public health service and the Chief Executive Officer becomes aware that public officers in the other public health service have been taking or offering bribes in relation to the collaboration).

### ***Reasonable grounds for suspicion***

The words 'suspects on reasonable grounds' mean there is a real possibility of corrupt conduct.

'Suspicion' is something less than belief, but requires more than idle speculation. It must be based on facts and circumstances that would be sufficient to make a reasonable person suspect corrupt conduct has occurred or was occurring. However, proof is not necessary, nor is it required that an individual or individuals be identified.

### ***When does conduct constitute suspected corrupt conduct?***


It can be difficult to discern what constitutes corrupt conduct or at what point certain conduct gives rise to a reasonable suspicion of corrupt conduct. The Chief Executive Officer of GV Health must exercise their judgement and may need to seek independent legal advice before notifying the IBAC.

(See the flow chart for determining whether conduct should be notified to the IBAC as suspected corrupt conduct at **Appendix 1.**)

## 3. When must a report be made?

Notifications of suspected corrupt conduct must be made as soon as practicable after the Chief Executive Officer of GV Health has formed a reasonable suspicion that corrupt conduct may have occurred or may be occurring.

An assessment as to whether the matter must be notified to the IBAC must be made based on the material available to the Chief Executive Officer. Where the material available is not sufficient to form a suspicion on reasonable grounds, the Chief Executive Officer may choose to gather further information. In doing so, the Chief Executive Officer must regularly re-assess the material and notify the IBAC as soon as they form a suspicion on reasonable grounds that corrupt conduct has occurred or is occurring.

	<b>TITLE: Mandatory Notifications to the IBAC of Suspected Corrupt Conduct</b>		
<b>Document Type:</b>	Procedure	<b>Approved by:</b>	Chief Executive Officer
<b>Department:</b>	Office of the CEO	<b>Section:</b>	Governance
<b>Author/Prepared by:</b>	Sam Costanzo	<b>Position:</b>	Executive Director Finance

#### 4. How to make a notification

In making the mandatory notification, the Chief Executive Officer of GV Health must comply with the IBAC Direction's. Specifically, notification to the IBAC must be made using the 'Mandatory Notification Form for Relevant Principle Officers', which is available for download on the IBAC's website at [www.ibac.vic.gov.au/notifications](http://www.ibac.vic.gov.au/notifications). The form can be submitted by email or post. Where a matter is serious and requires urgent attention, the Chief Executive Officer should contact the IBAC by telephone and a written report should then follow.

A notification must describe the corrupt conduct and set out the grounds for reasonable suspicion, consistent with the definitions and meanings set out in the IBAC Act.

Notifications to the IBAC must be made without advising the person(s) to whom the notification relates and without publicity. Failure to handle notifications to the IBAC confidentially may prejudice any subsequent investigation, whether by the IBAC or GV Health and may cause unnecessary reputational or other damage to individuals.

#### 5. How notifications are assessed by the IBAC

The IBAC assesses all notifications of suspected corrupt conduct. In assessing a notification, the IBAC may contact the Chief Executive Officer for additional information or clarification.

Section 58 of the IBC Act requires that the IBAC dismiss, investigate or refer notifications. In considering a notification, the IBC may choose to make preliminary inquiries, prior to a decision to either refer, investigate or dismiss.

At the completion of the assessment, the IBAC will then write to the Chief Executive Officer of GV Health outlining the result of the assessment and next steps.


The Directions provide that most notifications will result in a referral back to the Chief Executive Officer for investigation. The IBAC may then choose to further consider and/or review the response of GV Health.

#### 6. Requests for information from the IBAC

If the IBAC chooses to make preliminary inquiries for the purpose of determining whether to dismiss, refer or investigate a notification, the IBAC may request information from the Chief Executive Officer of GV Health for the purposes of the preliminary inquiry.

If the Chief Executive Officer receives such a request, the Chief Executive Officer must comply with the request within a reasonable time (being not less than 7 days after receiving the request), unless the Chief Executive Officer advises the IBAC of a reasonable excuse for not doing so. A 'reasonable excuse' is not defined in the IBAC Act.

In complying with a request for information, the Chief Executive Officer, and any person who assists the Chief Executive Officer in complying, has the same protection and immunity as a person appearing as a witness in a proceeding in the Supreme Court (for example, the Chief Executive Officer can object to giving information on the basis of legal professional privilege or privilege against self-incrimination).

	<b>TITLE: Mandatory Notifications to the IBAC of Suspected Corrupt Conduct</b>		
<b>Document Type:</b>	Procedure	<b>Approved by:</b>	Chief Executive Officer
<b>Department:</b>	Office of the CEO	<b>Section:</b>	Governance
<b>Author/Prepared by:</b>	Sam Costanzo	<b>Position:</b>	Executive Director Finance

## 7. How long does the IBAC take to assess a notification?

The IBAC will acknowledge in writing all notifications of suspected corrupt conduct made pursuant to Section 57 of the IBAC Act.

The IBAC Act does not prescribe the time period in which the IBAC must give a response to a notification; however, the Directions provide that the IBAC will work to assess and finalise all notifications within 45 days of receipt. When a matter requires more urgent attention, the Chief Executive Officer of GV Health (or the Director of the Office of CEO) should contact the IBAC. The IBAC can prioritise the assessment of these matters if needed.

## 8. What to do once a notification has been made

GV Health must not take any action until the IBAC has assessed the matter and informed the Chief Executive Officer of GV Health of its decision. This is to avoid actions, such as investigations, from prejudicing a future investigation or action by the IBAC.

However, GV Health can take action on a matter where that action is:


- necessary to lessen or prevent a threat to the life, health, safety or welfare of an individual or to public health or safety;
- taken to comply with another legal obligation, such as a duty to report the matter under other legislation (such as Standing Direction 3.5.3 of the Standing Directions of the Minister for Finance 2016 made under the *Financial Management Act 1994* (Vic) and the requirement to report suspected fraud to the Department of Health and Human Services as part of governance arrangements) or to take immediate action;
- reporting the matter to Victoria Police (where the matter relates to potential criminal activity).

Where such action is necessary, the Chief Executive Officer (or the Director of the Office of CEO) must notify the IBAC about the actions taken.

Where suspected conduct is detected during a regulatory review process (e.g. an internal audit, service review or routine quality assurance review) action associated with the specific matter must cease pending the outcome of the IBAC's assessment of a notification, while other audit/review actions can continue. If the Chief Executive Officer is of the view that action associated with the specific matter should continue, they must contact the IBAC for guidance.

Where urgent action is required or the matter escalates or something changes after a notification is made which warrants urgent action, the Chief Executive Officer (or the Director of the Office of CEO) must consult with the IBAC immediately. The IBAC staff can discuss the situation and provide guidance on next steps and will also prioritise more serious and urgent matters.

The Directions provide that the IBAC understands that the Chief Executive Officer will need to use their judgement in such situations with urgency and it will not always be possible to consult the IBAC prior to action being taken.

	<b>TITLE: Mandatory Notifications to the IBAC of Suspected Corrupt Conduct</b>		
<b>Document Type:</b>	Procedure	<b>Approved by:</b>	Chief Executive Officer
<b>Department:</b>	Office of the CEO	<b>Section:</b>	Governance
<b>Author/Prepared by:</b>	Sam Costanzo	<b>Position:</b>	Executive Director Finance

## 9. Mandatory notification requirement interaction with the *Protected Disclosure Act 2012 (Vic)*

All notifications made to the IBAC will be assessed as to whether they attract the protections offered under the *Protected Disclosure Act 2012 (Vic)* and can therefore be classified as protected disclosures. This includes all notifications made mandatorily by the Chief Executive Officer of GV Health.

Where suspected corrupt conduct has been notified to the IBAC specifically as a potential protected disclosure, the IBAC will also treat it as a suspected corrupt conduct notification and there is no need for the Chief Executive Officer to further notify the IBAC under Section 57 of the IBAC Act.

However, if a potential disclosure is notified to the IBAC by someone other than the Chief Executive Officer and the Chief Executive Officer subsequently becomes aware of the conduct, the Chief Executive Officer must notify the IBAC if they have a reasonable suspicion that corrupt conduct has occurred or is occurring. A notification in these circumstances will not alter the status of the protected disclosure.

## 10. How to contact the IBAC

Email: [info@ibac.vic.gov.au](mailto:info@ibac.vic.gov.au)

Post: Attention: Manager Assessments and Review  
IBAC Commissioner  
GPO Box 24234  
MELBOURNE VIC 3001

Website: <http://www.ibac.vic.gov.au/>

## KEY ALIGNED DOCUMENTS:


GV Health's Protected Disclosure Procedure

## REFERENCES:

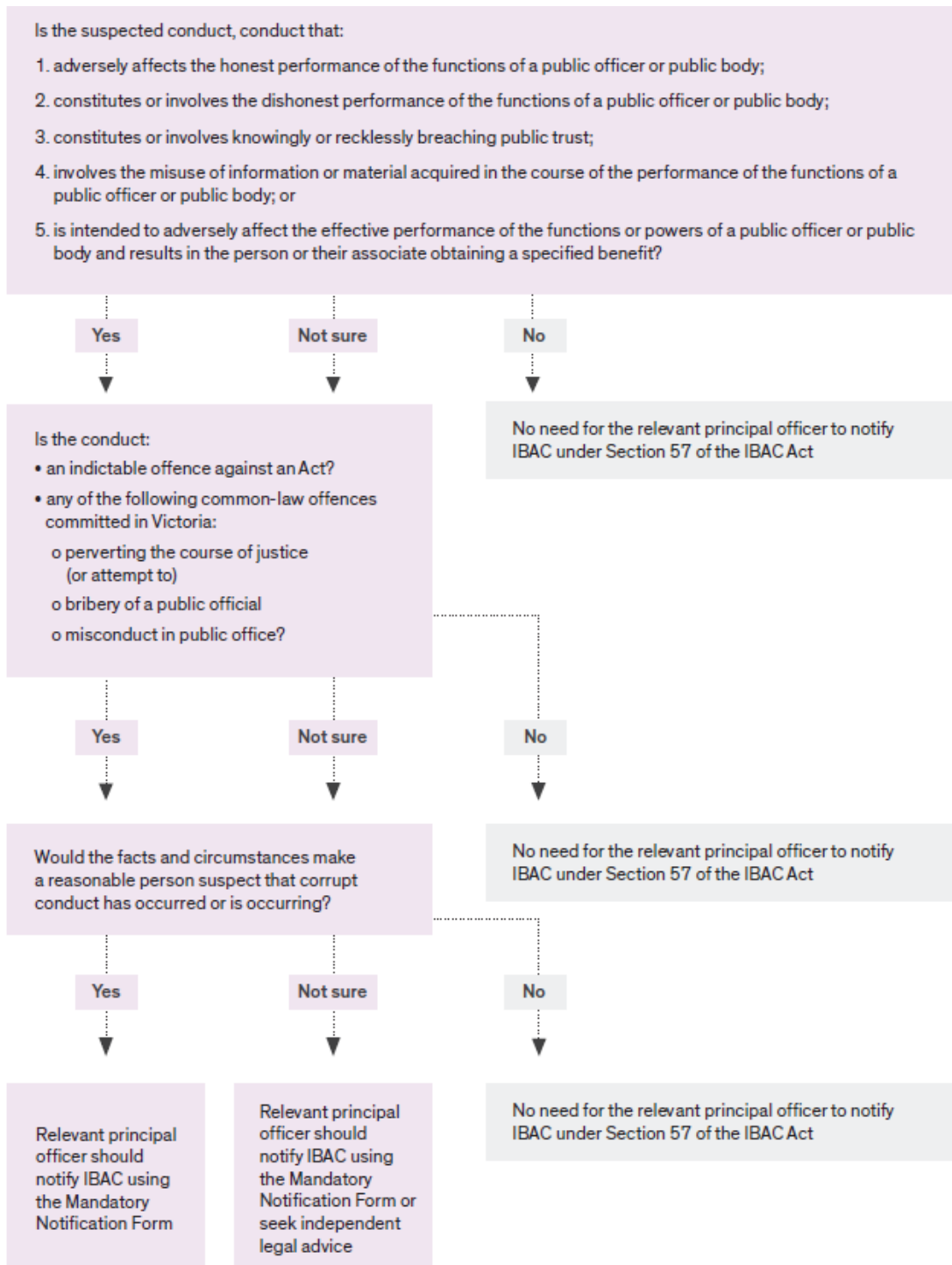
*Independent Broad-based Anti-Corruption Commission Act 2011 (Vic)*;


*Directions for making mandatory notifications of Suspected Corruption* as published by Government Gazette on 1 December 2016;

GV Health's Protected Disclosure Procedure

	<b>TITLE: Mandatory Notifications to the IBAC of Suspected Corrupt Conduct</b>		
<b>Document Type:</b>	Procedure	<b>Approved by:</b>	Chief Executive Officer
<b>Department:</b>	Office of the CEO	<b>Section:</b>	Governance
<b>Author/Prepared by:</b>	Sam Costanzo	<b>Position:</b>	Executive Director Finance

**APPENDIX 1 – Flow chart for determining whether conduct should be notified to the IBAC as suspected corrupt conduct**



	<b>TITLE: Mandatory Notifications to the IBAC of Suspected Corrupt Conduct</b>		
<b>Document Type:</b>	Procedure	<b>Approved by:</b>	Chief Executive Officer
<b>Department:</b>	Office of the CEO	<b>Section:</b>	Governance
<b>Author/Prepared by:</b>	Sam Costanzo	<b>Position:</b>	Executive Director Finance

## APPENDIX 2 – Examples of indictable offences

The following kinds of offences are 'indictable offences':

- all offences in the *Crimes Act 1958* (Vic) (the **Crimes Act**) and the *Wrongs Act 1958* (Vic) (the **Wrongs Act**) unless the contrary intention appears (see Section 2B of the Crimes Act and Section 2A of the Wrongs Act);
- all offences expressly stated to be a Level 1, 2, 3, 4, 5 or 6 offence, or to carry a penalty expressed as a Level 1, 2, 3, 4, 5 or 6 penalty unless the contrary intention appears (see Section 112(1) of the *Sentencing Act 1991* (Vic)).

### Theft – Crimes Act s 72

#### Offence

- (1) A person steals if he dishonestly appropriates property belonging to another with the intention of permanently depriving the other of it.
- (2) A person who steals is guilty of theft; and 'thief' shall be construed accordingly.

#### Example

*Jamieson v The Queen* [2014] VSCA 294. The offender worked for the (then) Department of Human Services in an administrative role. When flooding affected Northern Victoria in December 2010 and January 2011, the offender was seconded to an organisation that was involved in implementing emergency relief measures, including the distribution of debit cards to those in need of emergency funds. The offender subsequently stole 365 cards and used the PINs, to which she also had access, to obtain those funds.

She was sentenced to 2½ years' imprisonment with a non-parole period of 15 months. An appeal against sentence was dismissed.

### Obtaining property by deception – Crimes Act s 81(1)

#### Offence

A person who by any deception dishonestly obtains property belonging to another, with the intention of permanently depriving the other of it, is guilty of an indictable offence and liable to level 5 imprisonment (10 years maximum).


#### Definition of deception

Deception:

- means any deception (whether deliberate or reckless) by words or conduct as to fact or as to law, including a deception as to the present intentions of the person using the deception or any other person; and
- includes an act or thing done or omitted to be done with the intention of causing:
  - a computer system; or
  - a machine that is designed to operate by means of payment or identification:

to make a response that the person doing or omitting to do the act or thing is not authorised to cause the computer system or machine to make.



	<b>TITLE: Mandatory Notifications to the IBAC of Suspected Corrupt Conduct</b>		
<b>Document Type:</b>	Procedure	<b>Approved by:</b>	Chief Executive Officer
<b>Department:</b>	Office of the CEO	<b>Section:</b>	Governance
<b>Author/Prepared by:</b>	Sam Costanzo	<b>Position:</b>	Executive Director Finance

### Example

*R v Malcotti* [2001] VSCA 97. This case concerned an employee of the Sunraysia Rural Water Authority who had used his position to create and sell, or attempting to sell, false water entitlements or licences. The offender used his position to create letters purporting to be from the Water Authority, and used them to sell the fictional rights and obtain cheques in return. The cheques were the property that the offender had dishonestly obtained by deception.

He was sentenced to 5 years' imprisonment, with a non-parole period of 2½ years. An appeal against sentence was dismissed.

### **Obtaining financial advantage by deception – Crimes Act s 82(1)**

#### Offence

A person who by any deception dishonestly obtains for himself or another any financial advantage is guilty of an indictable offence and liable to level 5 imprisonment (10 years maximum).

#### Meaning of deception

Deception has the same meaning as for the offence of obtaining property by deception.

### Example

*Gianello v The Queen* [2015] VSCA 205. This case concerned a false invoicing scheme under which the offender, and two co-offenders, charged a biotechnology company for work that had not actually been performed. The scheme began as a means of invoicing for work that would not otherwise have been compensated under offenders' terms of engagement with their employers and then morphed into the false invoicing scheme. In all, the scheme defrauded some \$6 million from its victims, of which the offender received just under \$680,000.

The offender received a sentence of 4 years' imprisonment, with a non-parole period of 2 years. An appeal against sentence was dismissed.

### **False statements by company directors – Crimes Act s 85(1)**

#### Offence


Where an officer of a body corporate or unincorporated association (or person purporting to act as such), with intent to deceive members or creditors of the body corporate or association about its affairs, publishes or concurs in publishing a written statement or account which to his knowledge is or may be misleading, false or deceptive in a material particular, he is guilty of an indictable offence and liable to level 5 imprisonment (10 years maximum).

### Example

There do not appear to be any reported cases concerning an offence against this provision of the Crimes Act.

### **Computer offences – Crimes Act Pt 1 Div 3 Subdiv (6)**

The Crimes Act contains multiple offences relating to unauthorised modification of data to cause impairment (Crimes Act 247C), or the unauthorised impairment of an electronic communication (Crimes Act s 247D). Impairment has a different meaning in relation to each kind of unauthorised act.

	<b>TITLE: Mandatory Notifications to the IBAC of Suspected Corrupt Conduct</b>		
<b>Document Type:</b>	Procedure	<b>Approved by:</b>	Chief Executive Officer
<b>Department:</b>	Office of the CEO	<b>Section:</b>	Governance
<b>Author/Prepared by:</b>	Sam Costanzo	<b>Position:</b>	Executive Director Finance

In relation to modification there is no express definition, but an element of the offence is that the offender:

- intends by the modification to impair access to, or to impair the reliability, security or operation of, any data held in a computer or is reckless as to any such impairment.

In relation to electronic communications, impairment has the meaning given by Crimes Act s 247A:

- "impairment", in relation to electronic communication to or from a computer, includes:
  - the prevention of any such communication; and
  - the impairment of any such communication on an electronic link or network used by the computer;

but does not include a mere interception of any such communication;

Accessing data without authorisation if the access is an indictable offence if the access is for the purposes of committing a serious offence (meaning an offence with a penalty of at least 5 years' imprisonment) (see Section 247B of the Crimes Act).

An offence also applies to those who produce, supply or obtain data with the intention of committing or facilitating a 'serious computer offence' (meaning an offence under the provisions listed above) (see Section 247F of the Crimes Act).

Other offences in this subdivision, including an offence for mere unauthorised access to data, are summary offences (see Sections 247G(2) and 247H(2) of the Crimes Act).

**Destruction of evidence – Crimes Act s 254(1)**

Offence


A person who:

- knows that a document or other thing of any kind is, or is reasonably likely to be, required in evidence in a legal proceeding; and
- either:
  - destroys or conceals it or renders it illegible, undecipherable or incapable of identification; or
  - expressly, tacitly or impliedly authorises or permits another person to destroy or conceal it or render it illegible, undecipherable or incapable of identification and that other person does so; and
- acts as described in paragraph (b) with the intention of preventing it from being used in evidence in a legal proceeding;

is guilty of an indictable offence and liable to level 6 imprisonment (5 years maximum) or a level 6 fine or both.

Example

There are no reported cases concerning this offence. Relevantly, the offence was introduced in response to the destruction of documents in the McCabe case (where British American Tobacco had

	<b>TITLE: Mandatory Notifications to the IBAC of Suspected Corrupt Conduct</b>		
<b>Document Type:</b>	Procedure	<b>Approved by:</b>	Chief Executive Officer
<b>Department:</b>	Office of the CEO	<b>Section:</b>	Governance
<b>Author/Prepared by:</b>	Sam Costanzo	<b>Position:</b>	Executive Director Finance

destroyed documents prior to the commencement of litigation, thereby avoiding the need to produce documents in response to an order for discovery).

### Trafficking in a drug of dependence – DPCS Act Part V

Various offences apply for trafficking in drugs of dependence (listed in Schedule Eleven of the *Drugs, Poisons and Controlled Substances Act 1981* (Vic) (the **DCPS Act**)). These offences are:

- Trafficking in a drug or drugs of dependence – large commercial quantity (Section 71 of the DPCS Act);
- Trafficking in a drug or drugs of dependence – commercial quantity (Section 71AA of the DPCS Act);
- Trafficking in a drug or drugs of dependence to a child (Section 71AB of the DPCS Act);
- Trafficking in a drug of dependence (Section 71AC of the DPCS Act).

For the purposes of these offences, trafficking includes:

- prepare a drug of dependence for trafficking;
- manufacture a drug of dependence; or
- sell, exchange, agree to sell, offer for sale or have in possession for sale, a drug of dependence.

It is conceivable that the employee of a health service could possess drugs of dependence for sale, either because they have stolen them from their employer, or because they have fraudulently obtained excess amounts of the drug for sale.

### Possession of a drug of dependence – DPCS Act s 73


Possession of a drug of dependence contrary to DPCS Act s 73 is an indictable offence if the offence:

- does not relate to a specifically defined small quantity cannabis or THC; and
- is not committed for any purpose related to trafficking of the drug of dependence.

### Occupational Health and Safety Act 2004 (Vic) Offences

Some provisions of the *Occupational Health and Safety Act 2004* (Vic) (the **OH&S Act**) also create indictable offences. These include:

- duty to provide and maintain a working environment that is safe and without risks to health (Section 21 of the OH&S Act);
- duty to ensure that persons other than employees are not exposed to risks to their health or safety arising from the conduct of the employer’s undertaking (Section 23 of the OH&S Act);
- duty of employees to (a) take reasonable care for their own health and safety; (b) take reasonable care for the health and safety of persons who may be affected by their acts or omissions at a workplace; and (c) co-operate with their employer (Section 25 of the OH&S Act).

	<b>TITLE: Mandatory Notifications to the IBAC of Suspected Corrupt Conduct</b>		
<b>Document Type:</b>	Procedure	<b>Approved by:</b>	Chief Executive Officer
<b>Department:</b>	Office of the CEO	<b>Section:</b>	Governance
<b>Author/Prepared by:</b>	Sam Costanzo	<b>Position:</b>	Executive Director Finance

### APPENDIX 3 – Examples of common law offences

The following kinds of offences are common law offences which fall under the definition of a 'relevant offence' in the IBAC Act, being:

- attempting to pervert the course of justice;
- perverting the course of justice;
- bribery of a public official; and
- misconduct in public office.

#### Attempting to pervert the course of justice/perverting the course of justice

##### Offence

A person commits the offence of *attempting to pervert the course of justice* if:

- they engaged in conduct that *had the tendency* (objectively) to pervert the course of justice; and
- they intended for that conduct to pervert the course of justice.

A person commits the offence of *perverting the course of justice* if:

- they engaged in conduct that *did* pervert the course of justice; and
- they intended for that conduct to pervert the course of justice.

'Perversion of the course of justice' occurs when the conduct impairs, obstructs, adversely interferes or prevents court processes and proceedings and the administration of justice. The definition captures both criminal and civil proceedings.


For the offence of perverting the course of justice, the 'course of justice' begins when court proceedings have been commenced.

For the offence of attempting to pervert the course of justice, the offence can be committed prior to commencement of court proceedings if the conduct is directed towards perverting possible court proceedings.

##### Example – Attempting to pervert the course of justice

*R v Aydin* [2005] VSCA 85. The offender was a clerk in a law firm. The offender engaged in a series of acts which had a tendency to pervert the course of justice, in that he made threats and bribes to a police officer for the purpose of improperly influencing the prosecution of his client, by inducing the police officer not to oppose the granting of bail to his client and to reduce the number of charges against him.

The offender was convicted of attempting to pervert the course of justice, even though there was no actual risk of the police officer being induced to act on the threats or bribes, because the conduct of threatening or bribing a police officer posed a real risk (or had the tendency to) pervert the course of justice.

	<b>TITLE: Mandatory Notifications to the IBAC of Suspected Corrupt Conduct</b>		
<b>Document Type:</b>	Procedure	<b>Approved by:</b>	Chief Executive Officer
<b>Department:</b>	Office of the CEO	<b>Section:</b>	Governance
<b>Author/Prepared by:</b>	Sam Costanzo	<b>Position:</b>	Executive Director Finance

### Example – Perverting the course of justice

*Einfeld v R* [2010] NSWCCA 87. The offender pleaded guilty to charges including perverting the course of justice. The charges arose out of an incident in which the offender’s car was recorded by a road traffic camera as travelling in excess of the speed limit. Subsequently, the offender gave evidence in Court denying that he had been driving the vehicle at the relevant time, and identified another person as the driver of the car. Inquiries by a journalist suggested that the person nominated as the driver had died some years earlier. The police initiated an investigation. The offender provided a written statement to police which set out many false statements (including regarding the driver of the car). The provision of that statement was the basis of the charge of perverting the course of justice.

### **Bribery of a public official**

#### Offence

Bribery is the receiving or offering any undue reward or benefit by or to any person, in a public office, in order to influence the public officer’s behaviour in office, to incline the public officer to act contrary to their duties. It is an offence for public officers to seek or accept bribes, and for others to give or offer bribes to public officers.

#### Examples

*R v Boston* (1923) 33 CLR 386. The case concerned a conspiracy in which the defendants would make payment to one of the defendants B, in his public officer capacity as a member of the New South Wales parliament and in violation of his official duty. This was to be an inducement for the public officer to use his position to secure the acquisition by the State of New South Wales of certain estates, and to put pressure on the Minister for Lands and other public officers to acquire and pay for such estates.

*R v Rudra Nath* (1994) 74 A Crim R 115. The offender pleaded guilty to five counts of bribery at common law. The offender was a public officer (a purchasing officer) within a government supply department. The offender received ‘kickbacks’ totalling approximately \$23,000 over a period of over three years, from contractors tendering for goods and services.

### **Misconduct in public office**


#### Offence

The offence of ‘misconduct in public office’ arises where:

- a public officer in the course of, or connected to, their public office wilfully engages in misconduct by their act or omission, without any reasonable excuse or justification; and
- the misconduct is serious and meriting criminal punishment having regards to the responsibilities of the public officer, the importance of the public objects they serve and the nature and extent of the departure of those responsibilities and objects.

The object of the offence is to ensure that a public officer does not intentionally abuse the trust they hold in their public office.

The offence of misconduct in public office may also incorporate misconduct involving bribery, conflict of interest or abuse of office.

		<b>TITLE: Mandatory Notifications to the IBAC of Suspected Corrupt Conduct</b>	
<b>Document Type:</b>	Procedure	<b>Approved by:</b>	Chief Executive Officer
<b>Department:</b>	Office of the CEO	<b>Section:</b>	Governance
<b>Author/Prepared by:</b>	Sam Costanzo	<b>Position:</b>	Executive Director Finance

IBAC publications state that examples of misconduct in public office might include:


- deliberately falsifying accounts to conceal or obtain a benefit;
- entering into a secret commission with another person while acting in an official capacity(e.g. providing a rebate, 'kickback' or bribe);
- colluding with other public officers to share profits with tender recipients and concealing the over-valuation of tenders;
- using public office to deceive a member of the public to gain a financial advantage; and
- misusing power to harm, oppress or disadvantage a person.

(See: [www.ibac.vic.gov.au](http://www.ibac.vic.gov.au))

#### Examples

*R v Obeid* [2016] NSWSC 1815. The offender used his position in the New South Wales parliament to lobby a senior officer of the Maritime Authority of New South Wales in order to benefit retail tenants in a harbour district (so their leases would be renewed). These representations advanced the financial interests of the offender's family, as the family had interests in businesses in the harbour district.

*R v Bunning* [2007] VSCA 205. The offender was a police officer who pleaded guilty to multiple counts of misconduct in public office. The counts included the provision by the police officer of confidential information concerning drug trafficking investigations to a person charged with drug trafficking and the person's associates, and using another police officer's password to obtain such information.

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**APPENDIX 4 –IBAC case study links**

See:

[www.ibac.vic.gov.au/publications-and-resources/article/case-study-operation-warburton](http://www.ibac.vic.gov.au/publications-and-resources/article/case-study-operation-warburton)

[www.ibac.vic.gov.au/publications-and-resources/article/case-study-operation-fraser](http://www.ibac.vic.gov.au/publications-and-resources/article/case-study-operation-fraser)

[www.ibac.vic.gov.au/publications-and-resources/article/case-study-operation-charnley](http://www.ibac.vic.gov.au/publications-and-resources/article/case-study-operation-charnley)

[www.ibac.vic.gov.au/publications-and-resources/article/case-study---operation-nepean](http://www.ibac.vic.gov.au/publications-and-resources/article/case-study---operation-nepean)

[www.ibac.vic.gov.au/publications-and-resources/article/case-study---operation-continent](http://www.ibac.vic.gov.au/publications-and-resources/article/case-study---operation-continent)

[www.ibac.vic.gov.au/publications-and-resources/article/case-study---operation-exmouth](http://www.ibac.vic.gov.au/publications-and-resources/article/case-study---operation-exmouth)