

Website Procedure – Protection of Persons against Detrimental Action.

Procedure for the Protection of Persons from Detrimental Action

In this procedure, the term 'Improper Conduct' has the same definition as in the *Protected Disclosure Act 2012* (Vic).

General Procedure

Mercy Health is committed to the aims and objectives of the *Protected Disclosure Act 2012* (Vic). It does not tolerate Improper Conduct by its employees, officers or contractors, the taking of reprisals against those who come forward to disclose Improper Conduct or who assist in the investigation of Improper Conduct.

All staff and volunteers are expected to be aware that criminal penalties may apply if an individual takes, or threatens to take Detrimental Action against a person.

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.

A person takes Detrimental Action against a person if the person takes or threatens to take Detrimental Action against the other person because or in the belief that:

- the other person or anyone else has made, or intends to make, a disclosure under the *Protected Disclosure Act 2012* (Vic); or
- the other person or anyone else has cooperated, or intends to cooperate, with an investigation of a disclosure made under the *Protected Disclosure Act 2012* (Vic); or
- for either of those reasons, the person incites or permits someone else to take or threaten to take Detrimental Action against the other person.

The taking of Detrimental Action may be a criminal offence. Any person who believes that Detrimental Action has been taken (or threatened) against them (in relation to Health Services (Victoria) or Palliative Care) should report the matter to the Victorian Independent Broad-based Anti-corruption Commission (**IBAC**).

IBAC's contact details are as follows:

Victorian Independent Broad-based Anti-corruption Commission

Phone: 1300 735 135

Fax: 03 8635 6444

Post: IBAC, GPO Box 24234, Melbourne, Victoria 3000

Web site: www.ibac.vic.gov.au

Information about making a disclosure to IBAC and IBAC's procedures can be found on IBAC's website.

Persons making disclosures who are implicated in Improper Conduct

Where a person who is involved in a disclosure made under the *Protected Disclosure Act 2012* (Vic) is implicated in Improper Conduct, Mercy Health Services and Palliative Care

will handle details of the disclosure and protect the person from reprisals in accordance with the *Protected Disclosure Act 2012* (Vic), IBAC's guidelines and this procedure.

Individuals must be aware that the act of making a disclosure under the *Protected Disclosure Act 2012* (Vic) does not shield a person from the reasonable consequences flowing from that person's involvement in any Improper Conduct or from disciplinary action unrelated to a disclosure made under the *Protected Disclosure Act 2012* (Vic).

Where a person is involved in a disclosure made under the *Protected Disclosure Act 2012* (Vic), the Group CEO (or their delegate) will make the final decision about whether disciplinary or other action will be taken against a person.

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

- The intention to proceed with disciplinary action is not a substantial reason for their taking of the action against the employee;
- There are good and sufficient grounds that would fully justify action against any other person in the same circumstances; and
- There are good and sufficient grounds that justify exercising any discretion to institute disciplinary or other action.

The process leading to disciplinary or other action being taken will be documented by the Group CEO or their delegate, 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 person's involvement with a disclosure made under the *Protected Disclosure Act 2012* (Vic). The person against whom action is to be taken will be notified of the proposed action to be taken, and of any mitigating factors that have been taken into account.