

Checklist for Whistleblowers at Monash University

You may be entitled to special protection under the Whistleblower Protection Act if you make a complaint about Monash University or a Monash entity or an employee or member of University Council.

Is my complaint a “disclosure” and covered by the Whistleblower Protection Act?

This checklist will help you to determine if your complaint is a protected disclosure.

- 1. Are you are natural person, and *not* making a complaint on behalf of a company or organisation?**
- 2. Is your disclosure about Monash University or a Monash entity or a Monash employee or member of University Council?**
- 3. Is your disclosure about past, current or proposed improper conduct?**

Improper conduct is conduct that is

- Corrupt or,¹

¹ Corrupt conduct is defined by section 3 of the Act to mean:

- conduct of any person (whether or not a public official) that adversely affects the honest performance of a public officer’s or public body’s functions
- conduct of a public officer that amounts to the performance of their functions dishonestly or with inappropriate partiality
- conduct of a public officer, former public officer or a public body that amounts to a breach of public trust
- conduct by a public officer, former public officer or a public body that amounts to the misuse of information or material acquired in the course of the performance of their official functions, or
- a conspiracy or attempt to engage in any of the above conduct.

Examples of corrupt conduct

A Monash employee receives a bribe or receives a payment other than his or her wages or salary in

- A substantial mismanagement of public resources²], or
- A substantial risk to public health and safety or to the environment³],

AND

- It must also be serious enough that if proven would constitute a criminal offence or reasonable grounds for dismissal.

OR

Is your disclosure about past, current or proposed detrimental action taken against a whistleblower?

Detrimental action is action taken in reprisal for making a disclosure. It includes action causing injury, loss or damage, intimidation or harassment, and discrimination, disadvantage or adverse treatment in relation to your employment, career, profession, trade or business, including the taking of disciplinary action.

4. Do you have reasonable grounds for believing the alleged conduct has occurred?

You must have more than a suspicion and must have some supporting facts and circumstances. The belief should be probable based on the supporting facts and circumstances.

If you have answered 'Yes' to ALL of the above questions, your disclosure may be a protected disclosure under the Whistleblower Protection Act. This will mean that you are protected from reprisals because of making the disclosure. It also means that your disclosure must be handled by Monash in accordance with a special system of assessment, investigation and management.

exchange for the discharge of a public duty, or favours unmeritorious applications for jobs or permits by friends and relatives.

² Substantial mismanagement means that it must be of a significant or considerable degree. Mismanagement is to manage badly or wrongly and is different to misuse which is wrong or improper use.

³ Substantial means that the conduct must put public health, safety or the environment at considerable or great risk.

How to make a protected disclosure

1. You can make a disclosure orally (in person or on the telephone), or in writing. You can send it by fax, email or post, or deliver it by hand.
2. You can make a disclosure to any employee of Monash University, however Monash University recommends that disclosures are made to the [Protected Disclosure Coordinator or to a Protected Disclosure Officer](#).
3. Monash has appointed certain staff as the [Protected Disclosure Coordinator and Protected Disclosure Officers](#). These people are trained to receive, assess and manage your disclosure. Monash recommends that you make your disclosure to these staff to ensure that it can be handled promptly, and to minimise to the greatest extent possible the possibility that you are subjected to any detriment or reprisal because of the disclosure.
4. Your complaint can be anonymous, but be aware that this can make it difficult for the disclosure to be investigated, and you will not be informed of the outcome.
5. You do not have to refer to the Whistleblower Protection Act when you make your disclosure.
6. To ensure the efficient and thorough assessment and investigation of your complaint, Monash recommends that you:
 - include the main problems and facts as you believe them;
 - include enough details for Monash to understand and resolve the problem;
 - be brief and concise;
 - include with your complaint copies of any relevant supporting documents;
 - if you have unsuccessfully attempted to resolve a previous complaint with Monash in the past, explain what happened and why you are not satisfied with the outcome; and

→ explain what outcome you are seeking.

For more information about making a disclosure, see Monash University's "[Conduct and Compliance Procedure - Whistleblowers](#)" and the Ombudsman's fact sheet called "[Whistleblowers Protection Act 2001 - How to make a disclosure and obtain protection](#)".

Once I have made a “disclosure” under the Whistleblower Protection Act, what happens next?

- Once you have made your complaint it will be referred to the Protected Disclosure Coordinator or a Protected Disclosure Officer at Monash for assessment.

- A decision will be made as to whether the disclosure is
 - a protected disclosure (which means you are protected from reprisals by the Whistleblowers Protection Act) and if so,
 - if it is a public interest disclosure (which means that it will be referred to the Ombudsman).

- This decision will be made within 45 days of the day you made your disclosure. Monash then has 14 days to notify you of its decision.

- If you have not made your disclosure anonymously, the Protected Disclosure Coordinator will let you know what the decision is and on what grounds it was made. (If you have made your disclosure anonymously, it will probably be impossible for Monash to contact you.)

- If you disagree with the decision, you may provide more information to Monash to support your allegations and Monash will reassess its decision. Alternatively you can appeal to the Ombudsman about Monash's decision.

- If your disclosure is found to be a protected disclosure, you will be protected by the Whistleblower Protection Act against reprisals for making the disclosure and confidentiality must be maintained.
- It is in your best interests not to talk to other people about your disclosure.
- Within 14 days of making a decision as to whether your protected disclosure is a public interest disclosure, Monash will notify you of that decision (where possible) and refer to disclosure to the Ombudsman for a determination as to whether it is a public interest disclosure.
- Within 14 days of a decision that your protected disclosure is NOT a public interest disclosure, Monash will notify you of that decision (where possible) and advise you that you can refer the disclosure to the Ombudsman for a review of that decision and that this request must be made within 28 days.
- If the Protected Disclosure Coordinator concludes that the disclosure amounts to a public interest disclosure, he or she will appoint a welfare manager to you. In most circumstances, a welfare manager will only be required where a disclosed matter proceeds to investigation. The welfare manager will monitor the needs of the whistleblower, provide advice and support.
- Even if your disclosure is not a public interest disclosure, you are still protected from reprisals because of your disclosure.
- It is a criminal offence if anyone takes action in reprisal or threatens you with reprisal for making the disclosure. It is also a criminal offence to breach confidentiality unless the Whistleblower Protection Act explicitly allows it.
- It is also a criminal offence to obstruct the Ombudsman or provide false information with the intention that it be acted on as a disclosed matter.
- If your disclosure is found to be a public interest disclosure by the Ombudsman, the Ombudsman will determine the appropriate way to investigate. The Ombudsman will tell you whether an investigation will take place, and whether Monash or the Ombudsman will carry out the investigation.

- If your disclosure is not found to be a public interest disclosure by the Ombudsman, you will be given the option of having the complaint dealt with under the *Ombudsman Act 1973*. If you wish to do this, you must make this request within 28 days of being given notice.
- If the Ombudsman refers your disclosure to Monash to investigate, Monash can then conduct the investigation or appoint external investigators. The principles of natural justice will be followed in investigations of a public interest disclosure.
- Monash will collate information as quickly as possible, consider the information and draw conclusions impartially and objectively. Procedural fairness will be maintained for all participants. The investigation will conclude with findings and recommendations.
- The investigator will contact you during the investigation. You may be asked to clarify any matters, provide additional material you may have and participate in a taped interview. The investigator will be sensitive to any fear of reprisals you may have.
- The Ombudsman will monitor investigations conducted by Monash. If the Ombudsman is not satisfied with the investigation, it may take over the investigation. If the Whistleblower has reasonable grounds to be dissatisfied with the investigation, he or she may request the Ombudsman to conduct the investigation.
- Monash will report to the Ombudsman its findings as to whether the allegations were substantiated or not. If the allegations were substantiated, it will report its findings and the actions taken to the relevant Minister.
- Monash will also inform you of the findings and any steps taken as a result.

For more information about the handling of disclosures, see Monash University's "[Conduct and Compliance Procedure - Whistleblowers](#)" and the Ombudsman's fact sheet called "[Whistleblowers Protection Act 2001 - What happens when the Ombudsman investigates a whistleblower's complaint](#)".