

# Whistleblowers Protection Act 2001 (Vic)

## Perspective from the Victorian Ombudsman's Office

Presented by:  
Susan Lakey  
Whistleblowers Officer

## Overview

- Major features of the Act and Guidelines
- Meaning of improper conduct
- Protected and Public Interest Disclosures
- Issues arising from investigations
- People management issues
- Requirements of natural justice
- The “mystique” of whistleblower legislation

## Major Features of the Act

- Part 1: Scope of the Act
- Part 2: Protected Disclosures
- Part 3: Protection to Whistleblowers
- Part 4: Public Interest Disclosures
- Part 5: Investigation by Ombudsman
- Part 6: Investigation by Public Bodies

## Improper Conduct

- Initial consideration
- Must be of a serious nature
- Dishonesty indicative but not essential
- Often problems of a systemic nature

## Protected Disclosures

- Must be reasonable grounds for belief
- Consider the surrounding circumstances
- Attracts protection under the Act
- Requirement for further examination of complaint under Part 4

## Public Interest Disclosures

- Supporting documentation important
- Evidence must ‘show or tend to show’ improper conduct
- Requirement for Ombudsman to make a formal determination
- Referral of disclosures

## Investigations

- Investigation guidelines from ICAC
- Balancing requirements of natural justice
- Dealing with obstruction
- Section 108: Evidence obtained during the course of an investigation

## People Management

- Key concept given nature of whistleblower complaints
- Ongoing support of whistleblower
- Managing the whistleblower's expectations
- Non-protection of witnesses
- Dealing with the subject of the allegations

## Subject of the Allegations

- Has the right to respond to allegations
- Does not have the right per se to legal representation during an interview
- Must be aware of any criticisms contained in report and given opportunity to respond

## The Whistleblower "Mystique"

- The Act has attracted both positive and negative responses from complainants
- The Act investigates a particular type of conduct, albeit of a serious nature
- Aims to strike a balance between protecting whistleblowers and investigating disclosures