Checklist for a person wanting to make a complaint about improper conduct, or detrimental action, in contravention of section 45 of the Protected Disclosure Act 2012 (the PD Act).

If you have information about improper conduct, corrupt conduct, the dishonest performance of an employee, a breach of public trust, the misuse of information or resources, and/or fraud, you may wish to find out if the information would constitute a protected disclosure in accordance with the PD Act. Use this simple checklist as a guide, and follow the steps below if you tick all the boxes.

**Step 1**

☐ 1. You are a person, not an organisation;

☐ 2. Who has information that shows or tends to show, or information that you believe on reasonable grounds, shows or tends to show that;

☐ 3. Monash University and/or an employee of Monash University and/or a former employee of Monash University and/or a Council Member and/or a former Council member has either:

☐ 4a. Engaged, is engaging or proposes to engage in improper conduct in their capacity as a public officer or public body; or

☐ 4b. Taken, is taking or proposes to take detrimental action as public officer or public body in contravention of section 45 of the Protected Disclosure Act.

**Step 2**

If you ticked boxes 1, 2 and 3, and either 4a or 4b, then contact one of the following:

- The Independent Broad-based Anti-corruption Commission (‘IBAC’);
- The Victorian Ombudsman

IBAC or the Ombudsman will be able to provide you with information on the next steps that will be taken.

If you have not ticked all the boxes 1-3 and either box 4a or 4b, your complaint may be more appropriately dealt with by Monash University under one of its policies or procedures. Other relevant policies are Fraud and Corruption Policy, Fiscal Misconduct Policy and the Human Resources Policies and Procedures.

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i You must be a person, not an entity (company or organisation). Your complaint may be anonymous.

ii Your information may not always be in the form of documents, for example you may have heard the information and want to pass it on to the appropriate person.

iii Monash University is a public body under the Act
An employee of Monash University is considered to be a Public Officer under the Act.
A former employee’s actions may be included if they were an employee at the time the conduct occurred.
A Council member is considered a Public officer under the Act.
A former Council Member’s actions may be included if they were a Council Member at the time the conduct occurred.
The PD Act states at section 4 the meaning of improper conduct:

1. For the purposes of this Act, improper conduct means—
   a. corrupt conduct; or
   b. conduct specified in subsection (2) that is not corrupt conduct but that, if proved, would constitute—
      i. a criminal offence; or
      ii. reasonable grounds for dismissing or dispensing with, or otherwise terminating, the services of the officer who was, or is, engaged in that conduct.

2. For the purposes of subsection (1)(b), specified conduct is conduct—
   a. 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
   b. 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
   c. of a public officer or public body that constitutes or involves knowingly or recklessly breaching public trust; or
   d. 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
   e. that could constitute a conspiracy or an attempt to engage in any conduct referred to in paragraph (a), (b), (c) or (d); or
   f. of a public officer or public body in his or her capacity as a public officer or its capacity as a public body that—
      i. involves substantial mismanagement of public resources; or
      ii. involves substantial risk to public health or safety; or
      iii. involves substantial risk to the environment.

Corrupt conduct is defined in the Independent Broad-based Anti-corruption Commission Act 2011 (‘IBAC Act’) at section 4 as:

a. 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
b. 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
(c) of a public officer or public body that constitutes or involves knowingly or
recklessly breaching public trust; or

(d) 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

(e) that could constitute a conspiracy or an attempt to engage in any conduct
referred to in paragraph (a), (b), (c) or (d)—

being conduct that would, if the facts were found proved beyond reasonable doubt
at a trial, constitute a relevant offence.

(2) Conduct may be corrupt conduct for the purposes of this Act if—

(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.

‘Relevant offence’ is defined in the IBAC Act at section 3 as:

(a) an indictable offence against an Act; or

(b) any of the following common law offences committed in Victoria—

   (i) attempt to pervert the course of justice;

   (ii) bribery of a public official;

   (iii) perverting the course of justice;

\[IX\] A public officer is an employee or a Council member
\[x\] Monash University is a public body
\[xi\] Detrimental Action is defined in the PD Act in section 3, which states:

detrimental action includes—

(a) action causing injury, loss or damage;

(b) intimidation or harassment;

(c) discrimination, disadvantage or adverse treatment in relation to a person’s
employment, career, profession, trade or business, including the taking of disciplinary
action.

\[xii\] A public officer includes an employee and a Council member
\[xiii\] Monash University is a Public Body
\[xiv\] See the Conduct and Compliance Procedures- Whistleblowers for the contact details for IBAC or see www.ibac.vic.gov.au
\[xv\] See www.ombudsman.vic.gov.au