

## Consultancies

During 2002/03 a total of 22 approved consultancies were undertaken at a combined cost of \$341,000. Of these, no consultancies were greater in value than \$100,000.

## Freedom of Information

The following information is provided pursuant to section 7(1)(a)(ii) of the *Freedom of Information Act* 1982 (the FOI Act).

Requests for access to documents in the possession of CFA are dealt with by CFA's Freedom of Information (FOI) Officer and FOI Project Officer.

### Making a Request

A request generally falls into one of two categories:

1. Requests for access to documents of the agency which must contain sufficient information to identify the documents sought.
2. Requests for amendment of personal records, which must identify the record involved sufficiently and specify the amendment sought.

The two main categories of information normally requested under the FOI Act include individuals asking for their personal documents and documents relating to the activities of the agency.

CFA has various record keeping systems. The main ones are described below. They may assist applicants to identify the types of documents to which access is sought. CFA holds files relating to employees and volunteers, operational and policy matters, general administrative responsibilities and correspondence. The FOI Officer can provide assistance in determining the categories of files relevant to a request.

Some documents are destroyed in accordance with the *Public Records Act* 1972. It should also be noted that the FOI Act does not entitle an applicant to have access to a document created before July 1978 unless the document relates to the applicant's personal affairs.

A request for access to a document must be made in writing and should be addressed as follows:

Freedom of Information Officer  
Country Fire Authority  
P.O. Box 701  
Mt Waverley Vic 3149

### Fees and Charges

A request must be accompanied by an application fee of \$20. The application fee may be waived in cases where payment is likely to cause financial hardship to the applicant. An application for waiver of the fee should state grounds such as that the applicant has a low income or is the holder of a Commonwealth Health Care Card. Once documents have been located and processed access charges may also apply. These include charges for searching time (\$20 per hour) and photocopying (20c per page). Some access charges may be waived in certain cases.



## Further Information

Further information regarding the FOI Act may be obtained from:

- the FOI Act and regulations under the FOI Act; and
- [www.foi.vic.gov.au](http://www.foi.vic.gov.au)

The FOI Act and regulations under it may be purchased from:

Information Victoria  
356 Collins Street  
Melbourne Vic 3000  
Tel: 1300 366 356  
Website: [www.information.vic.gov.au](http://www.information.vic.gov.au)

## Freedom of Information Contacts

FOI Officer                                      FOI Project Officer  
Tel: (03) 9262 8517                              Tel: (03) 9262 8512

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## Record-keeping systems

### Accounting records

CFA's computerised accounting system records accounts receivable, accounts payable, general ledger entries, budget information, an asset register and other accounting function information.

### Personnel records filing system

The filing system contains individual personal files for CFA staff and volunteers. Current files are held at CFA Headquarters at 8 Lakeside Drive, Burwood East and at CFA's Area and Region Headquarters across the State. Older files are stored in offsite secondary storage facilities. CFA also maintains computerised personnel records for staff and volunteers.

### Agency records management filing

This system contains general files, including FOI files. Current and recent files are held at CFA Headquarters at 8 Lakeside Drive, East Burwood and at CFA's Area and Region Headquarters across the State. Older files are stored in offsite storage facilities.

## Overseas travel

The following overseas travel was undertaken by CFA officers during 2002/03:

Officer	Position	Country visited	Purpose
Len Foster	Chairman	Fiji	Review Memorandum Of Understanding between CFA and Fiji Fire Service

## Contributing insurance companies

for the year ended 30 June 2003

Ace Insurance Ltd  
American Home Assurance Co  
AIOI Insurance Co Ltd  
Allianz Australia Insurance Limited  
American Re-Insurance Company  
AMP General Insurance Limited  
Aon Risk Services Australia Ltd  
Armbro Insurance Brokers Pty Ltd  
Australian Alliance Insurance Limited  
Australian Associated Motor Insurers Ltd  
Ausnet Underwriting Agency Pty Ltd  
Australian International Insurance Limited  
Australian Unity General Insurance Ltd  
Axis Underwriting Services Pty Ltd  
BHP Billiton Marine & General Insurance Pty Ltd  
Booker International Pty Ltd  
Boral Insurance Ltd  
Catholic Church Insurances Ltd  
CGU  
CGU-VACC Insurance Limited  
Chubb Insurance Co of Australia Ltd  
Commonwealth Insurance Ltd  
Continental Insurance Company  
Corrvas Insurance Pty Ltd  
Cumis Insurance Society Inc  
Defence Service Homes Insurance Scheme  
Eig-Ansvar Australia Insurance Ltd

Elders Insurance Ltd  
 Encompass Insurance Agency Pty Ltd  
 Farmers Mutual Insurance Limited  
 F.M. Insurance Company Ltd  
 Gerling Australia Insurance Co Pty Ltd  
 GIO General Ltd  
 Global Underwriting Services Pty Ltd  
 Guild Insurance Co Ltd  
 Hallmark General Insurance Company Ltd  
 Heath Lambert Australia Pty Ltd  
 HLG Australasia Pty Ltd  
 HW Wood Australia Pty Ltd  
 Insurance Manufacturers of Aust. Pty Ltd  
 InterPacific Underwriting Pty Limited  
 Jardine Lloyd Thompson Pty Ltd  
 JMD Ross Insurance Brokers Pty Limited  
 JUA Underwriting Agency Pty Ltd  
 Liberty International Underwriters  
 Lowe Lippmann Bott Pty Ltd  
 Lumley General Insurance Ltd  
 Mansions of Australia Ltd  
 Marsh Pty Ltd  
 Mercantile Mutual Insurance (Aust) Ltd  
 Mitsui Sumitomo Insurance Company Ltd  
 Mutual Community General Insurance Pty Ltd  
 Nipponkoa Insurance Company Ltd  
 NZI Insurance Australia Ltd  
 Orica Insurance Pty Ltd  
 Ovoid Insurance Pty Limited  
 Q.B.E. Insurance Limited  
 QBE Insurance (International) Limited  
 QBE Mercantile Mutual Ltd  
 Reward Insurance  
 Royal & Sun Alliance Insurance Australia Ltd  
 Suncorp Metway Insurance Ltd  
 Sportscover Australia Pty Ltd  
 Stirling Risk Services  
 St Paul International Insurance Company Ltd  
 The Hollard Insurance Company Pty Ltd  
 The Sumitomo Marine & Fire Insurance Co Ltd  
 Territory Insurance Office  
 Tokio Marine & Fire Insurance Co Ltd  
 Transport Industries Insurance Co Ltd  
 Underwriting Solutions  
 Universal Underwriting Services Pty Ltd  
 Western QBE Insurance Limited  
 Westpac General Insurance Limited  
 Westfarmers Federation Insurance Ltd  
 Willis Australia Ltd  
 XL Insurance Company Ltd  
 Zurich Australian Insurance Limited

## Contributions by owners and brokers under Section 80A

for the year ended 30 June 2003

Amcor Limited  
 Aon Risk Services  
 BHP Billiton Limited  
 BMW Australia Finance Limited  
 Cargill Australia Limited  
 Coles Myer Ltd  
 East Victoria Plantation Forest Company of Australia  
 Esso Australia Pty Ltd  
 Ford Motor Company of Australia Limited  
 Green Triangle Plantation Forest Company of Australia Pty Ltd  
 Gresham Underwriting Pty Ltd  
 Guardian Underwriting Services Pty Ltd  
 Heath Lambert Australia Pty Ltd

Industrial & Commercial Insurance Brokers Ltd  
 Marsh Pty Ltd  
 Mobil Oil Australia Pty Ltd  
 Ricegrowers Co-operative Limited  
 Rosemaur Properties Pty Ltd  
 Rural & General Insurance Broking Pty Ltd  
 Shell Australia Limited  
 Strathearn Insurance Brokers  
 Unilever Australasia  
 Unimutual Insurance Limited  
 Watchtower Bible and Tract Society of Australia  
 Wesfarmers Limited  
 Willis Australia Ltd



## Legislation

### Legislative changes

*Country Fire Authority (Volunteer Protection and Community Safety) Act 2003*, No.17 of 2003.

The operation of the Country Fire Authority Regulations 1992 was extended to 31 January 2004 by Subordinate Legislation (Country Fire Authority Regulations 1992 – Extension of Operation) Regulations 2002. SR110/2002.

### **Building Act 1993**

In November 1994 the Minister for Finance issued guidelines pursuant to Section 220 of the *Building Act 1993* to promote conformity in building standards for buildings owned by public authorities. CFA maintains a high extent of compliance with building standards and regulations. During the year, all new building works were undertaken in accordance with the relevant standards.

### **Financial Management Act 1994**

Information applicable to the report of the financial year is retained by CFA in accordance with Part 9.1.3(iv) of the Directions of the Minister for Finance under the *Financial Management Act 1994*. The relevant information is available to the Minister for Police and Emergency Services, the Parliament of Victoria, and the public on application to the accountable officer: Chief Executive Officer.

### **Whistleblowers Protection Act 2001**

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CFA has established Whistleblowers Protection Act procedures in accordance with Part 6 of the *Whistleblowers Protection Act 2001*. A copy of these procedures is included with this report. From 1 July 2002, CFA received no disclosures which satisfied the test of a protected disclosure and were referred by CFA to the Ombudsman for determination as to whether it was a public interest disclosure. No other disclosed matters were referred to the Ombudsman for investigation or otherwise. No investigations of disclosed matters were taken over by the Ombudsman from CFA under section 75, nor did CFA decline to investigate any disclosed matters. During the year, no disclosed matters were substantiated on investigation and action taken on completion of the investigation.

### **National Competition Policy**

CFA has, in recent years, implemented changes to comply with this policy.

## Affiliations

### Emergency groups

AFAC	Australasian Fire Authorities Council
DSE	Department of Sustainability and Environment
EMA	Emergency Management Australia
EMC	Emergency Management Council, Victoria
MFESB	Metropolitan Fire and Emergency Services Board
OESC	Office of the Emergency Services Commissioner

### Key industry bodies

Adult Multicultural Education Service  
Association of Risk and Insurance Management of Australia Ltd  
Australian Industry Group  
Australian Institute of Management  
Council for Equal Opportunity in Employment  
Deakin University  
Department of Education  
Fire Protection Association of Australia  
Government Infrastructure Management System (GIMS) Steering Committee  
Monash University (Mount Eliza)  
Powerline Clearance Consultative Committee  
Public Administration and Community Safety Training Board  
Records Management Association of Australia  
Swinburne University of Technology  
University of Ballarat  
University of Melbourne  
Victoria University of Technology  
Victorian Employers' Chamber of Commerce and Industry

### Volunteer Associations

CFA has a number of joint working parties, committees and project teams with the two volunteer fire brigade associations, Victorian Rural Fire Brigades' Association and Victorian Urban Fire Brigades' Association, and their coordinating body, Volunteer Fire Brigades Victoria.

# Whistleblowers Protection Act 2001

## Procedures

### 1.0 Statement of support to whistleblowers

CFA is committed to the aims and objectives of the Whistleblowers Protection Act. It does not tolerate improper conduct by its employees, officers or members, nor the taking of reprisals against those who come forward to disclose such conduct.

CFA recognises the value of transparency and accountability in its administrative and management practices and supports the making of disclosures that reveal corrupt conduct, conduct involving a substantial mismanagement of public resources or conduct involving a substantial risk to public health and safety or the environment.

CFA will take all reasonable steps to protect people who make such disclosures from any detrimental action in reprisal for the making of the disclosure.

### 2.0 Purpose of these procedures

These procedures establish a system for the reporting of disclosures of improper conduct or detrimental action by CFA or its employees or members of brigades. The system enables such disclosures to be made to the Protected Disclosure Coordinator or to one of the nominated Protected Disclosure Officers.

Employees, members of brigades, or members of the public may make disclosures to CFA.

These procedures are designed to complement normal communication channels between supervisors and CFA personnel. Employees and members of brigades are encouraged to continue to raise appropriate matters at any time with their supervisors. As an alternative, personnel may make a disclosure of serious misconduct in accordance with these procedures.

### 3.0 Objects of the Act

The *Whistleblowers Protection Act 2001* commenced operation on 1 January 2002. The purpose of the Act is to encourage and facilitate the making of disclosures of improper conduct by public officers and public bodies. The Act provides protection to whistleblowers who make disclosures in accordance with the Act and establishes a system for the matters disclosed to be investigated and for rectifying action to be taken.

### 4.0 Definitions of key terms

Three key concepts in the reporting system are "improper conduct", "corrupt conduct" and "detrimental action". Definitions of these terms are set out below:

#### 4.1 Improper conduct

A disclosure may be made about improper conduct by a public body or public official. Improper conduct means conduct that is:

- corrupt,
- a substantial mismanagement of public resources, or
- conduct involving substantial risk to public health or safety or to the environment.

The conduct must be serious enough to constitute, if proved, a criminal offence or reasonable grounds for dismissal.

#### Examples

In order to avoid closure of a town's only industry, an Environmental Health Officer ignores or conceals evidence of illegal dumping of waste.

An agricultural officer delays or declines imposing quarantine to allow a financially distressed farmer to sell diseased stock.

A building inspector tolerates poor practices and structural defects in the work of a leading local builder.

#### 4.2 Corrupt conduct

Corrupt conduct means:

- Conduct of any person (whether or not a public official) that adversely effects the honest performance of a public officer's or public body's functions;
- The performance of a public officer's 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 the above conduct.

#### Examples

A public officer takes a bribe or receives a payment other than his or her wages or salary in exchange for the discharge of a public duty.

A public officer favours unmeritorious applications for jobs or permits by friends and relatives.

A public officer sells confidential information.

#### 4.3 Detrimental action

The Act creates an offence for a person to take detrimental action against a person in reprisal for a protected disclosure. 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.

#### Examples

A public body refuses a deserved promotion of a person who makes a disclosure.

A public body demotes, transfers, isolates in the work place or changes the duties of a whistleblower due to the making of a disclosure.

A person threatens, abuses or carries out other forms of harassment directly or indirectly against the whistleblower, his or her family or friends.

A public body discriminates against the whistleblower or his or her family and associates in subsequent applications for jobs, permits or tenders.

#### 4.4 CFA and State Ombudsman

As CFA has an internal Ombudsman, references in this document to the Victorian Ombudsman shall use the term 'State Ombudsman' with references to CFA's internal Ombudsman being 'CFA Ombudsman'.

#### 4.5 CFA Personnel

As CFA has both employed and volunteer personnel, all of whom are covered by the requirements of the Act and these procedures, the terms 'personnel', 'employees' and 'members of brigades' are used throughout these procedures.

### 5.0 The reporting system

Disclosures can be made in writing or orally to a Protected Disclosure Officer or the Protected Disclosure Coordinator.

Be aware: CFA cannot guarantee the confidentiality of information transmitted by e-mail or fax and advises that disclosures should not be made via e-mail or fax.

#### 5.1 Contact persons within CFA

Disclosures of improper conduct or detrimental action by CFA or its employees or members of brigades may be made to the following officers.

- Protected Disclosure Officers in CFA Areas

In each CFA Area throughout the State, the Area Manager is the Protected Disclosure Officer. Personnel within a CFA Area should direct their disclosure to the Area Manager of that Area.

- Protected Disclosure Officer at CFA Headquarters

Where a person is contemplating making a disclosure and is concerned about making the disclosure to the Area Manager, (s)he can make the disclosure to a Protected Disclosure Officer at CFA Headquarters or the Protected Disclosure Co-ordinator.

Where a person is contemplating making a disclosure and is concerned about approaching the Protected Disclosure Coordinator or a Protected Disclosure Officer in the workplace, he or she can call the relevant officer and request a meeting in a discreet location away from the workplace.

Contact details for CFA's Protected Disclosure Officers and Protected Disclosure Coordinator are listed at the end of these procedures

## 5.2 Alternative contact persons

Where a person does not wish to make a disclosure about improper conduct or detrimental action by CFA or its employees or members of brigades to a CFA Protected Disclosure Officer of the Protected Disclosure Coordinator, that person may make such disclosure directly to the State Ombudsman:

The Ombudsman Victoria  
Level 22, 459 Collins Street  
Melbourne Victoria 3000  
(DX 210174)  
Internet: www.ombudsman.vic.gov.au  
Email: ombudvic@ombudsman.vic.gov.au  
Telephone: 9613 6222  
Toll Free: 1800 806 314

State Ombudsman: Dr Barry Perry Telephone: 9613 6202

## Disclosures not about CFA

The following table sets out where disclosures about persons other than CFA employees or members of brigades should be made:

Person subject of the disclosure	Person/body to whom the disclosure must be made
Employee of a public body other than CFA	- That public body or the State Ombudsman
Member of Parliament (Legislative Assembly)	- Speaker of the Legislative Assembly
Member of Parliament (Legislative Council)	- President of the Legislative Council
Councillor (Local Government)	- The State Ombudsman
Chief Commissioner of Police	- The State Ombudsman or Deputy Ombudsman
Member of the Police Force	- The State Ombudsman, Deputy Ombudsman or Chief Commissioner of Police

## 6.0 Roles and responsibilities

### 6.1 Employees and Members of Brigades

Employees or members of brigades are encouraged to report known or suspected incidences of improper conduct or detrimental action to a Protected Disclosure Officer in accordance with these procedures.

All CFA employees and members of brigades have an important role to play in supporting those who have made a legitimate disclosure. They must refrain from any activity that is, or could be perceived to be, victimisation or harassment of a person who makes a disclosure. Furthermore, they should protect and maintain the confidentiality of a person they know or suspect to have made a disclosure.

### 6.2 Protected Disclosure Officers

Protected Disclosure Officers will:

- Be a contact point for general advice about the operation of the Act for any person wishing to make a disclosure about improper conduct or detrimental action;
- Make arrangements for a disclosure to be made privately and discreetly, and if necessary, away from the workplace;
- Receive any disclosure made orally or in writing (from internal and external whistleblowers);
- Record in writing any disclosure made orally;
- Impartially assess the allegation, based upon verification of the facts, and determine whether it is a disclosure made in accordance with Part 2 of the Act (ie "a protected disclosure");
- Take all necessary steps to ensure that the identity of the whistleblower and the identity of the person who is subject of the disclosure are kept confidential; and
- Forward all disclosures and supporting evidence to the Protected Disclosure Coordinator.

### 6.3 Protected Disclosure Coordinator

The Protected Disclosure Coordinator has a central "clearinghouse" and coordination role in the management of the disclosures. He will:

- Receive all disclosures forwarded from the Protected Disclosure Officers and any disclosures made directly to him by personnel or members of the public.
- Impartially assess each disclosure to determine whether it is a public interest disclosure;
- Refer all matters considered to be "public interest disclosures" to the State Ombudsman;
- Be responsible for carrying out or appointing an investigator to carry out an investigation referred to the public body by the State Ombudsman;
- Be responsible for overseeing and coordinating an investigation where an investigator has been appointed;
- Appoint a welfare manager to provide the whistleblower with support and protection from reprisals;
- Advise the whistleblower of the progress of an investigation into the disclosed matter;
- Establish and manage a confidential filing system;
- Arrange the collation and publishing of statistics on disclosures made;
- Take all reasonable steps to ensure that the identity of the whistleblower and the identity of the person who is subject of the disclosure are kept confidential; and
- Liaise with the Chief Executive Officer.

### 6.4 Investigator

The investigator appointed by the Protected Disclosure Coordinator will be responsible for carrying out an internal investigation into a disclosure that has been referred to CFA by the State Ombudsman. An investigator may be a person from within CFA or a consultant engaged by CFA for that purpose.

### 6.5 Welfare Manager

The Welfare Manager is responsible for looking after the general welfare of the whistleblower. The Welfare Manager will:

- Examine the immediate welfare and protection needs of a whistleblower who has made a disclosure and seek to foster a supportive work environment whilst maintaining confidentiality;
- Advise the whistleblower of the legislative and administrative protections available to him or her;
- Listen and respond to any concerns of harassment, intimidation or victimisation in reprisal for making disclosure; and
- Ensure that the expectations of the whistleblower are realistic.

## 7.0 Confidentiality

CFA will take all reasonable steps to protect the identity of the whistleblower. Maintaining confidentiality is crucial in ensuring that reprisals are not made against a whistleblower. A whistleblower must take all reasonable steps to protect and not reveal his/her identity as a whistleblower.

The Whistleblowers Protection Act requires any person who receives information due to the handling or investigation of a protected disclosure, not to disclose that information except in certain limited circumstances. Disclosure of information in breach of section 22 of the Act constitutes an offence that is punishable by a maximum fine of 60 penalty units (\$6,000) or 6 months imprisonment or both.

The circumstances in which a person may disclose information obtained about a protected disclosure include:

- Where exercising the functions of the public body under the Act;
- When making a report or recommendation under the Act;
- When publishing statistics in the annual report of a public body; and
- In criminal proceedings for certain offences in the Act.

The Act prohibits, however, the inclusion in any report or recommendation particulars that are likely to lead to the identification of the whistleblower. The Act also prohibits the identification of the person who is the subject of the disclosure in any particulars included in an annual report.

CFA will ensure that all files that might identify the whistleblower or the person who is the subject of the disclosure, whether paper or electronic, are kept securely and are accessed only by the Protected Disclosure Coordinator, a Protected Disclosure Officer, investigator or welfare manager. All such printed material will be kept in files which are clearly marked as a Whistleblower Protection Act matter and which warn of the criminal penalties that apply to any

unauthorised divulging of information concerning a protected disclosure. All such electronic files will be produced and stored on a stand-alone computer and be given password protection. Back up files will be kept on floppy disc. All materials relevant to an investigation, such as tapes from interviews, will also be stored securely with the whistleblower files.

CFA will not e-mail documents that might identify the whistleblower or a person who is subject of the disclosure and will ensure that, as far as practicable, all phone calls and meetings relating to disclosures are conducted in private.

Be aware: CFA cannot guarantee the confidentiality of information transmitted by e-mail or fax

As CFA does not consider that e-mail is a secure system for the transmission of confidential information, it advises persons wishing to make disclosures under the Whistleblowers Act not to use e-mail.

## 8.0 Collating and publishing statistics

The Protected Disclosure Coordinator will establish a secure register to record the information required to be published in the annual report and to generally keep account of the status of whistleblower disclosures. The register will be confidential and will not record any information that may identify the whistleblower.

The register will contain the following information:

- The number and types of disclosures made to CFA during the year;
- The number of disclosures referred to the State Ombudsman for determination as to whether they are "public interest disclosures";
- The number and types of disclosed matters referred to CFA by the State Ombudsman for investigation;
- The number and types of disclosures referred by CFA to the State Ombudsman for investigation;
- The number and types of investigations taken over from CFA by the State Ombudsman;
- The number of requests made by a whistleblower to the State Ombudsman to take over an investigation by CFA;
- The number and types of disclosed matters that CFA has declined to investigate;
- The number and types of disclosed matters which were substantiated upon investigation and the action taken on completion of the investigation; and
- Any recommendations made by the State Ombudsman that relate to CFA.

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## 9.0 Receiving and assessing disclosures

### 9.1 Has the disclosure been made in accordance with Part 2 of the Act?

Where a disclosure has been received by the Protected Disclosure Officer or by the Protected Disclosure Coordinator, he or she will assess whether the disclosure has been made in accordance with Part 2 of the Act and is, therefore, a "protected disclosure".

#### 9.1.1 Has the disclosure been made to the appropriate person?

For the disclosure to be responded to by CFA it must concern an employee, member or officer of CFA. If the disclosure concerns an employee, officer or member of another public body, the person who has made the disclosure must be advised of the correct person or body to whom the disclosure should be directed. (Refer to the table in paragraph 5.2). If the disclosure has been made anonymously, it should be referred to the State Ombudsman.

#### 9.1.2 Does the disclosure contain the essential elements of a protected disclosure?

To be a protected disclosure, a disclosure must satisfy the following criteria:

- Did a natural person (ie an individual person rather than a corporation) make the disclosure?
- Does the disclosure relate to conduct of a public body or public officer acting in their official capacity?
- Is the alleged conduct either improper conduct or detrimental action taken against a person in reprisal for making a protected disclosure?
- Does the person making a disclosure have reasonable grounds for believing that the alleged conduct has occurred?

Where a disclosure is assessed to be a "protected disclosure" it is referred to the Protected Disclosure Coordinator. The Protected Disclosure Coordinator will determine whether the disclosure is a "public interest disclosure".

Where a disclosure is assessed not to be a "protected disclosure", the matter does not need to be dealt with under the Whistleblowers Protection Act. The Protected Disclosure Officer will decide in consultation with the Protected Disclosure Coordinator how the matter should be responded to.

#### 9.2 Is the disclosure a "public interest disclosure"?

Where the Protected Disclosure Officer or Coordinator has received a disclosure which has been assessed to be a "protected disclosure", the Protected Disclosure Coordinator will determine whether the disclosure amounts to a "public interest disclosure". This assessment will be made within 45 days of the receipt of the disclosure.

In reaching a conclusion as to whether a protected disclosure is a "public interest disclosure", the Protected Disclosure Coordinator will consider whether the disclosure shows or tends to show that the public officer to whom the disclosure relates:

- Has engaged, is engaging or proposes to engage in improper conduct in his or her capacity as a public officer; or
- Has taken, is taking or proposes to take detrimental action in reprisal for the making of the protected disclosure.

Where the Protected Disclosure Coordinator concludes that the disclosure amounts to a "public interest disclosure", he or she will:

1. Notify the person who made the disclosure of that conclusion; and
2. Refer the disclosure to the State Ombudsman for formal determination as to whether it is indeed a public interest disclosure.

Where the Protected Disclosure Coordinator concludes that the disclosure is not a "public interest disclosure", he will:

1. Notify the person who made the disclosure of that conclusion; and
2. Advise that person that he or she may request CFA to refer the disclosure to the State Ombudsman for a formal determination as to whether the disclosure is a public interest disclosure and that this request must be made within 28 days of the notification.

In either case, the Protected Disclosure Coordinator will make the notification and the referral within 14 days of the conclusion being reached by CFA. Notification to the whistleblower will not occur where the disclosure has been made anonymously.

## 10.0 Investigations

### 10.1 Introduction

Where the State Ombudsman refers a protected disclosure to CFA for investigation, the Protected Disclosure Coordinator will appoint an investigator to carry out the investigation.

The objectives of an investigation will be:

- To collate information relating to the allegation as quickly as possible. This may involve taking steps to protect or preserve documents, materials and equipment;
- To consider the information collected and to draw conclusions objectively and impartially;
- To maintain procedural fairness in the treatment of witnesses and the person who is the subject of the disclosure; and
- To make recommendations arising from the conclusions drawn concerning remedial or other appropriate action.

### 10.2 Terms of reference

Before commencing an investigation terms of reference will be established and authorised by the Chief Executive Officer. The terms of reference will set a date by which the investigation report is to be concluded and will describe the resources available to the investigator to complete the investigation within the time set. An extension of time requested by the investigator may, if reasonable, be approved by the Protected Disclosure Coordinator. The terms of reference will require the investigator to make regular reports to the Protected Disclosure Coordinator, who in turn is to keep the State Ombudsman informed of general progress.

### 10.3 Investigation plan

The investigator will prepare an investigation plan for approval by the Protected Disclosure Coordinator. The plan will list the issues to be substantiated and describe the avenue of inquiry. It will address the following issues:

- What is being alleged?
- What are the possible findings or offences?
- What are the facts in issue?
- How is the inquiry to be conducted?
- What resources are required?

The investigator will notify the whistleblower that he or she has been appointed to conduct the investigation. The whistleblower will be asked to clarify any matters or provide any additional material he or she might have. The investigator will be sensitive to the whistleblower's possible fear of reprisals and will be aware of the statutory protections provided to the whistleblower.



#### 10.4 Natural Justice

The principles of natural justice will be followed in any investigation of a public interest disclosure. The principles of natural justice concern procedural fairness and ensure that a fair decision is reached by an objective decision maker. Maintaining procedural fairness protects the rights of individuals and enhances public confidence in the process.

CFA will have regard to the following issues in ensuring procedural fairness:

- The person who is subject of the disclosure is entitled to know the allegations made against him or her and must be given the right to respond. (This does not mean that the person must be advised of the allegation as soon as the disclosure is received or the investigation has commenced);
- If the investigator is contemplating making a report adverse to the interests of any person, that person should be given the opportunity to put forward further material which may influence the outcome of the report and that person's defence should be fairly set out in the report;
- All relevant parties to a matter should be heard and all submissions should be considered;
- A decision should not be made until all reasonable inquiries have been made;
- The investigator or any decision maker should not have a personal or direct interest in the matter being investigated;
- All proceedings must be carried out fairly and without bias. Care should be taken to exclude perceived bias from the process; and
- The investigator must be impartial in assessing the credibility of the whistleblower(s) and any witnesses. Where appropriate, conclusions as to credibility should be included in the investigation report.

#### 10.5 Conduct of the investigation

The investigator will make contemporaneous notes of all discussions and phone calls. Interviews with witnesses may be taped. All information gathered in an investigation will be stored securely. Interviews will be conducted in private and the investigator will take all reasonable steps to protect the identity of the whistleblower. Where disclosure of the identity of the whistleblower cannot be avoided, due to the nature of the allegations, the investigator will warn the whistleblower and his or her welfare manager of this probability.

It is in the discretion of the investigator to allow any witness to have legal or other representation or support during an interview. Generally, if a witness has a special need for legal representation or support, permission will be granted.

Where a witness chooses to have legal representation or other support, it shall be the responsibility of the witness to obtain and fund that legal representation or other support.

#### 10.6 Referral of an investigation to the State Ombudsman

The Protected Disclosure Coordinator will make a decision regarding the referral of an investigation to the State Ombudsman where, on the advice of the investigator:

- The investigation is being obstructed, for example, by the non-cooperation of key witnesses; or
- The investigation has revealed conduct that may constitute a criminal offence.

#### 10.7 Reporting requirements

The Protected Disclosure Coordinator will ensure that the whistleblower is kept regularly informed of the progress of the handling of a protected disclosure and an investigation.

The Protected Disclosure Coordinator will report to the State Ombudsman about the progress of an investigation.

Where the State Ombudsman or the whistleblower requests information about the progress of an investigation, that information will be provided within 28 days of the date of the request.

#### 11.0 Action taken after an investigation

##### 11.1 Investigator's final report

At the conclusion of the investigation, the investigator will submit a written report of his or her findings to the Protected Disclosure Coordinator.

The report will contain:

- The allegation(s);
- An account of all relevant information received and if the investigator has rejected evidence as being unreliable, the reasons for this opinion being formed;
- The conclusions reached and the basis for them; and
- Any recommendations arising from the conclusions.

Where the investigator has found that the alleged conduct disclosed by the whistleblower has occurred, recommendations made by the investigator will include:

- The steps that need to be taken by CFA to prevent the conduct from continuing or occurring in the future;
- Any action that should be taken by CFA to remedy any harm or loss arising from the conduct. This action may include the bringing of disciplinary proceedings against the person responsible for the conduct, and the referral of the matter to an appropriate authority for further consideration.

The report will be accompanied by:

- The transcript or other record of any oral evidence taken, including any tape recordings;
- All documents, statements or other exhibits received by the officer and accepted as evidence during the course of the investigation.

Where the investigator's report is to include an adverse comment against any person, that person will be given the opportunity to respond and his or her defence will be fairly included in the report.

The report will not disclose particulars likely to lead to the identification of the whistleblower.

##### 11.2 Action to be taken

If the Protected Disclosure Coordinator is satisfied that the investigation has found that the disclosed conduct has occurred, he or she will recommend to the Chief Executive Officer the action to be taken to prevent the conduct from continuing or occurring in the future. The Protected Disclosure Coordinator may also recommend that action be taken to remedy any harm or loss arising from the conduct.

The Protected Disclosure Coordinator will provide a written report to Minister for Police and Emergency services, the State Ombudsman and the whistleblower setting out the findings of the investigation and any remedial steps taken.

Where the investigation concludes that the alleged conduct did not occur, the Protected Disclosure Coordinator will report these findings to the State Ombudsman and to the whistleblower.

#### 12.0 Managing the welfare of the whistleblower

##### 12.1 Commitment to protecting whistleblowers

CFA is committed to the protection of genuine whistleblowers against detrimental action taken in reprisal for the making of protected disclosures. The Protected Disclosure Coordinator is responsible for ensuring that whistleblowers are protected from direct and indirect detrimental action and that the culture of the workplace is supportive of protected disclosures being made.

The Protected Disclosure Coordinator will appoint a welfare manager to all whistleblowers who have made a protected disclosure. The welfare manager will:

- Examine the immediate welfare and protection needs of a whistleblower who has made a disclosure and where the whistleblower is an employee, seek to foster a supportive work environment whilst still maintaining confidentiality;
- Advise the whistleblower of the legislative and administrative protections available to him or her;
- Listen and respond to any concerns of harassment, intimidation or victimisation in reprisal for making disclosure;
- Keep a contemporaneous record of all aspects of the case management of the whistleblower including all contact and follow up action; and to
- Ensure that the expectations of the whistleblower are realistic.

All employees and members of brigades will be advised that it is an offence for a person to take detrimental action in reprisal for a protected disclosure. The maximum penalty is a fine of 240 penalty units (\$24,000) or 2 years imprisonment or both.

The taking of detrimental action in breach of this provision can also be grounds for the making of a disclosure under the Act and can result in an investigation.

Detrimental action includes:

- causing injury, loss or damage to person or property;
- 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).



### 12.2 Keeping the whistleblower informed

Except in the case of an anonymous disclosure, the Protected Disclosure Coordinator will ensure that the whistleblower is kept informed of action taken in relation to his or her disclosure and the time frames that apply. The whistleblower will be informed of the objectives of an investigation, the findings of an investigation and the steps taken by CFA to address any improper conduct that has been found to have occurred. The whistleblower will be given reasons for decisions made by CFA in relation to a protected disclosure. All communication with the whistleblower will be in plain English.

### 12.3 Occurrence of detrimental action

Where a whistleblower reports an incident of harassment, discrimination or adverse treatment that would amount to detrimental action taken in reprisal for the making of the disclosure, the Welfare Manager will:

- Record details of the incident
- Advise the whistleblower of his or her rights under the Act

AND

- Advise the Protected Disclosure Coordinator or Chief Executive Officer of the detrimental action.

The taking of detrimental action in reprisal for the making of a disclosure can be an offence against the Act as well as grounds for making a further disclosure. Where such detrimental action is reported, the Protected Disclosure Coordinator will assess the report as a new disclosure under the Act. Where the Protected Disclosure Coordinator is satisfied that the disclosure is a public interest disclosure, he or she will refer it to the State Ombudsman. If the State Ombudsman subsequently determines the matter to be a public interest disclosure, the State Ombudsman may investigate the matter or refer it to another body for investigation as outlined in the Act.

### 12.4 Whistleblowers implicated in improper conduct

Where a person who makes a disclosure is implicated in misconduct, CFA will handle the disclosure and protect the whistleblower from reprisals in accordance with the Act, the State Ombudsman's guidelines and these procedures.

CFA acknowledges that the act of whistleblowing does not shield whistleblowers from the reasonable consequences flowing from any involvement in improper conduct. Section 17 of the Act specifically provides that a person's liability for his or her own conduct is not affected by the person's disclosure of that conduct under the Act. However, in some circumstances an admission may be a mitigating factor when considering disciplinary or other action.

The Chief Executive Officer will make the final decision on the advice of the Protected Disclosure Coordinator as to whether disciplinary or other action will be taken against a whistleblower. Where disciplinary or other action relates to conduct which is the subject of the whistleblower's disclosure, the disciplinary or other action will only be taken after the disclosed matter has been appropriately dealt with.

In all cases where disciplinary or other action is being contemplated, the Chief Executive Officer must be satisfied that it has been clearly demonstrated that:

- The intention to proceed with disciplinary action is not causally connected to the making of the disclosure (as opposed to the content of the disclosure or other available information);
- There are good and sufficient grounds which would fully justify action against any non-whistleblower in the same circumstances;
- There are good and sufficient grounds that justify exercising any discretion to institute disciplinary or other action.

The Protected Disclosure Coordinator will thoroughly document the process 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 making of the disclosure. The Protected Disclosure Coordinator will clearly advise the whistleblower of the proposed action to be taken and of any mitigating factors that have been taken into account.

### 13.0 Management of the person against whom a disclosure has been made

CFA recognises that employees and members of brigades against whom disclosures are made must also be supported during the handling and investigation of disclosures. CFA will take all reasonable steps to ensure the confidentiality of the person subject of the disclosure during the assessment and investigation process. Where investigations do not substantiate disclosures, the fact that the investigation has been carried out, the results of the investigation and the identity of the person subject of the disclosure will remain confidential.

The Protected Disclosure Coordinator will ensure that the person subject of any disclosure that is investigated by or on behalf of CFA is:

- Informed as to the substance of the allegations;
- Given the opportunity to answer the allegations before a final decision is made;
- Informed as to the substance of any adverse comment that may be included in any report arising from the investigation; and has
- His or her defence set out fairly in any report.

Where the allegations in a disclosure have been investigated, and the person who is subject of the disclosure is aware of the allegations or the fact of the investigation, the Protected Disclosure Coordinator will formally advise the person subject of the disclosure the outcome of the investigation.

CFA will give its full support to a person subject of a disclosure where the allegations contained in a disclosure are clearly wrong or unsubstantiated. If the matter has been publicly disclosed, the Chief Executive Officer of CFA will consider any request by that person to issue a statement of support setting out that the allegations were clearly wrong or unsubstantiated.

### 14.0 Criminal Offences

CFA will ensure that officers appointed to handle protected disclosures and all other personnel are aware of the following offences created by the Act:

1. It is an offence for a person to take detrimental action against a person in reprisal for a protected disclosure being made. The Act provides a maximum penalty of a fine of 240 penalty units (\$24,000) or 2 years imprisonment or both.
2. It is an offence for a person to divulge information obtained as a result of the handling or investigation of a protected disclosure without legislative authority. The Act provides a maximum penalty of 60 penalty units (\$6,000) or 6 months imprisonment or both.
3. It is an offence for a person to obstruct the State Ombudsman in performing his responsibilities under the Act. The Act provides a maximum penalty of 240 penalty units (\$24,000) or 2 years imprisonment or both.
4. It is an offence for a person to knowingly provide false information under the Act with the intention that it be acted on as a disclosed matter. The Act provides a maximum penalty of 240 penalty units (\$24,000) or 2 years imprisonment or both.

### 15.0 Review

These procedures will be reviewed annually to ensure that they meet the objectives of the Act and accord with the State Ombudsman's guidelines and may be amended from time to time as necessary.

### CFA's Protected Disclosure Officers and Coordinator Protected Disclosure Officers in Areas

<b>South West Area</b> Mr J Rowe Area Manager 182 Mt Baimbridge Road Hamilton 3300 P.O. Box 389 Hamilton 3300 Phone 5572 3122	<b>North East Area</b> Mr A Davies Area Manager 270 Maude Street Shepparton 3630 P.O. Box 932 Shepparton 3630 Phone 5831 4075	<b>Westernport Area</b> Mr A Ford Area Manager 120 Princes Hwy Dandenong 3175 Phone 9793 4088	<b>Midlands-Wimmera Area</b> Mr D Kelly Area Manager 1120 Sturt Street Ballarat 3350 Phone 5331 7966	<b>Barwon/Corangamite Area</b> Mr P Stacchino Area Manager 61 Separation Street North Geelong 3215 P.O. Box 586 North Geelong 3215 Phone 5277 1499
<b>North West Area</b> Mr P O'Brien Area Manager 120 Curlewis Street Swan Hill 3585 P.O. Box 558 Swan Hill 3585 Phone 5033 1884	<b>Yarra Area</b> Mr T White Area Manager 18-22 Lakeview Drive Lilydale 3140 Phone 9735 0511	<b>Outer Metro Norwest Area</b> Mr L De Man Area Manager 15 Melton Valley Drive Melton 3337 PO Box 50 Melton 3337 Phone 9747 6014	<b>Gippsland Area</b> Mr I Symons Area Manager Level 3 Port of Sale Business Centre Foster Street, Sale 3850 P.O. Box 1212 Sale 3853 Phone 5144 2933	

### Protected Disclosure Officers at CFA Headquarters

Mr T. Kempton-Hall and Ms A. Burton, 8 Lakeside Drive, Burwood East, P.O. Box 701, Mt Waverley 3149, Phone 9262 8444

### The Protected Disclosure Coordinator

Mr K. J. Maynes, CFA Ombudsman 8 Lakeside Drive, Burwood East, P.O. Box 701, Mt Waverley 3149, Phone 9262 8444

