

# Fair Jobs Code

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## Victorian Fair Jobs Code

1 January 2023

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## 1. Purpose

- 1.1 The Victorian Government is committed to ensuring that suppliers tendering for threshold procurement contracts or high value procurement contracts, and businesses applying for significant business expansion grants, are recognised for treating workers fairly.
- 1.2 The Victorian Fair Jobs Code (**Code**) seeks to:
  - a. Promote fair labour standards;
  - b. Encourage compliance with employment, industrial relations and workplace health and safety obligations;
  - c. Promote secure employment and job security;
  - d. Foster cooperative and constructive relationships between employers, employees and their representatives;
  - e. Promote workplace equity and diversity; and
  - f. Encourage supply chain companies to comply with similar employment standards.
- 1.3 This Code comprises the following requirements:
  - a. All suppliers seeking to be considered for threshold procurement contracts or high value procurement contracts, and businesses applying for significant business expansion grants, must hold a Pre-Assessment Certificate as a pre-condition to eligibility; and
  - b. All suppliers seeking to be considered for high value procurement contracts, and businesses applying for significant business expansion grants, must also submit a Fair Jobs Code Plan (FJC Plan) to the contracting Victorian Government agency, as part of procurement or grant processes conducted by the agency.
- 1.4 This Code recognises that integral to any procurement or grant process is the expectation that Victorian Government agencies will independently consider the merit of potentially insourcing projects ahead of, and as part of, any procurement or grant assessment process.

## 2. Implementation

- 2.1 **From 10 August 2022:** Guidelines, templates and supporting information will be released, and applications will open for Pre-Assessment Certificates.
- 2.2 **From 1 December 2022:** All Victorian Government agencies must apply this Code to all tender processes (and subsequent procurement contracts) and grant applications (and subsequent grants) released to the market or to the public on or after this date.
- 2.3 For **Standing Offer Arrangements (including State Purchase Contracts and Sole Entity Purchase Contracts)** this Code will apply from the date that the Standing Offer Arrangement commences or is updated or reissued to refer to this Code following implementation.

### 3. Definitions

#### 3.1 In this Code:

- a. **'adverse rulings'** means a ruling by any court, tribunal, board, commission or other entity with jurisdiction or legal authority to determine the matter, that the supplier or business has breached an applicable employment, industrial relations or workplace health and safety law.
- b. **'agency'** means a department or public body within the meaning of the *Financial Management Act 1994*.
- c. **'assessment criteria'** means the criteria set out in clause 5.5 of this Code for determining whether a business or supplier should obtain or retain a Pre-Assessment Certificate.
- d. **'business'** means any entity that applies for a significant business expansion grant from a Victorian Government agency.
- e. **'enforceable undertaking'** means a promise or agreement made by a supplier or business with a regulator, Court or other relevant body (including the Fair Work Ombudsman, WorkSafe Victoria and Wage Inspectorate Victoria) in respect of a breach or alleged/suspected breach of an applicable employment, industrial relations or workplace health and safety law.
- f. **'FJC Plan Addendum'** means a business' or supplier's Fair Jobs Code industrial relations and occupational health and safety Addendum as required under clause 5.18(b)(ii).
- g. **'FJC Plan'** means a business' or supplier's Fair Jobs Code Industrial Relations and Occupational Health and Safety Plan, which addresses industrial relations, occupational health and safety requirements and commitments and standards as required by this Code.
- h. **'FJC Unit'** means the Fair Jobs Code Unit, an administrative group within the Department of Jobs, Skills, Industry and Regions with responsibilities in relation to this Code.
- i. **'high value procurement contract'** means a contract between a supplier and a Victorian Government agency with a value of \$20 million or more (exclusive of GST).
- j. **'including' means** including but not limited to.
- k. **'Minister'** means the Minister for Industry and Innovation.
- l. **'significant business expansion grant' means** a grant from a Victorian Government agency with a value of \$500,000 or more (exclusive of GST) and where the key milestones under the grant agreement specify that the business will deliver new jobs.
- m. **'significant subcontractor' means** an entity engaged, or to be engaged, under a subcontract directly with a supplier for a high value procurement contract, where the value of that subcontract is \$10 million or more (exclusive of GST).
- n. **'subcontractor'** means an entity engaged, or to be engaged by a supplier, under a subcontract.
- o. **'supplier'** means any entity that supplies or proposes to supply goods, services or works, including construction works and services, to a Victorian Government agency, with the exception of public entities providing goods, services or works for essential services related to the supply of electricity, natural gas, water, waste water or telecommunications.
- p. **'threshold procurement contract'** means a contract between a supplier and a Victorian Government agency with a value of \$3 million or more (exclusive of GST).

## 4. Application

### 4.1 This Code applies to:

- a. all Victorian Government agencies;
- b. all suppliers seeking to be considered for threshold procurement contracts or high value procurement contracts with a Victorian Government agency; and
- c. all businesses seeking to be considered for significant business expansion grants from a Victorian Government agency.

### 4.2 Where a natural person, sole trader or partnership seeks to be considered for a threshold procurement contract or high value procurement contract with a Victorian Government agency, or a significant business expansion grant from a Victorian Government agency, this Code applies to them, to the extent relevant, as if they were a supplier or business.

### 4.3 Victorian Government agencies may enter into a threshold procurement contract or high value procurement contract with a supplier which does not have a Pre-Assessment Certificate, if the procurement is:

- a. for emergency goods, services or works to protect essential security interests, or avoid the loss of critical services or prevent critical services from being disrupted; or
- b. for goods, services or works required to prevent an imminent risk to health and safety or to avoid life-threatening situations.

Victorian Government agencies must report such emergency procurement contracts to the Minister within 20 business days of entering into such a contract, including the reasons for the procurement and the basis for its urgency.

### 4.4 Victorian Government agencies may enter into a threshold procurement contract or high value procurement contract with a supplier which does not have a Pre-Assessment Certificate, if the Minister is satisfied that:

- a. the procurement is critical to the State's interest; and
- b. there is no other supplier that holds a Pre-Assessment Certificate considered suitable to meet the requirements of the procurement.

### 4.5 Victorian Government agencies may provide a significant business expansion grant to a business which does not have a Pre-Assessment Certificate, in circumstances where the grant is for a project or activity or in support of a policy that contributes to the State's economic interests.

## 5. Pre-Assessment Certificate

- 5.1 Suppliers seeking to be considered for threshold procurement contracts or high value procurement contracts with a Victorian Government agency, and businesses applying for significant business expansion grants from a Victorian Government agency, must hold a Pre-Assessment Certificate.
- 5.2 The FJC Unit is responsible for issuing a supplier or business with a Pre-Assessment Certificate. This will be assisted by information provided by the supplier or business and a due diligence assessment regarding compliance with Standard 1 of this Code over the past three years.
- 5.3 Each Pre-Assessment Certificate is valid for a period of two years from the date of issue, unless revoked by the FJC Unit or surrendered by the supplier or business. A supplier or business may also apply for renewal of its Pre-Assessment Certificate.
- 5.4 The assessment will be conducted by the FJC Unit consistent with the assessment criteria in clause 5.5 below, the outcome for which will be one of the following:
  - a. *Issuing a Pre-Assessment Certificate:* A supplier is eligible to be considered for threshold procurement contracts or high value procurement contracts, or a business is eligible to receive significant expansion business grants, for a period of two years, subject to ongoing disclosure requirements and compliance with this Code.
  - b. Further information required: A supplier or business has not met the assessment criteria in one or more respects and further information is required to complete the assessment process.
  - c. *Decline to issue a Pre-Assessment Certificate:* A supplier or business has not met the assessment criteria in one or more respects. This does not preclude a supplier or business from subsequently re-applying for a Pre-Assessment Certificate.
  - d. *Revoke a Pre-Assessment Certificate:* A supplier or business that holds a Pre-Assessment Certificate no longer meets the assessment criteria in one or more respects. The supplier or business must make a new application if it wishes to hold a Pre-Assessment Certificate in the future.
- 5.5 In conducting an assessment, the FJC Unit will take into account the following assessment criteria:
  - a. the underlying seriousness of the conduct reflected in any adverse ruling or enforceable undertaking concerning the supplier or business, including whether, in the past three years, it has:
    - i. committed an offence against the law of the State or another jurisdiction; or
    - ii. engaged in conduct that took advantage of, treated unfairly or otherwise harmed its workers;
  - b. whether any conduct reflected in an adverse ruling or an enforceable undertaking was isolated or systemic;

- c. whether the supplier or business disclosed any adverse rulings or enforceable undertakings to the FJC Unit and/or a Victorian Government agency during the application process or term of a threshold or high-value procurement contract or significant business expansion grant;
- d. whether the supplier or business has taken steps to rectify any conduct reflected in any adverse rulings or enforceable undertakings;
- e. whether the supplier or business has taken steps to ensure that it does not reoccur, including changing systems, staff training, business models or compliance efforts;
- f. any information provided to the FJC Unit by:
  - i. the supplier or business;
  - ii. victims or persons directly affected by the conduct;
  - iii. regulators involved in investigating or taking action in relation to any adverse ruling or enforceable undertaking; or
  - iv. Victorian Government agencies that have engaged with the supplier or business.

5.6 It is for the FJC Unit to determine whether a supplier or business satisfies the assessment criteria. However, suppliers or businesses should expect that they would be unlikely to obtain or retain a Pre-Assessment Certificate where:

- a. they have been the subject of adverse rulings or enforceable undertakings reflecting serious or systemic misconduct; and/or
- b. where the supplier or business has not demonstrated that they have rectified the conduct underlying adverse ruling(s) or the enforceable undertaking(s) and taken appropriate steps to prevent the conduct from reoccurring.

5.7 The FJC Unit will seek to notify the supplier or business of the outcome within 30 business days of receiving a complete application for a Pre-Assessment Certificate.

5.8 There is no charge to a supplier or business to apply, obtain or renew a Pre-Assessment Certificate.

### *Pre-Assessment Certificate Application Requirements*

5.9 To apply for a Pre-Assessment Certificate, a supplier or business must use the **FJC Pre-Assessment Certificate Application Form**, and must provide all requested information. Incomplete information may delay the assessment of an application and potentially affect the outcome.



5.10 A summary of the information that may be required is set out below:

Area of compliance	Information to be provided by supplier or business
Governance	Details of governance arrangements, including (to the extent relevant): corporate group members, directors, major shareholders, related parties and controlled or controlling entities of the supplier or business.
Compliance history and corrective action	Details of the supplier's or business' compliance history, during the past three years, with all applicable employment, industrial relations and workplace health and safety laws with details of all and any adverse rulings and/or enforceable undertakings made against the supplier or business, and information about remedial actions implemented.
Further inquiry	Agreement to the FJC Unit making enquiries, as necessary, to access and verify information relating to employment, industrial relations and workplace health and safety compliance with relevant regulators, including WorkSafe Victoria, the Fair Work Commission and the Fair Work Ombudsman.
Continuous disclosure	<p>Agreement to notify the FJC Unit of any adverse ruling or enforceable undertaking within 10 business days of the adverse ruling or enforceable undertaking being made, including remedial/corrective action ordered under the adverse ruling or enforceable undertaking.</p> <p>Failure to disclose adverse rulings or enforceable undertakings may result in revocation of the Pre-Assessment Certificate.</p> <p>For State Purchase Contracts or standing offer contracts, failure to meet continuous disclosure requirements will result in no further purchase orders being issued.</p>
Audit and review	Agreement to participate in audit and/or review processes, for the purpose of enabling the FJC Unit, Victorian Government agencies and the Local Jobs First Commissioner to perform their functions under this Code, as appropriate. Agreement will be an attestation requirement in the procurement, and inclusion of the Model Clauses in the contract or grant agreement.
Special requirements applying to high value procurement contracts and significant business expansion grants	<p>Agreement that a supplier or business will, at the time of submitting a tender for a high value procurement contract or applying for a significant business expansion grant:</p> <ul style="list-style-type: none"> <li>attest to holding a currently valid Pre-Assessment Certificate</li> <li>submit a FJC Plan to the contracting Victorian Government agency in accordance with the <b>FJC Plan Template</b></li> <li>comply with relevant terms and conditions to be included in any contract or grant awarded, including regular reporting on implementation of Code commitments over the life of the contract or grant agreement, and responding to reasonable information requests related to reviews or audits as required.</li> </ul>

## *Pre-Assessment Certificate Registers*

- 5.11 The FJC Unit will maintain a publicly accessible register of suppliers and businesses that have a current Pre-Assessment Certificate, including through the use of Victorian Government supplier databases wherever possible.
- 5.12 The FJC Unit will maintain an internal register of suppliers and businesses that are not successful in receiving a Pre-Assessment Certificate or that have had their Pre-Assessment Certificate revoked or where it has lapsed.

## *Revocation or Lapse of Pre-Assessment Certificate*

- 5.13 The FJC Unit may revoke a Pre-Assessment Certificate if it considers that the supplier or business no longer meets the assessment criteria in clause 5.5.
- 5.14 If the FJC Unit decides to revoke a supplier's or business' Pre-Assessment Certificate (or if the supplier or business allows its Pre-Assessment Certificate to lapse), a contracting Victorian Government agency may determine whether to seek remedies against the supplier or business under contract law for any threshold procurement contract, high value procurement contract or significant business expansion grant as provided under the terms of the contract or grant agreement.

## *FJC Plan*

- 5.15 In relation to high value procurement contracts and significant business expansion grants, the contracting Victorian Government agency must require suppliers and businesses to submit to the agency a FJC Plan, on the prescribed FJC Plan Template, as part of the procurement or grant process conducted by the agency.
- 5.16 The FJC Plan will require suppliers and businesses to provide information in relation to compliance with Standards 1 to 5 of this Code, including:
  - a. policies and procedures in place to ensure compliance with applicable laws (for example, the *Fair Work Act 2009* (Cth) and occupational health and safety laws);
  - b. policies or procedures in place to support Standards 1 to 5 of this Code (as set out below in section 6); and
  - c. labour requirements of the high value procurement or significant business expansion grant, including:
    - i. the number of people engaged and the estimated duration of the engagement and how these people will be sourced or engaged;
    - ii. strategies to give preference to ongoing forms of employment over casual, fixed term or labour hire arrangements; and
    - iii. the rationale for using casual, fixed-term and/or labour hire arrangements (if applicable).

- 5.17 Suppliers bidding for high value procurements must submit the FJC Plan (in accordance with clause 5.16), at the time of submitting a tender.
- 5.18 Where a supplier is required to submit plans that are equivalent to the FJC Plan under the Instructions for Public Construction Procurement in Victoria and Directions under Part 4 of the *Project Development and Construction Management Act 1994* (Vic) (**PD&CM Act Plans**), the supplier:
- a. **is not required** to submit a FJC Plan; but
  - b. **is required** to submit:
    - i. its PD&CM Act Plans; and
    - ii. a FJC Plan Addendum, in accordance with the prescribed FJC Plan Addendum Template that sets out any matters required by the FJC Plan which are not covered in the PD&CM Act Plans.
- 5.19 In the case of a significant business expansion grant, the business must submit the FJC Plan (in accordance with clause 5.16) within 12 months of the business entering into the grant agreement. The timing will be specified in the grant agreement, with the Victorian Government agency to take into account whether the grant recipient:
- a. has an existing presence in Australia; or
  - b. is significantly upscaling its presence in Australia as a result of the grant.
- 5.20 A failure to submit the FJC Plan as required for a significant business expansion grant may result in the business being in breach of grant conditions and thereby impact payments or result in termination of the grant agreement, as reflected in the terms of the grant agreement.
- 5.21 Delivery of the FJC Plan by the supplier or business will be monitored by the contracting Victorian Government agency.
- 5.22 Suppliers that enter into a high value procurement contract or businesses that are in receipt of a significant business expansion grant must:
- a. agree to regular reporting to the contracting Victorian Government agency in relation to the implementation of the FJC Plan over the life of the contract or grant agreement; and
  - b. respond to reasonable information requests in relation to audits, reviews and enquiries regarding the FJC Plan, as required.

## 6. Compliance with Code Standards

- 6.1 Suppliers seeking to enter into threshold procurement contracts must comply with Standard 1 below. Suppliers seeking to enter into high value procurement contracts and businesses seeking to apply for significant business expansion grants must comply with all of the Standards below.

**Note:** As with all aspects of this Code, the following Standards apply only to the extent that they are not inconsistent with Commonwealth or State laws.

### ***Standard 1: Comply with all applicable employment, industrial relations and workplace health and safety obligations***

- 6.2 Suppliers and businesses must comply with all applicable employment, industrial relations and workplace health and safety laws, including:
- Fair Work Act 2009 (Cth);
  - Occupational Health and Safety Act 2004 (Vic);
  - Wage Theft Act 2020 (Vic);
  - Long Service Benefits Portability Act 2018 (Vic);
  - Labour Hire Licencing Act 2018 (Vic); and
  - any other laws specified in the Guidelines.

### ***Standard 2: Promote secure employment and job security***

- 6.3 Suppliers and businesses must endeavour to engage workers directly and on a permanent basis wherever possible.
- 6.4 Suppliers and businesses must only enter into arrangements for the provision of labour hire services with a provider who is licensed under the *Labour Hire Licensing Act 2018* (Vic).
- 6.5 Suppliers and businesses must:
- comply with immigration and migration laws when employing workers who are not Australian citizens; and
  - ensure employees' terms and conditions of employment comply with legal obligations under Australian immigration and migration law and any conditions of the employee's working visa.
- 6.6 Suppliers and businesses must reflect secure employment arrangements in their organisational policies.
- 6.7 Suppliers and businesses must have policies, procedures, plans and/or systems in place to ensure that they do not knowingly or recklessly misrepresent an employment relationship or a proposed employment arrangement as an independent contracting arrangement.

## ***Standard 3: Foster cooperative and constructive relationships between employers, employees and their representatives***

- 6.8 Suppliers and businesses must allow employees to actively participate in and be represented by the industrial organisation or association of the employees' choice, subject to applicable laws.
- 6.9 Suppliers and businesses must strive to make reasonable allowances for employees and bargaining representatives to participate in enterprise agreement negotiations.
- 6.10 Suppliers and businesses must have processes in place to consult with employees and employees' representatives about major workplace changes that are likely to have a significant effect on the employees, subject to applicable laws.
- 6.11 Subject to applicable laws, suppliers and businesses must have processes in place that allow all employees the opportunity to attend meetings with union, health and safety or employee representatives, and access to noticeboards, email or other communication facilities to facilitate communication between workers and/or employee representatives regarding work matters.
- 6.12 Suppliers and businesses must recognise validly elected union workplace delegates or employee representatives and have processes in place that allow communication between employees and their representatives subject to requirements under applicable laws.

## ***Standard 4: Foster workplace equity and diversity***

- 6.13 Suppliers and businesses must:
  - a. comply with anti-discrimination and equal opportunity laws, and
  - b. demonstrate a commitment to equity and diversity in their organisational practices.

## ***Standard 5: Promote supply chain compliance***

- 6.14 Suppliers and businesses must take reasonable steps to ensure that direct subcontractors in relation to a high value procurement contract or significant business expansion grant, comply with all applicable employment, industrial relations and workplace health and safety obligations.
- 6.15 Suppliers engaged in relation to a high value procurement contract must only enter into a subcontracting arrangement with subcontractors that also have a Pre-Assessment Certificate, unless the value of the subcontract is less than \$10 million (exclusive of GST).

## 7. Ongoing duty of disclosure and cooperation

- 7.1 A supplier or business with a Pre-Assessment Certificate must:
- notify the FJC Unit and contracting Victorian Government agency of any adverse rulings or enforceable undertakings against the supplier or business itself;
  - cooperate with reasonable requests from or inquiry conducted by the FJC Unit, contracting Victorian Government agency, or the Local Jobs First Commissioner related to the performance of their functions under this Code, including responding in a timely fashion to reasonable requests for information or responses to complaints made by a person under clause 11.1.
- 7.2 A supplier or business whose Pre-Assessment Certificate has expired (without renewal) or is revoked must notify any Victorian Government agency:
- with whom the supplier has an active threshold procurement contract or active high value procurement contract; or
  - from whom the business is currently receiving a significant business expansion grant,
  - within 10 business days of the expiry or revocation. This applies even if the supplier or business is seeking or intends to seek to renew its Pre-Assessment Certificate.

## 8. Inconsistency with laws

- 8.1 In the event of a conflict between this Code and any Commonwealth or State laws (including subordinate instruments made pursuant to those laws), those laws prevail.
- 8.2 This Code or the granting of a Pre-Assessment Certificate does not remove the requirements for suppliers or businesses to undergo assessments for other mandatory government pre-qualification schemes and approved registers.
- 8.3 The FJC Unit and Local Jobs First Commissioner will not duplicate the legislated responsibility of regulators, such as the Fair Work Ombudsman, the Fair Work Commission and WorkSafe Victoria, nor will they replace the functions of Victorian Government agencies and their contract managers.

## 9. Governance

### *Minister for Industry and Innovation*

- 9.1 The Minister is responsible for the oversight and delivery of this Code, including any decisions regarding exceptions to the application of this Code.
- 9.2 The Minister shall issue guidelines for use by agencies, suppliers and businesses to support this Code's operation. The Guidelines will set out expectations and include examples of intended good practice, including in relation to:
  - a. Pre-Assessment Certificate application requirements and their assessment;
  - b. FJC Plan requirements and their assessment; and
  - c. related terms and conditions.
- 9.3 The Minister is supported by the Department of Jobs, Skills, Industry and Regions in the administration and delivery of this Code, and the Local Jobs First Commissioner in relation to promoting and facilitating compliance with this Code.

### *Fair Jobs Code Unit*

- 9.4 The Department of Jobs, Skills, Industry and Regions will establish a Fair Jobs Code Unit, whose functions are to:
  - a. issue and maintain Code procedures, guidance material, model clauses, forms and templates under direction from the Minister;
  - b. issue, assess and monitor Pre-Assessment Certificates, including ensuring that information is publicly accessible about suppliers and businesses that hold Pre-Assessment Certificates;
  - c. support Victorian Government agencies in the implementation of this Code, including through education and communication activities;
  - d. engage with Victorian Government agencies on FJC Plans, as required;
  - e. maintain a Register of Breaches and Complaints about suppliers and businesses that hold or have previously held a Pre-Assessment Certificate, inclusive of self-reported non-compliance with this Code and non-compliance reported by Victorian Government agencies and other parties, and recording the source(s) of the information, advice and action;
  - f. undertake audits, investigations and reviews, as appropriate;
  - g. obtain attestations from Victorian Government agencies on the implementation of this Code;
  - h. monitor, evaluate and report on Code outcomes, generally or as directed by the Minister; and
  - i. provide advice and support to the Minister as required.

## ***Local Jobs First Commissioner***

9.5 In addition to responsibilities under the *Local Jobs First Act 2003* (Vic), the Local Jobs First Commissioner will:

- a. engage with Victorian Government agencies and industry to educate, promote and facilitate compliance with this Code;
- b. liaise with the Minister and the FJC Unit to share information and insights on the application of the Code;
- c. if applicable, review the Pre-Assessment Certificate Registers (see clauses 5.11 and 5.12 above) for the purposes of 9.5(b);
- d. if applicable, review the Register of Breaches and Complaints (see clause 9.4(e) above) for the purposes of 9.5(b);
- e. provide advice and support to the Minister as required; and
- f. undertake any other function of the Local Jobs First Commissioner specified, directed or required by law.

## ***Departments and Agencies***

9.6 Victorian Government agencies must:

- a. comply with this Code in all threshold and high value procurement contracts and significant business expansion grants, including by incorporating its requirements and any model clauses in all relevant procurement and grant documentation and contracts;
- b. review FJC Plans and monitor their delivery throughout the term of the contract for high value procurements and significant business expansion grants; and
- c. provide information to the FJC Unit or the Local Jobs First Commissioner upon request for reporting and review and education purposes;
- d. provide information to the FJC Unit for audit and investigation purposes, as appropriate;
- e. notify the FJC Unit of self-reported supplier and business non-compliance with this Code; and
- f. attest annually to the FJC Unit regarding their compliance with this Code.



## 10. Review

- 10.1 Suppliers and businesses will be provided with a reasonable opportunity to make submissions or to comment prior to any decision made by the FJC Unit to refuse or to revoke a Pre-Assessment Certificate and a copy of any decision made.
- 10.2 If the FJC Unit decides to refuse or revoke a Pre-Assessment Certificate, the applicant or former Pre-Assessment Certificate holder may request a review of that decision.
- 10.3 If the FJC Unit receives a request to review a decision, a senior Department of Jobs, Skills, Industry and Regions officer will be appointed to conduct an independent internal review of that decision. In conducting an internal review, the Department's officer must provide the applicant or former Pre-Assessment Certificate holder with a reasonable opportunity to provide any information or materials for consideration in making the internal review decision and a copy of any decision made.
- 10.4 General complaints about an action or service provided by the FJC Unit can be made by using the Department of Jobs, Skills, Industry and Regions – Complaints form at [djsir.vic.gov.au/about-us/contact-us/complaints-form](https://djsir.vic.gov.au/about-us/contact-us/complaints-form).

## 11. Complaints about a Supplier or Business

- 11.1 The following persons (or their representatives) may make a complaint to the FJC Unit about a supplier or business that holds a Pre-Assessment Certificate:
  - a. a worker or former worker employed or engaged by the supplier or business;
  - b. a regulator or decision-maker who has made an adverse finding relating to the supplier or business;
  - c. a party to any dispute which resulted in an adverse finding relating to the supplier or business; or
  - d. a Victorian Government agency that has engaged with the supplier or business in the past three years in relation to the supply of goods, services or construction works or the provision of grants.
- 11.2 Complaints may be made to the FJC Unit. Complaints will be managed consistent with the Department of Jobs, Skills, Industry and Regions policies and procedures, with any necessary modifications.
- 11.3 Complaints are to be lodged using the FJC Complaints Template at [buyingfor.vic.gov.au/complaints-under-fair-jobs-code](https://buyingfor.vic.gov.au/complaints-under-fair-jobs-code).
- 11.4 The FJC Unit will seek to acknowledge receipt of a complaint within 5 business days of receiving it.

- 11.5 The FJC Unit will seek to provide a response to a complaint within 30 business days of receiving it, unless there are circumstances which prevent it being able to do so. If there are circumstances preventing the FJC Unit from responding to a complaint within 30 business days, the FJC Unit will notify the complainant of those matters and the expected timeframe for a response.
- 11.6 If a complaint concerns a failure to comply with a law, the FJC Unit may refer the complaint or the complainant to the authority responsible for administering the law.
- 11.7 If a complaint lacks substance, or is frivolous, vexatious, or not made in good faith, the FJC Unit may refuse to take further action on the complaint.
- 11.8 The FJC Unit will only use or disclose information provided by a complainant for the purpose of:
- a. assessing and responding to the complaint;
  - b. assessing the implications of the complaint for a supplier or business;
  - c. reporting on the operation of this Code and the FJC Unit, to the extent practical, in a de-identified form;
  - d. providing information to the Minister or the Local Jobs First Commissioner, including as to any systemic issues or trends identified; or
  - e. as otherwise permitted by law.
- 11.9 The FJC Unit may use a complaint (or information disclosed in relation to, or in its inquiries about, a complaint) as part of the materials used to determine whether to grant, reassess or renew a Pre-Assessment Certificate to a business or supplier.

## 12. Information sharing

- 12.1 The FJC Unit will disclose those suppliers and businesses holding a Pre-Assessment Certificate to Victorian Government agencies through a publicly accessible database, including Victorian Government supplier databases wherever possible.
- 12.2 The FJC Unit will share information provided by suppliers and businesses in their Pre-Assessment Certificate application with the Local Jobs First Commissioner and may share this information with other Victorian Government agencies at its discretion and in compliance with Commonwealth and State privacy laws.

## 13. Tools and Support

- 13.1 For more information about this Code, please see the guidelines and related templates, forms and model clauses referred to in this Code, located at [buyingfor.vic.gov.au/fair-jobs-code-and-guides](https://buyingfor.vic.gov.au/fair-jobs-code-and-guides).