



PROTECT  
WHISTLEBLOWERS

**WHISTLE BLOWER  
POLICY GUIDELINE  
V1 15.08.2019**

**Name of Entity**

## **PREFACE:**

Whistleblowers play an important role in identifying and calling out misconduct and harm to entities, consumers and the community. To encourage Whistleblowers to come forward with their concerns and protect them when they do, the Corporations Act 2001 (Corporations Act) gives certain people legal rights and protections as Whistleblowers.

From 1 July 2019, the Whistleblower protections in the Corporations Act have been expanded to provide greater protections for Whistleblowers. This will include requiring public companies, large proprietary companies, and corporate trustees of superannuation funds to have a Whistleblower policy from 1 January 2020.

Not-for-profit incorporated organisations that meet the definition of a trading or financial corporation must comply with the corporate sector Whistleblower protection regime in Part 9.4AAA of the Corporations Act 2001 (Corporations Act).

This may include the following organisations incorporated under state or territory legislation, if they are trading or financial corporations:

- incorporated associations
- other bodies corporate, including not-for-profit bodies corporate
- incorporated organisations registered with ASIC as Australian registered bodies
- incorporated organisations registered with the Australian Charities and Not-for-profits Commission (ACNC) as charities.

This information is relevant to the organisations listed above to determine whether they are subject to the corporate sector Whistleblower protection regime, and how this may affect the organisation.

All not-for-profit organisations structured as public companies limited by guarantee must already comply with the Whistleblower protection provisions.

*[Source: Australian Securities & Investments Commission](#)*

*[Benefits of having a Whistle Blower Policy](#)*

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## **1 BIBLICAL REFERENCES:**

### **Proverbs 11:3 New International Version (NIV)**

The integrity of the upright guides them, but the unfaithful are destroyed by their duplicity.

### **1 Peter 3:16 New International Version (NIV)**

Keeping a clear conscience, so that those who speak maliciously against your good behavior in Christ may be ashamed of their slander.

### **Proverbs 12:22 New International Version (NIV)**

The LORD detests lying lips, but he delights in people who are trustworthy.

### **Proverbs 21:3 New International Version (NIV)**

To do what is right and just is more acceptable to the LORD than sacrifice.

### **2 Corinthians 8:21 New International Version (NIV)**

21 For we are taking pains to do what is right, not only in the eyes of the Lord but also in the eyes of man.

### **Proverbs 4:25-27 New International Version (NIV)**

25 Let your eyes look straight ahead; fix your gaze directly before you. 26 Give careful thought to the paths for your feet and be steadfast in all your ways. 27 Do not turn to the right or the left; keep your foot from evil.

### **Hebrews 13:18 New International Version (NIV)**

Pray for us. We are sure that we have a clear conscience and desire to live honorably in every way.

### **Luke 6:31 New International Version (NIV)**

Do to others as you would have them do to you.

### **Psalm 41:11-12 New International Version (NIV)**

11 I know that you are pleased with me, for my enemy does not triumph over me. 12 Because of my integrity you uphold me and set me in your presence forever.

### **Philippians 4:8 New International Version (NIV)**

Finally, brothers and sisters, whatever is true, whatever is noble, whatever is right, whatever is pure, whatever is lovely, whatever is admirable—if anything is excellent or praiseworthy—think about such things.

### **Isaiah 26:7 New International Version (NIV)**

The path of the righteous is level; you, the Upright One, make the way of the righteous smooth.

### **Luke 6:37 New International Version (NIV)**

Do not judge, and you will not be judged. Do not condemn, and you will not be condemned. Forgive, and you will be forgiven.

#### **2 PURPOSE:**

The objective of this policy is to reassure those employed or under our care that they are able to report immoral, unethical and illegal behaviour without fear of losing their job/role or being harrassed and have clearly defined paths to report such abuses.

#### **3 SCOPE:**

This Policy applies to all employees, volunteers, members, attendees, those under our care and includes but is not limited to:

- Board Members
- Elders
- Leaders
- Employees
- Interns
- Volunteers
- Contractors
- Clients
- Suppliers etc

#### **3 POLICY STATEMENT:**

Our Entity is committed to the highest standards of legal, ethical and moral behaviour. People who become aware of any behaviour or practices to the contrary are assured they may expose the misconduct without fear of the loss of their job/role or face harrasement.

Our Entity is committed to fostering and maintaining an environment where all should feel confident that they may freely express ideas and concerns and that these will be considered or acted upon with respect or the gravity warranted.

#### **4 DEFINITIONS:**

Terms used in this Policy are:

**Board** Authorised body appointed to manage the Entity which may include a Board, Leadership Team, Elders etc.

**Entity** Entity or organisation.

**Member/s** Member/s of an Entity.

<b>Officer</b>	Person requested or appointed to investigate the alleged misconduct
<b>Whistleblowing</b>	The act of exposing suspected or actual misconduct.
<b>Whistleblower</b>	A person who reports the misconduct.
<b>Misconduct</b>	<p><b>Definition</b> - <i>unacceptable or improper behaviour, especially by an employee or professional person.</i></p> <p>The criteria applies to those defined under clause 3, without reservation, and includes conduct that.</p> <ul style="list-style-type: none"> <li>• Is contrary to the beliefs of the Christian Faith.</li> <li>• Brings into disrepute the reputation the Entity or the Christian Faith.</li> <li>• Breaches legislation, regulations or by-laws or is otherwise illegal.</li> <li>• Is corrupt or is an abuse of trust expected of the position/role held.</li> <li>• Is dishonest or fraudulent.</li> <li>• Perverts the course of justice.</li> <li>• Unreasonably endangers health and safety of others or the environment.</li> <li>• Is maladministration (e.g. unjust, based on improper motives, is unreasonable, oppressive or negligent)</li> <li>• Is serious or substantial waste (including public money or public property)</li> <li>• Is gross mismanagement or repeated breaches of administrative procedures.</li> <li>• Involves financial or non-financial loss detrimental to the interests of the Entity.</li> <li>• Breaches the Entities Code of Conduct, Privacy Policy, Anti-Discrimination, Bullying and Harrasment Policy and other relevant policies.</li> <li>• Is serious improper conduct that could give reasonable grounds for disciplinary action.</li> </ul>

**Conduct that is not deemed misconduct:**

- Conduct that does not meet the foregoing criteria.
- Matters of employment, whether undertaken as paid staff or as a volunteer and which can be dealt with by the person's immediate supervisor.

- Grievances and personnel differences, which are to be resolved between the parties amicably or by the Entities 'Dispute Resolution Policy'

Grievance procedures for employees, which are available for all staff to raise any matters they may have in relation to their work or their work environment, other persons, or decisions affecting their employment.

This policy does not replace other reporting structures such as those for dispute resolution, discrimination, victimisation or matters relating to workplace bullying or harassment.

## **5 APPLICATION:**

Not all disclosures of serious wrongdoing are protected at law. To meet the Entities philosophy of accepting tip-offs from anyone, the Entity adopts the principle of providing protection to people or organisations with a relationship with it:

- i. At least to the extent of protection at law; and
- ii. Beyond legal protection wherever it is practical in the circumstances.

A brief summary of legal protection is detailed Appendix 1.

### **5.1 Internal Whistleblowers:**

(Directors, employees, volunteers, interns, contractors or consultants etc)

**Tip:** A suspicion of wrongdoing may arise from a misunderstanding that may not involve misconduct; or is a matter where communication is restrained by confidentiality requirements or other legitimate reasons. Accordingly, internal Whistleblowers are encouraged to check with their supervisor or their supervisors' manager to seek an immediate response. Where the internal Whistleblower believes this is not appropriate, then they are to consider the alternative mechanisms.

### **5.2 External Whistleblowers:**

(Other than the foregoing, people with a relationship with the Entity – e.g. clients & suppliers etc)

Clients and suppliers should first exercise their rights under the terms of their contract.

Exceptions to this include misconduct that is not covered under the 'Terms and Conditions' of the contract, is of a serious enough nature to warrant reporting, the existing reporting system failed to attend or resolve the issue or has processed it in a substantially inappropriate, grossly unfair or heavily biased manner.

**Tip:** External Whistleblower's are usually reluctant to report misconduct to management for fear of retribution. To help mitigate this reservation, nominate a channel they may submit reports of misconduct to in 'Terms and Conditions' in the contract and or invoice.

## **6 REPORTING:**

### **6.1 Direct Reporting:**

Reports of misconduct can be reported, where applicable and appropriate to the:

- Chair of the Board or Board Member.
- Chair of Elders or Elder.
- Pastor
- Supervisor [Manager/Team Leader etc]

### **6.2 Anonymous Reporting:**

Anonymous reports of wrongdoing are accepted under this policy.

Anonymous reports have significant limitations that inhibit a proper and appropriate inquiry or investigation. These limitations include the inability to provide feedback on the outcome and/or to gather additional particulars to assist the inquiry/investigation. Specific protection mechanisms cannot be provided.

### **6.3 Alternative reporting:**

Alternative reporting to normal channels are available where:

- i. The normal reporting channel is considered inappropriate to the circumstances.
- ii. The Entity was notified but failed to deal or act on it.
- iii. The person or organisation disclosing wrongdoing is concerned about possible retaliation.

In any of these circumstances, the Whistleblower may report the matter to:

- CCCVaT Ministries Ltd
- PO Box 521, Blackburn VIC 3130
- Phone: [03] 9894 1796
- Email: [office@cccvat.com.au](mailto:office@cccvat.com.au)

## **7 RESPONSIBILITIES:**

### **7.1 Whistleblower:**

- i. Any person connected with the Entity may avail themselves of this Whistleblower's policy provided they are confident that the suspected misconduct is:
  - o Serious in nature.
  - o Made in good faith.
  - o Made with reasonable grounds to believe it is true.
- ii. A Whistleblower must provide information to assist the inquiry/investigation of the misconduct.

### **7.2 Entity:**

#### **a. Investigating Officer:**

Often a Whistleblower will feel more content to approach a person within the Entity/organisation they trust and feel comfortable discussing the allegation of misconduct with.

The Officer approached about the misconduct is to:

- i. Determine whether he/she is comfortable and equipped to investigate the allegation.
- ii. If the Officer is not comfortable, he/she is to suggest another person within the organisation investigate the allegation, which if acceptable to the Whistleblower, is to be approached and requested to investigate the matter.
- iii. If there is no one capable or sufficiently independent to investigate the allegation, the Officer is to call upon the services of CCCVaT Ministries Ltd.

#### **b. Assessment:**

- i. The agreed Officer is to assess the nature and seriousness of the allegation.
- ii. The Officer is to determine if the misconduct conforms with the definition of Misconduct and warrants investigation.

#### **c. Integrity:**

If the Whistleblower is implicated, by their own admission, in the wrongdoing they must not be subjected to any actual or threatened retaliatory action or victimisation in reprisal for making a report under this policy.

A person's liability for their own conduct is not affected by their report of misconduct under this policy. However, active cooperation in the investigation, an admission and remorse may be taken into account when considering disciplinary or other action.

Where the allegation warrants investigation, the investigating Officer:

- i. If requested by the whistle-blower, is to keep their identity confidential.
- ii. Where not requested, only reveal their identity to those necessary if paramount to the investigation.
- iii. Where it does not involve a member of the Board or Leadership Team, report the allegation to the Board.
- iv. Where it involves a member of the Board or Leadership Team, report the matter to another member that has not been accused.
- v. Where it involves all the members of the Board or Leadership report the matter to CCCVaT Ministries Ltd.
- vi. The Whistleblower is to retain the right of appeal regards decisions the Board makes to investigate or not investigate the misconduct and actions taken as a result of the investigation.
- vii. The Whistleblower may appeal to Members or CCCVAT Ministries Ltd.

**d. Investigation:**

Unauthorised disclosure of information relating to a allegation that could prejudice confidentiality and the identity of a Whistleblower will be regarded seriously and could constitute misconduct.

Subject to instruction:

- i. Investigate the allegation with respect to the parties involved without judgement or bias.
- ii. Involve only those that have the authority and capacity to investigate the allegation of misconduct.
- iii. Subject to the nature of the allegation, the investigating Officer:
  - Is to be given access to all relevant documents of the Entity, which he/she agrees to keep confidential except where needed to establish the credibility of the allegation.
  - May call upon those within the Entity with the expertise and or experience to assist with the investigation.

- When not comfortable or equipped to investigate the allegation, may call upon CCCVAT Ministries Ltd or external professionals to assist with the investigation.
- iv. Where prima-facia evidence has been gathered or obtained to establish the credibility of the allegation, the Officer is to meet with the person accused of misconduct to seek their response.
  - The proceedings are to be minuted, the record of which is to be retained by the Entity.
  - The person accused of misconduct is to be given the opportunity to invite others within the Entity to participate in the interview.
  - The person accused of misconduct is to be given the opportunity to refute the allegation.
  - Where agreed by the parties, the Whistleblower may participate in the interview.

**e. Unwarranted Investigation:**

Where the Officer does not consider the allegation serious enough to be investigated he/she is to:

- i. Consult with his/her immediate supervisor and or Board, excluding whoever the allegation was made against, to determine the appropriate response.
- ii. Where the supervisor or Board determine the allegation should be investigated, the Officer is either to act as instructed or follow the process outlined in Clause 7.2.
- iii. Where the supervisor or Board determine the allegation is unsubstantiated or does not need to be investigated, the Whistleblower is to be notified as to the reasons why.
- iv. The person accused of misconduct retains the right of appeal as stated in Clause 7.2cvi.

**f. Misconduct:**

Where the allegation of misconduct is established:

- i. The misconduct is to be reported to the Board.
- ii. The Board is to make and retain a record of all proceedings and actions taken with regards the allegation.
- iii. The Board is to report breaches of the law or regulations to the applicable authority.

- iv. The Board is to report the breach to Members.
- v. The Board is to determine what action it will take relative to the person that committed the misconduct.
  - The Board is to consider offering counselling to the accused.
  - An employee can be dismissed for certain acts of misconduct. In order to determine what acts an employee can be dismissed for and how to terminate an employee visit: [Fairwork Australia](#)
- vi. The Board is to advise the person accused of misconduct and Whistleblower of its decision.

**g. False Allegations:**

- i. Allegations that are trivial or vexatious in nature with no substance, may be treated in the same manner as a false allegation and may itself constitute misconduct.
- ii. Unsubstantiated allegations which are found to have been made maliciously, or knowingly to be false, will be viewed seriously and may be subject to disciplinary action that could include dismissal, termination of service or cessation of a service or client relationship.

**h. Protection:**

- i. The Entity is committed to protecting and respecting the rights of Whistleblowers who report misconduct in good faith. The Entity will not tolerate any retaliatory action or threats of retaliatory action against a Whistleblower, or against a Whistleblower's colleagues, employer (if a contractor, consultant or supplier) or relatives.
- ii. For example, a Whistleblower must not be disadvantaged or victimised for having made the report by:
  - Dismissal or termination of services or supply.
  - Demotion.
  - Discrimination, victimisation or harassment.
  - Current or future bias.
  - Threats of any of the above.

Any such retaliatory action or victimisation in reprisal for a claim made under this policy will be treated as serious misconduct and will result in disciplinary action, which may include dismissal. In some circumstances the retaliatory action or victimisation may be illegal; in which case Entity will notify the appropriate regulatory authority and or police.

## **8 POLICY STATEMENT:**

The Entity recognises that individuals against whom a report is made must also be supported during the handling and investigation of the allegation. The Entity takes reasonable steps to treat fairly any person who is the subject of a allegation, particularly during the assessment and investigation process in accordance with this policy.

Where a person is identified as being suspected of possible misconduct, but preliminary inquiries determine that the suspicion is baseless or unfounded and that no formal investigation is warranted, then the Whistleblower will be informed of this outcome and the matter laid to rest.

The Board will decide whether or not the person named in the allegation should be informed that a suspicion was raised and found to be baseless upon preliminary review. This decision will be based on a desire to preserve the integrity of a person so named, so as to enable workplace harmony to continue unfettered and to protect the Whistleblower where it is a bona fide disclosure.

Where an investigation does not substantiate the allegation, the results of the investigation and the identity of the person who is the subject of the report must be handled confidentially.

Generally, where an investigation is conducted and the investigator believes there may be a case for an individual to respond, the investigating Officer must ensure that a person who is the subject of a allegation:

- Is informed of the substance of the allegations.
- Is given a fair and reasonable opportunity to answer the allegations before the investigation is finalised.
- Has their response set out fairly in the investigating Officer's report.
- Is informed about the substance of any adverse conclusions in the investigating Officer's report that affects them.

Where adverse conclusions are made in an investigating Officer's report about an individual, that individual has a right to respond to those conclusions prior to any action being taken by Mission Australia against them.

The Entity will give its full support to a person who is the subject of an allegation where the allegation was clearly wrong.

## APPENDIX 1

<b>Part 9. 4AAA of the Corporations Act 2001 (as amended)</b>	
<b>Essential Element</b>	<b>Description</b>
Reportable conduct	A report is made about serious breaches of the corporations laws or other reportable conduct by the company or by an Officer or employee of the company
Reasonable grounds for suspecting	The person making the report has reasonable grounds for suspecting the reportable conduct
Person making the allegation/disclosure	The person is an Officer or employee of the Entity or a person or employee with a contract for supply of goods or services to Entity
Person receiving the allegation/disclosure	The person receiving the report is one of either: <ul style="list-style-type: none"> <li>- ASIC</li> <li>- The company auditor or an audit team member</li> <li>- A director, secretary or senior manager of the Entity</li> </ul>
Name requirement	Before making the report, the person gives his or her name
Good faith requirement	The report is made in good faith

<b>Public Interest Disclosures Act 2013 (Commonwealth) Only applies where there is Commonwealth funding involved:</b>	
<b>Essential Element</b>	<b>Description</b>
Person making the allegation/disclosure	The person is performing a Commonwealth 'public official' function within the Entity or as a subcontractor to the Entity
Person receiving the allegation/disclosure	The person receiving the report is one of either: <ul style="list-style-type: none"> <li>- Supervisor who must pass it on to a investigating Officer</li> <li>- The Commonwealth agency that provides funding</li> <li>- The Commonwealth Ombudsman</li> </ul>

Person's identity	Must be kept confidential as far as practical
Reasonable belief	The report is made with reasonable belief
Name requirement	Can be anonymous
Exclusions	<ul style="list-style-type: none"> <li>- Liability for false or misleading statements is unaffected</li> <li>- Knowingly contravening a designated publication restriction without reasonable excuse</li> <li>- Disagreement with government policy or expenditure</li> </ul>
Person's rights	<ul style="list-style-type: none"> <li>- Immunity from civil, criminal and administrative liability (including disciplinary action) for making the disclosure</li> <li>- No contractual or other remedy may be enforced against the discloser for making the disclosure</li> <li>- Absolute privilege in proceedings for defamation</li> <li>- Criminal offence to take or threaten to take a reprisal</li> <li>- Legal remedies available to address reprisal actions</li> </ul>