

# Whistleblower protection – reporting serious wrongdoing

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## Purpose of whistleblower protection

The policy and procedures set out in this topic are an important tool for helping to identify serious wrongdoing through providing a safe and secure means of disclosure, so are aimed at:

- encouraging disclosures if serious wrongdoing occurs
- providing transparency around receiving, handling and investigating disclosures
- protecting those who disclose serious wrongdoing
- deterring serious wrongdoing by increasing the likelihood that it will be reported
- consolidating and enhancing our value commitment to ethical behaviour

A whistleblower is someone who discloses information about serious wrongdoing that may otherwise go undetected. As we encourage anyone with such information to disclose this information, it is important that a potential whistleblower understands how they will be assured of protection.

## Who can make a disclosure?

You can make a disclosure and qualify for protection if you are:

- a current or former employee (including full time, part time, fixed term, temporary, on secondment, or an intern)
- an officer (including Directors and the Company Secretary)
- a supplier of services or goods (this includes contractors and consultants, service providers and business partners), or their employees (past or present)
- an associate of StateCover
- a relative, dependant, or spouse of any of the above

## What matters may be reported?

If you have information that gives you reasonable grounds to suspect serious wrongdoing (that is, misconduct or an improper state of affairs or circumstances), you are encouraged to report the disclosable matter as soon as possible. You are also encouraged to report a matter which may pose a

significant risk to public safety or the stability of, or confidence in, the financial system. Examples of serious wrongdoing (which may not necessarily involve contravention of a particular law) include:

- illegal conduct, such as theft, dealing in, or use of illicit drugs, violence or threatened violence, and criminal damage against property
- fraud, money laundering or misappropriation of funds
- offering or accepting a bribe
- financial irregularities
- circumstances that are a danger to the public or the financial system
- failure to comply with, or breaches of, legal or regulatory requirements
- actions or circumstances that are prohibited by regulation or that contravene:
  - a law of the Commonwealth punishable by imprisonment for 12 months or more
  - the Corporations Act 2001
  - the Australian Securities and Investments Commission Act 2001
  - the Banking Act 1959
  - the Financial Sector (Collection of Data) Act 2001
  - the Insurance Act 1973
  - the Life Insurance Act 1995
  - the National Consumer Credit Protection Act 2009
  - the Superannuation Industry (Supervision) Act 1993

Some matters will not be disclosable matters so will not qualify for protection under the Corporations Act. However, some disclosures may be protected under other legislation, such as under Part IVD of the *Taxation Administration Act 1953*, and the *Fair Work Act 2009*. Refer to the [ATO website](#) for tax-related whistleblower information.

If you are unsure whether to make a disclosure, please contact the [Whistleblower Protection Officer](#) for advice, or alternatively get advice from a legal practitioner.

## Who can receive your disclosure?

To qualify for protection, you have a choice of disclosing directly to a number of people. In the first instance, you are encouraged to make your disclosure to the Whistleblower Protection Officer or other officer or senior manager (e.g. the Chief Executive Officer, Company Secretary, Chief Risk Officer, Head of Operations or Internal Auditor). The disclosure may also be made to the external auditor (KPMG) or consulting actuary (Finity).

If you are unsure, or you do not feel comfortable contacting those people noted above, you may contact:

- a legal practitioner for the purpose of getting legal advice (NB you will be protected even if their advice is that your information does not relate to a disclosable matter)
- the regulatory authorities [APRA](#) or [ASIC](#) (whistleblower information for these organisations is available on their websites)
- the Australian Taxation Office (ATO) if the matter relates to taxation (the ATO provides whistleblower protection to those who are eligible, see [www.ato.gov.au/General/Gen/Whistleblowers/](http://www.ato.gov.au/General/Gen/Whistleblowers/) for details).
- a member of parliament or journalist, if there is an emergency or it is a serious matter of public interest

If you are considering making an emergency or public interest disclosure, and to ensure your protection, you are encouraged to first contact an independent legal advisor to ensure that you understand the criteria which applies to such disclosures. For more details, see below under the heading *Emergency or public interest disclosure*.

## How to make a disclosure

You can make a disclosure at any time by personal contact, telephone, email, or mail, as below:

- if you are inside the organisation, look up the [Internal Directory](#)
- if outside the organisation, look up the [contact section of the StateCover website](#) (this contains an outside business hours contact option)
- you may write to us at PO Box R1865, Royal Exchange NSW 1225
- you may email us at [whistleblower@statecover.net.au](mailto:whistleblower@statecover.net.au)

When making a disclosure, be aware that:

- You may choose to be anonymous. For more details on this, see below under the heading *Choosing to be anonymous*.
- If there is an emergency in the sense of substantial and imminent danger to the health and safety of one or more persons or the natural environment, you may choose to make the disclosure immediately to a member of parliament (Federal or State) or a journalist. For more details, see below under the heading *Emergency or public interest disclosure*.
- If the disclosure is a work-related grievance you should contact your manager or the Organisational Development Manager. While these matters will be treated in confidence, they are not covered by whistleblower protection. For more details, see below under the heading *Personal work-related grievances*.
- If you are unsure what to do, you can contact a legal practitioner for advice.
- If your disclosure proves to be incorrect, you will still be protected provided that when you made it you had reasonable grounds to suspect that it was true. Protection may only be withheld if you deliberately make a disclosure that you know to be false.

### Choosing to be anonymous

You can make your disclosure anonymously, remain anonymous over the course of the investigation and after it is finalised, and still be protected. If you choose to do this, you may also:

- adopt a pseudonym for the purposes of communication
- refuse to answer any follow-up questions that may reveal your identity

If you choose anonymity, it is preferable that you establish a means by which you can be contacted for follow up questions and to receive progress notifications. If you do not, it may limit the capacity of the investigators to verify the facts and conclude the investigation satisfactorily or in reasonable time.

### Emergency or public interest disclosure

If the disclosure relates to a matter which you reasonably believe is in the public interest, or presents an imminent danger to people's health or safety, or to the natural environment, you may choose to make the disclosure directly to a member of Federal or State parliament or a journalist and still be protected, subject to the following:

- you have previously made a disclosure of the information to ASIC, APRA or a prescribed body
- you have provided written notice of that disclosure
- in the case of a public interest disclosure, at least 90 days has passed since it was made

For more details on the criteria for making these further disclosures, see section [1317AAD](#) of the Corporations Act.

### Personal work-related grievances

If the matter that you wish to disclose is *solely* a personal work-related grievance, it is unlikely to qualify for whistleblower protection. Examples of personal grievances given in the Corporations Act include:

- an interpersonal conflict between you and another employee
- a decision relating to your engagement, transfer or promotion
- a decision relating to the terms and conditions of your engagement
- a decision to suspend or terminate your engagement, or otherwise discipline you

If you have such a grievance, you are encouraged to raise it with your immediate manager or the [Organisational Development Manager](#).

However, a personal work-related grievance may qualify for protection if:

- it includes information about misconduct
- employment or other laws have been breached
- you suffer from or have been threatened with a detriment for disclosing
- you seek legal advice or representation on whistleblower protections

## How you are protected by law

Under the [Corporations Act 2001 Part 9.4AAA](#), you will qualify for protection:

- if you are an eligible whistleblower (see *Who can make a disclosure*),
- and make a disclosure about a disclosable matter (see *What matters may be reported?*),
- to an eligible recipient (see *Who can receive your disclosure*).

The protections available to you for making a disclosure which qualifies for protection include:

- our legal obligation to keep your identity confidential
- identity protection (subject to particular exceptions, e.g. with your consent)
- protection from detrimental acts or omissions (refer *Support and practical protection measures* below)
- your right to seek compensation and other remedies (you may wish to seek independent legal advice before doing so)
- civil, criminal and administrative liability protection (note that this does not grant immunity for your misconduct which may be revealed in your disclosure)

Even if your disclosure turns out to be incorrect, if you had reasonable grounds to make the disclosure, you may still qualify for protection.

## Support and practical protection measures

The Whistleblower Protection Officer and those involved in handling the investigation of your disclosure are responsible for preventing detrimental actions being taken against you as a result of your disclosure. Example of actions to be prevented are:

- dismissal
- injury in your employment
- alterations to your position or duties that are to your disadvantage
- termination of contracts, either internal (e.g. contractors) or external (e.g. suppliers)
- discrimination between you and another employee
- victimisation, harassment or intimidation
- harm or injury, including psychological harm
- damage to your property or reputation
- damage to your business or financial position (for suppliers)
- any other damage

## Causing or threatening to cause detriment

A person cannot engage in or threaten to engage in detrimental conduct against a person who has made a disclosure, or is believed or suspected to have made or be planning to make a disclosure.

In relation to a disclosure, a person cannot cause detriment, or make a threat to cause detriment to a discloser (or other person). A threat may be express or implied, or conditional or unconditional.

If you are threatened with or subjected to detrimental action, immediately contact the Whistleblower Protection Officer, who has the authority to intervene and:

- prevent any or further detrimental action occurring
- take remedial action
- if appropriate, seek approval for compensation or other remedies on your behalf

Any employee who victimises or threatens a whistleblower has engaged in serious misconduct and is subject to the [Performance and Misconduct Policy](#).

Some actions, however, may not be considered detrimental. An example is managing unsatisfactory work performance in line with our performance management framework.

## Preventing detriment and providing support

We will implement measures or mechanisms to prevent detriment, as appropriate to the circumstances. Examples of actions we may take are:

- reducing the risk of you being identified by redacting your personal information
- storing securely all paper and electronic documents and other materials relating to disclosures
- reminding each person who is involved in handling and investigating a disclosure that unauthorised disclosure of your identity may be a criminal offence
- assessing the risk of detriment to you as soon as possible after receiving your disclosure
- making available support services (e.g. counselling or legal services)

If you make a disclosure, it is illegal for a person to identify you or disclose information that may identify you (subject to certain exceptions). If your confidentiality is breached, you may lodge a complaint with us. You may also lodge a complaint with a regulator such as ASIC, APRA or the ATO, for investigation.

If you believe you have suffered a detriment, you may seek independent legal advice or contact regulatory bodies such as ASIC, APRA, or the ATO. If the detriment has already occurred, we may intervene to investigate and address the detrimental conduct.

If we assess that your disclosure requires investigation, we cannot disclose information that is likely to lead to your identification without your consent. The only information that can be shared is that which:

- does not disclose your identity
- has had information removed that may lead to you being identified
- is reasonably necessary for the investigation and is communicated on a strict 'need to know' basis

## After you make a disclosure

After a disclosure is made, the following is a summary of the steps that will be taken:

- Your identity (if disclosed) will be kept strictly confidential and will only be made known to those conducting or overseeing the follow-up action to the disclosure.
- Any information that may indirectly identify you will also be kept strictly confidential. If you think that confidentiality has been compromised and your identity has become known, contact the Whistleblower Protection Officer (WPO).
- The disclosure will be assessed to determine if an investigation will go ahead. If not, you will be contacted, and the reasons given for not proceeding.
- If it is determined that the disclosure is to be assessed, a Whistleblower Investigation Officer (WIO) will be appointed, who will investigate the disclosure using appropriate resources, including professional investigators if necessary.
- You may be asked follow-up questions to help with the investigation.
- All information relating to the investigation will be kept strictly confidential, including the identity of any persons named in the disclosure (to satisfy procedural fairness).
- You will be kept informed of the progress of the investigation at regular intervals, including likely timeframes.
- When the investigation is concluded, a report will be completed. This will be assessed, and decisions made on further action. Where appropriate, you will be informed of the report's findings.

## Review of decisions

If you are not satisfied with the outcome of our investigation, you may request a review through the WPO. However, we are not obliged to reopen an investigation and we may conclude a review if we believe the investigation was conducted properly, or new information is either not available, or if available, would not change the findings of the investigation.

You may also lodge a complaint with a regulator such as ASIC, APRA or the ATO if you are not satisfied with the outcome of our investigation.