

Purpose

The purpose of this policy is for Autism SA (we, us, our) to give people the confidence to speak up and help us to identify wrongdoing that may not be uncovered without safe and secure means. This policy aims to:

- encourage more disclosures of information where a person has reasonable grounds, in good faith, to suspect misconduct, or an improper state of affairs or circumstances in relation to the organisation
- provide a framework for receiving, handling and investigating disclosures
- ensure people who disclose information can do so safely, securely and with confidence they will be protected and supported to our utmost ability
- enable us to deal with disclosures in a way that will protect the identity of the person and provide for secure storage of the information
- ensure that any wrongdoing is identified and dealt with appropriately, and
- ensure that we maintain the highest standards of ethical behaviour and integrity.

People are encouraged to have the confidence to speak up even if they have some information leading to a suspicion but not all the details.

Deliberate false reporting (a report the person knows to be untrue) will be treated as serious misconduct resulting in disciplinary action that may include termination of employment, engagements or contracts.

Scope

This policy applies to all people that have an association with us.

This may include, but is not limited to:

- employees, contractors, students, volunteers, , board members (collectively referred to as 'employees' throughout this policy)
- visitors
- clients and their family members or guardians.

Eligible whistleblower and discloser

A discloser is a person who, anonymously or not, discloses to an eligible recipient information about misconduct or dishonest or illegal activity they reasonably suspect, in good faith, has occurred in connection with our organisation. This person is an eligible whistleblower if they are or have been, any of the following:

- an officer or employee of our organisation (this includes current and former employees who are permanent, part-time, casual, maximum duration/fixed-term or temporary, interns, secondees, managers and directors);
- a person who supplies goods or services to us or an employee of a person who supplies goods or services to us (whether paid or unpaid). This could include current and former volunteers, contractors, consultants, service providers and business partners;

- a person who is an associate of us, for example, a director or company secretary or a related body corporate; or
- a relative, dependent or dependent of the spouse of any person referred to in this definition of eligible whistleblower.

A discloser also qualifies for protection as a whistleblower under the *Corporations Act 2001* (Cth) if they are an eligible whistleblower in relation our organisation and:

- they have made a disclosure of information relating to a 'disclosable matter' directly to an 'eligible recipient' or to the Australian Securities and Investments Commission (ASIC), Australian Prudential Regulation Authority (APRA) or another Commonwealth body prescribed by regulation; or
- they have made a disclosure to a legal practitioner for the purposes of obtaining legal advice or legal representation about the operation of the whistleblower provisions in the *Corporations Act 2001* (Cth); or
- they have made an 'emergency disclosure' or 'public interest disclosure' to the ASIC or APRA.

Disclosable matters

Disclosable matters involve information that the discloser has reasonable grounds, in good faith, to suspect concerns of misconduct, or an improper state of affairs or circumstances, in relation to our organisation or a related body corporate (including their employees or officers) that:

- constitutes an offence against, or a contravention of, a provision of the *Corporations Act 2001* (Cth);
- constitutes an offence against any other law of the Commonwealth that is punishable by imprisonment for a period of 12 months or more;
- represents a danger to the public or the financial system; or
- is prescribed by regulation.

Examples of disclosable matters include (but are not limited to):

- dishonesty;
- corruption (including soliciting, accepting or offering a bribe, or facilitating payments or other such benefits);
- fraud;
- illegal activity (including theft, drug sale or use, violence or threatened violence, or property damage);
- breaches of regulation, internal policy, procedure or code (such as our Code of Conduct);
- improper conduct relating to accounting, internal controls, compliance, actuarial, audit or other matters of concern to the eligible whistleblower;
- serious impropriety or an improper state of affairs or circumstances;
- endangering health or safety;
- damaging or substantially risking damage to the environment;
- serious mismanagement of our resources;
- activity detrimental to our financial position or reputation;
- maladministration (an act or omission of a serious nature that is negligent, unjust, oppressive, discriminatory or is based on improper motives);
- concealing wrongdoing.

Disclosable matters usually relate to the conduct of employees or directors but can also relate to the actions of a third party, such as a funder, client, supplier or service provider.

Disclosable matters include conduct that may not involve a breach of a particular law; for example, information that indicates a risk to public safety or the stability of, or confidence in, the financial system is also a disclosable matter.

A discloser can qualify for protection even if their disclosure turns out to be incorrect.

Disclosures that relate solely to personal work-related grievances, and do not relate to detriment or threat of detriment to the discloser, do not qualify for protection under the *Corporations Act 2001* (Cth). Personal work-related grievances are those that relate to the discloser's current or former employment with us and have, or tend to have, implications for the discloser personally, but do not:

- have any other significant implications for the entity (or another entity); or
- relate to any conduct, or alleged conduct, about a disclosable matter.

Examples of 'personal work-related grievances include:

- an interpersonal conflict between the discloser and another employee;
- a decision that does not involve a breach of workplace laws;
- a decision about the engagement, transfer or promotion of the discloser;
- a decision about the terms and conditions of engagement of the discloser; or
- a decision to suspend or terminate the engagement of the discloser, or otherwise to discipline the discloser.

A personal work-related grievance may still qualify for protection if:

- it includes information about misconduct, or information about misconduct includes or is accompanied by a personal work-related grievance (mixed report); or
- we have breached employment or other laws punishable by imprisonment for a period of 12 months or more, engaged in conduct that represents a danger to the public, or the disclosure relates to information that suggests misconduct beyond the discloser's personal circumstances; or
- the discloser suffers from or is threatened with detriment for making a disclosure; or
- the discloser seeks legal advice or legal representation about the operation of the whistleblower protections under the *Corporations Act 2001* (Cth).

Unless a personal work-related grievance includes detriment due to whistleblowing, we encourage employees to aim to resolve personal work-related grievances in accordance with our Grievances and Disputes procedure (HRE-PRO-003). To assist employees to resolve their personal work-related grievance, employees can also use our Employee Assistance Program (Access Programs, email enquiries@accesssa.com.au or phone (08) 8215 6799) or can seek legal advice about their rights and protections under employment or contract law.

Who can receive a disclosure?

An eligible recipient is a person whose role is to receive disclosures that qualify for protection.

A discloser needs to make a disclosure directly to one of our eligible recipients to qualify for protection as a whistleblower under the *Corporations Act 2001* (Cth) (or the *Australian Prudential Regulation Authority Act 1998* (Cth), where relevant).

An eligible recipient includes:

- an officer or senior manager of our organisation or related body corporate ¹;
- the internal or external auditor (including a member of an audit team conducting an audit) or actuary of our organisation or related body corporate; and
- a person authorised by the entity to receive disclosures that may qualify for protection, namely a Whistleblower Protection Officer (WPO).

Our WPOs are the:

- Executive Manager Corporate Services
- Executive Manager People Brand and Assurance
- Commercial Counsel.

Additionally,

- a discloser can make a disclosure directly to regulatory bodies, or other external parties, such as ASIC, APRA or another Commonwealth body prescribed by regulation, about a disclosable matter and qualify for protection under the Corporations Act without making a prior disclosure to us.
- disclosures made to a legal practitioner for the purposes of obtaining legal advice or legal representation in relation to the operation of the whistleblower provisions in the *Corporations Act 2001* (Cth) are protected (even if the legal practitioner concludes that a disclosure does not relate to a 'disclosable matter').

Public interest disclosures and emergency disclosures

Disclosures can be made to a journalist or parliamentarian under certain circumstances and qualify for protection.

It is important for the discloser to understand the criteria for making a public interest or emergency disclosure:

- a disclosure must have previously been made to ASIC, APRA or a prescribed body and written notice provided to the body to which the disclosure was made.
- In the case of a public interest disclosure, at least 90 days must have passed since the previous disclosure.

A discloser should contact an independent legal adviser before making a public interest disclosure or an emergency disclosure.

A 'public interest disclosure' is the disclosure of information to a journalist or a parliamentarian, where:

- at least 90 days have passed since the discloser made the disclosure to ASIC, APRA or another Commonwealth body prescribed by regulation; and
- the discloser does not have reasonable grounds to believe that action is being, or has been taken, in relation to their disclosure; and
- the discloser has reasonable grounds to believe that making a further disclosure of the information is in the public interest; and

¹ Generally, an 'officer' includes a director or company secretary of Autism SA.

A 'senior manager' is generally a senior executive within Autism SA, other than a director or company secretary, who:

- makes or participates in making decisions that affect the whole, or a substantial part, of the business of the entity; or
- has the capacity to significantly affect the entity's financial standing.

- before making the public interest disclosure, the discloser has given written notice to the body to which the previous disclosure was made that:
 - includes sufficient information to identify the previous disclosure; and
 - states that the discloser intends to make a public interest disclosure

An 'emergency disclosure' is the disclosure of information to a journalist or parliamentarian, where:

- the discloser has previously made a disclosure of the information to ASIC, APRA or another Commonwealth body prescribed by regulation; and
- the discloser has reasonable grounds to believe that the information concerns a substantial and imminent danger to the health or safety of one or more persons or to the natural environment; and
- before making the emergency disclosure, the discloser has given written notice to the body to which the previous disclosure was made that:
 - includes sufficient information to identify the previous disclosure; and
 - states that the discloser intends to make an emergency disclosure; and
- the extent of the information disclosed in the emergency disclosure is no greater than is necessary to inform the journalist or parliamentarian of the substantial and imminent danger.

How to make a disclosure

The following range of options allows disclosures to be made anonymously, confidentially, securely and outside of business hours.

Internal eligible recipients can be contacted:

- in person, through post, phone or email
 - our internal eligible recipient contact details are available from our website: www.autismsa.org.au/whistleblower
- through our internal dedicated whistleblower email address
 - whistleblower@autismsa.org.au
 - NOTE: access to this email address is restricted to only our internal eligible recipients and is monitored by our Commercial Counsel.
- making a disclosure through our [online misconduct disclosure](#) form
 - NOTE: access to these forms is restricted to only our internal eligible recipients

External eligible recipient contact details are:

- Australian Securities and Investments Commission (ASIC)
 - [Online misconduct report form](#)
 - Refer to [How ASIC handles whistleblower reports](#) for guidance on making an external disclosure and qualifying for protection
- Australian Prudential Regulation Authority (APRA)
 - Whistleblower email: whistleblower@apra.gov.au
 - Public interest disclosure email: PID@apra.gov.au

Legal protections for disclosers

Protections under the Corporations Act 2001 (Cth) that are available to disclosers who qualify for protection as a whistleblower include:

- identity protection (confidentiality)
- protection from detrimental acts or omissions
- compensation* and other remedies; and
- civil, criminal and administrative liability protection

The protections apply to internal and external disclosures, and public interest and emergency disclosures.

**Compensation and other remedies*

A discloser (or any other employee or person) can seek compensation and other remedies through the courts if:

- they suffer loss, damage or injury because of a disclosure; and
- the entity failed to take reasonable precautions and exercise due diligence to prevent the detrimental conduct.

Disclosers are encouraged to seek independent legal advice if they are considering seeking compensation or other remedies through the courts.

Identity protection (confidentiality)

We have legal obligations to protect the confidentiality of a discloser's identity.

- A person cannot disclose the identity of a discloser or information that is likely to lead to the identification of the discloser (which they have obtained directly or indirectly because the discloser made a disclosure that qualifies for protection).
- The exception to above is if a person discloses the identity of the discloser:
 - to ASIC, APRA, or a member of the Australian Federal Police (within the meaning of the *Australian Federal Police Act 1979*);
 - to a legal practitioner (for the purposes of obtaining legal advice or legal representation about the whistleblower provisions in the Corporations Act);
 - to a person or body prescribed by regulations; or
 - with the consent of the discloser.
- A person can disclose the information contained in a disclosure with or without the discloser's consent if:
 - the information does not include the discloser's identity;
 - the entity has taken all reasonable steps to reduce the risk that the discloser will be identified from the information; and
 - it is reasonably necessary for investigating the issues raised in the disclosure.

It is against the law to identify a discloser, or disclose information that may lead to the identification of the discloser, outside the above exceptions. A discloser can lodge a complaint with us about a breach of confidentiality through our feedback and complaints process. Refer to our [feedback and complaints](#) webpage.

Alternatively, a discloser may lodge a complaint with a regulator, such as ASIC, APRA or the Australian Taxation Office (ATO), for investigation.

Protection from detrimental acts or omissions

The legal protections for protecting a discloser, or any other person, from detriment in relation to a disclosure include:

- A person cannot engage in conduct that causes detriment to a discloser (or another person), in relation to a disclosure, if:
 - the person believes or suspects that the discloser (or another person) made, may have made, proposes to make or could make a disclosure that qualifies for protection; and
 - the belief or suspicion is the reason, or part of the reason, for the conduct.
- A person cannot make a threat to cause detriment to a discloser (or another person) in relation to a disclosure. A threat may be express or implied, or conditional or unconditional. A discloser (or another person) who has been threatened in relation to a disclosure does not have to actually fear that the threat will be carried out.

Examples of detrimental conduct that are prohibited under the law include:

- dismissal of an employee;
- injury of an employee in his or her employment;
- alteration of an employee's position or duties to his or her disadvantage;
- discrimination between an employee and other employees of the same employer;
- harassment or intimidation of a person;
- harm or injury to a person, including psychological harm;
- damage to a person's property;
- damage to a person's reputation;
- damage to a person's business or financial position; or
- any other damage to a person.

The following are examples of actions that are not detrimental conduct:

- administrative action that is reasonable for the purpose of protecting a discloser from detriment, such as moving a discloser who has made a disclosure about their immediate work area to another location or area to prevent them from detriment; and
- managing a discloser's unsatisfactory work performance, if the action is in line with our performance management framework.

Civil, criminal and administrative liability protection

A discloser is protected from any of the following in relation to their disclosure:

- civil liability (any legal action against the discloser for breach of an employment contract, duty of confidentiality or another contractual obligation);
- criminal liability (attempted prosecution of the discloser for unlawfully releasing information, or other use of the disclosure against the discloser in a prosecution (other than for making a false disclosure)); and
- administrative liability (disciplinary action for making the disclosure).

The protections do not grant immunity for any misconduct a discloser has engaged in that is revealed in their disclosure.

Support and practical protection for disclosers

Identity protection (confidentiality)

We will maintain confidentiality of all reports and protect the identity of disclosures to reduce the risk that the discloser will be identified from the information contained in the disclosure.

The following are examples of measures and mechanisms for protecting the confidentiality of a discloser's identity (where applicable)

- all personal information or reference to the discloser witnessing an event will be redacted;
- the discloser will be referred to in a gender-neutral context;
- where possible, the discloser will be contacted to help identify certain aspects of their disclosure that could inadvertently identify them; and
- disclosures will be handled and investigated by qualified staff.

Secure record-keeping and information-sharing processes will include:

- all paper and electronic documents and other materials relating to disclosures will be stored securely;
- access to all information relating to a disclosure will be limited to those directly involved in managing and investigating the disclosure;
- only a restricted number of people who are directly involved in handling and investigating a disclosure will be made aware of a discloser's identity (subject to the discloser's consent) or information that is likely to lead to the identification of the discloser;
- communications and documents relating to the investigation of a disclosure will not be sent to an email address that can be accessed by other employees;
- communications and documents relating to the investigation of a disclosure will be sent to a password-secured printer, and
- each person who is involved in handling and investigating a disclosure will be reminded about the confidentiality requirements, including that an unauthorised disclosure of a discloser's identity is a criminal offence

Disclosers are reminded that in practice, people may be able to guess the discloser's identity if:

- the discloser has previously mentioned to other people that they are considering making a disclosure;
- the discloser is one of a very small number of people with access to the information; or
- the disclosure relates to information that a discloser has previously been told privately and in confidence.

Protection from detrimental acts or omissions

The following are examples of measures and mechanisms for protecting disclosers from detrimental acts or omissions (where applicable):

- an assessment of the risk of detriment and associated risk management strategies against a discloser and other persons (other people who might be suspected to have made a disclosure), will commence as soon as practicable after receiving a disclosure.
- counselling services through our Employee Assistance Program (Access Programs, phone 8215 6799) is available to disclosers;
- arrangements may be put in place to allow the discloser to perform their duties from another location, reassign the discloser to another role at the same level, make other modifications to the discloser's

workplace or the way they perform their work duties, or reassign or relocate other employees involved in the disclosable matter;

- in instances where it is found a detriment has already occurred, we will work together with the discloser to understand their views and aim to support them to the best of our ability. This may include investigating and addressing the detrimental conduct in the most appropriate way or give the discloser the opportunity to take extended leave, develop a career development plan for the discloser that includes new training and career opportunities, or offer compensation or other remedies.

Disclosers who believe they have suffered a detriment in breach of this policy, are encouraged to immediately notify an eligible recipient, or external body under this policy. Concerns of being disadvantaged will be treated as a qualifying disclosure in line with this policy.

Steps in assessing and controlling the risk of detriment

Our Whistleblower Protection Officer (WPO) will be responsible for assessing the risk of detriment. This may be completed by our 3 nominated WPOs collectively, or if there is a conflict arising from the disclosure involving any of the WPOs, may be completed by one WPO.

- **Risk identification:** Assessing whether anyone may have a motive to cause detriment—involving gathering information from a discloser about:
 - the risk of their identity becoming known;
 - who they fear might cause detriment to them
 - whether there are any existing conflicts or problems in the workplace; and
 - whether there have already been threats to cause detriment.
- **Risk analysis and evaluation:** Analysing and evaluating the likelihood of each risk and evaluating the severity of the consequences.
- **Risk control:** Developing and implementing strategies to prevent or contain the risks. For anonymous disclosures, this may involve assessing whether the discloser's identity can be readily identified or may become apparent during an investigation.
- **Risk monitoring:** Monitoring and reassessing the risk of detriment where required; with awareness the risk of detriment may increase or change as an investigation progresses, and even after an investigation is finalised.

Handling and investigating a disclosure

Within 7 days of receiving a disclosure the eligible recipient will assess the disclosure to determine if:

- it qualifies for protection; and
- a formal, in-depth investigation is required.

After receiving the disclosure we will:

- consider if there are any conflicts of interest prior to investigating;
- determine if external authorities need to be notified;
- determine if a formal in-depth investigation is required.

If an investigation is required, it will be conducted fairly, objectively and in a timely manner. The investigation process will vary depending on the nature of the disclosure and the amount of information provided. We will determine

- the nature and scope of the investigation;

- the person(s) within and/or outside the entity that should lead the investigation;
- the nature of any technical, financial or legal advice that may be required to support the investigation;
- the timeframe for the investigation;
- the rights of the people involved in the investigation.

We will

- focus on the substance, rather than the motive, of disclosures;
- not assume that disclosures about conduct or behaviour that appear to have had a personal impact on a discloser are somehow less serious;
- treat the discloser as if protected as a whistleblower under the *Corporations Act 2001* (Cth) in circumstances where it may be unclear whether a disclosure qualifies for protection.

Without the discloser's consent, we recognise we must not disclose information that is likely to lead to the identification of the discloser as part of its investigation process, unless:

- the information does not include the discloser's identity;
- information relating to the discloser's identity or other information that is likely to lead to the identification of the discloser (the discloser's name, position title and other identifying details) is removed; and
- it is reasonably necessary for investigating the issues raised in the disclosure.

We may need to speak with a discloser as part of an investigation. If the identity of the discloser is known, we will keep them informed about the status of an investigation. Anonymous whistleblowers may choose to maintain ongoing communication using their preferred reporting channel, this will allow us to ask follow-up questions and better understand and investigate their concerns.

We will take reasonable steps to provide the discloser with regular updates;

- whilst ensuring that anonymity is not compromised when providing regular updates
- subject to our ability to contact the discloser
- the frequency and timeframes for updates may vary depending on the nature of the disclosure, but will include
 - when the investigation process has begun
 - after the investigation has been finalised.
 - The outcome of the investigation will be reported to the discloser at the discretion of the eligible recipients.
- if there is insufficient information to warrant investigation, or the initial assessment identifies there is no case to answer, the discloser will be notified at the earliest possible opportunity, subject to our ability to contact the discloser.

Documentation and reporting

The Autism SA Board of Directors are responsible for oversight of this policy.

At the conclusion of the investigation, a report will be prepared and reported to the Board of Directors and Executive Leadership Team while preserving confidentiality, outlining:

- the finding of all relevant facts;
- a determination as to whether the allegation(s) have been substantiated or otherwise;
- action that will be taken, or the recommended action where the approval of those responsible for oversight of the policy and outcomes is required

- the information the discloser will receive at the end of the investigation, or in circumstances where it may not be appropriate to provide details of the outcome to the discloser, the reasons for that finding.

The method for documenting and reporting the findings will depend on the nature of the disclosure.

A discloser who is not satisfied with the outcome of the investigation may:

- request our Quality Risk and Compliance² department to review the policy, processes and procedures have been adhered to and if conducted:
 - the review will be conducted by an officer who was not involved in handling and investigating disclosure.
 - the review findings will be reported to those responsible for the oversight of the policy and outcomes.
- may lodge a complaint with a regulator, such as ASIC, APRA or ATO, if they are not satisfied with the outcome of our investigation.

Ensuring fair treatment of individuals mentioned in a disclosure

We recognise the importance of balancing the rights of the discloser and the rights of people against whom a disclosure is made and ensuring principles of natural justice and procedural fairness and prior to any actions being taken.

Measures and mechanisms for ensuring fair treatment of individuals mentioned in a disclosure

An individual mentioned in a disclosure (a respondent)

- will be provided with access to this policy
- will have an opportunity to respond to allegations before any findings are made and before any disciplinary action (if appropriate) is taken
- may have a support person at investigative meetings
- will be informed of their confidentiality rights and obligations as they apply to the circumstances
- will be advised about:
 - the objective of an investigation being to determine whether there is enough evidence to substantiate or refute the matters reported;
 - the investigation process and requirement for it to be objective, fair and independent;
 - the subject matter of the disclosure as and when required by principles of natural justice and procedural fairness and prior to any actions being taken; and
- an employee who is the subject of a disclosure may contact our Employee Assistance Program.

The most appropriate time to inform the individual who is the subject of a disclosure about the investigation will be determined by us. This must be before making any adverse finding against them. In some circumstances, informing the individual at an early stage of an investigation may compromise the effectiveness of the investigation, such as when there may be concerns that the individual may destroy information or the disclosure needs to be referred to ASIC, APRA, ATO or the Federal Police.

² If a Conflict of interest is identified between the Quality Risk and Compliance (QRC) Manager and the disclosure, or any person involved in the investigation of the disclosure, the QRC Manager will have access to defer to the Board of Directors and/or independent external investigators to support with a review of the investigation.,

Ensuring the policy is easily accessible

This policy will be made available as follows:

- posting on our intranet for employees access via electronic devices;
- incorporating in employee induction information and training for new starters, including our Board of Directors;
- posting on our website for access by external eligible whistleblowers and eligible recipients; and
- having a simple English version of this policy available on our website

Relevant legislation

- Corporations Act 2001 (Cth)
- Fair Work Act 2009 (Cth)
- Fair Work Regulations 2009 (Cth)
- Insurance Act 1973 (Cth)
- Life Insurance Act 1995 (Cth)
- Public Interest Disclosure Act 2013 (Cth)
- Superannuation Industry (Supervision) Act 1993 (Cth)
- Australian Prudential Regulation Authority Act 1998 (Cth)

Related policies and procedures

- HRE-POL-002 Code of conduct
- HRE-PRO-002 Disciplinary matters
- HRE-PRO-003 Grievances and disputes

Approval and review

Approval and review	Details
Document approver	Board of Directors
Document administrator	Executive Manager People, Brand and Assurance
Advisory committee	Board meeting
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Date	Version	Approval and amendment history
27 January 2021	1.0	Original policy developed and implemented. Approved by the Board.
29 May 2023	2.0	Policy reviewed and updated to reflect requirements as documented in 21-267MR ASIC calls on Australian CEOs to review whistleblower policies. Approved by the Board.