**AFEI Member Template: Whistleblower Policy**

**THIS DOCUMENT IS ONLY A GUIDE**

AFEI recommends members consider their specific requirements when adopting a template document or policy to ensure the document meets the particular needs of your organisation.

For assistance, please call the AFEI Hotline on 02 9264 2000.

**How to use this document:**

1: Check with the AFEI Hotline as to its suitability for your needs.

2: Edit to meet your requirements by:

* **Add** relevant information in the [yellow highlighted] sections.
* **Delete** comments in the *[blue highlighted]* areas.

***[Place on Company Letterhead]***

Whistleblower Policy

Note: All public companies and large proprietary companies must have a compliant Whistleblower Policy in place from 1 January 2020 and make it available to officers and employees.

A large proprietary company is one that meets at least two of the following criteria: a consolidated revenue of at least $50 million; consolidated gross assets of at least $25 million; or at least 100 employees within the company and the entities it controls.

Please note this is AFEI’s model Whistleblower Policy template which addresses the various information required by Section 1317AI of the *Corporations Act* 2001 (Cth) which sets out the matters that a whistleblower policy must address.

**Introduction**

This policy sets out information about the following:

1. Protections available to whistleblowers;
2. Who can receive disclosures qualifying for protection and how they can be made;
3. How the Company will support whistleblowers and protect them from detriment;
4. How the Company will investigate protected disclosures;
5. How the Company will ensure fair treatment of employees of the Company who are mentioned in disclosures that qualify for protection or to whom such disclosures relate;
6. Information about how this policy will be made available to officers and employees of the Company; and
7. Any other matters prescribed by the regulations.

**Personal Work-Related Grievances**

This policy does not apply to personal work-related grievances of an individual. Examples of personal work-related grievances include interpersonal conflicts between the individual and another employee or a decision relating to the engagement, the terms and conditions of the engagement of the individual, transfer, promotion, suspension or termination of the engagement of the individual.

**Eligible Whistleblowers**

This policy applies to *eligible whistleblowers* in relation to the Company. A person can be an eligible whistleblower if the person is or has been any of the following in relation to the Company:

* Officer;
* Employee;
* Supplier of goods or services (whether paid or unpaid);
* Employee of supplier;
* Associate of the Company;
* Spouse, relative, or dependent of any of the above.

**Eligible Recipients**

A Report may be made to any of the following recipients:

**[The list below is extracted from the Corporations Act. You will need to amend/specify as necessary.]**

* An officer or senior manager of the Company;
* An auditor or a member of an audit team conducting an audit of the Company;
* An actuary of the Company;
* A person authorised by the Company to receive disclosures – you will need to list all of the individuals to whom a whistleblower can make a report – examples include (but are not limited to) a HR Manager, Chief Executive Officer, Chairperson or member of the Board of the Company etc.

A report may also be made to certain government bodies such as the Australian Securities and Investments Commission (ASIC), the Australian Prudential Regulation Authority (APRA) or a prescribed Commonwealth authority. A disclosure can also be made to a legal practitioner for the purpose of obtaining legal advice in relation to the disclosure.

**What Conduct May Be Reported**

A disclosure can be made where the discloser has reasonable grounds to suspect **misconduct** or an improper state of affairs, including breaches of the Company’s policies or the law (“**Reportable Conduct**”).

Reportable matters include where an officer or employee of the Company has engaged in conduct that:

* Constitutes an offence against, or a contravention of the following:
* *Corporations Act 2001 (Cth)*;
* *ASIC Act 2001*;
* *Banking Act 1959*;
* *Financial Sector (Collection of Data) Act 2001;*
* *Insurance Act 1995;*
* *Life Insurance Act 1995;*
* *National Consumer Credit Protection Act 2009;*
* *Superannuation Industry (Supervision) Act 1993.*
* Constitutes an offence against the law of the Commonwealth that is punishable by imprisonment of 12 months or more;
* Represents a danger to the public or financial system.

**Misconduct** includes fraud, negligence, default, breach of trust and duty.

**Protections Available to Whistleblowers**

**Protection of the Discloser’s Identity**

Where a Discloser makes a disclosure of information that qualifies for protection, the Company will not reveal the Discloser’s identity or information that is likely to lead to identification of the Discloser unless:

* They consent;
* The disclosure is reasonably necessary to further an investigation to which the disclosure relates;
* The disclosure is required or permissible by law.

Where the disclosure is reasonably necessary to further an investigation, the Company will take all reasonable steps to reduce the risk that the Discloser will be identified as a result of the disclosure.

**Protection Against Legal Action**

A Discloser will not be subject to any civil, criminal or administrative liability for making a protected disclosure. Any contractual or other remedy cannot be enforced or exercised against the Discloser for making a protected disclosure.

The protection from legal action does not apply where the report reveals that the Discloser is or has been involved in misconduct.

Further, if the disclosure reveals reportable conduct of the Discloser or if the disclosure is found to be falsified, a Discloser may be subject to civil, criminal and administrative liability.

**Protection Against Detriment and Victimisation**

A Discloser will be protected from any detrimental conduct (actual or threatened) taken against them for making or proposing to make a report which is covered by this policy.

A Discloser will not be subject to any detrimental conduct by the Company (including its officers and employees) for making or proposing to make a protected disclosure.

Detriment includes:

* 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;
* Any other damage to a person.

**Fair Treatment of Employees Subject to Whistleblower Disclosures**

**[Insert how the Company will ensure employees who make a protected disclosure will be treated fairly as the manner in which this is to be done is not prescribed in the *Corporations Act 2001* (Cth).]**

**Illustrative example only:**

*If you are an employee who is the subject of an allegation of Reportable Conduct, the Company will ensure you are provided with information about the allegations necessary in order for you to respond and provide you with an opportunity to respond as soon as practicable.*

*If necessary, the Company may stand you down from your employment, pending an outcome of an investigation into the alleged misconduct or wrongdoing. Where this occurs, the Company will keep you up to date with the progress of the investigation and no disciplinary action will be taken against you until such time as the investigation has been completed and allegations of misconduct or wrongdoing have been substantiated.*

**How to make a Report**

Where a Discloser becomes aware of any matter or issue that they consider to be reportable conduct, they may first raise the matter with their [insert first point of contact i.e. immediate supervisor or HR manager].

A Discloser may raise their concerns anonymously to the Company.

A report may be made by any of the following methods:

* Email to the relevant staff member
* By Post – Addressed to the relevant staff member to [insert address]
* Insert other methods (if applicable)

Reports may also be made to the Company’s auditors or actuaries.

**How the Company will Investigate Protected Disclosures**

**[Insert applicable information relating to how the company will investigate protected disclosures.]**

**Illustrative example only:**

*The Company will review all complaints and allegations relating to serious matters raised by a report.*

*Upon consideration of a report, the Company may decide to conduct an investigation. In doing so, the Company will follow a fair process and ensure the investigation is conducted in a timely and impartial manner.*

*As part of the investigation process, the Discloser may need to be contacted in order to obtain further information relevant for the investigation.*

*The Company will keep the Discloser updated on the progress of the investigation.*

*Following the investigation, the Company may prepare a report of its findings and the actions that will be taken.*

*Where a report is submitted anonymously, the Company will conduct the investigation and its enquiries based on the information provided to it.*

**Availability of this Policy**

This Policy is available to all officers and employees of the Company through [insert how it will be made available i.e. intranet, website, hardcopy?]

**Amendment of this Policy**

The Company may review and, where it considers necessary, make amendments to this Policy from time to time such as to ensure it remains compliant with the law.

[Insert Name]

[Insert Title]

[Insert Date]