

Note: Delete this page and following page (total 2 pages) once you complete tailoring the template for your own business.

Who can use this policy?

This policy can be used by all employers.

Commentary

A whistle-blower is anyone who raises issues of wrongdoing to a manager or equivalent. Wrongdoing includes conduct that is dishonest, fraudulent or corrupt.

More Important Information

Having a whistle-blower policy is not a mandatory requirement except in certain circumstances in particular industries. For example, businesses covered by relevant provisions in the Corporations Act 2001 and the relevant fraud, anti-competition and accounting whistle-blower scheme overseen by the Australian Securities and Investment Commission. You should seek legal advice if you are concerned about whether you are covered by a mandatory whistle-blower scheme.

Employers should endeavour to promote a supportive work environment in which employees and other workplace participants feel able to raise issues of legitimate concern without fear of victimisation, detriment or other retribution in connection with making a complaint. Employers should also provide suitable avenues for reporting of matters that may cause loss to or damage to an employer's reputation.

This policy includes provisions dealing with how to report any wrongdoing, confidentiality of a whistle-blower's identity and reports, protection of whistle-blower as well as outlining the investigation stage.

The Corporations Act 2001 (Cth) and the Fair Work Act 2009 (Cth), through the general protections provisions, provide protections for whistle-blowers. If a whistle-blower situation arises in the workplace, employers should obtain specific advice about their obligations under the relevant legislation.

New requirement for Whistle-blower Policy

The laws require all public companies to introduce a Whistle-blower Policy. This also applies to companies with:

- consolidated 'Group' revenue in excess of \$50m;
- consolidated gross assets of more than \$25m or more; or
- 100 or more employees at the end of the financial year.

The Whistle-blower Policy must be in place before 1 January 2020 or else companies may face fines of up to \$12,600.

Who can disclosures be made to in order to be protected?

Protected disclosures can be made to the following persons:

- officers of a company;
- senior managers;
- auditors of a company;
- actuaries of a company; and
- trustee's of a superannuation entity.

Additionally, if a discloser has taken a number of prescribed steps to previously disclose the information and has reasonable grounds to believe that action is not being taken to address the relevant issue, there is a capacity (subject to certain pre-requisites being met) to make protected disclosures to a journalist or member of State or Federal Parliament.

How to complete this template

Designed to be customised

It is completely customisable based on your specific requirements.

Include what you must and can comply with

This document should be used in conjunction with your contract of employment, and any specific company procedures and processes. Only include the commitments you are confident you can comply with, make sure you update and review the document regularly.

Important: You may have legal obligations to your employees under an employment or industrial agreement such as an award, workplace agreement or employment contract. Make absolutely certain what's written in this document is consistent with these. If you're unsure what covers your employees, ACFA Members can contact ACFA's workplace advice team on 1300 342 248 or on 02 4340 2000 for further advice/assistance

To complete the template:

1. Using Word's Replace function, search for (INSERT COMPANY NAME) and replace with your company name.
2. Replace (items in brackets) with your own wording.
3. Once you have finished work on the template, delete the introduction/explanation page/s of the document.
4. Update page numbers

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Whistle-blower Policy

- **Purpose**

- 1.1 **Insert Business Name**, aims to provide an environment where employees and others in the workplace are treated fairly and with respect. Employees are encouraged to report any wrongdoing.
- 1.2 **Insert Business Name** also aims to help provide employees, volunteers and contractors with a supportive work environment in which they feel able to raise issues of legitimate concern to **Insert Business Name**, without fear of victimisation, detriment or other retribution and provide suitable avenues for reporting of matters that may cause loss to or damage **Insert Business Name's** reputation.

2. Commencement of Policy

- 2.1 This policy will commence from **Insert Date**. It replaces all other Whistle-blower Policies (whether written or not).

3. Application of Policy

- 3.1 This policy applies to employees, volunteers and contractors of **Insert Business Name** in relation to reports concerning wrongdoing. This policy must not be used for trivial or vexatious matters (being matters that the reporter knows, or ought to know have no substance). This policy is not intended to replace other reporting structures or grievance procedures such as those for dispute resolution, grievances, equal opportunity, discrimination, harassment or bullying.
- 3.2 This Policy does not form part of any employee's contract of employment. Nor does it form part of any other employee's contract for service.
- 3.3 **Insert Business Name** is committed to the highest standards of legal, ethical and moral behaviour. **Insert Business Name** will not tolerate unethical, unlawful or undesirable conduct. This policy documents **Insert Business Name's** commitment to maintaining an environment in which employees, volunteers and contractors are able to report, without fear of retaliatory action, concerns about any serious instances of wrongdoing that they believe may be occurring in the name of **Insert Business Name**.

4. Definition

- 4.1 **"Whistleblowing"** means the deliberate, voluntary disclosure of individual or organisational wrongdoing by a person who has or had privileged access to data, events or information about an actual, suspected or anticipated wrongdoing within or by an organisation that is within its ability to control.
- 4.2 **"Wrongdoing"** means any conduct that is dishonest, fraudulent, corrupt, or illegal, such as theft, drug sale or use, violence, harassment, criminal damage to property or other breaches of state or federal legislation; unethical behaviors, such as dishonestly altering company records or engaging in questionable accounting practices or willfully breaching **Insert Business Name's** code of conduct or other

ethical statements; potentially damaging to another employee or contractor, such as unsafe work practices or substantial wasting of resources; cause financial loss to **Insert Business Name** or damage its reputation or be otherwise detrimental to **Insert Business Name's** interests or involves any other kind of serious impropriety, and may include concealment of Wrongdoing.

5. Reporting any wrongdoing

- 5.1 Any employee, volunteer or contractor who detects or has reasonable grounds for suspecting wrongdoing is encouraged to raise any concerns with their immediate manager through normal reporting channels.
- 5.2 The manager will report the allegation to the **Insert Title**, who is responsible for ensuring the matter is properly dealt with. This may include appointing an independent investigator to inquire into the allegations. Alternatively, it may be appropriate to continue to be dealt with by an internal manager.
- 5.3 If the employee, volunteer or contractor does not believe reporting to their immediate manager through normal reporting channels is appropriate given the circumstances of the wrongdoing, the report may be made directly to **Insert Name**, the designated whistle-blower protection officer.
- 5.4 If the allegations involve **Insert Name** an employee, volunteer or contractor reasonably believes that reporting the allegations to this person would not be sufficiently independent, then they should report the allegation to **Insert Name**.
- 5.5 Where it is shown that a person purporting to be a whistle-blower has knowingly made a false report of wrongdoing, then that conduct itself will be considered a serious matter. A false report includes matters the reporter knows, or ought to know, have no substance.
- 5.6 Making a false report may lead to the whistle-blower being the subject of disciplinary action which may include dismissal.

6. Confidentiality of whistle-blower's identity and whistle-blower reports

- 6.1 If a person makes a report of alleged or suspected wrongdoing under this policy **Insert Business Name** will endeavour to protect that person's identity from disclosure. This may not occur if confidentiality is not a practical option.
- 6.2 Generally, **Insert Business Name** will not disclose the person's identity unless:
 - the **Insert Business Name** employee making the report consents to the disclosure;
 - the disclosure is required or authorised by law, and/or
 - the disclosure is necessary to further the investigation.
- 6.3 Generally, reports made under this policy will be treated confidentially. However, when a report is investigated it may be necessary to reveal its substance to people such as other **Insert Business Name** personnel, external persons involved in the investigation process and, in appropriate circumstances, law enforcement agencies.

At some point in time it may also be necessary to disclose the fact and the substance of a report to the person who is the subject of the report. While confidentiality is maintained, in some circumstances, the source of the reported issue may be obvious to a person who is the subject of a report.

6.4 Unauthorised disclosure of information relating to a report, the identity of a **Insert Business Name** employee, volunteer or contractor who has made a report of wrongdoing or information from which the identity of the reporting person could be inferred will be regarded seriously and may result in disciplinary action, which may include dismissal.

7. Protection of whistle-blowers

7.1 **Insert Business Name** is committed to protecting and respecting the rights of a person who... *Additional clauses included with complete policy*

- Investigation ... *Additional clauses included with complete policy*
- Variations

Insert Business Name reserves the right to vary, replace or terminate this policy from time to time.

8. Workplace participant acknowledgement

I acknowledge:

- receiving the **Insert Business Name** Policy;
- that I should comply with the policy; and
- that there may be disciplinary consequences if I fail to comply, which may result in the termination of my employment, the cancellation of my engagement, or the loss of my position.

Your name:

Signed:

Date:

*** This is only a preview of the document, you will need to purchase the document to see all the content.**

**Please Note: As a Business Plus or Premium ACFA Member you can download all the policies on our website for free or have them customised specifically for your business at no additional charge. ACFA Members can also request policies and resources which are not on our website through our Workplace Advice Department. This is just one of the many services that are included with our annual membership subscription.*