

Gp8.1 Protected Disclosure (Whistleblower) Policy

1.0 Introduction

Statement of Policy & Purpose

ACSO is committed to the highest standards of legal, ethical, and moral behaviour and is committed to maintaining an environment where legitimate concerns can be reported without fear of retaliatory action, retribution, or adverse impact on employment. ACSO recognises that people with a work, service or client relationship with ACSO may be the first to recognise misconduct is occurring within ACSO but may not wish to speak up for fear of appearing disloyal or concerns about being victimised or subject to other reprisals. This is illegal and directly opposes the values and ethical standards of ACSO.

The purpose of this policy is to:

- a) Encourage the reporting of suspected unethical, illegal, fraudulent or undesirable conduct involving ACSO's businesses and matters that may cause harm to individuals, financial or non- financial loss to ACSO or damage to its reputation.
- b) Enable ACSO to deal with reports from Disclosers in a way that will protect their identity and provide for the secure storage of the information provided.
- c) Provide protections for Disclosers to make a Disclosure confidentially and without fear of intimidation, disadvantage, or reprisal.
- d) Provide the appropriate infrastructure to enable Disclosures.
- e) Help ensure ACSO maintains the highest standards of ethical behaviour and integrity and complies with the law.

Protection for Disclosers

A Discloser is an Eligible Whistleblower, (see definitions below) entitled to protection under the *Corporations Act 2001* (Cth) (Corporations Act) and, if applicable, under the *Taxation Administration Act 1953* (Cth) (Taxation Administration Act) provided they are:

- An Eligible Whistleblower.
- Has disclosed (or intends to disclose) Misconduct to an Eligible Recipient or to the Australian Securities and Investments Commission (**ASIC**), the Australian Prudential Regulation Authority (**APRA**) or another entity prescribed under the Corporations Act.

See below for the meaning of the terms Discloser, Eligible Whistleblower, Misconduct and Eligible Recipient.

Public Interest Disclosures

In specific and more limited circumstances, where a matter is of public interest or there is an emergency, a Disclosure may be protected if it's made to a journalist or a member of Parliament.

The criteria for making a public interest or emergency Disclosure must be covered by Whistleblower protections. ACSO suggests that if a staff member is considering such a Disclosure, they contact the Company Secretary or their team leader immediately so that obtaining external legal advice can be facilitated prior to making a public interest or an emergency disclosure. The Company Secretary or team leader does not need to know any details of the Disclosure.

Principles

Disclosers disclosing Misconduct in relation to ACSO or a related body corporate of ACSO to an Eligible Recipient, shall not suffer any sanctions from ACSO on account of the Disclosure, provided that their actions:

- Are in good faith.
- Are based on reasonable grounds.
- Comply with the procedures set out in this policy.

When a Discloser makes a Disclosure, they are entitled to expect that:

- Their identity remains confidential to the extent possible, and that fact of the Disclosure is shared on a "need to know" basis only.
- They will be protected from reprisal or any other detrimental action because they have made the Disclosure.

2.0 Definitions:

| Term | Definition |
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| Eligible Whistleblower | <p>An Eligible Whistleblower is a person who is, or has been, any of the following:</p> <ul style="list-style-type: none"> • An officer or employee of ACSO (this includes current and former employees who are permanent, part-time, fixed term or temporary, interns, secondees, managers and directors). • A person who supplies goods or services to ACSO or an employee of a person who supplies goods or services to ACSO (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 ACSO - for example, a director or company secretary of ACSO or a related body corporate of ACSO. • A relative, dependent or a dependent of the spouse of any person referred to in this definition of Eligible Whistleblower. |

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| Discloser | An Eligible Whistleblower who has disclosed (or intends to disclose) Misconduct to an Eligible Recipient or to the Australian Securities and Investments Commission (ASIC), the Australian Prudential Regulation Authority (APRA) or another entity prescribed under the Corporations Act. |
| Disclosure | Means a report, using the process set out in this policy, where the Discloser: <ul style="list-style-type: none"> a) Believes on reasonable grounds that the information is about Misconduct related to ACSO; or b) believes on reasonable grounds that the information is about Misconduct related to ACSO may be true and is of sufficient importance to justify its disclosure and investigation. |
| Disclosure Officer/s | The initial contact for any reports where notification comes from PKF Protected Disclosure Service, being the Company Secretary and the Chief People Officer. Responsible for assessing the disclosure and determining the appropriate response, the parameters of the assessment, investigation, review and any follow up action relating to the Disclosure. |
| DMS | Secure Disclosure management system. |
| Eligible Recipient | <p>A Disclosure can be made using any of the channels below (each is an Eligible Recipient of Reportable Matter):</p> <p>PKF: Portal URL: https://www.pkftalkintegrity.com/?acso Hotline No: 1800 316 448 Email: ACSOhotline@pkf.com.au Mail: The Whistleblower Administrator, PKF Integrity Services (BMNS) Pty Ltd, Level 8, 1 O'Connell Street, Sydney NSW 2000.</p> <ul style="list-style-type: none"> • A director or senior manager of ACSO. • An internal or external auditor of ACSO. • Your team leader. • The Company Secretary. • The Chief People Officer. • ASIC, APRA or the Commissioner of Taxation. • Any other Commonwealth Authority prescribed by law. |
| Good faith | A sincere belief or motive without malice or a desire to defraud others; honesty; a sincere intention to deal fairly with others. |
| Investigator(s) | Person(s) nominated by the Disclosure Officer to investigate feedback. May be ACSO personnel or an external contractor. |
| Misconduct | Includes, but is not limited to: |

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| | <ul style="list-style-type: none"> • Financial malpractice • Fraud • Criminal activity or danger to public health and safety • Corrupt conduct • Unethical behaviour or behaviour which otherwise has the potential to damage ACSO's reputation • Conduct which involves substantial risk to public health and safety • Illegal conduct • Substantial mismanagement of ACSO's resources • Wilful mismanagement of ACSO's resources • Bullying, discrimination or harassment. • Wilful breach of duty to clients • Practices endangering the environment • Practices that amount to a substantial waste of public resources. • Information that indicates that ACSO employees, volunteers or contractors have engaged in conduct that breaches State or Commonwealth laws, punishable by 12 months or more imprisonment, including the ACNC Act or the Corporations Act, or the Income Tax Assessment Act, as amended from time to time • Information that indicates that ACSO employees, volunteers or contractors have engaged in conduct that represents a danger to the public or the financial system and • Any attempt to conceal or delay the disclosure of any of the above conduct. |
| “PKF Forensic and Risk Services” | An organisation engaged by ACSO to provide an independent system for Disclosure by a Discloser. |
| “Respondent” | A person to whom the allegation relates. |

3.0 Implementation Guidelines

3.1 Matters to Consider Prior to a Disclosure being made

A Discloser may approach any Executive or ACSO leader, (provided they feel comfortable to do so), to discuss the potential of making a Disclosure at any time, on a strictly confidential basis. These leaders are available to provide advice on whether a matter is covered by this Policy prior to the Disclosure being made.

The leaders may raise the matter with the Company Secretary or the Chief People Officer on an anonymous basis, if they require any guidance about the application of this Policy to the matter raised.

It is important to note that not all concerns should be raised using the procedures outlined in this policy if they are more appropriately dealt with under another ACSO policy, such as:

- All other reporting structures such as those for discrimination, workplace bullying and sexual harassment.
- The standard complaint mechanisms for clients or volunteers.
- The exercising of rights under the terms of their contract by contractors and suppliers.

Personal work-related grievances that don't involve a detriment caused to an employee as a Discloser (or a threat of detriment) are not Disclosures and are not protected under the Corporations Act or Taxation Administration Act.

A personal work-related grievance is one that relates to your current or former employment that has implications for you personally but doesn't have significant implications for ACSO, for example if you believe you have missed out on a promotion you believe you deserve.

A work-related grievance may still qualify for protection under the law if (for example):

- It is a mixed report that includes information about a Disclosure (as well as a work-related grievance).
- ACSO has broken employment or other laws which are punishable by imprisonment for 12 months or more or acted in a way that is a threat to public safety.
- the disclosure relates to information that suggests misconduct that goes further than the Discloser's personal circumstances.
- The Discloser suffers from, or is threatened with, detrimental consequences for making a disclosure.

3.2 Protections Available to a Discloser

3.2.1 Protections available to Disclosers at Law

If the Discloser makes a Disclosure the following protections are available:

- The right, in certain circumstances, to make a public interest disclosure and an emergency disclosure, (seek independent legal advice on this prior to making such a disclosure)
- The right to have confidential information and privacy preserved unless an exception applies.
- The right **not** to:
 - Be subject to any civil, criminal, or administrative liability (including disciplinary action) for making a Disclosure.
 - Have contractual or other remedies or rights enforced against them on the basis of a Disclosure.
 - Have information relating to Disclosures admissible in evidence against them in criminal proceedings or proceedings for the imposition of a penalty, other than proceedings in respect of the falsity of the information, if the Disclosure is made to ASIC, APRA or the Commissioner of Taxation, or is a public interest disclosure or emergency disclosure as permitted under the Act.

- The right not to be victimised or subjected to any detrimental action or threatened in relation to any detrimental action, by reason of making a Disclosure; and
- The right to seek compensation and other remedies in respect of any detrimental action or victimisation that directly causes adverse consequences to the Discloser, including reinstatement, compensation, an order prohibiting victimisation, or an apology. The victimiser can be ordered to pay substantial monetary fines or may be imprisoned under other relevant legislation and the *Fair Work Act 2009*.

To protect Disclosers from detrimental treatment, ACSO will:

- Make an assessment of the risk of detriment against a Discloser as soon as possible after receiving a Disclosure.
- Take practical action, as necessary, to protect a Discloser from the risk of detriment and intervene if detriment has already occurred.

If a Discloser believes they have been subject to detrimental treatment, they should inform an Eligible Recipient or the Company Secretary immediately.

3.2.2 Anonymity and confidentiality

ACSO will protect the identity of a Discloser who reports or who seeks to make a Disclosure **except** in the following circumstances:

- If the Discloser consents in writing to the disclosure of their identity by ACSO.
- during the investigation process, ACSO may disclose information (other than the identity of the discloser) where it is reasonably necessary for the purposes of investigating the Disclosure. ACSO will take reasonable steps to reduce the risk of the Discloser being identified and will consult with the Discloser if this arises.
- ACSO needs to disclose this information to obtain confidential legal advice or representation and ACSO will consult with the Discloser if this is necessary.
- if disclosure of the identity of the Discloser is required or permitted by law, or ACSO needs to disclose the information to prevent a serious and imminent threat to life, health, or property.

Any person who receives a Disclosure must keep that information confidential (except in the circumstances permitted above). A breach of this obligation of confidentiality shall be treated as serious Misconduct in the case of an ACSO employee. If the obligation to maintain confidentiality is breached by a person who is not an ACSO employee, ACSO may take corrective action against the contractor, volunteer or other person. The breach of confidentiality provisions may also amount to a criminal offence and civil penalties, including substantial fines and/or imprisonment.

In some cases, the identity of the Discloser may be apparent from the information contained within the report. In such cases, the Discloser will be informed of this by PKF or the Disclosure Officer prior to disclosing the information.

Files and records relating to Disclosures will be treated as confidential and stored securely

3.2.3 No Victimisation or Detrimental Action

No detrimental action or victimisation of a Discloser will be tolerated, where the Disclosure is made in good faith, including where the alleged Misconduct is not confirmed by subsequent investigation. Victimisation includes any conduct or behaviour or threats of conduct or behaviour, that causes detriment to a Discloser

A person making a Disclosure under this policy is not automatically protected from the consequences of participating in the Misconduct they report.

False reports

Anyone who knowingly makes a false Disclosure or who does not have a reasonable belief for making the Disclosure, may be subject to disciplinary action, including dismissal. Disclosers are able to access the employee assistance program, (EAP) or the support of other internal resources, if they feel comfortable or wish to.

3.3 Protections for Respondents

Any investigation regarding a Disclosure will be conducted in accordance with principles of natural justice (procedural fairness). ACSO will ensure that employees, contractors or volunteers who are the subject of the Disclosure, or to whom a Disclosure relates, will be treated fairly, through the application of relevant ACSO policies, including:

- *Work, Health Safety Policies*
- *People & Culture Policy and Procedures*

In relation to employees, contractors or volunteers who are the subject of the Disclosure, or to whom a Disclosure relates, ACSO will endeavour to:

- Maintain their privacy.
- Provide an opportunity to be heard and respond (if appropriate and subject to ACSO's requirements to maintain confidentiality).
- Access ACSO's Employee Assistance Program.

3.4 Disclosure Related to Senior ACSO Employees

If the Disclosure involves any member of the ACSO Executive or Board, the Disclosure Officer may inform the CEO or a Board member, (where the Misconduct does not concern the CEO or the particular Board member).

If the Disclosure involves the CEO, the nominated Disclosure Officer may inform the Board Chair. If the Disclosure involves the Board Chair, the Discloser may inform the CEO and/or a member of the Board.

If the Disclosure involves the Disclosure Officer, a secondary contact will be notified by PKF Forensic and Risk Services, who will inform the CEO.

3.5 Disclosures not made in Good Faith

Where an employee has not acted in good faith or has knowingly made a false Disclosure, the Managing Unsatisfactory Work Performance procedure may be initiated.

While an investigation of a Disclosure is in progress, no detrimental action or victimisation will be taken against any person named in the Disclosure, until the investigation or other action provides otherwise.

3.6 Some Disclosures may be made to Authorities

A Disclosure may be reported directly to an external regulatory body, including ASIC APRA, the ACNC or the Commissioner of Taxation (for a disclosure under the *Taxation Administration Act*).

Nothing in this policy is intended to prevent any person from reporting possible breaches of laws to relevant government agencies or authorities.

4.0 Disclosure Procedure

4.1 Independent Protected Disclosure Hotline

PKF Forensic and Risk Services operate the Independent Whistleblower Disclosure Hotline on behalf of ACSO, to ensure ACSO's employees, contractors, service users/clients and suppliers have a central place to make Disclosures. This is an 1800 toll-free number available to ACSO's employees, volunteers and contractors, who can call 24 hours a day, 7 days a week, on an anonymous and confidential basis.

Phone: Call the Protected Disclosure Hotline on 1800 316 4748

- Web portal: Visiting <https://www.pkftalkintegrity.com/?acso>
- Email: ACSOhotline@pkf.com.au
- Mail: c/- Viv Mercer, Senior Investigator, PKF Forensic and Risk Services, Level 8, 1 O'Connell Street, Sydney NSW 2000

4.2 PKF Actions

Upon receipt of a Disclosure, PKF obtains as much relevant information as possible. Disclosures are recorded by PKF in a secure Disclosure Management System (DMS), which is managed by PKF.

PKF then provides the Disclosure to the ACSO Disclosure Officer(s), the Chief People Officer and the Company Secretary via the DMS. Disclosure Officer(s) can view Disclosure in the DMS and

add comments, case notes or relevant documents (e.g., copies of correspondence, investigation reports).

4.3 Disclosure Officer Actions

The Disclosure Officer(s) review the Disclosure, add comments/case notes or relevant documents and must determine whether an investigation or other process e.g. performance management, is to be implemented, **within 2 business days** of receiving the Disclosure.

Where the Disclosure relates to the nominated ACSO Disclosure Officer (s), the CEO will be the Disclosure Officer. Where a Disclosure relates to the CEO, the Disclosure Officer will be the ACSO Board Chair. Where the Discloser has provided contact details, the Disclosure Officer will contact the Discloser to advise of the initial view.

4.4 Investigation

The Disclosure Officer will scope the investigation and appoint a suitable investigator which may be an independent contractor.

The nominated investigator will conduct the investigation and has the ability to access employees and ACSO records. The investigator will liaise with the Disclosure Officer throughout the investigation and **within 20 business days** from receiving the Disclosure, provide a final report of the findings.

Allegations of sexual abuse towards a child or that pose the risk of serious harm to others must be reported to the appropriate authorities as per ACSO's Child Safe Policy and privacy policy.

There must be exceptional reasons for this timeframe not to be met. But where it is not possible, the investigator must consult with the Disclosure Officer and new timelines determined. Where known, the Discloser will be advised of the delay and the new timeframes. Unless there are exceptional circumstances, investigations must be resolved within **40 working days** from the date of Disclosure.

The investigator will maintain contact with the Disclosure Officer throughout the investigation. The Disclosure Officer will provide updates on progress to the Disclosure, if possible.

4.5 Determination

The Disclosure Officer will review the final report from the investigator and may seek legal or other advice if required, in order to make a final determination. If the determination of the Disclosure Officer is that the Disclosure does not amount to Misconduct, the Discloser will be, if practicable, informed of that decision.

If the determination is that Misconduct may have occurred, and subject to the necessary professional advice, the Disclosure Officer will provide this information to the people who are the subject of the Disclosure. They will be provided with an opportunity to respond to any allegation, as referred to above in part 3.3 of this policy.

A further investigation will then be conducted promptly and fairly with due regard for the nature of the allegation and the rights of the people involved in the investigation. ACSO recognises the importance of balancing the rights of the Discloser and the rights of people against whom a report is made in ensuring fairness.

The investigation will:

- Follow a fair process.
- Be conducted in as timely a manner as the circumstances allow.
- Be independent of the person(s) about whom an allegation has been made.

4.6 After the Investigation

The Disclosure Officer will formulate an action plan to address the findings of the investigation. Depending on the outcome, a number of actions may be appropriate, such as referral to police, referral to a regulator or internal disciplinary or other action.

Where possible, and subject to privacy and confidentiality obligations, the Discloser will be advised the outcome of the second investigation, which could include the rationale for the decision and resulting actions and who to contact, e.g., independent statutory bodies, should they not be satisfied with the outcome.

If the Discloser is not an ACSO employee, they will be kept informed of the investigative outcomes (subject to privacy and confidentiality considerations), provided the Discloser has agreed to maintain confidentiality in relation to any information disclosed to them about the determination.

5.0 Key Responsibilities

PKF Forensic and Risk Services are responsible for:

- Vetting and processing all Disclosures made via DMS Intranet portal, the 1800 contact number, mail or email within 2 working days.
- Ensuring all information is treated confidentially and securely as required by this Policy.

Disclosure Officer/s are responsible for:

- Receiving and viewing disclosure information and adding comments, case notes or relevant documents (e.g., copies of correspondence, investigation reports).
- Conducting an initial assessment of risk and complexity level of the Disclosure in consultation with the Executive Group where required.
- Determining the most appropriate action to take regarding the Disclosure.
- Investigating as required.
- Keeping the Discloser informed of the progress and outcomes of the inquiry / investigation, as required.
- Reporting to the CEO and the Board of any inquiry / investigation findings.
- Creating reports via the DMS that can be utilised to analyse trends and provide dashboard reporting to ACSO Board and Executive Team.

Investigator/s is responsible for writing the investigation report with all the investigation / inquiry findings and recommendations

The Executive Team is responsible for appointing other parties for the role of Disclosure Officer if required.

The Discloser is responsible for providing information to assist any inquiry/investigation of the Misconduct disclosed.

6.0 Other Policies and Procedures to be Cross-referenced with this Policy

- People & Culture Policy and Procedures
- Work Health and Safety Policies and Procedures
- CG3 Feedback Management Policy
- CG4 Child Safe Policy
- CG5 Supporting people at risk of or experiencing family violence
- G3 Privacy Policy
- IT7 Information Security Policy

7.0 Relevant Legislation

- *Protected Disclosure Act 2012 (Vic)*
- *Protected Disclosures Act 1994 (NSW)*
- *Protected Disclosure Act 2010 (Qld)*

8.0 Cross-reference to Standards

- QIC Standards Community Services and Social Services, Standard 1.1

9.0 References

- *ASIC Regulatory Guide 270*
- *Whistleblower policy infographic*

10.0 Procedures and/or guidelines

Not applicable.

11.0 Review

This policy will be reviewed at a minimum of every two years.

Protected Disclosure (Whistleblower) Procedure Quick reference

