

	<h1>WHISTLEBLOWERS</h1>	Document No:	HR-PRO-039
		Approval Date:	11/06/19
		Approved By:	G. Mowbray
		Review Date:	11/06/21
	Responsible Officer: Employment Relations Manager	Expiry Date:	N/A
		Issue No:	11/06/19
Authorising Officer: Business Manager, General Secretariat			

1. Purpose

The Australian Catholic Bishops Conference (ACBC) is committed to upholding ethical work practices in accordance with Catholic Social Teaching and applicable legislation. ACBC workers (staff, volunteers, contractors and partners) who are aware of wrongdoing should be able to disclose this. The ACBC acknowledges that it can be difficult for potential whistleblowers to come forward and upholds that those who disclose legitimate concerns should be able to do so without fear of retaliatory action or retribution. ACBC workers who make disclosures in good faith will be protected from any adverse employment consequences.

This procedure has been developed to facilitate this by:

- enabling whistleblowers to disclose matters of concern
- ensuring that steps are in place to keep a whistleblower's identity confidential, if they request
- ensuring that steps are in place to prevent harming or causing detriment to a whistleblower

Where a concern has been disclosed under this procedure, the ACBC will:

- conduct an investigation
- inform the whistleblower of the outcome of the investigation
- take steps to implement recommendations from the investigation
- treat any retaliation or retribution made against the whistleblower as a matter for disciplinary action

Above all, the ACBC is committed to ensuring that all workers are treated with respect and dignity.

2. Scope

This procedure applies to all workers including employees, applicants for employment, student placements, apprentices, volunteers and contractors at ACBC agencies. It extends to clients and suppliers. It also extends to any individual who would previously have been a whistleblower under this procedure.

This procedure does not apply to a personal work-related grievance. i.e. a grievance about any matter in relation to the worker's employment, or former employment, which may only have implications for them personally and not for the ACBC at large. These complaints may be made through the ACBC Grievance Procedure ([HR-PRO-011 Grievances](#)).

This procedure may be read in conjunction with any whistleblowers procedures which are specific to an ACBC agency.

3. Related Documents

Corporations Act 2001 (Corporations Act)
 Treasury Laws Amendment (Enhancing Whistleblower Protections) Act 2019
 ASIC Act 2001
 National Consumer Credit Protection Act 2009
[HR-PRO-011 Grievances](#)
[HR-PRO-013 Misconduct](#)
[HR-PRO-016 Workplace Investigations](#)

4. Definitions

Whistleblowing

Whistleblowing is the disclosure of any disclosable matter.

Whistleblower

A whistleblower is a person who makes a disclosure. A whistleblower can be:

- a current employee
- a former employee
- an officer (as defined in the Corporations Act)
- a volunteer
- a contractor
- a person who supplies goods or services to ACBC agencies, whether paid or unpaid (or an employee of same)
- a client
- a spouse, partner, dependant or other relative of any of the above

Disclosure

A disclosure is a report of a disclosable matter. A disclosure may be made anonymously. A disclosure may be made to an eligible recipient, being a person within the ACBC who is authorised or otherwise deemed to be a person to whom a disclosure may be made. A disclosure may also be made to Australian Securities and Investments Commission (ASIC), Australian Prudential Regulation Authority (APRA) or other prescribed Commonwealth body, or to a lawyer for the purposes of obtaining legal advice or representation. A disclosure by a whistleblower qualifies for protection under applicable legislation if it is information about a disclosable matter.

Disclosable matters

A disclosable matter is any activity about which a whistleblower has reasonable grounds to suspect misconduct, or an improper state of affairs. This can be conduct that:

- breaches legislation, regulations or local government by-laws or is otherwise illegal (including breaches of corporations law, theft, drug sale/use, violence or threatened violence or criminal damage against property)
- is corrupt or is an abuse of public trust or position as a public official
- is dishonest or fraudulent
- perverts the course of justice
- may pose significant risk to public safety or the stability of, or confidence in, the financial system (whether or not in breach of any law)
- unreasonably endangers health and safety or the environment
- is maladministration (e.g. unjust, based on improper motives, is unreasonable, oppressive or negligent)
- is serious or substantial waste
- is gross mismanagement or repeated breaches of administrative procedures
- has financial or non-financial loss detrimental to the interests of the ACBC
- is an unethical breach of the Code of Conduct
- is serious improper conduct that could give reasonable grounds for disciplinary action

Examples:

- insider trading
- insolvent trading
- fraud
- money laundering
- terrorism funding
- activities that exploit legal loopholes to harm the administration of government programs
- an offence under any other law of Commonwealth punishable by imprisonment of 12 months or more
- a representation of a danger to the public or financial system
- systemic misconduct (e.g. breaches of employment laws; threats or detriment to those who raise or report issues)
- breaches of safeguarding processes

A personal work-related grievance. i.e. a grievance about any matter in relation to an employee's employment, or former employment, which may only have implications for the employee personally and not for the ACBC at large, is **not** a disclosable matter.

Protection

Protections include protection of identity and protection against harm or detriment as stated in Section 8 of this procedure.

Whistleblower Governance Officer

The Whistleblower Governance Officer is the person nominated by the ACBC to manage the process for receiving and acting on disclosures. At the ACBC this role is filled by the General Secretary.

Whistleblower Protection Officer

A Whistleblower Protection Officer is a worker who has been given the responsibility for providing support to the whistleblower. At ACBC the designated person is as follows:

Agency	Designated Person
Caritas Australia	Senior Manager, People and Culture
Catholic Social Services Australia	Director, Corporate Services
NCEC	Manager Governance and Corporate Services
All other ACBC Agencies	Employment Relations Manager, Office for Employment Relations

Where the disclosure concerns one of the positions named, the role can be delegated to another senior person within the ACBC.

Supervisor

The Supervisor is a Bishop, an Agency Head, Director, Manager, Coordinator or Team Leader, who is responsible for the day-to-day supervision of workers.

Eligible recipients

A disclosure within the ACBC may be made to other eligible recipients including:

- an ACBC officer (e.g. a senior manager, CEO or Agency Head)
- a Supervisor
- any auditor or actuary appointed by the ACBC

5. Responsibilities

Whistleblower

To avail themselves of protections under this process, whistleblowers must ensure that the disclosures they make are:

- serious in nature and made with reasonable grounds to suspect that the information included in relation to it is true
- not trivial, malicious or vexatious in nature.

Whistleblowers must, to the extent required by law, provide information to assist in any investigation of the matter disclosed.

Eligible Recipient

An eligible recipient must:

- Report the disclosed information to the Whistleblower Governance Officer
- Keep the identity of the Whistleblower confidential, if they request

Whistleblower Governance Officer

The Whistleblower Governance Officer is responsible for:

- making sure that a Whistleblower Protection Officer has been assigned to the whistleblower
- making sure that the disclosure is inquired into and/or investigated as appropriate
- where an investigation is required, that the investigator is appropriately qualified

- ensuring the appropriate response is made to the disclosure including identifying and facilitating the taking of appropriate action
- ensuring the whistleblower is protected from any retaliation or retribution

Whistleblower Protection Officer

A Whistleblower Protection Officer is responsible for:

- providing support to the whistleblower (e.g. listening to the whistleblower, providing information about this and any relevant complaints handling process, access to the Employee Assistance Program where appropriate)
- liaising with the whistleblower on the progress of any actions taken (i.e. keeping the whistleblower updated on the stage that their disclosure is at)
- liaising with the whistleblower on the outcome of any investigation (e.g. explaining reasons for the outcome, providing options for redress or review)

Supervisor

Supervisors are responsible for:

- Promoting a culture that is open and transparent
- Making sure that their workers are aware of this procedure

Office for Employment Relations or Human Resources Function

The Office for Employment Relations or Human Resources Function is responsible for:

- Sourcing and implementing whistleblower protection training
- Assisting workers to implement this procedure as required

6. Promoting an Open and Transparent Culture

Whistleblowing is most effective when it operates in an open-door culture that actively encourages workers to report concerns. In these organisations, problems are likely to be raised earlier and addressed, reducing the need to resort to whistleblowing. Not only does this create an environment where problems are dealt with before they become potentially damaging risks, it reduces the association with betrayal, from 'dobbing in' at one level to 'denunciations', making the practice more acceptable. In the best organisations, whistleblowing is the last port of call.

Senior management must take overall responsibility for ensuring that an open and ethical culture is embedded throughout the ACBC and its agencies.

7. Making a Disclosure

Any person listed under the definition of "whistleblower" (Section 4. Definitions) can make a disclosure regarding a disclosable matter.

The disclosure can be made to the Whistleblower Governance Officer or an eligible recipient. The disclosure can be made by direct contact, via email, telephone call or letter or through the [ACBC website](#).

Disclosures can be made verbally and followed up in writing.

In some cases, a whistleblower may suspect wrongdoing as a result of a misunderstanding or from incomplete knowledge or another legitimate reason. For these reasons, prior to making a disclosure, whistleblowers are encouraged to, where appropriate, raise matters with their Supervisor or another senior member of their agency to seek an explanation or a resolution.

8. Protection of Whistleblowers

Protection of identity

On receiving a disclosure, and if the whistleblower requests it, the Whistleblower Governance Officer is responsible for making sure that, to the extent required by law:

- the identity of the whistleblower is not disclosed
- any information leading to the identification of the whistleblower is not disclosed

In order to maintain this protection the Whistleblower Governance Officer will, to the extent practicable, involve only those individuals who are directly involved in the allegations made, or who otherwise need to know, in the disclosure and/or the investigation or inquiry.

Protection against harm or detriment

Any retaliation or retribution against a whistleblower will be regarded as serious misconduct. An allegation of such misconduct will be formally investigated and acted on as per the ACBC Misconduct procedure. If proven, it may result in disciplinary action being taken against the perpetrator, which can include termination of employment.

Victimisation of a whistleblower or potential whistleblower can lead to a civil penalty or criminal prosecution. Victimisation occurs where a person engages in conduct that causes any detriment (see below) to any other person in the belief or suspicion that the other person has made, may make proposes to make, or could make, a protected disclosure.

The Whistleblower Governance Officer is responsible for making sure that steps are taken to prevent any harm or detriment to the whistleblower. This includes protecting the whistleblower from detriment including:

- dismissal
- injury to the whistleblower in his/her employment
- alteration of the worker's position to his/her disadvantage
- discrimination between a worker and other workers of the same employer
- harassment or intimidation of the whistleblower
- harm/injury to the whistleblower, including psychological harm
- damage to the whistleblower's property
- damage to the whistleblower's reputation
- damage to the whistleblower's business or financial position
- any other damage to the whistleblower
- victimisation that is directed to other persons associated with the whistleblower – e.g. family members, supporters etc.

The ACBC may be liable to pay compensation to a whistleblower if the whistleblower suffers any loss, damage or injury for making a disclosure, or may be subject to a criminal prosecution.

9. Acting on a Disclosure

On receiving a disclosure the Whistleblower Governance Officer will make an initial assessment of the disclosure to determine the course of action to pursue, i.e. in some cases the disclosure may be better handled through the ACBC Grievance Procedure or another Human Resources or Workplace Health and Safety procedure.

If the disclosure is of a disclosable matter, the Whistleblower Governance Officer will be responsible for determining a course of action. This may be an investigation as per the ACBC Workplace Investigation procedure or it may be another type of investigation (e.g. WHS investigation or a criminal investigation). Any course of action to be taken must include consideration of the confidentiality of the whistleblower's identity, stress, lost productivity, isolation and conflict. Any investigation to be carried out must afford all participants procedural fairness.

The Whistleblower Governance Officer will develop terms of reference for the investigation and oversee any investigation.

The Whistleblower Governance Officer will be responsible for communicating with the Whistleblower Protection Officer regarding the status of the investigation and the outcome.

The Whistleblower Protection Officer is responsible for communicating the status and outcomes of the investigation to the whistleblower.

10. Resolution of matters disclosed

Resolution of the matters disclosed will depend on the nature of the wrongdoing. This could range from a total review of an organisation to operating processes of individuals.

The Whistleblower Governance Officer will be responsible for overseeing the implementation of any recommendation from the investigation and following up on the effectiveness of any remedial action.

11. Vexatious, Malicious or False Disclosures

Vexatious, malicious or false disclosures will be treated as misconduct and will be dealt with according to the ACBC procedure for Misconduct.

12. Confidentiality

Details of investigations must be kept confidential insofar as possible in order to protect the identity of the whistleblower (if requested) to the extent required by law. Discussions, information and records related to disclosures will remain confidential to the extent that is reasonably practicable and to protect the whistleblower from any harm, detriment, retribution or retaliation to the extent required by law.

All documentation and details of the disclosure and any investigations or inquiry will be kept in a secure place (e.g. a locked cabinet), under the privacy guidelines.

13. Training

The ACBC will provide training in this procedure to all workers at regular intervals.

14. Employee Assistance Program (EAP)

The ACBC's Employee Assistance Program is available to any worker who requires support or assistance. Refer to [HR-PRO-031 Employee Assistance Program](#)

15. Records

Written reports of disclosures
Investigation records
Reports of outcome(s)

16. Status of this procedure

This policy is not intended to create contractual rights or entitlements outside of an employee's contract of employment, and is not intended to apply as a term of an employee's contract of employment. The ACBC or relevant agency may amend this policy as required.