

WHISTLEBLOWER

Adopted by the Board of Prison Fellowship Australia on 28 November 2019.

1. Introduction

The Board of Prison Fellowship Australia (PFA) is committed to operating at the highest standards of conduct and ethical behaviour and to promoting and supporting a culture of honest and ethical behaviour, corporate compliance and good corporate governance.

2. Purpose

The objective of this policy is to:

- (a) encourage reporting of wrongdoing that is of legitimate concern by providing a confidential and safe reporting mechanism, and protection for Whistleblowers;
- (b) encourage the reporting of matters that may cause harm to individuals or financial or non-financial loss to PFA or damage to its reputation;
- (c) enable PFA to deal with reports from Whistleblowers in a way that will protect the identity of the whistleblower and provide for the secure storage of the information provided;
- (d) establish the policies for protecting Whistleblowers against reprisal by any person internal or external to the entity;
- (e) provide for the appropriate infrastructure;
- (f) help to ensure PFA maintains the highest standards of ethical behaviour and integrity. **3.**

Policy Statement

PFA encourages the reporting of any instances of suspected unethical, illegal, fraudulent or undesirable conduct involving PFA and provides protections and measures so that those persons who make a report may do so confidentially and without fear of intimidation, disadvantage or reprisal.

When a person makes a disclosure:

- their identity must remain confidential according to their wishes;
- they will be protected from reprisal, discrimination, harassment or victimisation for making the disclosure;
- an independent internal inquiry or investigation will be conducted;
- issues identified from the inquiry/investigation will be resolved and / or rectified;

- they will be informed about the outcome; and

- any retaliation for having made the disclosure will be treated as serious wrongdoing under this policy.

4. Policy

Protection is available to Whistleblowers provided that they disclose wrongdoing in good faith with reasonable grounds to believe it is true. Protection is not available where the disclosure is either of the following.

- Trivial or vexatious in nature with no substance. This will be treated in the same manner as a false report and may itself constitute wrongdoing.
- Unsubstantiated allegations which are found to have been made maliciously, or knowingly to be false. These will be viewed seriously and may be subject to disciplinary action that could include dismissal, termination of service or cessation of a service or client relationship.

A Whistleblower must provide information to assist any inquiry/investigation of the wrongdoing disclosed.

Making a disclosure may not protect the Whistleblower from the consequences flowing from involvement in the wrongdoing itself.

A person's liability for their own conduct is not affected by their report of that conduct under this policy. However active cooperation in the investigation, an admission and remorse may be taken into account when considering disciplinary or other action.

Even though a Whistleblower may be implicated in the wrongdoing they must not be subjected to any actual or threatened retaliatory action or victimisation in reprisal for making a report under this policy.

This policy and procedures do not authorise any person to inform commercial media or social media of their concern, and do not offer protection to any person who does so.

5. Responsibilities

PFA is responsible for adopting this policy, and for nominating the organisation's Whistleblower Governance Officer.

PFA's General Manager is responsible for the implementation of this policy.

All staff and all volunteers are responsible for reporting breaches of general law, organisational policy, or generally recognised principles of ethics to a person authorised to take action on such breaches.

6. Definitions

A Whistleblower is a person who is a current or former:

- employee of PFA, or a related company or organisation;
- officer (usually that means a director or company secretary) of PFA, or a related company or organisation;
- contractor, or an employee of a contractor, who has supplied goods or services to PFA, or a related company or organisation. This can be either paid or unpaid, and can include volunteers;
- associate of PFA, usually a person with whom PFA acts in concert; or •

spouse, relative or dependant of one of the people referred to above,

who, whether anonymously or not, makes, attempts to make or wishes to make a report in connection with reportable conduct and wishes to avail themselves of protection against reprisal for having made the report.

Breaches of general law, organisational policy, or generally recognised principles of ethics include:

- corrupt conduct;
- fraud or theft;
- official misconduct;
- maladministration;
- harassment or unlawful discrimination;
- serious and substantial waste of public resources;
- practices endangering the health or safety of the staff, volunteers, or the general public;
and
- practices endangering the environment.

Complaints regarding occupational health and safety should where possible be made through the organisation's occupational health and safety procedures.

7. Processes

7.1 External reporting entities

The Board of PFA may nominate an external person or agencies to whom disclosures may be made under the protections offered under this policy. Where such a nomination is made, staff, volunteers and public will be informed by an appropriate method.

7.2 Reporting

A. Whistleblowers are encouraged to report their concerns to:

- a supervisor; or, if they feel that that supervisor may be complicit in the breach,
- a State Manager; or, if they feel that the State Manager may be complicit in the breach,
- the General Manager; or, if they feel that the General Manager may be complicit in the breach,
- a State Council member; or, if they feel that all State Council members may be complicit in the breach,
- a National Board member; or, if they feel that all National Board members may be complicit in the breach,
- the organisation's nominated Whistleblower Protection Officer; or
- a person or office independent of the organisation nominated by the organisation to receive such information; or
- where a breach of general law is alleged, the duly constituted legal authorities responsible for the enforcement of the law in the relevant area must be notified.

B. Any Whistleblower reporting should be informed that:

- as far as lies in the organisation's power, that person will not be disadvantaged for the act of making such a report; and
- if the person complainant wishes to make their complaint anonymously, their wish shall be honoured except insofar as it may be overridden by due process of law.

However, reporting such a breach does not necessarily absolve the Whistleblower from the consequences of any involvement on their own part in the misconduct about which they complained.

C. Any such report should where possible be in writing and should contain, as appropriate, details of:

- the nature of the alleged breach;
- the person or persons responsible for the breach;
 - the facts on which the Whistleblower's belief that a breach has occurred, and has been committed by the person named, are founded; and
- the nature and whereabouts of any further evidence that would substantiate the complainant's allegations, if known.

Evidence to support such concerns should be brought forward at this time if it exists. The absence of such evidence will be taken into account in subsequent consideration of whether to open an investigation into the matter. However, absence of such evidence is not an absolute bar to the activation of the organisation's investigative procedures. The existence of such a concern is sufficient to trigger reporting responsibilities.

D. In contemplating the use of this policy a person should consider whether the matter of concern may be more appropriately raised under either the organisation's constitutional grievance procedures or its disputes resolution policy.

E. Any person within the organisation to whom such a disclosure is made shall:

- if they believe the behaviour complained of to be unquestionably trivial or fanciful, dismiss the allegation and notify the person making the allegation of their decision; or
- if they believe the behaviour complained of to be neither trivial nor fanciful, ensure that the allegation is investigated, a finding is made, and the person making the allegation is informed of the finding.

Any such investigation shall observe the rules of natural justice and the provisions of procedural fairness.

Disclosures may be made anonymously, and this anonymity shall as far as possible be preserved by PFA. See Section 7.3.

7.3 Anonymity

If the Whistleblower wishes to make their disclosure or complaint anonymously, their wish shall be honoured, except insofar as it may be overridden by due process of law.

However, the Whistleblower should be informed that the maintenance of such anonymity may make it less likely that the alleged breach can be substantiated in any subsequent investigation.

Where anonymity has been requested, the complainant is required to maintain confidentiality regarding the issue on their own account and to refrain from discussing the matter with any unauthorized persons.

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7.4 Investigation

On receiving a report of a breach, the person to whom the disclosure is made, will:

- if they believe the behaviour complained of to be unquestionably trivial or fanciful, dismiss the allegation and notify the person making the allegation of their decision; or
- if they believe the behaviour complained of to be neither trivial nor fanciful, put in motion the investigation process described below.

The person to whom the disclosure was made to will notify the General Manager, who in turn will notify the National Chairman and such other members of the Board as is deemed appropriate. The General Manager will then be responsible for ensuring that an investigation of the charges is established and adequately resourced.

Terms of reference for the investigation will be drawn up, in consultation with the General Manager, to clarify the key issues to be investigated.

An investigation plan will be developed to ensure all relevant questions are addressed, the scale of the investigation is in proportion to the seriousness of the allegation(s) and sufficient resources are allocated.

The person or persons conducting the investigation shall be as far as possible unbiased. Strict security will be maintained during the investigative process.

All information obtained will be properly secured to prevent unauthorised access. All relevant witnesses will be interviewed and documents examined.

Contemporaneous notes of all discussions, phone calls and interviews will be made.

Where appropriate, interviews may be recorded.

The principles of procedural fairness (natural justice) will be observed¹. In particular, where adverse comment about a person is likely to be included in a report, the person affected will be given an opportunity to comment beforehand and any comments will be considered before the report is finalised.

Reasonable steps will be made to treat fairly any person who is the subject of a complaint, particularly during the assessment and investigation process, which may be extended to include appointing an independent senior officer or Board member of to

provide support.

¹ Natural justice and procedural fairness do not require that the person affected be informed of the identity of the person making the initial disclosure, unless that communication constitutes part of the evidence relied upon in making the eventual finding.

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7.5 Findings

A report will be prepared when an investigation is complete. This report will

include:

- the allegations;

- a statement of all relevant findings of fact and the evidence relied upon in reaching any conclusions;
- the conclusions reached (including the damage caused, if any, and the impact on the organisation and other affected parties) and their basis; and
 - recommendations based on those conclusions to address any wrongdoing identified and any other matters arising during the investigation.

The report will be provided to the Whistleblower (with, if necessary, any applicable confidentiality stipulations).

8. Protection of Whistleblower

Where the investigation has found that the Whistleblower made a report in good faith on reasonable grounds, the General Manager shall designate a person to be responsible for ensuring that the person suffers no employment-related disadvantage on account of their actions in this matter and to provide additional support for the Whistleblower where necessary.

8.1 Retaliation

PFA will not tolerate any retaliatory action or threats of retaliatory action against a Whistleblower, or against a Whistleblower's colleagues, employer (if a contractor, consultant or supplier) or relatives.

For example, a Whistleblower must not be disadvantaged or victimized for having made the report by:

- dismissal or termination of services or supply;
- demotion;
- discrimination, victimization or harassment;

- current or future bias; or
- threats of any of the above.

Any such retaliatory action or victimisation in reprisal for a disclosure made under this policy will be treated as serious misconduct and will result in disciplinary action, which may include dismissal. In some circumstance it may be illegal, in which case PFA will notify Police.

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9. Related Documents

Treatment of Grievances Policy

Privacy and Personal Information Policy

10. Relevant Legislation

Australia – [Public Interest Disclosure Act](#)

2013 ACT – [Public Interest Disclosure Act](#)

[2012](#)

NSW – [Public Interest Disclosures Act 1994](#)

NT – [Public Interest Disclosure Act 2008](#)

Queensland – [Public Interest Disclosure Act 2010](#)

South Australia – [Whistleblowers Protection Act 1993](#)

Tasmania – [Public Interest Disclosures Act 2002](#)

Victoria – [Protected Disclosure Act 2012](#)

Western Australia – [Public Interest Disclosure Act 2003](#)

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