

# WHISTLEBLOWER POLICY

## 1. Introduction

Astronomy Australia Limited (**AAL**) is committed to operating legally (in accordance with applicable legislation and regulation), properly (in accordance with organisational policies and procedures), and ethically (in accordance with AAL's Code of Conduct).

AAL's directors, executives, committee members and employees (referred to as **Officers** for the purposes of this Policy) are expected to cooperate with the Company in maintaining legal, proper, and ethical operations, including if necessary by reporting Disclosable Matters (as exemplified under section 6.1 below) by other people.

Correspondingly, and consistent with this Policy, Officers who do assist in maintaining legal, proper, and ethical operations should not be penalised in any way.

## 2. Purpose

The purpose of this Policy and related procedures is to:

- encourage the reporting of Disclosable Matters and other matters that may cause harm to individuals, financial or non-financial loss to AAL or damage to its reputation;
- enable AAL to deal with reports from Whistleblowers (as defined in section 5 below) in a way that will protect the identity of the Whistleblower as far as possible and provide for the secure storage of the information provided;
- establish policies for protecting Whistleblowers against reprisal by any person internal or external to the Company;
- help to ensure AAL maintains the highest standards of ethical behaviour and integrity; and
- ensure AAL complies with the whistleblower protection regime outlined in the Corporations Act 2001 (Cth) (**Whistleblower Protection Scheme**).

## 3. Commencement of Policy

This Policy will commence from 1 January 2020. It replaces all other Whistleblower Policies and Procedures of AAL (whether written or not).

## 4. Responsibilities

AAL's Board is responsible for adopting this Whistleblower Policy, and for nominating the Company's Whistleblower Protection Officer (**WPO**), as identified under section 7.5 below.

The WPO is responsible for:

- coordinating investigations into any report received from a Whistleblower;
- documenting and handling all matters in relation to a report and investigation; and
- finalising all investigations.

All Officers of AAL are strongly encouraged to report breaches of general law, organisational policy, or generally recognised principles of ethics in accordance with this Policy.

## 5. Who does this Policy apply to?

A **Whistleblower** may be someone who is or was:

- an Officer of AAL (being a director, executive, committee member or employee);
- an individual or an employee of a person that supplies services or goods to AAL (including volunteers);
- an individual who is an associate of AAL; or
- a relative, spouse or dependant (or a dependant of the spouse) of any of the above persons, who has reasonable grounds to suspect they have information relating to a Disclosable Matter.

Anyone with information about a potential Disclosable Matter relating to AAL is encouraged to report their concerns in accordance with this Policy.

Provided a Whistleblower has reasonable grounds to suspect the Disclosable Matter reported (see section 6), and reports the Disclosable Matter to the appropriate person in accordance with this Policy, he or she will qualify for protection under the Whistleblower Protection Scheme even if later investigation identifies that no Disclosable Matter has occurred (**Protected Disclosure**).

## 6. Matters that should be reported

Any concerns of any misconduct, or improper state of affairs or circumstances, in relation to AAL (**Disclosable Matters**) which are based on reasonable grounds for suspicion should be reported in accordance with this Policy.

### 6.1. Disclosable Matters

Examples of Disclosable Matters may include, but are not limited to, the following:

- 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 staff, Committee members, or the general public
- practices endangering the environment.

Note that Disclosable Matters include conduct that may not involve a contravention of law.

### 6.2. Personal work-related grievances

Officers should note that disclosures concerning personal work-related grievances, and which do not relate to detriment or threat of detriment to the Whistleblower, are not Protected Disclosures and will not qualify for protection under the Whistleblower Protection Scheme.

A disclosure concerning a personal work-related grievance of the Whistleblower will not be a Protected Disclosure where the information disclosed:

- concerns a grievance about any matter in relation to the Whistleblower's employment, or former employment, having or tending to have implications for the Whistleblower personally; and
- does not have significant implications for AAL that do not relate the Whistleblower; and
- does not concern conduct that:

- is an alleged contraventions of the *Corporations Act 2001* (Cth), *ASIC Act 2001* (Cth), *Banking Act 1959* (Cth), *Financial Sector (Collection of Data) Act 2001* (Cth), *Insurance Act 1973* (Cth), *Life Insurance Act 1995* (Cth), *National Consumer Credit Protection Act 2009* (Cth), *Superannuation Industry (Supervision) Act 1993* (Cth), and any instrument made under these acts; or
- is an offence against another law of the Commonwealth, which is punishable by imprisonment of 12 months or more; or
- represents a danger to the public or financial system.

## **7. Reporting process**

### **7.1. Making a report**

To obtain protection under the Whistleblower Protection Scheme, Whistleblowers may only make a report to an 'eligible recipient'. For AAL (subject to section 7.6 below which relates to disclosures to external bodies such as the Federal Police), an eligible recipient is: an officer or senior manager of AAL, the auditor of AAL, or other persons authorised by AAL to receive reports (such as the WPO).

Any such report should where possible be in writing (such as via post or email) 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 complainant's belief that a breach has occurred, and has been committed by the person named, are founded;
- the nature and whereabouts of any further evidence that would substantiate the complainant's allegations, if known.

While written reports are preferable, Whistleblowers may report a Reportable Matter in person noting that this will likely compromise the confidentiality of any disclosure. Otherwise, Whistleblowers may report a Reportable Matter via telephone (noting that Whistleblower would be responsible for 'blocking' their telephone number if they wish to remain anonymous)

Evidence to support such concerns should be brought forward at this time if it exists. Depending on the seriousness of the allegations raised, the absence of such evidence may be taken into account when considering whether to conduct further investigations into a reported matter (see section 8.1).

### **7.2. Internal reporting for Personnel**

To ensure AAL identities and addresses wrongdoing as soon as possible, AAL encourages Personnel to as a first step report any Disclosable Matters, or other matters of concern to the CEO or AAL Board Chair.

Where this is not appropriate, such as where the Personnel does not feel comfortable raising the matter with the CEO or AAL Board Chair, where the Personnel suspects that the CEO or AAL Board Chair is complicit in the matter, or where the Personnel has made a report to the CEO or AAL Board Chair but no action has been taken within a reasonable time, AAL encourages that a report then be made to the WPO.

### **7.3. Concerns regarding illegal or corrupt behaviour**

Where a person has reasonable grounds to suspect that any Officer of AAL has breached any provision of the general law, that person is encouraged to report their concern to one of the following:

- the CEO or AAL Board Chair, unless they feel that the CEO or AAL Board Chair may be complicit in the breach;
- the Company's WPO;
- a person or office independent of the Company nominated by AAL to receive such information; or
- the duly constituted authorities responsible for the enforcement of the law in the relevant area (see section 7.6 below).

#### **7.4. Concerns regarding improper or unethical behaviour**

Where a person has reasonable grounds to suspect that any Officer of AAL has breached any provision of AAL's Constitution, or its policies, or its Code of Conduct, or generally recognised principles of ethics, that person is encouraged to report their concern to one of the following:

- the CEO or AAL Board Chair, unless they feel that the CEO or AAL Board Chair may be complicit in the breach;
- the Company's WPO; or
- a person or office independent of the Company nominated by AAL to receive such information.

#### **7.5. Whistleblower Protection Officer**

AAL has appointed a WPO who will safeguard the interests of the Whistleblower making reports under this Policy and will ensure the integrity of the reporting mechanism.

The WPO reports directly to the CEO or AAL Board Chair. The WPO will be provided access to independent advisers as and when required.

The current WPO is:

**Catherine Andrews, AAL Company Secretary**

**Ph: (03) 9214 5854 E: [catherine.andrews@astronomyaustralia.org.au](mailto:catherine.andrews@astronomyaustralia.org.au)**

Any Officer considering making a report may contact the WPO for additional information or clarification of procedures or other matters raised in this Policy (see also section 11).

#### **7.6. External reporting**

AAL has appointed the following person to whom disclosures may be made under the protections offered under this Policy:

**Anne Green, Emeritus Professor of Astrophysics**

**Ph: (02) 9351 2727 E: [anne.green@sydney.edu.au](mailto:anne.green@sydney.edu.au)**

The Board may nominate additional persons to whom (or agencies to which) disclosures may be made under the protections offered under this Policy. Where such a nomination is made, AAL's Officers shall be informed by any appropriate method (including by updating this Policy).

Nothing in this Policy restricts the ability of a Whistleblower to make a disclosure directly to ASIC, APRA or a prescribed Commonwealth authority, or a legal practitioner for the purpose of obtaining legal advice in relation to the Whistleblower Protection Scheme. These disclosures also qualify for protection under the Whistleblower Protection Scheme.

In very specific circumstances, and only in those circumstances, a Whistleblower may make a 'public interest disclosure' or an 'emergency disclosure' to a journalist or parliamentarian. Officers are strongly advised to consult with an independent legal advisor before making any report to a journalist or parliamentarian.

## **7.7. Confidentiality and anonymity**

Disclosures can be made anonymously (such as under a pseudonym, or through an anonymised email address). However, it may be difficult for AAL to undertake a proper investigation or take other action to address the matters disclosed in anonymous reports and to update the Whistleblower of the status of any investigation.

If an anonymous report is made, AAL shall decide acting reasonably whether it will proceed with a full investigation because of the limited ability to interview the Whistleblower or otherwise seek further information.

The Whistleblower may provide their name and contact details and request that the details be kept confidential. In such circumstances, AAL will, as far as possible, protect the person's identity and information.

Upon making a report the Whistleblower is requested to maintain confidentiality regarding the issue on their own account and to refrain from discussing the matter with any persons other than in accordance with this Policy.

Information about a Whistleblower's identity shall only be disclosed in the following circumstances:

- where the information is disclosed to ASIC, APRA or the Australian Federal Police;
- where the information is disclosed to a legal practitioner for the purpose of obtaining legal advice in relation to the operation of applicable whistleblowing protection laws; or
- where the Whistleblower consents.

Otherwise, AAL may only disclose information contained in a report if:

- the information does not include the Whistleblower's identity (or information that is likely to lead to the identification of the Whistleblower);
- all reasonable steps are taken to avoid discovery of the Whistleblower's identity; and
- it is needed for the reasonable investigation of the matter reported.

## **7.8. False or misleading reporting**

AAL expects all Officers to use this Policy appropriately and with honesty. While AAL does not wish to discourage the reporting of matters of genuine concern, an Officer must ensure that their reporting complies with this Policy. Any breach of this Policy may result in disciplinary action.

AAL will not entertain allegations which are vexatious or frivolous (which are not Protected Disclosures under the Whistleblower Protection Scheme) and Whistleblowers shall not be exempt from the consequences of their own misconduct.

# **8. Investigation**

## **8.1. Receiving and handling a disclosure**

The WPO will ensure that all disclosures are promptly assessed to confirm whether further investigation is warranted based on: the seriousness of the Disclosable Matter raised and the grounds on which any suspicion of a Disclosable Matter is based. The motives of the Whistleblower in making the disclosure will not affect whether a further investigation is initiated.

Where an allegation is deemed sufficiently serious, the WPO may determine that a disclosure be reported immediately to the Federal Police or other appropriate authority.

## **8.2. Investigation**

Where the WPO determines that further investigation is warranted, an investigation plan will be developed to ensure:

- all relevant questions are addressed;
- the scale of the investigation is proportionate to the seriousness of the allegation(s);
- sufficient resources are allocated; and
- appropriate records are kept.

Strict security will be maintained during the investigative process. All information obtained will be properly secured to ensure confidentiality and 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 and securely stored.

The principles of procedural fairness (natural justice) will be observed. 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 (see also section 9).

The person or persons conducting the investigation shall be as far as possible unbiased.

## **8.3. 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 Company and other affected parties) and their basis
- recommendations based on those conclusions to address any wrongdoing identified and any other matters arising during the investigation.

## **8.4. Information to Whistleblower**

Subject to considerations of procedural fairness (including the privacy of those against whom any allegations are made), and customary practices of confidentiality, AAL will keep the Whistleblower updated of:

- relevant progress of an investigation – including when an investigation has commenced or been finalised; and
- relevant outcomes of an investigation.

The frequency of updates will depend on the nature and progress of the investigation.

## **8.5. Review of outcome of investigation**

A Whistleblower may request that a review be conducted by an officer who is not involved in handling and investigating disclosures if the Whistleblower is not satisfied with the outcome of any investigation. The review findings will be provided to the Board.

AAL shall not be obliged to reopen an investigation and may conclude a review if it finds that the investigation was conducted properly, and no new information is available that would change the findings of the investigation.

A Whistleblower may lodge a complaint with a regulator, such as ASIC, APRA or the ATO, if they are not satisfied with the outcome of AAL's investigation or review.

## **9. Ensuring fair treatment of individuals mentioned in a disclosure**

AAL shall ensure that any individual mentioned in a disclosure, or otherwise alleged to have committed wrongdoing, shall be treated fairly. To ensure fair treatment:

- disclosures and investigations into disclosures shall be handled confidentially, when practical and appropriate;
- all investigations into disclosures will be handled in a manner that is fair, objective, and independent;
- an employee who is the subject of a disclosure:
  - will be advised about the subject matter of the disclosure as and when required by principles of natural justice and procedural fairness (provided such disclosure does not compromise an investigation), and before making any adverse findings against them; and
  - may contact the entity's support services (to for example obtain counselling).

## **10. Protections of Whistleblowers**

### **10.1. Immunity**

AAL will not take action against a Whistleblower, including disciplinary actions under applicable disciplinary procedures, as a result of receiving a report of Disclosable Matters from the Whistleblower, provided that the Whistleblower has not themselves engaged in serious misconduct or illegal conduct.

### **10.2. Protection given to Whistleblower**

AAL is committed to protect:

- the identity of any Whistleblower who wishes to remain anonymous (where permitted by law); and
- the Whistleblower from any form of victimisation, discrimination, harassment, demotion, dismissal or prejudice, resulting from a disclosure made in accordance with this Policy (including any threats) such as:
  - disciplinary action or sanctions;
  - dismissal (or rejection during probation or termination of contract);
  - demotion or adverse change in work duties or employment amenities;
  - current or future bias, or damage to career prospects or reputation; and
  - any form of harassment, bullying or discriminatory conduct.

#### **(Detrimental Conduct)**

AAL shall initially protect against Detrimental Conduct by ensuring the confidentiality of any Whistleblower. The WPO will work with the Whistleblower to arrange additional protection measures as appropriate in the circumstances.

It will be a breach of this Policy for any AAL Personnel to subject a Whistleblower to any victimisation, discrimination, harassment, demotion, dismissal or prejudice or other Detrimental Conduct because the Personnel believes that the Whistleblower has made, may have made, proposes to make, or could make a report under this Policy.

Whistleblowers who believe they have been subjected to Detrimental Conduct are encouraged to notify the WPO immediately to discuss their options including seeking disciplinary action against those engaging in Detrimental Conduct.

### **10.3. Protection against liability**

Provided a Whistleblower has complied procedures set out in this Policy and the Whistleblower Protection Scheme, the Whistleblower shall be protected from civil, criminal, and administrative liability for making a report. However, these protections will not provide immunity for any misconduct self-reported by a Whistleblower.

### **10.4. Compensation and other remedies**

A Whistleblower (or any other Personnel or person) should consult an independent legal advisor, and may seek compensation and other remedies through the courts, if they believe:

- they have suffered loss, damage or injury because of a disclosure; and
- AAL has failed to take reasonable precautions and exercise due diligence to prevent any Detrimental Conduct.

### **10.5. Support for Whistleblower**

The WPO shall initiate and coordinate reasonable support for a Whistleblower who has made, or is in the process of making, a report.

Whistleblowers are encouraged to discuss what support (as well as what protection measures against Detrimental Conduct) will be made available to them with the WPO. Support measures may include obtaining counselling or other professional services, strategies to manage and minimise stress; and protective actions such as change of Whistleblower duties (where appropriate and agreed with the Whistleblower).

## **11. Questions**

Any questions about this Policy should be directed the CEO or AAL Board Chair.

Specific questions about whistleblower protection issues may be directed to the WPO.

## **12. Availability of and changes to Policy**

AAL shall ensure that this Policy is easily and publicly accessible, and shall ensure that this Policy is available on AAL's website at [astronomyaustralia.org.au](http://astronomyaustralia.org.au) (**Website**) and as part of any induction packs for new employees.

AAL may amend this Policy at any time to ensure the effectiveness of this Policy as well as AAL's compliance with its legal obligations.

Any amendments to this Policy will be effected by the posting of an updated version of the document on AAL's Website.

## **13. Related Policies**

Other policies that should be read in conjunction with the Policy include:

- AAL Code of Conduct



<b>POLICY VERSION AND REVISION INFORMATION</b>	
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