

# Whistleblower Policy & Guidelines

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## 1. Policy Statement and Purpose

Service and Creative Skills Australia (**SaCSA**) is committed to maintaining the highest standards of integrity, accountability and ethical conduct. SaCSA recognises that individuals who speak up about suspected misconduct play an important role in helping the organisation identify and address issues early, strengthen good governance and protect SaCSA, its people and stakeholders.

The purpose of this Policy is to:

- encourage whistleblowers to report suspected misconduct and other reportable matters;
- provide clear, accessible and confidential pathways for making a disclosure;
- ensure disclosures are assessed and, where appropriate, investigated fairly, objectively and in a timely manner;
- protect whistleblowers from detriment in accordance with the *Corporations Act 2001 (Cth)* (**the Act**); and
- support SaCSA's commitment to good governance and compliance with its legal and regulatory obligations.

This Policy has been developed in accordance with the whistleblower protections provisions of the Act and having regard to ASIC Regulatory Guide 270 Whistleblower policies.

This Policy should be read in conjunction with the following SaCSA policies:

- Code of Conduct;
- Fraud Control and Corruption Prevention Policy;
- Complaints Management Policy;
- Grievance & Dispute Resolution Policy; and
- Anti-Discrimination, Bullying and EEO Policy.

## 2. Application and Scope

This Policy applies to whistleblowers who make, or are considering making, a disclosure in relation to SaCSA. This Policy sets out:

- who can make a disclosure;
- the types of matters that may be reported;
- how disclosures can be made;
- how SaCSA will assess, investigate and respond to disclosures;
- the protections available to whistleblowers under the Act; and
- the roles and responsibilities of those involved in administering this Policy.

## 3. Key Definitions

**Detriment** means actual or threatened disadvantage or harm suffered by a whistleblower because they have made, may make, or are believed to have made a disclosure. Examples of detriment are outlined in Section 6 of this Policy.

**Disclosure** means information reported by a whistleblower under this Policy concerning suspected misconduct or an improper state of affairs or circumstances in relation to SaCSA.

**Eligible Recipient** means a person authorised under the Act to receive disclosures that may qualify for protection under the Act, including:

- a Board Director;

- the CEO;
- members of the Executive Leadership Team;
- an auditor, or member of an audit team conducting an audit of SaCSA;
- the Australian Securities and Investments Commission (**ASIC**);
- a legal practitioner, for the purpose of obtaining legal advice or representation about the whistleblower provisions of the Act; and
- any other person or body prescribed by law.

Information about who to report concerns to, including where there may be a conflict of interest, and examples of matters that may qualify for protection under the Act are provided in the section 4, Making a Disclosure.

**Whistleblower** means an individual who is an eligible person for the purposes of the Act and includes a person who is or has been, any of the following in relation to SaCSA:

- Board Directors or Officers (as defined by the Act);
- member of an Advisory Committee;
- employees;
- contractors, consultants and suppliers (or their employees);
- associate; and
- a relative, dependant or spouse of any of the above,

and who makes, has made, or is considering making a disclosure under this Policy

## 4. Making a Disclosure

### When a Disclosure may Qualify for Protection

A Whistleblower may make a disclosure under this Policy if they have reasonable grounds to suspect misconduct or an improper state of affairs or circumstances in relation to SaCSA.

Whether a disclosure qualifies for protection under the Act will depend on the circumstances including who makes the disclosure, who receives it and the nature of the information disclosed.

A disclosure may qualify for protection under the Act where:

- the disclosure is made by a whistleblower covered by this Policy;
- it is made to an Eligible Recipient or another person authorised under the Act; and
- the whistleblower has reasonable grounds to suspect that the information concerns misconduct or an improper state of affairs or circumstances in relation to SaCSA.

A whistleblower does not need to have proof or evidence that misconduct has occurred. A disclosure may still qualify for protection if it is made on reasonable grounds, even if it is later found to be incorrect.

If a whistleblower is unsure whether a matter qualifies under this Policy, they are encouraged to raise their concerns. SaCSA will assess the disclosure and determine the most appropriate way to respond.

### Reportable Matters

Examples of matters that may be reported under this Policy include suspected:

- fraud, theft or other dishonest conduct;
- corruption, bribery or misuse of position;
- breaches of the law, including offences or contraventions under the Act or other Commonwealth legislation;

- serious breaches of SaCSA's policies, Code of Conduct or governance obligations;
- financial misconduct, including deliberate misuse of funds or resources;
- conduct that poses a significant risk to the health and safety of any person;
- conduct that poses a risk to SaCSA's operations, reputation or financial position;
- unethical, dishonest or inappropriate conduct; and
- attempts to conceal, or failure of Management or the Board to respond to / address, any of the above.

These examples are provided as a guide only and are not intended to be an exhaustive list of matters that may be reported under this Policy.

Disclosures that do not relate to the reportable matters described in this Policy, or otherwise do not meet the requirements of the Act, may not qualify for protection under the Act.

### **Personal Work-related Grievances**

Generally, personal work-related grievances would not qualify for protection under the Act and should be addressed through the appropriate workplace processes, such as SaCSA's Grievance & Dispute Resolution Policy.

Examples of personal work-related grievances include:

- interpersonal conflict between workers;
- performance management;
- decisions relating to engagement, promotion or transfer;
- terms and conditions of employment; or
- disciplinary action.

However, a personal work-related grievance may still qualify for protection under the Act where it:

- includes information about misconduct or an improper state of affairs or circumstances;
- relates to a breach of the whistleblower protections under the Act; or
- otherwise qualifies for protection under the Act.

### **Who can receive a disclosure**

A whistleblower may make a disclosure to an Eligible Recipient which includes persons who are internal to SaCSA and also independent from SaCSA.

### **How to make a disclosure**

Whistleblowers are expected to make disclosures honestly and on reasonable grounds. Deliberately making a false or misleading disclosure may result in disciplinary or other appropriate action.

Disclosures may be made:

- through SaCSA's [online reporting form](#), which may be completed anonymously;
- by email to [governance@sacsa.org.au](mailto:governance@sacsa.org.au);
- to the CEO or another Eligible Recipient;
- to an auditor, or a member of an audit team conducting an audit of SaCSA;
- to the Australian Securities and Investments Commission (ASIC) or another external authority authorised under the Act;
- to a legal practitioner for the purpose of obtaining legal advice or representation in relation to the whistleblower provisions of the Act; or
- in the circumstances permitted by the Act, to a journalist or Member of Parliament where the disclosure qualifies as a public interest disclosure or emergency disclosure.

Disclosures received through the online reporting form or governance email will be received by the Company Secretary and provided confidentially to the most appropriate Eligible Recipient, having regard to the nature of the disclosure and any actual, potential or perceived conflicts of interest.

A whistleblower may make a disclosure anonymously and may choose to remain anonymous throughout the assessment and investigation of the disclosure, and after the matter has been finalised. However, whistleblowers are encouraged to disclose their identities. Practically speaking, where a whistleblower makes a disclosure on the condition of anonymity, SaCSA's efficient handling of a disclosure may be compromised.

While a whistleblower is not required to provide proof of the suspected misconduct, they are encouraged to provide as much relevant information as possible to assist SaCSA in assessing and responding to the disclosure. This may include (but is not limited to):

- a description of the suspected misconduct;
- when and where the conduct occurred;
- the names of any people involved;
- any supporting information or documentation; and
- contact details, if they wish to receive updates about the disclosure.

Individuals seeking more information before making a disclosure may contact the Company Secretary via [governance@sacsa.org.au](mailto:governance@sacsa.org.au).

## 5. Managing Disclosures

### Assessment

SaCSA will assess every disclosure received under this Policy to determine the most appropriate course of action.

Following receipt of a disclosure, SaCSA will:

- assess whether the disclosure qualifies for protection under the Act;
- consider whether immediate action is required to protect the whistleblower or any other person from detriment;
- determine the most appropriate way to respond, which may include preliminary enquiries, a formal investigation or referral to an external authority; and
- appoint an appropriate person to manage or investigate the disclosure, taking into account the nature of the allegations and any actual, potential or perceived conflicts of interest.

### Investigation

Investigations will be conducted fairly, objectively and in a timely manner, having regard to the nature and complexity of the disclosure. Where appropriate, SaCSA may engage an independent external investigator or adviser to assist in assessing or investigating a disclosure. Not every disclosure will result in a formal investigation.

### Updates and Outcome

Where appropriate and practicable, SaCSA will acknowledge receipt of the disclosure and keep the whistleblower informed of the progress of the matter. However, anonymity, confidentiality, privacy, legal obligations or the need to preserve the integrity of the assessment or investigation may limit the information that can be shared with the whistleblower.

Where appropriate, investigation findings will be documented and reported internally to the CEO, Audit and Risk Committee and/or Board, having regard to the nature of the disclosure and the need to protect the whistleblower's identity and confidentiality.

SaCSA will also endeavour to communicate the outcome of the assessment or investigation to the whistleblower, recognising that the detail that can be provided may be limited by anonymity, law or confidentiality obligations.

A person who is the subject of a disclosure will be treated fairly and afforded an opportunity to respond to the allegations where appropriate, subject to maintaining the confidentiality of the whistleblower and the integrity of the investigation.

### **Record Keeping**

SaCSA will maintain appropriate records of disclosures and any action taken in response, in accordance with its record management obligations and privacy requirements.

## **6. Fair Treatment, Protection and Support**

### **Confidentiality**

SaCSA is committed to protecting the identity of whistleblowers and maintaining the confidentiality of disclosures, in accordance with the Act.

SaCSA will take all reasonable steps to protect a whistleblower's identity and any information that is likely to lead to their identification. This may include:

- limiting access to information relating to the disclosure;
- securely storing records relating to the disclosure;
- redacting personal information where appropriate; and
- reminding those involved in the assessment or investigation of their confidentiality obligations.

A whistleblower's identity will not be disclosed unless:

- the whistleblower consents;
- disclosure is authorised or required by law; or
- disclosure is otherwise permitted under the Act.

Where a whistleblower chooses to remain anonymous, SaCSA will, where practicable, communicate through the reporting channel nominated by the whistleblower.

### **Protection from Detriment**

SaCSA is committed to protecting whistleblowers from detrimental conduct because they have made, may make, or are believed to have made a disclosure.

Examples of detrimental conduct include:

- dismissal or termination of employment or engagement;
- injury or harm, including psychological harm;
- discrimination, harassment or intimidation;
- damage to reputation, property, business or financial position;
- alteration of duties or responsibilities to the whistleblower's disadvantage; or
- threats to engage in any of the above conduct.

SaCSA will take reasonable steps to identify, assess and manage the risk of detriment to whistleblowers and, where appropriate, implement measures to minimise those risks.

Reasonable management action taken for legitimate operational or performance management reasons does not constitute detrimental conduct where it is not taken because a disclosure has been made.

### **Support**

SaCSA recognises that making a disclosure can be a difficult experience.

Where appropriate, SaCSA will provide reasonable support to whistleblowers throughout the assessment and investigation process. This may include:

- access to the Employee Assistance Program (where applicable) or referral to other appropriate support services;
- regular communication regarding the progress of the disclosure, where lawful and practicable; and
- measures to minimise the risk of detriment.

Support may also be offered to individuals who are the subject of a disclosure, recognising the importance of procedural fairness and wellbeing throughout the process.

### **Protection under the Act**

Whistleblowers who make disclosures that qualify for protection under the Act are entitled to the legal protections available under the Act. A disclosure may still qualify for protection where it is made anonymously or where it is made on reasonable grounds but is later found to be incorrect.

These protections include protection from:

- civil, criminal and administrative liability (including disciplinary action) for making the disclosure;
- contractual or other remedies being enforced because the disclosure was made; and
- the information disclosed being used against the whistleblower in certain criminal or penalty proceedings, except as permitted by the Act.

These protections do not prevent a person from being held accountable for their own misconduct that is revealed through a disclosure.

A whistleblower (or any other person) who suffers loss, damage or injury because of a disclosure that qualifies for protection under the Act may seek compensation and other remedies through the courts where SaCSA has failed to take reasonable precautions and exercise due diligence to prevent the detrimental conduct. Individuals seeking information about these rights should obtain independent legal advice.

## **7. Policy Administration**

### **Access to this Policy**

This Policy is available to officers, employees and other eligible whistleblowers through SaCSA's website and internal systems, and will be provided on request. SaCSA will promote awareness of this Policy through induction, periodic communication and, where appropriate, training to help ensure it is readily accessible and understood by persons who may be eligible to make a disclosure.

### **Records Management**

SaCSA will maintain appropriate records of disclosures and any actions taken under this Policy, in accordance with applicable privacy, confidentiality and record management requirements.

Records relating to disclosures will only be accessible to authorised persons and will be managed to protect the identity of whistleblowers.

## 8. Breach of Policy

Non-compliance with this policy will be viewed as a serious matter.

## 9. Version Control

|                       |                |
|-----------------------|----------------|
| <b>Version</b>        | 3.1            |
| <b>Owner:</b>         | CEO            |
| <b>Approved By:</b>   | Board          |
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