



Whistleblower

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1. Purpose

The Walter and Eliza Hall Institute of Medical Research (**Institute**) is committed to the highest standards of ethical behaviour and integrity. This policy supports this aim through:

- providing a framework for the disclosures of wrongdoing
- helping to deter wrongdoing (consistent with the Institute's risk management framework)
- ensuring individuals who disclose wrongdoing can do so safely, securely and with confidence that they will be protected and supported
- ensuring disclosures are dealt with appropriately and in a timely manner
- providing transparency around the Institute's framework for receiving, handling and investigating disclosures
- supporting the Institute's values
- supporting the Institute's long-term sustainability and reputation
- meeting the Institute's legal and regulatory obligations particularly under the *Corporations Act 2001* (Cth) (**Corporations Act**).

2. Scope

This policy applies to Eligible Whistleblowers see **section 3.1**.

It encompasses protections available under the Corporations Act and the *Taxation Administration Act 1953* (Cth).

3. Policy

This policy provides information on the process and protections in place at the Institute to manage Whistleblowing.

It includes information on:

- Where and how protected disclosures can be made. (**section 3.3**)
- The protections available to Eligible Whistleblowers under the Corporations Act. (**section 3.4**)
- How the Institute will support Whistleblowers and protect them from detriment (**section 3.4**)
- How the Institute will ensure fair treatment of employees mentioned in disclosures that qualify for protection or employees subject to disclosures. (**section 3.5**)
- How the Institute will investigate disclosures. (**section 3.6**)
- How this policy will be made available to officers and employees of the Institute. (**section 3.9**)

3.1. Who qualifies for protection under this policy?

This policy will protect you if you are an Eligible Whistleblower and

- disclose information relating to a Disclosure Matter (see **section 3.2**) directly to an Eligible Recipient or to ASIC, APRA or another Commonwealth body as prescribed by regulation
- disclose to a legal practitioner to obtain legal advice or legal representation about the operation of the whistleblower provisions of the Corporations Act
- make an Emergency Disclosure or Public Interest Disclosure (see **section 3.3**).

What is an Eligible Whistleblower?

Eligible Whistleblowers include individuals who are or have been any of the following at the Institute:

- officer or employee
- supplier of services or goods to the Institute including their employees (paid or unpaid)
- an associate of the Institute
- a relative, dependent or spouse of any of the above (this includes current or former contractors, consultants, service providers, and business partners).

3.2. What types of reporting does this policy protect?

Whistleblowers will be offered protection when they report on Disclosure Matters.

What is a Disclosure Matter?

Disclosure Matters involve information relating to the Institute that the Whistleblower has reasonable ground to suspect concerns:

- misconduct including fraud, negligence, default, breach of trust and breach of duty
- an improper state of affairs – this does not need to be illegal activity but could be systemic issues that would be of concern to the regulator
- offences or contraventions under various pieces of Commonwealth legislation relating to tax and corporations or offences under other Commonwealth legislation that is punishable by imprisonment for 12 months or more
- represents a danger to the public or financial system.

Examples of Disclosure Matters include:

- illegal conduct, such as theft, dealing in, or use of illicit drugs, violence or threatened violence and criminal damage against property, systemic workplace relations issues
- falsifying records, for example in research
- fraud, money laundering or misappropriation of funds
- offering or accepting a bribe
- financial irregularities
- failed to comply with, or breach of, legal or regulatory requirements
- engaging in or threatening to engage in detrimental conduct against a person who has made a disclosure or is believed or suspected to have made or planning to make a disclosure.

A whistleblower will still be provided protection even if their disclosure turns out to be incorrect. However, a whistleblower will only be protected if the disclosure relates to a Disclosure Matter. You should consider seeking legal advice if you plan to make a disclosure under this policy.

Personal work-related grievances

Where a disclosure relates solely to a personal work-related grievance, it will not be covered by this policy. Examples of personal work-related grievances include:

- interpersonal conflicts between you and another employee
- a decision that does not involve a breach of workplace laws
- a decision about your engagement, transfer or promotion
- a decision to suspend or terminate your engagement, or otherwise discipline you.

A personal work-related grievance may qualify for protection where:

- it includes information about misconduct as well as information about a personal work-related grievance
- the entity has breached workplace laws punishable by imprisonment for 12 months or more, engaged in conduct that represents a danger to the public or the disclosure represents an impact wider than that to the individual
- the discloser is threatened with detriment for making a disclosure.

Reporting matters not protected under this policy

If you have a matter that you think impacts on the Institute and it is not protected under this policy, you may still be protected under other legislation or Institute policies.

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If you have a personal work-related employment matter, we encourage staff to review our various workplace policies and speak to your supervisor or People and Culture. The FairWork website also provides information on your rights to managing matters in this area. If your matter is still not resolved, you may consider seeking independent legal advice.

Deliberate false reporting

You will still receive protection under this policy even if your disclosure turns out to be incorrect. You should not make a disclosure where you know that the information is untrue.

3.3. How can I make a disclosure?

You are protected under this policy where you make a disclosure to an Eligible Recipient or meet one of the exceptions below.

Anonymous reports

You are protected under the Corporations Act and this policy even if you make your disclosure anonymously.

You can remain anonymous while making a disclosure, during the investigation and after the investigation has closed. You can refuse to answer questions that you think might reveal your identity.

If you make an anonymous report, we encourage you to keep in contact with us so that we can follow-up with questions if needed and provide you with information.

If you email us about an issue from an email address where we cannot identify you, we will consider it an anonymous report.

To make an anonymous report we encourage you to use of external reporting service Your Call. Information on how to contact Your Call is included below.

Who is an Eligible Recipient?

An Eligible Recipient includes:

- a Board member of the Institute or the Company Secretary, Mark Licciardo, Mertons
- the Director, Deputy Directors, CFO and Head of People and Culture
- the internal or external auditor (including a member of an audit team conducting an audit) – Lauren Brown – Protiviti (internal), Anneke du Toit - Deloitte (external).
- Your Call the Institute's external reporting service
- Institute's Whistleblower Protection Officer – Head Governance, Risk and Compliance.

Reporting to a regulator

The Institute is committed to addressing wrongdoing at the earliest time and encourages disclosers to use the internal contacts to raise concerns. However, disclosures can also be made directly to ASIC, ATO and other defined regulators and still receive protection under this policy.

Information on the scope of this protection and process is available on individual regulators websites. We have included some resources in **section 4** under **Supporting information**.

Consider seeking independent legal advice before making a disclosure.

Your Call – external reporting service

If you are not comfortable or able to report misconduct internally, you may report it to the Institute's external and independent whistleblowing service provider.

The Institute has contracted Your Call Whistleblowing Solutions (**Your Call**) to receive and manage your report with impartiality and confidentially. This option allows you to:

- remain completely anonymous
- identify yourself to Your Call only
- identify yourself to both Your Call and the Institute.

The Your Call reporting options include:

- website <https://www.yourcall.com.au/report24/7>

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- telephone 1300 790 228, 9am and 12am, recognised business days, AEST

Online reports can be made via the website address listed above. You will be required to enter Institute unique identifier code **WEHI**.

Your Call remains the intermediary at all times, receiving and forwarding communication between all parties.

The Institutes Officers who will have access to your reports include:

1. Director
2. Head Governance Risk and Compliance
3. Head People and Culture (alternative)

Your Call can circumvent any of the above Officers upon your request.

You be able to securely upload any relevant documentation and/or material relevant to your disclosure.

After making a disclosure, you will be provided with a unique Disclosure Identification Number (**DIN**) and access to a secure online Message Board.

The Message Board allows ongoing anonymous communication with Your Call and/or the Institute. Your Call remains the intermediary at all times, receiving and forwarding communication between all parties.

The Message Board can be used to receive updates, share further information/evidence and request support or report retaliation. If you cannot access the Message Board, you can contact Your Call via phone (above) for verbal updates.

National Relay Service

If you are deaf, or have a hearing or speech impairment, you can contact Your Call online or through the National Relay Service. Simply choose your contact method at www.relayservice.gov.au and request Your Call's hotline 1300 790 228.

Translation services

If you have difficulty speaking or understanding English, contact us through the Translating and Interpreting Service (**TIS**) 131 450 and ask for Your Call on 1300 790 228.

Whistleblower Protection Officer

The Whistleblower Protection Officer (**WPO**) will be an appropriately qualified and suitable person to undertake the role. This will be an officer, senior manager or employee at the Institute to support and provide protection to you.

The role of the WPO is to safeguard your interests. They will act consistently with this policy and maintain confidentiality about the matter and your identity. The WPO is also responsible for keeping you informed of the progress and outcomes of the investigation.

The WPO has direct, unfettered access to independent financial, legal and operational advisers, and is accountable to the Audit and Risk Committee as well as the Institute Board.

The contact details for the WPO are included in **appendix a**.

Legal practitioners (qualified lawyer)

If you disclose to a legal practitioner to obtain legal advice or legal representation relating to whistleblower provisions of the Corporations Act, this policy will protect you. This protection applies even if that disclosure is found to not relate to a Disclosable Matter.

Journalists and parliamentarians

In certain circumstances, disclosures can be made to journalists and parliamentarians and receive protection under the Corporations Act and this policy.

As outlined below, to receive the protection, you need to follow certain steps. The steps include informing the relevant regulator and providing them with additional notice.

You are strongly recommended to seek independent legal advice before making public interest and emergency disclosures.

Public Interest Disclosures

Disclosures to journalists and parliamentarians will be considered Public Interest Disclosures and protected where you have taken the following steps:

- 90 days have passed since you disclosed to an approved regulator such as ASIC or APRA
- you do not have reasonable ground to believe that action is being or has not been taken about your original disclosure
- you have reasonable grounds to believe that making further disclosure is in the public interest.
- Before making the Public Interest Disclosure, you have given written notice to the original reporting body, and that notice includes:
 - enough information to identify the original disclosure
 - that you plan to make a Public Interest Disclosure.

Emergency Disclosure

Disclosures to journalists and parliamentarians will be considered an Emergency Disclosure and protected where you have taken the following steps:

- you have previously disclosed the information to an approved regulator such as ASIC or APRA
- you have reasonable grounds to believe the information concerns a substantial and imminent danger to the:
 - health or safety of one or more persons
 - natural environment.
- The information disclosed in the Emergency Disclosure is what is necessary to inform the journalist or parliamentarian of the substantial and imminent danger.

3.4. Legal protections available to Whistleblowers

If you meet the requirements of the Corporations Act relating to whistleblowers, you will:

- have your identity protected and treated confidentially
- be protected from detrimental acts or omissions
- maybe able to receive compensation and other remedies
- be protected from legal liability including civil, criminal and administrative liability.

These protections apply to any disclosure listed under **section 3.3**.

Identify protection – confidentiality

If you make a disclosure under the Corporations Act and this policy, your identity cannot be disclosed. This is irrelevant whether we have found out this information directly or indirectly.

When can your identity be revealed?

There are certain circumstances where we can reveal your identity, these include:

- when reporting to ASIC, APRA or a member of the Australian Federal Police
- for the purposes of obtaining legal advice or legal representation from a legal practitioner (qualified lawyer) about the whistleblower provisions of the Corporations Act.
- to a person or body prescribed by regulations
- with your consent.

This protection does not stop revealing information contained in the disclosure where:

- the information does not include your identity
- we have taken all reasonable steps to reduce the risk that the discloser will be identified from the information
- it is reasonable and necessary for investigating the issues raised in the disclosure.

Disclosing a whistleblower's identity is illegal

It is illegal for a person to identify a discloser or disclose information that is likely to lead to the identification of the discloser except where detailed above.

What to do if you think your identity has been disclosed

If you think your identity has been breached, you can lodge a complaint with the Institute. You can also lodge a complaint with ASIC, APRA and the ATO for investigation.

What we will do to protect your identity

To protect your identity we will:

- ensure that your name is redacting from documents that may reveal your identity
- refer you in a gender-neutral manner
- discuss with you what types of information may reveal your identity and manage this information in a way to protect you
- ensure that all investigators are qualified.

We will also:

- store information regarding disclosures securely
- limited access to information relating to disclosures
- we will minimise the number of people who know your identity to those that need to know to conduct the investigation – unless you provide us with permission.
- We will use secure email addresses and control the printing of the material to equipment not accessible by staff outside the investigation.
- We will train our staff to understand their obligations and the criminal sanctions that attach to breaching your identity.

Protection from detrimental acts or omissions

A person cannot engage in conduct that that causes detriment to you (or another person) related to a disclosure you made if:

- the person believes or suspects that you or another person made, may have made, or proposes to make or could make a disclosure that qualifies for protection
- the belief or suspicion is the reason or part of the reason for the conduct.

A person can also not threaten to cause you detriment (or another person) relating to your disclosure. You do not have to fear that it will be carried out, and the threat may be:

- express
- implied
- conditional
- unconditional.

What is a detrimental act?

Detrimental acts include:

- dismissal of an employee
- alteration of an employees positions or duties to their disadvantage
- discriminating against an employee
- harassment or intimidation of an employee
- harm or injury to a person
- any other damage to a person.

The following are not detrimental acts:

- managing unsatisfactory work performance
- moving you to a new location for your protection.

If we think we need to take action to protect you, we will make sure you understand the reason for the decision.

What should you do if think you have suffered detriment?

If you think you have suffered detriment as the result of a disclosure you can:

- make a complaint to us
- seek independent legal advice
- contact a relevant regulatory body such as ASIC, APRA or the ATO.

What we will do to protect you from detrimental acts or omissions

To protect you from detrimental acts or omissions, we will:

- conduct a risk assessment to develop a plan for managing the risks associated with your disclosure
- support you to manage your work program to reduce stress
- make available support services, including our Employee Assistance Program to support you through the process of investigation.
- make sure management understand their responsibilities under this policy
- investigate complaints.

3.5. How will I be treated if I am mentioned in a whistleblower disclosure?

We will not take action against any employees or officers who are implicated in a disclosure until an investigation has determined whether the allegations are substantiated.

Implicated employees or officers may have to adhere to certain conditions during the investigation, for example:

- temporarily stood down on full pay
- temporarily transferred to another office, department or workplace.

If you are an employee or officer implicated in a disclosure, you have a right to be informed of the allegations against you; we will give allow you to respond to these allegations in the course of the investigation.

We will support you consistently with the steps listed above under **Detrimental Act and Omissions** above in **section 3.4**.

- connecting you to the Institute's Employee Assistance Program (**EAP**);
- connecting the person with third-party support providers such as Lifeline (13 11 14) and Beyond Blue (1300 22 4636).

Use of these support services may require the employee to consent to the disclosure of their identity or information that is likely to lead to the discovery of their identity.

3.6. How will we handle and investigate a disclosure?

Assessing the need for an investigation

Before conducting an investigation, we will need to determine:

- if the disclosure qualifies for protection, and
- whether a formal, in-depth investigation is required.

How we will conduct our investigations

If we decide that there needs to be an investigation, we will need to determine:

- the nature and extent of the investigation required
- the person who will conduct the investigation, this will often be an external investigator to ensure objectivity
- the nature of advice needed to support the investigation
- the timeframe of the investigation.

If required, we will seek specialist support to assist us in conducting an investigation.

We will take your disclosure seriously and conduct all investigations objectively, fairly, independently and in a manner proportionate to the nature of the disclosure. We will maintain appropriate records in a secure location.

Keeping you informed

We will keep you informed with regular updates on the progress of the investigation. The nature, extent and timing of these reports will vary depending on the matter.

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If you have made an anonymous report, we will keep you informed if you have provided us with contact information that allows us to do this. In this case, we will ensure that we maintain your anonymity when we do contact you.

We will keep you informed:

- when the investigation commences
- while the investigation is in progress
- when the investigation is finalised.

3.7. Reporting

Upon receipt of a complaint

When an Eligible Recipient receives a complaint, they should inform the WPO. The WPO will:

- notify the Director
- where the disclosure implicates the Director, notify the Chair of the Board or
- where the disclosure implicates the Chair of the Board the WPO can move directly to assessing the need for an investigation and taking action consistent with this policy.

To the board

A regular report will be provided to the Board on whistleblower matters. The report will be prepared in a way to ensure confidentiality consistent with this policy. The report will contain:

- number of Disclosure Reports
- channels used
- themes of the content of the disclosures
- General details about the resolution or outcome of disclosures.

Reporting of findings

An investigator must provide a report on findings to the WPO when an investigation is complete. This report will include:

- the allegations
- a statement of all relevant findings of fact and the evidence relied upon to reach conclusions on each allegation
- the basis for each conclusion reached (including the damage caused, if any, and the impact on the organisation 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.

3.8. Availability of the Whistleblower Policy

This policy will be made accessible and any updates widely disseminated and easily accessible. We will make it available:

- on the Institute website and intranet
- provided to staff on joining the Institute as an employee or student
- incorporating the policy in employee induction
- staff briefing sessions and in team meetings
- posting information on the Institute noticeboards
- training management to ensure familiarity with this policy and related procedures.

4. Supporting information

Resources

[ASIC Information sheet 238 – Whistleblower rights and protections](#)

[ASIC Information sheet 239 – How ASIC handles Whistleblowers](#)

[ASIC Regulatory Guide 270 – Whistleblower policies](#)

[ATO website | Tax Whistleblowers](#)

Legislation

[Corporations Act 2001 \(Cth\)](#)

[Taxation Administration Act \(Cth\)](#)

Definitions

Associate	See section 10 to 17 <i>Corporations Act 2001</i> (Cth)
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Roles and Responsibilities

Approval Authority	Board
Responsible Division/Department	Governance, Risk and Compliance
Policy Owner	Head Governance, Risk and Compliance
Policy Author	Head Governance, Risk and Compliance

Review cycle

Initial review	2 years
Ongoing review	3 years

Version History

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1.0	Board	Board	Head, Governance, Risk and Compliance	2 December 2019	1 January 2020	New