



# Whistleblower Policy

Revision 4 – August 2021



Australian Wildlife Conservancy

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## 1. Overview

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Australian Wildlife Conservancy (**AWC**) is committed to ensuring that everyone working with AWC:

- complies with AWC's Code of Conduct;
- is empowered and encouraged to make a complaint about suspected or actual misconduct, illegal, dangerous or improper activity relating to AWC; and
- may elect to do so anonymously, with protections from victimisation, unfair reprisals or other detrimental conduct.

The purpose of this policy is to provide a framework, process and protections under which this can occur. A person making a complaint under this policy is known as a "whistleblower".

As an alternative to making a complaint under this policy, a person may elect to make a complaint under AWC's Grievance Handling Procedure. Together with AWC's Code of Conduct, these policies aim to promote and facilitate a culture of honesty, fairness and integrity where everyone working with AWC feels confident and comfortable about reporting wrongdoing.

The Board of AWC is ultimately responsible for AWC's whistleblower policy, as part of AWC's broader risk management and corporate governance framework. The Board has established the Conduct Standards Committee (**Committee**) which, together with the Chair of the Board, has oversight for ensuring that appropriate whistleblower policies and processes are in place, and that individuals have reporting options to raise concerns and make complaints.

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## 2. Key elements of this policy

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The key elements of this Whistleblower Policy are:

- **Options for reporting** – Whistleblower reports can be made to any one or more of AWC's Human Resources Manager, the Chief Executive Officer, the Chair of the Committee, the Chair of the Board, or the Whistleblower Hotline. Reports can also be made to any other director, Executive Team Member or Audit Team Member of AWC, and in certain circumstances can be made to lawyers, parliamentarians or journalists.
- **Fair and independent** – Where a whistleblower makes a complaint under this policy, and has reasonable grounds to suspect that their complaint concerns misconduct, an offence, dangerous activity, or an improper state of affairs or circumstances, the complaint will be investigated in a manner that is thorough, objective, fair and independent to the parties involved.
- **Protections and support** – Victimisation, retaliation or other detrimental conduct by anyone working with AWC is not tolerated. Whistleblowers are entitled to various protections under law and all those involved in investigations are entitled to support and fair treatment.

- **Confidentiality and anonymity** – Complaints will be treated confidentially, subject to any reporting permitted by law or with the consent of the whistleblower, and the whistleblower may choose to remain anonymous.

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## 3. Process

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Following is a summary of the process and requirements for a whistleblower complaint to be dealt with under this policy.

Does the policy apply to the ‘whistleblower’ wanting to make a complaint? (Section 4)

Is the complaint a ‘disclosable matter’? If not, refer to Grievance Handling Procedure (Section 5)

The complaint is to be made to an ‘eligible recipient’, or others authorised by law (Section 8)

‘Eligible recipient’ reviews complaint and sets up processes, subject to confidentiality restrictions (Section 9.1)

‘Coordinator’ oversees investigation (Section 9.2)

‘Investigator’ runs investigation (Section 9.3)

‘Support person’ supports those involved (Section 18)

Confidentiality processes established (Section 9.5 and 11)

Risk assessment undertaken and protections and support implemented (Sections 9.4, 10 and 16)

Investigation is undertaken and report finalised (Section 9.8)

Reporting to the whistleblower and others involved in the investigation (as applicable), subject to confidentiality (Section 9.8)

Findings of investigation acted upon (Section 9.8)

Reporting to the Board, Committee, managers and regulators (as applicable) (Section 9.8, 12)

Options for review of decision (Section 9.8)

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## 4. Application

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### 4.1 'Eligible whistleblowers'

The ability to make a complaint under this policy applies to the following 'eligible whistleblowers':

- current and former AWC personnel, being anyone who performs, or who at any time has performed work at AWC or been engaged in an AWC approved activity, including directors, officers, employees (including permanent, part-time, fixed term and casual employees), interns, volunteers, students and other researchers, supporters, contractors and other suppliers and their employees and sub-contractors, and other associates of AWC;
- relatives or dependants of any AWC personnel;
- dependants of a spouse of any AWC personnel; and
- anyone else that is entitled to whistleblower protection under laws applicable to AWC.

The whistleblower protections under this policy apply to the person who is making the complaint. In addition, where complaints are made by someone other than AWC personnel on behalf of AWC personnel, the protections generally apply to the person making the complaint, as well as the relevant AWC personnel.

Whistleblower complaints must be made in accordance with this policy or applicable laws for the protections under this policy to apply.

This policy is an important tool to assist in uncovering potential wrongdoing relating to AWC. Eligible whistleblowers are encouraged to use the methods for disclosure outlined in this policy if they are aware of possible conduct covered by this policy.

### 4.2 Access to policy

This policy does not form part of any contract and may be reviewed and updated by AWC as required. The most recent version of this policy will be included in induction materials for all AWC employees, and made available to all those on site as part of their induction to site.

The policy will be located on the AWC Intranet and in hard copy at AWC workplaces. A shortform version excluding personal contact information will be available on AWC's website.

In this policy, any reference to 'ensure' means to ensure so far as is reasonably practicable.

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## 5. Types of whistleblower complaints

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### 5.1 'Disclosable matters'

A whistleblower may make a complaint in relation to any suspected or actual activities that AWC, or anyone working with AWC is involved in, where the whistleblower has reasonable grounds to suspect the activities may:

- constitute misconduct, or an improper state of affairs or circumstances; or
- constitute an offence or a breach under the Corporations Act 2001 (Cth) (**Corporations Act**), Taxation Administration Act 1953 (Cth) (**Taxation Act**), or other applicable corporations, banking, insurance, credit, or superannuation law; or
- constitute an offence against any other law of the Commonwealth that is punishable by imprisonment for a period of 12 months or more; or
- represent a danger to people, the environment, or the financial system; or
- be required by law to be able to be the subject of a whistleblower complaint.

The circumstances outlined above are 'disclosable matters' that may attract protections under the Corporations Act or the Taxation Act (as applicable) if the whistleblower has reasonable grounds to suspect that AWC, or its employees or officers have engaged in that conduct. Conduct does not need to be a breach of law to be a 'disclosable matter'.

Examples of 'disclosable matters' include:

- unethical conduct, or other conduct that may damage the reputation of AWC in breach of AWC's Code of Conduct;
- unlawful harassment, bullying, discrimination, victimisation, or any other suspected or actual breaches of AWC's Code of Conduct, Harassment, Bullying and Discrimination Policy, or Equal Employment Opportunity Policy;
- fraud, theft, violence or threatened violence, bribery, drug trafficking or use, and other illegal activities;
- misuse or appropriation of AWC funds, property or data, and other financial irregularities;
- fabrication, fraudulent reporting or unethical representation of data;
- unsafe work practices, or conduct that may result in environmental damage;
- victimisation or retributive acts including after a whistleblower makes a complaint under this policy; or
- mistreatment or actions that display a serious level of disrespect towards others.

## 5.2 Exclusion of personal work-related grievances

Disclosures that are not about ‘disclosable matters’ are not covered by this policy and do not qualify for protection under the Corporations Act or Taxation Act. Such disclosures may be protected under other laws, such as Fair Work Act 2009 (Cth).

Personal work-related grievances that do not relate to detriment or the threat of detriment to AWC personnel are not covered under this policy, and do not qualify for protection under the Corporations Act or Taxation Act. These matters should be dealt with under the Grievance Handling Procedure.

For example, a personal work-related grievance is a grievance about any matter relating to employment or former employment of the person making the complaint, having, or tending to have, implications for them personally, including:

- an interpersonal conflict between the person making the complaint and another employee;
- a decision relating to the engagement, transfer or promotion of the person making the complaint;
- a decision relating to the terms and conditions of engagement of the person making the complaint; and
- a decision to suspend or terminate the engagement of the person making the complaint, or otherwise discipline them.

AWC personnel may wish to seek legal advice and other forms of support about their rights and protections under employment and contract laws.

The exclusion of protections for personal work-related grievances does not prevent the protections under this policy applying to conduct that:

- constitutes victimisation under this policy (see section 10.1 below); or
- would have significant implications for AWC, not just personal implications for the person making the complaint; or
- constitutes an offence or a breach under law which is reportable under this policy; or
- represents a danger to people, the environment, or the financial system.

A person’s motive for reporting these types of behaviours is not relevant to whether the report satisfies the requirements for protections. It cannot be assumed that disclosures about conduct that have a personal impact on the whistleblower are less serious than other disclosures, provided they satisfy the requirements for a ‘disclosable matter’.

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## 6. Conduct Standards Committee

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The Committee will have oversight for ensuring that appropriate policies and processes are in place so that whistleblower complaints can be properly addressed, and individuals have reporting options to raise concerns and make complaints.

Where complaints are made directly to the Chair of the Committee, the Chair will determine the best way for the matter to be handled, which may include investigation by members of the Committee, or referral to the Human Resources Manager, the Chief Executive Officer, the Chair of the Board, or an external investigator in accordance with section 9.

Where whistleblower complaints are referred to the Committee, the Committee will report to the Chair of the Board, and the Chair of the Board will decide if the matter is further referred to the Board generally, having regard to the nature of the matter, the parties involved and confidentiality considerations. If the complaint involves the Chair of the Board, the Committee will report to the Board in the absence of the Chair of the Board.

The Committee will work with AWC's Company Secretary, Human Resources Manager and General Counsel to ensure this policy is reviewed at least every 2 years, and appropriate processes and procedures are adopted to comply with this policy, and to ensure AWC's officers and employees are aware of their rights and obligations.

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## 7. Whistleblower Hotline

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AWC has entered into an arrangement with Stoptline to provide an external hotline available to anyone entitled to make a whistleblower complaint (**Whistleblower Hotline**). This is an independent service put in place by AWC to provide greater reporting flexibility for whistleblowers.

Stoptline can be contacted by:

- Phone – 1300 304 550 between the hours of 8am and 8pm Monday to Friday AEST
- Email – [awc@stoptline.com.au](mailto:awc@stoptline.com.au)
- Post – c/- Stoptline, Locked Bag, 8 Hawthorn, VIC 3122
- On-line - <http://awc.stoptlinereport.com/>

Stoptline will establish a secure and confidential file which records the preliminary details of the complaint and will notify the complaint to both AWC's General Counsel and Human Resources Manager who will decide who is appointed 'Coordinator' and 'Investigator' in relation to the complaint under the Whistleblower Policy. If the complaint implicates either AWC's General Counsel or Human Resources Manager, Stoptline will refer the complaint to the Chair of the Committee.

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## 8. Making a complaint

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### 8.1 How to make a complaint

Disclosures must be made to one of the persons referred to in this section 8.1 for the protections under this policy, the Corporations Act and the Taxation Act (as applicable) to apply.

Whistleblower complaints may be made to any one or more of the following 'eligible recipients':

- AWC's Human Resources Manager;
- AWC's Chief Executive Officer;
- the Chair of the Committee or the Chair of the Board;
- the Whistleblower Hotline;
- any other director or Executive Team Member of AWC;
- any Audit Team Member of AWC.

For the purpose of this policy:

- an **Executive Team Member** includes the Chief Executive Officer, Chief Financial Officer, Chief Operating Officer, Chief Science Officer, Chief Development Officer, Human Resources Manager and General Counsel; and
- an **Audit Team Member** means any auditor of AWC, or any member of the team responsible for the audit of AWC's accounts.

The protections under the Corporations Act and Taxation Act (as applicable) also apply where a disclosure is made to:

- legal practitioners for the purpose of legal advice in relation to whistleblower disclosures;
- the Australian Securities and Investments Commission (**ASIC**), the Australian Prudential Regulatory Authority (**APRA**), the Commissioner of Taxation, and other regulatory bodies (as applicable);
- journalists or members of the Commonwealth, State or Territory parliaments (**parliamentarians**), where there is a public interest or emergency reason for the disclosure; and
- any other person authorised by law to accept a whistleblower complaint.

Further details on the circumstances in which complaints can be made to these parties is included in section 8.5 below.

### 8.2 Identification as a whistleblower complaint

Where a complaint is made under this policy, it assists in managing the complaint if the whistleblower is able to confirm that they want this policy to apply.



## 8.3 Disclosure to AWC management or board

Whistleblowers are encouraged to make disclosures to AWC's Human Resources Manager, Chief Executive Officer, the Chair of the Committee or the Chair of the Board in the first instance. Contact details are included in section 18. Whistleblowers are provided with a range of reporting options and protections to assist in this process.

## 8.4 Acknowledgement of complaint

An eligible recipient will acknowledge receipt of a complaint under this policy as soon as possible following receipt of the complaint, where the whistleblower can be contacted.

## 8.5 Disclosure to external parties

Whistleblowers may also make a disclosure directly to certain external parties without making a prior disclosure to AWC, in the following circumstances:

- to a legal practitioner for the purposes of obtaining legal advice or representation in relation to the operation of the whistleblower provisions of the Corporations Act or the Taxation Act (as applicable);
- ASIC, APRA, the Commissioner of Taxation or other Commonwealth bodies prescribed by regulation (as applicable). More detail on how whistleblower reports are handled by these bodies is available on their websites; or
- to a journalist or parliamentarian in relation to certain public interest disclosures, provided:
  - the whistleblower has already made a complaint under this policy to an authorised regulatory body;
  - at least 90 days have passed since the disclosure;
  - the whistleblower does not have reasonable grounds to believe that action is being, or has been, taken to address the matters raised in the disclosure;
  - the whistleblower has reasonable grounds to believe that making a further disclosure is in the public interest; and
  - the whistleblower has notified the regulatory body that they intend to make a public interest disclosure;
- to a journalist or parliamentarians in relation to certain emergency disclosures, provided:
  - the whistleblower has already made a complaint under this policy to an authorised regulatory body;
  - there are reasonable grounds to believe that the information concerns a substantial and imminent danger to the health and safety of one or more persons or to the natural environment;
  - the whistleblower does not have reasonable grounds to believe that action is being, or has been, taken to address the matters raised in the disclosure; and

- the disclosure must be no greater than is necessary to inform of the substantial and imminent danger.

It is recommended that whistleblowers seek legal advice prior to making a public interest or emergency disclosure.

## **8.6 Complaints may be made anonymously**

A whistleblower may decide whether or not to make a complaint on an anonymous basis, and may remain anonymous during and after an investigation. If a complaint is made anonymously, then the person who receives the report or the Hotline (as applicable), will have no knowledge of the whistleblower's identity and will be unable to contact them to participate in the investigation of the complaint.

If a whistleblower wishes to remain anonymous, they will need to maintain contact with the person that they have disclosed information to, if they wish to receive feedback on the investigation and assist with follow up questions. This may be done through the Hotline, or through anonymised email addresses. The whistleblower can refuse to answer questions that they feel could reveal their identity, and they may choose to adopt a pseudonym rather than use their real name.

If a whistleblower chooses to disclose their identity, those involved in the investigation are able to contact the whistleblower but must comply with the confidentiality obligations referred to in section 11 to protect their identity.

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## **9. Handling and investigating disclosures to eligible recipients**

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This section outlines the process for complaints that are raised with eligible recipients appointed by AWC. Complaints raised with a regulatory body, legal practitioner, journalist or parliamentarian will be subject to their proceeds for investigating the complaint.

### **9.1 Assessing the complaint**

When a complaint is received by an eligible recipient, the eligible recipient who receives the complaint will undertake an initial assessment to determine:

- whether the complaint is within the scope of this policy; and
- whether an investigation is required; and
- whether the matter needs to be referred to regulatory authorities (see section 12).

This assessment may involve other eligible recipients (subject to confidentiality restrictions) and legal advisers. The eligible recipient will also consider whether the time, location or method of disclosure proposed by the whistleblower is appropriate to maintain confidentiality, and may suggest an alternate time, location or method of disclosure to assist in managing the security of the disclosure.

## 9.2 Coordinator role

The eligible recipient will remain responsible for ensuring that an investigation is undertaken, or will delegate this responsibility to another eligible recipient where necessary (**coordinator**). The coordinator's role is to ensure that an investigation is resourced appropriately, and to liaise with AWC senior management, the Committee and the Board as necessary through the investigation, and implementation of the findings of the investigation.

The coordinator will also provide support to the whistleblower, as outlined in section 16, or will nominate another AWC manager or director to undertake this support role.

## 9.3 Appointing an investigator

Where a complaint is within the scope of this policy and not referred to regulatory bodies, the investigation into the complaint will be allocated by the coordinator to an appropriate investigator or investigators, either within AWC management, within the Committee, or by appointing an external investigator (depending on the nature of the complaint, and the roles of anyone who is the subject of the complaint). Where appropriate, the coordinator may also perform the role of the investigator.

The investigator must not be implicated in the complaint, or report to anyone who is implicated in the complaint, and may seek external assistance as part of the investigation.

## 9.4 Risk assessment

The investigator, in conjunction with the coordinator and the support person (where applicable), will undertake a risk assessment to consider the potential risks of detriment to the whistleblower, including:

- discussing with the whistleblower their fears regarding detriment, whether there are any existing conflicts or problems in the workplace, and whether there have already been threats of detriment;
- considering whether anyone may have a motive to cause detriment to the whistleblower; and
- considering the risks associated with disclosure of a whistleblower's identity through an investigation if the disclosure has been made anonymously.

The risk assessment should be undertaken as soon as possible following commencement of the investigation, and should be monitored as the investigation progresses. A record of the risk assessment process should be maintained by the investigator, as part of their records of the investigation.

## 9.5 Conducting the investigation

The objective, process and timing of the investigation will vary, depending on the nature of the complaint, and confidentiality considerations. Some investigations on discrete matters may only take a few weeks, while others may run for months if there are a number of people involved, and a range of issues to consider.

The process and timing for any investigation should be clarified and advised to the whistleblower (if contactable) within 1 month of initial contact, where practicable.

Additional time to establish the process may be required where the matter is particularly complex, or where there are confidentiality considerations, or multiple people that need to be involved in the investigation process. The investigator, in conjunction with the coordinator, will initially determine the scope and nature of the investigation, the nature of any external expertise that may be required, and an estimate of the timeframe for the investigation.

In most cases, the investigator will progress the matter by interviewing relevant witnesses and the person the complaint relates to. Sometimes this will not be possible or appropriate, and the relevant investigator will complete the investigation on limited material available to them, particularly if the investigator is not able to contact or obtain additional information from the whistleblower, or if there are significant confidentiality restrictions preventing investigation.

Where confidentiality restrictions permit, anyone implicated in relation to the complaint will be notified, and will be advised of the process, and support that is available to them (see section 16 below).

The investigator may seek expert third-party advice including legal, financial, information technology, or other experts, where necessary or desirable for the investigation of a whistleblower complaint.

Where the whistleblower has revealed their identity, the investigator may notify any witness (including the person the complaint relates to) of the whistleblower's identity where it is considered necessary for the purpose of the investigation and subject to the confidentiality restrictions set out in section 11 below. The investigator will advise all witnesses of their obligations under this policy (see sections 10 and 11 below) in specific terms before commencing any interview.

Where the whistleblower is anonymous, or where there are protections in place around their identity to protect the whistleblower from detriment, the investigator may conduct a broad review on the subject matter or the work area disclosed to minimise the risk of identification of the individual.

### **9.6 Fair and independent**

Where a complaint is made in accordance with this policy to an eligible recipient, AWC has an obligation to ensure that the complaint is investigated in a manner that is independent to those involved in the complaint, and in a way that is thorough, objective and fair to all parties involved.

In providing for a fair process, and managing the interests of all those involved, AWC needs to balance a number of often competing interests, including:

- the well-being of all those involved, including their mental and physical well-being during the investigation process;
- confidentiality;
- the risks of detriment to the whistleblower, and others who may be linked to the complaint; and
- the risk of relevant information or documents being destroyed.

The investigator will determine the most appropriate time to inform a person who is the subject of the complaint about the investigation, provided that they inform them prior to making any adverse findings against them.

Any investigation can be extremely stressful for all involved, and may require significant time away from a person's usual duties.

Where appropriate, the whistleblower, a person who is the subject of the complaint, or any other person involved in a complaint, may be relocated, change roles, or be put on special leave while a complaint is being investigated. This does not indicate any pre-judgement of the outcome and may be done for operational, safety or other reasons associated with the reasonable conduct of the investigation. This is particularly relevant where people are working in small groups in remote areas.

The investigator and coordinator must ensure appropriate records regarding the investigation are maintained in a secure manner.

## **9.7 Keeping the whistleblower informed**

Where the investigator is able to contact the whistleblower without compromising the identity of the whistleblower, the investigator will keep the whistleblower informed on the objective and progress of the investigation, and the expected timing for different stages. The frequency of the updates will depend on the nature of the investigation and any confidentiality constraints, but generally would be expected to occur at least monthly. The method and formality of the update will depend on the nature of the investigation and the options available to the coordinator to contact the whistleblower.

## **9.8 Completing the investigation**

The investigator will complete the investigation, make factual findings in respect of the complaint and report to the coordinator. The method for documenting and reporting the findings may depend on the nature of the complaint.

The coordinator is responsible for ensuring that any findings from the investigation are reviewed, appropriate actions are implemented, and the effectiveness of the outcome is monitored.

Serious matters, including those involving senior managers or directors, may be referred to other members of AWC management, the Committee or the Board, as appropriate, and subject to confidentiality considerations. Some matters may require referral to the police or other regulators (section 12).

Once the investigation has been completed, if the investigator or coordinator have contact details for the whistleblower, the whistleblower will normally be advised of the findings, along with the outcome, subject to privacy considerations. Subject to confidentiality and detriment concerns, any persons the subject of the complaint will also normally be advised of the findings and any actions that are to be implemented. However, there may be circumstances where it may not be appropriate to provide details of the outcome of the investigation to the whistleblower or others involved in the investigation. A copy of the investigation report is not required to be provided to either the whistleblower or any persons implicated in the complaint.

Any person found to be committing any form of misconduct covered by this policy is likely to face disciplinary action up to and including termination of employment, contractor or other agreement, and removal from site (as applicable), and could be subject to external legal proceedings if their behaviour breaches any relevant legislation.

## 9.9 Review

If the whistleblower is not satisfied with the outcome of a complaint under this policy, or they believe that an appropriate procedure has not been followed, they may make a further complaint either through the Whistleblower Hotline, or to an alternate eligible recipient to have the original decision reviewed.

Any request for a review will be considered by an AWC senior manager or director who was not involved in the coordination of the original investigation or the complaint. External advisers may be engaged by the reviewer to assist with the review process.

AWC is not required to reopen an investigation, and may conclude a review if the reviewer determines that the original investigation was properly conducted, and there is no new information that may change the findings of the investigation.

If a further investigation is warranted, that investigation will be conducted in accordance with this policy, with the reviewer taking on the coordinator role.

A whistleblower may also lodge a complaint with a regulator, such as ASIC, APRA or the Commissioner of Taxation (as applicable), if they are not satisfied with the outcome of the investigation.

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## 10. Protection for whistleblowers

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### 10.1 Prohibition on victimisation, retaliation and other detrimental conduct

Victimisation, retaliation and other forms of detrimental conduct are serious matters. AWC is required to provide protection for whistleblowers under the Corporations Act, Taxation Act and other laws.

It is against the law for anyone to threaten, injure, harm, harass, victimise or intimidate a whistleblower or any other person, directly or indirectly, or terminate their employment, alter their duties to their disadvantage, undertake disciplinary action, discrimination or other adverse consequences, or damage their property, reputation, business or financial position, because the whistleblower has:

- made a complaint, or intend to make a complaint where they have reasonable grounds for the complaint;
- asserted their rights under this policy, the Corporations Act, Taxation Act, or other relevant legislation;
- alleged that another person has breached this policy the Corporations Act, Taxation Act, or other relevant legislation;
- assisted someone in raising an issue; or
- exercised a workplace right.

These restrictions apply whether the person engaging in the detrimental conduct knew, believed or suspected that the whistleblower had made, may make, or was considering making a disclosure that qualifies for protection, where that knowledge, belief or suspicion is the reason, or part of the reason, for the detrimental conduct.

A person cannot threaten to cause detriment to a whistleblower or any other person in relation to the disclosure by the whistleblower. A threat may be express or implied, conditional or unconditional. A person who is threatened in relation to a disclosure does not need to have actual fear that the threat will be carried out.

AWC will not tolerate victimisation, retaliation or any other detrimental conduct by anyone working with or for AWC. Any person who is found to have subjected any other person to victimisation, retaliation or any other detrimental conduct in connection with their work with AWC will be subject to disciplinary action, which may include termination of their employment, contractor or other agreement, and removal from site (as applicable). Any individuals involved in victimisation, retaliation or other detrimental conduct in relation to a whistleblower complaint may be subject to imprisonment, and significant penalties may be imposed on individuals and AWC (see section 14).

If a whistleblower is concerned that they are being subjected to victimisation, retaliation or other forms of detrimental conduct, they may raise the issue with any 'eligible recipient', referred to in section 7 above.

Notwithstanding the protections above, certain actions may be required to be undertaken by AWC, and are permitted, to assist in protecting the whistleblower during and after the investigation. These include administrative actions that are reasonable to protect a whistleblower from detriment where the conduct being investigated relates to the whistleblower's immediate work area, such as moving a whistleblower to another location to manage any risks of detriment during the investigation.

Protecting a whistleblower from detriment also does not prevent AWC from its usual processes in managing the whistleblower's own work performance.

## **10.2 Compensation and protections from legal action**

Compensation and protections from some legal actions are available to 'eligible whistleblowers' who make complaints in relation to 'disclosable matters' to 'eligible recipients' under the Corporations Act, Taxation Act and other laws, in accordance with, and subject to those laws, including:

- the potential for protection from the following types of actions that may otherwise result from providing information as part of a disclosure:
  - civil liability – such as claims for breach of employment contract, duty of confidentiality or other contractual obligations;
  - criminal liability – such as prosecution for unlawful release of information;  
or
  - administrative liability – such as disciplinary action under employment policies and procedures;



- the potential for protection from contractual or other remedies being sought against them on the basis of the release of information;
- information disclosed in the report may not be admissible in evidence in criminal or penalty proceedings against the person making the complaint (except where the falsity of the information is in question); and
- if the whistleblower suffers loss, damage or injury because of a disclosure, and AWC failed to prevent a person from causing that detriment, in some circumstances the whistleblower may be entitled to compensation and other damages, an injunction preventing the conduct, an apology, reinstatement, or other remedies.

The following conditions and restrictions apply to these protections under law:

- the whistleblower must have reasonable grounds to suspect the alleged conduct;
- disclosure has been made in a 'disclosable matter' under the Corporations Act or Taxation Act, or other applicable law; and
- disclosure has been made to:
  - an 'eligible recipient', as defined in section 8.1;
  - ASIC, APRA, the Commissioner of Taxation, or another authorised Commonwealth body; or
  - a legal practitioner for the purpose of obtaining legal advice or legal representation about the operation of the whistleblower provisions of the Corporations Act or Taxation Act; or
  - a journalist or parliamentarian for an 'emergency disclosure' or a 'public interest disclosure'.

These provisions do not necessarily give the whistleblower immunity for their own misconduct that may be revealed by their disclosure. Whistleblowers are encouraged to seek independent legal advice in relation to the application of these protections.

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## 11. Importance of Confidentiality

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Whistleblower reports are serious matters and may reflect adversely on the reputation of the person the complaint is made against. Accordingly, complaints must be dealt with in the utmost professional and confidential manner.

### 11.1 Confidentiality of identity

Where the whistleblower has reasonable grounds to suspect that the information concerns a disclosable matter, it is illegal to disclose the identity of the whistleblower or information that is likely to lead to the identification of the whistleblower, except:

- to ASIC, APRA, the Commissioner of Taxation, or the Australian Federal Police;



- to a legal practitioner for the purpose of obtaining legal advice or legal representation in relation to the whistleblower provisions in the Corporations Act or the Taxation Act;
- to a person or body prescribed by regulations; or
- with the consent of the whistleblower.

ASIC, APRA, the Commissioner of Taxation, or the Australian Federal Police can disclose the identity of the whistleblower, or information that is likely to lead to the identification of the whistleblower, to a Commonwealth, State or Territory authority to help the authority in the performance of its functions or duties.

### 11.2 Processes to protect confidentiality

The investigator will determine who is to be involved in the investigation, in consultation with the whistleblower, where appropriate.

All witnesses interviewed in connection with an investigation will be notified to keep the matter strictly confidential. Any person attempting to reveal any information about the investigation (including its existence) to any other person outside the scope of the investigation may be subject to disciplinary action. Any individuals involved in a breach of confidentiality in relation to a whistleblower complaint may be subject to imprisonment, and significant penalties (see section 14).

A person involved in the investigation can disclose information contained in a complaint without the whistleblower's consent if:

- the information does not include the whistleblower's identity;
- the person has taken all reasonable steps to reduce the risk that the whistleblower will be identified from the information; and
- it is reasonably necessary for investigating the issues raised in the complaint.

Further actions to be instigated by the investigator to manage confidentiality include:

- all paper and electronic documents and other materials relating to the investigation are to be stored securely, and managed in accordance with obligations under the Privacy Act 1988 (Cth) in relation to personal information;
- all information relating to a disclosure are to be accessed only by those directly involved in managing and investigating the disclosure;
- only a restricted number of people who are directly involved in handling and investigating a disclosure are to be made aware of the whistleblower's identity or information that is likely to lead to the identification of the whistleblower, in accordance with the procedures described above;
- communications and documents relating to the investigation of a disclosure must not be sent to an email address or to a printer that can be accessed by other personnel;

- each person who is involved in handling and investigating a disclosure must be reminded that they should keep the identity of the whistleblower and the complaint confidential, and that an unauthorised disclosure of a whistleblower's identity may be a criminal offence; and
- to reduce the risk that the whistleblower will be identified from the information contained in a disclosure, the investigator may:
  - redact personal information or reference to the whistleblower witnessing an event;
  - refer to the whistleblower in gender-neutral context; and
  - liaise with the whistleblower on the content of their disclosure, to help identify aspects that may inadvertently identify the whistleblower.

High level reporting of the number and type of whistleblower complaints will be made to the Committee and the AWC Board, on a “no names” basis. Serious or material matters may be investigated by, or referred in more detail to the Committee and the Board, as appropriate, subject to confidentiality and legal restrictions. Certain information may also be required to be disclosed to auditors, advisers and insurers of AWC, subject to confidentiality and legal restrictions.

A whistleblower may seek independent legal advice, contact regulators including ASIC and the ATO (as applicable) or lodge a further complaint under this policy for investigation if the whistleblower has reasonable grounds to suspect there has been a breach of confidentiality, contrary to this section.

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## 12. Procedures for dealing with disclosure required by law

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Some forms of conduct that may be reported under this policy may constitute criminal conduct or require investigation by regulatory authorities. While AWC is committed to dealing with most complaints at an organisational level so far as reasonably possible, this type of conduct is not usually suited to an internal process. Often, such complaints should be referred to the police or regulatory bodies, and this option may be discussed with the person making the complaint. In some cases, AWC may be obliged by law to report matters to the police or other regulatory bodies.

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## 13. Responsibilities of Managers

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Those in supervisory and management roles may become involved in a whistleblower investigation. Managers have a responsibility to:

- ensure their teams are aware of this Whistleblower Policy, and the options for reporting under it;
- maintain confidentiality when involved in any whistleblower complaint investigations; and

- monitor the workplace so they become aware of any intimidation or victimisation that may occur following a whistleblower complaint.

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### 14. Breach of policy

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Everyone engaged with AWC is expected to conduct themselves in a manner that reflects AWC's policies. Any person found to be acting in breach of this policy through the disclosure of confidential information, victimisation, or otherwise, is likely to face disciplinary action up to and including termination of their employment, contractor or other agreement, and removal from site (as applicable).

They could be subject to external legal proceedings including imprisonment and significant penalties should their behaviour breach any relevant legislation. Any individuals involved in a breach of confidentiality or victimisation in relation to a whistleblower complaint may be subject to imprisonment, and significant penalties may be imposed:

- for individuals, penalties can be up to \$1.05 million; and
- for companies, penalties can be up to \$10.5 million, or 10% of the annual turnover (up to \$525 million).

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### 15. Complaints with no reasonable grounds

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While rare, occasionally complaints are made that have no reasonable grounds. These types of complaints are strongly discouraged. AWC is not required to investigate these complaints, and may take disciplinary action against the person that made the complaint, particularly where the complaint is vexatious. The protections available to whistleblowers will not be applicable.

This concept is not to be confused with a complaint made on reasonable grounds, that is ultimately found to be without merit, or unable to be substantiated. Disciplinary action will not be taken where the whistleblower reasonably suspects misconduct, but their suspicions are later determined to be unfounded.

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### 16. Support measures

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#### 16.1 Support person

The coordinator, or another person nominated by the coordinator to be a support person (**support person**) will provide support to the whistleblower and those implicated in the complaint through the investigation and implementation of any recommendations following the investigation. Where appropriate, different support people may be nominated for different people involved in the investigation.

Support provided to whistleblowers and others involved in the investigation includes:

- the confidentiality procedures put in place to protect the whistleblower's identity (see section 11);
- the process for assessing the risk of detriment against the whistleblower and other persons (see section 9);
- the investigation process (see section 9);
- assistance to implement changes to manage the additional stress, time commitments, and other challenges associated with the investigation process;
- ensuring those involved in the investigation are advised of their responsibilities to maintain confidentiality, addressing the risk of isolation or harassment, managing conflicts, and ensuring fairness when managing the performance of, or taking other management action relating to a whistleblower;
- any specific actions that AWC will take to protect the whistleblower from any risks of detriment, including changes to the location, role or duties of the whistleblower or other AWC personnel involved in the investigation during the investigation;
- outlining procedures to lodge a complaint if the whistleblower considers they have suffered detriment, and the actions AWC will take in response to such complaints (see sections 9.6 and 10);
- assisting with actions to be taken by AWC if detriment has already occurred (see section 10); and
- ensuring specialist support services are available, including counselling, medical, legal or other professional support, as applicable.

A whistleblower may seek independent legal advice or contact regulatory authorities such as ASIC, APRA or the Commissioner of Taxation (as applicable), if they believe they have suffered detriment.

## **16.2 Other queries in relation to the policy**

AWC's Company Secretary, Human Resources Manager or General Counsel can be contacted to discuss any queries in relation to this policy, or independent legal advice may be obtained by anyone who is considering making a complaint under this policy.

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## **17. Other relevant policies**

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- Code of Conduct
- Grievance Handling Procedure
- Harassment, Bullying and Discrimination Policy
- Equal Employment Opportunity Policy
- Workplace Health and Safety Policy

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## 18. Contact details

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Whistleblower Hotline	Phone	1300 304 550
	Email	<a href="mailto:awc@stopline.com.au">awc@stopline.com.au</a>
	Post	c/- Stopline, Locked Bag, 8 Hawthorn, VIC 3122
	On-line	<a href="http://awc.stoplilereport.com/">http://awc.stoplilereport.com/</a>
Directors and AWC Executive Team by mail:	Australian Wildlife Conservancy PO Box 8070 Subiaco East WA 6008	
	<i>Address to relevant director or manager, and mark correspondence as <b>Private and Confidential</b></i>	
	Phone: 08 9380 9633	
Human Resources Manager	Meaghan Tarrant Office (08) 9380 9633 Mobile 0409 338 741 Email <a href="mailto:meaghan.tarrant@australianwildlife.org">meaghan.tarrant@australianwildlife.org</a>	
Chief Executive Officer	Tim Allard Office (08) 9380 9633 Mobile 0419 952 590 Email <a href="mailto:tim.allard@australianwildlife.org">tim.allard@australianwildlife.org</a>	
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Board Chair	Graeme Morgan <a href="mailto:graeme.morgan@deckchair.com.au">graeme.morgan@deckchair.com.au</a>	

# Whistleblower Policy



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Employee Assistance Program  
(EAP)

Converge International  
1300 687 327

## Revision History (show last 3 revisions only)

Rev:	Date:	Pages affected:	Description:	Prepared By:	Reviewed by:	Approved by:
2	December 2019	All	Update for changes in law	R Cairns	AWC Conduct Standards Committee, AWC Board and Senior Management	AWC Board
3	May 2021	6,7,19 & 21	Update for change from Legal Counsel to General Counsel & other minor formatting and word changes	M Davies	M Tarrant T. Allard	T Allard 17/5/21
4	August 2021	6	Amendments reflect the mechanics of the Whistleblower Hotline process	M Davies	M McCusker (Chair of Conduct Standards Committee)	AWC Board