



Policy title	Whistleblowing	Policy Number	COR POL 26
Version	1		
Effective date	6 <sup>th</sup> February 2020	Approved by	WaterRA Board
Review date	6 <sup>th</sup> February 2022	Administered by	CEO

## 1. Purpose

This policy outlines how WaterRA will ensure that disclosures made by employees and stakeholders of suspected improper conduct within WaterRA are dealt with in a confidential and secure manner.

WaterRA is committed to ensuring that:

- Business activities are conducted with the highest standards of conduct and ethical behaviour;
- We drive a culture of honest and ethical behaviour, compliance and strong governance;
- Employees and stakeholders have the right to report in good faith any perceived wrongdoing, impropriety, serious unethical behaviour, legal or regulatory non-compliance or questionable accounting, tax or audit matter;
- Employees and stakeholders receive protection from any reprisal or detrimental action resulting from any disclosure, even if their disclosure turns out to be incorrect.

This policy will be communicated to staff through the induction process and be made available to existing staff and other stakeholders on the WaterRA website.

## 2. Scope

This policy applies to:

- Directors of WaterRA
- Employees of Water Research Australia Limited, whether full- or part-time and wherever employed
- Members and employees of Member organisations
- Research partners
- Employees or principals of organisations which have a commercial relationship with Water Research Australia Limited as customers, suppliers, consultants, students, advisers, agents or otherwise.

## 3. Policy Content

### 3.1 Definitions

**Eligible Recipient** – a nominated person who can receive a disclosure. Disclosure must be made directly to an eligible recipient for the discloser to be able to qualify for protection as a whistleblower under the Corporations Act. These include:

- a) an officer or senior manager of the entity or related body corporate;
- b) the internal or external auditor (including a member of an audit team conducting an audit) or actuary of the entity or related body corporate;
- c) a person authorised by the entity to receive disclosures that may qualify for protection (See section 3.3)
- d) legal practitioners, regulatory bodies (in the case of Public Interest Disclosure)
- e) journalists, members of parliament (in the case of Emergency Disclosure)

**Emergency Disclosure** - the disclosure of information to a journalist or parliamentarian, where:

- a) the discloser has previously made a disclosure of the information to ASIC, APRA or another Commonwealth body prescribed by regulation;
- b) the discloser has reasonable grounds to believe that the information concerns a substantial and imminent danger to the health or safety of one or more persons or to the natural environment;
- c) before making the emergency disclosure, the discloser has given written notice to the body to which the previous disclosure was made that:
  - i. includes sufficient information to identify the previous disclosure; and
  - ii. states that the discloser intends to make an emergency disclosure; and



- d) the extent of the information disclosed in the emergency disclosure is no greater than is necessary to inform the journalist or parliamentarian of the substantial and imminent danger.

**Public Interest Disclosure** - the disclosure of information to a journalist or a parliamentarian, where:

- a) at least 90 days have passed since the discloser made the disclosure to ASIC, APRA or another Commonwealth body prescribed by regulation;
- b) the discloser does not have reasonable grounds to believe that action is being, or has been taken, in relation to their disclosure;
- c) the discloser has reasonable grounds to believe that making a further disclosure of the information is in the public interest; and
- d) before making the public interest disclosure, the discloser has given written notice to the body in RG 270.75(a) (i.e. the body to which the previous disclosure was made) that:
  - i. includes sufficient information to identify the previous disclosure; and
  - ii. states that the discloser intends to make a public interest disclosure

**Whistleblower** – a person with inside knowledge of an organisation who reports misconduct or dishonest or illegal activity that may have occurred within that organisation. May also be referred to as a **Discloser**

## 3.2 Grounds for Reporting

Employees and stakeholders are encouraged to make a report under this policy if they have reasonable grounds to suspect that a WaterRA director, employee, contractor, supplier, researcher or other person who has business dealings with WaterRA has engaged in conduct which:

- Is dishonest, fraudulent or corrupt, including bribery
- Is illegal (such as theft, violence, harassment or intimidation, criminal damage to property or other breaches of state or federal law)
- Is unethical or in breach of WaterRA policies (such as dishonestly altering company records or data, adopting questionable accounting practices or wilfully breaching the WaterRA code of conduct or other policies)
- Is potentially damaging to WaterRA, a WaterRA employee or third party such as unsafe work practices, environmental damage, health risks or abuse of WaterRA property or resources
- Amounts to an abuse of authority
- May cause financial loss to WaterRA, or damage its reputation, or be otherwise detrimental to WaterRA interests
- Involves harassment, discrimination, victimisation or bullying, other than personal work-related grievances as defined in the Corporations Act 2001; or
- Involves any other kind of misconduct or an improper state of affairs or circumstances.

## 3.3 Making a Disclosure

In order to qualify for protection as a whistleblower under the Corporations Act, disclosure must be made directly to an Eligible Recipient. Disclosures will be handled confidentially, where practical and appropriate. Each disclosure will be assessed and may be investigated. The object of an investigation is to determine whether there is enough evidence to substantiate or refute the matters reported. The investigation will be objective, fair and independent.

WaterRA has nominated the Board Chair, and Chairs of the Human Resource Committee (HRC) and Risk and Audit Committee (RAAC) as Eligible Recipients. Contact details and guidance on how to make a disclosure can be found in Appendix A. If more information is required before making a disclosure, contact your manager, the Business Manager or CEO.

In making disclosures under this policy, employees and stakeholders must act in good faith on a genuine belief that there has been wrongdoing, and not for any malicious purpose. Employees and stakeholders disclosing wrongdoing will be protected and the investigation will be conducted in accordance with the principles of fairness and natural justice. Where it is determined that a disclosure has been made by an employee falsely, or for a malicious purpose, WaterRA reserves the right to take disciplinary action against the disclosing employee, up to and including termination of employment.



## 3.4 Confidentiality

Disclosure may be made anonymously but, ideally, will allow for an investigator to contact the discloser again for any follow up action. A discloser may use a pseudonym, as well as an anonymised email address and/or phone number.

In order to protect the confidentiality of the discloser, WaterRA will

- Redact all personal information or reference to the discloser witnessing an event
- refer to the discloser in a gender-neutral context
- where possible, contact the discloser to help identify certain aspects of their disclosure that could inadvertently identify them; and
- designate qualified staff to handle and investigate disclosures.

WaterRA will maintain secure record-keeping and information-sharing processes by:

- securely storing all paper and electronic documents and other materials relating to disclosures
- limiting access to all information relating to a disclosure to those directly involved in managing and investigating the disclosure
- restricting the number of people who will be made aware of a discloser's identity (subject to the discloser's consent) or information that is likely to lead to the identification of the discloser to those who are directly involved in handling and investigating a disclosure
- not sending communications and documents relating to the investigation of a disclosure to an email address or to a printer that can be accessed by other staff; and
- training each person who is involved in handling and investigating a disclosure about the confidentiality requirements, including that an unauthorised disclosure of a discloser's identity may be a criminal offence.

A person can disclose the information contained in a disclosure with or without the discloser's consent if:

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

It is illegal for a person to identify a discloser, or disclose information that is likely to lead to the identification of the discloser, outside the exceptions listed above.

## 3.5 Detrimental Conduct

WaterRA strictly prohibits all forms of detrimental conduct against whistleblowers. Detrimental conduct means any actual or threatened conduct that could cause a detriment to the whistleblower as a result of the whistleblower making a disclosure, including:

- Termination of employment or alteration of an employee's position to their disadvantage
- Harassment, bullying or intimidation
- Damage to a person's business or financial position
- Harm or injury, including psychological harm
- Damage to a person's property
- Damage to reputation; or
- Any other conduct that constitutes retaliation.

WaterRA also strictly prohibits all forms of detrimental conduct against people who are involved in an investigation of a disclosure in response to their involvement with that investigation. WaterRA will endeavour to avoid detrimental conduct against whistleblowers by maintaining anonymity of the discloser's identity and keeping secure records.



Disclosers are protected from the following in relation to their disclosure:

- Civil liability, e.g. legal action for breach of an employment contract
- Criminal liability, e.g. attempted prosecution for unlawfully releasing information (other than for making a false disclosure)
- Administrative liability, e.g. disciplinary action for making the disclosure

A discloser can seek compensation and other remedies through the courts if:

- They suffer loss, damage or injury because of a disclosure; and
- WaterRA failed to take reasonable precautions and exercise due diligence to prevent the detrimental conduct

Disclosers who wish to receive compensation should seek independent legal advice.

### 3.6 Internal Investigation

Disclosures which are personal work-related grievances will be investigated by the CEO. Whistleblower disclosures made under this policy will be documented and investigated promptly, initially by an internal investigator.

The internal investigator is required to:

- Act impartially and document the disclosure
- Conduct all interviews; and
- Report on the results of the investigation and any recommendations.

All investigations will be carried out as quickly as is practicable.

While maintaining confidentiality at all times, all serious disclosures and the progress of any investigation will be drawn to the attention of the CEO, the Board Chair (or Chairs of the HRC or RAAC if appropriate). If the disclosure is the subject of an internal investigation which reveals genuine issues to be addressed by WaterRA, the CEO (or Board Chair or Chairs of the HRC or RAAC, if appropriate) will take remedial action.

### 3.7 External Investigation

If an internal investigator determines that there is activity or conduct within WaterRA which is potentially illegal, the CEO may decide to engage an external investigator.

In this event:

- The discloser will be afforded appropriate protection and WaterRA will, to the extent it can do so and is legally permitted, keep in confidence the identity of the discloser
- The matter may be reported to the relevant regulatory authority or police agency
- The identity of the disclosing employee or stakeholder will only be disclosed to the relevant regulatory authority or police agency on the basis that, where legally permitted, the employee or stakeholder's identity will be kept confidential
- Disclosure of the identity of the disclosing employee or stakeholder to any other organisation or person will require the consent of the disclosing person
- The internal investigator will also ensure that the matter is reported to the CEO.

### 3.8 After Disclosure

The discloser will always be informed of the outcome at the conclusion of the investigation. WaterRA will not tolerate any reprisals against employees or stakeholders who have made a disclosure of any matter under this policy where the discloser has acted in good faith and on a genuine belief or perception of wrongdoing and on reasonable grounds.

WaterRA will act in the best interests of a discloser to protect them from any victimisation, adverse reaction or intimidation and commits to ensure confidentiality (to the extent permitted by law) and fairness in all matters raised under this policy. WaterRA may refer a discloser to counselling, or other support, if required. Whistleblowers may also seek additional support through SMG Health, the SA Water employee assistance program.



In the event of a drawn-out investigation, the investigator will notify the discloser and provide a status update or an indication that the investigation is ongoing. At the conclusion of the investigation, the discloser will be notified of the outcome and, if appropriate, any remedial action taken.

### 3.9 Special protections under the Corporations Act 2001

Section 9.4 AAA of the Corporations Act gives special protection to disclosures regarding misconduct or improper state of affairs relating to WaterRA if the following conditions are satisfied:

- The whistleblower is or has been:
  - An officer or employee of WaterRA
  - An individual who supplies goods or services to a WaterRA company or employee of a person who supplies goods or services to a WaterRA company
  - An individual who is an associate of WaterRA; or
  - A relative, dependant or a dependant of the spouse of any individual referred to above
- The report is made to
  - A Eligible Recipient
  - An officer or senior manager of WaterRA
  - ASIC
  - APRA; or
  - A legal practitioner for the purpose of obtaining legal advice or legal representation in relation to the operation of the whistleblower provisions in the Corporations Act
- The whistleblower has reasonable grounds to suspect that the information being disclosed concerns misconduct, or an improper state of affairs or circumstances, in relation to WaterRA. This may include a breach of legislation including the Corporations Act, an offence against the Commonwealth punishable by imprisonment for 21 months or more, or conduct that represents a danger to the public or financial system.

Protections are available to disclosers who qualify for protection as a whistleblower, including the protections under the Corporations Act. These protections are:

- Identity protection (confidentiality);
- Protection from detrimental acts or omissions;
- Compensation and remedies; and
- Civil, criminal and administrative liability protection.

### 3.10 Responsibilities

The roles and responsibilities are as detailed in this policy.

## 4. Related Documents

Documentation relevant to this policy includes:

Code of Conduct Policy  
Grievance Resolution Policy  
Fraud and Corruption Policy  
Risk Management Policy

## 5. Legislation

This policy is underpinned by the following legislation:

Corporations Act 2001



## 6. Policy Approval History

No previous versions

Approved



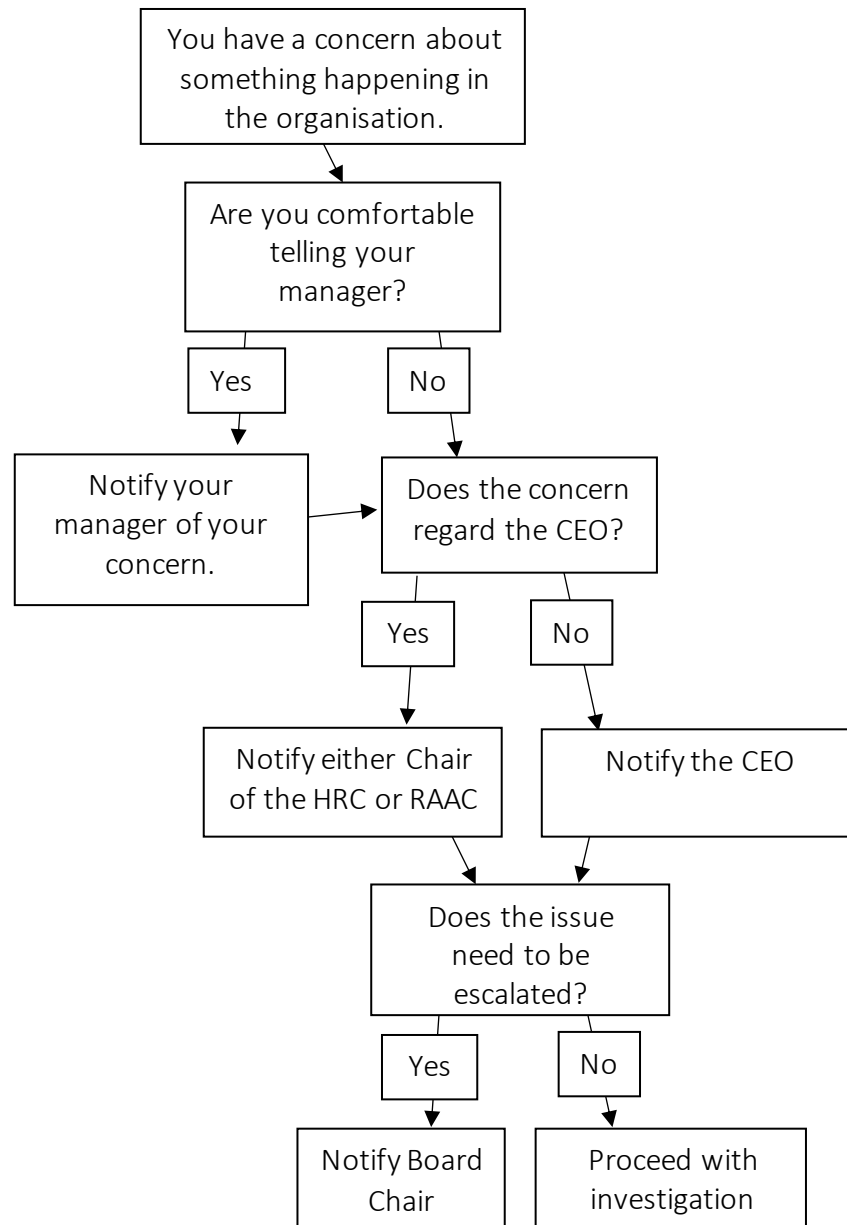
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Shaun Cox  
WaterRA Chair

Date: 6<sup>th</sup> February 2020



## Appendix A: How to make a disclosure



Contact details for Eligible recipients as at 13 January 2020:

Shaun Cox  
 Board Chair  
 Contact details:  
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