

# WHISTLEBLOWER POLICY

<b>Approved by:</b>	<b>Board of Directors:</b>	<input checked="" type="checkbox"/>
	<b>Chief Executive Officer:</b>	<input checked="" type="checkbox"/>
<b>Initial Approval Date:</b>	4 December 2019	
<b>Revised Date:</b>	11 December 2024 No substantive changes – updated for new whistleblower protection officer	
	30 August 2021 – No substantive changes – updated for new whistleblower protection officer	
	10 April 2021 No substantive changes – updated for ACSL & current internal policy environment	
<b>Review Date:</b>	December 2027	
<b>Policy Owner:</b>	CEO	

## 1. Background and context

This Policy has been developed to enhance good governance at Australian Catholic Safeguarding Ltd (ACSL).

The *Corporations Act 2001* provides a consolidated whistleblower protection regime for Australia’s corporate sector. This regime requires public companies, including not for profits, to have a whistleblower policy and make the policy available to their officers and employees.

A transparent whistleblower policy is essential to good risk management and corporate governance. A policy such as this helps uncover misconduct that may not otherwise be detected. A whistleblower policy is an important tool for helping ACSL to identify wrongdoing through providing a convenient and safe reporting mechanism, and protection for people who make serious wrongdoing disclosures.

Australian Catholic Safeguarding Ltd (ACSL) was established in December 2020 and is a company limited by guarantee, owned by the Australian Catholic Bishops Conference, Catholic Religious Australia and the Association of Ministerial Public Juridic Persons. ACSL has responsibilities at a national level and brings together the work of two previous entities, Catholic Professional Standards Ltd (CPSL) and the Australian Catholic Centre for Professional Standards (ACCPS).

ACSL works with the Catholic Church in Australia to support the maintenance of a Safe Church for all. ACSL is committed to fostering a nationally consistent culture of safety and care throughout the Church. ACSL provides a range of services to the Church to support their implementation of the [National Catholic Safeguarding Standards](#), a framework for the protection and care of adults at risk and children.

## 2. Purpose and scope

The objectives of this Policy are:

- to encourage reporting of wrongdoing that is of legitimate concern;
- to help deter wrongdoing, in line with ACSL's governance framework;
- to ensure individuals who disclose wrongdoing can do so safely, securely and with confidence that they will be protected and supported;
- to ensure disclosures are dealt with appropriately and on a timely basis;
- to provide transparency to ACSL's framework for receiving, handling and investigating disclosures;
- to support ACSL's values and Code of Conduct; and
- to meet ACSL's legal and regulatory obligations.

This Policy applies to all current and former ACSL (and CPSL) Board Directors and personnel including executives, staff, contractors, consultants, associates, service providers, volunteers and interns. It also extends to users of ACSL services and suppliers, and to former relatives or dependents of the aforementioned who are based in Australia.

## 3. Definitions

Terms used in this Policy are:

**Protected Disclosure** A disclosure of information relating to Reportable Conduct.

**Reportable Conduct** You may make a disclosure under this policy if you have reasonable grounds to suspect misconduct (including fraud, negligence, default, breach of trust or breach of duty) or an improper state of affairs or circumstances concerning ACSL or a related body corporate of ACSL.

You may make a protected disclosure if you have reasonable grounds to suspect that the information indicates that ACSL, or a related body corporate of ACSL, or any of their officers or employees have engaged in conduct that constitutes any of the following:

Conduct that includes but is not limited to:

- breaches of legislation (including *Corporations Act 2001* (Cth), the *Australian Securities and Investment Commission Act 2001* (Cth), the *Banking Act 1959* (Cth), the *Financial Sector (Collection of Data) Act 2001* (Cth), the *Insurance Act 1973* (Cth), the *Life Insurance Act 1995* (Cth), the *National Consumer Credit Protections Act 2009* (Cth), the *Superannuation Industry (Supervision) Act 1993* (Cth), or an instrument made under any of these Acts), regulations or local government by-laws or is otherwise illegal (including corporations law, theft, dealing in/use of illicit drugs, violence or threatened violence and criminal damage against property);
- a danger to the public or financial system;
- an offence against any other law of the Commonwealth that is punishable by imprisonment for a period of 12 months or more;
- fraud, money laundering or misappropriation of funds;
- offering or accepting a bribe;
- perverting the course of justice;
- unreasonably endangers health and safety or the environment;
- maladministration (eg: unjust, based on improper motives, is unreasonable, oppressive or negligent);
- gross mismanagement or repeated breaches of administrative procedures;
- failure to comply with, or breach of, legal or regulatory requirements;
- actions which have financial or non-financial loss detrimental to the interests of ACSL;

- unethical breach of the Code of Conduct; and
- 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 be planning to make, a disclosure.

**Whistleblowing** Disclosure by a person of Reportable Conduct

**Whistleblower** A person who makes a disclosure of Reportable Conduct in accordance with this Policy

#### 4. Policy Statement

ACSL is committed to the highest standards of conduct and ethical behaviour and to promoting and supporting a culture of transparent and accountable behaviour, corporate compliance and good governance. People who have a working relationship with ACSL are often the first to realise that there may be something seriously wrong. However, they may not wish to speak up for fear of appearing disloyal or may be concerned about being victimised or subject to reprisals for reporting wrongdoing.

ACSL encourages the reporting of any instances of Reportable Conduct and provides protections and measures so that those persons who make a Protected Disclosure may do so confidentially and without fear of intimidation, disadvantage or reprisal.

When a person makes a Protected Disclosure:

- their identity must remain confidential according to their wishes;
- they will be protected from reprisal, discrimination, harassment or victimisation for making the disclosure;
- an independent internal inquiry or investigation will be conducted;
- issues identified from the inquiry/investigation will seek to be resolved and/or rectified; and
- they will be informed about the outcomes (so far as practicable).

Any retaliation for having made a disclosure will be treated as serious wrongdoing under this Policy.

#### 5. Authorities and responsibilities

##### 5.1 Whistleblowers

5.1.1 Protection is available to whistleblowers who make a Protected Disclosure where the disclosure is made with reasonable grounds to believe the disclosure to be true.

5.1.2 To ensure that all employees are treated fairly and that resources are not wasted, protection is not available where the disclosure is:

- trivial or vexatious in nature with no substance. This will be treated in the same manner as a false report and may itself constitute wrongdoing;
- unsubstantiated allegations which are found to have been made maliciously, or knowingly to be false. These will be viewed seriously and may be subject to disciplinary action that could result in dismissal, termination of service or cessation of a service or client relationship.

5.1.3 Making a Protected Disclosure may not protect the whistleblower from the consequences flowing from involvement in the wrongdoing itself. A person's liability for their own conduct is not affected by their report of that conduct under this Policy. However, active cooperation in the investigation, an admission and remorse may be taken into account when considering disciplinary or other action.

5.1.4 Even though a whistleblower may be implicated in the wrongdoing, they must not be

subjected to any actual or threatened retaliatory action, victimisation or reprisal for making a Protected Disclosure under this Policy.

## **5.2 Whistleblower Protection Officers**

5.2.1 A Whistleblower Protection Officer is a person named in Appendix 1 of the Policy as such and is responsible for receiving Protected Disclosures.

5.2.2 Whistleblower Protection Officers must (after reasonable preliminary inquiry):

- if the whistleblower agrees, organise a support person to support the whistleblower (a support person may be arranged through ACSL's EAP provider or an external HR firm and their role is to mentor and support the whistleblower throughout the process);
- notify the Protected Disclosures Coordinator of Protected Disclosure allegations;
- be satisfied that each Protected Disclosure they receive is appropriately inquired into or investigated;
- be satisfied that action taken in response to the inquiry/investigation is appropriate to the circumstances; and
- provide governance oversight over any inquiry/investigation into retaliatory action taken against the whistleblower.

5.2.3 If the Protected Disclosure contains allegations against any ACSL executive or where the whistleblower has a reasonable belief that the Whistleblower Protection Officers are insufficiently independent, a report may be made to:

### **Chair of ACSL Board**

## **5.3 Protected Disclosures Coordinator**

5.3.1 The Protected Disclosures Coordinator receives particulars about all whistleblower events and performs the following functions:

- arranges for an inquiry/investigation into the disclosures made by the whistleblower;
- ensures appropriate government agencies are notified about whistleblower events where required; and
- maintains a whistleblower register for trend analysis and to identify systemic issues requiring attention.

5.3.2 The Protected Disclosures Coordinator is the Company Secretary.

## **5.4 Investigator**

5.4.1 ACSL will investigate all matters reported under this Policy as soon as practicable after the matter has been reported.

5.4.2 The Investigator is appointed by the Protected Disclosures Coordinator and may be internal or external to ACSL.

5.4.3 The Investigator must have internal independence of line management in the area affected by the Protected Disclosure.

5.4.4 The investigation will be conducted in an objective and fair manner, and as is reasonable and appropriate having regard to the nature of the disclosure and the circumstances.

5.4.5 Where a report is submitted anonymously, ACSL will conduct the investigation and its enquiries based on the information provided. However, anonymity can sometimes prevent ACSL from taking the issues further if ACSL is not able to obtain further information from the source of the report.

5.4.6 The investigator may seek advice from internal or external experts as required.

## **5.5 Staff**

5.5.1 All staff who receive a disclosure about wrongdoing must notify a Whistleblower Protection

Officer as soon as practicable, provide particulars and maintain confidentiality about the disclosure at all times.

## 6. Reporting a Disclosure

- 6.1 If you wish to make a Protected Disclosure, you should make the disclosure in person or in writing to one of ACSL's Whistleblower Protection Officers (Refer to Appendix 1 for details).
- 6.2 You may also make a Protected Disclosure to the [Australian Securities and Investment Commission](#) (ASIC) or the Australian Prudential Regulation Authority (APRA). In addition, you can make a protected disclosure to a legal practitioner for the purpose of obtaining legal advice or legal representation in relation to the operation of the statutory whistleblower provisions.
- 6.3 You may contact ACSL's Whistleblower Protection Officers if you would like to obtain any additional information about how to make a protected disclosure.
- 6.4 Anonymous reports of Protected Disclosures are accepted under this Policy. Protected Disclosures which are made anonymously will still be afforded the same protections outlined in this Policy. However, from a practical perspective, anonymous reports often have limitations that may inhibit a proper and appropriate inquiry or investigation. These limitations include the inability to provide feedback on the outcome and/or to gather additional particulars to assist the inquiry/investigation.

## 7. Personal Work-Related Grievances

- 7.1 Importantly, this Policy does not apply to a disclosure of information by an individual to the extent that the information concerns a personal work-related grievance of that individual, and does not concern alleged unlawful victimisation for making a Protected Disclosure.
- 7.2 A personal work-related grievance means a grievance about any matter in relation to the person's employment, or former employment, having implications for the individual personally, in circumstances where the information does not have significant implications for ACSL or a related entity of ACSL unrelated to the individual.
- 7.3 Examples of grievances that may be personal work-related grievances are as follows:
  - an interpersonal conflict between the individual discloser and another employee;
  - a decision relating to the engagement, transfer or promotion of the individual discloser;
  - a decision relating to the terms and conditions of engagement of the individual discloser; and
  - a decision to suspend or terminate the employment of the individual discloser, or otherwise to discipline the individual discloser.
- 7.4 This Policy is in addition to:
  - grievance procedure for employees, which is for all staff to raise any matters they may have in relation to their work or their work environment, other persons, or decisions affecting their employment. This Policy does not replace other reporting structures such as those for dispute resolution, discrimination, victimisation or matters relating to workplace bullying or harassment;
  - standard complaint mechanisms for ACSL services users; and
  - any exercising of rights under the terms of their contract by contractors, consultants and suppliers.

## 8. Protections for Whistleblowers

- 8.1 Subject to the contents of this Policy, ACSL has an obligation to protect the confidentiality of a whistleblower's identity. ACSL will protect the identity of a whistleblower and seek to ensure

- their welfare is not compromised.
- 8.2 ACSL may disclose the identity of a whistleblower:
- to ASIC, APRA, the ATO or a member of the Australian Federal Police;
  - to a legal practitioner (for the purposes of obtaining legal advice or legal representation about the whistleblower provisions in the Corporations Act 2001); or
  - with the consent of the whistleblower.
- 8.3 ACSL can disclose the information contained in a Protected Disclosure if:
- the information does not include the whistleblower's identity; and
  - it is reasonably necessary for investigating the issue raised in the disclosure.
- 8.4 ACSL will store any records relating to a report of a Protected Disclosure securely and restrict access to authorised persons only who are involved in the investigation, including senior managers or directors who need to know to take appropriate action, or for corporate governance purposes.
- 8.5 Unauthorised disclosure of information that could prejudice confidentiality and identify a whistleblower will be regarded seriously and may result in disciplinary action.
- 8.6 A whistleblower is protected from any of the following in relation to their disclosure:
- civil liability (eg: any legal action against the discloser for breach of an employment contract, duty of confidentiality or another contractual obligation);
  - criminal liability (eg: attempted prosecution of the discloser for unlawfully releasing information, or other use of the disclosure against the discloser in a prosecution (other than for making a false disclosure)); and
  - administrative liability (eg: disciplinary action for making a disclosure).
- 8.7 ACSL will implement measures to protect whistleblowers from detrimental acts or omissions, including, as appropriate:
- processes for assessing the risk of detriment against a whistleblower and other persons (eg: other staff who might be suspected to have made a disclosure), which will commence as soon as possible after receiving a disclosure;
  - referring the whistleblower to support services, such as counselling or other professional or legal services;
  - strategies to help a whistleblower minimise and manage stress, time or performance impacts, or other challenges resulting from the disclosure or its investigation; and/or
  - actions for protecting a whistleblower from risk of detriment (eg: ACSL may allow a whistleblower to perform their duties from another location, reassign the whistleblower to another role at the same level, make modifications to the way the whistleblower performs their work duties, or reassign or relocate other staff involved in the disclosable matter).
- 8.8 These protections will not be available in circumstances where the Protected Disclosure reveals that the whistleblower has engaged in misconduct.
- 8.9 Importantly, a person who has made a disclosure can still qualify for the above protections even if their disclosure turns out to be incorrect.

## 9. Victimisation

- 9.1 ACSL will not tolerate any retaliatory action or threats of retaliatory action against a whistleblower, or against a whistleblower's colleagues, employer (if a contractor, consultant or supplier) or relatives.
- 9.2 By way of example, a whistleblower must not be disadvantaged or victimised for having made the report by:
- dismissal or termination of services or supply;

- demotion;
  - discrimination, victimisation or harassment;
  - current or future bias; or
  - threats of any of the above.
- 9.3 Any such retaliatory action or victimisation in reprisal for a disclosure made under this Policy will be treated as serious misconduct and will result in disciplinary action, which may result in dismissal. In some circumstances retaliatory action may be illegal, in which case ACSL will notify Police.

## **10. Handling and investigating a disclosure**

- 10.1 All reports of alleged or suspected wrongdoing made under this Policy to a Whistleblower Protection Officer will be properly assessed to determine whether:
- it qualifies for protection; and
  - a formal, in-depth investigation is required.
- 10.2 Where a person is identified as being suspected of possible wrongdoing, and preliminary inquiries determine that the suspicion is baseless or unfounded and that no formal investigation is warranted, then the whistleblower will be informed of this outcome and the matter will be closed.
- 10.3 If an investigation is required, the objective of the investigation is to gather evidence relating to the disclosure made by the whistleblower. The focus of the investigation will be on the substance of a disclosure, rather than what the whistleblower's motives may be for reporting.
- 10.4 ACSL's Whistleblower Protection Officer/s will explain to the whistleblower that if ACSL determines that an investigation is needed, ACSL will need to determine:
- the nature and scope of the investigation;
  - the person/s within and/or external to ACSL that will lead the investigation;
  - the nature of any technical, financial or legal advice that may be required to support the investigation; and
  - the timeframe for the investigation.
- 10.5 Investigations must be conducted in an objective, fair and independent manner while preserving the confidentiality of the investigation.
- 10.6 To ensure fairness and independence, investigations need to be independent of the whistleblower, the individuals who are the subject of the disclosure, and the team involved.
- 10.7 Where required, ACSL will retain the services of an external firm experienced in investigations to provide an appropriate level of independence as well as specialist skills and expertise.
- 10.8 A whistleblower will be provided with regular updates, if the whistleblower is able to be contacted by ACSL. The frequency and timeframe for updates may vary depending on the nature of the disclosure and the investigation. Usual practice will be to provide updates at key stages, such as:
- acknowledging the whistleblower after receiving a disclosure;
  - when the investigation process has begun;
  - while the investigation is in progress; and
  - after the investigation has been finalised.
- 10.9 In providing regular updates, ACSL will be mindful not to compromise the anonymity or confidentiality of the whistleblower.



## **11. Persons the subject of an investigation**

- 11.1 ACSL recognises that individuals against whom a report is made must also be supported during the handling and investigation of the wrongdoing report. ACSL will take reasonable steps to treat fairly any person who is the subject of a report, particularly during the assessment and investigation process. This may include appointing an independent support person (either internal or external to ACSL as appropriate).
- 11.2 When a report of wrongdoing has been found to be baseless or unfounded (as per 10.2 above), the Whistleblower Protection Officer will decide whether or not the person named in the allegation should be informed that a suspicion was raised and found to be baseless upon preliminary review. This decision will be based on a desire to preserve the integrity of a person so named, so as to enable workplace harmony to continue unfettered and to protect the whistleblower where it is a bona fide disclosure.
- 11.3 Generally, where an investigation is conducted and the investigator believes there may be a case for an individual to respond, the investigator must ensure that a person who is the subject of the disclosure:
- is informed of the substance of the allegations;
  - is given a fair and reasonable opportunity to answer the allegations before the investigation is finalised;
  - has their response set out fairly in the investigator's report; and
  - is informed about the substance of any adverse conclusions in the investigator's report that affects them.
- 11.4 Where adverse conclusions are made in an investigator's report about an individual, that individual has a right to respond to those conclusions prior to any action being taken by ACSL against them.

## **12. Review processes**

- 12.1 After the conclusion of a matter, if a whistleblower is not satisfied with the outcome, they can request a review to ascertain whether ACSL's Policy, processes and procedures have been adhered to.
- 12.2 ACSL is not obliged to re-open an investigation.
- 12.3 ACSL can conclude a review if it finds that the investigation was conducted properly, or new information is either not available or would not change the findings of the investigation.
- 12.4 Requests for a review may be lodged with the CEO.

## **13. Compensation and other remedies**

- 13.1 A whistleblower can seek compensation and other remedies through the courts if:
- they suffer loss, damage or injury because of a disclosure; and
  - ACSL failed to take reasonable precautions and exercise due diligence to prevent the detrimental conduct.
- 13.2 Whistleblowers are encouraged to seek independent legal advice.

## **14. Failure to comply**

Any breach of this Policy may result in disciplinary action, up to and including severance from the organisation.



## 15. Related Policies & Legislation

- ACSL Code of Conduct
- ACSL Governance Framework
- ACSL Performance Monitoring & Management Policy
- Banking Act 1959 (Cth)
- Corporations Act 2001 (Cth)
- Australian Securities & Investment Commission Act 2001 (Cth)
- Financial Sector (Collection of Data) Act 2001 (Cth)
- Insurance Act 1973 (Cth)
- Life Insurance Act 1995 (Cth)
- National Consumer Credit Protections Act 2009 (Cth)
- Superannuation Industry (Supervision) Act 1993 (Cth)

## 16. Implementation & accessibility

It is critical to the successful implementation of this Policy that it is widely understood and able to be applied by ACSL Board Directors and personnel including executives and staff. Other stakeholders including contractors, consultants, service providers, volunteers, interns, users of ACSL services and suppliers need to be able to access a copy of the Policy.

This Policy is to be shared and refreshed using the following strategies:

- staff briefing sessions – initially at the launch of the Policy and then annually thereafter;
- training for personnel with key responsibilities under this Policy (line managers, Whistleblower Protection Officers and Whistleblower Disclosures Coordinator);
- posting of the Policy on SharePoint (staff intranet) and Board Portal (Board intranet portal);
- inclusion of this Policy in employee induction information pack and Board member induction pack; and
- publication of the approved Policy on ACSL website (Governance area).

## 17. Monitoring & reporting on the effectiveness of the Policy

17.1 ACSL will review this Policy and related processes and procedures every two years.

17.2 In reviewing this Policy, ACSL will seek feedback from Board members, employees and other stakeholders about the effectiveness of the policy and related processes and procedures.

17.3 In reviewing this Policy, ACSL will consider which aspects worked well and which aspects did not work well, including issues such as whether:

- the scope and application of the Policy are appropriate;
- the Policy and related processes and procedures are helpful and easy to understand;
- the Policy, and related processes and procedures reflect current legislation and regulations, and current development and best practice for managing disclosures; and
- ACSL's handling of disclosures, protections and support for disclosers were appropriate and if any improvements are required.

# APPENDIX 1 – Current officials for this Policy

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## *Whistleblower Protection Officers*

### **Staff**

#### *Director of Complaints*

**Karen Mosley**      1300 603 411  
[karen.mosley@acsltd.org.au](mailto:karen.mosley@acsltd.org.au)

### **Board of Directors**

#### *Board member*

**Mr David Penny**      [integrity@acsltd.org.au](mailto:integrity@acsltd.org.au)

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## *External eligible recipients for protected disclosures*

### **External Auditor**

#### *An Audit Partner at ACSL's auditors*

**Mclean Delmo Bentleys**      +61 3 9018 466  
[www.mcleandelmobentleys.com.au](http://www.mcleandelmobentleys.com.au)

# APPENDIX 2 – Further information & Resources

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## Australian Securities and Investment Commission (ASIC)

[Whistleblowing](#) *(viewed online 23/12/2019)*

[Whistleblower Rights and Protections](#) *(viewed online 23/12/2019)*

[How ASIC handles whistleblower reports](#) *(viewed online 23/12/2019)*

## Australian Prudential Regulatory Authority (APRA)

[Information for whistleblowers](#) *(viewed online 23/12/2019)*