Whistleblower Policy

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Reviewed & Amended:	December 2024
Review cycle:	Two years
Policy number:	023
Policy owner:	ACO Board

1. Policy Statement

The Australian College of Optometry (ACO) promotes and supports a culture of good governance and values a workplace with open communication. To this end, the ACO encourages the reporting of "disclosable conduct" and will protect anyone covered by this policy from detrimental action taken against them because of an actual, perceived, or potential disclosure.

2. Purpose

This policy aims to:

- ensure that we observe the highest standards of fair dealing, honesty, and integrity in our activities;
- encourage anyone with reasonable grounds to suspect that disclosable conduct covered by this policy has occurred, or could occur, to make a report; and
- ensure that anyone who, in good faith, discloses information covered by this policy is not subjected to any detrimental action (e.g., victimisation, harassment, or discrimination) because of their disclosure.

3. Scope

The policy applies to:

Employees	Directors, Board & Committee Members	Patients & Visitors	Students	**Contractors** (including employees of contractors)	Volunteers	Suppliers	Consultants
✓	✓	✓	✓	✓	✓	✓	✓

4. Definitions

Refer to Appendix A.

5. Roles and responsibilities

The ACO has a Whistleblower Protection Officer (WPO) and at least one Whistleblower Investigation Officer (WIO).

Whistleblower Protection Officer (WPO)

The ACO's Whistleblower Protection Officer must:

- ensure that all reported disclosures are taken seriously and investigated
- safeguard the interests of whistleblowers, which includes:
    - maintaining their privacy and confidentiality.
    - keeping them informed of developments.
    - monitoring the effectiveness of protection offered under this policy.
- ensure the integrity of the reporting process.

The WPO has authority to:

- receive and review reports relating to Corporations Law Disclosures
- determine the appropriate course of action (in consultation with other ACO representatives, if relevant)
- coordinate any necessary action relating to a report, which may include:
    - referring the matter to a Whistleblower Investigations Officer (WIO) for investigation; or
    - determining that the report is baseless or unfounded and therefore no formal investigation is warranted and informing the whistleblower of this decision.

ACO's current WPO is the Chief Executive Officer. If the disclosure is about the conduct of the WPO, a report can be made to:

- Chair of the Finance, Audit and Risk Committee,
- Company Secretary, and
- ACO's External Auditor.

Whistleblower Investigation Officer (WIO)

The role of the WIO is to undertake investigations triggered by disclosures. A WIO may be an employee of ACO or an external person. A WIO can be designated to this role or appointed by the CEO for the duration of an individual investigation.

Current WIOs

The ACO currently has three WIOs, namely:

- Chief Financial Officer.
- People and Culture Specialist (external consultant).
- Quality, Compliance & Risk Specialist.

6. Notification of disclosable conduct

Any employee who becomes aware of disclosable conduct or receives a verbal or written report of disclosable conduct must promptly inform the WPO.

If the disclosure is about the conduct of the WPO, a report can be made to any alternate party outlined above.

6.1. Disclosures must be based on reasonable grounds

Because a report of disclosable conduct can result in serious consequences, such as damage to thereputation and career prospects of alleged perpetrator, a person should only report under this policy if they have reasonable grounds to suspect that disclosable conduct has occurred.

6.2. False reports may result in disciplinary action

Knowingly making a false report, or knowingly making a report without reasonable grounds, is aserious breach of this policy.
Anyone making such a report may be subject to disciplinary action, including termination of theiremployment, appointment, or contractual relationship.

6.3. Anonymity and confidentiality

Whistleblowers are entitled to make anonymous reports, although need to be aware that this mayaffect the investigation.

A whistleblower who makes a report that is not anonymous, can request that:

- their identity be kept confidential.
- the details of the disclosure are 'de-identified' so that other people cannot identify the whistleblower.

The WPO, any WIO and any Eligible Recipient who receives a disclosure must not provide thewhistleblower's identity (including when sending the report to or discussing it with the WPO or WIO) unless:

- the whistleblower has given express consent; or
- revealing the whistleblower's identity is required or authorised by law (including that it can be disclosed to ASIC and/or the Australian Federal Police).

6.3.1. Confidentiality during an investigation

Although all reports made under this policy will be confidential, it may be necessary during aninternal investigation to disclose the details of the allegations to others (e.g., key personnel at ACO, external parties involved in the investigation, law enforcement agencies, and others as otherwise required or authorised by law).

When this is required, the ACO will take all reasonable steps to keep the whistleblower unidentified.

7. Corporations Law Disclosures

*This section applies only to Corporations Law Disclosures under the Corporations Act (Cth) and the Treasury L**a**ws Amendment (Enhancing Whistleblower Protections) Act 2019 (Cth).*

7.1. Disclosable conduct

Disclosable conduct (Corporations Law Disclosures) is any matter or information that the whistleblower has reasonable grounds to suspect:

- constitutes misconduct, or an improper state of affairs or circumstances, in relation to ACO, or

- indicates that ACO, or any of its officers or employees, has engaged in conduct that:
    - constitutes an offence against:
        - the Corporations Act.
        - the ASIC Act.
        - additional legislation described in the Corporations Act; and
        - regulations made under those laws.
    - constitutes an offence against any other Commonwealth law that is punishable byimprisonment for a period of 12 months or more.
    - is otherwise prescribed by regulation.
    - represents a danger to the public or the financial system.
- any conduct that, while not necessarily in contravention of these particular laws, may still beserious enough to warrant disclosure (e.g., conduct that, although not unlawful, may indicate a 'systemic issue').

7.1.1. **Examples of disclosable conduct**

- a breach of any legislation relating to ACO's operations or activities.
- unethical behaviour, including any breach of any of ACO's policies.
- dishonest behaviour or fraudulent activity.
- unlawful, corrupt, or irregular practices.
- unlawful, corrupt, or irregular use of company funds.
- illegal activities (including theft, dealing in or use of illicit drugs, violence or threatened violence and criminal damage against property).
- improper or misleading accounting or financial reporting practices.
- behaviour that is oppressive, discriminatory, or grossly negligent.
- an unsafe work-practice or behaviour that poses a serious risk to the health and safety of anyone at the workplace.
- behaviour that represents a danger to the public.
- behaviour that represents a danger to the financial system.
- systemic failures at ACO (e.g., in clinical governance).
- any other conduct that may cause loss to ACO or be otherwise detrimental toACO's interests.

7.1.2. **What is <u>not</u> disclosable conduct**

Disclosable conduct under the Corporations Law does **not** include conduct that relates to:

- industrial relations.
- trivial or vexatious claims.
- personal work-related grievances of the whistleblower, such as:
    - interpersonal conflicts at work.
    - decisions relating to the engagement, transfer, or promotion of the Whistleblower,including terms and conditions of their employment, which are not related to a disclosure.
    - decisions to discipline the Whistleblower, including to suspend or terminate theiremployment which are not related to a disclosure.

Other policies address these types of conduct.

8. Reporting disclosable conduct

8.1. Written or verbal reporting

A report can be made in writing or verbally. Whether verbal or written, the report must include a description of the grounds for the report, withas much detail as possible.
If the report is made in writing, supporting documentation should be attached, where possible.

8.2. Who to report to

A whistleblower can make an internal or an external report, or both.

8.3. Internal Reporting

If the whistleblower wishes to report the matter internally, they can report to one or more of the following:

- our Whistleblower Protection Officer.
- ACO Board via the Chair or Deputy Chair.
- a member of the Executive Team.
- ACO's auditor; or
- a member of an audit team conducting an audit of ACO.

8.4. External Reporting

If the whistleblower wishes to report the matter externally, they can report to any of the following:

- ASIC (Australian Securities and Investments Commission); or
- any State or Commonwealth authority prescribed by the Corporations Law in relation toACO.

The investigation will then be handled by that entity according to their processes and procedures.

8.5. Preliminary review

The WIO can promptly commence a formal investigation of the allegations made in the report butmay elect to instead carry out a preliminary review of the allegations.
The WIO acts independently of the WPO and the responsibilities of these roles do not reside with one person.

The aim of preliminary review is to gather enough information for the WIO to decide if the allegations need to be formally investigated. The preliminary review can be conducted in collaboration with the CEO and other relevant officers or employees of ACO.

If the result of the preliminary review is that the report is baseless or unfounded and that no formal investigation is needed, the WIO must inform the whistleblower of this decision.

9. Investigating a report of disclosable conduct

If an investigation is needed (as determined by the WPO or a preliminary review), a WIO will carryout (or supervise) an investigation.

The WIO may use one or both of the following:

- an external investigator who may conduct the investigation independently or in conjunctionwith the WIO.
- external experts who may help with the investigation.

9.1. Ensuring fair and independent investigations

The ACO and the WIO will take all reasonable steps to ensure that the investigation is conductedfairly, independently, without bias, promptly, and according to the principles of natural justice.

All reasonable efforts will be made to preserve the confidentiality of the investigation and the identity of the parties involved, including the whistleblower and the alleged perpetrator/s.

9.1.1. Whistleblower's obligations

To avoid jeopardizing an investigation, a whistleblower must not reveal that they have made areport, except as required under law.

9.1.2. Protection of the alleged perpetrator

The ACO recognises that the alleged perpetrator/s must also be supported during the investigation. Therefore, ACO and the WIO will take all reasonable steps to treat the alleged perpetrator fairly. This includes:

- informing them of the substance of the allegation
- inviting them to submit a response to the claim as part of the investigation
- informing them of any adverse finding that affects them.

10. Investigation's report

At the end of the investigation, the WIO must provide the CEO (and the WPO if the WPO is not theCEO), with a written report containing the investigation's findings and a summary of the evidence.

The finding must be one of the following:

- The allegation is fully substantiated.
- The allegation is partially substantiated.
- The allegation is not able to be substantiated; or
- The allegation is disproven.

The WPO or WIO must inform the whistleblower of the findings but is not obliged to give the whistleblower a copy of the report.

Any findings that relate to criminal activity must be reported to the police and/or relevantregulators.

10.1. Responding to the findings

The CEO (or their delegate) will take appropriate action based on the report. For example, the CEOmay do one or more of the following:

- request further investigation.

- recommend disciplinary action.
- refer the matter to ACO's board of directors.
- notify regulatory bodies; or
- notify legal authorities.

10.2. Filing records of an investigation

All records created from an investigation must be retained in secure files that the WPO controls and manages. Any release of information to someone not involved in the investigation (other than on a need-to-know basis, or as required or allowed by law) is a breach of this policy that may resultin disciplinary action including termination of employment or appointment.

10.3. Detrimental treatment of whistleblowers

ACO is committed to protecting and respecting the rights of a whistleblower, and therefore doesnot tolerate any victimisation, detrimental treatment, or retaliatory action against:

- a whistleblower;
- a person who someone else believes has been or may in the future be a whistleblower; or
- the colleagues, associates, or family members of either of the above.

Examples of detrimental treatment include:

- dismissal from ACO.
- injury of an employee in his or her employment.
- alteration of an employee's position or duties to his or her disadvantage.
- discrimination perpetrated by other employees.
- harassment or intimidation.
- harm or injury to a person, including psychological harm.
- damage to their property.
- damage to their reputation.
- damage to their business or financial position; or
- any other damage.

Any such detrimental treatment will be treated as serious misconduct and will result in disciplinaryaction, which may include termination of employment or services.

Any person who feels they have been subjected to any behaviour that violates this policy shouldimmediately report such behaviour to their manager or the WPO.

A whistleblower who is subjected to detrimental treatment may be entitled to compensation forresulting loss, damage, or injury.

Exceptions from protection

An employee may not be eligible for protection under this policy if they have:

- engaged in disclosable conduct
- knowingly provided false or misleading information relating to this policy (e.g., made a falsereport, provided false information during an investigation).

11. Legislation and Related Resources

11.1 Legislation

The Corporations Act 2001 (Cth)

11.2 Appendices

Appendix A: Definitions
Appendix B: Quick Reference Guide

12. Management of this policy

The ACO Board and People and Culture are accountable for managing and maintaining this policy, which includes:

- monitoring and reviewing this policy in line with the process stated in the DocumentationGovernance Framework.
- simultaneously reviewing all documents directly relating to this policy.

Any major changes to this policy must be:

- approved by the Chief Executive Officer.
- endorsed by ACO Board.

Feedback about this document may be provided by emailing humanresources@aco.org.au.

Whistleblower Policy

Appendix A: Definitions

Term	Definition
Alleged perpetrator	A person named in a disclosure as a perpetrator of the disclosable conduct. They may or may not have undertaken the alleged conduct.
Corporations Law Disclosures	A collective term for disclosures covered by: • Corporations Act 2001 (Cth), and • Treasury Law Amendment (Enhancing Whistleblower Protections) Act 2019 (Cth)
Detrimental Treatment	Actual or threatened action taken against an actual, perceived, or potential whistleblower because of their disclosure, which is detrimental to the whistleblower's wellbeing, reputation, career, business. Examples include discrimination, disadvantage, intimidation, harassment, injury, loss.
Disclosable Conduct	Misconduct that is covered by one or more of the Commonwealth or Victorian laws that this policy addresses.
Disclosure	A report of disclosable conduct.
Eligible Recipient	Someone who is able to accept reports of disclosable conduct. This includes the WPO, WIOs, Board members, members of the ELT, managers.
Federal Public Interest Disclosures	Disclosures covered by the Public Interest Disclosure Act 2013 (Cth).
IBAC	Independent Broad-based Anti-Corruption Commission. Victoria's anti-corruption agency that receives, investigates, and exposes corruption and police misconduct, and informs the public sector and the community about the risks and impacts of corruption and police misconduct and how it can be prevented.
Ombudsman Victoria	The Victorian government's agency that manages and investigates complaints and disclosures relating to administrative actions taken by: • Victorian Government departments • public statutory authorities • officers of municipal councils.
Victorian Public Interest Disclosures	Disclosures covered by the Public Interest Disclosure Act 2012 (Vic) (in effect as of 1 January 2020).
Whistleblower	Someone who reports disclosable conduct. Also referred to in some documents as a 'discloser'.
WIO	Whistleblower Investigations Officer
WPO	Whistleblower Protection Officer

Whistleblower Policy

Appendix B: Quick Reference Guide to different types of disclosures

This quick reference guide summarises the main differences between the different types of disclosures. It is not comprehensive and should be used as a guide only.

Area of distinction	Corporations Law Disclosures	Victorian Public Interest Disclosures	Federal Public Interest Disclosures
Definition of disclosable conduct	Serious misconduct Offences against specified acts and regulations Offences punishable by imprisonment of 12 months or more Conduct that represents a danger to the public or the financial system	Conduct undertaken by ACO or a ACO officer **relating to, or in the performance of a public function on behalf of the state**, that affects the performance of those public functions, is corrupt, a substantial mismanagement of state public resources, puts at risk public health or safety or the environment, or is criminal.	Conduct **relating to the provision of goods or services to or on behalf of the Commonwealth** that contravenes a law, is corrupt, abuses public trust or an official's position, prevents justice, is a waste of federal public funds, endangers lives or health and safety, is a disciplinary matter,
Reporting options	**Internal and/or external**. **Internal** to eligible recipient. **External** to ASIC or other relevant government authority.	**External only**. Whistleblower should seek legal advice. Report to IBAC.	**Internal or external**. **Internal** to supervisor or WPO. **External** to Ombudsman, investigative agency with power to investigate (e.g. relevant Commonwealth department, Federal Police).
Investigation conducted by	**Internal** by WIO (may conduct a preliminary review first), with or without external help. **External** by recipient of disclosure.	**External** investigation undertaken by IBAC.	**Internal:** WPO assesses disclosure and notifies relevant agency. **External** by recipient of disclosure.