

Whistleblower Protection Policy

Introduction

A whistleblower is someone who sees that something is seriously wrong (the legislation calls this “misconduct, or an improper state of affairs or circumstances”), and reports it. This policy explains how someone can make a report, and how the Deaf Society will protect them. Examples of things that could be seriously wrong are below under “matters that should be reported”. The Board of the Deaf Society is ultimately responsible for making decisions about investigating reports under this policy.

Purpose

This policy aims to:

- encourage “disclosers” (see below for a list of people who can be disclosers) to report an issue if they reasonably believe someone has engaged in serious wrongdoing;
- outline how the Deaf Society will deal with whistleblowing reports; and
- explain how to report serious wrongdoing to the Deaf Society.

Who does this Policy apply to?

This policy applies to “disclosers”, which means anyone who is or was one of these at the Deaf Society:

- employees;
- directors;
- officers;
- contractors (including employees of contractors);
- suppliers (including employees of suppliers);
- associates;
- consultants; and

“Disclosers” also includes relatives, dependents, spouses, or dependents of a spouse of these people.

This policy also applies to anyone who has given information about the Deaf Society to a lawyer to get legal advice or legal representation about whistleblower protection.

Reportable Matters

A reportable matter is anything that a discloser has reasonable grounds to believe is:

- “misconduct or an improper state of affairs or circumstances”;
- breaking the Deaf Society’s policies; or
- breaking the law

Any ‘reportable matter’ should be reported using this policy.

Reportable matters include:

- dishonest behaviour;
- fraud;
- unlawful, corrupt or irregular use of Deaf Society funds or practices;
- illegal activities (including theft, dealing in or use of illicit drugs, violence or threatened violence and criminal damage against property);
- unethical behavior, including anything that would break any Deaf Society policy;
- improper or misleading accounting or financial reporting practices;
- breaking any law relating to the Deaf Society’s operations or activities, including the Corporations Act 2001 (Cth);
- behaviour that is oppressive, discriminatory or grossly negligent;
- an unsafe work practice;
- any behaviour that is a serious risk to the health and/or safety of any person at a Deaf Society workplace;
- a serious risk to public health, public safety or the environment; or
- any other conduct that may cause material loss to the Deaf Society or that may damage the Deaf Society in any other way.

Personal Work-Related Grievances

Personal work-related grievances are not covered under this policy. To solve these, follow the Deaf Society’s Grievance Policy. A “personal work-related grievance” means a grievance about anything related to your employment, or former employment, which affects or might affect you personally. This includes:

- a conflict between you and another employee;
- a decision relating to your engagement, transfer or promotion;
- a decision relating to the terms and conditions of your role; and
- a decision to suspend or end your role or discipline you.

However, a personal work-related grievance does not include:

- any conduct that would be seen as victimisation of an individual because they have made, may have made, or plan to make a report under this policy; or
- a matter that would have significant implications for the Deaf Society.

Responsibility to report

All disclosers are expected to make a report if they find out about a reportable matter. This is important so that the Deaf Society can build and keep a culture of honest and ethical behaviour.

Making a report

Reporting for Employees

Employees should first report any possible “reportable matters” to their supervisor.

If it isn't appropriate to report it to your supervisor or you don't feel comfortable reporting it to your supervisor, or if you have reported it to your supervisor and they haven't done anything about it in a reasonable time, you can report it to an Executive Manager or the CEO. If the problem involves the CEO, you can report it to the Chair of the Board.

Reporting to Eligible Recipients

If a discloser can't report it to their supervisor, an Executive Manager, the CEO or the Chair of the Board, they can report it to an “eligible recipient” at the Deaf Society. Eligible recipients at the Deaf Society are:

- Board members;
- any member of the Executive Team;
- auditor or a member of an audit team doing an external audit (this does not include staff who do internal audits)

Reports to an eligible recipient:

- can be made in writing in English, in Auslan using video, in person or by telephone; and
- the discloser must first tell the “eligible recipient” that they want to make a report under this whistleblower policy. This is important as this policy is to protect your rights.

Support and Protections Available to Disclosers

A discloser will not be “subject to any civil, criminal or disciplinary action” for making a report that is covered by this Policy, or for participating in any investigation of the report by the Deaf Society. This means that the Deaf Society will not discipline you or sue you for making a report or helping with an investigation.

No employee, officer or contractor of the Deaf Society may cause or allow “detriment” to a discloser who has made or plans to make a report following this policy, because of the report or planned report. “Detriment” includes things like dismissal, disadvantaging someone by changing their work, discrimination, harassment, damaging a person's reputation, intimidation or harming

a person or their property. There is a full list in section 1317ADA of the [Treasury Laws Amendment \(Enhancing Whistleblower Protections\) Act 2019](#).

All reasonable steps will be taken to ensure that a whistleblower will not suffer any kind of victimisation, discrimination, harassment, demotion, dismissal or prejudice, because they have made a report.

However, this policy will not protect the discloser if they are also involved in or connected to the improper conduct or illegal activities that are reported.

Anonymous Reporting

A report can be made anonymously. However, it may be difficult for the Deaf Society to properly investigate or take other action to address the matters in anonymous reports. If the discloser has not consented to the disclosure of their identity, the matter may be referred for investigation, but the investigator must take all reasonable steps to reduce the risk that the discloser will be identified as a result of the investigation.

Information about a discloser's identity and information that is likely to lead to the identification of the discloser may be disclosed in the following circumstances:

- where the information is disclosed to ASIC or the Australian Federal Police;
- where the information is disclosed to a lawyer to get legal advice about whistleblowing protection laws; or
- where the discloser consents.

Support for Disclosers

Support available for disclosers includes:

- the Employee Assistance Program (EAP);
- appointing an independent support person from the Management Team; or
- third party support providers such as Lifeline (13 11 14) and Beyond Blue (1300 22 4636).

Having a member of the management team to provide support will mean that the identity of the person implicated is disclosed to that management team member.

Investigating a report

If a report is made under this policy, the Deaf Society will investigate the report. The Deaf Society may use an external investigator and/or an external expert. All investigations will be done in a fair and independent way and all reasonable efforts will be made to keep the investigation confidential.

A discloser who has made a report under this policy must keep confidential the fact that a report has been made (unless they legally have to share that information). This is so that the investigation can be done carefully without anyone hiding evidence.

Where a discloser wishes to remain anonymous, the discloser's identity will not be disclosed to the investigator or to any other person. Information that is likely to lead to the identification of the discloser can be disclosed without the discloser agreeing only if:

- it is disclosed for the purpose of reasonably investigating the matter; and
- all reasonable steps are taken to reduce the risk that the discloser will be identified.

Support for Persons Implicated

If an employee or officer of the Deaf Society is implicated in a report (that is, if they might have done something wrong or are accused of having done something wrong), they will not be disciplined or dismissed until the accusation has been proven. They have a right to know what the accusation is and have an opportunity to respond and provide additional information. However, the discloser's right to anonymity takes priority. During the investigation the person implicated may be stood down on full pay or given other duties. If the accusation is not proven, they will go back to their normal duties as soon as the investigation is finished.

Any disclosures that implicate an employee or officer must be kept confidential, even if the discloser has consented to the disclosure of their identity, and should only be disclosed to people who need to know the information in order to follow this policy, e.g. to investigate.

Support available for persons implicated in a report under this Policy includes:

- the Employee Assistance Program (EAP);
- appointing an independent support person from the Management Team; or
- third party support providers such as Lifeline (13 11 14) and Beyond Blue (1300 22 4636).

Having a member of the management team to provide support will mean that the discloser's identity is disclosed to that management team member.

Investigation feedback

Wherever possible, if the identity of the discloser is known, the discloser will be kept informed of the progress and outcomes of the investigation. However, privacy and confidentiality takes priority.

Reports to other bodies

Sometimes a discloser may have a legal obligation to make a report to a statutory body or government department. Disclosers must make sure that they follow all reporting requirements. A member of the management team can help.

Breaking this Policy

Breaking this policy is serious and may result in discipline, up to and including summary dismissal.

General

It is a condition of any employment or engagement by the Deaf Society that all employees, officers and contractors always follow this policy. However, this policy is not part of employment or engagement contracts.

This policy will be made available on the Deaf Society's website and intranet.

Review of the policy

This policy will be reviewed every two years by the management of the Deaf Society to ensure it still follows the law and meets the needs of the Deaf Society. Changes to the policy will be reported by the CEO to the Board.