

## ActionAid Whistleblowing Policy – February 2023

The ActionAid International Policy and the Australian Regulatory Requirements provide a wholistic approach to Whistleblowing.

### A. Introduction

1. The ActionAid Whistle-blowing system aims to reinforce the organization's commitment to conducting its business with honesty and integrity and to comply with its policies, values, attitudes and behaviors.
2. This Policy applies equally to all units of the AA Federation and all units are expected to comply with the provisions contained here. References to “AA” in this Policy refer to AA International, all Members and all Country Programmes. All activities and operations of AA, including projects and programmes funded by donor partners as well as those implemented by partner organizations are included in the scope of this policy.
3. The system provides a channel for reporting of suspected wrongdoing as quickly as possible, in the knowledge that concerns will be taken seriously and investigated appropriately and timely, in a way which ensures that those who raise genuine concerns can do so without fear of reprisals.
4. Donors may also have whistle blowing clauses in their contracts. Any conflicts between a donor contract and this policy should be discussed and resolved with the donor prior to contract signature.

### B. Objectives of this Policy

5. This policy aims to:
  - Encourage Whistle-blowers to feel confident in raising concerns about relevant wrongdoings.
  - Provide avenues for Whistle-blowers to report relevant wrongdoings and receive feedback on any action taken.
  - Reassure Whistle-blowers that they will be protected from reprisals for making a disclosure in accordance with this policy.
  - Display the organization's commitment to honest practices, and responsible conduct of its employees, partners, and other stakeholders, and to recourse should these not be adhered to.

### C. Policy

6. This policy is global and overarching, and Members and Country Programmes should note that where this policy does not fulfil all national requirements, they should create their own local versions, or complementary memorandums, aligned to this policy and acknowledging and addressing local and national legal requirements, which may go even further than the requirements of this policy. In the absence of a localized policy this policy shall be applied in its completeness.
7. The policy encourages anyone to whom it applies to report wrongful acts committed by anyone involved in the activities and operations of AA.
8. The Whistle-blowing Procedure sets out the framework for dealing with whistleblowing reports made under this policy.
9. This procedure does not replace other policies and procedures such as the AAI Code of Conduct, the complaints procedure, the Grievance and Harassment and Bullying Policies, Anti-Fraud and Anti-Corruption, SHEA and Safeguarding policies and other policies with specifically laid down statutory reporting procedures but will complement such procedures.
10. Wrongful acts under this policy include, but are not limited to:
  - Fraud and Corruption as defined in the Anti-fraud and Anti-Corruption Policy or under any other definition. Fraud and Corruption are not restricted to monetary or material benefit but could also include intangible benefits such as status or information.

- Criminal activity.
  - Deliberate failure to comply with any legal or professional obligation or regulatory requirements.
  - Miscarriages of justice.
  - Improper conduct or unethical behavior.
  - Danger to health and safety.
  - Damage to the environment.
  - Breach of the Organization's policies and procedures.
  - Conduct likely to damage the Federations' reputation or financial wellbeing (or that of its individual members and country programmes).
  - Helping or supporting someone to commit any of the above wrongdoings.
  - The deliberate concealment of any of the above wrongful acts.
11. A Whistle-blower is any person who reports a bona fide or genuine concern, in good faith relating to any of the above wrongful acts, including wrongful acts which may or may not be explicitly covered in the policy, but which may nevertheless be considered a violation of ActionAid's code of conduct.
  12. Retaliation against whistleblowers whether direct or indirect will be regarded as gross misconduct and the appropriate disciplinary measures will apply.
  13. The appropriate sanctions will be applied against non-staff who retaliate against whistleblowers and those who make vexatious or malicious whistleblowing reports.
  14. ActionAid will accept all whistleblowing reports whether by its staff or those outside the organisation. However, members of staff are encouraged to report any wrongful acts whilst still in the employment of the organization.

#### **D. What should not be reported under this Whistle-blowing policy?**

15. Complaints relating to personal circumstances in the workplace (such as bullying, harassment and discrimination) or to terms of employment should be reported using the grievance and complaints procedures provided through the available HR (Human Resources) policies. While ActionAid takes concerns relating to personal circumstances and terms of employment seriously, they should be raised with the appropriate authority handling such concerns, unless systemic issues have been identified with reporting to such authority. A systemic issue is a problem which is a consequence of issues inherent in the overall system, rather than due to a specific, individual, isolated factor.
16. This policy is not designed to create a platform for questioning any financial or business decisions that ActionAid makes.
17. The policy is also not intended as an appeal process to reconsider any matter that has already been dealt with through other formal processes unless the matter falls under the definition of wrongful act in paragraph 10.

#### **E. Responsibility for the Policy**

18. The AAI Board as well as the National Boards directly or through their relevant sub-committees have overall responsibility for this policy and for reviewing the effectiveness of actions taken in response to concerns raised under this policy.
19. Management has day-to-day operational responsibility for this policy and must ensure that all board members, all general assembly members, all managers, and all staff who may deal with concerns or investigations under this policy receive regular and appropriate training.
20. Policy awareness sessions must also be carried out with all staff during organization-wide training and awareness sessions.
21. The International Internal Audit Team, in conjunction with the relevant sub-committee of the AAI Board shall review this policy from a legal and operational perspective every three years.

## F. Reporting a Case

22. All ActionAid Staff are encouraged to report wrongful acts or suspected wrongful acts in accordance with this Whistle-Blowing policy, and in line with the AAI Code of Conduct. Members of staff of partner organizations may also report such wrongful acts committed by ActionAid Staff or their own staff in the execution of their partnership agreements. Other members of the public may also report actual or suspected wrongful acts by ActionAid staff and that of its Partners. Reports can be made as follows.

### Country Offices

23. Any employee of ActionAid or that of a partner organization, or a member of the public who observes any improper practice or wrongful conduct on the part of an ActionAid member of staff or of a partner organisation should report such observations to one of the following:
- Country Internal Audit or other country level equivalent figure of authority
  - Country Director
  - Line Manager
  - HR Representative
  - Any other locally available internal reporting mechanism (such as an independently managed tip-offline, mailbox or website)
24. In cases where alleged wrongdoing relates to the respective Country Director or Country Management Team Member, the case should be reported to the National Board Chairperson, or the relevant delegated Board member where applicable (e.g., Chair of the Audit Committee) for members & affiliates and to the Secretary General for country programmes.
25. In cases where alleged wrongdoing relates to the respective Country Board, the case should be reported to the International Director and International Internal Audit.
26. All reports should be thoroughly investigated by a committee set up by Country management/Country Internal Auditor and or International Internal Audit where applicable.
27. The composition of investigation committees should be carefully considered, and allow for appeals, and as far as possible, appeals should be handled by the most senior representative of the organisation. Reported cases may also be investigated by International Internal Audit, where applicable.
28. Complaints relating to Sexual Harassment, Exploitation and Abuse including child abuse and abuse of adults at-risk can be raised to the country SHEA and Safeguarding Focal Point and/or to the AAI Global SHEA and Safeguarding Team ([safeguarding@actionaid.org](mailto:safeguarding@actionaid.org)). The Global SHEA and Safeguarding Team must be informed of all concerns relating to SHEA and Safeguarding within 24 hours. For more information, please review the SHEA and Safeguarding Overarching Policy.

### Global Secretariat

29. Any employee of ActionAid who observes any improper practice or wrongful conduct at any Regional Office or the Global Secretariat should report such cases to:
- International Internal Audit
  - International Director
  - Line Manager
  - HR Representative
30. Where the alleged wrongdoing relates to the conduct of an International Leadership Team Director, the case should be reported to the Secretary General.
31. Where the alleged wrongdoing relates to the conduct of the Secretary General, the case should be reported to the AAI board.

32. In cases where alleged wrongdoing relates to the International Board, the case should be reported to the International Head of Internal Audit<sup>1</sup>.
33. If a concern relates to International Internal Audit, the case should be reported to the Secretary General and the AAI Board.
34. Complaints relating to Sexual Harassment, Exploitation and Abuse including child abuse and abuse of adults at-risk can be raised to the AAI Global SHEA and Safeguarding Team (safeguarding@actionaid.org). The Global SHEA and Safeguarding Team must be informed of all concerns relating to SHEA and Safeguarding within 24 hours. For more information, please review the SHEA and Safeguarding Overarching Policy.

## **G. Raising a Concern using the Whistle-blowing Mechanism**

35. Whistle-blowers are encouraged to raise their concerns under the ActionAid Whistleblowing policy within their respective countries/section as a first option. However, it is also recognised that the Whistle-Blower may prefer to use an alternative mechanism for reporting an allegation (or, in the case of external parties or ex-employees, may not have access to those mechanisms). Therefore, this policy provides for reporting to the email address whistleblowing@actionaid.org as well.
36. ActionAid encourages Whistle-blowers to provide as much detail about their concern/s as possible, however at the same time, it is noted that it is not the Whistle-blower's role to investigate. Provision of the following information is recommended where possible:
  - Provide a description of the alleged wrongdoing.
  - Where possible provide any existing information that supports the allegation (e.g. emails, photographs)
  - Date the disclosure.
  - Provide contact details for follow-up by AA on the concern raised.

## **H. Confidentiality**

37. Cases may be reported on a confidential basis or may be reported anonymously using the email address whistleblowing@actionaid.org which will be monitored by the International Head of Internal Audit and Forensic Auditor.
38. ActionAid encourages both anonymous and open disclosures, however we note that investigations may be more difficult if there is a need to obtain further information in the case of an anonymous report.
39. While every effort will be made to keep a Whistle-blowers' identity confidential, there may be circumstances in which it will be necessary to disclose an identity; this may occur in connection with associated disciplinary or legal investigations or proceedings and where relevant legislation requires disclosure of identity of a whistleblower
40. ActionAid will work with Whistle-blowers to ensure that they receive information about their status under national law (for example, if their identity will need to be disclosed).
41. Whistle-blowers, who are concerned about possible reprisals if their identity is revealed, should come forward, after which appropriate measures will be taken to preserve confidentiality.
42. If it is deemed necessary that the investigating party involved be informed of a Whistleblowers' identity, it will be discussed with the Whistle-blower in advance. ActionAid hopes that individuals will feel able to voice Whistle-blowing concerns openly under this policy. However, if the individual wishes to raise concerns anonymously, ActionAid will make every effort to keep their identity secret.
43. The investigating team should ensure that the Case Manager is kept aware of developments as appropriate but further communication outside of the applicable stakeholder panel and investigation team should be avoided until

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<sup>1</sup> International Head of Internal Audit describes the role of a person in a senior position responsible for effectively managing the internal audit activity within the Global Secretariat in accordance with the internal audit charter irrespective of the job title that they have been given.

the investigation is complete. It is also recommended that a communication register be maintained to monitor potential breaches of confidentiality.

## **I. Protection and Support for Whistle-blowers**

44. It is understandable that Whistle-blowers are sometimes concerned about possible repercussions emanating out of the complaints or concerns lodged. ActionAid therefore aims to encourage openness and will support staff and others who raise genuine concerns under this policy, even if such concerns turn out to be of a mistaken nature.
45. It is recommended to seek legal advice for each case to ensure that relevant protection is offered to the whistleblower in accordance with the national laws.
46. No individual raising genuinely held concerns in good faith under this policy will be dismissed or be subject to any detrimental consequences arising from their actions such as unwarranted disciplinary action, victimization, threats, or other unfavorable treatment.
47. If any person/s is subjected to detriment as a result of making a disclosure, they should inform the person to whom they initially made the whistle blow. If the matter is not remedied, they should raise it formally using ActionAid's in country or International Grievance Procedure.
48. AA Staff must not in any way threaten or retaliate against Whistle-blowers. If any member of staff is found to be guilty of such conduct, that staff member will be subject to disciplinary action.
49. In cases where the exposure of the whistleblower identity is at risk and/or where they are facing the risk of retaliation, the person managing the case will ensure that they engage the security focal person to guide on appropriate safety and security measures.
50. Support will be offered to Whistle-blowers as appropriate, regardless of whether a formal response is carried out (e.g., an investigation). This may include specialist psycho-social counselling, medical support, legal support and/or access to other specialist and appropriate support as needed.
51. Whistle-blowers can decide if and when they would like to utilize the support options available to them. ActionAid is committed to taking Whistle-blowers guidance and concerns, where safe and appropriate, on board. In this regard, ActionAid is furthermore committed to working with local NGOs and women's rights groups in ensuring that the support it offers to whistle-blowers is appropriately diverse in nature.

## **J. Handling of Reported Cases**

52. Disclosures may, depending on the seriousness and nature of the allegations, be referred immediately to the appropriate authorities in the country concerned e.g., the police. Likewise, if urgent action is required (for example to remove a health and safety hazard) such action will be taken before any other investigation is conducted. Risk assessments will subsequently be carried out throughout the process to ensure the safety and wellbeing of everyone involved.
53. All concerns raised will be responded to. Upon receiving the whistleblowing report the recipient will acknowledge receipt to the whistleblower within 24 hours.
54. A case manager must be appointed (this may be the Country Director/Executive Director, National or International Head of Internal Audit, or Board representative or any other appropriate figure of authority). The case manager is tasked with overseeing the case including ensuring that an investigator is in place and an investigation takes place where appropriate, ensuring communication on the case takes place appropriately and ensuring that the investigation report is completed in a timely manner and issued to the relevant parties.
55. To ensure natural justice and prevent malicious allegations, an initial inquiry may be made within 10 working days, to decide whether an investigation is appropriate, and if so, what form it should take. The initial inquiry will be

made by the recipient of the initial complaint or any other independent official. Where an investigation is necessary it should commence within 30 days<sup>2</sup> of the initial report or as soon as it is safe and practicable to do so.

56. At the conclusion of the initial enquiry, the whistleblower will be informed of in summary form of the next steps (whether it be to investigate or not), of how future communication will be maintained and an estimate of how long the process is expected to take and how the outcome will be communicated to them at the end of the investigation
57. In some cases, in order to pave the way for an efficient investigation, members of staff may be suspended or requested to take special leave. Suspension or the request for special leave does not mean that the outcome of the investigation has been preempted or that a decision has been taken on the guilt or innocence of any party. The appropriate support will be provided to suspended / on special leave staff on a case-by-case basis.
58. Where appropriate, the matters reported may:
  - Be investigated by management, Country Internal Audit or be referred to the International Internal Audit function; cases relating to SHEA and Safeguarding will be managed by the relevant SHEA and Safeguarding officials.; cases relating to individual HR issues will be managed by the Global HROD Team.
  - Form the subject of an independent (third party) inquiry.
  - For cases that involve more than one kind of wrongful act (e.g. a SHEA and Safeguarding concern alongside a fraud allegation) and/or that are high risk, the case management process will follow the most stringent of the applicable policies.
59. Where allegations are received at country level, cases will be thoroughly investigated by a committee set up by management or a Country Internal auditor where applicable.
60. In some cases, reports that are made through international whistleblowing mailbox may still be referred for investigation at country level.
61. AA staff have a duty of care to record, store, and make available any records in all cases of suspected fraud/corruption.
62. All AA staff have a responsibility to cooperate with all duly authorized audits, inspections, investigation, or other evaluations.
63. Upon investigation, management and or a decision-making panel will take the appropriate corrective action necessary as per the investigative outcome. Donor appropriate reports will be agreed upon with the Grants & Compliance Lead.

## **K. Communicating of Investigation Outcomes**

### **Internal Communication**

64. The International Head of Internal Audit and respective Head of Country Support should be notified of the outcome of an investigation which took place at Country level, where the initial whistle blow report had been submitted through the international whistleblowing mailbox. (For fraud related cases, please refer to the reporting requirements as stated in the anti-fraud and anti-corruption policy.
65. For investigations carried out at an International level, the report will be communicated to a stakeholder panel which is responsible for ensuring that the relevant parties receive the report.
66. A progress update on all whistle blowing cases reported at an international level will be provided to the relevant sub-committee of ActionAid's International Board on a periodic basis. A similar update should be provided to National Boards (through the relevant sub-committees where applicable) for country level cases.

### **External Communication**

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<sup>2</sup> Provision is made within these 30 days to obtain the necessary legal advice, perform a risk assessment and identify mitigation plans, and mobilize the appropriate resources to conduct the investigation.

67. ActionAid is committed to informing donors about fraud cases as soon as it is safe and practicable to do so. Where the allegations have a direct link to donor funding, we will aim to inform donors after the initial enquiry has been carried out and a formal complaint has been recorded, relevant legal advice on the matters has been sought, a risk assessment has been carried out, and a decision made to take forward a formal response (e.g., investigation, reporting to police). The relevant donors will be informed of the incident type, relationship of those involved to AA, and actions planned or undertaken. Direct donors and other relevant external bodies will also be informed of the outcome once the investigation is finalized.
68. The Investigation team will use their discretion on what information will be shared with the whistleblower. The investigation team or any other official involved in the whistle blowing case, is under no obligation to share the complete investigation report with the whistle blower.

## **L. Misuse of the Whistleblowing Mechanism**

69. Vexatious or malicious use of the Whistleblowing procedure will not be tolerated. If there is evidence that any ActionAid staff member is making vexatious or malicious use of the Whistleblowing procedure, the matter will be referred for disciplinary action.
70. Any false allegation/s which proves to have been made maliciously or with a view to personal gain will be viewed as a serious disciplinary offence and will result in disciplinary action. If any ActionAid staff member is found to have made allegations that they knew to be false they will be subject to disciplinary action, up to and including termination of employment. It is important to note that if a case is not upheld that does not always mean that the complaint was false, but rather in some cases that there was insufficient evidence to uphold the allegation or complaint in question.

## **M. Right of Appeal**

71. Persons are entitled to appeal in this process following any decision arising from the assessment stage or investigation stage of the process.
72. Notice of appeal shall be in writing and must be submitted within 5 working days of the decision to the relevant investigating body.
73. The appeal for cases reported at country level will be referred to International Internal Audit and appeal cases reported at Global Secretariat level will be referred to the relevant sub-committee of the ActionAid International Board. No person presiding over an appeal will have been involved at any stage of the assessment or investigation stages of the process.

## **N. Notification**

74. All departmental heads and in particular human resource managers are required to notify and communicate the existence and contents of this policy to the employees of their department and to all new employees respectively.
75. Country Directors are responsible for creating a work culture that enables staff and others to raise concerns. Those Directors should also ensure that partners with whom project Memorandum of Understandings have been signed are made aware of this policy and the partners responsibility to report any wrongful conduct of ActionAid Staff in the execution of their duties.
76. Management is responsible for ensuring appropriate oversight of partner compliance, ensuring that partners are aware of our whistleblowing minimum standards and that they are transferred to partners
77. This policy will be monitored and reviewed for its effectiveness **every three years** or when there are major changes in the organizational structure or global regulatory requirements.

## O. Related Policies

78. This policy is complemented by the following AA policies:

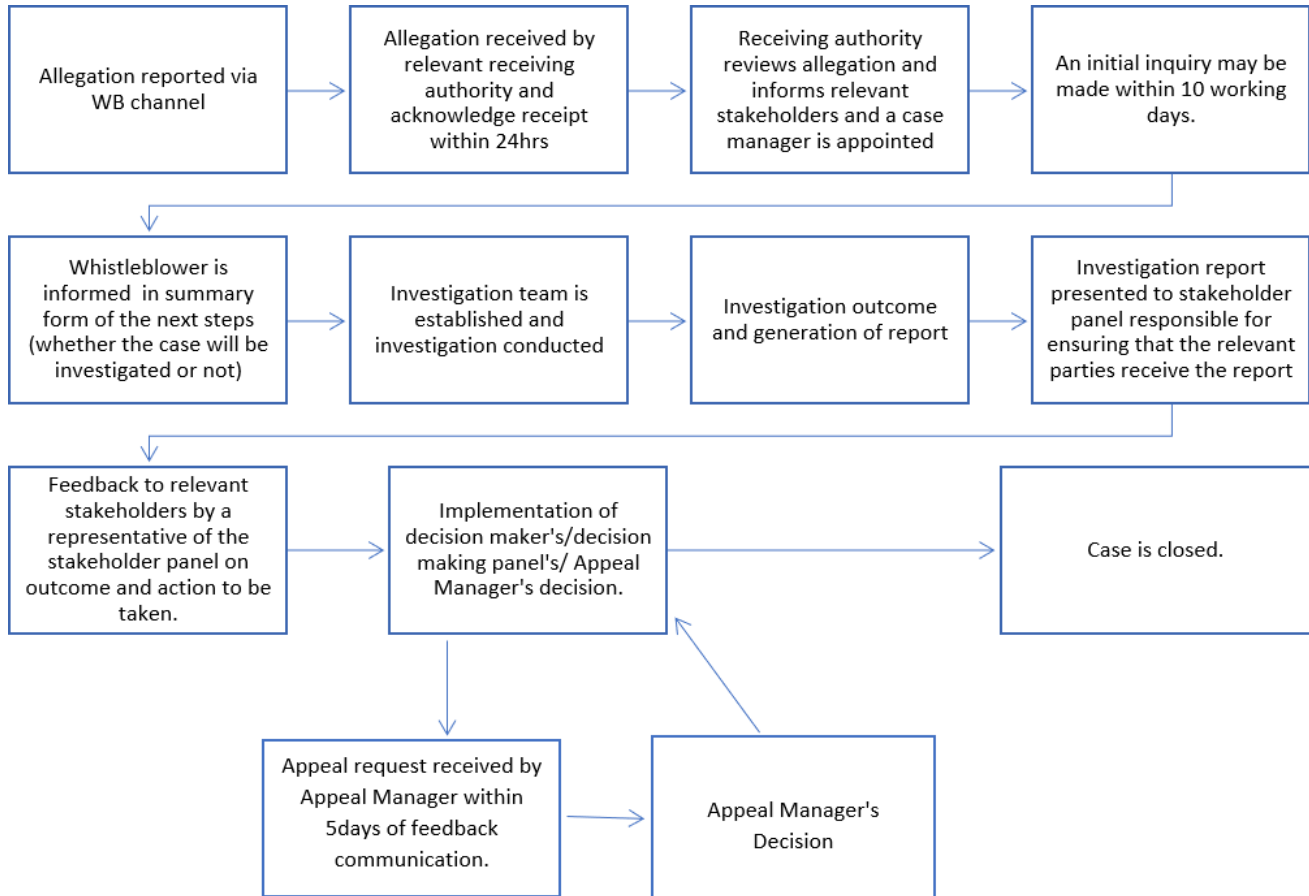
- AA Code of conduct
- AA Anti-fraud and anti-corruption policy
- AA Safeguarding policies
- AA Financial management framework and local financial management policies
- AA Anti- terrorist funding policy
- AA Global and Local HR Policies
- AA Data protection related policies
- And all other AA policies as they become relevant from time to time



## APPENDIX 1

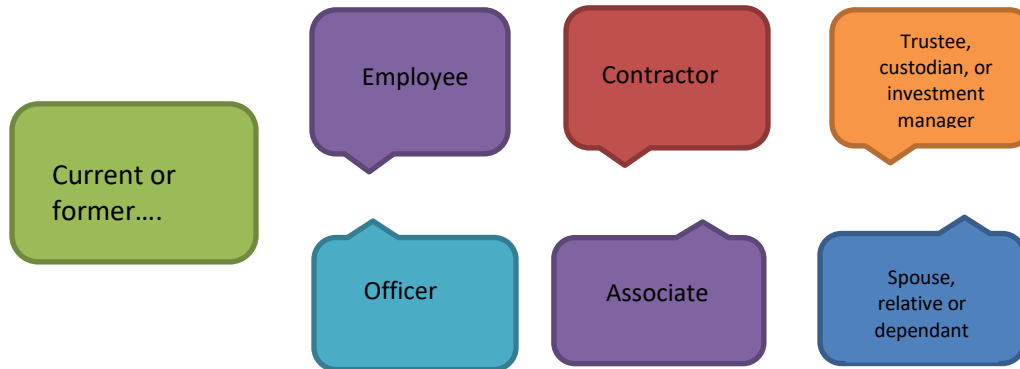
### PROCESS FLOW GUIDE FOR WHISTLE-BLOWING HANDLING MECHANISM IN ACTIONAID INTERNATIONAL

*(it should be noted that there may be allegations reported within unique contexts, requiring a different investigative approach to the one described below, in which case the process flow described below will not be applicable)*



## Whistleblowing in Australian Regulatory environment

### 1. Who is a Whistle-blower under Australian Corporations Act 2001 (Cth) (Corporations Act)



- a. Legal protections are available to **‘eligible whistleblowers’**. An eligible whistleblower can be:
  - a current or former employee of the company or organisation
  - a current or former officer (ie. director or company secretary) of the company or organisation
  - a contractor, consultant, or service provider (current or former) who has supplied goods and services to the company or organisation
  - a volunteer (current or former) who has supplied goods and services to the company or organisation, or
  - a spouse, relative or dependents of any of the people listed above
- b. The definition of an eligible whistleblower is broad. It includes as many people who have a connection to a company or organization as possible, and who may be in a position to observe or be affected by misconduct and may face reprisals (punishment or harm) for reporting the misconduct.

### 2. When will a whistleblower be protected?

For a disclosure to attract the protection of the whistleblower laws, whistleblowers must have ‘reasonable grounds’ to suspect conduct that qualifies for protection under the Corporations Act or the Tax Administration Act, including misconduct or an improper state of affairs in relation to a ‘regulated entity’.

#### reasonable grounds

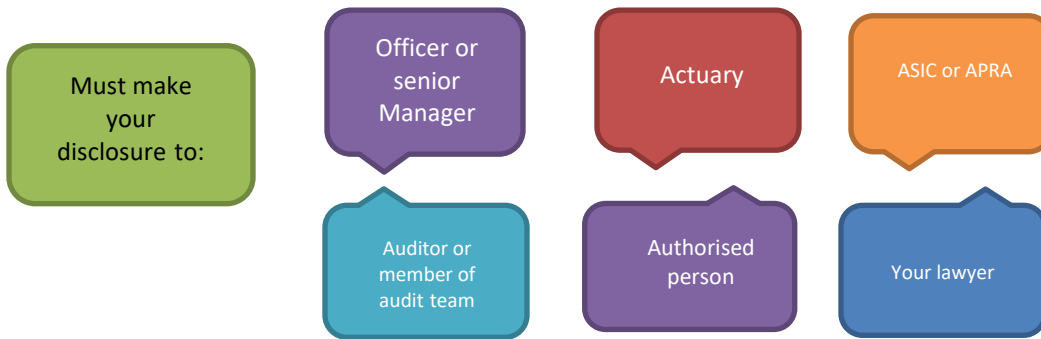
'Reasonable grounds person making ' means that a reasonable person in the same position as the disclosure would also suspect that the information shows misconduct or a breach of the law.

**The requirement for ‘reasonable grounds’ means that vexatious and groundless** claims will not be protected, but claims accompanied by a personal or other motivation such as revenge or dissatisfaction may be allowed, provided there are reasonable grounds to suspect the information being disclosed.

#### Regulated entity

A **‘regulated entity’** is a company or organization listed in the Corporations Act and includes an incorporated association that is a trading or financial corporation. This can include some not-for-profits that operate as a trading or financial corporate.

### 3. Who is able to receive a disclosure?



The ‘eligible whistleblower’ must disclose the information to one of the following recipients, who are authorised to receive whistleblower disclosures:

- the auditor or a member of the audit team for the company or organisation or a related body corporate
- a director, secretary, officer, or senior manager of the company or organisation or a related body corporate
- an actuary of the company or organisation or a related body corporate
- a person authorised by the company or organisation to receive whistleblower disclosures
- the ASIC or the Australian Prudential Regulation Authority (APRA), or
- the whistleblower’s lawyer

Whistleblowing requires an **eligible whistleblower**, with **reasonable grounds** to suspect improper **conduct** by a **regulated entity**, and who discloses that information directly to an **eligible recipient**.

### 4. Who is not protected?

Not all people making a complaint about the company or organization are whistleblowers, which means they will not be protected under the Corporations Act (or the Tax Administration Act).

- a former or current employee making a personal employment or work-related complaint (this can include a complaint about a personal problem or dispute they have with a colleague, a complaint about a decision relating to their employment like not being promoted, being suspended or fired, or other work conditions). However, some of these types of disclosures can be protected, for example, the disclosure will be protected if the information has significant implications for the company or regulated entity
- competitors of the company or organisation (ie. working in the same industry), or
- customers or clients of the company or organisation

This people may have rights under other laws but will not be able to use the whistleblower protects in the Corporations Act.

### 5. Confidentiality and instances where disclosing is lawfully allowed.

In some situations, disclosing a whistleblower’s identity is allowed under law.

A whistleblower’s identity may be disclosed if the disclosure is:

- to ASIC, APRA or the AFP

- to a lawyer for advice about the disclosure
- to a body prescribed by the Corporations Regulations, or
- made with the whistleblower's consent

If the organization is disclosing the whistleblower's identity with their consent, this consent must be very clear including any limits that may apply to the consent. If the consent is not clear, the organization should clarify how the whistleblower wishes their identifying information to be treated as soon as practicable after receiving the whistleblower's report.

## 6. Protecting whistleblowers from detrimental conduct (harm) and victimisation

Under the Corporations Act and Tax Administration Act it's illegal for an organisation, its employees, or officers to cause detriment to, or victimise, a person because they believe or suspect that the person has made, may have made, or could make a whistleblower disclosure.

### What are detrimental conduct and victimisation?

'Detrimental conduct' as defined in the Corporations Act and the Tax Administration Act is actions or conduct those results in a detriment or harm to a person, which includes making threats to cause detriment or harm to that person.

Detrimental conduct can include:

- dismissing the person from employment
- injuring the employee in their employment
- altering the position or duties of the employee to their disadvantage
- discriminating against them as an employee by treating them differently to employees of the same employer
- harassing or intimidating the person
- harming or injuring the person, including causing them psychological harm
- damaging the person's property, reputation, business or financial position, or
- causing the person any other damage 'Victimisation' is also defined in the Corporations Act and the Tax Administration Act.

Victimisation means actually causing or threatening to cause a detriment (harm) to a person where the organisation (including its employees or officers):

- believes or suspects that the person has, is planning to, or could make a whistleblower report, and
- that belief or suspicion is the reason, or part of the reason, for the action that causes detriment to the person

The ASIC and Commissioner for Taxation have the power to investigate allegations that a person has caused or threatened to cause detriment to a whistleblower. This may result in a penalty to the offender or the company, or officers and employees of the company who are involved in the detrimental conduct or victimization. The criminal offence and civil penalty, as well as civil liability, apply even if the person has not made a whistleblower report but has faced detrimental conduct or victimisation.

A company or organisation may also be legally responsible for the actions of a third person who causes another person detrimental conduct, if the company or organisation has a duty to take reasonable steps to ensure the third person does not carry out the detrimental conduct but fails to fulfil its duty. A company or organisation, including its employees and officers may also be ordered by a court to pay compensation to a person if that person suffers loss, damage or injury as a result of detrimental conduct in response to making a whistleblower report.

Whistleblowers may also be protected from detriment under workplace laws, for example under the Fair Work Act 2009

(Cth), if by making the whistleblower report the person is also accessing a workplace right. Further information about these other protections is available from the [Fair Work Ombudsman](#).

## 7. Consequences and penalties of failure to comply with Whistleblower protection laws.

The Obligation to maintain a whistleblower’s confidentiality and to not engage in detrimental conduct applies to both the organization that is a regulated entity and its employees and officers.

The Penalties that can apply for failure to comply with the laws under the Corporations Act and the Tax Administration Act are the same. These penalties are set out in the table below.

Offence	Criminal penalties (as at July 2021)	Pecuniary penalty – maximum penalty that may be ordered by a Court (as at July 2021)
<b>Breach of confidentiality</b>	For a person, \$53,280 (240 penalty units) or imprisonment for two years, or both. For a body corporate, \$532,800 (2400 penalty units).	For a person, \$1,110,000 (5000 penalty units) or three times the benefit derived or detriment avoided. For a body corporate, (11,100,000) 50,000 penalty units, three times the benefit derived or detriment avoided,
<b>Causing detriment or victimization</b>	For a person, \$13,320 (60 penalty units) or imprisonment for six months, or both. For a body corporate, \$133,200 (600 penalty units)	or 10% of the body corporate’s annual turnover (up to \$555 million, 2.5million penalty units)
<b>Failure to have a compliant whistleblower policy</b>	For a person, \$13,320 (60 penalty units) or imprisonment for six months, or both. For a body corporate, \$133,200 (600 penalty units)	Not applicable

## Annexure B: Detailed changes to the Whistleblowing Policy

Section Number	2019 Policy	2022 Policy
A	Introduction	<p><b>Introduction</b></p> <p>79. Added a clause on donors; 4. Donors may also have whistle blowing clauses in their contracts. Any conflicts between a donor contract and this policy should be discussed and resolved with the donor prior to contract signature.</p>
B	Aims & Scope of this Policy	We have renamed and updated this to; <b>Objectives of this Policy</b>
C	Policy	<p><b>Policy</b></p> <p>We have added new statements as follows.</p> <p>12. Retaliation against whistleblowers whether direct or indirect will be regarded as gross misconduct and the appropriate disciplinary measures will apply.</p> <p>13. The appropriate sanctions will be applied against non-staff who retaliate against whistleblowers and those who make vexatious or malicious whistleblowing reports.</p> <p>14. ActionAid will accept all whistleblowing reports whether by its staff or those outside the organisation.</p>
D	What should not be reported under this Whistle-blowing policy?	<p><b>What should not be reported under this Whistle-blowing policy?</b></p> <p>The following has been added.</p> <p>16. This policy is not designed to create a platform for questioning any financial or business decisions that ActionAid makes.</p>

		<p>17. The policy is also not intended as an appeal process to reconsider any matter that has already been dealt with through other formal processes unless the matter falls under the definition of wrongful act in paragraph 10.</p>
E	<p><b>P. Responsibility for the Policy</b></p> <p>15. The <b>relevant sub-committee of the Board</b> of ActionAid International has overall responsibility for this policy and for reviewing the effectiveness of actions taken in response to concerns raised under this policy.</p> <p>16. <b>ActionAid's International Internal Audit team has day-to-day operational responsibility</b> for this policy and must ensure that all managers and other staff who may deal with concerns or investigations under this policy receive regular and appropriate training during the International Internal audit country reviews.</p>	<p><b>Q. Responsibility for the Policy</b></p> <p>These statements have been changed and updated as follows</p> <p>18. The <b>AAI Board as well as the National Boards directly or through their relevant sub-committees</b> have overall responsibility for this policy and for reviewing the effectiveness of actions taken in response to concerns raised under this policy.</p> <p>19. <b>Management has day-to-day operational responsibility</b> for this policy and must ensure that all board members, all general assembly members, all managers, and all staff who may deal with concerns or investigations under this policy receive regular and appropriate training.</p>
F	<p><b>Reporting a Case</b></p>	<p><b>Reporting a Case</b></p> <p>1 Added that reporting of whistle blow observations can also be done to; Any other locally available internal reporting mechanism (such as an independently managed tip-offline, mailbox or website)</p> <p>80. Added a new statement; 24. In cases where alleged wrongdoing relates to the respective Country Director or Country Management Team Member, the case should be reported to the National Board Chairperson, or the relevant delegated Board member where applicable (e.g., Chair of the Audit Committee) for members &amp; affiliates and to the Secretary General for country programmes.</p>
G	<p><b>Raising a Concern using the Whistle-blowing Mechanism</b></p>	<p><b>Raising a Concern using the Whistle-blowing Mechanism</b></p>

		<p>1. Added the following clause: 43. The investigating team should ensure that the Case Manager is kept aware of developments as appropriate but further communication outside of the applicable stakeholder panel and investigation team should be avoided until the investigation is complete. It is also recommended that a communication register be maintained to monitor potential breaches of confidentiality.</p>
<b>H</b>	<b>Confidentiality</b>	<p><b>Confidentiality</b></p> <p>No changes</p>
<b>I</b>	<b>Protection and Support for Whistle-blowers</b>	<p><b>Protection and Support for Whistle-blowers</b></p> <p>No changes</p>
<b>J</b>	<p><b>Handling of Reported Cases</b></p> <p>The process was brief and summarized</p>	<p><b>Handling of Reported Cases</b></p> <p>This has been updated in detail to provide clarity as follows.</p> <p>53. All concerns raised will be responded to. Upon receiving the whistleblowing report the recipient will acknowledge receipt to the whistleblower within <b>24 hours</b>.</p> <p>54. A case manager must be appointed (this may be the Country Director/Executive Director, National or International Head of Internal Audit, or Board representative or any other appropriate figure of authority). The case manager is tasked with overseeing the case including ensuring that an investigator is in place and an investigation takes place where appropriate, ensuring communication on the case takes place appropriately and ensuring that the investigation report is completed in a timely manner and issued to the relevant parties.</p>



		<p>55. To ensure natural justice and prevent malicious allegations, an initial inquiry may be made within 10 working days, to decide whether an investigation is appropriate, and if so, what form it should take. The initial inquiry will be made by the recipient of the initial complaint or any other independent official. Where an investigation is necessary it should commence within 30 days<sup>3</sup> of the initial report or as soon as it is safe and practicable to do so.</p> <p>56. At the conclusion of the initial enquiry, the whistleblower will be informed of in summary form of the next steps (whether it be to investigate or not), of how future communication will be maintained and an estimate of how long the process is expected to take and how the outcome will be communicated to them at the end of the investigation</p> <p>57. In some cases, in order to pave the way for an efficient investigation, members of staff may be suspended or requested to take special leave. Suspension or the request for special leave does not mean that the outcome of the investigation has been preempted or that a decision has been taken on the guilt or innocence of any party. The appropriate support will be provided to suspended / on special leave staff on a case-by-case basis.</p> <p>58. Where appropriate, the matters reported may:</p> <ul style="list-style-type: none"><li>• Be investigated by management, Country Internal Audit or be referred to the International Internal Audit function; cases relating to SHEA and Safeguarding will be managed by the relevant SHEA and Safeguarding officials.; cases relating to individual HR issues will be managed by the Global HROD Team.</li><li>• Form the subject of an independent (third party) inquiry.</li></ul>
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<sup>3</sup> Provision is made within these 30 days to obtain the necessary legal advice, perform a risk assessment and identify mitigation plans, and mobilize the appropriate resources to conduct the investigation.

		<ul style="list-style-type: none"> <li>• For cases that involve more than one kind of wrongful act (e.g. a SHEA and Safeguarding concern alongside a fraud allegation) and/or that are high risk, the case management process will follow the most stringent of the applicable policies.</li> </ul> <p>59. Where allegations are received at country level, cases will be thoroughly investigated by a committee set up by management or a Country Internal auditor where applicable.</p> <p>60. In some cases, reports that are made through international whistleblowing mailbox may still be referred for investigation at country level.</p> <p>61. AA staff have a duty of care to record, store, and make available any records in all cases of suspected fraud/corruption.</p> <p>62. All AA staff have a responsibility to cooperate with all duly authorized audits, inspections, investigation, or other evaluations.</p> <p>63. Upon investigation, management and or a decision-making panel will take the appropriate corrective action necessary as per the investigative outcome. Donor appropriate reports will be agreed upon with the Grants &amp; Compliance Lead.</p>
<p><b>K</b></p>	<p><b>Communicating of Investigation Outcomes</b></p> <ul style="list-style-type: none"> <li>• Internal Communication</li> </ul> <p>52. The Head of International Internal Audit and respective Head of Country Support should be notified of the outcome of an investigation which took place at Country level.</p> <p>53. For investigations carried out by the International Internal Audit team, a report will be communicated</p>	<p><b>Communicating of Investigation Outcomes</b></p> <p>This has now been updated to provide clarity as follows;</p> <p><b>Internal Communication</b></p> <p>64. The International Head of Internal Audit and respective Head of Country Support should be notified of the outcome of an investigation which took place at Country level, where the initial whistle blow report had been submitted through the international whistleblowing mailbox. (For fraud related cases, please refer to the reporting requirements as stated in the anti-fraud and anti-corruption policy.</p>

<p>to a higher authority as appropriate and corrective actions will be suggested.</p> <p>54. The respective International Director together with the donor relationship managers, Global Fundraising Team and or grants compliance managers must be notified as part of the internal communication as well.</p> <p>55. A higher reporting authority may include the relevant sub-committee of the ActionAid's International Board.</p> <ul style="list-style-type: none"> <li>• External Communication</li> </ul> <p>56. In some circumstances, it may be necessary to notify external bodies such as donors and regulators (e.g. The Charity Commission) of an allegation when it is initially reported and on the outcome of the investigation, once it is finalised.</p> <p>57. In these instances, the respective International Director together with the donor relationship managers, the global fundraising team and or grants compliance managers will manage the communication to the respective donors and regulators as per the relevant contractual requirements.</p> <p>58. The Whistle-blower will also be notified of the outcome of an investigation whenever it is feasible to do so.</p> <p>59. On an annual basis, and on a case by case basis as needed, concerns raised through the above Whistle-blowing process will be tracked and reported to the relevant sub-committee of the International Board.</p>	<p>65. For investigations carried out at an International level, the report will be communicated to a stakeholder panel which is responsible for ensuring that the relevant parties receive the report.</p> <p>66. A progress update on all whistle blowing cases reported at an international level will be provided to the relevant sub-committee of ActionAid's International Board on a periodic basis. A similar update should be provided to National Boards (through the relevant sub-committees where applicable) for country level cases.</p> <p><b>External Communication</b></p> <p>67. ActionAid is committed to informing donors about fraud cases as soon as it is safe and practicable to do so. Where the allegations have a direct link to donor funding, we will aim to inform donors after the initial enquiry has been carried out and a formal complaint has been recorded, relevant legal advice on the matters has been sought, a risk assessment has been carried out, and a decision made to take forward a formal response (e.g., investigation, reporting to police). The relevant donors will be informed of the incident type, relationship of those involved to AA, and actions planned or undertaken. Direct donors and other relevant external bodies will also be informed of the outcome once the investigation is finalized.</p> <p>68. The Investigation team will use their discretion on what information will be shared with the whistleblower. The investigation team or any other official involved in the whistle blowing case, is under no obligation to share the complete investigation report with the whistle blower.</p>
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<b>L</b>	<p><b>False Allegations</b></p>	<p>We have renamed and updated this to: <b>Misuse of Whistleblowing Mechanism</b></p> <p>We have also added the following new statements;</p> <p>69. Vexatious or malicious use of the Whistleblowing procedure will not be tolerated. If there is evidence that any ActionAid staff member is making vexatious or malicious use of the Whistleblowing procedure, the matter will be referred for disciplinary action.</p> <p>70. Whistleblowing reports made maliciously will be regarded as gross misconduct and the appropriate disciplinary measures will apply. If any ActionAid staff member is found to have made allegations that they knew to be false they will be subject to disciplinary action, up to and including termination of employment. It is important to note that if a case is not upheld that does not always mean that the complaint was false, but rather in some cases that there was insufficient evidence to uphold the allegation or complaint in question.</p>
<b>M</b>	<p><b>Right of Appeal</b></p>	<p><b>Right of Appeal</b></p> <p>No changes</p>
<b><u>N</u></b>	<p><b>Notification</b></p> <p>This policy will be monitored and reviewed for its effectiveness every <b>two</b> years.</p>	<p><b>Notification</b></p> <p>We have now added this statement.</p> <p>76. Management is responsible for ensuring appropriate oversight of partner compliance, ensuring that partners are aware of our whistleblowing minimum standards and that they are transferred to partners</p> <p>77. This policy will be monitored and reviewed for its effectiveness <b>every three years</b> or when there are major changes in the organizational structure or global regulatory requirements.</p>

		78.
<u>O</u>		<p>We have added a new section named, <b>Related Policies</b></p> <p>This policy is complemented by the following AA policies:</p> <ul style="list-style-type: none"> <li>• AA Code of conduct</li> <li>• AA Anti-fraud and anti-corruption policy</li> <li>• AA Safeguarding policies</li> <li>• AA Financial management framework and local financial management policies</li> <li>• AA Anti- terrorist funding policy</li> <li>• AA Global and Local HR Policies</li> <li>• AA Data protection related policies</li> <li>• And all other AA policies as they become relevant from time to time</li> </ul>
	<b>Appendix</b>	<p><b>Appendix</b></p> <p>Process flow guide for whistle-blowing handling mechanism in Actionaid International</p>
<b>Whistleblowing in Australian Regulatory environment</b>		
I	Who is a Whistle-blower under Australian <i>Corporations Act 2001 (Cth)</i> (Corporations Act)	Who is covered under this policy according to the Corporations Act

2		When will a whistleblower be protected? <ul style="list-style-type: none"><li>• Reasonable grounds</li><li>• Regulated entity</li></ul>
3		Who is able to receive a disclosure?
4		Who is not protected
5		Confidentiality and instances under which disclosing information is lawfully allowed.
6		Protecting whistleblowers from detrimental conduct (harm) and victimisation
7		Consequences of failure to comply with whistleblower protection laws - penalties?