

Whistleblower Policy

Policy Number: POL-09-V1
Effective Date: 13 Oct 2025



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Purpose

1. The purpose of this Whistleblower Policy is to:
 - a) encourage Disclosers to report an issue if they reasonably believe serious and systemic corporate wrongdoing has occurred
 - b) outline how Public Skills Australia will respond to whistleblower reports
 - c) clarify when a complaint/report will fall under this Policy
 - d) set out the avenues available to Disclosers to report serious and systemic corporate wrongdoing within Public Skills Australia.

Preamble

2. The intent of this policy is to capture serious corporate and systemic wrongdoing that has an inherently more serious character to that of workplace and personal grievances (that would otherwise be dealt with through *Performance Management, Workplace Conflict and Grievance* and/or *Discrimination, Harassment and Bullying* policies and procedures). Whistleblower regimes are intended to encourage reporting of conduct and actions that would constitute significant breaches of organisational policies, broader corporate misconduct or a legal breach (such as systemic victimisation, widespread non-compliance with workplace laws or fraud). Minor policy infractions, individual employment disputes and personal disputes remain outside this policy.
3. Under Victorian law, whistleblower disclosures are referred to as public interest disclosures, but for the purposes of this policy, disclosures of information under either the Commonwealth law or the Victorian law are referred to as whistleblower disclosures.
4. Persons who are considering making a whistleblower disclosure should carefully consider whether their disclosure is being made under Commonwealth law or Victorian law and ensure that they do so in accordance with the requirements of the applicable law, in order to be protected under the applicable law. This may involve obtaining independent legal advice.
5. This policy does not replace existing Public Skills Australia policies and procedures that deal with personal or professional grievances of staff that do not involve the types of conduct about which whistleblower disclosures can be made or employment-related grievances. Those policies and procedures, continue to apply to appropriately deal with such matters.

Whistleblower Policy

Policy Number: POL-09-V1
Effective Date: 13 Oct 2025



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Definitions

6. For the purpose of this policy:

- a) **APRA** refers to the Australian Prudential Regulation Authority.
- b) **ACNC** refers to the Australian Charities and Not-for-profits Commission.
- c) **ASIC** refers to the Australian Securities and Investments Commission.
- d) **ATO** refers to the Australian Taxation Office.
- e) **Commonwealth law** refers to the Commonwealth legislation that provides for whistleblower disclosures to report certain types of conduct in relation to Public Skills Australia and is mainly contained in Part 9.4AAA of the Corporations Act 2001 (Cth).
- f) **Discloser** with respect to Public Skills Australia refers to:
 - (i) staff members, directors and officers
 - (ii) volunteers
 - (iii) consultants and contractors, including their employees
 - (iv) suppliers, including their employees
 - (v) relatives, dependents, spouses or dependents of a spouse of any of the above.
- g) **Disclosable matters** in relation to a whistleblower disclosure refers to information concerning serious professional misconduct in circumstances relating to Public Skills Australia. This includes the disclosure of information if the discloser had reasonable grounds to suspect that the information indicates that Public Skills Australia, or an officer or staff of Public Skills Australia, has engaged in conduct that:
 - (i) constitutes an offence against or contravention of prescribed Commonwealth legislation
 - (ii) constitutes an offence against any other law of the Commonwealth that is punishable by imprisonment for a period of 12 months or more
 - (iii) represents a danger to the public or the financial system.
- h) **Detrimental action** refers to:
 - (i) action causing injury, loss or damage

Whistleblower Policy

Policy Number: POL-09-V1
Effective Date: 13 Oct 2025



PUBLIC SKILLS
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- (ii) intimidation or harassment
 - (iii) discrimination, disadvantage or adverse treatment in relation to a person's employment, career, profession, trade or business, including the taking of disciplinary action.
- i) **Eligible recipient** refers to the person delegated to receive a Whistleblower disclosure.
- j) **Serious professional misconduct** refers to conduct that is:
 - (i) corrupt conduct (within the meaning given in the Independent Broad-based Anti-corruption Commission Act (Vic) 2011) (IBAC Act)
 - (ii) conduct of a public officer or public body (within the meaning given in the IBAC Act) engaged in by the public officer or public body in their capacity as a public officer or a public body that constitutes:
 - a criminal offence (under Commonwealth or Victorian law)
 - dishonest performance of public functions
 - an intentional or reckless breach of public trust
 - an intentional or reckless misuse of information or material acquired in the course of the performance of the public officer or public body's functions
 - a substantial mismanagement of public resources
 - a substantial risk to the health or safety of one or more persons
 - a substantial risk to the environment.

It includes conduct of any person that adversely affects the honest performance of functions by a public officer or public body of their functions, is intended to adversely affect the effective performance or exercise of functions by a public officer or public body of their functions and results in the person obtaining certain types of benefits. It also includes conduct that constitutes a conspiracy or attempt to engage in any of the above conduct.
- k) **Officer** is defined in the Corporations Act 2001 and for Public Skills Australia refers to a director of the company or the company secretary.

Whistleblower Policy

Policy Number: POL-09-V1
Effective Date: 13 Oct 2025



PUBLIC SKILLS
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- l) **Reportable conduct** refers to serious breaches of the corporation laws or other reportable conduct such as information concerning misconduct or an improper state of affairs or circumstances by Public Skills Australia, or an officer or staff member of Public Skills Australia, including but not limited to:
 - (i) illegal conduct, such as theft, dealing in, or use of illicit drugs, violence or threatened violence, and criminal damage against property
 - (ii) fraud, money laundering or misappropriation of funds
 - (iii) offering or accepting a bribe
 - (iv) financial irregularities
 - (v) failure to comply with, or breach of, legal or regulatory requirements
 - (vi) 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.
- m) **Victorian law** refers to the Victorian legislation that provides for whistleblower disclosures (called public interest disclosures) to report certain conduct about or involving Public Skills Australia is mainly contained in the Public Interest Disclosures Act 2012 (Vic).
- n) **Victimisation or reprisal action** refers to conduct towards a whistleblower that causes detriment, where a reason for the conduct is the belief or suspicion that a whistleblower proposed to make, or made, the disclosure. Includes a threat to cause detriment, whether express or implied. Under the Commonwealth law, detriment includes the following:
 - (i) dismissal of a staff member
 - (ii) injury of a staff member in their employment
 - (iii) alteration of a staff member's position or duties to their disadvantage
 - (iv) discrimination between a staff member and other staff members of the same employer
 - (v) harassment or intimidation of a staff member
 - (vi) harm or injury to a person, including psychological harm
 - (vii) damage to property

Whistleblower Policy

Policy Number: POL-09-V1
Effective Date: 13 Oct 2025



PUBLIC SKILLS
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- (viii) damage to reputation
- (ix) damage to a person's business or financial position
- (x) any other damage to a person.
- o) **Whistleblower** refers to any person who makes a whistleblower disclosure in relation to Public Skills Australia in accordance with the Commonwealth law or the Victorian law. A whistleblower may be anonymous.
- p) **Whistleblower disclosure** refers to a disclosure made in accordance with the formal processes and requirements contained in the Commonwealth or Victorian law.

Scope

7. The scope of who can make a whistleblower disclosure is determined by whether the disclosure is made under the Commonwealth or Victorian law.
 - a) The Victorian [Public Interest Disclosures Act 2012 \(Vic\)](#) covers whistleblower disclosures about Public Skills Australia which can be made by any person (staff and member of the public).
 - b) The [Commonwealth Corporations Act 2001 \(Cth\)](#) covers whistleblower disclosures about Public Skills Australia controlled entities which can only be made by an eligible whistleblower. Examples include:
 - (i) a person who is, or has been, staff
 - (ii) a person who supplies goods or services to Public Skills Australia (or an employee of a supplier of Public Skills Australia)
 - (iii) an 'officer' or 'associate' of Public Skills Australia (for example, a Board member or member of a Committee)
 - (iv) the relative or spouse of any of those persons.

Policy Principles

8. Throughout the any process of receiving and managing whistleblower disclosures, the following policy principles will apply:
 - a) Regardless of the applicable law, Public Skills Australia will apply the protections relating to confidentiality and detriment to any disclosure made under this policy.

Whistleblower Policy

Policy Number: POL-09-V1
Effective Date: 13 Oct 2025



PUBLIC SKILLS
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- b) Assessment of disclosures and, if applicable, investigation of a disclosure will be treated in a thorough, objective, fair and impartial manner by the persons involved in the investigation. In particular, some of the actions taken to ensure this occurs include:
 - (i) confidential handling of the disclosure and the identity of the Discloser and any persons involved in or related to the disclosure as far as practicable
 - (ii) ensuring all disclosures made under the Whistleblower Policy are subject to an initial assessment
 - (iii) ensuring the primary objective of an investigation will be to determine whether there is enough evidence to substantiate or refute the matters reported
 - (iv) informing a staff member who is the subject of a disclosure about the subject matter of the disclosure, and ensuring they are treated in accordance with applicable employment laws and principles of natural justice and procedural fairness and advised of the outcome in due course.
- c) The Eligible Recipient of a disclosure should exercise good judgement when seeking legal advice and using external resources for an investigation. If the required resources are outside the Eligible Recipient's financial delegation, approval will be sourced from a senior officer whilst protecting the Discloser in accordance with the Act.
- d) This policy has regard to the relevant legal requirements and current best practices relating to the protection of whistleblowers in the following:
 - (i) Corporations Act 2001 (Cth)
 - (ii) Taxation Administration Act 1953 (Cth)
 - (iii) Treasury Laws Amendment (Enhancing Whistleblower Protections) Act 2019
 - (iv) ASIC's Regulatory Guide 270 Whistleblower Policies
 - (v) Public Interest Disclosures Act 2012 (Vic)
 - (vi) Australian Charities and Not-for-profits Commission Act 2012 (cth)
 - (vii) Ombudsman Act 1973 (Vic).

Whistleblower Policy

Policy Number: POL-09-V1
Effective Date: 13 Oct 2025



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Application

What is a whistleblower disclosure

9. Whistleblower regimes are intended to capture serious professional misconduct and corporate and systemic wrongdoing that has an inherently more serious character to that of workplace and personal grievances that would otherwise be dealt with through *Performance Management, Workplace Conflict and Grievance* and/or *Discrimination, Harassment and Bullying* policies and procedures.
10. To qualify under the Whistleblower Policy¹, a disclosure must be about a disclosable matter. A disclosable matter is a disclosure of information if the whistleblower has reasonable grounds to suspect that the information concerns conduct and actions that would constitute significant breaches of organisational policies, broader corporate misconduct or a legal breach. Some examples of the types of conduct that could constitute a disclosable matter are:
 - a) fraud, corruption or theft
 - b) money laundering or misappropriation of funds
 - c) non-disclosure or coverup of financial irregularities
 - d) failure to comply with, or breach of, legal or regulatory requirements
 - e) modern slavery or human trafficking
 - f) concealment of any wrongdoing
 - g) offering or accepting bribes
 - h) engaging in or threatening conduct against a person who has made a whistleblower disclosure or is believed to have made, or is planning to make, a disclosure.

What is not a whistleblower disclosure

11. Examples of matters that do not likely constitute a disclosable matter (particularly if not connected to any of the matters above) include:
 - a) any matter relating to the conducting of, or being a subject to, performance management and improvement

¹ This is also in accordance with qualification for protection under the Commonwealth law.

Whistleblower Policy

Policy Number: POL-09-V1
Effective Date: 13 Oct 2025



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- b) any interpersonal conflict between 2 or more staff members²
- c) disagreements with leadership approaches or decisions taken by staff members in leadership positions
- d) performance related complaints, such as delays in approvals of work or delays in responses to requests
- e) a decision about the engagement, terms and conditions of employment, transfer or promotion of staff members
- f) a decision to suspend or terminate the engagement of the staff member, or otherwise discipline a staff member
- g) a decision that does not involve a breach of workplace laws.

Making a whistleblower disclosure – eligible recipient

- 12. Disclosers should report the disclosure to their relevant executive member (Director responsible for their team) as the eligible recipient.
- 13. Where the disclosure involves a member of the executive team then the report should be made to the CEO as the eligible recipient, who will refer the matter to the Chair of the Board for consideration.
- 14. Where a disclosure involves a member of the Board, the report should be made to the CEO as the eligible recipient.
- 15. Where a disclosure involves the CEO, the report should be made to the Executive responsible for HR as the eligible recipient, who will refer the matter to the Chair of the Board for consideration.
- 16. Whilst Public Skills Australia encourages individuals to make disclosures under this policy, a person may also choose to make a disclosure externally to ASIC, ATO, APRA or ACNC.

Communication

- 17. If a discloser provides contact details, they should expect to be contacted for the following:
 - a) requests for additional and/or clarifying information relating to the disclosure

² Refer to the *Performance Management, Workplace Conflict and Grievance and/or Discrimination, Harassment and Bullying* policies and procedures for matters that concern interpersonal conflict.

Whistleblower Policy

Policy Number: POL-09-V1
Effective Date: 13 Oct 2025



PUBLIC SKILLS
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- b) consent for the disclosers contact details to be provided to an external investigator if one is appointed
- c) receiving updates on the progress of the disclosure
- d) receiving updates on any subsequent full investigation if it proceeds.³

Discloser Responsibilities

- 18. Disclosers are required to review all information, resources and forms available prior to lodging a disclosure under the *Whistleblower Policy*.
- 19. It is important that the discloser cooperates and assists with any assessment and/or investigation process as much as possible. The ability for an assessment of disclosure to be completed and/or investigator to investigate, may be limited or prevented from proceeding if the disclosure has been made anonymously or the discloser refuses to provide information.
- 20. Where a discloser is making a report, they will be required to clearly identify the issue, provide available information in support of disclosure including facts and cooperate with the relevant processes.

False, Malicious and Vexatious Claims

- 21. If a person is found to have raised a false or misleading disclosure, they may face disciplinary action which may result in (but not limited to) counselling, an official warning or termination of employment.

Support

- 22. Public Skills Australia will provide appropriate support to whistleblowers, in accordance with both the Commonwealth and Victorian law. If the discloser qualifies for protection, this includes:
 - a) protecting the confidentiality of a whistleblower's identity and information that is likely to lead to the identification of the whistleblower
 - b) protecting the whistleblower from victimisation or reprisal action or detrimental action against a person in reprisal for a whistleblower disclosure
 - c) protection against legal action

³ For confidentiality reasons detail may be limited.

Whistleblower Policy

Policy Number: POL-09-V1
Effective Date: 13 Oct 2025



PUBLIC SKILLS
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- d) providing appropriate welfare support.
23. Public Skills Australia has established processes for the protection of people from victimisation, reprisal action and detrimental action taken in reprisal for a whistleblower disclosure and will also ensure the fair treatment of, and provide appropriate support to and protection for, the whistleblower (and other persons involved in the whistleblower disclosure).
24. A disclosure may also still qualify for protection if it turns out to be incorrect. A discloser could lose these protections if:
- a) their misconduct is revealed by the disclosure
 - b) they do not have reasonable grounds for making the disclosure
 - c) they disclose information to someone who is not an eligible recipient.

Principles of Natural Justice and Procedural Fairness

25. The principles of natural justice and procedural fairness that will apply through the course of addressing and resolving a disclosure:
- a) **The Hearing Principle:** This rule requires that a person must be allowed an adequate opportunity to present their case and that the respondent is advised of the allegations, in as much detail as possible, and given the opportunity to reply to the allegations.
 - b) **The Bias Principle:** No one is to be judged in their case. The deciding authority must be unbiased, when affording the hearing on making the decision. Additional, staff involved in resolving the matter must be impartial and must make a decision based on a balanced and considered assessment of the information and evidence them, without favouring one party over another. They must further ensure that there is no conflict of interest which would make it inappropriate for them to be involved in the resolution of the matter.
 - c) **The Evidence Principle:** Any conclusions reached must be supported by evidence. That is, conclusions must be based on facts not on speculation or supposition. Any decisions in relation to resolving a matter should be clearly linked to the evidence on which the conclusion is based.

Obligation to Act

26. If the disclosure is assessed as being a matter of potential criminal conduct it must be promptly reported to the Federal, State and/or Territory law enforcement agency for which holds the

Whistleblower Policy

Policy Number: POL-09-V1
Effective Date: 13 Oct 2025



PUBLIC SKILLS
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appropriate physical or criminal jurisdiction over the potential criminal conduct. Public Skills Australia may initiate a formal investigation at any stage, regardless of the wishes of the Discloser.

Identity Protection

27. A discloser's identity (or information that could identify them) will only be shared where:
- a) they provide consent
 - or
 - b) Public Skills Australia is permitted or otherwise required by law.
28. The discloser's consent to share is not required if:
- a) the information does not include the discloser's identity
 - b) Public Skills Australia has taken reasonable steps to reduce the risk that the discloser will be identified from the information
 - c) it is reasonably necessary for investigating the issues raised in the disclosure.

Record Keeping

29. Public Skills Australia will ensure the whistleblowing process is adequately evidenced by appropriate records and those records are securely maintained. At a minimum, the following types of records shall be maintained:
- a) the Whistleblower Disclosure
 - b) the investigation report and related evidence, communications and records
 - c) communications with the Discloser and any other stakeholders involved in the process
 - d) internal/external reporting on the whistleblower matter.
30. Due to the sensitive nature of whistleblower matters, the records above must be kept with restricted access. The storage location of records should be informed by general principles of legal professional privilege, confidentiality and security. Records relating to the whistleblowing process will be retained for a minimum of 7 years. Public Skills Australia will ensure there is a clear process in place for secure record keeping and that all relevant parties involved in the process are properly informed of this process.

Whistleblower Policy

Policy Number: POL-09-V1
Effective Date: 13 Oct 2025



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Breach of Policy

31. Failure to comply with this policy may lead to disciplinary action. This may include termination of employment or engagement. Failure to comply with relevant legislation may lead to personal liability.

Employee Assistance Program

32. The Employee Assistance Program (EAP) is available to all staff to support their wellbeing. Support services can be accessed at any time (24/7) at no expense to the employee via:
- a) Phone: 1300 364 273
 - or
 - b) SMS or Live Chat: 0401 337 711.

Assistance

33. Staff can discuss matters relating to this policy with the Executive responsible for HR (or their delegate) or contact hr@publicskillsaustralia.org.au for any questions or clarifications regarding this policy.

Variations

34. Public Skills Australia reserve the right to vary, replace, suspend or terminate the policy from time to time.

Procedures

35. The *Whistleblower Procedures* give effect to this policy through outlining the steps and processes that will direct how Public Skills Australia will manage and respond to any instances of a Whistleblower Disclosure

Review

36. This policy is due to be reviewed by 1 October 2027.