

## Whistleblower Policy

### 1. Purpose

The purpose of this policy is to provide Whistleblowers with a transparent mechanism to disclose information concerning any misconduct or improper state of affairs or circumstances relating to the RACGP or any of its wholly owned subsidiaries, confidentially, identifying themselves or anonymously and without fear of detrimental treatment. Issues which might be disclosed could include for example, conflicts of interest and duties, breach of directors' duties or other misconduct including criminal behaviour. This policy also protects those who are entitled to whistleblower protection under Australian Whistleblower Laws.

This policy is intended to provide an additional disclosure channel to other internal reporting and complaints avenues, including an employee raising issues directly with their immediate manager. The RACGP, through this policy, encourages disclosures of wrongdoing and seeks to deter improper conduct. Improper conduct has the capacity to damage the organisation from a reputational, financial and integrity perspective. Whistleblowers can have confidence that they will be supported.

The RACGP is committed to demonstrating high standards of ethical behaviour and conducting business fairly, openly and honestly. The RACGP will also not tolerate any Officers or employees acting contrary to this commitment. Disclosures will be dealt with appropriately and in a timely way under this policy.

The RACGP is committed to the continual improvement of the whistleblowing management system and a speak up/listen up culture.

Disclosures made under this policy are also an important part of the RACGP's risk management and corporate governance framework.

This policy is made available to all RACGP Officers, employees, contractors and Members via the RACGP's Organisational Policies webpage: [www.racgp.org.au](http://www.racgp.org.au).

This policy complies with ISO 37002: *Whistleblowing Management Systems - Guidelines*

### 2. Application

This policy applies to all Officers, employees, contractors and Members of the RACGP.

The policy is to be read together with the *Membership Code of Conduct*, *Staff Code of Conduct* and the *Grievance Policy*.

### 3. Making a Disclosure

Disclosures can be made under this policy by individuals who are current or former:

- Officers, employees or Members of the RACGP;
- contractors or suppliers of goods and services to the RACGP, or their employees and sub-contractors, and volunteers. For example, appointees to expert committees; Company Associates of the RACGP; or
- Family Members of individuals named above.

## 4. Types of Disclosure

Disclosures can be made under this policy where a Whistleblower has reasonable grounds to suspect that the information they are disclosing concerns misconduct or an improper state of affairs or circumstances in relation to RACGP (including involving an RACGP Officer or employee). Reasonable grounds means that there is a reasonable objective basis for the suspicion. It does not require proof of allegations but must be more than an allegation with no supporting information.

The disclosure however **cannot** solely be about a Personal Work-Related Grievance.

Examples of misconduct or an improper state of affairs or circumstances include:

- contraventions of the *Corporations Act 2001* (C'th), or the *Australian Securities and Investments Commission Act 2001* (C'th) suspected to have been committed by the RACGP, or an Officer or employee of the RACGP (such as breaches of Officers' duty, breaches of whistleblower protections, falsification of books or false or misleading statements made in accounts or books lodged with ASIC);
- a Commonwealth criminal offence punishable by more than 12 months imprisonment suspected to have been committed by the RACGP, or an Officer or employee of the RACGP (such as false dealings with accounting documents);
- a danger to the public or the financial system posed by the RACGP, or an Officer or employee of the RACGP;
- misconduct or an improper state of affairs or circumstances in relation to the RACGP's Tax Affairs, or the Tax Affairs of a Company Associate of the RACGP;
- fraudulent or corrupt conduct such as dishonesty, fraud, misuse of information or material acquired and dishonestly altering RACGP records or data;
- coercion, harassment or discrimination by, or affecting any employee or member of the RACGP;
- misleading or deceptive conduct of any kind, including conduct or representations which amount to improper or misleading accounting or financial reporting practices;
- conduct which may cause financial loss to the RACGP or damage the RACGP's reputation or is otherwise detrimental to the RACGP's interests;
- failure to rectify or take reasonable steps to report a matter likely to give rise to a significant and avoidable cost or loss to the RACGP;
- abuse of power or authority for any unauthorised or ulterior purpose; and
- any other criminal conduct.

Note that some possible conduct which might be the subject of a disclosure may not be illegal *per se* but may indicate a systemic failing which warrants regulator involvement. Other possible conduct fitting this description might be unethical or dishonest conduct which is harmful to the RACGP or which is prohibited by the *Membership Code of Conduct*.

For conduct which falls outside this policy, a person may report the matter to their immediate supervisor or follow the process under another appropriate policy. For example, breaches of the *Membership Code of Conduct* not within this policy should follow the resolution process in that policy and the RACGP Constitution. Where the appropriate process is not clear, a person should contact the Legal Services Unit.

The Legal Services unit can provide general advice only as to the process of making a whistleblower complaint. They cannot provide legal advice nor individual specific advice.

Conduct which amounts to a simple employment grievance, allegations of underperformance or normal employment disputes involving work conditions for example are generally not likely to be whistleblower disclosures. A whistleblower complaint must contain some additional factor identified above, for example, some criminal conduct. See further the definition of “Personal Workplace Grievance” in the Glossary.

Examples of conduct which would **not** warrant a disclosure include:

- Normal disciplinary proceedings taken against an employee as part of a grievance process;
- Management action taken in response to employee poor performance in accordance with RACGP policy; or
- Disclosing confidential information with the consent of the owner of that information.

False reporting, where a discloser deliberately reports information they know to be untrue, does not attract the legal protections afforded to Whistleblowers but may of itself be a criminal offence depending on the circumstances. Where a disclosure is found to be deliberately false, the RACGP will take appropriate disciplinary action against the discloser.

In some cases, a Personal Work-Related Grievance may still qualify for protection as a disclosure. For example, if:

- the Personal Work-Related Grievance contains information about misconduct;
- the Personal Work-Related Grievance contains information which suggests misconduct beyond the particular circumstances in the grievance;
- the discloser seeks legal advice about the operation of the relevant legal protections relating to whistleblowers; or
- the discloser is threatened with detriment for making the disclosure.

A disclosure may contravene a confidentiality obligation such as a non-disclosure clause in a contract or a commercial in confidence obligation. If a disclosure qualifies for protection under the *Corporations Act 2001(C'th)* however, then these obligations will not apply to prevent the disclosure. If in doubt, a potential Whistleblower should seek legal advice.

## 5. Recipients of Disclosures

The recipient of any disclosure is the Whistleblower Officer who is the Manager, Risk and Compliance.

Persons who are considering a disclosure can contact the Manager, Risk and Compliance for further information, on an anonymous basis if desired.

The RACGP encourages you to make your disclosure in writing to the Manager, Risk and Compliance.

Alternatively, you can make a disclosure to any one of the following:

- an Officer or Senior Manager within RACGP (such as the Head of Legal Services); or
- an auditor or member of an audit team conducting an audit on RACGP.

Disclosures about the Manager, Risk and Compliance must be made to the CEO.

Disclosures can be made anonymously through [whistleblower@racgp.org.au](mailto:whistleblower@racgp.org.au) at any time. This mailbox is administered by the Whistleblower Officer on a completely independent and confidential basis. All material provided is kept confidentially and securely and access to it is restricted according to law. This policy, and the relevant legislation outlines how whistleblower complaints must be dealt with.

An anonymous Whistleblower who wishes to be contacted to discuss progress or whom the Whistleblower Officer may wish to ask questions should use an encrypted messaging service or an anonymous email address in order to communicate.

Disclosures can also be made directly to the Australian Securities and Investments Commission (ASIC) or the Australian Prudential Regulatory Authority (APRA) and further information can be found at [www.asic.gov.au](http://www.asic.gov.au) and [www.apra.gov.au](http://www.apra.gov.au).

In certain circumstances, disclosures may be made to a journalist or Parliamentarian in accordance with the *Corporations Act 2001* (C'th). For further details, go to [www.asic.gov.au](http://www.asic.gov.au) or seek legal advice.

Make sure you keep a record of the details of your disclosure.

## 6. Contents of Disclosures

The webform on the website guides Whistleblowers in what should be included in a disclosure. In general, a disclosure should contain as much information as possible about the conduct in question including the persons suspected of engaging in the conduct, where it happened, when it happened, its nature (e.g. is it fraud or other improper conduct), how the Whistleblower discovered the conduct, what evidence there is supporting the allegations, potential witnesses and any other relevant information.

## 7. Confidentiality

No person may disclose or reveal the identity of a Whistleblower (or information that is likely to lead to their identity becoming known) unless:

- the Whistleblower has consented to the disclosure;
- the disclosure is made to a legal practitioner for the purposes of obtaining legal advice or legal representation in relation to the operation of the Australian Whistleblower Laws;

- if the Whistleblower Officer considers it appropriate, the disclosure is made to:
  - the Australian Federal Police;
  - ASIC;
  - APRA;
  - the Australian Commissioner of Taxation if the disclosure concerns RACGP's Tax Affairs or the Tax Affairs of a Company Associate of the RACGP; or
  - the Police force of a State or Territory; or
- the disclosure is required or authorised by a State, Territory or Commonwealth law.

No person may disclose or produce to a court or tribunal any information or documents which disclose the identity of a Whistleblower (or information which is likely to lead to their identity becoming known) without first seeking the advice of the Head of Legal Services.

The Whistleblower Officer may disclose the content of a disclosure without the Whistleblower's consent if:

- the information does not disclose the Whistleblower's identity;
- all reasonable steps have been taken to reduce the risk of identification stemming from the information; and
- it is reasonably necessary for investigating the issues raised in the disclosure.

## 8. Protection from Victimisation

Persons making disclosures within this policy consistent with the *Corporations Act 2001* (C'th) are entitled to protections under that Act. The protections apply to disclosures within the act regardless of whether the disclosure is anonymous or not.

No person may cause or threaten any Detriment to any person for a reason which includes that they or another person:

- are or is or propose/s to be a Whistleblower; or
- are or suspected or believed to be, or could be, a Whistleblower.

A Whistleblower who suffers Detriment as a result of a disclosure, or by way of the RACGP failing to protect them from victimisation may be able to seek compensation or other remedies in the courts.

A Whistleblower may also be protected from legal action arising because of their disclosure. A Whistleblower, however, may be held liable for any personal misconduct revealed by their disclosure or an investigation following a disclosure.

## 9. Support and Protection for Whistleblowers

The RACGP will support Whistleblower Disclosures made in good faith in accordance with this policy by:

- implementing systems and processes for maintaining confidentiality of Whistleblower identity and investigation processes including securely storing all information regarding the disclosure and minimising the number of people made aware of the disclosure and the Whistleblower's identity on a need to know basis;
- developing a risk framework to manage the risk of Detrimental action occurring including risk mitigation actions for individual Whistleblowers;
- protecting Whistleblowers from victimisation including through maintenance of confidentiality, sensitive, timely and appropriate handling of investigations, and education across the RACGP about this policy;
- protecting Whistleblowers from Detriment by taking appropriate management action considering their work circumstances for example by reassigning their duties, allowing them to work from a different location or making other modifications to their working arrangements;
- offering ongoing counselling if necessary and taking appropriate management action in response to a disclosure. For example, disciplining a staff member as a result of a bullying claim arising from a disclosure or limiting their contact with a victim; and
- providing regular updates to the Whistleblower about the progress of any action taken in response to the disclosure to the extent possible.

The RACGP may also decide to provide de-identified outcomes of investigations of disclosures to staff as part of training and ongoing education around this policy.

## 10. Investigations of Disclosures

Disclosures made in accordance with this policy will be investigated by the RACGP in the following way, except where, in the opinion of a Whistleblower Officer, it would be inappropriate or unreasonable in the circumstances to do so:

- a) Any person who receives a disclosure must provide the information to a Whistleblower Officer as soon as practicable, removing any information which identifies or may identify the discloser of the information (the **Potential Whistleblower**) prior to doing so (unless the Potential Whistleblower has provided their consent to that disclosure). Upon receipt of the disclosure, the Whistleblower Officer will notify the Whistleblower, within five business days that the disclosure has been received, if the Whistleblower is contactable;
- b) As soon as practicable, the Whistleblower Officer must assess the disclosure and determine whether the disclosure falls within the scope of this policy and, if so, appoint an external legally qualified investigator with no personal interest in the matter to conduct an investigation into the matters disclosed, if they determine it to be necessary or appropriate. The Whistleblower Officer will notify the Whistleblower within five business days that an investigation is to occur, or, no further action is to be taken, if the Whistleblower is contactable;

- c) In assessing the disclosure, the Whistleblower Officer may recommend to the relevant executive member that the Whistleblower be provided with a level of protection and support commensurate with the risk of Detriment to the Whistleblower. This support should be identified in the risk framework;
- d) The Whistleblower Officer will instruct the investigator to conduct any investigation in an objective and fair manner, ensuring to provide any employee who has been adversely mentioned in information provided by a Whistleblower an opportunity to respond to the allegations made in respect of them prior to any findings being made;
- e) The outcome of the investigation must be reported to the Board, and may be reported to the Whistleblower and any persons affected as the Whistleblower Officer considers appropriate. Where the matters disclosed are substantiated and a breach has occurred or is occurring, steps will be taken to address the issue and any person(s) responsible will be disciplined as appropriate in the circumstances of the case. Where the matters disclosed are not substantiated, the RACGP may choose to take no further action;
- f) Except as permitted in this policy (see section titled 'Confidentiality' above) or otherwise by law, the identity of a Whistleblower (or information that is likely to lead to their identity becoming known) must be kept confidential at all times during and after the investigation (including in any reporting to the Board or to any persons affected). All persons responsible for or involved in an investigation must take all reasonable steps to reduce the risk that a Whistleblower will be identified; and
- g) The Whistleblower may raise any concerns or complaints regarding this policy or their treatment with the Whistleblower Officer.

## 11. Reporting to the Board

Subject to the Confidentiality requirements above, the Whistleblower Officer must provide the Board a biannual report on all active Whistleblower matters, including information on:

- the number and nature of disclosures made in the last six months;
- the status of any investigations under way;
- costs of any investigations;
- the outcomes of any investigations completed and actions taken as a result of those investigations; and
- identification of any systemic organisational weaknesses exposed by disclosures or disclosure investigations.

## 12. Consequences of non-compliance with policy

Any breach of this policy by an Officer, employee, contractor or Member will be taken seriously by the RACGP, and may be the subject of a separate investigation and/or disciplinary action. Allegations of criminal conduct may also be referred to an appropriate authority.

A breach of this policy may also amount to a civil or criminal contravention under Australian Whistleblower Laws, giving rise to significant penalties.

### 13. Policy Relationship with Australian Whistleblower Laws

Disclosures made in accordance with this policy may be afforded protection under Australian Whistleblower Laws, whether or not the disclosure later proves to be incorrect and whether anonymous or not. For more information about these laws, see the information available on the ASIC website and the ATO website.

### 14. Policy Relationship with the *Grievance Policy*

Apart from the compulsory legal obligations the RACGP has under this policy, this policy does not prevent management from taking any action in relation to any grievance or disciplinary proceeding which might be affected by this policy.

Where a disclosure is made which is substantially the same or related to a grievance made under the *Complaints Policy*, the disclosure is to be dealt with separately from the grievance.

### 15. Amendment of this Policy

The CEO may, without the approval of the Board, make Minor Amendments to this policy at any time.

If the CEO makes Minor Amendments, he/she must advise the Board of those amendments at the next scheduled Board meeting.

The Board may make amendments to this policy at any time.

The CEO may also develop procedures or processes consistent with this policy to implement this policy.

### 16. Responsibilities

Board	Responsible for approval of policy and amendments. Provides leadership in supporting and encouraging disclosures.
CEO	Must comply with the policy. Responsible for Minor Amendments. May develop procedures to implement policy. Provides leadership in supporting and encouraging disclosures.
Members	Must comply with the policy.
Staff	Must comply with the policy and support the maintenance of an ethical culture.
Whistleblower Officer	Receives complaints. Decides method of investigation within the policy and reports to the Board on Whistleblower matters.

### 17. Glossary

Australian Whistleblower Laws	Part 9.4AAA of the <i>Corporations Act 2001</i> (C'th) and Part IVD of the <i>Taxation Administration Act 1953</i> (C'th).
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<b>Company Associate</b>	An Associate as defined by the <i>Corporations Act 2001</i> (C'th) or section 318 of the <i>Income Tax Assessment Act 1936</i> (C'th).
<b>Detriment</b>	Includes: <ul style="list-style-type: none"> <li>• dismissal;</li> <li>• injury of an employee in their employment;</li> <li>• alteration of an employee's position or duties or their employment terms and conditions to their disadvantage;</li> <li>• discrimination, harassment or intimidation;</li> <li>• harm or injury including psychological harm;</li> <li>• damage to property, reputation or business of financial position;</li> <li>• taking action against a Whistleblower to enforce a right or subject them to a liability simply because they have made a disclosure.</li> </ul>
<b>Family Member</b>	A person's spouse, parent, child, sibling, or other relative or a dependent of the person or their spouse.
<b>Major Amendment</b>	An amendment which materially changes the operation of the policy which is not otherwise a Minor Amendment.
<b>Member</b>	Member of the RACGP under Part 2 of the RACGP Constitution.
<b>Minor Amendment</b>	An amendment to style, to correct grammatical mistakes, to change overall formatting, to make updates which do not materially change meaning, or any other amendment, which in the opinion of the CEO, does not materially alter the operation of the policy.
<b>Officer</b>	Officer as defined in the <i>Corporations Act 2001</i> (C'th) which includes the Board, the Company Secretary and the CEO and anyone acting in their positions.
<b>Personal Workplace Grievance</b>	a grievance about any matter in relation to an individual's employment or former employment which has, or tends to have, implications only for the individual personally, and where the information does not: <ul style="list-style-type: none"> <li>• have significant implications to the entity to which it relates, or any other entity, that does not relate to the individual;</li> <li>• concern Whistleblower victimisation; or</li> <li>• concern the following types of misconduct or an improper state of affairs or circumstances: <ul style="list-style-type: none"> <li>○ a criminal offence or contravention of the <i>Corporations Act 2001</i> (C'th) or the <i>Australian Securities and Investments Commission Act 2001</i> (C'th) suspected to have been committed by the RACGP, or a RACGP Officer or employee;</li> </ul> </li> </ul>

- a Commonwealth criminal offence punishable by more than 12 months imprisonment suspected to have been committed by the RACGP, or a RACGP Officer or employee;
- a danger to the public or the financial system posed by the RACGP, or a RACGP Officer or employee; or
- misconduct or an improper state of affairs or circumstances in relation to the RACGP's Tax Affairs, or the Tax Affairs of a Company Associate of the RACGP.

Relative	has the same meaning as in the <i>Corporations Act 2001</i> (C'th).
Senior Manager	an RACGP employee who is not an Officer who makes, or participates in making, decisions that affect the whole, or substantial part, of the RACGP or has the capacity to affect significantly the RACGP's financial standing. Senior Managers include any Senior Leadership Team or Executive Team member
Spouse	the married, <i>de facto</i> or registered partner of an individual.
Tax Affairs	affairs relating to any tax imposed by or under, or assessed or collected under, a law administered by the Australian Commissioner of Taxation.
Whistleblower	<ul style="list-style-type: none"> <li>• an individual, being one of the individuals identified in clause 3 who makes or attempts to make a disclosure eligible for protection under this policy; and/or</li> <li>• a person eligible for protection under Australian Whistleblower Laws.</li> </ul>
Whistleblower Officer	the person(s) occupying the position identified in clause 5 of this policy as RACGP's Whistleblower Officer(s).

## 18. Related Documents, Legislation and Policies

*Australian Securities and Investments Commission Act 2001* (C'th)

*Corporations Act 2001* (C'th)

*Grievance Policy*

*Membership Code of Conduct*

*Privacy Policy*

*RACGP Constitution*

*Staff Code of Conduct*

*Taxation Administration Act 1953* (C'th)

### **Compliance**

This policy complies with all relevant legislation, in particular:

Part 9.4AAA of the *Corporations Act 2001* (C'th);

Part IVD of the *Taxation Administration Act 1953* (C'th)

### **Guidance**

*ASIC Regulatory Guide 270 – Whistleblower Policies*

*ISO 37002: Whistleblowing Management Systems - Guidelines*

## **19. Policy Review and Currency**

This policy will be reviewed every two years from the last approval date.

## Version History

Release Notice			
Version	Date of Effect	Amendment details	Amended by
1.0		Initial release	
1.1	2022	Updates to titles and minor corrections. Amendments to ensure consistency with <i>ASIC Regulatory Guide 270</i> and <i>ISO 37002: Whistleblowing Management Systems - Guidelines</i>	Manager, Risk and Compliance
Policy owner:	Board		
Approved by:	Board		Approved on: 15 Sep 2022
Next Review Due:	2024		