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of ADELAIDE

Legal Compliance Education and Awareness



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Whistleblowers Protection Act 1993

(South Australian)

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seek LIGHT

What is a whistleblower?

- A whistleblower is a person who exposes wrongdoing within an organisation, in the hope of stopping it & preventing it from reoccurring
- The term whistleblower originates from the practice of English bobbies (policemen), who would blow their whistles to alert police officers & the general public of danger or a crime
- “To blow the whistle” now means to reveal information about a person or organisation that has;
 - *risked public health, safety or the environment*
 - *acted illegally*
 - *wasted public money*
 - *misused public resources*
 - *falsified records*
- Most whistleblowers are internal whistleblowers who report misconduct to a fellow employee or manager within their company

What does the Whistleblower's Protection Act do?

- Makes it unlawful to treat people unfairly because they have seen fit to blow the whistle
- Facilitates the disclosure of significant information relating to illegal, hazardous or improper conduct that would not otherwise be publicly available
- Provides protection for whistleblowers;
 - *against victimisation or harassment*
 - *from civil or criminal liability*

How does the Act affect the University?

- The University adopts policies & practices that protect the identity of internal & external whistleblowers;
 - *employees of the University*
 - *members of the public who make the disclosure about matters relating to the University*
- The University adopts the general provisions of the Act in its [Whistleblower Policy](#)
- The University encourages whistle-blowing wherever there is suspected unacceptable behaviour & if it is in the public interest to do so
- The University recognises that whistleblowing can assist with;
 - improved governance & administrative practice
 - fraud & corruption prevention
 - See University of Adelaide [Fraud and Corruption Control Policy](#)

Disclosure of Information

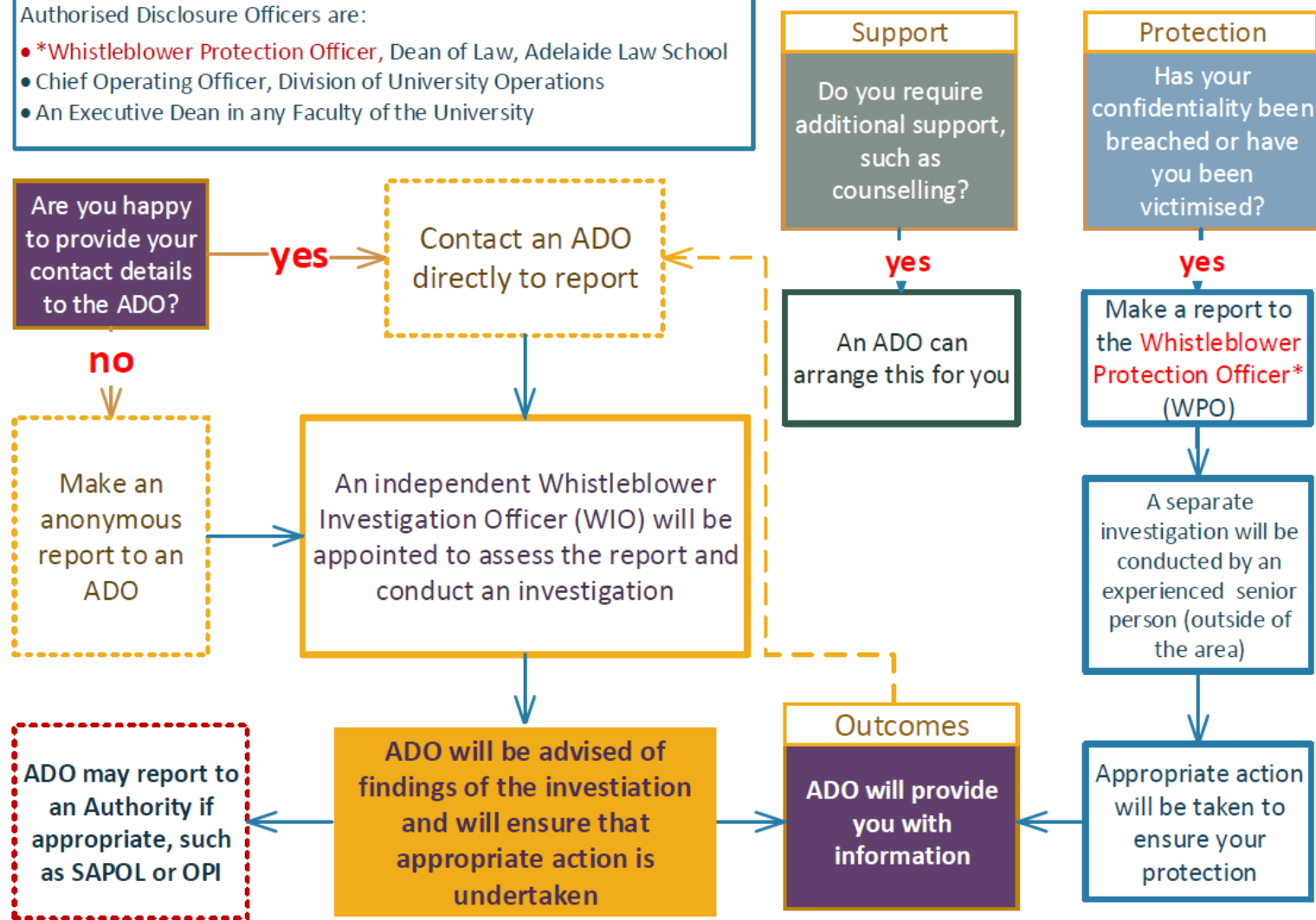
Whistleblower protection from liability is available under certain conditions:

- The person must *reasonably believe* that the information is true or may be true
 - *The Act does not protect people who make false claims*
- The information must meet the definition of *public interest* information;
 - *Illegal activity;*
 - *Unauthorised use of public money;*
 - *Substantial mismanagement of public resources; or*
 - *Substantial risk to public health, safety or environment*
- The information must be disclosed to an *appropriate authority* such as;
 - ***An Authorised Disclosure Officer (ADO) of the University*** (*see below*)
 - *Police*
 - *The State Ombudsman*
- A person who discloses public interest information must assist with any investigation of the matters to which the information relates

Report to an “Authorised Disclosure Officer”

Authorised Disclosure Officers are:

- *Whistleblower Protection Officer, Dean of Law, Adelaide Law School
- Chief Operating Officer, Division of University Operations
- An Executive Dean in any Faculty of the University



Tips on reporting

- Direct disclosure of information to one of the University's Authorised Disclosure Officers is preferable, as meetings will be conducted in person & in private
- Reporting via email can be a useful way of organising the facts of the matter before discussing them in person & may be less daunting than in person
- If reporting over the phone, ensure your conversation will be confidential & that you have sufficient time to fully discuss the situation with an Authorised Disclosure Officer
- If possible, avoid anonymous letters or reports;
 - *they are difficult to act on & don't usually provide sufficient or specific enough information to start an investigation*
- It is always best for all concerned to deal with a complaint openly & fairly

The Act prohibits victimisation of a whistleblower

- Victimisation is the unfair treating of another person for complaining or helping others to complain
- Victimisation might include;
 - *actual injury, damage or loss*
 - *intimidation or harassment*
 - *discrimination, disadvantage or adverse treatment in relation to a person's employment*
 - *threats of reprisal from colleagues or management*
- A whistleblower who is victimised can take legal action in the courts or can lodge a complaint with the [Commissioner for Equal Opportunity](#)

What can happen if I don't comply?

- Victimisation as a result of whistleblowing is actionable as if it were an act under the *Equal Opportunity Act 1984*
- Compensatory payments or damages may be awarded under the *Equal Opportunity Act* **as well as** penalties brought under the *Whistleblower Protection Act*,
 - for economic loss (eg: Loss of wages)
 - for injury to feelings (up to \$5,000)

What can happen if I don't comply? (cont.)

Individual Consequences:

- Fines of up to \$8,000 or 2 years imprisonment for disclosure of false public interest information
- A breach of the Act may be considered misconduct actionable under the University's Enterprise Agreement

University Consequences:

- Legal & administrative costs
- Negative publicity
 - *Damage to the University's reputation*
 - *Attraction & retention of staff & students is compromised*

If you are a Whistleblower

- Make every effort to ensure the information to be disclosed is legitimate & true
- Do not disclose trade secrets or misuse confidential information acquired in your employment
- Assist with the investigation
- Seek advice from the Whistleblower Protection Officer if concerned about disclosing information
 - Whistleblower Protection Officer – [Dean of Adelaide Law School](#)

University obligations under the Act

If you are a Manager:

- Encourage staff to come forward with problems or complaints
- Resolve misunderstandings in a non-adversarial manner
- Treat complaints seriously, quickly & confidentially
 - [Complaints by Staff Policy & Guidelines](#)
- Seek to instil in staff that whistleblowing is neither "dobbing" nor "un-Australian"

All staff:

- Do not victimise whistleblowers
- Comply with the University of Adelaide [Fraud and Corruption Control Policy & Plan](#)

Additional Resources

- [Whistleblowers Protection Act 1993 \(SA\)](#)
- [Legal & Risk Whistleblower Protection webpage](#)
- [Legal & Risk Integrity and Public Accountability webpage](#)
- [Equal Opportunity Commission \(SA\)](#)



Disclaimer

The content of this material is intended only to provide a summary & general overview of the *Whistleblowers Protection Act* as it applies to the University of Adelaide.

It is not intended to be comprehensive nor does it constitute legal advice.

Please contact the Legal and Risk Branch if you are unsure of your compliance obligations under the Act.