

Whistleblower Policy



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Definitions

OVERVIEW

The University of Adelaide (**the University**) is committed to a culture of integrity and accountability and systems that support transparency in decision-making, good governance and ethical behaviour.

This Policy supports the disclosure by individuals of wrongdoing occurring within the University so that appropriate action can be undertaken. The University will treat all information disclosed in a confidential manner (so far as the circumstances permit), conduct a fair and objective investigation and take appropriate remedial steps or notify relevant authorities.

The purpose of this Policy is to ensure that the University:

- encourages and facilitates the disclosure by individuals of wrongdoing without fear of reprisal;
- provides appropriate protection for those who make disclosures under this Policy and in accordance with the [Whistleblower Protection Act 1993 \(SA\)](#) (the Act); and
- properly fulfils its responsibilities under the Act and is aligned to the Australian Standard, Whistleblower Protection Program for Entities, AS8004-2003.

The benefits of encouraging disclosures of wrongdoing and protecting those who make disclosures include:

- effective compliance with the University's legal and regulatory obligations;
- effective compliance with other University policies and governance requirements;
- efficient fiscal management through avoidance of waste and of ensuring proper tendering and procurement practices are adopted and monitored;
- promotion of a culture of integrity and accountability;
- improved morale within the University community; and
- a healthier and safer working environment.

This Policy is part of the University's Public Accountability and Integrity Framework and should be read in conjunction with policies and procedures referred to in that Framework.

Scope and Application

All members of the University community, including University personnel, students, visitors and volunteers are encouraged to report any wrongdoing in accordance with this Policy.

This Policy operates in conjunction with and does not take away from the protections which exist under the Act (or other applicable whistleblower legislation) or the rights of individuals wanting to make reports to the [Office for Public Integrity \(OPI\)](#) under the [Independent Commissioner Against Corruption Act 2102 \(SA\)](#).

POLICY PRINCIPLES

1. The University's attitude to wrongdoing and disclosure

- (a) The University will not tolerate wrongdoing in the University.
- (b) The University is committed to:
 - i. operating with the highest legal and ethical standards;
 - ii. supporting and protecting persons who make disclosures under this Policy or under the Act or other applicable legislation;
 - iii. conducting investigations in a fair and objective manner;
 - iv. informing persons who make disclosures under this Policy of the progress and outcome of any investigation;
 - v. taking disciplinary action against any person found to have engaged in wrongdoing and, where appropriate, notifying the relevant authorities;
 - vi. taking all appropriate action to rectify any wrongdoing.
- (c) The University recognises that personnel who disclose wrongdoing in the University may rely on protections under this Policy or under the Act in making a disclosure.

2. Responsibilities of University and University Personnel

- a) The University will:
 - i. establish policies which assist University Personnel to comply with their legal and ethical obligations (although such policies will not exhaustively detail those obligations);
 - ii. establish procedures and provide resources to encourage and facilitate the disclosure of wrongdoing in the University;
 - iii. oversee the functioning of this Policy and the procedures established under this Policy;
 - iv. review the effectiveness of the Policy and procedures from time to time;
 - v. provide training and education to assist University Personnel to comply with their legal and ethical obligations;
 - vi. provide sufficient information and guidance to facilitate disclosures of wrongdoing under this Policy or in accordance with the Act or other applicable legislation;
 - vii. deal with disclosures under this Policy thoroughly and impartially, and conduct investigations where appropriate;
 - viii. monitor the outcome of investigations to ensure that appropriate actions are taken;
 - ix. ensure that wherever possible confidentiality is maintained in respect of the Whistleblower's identity;
 - x. take appropriate action to protect Whistleblowers from victimisation;
 - xi. ensure the Whistleblower is kept informed about the progress and outcome of the matters concerning their disclosure;
 - xii. take appropriate action to rectify any wrongdoing which is discovered;
 - xiii. develop strategies to avoid or minimise recurrence of the wrongdoing;
 - xiv. take appropriate disciplinary action against any person found to have engaged in wrongdoing or victimisation;
 - xv. as required, liaise with external agencies; and
 - xvi. where appropriate, notify relevant authorities of wrongdoing.
- (b) University Personnel will:
 - i. be aware of and comply with their legal and ethical obligations and the policies of the University;
 - ii. make good faith disclosures of wrongdoing in the University;
 - iii. not make false accusations of alleged wrongdoing;
 - iv. co-operate with investigations under this Policy;

- v. support and protect those who have made disclosures;
- vi. not engage in victimisation; and
- vii. where appropriate, keep confidential the identity of Whistleblowers and other confidential information disclosed.

PROCEDURES

1. Disclosures of wrongdoing

- a) This Policy encourages and provides protection for all disclosures of wrongdoing in the University.
- b) Not all disclosures are disclosures of “public interest information” as defined and protected under the Act.
- c) The protections under this Policy will also apply to other good faith disclosures of wrongdoing under this Policy.
- d) The protections under the Act will only apply to appropriate disclosures of Public Interest Information within the meaning of s 5 of the Act.
- e) The Act only provides protection from civil or criminal liability to Whistleblowers for a disclosure if:
 - i. the Whistleblower believes on reasonable grounds that the Public Interest Information is true; or
 - ii. the Whistleblower is not in a position to form a belief on reasonable grounds about the truth of the Public Interest Information but believes on reasonable grounds that the Public Interest Information may be true and is of sufficient significance to justify its disclosure so that its truth may be investigated; and
 - iii. the disclosure of the Public Interest Information is made to an Authorised Disclosure Officer or an Appropriate Authority.

2. How to make a disclosure

- a) A disclosure of wrongdoing may be made:
 - i. orally or in writing;
 - ii. on a confidential or non-confidential basis;
 - iii. to an Authorised Disclosure Officer or to an appropriate external reporting authority.
- b) If a disclosure of wrongdoing is made to University Personnel other than an Authorised Disclosure Officer, it must be immediately forwarded on a confidential basis to an Authorised Disclosure Officer.
- c) If a disclosure is made orally, the Authorised Disclosure Officer will:
 - i. make a comprehensive record of the disclosure;
 - ii. request the Whistleblower to sign the record of the disclosure;
 - iii. discuss the procedure to be followed in dealing the matters which were the subject of disclosure;
 - iv. discuss with the Whistleblower the confidentiality restrictions in respect of the disclosure and the Whistleblower's identity; and
 - v. request the Whistleblower Investigation Officer to undertake an investigation of the matters the subject of disclosure.
- d) If a disclosure of wrongdoing involves the Authorised Disclosure Officer to whom the disclosure was made, the disclosure must be forwarded on a confidential basis to one of the other Authorised Disclosure Officers.
- e) All disclosures of wrongdoing will be referred to the appropriate offices or agencies internally and externally as appropriate and in accordance with University policies and external reporting requirements.
- f) Where a person wishes to disclose certain conduct but does not seek the protection afforded to Whistleblowers under this Policy, the University's other procedures for reporting and handling staff or student grievances and complaints of misconduct will apply.
- g) Officers, employees or contractors of a Controlled Entity of the University (**Company**) may make disclosures of wrongdoing in the Company to:
 - i. the Company's auditor, or a member of the Company's audit team;
 - ii. a director, secretary or senior manager of the Company;

- iii. an Authorised Disclosure Officer or any other person authorised by the Company to receive Whistleblower disclosures; or
 - iv. Australian Securities and Investments Commission.
- h) Persons may disclose Reportable Conduct directly to an Appropriate Authority or to the [Office for Public Integrity](#) under the Independent Commissioner Against Corruption Act.

See also: [Whistleblower Reporting Procedures diagram](#).

3. Investigation of disclosures

- (a) All disclosures of wrongdoing will be the subject of investigation by a Whistleblower Investigation Officer.
- (b) Investigations will be conducted promptly and on a fair and impartial basis, separately from the Whistleblower or the person or part of the University which is the subject of the disclosure.
- (c) Principles of natural justice will apply to the investigation so that the investigation is conducted without bias and the matters which are the subject of the investigation are made known to the person who is the subject of the disclosure and that person is given an adequate opportunity to respond to those matters.
- (d) The investigation will be conducted in the most appropriate manner to deal with the matters which are the subject of disclosure and, where required, the Whistleblower Investigation Officer may seek the assistance of other individuals within or external to the University with relevant expertise and make disclosures of information to those individuals on a confidential basis for that purpose.
- (e) A Whistleblower will be informed of the progress and outcome of an investigation.
- (f) A record of steps taken in the conduct of an investigation must be maintained, including all enquiries made and critical decisions taken, to allow the review of the effectiveness of the procedures employed in investigations.

4. Confidentiality

- a) As far as possible, and subject to the need to conduct proper investigations and take any consequential disciplinary steps, the University is committed to preserving the confidentiality of:
 - i. the identity of the Whistleblower;
 - ii. the identity of the person who is the subject of disclosure; and
 - iii. the fact of the disclosure.
- b) Information coming into the possession of a person from a Whistleblower in relation to the matters which are the subject of disclosure must not be released to any person not involved in the conduct of the investigation without the consent of the Whistleblower or the authority of the Whistleblower Protection Officer.
- c) The identity of the Whistleblower or any information which would tend to identify the Whistleblower must not be released to any person not involved in the conduct of the investigation without the consent of the Whistleblower or the authority of the Whistleblower Protection Officer.
- d) Although Whistleblowers have the right to disclose wrongdoing anonymously, the University strongly recommends that Whistleblowers identify themselves so the University can ensure the necessary protection and support is provided.
- e) If an anonymous disclosure is made, the Whistleblower must ensure that the disclosure is supported by the provision of all relevant details and evidence to substantiate the disclosure.

5. Protection of Whistleblower

- a) A Whistleblower is entitled to protection under this Policy and must not be the subject of victimisation.

- b) Complaints about a breach of confidentiality or victimisation in connection with a Whistleblower's disclosure or attempted disclosure of wrongdoing should be directed to the Whistleblower Protection Officer.
- c) Such complaints will be investigated as a separate matter by a senior experienced person, who was not involved with dealing with the initial disclosure, who will give the results to the Director, Human Resources.
- d) If it is established that a breach of confidentiality or Victimisation has occurred, Director of Human Resources will ensure all reasonable steps are taken to stop the activity and protect the Whistleblower. This may include disciplinary action against those involved in the breach of confidentiality or the Victimisation.
- e) A Whistleblower who considers that they are the subject of Victimisation may also seek independent legal advice or contact appropriate authorities, including the Equal Opportunity Commission.
- f) Where appropriate, the Director, Human Resources and the Whistleblower may agree to take positive steps to protect the Whistleblower from a breach of confidentiality or victimisation including:
 - i. granting leave of absence to the Whistleblower or the person who is the subject of the disclosure for the period of the investigation; or
 - ii. making alternative arrangements for the marking of a Whistleblower's academic work.

6. Support Services

The University has professional support services (including counselling) available for Whistleblowers and persons who are the subject of disclosures under this Policy. Information regarding those services is available from the Whistleblower Protection Officer.

7. Deliberate and False Disclosure Accusations

A person who makes a disclosure of false Public Interest Information or other disclosure knowing it to be false or being reckless about whether it is false:

- a) is not afforded any protection under the Act or this Policy;
- b) may have engaged in misconduct and be subject to disciplinary action; and
- c) may be guilty of an offence under the Act.

8. Review of Policy and Procedures

- a) This Policy has been drafted contemplating the Act, the ICAC Act and the Australian Standard, Whistleblower Protection Program for Entities, AS8004-2003. This Policy will be reviewed by the University's General Counsel and updated from time to time.
- b) The procedures under this Policy will also be reviewed by the University's General Counsel from time to time to ensure they are effective and consistent with the purpose of the Policy and the commitment of the University.

9. Separation of Responsibilities of Whistleblower Protection Officer and Whistleblower Investigation Officer

- a) The Whistleblower Protection Officer is responsible for safeguarding the interests of Whistleblowers under this Policy and in accordance with the Act.
- b) The Whistleblower Investigation Officer is responsible for conducting preliminary investigations into the conduct which is the subject of the disclosure.
- c) The roles of the Whistleblower Protection Officer and the Whistleblower Investigation Officer are separate and will not be performed by the same person.
- d) The Whistleblower Protection Officer is the current [Dean of Adelaide Law School](#).

DEFINITIONS

"the Act" means the [Whistleblower Protection Act 1993 \(SA\)](#).

"Appropriate Authority" means a Minister of the Crown, a member of the Police Force, the Auditor-General or the Ombudsman.

"Authorised Disclosure Officer" means any one of the following, each of whom is authorised to receive disclosures of wrongdoing on the University's behalf:

- the Whistleblower Protection Officer;
- the Chief Operating Officer and Vice-President Services and Resources of the University; or
- the Executive Dean of any Faculty within the University.

"Controlled Entity" means the University's Controlled Entities from time to time as that term is defined in Section 50AA of the *Corporations Act 2001* (Cth).

"ICAC Act" means the [Independent Commissioner Against Corruption Act 2012 \(SA\)](#).

"Maladministration" is defined by the Act to include conduct by a public officer in performing an official function that shows impropriety or negligence.

"Public Interest Information" is defined by the Act may include, but is not limited to, information that tends to show that the University or any University Personnel is or has been engaged in:

- illegal activity;
- an irregular and unauthorised use of public money;
- substantial mismanagement of public resources;
- conduct that causes substantial risk to public health or safety, or to the environment;
- or
- Maladministration in relation to the performance of official functions.

"Reportable Conduct" may include, but is not limited to, the conduct defined in Section 5 of the [Independent Commissioner Against Corruption Act 2012 \(SA\)](#).

"University Personnel" means any officer or employee of the University or any contractor engaged on any basis by the University.

"Victimisation" means when a person causes detriment (including injury, damage, loss, intimidation, harassment, discrimination, disadvantage, adverse treatment regarding employment or threats of reprisal) to another on the ground, or substantially on the ground, that the other person or a third person has made or intends to make an appropriate disclosure of wrongdoing.

"Whistleblower" means any person (including but not limited to University Personnel, students, volunteers and visitors) who makes, or attempts to make, appropriate disclosure of wrongdoing (in which they are not involved) and wishes to avail themselves of protection against victimisation.

"Whistleblower Investigation Officer" means the person (or persons) appointed by the University to investigate the matters which are the subject of the disclosures made under this Policy.

"Whistleblower Protection Officer" means the Dean of the Law School of the University or such other person appointed by the University from time to time.

"wrongdoing" means conduct which in the view of a person acting in good faith is:

- Public Interest Information conduct;
- dishonest;

- fraudulent;
- corrupt;
- unethical (in breach of codes of conduct adopted by the University or generally);
- in breach of legislation or by-laws;
- other serious improper conduct;
- any other conduct which may cause financial or non-financial loss to the University or be otherwise detrimental to the interest of the University (including gross mis-management, serious and substantial waste or repeated instances of breach of administrative procedures).

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Related Legislation	Whistleblower Protection Act 1993 (SA) Independent Commissioner Against Corruption Act 2012 (SA)
Superseded Policies	
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Contact for queries about the Policy	General Counsel and Executive Director, Legal Services Tel: 8313 8113 or marc.davies@adelaide.edu.au