

Policy Redesign Project

All policies and procedures are being reviewed as part of this project. This document is pending review, but remains in effect until the review is carried out.

Whistleblower Statement and Procedures

Establishment:	Vice-Chancellor, 12 March 2009
Last Amended:	General Counsel, 14 October 2020
Nature of Amendment:	Change of Whistleblower Co-ordination Officer
Date Last Reviewed:	October 2018
Responsible Officer:	General Counsel

1. Aims and objectives

By having effective procedures for receiving and investigating disclosures of reportable conduct from whistleblowers, the University aims to:

- encourage openness, transparency and accountability at all levels of the University;
- deter incidences of misconduct and achieve more effective administration and management, including fiscal management, through the reporting of, for example, waste, or mismanagement of funds;
- have a healthier and safer work environment, through reporting of unsafe practices; and
- achieve good corporate governance and more effective legislative compliance.

The University is committed to taking all reasonable steps aimed at:

- (i) keeping the identity of whistleblowers and persons who are the subject of whistleblower disclosures confidential; and
- (ii) respecting and protecting both whistleblowers and persons who are the subject of whistleblower disclosures from victimisation.

2. Legislative Context

The *Public Interest Disclosure Act 2018 (SA)* provides certain protections to people who make appropriate disclosures of information that is in the public interest.

The Independent Commissioner Against Corruption ('the Commissioner') has been established in South Australia in accordance with the *Independent Commissioner Against Corruption Act 2012* (the ICAC Act) to identify and investigate corruption in public administration, and prevent or minimise corruption, misconduct

and maladministration in public administration.

3. Scope

All members of the University community, including officers, employees, students, contractors, volunteers and visitors should report conduct that is against the University's or the public interest and will receive protection as whistleblowers in accordance with these procedures.

The intent of the ICAC Act is to treat the University as a Public Authority and all officers, contractors and employees of the University as public officers within the meaning of the Act. This means that the University and all officers, contractors and employees, of the University have an obligation to report corruption, or misconduct or maladministration that is serious or systemic to the Office for Public Integrity if they become aware of it.

The following procedures apply to handling disclosures of information that:

- (i) meet the definition of reportable conduct (see 4. Definitions); and
- (ii) where the person disclosing the information wishes to avail themselves of protection against victimisation for making, or attempting to make, the disclosure ('whistleblower status').

Where whistleblower status is not sought by the complainant, one of the University's other procedures for reporting and handling staff or student grievances and complaints of misconduct will apply.

4. Definitions

Office of Public Integrity (OPI) is responsible to the ICAC Commissioner. The OPI receives complaints and reports about corruption, misconduct and maladministration in public administration, and assesses those matters. Following assessment of a complaint or report the OPI will make a recommendation to the Commissioner about what action should be taken.

Reportable conduct as defined under Australian Standard AS 8004-2003 Whistleblower Protection Programs for Entities means conduct by a person or persons connected with the University, which, in the view of a person acting in good faith, is:

- (a) dishonest;
- (b) fraudulent;
- (c) corrupt;
- (d) illegal (including theft, drug sale/use; violence or threatened violence and criminal damage against property);
- (e) in breach of Commonwealth or state legislation or local authority by-laws;
- (f) unethical (either representing a breach of codes of conduct adopted by the University or generally);
- (g) other serious improper conduct;
- (h) an unsafe work-practice; or
- (i) any other conduct which may cause financial or non-financial loss to the University or be otherwise detrimental to the interests of the University, including gross mismanagement. It includes corruption, misconduct or maladministration in public administration as defined in the *ICAC Act*.

Victimisation within the meaning of this Statement and Procedures includes injury, damage or loss, intimidation or harassment, discrimination, disadvantage or adverse treatment in relation to a person's employment, or threats of reprisal.

Whistleblower means an adult person who, in good faith and whether anonymously or not, makes, attempts to make, or wishes to make a disclosure in connection with reportable conduct and wishes to avail themselves of protection against victimisation for having made the report.

5. Whistleblower contact points

5.1 Where a person is seeking to disclose reportable conduct information and wishes to avail themselves of protection against victimisation, the person may inform the University through the Independent Whistleblower Management Service, in writing, via a secure web-based disclosure form. Refer to Annexure A for contact details and important information for whistleblowers.

Disclosures may be made anonymously.

A confidential report of disclosures made in accordance with this clause will be referred to the Whistleblower Coordination Officer for assessment by the University.

5.2 Disclosure of reportable conduct information by a whistleblower may also be made to a Minister of the Crown, a member of the police force, the Auditor-General or to the Ombudsman.

5.3 Disclosure of reportable conduct information by whistleblowers who are University officers, employees and contractors must be made to the Office of Public Integrity at www.icac.sa.gov.au if the disclosure relates to corruption, or misconduct or maladministration that is serious or systemic in accordance with *ICAC's Directions and Guidelines for Public Sector Authorities and Public Officers*.

6. Complaints of breach of confidentiality or victimisation in connection with a whistleblower's disclosure

6.1 Complaints about a breach of confidentiality or victimisation in connection with a whistleblower's disclosure, or attempted disclosure of reportable conduct, may be lodged through the Independent Whistleblower Management Service, or directed to the Whistleblower Coordination Officer (Refer to Annexure A for contact details).

6.2 Complaints of breaches of confidentiality or victimisation in connection with a whistleblower's disclosure will be investigated by the University as a separate matter in accordance with principles of natural justice and following any relevant University disciplinary policy and procedures.

6.3 A whistleblower, or the subject of a whistleblower's disclosure, who considers that he or she is the subject of victimisation is entitled to seek independent legal advice or contact the Equal Opportunity Commission.

7. Investigation by the University

7.1 To avoid potential conflicts of interest, the supervisor of a person who is the subject of a whistleblower disclosure will be excluded from the assessment and investigation of the matter.

7.2 In accordance with principles of natural justice, person(s) who are the subject of a disclosure of reportable conduct by a whistleblower will be informed of the allegation(s) against them and given the right to respond.

7.3 Whistleblowers will receive feedback as to the progress and outcome of any investigation.

7.4 Where an investigation by the University shows that a University staff member or student purporting to be a whistleblower has made a false report of reportable conduct knowing it to be false or being reckless about whether it is false, the person concerned will be subject to disciplinary action in accordance with the University's disciplinary procedures.

8. Protection of Whistleblowers - Roles and Responsibilities

8.1 It is the responsibility of the Whistleblower Coordination Officer to:

(i) provide general and impartial advice about this Statement and Procedures for any person seeking whistleblower status;

(ii) receive and keep confidential all information and reports in relation to whistleblower concerns,

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- (iii) assess whether the disclosure is reportable conduct information and if there is a reasonable suspicion of corruption, or misconduct or maladministration that is serious or systemic, report the matter to the Office of Public Integrity at www.icac.sa.gov.au;
 - (iv) refer disclosures of reportable conduct information for investigation in accordance with an appropriate University policy and procedure;
 - (v) receive and keep confidential all information and reports in relation to complaints of breach of confidentiality or victimisation in connection with whistleblower disclosures and refer complaints for investigation in accordance with an appropriate University disciplinary policy and procedure;
 - (vi) refer the matter to an appropriate University officer for response, where a disclosure is assessed not to be reportable conduct information;
 - (vii) ensure the identity of the whistleblower and the identity of the person(s) to whom a whistleblower's disclosure relates are not divulged without consent, except so far as may be necessary to ensure that the matters to which the information relates are properly assessed and investigated;
 - (viii) liaise with the Director, People and Culture, or other relevant University officer, as necessary, to appoint an officer responsible for supporting the whistleblower and attending to matters relating to the whistleblower's welfare and protection;
 - (ix) make arrangements, wherever practicable, for the whistleblower to be informed of the progress and outcome of the University's investigation into the matters to which their disclosure relates, subject to considerations of privacy of the persons who are the subjects of a whistleblower disclosure and customary practices of confidentiality within the University.

8.2 It is the responsibility of all persons connected with the University to:

- (i) report any workplace concerns or misconduct;
- (ii) protect and maintain the confidentiality of a person they know or suspect to be a whistleblower, or the subject of a whistleblower disclosure;
- (iii) refrain from any activity that is, or could be perceived to be, victimisation of a person they know or suspect to be a whistleblower, or the subject of a whistleblower disclosure.

9. Reporting

Instances of disclosures of conduct reported to the Office of Public Integrity and reportable conduct information and complaints of victimisation in connection with such disclosures, as well as the outcome of related investigations will be reported to Council.

10. Review

This Statement and Procedures has been drafted with reference to Australian Standard 8004-2003 Whistleblower Protection Programs for Entities, the aims and objectives of the *Public Interest Disclosure Act 2018 (SA)* and the *ICAC Act*, and will be periodically reviewed to take account of amendments to these Acts or any relevant new Commonwealth or State legislation.

Annexure A

Important information for whistleblowers

1. The following information and procedures apply only to persons who seek to report information to the University that meets the definition of reportable conduct and where the person making the report fears reprisal or victimisation for making the report ('whistleblower status'). Otherwise, one of the University's normal procedures for reporting staff or student grievances and complaints of misconduct should be followed.
2. If you are seeking whistleblower status/protection, you may disclose your information in writing, using the on-line Independent Whistleblower Management Service.
3. You have the right to disclose your information anonymously. If you make your identity known, it will not be divulged without your consent, except so far as may be necessary for the University to properly investigate your information. The University will treat any breach of confidentiality as a serious disciplinary matter.
4. The person(s) to whom your information relates are entitled to be informed of the allegation(s) against them, to be given the right to respond and to have their identity kept confidential. This is in keeping with principles of natural justice.
5. Beyond disclosing your information, you are not obliged to assist the University with its investigation of your information. You would be obliged to assist an official investigating authority, such as the police.
6. You have the right to request positive action by the University, at any time, to protect you if you are fearful of victimisation or reprisal, or fear that your anonymity cannot be maintained. For example, staff may request relocation to another work area, or leave of absence during an investigation; or a student may request that an academic who is the subject of their disclosure not mark any of that student's work.
7. If you report that you are being victimised as a consequence of disclosing your information, the University will investigate and deal with the matter under one of its disciplinary policies and procedures. You are entitled to also seek independent legal advice or contact the Equal Opportunity Commission.
8. You must believe on reasonable grounds that your information is true, or that it may be true and is of sufficient significance to justify reporting it so that its truth may be investigated.
9. You have the right to be informed at regular intervals of the progress and outcome of the University's investigation into the matters to which your information relates.
10. If you report your information anonymously, you are encouraged to contact the Whistleblower Co-ordination Officer or Independent Whistleblower Management Service at regular intervals, in case any issue requires clarification and so that you can be informed about the progress of the investigation into your information.

Independent Whistleblower Management Service

Contact our independent service provider

Your-Call

to register your concerns

Make a secure disclosure at <https://www.yourcall.com.au/report>
Enter Flinders University Organisation ID: FUSA1966

Whistleblower Co-ordination Officer

General Counsel and University Secretary

Address:

Flinders University
GPO Box 2100
Adelaide 2001

Telephone:(08) 8201 2887

Email: david.lim@flinders.edu.au