

INTERNATIONAL NEEDS AUSTRALIA

Board of Directors Policy

Title: 1.8 Whistle-blower Policy

See also 2.21 Fraud Prevention and Awareness Policy

Date of Adoption: 27th March 2013

Amended 3rd June 2017

Amended 28th August 2019

This policy is to be reviewed no later than 28th August 2021

Purpose

The purpose of this policy is to:

- help detect and address wrongdoing and protect employees and partner employees who report (anonymously or not) actual or suspected wrongdoing.
- help provide INA and partner employees, volunteers, donors and contractors with a supportive work environment in which they feel able to raise issues of legitimate concern to them and to INA.
- provide suitable avenues for reporting of matters that may cause loss to INA, the projects it supports or damage INA's reputation.
- assist in ensuring that matters of wrongdoing or unethical behaviour are identified and dealt with appropriately.
- demonstrate INA's commitment to a fair workplace with a culture of integrity, transparency and accountability.

Scope

This policy applies to current or former employees, volunteers, contractors and overseas partners of INA in relation to reports concerning wrongdoing, or family members of those listed here. This policy must not be used for trivial or vexatious matters (being matters that the reporter knows, or ought to know have no substance).

This policy is not intended to replace other reporting structures such as those for dispute resolution, grievances, equal opportunity, discrimination, harassment or bullying except where the issue is of a serious matter and where existing reporting systems have failed to or are inappropriate to process the issue in an appropriate, fair and unbiased manner.

This policy does not apply to a disclosure which is solely about a personal work-related grievance (e.g., a conflict with another employee, alleged bullying or discrimination, or a disciplinary or performance management process regarding your employment), where:

- the significant implications of the grievance for INA are all related to you; and
- the grievance does not concern actual or alleged conduct which is described in definitions below

This policy applies whether you are at work or engaged in any work-related activity. It is not restricted in its operation to work hours or your usual place of work. It applies at conferences, work functions, work related social events, and business trips.

Definitions

Whistleblowing is defined as:

"the disclosure by organisation members (former or current) of illegal, immoral or illegitimate practices under the control of their employers to persons that may be able to effect action"¹

¹ <https://www.aph.gov.au/binaries/library/pubs/rn/2004-05/05rn31.pdf>

Reportable Conduct is conduct which you have reasonable grounds to suspect is misconduct, or an improper state of affairs or circumstances, relating to INA or our business (including in relation to any of our officers and employees).

Reportable Conduct includes conduct which you have reasonable grounds to suspect indicates:

- that INA or its officer or employee has breached any law under the *Corporations Act 2001*, the *Australian Securities and Investments Commission Act 2001*, the *Banking Act 1959*, the *Financial Sector (Data Collection) Act 2001*, the *Insurance Act 1973*, the *Life Insurance Act 1995*, the *National Consumer Credit Protection Act 2009*, or the *Superannuation Industry (Supervision) Act 1993*;
- an offence against any other law of the Commonwealth of Australia that is punishable by imprisonment for a period of 12 months or more; or
- represents a danger to the public or the financial system.

By way of example only, Reportable Conduct may include misconduct or serious wrongdoing that you reasonably believe:

- is dishonest, illegal, fraudulent, corrupt or unsafe.
- is unethical, including any conduct that would breach our Code of Conduct.
- involves irregular use of company funds or practices (including misleading accounting or financial reporting practices).
- involves misuse of our business information.
- is damaging to our business or reputation.
- endangers the health and safety of any employee or member of the public; or poses a significant risk to the stability of the financial system.

Policy

INA is committed to the highest standards of legal, ethical and moral behaviour. It will not tolerate unethical, unlawful or undesirable conduct. INA recognises that the most common method of detecting fraud is by notification of the wrongdoing by its own staff or the staff of its partner agencies. This policy documents INA's commitment to maintaining an environment in which employees, donors, volunteers, the staff of partner agencies and contractors are able to report, without fear of retaliatory action, concerns about any serious instances of wrongdoing that they believe may be occurring in the name of INA or that of the projects it supports.

This policy complements normal reporting and communication channels within INA and provides an alternative means of reporting alleged or suspected wrongdoing where the usual channels appear to have failed or may be inappropriate.

How to report wrongdoing

Any Reportable Conduct should be reported as soon as a representative becomes aware of it.

INA has two Whistle-Blower Protection Officers: the CEO and the Board Chair.

In the first instance, you should report Reportable Conduct to the CEO who can be contacted on 03 8669 0604 or ceo@ina.org.au.

You may also report it to the Board Chair, at boardchair@ina.org.au.

Reports may also be made to an officer, senior manager or auditor of INA, who will be responsible to pass on that report to a Whistle-Blower Protection Officer.

You may also disclose Reportable Conduct to the Commonwealth Authority, the Australian Securities and Investments Commission (ASIC) or the Australian Prudential Regulation

Authority (APRA), or (for tax-related disclosures) the Tax Commissioner. You may disclose Reportable Conduct to a lawyer for the purpose of obtaining legal advice or representation.

Anyone who knowingly makes a false report of Reportable Conduct, or who otherwise fails to act honestly with reasonable belief in respect of the report may be subject to disciplinary action, including dismissal (in the case of employees).

Public interest and emergency disclosure

You must not disclose any Reportable Conduct to a member of parliament or a journalist, unless it is a 'public interest disclosure' or an 'emergency disclosure'.

To make a public interest disclosure, you must:

- have previously disclosed the Reportable Conduct to a Whistle-blower Protection Officer as specified above, and at least 90 days must have passed since that previous disclosure.
- after that 90-day period, give the regulator who received that previous disclosure, a written notice that:
 - includes sufficient information to identify your previous disclosure; and
 - states that you intend to make a public interest disclosure.
- not have reasonable grounds to believe that action is being, or has been, taken to address the matters relating to the previous disclosure.
- have reasonable grounds to believe that making a further disclosure to a member of parliament or journalist would be in the public interest; and
- disclose information to the member of parliament or a journalist only to the extent necessary to inform him or her of the Reportable Conduct.

To make an emergency disclosure, you must:

- have reasonable grounds to believe that the Reportable Conduct concerns a substantial and imminent danger to the health or safety of one or more persons or to the natural environment.
- have previously disclosed the Reportable Conduct to a Whistle-blower Protection Officer as specified above, and you must also subsequently give it a written notice that:
 - includes sufficient information to identify your previous disclosure; and
 - states that you intend to make an emergency disclosure; and
- disclose information to the member of parliament or a journalist only to the extent necessary to inform him or her of the substantial and imminent danger.

Investigation

The Whistle-blower Protection Officer is responsible for receiving and notifying the Whistle-Blower that the report has been received. The Whistle-Blower should not attempt to investigate any Reportable Conduct themselves.

The Whistle-blower Protection Officer will make a preliminary assessment of the report to determine whether the conduct warrants an investigation. They may then:

- conduct an internal investigation into the substance of the report; or
- appoint an external investigator to determine whether there is evidence to support the matters raised in the report.

The person leading the investigation will be known as the Whistle-Blower Investigation Officer.

The Whistle-blower Protection Officer is to ensure that the whistle-blower is kept informed of the outcomes of the inquiry or investigation, subject to the considerations of privacy of those against whom the allegations are made.

The whistle-blower may be asked to provide additional information to assist any assessment or investigation of your report, including a description of the facts and circumstances of the misconduct or improper state of affairs or circumstances.

The Whistle-blower Investigation Officer will be responsible for ensuring the proper conduct of the investigation. The investigation will not be conducted by a person who may be the subject of the investigation or has inappropriate links or connections (actual or perceived) to the person(s) or practice(s) under investigation.

Confidentiality of whistle-blowers

Reports may be made anonymously under this policy. Whistle-blowers reporting anonymously are encouraged to provide as much detail as possible to enable thorough investigation.

All information disclosed in a report, including the whistle-blower's identity (where they choose to disclose this), will remain confidential to the extent required by law. However, where necessary, their identity may be disclosed:

- to ASIC, APRA or the Australian Federal Police, or (for tax-related disclosures) to the Australian Taxation Office; and
- to a lawyer for the purpose of obtaining legal advice or representation.

In some circumstances, information that might lead to your identification may be disclosed to it is reasonably necessary for assessing or investigating your report. All reasonable steps will be taken to reduce the risk of identification.

If a report concerns alleged or suspected breach of laws, the recipient of a report under this policy must seek legal advice before disclosing any information at all relating to the report.

INA will also take reasonable precautions to store any records relating to a report of wrongdoing securely and to permit access by authorised persons only.

Unauthorised disclosure of information relating to a report, the identity of an INA employee/volunteer/contractor who has made a report of wrongdoing or information from which the identity of the reporting person could be inferred will be regarded seriously and may result in disciplinary action, which may include dismissal. Revealing the identity of a whistle-blower may be a civil offense and will be dealt with accordingly.

Protection of whistle-blowers

INA is responsible for protecting whistle-blowers against detriment or disadvantage as a result of making a report. Detriment includes (without limitation) any of the following:

- dismissal of an employee.
- injury of an employee in his or her employment.
- alteration of an employee's position or duties to his or her disadvantage.
- discrimination between an employee and other employees of the same employer.
- harassment or intimidation of a person.
- harm or injury to a person, including psychological harm.
- damage to a person's property.
- damage to a person's reputation.
- damage to a person's business or financial position.
- any other damage to a person.

Whistle-blowers will not be subject to disciplinary action by us as a result of reporting the Reportable Conduct, including where we are unable to find any evidence to support the conduct reported.

Whistle-blowers will not be forced to disclose their identity upon making a report, if Whistle-blowers have elected to make a report anonymously.

Other staff who suspect that an individual is a whistle-blower must not ask that individual whether they have made a report or take any steps to attempt to identify the whistle-blower. To the extent it is reasonable and practical to do so, we will monitor and manage the behaviour of any people who are involved in Whistle-blower's report.

We will take all reasonable precautions to ensure that Whistle-blowers (and Whistle-blowers colleagues and relatives) are not harmed, injured, intimidated, harassed, bullied or victimised by any of our employees, officers, contractors, suppliers, consultants and directors.

We will consider any reasonable requests for additional protections that Whistle-blowers may make, or we consider necessary for their protection (for example, transfer of duties or leave of absence during any investigation).

In some circumstances, certain protections may also apply at law to protect Whistle-blowers against civil or criminal litigation or disciplinary proceedings. For example, a court may order:

- Compensation to be paid personally by the individual engaging in the detrimental treatment.
- An injunction, on such terms as the court thinks appropriate, to prevent, stop or remedy the effects of the detrimental conduct.
- An apology be provided by the individual engaging in the detrimental treatment.

The Whistle-blower Protection Officer is to safeguard the interests of the whistle-blower during the investigation. The Whistle-blower Protection Officer has direct, unfettered access to independent financial, legal and operational advisers as required, and a direct line of reporting to the Board, as may be required.

Disclosers implicated in wrongdoing

Even though a person who makes a report may be implicated in the wrongdoing, that person must not be subjected to any actual or threatened retaliatory action or victimisation in reprisal for making a report under this policy.

However, making a report will not necessarily shield the discloser from the consequences flowing from involvement in the wrongdoing itself. A person's liability for their own conduct is not affected by their reporting of that conduct under this policy. However, in some circumstances, an admission may be a mitigating factor when considering disciplinary or other action.

Management of a person against whom a report is made

INA recognises that individuals against whom a report is made must also be supported during the handling and investigation of the report. INA takes reasonable steps to treat fairly the person who is the subject of a report, particularly during the assessment and investigation process.

Where a person is named by a whistle-blower as being suspected of possible wrongdoing, but preliminary inquiries determine that the suspicion is baseless or unfounded and that no formal investigation is warranted then the whistle-blower will be informed of this outcome and the matter laid to rest.

Where an investigation does not substantiate the report, the fact that the investigation has been carried out, the results of the investigation and the identity of the person who is the subject of the report must be handled confidentially.

The Whistleblowing Investigation Officer must ensure that the person who is the subject of any report that is investigated:

- is informed as to the substance of the allegations.
- is given the opportunity to answer the allegations before any investigation is finalised.
- is informed about the substance of any adverse comments that may be included in any report arising from the investigation before it is finalised; and
- has his/her defence set out fairly in any report?

Where the allegations in a report have been investigated and the person who is the subject of the report is aware of the allegations or the fact of the investigation, the Whistleblowing Investigation Officer must formally advise the person who is the subject of the disclosure of the outcome of the investigation.

INA will give its full support to a person who is the subject of a report where the allegations contained in a report are clearly wrong.

False reporting by a person purporting to be a whistle-blower

Where it is shown that a person purporting to be a whistle-blower has knowingly made a false report of wrongdoing, then that conduct itself will be considered a serious matter and that person may be subject to disciplinary action which may include dismissal.

Review of this Policy

INA's whistleblowing program under this policy must be reviewed at least every two years by the Board Finance Risk and Audit Committee. The review must address the efficacy of the whistleblowing program. In particular, within the constraints of confidentiality and any other legal restrictions, it must consider the fairness of the investigations undertaken, the actual consequences of making disclosures for people who have made reports and compliance with this policy generally.

AUSTRALIAN STANDARDS

This Policy has been drafted to comply with the following Australian standards:

- AS 8004–2003 (Whistle-blower Protection Programs for Entities)
- AS 8001–2008 (Fraud and Corruption Control).
- Enhancing Whistle-blower Protections Bill 2019 (Cmwth)