
Whistleblower Policy



Supporting women.
Defeating poverty.

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The PDF version of this document is the final, approved version.

1. Purpose of Policy

1.1. Policy statement

CARE Australia (CA) is committed to high standards of honesty, integrity and accountability. In line with our Values and Code of Conduct, we promote and support a culture of respect and ethical behaviour, corporate compliance and good governance.

CA encourages anyone who suspects illegal, unethical, corrupt, fraudulent or undesirable conduct by a CA Board Director, employee, volunteer, or intern, or anyone who has business dealings with CA, to report those concerns to CA.

CA provides a number of pathways for anyone to report misconduct, including employees, partners, participants in our programs and the wider community, in Australia or overseas. People can report concerns online, by phone, in person, or through community feedback mechanisms.

Each concern will be treated seriously and confidentially. CA will not tolerate any reprisal or intimidation of a person making a report on reasonable grounds, or participating in an investigation.

Anyone who has worked, or is working, for or with CA (in paid or unpaid capacity, employed or contracted, in Australia or overseas) and is aware of possible misconduct has a responsibility to report that information.

This policy outlines the specific provisions for whistleblowing reports made under Australian law. Disclosures that are not within the scope of this policy are still very much encouraged and will be managed according to other relevant policies.

1.2 Purpose of the policy

The purpose of this policy is to:

- Encourage the reporting of misconduct, by outlining protections in place for people who make a whistleblowing report on reasonable grounds
- Outline how reports of misconduct can be made, and how they will be handled

2. Scope

Anyone can and is encouraged to report misconduct. However, to be eligible for the legal protections outlined in this policy, a person must meet the following three criteria:

- be an eligible Whistleblower (see section 2.1)
- have reasonable grounds to suspect Misconduct in relation to CA (see section 3.1)
- report their concerns to CARE Line, an eligible recipient or certain other persons (see section 3.2.2).

Disclosures that do not meet the above three criteria will be managed according to other relevant policies, including the CARE International (CI) Fraud and Corruption Policy, the CI Safeguarding Policy, and the CA Child Protection Policy.

2.1 Who does this policy apply to?

Eligible Whistleblowers under this policy are current and former:

- Board Directors
- employees, volunteers and interns of CA
- individuals, organisations and their employees, who supply services or goods (whether paid or unpaid) to CA. This includes current and former contractors, and consultants, service providers and business partners.
- individuals who are associates of CA
- a relative, dependant or spouse of any of the above.

3. Policy details

3.1. What is Misconduct?

For a disclosure to be protected, the Whistleblower must have reasonable grounds to suspect that the information they are reporting is about one or more of the following:

- misconduct, which includes fraud, negligence, default, breach of trust, breach of duty, exploitation, harassment and abuse
- an improper state of affairs or circumstances, for example behaviour and practices that may cause harm
- activities that constitute an offence against, or a contravention of, the Corporations Act 2001, the Australian Securities and Investment Commission Act 2001, the Banking Act 1959, the Financial Sector (Collection of Data) Act 2001, the Insurance Act 1973, the Life Insurance Act 1995, the National Consumer Credit Protection Act 2009, the Superannuation Industry (Supervision) Act 1993 or any other law of the Commonwealth that is punishable by imprisonment for a period of 12 months or more
- activities that represent a danger to the public or the financial system
- activities that are prescribed by regulation

In this policy, these types of conduct are referred to as “**Misconduct**”. This includes for example conduct that is one or more of the following:

- dishonest, fraudulent, corrupt

- illegal, including criminal behaviour (e.g. theft, illicit drug sale/use, violence or threatened violence and criminal damage against property)
- unethical (either representing a breach of CA's Code of Conduct or a donor's code of conduct, or generally)
- in any way connected to abuse or exploitation of a child or an adult
- bullying, discrimination, harassment or other serious unacceptable behaviour
- likely to cause serious or substantial waste, misuse or mismanagement of resources
- likely to cause a significant risk to health and safety
- likely to cause substantial financial or non-financial loss
- a serious misuse of information, including use or disclosure of information obtained in the course of a staff member's employment for their own benefit or advantage
- an attempt to conceal, or delay disclosure of any of the above conduct.

A disclosure of Misconduct made under this policy is referred to as a **Whistleblower Report**.

A protected disclosure may involve a contravention of law. A protected disclosure will also include disclosures about significant risks to public safety or the stability of, or confidence in, the financial system, even where this does not involve a breach of law.

This policy does not apply to personal work-related grievances. A personal work-related grievance is one that has implications for a specific person or people and does not also have significant implications for CA. Grievances of this nature should be discussed with your Manager and/or the People and Culture team.

A personal work grievance may still qualify for whistleblower protections in certain circumstances. For example, where there is also an allegation of illegal activity of the organisation, or where the report includes information about Misconduct beyond an individual's circumstances that demonstrates a systemic issue, or if a Whistleblower is concerned about victimisation resulting from a protected disclosure under this policy.

This policy does not apply to complaints as defined in the CA Feedback and Complaints Policy, i.e. dissatisfaction about the standards of service, actions or lack of action by CA or its staff, partners or anybody directly involved in the delivery of our work that do not relate to misconduct. Complaints will be handled according to the CA Feedback and Complaints Policy.

3.2 Reporting Misconduct

3.2.1 Making a report

A Whistleblower may make a report verbally or in writing. Reports should include as much information and evidence as possible, including:

- name, job title, office site of the individual/s who is/are the subject of the report
- details of the alleged Misconduct to the extent known by the Whistleblower
- how the Whistleblower became aware of the issue
- possible witnesses
- any information that is or may be available to support the allegation (even if not accessible by the Whistleblower)

Whistleblowers are not required to identify themselves when making a Whistleblower Report but may choose to do so. A Whistleblower may for example choose to use CARELine which allows to report to an independent hotline anonymously, use an anonymised email address or a pseudonym for the purpose of their disclosure. Ideally, a Whistleblower who wishes to remain anonymous should maintain ongoing two-way communication with CA, so that follow-up questions can be asked.

3.2.2 Who to report to?

For a disclosure to qualify for protection under this policy, the Misconduct must be reported through one of the following channels:

- a. CARE Line (Ethicspoint platform)

Reports can be submitted on www.care.ethicspoint.com or by calling the hotline: 1800 572 052 from within Australia, or the country specific number listed on the CARE Line website linked to above.

Reports made through this channel are automatically forwarded to designated users, which are CA senior staff nominated by CA according to the category of misconduct reported. The Director Strategy & Enabling Services is always informed.

- b. an Eligible Recipient, which is one of the following:
 - a Board Director, the Company Secretary, the Chief Executive Officer or a CA executive director (being the Director of Strategy and Enabling Services, the Director of International Programs and Operations, or the Director of Fundraising and Marketing). These can all be reached:
 - by post to CARE Australia, Attention [insert role title], PO Box 372 Collins Street West, Melbourne VIC 8007 Australia (please mark letters as “Confidential”)
 - by phone on 1800 020 046 (the call will be forwarded to the relevant person)
 - by email to whistleblowing@care.org.au (noting that emails will be directed to the Director Strategy and Enabling Services)
 - a Country Director from a Country Office
 - CA’s external auditor as published in CA’s annual financial statements.

- the Australian Securities and Investments Commission (ASIC) through its online misconduct reporting form or by writing to ASIC
 - the Australian Tax Office through its online tip-off form, app, tip off hotline or by post. Refer to <https://www.ato.gov.au/general/gen/making-a-tip-off/>
 - any other Commonwealth body prescribed by regulation
 - the Whistleblower's lawyer.
- c. If a Whistleblower Report relates to a matter of public interest or an emergency, a Whistleblower may also be able to make a Whistleblower Report to a member of the Parliament of the Commonwealth, the Parliament of a State or the legislature of a Territory or to a journalist, provided that certain conditions are met. Information about these conditions is available at <https://asic.gov.au/about-asic/asic-investigations-and-enforcement/whistleblowing/whistleblower-rights-and-protections>. It is important that a Whistleblower understands these conditions before making a Whistleblower Report about a public interest or emergency situation, which includes having previously made a report to ASIC or the Australian Prudential Regulatory Authority (APRA), and for a public interest disclosure at least 90 days having passed since making the report to ASIC or APRA and you do not have reasonable grounds to believe that action to address your concerns is being or has been taken. A Whistleblower should also contact an independent legal advisor before making a Whistleblower Report about a public interest or emergency situation.

3.3 Investigation

3.3.1 Decision to investigate

When a report is received, the Director of Strategy and Enabling Services¹, in consultation with the CEO, relevant Executive Team member or Country Director where appropriate, will:

- determine whether the report is in scope of this policy (i.e. qualifies for protection under Australian law), and if so, whether there is enough information to enable an investigation to take place. CA may not be able to undertake an investigation if the Whistleblower cannot be contacted. If an investigation is not pursued, this decision will be communicated to the Whistleblower within 7 days of the decision, where there is a possibility to contact them.
- determine the appropriate investigation process, including:
 - the nature and scope of the investigation

¹ If the report relates to the Director of Strategy and Enabling Services, then the CEO will assume all of the Investigations responsibilities of the Director of Strategy and Enabling Services as outlined in this section. If the allegation involves the CEO, then the Board will assume all such responsibilities.

- who will conduct the investigation and whether that person should be external to CA. Investigations need to be independent of the Whistleblower, the individuals who are subject of the disclosure and the business unit involved.
- the nature of any technical, financial or legal advice that may be required
- a timeframe for the investigation.
- take all reasonable steps to ensure the identity of the Whistleblower and the person/s who is/are the subject of the Whistleblower Report are kept confidential.

3.3.2 Investigation process

The appointed investigator will conduct a fair and objective investigation, as quickly as possible, and according to the principles of natural justice and procedural fairness. They will aim to finalise the investigation within 4 weeks, subject to the nature of the disclosure. They will:

- review information provided to date and collate additional information.
- inform any person who is the subject of the report of the allegations made against them and provide them the opportunity to respond. This must be done before making any adverse finding against them, but CA may decide when is the most appropriate time, for example where there are concerns that an individual may destroy information, informing them at an early stage of the investigation may compromise it.
- keep records of and store all information gathered in the investigation in a secure location.
- take all reasonable steps to protect the identity of the Whistleblower.
- prepare a report as soon as is reasonably practical. The investigation report will contain:
 - findings of all relevant facts
 - determination as to whether the Whistleblower Report is proven, not proven or otherwise
 - recommendation/s as to follow up actions

The Whistleblower can choose to remain anonymous over the course of the investigation and after the investigation is finalised. They can refuse to answer questions that they feel could reveal their identity at any time, including during follow-up conversations.

Unless and until the allegation is proven, the person accused is entitled to a presumption of innocence and to be treated accordingly. However in some cases CA will take steps to prevent further harm, including but not limited to reallocation of duties, change of location or suspension of the alleged perpetrator pending an outcome of the investigation.

Where possible, and subject to privacy and confidentiality requirements, the Whistleblower will be kept informed of the status of the investigation by the Director of Strategy and

Enabling Services, or their delegate. The frequency and timeframe of those updates may vary depending on the nature of the disclosure.

3.3.3 Follow up

The investigator report will be provided to the Director of Strategy and Enabling Services or their delegate, who will inform the CEO, the Board and donor where appropriate. The Whistleblower's name will be redacted from the report and information contained within the report will be redacted in accordance with the identity protection section below at 3.4.1.

Where an investigation identifies a breach of the Code of Conduct or other internal policies, appropriate disciplinary action will be taken, up to and including termination or suspension of employment or engagement of the individual(s) involved in the Misconduct.

If the report finds that there has been a suspected or an actual breach of the law, the Director Strategy and Enabling Services may refer the matter to the relevant legal authority.

The method of documenting and reporting the findings may vary depending on the nature of the disclosure. As a general rule, a Whistleblower will be informed of the results of an investigation as soon as the investigation is finalised and acted upon. However, in some circumstances, privacy, confidentiality or other constraints may limit the feedback that can be provided.

3.4 Protections for Whistleblowers

The Corporations Act gives special protection to disclosures about certain types of Misconduct which are made in accordance with the requirements of the Corporations Act. This policy is designed to comply with the requirements of the Corporations Act and to ensure that the protections available in the Corporations Act are afforded to Whistleblowers who make a disclosure which qualifies for protection under the Corporations Act.

The following protections are only available to Whistleblowers who meet the three criteria outlined in section 2. These protections are available to Whistleblowers even if the disclosure turns out to be incorrect, and irrespective of their decision to remain anonymous.

3.4.1 Identity protection

CA has a legal obligation to protect the confidentiality of a Whistleblower's identity. CA will not disclose personal or sensitive information in relation to a disclosure or the identity of a Whistleblower unless it is consented to by the Whistleblower or it is reasonably necessary for an investigation. The Whistleblower is also bound by confidentiality. CA will take practical steps to protect the confidentiality of a Whistleblower's identity, which may include:

- redacting personal information or references to a Whistleblower witnessing an event;
- reminding individuals of confidentiality requirements when handling a Whistleblower Report.

However, in some instances, a Whistleblower's identity may be revealed:

- where the Whistleblower has informed other persons of their intention to make a disclosure, or the fact they have made a disclosure.
- the investigation leads to charges being made in court.
- the nature of the allegations is such that the identity of the Whistleblower can be deduced from the disclosure made.

It is unlawful for any person to identify a Whistleblower, or disclose information that is likely to lead to the identification of a Whistleblower. Release of this kind of information in breach of this policy, will be regarded as a serious matter and may be the subject of disciplinary action up to and including dismissal or termination of engagement. It may also, in some circumstances, be an offence under the Corporations Act 2001.

If a Whistleblower believes their confidentiality has been breached, they may lodge a report under the processes described in section 3.2 above. A Whistleblower may also lodge a complaint with a regulator such as ASIC or APRA for investigation, or seek independent legal advice.

3.4.2 Protection from detriment

CA is committed to protecting and respecting the rights of Whistleblowers and will not tolerate any form of retaliatory action or threats of retaliatory action against anyone who has made or who is believed to have made a Whistleblower Report.

Examples of detrimental conduct include dismissal from employment, discrimination, harassment, intimidation, harm or injury, damage to property or reputation (but does not include action that is reasonable for the purpose of protecting a Whistleblower from detriment, or managing a Whistleblower's unsatisfactory work performance).

CA will assess the risk of detriment to the Whistleblower and take appropriate steps to protect them, which may include reassigning them to other duties or relocating them to another site.

CA takes all allegations of detrimental conduct seriously. If someone believes they are suffering from detriment, they should report it to the Head of People and Culture or to the person they made the disclosure to. Such behaviour will be treated as serious misconduct and may result in disciplinary action, up to and including dismissal.

Where a Whistleblower has made a report of detrimental conduct, CA will provide support in accordance with section 3.5 below. Whistleblowers who believe they are suffering detrimental conduct are encouraged to access the Employee Assistance Program.

3.4.3 Protection against legal action

An eligible Whistleblower who discloses misconduct in accordance with this policy is protected against certain legal actions in Australia related to making the disclosure, including:

- criminal prosecution (and the disclosure cannot be used against the Whistleblower in a prosecution, unless the disclosure is false)

- civil litigation (such as for breach of an employment contract, duty of confidentiality, or other contractual obligation)
- administrative action (including disciplinary action).

This protection does not grant a Whistleblower immunity for any misconduct that they were involved in that is revealed in the Whistleblowing Report, and CA has no power to provide immunity from criminal prosecution.

3.4.4 Compensation and remedies

A Whistleblower can seek compensation and other remedies through the courts if:

- they suffer loss, damage or injury because they made a Whistleblower Report
- CA failed to take reasonable precautions and exercise due diligence to prevent the detrimental conduct that led to their loss, damage or injury.

3.5 Support

Professional counselling support will be made available to all current officers, employees, volunteers, and interns involved through the Employee Assistance Program.

Where any person has made a Whistleblower Report and believes insufficient action has been taken, that person is encouraged to have initial follow-up with the Director Strategy and Enabling Services in the first instance. Should the person continue to believe that insufficient action has been taken, further follow up may also be directed to the Chief Executive Officer.

3.6 More information

If a person needs more information about this policy or about making a whistleblowing report, they should contact CA's Director Strategy and Enabling Services.

We encourage Whistleblowers to seek independent legal advice. In some instances, CARE Australia may provide assistance for Whistleblowers in obtaining legal advice. Disclosures to a legal practitioner for the purposes of obtaining legal advice or legal representation in relation to the operation of the whistleblower provisions are protected (even in the event that a disclosure does not relate to a 'disclosable matter').

4. Related Policies and Procedures

- CA Values and Code of Conduct
- CA Child Safeguarding Policy and Code of Conduct
- CI Safeguarding Policy: Protection from Sexual Harassment, Exploitation and Abuse, and Child Abuse
- CI Fraud and Corruption Policy
- CA Feedback and Complaints Policy
- CA HR Policy Manual

5. Supporting documents and references

Legislation

- *Corporations Act 2001* (Cth) - Part 9.4AAA
- ASIC Regulatory Guide 270 *Whistleblowers policies* (RG 270)

Other

- Department of Foreign Affairs and Trade (DFAT) Australian NGO Accreditation Guidance Manual (indicator A2.4)
- Australian Council for International Development (ACFID) Quality Assurance Framework (section 9.2.2)

6. Policy owner

This policy is owned by the Director of Strategy & Enabling Services and approved by the Board.

7. Implementation and communications

The policy will be available to officers and employees, volunteers and interns on CA's Google Drive. The policy will also be published on the website.

Information about misconduct and reporting will be included in induction and orientation (including orientation of partners). People in charge of handling reports will be trained in doing so.

8. Document control

- This version 3 is dated November 2023 and replaces the previous version dated December 2022.
- This policy is scheduled for review every 5 years or earlier if there is material change to whistleblower legislation.