



**Mining and
Automotive**
Skills Alliance

Whistleblower Policy

Version 2.0

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1. Purpose

The Mining and Automotive Skills Alliance (AUSMASA) recognises that any genuine commitment to detecting and preventing illegal and other undesirable conduct must include, as a fundamental cornerstone, a mechanism whereby employees and others can report their concerns freely and without fear of repercussion. This Whistleblower Policy supports AUSMASA's values by helping to deter wrongdoing and encourages disclosure of wrongdoings. The policy provides transparency around AUSMASA's framework for receiving, handling, and investigating disclosures.

2. Overview

AUSMASA is committed to the highest standards of conduct and ethical behaviour in all our business activities and to promoting and supporting a culture of honest and ethical behaviour, corporate compliance, and good corporate governance.

AUSMASA encourages the reporting of any instances of suspected unethical, illegal, fraudulent, or undesirable conduct, involving AUSMASA's operations and provides protections and measures so that those persons who make a report may do so confidentially and without fear of intimidation, disadvantage, or reprisal.

AUSMASA will ensure that this policy is available to AUSMASA employees and officers, and other persons wishing to use it, on its internal intranet and external website. AUSMASA will provide upfront and ongoing training relating to this policy and will support active and regular promotion of the Whistleblower Policy to demonstrate commitment to protecting and supporting disclosers and to identify and address wrongdoing promptly.

3. Audience

This policy applies to all persons eligible to make a disclosure to AUSMASA under the Corporations Act whistleblower provisions, including AUSMASA's current and former:

- Board of Directors
- Members of its committees and sub-committees
- Chief Executive Officer (CEO)
- Employees
- Officers, as defined in the Corporations Act (hereafter, officers)
- Contractors and sub-contractors
- Suppliers of goods or services, and their employees
- Associates

This policy also applies to a relative, dependant, or spouse, of an individual referred to above, or dependants of a spouse of an individual referred to above.

4. Policy

The *Corporations Act 2001* (Cth) (Corporations Act) provides protections to eligible whistleblowers, including where they make a disclosure of information relating to a disclosable matter, directly to an

eligible recipient, and in other circumstances as provided by the Corporations Act (see section 5 of this policy).

The *Tax Administration Act 1953* (Cth) (Tax Administration Act) may provide specific protections to whistleblowers on tax-related matters. You may wish to seek legal advice if you are considering making a disclosure under the provisions provided by the Tax Administration Act.

5. Corporations Act

5.1. Disclosures qualifying for protection

A disclosure of information by a whistleblower qualifies for protection under the Corporations Act if:

- the whistleblower is or has been:
 - (i) an officer or employee of AUSMASA
 - (ii) an individual who supplies goods or services to AUSMASA or an employee of an individual who supplies goods or services to AUSMASA
 - (iii) an individual who is an associate of AUSMASA, or
 - (iv) a relative, dependent, or dependent of the spouse of any individual referred to at (i) to (iii) above
- and**
- the disclosure is made to:
 - (i) an officer or senior manager of AUSMASA or a related body corporate
 - (ii) an auditor, or a member of the audit team conducting an audit, of AUSMASA or a related body corporate
 - (iii) an actuary of AUSMASA or a related body corporate
 - (iv) a person authorised by AUSMASA to receive disclosures that may qualify for protection under the Corporations Act Part 9.4AAA (see section 5.2)
 - (v) ASIC
 - (vi) APRA, or
 - (vii) another prescribed authority
- and**
- the whistleblower has reasonable grounds to suspect that the information being disclosed concerns misconduct, or an improper state of affairs or circumstances, in relation to AUSMASA or a related body corporate. This may include conduct that:
 - (i) is dishonest, fraudulent, or corrupt, including bribery or other activity in breach of AUSMASA's Anti-Bribery and Anti-Corruption Policy

- (ii) is illegal activity (such as theft, violence, harassment or intimidation, criminal damage to property, breach of competition and consumer law, breach of privacy law or other breaches of state or federal law)
- (iii) is unethical or in breach of AUSMASA's policies (such as dishonestly altering company records or data, adopting questionable accounting practices or wilfully breaching AUSMASA's Code of Conduct or other policies or procedures)
- (iv) is potentially damaging to AUSMASA, an AUSMASA employee or a third party, such as unsafe work practices, environmental damage, health risks or abuse of AUSMASA's property or resources
- (v) amounts to an abuse of authority or a conflict of interest
- (vi) may cause financial loss to AUSMASA or damage its reputation or be otherwise detrimental to AUSMASA's interests, or
- (vii) involves harassment, discrimination, victimisation or bullying, other than personal work-related grievances as defined in the Corporations Act

or

- the whistleblower has reasonable grounds to suspect that the information indicates that AUSMASA, or an officer or employee thereof, or a related body corporate of AUSMASA, or an officer or employee thereof, has engaged in conduct that would constitute an offence against any legislation or law of the Commonwealth or that represents a danger to the public or the financial system.

Examples of conduct that may amount to a breach of the Law include insider trading, insolvent trading, breach of the continuous disclosure rules, failure to keep accurate financial records, falsification of accounts, failure of a director or other officer of AUSMASA to act with the care and diligence that a reasonable person would exercise, or to act in good faith in the best interests of the corporation or failure of a director to give notice of any material personal interest in a matter relating to the affairs of AUSMASA.

A whistleblower may still qualify for protection under the Corporations Act even if their disclosure turns out to be factually incorrect.

A disclosure of information may also qualify for protection under the Corporations Act if it is made to a legal practitioner (see section 5.2 of this Policy).

5.2. Disclosures that do not qualify for protection

Disclosures that are not about disclosable matters, or otherwise do not meet the requirements for protection under the Corporations Act, do not qualify for protection under the Corporations Act. However, such disclosures may be protected under other legislation, such as the *Fair Work Act 2009 (Cth)*.

5.3. Personal work-related grievances

A disclosure of information may not qualify for protection under the Corporations Act if it solely concerns a personal work-related grievance that relates to a current or former employee's employment or engagement that has implications for only that person and does not have significant implications for AUSMASA or relate to any actual or alleged conduct about a disclosable matter.

Such matters should be raised directly with the employee's manager or through AUSMASA's grievance resolution processes. Examples include:

- an interpersonal conflict between the discloser and another employee
- a decision relating to the discloser's promotion or transfer
- a decision relating to the termination of employment of the discloser.

However, a disclosure about a personal work-related grievance may qualify for protection where the grievance relates to conduct that has been taken against a person because they made a disclosure under this policy.

You may wish to seek legal advice about a work-related grievance.

5.4. Who to make a disclosure to

AUSMASA has several channels for making a report if you become aware of any issue or behaviour that you would like to disclose. A disclosure can be made anonymously and still be protected under the Corporations Act.

To be protected by the Corporations Act a disclosure must be made to:

- an officer or senior manager of AUSMASA or a related body corporate
- an auditor, or a member of the audit team conducting an audit, of AUSMASA or a related body corporate
- an actuary of AUSMASA or a related body corporate
- a person authorised by AUSMASA to receive disclosures that may qualify for protection under the Corporations Act Part 9.4AAA (see below)
- ASIC
- APRA

A disclosure of information also qualifies for protection under the Corporations Act if it is made to a legal practitioner for the purpose of obtaining legal advice or legal representation in relation to the operation of the whistleblower provisions in the Corporations Act, even if the advice is to the effect that the disclosure does not relate to a disclosable matter.

A "public interest disclosure" or an "emergency disclosure," as defined in the Corporations Act, may be made to a journalist or a parliamentarian under certain circumstances and qualify for protection. The discloser may wish to seek independent legal advice before making such a disclosure.

5.5. Persons authorised by AUSMASA to receive disclosures

AUSMASA authorises its' CEO to receive disclosures that qualify for protection under the Corporations Act. AUSMASA encourages disclosures be made to the CEO, to allow AUSMASA to identify and address wrongdoing as early as possible. A disclosure can be made to the CEO in the following ways:

- in person

- via email at gavin.lind@ausmasa.org.au
- via mobile on 0417 620 760, or
- via post to the attention of “The CEO” at Level 2, Spaces Two MQ, 697 Collins Street, DOCKLANDS VIC 3008

AUSMASA also authorises the Chair of the Board, Nicky Firth, to receive disclosures that qualify for protection under the Corporations Act. AUSMASA encourages disclosures be made to the Chair of the Board if the disclosure relates to the CEO or a director of the AUSMASA Board. A disclosure can be made to the Chair of the Board in the following ways:

- in person
- via email at nicky.firth@outlook.com
- via mobile on 0418 178 672, or
- via post to the attention of “The Chair” at Level 2, Spaces Two MQ, 697 Collins Street, DOCKLANDS VIC 3008

All reports made under this policy must be made honestly, ethically and on reasonable grounds.

AUSMASA discourages the reporting of statements that the reporter knows to be untrue.

5.6. Protections under the Corporations Act

AUSMASA is committed to ensuring confidentiality in respect of all matters raised under this policy, and that those who make a report are treated fairly and do not suffer detriment. The protections given by the Corporations Act when a disclosure that qualifies for protection is made (in addition to those protections already outlined in this policy) are as follows:

- AUSMASA will provide protection from unfair dismissal
- the discloser will be provided with opportunity to seek a stop-bullying order from the Fair Work Commission if appropriate
- AUSMASA will provide protection to the discloser according to their obligations under Work Health and Safety legislation
- the discloser is not subject to any civil, criminal or administrative liability (including disciplinary action) for making the disclosure. However, the protections do not grant immunity for any misconduct a whistleblower has engaged in that is revealed in their disclosure
- no contractual or other remedy may be enforced, and no contractual or other right may be exercised, against the whistleblower for making the report
- in some circumstances, the reported information is not admissible against the whistleblower in criminal proceedings or in certain proceedings for the imposition of a penalty
- anyone who causes or threatens to cause detriment to a whistleblower or another person in the belief or suspicion that a report has been made, or may have been made, proposes to or could be made, may be guilty of an offence and may be liable to a court order

- a whistleblower's identity, and information that is likely to lead to their identification, cannot be disclosed to a Court or tribunal except where it is necessary to do so for the purposes of the Corporations Act Part 9.4AAA, or the court or tribunal thinks it necessary in the interests of justice to do so, and
- except where otherwise permitted by the Corporations Act, a person commits an offence if they disclose the whistleblower's identity, without their consent, to anyone except ASIC, APRA, the Australian Federal Police, or a lawyer for the purpose of obtaining legal advice or representation in relation to the whistleblower provisions in the Corporations Act.

6. Investigating a Whistleblower report

6.1. Process for Investigation

After receiving a disclosure from a whistleblower under this policy, and having regard to the confidentiality obligations at section 5.6 of this policy, the person receiving the disclosure will seek permission from the whistleblower to share their identity with the AUSMASA Whistleblower Officer. The AUSMASA Whistleblower Officer is an external agency [EAP Assist](#), and the person receiving the disclosure will report to the Whistleblower Officer on behalf of the whistleblower to assess the concerns and help seek redress. The AUSMASA Whistleblower Officer will, as soon as practicable, assess all disclosures notified to them under this policy and:

- determine whether the disclosure:
 - falls within the scope of this policy, or whether it is more appropriately managed under another AUSMASA policy or alternative workplace mediation
 - requires a factual investigation, and
 - is sufficiently serious to notify an external entity including a regulator or law enforcement agency.

Where the AUSMASA Whistleblower Officer determines the matter should be investigated, the investigation process will depend on the nature of the matter being investigated. AUSMASA may facilitate a factual investigation of the matter to be conducted under legal professional privilege to assist a legal practitioner to provide AUSMASA with legal advice. The object of an investigation into a disclosure is to determine whether there is enough evidence to substantiate or refute the matters reported.

Where the disclosure is investigated, the investigation will preserve the confidentiality of the whistleblower to the extent required by law.

An investigator appointed to investigate the disclosure will document the nature and scope of their investigation and findings in a report. AUSMASA will have regard to the report in determining any appropriate action.

AUSMASA will provide feedback, where appropriate, to the whistleblower regarding any actions being taken arising from their disclosure, and the progress and outcome of any investigation into their disclosure.

An employee who is the subject of a disclosure will be advised of:

- the subject matter of the disclosure as and when required by the principles of natural justice and procedural fairness, and prior to any actions being taken, for example, if the disclosure is to be the subject of an investigation, or if the disclosure is serious and needs to be referred to ASIC, APRA or the Australian Federal Police, and
- the outcome of any investigation into the disclosure (but they will not be provided with a copy of the investigation report).

6.2. Protection against detrimental conduct

Detrimental treatment includes dismissal, demotion, harassment, discrimination, disciplinary action, bias, threats or other unfavourable treatment connected with making a disclosure. If an employee is subjected to detrimental treatment as a result of making a disclosure under this policy, they should:

- inform a senior manager immediately; and/or
- raise it in accordance with Section 5.2 above.

Detrimental treatment does not include:

- administrative action that is reasonable for the purpose of protecting a discloser from detriment (e.g. moving a discloser who has made a disclosure about their immediate work area to another office to prevent them from detriment); and
- managing a discloser's unsatisfactory work performance, if the action is in line with AUSMASA's performance management framework.

6.3. Support for the Whistleblower

AUSMASA is committed to providing support to the discloser and protect them from detrimental effects by one or more of the following actions:

- Providing an external counselling service, EAP Assist eapassist.com.au, Helpline Number: 0407 086 000.
- Appointing an "employee support" person as a designated point of contact to assist whistleblowers at the request of the discloser
- Taking action against employees who engage in detrimental conduct against a whistleblower
- Assessing the risks of detrimental action being taken and developing a risk mitigation strategy.

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

- they suffer loss, damage or injury as a result of detrimental conduct because of a disclosure, and
- AUSMASA failed to take reasonable precautions and exercise due diligence to prevent the detrimental conduct.

A discloser may seek independent legal advice or contact regulatory bodies if they believe they have suffered detriment.

6.4. Protection of Whistleblower identity and confidentiality

AUSMASA is committed to protecting the identity of all person's making disclosures under this policy.

Where a disclosure received under this policy is:

- a protected disclosure under the Corporations Act, the confidentiality of a whistleblower's identity is protected under the whistleblower protection regimes in the Corporations Act, which include statutory sanctions and remedies where confidentiality is breached, or
- not a protected disclosure under the Corporations Act, including where the whistleblower is not an eligible whistleblower, AUSMASA will use its best endeavours to not disclose the identity of the whistleblower.

AUSMASA may disclose the identity of a whistleblower to:

- ASIC
- APRA
- a member of the Australian Federal Police
- a legal practitioner for the purpose of obtaining legal advice or legal representation in relation to the operation of the whistleblower provisions of the Corporations Act, or
- any other person where the whistleblower consents to the disclosure to that person

AUSMASA will take the following steps to ensure the confidentiality of an eligible whistleblower's identity where they make a report to an eligible recipient:

- the person receiving the disclosure will seek permission from the whistleblower to share their identity with the AUSMASA Whistleblower Officer, EAP Assist. Only persons who have been both authorised by the whistleblower and are directly involved in handling and investigating the disclosure will be made aware of the whistleblower's identity, or information that is likely to lead to the identification of the whistleblower
- where a whistleblower cannot be contacted, or does not give their permission to share their identity, or share their identity with particular persons involved in managing or investigating the disclosure, for instance with an appointed investigator, the person receiving the disclosure will disclose the information contained in the disclosure only if:
 - the information does not disclose the whistleblower's identity;
 - they have taken all reasonable steps to reduce the risk that the whistleblower will be identified from the information; and
 - it is reasonably necessary for investigating the issues raised in the disclosure.

Whistleblowers making a disclosure under this policy should be aware that people may be able to guess or establish their identity where they:

- have mentioned to other people they are considering making a disclosure

- have complained or raised concerns with other people about the subject matter of the disclosure
- are one of a very small number of people with access to the information the subject of the disclosure, or
- are disclosing information that has been told to them privately and in confidence.

A whistleblower can lodge a complaint about an alleged breach of the confidentiality of their identity with the AUSMASA Whistleblower Officer, EAP Assist.

6.5. Protection of files and records

All files and records created from an investigation will be retained securely.

AUSMASA's unauthorised release of information to someone not involved in the investigation (other than as permitted by the Corporations Act) without the consent of a whistleblower, may be considered a breach of this policy and the Corporations Act.

Whistleblowers are assured that a release of information in breach of this policy will be regarded as a serious matter and will be dealt with under AUSMASA's disciplinary procedures.

6.6. Duties of employees in relation to reportable conduct

It is expected that employees of AUSMASA who:

- become aware of information, the disclosure of which may be protected by the whistleblower provisions of the Corporations Act; or
- suspect, on reasonable grounds, that they possess information, the disclosure of which may be protected by the whistleblower provisions of the Corporations Act;

will make a report under this policy or under other applicable policies.

6.7. Confidentiality

If a report is made, the identity of the discloser must be kept confidential unless one of the following exceptions applies:

- the discloser consents to the disclosure of their identity
- disclosure of details that might reveal their identity is reasonably necessary for the effective investigation of the allegations
- the concern is reported to the Commissioner of Taxation or the AFP, or
- the concern is raised with a lawyer for the purpose obtaining legal advice or representation in relation to the operation of the whistleblower provisions of the Tax Administration Act.

7. Document History and Contact Details

Version

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Revision History

Revision date	Summary of amendments	Prepared by	Version
October 2023	Amended to reflect the Corporations Act more accurately and include a Whistleblower Officer. Removed section which summarised the Tax Administration Act.	Compliance Officer and consultancy firm AI Group.	2.0
May 2023	Amended to new brand template. Inclusion of policy availability on website and staff training	Manager Organisational Development	1.1

Contact details

Owner	AUSMASA Board, AUSMASA CEO
Contact officer	Company Secretary, admin@ausmasa.org.au