

# RAQ Policy: Whistleblower

## 1. Objectives

Relationships Australia Queensland (RAQ) Limited is committed to operating legally, properly, and ethically. Our Employees, Volunteers and Officers uphold RAQ's commitment to maintaining the highest level of professional, legal, proper, and ethical business standards, by reporting non-compliant, and/or fraudulent actions of others, with the intention of maintaining organisational integrity and transparency and/or improving practices.

The specific objectives of this Policy are to:

- a) Encourage the reporting of qualifying matters that may cause harm, damage and/or loss, including financial, reputational or accreditation loss, and providing a clear framework for making a report.
- b) Supplement RAQ's non-qualifying reporting procedures, e.g., grievance procedures or complaints related to discrimination, harassment, bullying and similar workplace issues.
- c) Enable RAQ to investigate reports from whistleblowers in a way that is sensitive and protects the identity of the parties involved.
- d) Ensure protection of whistleblowers against reprisal both internal and external to RAQ, and security of information provided.

## 2. Policy Statements

### 2.1 Reporting a Disclosure

#### 2.1.1 Internal whistleblower reports

1. Internal whistleblowers are encouraged to raise their concerns with any of the Senior or Executive Management Team (including Heads of, General Managers or the CEO) or with the Whistleblower Protection Officer (WPO) directly.
2. Whistleblowers may seek additional information before formally making a disclosure (e.g., by contacting the WPO or seeking independent legal advice).
3. Any RAQ representative who receives such a notification must not share details of the alleged event to anyone other than the WPO.

4. RAQ will take all reasonable attempts to ensure the identity of a whistleblower remains confidential throughout the investigation process unless:
  - the whistleblower consents to the disclosure of their identity
  - the disclosure of the whistleblower's identity is compelled by law
  - disclosure is necessary to prevent a serious threat to any person's health and safety, or
  - it is necessary to protect or enforce RAQ's legal rights or interest or to defend any claims.

### 2.1.2 Whistleblower reports

1. Whistleblowers are encouraged to raise their concerns via RAQ's website by using the feedback form or by contacting the Whistleblower Protection Officer directly on [whistleblower@raq.org.au](mailto:whistleblower@raq.org.au).
2. On receipt of such a report the receiving employee will forward the request to the Whistleblower Protection Officer email address as noted in this Policy.

## 2.2 Whistleblower protections

The following protections for 'qualifying' disclosures (see definitions) are:

### 2.2.1 Identity protection (confidential)

1. A person cannot disclose the identity of a whistleblower, or information that would likely lead to the identification of the whistleblower.
2. This means information that has been received either directly or indirectly because the whistleblower made a disclosure.

These disclosures must also qualify under the whistleblower protections.

### 2.2.2 Exceptions to disclosure of identity

- to ASIC, APRA, or a member of the Australian Federal Police (within the meaning of the Australian Federal Police Act 1979)
- to a legal practitioner (for the purposes of obtaining legal advice or legal representation about the whistleblower provisions in the Corporations Act);
- to a person or body prescribed by regulations; or
- with the consent of the whistleblower.

### 2.2.3 Outside of the exceptions

1. It is illegal for a person to identify a whistleblower or disclose information that is likely to lead to the identification of the whistleblower.

## 2.3 Whistleblower Complaint for Breach of Confidentiality

1. A whistleblower can lodge a complaint with RAQ about a breach of confidentiality.
2. A whistleblower may also lodge a complaint with a regulator, such as ASIC, APRA or the ATO, for investigation.

## 2.4 Protection from detrimental acts or omissions

1. A person cannot act in a way that would cause harm to a whistleblower (or another person), in relation to a disclosure, if:
  - the person believes or suspects that the whistleblower (or another person) either made, may have made, proposes to make, or could make a disclosure that qualifies for protection; and
  - the belief or suspicion is the reason, or part of the reason, for the conduct.
2. A person cannot make a threat to cause harm to a whistleblower (or another person) in relation to a disclosure. This includes threats which are expressed or implied, or conditional or unconditional. A threat is still valid even if the whistleblower, or another person who has been threatened in relation to a disclosure does not actually fear that the threat will be carried out.

***Please see appendices for examples of what is and what is not detrimental conduct.***

3. RAQ will ensure that a whistleblower understands the reasoning for any administrative or management action undertaken by RAQ.

### 2.4.1 Compensation and other remedies

1. A whistleblower (or any other employee or person) can seek compensation and other resolution through the courts if:
  - they suffer loss, damage, or injury because of a disclosure; and
  - RAQ failed to take reasonable precautions and exercise due diligence to prevent the detrimental conduct.

### 2.4.2 Civil, criminal, and administrative liability protection

1. A whistleblower is protected from any of the following in relation to their disclosure:
  - civil liability,
  - criminal liability, and
  - administrative liability.
2. These protections do not grant immunity for any misconduct a whistleblower has engaged in that is revealed in their disclosure.

***Please see appendices for further definitions of legal liability.***

3. The whistleblower protections apply to both internal disclosure and some external disclosures. External disclosures to legal practitioners, regulatory and other external bodies will fall under the protections. The whistleblower protections will also apply to an emergency disclosure and disclosure made in the public interest when these are made in accordance with the Corporations Act.
4. Where a report is non-qualifying as it relates to a personal work-related grievance, or an issue not covered by this Policy, employees should refer to the *Employee and Volunteer Grievance* Policy and Procedure for more options of support and guidance.
5. If a disclosure is made that includes deliberate false information that the reporter knows to be untrue, the whistleblower will be subject to consequences relating to their own liability in the matter.

## 2.5 Investigating disclosures

1. Investigations will follow the *Whistleblower Protection and Investigation* Procedure, be conducted in a manner that is timely, confidential and without bias, and observe the rules of natural justice and procedural fairness.
2. All reports will be investigated. Where the evidence substantiates a claim, a full investigation will be conducted.

## 3. Policy Scope

This Policy is applicable for all RAQ current and former employees, board members, contractors, volunteers, suppliers, officers, and their spouse, relative or dependent.

The areas that fall outside the scope of this Policy include:

- personal work-related grievances that do not result in breaches of employment or other laws (e.g., suspicion that a client process is not being followed). See definitions for further clarification.
- matters currently being dealt with or previously dealt with by an external complaint agency, tribunal, or Court.

## 4. Specific Responsibilities related to the policy

### 4.1 Whistleblowers

1. A whistleblower is encouraged to provide sufficient information to support an inquiry/investigation.
2. A whistleblower shall not be the subject of any actual or threatened retaliatory action or victimisation in reprisal for making the report.

3. Information contained in a disclosure can be shared with or without the whistleblower's consent if:

- the information does not include the whistleblower's identity;
- RAQ has 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.

***Please see appendices for further information on the grounds of suspicion that reporters need, in order to qualify for whistleblower protection.***

#### 4.2 RAQ Board

The Board hold responsibility for adopting and reviewing the Whistleblower Policy, and for nominating the organisation's Whistleblower Protection Officer (WPO).

#### 4.3 Heads of Department, Executive and CEO

Hold responsibility for:

- passing the report or disclosure information to the Whistleblower Protection Officer (WPO) as soon as practically possible,
- actively engaging in an investigation of an event, as and if directed by the WPO only, and maintaining strict confidentiality during the process.

#### 4.4 Whistleblower Protection Officer (WPO)

The responsibilities specific to this role are outlined in detail in the *Whistleblower Protection and Investigation* Procedure located on the DMS.

#### 4.5 Whistleblower Investigation Officer (WIO)

The responsibilities specific to this role are outlined in detail in the *Whistleblower Protection and Investigation* Procedure located on the DMS.

1. The Whistleblower Investigation Officer is the Investigator for a reported event, unless determined otherwise by the Whistleblower Protection Officer. In such instances the Whistleblower Protection Officer will identify a more appropriate person.
2. The Investigator may be internal or external to RAQ.

#### 4.6 Employees

All RAQ employees, volunteers and contractors are:

1. Encouraged to report breaches of general law, organisational policy, or generally recognised principles of ethics to a person authorised to act on such breaches; and

2. Responsible for escalating any report made to them, to the required person authorised to act on such breaches.

## 5. Applicable Standards

Standard	Clause
ISO9001:2015 Quality Management System	5 Leadership, 9 Operations, 10 Improvement
ISO 10002:2014 Guidelines for complaint handling in organisations	Best Practice International Standard
Human Services Quality Standards	5 Feedback, Complaints and Appeals

## 6. Relevant Legislation

Document	Relationship
Treasury Laws Amendment (Enhancing Whistleblower Protections) Act 2019	New laws included to protect whistleblowers in companies, and ASIC registered not for profits and charities.
Corporations Act 2001 (Cth)	Amended whistleblower protection provisions included in part 9.4 AAA on the Federal Register of Legislation.

## 7. Policy Definitions

Word/Term	Definition
<i>Reportable Conduct (as defined by the ACNC)</i>	<p>Conduct by RAQ or an officer or employee of the charity that represents misconduct, an improper state of affairs or circumstances, or breach of the law. This can include but is not limited to conduct that:</p> <ul style="list-style-type: none"> <li>• breaches legislation, regulation or local government by-laws or is otherwise illegal (including whistleblower laws, the Corporations Act, the ASIC Act)</li> <li>• constitutes an offence against another Commonwealth law that is punishable by imprisonment for 12 months or more</li> <li>• represents a danger to the public, the environment or is detrimental financially to RAQ</li> <li>• is prescribed by the Regulations and defined by the ACNC.</li> </ul>
<i>Misconduct (as defined by ASIC and relative to RAQ)</i>	<p>Misconduct includes, but is not limited to, the following types of wrongdoing (where relevant to its business operations and practices):</p> <ul style="list-style-type: none"> <li>• illegal conduct, such as theft, dealing in, or use of illicit drugs, violence or threatened violence, and criminal damage against property;</li> <li>• fraud, money laundering or misappropriation of funds;</li> <li>• offering or accepting a bribe;</li> <li>• financial irregularities;</li> <li>• failure to comply with, or breach of, legal or regulatory requirements; and</li> <li>• engaging in or threatening to engage in detrimental conduct against a person who has made a disclosure or is believed</li> </ul>

or suspected to have made, or be planning to make, a disclosure.

*Eligible Whistleblower (as defined by the ACNC)*

Under the Whistleblower protection legislation, an eligible Whistleblower can be someone who is or was:

- an officer or employee of the charity
- an individual or an employee of a person that supplies services or goods to the entity (including volunteers)
- an individual who is an associate of the entity
- a relative or dependent of any of the above, or a dependent of the spouse of any of the above
- an individual prescribed by the Regulations as being an eligible whistleblower

*Qualifying Whistleblower Protection*

An eligible Whistleblower can remain anonymous and still qualify for protection.

Disclosures that relate solely to personal work-related grievances, and that do not relate to detriment or threat of detriment to the Whistleblower, do not qualify for protection under the Corporations Act.

**See Appendices for examples.**

*Reprisal*

Any retaliative response from individuals or the organisation, in response to the action of an informant.

Where an action may create a state of harm or damage or have a negative impact.

*Detrimental Conduct*

Conduct, or a threat to engage in conduct, that causes detriment to a discloser. Please see appendices for examples of what is and is not detrimental conduct.

*Disclosure*

A disclosure of information relating to wrongdoing or a disclosable matter.

*Internal Disclosure*

A disclosure of information relating to wrongdoing or a disclosable matter, where the information has been disclosed to a person within the RAQ organisation.

*External Disclosure*

A disclosure of information relating to wrongdoing or a disclosable matter, where the information has been disclosed to a person, external body, or entity outside of the RAQ organisation.

*Reasonable Grounds*

Is based on enough credible evidence that would lead a person with ordinary and prudent judgement, to the belief that the informant holds.

*Natural Justice & Procedural Fairness*

The right to be made aware of, and respond to, information which will be used in the course of a decision that will negatively affect the person.

*Whistleblower Investigations Officer*

A person or persons who has responsibility for conducting preliminary investigations into reports received from a whistleblower, via the Whistleblower Protection Officer.

*Whistleblower Protection Officer (WPO)*

A person who receives all whistleblower reports, provides a governance function in relation to the investigation and who has responsibility for supporting the whistleblower to ensure protection from reprisal.

*Investigator*

A person who may or may not be the Whistleblower Investigation Officer, and who is responsible for the full Investigation of the reported event once it has been determined as founded and requiring further investigation.

## 8. Associated Documents

Document	Relationship
Complaints and Feedback Management Policy	Defines a complaint and required management process vs a whistleblower notification
Fraud Prevention and Control Policy	Communicates RAQ's zero tolerance approach to fraud and sets out the framework detecting and preventing fraud and corruption
Privacy Policy	Maintaining confidentiality and privacy including personal information
Code of Conduct	Defines RAQ's culturally and legally appropriate behaviour
Code of Ethics	Defines RAQ's ethics through its principles
Whistleblower Protection and Investigation Procedure	Outlines the process for effective Whistleblower protection and investigation.
Employee and Volunteer Grievance Policy and Procedure	

## 9. Policy Owner

<b>Policy Owner</b>	RAQ Board
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## 10. Version Control and Change History

Version No	Approval Date	Approved by	Amendment
V1.0	April 2020	Board	New draft document
V2.0	June 2020	Board	Minor updates to draft document
V3.0	July 2022	Board	Full overhaul of policy statements, additional clarification, and legislative information as proposed by CEO letter from AICD. Updated to new RAQ Policy Template.
V4.0	August 2023	Board	Updated Associated Documents to include reference to Procedure and two yearly review.



## APPENDIX A

### Additional Information

Due to the extensive amount of information and clarification specific to this Policy, we have moved extension information out of the body of the document and into this Appendices.

### Detrimental Conduct

#### 1.5 Examples of what is Detrimental Conduct:

- (a) dismissal of an employee;
  - (b) injury of an employee in his or her employment;
  - (c) alteration of an employee's position or duties to his or her disadvantage;
  - (d) discrimination between an employee and other employees of the same employer;
  - (e) harassment or intimidation of a person;
  - (f) harm or injury to a person, including psychological harm;
  - (g) damage to a person's property;
  - (h) damage to a person's reputation;
  - (i) damage to a person's business or financial position; or
  - (j) any other damage to a person.
- **Examples of Actions that are not Detrimental Conduct**
    - 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 the entity's performance management framework.

### Personal work-related grievances:

- are those that relate to the discloser's current or former organisation and have, or tend to have, implications for the discloser personally, but do not:
- Have any other significant implications for the entity (or another entity); or
- Relate to any conduct, or alleged conduct about a disclosable matter.

**Examples of personal work-related grievances include:**

- an interpersonal conflict between the discloser and another employee;
- a decision that does not involve a breach of workplace laws;
- a decision about the engagement, transfer, or promotion of the discloser;
- a decision about the terms and conditions of engagement of the discloser; or
- a decision to suspend or terminate the engagement of the discloser, or otherwise to discipline the discloser.

A personal work-related grievance may still qualify for protection if:

- it includes information about misconduct, or information about misconduct includes or is accompanied by a personal work-related grievance (mixed report);
- the entity has breached employment or other laws punishable by imprisonment for a period of 12 months or more, engaged in conduct that represents a danger to the public, or the disclosure relates to information that suggests misconduct beyond the discloser's personal circumstances;
- the whistleblower suffers from or is threatened with detriment for making a disclosure; or
- the whistleblower seeks legal advice or legal representation about the operation of the whistleblower protections under the Corporations Act.

**Legal Liability – further defined**

- (a) civil liability; (e.g., any legal action against the discloser for breach of an employment contract, duty of confidentiality or another contractual obligation)
- (b) criminal liability; (e.g., attempted prosecution of the discloser for unlawfully releasing information, or other use of the disclosure against the discloser in a prosecution (other than for making a false disclosure))
- (c) administrative liability; (e.g., disciplinary action for making the disclosure).

**Reasonable grounds to suspect – further defined**

While a person making a disclosure does not need to prove their allegations, an allegation with no supporting information is unlikely to be considered as having 'reasonable grounds to suspect'. A discloser with reasonable grounds to suspect will still qualify for protection, regardless of their motives for disclosing or their personal opinion of the person(s) involved.