

## WHISTLEBLOWER POLICY

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Drafted by	Andrew Hart	Approved by Board on	25 August 2018

### 1. INTRODUCTION

The Board of the Australian Institute of Training and Development (AITD) is committed to operating legally (in accordance with applicable legislation and regulation), properly (in accordance with organisational policy and procedures), and ethically (in accordance with recognised ethical principles). Associates are expected to cooperate with the organisation in maintaining legal, proper, and ethical operations, if necessary, by reporting non-compliant actions by other people. Correspondingly, associates who do assist in maintaining legal, proper, and ethical operations should not be penalised in any way for their reporting.

### 2. PURPOSE

The purpose of this policy is to:

- 2.1. encourage the reporting of matters that may cause harm to the aims and purposes of AITD, or to individuals, or financial or non-financial loss to the organisation, or damage to its reputation,
- 2.2. enable AITD to deal with reports from whistleblowers in a way that will protect the identity of the whistleblower and provide for the secure storage of the information provided,
- 2.3. establish the procedures for protecting whistleblowers against reprisal by any person internal or external to the organization,
- 2.4. provide for the appropriate infrastructure to deal with the report, including the secure storage of sensitive documentation, and
- 2.5. help to ensure AITD maintains the highest standards of ethical behaviour and integrity.

### 3. DEFINITIONS

- 3.1. A whistleblower is a person who, whether anonymously or not, makes, attempts to make or wishes to make a report in connection with reportable conduct, and wishes to avail themselves of protection against reprisal for having made the report.
- 3.2. Breaches of general law, AITD policy, or generally recognised principles of ethics include:
  - 3.2.1. corrupt conduct
  - 3.2.2. fraud or theft
  - 3.2.3. official misconduct

- 3.2.4. maladministration
  - 3.2.5. harassment or unlawful discrimination
  - 3.2.6. serious and substantial waste of resources
  - 3.2.7. practices endangering the health or safety of the staff, volunteers, or the general public
  - 3.2.8. practices endangering the environment.
- 3.3. Complaints regarding occupational health and safety should where possible be made through the organisation's occupational health and safety procedures.
- 3.4. An associate of AITD generally includes anyone who is working to achieve the aims and purposes of AITD, and can include (but not be limited to)
- 3.4.1. Staff members
  - 3.4.2. Contractors, both fixed and occasional
  - 3.4.3. Volunteers
  - 3.4.4. Members
  - 3.4.5. Council members
  - 3.4.6. Board members

## 4. POLICY

### **4.1. Reporting of concerns regarding illegal or corrupt behaviour and improper or unethical behaviour**

- 4.1.1. Where an associate of AITD believes in good faith, and on reasonable grounds, that any other person(s) has breached any provision of the general law, or any provision of the AITD's constitution, its bylaws, its policies, its code of conduct, or generally recognised principles of ethics, that associate must report their concern to
- 4.1.1.1. their supervisor: or,
  - 4.1.1.2. if they feel that their supervisor may be complicit in the breach, the CEO: or,
  - 4.1.1.3. if they feel that the CEO may be complicit in the breach, the National President of the AITD Board, or,
  - 4.1.1.4. a person or office independent of the organisation nominated by the organisation to receive such information, or
  - 4.1.1.5. to the auditors of AITD, as appointed by the Board from time to time (the auditors being appointed at the Annual General Meeting, the appointments being recorded in the minutes of the AGM and are publicly available on the AITD website): or,
  - 4.1.1.6. the duly constituted authorities responsible for the enforcement of the law in the relevant area.

- 4.1.2. Any such report should where possible be in writing and should contain, as appropriate, details of,
  - 4.1.2.1. the nature of the alleged breach,
  - 4.1.2.2. the person or persons responsible for the breach,
  - 4.1.2.3. the facts on which the complainants' belief that a breach has occurred, and has been committed by the person named, are founded,
  - 4.1.2.4. the nature and whereabouts of any further evidence that would substantiate the complainant's allegations, if known.
- 4.1.3. Evidence to support such concerns should be brought forward at this time if it exists. The absence of such evidence will be taken into account in subsequent consideration of whether to open an investigation into the matter. However, absence of such evidence is not an absolute bar to the activation of the organisation's investigative procedures. The existence of such a concern is sufficient to trigger reporting responsibilities.
- 4.1.4. The person making their concern known shall not suffer any sanctions from the organisation on account of their actions in this regard provided that their actions
  - 4.1.4.1. are in good faith, and
  - 4.1.4.2. are based on reasonable grounds with evidence of the non-compliant action(s), and
  - 4.1.4.3. conform to the designated procedures.
- 4.1.5. Any person within the AITD to whom such a disclosure is made shall conduct a preliminary investigation, observing the rules of natural justice and the provisions of procedural fairness, and update the reporting person at 4 weekly intervals on the progress of the process.
- 4.1.6. Complaints that are deemed to be unquestionably trivial, vindictive, or fanciful, and following concurring advice from a non-impacted Board member, are to be dismissed by the person to whom the complaint was made, and the relevant people notified, as outlined below.
- 4.1.7. If the actions or behaviours complained of are deemed to be substantive, the person the report is made to will ensure that the allegation is investigated further, a finding is made, and the relevant people notified, as outlined below.
- 4.1.8. All substantiated complaints are to be reported to the national Board of AITD by the person who has performed the investigation.
- 4.1.9. All notifications shall be made to the following relevant people:
  - 4.1.9.1. the person making the allegation; and
  - 4.1.9.2. the person whom the report is against; and

- 4.1.9.3. the chair of the governance committee; and
  - 4.1.9.4. The CEO of AITD, or if the CEO is believed to be complicit in the breach, or if the CEO has made the findings;
  - 4.1.9.5. to the National President of the AITD Board, or if the National President is believed to be complicit in the breach;
  - 4.1.9.6. to all other Board members.
- 4.1.10. Notifications to the relevant people shall include
- 4.1.10.1. A record of the original complaint, such as a transcript or diary note;
  - 4.1.10.2. Evidence and findings of any investigation conducted; and
  - 4.1.10.3. Actions taken following the investigation.
- 4.1.11. Where disclosures are made anonymously, this anonymity shall as far as possible be preserved by the organisation.
- 4.1.12. This policy does not authorise any employee to inform commercial media, social media or any other entity of their concern, and does not offer protection to any employee who does so unless it is not feasible for employees to report internally, or existing reporting channels have failed to deal with issues effectively.

## 4.2. Investigation

- 4.2.1. The CEO and/or National President or other Board Director (the Responsible Person) shall be responsible for ensuring that an investigation of the charges is established and adequately resourced.
- 4.2.2. The Responsible Person will establish terms of reference for the investigation to clarify the key issues to be investigated.
- 4.2.3. An investigation plan will be developed to ensure all relevant questions are addressed, the scale of the investigation is in proportion to the seriousness of the allegation(s) and sufficient resources are allocated, and ensure
  - 4.2.3.1. Strict security is maintained during the investigative process,
  - 4.2.3.2. All information obtained will be properly secured to prevent unauthorised access,
  - 4.2.3.3. All relevant witnesses will be interviewed and documents examined,
  - 4.2.3.4. Contemporaneous notes of all discussions, phone calls and interviews will be made, and
  - 4.2.3.5. Where possible, interviews will be recorded.

4.2.4. The principles of procedural fairness (natural justice) will be observed<sup>1</sup>. In particular, where adverse comment about a person is likely to be included in a report, the person affected will be given an opportunity to comment beforehand and any comments will be considered before the report is finalised.

4.2.5. The person or persons conducting the investigation shall be as far as possible unbiased.

### 4.3. Findings

4.3.1. A report will be prepared when an investigation is complete. This report will include

4.3.1.1. the allegations

4.3.1.2. a statement of all relevant findings of fact and the evidence relied upon in reaching any conclusions

4.3.1.3. the conclusions reached (including the damage caused, if any, and the impact on the organisation and other affected parties) and their basis

4.3.1.4. recommendations based on those conclusions to address any wrongdoing identified and any other matters arising during the investigation.

4.3.2. The report of findings will be provided to the person making the allegation with, if necessary, any applicable confidentiality stipulations.

## 5. PROTECTION OF INFORMANT

Where the investigation has found that the person making the allegation made it in good faith on reasonable grounds, the CEO shall be responsible for ensuring that the person suffers no employment-related or membership-related disadvantage on account of their actions in this matter and to provide additional support for the person where necessary.

## 6. RESPONSIBILITIES

6.1. The AITD Board is responsible for adopting this policy.

6.2. The AITD CEO is responsible for the implementation of this policy.

6.3. All associates are responsible for reporting breaches of legal, proper and ethical operations, including breaches of general law, organisational policy, or generally recognised principles of ethics to a person authorised under this policy to take action on such breaches.

6.4. Persons authorised under this policy to take action on reported breaches include

6.4.1. supervisors

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<sup>1</sup> Natural justice and procedural fairness do not require that the person affected be informed of the identity of the person making the initial disclosure, unless that communication constitutes part of the evidence relied upon in making the eventual finding.

- 6.4.2. Chief Executive Officer
- 6.4.3. the National President of the AITD Board
- 6.4.4. a person or office independent of the organisation nominated by the AITD Board
- 6.4.5. the auditors of AITD, as appointed by the Board from time to time (the auditors being appointed at the Annual General Meeting, the appointments being recorded in the minutes of the AGM, and are publicly available on the AITD website)
- 6.4.6. the duly constituted authorities responsible for the enforcement of the law in the relevant area.

## 7. RELEVANT LEGISLATION

- Australia** – Public Interest Disclosure Act 2013
- ACT** – Public Interest Disclosure Act 2012
- NSW** – Public Interest Disclosures Act 1994
- NT** – Public Interest Disclosure Act 2008
- Queensland** – Public Interest Disclosure Act 2010
- South Australia** – Whistleblowers Protection Act 1993
- Tasmania** – Public Interest Disclosures Act 2002
- Victoria** – Protected Disclosure Act 2012
- Western Australia** – Public Interest Disclosure Act 2003