

1. PURPOSE

- 1.1. Multiple Sclerosis Australia (MS Australia) fosters a culture of legal, ethical, and moral behaviour and exemplary corporate governance.
- 1.2. We recognise the value of transparency and accountability and support the reporting of serious wrongdoing, including unethical, illegal, corrupt, or other inappropriate conduct.
- 1.3. Whistleblowers are vital to any organisation's integrity and accountability measures, and a transparent whistleblower policy is essential for good risk management and corporate governance.
- 1.4. Whistleblowers are key in detecting misconduct and identifying, escalating, and addressing these concerns.
- 1.5. As part of MS Australia's positive duty to support and protect whistleblowers, this Policy describes how MS Australia ensures that those who raise concerns can do so without fear of intimidation, victimisation, detriment, retribution, or adverse consequences.
- 1.6. This Whistleblowing Policy and Guidelines (Policy) document sets out:
 - a) Protections available to whistleblowers
 - b) Criteria for a whistleblower to qualify for protections under the Corporations Act
 - c) The types of wrongdoing that can be reported ('disclosable matters') based on MS Australia's operations and practices and what legal matters will be covered within this Policy
 - d) What disclosures are not 'disclosable matters' and therefore do not qualify for protection
 - e) To whom disclosures that qualify for protection may be made (i.e., 'eligible recipients') and whom to contact to obtain information before making a disclosure
 - f) How to make a disclosure, including different options available and what levels of anonymity and confidentiality may exist
 - g) How MS Australia will support and protect whistleblowers
 - h) When we investigate disclosures that qualify for protection, how do we keep disclosers informed and how do we document findings
 - i) How MS Australia ensures fair treatment of its employees who are mentioned in disclosures that qualify for protection, or its employees who are the subject of disclosures
 - j) How the Policy is available to officers and employees and for those outside MS Australia (external website) and how we will ensure this Policy will be implemented, monitored and reviewed.

Approval authority: MSA GARI Committee	Next review: June 2026
Date approved: June 2023; Jan 2025	Key author: Company Secretary
Version: 2.0 FINAL	Policy Owner: Company Secretary

2. LEGISLATIVE CONTEXT

This Policy has been developed in consideration of the best available advice, and guidance and in compliance with key legislation:

Australian Charities and Not for Profits Commission Act 2012 (Cth)

Australian Federal Integrity Commission Bills 2022 (Cth)

Australian Securities and Investments Commission (ASIC) Act 2001 (Cth) including ASIC Corporations (Whistleblower Policies) Instrument 2019/1146 and Regulatory Guide 270 Whistleblower policies (RG270)

Corporations Act 2001 (Cth)

Fair Work Act 2009 (Cth)

National Anti-Corruption Commission Bill 2022 (Cth)

Privacy Act 1988 (Cth)

Public Interest Disclosure Act 2013 (Cth) including the various Public Disclosure or Public Interest Disclosure Acts within each State and Territory

Taxation Administration Act 1953 (Cth)

Treasury Laws Amendment (Enhancing Whistleblower Protections) Act 2019 (Cth)

3. WHO CAN ACCESS PROTECTION AS A WHISTLEBLOWER?

- 3.1. To encourage people to come forward with their concerns and to protect them when they do, the *Corporations Act* gives certain people legal rights and protections as **'whistleblowers.'**
- 3.2. A whistleblower is someone (the discloser) with inside knowledge of an organisation who reports misconduct or dishonest or illegal activity that may have occurred within an organisation.
- 3.3. The criteria for protection for whistleblowers aim to connect people with a company or organisation.
- 3.4. As a not-for-profit organisation or company, incorporated under a Commonwealth, state or territory law, registered with the Australian Securities and Investment Commission (ASIC) and the Australian Charities and Non-for-profit Commission (ACNC) as a charity, MS Australia is deemed a **'regulated entity.'**
- 3.5. An individual is an **'eligible whistleblower'** in relation to MS Australia, if the individual is, or has been, any of the following:
 - a) An employee
 - b) An officer (i.e., a director or company secretary)
 - c) An individual who is an associate of MS Australia (such as a volunteer or an employee of one of our Member Organisations)
 - d) An individual who supplies or has supplied goods or services to MS Australia

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such as a supplier, contractor, consultant, or service provider

- e) A trustee, custodian or investment manager of a superannuation entity, or an officer, employee, or a goods or service provider to a trustee, custodian, investment manager, or
- f) A relative, dependent or spouse of the individuals referred to above.

3.6. Whilst you must hold or have held one of these roles to access these protections, you do not have to identify yourself or your role, and you can raise your concerns anonymously.

3.7. As soon as a person who meets the criteria for an 'eligible whistleblower' makes a disclosure or report, they are automatically able to access whistleblower protections available under the *Corporations* and the *Tax Administration Act*.

4. WHAT PROTECTIONS EXIST FOR DISCLOSERS?

Identity protection and confidentiality

4.1. MS Australia has a legal obligation to protect the confidentiality of a discloser's identity when you are deemed a **'protected whistleblower.'** You are a protected whistleblower and entitled to protections under the *Corporations Act* (or if applicable under the *Taxation Administration Act*), if:

- a) You are an eligible whistleblower; and
- b) You have (or intend) to disclose a reportable or disclosable matter directly to an eligible recipient or another entity prescribed under the *Corporations Act*.

4.2. Except for the situations where disclosure is allowed (set out below), it is illegal to reveal the identity of a whistleblower or disclose information that is likely to lead to a whistleblower being identified (this includes the spouse or relatives of a whistleblower too). This includes not disclosing the whistleblower's identifying details to others, including to other eligible recipients.

4.3. The conduct that has been disclosed by the whistleblower should be investigated in a way that does not identify the whistleblower as the source of the information.

4.4. All personal information or references to the discloser witnessing an event will be redacted. The discloser will be referred to in a gender-neutral context and where possible, the discloser will be contacted to assist in identifying any other identifying aspects that might inadvertently identify them during the investigation process.

4.5. All disclosures within MS Australia will be managed by our Whistleblower Protection Officer (WPO) or the independent referral line (Integrity Line), who are trained in these mechanisms, including secure record-keeping and information sharing processes.

4.6. This includes restricted access to all information relating to the investigation and disclosure and applies to all communications and documentation.

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- 4.7. The law contains specific protections for disclosers in certain circumstances. This includes protecting the confidentiality of disclosers (both your identity and the information (**'disclosable matter'**) that is being shared).
- 4.8. Should you choose to remain anonymous while making a disclosure, over the course of the investigation and after the investigation is finalised, you can refuse to answer questions that they feel could reveal your identity at any time, during follow-up conversations.
- 4.9. A discloser who wishes to remain anonymous could still, if they wish, maintain ongoing two-way communication with MS Australia (or the external investigation agency), for the purpose of allowing follow-up questions or to give us a means to provide feedback.

Breaching confidentiality

- 4.10. The *Corporations Act* and *Tax Administration Act* make it illegal (through a criminal offence and a civil penalty) for someone to disclose the identity of a whistleblower, or information likely to lead to their identification.
- 4.11. The offence and penalty only apply if the not-for-profit organisation or its employees or officers make an **'unauthorised disclosure'** of the whistleblower's identity, or information likely to lead to their identification, that has been taken directly or indirectly from the whistleblower's disclosure.
- 4.12. The ASIC and Commissioner for Taxation have the power to investigate allegations that a person has made an unauthorised disclosure of a whistleblower's identity, or information likely to lead to their identification.
- 4.13. MS Australia could also be ordered to pay compensation to a whistleblower if they suffer loss, damage, or injury from detrimental conduct (harmful conduct) by someone within the company for making their report. Detrimental conduct includes damage to the whistleblower's reputation, which could result from a breach of their confidentiality.

Situations where disclosures are allowed

- 4.14. In some situations, disclosing a whistleblower's identity is allowed under law.
- 4.15. A whistleblower's identity may be disclosed if the disclosure is:
- a) to ASIC, Australian Prudential Regulation Authority (APRA), or the Australian Federal Police (AFP)
 - b) to a lawyer for advice about the disclosure
 - c) to a body prescribed by the Corporations Regulations, or
 - d) made with the whistleblower's consent.
- 4.16. If the organisation is disclosing the whistleblower's identity *with their consent*, this

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consent must be very clear, including any limits that might apply to the consent. If the consent is not clear, the organisation should clarify how the whistleblower wishes their identifying information to be treated as soon as practicable after receiving the whistleblower's report.

- 4.17. If someone makes a disclosure about a charity to ASIC, ASIC will recommend the whistleblower also contact ACNC. ASIC may also release information to ACNC itself and will obtain the whistleblower's consent before doing so.

Disclosing information as part of the investigation process

- 4.18. An **'investigation defence'** may also be available to not-for-profit organisations. This means that MS Australia may be able to disclose information provided by the whistleblower that can cause the whistleblower to be identified if:
- the information disclosed does not include the whistleblower's identity
 - releasing that information as *reasonably necessary* for investigating the misconduct, breach of law, or improper conduct disclosed in the whistleblower's report (i.e., to the Australian Federal Police (AFP), and
 - MS Australia or the eligible recipient has taken all reasonable steps to reduce the risk that the whistleblower will be identified from the information.
- 4.19. If a decision maker is not sure whether MS Australia can rely on the investigation defence, they should seek independent legal advice.

Internal process of documentation and record-keeping

- 4.20. MS Australia's WPO has clear processes when someone makes an internal disclosure (or via our subscriber organisation, Integrity Line), which include how to handle whistleblower reports and correspondence, limiting access to materials relating to disclosures, utilising secure record-keeping and technology systems.
- 4.21. Some staff (like IT technicians) will have specific training and an established process to ensure they do not accidentally breach confidentiality.

Protecting whistleblowers from detrimental conduct (harm) or victimisation

- 4.22. Organisations covered by the whistleblower protection laws have an obligation to protect whistleblowers from detrimental conduct and victimisation.
- 4.23. Under the Corporations Act and Tax Administration Act it is illegal for an organisation, its employees, or officers to cause detriment to, or victimise, a person because they believe or suspect that the person has made, may have made, or could make a whistleblower disclosure.
- 4.24. **'Detrimental conduct'** as defined in the Corporations Act and the Tax Administration Act is actions or conduct that results in a detriment or harm to a person, which includes making threats to cause detriment or harm to that person.

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4.25. Detrimental conduct can include:

- a) dismissing the person from employment
- b) injuring the employee in their employment
- c) altering the position or duties of the employee to their disadvantage
- d) discriminating against them as an employee by treating them differently from employees of the same employer
- e) harassing or intimidating the person
- f) harming or injuring the person, including causing them psychological harm
- g) damaging the person's property, reputation, business, or financial position, or
- h) causing the person any other damage.

4.26. '**Victimisation**' is also defined in the *Corporations Act* and the *Tax Administration Act*.

4.27. Victimisation means causing or threatening to cause a detriment (harm) to a person where the organisation (including its employees or officers):

- a) believes or suspects that the person has, is planning to, or could make a whistleblower report, and
- b) that belief or suspicion is the reason, or part of the reason, for the action that causes detriment to the person.

4.28. The ASIC and Commissioner for Taxation have the power to investigate allegations that a person has caused or threatened to cause detriment to a whistleblower. This may result in a penalty to the offender or the company, or officers and employees of the company who are involved in detrimental conduct or victimisation. The criminal offence and civil penalty, as well as civil liability, apply even if the person has not made a whistleblower report but has faced detrimental conduct or victimisation.

4.29. MS Australia may also be legally responsible for the actions of a third party who causes another person's detriment. MS Australia has a positive duty to take reasonable steps to ensure the third party does not carry out the detrimental conduct.

4.30. MS Australia, including its employees and officers may also be ordered by a court to pay compensation to a person if that person suffers loss, damage, or injury because of detrimental conduct in response to making a whistleblower report. A court can also make non-monetary orders, such as an injunction, apology, reinstatement of employment, or any other order the court thinks appropriate.

4.31. Whistleblowers may also be protected from detriment under workplace laws, for

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example under the *Fair Work Act 2009 (Cth)*, if by making the whistleblower report the person is also accessing a workplace right. Further information about these other protections is available from the Fair Work Ombudsman (see <https://www.fairwork.gov.au/>).

4.32. MS Australia takes detrimental conduct and victimisation seriously and will act against any staff who harms or threatens another staff member for making a whistleblower report.

Liability and compensation and other remedies

4.33. Whistleblowers, or potential whistleblowers, can seek remedies through the courts and be compensated for any loss, damage, or injury they suffer.

4.34. This will also apply if it is found that MS Australia failed to take reasonable precautions and exercise due diligence to prevent detrimental conduct or victimisation.

4.35. Where those provisions apply, you are also protected from liability for making the report (either by way of civil, criminal, or administrative legal proceedings, or contractual or other remedies sought against you). However, you will not be granted immunity from any misconduct you have engaged in, revealed by your report (including any disciplinary action).

4.36. All disclosures are encouraged to seek independent advice in these matters.

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Additional counselling and emotional support

4.37. All disclosers can seek additional counselling and emotional support through MS Australia's Employee Assistance Program (EAP) provided through LiquidHR. For confidential appointments or enquiries, call LiquidHR on **1300 887 458** or email **enquiries@liquidhr.com.au**

5. WHAT IS A 'DISCLOSABLE MATTER'?

5.1 A '**disclosable matter**', under this Policy, is when a discloser has reasonable grounds to suspect that the information concerns misconduct, or an improper state of affairs or circumstances. This may include (but is not limited to) reportable conduct in the past, present, or future, that is:

- a) Dishonest, unethical, or irresponsible behaviour, including misleading or deceptive conduct (including misleading accounting, taxation, or financial reporting, including suspicion of bribery or corruption or other financial irregularities and altering company records of any kind or making false entries in records) or intentionally breaching MS Australia's Code of Conduct
- b) Illegal activities (including theft, violence or threatening violence, or property damage)
- c) Conduct endangering health and safety (including deliberate disregard for safe work practices)
- d) An abuse of authority
- e) A serious mismanagement of MS Australia's resources, maladministration, or concealment of reportable conduct
- f) A conflict of interest or serious impropriety, including those relating to outside business interests, relationships, improper payments, and donations
- g) Behaving in a way that could damage MS Australia's reputation, and financial position or is otherwise seriously oppose to the interest of MS Australia
- h) Intentionally hindering or obstructing audit processes or investigation processes (whether they are internal or external)
- i) Breaches of privacy or unauthorised use of confidential information
- j) Concerns that pose a danger to the public or financial system (even if it does not breach a law) and any deliberate concealment of any of the above.
- k) A systemic issue of concern that a relevant regulator should know about to properly perform its functions.
- l) Concealment of wrongdoing, or any retaliation against a Whistleblower.

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- 5.2 Reportable conduct usually relates to the conduct of employees or directors, but it can also relate to the actions of a third party, such as a funder, volunteer, or contractor.
- 5.3 Sometimes reportable conduct or disclosable matters are not clear. If in doubt, you should consider making a report anyway if you believe that it is a genuine concern.
- 5.4 When speaking up, the discloser must have '**reasonable grounds to suspect**' the information to qualify for protection. The information you disclose should be true, accurate and first-hand knowledge.
- 5.5 If it turns out that the disclosure might be incorrect, but the discloser has had 'reasonable grounds to suspect' a matter, whistleblower protections will still apply, and the discloser will not be penalised.
- 5.6 In certain circumstances, '**public interest disclosures**' or '**emergency disclosures**' can be made to a journalist or parliamentarian. (See section 6 of this document.)
- 5.7 This Policy does not absolve a person from mandatory reporting obligations. The discloser must always report reportable conduct in accordance with our laws, including engaging, where warranted, external bodies such as the police or other authorities.

6. WHO CAN YOU MAKE THE DISCLOSURE TO?

- 6.1 The Corporations Act specifies who disclosers must make disclosures to '**eligible recipients,**' legal practitioners, regulatory bodies, journalists and members of Commonwealth, state, or territory parliaments to receive whistleblower protections.
- 6.2. MS Australia is a subscriber organisation to an **independent whistleblower service**, called, [Integrity Line](#).
- a) Integrity Line is an independent, confidential whistleblower service, provided by Worklogic Pty Ltd.
 - b) An online report can be made by completing an online reporting form (at any time) by visiting www.integrityline.com.au.
 - If you make an online report, providing your personal information and contact details is optional.
 - If you choose not to provide any contact details, Integrity Line will be unable to contact you to discuss your report or tell you about its progress.
 - After submitting your report, and if you provided a valid email address, you will receive an email confirmation and receipt with a reference number, which will enable you to follow up on your report later.
 - c) Telephone reports can be made during business hours, Mondays to Fridays (excluding public holidays) between 9 am and 5 pm, Australian Eastern Standard Time, by contacting the Integrity Line telephone hotline 1800 468 456.

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- You will be connected to a trained operator who will assist you to make a report
 - Interpreter services are available if required
 - Calls will not be ‘traced’ and not recorded
 - Once you have finished making a report, you will receive a reference number for future follow-up, if required.
- d) Integrity Line has *three levels of anonymity* (which will be explained to you to make a fully informed decision):
- *Fully anonymous* (where you will not be able to receive updates or be contactable for additional information)
 - *Partially anonymous* (where Integrity Line will withhold your details from MS Australia (the subscriber organisation) and will act as a conduit to keep you updated), and
 - *Not anonymous*.
- e) Finalised reports, along with any documentation you have provided, will be forwarded for action to MS Australia’s WPO or their legal representative within *one business day* of receiving the report.
- f) Although Integrity Line can provide you with updates on the status of the report or share additional information with the subscriber organisation (MS Australia), they will not:
- Assist in the investigation
 - Assist you with drafting your report
 - Provide counselling or emotional support or
 - Represent you during later investigations or proceedings.
- g) Integrity Line is however skilled in taking *disclosable matters* in such a way that the best possible report can be submitted to MS Australia for further action whilst acting as a conduit for disclosers.

6.3 MS Australia encourages disclosures to our Whistleblower Protection Officer (WPO), who is also our Company Secretary or using the independent whistleblower service, Integrity Line.

- a) The WPO is an eligible recipient under the Corporations Act, and you will receive protection as a whistleblower.
- b) The WPO will assist and support you in making your report. This will include guidance about whistleblower requirements, protections and what to include in a report.
- c) The disclosure can be made face-to-face, via email, phone or in writing.
- d) The Chief Executive Officer (CEO) or Chair of the MS Australia’s Governance Audit Risk and Investment (GARI) Committee will be notified if the WPO is the subject of the report.

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6.4 Alternatively, for unlawful breaches, eligible whistleblowers can make a disclosure directly to other **'eligible recipients'**:

- a) An *auditor*, or a member of the audit team of MS Australia
- b) An *actuary* of MS Australia or a related company or organisation
- c) Protected disclosures to *Commonwealth Authorities*:
 - The Australian Securities and Investment Commission (ASIC)
 - Australian Prudential Regulation Authority (APRA) or
 - A Commonwealth authority prescribed under the Corporations Act.
- d) Protected disclosures to *legal practitioners*, especially to obtain legal advice or legal representation about whistleblower requirements.
- e) Protected disclosures to *members of Parliament or journalists*: It will be a protected disclosure if an individual discloses information to a member of Parliament or a journalist about a disclosable matter and if all the following conditions are satisfied:

Public Interest Disclosure

- The individual has previously disclosed that same information to ASIC, APRA, or a prescribed Commonwealth Authority
- At least 90 days have passed since the previous disclosure was made to the body
- The individual does not have reasonable grounds to believe that action is being, or has been taken to address the matters to which the previous disclosure related
- The individual has reasonable grounds to believe that making a further disclosure of the information would be in the public interest
- The individual has given the body written notification that identifies the previous disclosure and states their intention to make a **'public interest disclosure'** to a member of Parliament or a journalist and
- The extent of the information disclosed to members of Parliament or journalists is no greater than is necessary to inform them of the relevant disclosable matter.

Emergency disclosures

- The individual has previously disclosed that same information to ASIC, APRA, or a prescribed Commonwealth authority

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- The individual has reasonable grounds to believe that the information concerns a substantial and imminent danger to the health and safety of one or more persons or to the natural environment
- The individual has given the authority written notification that identifies the previous disclosure and states their intention to make an **'emergency disclosure'** to a member of Parliament or a journalist
- The extent of the information disclosed to members of Parliament or journalists is no greater than is necessary to inform them of the substantial and imminent danger.

f) Protected disclosure to Commissioner of Taxation: if a discloser considers that the information may assist the Commissioner to perform their functions or duties under taxation law in relation to MS Australia.

6.5. The above entities, outside MS Australia, may provide advice on determining what qualifies for whistleblower protection, how to make disclosures, and how whistleblower reports are handled and investigated.

7. WHAT IS NOT REPORTABLE CONDUCT OR A 'DISCLOSABLE MATTER'?

- 7.1. While everybody is encouraged to speak up and report any concerns to MS Australia, not all types of conduct are intended to be covered by this Policy or by the protections under the Corporations Act 2001 (Cth).
- 7.2. This Policy does not apply to **'personal work-related grievances'** unless the grievance includes victimisation due to whistleblowing. Those matters are managed under other MS Australia policies.
- 7.3. Personal work-related grievances are those that relate to the discloser's current or former employment with MS Australia that might have implications for the discloser personally but do not:
- b) Have any other significant implications for MS Australia (or another entity); or
 - c) Relate to any conduct or alleged conduct about a disclosable matter (as set out in Section 6).
- 7.4. Personal work-related grievances include grievances such as interpersonal conflicts, decisions about promotions, and decisions that do not involve a breach of workplace laws, or terms and conditions of employment.
- 7.5. However, personal work-related grievances may be covered by this Policy where they include information about misconduct, an allegation that the entity has breached employment or other laws punishable by imprisonment for a period of 12 months or more, or the grievance includes victimisation due to whistleblowing.
- 7.6. If it is found that the discloser knowingly made a false report, this may result in disciplinary action.

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8. WHAT TO INCLUDE IN A DISCLOSURE

- 8.1. To make a protected report you must know of or have reasonable grounds to suspect the reportable conduct or circumstance.
- 8.2. For a report to be investigated, it must contain enough information to form a reasonable basis for investigation.
- 8.3. It is important therefore that you provide as much information as possible. This includes any known details about the events underlying the report. Protected disclosures should be clear and factual, setting out the exact:
 - a) What was seen or heard
 - b) When and where it happened (date, time, and location)
 - c) Who was involved (name of person(s), job title, any workplace addresses)
 - d) Names of any witnesses to the events who might be able to verify the allegation and
 - e) evidence of the events (e.g., documents, emails).
- 8.4. In your report, include any steps you may have already taken to report the matter elsewhere or to resolve the concern.
- 8.5. Where possible, a protected disclosure should be made in a way that avoids unfair damage to a person's reputation. A person is presumed innocent of wrongdoing unless found guilty of an offence.

9. HOW WILL MS AUSTRALIA HANDLE AND INVESTIGATE A DISCLOSURE?

Assessment

- 9.1. On receipt of the protected disclosure the WPO, the whistleblower service, Integrity Line, or the independent investigation service (from herewith referred to as 'decision maker'), will endeavour to assess the disclosure to determine whether:
 - a) it qualifies for protection
 - b) there is a prima facie case for investigation
 - c) the matter appears to be genuine
 - d) the seriousness of the matter
 - e) the likelihood of a successful investigation and
 - f) appropriate jurisdictions.
- 9.4. The decision maker will assess and control the risk of detriment to the whistleblower and identify what other types of support the individual should receive from MS Australia.
- 9.5. Depending on the nature and scope of the disclosure, the decision maker will

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provide the discloser with timeframes and clarify steps within the investigation process.

- 9.6. The initial investigation will be conducted speedily, ideally reporting (or making the initial report) within 30 days of the allegation, noting that this may not be possible in every case.
- 9.7. MS Australia may appoint an independent investigator to inquire into the allegations or initiate a broader review of the subject matter or work area disclosed. This may also include working with an external investigation firm, if required when additional specialist skills or expertise are necessary.
- 9.8. The decision maker might additionally seek technical, financial, and legal advice to support the investigation.
- 9.9. Where the matter is serious and requires external referral or escalation (e.g., a relevant investigatory body), the responsibility for the investigation will fall to the relevant external agency and MS Australia will cooperate fully with their enquiries.
- 9.10. Investigations will aim to be objective, fair, and independent. Disclosers will receive regular updates (if contact details have been provided) at various key stages of the investigation, including:
 - a) when the investigation process has begun
 - b) whilst the investigation process is in progress and
 - c) after the investigation has been finalised.
- 9.11. MS Australia may not be able to investigate a disclosure if it is unable to contact the discloser for additional information if required.
- 9.12. MS Australia will provide an avenue for review, if needed, to determine if the investigation complied with MS Australia's policy, procedures, and processes. Such a review will be completed by an independent assurance or auditing firm on behalf of MS Australia. The findings of such an audit or review will be reported to the Governance Audit Risk & Investment Committee.
- 9.13. If the decision maker or auditor considers that there are no grounds for proceeding further, the discloser has the right to remake the case.
- 9.14. MS Australia will however not be obliged to reopen an investigation if it is found that the original investigation complied with this Policy and no new information has been forthcoming.
- 9.15. If a review determined that the investigation was not conducted properly and the discloser was not satisfied with the outcome of MS Australia's investigation, the discloser may lodge a complaint with a regulatory authority such as ASIC, APRA or the ATO.

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Documentation and final reporting

- 9.16. MS Australia, the decision maker, independent investigator or auditor will document findings from an investigation, whilst preserving confidentiality.
- 9.17. Findings will be made on the civil standard of proof, namely the balance of probabilities.
- 9.18. Having considered all the evidence and representations, the investigator will produce a written report to the CEO, where appropriate, outlining its findings, conclusions, reasons for conclusions and recommendations. If the concerns relate to the CEO, the report will be provided to the Governance, Audit & Risk Committee of the Board.
- 9.19. Reasonable information about the action and the outcome will be provided to the discloser within a reasonable timeframe. Before this information is made available, consideration will be given to any potential adverse effects on:
- a) The safety of the individual
 - b) The investigation of an offence of possible offence
 - c) Necessary confidentiality about the discloser's existence or identity and
 - d) Other employees (e.g., feelings of grief, loss, emotional trauma).
- 9.20. If no further action is recommended because there is no prima facie case to be investigated, or an initial investigation deems the allegation unsubstantiated, the discloser will be informed of the reason and allowed a second and final opportunity to remake the case to an appropriate authority.
- 9.21. There may be circumstances where it may not be appropriate to provide details of the outcome to the discloser.
- 9.22. Records regarding protected disclosures have special protection under this Policy. MS Australia or any third parties will maintain safe and secure records of all disclosures and of any subsequent action consistent with the relevant legislation. Records will include the name of the discloser (where it has been provided), the information disclosed and a written record of how and when the disclosure was made, the type of disclosure, the investigation process, any additional evidence, and the outcome of the case.

10. ENSURING FAIR TREATMENT OF INDIVIDUALS MENTIONED IN DISCLOSURE

- 10.1. MS Australia must be fair to all parties involved and uphold the principles of natural justice. Decision makers must reach an objective and procedurally fair decision.
- 10.2. Where a decision or action could adversely affect a person's interest, that person must have a chance to state his or her point of view before the action or decision is taken.

Approval authority: MSA GARI Committee	Next review: June 2026
Date approved: June 2023; Jan 2025	Key author: Company Secretary
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- 10.3. Employees named in protected matters will be afforded fair treatment, which includes:
- a) Disclosures will be handled confidentially when it is practical and appropriate in the circumstances
 - b) Each disclosure will be assessed and may be subject to an investigation
 - c) The object of the investigation is to determine whether there is enough evidence to substantiate or refute the matters reported
 - d) When an investigation needs to be undertaken, the process will be objective, fair, and independent
 - e) An employee who is the subject of a disclosure will be advised about the subject matter of the disclosure as and when required by principles of natural justice and procedural fairness and before any actions being taken and
 - f) An employee subject to such disclosure may contact the employee support service (e.g., EAP).
- 10.4. MS Australia may determine the most appropriate time to inform the individual subject of a disclosure about the investigation.
- 10.5. If the individual subject to the disclosure is informed during a meeting, the named person is entitled to be accompanied and/or represented by an appropriate delegate or other person of their choice.
- 10.6. The named person will be allowed to comment before any investigation proceeds or further action is concluded.
- 10.7. A written record will be kept of all meetings and investigations.
- 10.8. In some circumstances, informing the individual at an early stage of the investigation may compromise the effectiveness of the investigation, such as when there may be concerns that the individual may destroy the information or the disclosure needs to be referred to ASIC, APRA, the ATO or the Federal Police.
- 10.9. Where danger, fraud, or illegal or unethical conduct is established, MS Australia will use its normal disciplinary processes to deal with the situation, in accordance with the conditions of service relating to the individual concerned.
- 10.10. MS Australia will take appropriate steps to ensure that similar situations do not re-occur.

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11. HOW DO WE MAKE THIS POLICY ACCESSIBLE?

11.1. This Policy is widely disseminated to, and easily accessible by, its officers and employees and those outside our organisation.

11.2. This includes:

- a) Hosting a staff briefing during a team meeting(s)
- b) Hosting an information session with the MS Australia Board
- c) Posting the Policy on SharePoint, along with easy access to all other MS Australia policies
- d) Periodically suggest to senior managers to promote this Policy within their teams. Senior managers will be expected to encourage and model a positive culture of reporting.
- e) Incorporating the Policy in induction packs and training for new starters, and providing periodic training
- f) Regular training will ensure that we continue to deal effectively with whistleblower disclosures. Specialist training will be provided to staff with specific responsibilities. The WPO is a designated staff member appropriately trained and skilled in conducting investigations, communication processes and protection protocols. WPO training or refresher training will occur every three years.
- g) This Policy will be available on our external website. Disclosures from outside MS Australia are encouraged.
- h) If you are external to MS Australia, you can contact:
 - Our WPO (Company Secretary) on **1300 010 158** during office hours or use our whistleblower secure email company.secretary@msaustralia.org.au
 - The independent whistleblower service Integrity Line on **1800 468 456** or make a report online via www.integrityline.com.au

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12. CONTACT DETAILS FOR OUTSIDE AGENCIES

Australian Securities & Investment Commission (ASIC)	You can lodge a report with ASIC through our online misconduct reporting form or by writing to ASIC. More information is available here: https://asic.gov.au/about-asic/asic-investigations-and-enforcement/whistleblowing/how-asic-handles-whistleblower-reports/
Australian Charities and Non-for-Profits Commission (ACNC)	See more here: https://www.acnc.gov.au/raise-concern for online form. Calls can also be made to 132262
Australian Prudential Regulation Authority (APRA)	If you would like to share information directly with APRA, you should contact an authorised officer by email: whistleblower@apra.gov.au . More information is available here: https://www.apra.gov.au/become-a-whistleblower-or-make-a-public-interest-disclosure
Australian Taxation Office (ATO)	<p>If you know or suspect phoenix, tax evasion or shadow economy activity report it by:</p> <p>Completing the tip-off form (the form is also available in the Help & support section in the ATO app) or https://www.ato.gov.au/General/Gen/Whistleblowers/</p> <p>phoning us on 1800 060 062</p> <p>lodging an unpaid super enquiry about your employer (but not about another business)</p> <p>writing to us – mark all letters <i>'in confidence'</i> and post to</p> <p>Australian Taxation Office Tax Integrity Centre PO Box 188 ALBURY NSW 2640</p> <p>If you prefer to speak to us in a language other than English, phone the Translating and Interpreting Service (TIS) on 13 14 50 for help with your call.</p> <p>Tax professionals can provide information by calling 13 72 86 (Fast Key Code 3 4).</p>
Australian Federal Police	Reporting a commonwealth crime: https://www.afp.gov.au/contact-us/report-commonwealth-crime or call AFP's national Switchboard on 02 5126 0000 or 02 5127 0000 or reports can be emailed to NOSSC-Canberra@afp.gov.au
Commonwealth Ombudsman	Public Interest Disclosures (PID), can be made here: https://www.ombudsman.gov.au/complaints/public-interest-disclosure-whistleblowing

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13. ADDITIONAL RESOURCES AND INFORMATION

<i>Australian Securities and Investment Commission – Whistleblowing: The ASIC website provides a lot of guidance for individuals and organisations about whistleblowing protections:</i>	
Your company and the Law	https://asic.gov.au/for-business/running-a-company/company-officeholder-duties/your-company-and-the-law/
Company Officer obligations under the whistleblower protection provisions	https://asic.gov.au/for-business/running-a-company/company-officeholder-duties/company-officer-obligations-under-the-whistleblower-protection-provisions/
Whistleblower protections for non-for-profit organisations	https://asic.gov.au/about-asic/asic-investigations-and-enforcement/whistleblowing/whistleblower-protections-for-not-for-profit-organisations/
Regulatory Guide RG 270 Whistleblower policies (ASIC)	https://download.asic.gov.au/media/5702691/rg270-published-13-november-2019-20200727.pdf
Whistleblower Rights and Protections	https://asic.gov.au/about-asic/asic-investigations-and-enforcement/whistleblowing/whistleblower-rights-and-protections/
Report 758 Good practices for handling whistleblower disclosures (ASIC)	In March 2023, ASIC published a report (https://asic.gov.au/regulatory-resources/find-a-document/reports/rep-758-good-practices-for-handling-whistleblower-disclosures/) to help entities improve their arrangements for handling whistleblower disclosures, and ensure they are effective and encourage people to speak up. This is based on a review commenced in 2020, resulting in an open letter to CEOs urging improved policies in this regard (https://asic.gov.au/about-asic/news-centre/find-a-media-release/2021-releases/21-267mr-asic-calls-on-australian-ceos-to-review-whistleblower-policies/)

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14. RELATED DOCUMENTATION (*Internal Only*)

MS AUSTRALIA Anti Bribery & Corruption Policy
MS AUSTRALIA Anti-Discrimination and Equal Employment Opportunity (EEO) Policy
MS AUSTRALIA Code of Conduct
MS AUSTRALIA Complaints Policy
MS AUSTRALIA Conflict of Interest Policy
MS AUSTRALIA Credit Card Policy
MS AUSTRALIA Delegations of Authority Policy
MS AUSTRALIA Delegations Schedule
MS AUSTRALIA Fraud Policy
MS AUSTRALIA Gifts Policy
MS AUSTRALIA Grievance Policy
MS AUSTRALIA IT Policy
MS AUSTRALIA Privacy Policy
MS AUSTRALIA Procurement Policy
MS AUSTRALIA Risk Management Policy and Framework
MS AUSTRALIA Travel Policy
MS AUSTRALIA Workplace Bullying and Harassment Policy
MS AUSTRALIA Workplace Health and Safety Policy

This policy will be subject to periodic reports, monitoring and review every 3 years.

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Whistleblower Policy and Procedure – Flowchart

