



PUBLIC

Tursa Employment & Training

COR120

**Whistleblower Policy
&
Procedural Guidelines**

COR120 Whistleblower Policy & Procedural Guidelines

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CONTENTS

RELEVANT LEGISLATION.....	2
GUIDES.....	2
2.0 RESPONSIBILITIES.....	3
3.0 DEFINITIONS.....	3
4.0 PURPOSE.....	4
5.0 POLICY and PROCESSES.....	4
5.1 ENCOURAGING REPORTING OF DISCLOSABLE MATTERS.....	4
5.2 WHO IS PROTECTED.....	5
5.3 DISCLOSURES REGARDING DISCLOSABLE MATTERS ONLY ARE PROTECTED.....	5
5.4 WHAT IS NOT A DISCLOSABLE MATTER.....	5
Anonymity.....	6
5.6 WHO TO MAKE DISCLOSURE TO.....	6
6.0 LEGAL PROTECTIONS FOR DISCLOSERS.....	7
6.1 IDENTITY PROTECTION.....	7
6.2 PROTECTION FROM DETRIMENTAL ACTS OR OMISSIONS.....	7
7.0 INVESTIGATION.....	8
8.0 FINDINGS.....	8

RELEVANT LEGISLATION

[Treasury Laws Amendment \(Enhancing Whistleblower Protections\) Act 2019 \(Cth\) implementing changes to the Corporations Act 2001 \(Cth\) and the Taxation Administration Act 1953 \(Cth\)](#)

[Corporations Act 2001](#) – refer to Volume 5 Chapter 9 Miscellaneous > Part 9.4AAA - Protection for whistleblowers

GUIDES

ASIC Regulatory Guide RG 270 Whistleblower Policies

<https://asic.gov.au/regulatory-resources/find-a-document/regulatory-guides/rg-270-whistleblower-policies/>

OTHER LEGISLATION

Australia (Commonwealth) - [Public Interest Disclosure Act 2013](#)

NSW - [Public Interest Disclosures Act 1994](#)

Queensland - [Public Interest Disclosure Act 2010](#)

1.0 INTRODUCTION

Tursa Employment & Training is committed to operating legally (in accordance with applicable legislation and regulation), properly (in accordance with contract arrangements, organisational policy and procedures), and ethically (in accordance with recognised ethical principles).

Employees are expected to cooperate with the organisation in maintaining legal, proper, and ethical operations, if necessary to report any non-compliant actions to relevant management. Correspondingly, employees who do assist in maintaining legal, proper, and ethical operations should not be penalised in any way.

Tursa Employment & Training must comply with the corporate sector whistleblower protection regime in Part 9.4AAA of the Corporations Act 2001 (Corporations Act). Other legislation (as detailed on the previous page) may impose different obligations. With the exception of the undermentioned, this Policy is not intended to detail any obligations imposed by other legislation. Under the Public Interest Disclosure Act 2013 (Cth), a disclosure of “disclosable conduct” as defined by that Act can also be made to an “Authorised Officer” of the relevant government department, as specified on the Department’s website (<https://www.dese.gov.au/about-us/corporate-reporting/freedom-information-foi/foi-disclosure-log/public-interest-disclosure-act-2013>) and where a “disclosable matter” is made to an “Eligible Recipient” as defined in that Act (for example the employee’s supervisor), the Eligible Recipient is required under Section 60A of the Public Interest Disclosure Act 2013 (Cth) to pass information about the conduct to the “Authorised Officer” of the relevant government department.

This Policy is intended to be communicated to all existing staff of *TURSA* and be included in induction training for new employees.

From time to time, *TURSA*’s Whistleblower Policy will need to change to keep up with our values, best practices, improvements, as well as legislation and regulations. Any changes to our Whistleblower Policy will be communicated with all employees and any relevant stakeholders.

2.0 RESPONSIBILITIES

TURSA’s Board is responsible for adopting this policy, and for keeping it updated in accordance with legislative changes.

The Board will also nominate a *Whistleblower Protection Officer* and ensure that this nomination is communicated.

The *Chief Officers Group* are responsible for the implementation of this policy.

All staff and all contractors are responsible for reporting breaches of general law, organisational policy, or generally recognised principles of ethics to a person authorised to take action on such breaches.

3.0 DEFINITIONS

Chief Officer and *Chief Officers Group* - have the same definition as provided in the constitution of *TURSA Employment and Training Limited*.

Disclosable Matter - means information regarding an issue described in Part 5.3 of this Policy.

Protected Disclosure - means a disclosure of information which is protected by legislation because it is made by an Eligible Whistleblower to an Eligible Recipient about a Disclosable Matter.

Eligible Recipient - in relation to *TURSA* means a person to whom a Protected Disclosure may be made, in accordance with Part 5.6 of this Policy.

Eligible Whistleblower - in relation to *TURSA* means:

- an officer or employee;
- a supplier of services or goods, such as a contractor, consultant or business partner, and their employees;
- an associate;
- a former officer, employee, supplier of goods and services or associate;
- a relative, dependant or spouse of one of the above.

Protection - refers to the protection against reprisals afforded to Eligible Whistleblowers as described in Part 6.0 of this Policy.

TURSA - means *Tursa Employment and Training Limited* A.C.N. 149 935 053.

Whistleblower Protection Officer - means the *Company Secretary* of *TURSA*.

4.0 PURPOSE

The purpose of this policy is to:

- a) encourage the reporting of matters that may cause harm to individuals or financial or non-financial loss to *TURSA* or damage to its reputation;
- b) enable *TURSA* to deal with disclosures from individuals in a way that will protect their identity through strict systems of confidentiality and the secure storage of the information provided;
- c) establish the policies for protecting persons who disclose potential wrongdoing against reprisal by any person internal or external to *TURSA*;
- d) meet *TURSA*'s legal and regulatory obligations;
- e) provide for the appropriate framework for receiving and investigating disclosures; and
- f) help to ensure *TURSA* maintains the highest standards of ethical behaviour and integrity.

5.0 POLICY and PROCESSES

5.1 ENCOURAGING REPORTING OF DISCLOSABLE MATTERS

TURSA encourages its employees and contractors to report their concerns of wrongdoing in accordance with this Policy.

Individuals who are considering making a disclosure must be aware that their disclosure will be protected by the Corporations Act only if it is made in accordance with that legislation and with this Policy.

A person qualifies for protection under the Corporations Act only if they are an Eligible Whistleblower and:

- they have made a disclosure of information regarding a Disclosable Matter directly to an Eligible Recipient or to ASIC, APRA or another Commonwealth Body described by regulation; or
- they have made a disclosure to a legal practitioner for the purpose of obtaining legal advice; or
- they have made an Emergency Disclosure or Public Interest Disclosure in circumstances where such action is authorised by legislation.

This Policy does not authorise any employee to inform commercial media or social media of their concern, and do not offer protection to any employee who does so.

Persons who make false or malicious reports will not receive protection under this policy. Such reports waste resources and risk the reputation of the person making them as well as *TURSA*. Persons who deliberately make false or malicious reports may be subject to disciplinary action.

5.2 WHO IS PROTECTED

Only Eligible Whistleblowers qualify for protection under this policy.

5.3 DISCLOSURES REGARDING DISCLOSABLE MATTERS ONLY ARE PROTECTED

Only disclosures which are about Disclosable Matters will qualify for protection under this policy.

Disclosable Matters are information that the discloser has reasonable grounds to suspect concern:

- misconduct; or
- an improper state of affairs, not limited to unlawful conduct;

in relation to *TURSA* or a related body corporate of *TURSA*.

Misconduct may include fraud, negligence, default, breach of trust and breach of duty.

Disclosable Matters includes information that the discloser considers on reasonable grounds indicates that an officer or employee of *TURSA* has engaged in conduct that:

- constitutes an offence against, or a contravention of, the Corporations Act or other prescribed legislation regarding the financial services industry;
- constitutes an offence against any other law which is punishable by 12 months imprisonment or more;
- represents a danger to the public or the financial system; or
- is prescribed by legislation.

Disclosers do not have to prove their suspicion, however allegations without any supporting information are unlikely to display reasonable grounds. A disclosure may still be a Protected Disclosure if the discloser's suspicion is incorrect, provided they had reasonable grounds to form the suspicion and the disclosure is made properly.

5.4 WHAT IS NOT A DISCLOSABLE MATTER

Disclosures relating to personal work-related grievances only will not qualify for protection under the Corporations Act. For instance, where you have a:

- conflict with a co-worker;
- complaint regarding the terms and conditions of your employment;
- complaint regarding disciplinary action, including termination of your employment;

these should be resolved by following the procedures sent out in *COR091 Personnel Policies Manual (PPM)* Section 4.2 Grievances.

Complaints regarding occupational health and safety should where possible be made through *TURSA's COR089 Work Health & Safety Policy*.

You can also contact the *Whistleblower Protection Officer* or a legal practitioner for more information regarding what is and is not considered a Disclosable Matter.

5.5 HOW TO MAKE A DISCLOSURE

Disclosures must be made to an Eligible Recipient. Where possible, disclosures should be in writing, and contain, as appropriate, details of:

- the nature of the Disclosable Matter;
- the person or persons responsible for the conduct;
- the facts on which the discloser's reasonable grounds are based;
- the nature and whereabouts of any further evidence that would substantiate the discloser's allegations, if known.

Anonymity

Protected Disclosures may be made anonymously. Anonymous disclosures should not be made without good reason. If you intend to make an anonymous disclosure, you should be prepared to state your reason for doing so. Further, anonymous disclosures may be more difficult to investigate. This is because it will be difficult for *TURSA* to ask follow-up questions where necessary to substantiate the allegation, or to provide feedback on the outcome.

5.6 WHO TO MAKE DISCLOSURE TO

Only disclosures made to Eligible Recipients will qualify for protection.

Eligible Recipients within *TURSA* are:

- a *Chief Officer*;
- the *Whistleblower Protection Officer*;
- a Director of the company; or BOARD@tursa.com.au
- an internal or external auditor.

If the discloser feels that:

- it is not feasible for employees to report internally;
- existing reporting channels have failed to deal with issues effectively; or
- they are otherwise not comfortable with making the disclosure internally;

they may make the disclosure to a Regulatory Body.

A disclosure may be made to a journalist or parliamentarian in ***extremely limited circumstances***, where the criteria in the legislation for an Emergency Disclosure or Public Interest Disclosure has been met. You may obtain legal advice in relation to information that you think might give rise to protections under the Corporations Act. Any disclosure you make to a legal practitioner in obtaining this advice will be protected, even if the legal practitioner gives you advice that the information is not a Disclosable Matter.

6.0 LEGAL PROTECTIONS FOR DISCLOSERS

An Eligible Person who makes a Protected Disclosure, receives legislative protection from:

- disclosure of their identity, or of facts which will likely lead to their identification;
- detrimental acts or omissions;
- civil liability, for example for breaching their duty of confidentiality in their Contract of Employment;
- criminal liability; and
- administrative liability, including disciplinary action by *TURSA*.

6.1 IDENTITY PROTECTION

It is an offence for any person, including *TURSA*, to identify an Eligible Whistleblower or reveal information that is likely to lead to their identification, except:

- to ASIC, APRA or a member of the AFP;
- to a legal practitioner for the purpose of obtaining legal advice;
- to a person or body prescribed by regulation;
- with consent; or
- where it is reasonably necessary to investigate the issues raised in the disclosure and the person has taken all reasonable steps to reduce the risk of the person's identity being revealed.

Where an Eligible Whistleblower considers their identity has been revealed, they may make a further complaint to *TURSA*, ASIC or APRA.

6.2 PROTECTION FROM DETRIMENTAL ACTS OR OMISSIONS

A person must not

- engage in conduct; or
- threaten to engage in conduct;

that causes detriment to another person:

- who they believe or suspect made, will make, or could make a Protected Disclosure; and
- where the belief or suspicion is the reason for the conduct, or where there is more than one reason for the conduct, is one of those reasons.

If a discloser suffers loss or damage because of a disclosure, they may be entitled to compensation. If you feel that you have suffered a detriment because of a disclosure, you should obtain legal advice or contact ASIC.

Making a Protected Disclosure does not prevent *TURSA* from undertaking normal management action in relation to you if it is justified. Further, making a false or malicious complaint could be a basis for *TURSA* taking such action.

7.0 INVESTIGATION

On receiving a disclosure, the person to whom the disclosure is made must consider whether the matter is a Protected Disclosure.

If the disclosure:

- is unquestionably trivial or fanciful; or
- does not relate to a Disclosable Matter;

they will dismiss the allegation and if the person making the allegation is contactable notify them of their decision.

If the Eligible Recipient considers the disclosure to be a Protected Disclosure they will put in place arrangements for the disclosure to be investigated while protecting the confidentiality of the Whistleblower. The arrangements required will vary depending on the nature of the disclosure.

The principles of procedural fairness and natural justice will be observed, to ensure the investigation is objective, fair and independent. For example:

- the person the subject of a disclosure will be notified, and given a fair and reasonable opportunity to comment beforehand;
- any comments by witnesses or by the subject of the investigation will be considered before the report is finalised, and the discloser given an opportunity to provide further feedback;
- all interested parties will be able to obtain legal advice and access support services, including having a support person present at an interview;
- all persons involved with the investigation will be reminded of the requirement to keep the matter confidential and advised of the penalties for breaching this obligation;
- the report may keep the identity of the subject/s of the investigation anonymous;
- as far as reasonably possible, the investigator/s will be independent and unbiased.

8.0 FINDINGS

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

- the allegations;
- a statement of all relevant findings of fact and the evidence relied upon in reaching any conclusions, anonymised or redacted as necessary;
- the conclusions reached and their basis;
- recommendations based on those conclusions to address any wrongdoing identified and any other matters arising during the investigation.

The report will be provided to the Eligible Whistleblower, with any necessary amendment to ensure confidentiality is maintained.