



Whistleblower Policy

Created By	Katherine Starzyk
Reviewed By	ELT
Approved By	AVA Board
Approved On	10 September 2020
Next Review	10 September 2021

Table of Contents

1. Purposes of this policy	3
2. Definitions	3
3. Who and what does this policy apply to?	4
4. Personal work-related grievances.....	5
5. Whistleblower Responsibilities	5
6. Policy Application	6
6.1. Reporting a Disclosure.....	6
6.2. Alternative reporting	6
6.3. Other Complaint Mechanisms.....	7
6.4. Anonymous reporting.....	7
6.5. Protection	7
6.6. Confidentiality	7
6.7. Retaliation or Victimisation	8
6.8. Investigation	8
6.9. Disclosure Management.....	8
7. Making a disclosure.....	9
7.1. Eligible Recipients.....	9
7.2. Other designated bodies that can receive disclosures	9
8. Other protections for Protected Whistleblowers	10
9. Communication with the Protected Whistleblower	10
10. Further Support.....	10
11. Further Policy details	10
11.1. How this policy is made available	10
11.2. Related policies.....	10
11.3. Revision history	11

1. Purposes of this policy

Our Whistleblower Policy is an important tool for helping Australian Veterinary Association (AVA) to identify wrongdoing that may not be uncovered unless there is a safe and secure way to disclose.

AVA is committed to the highest standards of integrity and conduct. If you are aware of a possible wrongdoing, we encourage you to disclose this information and will support you in doing so.

The purpose of this policy is to:

- Help deter wrongdoing, in line with AVA's Risk Management and Governance framework;
- Ensure people who disclose wrongdoing can do so safely, securely and with confidence that they will be protected and supported;
- Ensure disclosures are dealt with appropriately and on a timely basis;
- Provide transparency around AVA's framework for receiving, handling and investigating disclosures;
- Support AVA's values, code of conduct and vision;
- Support AVA's long-term sustainability and reputation; and
- Meet AVA's legal and regulatory obligations.

AVA is committed to encouraging the reporting of any instances of suspected unethical, illegal, fraudulent or undesirable conduct, involving AVA's business and operations. We provide protections and measures so that people who make a report can do so confidentially and without fear of intimidation, disadvantage or reprisal.

2. Definitions

The terms used in this Policy are:

- **Whistleblowing:** Disclosure by (or for) a witness of actual or suspected wrongdoing; and
- **Whistleblower:** A person who reports wrongdoing in accordance with this Policy.
- **Wrongdoing:** conduct that includes but is not limited to:
 - Breaches legislation, regulations or local government by-laws or is otherwise illegal (including Whistleblower laws, corporations' law, theft, drug sale/use, violence or threatened violence or criminal damage against property);
 - Is an offence against any other law of the Commonwealth that is punishable by imprisonment for a period of 12 months or more;
 - Is corrupt or is an abuse of public trust or position as a public official;
 - Is dishonest or fraudulent;
 - Perverts the course of justice;
 - Unreasonably endangers health and safety or the environment;
 - Is maladministration (e.g. unjust, based on improper motives, is unreasonable, oppressive or negligent);

- Is serious or substantial waste (including public money or public property);
 - Is gross mismanagement or repeated breaches of administrative procedures;
 - Has financial or non-financial loss detrimental to the interests of the AVA;
 - Is an unethical breach of the Code of Conduct; and
 - Is serious improper conduct or an improper state of affairs.
- **Eligible Whistleblower** is a person who is, or has been, any of the following:
 - An officer or employee of AVA (this includes current and former employees who are permanent, part-time, fixed term or temporary, interns, volunteers, secondees, managers and directors);
 - A person who supplies goods or services to AVA or an employee of a person who supplies goods or services to AVA (whether paid or unpaid) - this could include current and former volunteers, contractors, consultants, service providers and business partners;
 - A person who is an associate of AVA - for example, a director or company secretary of AVA or a related body corporate of AVA; or
 - A relative, dependent or dependent of the spouse of any person referred to in this definition of Eligible Whistleblower.
 - **Eligible Recipient** is a person, role or organisation eligible and designated to receive the disclosure of a Reportable Matter and take appropriate action.
 - **Reportable Matter** is a disclosure by an Eligible Whistleblower who has reasonable grounds to suspect that the information disclosed, but not limited to wrongdoing including:
 - Misconduct (including fraud, negligence, default, breach of trust and breach of duty);
 - An improper or circumstances;
 - Behaviour that represents a danger to the public or the financial system;
 - A breach of the Corporations Act; or
 - A breach of the Taxation Administration Act or improper conduct in relation to the tax affairs,
 - In relation to AVA or a related body corporate of AVA.

3. Who and what does this policy apply to?

This policy applies to and provides protections to Protected Whistleblowers.

You are a Protected Whistleblower and entitled to protection under the *Corporations Act 2001* (Cth) (**Corporations Act**) and, if applicable, under the *Taxation Administration Act 1953* (Cth) (**Taxation Administration Act**) if:

- You are an Eligible Whistleblower; and
- You have disclosed (or intend to disclose) a Reportable Matter to an Eligible Recipient or to the Australian Securities and Investments Commission (ASIC), the Australian

Prudential Regulation Authority (APRA) or another entity prescribed under the Corporations Act.

See below for the meaning of the terms 'Eligible Whistleblower', 'Reportable Matter' and 'Eligible Recipient'.

You will also be entitled to protection as a 'Protected Whistleblower' if you get advice from a legal practitioner on the operation of whistleblowing protection laws.

Also, in more specific and limited circumstances where a matter is of public interest or there is an emergency, a report may be protected if it's made to a journalist or a member of Parliament. It's important that you understand the criteria for making a public interest or an emergency disclosure to be covered by the Whistleblower protections. AVA recommends that you contact an independent legal adviser before making a public interest or an emergency disclosure.

The sections below sets out what is a Reportable Matter that will qualify for legal protection under the Corporations Act (or the Taxation Administration Act, where relevant). Disclosures that aren't about a Reportable Matter will not be protected under the Corporations Act or the Taxation Administration Act and this policy.

4. Personal work-related grievances

Personal work-related grievances that don't involve a detriment caused to you as a Protected Whistleblower (or a threat of detriment) aren't a Reportable Matter and aren't protected under the Corporations Act or Taxation Administration Act.

A personal work-related grievance is one that relates to your current or former employment that has implications for you personally but doesn't have significant implications for AVA.

An example of a work-related grievance that is not protected by law could include if you believe you have missed out on a promotion that you deserve or if you have a grievance related to the managerial style of your supervisor.

However, a work-related grievance may still qualify for protection under the law if (for example):

- It is a mixed report that includes information about a Reportable Matter (as well as a work-related grievance);
- AVA has broken employment or other laws which are punishable by imprisonment for 12 months or more or acted in a way that is a threat to public safety;
- The disclosure relates to information that suggests misconduct that goes further than the Whistleblower's personal circumstances; or
- The Whistleblower suffers from or is threatened with detriment for making a disclosure.

5. Whistleblower Responsibilities

Protection is available to Whistleblowers who disclose wrongdoing that is made with reasonable grounds to believe it is true.

A Protected Whistleblower will still qualify for protection for a disclosure even if their disclosure turns out to be incorrect

To ensure that all employees are treated fairly and that resources are not wasted, protection is not available where the disclosure is:

- Trivial or vexatious in nature with no substance. This will be treated in the same manner as a false report and may itself constitute wrongdoing; and
- Unsubstantiated allegations which are found to have been made maliciously, or knowingly to be false. These will be viewed seriously and may be subject to disciplinary action that could include dismissal, termination of service or cessation of a service or client relationship.

A Whistleblower must provide information to assist any inquiry/investigation of the wrongdoing disclosed.

Making a disclosure may not protect the Whistleblower from the consequences flowing from involvement in the wrongdoing itself. A person's liability for their own conduct is not affected by their report of that conduct under this policy. However active cooperation in the investigation, an admission and remorse may be taken into account when considering disciplinary or other action.

Even though a Whistleblower may be implicated in the wrongdoing they must not be subjected to any actual or threatened retaliatory action or victimisation in reprisal for making a report under this policy.

6. Policy Application

6.1. Reporting a Disclosure

Internal Whistleblowers (current or former Directors, employees, volunteers, interns, contractors or consultants)

Internal Whistleblowers are encouraged to report their concerns to their supervisor or their supervisors' manager to seek an immediate response. Where the internal Whistleblower believes this is not appropriate, then an alternative reporting mechanism is available.

External Whistleblowers (Other people with a relationship with AVA – e.g. members & suppliers)

Where an external Whistleblower is reluctant to report it to line management for fear of retribution, they can report their concerns to a higher level of management than the person in AVA that they ordinarily deal with. There may be a simple explanation that they had not considered. Where this is not appropriate, an alternative reporting mechanism is available.

6.2. Alternative reporting

Alternative reporting to normal channels are available where:

- The normal reporting channel is considered inappropriate to the circumstances;
- AVA line management was notified but failed to deal with it; or
- The person or organisation disclosing wrongdoing is concerned about possible retaliation.

In any of these circumstances, an internal Whistleblower and external Whistleblowers (people or organisations with a relationship with AVA) may provide the report of wrongdoing directly to:

- A Whistleblower Governance Officer, which includes the CEO; or President; or Chair of Audit and Risk Committee;

- A person or entity who is eligible to receive the disclosure under the Corporations Act 2001; and
- Specific reporting is dealt with in section 8. Making a Disclosure

6.3. Other Complaint Mechanisms

This policy is in addition to:

- Grievance procedures for employees, which is for all staff to raise any matters they may have in relation to their work or their work environment, other persons, or decisions affecting their employment. This policy does not replace other reporting structures such as those for dispute resolution, discrimination, victimisation or matters relating to workplace bullying or harassment;
- Standard complaint mechanisms for members or volunteers; and
- Any exercising of rights under the terms of their contract by contractors and suppliers.

An exception to this is where the issue is wrongdoing of a serious nature, yet the existing reporting system failed to attend to the issue or has processed it in a substantially inappropriate, grossly unfair or heavily biased manner.

6.4. Anonymous reporting

Anonymous reports of wrongdoing are accepted under this policy.

Anonymous reports have significant limitations that may inhibit a proper and appropriate inquiry or investigation. These limitations include the inability to provide feedback on the outcome and/or to gather additional particulars to assist the inquiry/investigation. Specific protection mechanisms may be difficult to enforce if you choose to remain confidential.

6.5. Protection

Not all disclosures of serious wrongdoing are protected at law. To meet AVA's philosophy of accepting tip-offs from anyone, AVA adopts the principle of providing protection to people or organisations with a relationship (or a former relationship as an officer, employee or contractor) with AVA at least to the extent of protection at law.

6.6. Confidentiality

AVA will not disclose a Whistleblower's identity unless:

- It is necessary to further an investigation and the Whistleblower consents to the disclosure, and/or;
- The disclosure is required or authorised by law.

When a report is investigated it may be necessary to reveal its substance to people such as other AVA employees or Directors, external persons involved in the investigation process and, in appropriate circumstances, law enforcement agencies.

It will be necessary to disclose the facts and substance of a report to a person who may be the subject of the report as it is essential for natural justice to prevail. Although confidentiality is maintained, in some circumstances, the source of the reported issue may be obvious to a person who is the subject of a report.

AVA will take reasonable precautions to store any records relating to a report of wrongdoing securely and to restrict access to authorised persons only.

Unauthorised disclosure of information that could prejudice confidentiality and identify a Whistleblower will be regarded seriously and may result in disciplinary action and where applicable, AVA will notify federal police.

6.7. Retaliation or Victimisation

AVA will not tolerate any retaliatory action or threats of retaliatory action against a Whistleblower, or against a Whistleblower's colleagues, employer (if a contractor, consultant or supplier) or relatives.

For example, a Whistleblower must not be disadvantaged or victimised for having made the report by:

- Dismissal or termination of services or supply;
- Demotion;
- Discrimination, victimisation or harassment;
- Current or future bias; and
- Threats of any of the above

Any such retaliatory action or victimisation in reprisal for a disclosure made under this policy will be treated as serious misconduct and will result in disciplinary action, which may include dismissal. In some circumstance it may be illegal; in which case AVA will notify Police.

6.8. Investigation

All reports of alleged or suspected wrongdoing made under this policy to a Whistleblower Governance Officer will be properly assessed, and if appropriate, inquired into or independently investigated - with an objective of gathering evidence relating to the claims made by the Whistleblower. That evidence may substantiate or refute the claims made.

Investigations must be conducted in a fair and independent manner.

6.9. Disclosure Management

AVA recognises that individuals against whom a report is made must also be supported during the handling and investigation of the wrongdoing report. AVA takes reasonable steps to treat fairly any person who is the subject of a report, particularly during the assessment and investigation process in accordance with an established support protocol which may be extended to include appointing an independent senior employee or officer in AVA to provide support.

Where a person is identified as being suspected of possible wrongdoing, but preliminary inquiries determines that the suspicion is baseless or unfounded and that no formal investigation is warranted, then the Whistleblower will be informed of this outcome and the matter laid to rest.

The Whistleblowing Governance Officer will decide whether or not the person named in the allegation should be informed that a suspicion was raised and found to be baseless upon preliminary review. This decision will be based on a desire to preserve the integrity of a person so named, so as to enable workplace harmony to continue unfettered and to protect the Whistleblower where it is a bona fide disclosure.

Where an investigation does not substantiate the report, the fact that the investigation has been carried out, the results of the investigation and the identity of the person who is the subject of the report must be handled confidentially.

Generally, where an investigation is conducted and the investigator believes there may be a case for an individual to respond, the Investigator must ensure that a person who is the subject of a disclosure:

- Is informed of the substance of the allegations;
- Is given a fair and reasonable opportunity to answer the allegations before the investigation is finalised;
- Has their response set out fairly in the Investigator's report; and
- Is informed about the substance of any adverse conclusions in the investigator's report that affects them.

Where adverse conclusions are made in an investigator's report about an individual, that individual has a right to respond to those conclusions prior to any action being taken by AVA against them.

AVA will give its full support to a person who is the subject of a report where the allegations contained in the report are clearly wrong.

7. Making a disclosure

Reports can be made in person or by telephone, post or email. Reports can be made within business hours or outside business hours.

If, at any time, you are not sure about whether to make a protected disclosure, you can get independent legal advice. Any discussions you have with a lawyer will be protected under this policy and under law.

7.1. Eligible Recipients

A protected disclosure of a Reportable Matter can be made using any of the channels below (each is an Eligible Recipient of Reportable Matter):

- A Whistleblower Governance Officer, director or senior manager of AVA;
- An internal or external auditor of AVA;
- (in relation to tax affairs) A tax agent or BAS agent of AVA;
- An actuary of AVA; and
- (in relation to tax affairs) A trustee of AVA

7.2. Other designated bodies that can receive disclosures

Disclosures of a Reportable Matter may also be protected when made to:

- ASIC;
- APRA;
- the Commissioner of Taxation; or
- another Commonwealth authority prescribed by law.

8. Other protections for Protected Whistleblowers

Protected Whistleblowers are protected from civil, criminal or administrative liability (including disciplinary action) for making reports of Reportable Matters. No contractual right (including under an employment contract) can be exercised against a Protected Whistleblower to stop them disclosing a Reportable Matter.

If you're a Protected Whistleblower and the disclosure is to an Eligible Recipient or other designated body as set out above or is a public interest disclosure or emergency disclosure, the information you disclose also can't be used against you in criminal proceedings or in proceedings for the imposition of a penalty (except if the proceedings are in respect of the falsity of the information).

Eligible Whistleblowers may also be entitled to seek compensation and other remedies through the courts if AVA fails to protect the Eligible Whistleblower from detriment and the Eligible Whistleblower suffers loss or damage.

9. Communication with the Protected Whistleblower

AVA will ensure that, provided the claim was not submitted anonymously, the Protected Whistleblower is kept informed of the outcomes of the investigation of their allegations. This will be subject to the considerations of privacy of those against whom allegations are made and considerations of confidentiality affecting AVA.

If the Protected Whistleblower is not an employee of AVA, the Protected Whistleblower will be kept informed of the investigative outcomes (subject to privacy considerations as above), once the Protected Whistleblower has agreed in writing to maintain confidentiality in relation to any information provided to them regarding a report made by them.

10. Further Support

Further support for Protected Whistleblowers and alleged perpetrator(s) is available via AVA's Employee Assistance Program (confidential counselling service) which is accessible via self-referral.

Where required, AVA can be flexible about work arrangements in order to access the required support.

11. Further Policy details

11.1. How this policy is made available

This policy is made available on our HR Information System – Employment Hero and AVA website, after the communication and implementation of this policy. It will also form part of the onboarding process for every employee, volunteer and Director.

This policy will be available on the AVA website.

11.2. Related policies

This policy should be read in conjunction with AVA's other relevant policies including:

- AVA's Grievance Policy

- AVA's Performance Management Policy
- AVA's Code of Conduct

11.3. Revision history

In line with AVA practice, this policy is subject to Annual review and revision as required by law.