

Whistleblower Policy

Purpose

CoAct is committed to the highest standard of legal, ethical and moral behaviour and adopts a zero-tolerance approach to any form of misconduct or fraud.

As part of our commitment to detecting and preventing illegal and other undesirable conduct or wrongdoings, CoAct encourages the reporting of such conduct and provides mechanisms whereby concerns can be reported in confidence and without fear of repercussion.

This policy has been developed to align with the statutory protections available to whistleblowers under *Corporations Act 2001 (Cth)* and *Treasury Laws Amendment (Enhancing Whistleblower Protections) Act 2019*. The *Corporations Act 2001 (Cth)* provides protections for whistleblowers (**whistleblower protection scheme**).

In line with the relevant legal requirements, this Policy aims to:

- Encourage reporting of suspected wrongdoings within CoAct
- Provide information on how you can make a report to CoAct
- Protect persons making a report of suspected wrongdoings from any detriment (real or threatened) including retaliation, victimisation or reprisal
- Provide information on CoAct's investigation process.

Scope

This Policy applies to all CoAct directors, officers, employees, contractors and volunteers, who are engaged by CoAct to assist in its activities.

As both a Principal and Subcontractor of government funded employment services, CoAct may either directly deliver services or engage Service Partners to deliver services under a subcontract to CoAct. Service Partners are required to comply with their obligations by Law and under the subcontract as well as those set out in the Deed of the relevant service and are expected to have in place their own whistleblower and fraud prevention policies.

This Policy provides avenues for Service Partner employees to contact CoAct if they suspect wrongdoing by CoAct in relation to a subcontracted service delivered by the Service Partner.

Policy

1. Who can make a report?

An eligible whistleblower is a person with a **current or former connection** to the organisation who raises a concern or allegation of wrongdoing or improper conduct regarding the organisation.

By law, eligible whistleblowers include current and former:

- Directors and officers of CoAct
- Employees of CoAct
- Contractors / individuals engaged by CoAct for the supply of goods or services and their employees, including Service Partners whom CoAct has engaged to deliver services under a subcontract / agreement
- Relatives, dependants and spouse of the above persons.

Other persons who wish to raise a concern or allegation of wrongdoing or improper conduct should refer to CoAct's Complaints Policy, which is available on CoAct's website, in order to make a report.

2. What is a disclosable matter?

A disclosable matter is considered conduct **by CoAct or any person employed by or who holds an office in CoAct**, where the whistleblower has reasonable grounds to suspect misconduct¹ or an improper state of affairs or circumstances.² This includes conduct which is:

- Dishonest, fraudulent, corrupt, illegal (including theft, drug sale / use, violence or threatened violence and criminal damage against property) including questionable or fraudulent financial reporting or accounting practices
- In breach of Commonwealth or state legislation or authority by-laws
- Unethical (either breaching CoAct's Code of Conduct or generally)
- Misconduct, including unsafe work practices or misconduct which may cause financial or non-financial loss to CoAct or be otherwise detrimental to the interests of CoAct.
- Other reportable activities, including gross mismanagement, serious and substantial waste of resources, repeated instances of breach of policies or an improper state of affairs or circumstances.

A disclosable matter does not necessarily involve a contravention of a law. For example, 'misconduct or an improper state of affairs or circumstances' could involve conduct that, whilst not unlawful, indicates a systemic issue of concern that CoAct should know about to properly perform its functions. It may also relate to dishonest or unethical behaviour and practices, conduct that may cause harm, or conduct prohibited by standards or code of conduct. Also, information that indicates a significant risk to public safety is a disclosable matter, even if it does not involve a breach of a particular law.

¹ Section 9 of the Corporations Act 2001 defines *misconduct* to include 'fraud, negligence, default, breach of trust and breach of duty'.

² The Corporations Act 2001 does not define improper state of affairs or circumstances.

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Concerns by CoAct employees relating to **personal work-related grievances** that don't involve detriment caused or threats made, are not covered under this policy and should be reported under CoAct's Grievance and Investigation Policy.

3. Making a Report

3.1. Who can receive a disclosure?

For the protections under the Whistleblower Protection Scheme to apply, a disclosure must be made directly to an 'eligible recipient'. If you are an eligible whistleblower, your disclosure qualifies for protection from the time it is made to an eligible recipient, regardless of whether you or the recipient recognises that the disclosure qualifies for protection at that time.

Authorised recipients

CoAct encourages you to make a disclosure internally to the individuals set out below (referred to as the Authorised Recipients) – each of whom has relevant experience and/or training to deal with such matters. Authorised Recipients can be contacted in the following ways:

Chair Lynn Smart Level 1, 416 Logan Road Greenslopes QLD 4120 lynn.smart@coact.org.au	Chief Executive Officer Simon Brown Level 1, 416 Logan Road Greenslopes QLD 4120 simon.brown@coact.org.au	Company Secretary Sebastien Hempel Level 1, 416 Logan Road Greenslopes QLD 4120 integrity@coact.org.au
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Whilst CoAct encourages disclosures to the Authorised Recipients above, if it relates to the CEO or a director of CoAct, it should be raised directly with the Chair, who can be contacted as above.

3.2. Current and former directors, officers or employees of CoAct / and their relatives, dependants and spouse

Suspected wrongdoings should be reported, at first instance, to the Chief Executive Officer (CEO). Where a person suspects involvement by the CEO (or where the person considers that the CEO is not

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the appropriate person to report to) the suspected wrongdoings should be reported directly to the Chair of the Board.

In the event an employee is not comfortable reporting suspected wrongdoings to either the CEO or Chair of the Board, concerns may be reported to another director of CoAct's Board, a member of CoAct's Executive Management Group or the Company Secretary.

Alternatively, the concern may be sent to the Company Secretary at integrity@coact.org.au or **phone:** (02) 8281 2400 and request the relevant person.

3.3. Employees of CoAct's Service Partners and their relatives, dependants and spouse

Reports regarding suspected wrongdoings **by CoAct or its employees or officers** in relation to services delivered by CoAct's Service Partners should be reported to the Company Secretary at integrity@coact.org.au or by contacting the CEO or Chair of CoAct as above.

Where the information relates to suspected fraudulent or unethical behaviour in relation to the provision of services* managed by the Department of Education, Skills and Employment or the Department of Social Services, tip-off lines are available. **It is important to note, however, that any reports made via this method do not meet legal whistleblower reporting requirements and will therefore not qualify as a protected disclosure.**

Department of Education, Skills and Employment: ph 1300 874 536

Department of Social Services: ph 1800 054 312 or email fraud@dss.gov.au

***Services:** *Workforce Australia, Transition to Work, Disability Employment Services.*

Reports relating to misconduct **by a Service Partner organisation or their employees or officers** regarding a CoAct subcontracted service are not covered under CoAct's Whistleblower Policy, as the legal protections of the legislation do not apply and should therefore be reported under the Service Partner's policies and procedures.

If Service Partner channels are not considered appropriate, such matters may be reported to CoAct under CoAct's Complaints Policy, which is available on CoAct's website.

Note: Service Partners are required to notify CoAct's Quality Assurance Team of any Whistleblower report in regard to subcontracted services.

3.4. Other avenues

CoAct encourages making a report via the above methods, however, if these are not considered appropriate, a report can also be made to the following:

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- ASIC (you can lodge a report [online](#) or by writing to ASIC)
- A legal practitioner for the purposes of obtaining legal advice or representation in relation to Whistleblower Laws
- CoAct's auditors.

4. Anonymity

Reports of suspected wrongdoings may be submitted to CoAct anonymously or under a pseudonym, although this may limit the protections that CoAct is able to offer and it may also limit the ability to investigate the matter.

5. Confidentiality

All information received by CoAct concerning suspected or actual wrongdoings will be collected, considered and handled in a way that has regard to the law, privacy, confidentiality, fairness and legal privilege.

Information obtained from the whistleblower will only be disclosed to the extent necessary to conduct an investigation into the matter and CoAct will take all reasonable steps to reduce the risk that the whistleblower will be identified during these investigations.

The actual identity of the whistleblower, or information that is likely to lead to the identification of the whistleblower, will not be disclosed by any person without the whistleblower's prior consent, unless the disclosure is required or authorised by law.

6. Investigation

All reported wrongdoings will be promptly evaluated and will be the subject of a thorough investigation with the objective of gathering evidence relating to the claims made by the whistleblower.

Depending on the nature of the disclosure, the investigation may be conducted by an independent party, either internal or external, as nominated by the CEO. If the allegation is made against the CEO, the Board shall be responsible for the investigation and may use external professional assistance from CoAct's auditors or another qualified person, as required.

All investigations will be conducted in an independent manner and will follow the principles of fairness and natural justice for both the whistleblower and any employees referred to in the report. The person conducting the investigation must refer to CoAct's Investigation Procedure to ensure correct processes are followed and that investigations are conducted in a fair, confidential and timely manner and are thoroughly documented.

CoAct, when undertaking any related investigation, may engage external professionals to assist in any investigation process.

The CEO is authorised to seek professional legal assistance to ensure that the investigation preserves the integrity of any criminal or civil investigation, protects innocent persons, limits the potential for unnecessary litigation and meets the requirement for proper investigation and adoption of natural justice principles.

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Where it is determined during the course of an investigation that an employee has deliberately provided false or misleading information, CoAct may impose disciplinary action as per the Managing Performance Procedure.

Any reports of suspected wrongdoing made under this policy shall be reported in CoAct's Risk Dashboard report reviewed monthly by the Executive Management Group and by the Board and Audit and Risk Committee at each meeting.

7. Support and Protection

CoAct will not tolerate reprisals or threats of reprisals against people who come forward to disclose suspected wrongdoings, even if the wrongdoing is subsequently determined to be incorrect or is not substantiated. This includes harassment, discrimination, victimisation, retaliation or adverse employment consequences and extends to any employees involved in the investigation.

CoAct will take appropriate measures to support and protect whistleblowers to the extent practical and possible and at a minimum to the extent required by law.

Any CoAct director, officer, employee, contractor or volunteer who retaliates against someone who has reported a suspected wrongdoing is subject to discipline up to and including termination of appointment or employment. Threats may be express or implied, conditional or unconditional. A discloser (or another person) who has been threatened in relation to a disclosure does not have to actually fear that the threat will be carried out.

The meaning of 'detriment' is very broad and includes:

- a) dismissing an employee;
- b) injuring an employee in their employment;
- c) altering an employee's position or duties to their disadvantage;
- d) discriminating between an employee and other employees;
- e) harassing or intimidating a person;
- f) harming or injuring a person;
- g) damaging a person's property, reputation, business or financial position; and
- h) any other damage to a person.

Anyone who believes he/she or their family is being retaliated against should immediately notify CoAct through the Authorised Recipients.

Whistleblowers who are involved in improper conduct themselves are not protected from the consequences of such behaviour. A person's liability for their own conduct is not affected by the same person's disclosure of that conduct.

In addition to this policy, statutory protections are available for protected disclosures under the Corporations Act. Whistleblowers who make a protected disclosure have immunity from civil, criminal or administrative liability (including disciplinary action) and a contract cannot be terminated on the basis that the disclosure constitutes a breach of contract.

8. Public Interest / Emergency Disclosures

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As per the legislation, a whistleblower can:

- Make a **Public Interest Disclosure** to a member of parliament or a journalist where at least 90 days have passed since making the disclosure and the whistleblower reasonably believes that:
 - Action has not been taken to address the matter, and
 - Further disclosure is in the public interest
- Make an **Emergency Disclosure** to a member of parliament or a journalist where they believe there is substantial and imminent danger to the health and safety of one or more persons or to the natural environment.

In both cases, the whistleblower must first give written notice to the organisation of their intention to make a public interest or emergency disclosure.

9. Vexatious disclosures

A discloser will only be protected if they have objectively reasonable grounds to suspect that the information that they disclose concerns misconduct or an improper state of affairs or circumstances or other conduct falling within the scope of the Whistleblower Protection Scheme.

The protections under the Whistleblower Protection Scheme will not extend to vexatious complaints. If any investigation of a disclosure demonstrates that it was not made on objectively reasonable grounds, it will not be protected.

Depending on the circumstances, it may be appropriate for CoAct to take disciplinary action against any person who does not have objectively reasonable grounds for their disclosure. Such action may include the termination of employment.

10. Media Communication

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As per CoAct’s Media and Communication Policy only the CEO or Chair of the Board may approve press releases, responses to press enquiries or media communications on behalf of CoAct to external parties concerning any reports of suspected wrongdoing made under this policy.

Related Documents	
Policy Availability	This policy will be made available on: <ul style="list-style-type: none"> • CoAct’s Intranet • CoAct Central • CoAct website
Related Processes	<ul style="list-style-type: none"> • Investigation Procedure • Managing Performance Procedure • Managing Whistleblower Reports Procedure
Forms	-
Related Policies	<ul style="list-style-type: none"> • CEO Delegation and Limitations Policy • Code of Conduct • Complaints Policy • Fraud Prevention and Control Policy • Gifts and Benefits Policy • Grievance and Investigation Policy • Privacy Policy
Other References	<ul style="list-style-type: none"> • Australian Privacy Principles Schedule 1 Privacy Act 1988 • Privacy Act 1988 (Privacy Act) • Corporations Act 2001 (PART 9.4AAA) • Treasury Laws Amendment (Enhancing Whistleblower Protections) Act 2019

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