



# Procedure 8.01

# Whistleblower Protection

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## 1. Purpose

Multicap encourages individuals to come forward where they may have concerns that Multicap is not acting lawfully, ethically or in a socially responsible manner.

This procedure documents the process and protections for individuals (known as whistleblowers) who report misconduct, dishonest or illegal activity including abuse, neglect, violence or exploitation.

A copy of this procedure is available:

- on our website at [www.multicap.org.au](http://www.multicap.org.au)
- on our intranet (Multinet)
- For training during staff induction

## 2. Roles and responsibilities

Role	Responsibility
Directors	<ul style="list-style-type: none"> <li>• Be informed of any material concerns raised that call into question the culture of the organisation.</li> </ul>
CEO (Chief Executive Officer)	<ul style="list-style-type: none"> <li>• Ensure policy and procedure enacted appropriately</li> </ul>
Executive Leadership Team	<ul style="list-style-type: none"> <li>• Ensure procedures correctly followed</li> <li>• Take immediate action following any whistleblower disclosure</li> </ul>
Senior Leadership Team	<ul style="list-style-type: none"> <li>• Review and analyse any whistleblower disclosures.</li> <li>• Establish practices that ensure the organisation is acting lawfully and ethically.</li> <li>• Communicate, consult and provide instruction, training and supervision to workers regarding risks and control measures put in place</li> </ul>
Service Manager or on call	<ul style="list-style-type: none"> <li>• Establish practices which protect people's right and ensure reasonable and foreseeable situations which could give rise to increased risk of abuse, neglect and or exploitation are identified in their area of responsibility and risk controls put in place.</li> </ul>
Risk & Quality Manager	<ul style="list-style-type: none"> <li>• Coordinate whistleblower support as required</li> </ul>
Employee Experience Team	<ul style="list-style-type: none"> <li>• Take immediate action in response to all allegations of abuse or suspected abuse.</li> <li>• Provide procedures, tools and templates to support systematic identification, reporting and minimization of abuse, neglect and exploitation and abuse risk management including supporting managers with reporting requirements</li> </ul>
All workers	<ul style="list-style-type: none"> <li>• Undertake risk assessments in line with Risk Management policy and</li> </ul>

Role	Responsibility
	implement control measures accordingly. <ul style="list-style-type: none"> <li>• Implement control measures in accordance with this procedure</li> <li>• Report instances or suspected instances of abuse, neglect or exploitation.</li> </ul>

## 3. Definitions/Acronyms

### 3.1 Whistleblower

For the purposes of this procedure, a “whistleblower” may be anyone who is, or has been, any of the following in relation to Multicap:

- (a) an officer, employee or volunteer;
- (b) a supplier of goods or services (whether paid or unpaid), including their employees;
- (c) an associate;
- (d) a relative of an individual referred to in items (a) or (b) above; or
- (e) a dependent of an individual referred to in items (a) or (b) above, or of such an individual’s spouse.

### 3.2 Reportable conduct

A whistleblower is protected for disclosures made to “eligible recipients” (as described in section 3.3) where the whistleblower had reasonable grounds to suspect the information indicates a contravention of the Corporations Act or other laws, or where disclosures of information concerns “reportable conduct”, being misconduct or an improper state of affairs or circumstances in relation to Multicap. This means a disclosure does not only have to be about illegal activity. To be protected, a whistleblower needs to satisfy the objective test that they had “reasonable grounds to suspect” wrongdoing, (and will still be protected even if their disclosure turns out to be incorrect).

For example, reportable conduct may involve:

- fraud, money laundering or misappropriation of funds;
- dishonest or unethical behaviour and practices;
- suspected violence, abuse, neglect or exploitation by members of staff, other customers or other members of the community;
- offering or accepting a bribe;
- financial irregularities;

- failure to comply with, or breach of, legal or regulatory requirements; or
- engaging in or threatening to engage in detrimental conduct against a person who has made a disclosure or is believed or suspected to have made or be planning to make a disclosure under this procedure, regardless of whether they are an eligible whistleblower.

Refer to Procedure *8.02 Preventing & Responding to Violence, Abuse, Neglect and Exploitation* for further information on identifying signs of violence, abuse, neglect or exploitation

Matters which are not about reportable conduct, such as purely personal work-related grievances, are not protected under this procedure or the Corporations Act and should be raised in accordance with Procedure *3.02 Complaints Management & Resolution* and/or Procedure *5.20 Staff Grievance & Complaints* instead. However, such matters may be protected under other legislation including the *Fair Work Act 2009* (Cth). A personal work-related grievance refers to a matter which concerns a Multicap employee's employment (or former employment) which may have implications for them personally, but does not have significant implications for Multicap or its business and does not involve allegations of misconduct or an improper state of affairs or circumstances. Personal work-related grievances may involve:

- an interpersonal conflict with another employee;
- a decision by Multicap that does not involve a breach of workplace laws;
- a decision about the employee's engagement, transfer or promotion;
- a decision about the terms and conditions of the employee's employment;
- a decision to suspend or terminate the employee's employment; or
- disciplinary decisions.

However, in certain circumstances concerns about a personal work-related grievance should still be raised in accordance with this procedure, such as if:

- the personal work-related grievance includes information about reportable conduct, or concerns about reportable conduct includes or is accompanied by a personal work-related grievance;
- the employee knows or has reasonable grounds to suspect that the personal work-related grievance concerns a breach of employment or other laws punishable by imprisonment for a period of 12 months or more, represents a danger to the public or otherwise suggests misconduct beyond your personal circumstances;
- the employee is suffering from or has been threatened with detriment for raising their concerns in accordance with this procedure, or for seeking legal advice or legal representation about the operation of the whistleblower protections under the Corporations Act.

### 3.3 Eligible Recipient

A whistleblower can disclose their concerns to certain “eligible recipients”, whose role it is to receive disclosures which qualify for protection. Eligible recipients include Multicap Directors, Multicap executive managers, Multicap’s external financial auditor, ASIC and/or anyone else authorised by Multicap to receive disclosures. Disclosures made to anyone other than an eligible recipient will not be protected by law.

An executive manager is a person other than a director or the company secretary who makes or participates in decisions that substantially affect the business of the organisation. At Multicap this includes the CEO, and members of the Executive Leadership Team.

A whistleblower can also raise their concerns about reportable conduct with a legal practitioner for the purposes of obtaining legal advice or legal representation in relation to the operation of the whistleblower protections available under the Corporations Act. Such disclosures will also be protected under the Corporations Act, even if the legal practitioner concludes that their concerns do not relate to an eligible disclosure.

### 3.4 Emergency and Public Interest Disclosures

“Emergency disclosures” is where whistleblowers can make protected disclosures to a member of parliament or the media. A whistleblower can make an “emergency disclosure” to one of those recipients where they believe there is a substantial and imminent danger to the health and safety of one or more persons at Multicap or to the natural environment.

A whistleblower can make a “public interest disclosure” where 90 days have passed after making a disclosure and the whistleblower still reasonably believes that:

- action has not been taken; and
- further disclosure is in the public interest.

The whistleblower must give written notice to Multicap before making a public Interest disclosure as defined above.

The whistleblower should also consider obtaining independent legal advice before making an emergency or public interest disclosure.

## 4. Process for whistleblowers

Anyone who becomes aware of any known or suspected incidences of misconduct or dishonest or illegal activity, including violence, abuse, neglect or exploitation are encouraged to raise their concerns with Multicap. Multicap’s procedure *3.02 Complaints Management & Resolution* outlines the different ways to raise a complaint.

Where a person wishes instead to make a protected disclosure in accordance with this procedure they should raise their concern directly with one of the people listed as an eligible recipient under section 3.3. They can also email [feedback@multicap.org.au](mailto:feedback@multicap.org.au)

If a whistleblower does not feel comfortable including details of their identity, they can make an anonymous disclosure. An anonymous disclosure is still eligible for protection under law. If the whistleblower decides to remain anonymous over the course of and after the investigation, no investigations will be carried out to try and identify them.

It is acknowledged that it may be difficult to investigate the disclosure properly if it is made anonymously and is not possible to contact the whistleblower. If the whistleblower feels comfortable doing so, they should make an anonymous disclosure using an anonymised email address to enable the investigating personnel ask the whistleblower follow up questions or provide them with updates about the status of the investigation.

## 5. Investigation

### 5.1 Initial assessment of disclosures

Disclosures will initially be referred to the Risk & Quality Manager, who will carry out an initial assessment of:

- the mixture of issues raised by the disclosure, including whether it is a protected disclosure under this procedure and the Corporations Act;
- the actual risks of detrimental conduct faced by all individuals involved in the disclosure (and, where appropriate, take action under sections 5.3 and 5.5); and
- the appropriate steps for both responding to the disclosure and the whistleblower's welfare.

If the disclosure is covered by this procedure and further investigation of the matters raised in the disclosure is warranted, the disclosure will be referred to a person who will conduct the investigation.

### 5.2 Investigation of disclosure

The objective of an investigation of a disclosure is to determine whether there is enough information or evidence to substantiate or refute the matters reported in the disclosure.

Where an investigation needs to be undertaken, Multicap will ensure it is objective, fair and independent. Therefore, any person appointed to investigate a disclosure will be independent of the whistleblower and any individuals who are the subject of the disclosure, as well as any connected staff members.

The person appointed to complete the investigation will usually be a member of the Executive Leadership Team, who has received training on how to investigate disclosures. If, however:

- it is considered that that additional specialist skills or expertise are necessary; and/or

- if the disclosure concerns any member of the Board or any senior managers of Multicap,

an external investigator may be appointed to conduct the investigation, either in conjunction with, or independently of, an internal appointee.

Any disclosures concerning allegations of suspected violence, abuse, neglect or exploitation by other members of staff, other customers, or other members of the community will be investigated by the Employee Experience team and dealt with in accordance with Procedure *8.03 Responding to Violence, Abuse, Neglect and Exploitation*.

At the end of an investigation, the person conducting the investigation will submit a de-identified report to the CEO. The report will summarise the conduct of the investigation and the information and evidence collected, draw conclusions about the extent of any reportable conduct and recommend an appropriate course of action to remedy any reportable conduct and ensure that it does not recur.

A summary of the investigation, and the agreed actions will be provided to the Multicap Risk, Quality and Systems Committee.

A copy of the report will also be provided to the Risk & Quality Manager, who, where it is appropriate to do so, will provide the whistleblower with a copy as well as maintain a de-identified record of all concerns raised and actions taken under this procedure.

### 5.3 Ongoing support for whistleblowers

Unless the whistleblower has chosen to remain anonymous and cannot be contacted, after the Risk & Quality Manager has completed their initial assessment of the disclosure, they will discuss with the whistleblower what kind of support and protection they need. For instance, it might be appropriate for the whistleblower to have:

- a leave of absence during the investigation;
- alternative employment arrangements ;
- counselling or other professional services for the distress caused by the reportable conduct which led to the disclosure being made by the whistleblower; and
- assistance in developing strategies to help the whistleblower minimise and manage stress, time or performance impacts, or other challenges resulting from the disclosure or its investigation.

### 5.4 Keeping whistleblowers informed

Unless the whistleblower has chosen to remain anonymous and cannot be contacted, Multicap will (through the Risk & Quality Manager):

- confirm receipt of the disclosure by the person conducting the investigation and establish a process, including expected timeframes, for reporting to the whistleblower the progress of the investigation;
- contact the whistleblower as soon as practicable after the disclosure has been referred

to the person conducting the investigation to discuss their welfare and to discuss whether they require any additional support;

- inform the whistleblower at the earliest possible opportunity if the person conducting the investigation determines that there is insufficient information or evidence to warrant further investigation; and
- inform the whistleblower of the final outcome of the investigation.

## 5.5 Ensuring fair treatment of individuals mentioned in a Disclosure

The Risk & Quality Manager will also ensure that:

- if practical and appropriate to do so, the details of individuals mentioned in the disclosure are handled confidentially;
- any person who is the subject of a disclosure will be advised, in line with Procedure 3.02 *Complaints Management & Resolution* and/or Procedure 5.20 *Staff Grievance & Complaints*, about the subject matter of the disclosure as and when required by principles of natural justice and procedural fairness and prior to any actions being taken; and
- any person who is the subject of a disclosure receives appropriate support services.

## 6. Protection of the whistleblower

This procedure is designed to ensure that no one will be subject to or threatened with detrimental conduct (whether by act or omission) by Multicap, its employees or anyone else whose conduct is within Multicap control if that person believes or suspects that a person has made, may have made, proposes to make or could make a Disclosure, and the belief or suspicion is the reason, or part of the reason, for their conduct towards that person.

Examples of detrimental conduct may include:

- dismissal as an employee;
- injury in the course of the person's employment;
- alteration of a person's position or duties within their employment to their disadvantage;
- discrimination between the person and other employees;
- harassment or intimidation;
- harm or injury, including psychological harm;
- damage to the person's property;
- damage to the person's reputation;

- damage to the person's business or financial position; or
- any other damage,

but will not include situations where such conduct is appropriate in the circumstances, such as:

- administrative action that is reasonable for the purpose of protecting the person from detrimental conduct (such as the actions detailed above); and
- managing unsatisfactory work performance, if the action is in line with Multicap's performance management framework.

All Multicap employees have an important responsibility concerning the welfare of the whistleblower within the organisation. All Multicap personnel must refrain from any activity that is, or could be perceived to be, victimisation of a person who makes a protected disclosure.

A person may seek compensation and other remedies through the courts if:

- they suffer detrimental conduct because of a protected disclosure (whether or not they actually made the disclosure); and
- Multicap fails to take reasonable precautions and exercise due diligence to prevent that detrimental conduct.

## 7. Confidentiality of whistleblower

All disclosures will be treated confidentially. A whistleblower's identity and any information they disclose will not be provided to anyone who is not involved in the investigation of their disclosure unless permitted by law (such as if Multicap is required to disclose such details to ASIC, the AFP or a legal practitioner), or the whistleblower has consented to their details being provided.

If a whistleblower makes a disclosure that includes details of their identity, or any other information which could be used to identify them, the person who received their disclosure will ask the whistleblower to consent to this information being disclosed to the necessary personnel dealing with their disclosure.

If the whistleblower does not wish for this information to be included, their disclosure will be de-identified before it is escalated for investigation. For example, this may include:

- redacting any personal information;
- referring to the whistleblower in a gender-neutral context; and
- working with the whistleblower to help identify any other information within their disclosure that could inadvertently identify them.

Alternatively, the whistleblower may choose to adopt a pseudonym for the purposes of their

disclosure. This may be suitable where their identity is known to the person to whom they made a disclosure, but they would prefer not to disclose their identity to anyone else.

All documents and other materials relating to any disclosures will be stored and dealt with securely.

## 8. Concerns about breaches of confidentiality and victimising behaviour

It is against the law for Multicap to fail to take reasonable precautions to protect a person from actual or threatened detrimental conduct as described in section 6 or for Multicap to breach a whistleblower's confidentiality (where the whistleblower has made a protected disclosure) as described in section 7.

Anyone who believes that their confidentiality may have been breached (if they are a whistleblower who has made a protected disclosure) or that they have been subject to, or threatened with, any detrimental conduct, they should raise their concerns in accordance with section 3.3 and section 4 in the first instance. The matter will be escalated as a separate disclosure. However, a whistleblower may also lodge a complaint directly with ASIC and/or seek independent legal advice.

## 9. Whistleblower implicated in improper conduct

Whistleblowers are also protected from any of the following in relation to their disclosure:

- civil liability (e.g. any legal action against the person for breach of an employment contract, duty of confidentiality or another contractual obligation);
- criminal liability (e.g. attempted prosecution of the person for unlawfully releasing information, or other use of the disclosure against that person in a prosecution (other than for making a false disclosure)); and
- administrative liability (e.g. disciplinary action for making the disclosure).

However, these protections do not apply in relation to any misconduct the person has engaged in that is revealed in their disclosure. However, in some limited circumstances, a full and frank admission may be a mitigating consideration in respect of disciplinary or other action.

## 10. Relevant legislation

- [Corporations Act 2001 \(Cth\)](#) (Corporations Act)

## 11. Supporting procedures and Documents

Description		Location
8.02	Preventing and Responding to Violence, Abuse, Neglect and Exploitation	Multinet / Procedures / 08. Preventions & Responding to Abuse, Neglect & Exploitation Procedures
9.01	Risk Management	Multinet / Procedures / 09. Risk Management Procedures
6.08	Incident Management	Multinet / Procedures / 06. Work Health & Safety Procedures
1.3.02	Accident and incident reporting	Intranet / HR / Forms and policies/Documents/Policies/1 Governance and Management/1.3 Workplace Health and Safety/..
3.02	Complaints Management & Resolution	Multinet / Procedures / 03. Stakeholder Engagement Procedures
5.20	Staff Grievance & Complaints	Multinet / Procedures / 05. People & Culture Procedures

## 12. Review of procedure

This procedure will be reviewed every two (2) years to ensure it remains consistent with relevant legislative requirements, as well as the changing nature of Multicap's business activity and operations.