

WHISTLEBLOWER POLICY

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REVISION HISTORY

Latest version updated and Board approved 22/10/2024

POLICY STATEMENT

Family Planning Australia (FPA) is committed to best practice in corporate governance and compliance and consistent demonstration of behaviours consistent with our values, including a commitment to honesty, integrity and accountability by those who represent FPA. We equally are committed to creating a culture where our people, our stakeholders and our clients can report conduct that falls short of our expectations without recrimination.

Persons, including but not limited to employees, volunteers, contractors, suppliers or members of the public who detect, become aware of or have reasonable grounds for suspecting improper conduct associated with FPA can raise concerns under this policy without being subject to victimisation, harassment or discriminatory treatment by FPA or its staff, and may choose to raise concerns on an anonymous basis with FPA.

SCOPE

This policy applies to all current and former directors, officers, company secretaries, employees, volunteers, students, contractors and suppliers (and employees of suppliers and contractors) of FPA. It also applies to relatives, dependants or dependants of spouses of any of these people.

DEFINITIONS

Term	Meaning
Disclosable matter	Anything the whistleblower has reasonable grounds to suspect concerns misconduct, or an improper state of affairs or circumstances, in relation to FPA operations. This could, for example, include information about bribery, corruption, dishonesty, fraud, illegality, breach of FPA's code of conduct, policies or procedures, or financial or reputational loss to FPA. Without limiting this scope, it clearly includes information where there is reasonable grounds to suspect that FPA or any of its officers or employees have: • breached certain Commonwealth laws (includes but not limited to Corporations Act 2001, the ASIC Act 2001 and any other Commonwealth law that's punishable by imprisonment of 12 months or more) • engaged in conduct that represents a danger to the public or financial system.
Disclosure Committee	A Disclosure Officer and at least any two of the Chief Executive Officer, Board Chair, Director People, Culture and Support Services and the Director having responsibility for the department in which the alleged improper conduct arose.
Disclosure Officer	The Director People, Culture and Support Services and the Company Secretary of FPA or their appointed nominee/s.
Reasonable grounds	An objective test and relates to whether a reasonable person in possession of the information would form the belief that the improper conduct occurred. It is important that there is evidence to support a person's beliefs, other than their concerns. This may include documentation, witnesses or other direct evidence.

Term	Meaning
Values	FPA's values as published at https://www.fpnsw.org.au/about-us/who-we-are
Whistleblower	A discloser who has made a disclosure that qualifies for protection under the Corporations Act.
Whistleblowing	When a person connected to a company or organisation reports potential misconduct or breaches of the law by that company or organisation to an authorised person or government regulator.
Whistleblower disclosure	Disclosure by a whistleblower under this policy based on reasonable grounds that discloses or demonstrates an intention in good faith to disclose.

ROLES AND RESPONSIBILITIES

Role	Responsibility
Employees/contractors, volunteers, Directors, Officers, suppliers	• Comply with laws, policies and procedures • Report any concerns to your manager or make a disclosure under this policy • Don't disclose the identity of anyone who could be a potential whistleblower • Don't treat anyone detrimentally
Disclosure officer	Protect or safeguard disclosers and ensure integrity of the reporting system.

POLICY DETAILS

The Corporations Act gives special protection to disclosures about any misconduct or improper state of affairs relating to FPA. To qualify for protection the whistleblower must:

- be one of the individuals set out in section 1.1
- disclose that information to one of the individuals set up in section 1.2
- disclose information regarding section 1.3

1.1 Eligible whistleblower

The eligible whistleblower is or has been:

- an officer or an employee of FPA
- a contractor or supplier of goods and services to FPA or their current or former employees
- an associate of FPA
- a relative, dependant or dependant spouse of any individual mentioned above

1.2 Eligible recipients

The whistleblower can make a disclosure to any of the following:

- FPA disclosure officer
- an officer of FPA (Board members or company secretary) or senior manager of FPA (Executive team)
- FPA external auditor or a member of the audit team
- an actuary
- Australian Securities and Investments Commission (ASIC)
- Australian Prudential Regulation Authority (APRA)
- legal practitioner for the purpose of obtaining legal advice or legal representation in relation to the operation of the whistleblower provisions in the Corporations Act

Reports can be made to the media or a Parliamentarian, these reports only receive protection under the whistleblower laws in very limited circumstances:

- to make a protected "public interest" report, the whistleblower have already made a protected report to an eligible regulator (such as ASIC), waited at least 90 days, and not

have reasonable grounds to believe that action is or has been taken. There must also have reasonable grounds to believe that making a further report would be in the public interest

- to make an “emergency” report, the whistleblower must have already made a protected report to an eligible regulator (such as ASIC) and there must have reasonable grounds to believe that the information in the report concerns a substantial and imminent danger to health or safety of one or more persons or to the natural environment.

In either case, the regulator must be notified in writing of the intent to make the further report. The further report can be made to a member of Parliament or a journalist who meets the legislative definitions of those terms. It is recommended to seek legal advice before proposing to make a report to any journalist or Parliamentarian.

1.3 Disclosable matters

Disclosures can be about improper conduct which the whistleblower suspects on reasonable grounds has occurred or is occurring within FPA. The whistleblower who detects or has reasonable grounds for suspecting improper conduct by an officer or employee of FPA is encouraged to raise any concerns with the Disclosure Officer.

Examples of disclosable matters may involve:

- misconduct or an improper state of affairs or circumstances in relation to FPA in relation to:
 - corporate governance
 - accounting or audit matters
 - substantial mismanagement of FPA resources
- illegal conduct such as fraud, corruption, bribery, theft, violence, harassment or intimidation, criminal damage to property or other breaches of applicable laws
- conduct involving substantial risk to public health, safety, or the environment
- unethical activities that would breach FPA Code of Conduct and Ethics and other FPA policies
- behaviour that is oppressive, discriminatory or grossly negligent
- an unsafe work-practice

Disclosures cannot be made under this policy about solely personal work-related grievances. Such matters will be dealt with in accordance with the FPA Grievance and Dispute Resolution Procedure.

1.4 Protection

Whistleblowing protection laws recognise that whistleblowers take a significant personal and professional risk when they choose to make a disclosure. Disclosure can also risk their personal safety or put them in a stressful and difficult situation.

FPA will take all reasonable steps to protect the whistleblower and will not tolerate any detrimental acts or omissions against any person who has made or who is believed to have made a report of improper conduct. Detrimental acts include dismissal, demotion, harassment, discrimination, disciplinary action, bias, threats or other unfavourable treatment connected with making a report.

Any such retaliatory action or victimisation by any member of staff in reprisal for a report being made under this policy will be treated as serious misconduct. If the whistleblower is subject to detrimental treatment as a result of making a report under this policy, the whistleblower should inform the disclosure officer immediately.

A whistleblower is not automatically protected from the consequences of being a party to any improper conduct they report under this policy.

FPA will take all reasonable steps to protect and respect the rights of a person who reports alleged improper conduct in good faith. Where it is established that a whistleblower who is a member of staff is not acting in good faith, or they have knowingly made a false disclosure of improper conduct, then they may be subjected to disciplinary proceedings, which may include dismissal.

The protections given by the Corporations Act when the conditions of sections 1.1 - 1.3 are met are:

- the whistleblower is immune from any civil, criminal or administrative legal action (including disciplinary action) for making the disclosure
- no contractual or other remedies may be enforced, and no contractual or other right may be exercised, against the whistleblower for making the report
- in some circumstances, the reported information is not admissible against the whistleblower in criminal proceedings or in proceedings for the imposition of a penalty
- anyone who causes or threatens to cause detriment to a whistleblower or another person in the belief or suspicion that a report has been made, or may have been made, proposes to or could be made, may be guilty of an offence and may be liable for damages
- a whistleblower's identity cannot be disclosed to a Court or tribunal except where considered necessary
- the person receiving the report commits an offence if they disclose the substance of the report or the whistleblower's identity, without the whistleblower's consent, to anyone except ASIC, APRA, the AFP or a lawyer for the purpose of obtaining legal advice or representation in relation to the report.

1.5 Confidentiality/anonymity

A whistleblower may elect to make a disclosure to FPA about a Family Planning staff member anonymously. As far as possible, FPA will respect the whistleblower's request to not identify themselves and will take reasonable steps to reduce this risk.

At the time of making a disclosure, the whistleblower can request a meeting in a discreet location away from their workplace or from FPA.

Others who know of or suspect that another person has made a disclosure under this protocol should protect and maintain the confidentiality of that person. Staff members who breach confidentiality in relation to a known or suspected disclosure will be subjected to disciplinary proceedings, which may include dismissal.

If a report is made that qualifies for protection under the Corporations Act, the identity of a whistleblower (or information that is likely to lead to their identity becoming known) must be kept confidential unless one of the following exceptions applies:

- the discloser consents to the disclosure of their identity
- the concern is reported to ASIC, APRA or the Australian Federal Police
- the concern is raised with a lawyer for the purpose of obtaining legal advice or representation
- the disclosure of the whistleblower identity is reasonable necessary for the effective investigation of the matter

1.6 Confidentiality/anonymity

Where possible and assuming the identity of the whistleblower is known, the whistleblower will be kept informed of the progress and outcome of the investigation of his/her disclosure, subject to privacy and confidentiality considerations. All whistleblowers must maintain confidentiality of any information provided to them by FPA in relation to, or as a consequence or outcome of their disclosure.

1.7 Management of person/s against whom the disclosure has been made

FPA recognises that persons against whom disclosures are made and investigated under this protocol must also be supported during the handling and investigation of disclosures. FPA will afford procedural fairness to the person against whom a disclosure has been made.

2. DISCLOSURES

2.1 Process of Disclosures

Disclosures can be made:

By letter: Disclosure Officer

 Family Planning Australia,

 8 Holker Street Newington NSW 2127

By email: DisclosureOfficer@fpnsw.org.au

Disclosures may also be made to any individual listed in section 1.2 or to a FPA staff via other means, such as conversation or electronic messages.

All persons responsible for, or involved in, an investigation must take all reasonable steps to reduce the risk that a whistleblower will be identified.

Step 1:

The Disclosure Officer will determine if the disclosure is a whistleblower disclosure. They will deem the claim to be a whistleblower disclosure if they are satisfied that the claim made tends to show that FPA, an employee, or officer or other person representing FPA has engaged in improper conduct. Matters involving potential criminal offending may be referred immediately to the police.

Step 2:

Where a disclosure is assessed not to be a whistleblower disclosure, the Disclosure Officer will decide how the matter should be responded to in consultation with the Chief Executive Officer or the Chair of the Board as appropriate. Even if a disclosure is not a whistleblower disclosure, there may be other FPA policies and protocols that apply and the person who made the disclosure will be advised of the correct reporting avenue.

Step 3:

The Disclosure Officer will refer a whistleblower disclosure to the Chief Executive Officer to commission an investigation which will be conducted as follows:

- review all claims made, in conjunction with any evidence provided by the whistleblower
- investigate and locate any evidence that may substantiate or refute the claims of the whistleblower (this may include interviewing other parties)
- the person/s against which the allegation has been made will have the opportunity to respond and explain their behaviour and to provide any material in support of their response and explanation
- a conclusion shall not be reached and a recommendation will not be made until reasonable and appropriate enquires have been made and submitted material considered, and
- the Chief Executive Officer may also refer the matter for investigation to an external body or the police if criminal conduct appears to have occurred, and the Chair of the Board will be advised of any such referral

Step 4:

At the conclusion of an investigation a report will be prepared by the Chief Executive Officer. The report will broadly outline the following:

- the details of the whistleblower disclosure where possible while maintaining their confidentiality
- the information and evidence collected during the investigation that either supports or refutes the allegation of improper conduct
- the conclusions reached by the Chief Executive Officer and the reasoning behind each conclusion, and
- the recommendation of the Chief Executive Officer as to any action to be taken and as to who should be the appropriate decision maker in respect of any such action

Step 5:

Authority as to taking any action in response to a recommendation made by the Chief Executive Officer shall be determined by the seriousness of any substantiated allegations.

Step 6:

The level of reporting to the Board regarding whistleblower disclosures will be determined by the seriousness of any allegations made in relation to improper conduct. At a minimum, the Chief Executive Officer will prepare a general report on whistleblower disclosures to the Board on an annual basis.

Step 7:

The Disclosure Officer will maintain a register of whistleblower disclosures, a copy of the report of the Chief Executive Officer and actions taken in response to the report.

2.2 Disclosure Committee

The Chief Executive Officer will ensure that, unless the circumstances require otherwise, the person who is subject of any whistleblower disclosures investigated by or on behalf of FPA is:

- informed in writing as to the substance of the allegations
- given the opportunity (and sufficient time) to respond to the allegations, be afforded the opportunity to bring a representative of their choosing to any meeting and be heard in relation to the matter under investigation
- informed as to the substance of any adverse finding against them included in any report arising from the investigation
- offered the opportunity to utilise the employee assistance program where they are an employee of FPA

3. OUTCOME

Any person, including but not limited to, employees, Board members, students, volunteers, contractors or any member of the public that has concerns regarding FPA in relation to any improper conduct affecting FPA can raise these concerns without being subject to victimisation, harassment or discriminatory treatment by FPA or its staff, and may choose to raise concerns on an anonymous basis.

COMPLIANCE STRATEGY

Item	Audit frequency /evidence	Person responsible
Report on whistleblower disclosures presented to the Board	As Required, and as a minimum annually	Company Secretary