

Whistleblower - Policy

1.0 Establishment

UNSA is committed to acting with high levels of integrity and providing its services in a safe, productive and ethical environment. These values are crucial to UNSA's success and reputation.

The intent of this Policy is to support whistleblowers who, in good faith and without malice, disclose information or raise concerns about alleged improper or illegal activity.

This Policy has been prepared with reference to requirements of the Corporations Act 2001 (Cth) and current best practice principles as outlined in ASIC's *Regulatory Guide 270 – Whistleblower Policies*.

Under section 1317AI of the *Corporations Act 2001*, the policy is required to adhere, as a minimum, to:

- a. Providing information about the protections available to the whistleblower;
- b. Providing information about what support is available to the whistleblower;
- c. Providing information on how UNSA will investigate whistleblower reports;
- d. Providing information on how UNSA will ensure fair treatment of the whistleblower during the process; and
- e. Providing information on how UNSA will inform officers and employees about the policy.

2.0 Policy Scope

This Policy is a key element in detecting corrupt, illegal or other undesirable conduct and applies to all UNSA staff (current and former), student representatives, volunteers, officers (including Board members and the Company Secretary).

This Policy details the matters that are reportable, how such matters may be reported without concern for retribution, personal or professional detriment and outlines the protections and supports in place for whistleblowers.

UNSA strongly encourages any person to speak up should they suspect or witness any matters of concern, and to report any matters which may be considered unethical, illegal or an act of serious wrongdoing, (*Reportable Conduct*). UNSA considers it a professional responsibility of UNSA staff, student representatives and officers to report potential misconduct, unethical behaviour or breaches of the law.

UNSA provides Protections and measures so that those persons who make a report may do so confidentially and without fear of intimidation, disadvantage or reprisal.

3.0 Principles

This Policy is important to good risk management and corporate governance as whistleblowing helps uncover misconduct that may not otherwise be detected. In some cases, wrongdoing only comes to light because individuals are prepared to make disclosures.

The Policy provides a framework which:

1. supports a whistleblowing culture and climate of trust through an accessible Policy and transparent reporting and investigation processes;
 - The Policy actively encourages reporting wrongdoing in the first instance within UNSA, but respects any decision to make a disclosure to an external organisation or

Eligible Recipient as defined in 4.0 Definitions;

- Information about this Policy and *Protections* under the Act for a person who makes a disclosure is included in inductions for staff, Directors, and student representatives;
- 2. supports any person who makes a report when they suspect or are aware of genuine wrongdoing, and provides comfort they will be protected and supported;
 - Any person who reports wrongdoing will be treated fairly and with respect at all times;
 - UNSA will, as far as reasonably possible, keep confidential the identity of any person who, acting honestly and reasonably, reports wrongdoing;
 - UNSA is committed to protecting any person who reports wrongdoing from *Detriment* that results from the reporting of wrongdoing, as far as reasonably possible;
- 3. ensures disclosures made under the Policy are appropriate;
 - the Policy outlines *Disclosable Matters* in detail and makes a clear delineation between *Reportable Conduct* and non-reportable matters
 - pathways on how to manage any workplace issues or other problems not covered by the Policy are included
- 4. increases transparency on how UNSA will receive, handle and investigate disclosures;
 - The Policy outlines the processes in receiving, assessing, investigating or otherwise dealing with any report of wrongdoing thoroughly and impartially;
 - The Policy outlines the process of determining and taking appropriate action if a report of wrongdoing is confirmed;
 - UNSA will keep any person who reports wrongdoing informed of the progress and outcome of any enquiry or investigation, notwithstanding any limitations or constraints which may be experienced because of a request for anonymity.
- 5. ensures the publication and availability of our Whistleblower policy, both internally and externally.
 - The policy is required to be approved by the Board;
 - All officers, managers and employees will be provided a copy of the policy on initial employment and whenever there is an update to the policy;
 - The policy is to be published on the UNSA website accessible to any officer or employee of UNSA.

4.0 Definitions

The following definitions shall apply to this Policy:

Act - the Corporations Act 2001 (Cth)

ACNC - Australian Charities and Not-for-profits Commission

ASIC – Australian Securities and Investments Commission

Board - UNSA Board of Directors (made up of six elected Student Directors and three External Directors)

Detriment - can include, but is not limited to:

- dismissal of an employee or alteration to their position/duties to their disadvantage;
- negative performance feedback that is not reflective of actual performance;
- harassment, intimidation, or bullying; or,

- threats to cause detriment.

Detrimental Conduct - negative action taken against any person who makes a Report or assists or participates in an investigation of the disclosure and as a result suffers *Detriment*.

Disclosable Matters – see *Reportable Conduct* in these definitions.

Eligible Recipient - a person authorised under Whistleblower Laws to receive disclosures. Refer to *5.0 Reporting* for details.

Eligible Whistleblower – an individual who is, or who has been, any of the following in relation to UNSA:

- (a) an officer or employee (e.g. current or former staff member who may be permanent, full-time, part-time, fixed-term, temporary), a student representative, an intern, a volunteer or a director;
- (b) a supplier of services or goods to UNSA (paid or unpaid), and their employees;
- (c) an associate of UNSA; and
- (d) a relative, dependant or spouse of an individual in (a) to (c) of this definition.

Investigator – A person trained and competent in investigating *Reportable Conduct*.

Protections – a person must make their report to an Eligible Recipient to qualify for protections under Whistleblower Laws and this Policy. These protections include:

- identity protection (confidentiality);
- protection from *Detriment*;
- compensation and remedies; and
- civil, criminal and administrative liability protection.

Public Interest and Emergency Disclosure Reporting - Reports made in “public interest” and “emergency disclosure” situations are also protected. Under these circumstances, reports can be made to an Eligible Public Recipient. It is important that a person making a report understands the criteria for making a public interest or emergency disclosure.

It is suggested that independent legal advice is sought on the relevant requirements for these types of disclosures.

Reportable Conduct - any past, present or likely future activity which may include:

- dishonest, corrupt or unethical activity;
- illegal conduct, such as theft, dealing in, or use of illicit drugs, violence or threatened violence, and criminal damage against property;
- financial irregularity, fraud, misappropriation of funds or offering/accepting a bribe;
- a breach or failure to comply with legal or regulatory requirements, or systemic, wilful or serious breach of the law as it relates to UNSA, its internal policies or processes;
- interference with any impending internal or external audit processes;
- activity that presents a significant or serious threat to health and safety;
- a serious mismanagement of UNSA’s resources or activity presents a serious risk to the reputation or financial wellbeing of UNSA; and,
- engaging in or threatening to engage in *detrimental conduct* against a person who has made a disclosure, or is suspected to have made, or be planning to make, a disclosure.

This Policy is not intended to apply to disclosures relating to conduct concerning a person’s individual employment (other than as set out in *Reportable Conduct*) including:

- personal, work-related grievances such as those relating to harassment, discrimination

or disciplinary matters;

- alleged workplace discrimination or bullying;
- personal disputes between staff; or
- decisions regarding the engagement, transfer or promotion of staff.

Non-Reportable Conduct should be addressed under UNSA's Grievance Resolution Policy and these reports do not qualify for protection under the Act.

Staff - All people employed by UNSA, including permanent, fixed term or on a casual basis.

Unlawful - An action in relation to matters prohibited by law.

Whistle-blower – a person who discloses a *Reportable Conduct*.

5.0 Reporting

5.1 Any person who makes, or is considering making, a report under this Policy may wish to contact a legal practitioner to determine if the protections will apply to them.

5.2 Any person who makes, or is a subject of, a report under this Policy is encouraged to contact UNSA's Employee Assistance Program (free and confidential counselling provided by [NewPsych Psychologists](#)), or the University of Newcastle Counselling or Chaplaincy services for support if required.

5.3 A person making a report must not knowingly make a false or vexatious claim and protections under this Policy will not be applied to such reports. UNSA may apply disciplinary proceedings to any staff member or student making them.

5.4 Reports and disclosures can be made verbally or in writing and should include as much information as possible, including the details of the misconduct, people involved, dates, locations and any other evidence that exists.

5.4.1 Disclosures made in conversation must be documented by the Recipient and the record signed by the Whistleblower to verify the record is accurate.

5.5 Eligible Recipient

Where a person wishes to report their concern, in the first instance that person must report their concern to an Eligible Recipient:

- i) the Company Secretary, UNSA General Manager Georgia Killick (georgia.killick@newcastle.edu.au; (02) 4913 8033) or, if they feel that the Company Secretary may be complicit in the breach,
- ii) the UNSA President, Jessica Philbrook (Jessica.philbrook@newcastle.edu.au; 0421 811 506) or, if they feel that the UNSA President may be complicit in the breach,
- iii) the Returning Officer, University of Newcastle Deputy Vice-Chancellor-Academic (DVC-Academic@newcastle.edu.au; (02) 4921 5114).

5.6 Anonymous Reporting

All reports can be made anonymously and still receive the protection provided under this Policy, however anonymity may limit UNSA's ability to investigate the matters reported.

Persons disclosing Reportable Conduct are encouraged to disclose their identity when making a report under this Policy. In addition to making it easier to conduct an

investigation it enables UNSA to protect that person from retaliation or detriment.

5.7 Confidentiality

UNSA will treat all reports, as well as all confidential information acquired in the course of investigating a report, with the strictest confidence.

5.7.1 Subject to compliance with legal requirements UNSA will only disclose the identity of the person who made the report, or any other information that is likely to lead to the identification of that person, with their prior consent or otherwise in limited circumstances as outlined below.

In limited circumstances, UNSA may need to disclose the identity of the whistleblower without their consent to certain third parties, including:

- UNSA's lawyers;
- ASIC, ACNC, Australian Federal or State Police;
- any third party where the investigating authority, public authority, officer or public official is of the opinion that disclosure of the identity of a person making a report is necessary to investigate the matter effectively, or it is otherwise in the public interest to do so.

6.0 Protection from Detrimental Conduct

UNSA understands that the decision to make a report can be difficult and remains committed to ensuring any person feels safe in making a report. Protections will apply even where it is subsequently determined that a report was mistakenly made or not substantiated.

6.1 When a report in relation to *Reportable Conduct* is made, the identity of the person making the report will remain confidential and that person will be protected from *Detrimental Conduct* for making the report.

6.2 Any *Detrimental Conduct* against a person disclosing *Reportable Conduct* will be treated as a serious wrongdoing.

6.3 Any breach of this Policy may be regarded as misconduct and may result in disciplinary action (up to and including dismissal where relevant).

6.4 A breach of this Policy may also amount to a civil or criminal contravention under the Australian whistleblower protection laws (in particular, the regime contained in the Corporations Act), giving rise to significant penalties.

6.5 If a person makes a report and subsequently experiences any form of *Detriment*, they are encouraged to notify one or more of the Board's External Directors if those persons are not implicated in the disclosure. The Director(s) will ensure the matter is investigated promptly.

6.5.1 If a person is found to have disadvantaged or retaliated against a person because of the submission of a report, that will be grounds for disciplinary action up to and including dismissal.

6.6 UNSA understands that there may also be some serious repercussions for persons who are mentioned in a report. Accordingly, UNSA will ensure their fair treatment and will extend the protections stated above to these persons where appropriate.

7.0 Investigating Reportable Conduct

The *Eligible Recipient* will assess the report and determine whether the matter falls under

this Policy.

- 7.1. If the Eligible Recipient determines a report does not fall under or relate to *Reportable Conduct*, they will inform the person making the report and advise them of how the matter will be handled under UNSA's Grievance Resolution Policy.

- 7.2 If the Eligible Recipient determines a report is *Reportable Conduct*, based on the nature of the report they will determine whether the investigation will be conducted by an internal or external investigator.
- 7.3 The investigator will;
- conduct the investigation as quickly and efficiently as circumstances permit;
 - conduct the investigation in an objective and fair manner;
 - ensure the identity of the person making the report remains confidential as far as reasonably possible;
 - ensure the investigation is conducted independent from any persons to whom the disclosure relates; and,
 - ensure every person subject to the investigation is granted sufficient opportunity to reply to allegations before any findings are made.
- 7.4 Issues identified from the investigation will be resolved or otherwise finalised.
- 7.5 The person submitting the report will be informed of the progress and outcomes of the investigation subject to considerations of privacy of those against whom a disclosure has been made.
- 7.6 The details of investigation and the outcome will be informed to the UNSA Board on a confidential and anonymous basis.

8.0 Related Documents

- [ASIC Information Sheet 238 – Whistleblowers Rights and Protections](#)
- [ASIC Information Sheet 239 – How ASIC handles whistleblower reports](#)
- [NSW Ombudsman Fact sheet – Thinking about reporting wrongdoing?](#)
- [UNSA’s Whistleblower Report Form](#)
- UNSA’s Grievance Resolution Policy

Document History	
Effective Date	Amendment
29 September 2021	Amendments made
- February 2022	Approved by UNSA Board Ltd.