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AFL Whistleblower Reporting Procedure



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1. Reporting Procedure Background

The AFL has a strong commitment to ensuring that all its activities are carried out in a way that is both ethical and compliant with its rules and regulations and applicable laws. Employees (current and past), including AFL employees, Club employees, players and volunteers, are encouraged to report any improper conduct they observe or encounter.

2. Procedure Objectives

The objective of this Procedure is to:

- (a) Encourage the reporting of misconduct or an improper state of affairs or circumstances relating to AFL and its related entities;
- (b) Provide information about how to make a complaint or report about Improper Conduct;
- (c) Set out information about the protections which may be available to persons who raise concerns about Improper Conduct or provide information concerning, Improper Conduct; and
- (d) Provide information about how AFL will investigate disclosures about Improper Conduct.

3. Definitions

Department Head means a member of staff responsible for the management of a department or a function. The role will typically have 'Head of' in the title and report directly to an Executive.

Executive means a member of AFL staff with executive responsibility for a department and reporting to the AFL Chief Executive Officer (CEO).

Whistleblower Investigation Officer means a member of the AFL Integrity and Security Department or any external investigator appointed by the AFL to investigate Improper Conduct.

Whistleblower Protection Officer means the person(s) appointed to this role by the AFL.

Capitalised terms not otherwise defined in this Procedure have the meaning given to them in the AFL Whistleblower Policy.

4. Matters to consider before reporting

- (a) A Whistleblower who makes a report under this Procedure must do so in good faith and only if they have reasonable grounds to believe that Improper Conduct has occurred. All Whistleblowers making genuine reports will be protected from reprisal for making the disclosure, as outlined in this Procedure and the Act (even if their report turns out to be incorrect).
- (b) This Procedure is designed to complement the AFL's normal internal communications channels and is not intended to restrict AFL personnel from raising issues and discussing concerns with appropriate supervisors, Department Head(s) or an Executive.
- (c) A person who makes a false report knowingly, maliciously, with an ulterior motive, for personal gain or with reckless disregard as to the truth or falsity of the contents of the report will not be able to access the protections under the AFL Whistleblower Policy and this Procedure. The AFL reserves the right to take appropriate action against that person, including any disciplinary action.
- (d) If any Whistleblower is concerned as to whether any disclosure they may seek to make in respect of Improper Conduct is covered by this Procedure, that person may seek legal advice. Disclosing the information to a lawyer for the purpose of obtaining that legal advice or legal representation will

not change the application of this Procedure or the protection provided to any Whistleblower under it.

- (e) While the AFL acknowledges that Whistleblowers may not have absolute proof or evidence of Improper Conduct, a report should, where possible, include the reasons for their concerns and make full disclosure of the relevant details of the conduct and all supporting documentation.

5. Who can receive a report of Improper Conduct?

5.1 Whistleblower Protection Officers

- (a) AFL has appointed an internal Whistleblower Protection Officer(s). The Whistleblower Protection Officer(s) has received training in dealing with disclosures under this Procedure and their role is to protect and safeguard the rights and interests of Whistleblowers and ensure the integrity of reporting mechanisms under the AFL Whistleblower Policy and Procedure.
- (b) The role of the Whistleblower Protection Officer is also to protect Whistleblowers who have made a disclosure of Improper Conduct and to ensure such persons are not the victim of any detriment or reprisal.
- (c) An individual may contact the Whistleblower Protection Officers to seek accurate and confidential information and advice in relation to this Procedure including information about how to make a report.
- (d) In addition to contacting the other Eligible Recipients listed in section 5.2, a Whistleblower wishing to disclose Improper Conduct or to seek accurate and confidential information and advice in relation to this Procedure may do so via the whistleblower portal located at <https://eafl.austfoot.com.au/afl-makeareport/#/landing> (**Whistleblower Portal**).

5.2 Eligible Recipients

In addition to contacting a Whistleblower Protection Officer via the Whistleblower Portal, the following people are Eligible Recipients under the Act who can receive disclosures of Improper Conduct that qualify for protection:

- (a) any AFL Commissioner or an Executive; or
- (b) any internal or external auditor or actuary of AFL.

5.3 Raising concerns externally

- (a) If a Whistleblower does not feel comfortable disclosing Improper Conduct internally, then disclosure can be made through the Whistleblower Portal.
- (b) A disclosure via the Whistleblower Portal may be made anonymously or on the basis that the Whistleblower's identity is only disclosed to the Whistleblower Portal administrator and kept confidential from the AFL.
- (c) All disclosures via the Whistleblower Portal will be notified to the AFL, but details of the Whistleblower's identity will not be disclosed to the AFL without the Whistleblower's consent.
- (d) The Act provides that a Whistleblower is also able to raise Improper Conduct externally with AFL's auditor, or with ASIC or APRA and any other Commonwealth body authorised under the Act or regulations to receive such information.

5.4 Journalists or parliamentarians – emergency or public interest disclosures

In limited circumstances a disclosure made to ASIC or APRA or an authority prescribed under the Act, may qualify for protection as a public interest or emergency disclosure as follows.

- (a) An **emergency disclosure** can be made to a member of Parliament or a journalist only where:
 - (i) the matter has previously been reported to ASIC, APRA or a prescribed Commonwealth authority in accordance with the Act; and
 - (ii) the Whistleblower has reasonable grounds to believe the information concerns a substantial and imminent danger to the health or safety of one or more people or to the natural environment; and
 - (iii) the Whistleblower provides written notice to the person or body to whom they made their initial disclosure under this Procedure, that includes sufficient information to identify the previous disclosure and states that the discloser intends to make an emergency disclosure; and
 - (iv) the extent of the information disclosed in the emergency disclosure is no greater than necessary to inform the recipient of the substantial and imminent danger.
- (b) A Whistleblower may also make a **public interest disclosure** to a member of Parliament or a journalist where:
 - (i) at least 90 days have passed since the matter was reported to ASIC, APRA or a prescribed Commonwealth Body in accordance with the Act;
 - (ii) the Whistleblower does not have reasonable grounds to believe that action is being, or has been taken, in respect of that disclosure;
 - (iii) the Whistleblower has reasonable grounds to believe that making a further disclosure of the information is in the public interest;
 - (iv) the Whistleblower provides written notice to the person or body to whom they made their initial disclosure under this Procedure, that includes sufficient information to identify the previous disclosure and states that the discloser intends to make a public interest disclosure; and
 - (v) the extent of the information disclosed in the public interest disclosure is no greater than necessary to inform the recipient of the Improper Conduct.
- (c) Whistleblowers who make disclosures to members of Parliament or journalists that do not meet the conditions of an emergency or public interest disclosure do not qualify for the protections set out in this Procedure in respect of those disclosures.
- (d) If a Whistleblower is unsure as to whether these provisions apply to any disclosure they have made (or intend to make), they are encouraged to raise the matter with either the Whistleblower Protection Officers, via the Whistleblower Portal or obtain their own legal advice.

5.5 Legal practitioners

If any person is concerned as to whether any disclosure they may seek to make in respect of Improper Conduct is covered by the Policy and this Procedure, that person may seek legal advice. Disclosing the information to a lawyer for the purpose of obtaining that legal advice or legal representation will not change the application of this Procedure or the protection provided to any Whistleblower under it (even in the event that the legal practitioner concludes that the disclosure does not relate to Improper Conduct).

5.6 Anonymity

A Whistleblower may elect to make a report anonymously and still be protected under the Act. The Whistleblower can choose to remain anonymous while making a disclosure, over the course of the investigation and after the investigation is finalised. AFL will protect the anonymity of Whistleblowers by:

- (a) allowing for anonymous disclosures to be made via the Whistleblower Portal;
- (b) allowing Whistleblowers to use anonymised email addresses; and
- (c) allowing Whistleblowers to adopt a pseudonym for the purpose of their disclosure (for example, where the Whistleblower's Identity is known by the person who received the report, but they do not wish to disclose their identity to others); and
- (d) ensuring the Whistleblower Portal administrator is aware of its obligations under this Procedure.

6. Protection for Whistleblowers

6.1 General

The AFL is committed to the protection of any Whistleblower who makes a report in good faith under this Procedure where they suspect that Improper Conduct may have occurred.

6.2 Confidentiality

- (a) All disclosures by Whistleblowers under this Procedure will be treated as confidential in accordance with legal requirements.
- (b) It is illegal for a person to identify a Whistleblower, or to disclose information that is likely to lead to the identification of a Whistleblower (which they have obtained directly or indirectly because the Whistleblower made a disclosure that qualifies for protection) unless:
 - (i) the Whistleblower who made the report consents in writing to the disclosure;
 - (ii) the disclosure is required by law; or
 - (iii) the disclosure is made to:
 - (A) a professional legal advisor (including the AFL Legal team) for the purpose of obtaining legal advice or legal representation in relation to the operation of the whistleblower provisions in the Act; or
 - (B) authorised regulatory authorities, such as ASIC, APRA or a member of the Australian Federal Police.
- (c) This rule does not apply where the disclosure:
 - (i) does not include the Whistleblower's identity;
 - (ii) is reasonably necessary for the purposes of investigating the issues raised by the Whistleblower; and
 - (iii) the AFL has taken all reasonable steps to reduce the risk that the Whistleblower will be identified from the information.
- (d) To maintain confidentiality of a Whistleblower's identity, AFL will:

- (i) ensure personal information or references to the Whistleblower's identity is redacted in all investigation and reporting documents;
- (ii) refer to the Whistleblower in a gender-neutral context; and
- (iii) ensure that all paper and electronic documents and materials relevant to the report of Improper Conduct are stored securely, with access limited to those directly involved in managing and investigating the disclosure; and
- (iv) take reasonable steps to ensure its personnel understand the requirements of this Procedure.

6.3 Protection from detrimental acts or omissions

- (a) Whistleblowers are protected under the Act from detriment arising from making a report of Improper Conduct.
- (b) A person must not engage in, or threaten to engage in, conduct which intentionally causes detriment to any Whistleblower because that person reported Improper Conduct.
- (c) Where a disclosure of Improper Conduct is made, the AFL will take reasonable steps to ensure that the Whistleblower will not be personally disadvantaged or suffer any detriment including the following:
 - (i) dismissal or demotion;
 - (ii) alteration of their position or duties to their disadvantage;
 - (iii) injury to the person in their employment;
 - (iv) discrimination, intimidation or harassment;
 - (v) harm or injury including psychological harm;
 - (vi) action causing injury, loss or damage; or
 - (vii) damage to the Whistleblower or their property, reputation, business or financial position.
- (d) The AFL will protect Whistleblowers from detriment arising from making a report of Improper Conduct by:
 - (i) conducting a risk assessment of the disclosure to manage the risk of detriment to the Whistleblower; and
 - (ii) where applicable, making such reasonable adjustments as required to allow the Whistleblower to perform their duties at work without being potentially exposed to detriment (eg by changing reporting lines or moving the Whistleblower's desk to another location).
- (e) It is a breach of this Procedure and applicable law for a person to subject a Whistleblower or a potential Whistleblower to detriment.
- (f) If any Whistleblower considers that they have suffered any of the above disadvantages or detriment as a result of making a report of Improper Conduct under this Procedure, they should contact the person to whom the report was made or a Whistleblower Protection Officer and provide all relevant details accordingly. Should a Whistleblower be found to have suffered detriment as a result of

reporting Improper Conduct, the AFL will treat this seriously in accordance with its disciplinary policy.

6.4 Compensation and other remedies

- (a) A Whistleblower can seek compensation and other remedies through the courts if:
 - (i) they suffer loss, damage or injury because of making a disclosure of Improper Conduct; and
 - (ii) the AFL failed to take reasonable precautions and exercise due diligence to prevent the detrimental conduct.
- (b) Under the relevant legislation, a person who engages in certain conduct in breach of this Procedure may also be subject to:
 - (i) court orders, including orders for compensation, injunctions and damages; and
 - (ii) penalties of up to \$1,050,000 for individuals or a period of imprisonment for disclosing a Whistleblower's identity or victimising a Whistleblower.

6.5 Civil, criminal and administrative liability protection

- (a) In addition, any Whistleblower who makes a disclosure of Improper Conduct in accordance with this Procedure has protection under Australian law from criminal, administrative and contractual liability in relation to the making of the disclosure.
- (b) These protections do not grant the Whistleblower immunity for any misconduct they have engaged in that may be revealed in their disclosure of Improper Conduct.

7. Investigation Process

- (a) Reports of Improper Conduct will be investigated by a designated Whistleblower Investigation Officer. The Whistleblower Investigation Officer will:
 - (i) document the report and determine whether it qualifies for protection under the Procedure;
 - (ii) determine whether a formal, in-depth investigation is required;
 - (iii) if necessary, commence an investigation into the report, as soon as practicable after the matter has been reported;
 - (iv) review supporting information and documentation and obtain further information as required;
 - (v) consider any possible remedial action that may be required; and
 - (vi) immediately notify the General Counsel (or Head of Legal if the General Counsel is in any way referenced in, or implicated by, the Improper Conduct) if the report relates to a serious matter, or if it becomes apparent during the investigation that there are matters of serious concern.
- (b) The purpose of any investigation under this Procedure is to carefully and fairly examine each concern raised and where possible locate evidence that either substantiates or refutes the claims made in the report.

- (c) All investigations will be conducted in an impartial and objective manner, to ensure the fair treatment of all people involved in the investigation including the Whistleblower and any employees who are mentioned in the disclosure or to whom such disclosure relates.
- (d) The investigation process may include the engagement of external parties where appropriate. In order to ensure proper process and to prevent actual or perceived unethical conduct, the offices of the Whistleblower Protection Officer and the Whistleblower Investigation Officer will not be held by the same person.
- (e) To avoid jeopardising an investigation, a Whistleblower who has made a report under this Procedure is required to keep confidential the fact that a report has been made (subject to any legal requirements).

7.2 Progress and conclusion of investigations

- (a) Once an investigation is completed, the Whistleblower Investigation Officer will report the findings of the investigation to the AFL's Head of Compliance and Risk who will report on all whistleblower incidents quarterly to the Audit and Risk Committee. For the avoidance of doubt, if the Head of Compliance and Risk is in any way referenced in, or implicated by, the Improper Conduct, findings will be provided directly to the General Counsel.
- (b) If the General Counsel (or Head of Compliance and Risk, as appropriate) is satisfied that Improper Conduct has occurred, they will make a recommendation, to either the Chief Executive Officer or Chairperson of the AFL, as to the action which should be taken. The findings of the investigation will also be reported to the Audit and Risk Committee.
- (c) Where Improper Conduct has occurred, the AFL is committed to changing its processes and taking action in relation to employees and other relevant persons who have engaged in Improper Conduct.

7.3 Keeping the Whistleblower informed

- (a) The Whistleblower will, where appropriate, be regularly updated within a reasonable time after making the report whether an investigation has been undertaken, whether that investigation has been completed, and what action is or has been taken to address the Improper Conduct, subject to applicable confidentiality, privacy and other relevant considerations.
- (b) For the avoidance of doubt, if a Whistleblower has disclosed on an anonymous basis, the AFL may not be in a position to advise the Whistleblower of the outcome of any investigation. The AFL will make every endeavour to contact Whistleblowers through anonymous channels where necessary.

7.4 Individuals mentioned in a disclosure

- (a) The AFL will make every effort to ensure that natural justice and procedural fairness is accorded to a person mentioned in, or who is the subject of a report of Improper Conduct that qualifies for protection under the Act. Where an investigation does not result in a finding of Improper Conduct being made, 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 disclosure or mentioned in the disclosure, will remain confidential.
- (b) The person who is subject to any disclosure or who is mentioned in a disclosure has the right to:
 - (i) be informed of any allegations against them;
 - (ii) be given the opportunity to answer any allegations made against them prior to any final decision being made; and

- (iii) receive such other support as may be appropriate in the circumstances, including access the AFL's employee assistance program.

8. False and Dishonest Disclosure

The AFL may take disciplinary action against an employee or other relevant person who deliberately makes a malicious, false or dishonest disclosure of Improper Conduct. No action will be taken against an employee or other relevant persons where the report was made in good faith, regardless of whether any wrongdoing was identified.

9. Governance

The AFL is committed to complying with the laws and practices that protect the rights of Whistleblowers. The AFL may elect to update or vary this Procedure or the AFL Whistleblower Policy from time to time. When any amendments are made to either document, the updated document will be communicated as appropriate to all relevant persons.

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