

# Whistleblower Protection Process



# Whistleblower Protection Process

ASC is committed to being a good corporate citizen, role model, service provider and employer. It is committed to creating and maintaining an open working environment in which all ASC contractors and suppliers and their personnel, are able to disclose concerns about potential wrongdoing or maladministration.

ASC encourages all its contractors and suppliers to report issues and concerns — to speak up.

ASC's Whistleblower Protection process is designed so that if a person discovers, or has reason to believe that there is within ASC, Disclosable Conduct then a report or disclosure can be made internally without fear of reprisal and with the knowledge that it will be treated fairly and confidentially.

## 1.1 Process Objectives

This process sets out how ASC will handle disclosures of misconduct, or of improper situations, that relate to ASC or any of its subsidiaries and that fall under the Whistleblower Laws.

It describes how ASC supports Whistleblowers

- (a) encouraging people to make protected disclosures where that is appropriate;
- (b) outlining the protections available to whistleblowers — and to people who are the subject of protected disclosures — under this process, and under the whistleblower laws; and
- (c) demonstrating ASC's commitment to handling protected disclosures fairly and in a timely way.

It describes the investigation process ASC will undertake following a protected disclosure.

It describes how ASC supports ASC personnel who are the subject of protected disclosures.

## 1.2 Additional Information

A fact sheet for disclosers is attached at Annexure A. If you wish to make a disclosure under this Process, you are strongly encouraged to review Annexure A before doing so.

## 1.3 Definitions and Acronyms

Definitions of terms used in the process and explanations of any abbreviations or acronyms.

Acronyms / Term	Definitions
AS	Australian Standard.
ASC	ASC Pty Ltd and its subsidiary companies.
Authorised Officer	A person, appointed by the Principal Officer who is responsible for conducting the preliminary investigations into disclosures received from a Whistleblower and who decides whether a disclosure is a Public Interest Disclosure that should be allocated to the Principal Officer for investigation. These persons are those listed in the table in paragraph 2.3 below.

CMS	Corporate Management System.
Corruption	Corruption is dishonest activity in which an employee, contractor, Board member or Board Committee member of ASC acts contrary to the interests of ASC and abuses his/her position of trust in order to achieve some personal gain or advantage for himself/herself or for another person or organisation.
Disclosable Conduct	Conduct by any director, manager, employee, or contractor of ASC, (current or former) in connection with their work or position at ASC, that: <ul style="list-style-type: none"> <li>i. contravenes the law;</li> <li>ii. is corrupt;</li> <li>iii. perverts the course of justice;</li> <li>iv. results in significant wastage of money;</li> <li>v. is an abuse of trust;</li> <li>vi. unreasonably endangers health and safety or endangers the environment;</li> <li>vii. is misconduct relating to scientific research, analysis or advice;</li> <li>viii. is maladministration, including conduct that is unjust or oppressive; or</li> <li>ix. could, if proved, give reasonable grounds for final written warning.</li> </ul>
Fraud	Dishonestly obtaining a benefit, or causing a loss, by deception or other means.
Principal Officer	The person who reviews preliminary reports from Authorised Officers regarding a Public Interest Disclosure and decides whether or not it warrants a detailed investigation and has responsibility of safeguarding the interests and confidentiality of the Whistleblower. This person is ASC's General Counsel.
Public Interest Disclosures	A disclosure (verbal or written) by a Whistleblower to a Recipient that the Whistleblower reasonably believes tends to show conduct by another ASC Worker(s) in relation to their work at ASC that is Disclosable Conduct.
Whistleblower	Any director, manager, employee, or contractor of ASC, (current or former) who whether anonymously or not, makes a disclosure or report in relation to Disclosable Conduct. This also includes a relative or dependent of any of the above, but only for the purposes of whistleblower protections under the <i>Corporations Act 2001 (Cth)</i> and the <i>Taxation Administration Act 1953 (Cth)</i>
Whistleblower Laws	The <i>Public Interest Disclosure Act 2013 (Cth)</i> , <i>Corporations Act 2001 (Cth)</i> and the <i>Taxation Administration Act 1953 (Cth)</i>
Whistleblowing	The voluntary disclosure by a person who has access to data, events or information about an actual, suspected or anticipated act of a Disclosable Conduct within or by an ASC Worker.



## 2. Policy

### 2.1 What disclosures does this Process cover?

This Process covers public interest disclosures, corporate or financial misconduct disclosures and tax disclosures.

#### *Public interest disclosures*

A disclosure is a **public interest disclosure** if it tends to show, or if the whistleblower believes on reasonable grounds that it tends to show, conduct that:

- (a) contravenes a law, including the Modern Slavery Act (2018);
- (b) amounts to corruption, perverting the course of justice or abuse of position;
- (c) amounts to maladministration (where the conduct is based in whole or in part on improper motives; conduct which is unreasonable, unjust or oppressive; or conduct which is negligent);
- (d) involves wastage of public money; or
- (e) poses an unreasonable danger or risk to, health and safety or the environment.

The conduct could relate to an ASC Group company, ASC personnel or to another Commonwealth public sector body or Commonwealth officials.

#### *Corporate or financial misconduct disclosures*

A **corporate or financial misconduct disclosure** is one where the whistleblower has reasonable grounds to suspect that the information concerns **corporate or financial misconduct**, or an **improper corporate or financial situation**, in relation to an ASC Group company.

Examples: Conduct that:

- (a) breaches corporate law (such as the *Corporations Act 2001* or the *Australian Securities and Investments Act 2001*), or financial laws (such as the *Superannuation Industry (Supervision) Act 1993*);
- (b) constitutes a serious offence against another Commonwealth law; or
- (c) represents a danger to the public or to Australia's financial system.

#### *Tax disclosures*

A tax disclosure is a one:

- (a) about *tax-related misconduct*, or an *improper tax situation*, in relation to the tax affairs of an ASC Group company or any of its subsidiaries; or
- (b) which the whistleblower considers will help ASC or the Commissioner of Taxation to perform their duties under Commonwealth tax law

## 2.2 Disclosures by whom: who is a whistleblower?

This process and the Whistleblower Laws treat the following individuals as Whistleblowers:

- (a) current and former staff of ASC Group companies;
- (b) current contracted service providers to ASC Group companies, and their employees (in certain circumstances); and
- (c) in relation to the Corporations Act and Taxation Administration Act, relatives and dependants of either of these groups.

Whistleblowers get the protections of this Process and the Whistleblower Laws.

## 2.3 Disclosures to whom?

To be a protected disclosure under this Process and the Whistleblower Laws, the disclosure must be made to particular people. Who that is depends on the kind of protected disclosure.

### *Public interest disclosures*

The disclosure must be made to:

- (a) the ASC CEO (or delegate) or an ASC employee appointed by the CEO for this purpose (authorised ASC officer); or
- (b) the whistleblower's supervisor.\*

\* Disclosures can also be made through the independent reporting hotline, Stoplevel (see section 2.4 below for details).

In limited circumstances (set out below) a disclosure to someone else will also be a protected disclosure, however, in each of these cases there are additional criteria that must be satisfied. Only the ASC CEO (or delegate) has the authority to determine whether these criteria are met in a particular case, and he or she must seek legal advice before making such a determination.

- (c) (ineffective) where the whistleblower has disclosed to the ASC CEO (or delegate), an authorised ASC officer or the whistleblower's supervisor but either:
  - (i) no action was taken; or
  - (ii) the whistleblower believes on reasonable grounds that the action taken, and any outcomes, are inadequate.
- (d) (emergency) where:
  - (i) the whistleblower believes on reasonable grounds that the information concerns a substantial and imminent danger to the health or safety of people or the environment; and
  - (ii) the disclosure is limited to what is necessary to alert the recipient to the danger.

### *Corporate or financial misconduct disclosures*

The disclosure must be made to:

- (a) an officer or senior manager of ASC;
- (b) an auditor conducting an audit of ASC;
- (c) a person authorised by ASC to receive these protected disclosures; or
- (d) the Australian Securities and Investments Commission.

In the following circumstances a disclosure to a journalist or an MP will also be a protected disclosure, however in each of these cases there are additional criteria that must be satisfied. Only the ASC CEO (or delegate) has the authority to determine whether these criteria are met in a particular case, and he or she must seek legal advice before making such a determination.

- (a) (ineffective) the whistleblower has made a disclosure as mentioned above but no action was taken; or
- (b) (emergency) where the whistleblower believes on reasonable grounds that the information concerns a substantial and imminent danger to the health or safety of people or the environment.

### *Tax disclosures*

The disclosure must be made to:

- (a) an officer or senior manager of ASC;
- (b) an auditor conducting an audit of ASC;
- (c) a person authorised by ASC to receive these protected disclosures (authorised ASC officer);
- (d) the Commissioner of Taxation; or
- (e) a registered tax or BAS agent engaged by ASC.

### *Disclosures to legal practitioners*

Information that is disclosed to an Australian legal practitioner for the purpose of obtaining legal advice in relation to an actual or proposed disclosure will also be protected.

## **2.4 Authorised Officers**

Irrespective of the location of the Whistleblower, they may choose to disclose the suspected Disclosable Conduct to either their supervisors, managers or one of the Authorised Officers / Principal Officer listed in the table below or to Stopline, an independent reporting hotline service (further details are available at <https://asc.stoplinereport.com/>).



Position	Current Incumbent	Contact #	Location
<b>Principal Officer</b>			
General Counsel & Company Secretary – Principal Officer and the CEO's Delegate	Ivan WITT	08 8348 7022	ASC North Building 5
<b>Authorised Officers</b>			
Project Manager – International Placements SSTP	Deanna BYERS	08 9410 4392	ASC West, Submarine Training School
Chief Strategy Officer	Christian HAMILTON	08 8348 7660	ASC North Building 3
Manager, Group Internal Audit	Andrew HENRY	08 8348 7522	ASC North Building 5
People & Culture Manager	Kim OVERTON	08 8348 7507	ASC North Building 5
Chair – Business and Security Committee	Geoff ROHRSHEIM	See paragraph 2.6 of the Process	
Operations Business Assurance Manager	Simon RUSITI	08 9410 4356	ASC West
People & Culture Manager	Ben STOCKS	08 9410 4319	ASC West

## 2.5 Making protected disclosures

For this process and the whistleblower laws, protected disclosures can be made orally, or in in writing.

A protected disclosure can be anonymous.

It's not necessary to say expressly that a disclosure is a protected disclosure to attract the protections of this process and the whistleblower laws. It's a protected disclosure if it meets the criteria in section 2.1.

## 2.6 Executive Disclosures

In some circumstances, a protected disclosure (being a public interest disclosure, corporate or financial misconduct disclosure or a tax disclosure) may relate to ASC's CEO or to a member of ASC's Senior Management team or to a member of ASC's Board (**Executive Disclosure**).

If you need to make an Executive Disclosure of a non-trivial nature (please refer to clause 2.7 in this respect), you should make that disclosure to the Chair of ASC's Business and Security Committee, to the following email address: [disclosure@asc.com.au](mailto:disclosure@asc.com.au)

## 2.7 What's not a protected disclosure?

Some disclosures don't attract the protections of this process or the whistleblower laws.

Disclosures about trivial matters and disclosures about personal work-related grievances are not covered by this process, or by the whistleblower protections.

*Examples:* Disclosures about:

- (a) interpersonal conflicts between ASC personnel;
- (b) decisions about engaging, transferring, promoting, suspending or sacking the whistleblower;
- (c) decisions about the whistleblower's terms and conditions of employment;
- (d) Trivial matters not within the public interest.

Disclosure to foreign public officials are not protected.

Disclosures about Commonwealth policies or proposed policies, or Ministerial or Parliamentary actions, or expenditures relating to either of these are not protected disclosure merely because the whistleblower disagrees with them. The criteria in section 2.1 must be satisfied.

## 2.8 How will protected disclosures be investigated?

ASC will adopt much the same procedure for all protected disclosures, with slight modifications to meet the detailed requirements of the separate whistleblower laws. The steps ASC will take are set out below. Detailed guidance on the investigation processes is provided separately.

### *Step 1: Receiving and logging the disclosure*

- (a) ASC could receive a protected disclosure directly, or on referral from another Commonwealth body.
- (b) ASC will consent to investigate protected disclosures referred to it by other Commonwealth bodies if they relate to an ASC Group company or ASC personnel.
- (c) ASC personnel who receive what may be a protected disclosure must communicate it in writing to the ASC CEO (or delegate) or an authorised ASC officer. If the ASC CEO (or delegate) receives it, he or she must appoint an authorised ASC officer to deal with the disclosure.
- (d) The ASC CEO (or delegate) or authorised ASC officer must ensure that the details are securely recorded.

### *Step 2: Identifying the disclosure as a protected disclosure*

- (a) The authorised ASC officer must consider whether the disclosure qualifies as a protected disclosure.
- (b) In deciding whether the disclosure is a protected disclosure, assume that the information disclosed is true. (The information is investigated later.)



*If a public interest disclosure turns out not to be a protected disclosure*

- (a) An authorised ASC officer who is satisfied, on reasonable grounds, that there is no reasonable basis on which what appears to be a public interest disclosure could be considered to be a protected disclosure must arrange for the whistleblower to be notified that it is not a protected disclosure, with reasons, and inform the whistleblower of any other options available under Commonwealth laws.
- (b) In this case the officer should also consider whether the disclosure should nevertheless be the subject of investigation. If the officer considers that it should, the disclosure must be handled in accordance with applicable ASC policies and procedures.

*If it is a protected disclosure*

- (a) If the authorised ASC officer considers that a disclosure is a protected disclosure, the officer must also identify what kind of protected disclosure it is (and which of the whistleblower laws applies to it).
- (b) If the disclosure is both a public interest disclosure and another kind of protected disclosure (for example, a corporate misconduct disclosure), the authorised ASC officer will treat it as a public interest disclosure.

### **Step 3: Deciding who should investigate**

*If the disclosure is (or is to be treated as) a public interest disclosure*

- (a) If a disclosure qualifies as a public interest disclosure, the authorised ASC officer must then decide who should investigate it. This decision should be made within 14 days after the disclosure is made to ASC.
- (b) The initial consideration is whether the conduct disclosed relates to an ASC Group company or ASC personnel, or to another Commonwealth body.
- (c) ASC will normally be the appropriate body to investigate protected disclosures that relate to an ASC Group company or ASC personnel.
- (d) The investigations can be allocated to another Commonwealth body (including the Ombudsman), but only with its consent and only if the ASC CEO (or delegate) approves.
- (e) The ASC CEO (or delegate) must ensure that the required notices are given to the other Commonwealth body under section 44 of the Public Interest Disclosures Act 2013.

*If the disclosure is a corporate or financial conduct, or a tax disclosure*

If the disclosure qualifies as a corporate or financial conduct, or a tax disclosure, the authorised ASC officer must investigate it.

*Telling the whistleblower*

If it's reasonably practicable to contact the whistleblower, the authorised ASC officer must let the whistleblower know which body will be investigating the disclosure.

#### ***Step 4: Deciding not to investigate, or further investigate, a protected disclosure***

The ASC CEO (or delegate) may determine that an investigation of a disclosure is not appropriate in a limited range of circumstances.

*Examples:*

- (a) the disclosure is frivolous or vexatious;
- (b) it would be impractical to investigate the disclosure because the whistleblower has not provided contact details or is not cooperative or the information is too old;
- (c) the matter has already been substantially investigated.

Only the ASC CEO (or delegate) has the authority to make this determination and he or she must seek legal advice before doing so.

If the disclosure is a tax disclosure, the ASC CEO (or delegate) must arrange for the whistleblower to be informed that there is no requirement for the disclosure to be investigated.

#### ***Step 5: Investigation plan***

The authorised ASC officer must develop an investigation plan for approval by the ASC CEO (or delegate). The plan will usually:

- (a) identify the protected disclosure and what kind of protected disclosure it is, and any particular requirements of the applicable whistleblower law;
- (b) the most appropriate person to conduct the investigation;
- (c) the anticipated resourcing, size and length of the investigation;
- (d) the ASC personnel which might be required to participate in the investigation;
- (e) the documents, records and other materials which will need to be accessed during the course of the investigation (including those which ASC will require from the discloser and other ASC personnel);
- (f) whether interviews or other information gathering procedures will be required; and
- (g) whether ASC should seek independent legal, tax or financial advice with respect to the disclosure and the investigation.

#### ***Step 6: Conducting the investigation***

Once approved by the ASC CEO (or delegate), the investigation is to be conducted in accordance with the plan.

All ASC personnel must cooperate with the investigator, and the investigator must, subject to classification requirements, be given access to all relevant documents, records and other materials



### **Step 7: Reporting the results of the investigation**

- (a) The investigator must prepare a report of his or her findings and conclusions and provide it to the ASC CEO (or delegate). The report must remain confidential and only be disclosed with the CEO's (or delegate) authority or as otherwise required by law. The CEO (or delegate) may, in appropriate cases, refer the report to the Board.
- (b) The report must include any recommendation that the investigator thinks appropriate to deal with the disclosure.
- (c) If the protected disclosure is a public interest disclosure, ASC will give a copy of the report to the whistleblower, under a duty of confidentiality. This may happen after management or the Board has had an opportunity to consider the report. In other cases, the ASC CEO (or delegate) may determine that the whistleblower be given a copy of the report, and whether the report should be redacted to preserve confidentiality or the integrity of criminal or other processes.

### **2.9 Anonymous Reports or Disclosures**

Anonymous reports can be made by contacting any of the above named Authorised Officers or Stopline, and they will review the anonymous report, taking into account the seriousness of the issues raised, the credibility of the report and the likelihood of confirming the allegations, in order to determine if it is viable to proceed with an investigation.

## **3. What protections are available to whistleblowers?**

### **3.1 Confidentiality**

ASC will not disclose the identity of a whistleblower, or the fact that a whistleblower has made a protected disclosure.

If a whistleblower makes an anonymous protected disclosure, ASC will protect the whistleblower's anonymity.

However, ASC may disclose the identity of a whistleblower:

- (a) to the extent strictly necessary to ensure that the information disclosed is properly investigated in accordance with this process, and any issues properly dealt with; or
- (b) with the whistleblower's consent.

### **3.2 No action**

ASC will not take any civil, criminal, administrative or disciplinary action against a whistleblower for making a protected disclosure.

This includes not enforcing any contract remedy, or other legal remedy, or exercising a contract right that ASC has, against a whistleblower for making a protected disclosure.



- (a) Example: ASC will not treat a protected disclosure as a breach of a contract between ASC and the whistleblower.
- (b) Example: ASC will not terminate a contract between ASC and the whistleblower on the ground that the whistleblower made a protected disclosure.

***ASC will take all reasonable steps to ensure that whistleblowers are protected from reprisals, detrimental conduct and victimisation for making protected disclosures.***

### **3.3 Court action**

Information disclosed in a protected disclosure cannot be used as evidence against the whistleblower in a prosecution (except a prosecution based on the falsity of the information).

### **3.4 Remedies for breach of protection requirements**

If any of the protections available under the whistleblower laws are breached, the whistleblower has a range of remedies, including:

- (a) a right to damages; and
- (b) a right to a court order stopping reprisals or other detrimental action.

The court may make any appropriate order to deal with the matter, including ordering an apology.

## **4. ASC support**

ASC is committed to treating disclosures appropriately and to ensuring that ASC contractors and suppliers who make protected disclosures receive the protections they are legally entitled to. It is also committed to treating fairly and appropriately any of its personnel about whom protected disclosures are made.

This process is a key element of ASC's approach.

### **4.1 Supporting whistleblowers**

ASC will support whistleblowers by:

- (a) preserving the confidentiality of their disclosures, in accordance with the whistleblower laws and this process;
- (b) taking protected disclosures seriously, and ensuring that they are properly investigated;

### **4.2 Supporting ASC personnel about whom protected disclosures are made**

ASC will treat any of its personnel who are the subject of a disclosure alleging breach of law or ASC process (including protected disclosures) fairly, and in a way that does not prejudice a proper investigation of the matter.

ASC will comply with all workplace laws in this regard.

# ANNEXURE A

ASC Pty Ltd

Whistleblower Process

## FACT SHEET FOR ASC CONTRACTORS & SUPPLIERS

### • PLEASE READ THE WHISTLEBLOWER PROTECTION PROCESS CAREFULLY

- ASC is committed to the highest standards of ethical and accountable conduct.
- ASC has adopted a Whistleblower Process for all ASC Group companies. ASC has established procedures to make it easier for ASC contractors and suppliers to make disclosures about unethical, unlawful or undesirable conduct.
- Key elements of the Whistleblower Process and the procedures are that ASC contractors and suppliers who make protected disclosures have appropriate protections, and that protected disclosures will be carefully considered and investigated.
- ASC is committed to creating and maintaining a working environment in which all its contractors and suppliers can raise concerns if they think that conduct in relation to ASC is or may be unethical, unlawful or undesirable. These kinds of disclosures are called protected disclosures because the law gives the person who make them significant protections, including from reprisals or adverse consequences.

### KEY POINTS

You can make a protected disclosure orally or in writing, including by email. If you make a protected disclosure:

- (a) ASC must treat it in accordance with the Commonwealth's whistleblower laws (which are the *Public Interest Disclosure Act 2013*, and parts of the *Corporations Act 2001* and the *Taxation Administration Act 1953*);
- (b) you'll have some obligations, but also significant protections — all summarised below;
- (c) you can't "withdraw" it;
- (d) you can make it anonymously. However, this may make it more difficult to investigate and protect you against reprisals;
- (e) cooperate with the investigation. That way the issue that caused you to make the protected disclosure will be properly investigated.

#### 1. Things not to do

- (a) Once you've made a protected disclosure, don't discuss it with anyone except the ASC authorised officer who will be investigating it. You don't get the legal protections for those discussions.



- (b) Don't investigate the matter yourself. You are likely to hinder or compromise the investigation or action that may need to be taken.

## **2. What disclosures attract the protections?**

The protections of the whistleblower laws apply to disclosures by specific people, about specific conduct or situations, to specific officials.

## **3. Which people attract the protections?**

- (a) a current or former ASC director or staff member;
- (b) a current or former director or employee of one of our contractors or suppliers; and
- (c) a current or former official of another Commonwealth agency (such as a Department or statutory authority).

## **4. Which conduct or situations?**

If you believe, on reasonable grounds, that the information you are disclosing tends to show ASC, one of our contractors or subcontractors, or some other Commonwealth agency has done something that:

- (a) breaches a law that applies to ASC, the contractor or subcontractor or the other public body;
- (b) is corrupt or an abuse of office or public trust, or perverts the course of justice;
- (c) amounts to "maladministration" (say, because it is done for improper motives or is unreasonable, unjust, oppressive or negligent);
- (d) involves misconduct in relation to scientific research, analysis or advice (say, by fabrication of data or results, or deception);
- (e) results in waste of public money or public property;
- (f) unreasonably endangers health and safety, or endangers the environment;
- (g) could give grounds for disciplinary action;
- (h) constitutes corporate or financial misconduct, or an improper corporate or financial situation in relation to ASC, one of ASC's contractors or subcontractors, or some other Commonwealth agency; or
- (i) constitutes tax-related misconduct, or an improper tax situation, in relation to the tax affairs of ASC, one of ASC's contractors or subcontractors, or some other Commonwealth agency;

**the disclosure will be a protected disclosure.**

However, some disclosures don't count as protected disclosures – disclosures about:

- (a) government policies and or proposed policies;
- (b) actions and proposed action by federal Ministers, the Speaker of the House of Representatives or the President of the Senate;



- (c) expenditure or proposed expenditure related to those policies or actions; or
- (d) conduct that is wholly private and has no bearing on the person's position as a public official in relation to ASC or the agency concerned

**will not be considered protected disclosures.**

### **5. Which officials?**

To attract the protections, the disclosure needs to be made to:

- (e) ASC Authorised Officers / Principal Officer (their contact details are outlined in this Process on ASC's website).
- (f) the Commonwealth Ombudsman, whose contact details are:

#### **SA**

Level 11/25 Grenfell St  
Adelaide SA 5000  
Phone: 1300 362 072

#### **WA**

Level 2, Albert Facey House  
469 Wellington Street  
Perth WA 6000  
Phone: 1300 362 072

### **6. What should I include in a protected disclosure?**

As much information about the matter as you have available to you.

The more information ASC has, the more thoroughly it can investigate the matter, and take corrective action.

Ideally, you would:

- (a) include your name and contact details;
- (a) include a description of the conduct or situation;
- (b) identify who you think was involved, and how;
- (c) identify who was or is aware of the matter;
- (d) identify the time and place of the conduct;
- (e) identify anything you know was done in response to the conduct concerned;
- (f) set out anything else you think is or may be relevant or helpful to investigating the matter. and where the wrongdoing occurred; and
- (g) identify whether you are concerned about possible reprisals as a result of making the disclosure, and from whom.

If possible, please also provide any supporting correspondence or other documents, such as file notes or a diary of events. In your disclosure you should be clear and factual, avoid speculation, personal attacks and emotive language as these divert from the real issues and can make it more difficult to work whether the disclosure is a protected disclosure, and whether and how it should be investigated.

### **7. Can I make a disclosure to someone outside ASC?**

If the information you think should be disclosed relates to a Commonwealth agency outside ASC, you can disclose it to an ASC authorised officer, or to the Commonwealth agency directory.

You can disclose to anyone in an emergency (substantial and imminent danger to the health or safety of people or to the environment) but only what is necessary to alert them to the danger. And if you have made a disclosure about the matter within ASC, you cannot later make a disclosure on the basis of an emergency unless exceptional circumstances justify the disclosure.

In no circumstances will a disclosure of intelligence information attract the protections. This is information from, in the possession of or received by an intelligence agency or the Defence Department, or information about the operations of an intelligence agency, or sensitive law enforcement information.

#### **WARNING**

If you give information to someone outside ASC or the Commonwealth (like a journalist or union representative):

- you may be in breach of your duty to maintain appropriate the confidentiality of information you get in the course of your employment;
- you may also be subject to disciplinary action, or civil / criminal action;
- except in very limited circumstances, the protections of the whistleblower laws will not apply.

### **8. What do you have to do if someone makes a protected disclosure to you?**

If you think that someone who is ASC personnel, a contractor to ASC or their personnel, personnel from another Commonwealth agency or contractors of other Commonwealth agencies has made a protected disclosure to you, you must:

- (a) notify your line manager or supervisor, or one of ASC's authorised officers, as soon as reasonably practicable; and
- (b) keep confidential the fact of the disclosure, the contents of the disclosure and the identity of the person who made the disclosure — don't discuss it with anyone except the ASC authorised office who will be investigating the disclosure.

The person making the disclosure doesn't have to say it is a protected disclosure. If it meets the tests above, the protections apply.

### **9. What if it didn't meet the tests for a protected disclosure, but is still a source of concern?**

If you are an ASC manager or employee, as part of your responsibilities to ASC you must handle the disclosure in accordance with the appropriate ASC policy or procedure as outlined in the ASC Human Resources Manual.

You should contact a member of ASC's HR Team, WHS Team and / or Legal Team if the disclosure involves:



- (a) possible breaches of ASC's policies and procedures;
- (b) workplace disputes or allegations of improper employment or workplace conduct;
- (c) safety breaches;
- (d) legal issues.

#### **10. Can I make an anonymous disclosure?**

Yes. You may also decide to provide your name and / or contact details to an authorised officer or a Stopline representative but ask that your name and / or contact details not be given to other authorised officers or the Ombudsman.

There are good reasons to identify yourself when making a protected disclosure. For example:

- (a) It will be difficult for ASC to ensure that you get the legal protections – including from reprisals – if it doesn't know who you are.
- (b) ASC may need further information from you to decide whether, and how, to investigate the matter.
- (c) It may be necessary to get in touch with you during an investigation.
- (d) ASC can't let you know about the progress or outcome of the investigation if it doesn't know who you are.

#### **11. What protections do you get?**

You can't be subject to any civil, criminal or administrative liability (including disciplinary action) for making a protected disclosure (including for defamation).

No-one (including ASC) can enforce a contractual right or remedy against you for making a protected disclosure. In particular, you can't be sacked, or have a contract terminated, for making a protected disclosure.

Even if the information in your disclosure turns out to be wrong, or can't be substantiated, it will still be protected so long as it otherwise qualifies as a protected disclosure.

#### **WARNING**

You don't get the protections if:

- You knowingly make a false or misleading statement; or
- You breached a designated publication restriction (a statutory prohibition or a court order prohibiting the publication of specific information), without a reasonable excuse.

**INTENTIONAL FALSE REPORTING MAY RESULT IN DISCIPLINARY ACTION.**



## WARNING

MAKING A DISCLOSURE WON'T NECESSARILY PROTECT YOU FROM THE CONSEQUENCES OF YOUR OWN WRONGDOING, INCLUDING WHERE YOU HAVE BEEN INVOLVED IN THE MISCONDUCT BEING REPORTED.

## WHAT HAPPENS NEXT

### 12. Investigations

ASC takes protected disclosures seriously.

An ASC authorised officer will consider the disclosure you have made, and whether and how to investigate it. If the ASC authorised officer isn't satisfied that there are reasonable grounds to suspect that the conduct meets the criteria for a protected disclosure, you will be notified (with reasons and suggestions for other action that might be available to you — such as complaints to the Commonwealth Ombudsman, or action under the *Fair Work Act 2009*).

If the disclosure is to be investigated, an ASC authorised officer will be allocated to conduct the investigation. You will be told who it is. If your disclosure relates to another Commonwealth body, generally, the investigation will be conducted by its authorised officers.

The investigation will be carried out. You should cooperate with the investigation to ensure that your concerns are fully and properly addressed. In some cases (including because you don't cooperate, or the disclosure is anonymous), the ASC authorised officer can decide not to investigate, or not to continue with the investigation. If this happens, you will be notified (with reasons and suggestions for other action that might be available to you — such as complaints to the Commonwealth Ombudsman, or action under the *Fair Work Act 2009*).

The investigation report must be finished in 90 days (but the Ombudsman can extend this period in some cases). The report will describe the disclosure and the investigation undertaken, what findings were made, any action recommended or taken, any claims or evidence of detrimental action to you, and ASC's response to those matters.

You will be given a copy of the report, but some material may be deleted from your copy if it is likely to identify any person, is intelligence information, would be exempt under the *Freedom of Information Act 1982* or would contravene a publication restriction or protective security classification.

### 13. Outcomes

The outcomes from an investigation of a protected disclosure depend on the circumstances. They may include:

- (a) referral of the matter to the police or another body that can take further action;
- (b) mediation or conciliation of a workplace conflict;
- (c) disciplinary action under ASC's policies and procedures;

- (d) an internal audit or other review of an issue or the operations of a particular unit;
- (e) changing policies, procedures or practices;
- (f) improved training for staff; and
- (g) no action.

#### **14. What if someone is making a reprisal against me?**

Advise an ASC authorised officer or your supervisor or manager immediately.

ASC takes these matters very seriously and will take appropriate steps to address your concerns.

#### **15. I've made a protected disclosure and I'm finding it difficult. Where can I get help?**

Be aware that discussions with the ASC authorised officer handling your disclosure, or the ASC CEO (or delegate), or your lawyer, are protected, while discussions with other people are not. So, while it will be helpful to talk with other people about what you're going through, don't disclose any confidential information, including identifying people you allege have committed wrongdoing.

#### **16. Who are ASC's authorised officers?**

Position	Current Incumbent	Contact #	Location
<b>Principal Officer</b>			
General Counsel & Company Secretary – Principal Officer and the CEO's Delegate	Ivan WITT	08 8348 7022	ASC North Building 5
<b>Authorised Officers</b>			
Project Manager – International Placements SSTP	Deanna BYERS	08 9410 4392	ASC West, Submarine Training School
Chief Strategy Officer	Christian HAMILTON	08 8348 7660	ASC North Building 3
Manager, Group Internal Audit	Andrew HENRY	08 8348 7522	ASC North Building 5
People & Culture Manager	Kim OVERTON	08 8348 7507	ASC North Building 5
Chair – Business and Security Committee	Geoff ROHRSEIM	See paragraph 2.6 of the Process	
Operations Business Assurance Manager	Simon RUSITI	08 9410 4356	ASC West
People & Culture Manager	Ben STOCKS	08 9410 4319	ASC West

