

APA Whistleblower Policy

1 Objective

- 1.1 The Australian Physiotherapy Association (the APA) is committed to high standards of honesty, integrity and accountability. The APA promotes and supports a culture of respect and ethical behaviour, corporate compliance and good governance.
- 1.2 The *Corporations Act 2001* (Cth) and the *Taxation Administration Act 1953* (Cth) encourage people who are connected to a company or organisation as Eligible Whistleblowers to report on what they suspect on reasonable grounds to be a breach of the law, misconduct or an improper state of affairs or circumstances, and to receive protection when they make a disclosure about the conduct.
- 1.3 This Policy provides a framework which helps eligible whistleblowers to identify instances of Reportable Conduct and provides guidance on how to raise a concern about this Conduct.
- 1.4 The APA provides a number of pathways for individuals to disclose Reportable Conduct and to be protected in doing so.

2 Description of Terms

- 2.1 Clause 12 of this Policy provides a description of the following relevant terms used in this Policy:
 - 2.1.1 Eligible Whistleblower
 - 2.1.2 Eligible Recipient
 - 2.1.3 Detrimental Conduct
 - 2.1.4 Reportable Conduct
 - 2.1.5 Whistleblower Protection Officers

3 Purpose

- 3.1 The purpose of this Policy is to provide information about how to make a disclosure about Reportable Conduct, including:
 - 3.1.1 the types of disclosures that qualify for protection;
 - 3.1.2 the protections that are available to Eligible Whistleblowers;
 - 3.1.3 to whom disclosures can be made and how they can be made;
 - 3.1.4 how the APA will support and protect Eligible Whistleblowers from detriment;
 - 3.1.5 how the APA will investigate reported disclosures;
 - 3.1.5.1 how the APA will ensure fair treatment of employees and other relevant persons who are connected to a reported disclosure; and
 - 3.1.6 how this Policy is communicated and made available to employees.

4 Application

- 4.1 Eligible Whistleblowers are encouraged to make a disclosure about Reportable Conduct.
- 4.2 Reportable Conduct does not include disclosures relating to personal work-related grievances on subject matter not connected to a form of Reportable Conduct, for example:
- 4.2.1 a conflict between the person making a disclosure and another employee, such as dispute between staff members;
 - 4.2.2 a decision relating to engagement or non-engagement of a person, transfer or promotion, a work performance outcome, a suspension or termination or disciplinary action;
 - 4.2.3 alleged instances of workplace harassment or discrimination alleged bullying that may be subject to protections under the Fair Work Act 2009 (Cth) and other related applicable laws.
- 4.3 The APA has other policies which may be applicable to these types of matters. A personal work grievance may still qualify for protections in accordance with this Policy in circumstances that relate to Reportable Conduct.
- 4.4 If a person is unsure about whether certain conduct qualifies as Reportable Conduct, they should seek assistance from the APA's Whistleblower Protection Officer or the APA's People and Culture team.
- 4.5 This Policy does not apply to expressions of dissatisfaction or complaints received from members or other third parties related to normal operations of the APA (i.e. dissatisfaction about the standards of service delivered to our members, action or lack of action by the APA or its staff, partners or anybody directly involved in the delivery of the APA's services).

5 Reporting Process

Who Can Receive Disclosure

- 5.1 Disclosure of Reportable Conduct must be made to an Eligible Recipient in order to comply with this Policy.

How to Make Disclosure

- 5.2 An Eligible Whistleblower may make a disclosure of Reportable Conduct verbally or in writing, and can be anonymous.
- 5.3 Disclosures should include as much information and evidence as possible, including:
- 5.3.1 name, job title, office site of the individual/s who is/are the subject of the disclosure;
 - 5.3.2 details of the alleged Reportable Conduct to the extent known by the individual disclosing the matter;
 - 5.3.3 how the individual disclosing the matter became aware of the issue;
 - 5.3.4 possible witnesses; and

- 5.3.5 any information that is or may be available to support the allegation (even if not accessible by the individual disclosing the Reportable Conduct).
- 5.4 Disclosure may be made in the following ways:
 - 5.4.1 by post to the APA, Attention: Whistleblower Protection Officer, PO Box 437 Hawthorn BC Vic 3122 (please mark letters as “Private and Confidential”);
 - 5.4.2 by phone on 1300 306 622 and by requesting to speak to the APA’s Whistleblower Protection Officer (the call will be forwarded to the relevant person); and
 - 5.4.3 by email to whistleblower@australian.physio.

Consequences of Making a False Disclosure

- 5.5 Anyone who knowingly makes a false disclosure about Reportable Conduct, or who otherwise fails to act honestly with reasonable belief in respect of the disclosure, may be subject to disciplinary action including termination (for employees, contractors, consultants and service providers) or professional conduct sanction (for members).

6 Investigations

A disclosure made in accordance with this Policy will be investigated according to the following procedures.

Initial Receipt of Disclosure

- 6.1 The investigation of any Reportable Conduct will be referred to the Whistleblower Protection Officer as soon as practicable.
- 6.2 The Whistleblower Protection Officer will assess and determine whether or not the matter falls under this Policy.
- 6.3 If the Whistleblower Protection Officer determines a disclosure falls under the terms of the Policy, they will progress the matter for further consideration about potential investigation.
- 6.4 If the Whistleblower Protection Officer determines a disclosure does not fall under the terms of the Policy it will be dealt with via other organisational policies.

Investigation of a Disclosure

- 6.5 The Whistleblower Protection Officer will determine whether there is sufficient information to warrant investigation of a disclosure and how the investigation process will be carried out, including:
 - 6.5.1 the nature and scope of the investigation;
 - 6.5.2 the persons subject of the disclosure;
 - 6.5.3 who will conduct the investigation and whether that person should be external to the APA;
 - 6.5.4 what information or reporting is capable of being provided to the Audit and Risk Committee and/or Board;
 - 6.5.5 the nature of any internal or external advice that may be required; and

- 6.5.6 a timeframe for the investigation having regard to the level of risk.
- 6.6 Where it is determined that an investigation is required, the APA will take reasonable steps to ensure that the relevant person undertaking the investigation will do so promptly, and based on the principles of procedural fairness to ensure that every individual subject to the investigation is granted sufficient opportunity to reply to allegations before any findings are made.
- 6.7 The individual who disclosed the Reportable Conduct can choose to remain anonymous over the course of the investigation and after the investigation is finalised. However, the APA may not be in a position to keep them informed of the progress of the investigation in such circumstances.
- 6.8 Where possible, the Whistleblower Protection Officer will inform the individual who disclosed the Reportable Conduct of the outcome of the investigation.
- 6.9 The details of the investigation and outcome(s) will be reported to the APA Board and the Audit and Risk Committee on a confidential and anonymous basis.

Whistleblower Complicit

- 6.10 An Eligible Whistleblower may be subject to disciplinary, or any other lawful actions taken by the APA, if the APA determines that they have been complicit in the Reportable Conduct in the course of the investigation.

Referral to External Agency

- 6.11 Depending on the outcome of the investigation, the APA may be required to refer an allegation of Reportable Conduct to an external agency, and therefore may not be in a position to keep the discloser informed during the progress of the external investigation.

7 Fair Treatment and Protection

Anonymity and confidentiality

- 7.1 All disclosures can be made anonymously and receive the protection provided under this Policy. However, in some cases it may be more difficult for the APA to investigate anonymous disclosure. Therefore, an Eligible Whistleblower may wish to consider using a pseudonym and alternative email address in making a disclosure and being available to communicate with the Whistleblower Protection Officer.
- 7.2 The APA will treat confidentially all disclosures and all information acquired in the course of investigating a disclosure.
- 7.3 Subject to compliance with the law, the APA will only disclose the identity of the person who made the disclosure, or any other information that is likely to lead to the identification of that person, with their prior consent.
- 7.4 In limited circumstances, the APA may need to disclose the identity of the person making the disclosure without their consent to certain third parties, including:
- 7.4.1 the Police (State/Territory based or the Australian Federal Police), Aust Securities and Investments Commission, Aust Prudential Regulation

Authority or the Aust Taxation Office (in relation to taxation matters);

- 7.4.2 a legal practitioner for the purposes of obtaining legal advice or representation.

Protections from Detrimental Conduct

- 7.5 The APA is committed to ensuring everyone feels safe in making a disclosure and will take all reasonable steps to protect an Eligible Whistleblower from Detrimental Conduct.
- 7.6 Detrimental Conduct **does not** include:
- 7.6.1 administrative action that is reasonable for the purpose of protecting an Eligible Whistleblower from detriment; or
 - 7.6.2 managing unsatisfactory work performance of an individual unrelated to the Reportable Conduct.
- 7.7 If a person makes a disclosure under this Policy and experiences any Detrimental Conduct, they are encouraged to notify the Whistleblower Protection Officer.

8 Support

- 8.1 Professional counselling support will be made available to all current officers, employees and volunteers involved in a disclosure under this Policy through the Employee Assistance Program.
- 8.2 Where any person has disclosed Reportable Conduct and believes that insufficient action has been taken by the APA, that person may make an enquiry with the APA's General Manager, People and Culture in the first instance. Should the person continue to believe that insufficient action has been taken by the APA, a further enquiry may also be directed to the APA's Chief Executive Officer (or where the alleged Reportable Conduct relates to the Chief Executive Officer, the matter should be escalated to the Chair of the Audit and Risk Committee).

9 Related documents

- 9.1 Code of Conduct
- 9.2 Fraud and Corruption Policy
- 9.3 Workplace Harassment Policy
- 9.4 Cultural Diversity, Anti-Discrimination and Equal Opportunity Policy.

10 Policy owner and review

- 10.1 This version 2 of the Policy is dated December 2023 and replaces the previous version named 'Whistleblower Policy' dated December 2019.
- 10.2 This policy is scheduled to be reviewed by the Audit and Risk Committee every two years or earlier if there is material change to whistleblower legislation.

11 Implementation and communications

- 11.1 The Policy will be available to officers, employees and volunteers via the APA Website and the Australian Physiotherapy Team site. The Policy will also be published on the APA public website.
- 11.2 Information about Reportable Conduct and disclosures in accordance with the Policy will be included in induction and orientation (including on-boarding of service providers).
- 11.3 Those nominated in this Policy as Eligible Recipients of Reportable Conduct disclosures will be provided training in relation to the handling of such disclosures.

12 Description of Terms

Term	Description
Detrimental Conduct	<p>Detrimental Conduct is broad and concerns conduct that causes any detriment to a person, which includes any action or threats of retaliatory action against anyone who has made, or who is believed to have made, disclosures in relation to Reportable Conduct.</p> <p>Examples of Detrimental Conduct include:</p> <ul style="list-style-type: none"> (a) dismissal of any employee; (b) injury of an employee in their employment; (c) altering an employee's position or duties to their disadvantage; (d) discriminating, harassing or intimidating a person; (e) damaging a person's property, reputation, business or financial position.
Eligible Recipient	<p>An Eligible Recipient to receive disclosure of Reportable Conduct includes:</p> <ul style="list-style-type: none"> (a) a director, company secretary, CEO, Deputy CEO or GM People and Culture; (b) the Chair of the APA Audit and Risk Committee; (c) an auditor or a member of an audit team conducting an audit of the APA; (d) the Australian Securities and Investment Commission (ASIC) or the Australian Prudential Regulation Authority (APRA); (e) the Commissioner of Taxation (in relation to tax matters); (f) a prescribed Commonwealth authority; and (g) a legal practitioner. <p>Emergency and Public Interest Disclosures may also be made to journalists and members of Parliament (Commonwealth, State or</p>

	<p>Territory) in certain limited circumstances. In order for journalists and members of Parliament to be Eligible Recipients, it is required by law that a disclosure must have previously been made to ASIC, APRA or a Commonwealth prescribed body. For public interest disclosures, at least 90 days must have passed since the previous disclosure and there are no reasonable grounds to believe that action is being, or has been taken, in relation to the disclosure and there are reasonable grounds to believe that making a further disclosure is in the public interest. For emergency disclosures, an individual needs reasonable grounds to believe that the information concerns a substantial and imminent danger to the health or safety of persons or to the natural environment.</p>
<p>Eligible Whistleblower</p>	<p>An Eligible Whistleblower includes:</p> <ul style="list-style-type: none"> (a) current and former employees or officers of the APA; (b) contractors, consultants or service providers who have supplied goods or services to the APA; (c) associates (individuals or organisations) of the APA; and (d) spouse, relative or dependent of the people listed above. (e) Members. <p>A person will qualify as an Eligible Whistleblower if they make disclosure based on reasonable grounds to suspect that the information disclosed qualifies for protection.</p> <p>'Reasonable grounds' means that a reasonable person in your position would also suspect the information indicates misconduct or a breach of the law.</p>
<p>Reportable Conduct</p>	<p>Reportable Conduct concerns illegal activities, misconduct and / or an improper state of affairs or circumstances.</p> <p>Misconduct is defined under section 9 of the <i>Corporations Act 2001</i> (Cth) to include fraud, negligence, default, breach of trust and breach of duty. The <i>Corporations Act 2001</i> (Cth) does not define "improper state of affairs or circumstances", but this may be understood as conduct that indicates a systemic issue of concern (by reference to the examples below).</p> <p>Examples of Reportable Conduct may include conduct that is suspected on reasonable grounds to:</p>

- (a) be dishonest, corrupt or unethical;
- (b) be considered a breach of duty;
- (c) involve theft, fraud, money laundering or misappropriation of funds;
- (d) be illegal, including criminal behaviour (e.g. theft, illicit drug sale/use, violence or threatened violence and criminal damage against property);
- (e) be unethical, representing a breach of the APA's Code of Conduct, or generally;
- (f) be a serious misuse of information, including use or disclosure of information obtained in the course of an employee's employment for their own benefit or advantage; or
- (g) be an attempt to conceal, or delay disclosure of any of the above.

The above list of examples serve as a guide and is not intended to be exhaustive.

Disclosures that are not about Reportable Conduct are not covered by this Policy and do not qualify for protection. However, these matters may be investigated or addressed separately under the APA's Workplace Harassment Policy, Cultural Diversity, Anti-Discrimination and Equal Opportunity Policy and/or Code of Conduct.

**Whistleblower
Protection Officers**

APA Whistleblower Protection Officers include:

- (a) individuals holding the position of APA GM People and Culture;
or
- (b) alternatively, where the alleged Reportable Conduct relates to the HR Manager, the Whistleblower Protection Officer will be the Company Secretary.