

# Whistleblowing Policy

## 1. Purpose

Safety, Respect, Honesty, Loyalty, and Care are the core values of ANC and everything we do is measured against these important guides.

ANC is committed to the highest standards of conduct and ethical behaviour in all our business activities and we promote and support a culture of honest and ethical behaviour, corporate compliance and good corporate governance.

ANC encourages the disclosure of any instances of suspected unethical, illegal, fraudulent or undesirable conduct involving ANC's business, and will ensure that those persons who make a report shall do so without fear of intimidation, disadvantage or reprisal. In view of this, ANC's Whistleblowing Policy (Policy), is aimed to make you feel confident about raising concerns, whether openly or anonymously, by offering a reporting and investigative mechanism that is objective, confidential, independent and protects you from reprisal or disadvantage.

## 2. Definition

<i>APRA</i>	Australian Prudential Regulation Authority
<i>ASIC</i>	Australian Securities and Investments Commission
<i>ATO</i>	Australian Taxation Office
<i>Detrimental Treatment</i>	For the purpose of this Policy 'Detrimental Treatment' includes dismissal, injury, demotion, discrimination, harassment, intimidation, disciplinary action, bias, threats or other unfavourable treatment because the Whistleblower made, may have made, proposes to make or could make a Whistleblower Report.
<i>Whistleblower (Discloser)</i>	For the purpose of this Policy a 'whistleblower' is defined as an <b>'Eligible Person'</b> who makes (or attempts to make) a disclosure about <b>'Reportable Conduct'</b> , and it must be made to a <b>'Disclosing Officer'</b> or other regulatory bodies as defined in the <i>Corporations Act 2001</i> (Cth) or the <i>Taxation Administration Act 1953</i> (Cth)
<i>Disclosing Officer</i>	For the purpose of this Policy a 'Disclosing Officer' is ANC's representatives who are nominated to receive a disclosure by a Whistleblower

## 3. Who is an Eligible Person?

This Policy applies to an Eligible Person that is a **current** or a **former** person associated with ANC. They could be:

- A director or secretary; or
- An employee or consultant; or

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- Contractor or supplier who supplies goods or services to the company, whether they are paid or unpaid; or
- An employee of a contractor or supplier, whether paid or unpaid; or
- Spouses and relatives of any of the above.

## 4. What is Reportable Conduct?

### 4.1. Reportable Conduct

Reportable Conduct is a suspected breach relating to the *Corporations Act 2001* (Cth) or the *Taxation Administration Act 1953* (Cth).

This list could be an exhaustive list of activities that should be reported, but for the purposes of this Policy and by way of general guidance, Reportable Conduct includes any conduct of ANC or any officer, employee, contractor or consultant of ANC, which a discloser has reasonable grounds to suspect of:

- Illegal conduct – such as theft, illegal drug sales/use, violence or threatened violence, and criminal damage against property;
- Dishonest, corrupt or illegal acts – such as fraud, money laundering or misappropriation of funds, as well as offering or accepting a bribe;
- Misleading or deceptive conduct including practices or representations which amount to improper or misleading accounting or financial reporting practices;
- An offence or contravention of Australia’s corporations and financial services legislation, or any other Commonwealth or State offence that carries a penalty of at least 12 months imprisonment;
- A danger to the public or the financial system;
- Action likely to cause financial or non-financial loss to ANC or that is otherwise detrimental to the interests of ANC; and
- Engaging in or threatening to engage in detrimental conduct against a person who has made a disclosure or is believed or suspected to have made, or be planning to make, a disclosure.

Reportable Conduct also includes conduct of the nature outlined above engaged in by a person outside of ANC but who has a business connection to ANC (for example, a supplier, contractor, volunteer or other business partner) where the conduct could have legal implications for ANC or materially impact the reputation of ANC.

### 4.2. Personal work-related and Work Health & Safety (WHS) grievances

Issues related to Employee Relations, Industrial Relations, or Work Health Safety (WHS) are not generally considered Reportable Conduct under this Policy and should be raised in line with ANC’s *Grievance Policy*, or *WHS Issue Resolution Procedure*.

Personal work-related grievances have or tend to have implications for the discloser personally and does not have any significant implications for ANC, or relate to any conduct, or alleged conduct about a reportable matter. Examples include:

- An interpersonal conflict between the discloser and another employee;

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- A decision that does not involve a breach of workplace laws;
- A decision relating to the engagement, transfer or promotion of the discloser;
- A decision relating to the terms and conditions of engagement of the discloser; and
- A decision to suspend or terminate the engagement of the discloser, or otherwise to discipline the discloser.

However, if a complaint involves a personal work-related grievance, and it:

- Has significant implications for ANC; and
- Concerns conduct or alleged conduct referred to Reportable Conduct outlined above,

then it will be considered to be Reportable Conduct and should be reported in accordance with this Policy.

Examples of personal work-related grievance that still qualifies for protection under this Policy:

- Relates to alleged detrimental treatment or threatened detrimental treatment; or
- The discloser suffers from or is threatened with detriment for making a disclosure; or
- There has been a breach of employment or other laws punishable by imprisonment for a period of 12 months or more, engaged in conduct that represents a danger to the public, or the disclosure relates to information that suggests misconduct beyond the discloser's personal circumstances.

## 5. Who is the Disclosure Reported to?

### 5.1. General Disclosure to Disclosing Officers

To receive protection of any disclosure under this Policy an Eligible Person must make their disclosure to one of the following **Disclosing Officers**:

- National Manager People and Culture, Maria Harrison (MariaH@ancdelivers.com.au); or
- National HR & Payroll Manager, Jennifer Norman (JenniferN@ancdelivers.com.au); or
- National Safety and Compliance Manager, Matt Wheatley (MattW@ancdelivers.com.au); or
- Chief Financial Officer, Matt Clarke-Bruce (MattC@ancdelivers.com.au).

Nothing in this Policy should be taken as restricting you from reporting any matter or providing any information or seeking additional information before formally making your disclosure by contacting ANC's Disclosing Officers or an independent legal advisor.

A disclosure can also be made directly to regulatory bodies, or other external parties about a disclosable matter and qualify for protection under this policy, but we urge contact to one of the internal Disclosing Officers first, to enable ANC to identify and address wrongdoing as early as possible. Other External regulators would be;

- a member of ANC's Accountants and external Auditors, Goodwin Chivas & Co; or
- a legal practitioner; or
- APRA, ASIC, ATO; or
- any other person in accordance with any relevant law, regulation or other requirement.

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## 5.2. Anonymous Reports

A discloser may elect to make a report anonymously. ANC will respect the discloser’s right to not identify themselves. However, electing to make a report anonymously may hinder ANC’s ability to fully investigate the matter properly and to communicate with them about their disclosure.

If the discloser wishes to stay anonymous, their disclosure should be forwarded to one of the above Disclosing Officers in clause 5.1, marked “**Private and Confidential**” and “**Only Open by the Addressee**”, to the following address;

### **ANC**

**Attention: [name of the relevant Disclosing Officer you are sending the disclosure to]**

**PO Box 8246**

**Blacktown NSW 2148**

## 5.3. Public Interest and Emergency Disclosure

A public interest and emergency disclosure can be made to members of parliament and to journalists. An emergency disclosure to a parliamentarian or journalist must be based on the discloser having reasonable grounds to believe the information disclosed concerns a substantial and imminent danger to the health or safety of one or more persons, or the natural environment. The extent of the information disclosed must be no greater than is necessary to inform the recipient of the substantial and imminent danger.

A discloser will be able to make a public interest disclosure to a parliamentarian or a journalist if:

- The discloser has previously made a protected disclosure (the first disclosure) to a regulator;
- At least 90 days have passed since the first disclosure was made;
- The discloser does not have reasonable grounds to believe that action is being or has been taken to address the matters to which the first disclosure related;
- The discloser has reasonable grounds to believe that making a further disclosure to a parliamentarian or a journalist would be in the public interest;
- The discloser has given written notification to the authority that they intend to make a public interest disclosure; and
- The extent of the information disclosed is no greater than necessary to inform the recipient of the misconduct or improper state of affairs to which the first disclosure related.

## 6. Protection

### 6.1. General Protection

ANC is committed to ensuring that a discloser will not suffer detrimental treatment or be disadvantaged as a result of making a disclosure. In addition, there will be no disciplinary action taken against a discloser where a disclosure is unable to be substantiated or is found to be untrue, when the disclosure was made with a genuine or reasonable belief regarding the Reportable Conduct.

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All reasonable steps will be taken by ANC to ensure that a discloser is not subject to any form of victimisation because they have made, may have made, propose to make or could make a report in accordance with this Policy.

A person who subjects a discloser to detrimental treatment because they have made, may have made, propose to make or could make a disclosure will be in breach of this Policy and will be subject to disciplinary actions. This is a serious matter which may expose that person to civil and criminal sanctions.

A person cannot disclose the **identity** of a discloser or information that is likely to lead to the identification of the discloser. The exception is;

- The discloser consents to the disclosure of their identity;
- The disclosure to ASIC, APRA, or a member of the Australian Federal Police (within the meaning of the Australian Federal Police Act 1979);
- To a legal practitioner (for the purposes of obtaining legal advice or legal representation about the whistleblower provisions in the Corporations Act);
- To a person or body prescribed by regulations.

A person can disclose the **information** contained in a disclosure with or without the discloser’s consent if;

- The information does not include the discloser’s identity;
- ANC has taken all reasonable steps to reduce the risk that the discloser will be identified from the information; and
- It is reasonably necessary for investigating the issues raised in the disclosure.

It is illegal for a person to identify a discloser or disclose information that is likely to lead to the identification of the discloser, outside the exceptions as stated above.

If a discloser feels their identity has been exposed against this policy, they can lodge a complaint with any of the people or regulators identified in clause 5.1 above.

## 6.2. Statutory Protection

The statutory protections available to an individual who meets the Eligible Persons requirements above include:

- The right to have their identity protected in accordance with the provisions of legislation;
- The right to have information provided as part of the disclosure handled in accordance with the provisions of legislation;
- The right to be protected from civil, criminal or administrative liability (including disciplinary action) for making the disclosure; from contractual or other remedy on the basis of the disclosure; and from the admissibility of the information provided in evidence against the person, in each case in accordance with the provisions of legislation;
- The right to be protected from detrimental treatment or any form of victimisation in accordance with the provisions of legislation;

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- The right to compensation and other remedies in accordance with the provisions of legislation (including a right not to be required to pay costs incurred by another person when litigation is commenced); and
- The right not to be required to disclose their identity before any court or tribunal in accordance with the provisions of legislation.

### 6.3. What is Detrimental Conduct

Detrimental conduct that are prohibited under the law, but not limited to;

- Dismissal of an employee; alteration of an employee’s position or duties to his or her disadvantage;
- Harassment or intimidation of a person; harm or injury to a person, including psychological harm;
- Damage of a person’s property, reputation, business or financial position; or any other damage to a person.

The following are actions that are not detrimental conduct;

- Administrative action that is reasonable for the purpose of protecting a discloser from detriment, e.g. moving a discloser who has made a disclosure about their immediate work area to another office to prevent them from detriment; and
- Manage a discloser’s unsatisfactory work performance, if the action is in line with ANC’s performance management framework.

### 6.4. Civil, Criminal and Administrative Liability Protection

Under this Policy a discloser is protected from any of the following in relation to their disclosure:

- civil liability (e.g. any legal action against the discloser for breach of an employment contract, duty of confidentiality or another contractual obligation);
- criminal liability (e.g. attempted prosecution of the discloser for unlawfully releasing information, or other use of the disclosure against the discloser in a prosecution (other than for making a false disclosure)); and
- administrative liability (e.g. disciplinary action for making the disclosure).

However, protection under this policy does not grant immunity for any misconduct a discloser has engaged in that is revealed in their disclosure.

## 7. Confidentiality

Maintaining confidentiality is critical in ensuring that no reprisal or recriminatory actions are taken against the discloser.

Accordingly, all disclosures of Reportable Conduct by a discloser will be treated in the strictest of confidence and all reasonable steps will be taken to protect the identity of the discloser where a disclosure of Reportable Conduct is made.

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It is important to note, however, that in order to effectively carry out investigations, it may be necessary to reveal, on a confidential basis, the nature of the Reportable Conduct disclosed by the discloser to those with a ‘need to know’ – including those involved in the investigation process. This does not include the identity of the discloser.

The person[s] against whom the disclosure is made will normally be told at an early stage, provided with supporting evidence, thereby ensuring that they are afforded an opportunity to defend themselves against the allegations. However, it may be necessary to conduct the investigation in confidence (i.e. without informing the subject of the allegation/s) until, or if it becomes necessary to do so. Alternatively, depending on the nature and seriousness of the disclosure, the person[s] against whom the allegation is made may be suspended while investigations are undertaken.

It may also be necessary in most cases to disclose the facts of the matter to any and all person[s] who may be the subject of the allegation.

Unauthorised disclosure of information relating to a disclosure about Reportable Conduct or of the identity of the discloser will be regarded seriously and may result in disciplinary action. It may also be an offence subject to individual penalties under the Corporations Act.

## 8. Whistleblowing Process

### 8.1. Reporting your concerns

While ANC does not expect a discloser to have absolute proof or evidence of Reportable Conduct, a disclosure should show the reasons for their concerns and make full disclosure of the relevant details and supporting documentation.

Information required should relate to; date, time, location, name of person[s] involved, evidence such as documents or emails, possible witnesses, and any steps that may have been taken to report the matter elsewhere to try to resolve the concern.

Your disclosure should be given to a *Disclosing Officer*, identified in clause 5.1 above. If you wish to send your disclosure anonymously, the contact details are identified in clause 5.2 above. And if you feel you are not comfortable making a disclosure internally, you could send it to ANC’s Accountants and external Auditors, Goodwin Chivas & Co, marked “**Private and Confidential**” and “**Only Open by the Addressee**”. Their contact details;

**Goodwin Chivas & Co**  
**Attention: Taryn Marchant, Partner**  
**PO Box 6862**  
**NORWEST NSW 2153**

All reports are treated in confidence. You can remain anonymous or have the option to remain anonymous to all other third parties, or they can place restrictions on who knows their identity. Restrictions can also be placed on who is informed of their disclosure.

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The disclosure will be discussed between the ANC’s Disclosing Officers and ensuring anonymity is kept if requested. In the event the disclosure relates to one of the Disclosing Officers, it will be dealt with between the other remaining Disclosing Officer[s].

**8.2. Communication with you about your Disclosure**

The Disclosing Officer will keep you informed of the outcome of the investigation arising from your disclosure, subject to considerations of the privacy of anyone who is the subject of the *Reportable Matter* and normal confidentiality requirements.

Where practicable, you will be provided with initial feedback within a week of making your disclosure. Further feedback on the investigation will depend on the nature of the disclosure, and further feedback times will be relayed to you on the initial feedback.

**8.3. The Investigation**

The investigation process will vary depending on the precise nature of the conduct being investigated. This may require the use of internal or external investigative resources, as the purpose of the investigation is to determine whether or not your concerns are substantiated.

The investigation will be a fair and independent process, without bias, and conducted by one of the Disclosure Officers.

The investigation will be along the lines of, but not limited to:

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

Where the discloser has not chosen to remain anonymous while making a disclosure, the discloser can refuse to answer questions that they feel could reveal their identity at any time, including during follow-up conversations.

**8.4. Conclusion of the Investigation**

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

- the details of the Whistleblower Disclosure;
- the information and evidence collected during the investigation that either supports or refutes the allegation of Improper Conduct;

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- the conclusions reached by the Disclosure Officer and the reasoning behind each conclusion; and
- the recommendation of the Disclosure Officer as to any action to be taken and as to who should be the appropriate decision maker in respect of any such action.

### 8.5. Outcome of the Investigation

The discloser will be informed of the outcome of the investigation within five working days of completion of the investigation. The exact nature of any disciplinary action taken against any person will remain confidential.

Whether there was a case to answer or not, and provided that the report was made on reasonable grounds, ANC will ensure that the discloser is protected from reprisal or victimisation as a result of their disclosure. ANC’s ability to monitor this may be reduced in the case of an anonymous report.

Where it is established that a discloser’s allegations were false and made maliciously, disciplinary action will be taken against them. Such disclosures will be treated as gross misconduct and may result in dismissal without notice or payment in lieu of notice.

If, as a result of investigation, a discloser is implicated in some way in any wrong doings, disciplinary action may be taken against them. The fact that they have ‘blown the whistle’ will be taken into account if an action is considered.

### 8.6. Not Satisfied with the Outcome

If a discloser is not satisfied with the outcome, or that they have been subject to retaliation as a result of making the disclosure, the matter can be escalated to **ANC’s Director, James Taylor** (via the address in clause 5.2 above) who will determine the most appropriate course for handling the matter. This may include informal resolution options or a formal investigation.

## 9. Compensation and other Remedies

The discloser can seek compensation and other remedies through the courts if discloser has:

- Suffered loss, damage or injury because of a disclosure; and
- ANC has failed to take reasonable precautions and exercise due diligence to prevent the detrimental conduct.

## 10. Availability of this Policy

This Policy is available to all ANC’s officers, employees, and contractors through ANC’s induction process, and on ANC’s Safety Website.

## 11. Review

This policy will be reviewed every two years, or earlier if necessary, to improve the effectiveness of its operation.

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## 12. References

- ANC's *Grievance Policy*
- ANC's *Code of Ethics Policy*
- ANC's *WHS Issue Resolution Procedure*

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