

Policy number	P22
Version	v1
Effective Date	24/02/23
Next Review Due	24/02/24
Approved By	BOARD
Forms	None

## **MBCRC WHISTLEBLOWER POLICY**

### **Introduction**

MBCRC encourages the reporting of any instances of suspected unethical, illegal, corrupt, fraudulent or undesirable conduct involving MBCRC business, and provides protections and measures to individuals who make a disclosure in relation to such conduct without fear of victimisation or reprisal.

### **Purpose**

The purpose of this policy is to:

- Provide a mechanism for disclosing concerns safely, securely and with confidence that information will be protected and respected as sensitive, where appropriate,
- deal with any issues raised in a timely manner,
- provide transparency around MBCRC's framework for receiving, handling and investigating these issues,
- prevent improper conduct, behaviour and decisions,
- apply an appropriate approach to assist MBCRC to identify wrongdoing that otherwise may not be identified, and
- implement a framework for whistleblower disclosures which meets the requirements of the Corporations Act and Taxation Administration Act.

This Policy is not designed to circumvent or override other MBCRC internal policies and procedures.

### **Who does this policy apply to?**

A report can be made if a person is, or has been, any of the following:

- a director or officer of MBCRC;
- an employee of MBCRC;
- a supplier of services or goods to MBRC (whether paid or unpaid);
- an employee of a supplier of services or goods to MBCRC (whether paid or unpaid);
- an associate of MBCRC;
- a relative of any of the above individuals; OR
- a spouse or dependent of any of the above individuals.

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### **Reportable Conduct**

A report or disclosure may be made under this Policy if there are reasonable grounds to believe that a company director, officer, employee, contractor, supplier, consultant or other person who has business dealings with MBCRC has engaged in conduct which is:

- Dishonest, fraudulent or corrupt
- Illegal (such as theft, dealing in or use of illicit drugs, violence or threatened violence and criminal damage to property)
- Unethical
- Bullying, discrimination, victimisation or harassment
- Oppressive or grossly negligent
- A systemic issue that a regulator should know about
- Potentially damaging to MBCRC, its employees or a third party, such as unsafe work practices or environment
- Misconduct or an improper state of affairs or circumstances in relation to MBCRC's tax affairs,
- A danger, or represents a danger to the public or financial system

This conduct is considered **Reportable Conduct**.

As well as the Corporations Act protections, further protection is provided to individuals drawing attention to Reportable Conduct under the Taxation Administration Act 1953. Further information about these laws can be found at:

<https://www.ato.gov.au/general/gen/whistleblowers/>

### **Non-reportable Conduct**

For the avoidance of doubt, Reportable Conduct does not include personal work-related grievances. A personal work-related grievance is a grievance about any matter in relation to an employee's current or former employment, having implications (or tending to have implications) for that person personally and that do not have broader implications for MBCRC. Examples of personal work-related grievances are as follows:

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- An interpersonal conflict between the employee and another employee
- A decision relating to the engagement, transfer or promotion of the employee
- A decision relating to the terms and conditions of engagement of the employee
- A decision to suspend or terminate the engagement of the employee, or otherwise to discipline the employee

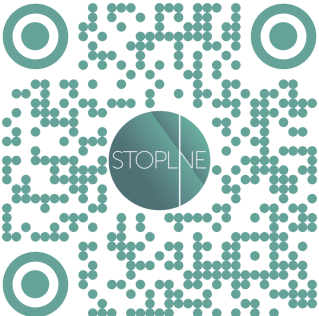
Before conduct is reported, the Whistleblower must have reasonable grounds to suspect that Reportable Conduct has occurred. Individuals must not make baseless reports or knowingly provide false or misleading information regarding Reportable Conduct. Doing so may result in disciplinary action up to and including termination.

### **Making a disclosure**

MBCRC has engaged an external specialist organisation (Stopline) to act as MBCRC's Whistleblower Investigation Officer (WIO) and confidentially accept any issues raised under this Policy. This is to allow people who raise concerns to feel comfortable and reassured that the issues will be dealt with confidentially, professionally and in good faith. These concerns can be reported via telephone, mail, email, or the website. It is important to remember that the MBCRC Whistleblower procedure enables individuals to maintain anonymity should they choose. Stopline is available to all MBCRC Employees and designated stakeholders referred to in this document under the section **Who does this policy apply to?**.

Translation services can be provided if requested. Disclosures can be made to Stopline under this Policy in any of the following ways:

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<b>WIO</b>	STOPLINE
<b>Phone</b>	1300 30 45 50 – AUSTRALIA
<b>Email</b>	makeareport@stopline.com.au
<b>Website</b>	<a href="https://mbcrc.stoplinereport.com/">https://mbcrc.stoplinereport.com/</a>
<b>Post</b>	MBCRC C/O Stopline, PO Box 403 Diamond Creek, VIC 3089
<b>QR code</b>	

### Disclosure to others

MBCRC encourages disclosures to be made via Stopline, however disclosures may also be made to an 'Eligible Recipient' in relation to MBCRC as shown below:

- a director or officer;
- the CEO;
- Australian Securities & Investment Commission (ASIC);
- Australian Prudential Regulation Authority (APRA);
- the Commissioner of Taxation;
- another Commonwealth authority prescribed by law; or
- a lawyer.

When a disclosure is communicated directly to Stopline or one of the above Eligible Recipients, the person is protected as a whistleblower under the Corporations Act from the time they raise their concern.

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Where, rather than using the Stopline, a disclosure is made to one of the other MBCRC Eligible Recipients above, it is important to make it clear that a disclosure is being made under this Policy, so that the Eligible Recipient understands that the terms of the Whistleblower Policy need to be met.

### **Public Interest Disclosures and Emergency Disclosures**

In more specific and limited circumstances where a matter is of public interest or there is an emergency, a report may be protected if it is made to a journalist or a member of Parliament. It is important that to understand the criteria for making a public interest or an emergency disclosure to be covered by the whistleblower protections. MBCRC recommends that contacting an independent legal adviser before making a public interest or emergency disclosure.

### **Legal Advice**

The protections in this Policy also apply to any disclosure made by a person, as an eligible individual who raises a concern, to a legal practitioner for the purpose of obtaining legal advice or legal representation regarding the operation of the whistleblower provisions in the Corporations Act and this Policy (even if the legal practitioner concludes that a disclosure is not a Reportable Conduct).

### **What happens if I make a disclosure?**

If a disclosure is made under this Policy, as much factual information as possible (ie. dates, times, location, individuals involved, witnesses, evidence, documents) and any general information should be provided which may be helpful to assist in determining what action may be required.

The WIO must (after reasonable assessment):

- Notify the MBCRC Whistleblower Protection Officer (WPO) to provide support to the Whistleblower;
- Be satisfied that action taken in response to the inquiry/investigation is appropriate to the circumstances, and
- Ensure that all investigations are carried out in line with the principle of procedural fairness.

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Any report made to MBCRC's external provider, Stopline, will be detailed in a Disclosure Report to MBCRC's WPO. The WPO will be the MBCRC CEO, unless information in the report relates to the CEO, in which case the MBCRC Chair will be considered the WPO.

After the initial report is provided, MBCRC's WPO and Stopline together will assess the disclosed matter to determine whether it qualifies for protection under this Policy and whether an investigation is warranted.

During this process, Stopline and MBCRC's WPO will keep the person informed of the investigation's progress and advise them of the final outcome.

The person raising a concern is entitled to remain anonymous or use a pseudonym during the course of the investigation and is entitled to refuse to answer any questions that are asked, though this may impact the effectiveness of the investigation.

### **Querying or disputing the outcome**

Where the person raising concerns is not satisfied with the conduct or outcome of the investigation, or final decision, they can request that either Stopline or MBCRC's WPO escalate the matter to the MBCRC Board for further investigation.

### **Information will be kept Confidential**

Stopline and MBCRC's WPO will keep all information provided to them, as part of a disclosure, including the identity of the person raising the concern, in secure locations, both digital and physical, and will allow access to that information only in accordance with the terms of this Policy. Where information is provided to another individual, they will maintain confidentiality in accordance with this Policy and any directions from the WPO.

If required to pass on any information, care will be taken not to disclose the identity of the person raising the matter, for instance by using gender neutral language and removing aspects of the information which could point towards the individual's role at MBCRC.

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Reports may be made anonymously or using a pseudonym and still qualify for protection under this Policy.

Where identity is provided, that, and information likely to lead to identification, will only be disclosed to individuals other than MBCRC's WPO, including the WIO, in the following circumstances:

- with the persons consent;
- to ASIC, APRA or the Australian Federal Police; or
- to a legal practitioner for the purpose of obtaining legal advice or representation about the whistleblower provisions in the Corporations Act.

It is illegal for a person to disclose the identity or information likely to lead to identification of the whistleblower, apart from these circumstances.

To ensure appropriate oversight at the MBCRC Board of Directors level, the WPO will prepare, submit and, if requested, speak to any matters raised or dealt with under this Policy to the Board. Any matter reported to MBCRC's WPO will be included. At all times confidentiality, and where requested anonymity, will be of paramount importance.

If a person believes that there has been a breach of confidentiality, a complaint may be lodged with MBCRC's WPO or, if they are the subject of the breach, to MBCRC's Operations Manager. In this instance, a person would also be free to seek independent legal advice or lodge a complaint with ASIC, APRA or the ATO as appropriate.

### **Protection for Whistleblowers**

MBCRC will endeavour to protect individuals who disclose conduct under this Policy and provide support to them, including in the following ways:

MBCRC's WPO will consider the risk of any detriment against the individual as soon as possible after receiving notice of a concern and take any steps considered necessary to reduce that risk; individuals may contact the Whistleblower Protection Officer directly to discuss concerns they have, and

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steps that may be taken to reduce those concerns; any additional support requested by the individual which, in MBCRC's opinion, is reasonable.

#### Support for individuals mentioned in a disclosure

MBCRC will treat any MBCRC Employees mentioned in a disclosure made under this Policy fairly, including :

- maintaining the confidentiality of those mentioned where practical and appropriate in the circumstances;
- advising the individual as and when required and prior to any actions being taken; and
- advising the individual of the outcome of any investigation.

Individuals will still qualify for protection under the Corporations Act and this Policy if the information disclosed turns out to be incorrect, provided they had reasonable grounds to suspect it was correct. If it is shown that a person has made a false report without reasonable grounds then that conduct itself will be considered a serious matter. In that case, persons will not be protected under this Policy and may be subject to legal or disciplinary action which can include dismissal.

Note that individuals may not be protected under this Policy if they have been found to have been materially involved in conduct they are reporting, although in some cases the making of a report may be a mitigating factor.

#### **Legislation and further information**

SA Whistleblowers Protection Act 1993

Public Interest Disclosure Act

ASIC Protections for not for profit organisations

Corporations Act 2001 (Cth)

#### **Related Documents**

[P1 AntiDiscriminationEqualOpportunity](#)

[P2 CodeOfConduct](#)


[P9 HumanResources](#)



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### Policy Review

This policy will be reviewed in accordance with the Policy Register. Employees are responsible for keeping up to date with policy terms, including policy revisions, by regularly reviewing MBCRC policies.

Authorised by:		
John Gunn	Board Chair	Date
		24/02/23