

## WHISTLEBLOWING POLICY

Policy Number:	11	Version: 1
Updated by:	Policy Writer	Approved by Board on: 2 September 2020
Reason of Review:	ACFID CSA/ACNC and CPSL Guidelines	Scheduled review date: As per schedule

### INTRODUCTION

Mercy Works Limited (MWL) promotes social justice through local and overseas relief and development activities that are part of the mission and vision of the Sisters of Mercy in Australia and Papua New Guinea.

The programs engage in partnerships with communities to promote justice, self-reliance and to support peoples and communities who are displaced or denied access to basic resources such as education, health and social welfare.

### CONTENT

The document contains the Mercy Works (MWL) Whistleblowing Policy.

#### 1. PURPOSE

The purpose of this Policy is as an important tool for helping Mercy Works Limited (MWL) to identify wrongdoing that may not be uncovered unless there is a safe and secure way to disclose any such activity.

The purpose of this Policy is also to ensure that MWL observes with the Australian Council for International Development (ACFID) Code of Conduct requirements, in particular:

- 9.2 We protect, value and support our people.

MWL is committed to the highest standards of integrity and conduct. If you are aware of possible wrongdoing, you have a responsibility to disclose this information and will support you in doing so.

This Policy is:

- to encourage more disclosures of wrongdoing, and make it clear that staff, volunteers, contractors, partners and directors have a responsibility to report wrongdoing;
- to help deter wrongdoing, in line with MWL's risk management and governance framework;
- to ensure people who disclose wrongdoing can do so safely, securely and with confidence that they will be protected and supported;
- to ensure disclosures are dealt with appropriately and on a timely basis;

- to provide transparency around MWL's framework for receiving, handling and investigating disclosures;
- to support MWL's code of conduct Policy;
- to support MWL's long-term sustainability and reputation; and
- to meet MWL's legal and regulatory obligations.

MWL is committed to encouraging the reporting of any instances of suspected unethical, illegal, fraudulent or undesirable conduct involving MWL's businesses. MWL provides protections and measures so that people who make a report can do so confidentially and, if requested anonymously, without fear of intimidation, disadvantage or reprisal.

## 2. SCOPE

This Policy provides guidance to MWL Board Directors, committee members, employees contractors, volunteers, (defined as Workers) in relation to their work with/for MWL.

To meet the regulatory requirements, MWL has reasonable processes in place to ensure the procedures and tools for seeking informed consent meet ethical guidelines. These are made available in the local languages of PNG (Tok Pisin) and Timor Leste (Tetum).

This Policy applies to and provides protections to Protected Whistleblowers.

You are a Protected Whistleblower and entitled to protection under the Corporations Act 2001 (Cth) (Corporations Act) and, if applicable, under the Taxation Administration Act 1953 (Cth) (Taxation Administration Act) if:

- you are an Eligible Whistleblower; and
- you have disclosed (or intend to disclose) a Reportable Matter to an Eligible Recipient or to the Australian Securities and Investments Commission (ASIC), the Australian Prudential Regulation Authority (APRA) or another entity prescribed under the Corporations Act.

See below for the meaning of the terms 'Eligible Whistleblower', 'Reportable Matter' and 'Eligible Recipient'.

You will also be entitled to protection as a Protected Whistleblower if you get advice from a legal practitioner on the operation of whistleblowing protection laws.

Also, 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's made to a journalist or a member of Parliament. It's important that you understand the criteria for making a public interest or an emergency disclosure to be covered by the whistleblower protections. MWL recommends that you contact an independent legal adviser before making a public interest or an emergency disclosure.

## 3. DEFINITIONS & ACRONYMS

Terms used in this Policy are:

**3.1 Eligible Recipient** - See paragraph 5.4.b) below

**3.2 Eligible Whistleblower** - An Eligible Whistleblower is a person who is, or has been, any of the following:

- an officer or employee of MWL (this includes current and former employees who are permanent, part-time, fixed-term or temporary, interns, managers and directors);

- a person who supplies goods or services to MWL or an employee of a person who supplies goods or services to MWL (whether paid or unpaid) - this could include current and former volunteers, contractors, consultants, service providers and business partners;
- a relative, dependent or dependent of the spouse of any person referred to in this definition of Eligible Whistleblower.

3.3 **Reportable Matter** - See paragraph 5.1 below

## 4 ROLES AND RESPONSIBILITIES

### 4.1 MWL Executive Director

It is the sole responsibility of the Executive Director to:

- Monitor and report any whistleblowing to the Board;
- Act on any breaches of this Policy;
- Report any and all whistleblowing to the regulators after discussion with the Board Chair, where appropriate;
- Own and administer this Policy;
- Review and update all related processes and procedures;
- Monitor the controls mitigating the whistleblowing risks; and
- Take investigative and corrective action immediately to protect the incident and the whistleblower.

### 4.2 The Board

It is the responsibility of the Board to:

- Review and approve this Policy Review and approve this Policy in accordance with the revision schedule;
- Review and approve the risks associated with whistleblowing as part of MWL's risk profile at least annually; and
- Take corrective action immediately.

## 5 APPLICATION

### 5.1 Reportable Matter

The section below sets out what is a Reportable Matter that will qualify for legal protection under the Corporations Act (or the Taxation Administration Act, where relevant). Disclosures that aren't about a Reportable Matter will not be protected under the Corporations Act or the Taxation Administration Act and this Policy.

A disclosure will concern a Reportable Matter if an Eligible Whistleblower has reasonable grounds to suspect that the information being disclosed is about:

- misconduct (including fraud, bribery, theft, negligence, default, breach of trust and breach of duty);
- an improper state of affairs or circumstances;
- behaviour that represents a danger to the public or the financial system;
- a breach of the Corporations Act;
- a breach of the Taxation Administration Act or improper conduct in relation to the tax affairs,
- sexual, physical or emotional abuse;
- health and safety issues;
- action that has caused, or is likely to cause, physical danger to any person or risk serious damage to MWL property;
- miscarriages of justice in the conduct of statutory or other processes;
- potential maladministration, misconduct or malpractice;

- action that has caused or is likely to cause danger to the environment;
- abuse of authority;
- breaches of financial regulations or policies;
- mistreatment of any person;
- unfair discrimination;
- racist incidents or acts, or racial harassment; or
- any attempt to prevent disclosure of any of the issues listed in relation to MWL.

## 5.2 Child Safeguarding issues

All Child Safeguarding issues should be reported according to the specific guidelines laid out in that Policy.

## 5.3 Personal work-related grievances

Personal work-related grievances that don't involve a detriment caused to you as a Protected Whistleblower (or a threat of detriment) aren't a Reportable Matter and aren't protected under the Corporations Act or Taxation Administration Act.

A personal work-related grievance is one that relates to your current or former employment that has implications for you personally but doesn't have significant implications for MWL.

An example of a work-related grievance that is not protected by law could include if you believe you have missed out on a promotion that you deserve or if you don't like the managerial style of your supervisor.

However, a work-related grievance may still qualify for protection under the law if (for example):

- it is a mixed report that includes information about a Reportable Matter (as well as a work-related grievance);
- MWL has broken employment or other laws which are punishable by imprisonment for 12 months or more or acted in a way that is a threat to public safety;
- the disclosure relates to information that suggests misconduct that goes further than the whistleblower's personal circumstances; or
- the whistleblower suffers from or is threatened with detriment for making a disclosure.

## 5.4 How do I make a report and who do I report to?

### a) Making a disclosure

Reports can be made in person or by telephone, post or email. Reports can be made within business hours or outside business hours.

If at any time, you are not sure about whether to make a protected disclosure, you can get independent legal advice. Any discussions you have with a lawyer will be protected under this Policy and under law.

### b) Eligible Recipients

A protected disclosure of a Reportable Matter can be made using any of the channels below (each is an Eligible Recipient of Reportable Matter):

- an officer, director or senior manager of MWL;
- an external auditor of MWL; or

**Board Chair** – Kathleen Donnellon

**Email:** [kdonnellon3@gmail.com](mailto:kdonnellon3@gmail.com)

**Executive Director** – Sally Bradley RSM

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**Office:** +61 2 9564 1911

**Postal Address:** PO Box 2023, North Parramatta. NSW 1750

**Company Secretary** – Martin Binoj  
**Email:** [martin.binoj@mercyworks.org.au](mailto:martin.binoj@mercyworks.org.au)  
**Office:** +61 2 9564 1911  
**Postal Address:** PO Box 2023, North Parramatta. NSW 1750

c) Other designated bodies that can receive disclosures. Disclosures of a Reportable Matter may also be protected when made to:

- ASIC;
- APRA;
- the Commissioner of Taxation; or
- another Commonwealth authority prescribed by law.

### 5.5 False reports

A Protected Whistleblower will still qualify for protection for disclosure even if their disclosure turns out to be incorrect. However, anyone who knowingly makes a false report of a Reportable Matter, or who otherwise fails to act honestly with reasonable belief in respect of the report may be subject to disciplinary action, including dismissal.

### 5.6 Anonymity when reporting

You may choose to remain anonymous when disclosing a Reportable Matter, over the course of the investigation and after the investigation is finalised. While you are encouraged to share your identity when making a disclosure, as it may make it easier for MWL to address your disclosure of a Reportable Matter and for MWL to communicate with you, you are not required to share your identity. If you don't share your identity, MWL will assess your disclosure in the same way as if you had revealed your identity. However, there may be some practical limitations in conducting the investigation if you don't share your identity.

### 5.7 Protections for Protected Whistleblowers

#### a) Confidentiality

Disclosures from Protected Whistleblowers will be treated confidentially and sensitively. Once a report is received, the Eligible Recipient will make sure immediate steps are taken to protect the identity of the Protected Whistleblower. This will include redacting the name and position of the Protected Whistleblower from any written record of the report and making sure appropriate document security is implemented.

It's illegal for a person to identify Protected Whistleblowers or disclose information that is likely to lead to their identification. If you are a Protected Whistleblower, your identity and position (or any other information which would be likely to identify you) will only be shared if:

- you consent to the information being shared;
- the disclosure is to a recipient permitted by law such as the Commissioner of Taxation or Australian Federal Police; or
- the disclosure is otherwise allowed or required by law (for example, disclosure to a lawyer of MWL to receive legal advice relating to the law on whistleblowing).

In addition, for information likely to identify an Eligible Whistleblower, this may be shared if it is reasonably necessary for the purposes of an investigation. In this circumstance, all reasonable steps will be taken to reduce the risk that you will be identified.

#### b) Protection against detrimental treatment

It's illegal for a person to engage in conduct that causes (or threatens) detrimental treatment to a Protected Whistleblower in the belief or suspicion that a person has made, may make, proposes to

make or could make a report of a Reportable Matter and where that belief or suspicion is a reason for the conduct.

Detrimental treatment could include dismissal, demotion, harassment, damage to your reputation, discrimination, disciplinary action, bias, threats or other unfavourable treatment connected with making a disclosure as a Protected Whistleblower.

MWL will seek to ensure that Protected Whistleblowers are not subjected to detrimental treatment as a result of making (or intending to make) a disclosure under this Policy. To protect Protected Whistleblowers from detrimental treatment, MWL will:

- make an assessment of the risk of detriment against a Protected Whistleblower as soon as possible after receiving a disclosure of a Reportable Matter;
- make sure MWL management are aware of their responsibilities to maintain the confidentiality of a Protected Whistleblower, address the risks of detriment and ensure fairness when managing the performance of, or taking other management action relating to, a Protected Whistleblower; and
- take practical action, as necessary, to protect a Protected Whistleblower from the risk of detriment and intervene if detriment has already occurred.

If a Protected Whistleblower believes that they have been subject to detrimental treatment, they should inform an Eligible Recipient immediately.

#### c) Other protections for Protected Whistleblowers

Protected Whistleblowers are protected from civil, criminal or administrative liability (including disciplinary action) for making reports of Reportable Matters. No contractual right (including under an employment contract) can be exercised against a Protected Whistleblower to stop them disclosing a Reportable Matter.

If you're a Protected Whistleblower and the disclosure is to an Eligible Recipient or other designated body as set out above or is a public interest disclosure or emergency disclosure, the information you disclose also can't be used against you in criminal proceedings or in proceedings for the imposition of a penalty (except if the proceedings are in respect of the falsity of the information).

Eligible Whistleblowers may also be entitled to seek compensation and other remedies through the courts if MWL fails to protect the Eligible Whistleblower from detriment and the Eligible Whistleblower suffers loss or damage.

#### 5.8 How will we investigate disclosures?

Once a report of a Reportable Matter has been received from an Eligible Whistleblower, who has provided reasonable grounds for their belief that the Reportable Matter has occurred, an investigation of those allegations will begin as soon as practicable after the report has been received.

If MWL determines that the information disclosed doesn't amount to a Reportable Matter, the Eligible Whistleblower will be, if practicable, informed of that decision. In some instances, reports may not be able to be responded to, for example, because they are anonymous reports.

If an investigation is conducted, it will:

- follow a fair process;
- be conducted in as timely a manner as the circumstances allow; and
- be independent of the person(s) about whom an allegation has been made.

Provided there are no restrictions or other reasonable bases for doing so, people against whom an allegation has been made will be informed of the allegation and will have an opportunity to respond to any allegation. That is, MWL will take steps to ensure fair treatment of any person who is the subject of the Reportable Matter report as well as the Protected Whistleblower.

Investigations will be conducted promptly and fairly with due regard for the nature of the allegation and the rights of the people involved in the investigation. MWL recognises the importance of

balancing the rights of the Eligible Whistleblower and the rights of people against whom a report is made in ensuring fairness.

#### 5.9 Communications with the Protected Whistleblower

MWL will ensure that provided the claim was not submitted anonymously, the Protected Whistleblower is kept informed of the outcomes of the investigation of their allegations. This will be subject to the considerations of privacy of those against whom allegations are made and considerations of confidentiality affecting MWL.

If the Protected Whistleblower is not an employee of MWL, the Protected Whistleblower will be kept informed of the investigative outcomes (subject to privacy considerations as above), once the Protected Whistleblower has agreed in writing to maintain confidentiality in relation to any information provided to them regarding a report made by them.

#### 5.10 Further support for Protected Whistleblowers

A confidential counselling service or allowing flexible work arrangements to support a Protected Whistleblower can be discussed and arranged.

#### 5.11 How this Policy is made available

This Policy is made available on our website [www.mercyworks.org.au](http://www.mercyworks.org.au). A Policy workshop will be held for all employees with scenario examples and followed by a Q&A session. A copy of this Policy will be included in the employee induction information packs. All volunteers of MWL will be provided with a copy of this Policy as part of their induction. All contractors and partners of MWL will be provided with the hyperlink to this Policy so that they are aware of the whistleblower protections available.

## 6 BREACH

A breach of this Policy may result in disciplinary action that may involve severance from the organisation.

## 7 AUTHORITY

This Policy is approved and reviewed by the Board.

## 8 RELATED POLICIES/DOCUMENTS

Other organisational policies, legislation, and codes etc. that should be read in conjunction with this Policy and with MWL's ethical value principles include:

- Code of Conduct Policy
- Counter-Terrorism and Anti - Money Laundering Policy
- Financial Wrong-doing Policy
- Fraud Control and Corruption Prevention Policy
- Prevention of Sexual Exploitation and Abuse Policy
- Risk Policy
- Child Safeguarding Policy
- Transparency & Accountability Policy
- ACFID Code of Conduct - Commitment 9.2
- Corporations Act 2001 (Cth)
- Taxation Administration Act 1953 (Cth)



## 9 CONTACTS

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## 10 REVIEW

Review of this Policy, related forms and resources will be undertaken every three years by the Executive Director and approved by the MWL Board.


## 11 REVISION/MODIFICATION HISTORY

Date	Version	Current Title	Summary of Changes	Approval Date	Commencement Date
2 September 2020	1	Whistleblowing Policy	New	2 September 2020	3 September 2020

## 12 APPROVAL DATE/REVISION SCHEDULE

Approved by: Board, Mercy Works Limited  
Date: 2 September 2020

To be Revised: 2 September 2023

Board Chair Signature	
Date	18.09.20