

# Board Policy 7

## Disclosing Wrongful Behaviour



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### Introduction

Australian Business Volunteers (ABV) is committed to the highest possible standards of probity, accountability, and transparency. ABV is committed to developing and maintaining a culture where it is safe and acceptable to disclose alleged wrongful behaviour.

A disclosure is a report by a person – outside established reporting lines – of alleged wrongful behaviour. It does not require irrefutable evidence or identification of suspects but there is usually a reasonable basis for the disclosure.

Disclosing wrongful behaviour is colloquially known as “whistle-blowing” and the person who discloses is colloquially known as a “whistle-blower”.

It is the responsibility of all Board members, officers, employees and volunteers to report concerns about violations of ABV’s code of conduct and ethics or suspected violations of law or regulations that govern ABV’s operations.

### Policy Purpose

This policy states how ABV will respond to any disclosures of wrongful behaviour.

### Policy Scope

This policy applies to any person who discloses, in good faith, alleged wrongful behaviour within or against ABV in line with this policy.

### Definitions

#### ABV internal stakeholders

ABV internal stakeholders include ABV staff, ABV volunteers, ABV Board Directors, as well as contractors engaged by ABV.

#### ABV external stakeholders

ABV external stakeholders include clients, customers, business partners, third-party suppliers of goods and services, or members of the public.

### Wrongful behaviour

Wrongful behaviour may include, but is not limited to:

- Perpetrating fraud – dishonestly obtaining a tangible or intangible benefit by deception or other means, or depriving a person dishonestly of something which is theirs, or to which they may be entitled
- Participating in corrupt practices, including the giving and receiving of bribes
- Making unauthorised use, misusing or abusing ABV assets including information
- Abusing power or delegated authority, and/or using these in an unauthorised way including for personal benefit
- Misrepresenting ABV, by giving false or misleading information to or on behalf of ABV, or failing to disclose information when there is a legal obligation to do so
- Failing to comply with the ABV Code of Conduct, ABV’s policies and/or procedures, appropriate professional standards, statutory codes of practice, and/or community expectations
- Taking reckless actions that endanger the environment, and/or the health and/or safety of ABV internal or ABV external stakeholders
- Taking reckless actions that endanger ABV’s performance or reputation – for example, wasting substantial funds,
- Behaving unlawfully, unethically or offensively – for example, harassing, bullying or victimising a person who has made, or may make, a disclosure of wrongful behaviour.

### Policy

ABV will:

- Protect the rights of people disclosing alleged wrongful behaviour in good faith
- Evaluate disclosures to determine whether they warrant investigation

- Record and thoroughly investigate disclosures where their apparent credibility and seriousness deem it to be appropriate
- Protect the rights of the alleged offender by ensuring due and proper process is applied
- Discipline any person proven to have behaved wrongfully.

### Procedure

#### Protection

A discloser is protected from victimisation under Part 9.4 AAA of the *Corporations Act 2001* provided:

- The disclosure is made in good faith
- The discloser is an ABV employee; or is a person who has a contract for the supply of goods or services to ABV
- The disclosure is made to an authorised person.

At any stage during this process, the discloser may seek the support of ABV's chosen employee assistance counsellor/provider.

#### Confidentiality

ABV will protect the identity of a person who discloses alleged wrongful behaviour, acknowledging that the discloser may need to come forward as a witness.

ABV will keep confidential any information about a disclosure except where it is authorised or required by law.

If the disclosure concerns a suspected contravention of the *Corporations Act 2001*, unless written consent is received from the discloser, the information and identity of the discloser can only be disclosed to the:

- Australian Securities and Investments Commission
- Australian Prudential Regulatory Authority, or
- Australian Federal Police.

#### Disclosure

If wrongful behaviour is uncovered, or there are reasonable grounds to suspect wrongful behaviour, the concerns should be disclosed so that they can be dealt with.

ABV encourages disclosers to put their name to any allegations they may make, but will treat all allegations – anonymous or not – equally.

In order to lodge a disclosure, the discloser should write, email, telephone or meet with the Chair of the Standing Committee on Governance. The Chair will then appoint a Probity Officer\* who will be responsible for overseeing the investigation to its conclusion.

#### Evaluation

On receipt of complaint from the Governance Committee Chair, the Probity Officer will evaluate the disclosure to determine whether investigation is justified. The evaluation process will include consideration of whether:

- The disclosure is made in good faith
- The alleged behaviour is wrongful
- The alleged wrongful behaviour is serious enough to warrant investigation
- The alleged wrongful behaviour has been previously investigated
- The evidence of the alleged wrongful behaviour is convincing enough to warrant investigation.

ABV will thoroughly investigate disclosures where the seriousness and apparent credibility of the disclosure deems it to be appropriate

If a disclosure is not made in good faith, action may be taken against the discloser.

#### Investigation

Where an investigation has been deemed appropriate, the Probity Officer will select an appropriate investigator. In selecting an appropriate investigator, the Probity Officer will include consideration of whether the investigator:

- Is demonstrably available, impartial and discrete
- Has the appropriate skills and knowledge, technical and personal
- Has the appropriate commitment, standing, and credibility.

In consultation with the ABV Probity Officer, the selected investigator will determine an appropriate investigation plan including:

- Reviewing legislation
- Reviewing documents and/or data (hard-copy and/or soft-copy)

- Interviewing ABV internal and external stakeholders
- Seeking expert advice, including legal, financial and others
- Report-writing.

### Disciplinary Action

If a disclosure is made in good faith, but is not confirmed by investigation, no action will be taken against the discloser.

If a disclosure is confirmed by investigation, ABV will take appropriate disciplinary action, which may include but not be limited to one, or a combination, of the following actions:

- Counselling
- Greater operational controls
- Greater operational scrutiny
- Loss of privilege (e.g. travel)
- Transfer
- Suspension
- Demotion
- Termination.

Cases considered worthy of prosecution under the *Crimes Act 1900* will be passed to the Australian Federal Police. ABV will vigorously pursue the recovery of monies or property lost, irrespective of whether a prosecution is undertaken.

### Recording

If it warrants action or investigation, ABV will record and file the disclosure including the:

- Date of the disclosure
- Identity of the discloser
- Protection strategy for the discloser
- Disclosure evaluation report (above)
- Identity of the investigator
- Investigation plan
- Outcomes.

### Role of the Probity Officer

The Probity Officer is responsible for:

- Evaluating whether the disclosure should be investigated
- Recording disclosures of wrongful behaviour
- With the discloser, identifying the most appropriate investigator
- With the investigator, determining an appropriate investigation plan
- If requested, providing feedback to the discloser and/or the CEO on the progress of the investigation

- Ensuring the protection of the discloser and maintaining the confidentiality of the investigation.

### Implementation

The CEO and Chair of the Standing Committee on Governance are jointly responsible for the implementation of this policy by ensuring all relevant people are aware of this policy.

\*The Probity Officer may be a board member, the Executive Director, or a third party designated by ABV to receive, investigate and respond to complaints.

### Related Documents

#### Policies & Registers

Policy 1 - Code of Conduct
Policy 2 - Conflict of Interest
Designated Role Register

#### Legislation

Corporations Act 2001
Public Interest Disclosure Act 1994
Privacy Act 1988
Crimes Act 1900

### Document Information

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