

WHISTLEBLOWING POLICY

Approval Date:	7 March 2019	Next Review Date:	7 March 2022
Issued/Updated by:	Executive Director	Approved by:	ALWS Board

1. RATIONALE

“Hear counsel, receive instruction, and accept correction, that you may be wise in the time to come.” Proverbs 19: 20 AMP

At ALWS we are committed to operating:

- legally, in accordance with applicable legislation and regulation;
- properly, in accordance with our *People and Culture Policy*, other organisational policies and procedures, the *ACFID Code of Conduct*, and
- ethically, in accordance with our *Guiding Principles, Code of Conduct and Employee Values Statement*.
 - Openly, encouraging a culture characterised by respectful communication, feedback and continual learning.

Our personnel are expected to cooperate with us in maintaining legal, proper, and ethical operations, if necessary by reporting actual or suspected wrongful acts by other people.

Correspondingly, personnel who do assist in maintaining legal, proper, and ethical operations should not be penalised in any way.

2. GOAL

The goal of this Policy is to:

- encourage the reporting of matters that may cause
 - harm to individuals;
 - financial or non-financial loss to ALWS;
 - or damage to our reputation;
- enable ALWS to deal with reports from Whistleblowers in a way that will
 - protect the identity of the Whistleblower as far as is practicable;
 - provide for the secure storage of the information provided;
 - protect the Whistleblower against reprisal by any person internal or external to ALWS;
- help to ensure ALWS maintains the highest standards of ethical behaviour and integrity.

3. SCOPE

This Policy applies to all personnel – Board members, employees, volunteers, contractors/consultants – associated with ALWS programs and activities.

It reflects legal obligations set out in State and Federal legislation in Australia.

It does not apply in situations where employees wish to raise grievances about their work, their work environment, another person, or decision affecting their employment (see *Complaints Policy*.)

4. DEFINITIONS

For the purposes of this Policy, the following definitions apply.

Whistleblowing is the deliberate voluntary reporting, or disclosure, of an individual or organisational wrongful act by a person who has access to data, events or information about an actual, suspected/perceived or anticipated wrongful act within ALWS.

A **whistleblower** is any person associated with ALWS who makes, attempts to make or wishes to make a report or a disclosure in connection with any wrongful act and wishes to avail themselves of protection against reprisal for having made the report or disclosure in accordance with this Policy. They may do this anonymously or not.

Wrongful Acts include, but are not limited to:

- breaches of legal obligations (including negligence, breach of contract, breach of administrative law);
- breaches of ALWS policies, our *Code of Conduct* and the *ACFID Code of Conduct*
- criminal offences;
- mismanagement of funds;
- actual or suspected fraud or corruption;
- abuse of authority;
- disclosures related to miscarriage of justice;
- health and safety risks, including risks to the public as well as other employees;
- damage to the environment;
- the unauthorised use of organisational funds;
- sexual or physical abuse of other ALWS personnel or program participants;
- other unethical conduct;
- the concealment of any of the above.

Complaints Manager is the person with delegated responsibilities to act as the point of contact for receiving and managing reports of alleged wrongful acts from Whistleblowers, and who also has responsibility for protecting and safeguarding the interests of Whistleblowers within the scope of this Policy.

Personnel are the ALWS Board members, employees, volunteers, and contractors/ consultants.

5. GUIDING PRINCIPLES

The implementation of this policy will be guided by the following principles:

- ***We encourage responsibility for Whistleblowing.*** All ALWS personnel and partners who are aware of possible wrongful acts have a responsibility to disclose that information, in line with *ACFID Code of Conduct* obligations, and in accordance with this Policy.
- ***We provide protection for Whistleblowers.*** A Whistleblower will be protected under this Policy from reprisal or repercussions, including work-related disadvantage or negative employment consequences, arising from the disclosure of perceived or alleged wrongful acts provided that the disclosure:
 - is made in good faith;
 - is based on reasonable grounds;
 - does not involve actions by the Whistleblower that are illegal or contrary to ALWS's *Guiding Principles*; and
 - is made in accordance with this Policy.

Additional support will be provided where necessary.

- ***We ensure a fair and impartial investigation process.***
- ***We will maintain confidentiality*** by taking all reasonable steps to protect the identities of both Whistleblowers and alleged perpetrators. Generally, ALWS will not disclose the Whistleblower's identity unless:
 - the Whistleblower consents to the disclosure;
 - the disclosure is required or authorised by law; and/or
 - the disclosure is necessary to further investigations.

Unauthorised disclosure of information relating to a report, the identity of a Whistleblower or an alleged perpetrator, or information from which their identities could be inferred, will be regarded as a serious matter and may result in disciplinary action.

6. IMPLEMENTATION

6.1 Responsibilities

The ALWS Board is responsible for adopting this policy.

The Executive Director is responsible for the implementation of this policy.

The Complaints Manager is responsible for:

- receiving, recording and confidentially storing all reports of concerns lodged under the provisions of this Policy;
- determining whether a report is trivial or fanciful, or whether the report should be investigated;
- promptly setting up a confidential internal or external investigation into reports made under this policy in consultation with the Executive Director or Board Chairperson (see 6.6 below)
- informing the Whistleblower of action taken in relation to their report and the outcomes of any investigation undertaken;
- ensuring that investigation report recommendations are acted upon.

All personnel are responsible for reporting suspicions of or alleged wrongful acts in accordance with the process detailed in this Policy, and participating in informational, awareness raising and training sessions about the policy.

6.2 Communicating and training about this Policy

In order that the goal of this Policy is achieved, it is essential that personnel have access to the information they need. This will be done by:

- communicating with all personnel about the *Whistleblowing Policy* so that they fully understand it;
- conducting regular information/training sessions for all personnel about recognising wrongful acts and how to report concerns;
- including a briefing on the Policy during the induction for new personnel;
- providing training to those with management responsibilities as required to ensure they have the skills to deal with incidents of Whistleblowing.

6.3 Concerns that may be reported under this Policy

Concerns in relation to suspicions or allegations of wrongful acts, as defined above, within the ALWS work environment and operations may be reported.

This Policy provides protection for personnel, who in good faith, report their suspicions or allegations in accordance with the steps outlined below.

6.4 Process for raising concerns/reporting under this Policy

Where a member of ALWS personnel believes in good faith and on reasonable grounds that any other member of ALWS personnel may have engaged in any wrongful act, the Whistleblower may wish to discuss the matter informally with their direct manager first, to determine whether a wrongful act has occurred. This provides an opportunity to clarify perceptions of what is alleged to have happened, to ask questions and to ensure familiarity with the process for reporting and subsequent steps. Such discussions will remain confidential. One outcome of such a discussion may be that the Whistleblower will formally report their concern to the Complaints Manager.

Where this is not appropriate or where the Whistleblower does not feel comfortable in doing so; or where the Whistleblower has previously done so and no action has been taken, the Whistleblower must report their concern to:

- the Complaints Manager; or if they feel that the Complaints Manager may be complicit, or otherwise involved in the matter, the person may report their concern to:
- the Executive Director; or, if they feel that the Executive Director may be complicit, or otherwise involved in the matter, the person may report their concern to:
- the Board Chairperson; or if they feel that the Board Chairperson may be complicit, or otherwise involved in the matter, the person may report their concern to:
- Chair of the Lutheran Church of Australia General Church Board (GCB).

It may be appropriate to report the concern to the duly constituted legal authorities responsible for the enforcement of the law in the relevant geographic area.

When the wrongful act is reported to the Complaints Manager, the report should be made on the *Whistleblowing Report Form* (Appendix 1) in writing, should be signed, and should contain, as appropriate, details of:

- the nature of the alleged wrongful act, and why it should be investigated;
- the person or persons responsible for the wrongful act;
- the facts on which the Whistleblower's belief that a wrongful act has occurred, and has been committed by the person or persons named, are founded;
- the nature and whereabouts of any further evidence that would substantiate the Whistleblower's allegations, if known;
- any person the Whistleblower believes to be in a situation of actual or potential harm or danger, and if so, who that person is and the nature of the harm or danger.

Evidence to support such concerns should be brought forward at this time if it exists. The absence of such evidence will be taken into account in subsequent consideration of whether to open an investigation into the matter. However, absence of such evidence is not an absolute bar to the activation of ALWS's investigative procedures. The existence of such a concern is sufficient to trigger reporting responsibilities.

In contemplating the use of this Policy a person should consider whether the matter of concern may be more appropriately raised under the *Complaints Policy*.

This Policy does not authorise a Whistleblower to inform commercial media or social media of their concern, and does not offer protection to any Whistleblower who does so, unless:

- it is not feasible for Whistleblowers to report internally; or
- existing reporting channels have failed to deal with issues effectively.

6.5 Anonymous reports

If the Whistleblower wishes to make their report anonymously, their wish shall be honoured except insofar as it may be overridden by due process of law.

The Whistleblower should, however, be informed that the maintenance of such anonymity may make it less likely that the alleged breach can be substantiated in any subsequent investigation.

Where anonymity has been requested, the Whistleblower is required to maintain confidentiality regarding the issue on their own account and to refrain from discussing the matter with any unauthorised persons.

6.6 The Whistleblower's rights and obligations

Any Whistleblower reporting an unlawful act should be informed that:

- as far as lies within the power of ALWS, the Whistleblower will not be disadvantaged for the act of making such a report where that report has been made in good faith, on reasonable grounds, and conforms with the process specified in this Policy;
- if the Whistleblower wishes to report their concern anonymously, their wish shall be honoured except insofar as it may be overridden by due process of law;
- reporting such a concern does not necessarily absolve the Whistleblower from the consequences of any involvement on their own part in the alleged unlawful act reported on.

Whistleblowers must ensure as far as possible that reports they make are:

- factually accurate;

- complete;
- based on first-hand knowledge;
- presented in an unbiased fashion, disclosing any possible perception of bias by the Whistleblower;
- without material omission.

Whistleblowers are expected to keep the fact they have raised a concern, the nature of the concern and the names of those involved confidential so as not to jeopardise any investigation into the alleged wrongful act.

6.7 Investigation

All reports of wrongful acts will be subject to a full investigation with the objective of finding evidence that either upholds or refutes the allegations contained in the report made by the Whistleblower.

On receipt of a report of an alleged wrongful act, the Complaints Manager will:

- notify the Executive Director, who shall be responsible for ensuring that an investigation of the charges is established, provided the behaviour complained of is neither unquestionably trivial or fanciful, and adequately resourced. However, if it is believed to be unquestionably trivial or fanciful, the Executive Director will dismiss the allegation and notify the person making the allegation of their decision. If the alleged wrongful act involves the Executive Director, the Board Chairperson will be notified; or if the alleged wrongful act involves the Board Chairperson, the Chair of the Lutheran Church of Australia General Church Board (GCB) will be notified.
- draw up terms of reference for the investigation, in consultation with the Executive Director:
 - to clarify the key issues to be investigated;
 - to ensure all relevant questions are addressed;
 - to ensure the scale of the investigation is in proportion to the seriousness of the allegation(s) and sufficient resources are allocated, including obtaining external professional advice as appropriate, or deciding to have the investigation conducted by a professional external to ALWS.
- maintain strict confidentiality during the investigative process.
- properly secure all information obtained to prevent unauthorised access.
- interview all relevant witnesses taping the interviews where possible, and examine documents.
- make notes of all discussions, phone calls and interviews.
- observe the principles of procedural fairness.¹ In particular, where adverse comment about a person is likely to be included in a report, the person affected will be given an opportunity to comment beforehand and any comments will be considered before the report is finalised.
- ensure the person or persons conducting the investigation shall be as far as possible unbiased.

6.8 Management of a person against whom a report is made

Generally, the person who is the subject of any report that is investigated, will:

- be informed as to the substance of the allegations;
- be given the opportunity to answer the allegations before any investigation is finalised;
- be informed about the substance of any adverse comments that may be included in any report arising from the investigation before it is finalised; and
- have their defence set out fairly in any report.

ALWS recognises that individuals against whom a report is made must also be supported during the handling and investigation of the alleged wrongful act. ALWS will take all reasonable steps to

¹ "Procedural fairness traditionally involves two requirements: the fair hearing rule and the rule against bias... The hearing rule requires a decision maker to afford a person an opportunity to be heard before making a decision affecting their interests... The rule against bias ensures that the decision maker can be objectively considered to be impartial and not to have pre-judged a decision." See < <https://www.alrc.gov.au/publications/procedural-fairness-duty-and-its-content> >

ensure the person who is the subject of a report is treated fairly, particularly during the assessment and investigation process. Support provided by ALWS may include referral to counselling or arranging pastoral care.

Where a person is named by a Whistleblower as being suspected of a possible wrongful act, but preliminary investigation inquiries determine that the suspicion is baseless or unfounded and that no formal investigation is warranted, then the Whistleblower will be informed of this outcome..

6.9 Findings

The Complaints Manager will ensure a report is prepared when an investigation is complete. This report will include:

- the allegations;
- a statement of all relevant findings of fact and the evidence relied upon in reaching any conclusions;
- the conclusions reached (including the damage caused, if any, and the impact on the organisation and other affected parties) and their basis;
- recommendations based on those conclusions to address any wrongdoing identified and any other matters arising during the investigation.

The report will be provided to the Whistleblower (with, if necessary, any applicable confidentiality stipulations).

The Executive Director and/or the Board Chairperson will respond to the recommendations, and take action as required.

The report will be used as a learning tool; we will be prepared to change the way in which we operate – improving our systems, policies, procedures or organisational culture – and improve or undertake further training of employees.

Where appropriate, we will consult and take advice from ACFID and/or other relevant regulatory bodies, maintaining confidentiality and privacy requirements.

Where the findings establish that the Whistleblower was not acting in good faith, or has made a false report of an alleged wrongful act (where it was made maliciously, vexatiously or without any basis), then the Whistleblower will be subject to disciplinary proceedings, or legal action (defamation) if the Whistleblower is not an ALWS employee.

6.10 Timeframe

On receipt of a report of an alleged wrongful act, the investigation, report on findings and response to the recommendations should be completed within 30 days. Remedial action may take longer to be completed.

7. RELATED DOCUMENTS

Internal

Whistleblowing Report Form

People and Culture Policy

Code of Conduct

Complaints Policy

Induction Checklist

Fraud and Corruption Management Policy

Conflict of Interest Policy

Privacy Policy

External

ACFID *Code of Conduct*, (Revised 1 January, 2019) available at < <https://acfid.asn.au/code-of-conduct>>

Public Interest Disclosure Act (2013) available at
<<https://www.legislation.gov.au/Details/C2013A00133>>

NSW *Public Interest Disclosures Act (1994)* available at <http://www6.austlii.edu.au/cgi-bin/viewdb/au/legis/nsw/consol_act/pida1994313/>

8. REVIEW

This policy is subject to review every three years, or earlier should organisational learning or sector best practice demand it.

8.1 Record of Policy Review and Version History

Version No.	Date Approved	Approved By	Description of Changes

Appendix 1: Confidential Whistleblowing Report Form

This form is to be used by anyone wishing to make a Whistleblowing Report.

It should be completed, scanned and emailed to the Complaints Manager: complaints@alws.org.au

If the Whistleblower wishes to make their report anonymously, see Section 6.5 above.

Personal details of the Whistleblower Name: Role in ALWS: Contact Details:	
Describe your concern / the alleged wrongful act and why you consider that the concern should be investigated.	
Give the names of the person or persons responsible for the wrongful act.	
State the facts on which your belief that a wrongful act has occurred is founded.	
Describe the nature and whereabouts of any further evidence that would substantiate your allegation.	
Please advise if you feel that any person is in a situation of actual or potential harm or danger, and if so, give the name of the person and describe the nature of the harm or danger.	
Declaration of Honest Belief I state that in making this report, the information set out above is to the best of my recollection true, accurate and correct. Name (Print): Signature: Date:	