



# **ACHL Whistleblower Policy (Version 1.1)**

## **Table of contents**

1.	INTRODUCTION .....	1
2.	AIM .....	2
3.	PRINCIPLES OF THE WHISTLEBLOWER POLICY .....	2
3.1.	Who is a Whistleblower.....	2
3.2.	Protections available to Whistleblowers.....	2
4.	HOW ACHL AIMS TO ACHIEVE THESE POLICY PRINCIPLES .....	3
4.1.	How ACHL will support Whistleblowers .....	3
4.2.	How and to whom an individual can make a disclosure .....	3
4.3.	How ACHL will investigate disclosures .....	4
4.4.	Concluding the investigation .....	4
4.5.	Records .....	4
4.6.	How ACHL will ensure fair treatment of employees mentioned in Whistleblower disclosures .....	4
4.7.	How the policy will be made available .....	5
4.8.	Other matters prescribed by the Regulation.....	5
4.9.	Reporting outside the company .....	5
5.	RELATED LEGISLATION, INDUSTRY FRAMEWORKS AND STANDARDS, ACHL POLICY AND PROCEDURES .....	5
5.1.	Standards.....	5
5.2.	Legislation.....	5
5.3.	Residential Tenancy Acts .....	5
5.4.	Codes, frameworks and agreements.....	6
5.5.	ACHL related policies and processes .....	6
6.	MONITORING AND REVIEW.....	6

## **1. Introduction**

The policy outlines the commitment of the Aboriginal Community Housing Limited (ACHL) in creating and maintaining an open working environment in which the Whistleblowers able to raise concerns regarding actual or suspected misconduct, malpractice, unethical or unlawful behaviour without fear of retribution.

## 2. Aim

It aims to provide clarity on how ACHL will support Whistleblowers so that they:

- are encouraged to express their concerns;
- know how to express their concerns, including their right to remain anonymous;
- know what will happen when they express their concerns; and
- feel safe in expressing their concerns, and, in particular, will not be subject to retaliation or victimisation in response to expressing their concerns.

## 3. Principles of the Whistleblower Policy

### 3.1. Who is a Whistleblower

A person who makes or attempts to make a disclosure of a “Reportable Conduct” under this policy is a Whistleblower. It also includes any person ACHL determines is a Whistleblower and that the protections under the policy should apply, or where protections may apply under applicable law, as a result of making a disclosure.

The policy applies to all:

- current and former officers;
- current and former employees, temporary staff, secondees, volunteers;
- contractors, suppliers, consultants, service providers (including their employees); and
- an associate, family member or dependent of any of the above.

A Reportable Conduct is any information or concern (actual or suspected) about a misconduct within or involving ACHL, or a state of affairs or circumstances considered to be:

- corrupt;
- illegal;
- fraudulent;
- criminal conduct;
- mismanagement;
- breaches of tax laws and tax avoidance;
- a serious impropriety or an improper state of affairs or circumstances
- in breach of any regulation, internal policy or code (including Code of Conduct policy);
- endangering health or safety or the financial system;
- any other conduct which may cause us financial or non-financial loss (including reputational harm) or be otherwise detrimental to ACHL;
- concealing any Reportable Conduct.

### 3.2. Protections available to Whistleblowers

The listed protections include the protections available under the legislation

Under the new regime, which will be implemented primarily via amendments to the Corporations Act 2001 (Cth) (Corporations Act) and Taxation Administration Act 1953 (Cth) (Tax Act), whistleblowers will receive protection if they report corruption, fraud, tax evasion or avoidance and misconduct.

Under the Treasury Laws Amendment (Enhancing Whistleblower Protections) Act 2019 (Cth) (Whistleblower Act), a disclosure will qualify for protection if the following requirements are met:

- the disclosure is made by an "eligible whistleblower", which is defined to include current or former officers, employees, contractors and individual associates of the entity, or its current or former relatives or dependents

- the disclosure is made to the Australian Securities and Investments Commission (ASIC), the Australian Prudential Regulation Authority (APRA) in case of Corporations Act, a prescribed Commonwealth authority, or an "eligible recipient" such as an officer, senior manager, auditor or person authorised by the entity to receive disclosures; and
- the Whistleblower has reasonable grounds to suspect a Reportable Conduct.

The legislation does not deal with the public sector. There is separate legislation that provides for a whistleblower regime for the Commonwealth public sector (in particular, under the Public Interest Disclosure Act 2013 (Cwlth) – which has some similarities to the new corporate and financial sector regime). There are State and Territory based public sector disclosure regimes.

## 4. How ACHL aims to achieve these policy principles

### 4.1. How ACHL will support Whistleblowers

If the Whistleblower prefers to remain anonymous or place restrictions on who is informed of their identity, they should communicate their intention in the first possible opportunity. The information received from the Whistleblower (or that could lead to their identification), will be treated strictly confidentially, and will not be shared unless:

- the Whistleblower has provided prior consent (in writing wherever possible or required);
- we are compelled by law to do so;
- we consider it appropriate to make a disclosure to a regulator under legislation.

If you have reasonable grounds to suspect Reportable Conduct, even if it turns out your concerns are mistaken, ACHL will safeguard the interests of Whistleblower and those involved in assisting with the investigation, having regard to this policy and any other applicable policies and laws. ACHL will take whatever action is possible consistent with this policy to make sure that the Whistleblower is not personally disadvantaged for making a report, whether by dismissal, demotion, any form of harassment, discrimination or any form of current or future bias.

ACHL does not tolerate retaliation or adverse action related to person reporting a concern. Anyone found to be victimising or disadvantaging someone for making a disclosure under this policy will be subject to further action including disciplinary action in case of employees

### 4.2. How and to whom an individual can make a disclosure

Any disclosure of Reportable Conduct under this policy can be made by discussing or put the concern in writing to an eligible recipient:

- a ACHL Officer e.g. director, CEO, secretary etc. (as defined in the section 9 of the Corporations Act 2001); or
- senior manager of the entity but not the person's managers or supervisors; or
- an auditor; or
- regulators such as ASIC or APRA in the case of the Corporations Act and ASIC Act or, in the case of the new tax regime, the Australian Taxation Commissioner or a prescribed Commonwealth authority;
- Disclosures to lawyers for the purposes of obtaining legal advice is also a protected disclosure and are permitted;
- A Whistleblower may, under the Corporations Act regime, but not the Tax Act regime, also make disclosure in extreme cases to a politician or journalist where there is a public interest or emergency reason.

The Whistleblower can elect to remain anonymous, if preferred. The Whistleblower must act honestly and reasonably in making the disclosure, with a reasonable ground to suspect that Reportable Conduct has occurred.

It should be noted, however, that personal or professional work-related grievances are not within the scope of protected disclosures;

### **4.3. How ACHL will investigate disclosures**

ACHL will conduct investigations in an objective, thorough, independent and confidential manner. An Investigation Officer will be assigned to conduct a preliminary review of the allegations raised in the disclosure investigation on a case-by-case basis. The Investigation Officer may be a senior staff member or some other independent and suitably qualified person nominated by the ACHL Officer, who is not associated directly or indirectly on the allegations raised in the report. The person reporting the concern should inform the Investigation Officer if seeking the protections under this policy and/ or under applicable laws at the earliest possible opportunity.

The Investigation Officer will decide what action to take which may include initiating an internal investigation or a more formal inquiry, or taking alternative appropriate action. Investigation processes will vary depending on the precise nature of the conduct being investigated. If there is insufficient information to warrant further investigation, or the initial investigation concludes that the concerns raised are not substantiated, the investigation officer will notify the person at the earliest opportunity.

The Investigation Officer will provide regular updates to the person reporting the concern where possible, assuming the identity of a Whistleblower is known. Considering that if the concern is raised anonymously, this may affect the ability to investigate the matter properly and to communicate with a Whistleblower about the report. Where appropriate, the subject of the allegations will be informed of the allegations and provided with the opportunity to respond.

### **4.4. Concluding the investigation**

The Investigation Officer will notify Whistleblower the findings of the investigation arising from the report, to the extent permitted, subject to considerations to privacy of those subject to the Reportable Conduct and confidentiality requirements. The potential outcome are:

- concern was substantiated or partially substantiated and appropriate action has been taken;
- concern was not substantiated and no further action will be taken unless further evidence becomes available;
- a determination was not possible and no further action will be taken unless further evidence becomes available.

If the Whistleblower is unsatisfied with the findings of the investigation, the concern may be escalated.

### **4.5. Records**

All documents, records and reports relating to the investigation of a reported concern under this policy, will be confidentially stored and retained in an appropriate and secure manner.

### **4.6. How ACHL will ensure fair treatment of employees mentioned in Whistleblower disclosures**

ACHL will appoint a Whistleblower Protection Officer (WPO), tasked with the responsibility of protecting and safeguarding the interests of the Whistleblower. For the purposes of this policy the WPO are:

- Head of Human Resources;
- Managing Director; or
- Company Secretary.

Any specific questions about this Whistleblower Policy or protection issues should be directed to either of the above WPO. Breaching the confidentiality of the identity of a Whistleblower, or victimising (or threatening to victimise) a Whistleblower may incur a maximum civil penalty as follows.

For an individual, the greater of:

- 5,000 penalty units (currently \$1,05 MLN); or
- Three times benefit derived or detriment avoided;

And for companies, the greater of:

- 50,000 penalty units (currently \$5 MLN);
- Three times benefit derived or detriment avoided; or
- 10% of the body corporate turnover,
- Up to 1 MLN penalty units (currently \$210MLN).

Breaching the confidentiality of the identity of a Whistleblower or victimising (or threatening to victimise) a Whistleblower may also incur significant criminal penalties.

#### **4.7. How the policy will be made available**

The policy and subsequent updates will be available on the ACHL Website.

#### **4.8. Other matters prescribed by the Regulation**

Any changes to the Regulation from time to time make a part of this policy. om time to time

#### **4.9. Reporting outside the company**

It is ACHL's aim to ensure that employees, directors, contractors and consultants do not feel the need to discuss company concerns outside of ACHL, however, nothing in the policy is intended to restrict employees, directors, contractors and consultants from raising issues, or providing information to, or communicating with a law enforcement body or a regulator in accordance with any relevant law and regulations in all jurisdictions in which we conduct business.

### **5. Related legislation, industry frameworks and standards, ACHL policy and procedures**

#### **5.1. Standards**

National Community Housing Standards: Standard 1.2; Establishing and Maintaining Tenancies; Section 3 – Tenants Rights and Participation
--

Department of Human Services Standards: Section 1 - Empowerment
---

#### **5.2. Legislation**

Aboriginal Land Rights Act 1983 No. 42 (NSW)
--

Housing Assistance Act 1996 (COM)
-----------------------------------

Housing Act. 1983 (VIC)
-------------------------

Housing Act 2003 (QLD)
------------------------

Queensland Human Rights Act 2019
----------------------------------

#### **5.3. Residential Tenancy Acts**

Residential Tenancies Act. 1997 (VIC)
---------------------------------------

Residential Tenancies Act 2010 (NSW)
--------------------------------------

Residential Tenancies Act 1987 (WA)
-------------------------------------

Residential Tenancy Act 1997 (TAS)
------------------------------------

Related legislation, industry frameworks and standards, ACHL policy and procedures (cont.)

Residential Tenancies Act 1995 (SA)
Residential Tenancies and Rooming Accommodation Act 2008 (QLD)

#### 5.4. Codes, frameworks and agreements

The National Affordable Housing Agreement
OOH, Homelessness Assistance Program Guidelines and Conditions Funding 2006-2009 (VIC)
Consumer Charter for Community Managed Housing and Homelessness Services
Western Australian Community Housing Regulatory Framework – Performance Outcome 1 – Tenant and housing services
National Regulatory Code
Victorian Regulatory Framework
The Human Rights and Responsibilities Charter Act 2006 (VIC)

#### 5.5. ACHL related policies and processes

ACHL Housing and Homelessness Policies and Procedures
ACHL Customer Promise
ACHL Tenancy Manual

## 6. Monitoring and review

This document should be periodically reviewed and revised. Revisions should be made as and when required. The period between reviews must not exceed three years. The date for review of this document is on or before November 2024.

#### Review history

Document reference	Date and version	Reason for review	Review frequency	Owner	Approver
POLCOROUSACNWHI202001	Version 1.1, November 2022	Policy reviewed	Every two years	National Manager	National Manager Managing Director
POLCOROUSACNWHI202001	Version 1.0, April 2020	New policy	Every two years	Company Secretary	ACHL Board

Aboriginal Community Housing Ltd owns the copyright to this material. No part of this document may be reproduced or reused for any commercial purposes whatsoever, distributed, or transmitted in any form or by any means, including photocopying, recording, or other electronic or mechanical methods, without the prior written permission of Aboriginal Community Housing Limited, except in the case of brief quotations and certain other non-commercial uses". For permission requests, submit request addressed "Attention: Public Relations Department Aboriginal Community Housing Ltd, [info@achl.org.au](mailto:info@achl.org.au).