



Whistleblower Policy

Overview

As part of its good governance mandate, AQA Victoria Ltd (AQA) recognises that from time to time staff or members of the public may be aggrieved over the actions of an AQA board director or staff member. This policy is designed specifically to address the investigation of matters where actions of AQA staff and/or board directors are suspected of alleged corrupt or improper conduct and where the complainant seeks protection. An aggrieved person may lodge a complaint with any designated officer who serves in the role of Protected Disclosure Officers (PDO).

These procedures are designed to complement normal communication channels between supervisors and employees. Employees are encouraged to continue to raise appropriate matters at any time with their supervisors. As an alternative, employees may make a disclosure of improper conduct or detrimental action in accordance with these procedures.

In 2001, the Victorian Parliament passed the Whistleblowers Protection Act. This provides protection from retribution to persons who seek to make disclosures of malfeasance against a Board Chairperson or statutory office holders, public servants and staff. The Act makes disclosure of the identity of a whistleblower and undertaking action detrimental to a whistleblower, criminal offences. Just as government institutions have been required to establish procedures to facilitate the making of disclosures, this policy is designed to advance AQA's governance by voluntarily implementing the Whistleblowers Protection Act, 2001 in AQA.

This policy does not replace existing AQA grievance processes or complaints processes. It is to be followed only if a staff member, board director or member of the public elects to make a disclosure of suspected or alleged corrupt or improper conduct and seeks protection. Persons wishing to make disclosures of suspected or alleged improper conduct and receive protection under this policy, or persons receiving disclosures of improper conduct made, must refer to the detailed guidelines in this policy.

1. Scope

- 1.1** The PDO is any office bearer of the AQA Victoria Ltd Board, namely
- Company Secretary
 - Board Chairperson
 - Treasurer

The contact details of current office bearers is available by contacting the CEO's Executive Assistant of AQA on 9489 0777 (or through the Australian Securities and Investment Commission).



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- 1.2 A person who seeks to make a disclosure under this policy should describe the alleged corrupt or improper conduct in accordance with the definitions in 2.1.1 and 2.1.2
- 1.3 Disclosures may be made orally or in writing, and may be anonymous.
- 1.4 The disclosure must be made to a PDO. The PDO acts as the contact point and must impartially assess the allegation and determine if it is a protected disclosure. All protected disclosures and supporting evidence are referred to the Board Chairperson unless the allegation is about the actions of the Board Chairperson.
- 1.5 Following an investigation into the protected disclosure, the PDO determines, within forty five (45) days of the lodgement of the protected disclosure, whether the disclosure shows or tends to show that improper conduct or detrimental action has occurred.
- 1.6 The PDO liaises with the Board Chairperson (provided no conflict of interest exists, in which case the PDO liaises with another available PDO) .
- 1.7 The PDO will notify the whistleblower of the findings of the investigation, provided there is sufficient contact details to make contact with the Whistleblower.
- 1.8 The PDO must investigate or oversee the investigation, maintain records, and ensure support for the whistleblower and the person against whom the allegations have been made.
- 1.9 The PDO will report the findings to the Board Chairperson (unless the allegations are in respect of the Board Chairperson and in that case another PDO). If, after examining the evidence, the two persons determine that improper conduct has occurred, AQA will take all reasonable steps to prevent the conduct from continuing or occurring in the future and where appropriate rectify the action which has occurred.

2. POLICY

2.1 Definitions

2.1.1 Improper conduct - is conduct that:

- is corrupt;
- is a substantial mismanagement of resources; or
- involves substantial risk to organisational health, safety or to the environment.

The conduct must be serious enough to constitute, if proved, a criminal offence or reasonable grounds for dismissal or termination of board appointment.

2.1.2 Corrupt conduct is conduct that -

- adversely affects the honest performance of a role or function;
- involves performing official roles or AQA functions dishonestly or with inappropriate partiality;
- amounts to the misuse of information or material acquired in the course of the performance of their official functions; or
- amounts to a conspiracy or attempt to engage in the above conduct

2.1.3 Detrimental action - is reprisal against a person for making a protected disclosure.

Detrimental action includes -

- action causing injury, loss or damage;
- intimidation or harassment; and

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Contact officer: CEO



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- discrimination, disadvantage or adverse treatment in relation to a person's employment, career, profession, trade or business, including the taking of disciplinary action.

2.2 Protected Disclosures

In order to qualify for protection, the whistleblower must have reasonable grounds for believing the alleged conduct has occurred. To qualify as protected disclosure, it must relate to the improper conduct of, or to detrimental action by, a staff member or board director acting in his or her official capacity.

There must be sufficient supporting evidence to demonstrate that the alleged conduct has actually occurred.

2.3 Protection Provided Under this policy

2.3.1 Welfare of the whistleblower

The Company Secretary is responsible for ensuring the general welfare of the whistleblower. The Company Secretary -

- examines the immediate welfare and protection needs of a whistleblower who has made a disclosure and seeks to foster a supportive work environment;
- advises the whistleblower of the administrative protections available to him or her;
- listens and responds to any concerns of harassment, intimidation or victimisation in reprisal for making a disclosure; and
- ensures the expectations of the whistleblower are realistic.

2.3.2 Person Against Whom the Disclosure is Made

AQA supports and ensures that natural justice is afforded to the person who is the subject of the disclosure. Where investigations do not substantiate disclosures, the fact that the investigation has been carried out, the results of the investigation, and the identity of the person who is the subject of the disclosure will remain confidential. AQA must ensure that the principles of natural justice are followed in any investigation into a protected disclosure. The subject of any disclosure has the right to:

- be informed as to the substance of the allegations;
- be given the opportunity to answer the allegations before a final decision is made;
- be informed as to the substance of any adverse comment that may be included in any report arising from the investigation; and
- have his or her defence set out fairly in any report.

2.4 Procedures - Reporting System

2.4.1 Points of Contact for Whistleblowers

A person wishing to make a protected disclosure may contact the Company Secretary who will-

- provide general advice about the operation of the Policy;
- receive and, where necessary, document disclosures of improper conduct;
- impartially assess whether or not the disclosure may be a protected disclosure;
- liaise with the Board Chairperson as appropriate, where required;

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- support or appoint a support person for the whistleblower, if necessary;
- advise the whistleblower of the progress of the investigation;
- create and manage a confidential filing system;
- take all steps to ensure that the identity of the whistleblower remains confidential.

2.4.2 Staff Members Receiving Disclosures of Improper Conduct

Where a staff member receives a disclosure of improper conduct or detrimental action from an internal or external whistleblower, he or she should forward the disclosure and all supporting documents to the PDO, maintaining strict confidentiality.

2.4.3 Confidentiality

The PDO, Board Chairperson (as appropriate) and investigators of protected disclosures will take all necessary steps to ensure the identity of the whistleblower and the identity of the person who is the subject of the disclosure remain confidential. All record keeping is to be maintained separately from other AQA paper and electronic systems. Email must not be used to communicate matters relating to a whistleblower or a protected disclosure.

3. CRIMINAL OFFENCES

All staff should be made aware of the four criminal offences created by the Act:

- It is an offence for a person to take criminal action against a person in reprisal for a protected disclosure being made
- It is an offence for a person to divulge information obtained as a result of the handling or investigation of a protected disclosure otherwise than for the purpose of the Act.
- It is an offence for a person to obstruct any person with a legitimate reason for performing their responsibilities under the Act.
- It is an offence for a person to have knowingly provided false information under the Act with the intention that it be acted on as a disclosed matter.

Reference

- *Whistleblowers Protection Act 2001*