



Policy

Whistleblower Policy

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Introduction

AIBS is committed to the highest standards of integrity and conduct.

AIBS values its long-term sustainability and reputation and is committed to complying with its legal and regulatory obligations.

This Policy is an important tool to ensure that AIBS identifies wrongdoing that may not be discovered in the absence of a safe and secure way to disclose wrongdoing.

The purpose of this Policy is to ensure that people who disclose wrongdoing can do so safely, securely and with confidence that they will be protected and supported.

This Policy is intended to provide transparency around AIBS' framework for receiving, handling, and investigating disclosures.

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

If you are aware of possible wrongdoing, AIBS encourages you to disclose this information and will support you in doing so.

Definitions

In this Policy, unless the context otherwise requires

AFP	AFP means the Australian Federal Police
AIBS	AIBS means the Australian Institute of Building Surveyors Ltd
APRA	APRA means the Australian Prudential Regulation Authority
ASIC	ASIC means the Australian Securities and Investment Commission
Board Member	Board Members means a member of the AIBS Board
CEO	CEO means the Chief Executive Officer of AIBS
Chapter Committee	Chapter Committee means a management committee for a Chapter established under the AIBS Constitution.
Corporations Act	Corporations Act means the <i>Corporations Act 2001</i> (Cth)



Eligible Recipient	Eligible Recipient is defined in clause 3.1
Eligible Whistleblower	Eligible Whistleblower is defined in clause 1.4
NAP	NAP means the National Accreditation Panel
Protected Whistleblower	Protected Whistleblower is defined in clause 1.2
Reportable Matter	Reportable Matter is defined in clause 2
Taxation Administration Act	Taxation Administration Act means the <i>Taxation Administration Act 1953</i> (Cth)
Whistleblower Protection Officer (WPO)	The WPO is the Chief Executive Officer of AIBS
Whistleblower Investigation Officer (WIO)	The WIO is the Independent Lead Director of AIBS



1. Application of Policy

This Policy applies to and provides protections to *Protected Whistleblowers*.

You are a *Protected Whistleblower* and are entitled to protection from AIBS under the Corporations Act or Taxation Administration Act (as relevant) if:

- 1.1.1 You are an Eligible Whistleblower; and
- 1.1.2 you have disclosed (or intend to disclose) a Reportable Matter to an Eligible Recipient or to ASIC, APRA or the AFP; or
- 1.1.3 you have sought legal advice from a legal practitioner on the operation of whistleblowing protection laws.

In very specific and limited circumstances where a matter is of public interest or if there is an emergency, a person **may** be entitled to protection if they make a disclosure to a journalist or to a Member of Parliament. *AIBS* recommends that any person considering making such a disclosure seek independent legal advice before making the disclosure to ensure that they are protected by law. This Policy only applies to reports made by *Protected Whistleblowers* as defined at clause 1.2 above.

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

- 1.1.4 an officer or employee of AIBS (this includes Board Members as well as current and former employees who are permanent, part-time, fixed-term or temporary, interns, secondees, managers or directors);
- 1.1.5 a person who supplies goods or services to AIBS or an employee of a person who supplies goods or services to AIBS (whether paid or unpaid; this includes current and former volunteers, NAP and Chapter Committee members, contractors, consultants, service providers and consultants);
- 1.1.6 a relative, dependent or dependent of the spouse of any person referred to at clauses 1.4.1 and 1.4.2 above.

2. Reportable Matters

Only *Reportable Matters* qualify for legal protections under the *Corporations Act* or *Taxation Administration Act*, as relevant.

Reportable Matters include:

- 2.1.1 misconduct, fraud, negligence, default, breach of trust and breach of duty;
- 2.1.2 an improper state of affairs or circumstances;



- 2.1.3 behaviour that represents a danger to the public;
- 2.1.4 a breach of the Corporations Act, ASIC Act, Banking Act 1959, Financial Sector (Collection of Data) Act 2001, Insurance Act 1973, Life Insurance Act 1995, National Consumer Credit Protection Act 2009, Superannuation industry (Supervision Act) 1993 and any instruments made under section 1317AA and 1317AADA of the Corporations Act;
- 2.1.5 a breach of the Taxation Administration Act or other improper conduct in relation to tax affairs,

undertaken by *AIBS*.

For a matter to qualify as a *Reportable Matter*, the *Eligible Whistleblower* intending to make a disclosure must have reasonable grounds to suspect that the information they wish to disclose is a *Reportable Matter* as per clause 2.2 above.

Reportable Matters **do not** include personal or work-related grievances such as:

- 2.1.6 disagreements with the managerial and/or leadership style or direction of AIBS, Board Members, Chapter Committee members, employees, directors, etc;
- 2.1.7 dissatisfaction or disagreement with AIBS policies, etc;
- 2.1.8 dislike of or disagreement with AIBS employees, directors etc;
- 2.1.9 grievances involving remuneration, recognition, decisions of AIBS and its delegates.
- 2.1.10 A work-related grievance may only qualify for protection if:
- 2.1.11 AIBS has breached employment laws or other laws which constitute offences punishable by imprisonment of 12 months or more;
- 2.1.12 AIBS has acted in a manner that constitutes a threat to public safety;

it has occurred to the *Protected Whistleblower* as a result of a belief or suspicion that they have made, may make, proposes to make or could make a disclosure of a *Reportable Matter*.

3. How to Disclose a Reportable Matter

In the first instance, AIBS encourages *Eligible Whistleblowers* to report their concerns to AIBS' CEO. The CEO may be able to provide a simple explanation for a matter of concern to an *Eligible Whistleblower* which may resolve the concern before a formal disclosure of a *Reportable Matter* is made.

Formal disclosures of *Reportable Matters* should be made to the following *Eligible Recipients*:

- 3.1.1 the CEO; or



3.1.2 Board Members; Or

3.1.3 AIBS Auditors.

Disclosures of *Reportable Matters* can be made by telephone, email or by post (marked 'confidential'). The *CEO's* contact details are set out below

Chief Executive Officer
Australian Institute of Building Surveyors
Suite 5.04, Level 5
828 Pacific Hwy
GORDON NSW 2072
Telephone: 1300 312 427 or 02 9160 4702
Email: ceo@aibs.com.au

If, at any time, you are not sure whether to make a disclosure, you can obtain independent legal advice. Any discussions you have with a lawyer are protected by law.

Where an *Eligible Whistleblower* is reluctant to make a disclosure of a *Reportable Matter* to the *CEO, Board Members'* contact details can be obtained by calling or emailing the AIBS office on 1300 312 427 or by emailing your request to aibs@aibs.com.au.

Disclosures of *Reportable Matters* can be made during or outside of business hours and by the method of communication preferred by the *Protected Whistleblower*.

As stated in clause 1.2.2 above, disclosures of *Reportable Matters* disclosed to *APRA, ASIC* or the *AFP* are also protected by law. For more information concerning external disclosures, please see [ASIC's Fact Sheet](#).

A *Protected Whistleblower* will still qualify for protection in respect of a disclosure of a *Reportable Matter* even if their disclosure turns out to be incorrect, provided that their disclosure was made in good faith and with reasonable grounds to suspect that it was correct. Anyone who makes a false disclosure or who otherwise fails to act honestly, in good faith and with reasonable grounds for the disclosure will not be protected by law and may be subject to disciplinary or other action by *AIBS*.

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 this will make it easier for *AIBS* to address your disclosure of a *Reportable Matter* and for *AIBS* to communicate with you, you are not required to share your identity.

If you do not share your identity, *AIBS* 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 do not share your identity.



4. Protections for Protected Whistleblowers

Confidentiality

- 4.1.1 Disclosures from Protected Whistleblowers will be treated confidentially and sensitively.
- 4.1.2 Once a disclosure 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 disclosure, and making sure appropriate document security is implemented.
- 4.1.3 It is 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 by AIBS if you consent to the information being shared.
- 4.1.4 In addition, for information likely to identify a Protected 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.

Protection against detrimental treatment

- 4.1.5 It is 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 disclosure of a Reportable Matter and where that belief or suspicion is a reason for the conduct.
- 4.1.6 Detrimental treatment includes 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.
- 4.1.7 AIBS 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, AIBS will:
- a) make an assessment of the risk of detriment against a *Protected Whistleblower* as soon as possible after receiving a disclosure of a *Reportable Matter*;
 - b) make sure *AIBS Board Members* and 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

- c) take practical action, as necessary, to protect a *Protected Whistleblower* from the risk of detriment and intervene if detriment has already occurred.

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

Other protections for Protected Whistleblowers

4.1.9 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.

4.1.10 If you are 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 cannot 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).

4.1.11 Protected Whistleblowers may also be entitled to seek compensation and other remedies through the courts if AIBS fails to protect the Protected Whistleblower from detriment and the Protected Whistleblower suffers loss or damage as a result.

5. How will AIBS investigate disclosures of reportable matters?

Once a disclosure of a *Reportable Matter* which has been received from a *Protected 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 disclosure has been received.

If AIBS determines that the information disclosed does not amount to a *Reportable Matter*, the *Eligible Whistleblower* will be, if practicable, informed of that decision. In some instances, disclosures may not be able to be responded to, for example, because they are anonymous disclosures.

If an investigation is conducted, it will:

- 5.1.1 follow a fair process;
- 5.1.2 be conducted in as timely a manner as the circumstances allow; and
- 5.1.3 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, *AIBS* will take steps to ensure fair treatment of any person who is the subject of the Reportable Matter disclosure 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. *AIBS* recognises the importance of balancing the rights of the *Protected Whistleblower* and the rights of people against whom a disclosure is made in ensuring fairness. To this end, *AIBS* encourages *Protected Whistleblowers* to disclose their identity and to provide as much evidence and details as possible when making a disclosure of a *Reportable Matter*.

6. Communication with Protected Whistleblowers

AIBS 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 *AIBS*.

If the *Protected Whistleblower* is not an employee of *AIBS*, 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 disclosure made by them.

7. Accessibility

AIBS is committed to ensuring that all Relevant Persons have access to this policy and understand the types of reportable conduct, the whistleblowing process adopted by *AIBS* and the protections afforded under this policy.

In order to facilitate this goal, a copy of this policy will be made available at the *AIBS* website so that it is accessible by staff, board members, *AIBS* members and external parties, and a copy can be made available on request from the Whistleblower Protection Officer.

In addition, training will be provided at induction for new employees and officers and in an ongoing manner as part of refresher training for existing employees.

8. Record Keeping

AIBS places great importance on ensuring the whistleblowing process is adequately evidenced by appropriate records and those records are securely maintained.

At a minimum, the following types of records should be maintained:



- the Whistleblower Disclosure;
- the investigation report and related evidence, communications and records;
- communications with the Whistleblower and any other stakeholders involved in the process;
- internal/external reporting on the whistleblower matter.

Due to the sensitive nature of whistleblower matters, the records above must be kept separate from day-to-day systems, strictly confidential and with restricted access.

The storage location of records should be informed by general principles of legal professional privilege, confidentiality, and security.

The Whistleblower Protection Officer must ensure there is a clear process in place for secure record keeping and that all relevant parties involved in the process are properly informed of this process.

A separate data storage site accessible only by the Whistleblower Protection Officer and Whistleblower Investigation Officer will be maintained. All records relating to the whistleblowing process will be retained for a minimum of 7 years.

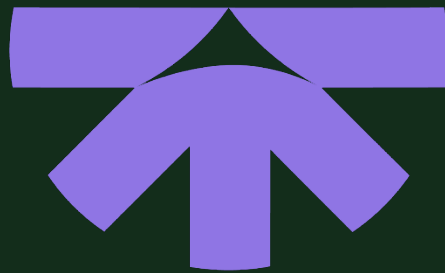
Communication and documents relating to the investigation of a disclosure will not be sent to an email address or to a printer that can be accessed by other staff.



Document Control

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