

## Introduction

FEBC (Australia) works in partnership with others to achieve its mission to communicate the Good News among the nations by media to inspire people to follow Jesus Christ. While FEBC (Australia) primarily works in partnership with other FEBC and FEBA fields of FEBC International, FEBC (Australia) may also engage with other partners to accomplish its mission. FEBC (Australia) is committed to maintaining the highest standards of ethical behaviour and integrity.

## Background

Whistleblowing protections provide avenues for individuals reporting wrongdoing, within or by organisations, in a manner that allows them to be safe from reprisals. It will ensure protections are upheld for individuals who take the courageous step to shed light on behaviour that is illegal, immoral or dangerous.

Recent changes to the Incorporations ACT 2001 establishes a whistleblower protection regime, which applies to 'regulated entities'. FEBC is a 'regulated entity'.

## Purpose

The purpose of this policy is to:

- a) encourage the reporting of misconduct (breach of law, organisational policy or generally recognised principles of ethics)
- a) encourage the reporting of matters that may cause harm to individuals, financial or nonfinancial loss to FEBC (Australia) or damage to its reputation;
- b) enable FEBC (Australia) to deal with reports from whistleblowers in a way that will protect their identity and provide for the secure storage of the information provided;
- c) establish the policies for protecting whistleblowers against reprisal by any person internal or external to the entity; and
- d) provide for the appropriate infrastructure including reporting pathways, unbiased investigation processes and maintaining confidentiality.

## Policy

The Board of FEBC (Australia) is committed to operating legally (in accordance with applicable legislation and regulation), properly (in accordance with organisational policy and procedures), and ethically (in accordance with recognised ethical principles). Employees are expected to cooperate with the organisation in maintaining legal, proper, and ethical operations, and as necessary, reporting misconduct, noncompliant and illegal actions by other people. However, not all unacceptable behaviour amounts to misconduct. This policy should not be used for complaints relating to minor workplace issues, instead this policy intends to deal with significant misconduct. Therefore, measures will be taken to protect the validity of issues reported in accordance with this policy.

### **Reports of Misconduct**

Where an employee of FEBC (Australia) believes on reasonable grounds, that any other employee, volunteer, or contractor has breached any provision of general law, organisational policy or generally recognised principles of ethics, that employee must report their concern to their supervisor unless they feel that their supervisor may be complicit in the breach

*Refer to Procedures (below) for reporting requirements.*

The person making their concern known shall not suffer any sanctions from the organisation on account of their actions in this regard provided that their actions:

- are based on reasonable grounds; and
- conform to the designated procedures.

Any person within the organisation to whom such a disclosure is made shall:

- dismiss the allegation if they believe the behaviour complained of to be unquestionably trivial or fanciful, and notify the person making the allegation of their decision; or
- ensure that the allegation is investigated and a finding is made, if they believe the behaviour complained of to be neither trivial nor fanciful, and notify the person making the allegation of the finding.

Any such investigation shall observe the rules of natural justice and the provisions of procedural fairness.

Disclosures may be made anonymously, and this anonymity shall as far as possible be preserved by the organisation.

## **Whistleblower Policy Procedures**

### **Responsibilities**

The organisation's Board is responsible for adopting this policy.

The organisation's National Director is responsible for the implementation of this policy.

All staff and all volunteers are responsible for reporting breaches of general law, organisational policy, or generally recognised principles of ethics to a person authorised to take action on such breaches.

### **Definitions**

A whistleblower is a person (being a director, manager, employee, volunteer or contractor of FEBC (Australia) who, whether anonymously or not, makes, attempts to make, or wishes to make, a report in connection with reportable conduct and wishes to avail themselves of protection against reprisal for having made the report.

Breaches of general law, organisational policy, or generally recognised principles of ethics include:

- corrupt conduct

- fraud or theft
- official misconduct
- maladministration
- harassment or unlawful discrimination
- serious and substantial waste of public resources
- practices endangering the health or safety of the staff, volunteers, or the general public
- practices endangering the environment.

Complaints regarding work, health and safety should, where possible, be made through the organisation's work, health and safety procedures.

### **Protection available to whistleblowers**

Part 9.4AAA of the Corporations Act 2001 provides an eligible whistleblower with certain protections in circumstances where the individual makes protected disclosures to eligible recipients. Under the Corporations Act, protections for an eligible whistleblower include the following:

- Protection of information provided by an eligible whistleblower
- Protections for an eligible whistleblower against legal action
- Protections for an eligible whistleblower from detriment.

### **An eligible whistleblower at law**

To be an eligible whistleblower, the individual must be a current or former:

- employee of FEBC
- officer of FEBC or a related company or organisation, contractor, or an employee of a contractor, who has supplied goods or services to FEBC, or a related company or organisation;
- volunteer to FEBC, or a related company or organisation;
- 'associate' of FEBC [usually a person with whom FEBC acts in concert];
- or spouse, relative or dependant of one of the people listed above.

### **Protection for whistleblowers against legal action**

The Corporations Act protects an eligible whistleblower against certain legal actions related to making the whistleblower disclosure, including:

- criminal prosecution (and the disclosure cannot be used against the whistleblower in a prosecution, unless the disclosure is false);
- civil litigation (such as for breach of an employment contract, duty of confidentiality, or other contractual obligation);
- and administrative action (including disciplinary action).

If you are the subject of an action for making a whistleblower disclosure, you may rely on this protection in your defence.

This protection does not grant immunity to you for any misconduct in which you were involved that is revealed in the disclosure.

### **Protections for whistleblowers from detriment**

The Corporations Act makes it illegal (through a criminal offence and civil penalty) for someone to cause or threaten detriment to you because they believe or suspect that you have made, may have made, or could make a whistleblower disclosure. The offence and penalty require that the detriment be the result of an actual or suspected whistleblower disclosure.

You can seek compensation through a court if you suffer loss, damage or injury for making your disclosure. If you are, or were, an employee and experienced detriment at work for reporting misconduct, the court may order the person causing you detriment or your employer to compensate you.

## **Processes**

### **External reporting entities**

The Board may nominate external persons to whom, or agencies to which, disclosures may be made under the protections offered under this policy. Where such a nomination is made, staff and volunteers should be informed by any appropriate method.

### **Reporting – authorised persons to whom a protected disclosure can be made**

Where an employee of FEBC (Australia) believes on reasonable grounds that any other employee, volunteer, or contractor has breached general law, organisational policy, or generally recognised principles of ethics, that employee must report their concern to:

- their supervisor, unless they feel that their supervisor may be complicit in the breach;
- the National Director, unless they feel that the National Director may be complicit in the breach;
- the FEBC (Australia) Board Chair, if they feel this to be necessary;
- a person or office independent of the organisation nominated by the organisation to receive such information; or
- the duly constituted authorities responsible for the enforcement of the law in the relevant area.

These procedures do not authorise any employee to inform commercial media or social media of their concern, and do not offer protection to any employee who does so, unless:

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

Any person reporting such a breach should be informed that:

- as far as lies in the organisation's power, the employee will not be disadvantaged for the act of making such a report; and

- if the complainant wishes to make their complaint anonymously, their wish shall be honoured except insofar as it may be overridden by due process of law; however,
- reporting such a breach does not necessarily absolve the complainant from the consequences of any involvement on their own part in the misconduct reported.

Any such report should, where possible, be in writing and should contain, as appropriate, details of:

- the nature of the alleged breach;
- the person or persons responsible for the breach;
- the facts on which the complainant's belief that a breach has occurred, and has been committed by the person named, are founded;
- the nature and whereabouts of any further evidence that would substantiate the complainant's allegations, if known.

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 the organisation'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 either the organisation's constitutional grievance procedures or its disputes resolution policy.

### **Anonymity**

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

The complainant 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 complainant is required to maintain confidentiality regarding the issue on their own account and to refrain from discussing the matter with any unauthorized persons.

### **Investigation**

On receiving a report of a breach, the person to whom the disclosure is made shall:

- if they believe the behaviour complained of to be unquestionably trivial or fanciful, dismiss the allegation and notify the person making the allegation of their decision;
- if they believe the behaviour complained of to be neither trivial nor fanciful, put in motion the investigation process described below.

The person to whom the disclosure was made shall notify the National Director, who shall be responsible for ensuring that an investigation of the alleged charges is established and adequately resourced.

Terms of reference for the investigation will be drawn up, in consultation with the National Director, to clarify the key issues to be investigated.

An investigation plan will be developed to ensure all relevant questions are addressed, the scale of the investigation is in proportion to the seriousness of the allegation(s) and sufficient resources are allocated. Strict security and confidentiality will be maintained during the investigative process. All information obtained will be properly secured to prevent unauthorised access. All relevant witnesses will be interviewed and documents examined. Contemporaneous notes of all discussions, phone calls and interviews will be made. Where possible, interviews will be digitally recorded.

The principles of procedural fairness (natural justice) will be observed<sup>1</sup>. 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.

The person or persons conducting the investigation shall be as far as possible unbiased.

### **Findings**

A report will be 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 person making the allegation (with, if necessary, any applicable confidentiality stipulations).

### **Related Documents**

- Staff Grievance Policy
- Privacy Policy
- Vulnerable Child & Adult Safeguarding Policy
- Feedback & Complaints Policy

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<sup>1</sup> Natural justice and procedural fairness do not require that the person affected be informed of the identity of the person making the initial disclosure, unless that communication constitutes part of the evidence relied upon in making the eventual finding.

# WHISTLEBLOWER POLICY

This document, approved by the FEBC (Australia) Board, is controlled by the Chairman & National Director. The electronic copy is accessible via the internet FEBC (Australia) Policy "Drop Box" and is a "read only" master controlled copy.

DOCUMENT HISTORY			
<b>POLICY NUMBER</b>		<b>RESPONSIBLE PERSON / COMMITTEE / GROUP</b>	
		BOARD CHAIR & NATIONAL DIRECTOR	
<b>LEGISLATIVE OR OTHER POLICY REQUIREMENT [ACT/REFERENCE] WHS ACT, CHILDREN AND YOUNG PERSONS (CARE AND PROTECTION) ACT 1998 NSW, CMA STANDARDS, PRIVACY ACT, CORPORATIONS ACT 2001, TREASURY LAWS AMENDMENT (ENHANCING WHISTLEBLOWER PROTECTIONS) BILL 2018</b>			
MANUAL / GROUP IDENTIFIER - GOVERNANCE			
VERSION	APPROVAL DATE	REVISION DATE	SUMMARY OF CHANGE
1.0	15/9/16		Original version
2.0	February 2020	2022	Effective from 1 July 2019, changes were made to the Corporations Act 2001 whereby a broader range of whistleblower conduct can be reported and receive protection. By 1 January 2020, public companies (of which FEBC is one), large proprietary companies and certain other companies must implement a compliant whistleblowing policy. The new legal regime, broadens both the scope of conduct that can be reported and the people who may make such reports. Also, whereas the previous whistleblowing regime provided protection from adverse action provided that the employee made the report in good faith, the good faith condition has now been removed.