



# **Whistleblowing Policy – Additional Requirements for Australia**

# Whistleblowing Policy – Additional Requirements for Australia

## 1 Purpose

This document provides you with additional information in respect of the protections, processes and requirements when reporting certain types of Protected Concerns as established under applicable Australian legislation.

It must be read alongside and supplements our Policy in Australia. In the event of any discrepancy between our Policy and this document, the provisions of this document will prevail.

## 2 Definitions

**APRA** - the Australian Prudential Regulatory Authority.

**ASIC** – means the Australian Securities and Investments Commission.

**ATO** – means the Australian Taxation Office.

**Corporations Act** – means the *Corporations Act 2001* (Cth)

**Fair Work Act** – means the *Fair Work Act 2009* (Cth)

**TAA** – means the *Taxation Administration Act 1953* (Cth)

## 3 Who can be a Whistleblower subject to protection at law in Australia?

In Australia, the following people may be eligible for additional protections at law as a Whistleblower if they report certain types of qualifying Protected Concerns in accordance with our Policy to a Whistleblowing Contact:

- a current or former officer or employee of the Glencore Group;
- an individual who supplies, or has supplied, goods or services to the Glencore Group, or an employee of a supplier;
- a relative, dependent or spouse of any of the above individuals.

## 4 The meaning of concern in the Australian context

Australia's legal regime outlines a framework for providing protections to Whistleblowers under the Corporations Act and the TAA. The protections only apply to specific types of Protected Concerns. Concerns that are characterised as a personal work-related grievance are not protected under the Corporations Act.

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However, concerns that include matters that are considered personal work-related grievances may still qualify for protections in some circumstances. For example, if the personal work-related grievance includes information that also alleges Retaliation or a threat made to the Whistleblower, or where a qualifying Protected Concern is accompanied by a personal work-related grievance (a mixed report).

Although a personal work-related grievance is not protected under the Corporations Act and our Policy, it may be protected by law under other legislation in Australia, such as the Fair Work Act.

The following types of conduct (in addition to those identified in our Policy) will also qualify as a Protected Concern under the Corporations Act and our Policy:

- conduct which risks causing financial or non-financial loss to us or the financial system, or might otherwise be detrimental to our interests or the interests of the public; and
- breaches of duty.

The TAA provides for protections for Whistleblowers who report specific additional types of information, including matters that a Whistleblower reasonably suspects that indicate misconduct or an improper state of affairs or circumstances in relation to the tax affairs of Glencore. When reported to a Whistleblowing Contact, a member of an audit team conducting an audit on Glencore, or a prescribed tax agent who provides services to Glencore, these Protected Concerns qualify for the protections under our Policy and the TAA.

## 5 Reporting Protected Concerns to a Whistleblowing Contact

Under the Corporations Act, your qualifying Protected Concern must be directly reported to a Whistleblowing Contact to be able to qualify for legislative protection. In some circumstances, a disclosure may be made to an appropriate regulator (including ASIC or APRA), or a journalist or parliamentarian and still qualify for the protections under the Corporations Act. For further information, see Section 8.

In Australia, auditors (including members of any audit team auditing the office or asset) and actuaries will also act as Whistleblowing Contacts. Additionally, you can make your report to a Whistleblowing Contact within another part of the

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Glencore Group in Australia (in other words a Whistleblowing Contact working for a different office or asset than to which the Protected Concern relates).

From the time you make your report you will qualify for protection under the Corporations Act, regardless of whether you or the Whistleblowing Contact knows that the report can be characterised as a qualifying Protected Concern or not.

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## 6 Protecting your identity

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You may choose to remain anonymous under our Policy when making your report, over the course of the handling and/or investigation of the Protected Concerns and after the handling and/or investigation is completed. You may also refuse to answer questions that you feel could reveal your identity during follow-up conversations. You may adopt a pseudonym (i.e. not use your real name).

If you report a qualifying Protected Concern anonymously you will still be protected under applicable Australian legislation.

If you are concerned about a breach of confidentiality, you can lodge a complaint with a Whistleblowing Contact or an appropriate regulator, such as ASIC, APRA, or the ATO.

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## 7 What happens if you are named or implicated in a Protected Concern

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If you are mentioned in and/or the subject of a Protected Concern, you must note that we will ensure fair treatment in the following ways:

- (a) Protected Concerns will be treated confidentially;
- (b) Protected Concerns will be assessed and may be the subject of handling and/or investigation; and
- (c) The objective of the handling and/or investigation is to determine whether there is evidence to substantiate or not substantiate the Protected Concerns.

You will be advised if the Protected Concern is serious and needs to be referred to ASIC and the APRA or the Federal Police.

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## 8 Reporting to third parties

Whilst we encourage internal reporting, you may also disclose a qualifying Protected Concern to an appropriate regulator for investigation. In Australia, examples of such regulators include ASIC and APRA.

In some instances, a qualifying Protected Concern may be disclosed to a journalist or parliamentarian as a Public Interest or Emergency disclosure.

For more information on the requirements for a public interest or emergency disclosure, please consult ASIC's Information Sheet 238 by copying the below web address into your web browser:

<https://asic.gov.au/about-asic/asic-investigations-and-enforcement/whistleblowing/whistleblower-rights-and-protections/>

It is important that you understand that disclosures to a journalist or parliamentarian will only be protected if strict criteria are met. You should consider seeking independent legal advice before making a disclosure in this way.

Matters under the TAA may be disclosed to the ATO if the Whistleblower considers that the information may assist the ATO to perform their duties under taxation legislation.

## 9 Compensation

You can seek compensation and other remedies through the courts if you suffer loss, damage or injury for reporting a qualifying Protected Concern (including Retaliation). You may also contact a regulatory body such as ASIC or APRA. You are protected from civil, criminal or administrative liability in relation to the reporting of a qualifying Protected Concern. We encourage that you seek independent legal advice.

## 10 Further information

You can obtain further information on Whistleblower protections before making a report by contacting a Whistleblowing Contact or an independent legal practitioner.

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Disclosures made to a legal practitioner for the purpose of obtaining legal advice about the operation of the Whistleblower regime are also protected under the Corporations Act.

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