

WHISTLEBLOWER POLICY



**FOOTBALL
FEDERATION
AUSTRALIA**

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FFA WHISTLEBLOWER POLICY

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1. INTRODUCTION

Football Federation Australia Limited (**FFA**) is committed to maintaining the highest standards of honesty, openness and accountability both within the organisation and in all its business dealings. FFA recognises that its employees and suppliers have an important role to play in achieving these goals.

In Australia, the *Corporations Act 2001* (Cth) (**Corporations Act**) and the *Tax Administration Act 1953* (Cth) provide for protection of whistleblowers. This Policy will focus on the protections available under the Corporations Act (**Australian Whistleblower Regime**). The Policy is an important tool for helping FFA to identify wrongdoing that may not be uncovered unless there is a safe and secure means for doing so.

Terms used in this Policy that are defined in the Corporations Act are to be interpreted in this Policy in accordance with their meaning in the Corporations Act.

2. OVERVIEW AND APPLICATION

In summary, under the Australian Whistleblower Regime, an "eligible whistleblower" will qualify for protections if the eligible whistleblower makes a disclosure of a "disclosable matter" to a person who is eligible to receive a protected disclosure. Disclosures made on or after 1 July 2019 in accordance with the requirements of the Australian Whistleblower Regime are called "protected disclosures".

This Policy applies to the Australian operations of FFA and its related bodies corporate.

This Policy sets out information about:

- (a) who can make a disclosure protected by the Australian Whistleblower Regime;
- (b) who is eligible to receive a protected disclosure;
- (c) the types of disclosures that qualify for protection under the Australian Whistleblower Regime;
- (d) how disclosures may be made;
- (e) the protections available to whistleblowers, including under the Australian Whistleblower Regime;
- (f) how FFA will investigate disclosures that qualify for protection under the Australian Whistleblower Regime;
- (g) how FFA will ensure fair treatment; and
- (h) how this Policy will be made available to officers and employees of FFA.

All employees and suppliers of FFA are responsible for understanding and complying with this Policy. Breach of this Policy may be regarded as misconduct and may lead to disciplinary action up to and including termination of employment or engagement, as applicable.

In particular, eligible recipients within FFA (as explained in Section 4) must be aware of their obligations under the Australian Whistleblower Regime and this Policy to maintain confidentiality of the identity of individuals who make disclosures and any information that would lead to their identification, unless one of the exceptions applies.

Persons wishing to make a disclosure can obtain additional information about the process and protections relating to whistleblowing before making a disclosure by contacting the FFA Whistleblower Officer via Whistleblower@ffa.com.au.

This Policy does not form part of any employee's contract of employment.

FFA will review this Policy periodically as required and may amend it from time to time.

3. WHO CAN MAKE A PROTECTED DISCLOSURE?

A person is an "eligible whistleblower" if they are or have previously been:

- (a) an officer of FFA;
- (b) an employee of FFA;
- (c) a person who supplies goods or services to FFA, and employees of those suppliers;
- (d) an individual who is an associate of FFA;
- (e) a relative, dependent, or spouse of any of the above persons.

4. WHO CAN RECEIVE A PROTECTED DISCLOSURE?

An eligible whistleblower needs to make a disclosure directly to an *eligible recipient* to be able to qualify for protection as a whistleblower under the Australian Whistleblower Regime.

Whistleblowers are encouraged firstly to make a disclosure to the FFA Whistleblower Officer by emailing Whistleblower@ffa.com.au or by calling +61 2 8020 4000.

However, the following individuals will also be an eligible recipient of a protected disclosure:

- (a) an officer of FFA;
- (b) a senior manager of FFA;
- (c) an auditor, or a member of an audit team conducting an audit, of FFA (including FFA's external auditor, whose contact details are set out below for any external disclosures);
- (d) an actuary of FFA; or
- (e) a member of the Legal, Business Affairs and Integrity Department at FFA, who is a person authorised by FFA to receive disclosures that may qualify for protection under the Australian Whistleblower Regime.

Protected disclosures may also be made to the following regulators:

- (f) the Australian Securities and Investments Commission (**ASIC**);
- (g) the Australian Prudential Regulation Authority (**APRA**); or
- (h) a prescribed Commonwealth authority.

In certain circumstances, protected disclosures may be made to a journalist or member of Parliament (see Section 6 below).

5. SCOPE OF MATTERS THAT ARE DISCLOSABLE

Only disclosures of certain types of information will qualify for protection under the Australian Whistleblower Regime.

Information is a "disclosable matter" if the discloser has reasonable grounds to suspect that the information disclosed:

- (a) concerns misconduct or an improper state of affairs or circumstances in relation to FFA; or
- (b) indicates that FFA or any employee or officer has engaged in conduct that:
 - (i) constitutes an offence against, or a contravention of, a provision of specific legislation including the Corporations Act;
 - (ii) constitutes an offence against any other law of the Commonwealth that is punishable by imprisonment for a period of 12 months or more; or
 - (iii) represents a danger to the public or the financial system.

The following examples, among others, constitute wrongdoing that would be captured as disclosable matters referred to above:

- (a) fraud, money laundering or misappropriation of funds;
- (b) serious, unlawful or corrupt use of FFA's funds or other resources;
- (c) offering or accepting a bribe;
- (d) financial irregularities; and
- (e) engaging in or threatening to engage in detrimental conduct against a person who has made a disclosure or is believed or suspected to have made, or be planning to make, a disclosure.

Note that disclosable matters include conduct that may not involve a contravention of a particular law.

However, if a disclosure includes information about a personal work-related grievance (for example a disclosure about an interpersonal conflict or a disciplinary decision), then the disclosure does not qualify for protection unless the disclosure:

- (a) includes information about misconduct;
- (b) concerns a contravention, or an alleged contravention of the prohibition of victimisation under the Australian Whistleblower Regime (see Section 8.3);
- (c) has significant implications for FFA that do not relate to the discloser; or
- (d) concerns conduct, or alleged conduct that:
 - (i) constitutes an offence against, or a contravention of, a provision of specific legislation including the Corporations Act;

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- (ii) constitutes an offence against any other law of the Commonwealth that is punishable by imprisonment for a period of 12 months or more; or
 - (iii) represents a danger to the public or the financial system.

This policy is intended for disclosures that have significant implications for FFA, rather than personal matters. If a disclosure relates to a personal work-related grievance which does not have any of the characteristics listed above, then FFA will deal with the grievance in accordance with FFA's workplace policies, Member Protection Framework or National Code of Conduct and Ethics as applicable.

A discloser can still qualify for protection even if the substance of their disclosure turns out to be incorrect.

It is important to understand that not all types of disclosure will constitute a protected disclosure under this policy and that prior to making a disclosure an individual should consider whether they wish to seek independent legal advice to assist them to determine whether it will be a protected disclosure (and therefore provide them with the whistleblower protections under this policy and the law).

6. TYPE OF DISCLOSURES THAT QUALIFY FOR PROTECTION

The following are the primary types of disclosures that qualify for protection under the Australian Whistleblower Regime:

- (a) **Disclosures to eligible recipients:** Disclosures of a disclosable matter made by an eligible whistleblower in relation to FFA to an eligible recipient (see Section 4).
- (b) **Disclosures to regulators:** Disclosures of a disclosable matter made by an eligible whistleblower in relation to FFA to ASIC, APRA, or a prescribed Commonwealth authority.
- (c) **Disclosures to legal practitioner:** Disclosures made by an individual to a legal practitioner for the purpose of obtaining legal advice or legal representation in relation to the Australian Whistleblower Regime, even in the event that the legal practitioner concludes that a disclosure does not relate to a "disclosable matter".

There are two additional categories of disclosures called "public interest disclosures" and "emergency disclosures". However, these disclosures qualify for protection only if the discloser complies with all of the strict requirements as outlined below. A discloser should contact an independent legal adviser before making a public interest disclosure or an emergency disclosure.

6.2 Public interest disclosure

In relation to a public interest disclosure, protections are only available if:

- (a) the discloser has previously made a disclosure that qualifies for protection to ASIC, APRA or a prescribed Commonwealth authority;
- (b) at least 90 days have passed since the previous disclosure was made;
- (c) the discloser does not have reasonable grounds to believe that action is being, or has been, taken to address the previous disclosure;

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- (d) the discloser has reasonable grounds to believe that making a public interest disclosure would be in the public interest;
 - (e) after 90 days have passed, the discloser has given written notice to the body to which the previous disclosure was made that includes sufficient information to identify the previous disclosure and states that the discloser intends to make a public interest disclosure;
 - (f) the disclosure is made to a journalist (as defined in the Corporations Act) or member of Parliament (at the Federal, State or Territory level); and
 - (g) the extent of information disclosed to the journalist or member of Parliament is no greater than is necessary to inform the recipient of the matter that was the subject of the previous disclosure.

6.3 Emergency disclosure

In relation to an emergency disclosure, protections are only available if:

- (a) the discloser has previously made a disclosure that qualifies for protection to ASIC, APRA or a prescribed Commonwealth authority;
- (b) the discloser has reasonable grounds to believe that the information concerns a substantial and imminent danger to the health and safety of one or more persons, or to the natural environment;
- (c) the discloser has given written notice to the body to which the previous disclosure was made that includes sufficient information to identify the previous disclosure and states that the discloser intends to make an emergency disclosure;
- (d) the disclosure is made to a journalist (as defined in the Corporations Act) or member of Parliament (at the Federal, State or Territory level); and
- (e) the extent of the information disclosed to the journalist or member of Parliament in the emergency disclosure is no greater than is necessary to inform the recipient of the emergency disclosure of the substantial and imminent danger.

7. HOW MAY DISCLOSURES BE MADE?

There is no requirement for disclosures to be made in a particular form. Disclosures may be made in writing (e.g. via email), in person or via telephone. For internal and external disclosures, the following contacts are available:

- (a) **Internal FFA recipient:** email the FFA Whistleblower Officer at Whistleblower@ffa.com.au; or
- (b) **External recipient:** call Douglas Bain, Ernst & Young, independent auditor of FFA on + 61 2 9248 5555.

A discloser can choose to remain anonymous while making a disclosure, over the course of the investigation and after the investigation is finalised.

Under the Australian Whistleblower Regime, disclosures may be made on an anonymous basis. However, anonymous disclosures may not be dealt with as effectively as direct reports to an eligible recipient within FFA, as FFA will be unable to obtain additional information from

an anonymous whistleblower. Therefore, FFA encourages disclosers to provide their full names where possible. A discloser who wishes to remain anonymous should maintain ongoing two-way communication with FFA, so that FFA can ask follow-up questions or provide feedback. A discloser can refuse to answer questions that they feel could reveal their identity at any time, including during follow-up conversations.

Where an anonymous disclosure is made, FFA will adopt measures to protect the anonymity of the discloser. This includes permitting the discloser to communicate via an anonymised email address and adopting a pseudonym for the purpose of their disclosure.

FFA also wishes to take this opportunity to emphasise that all whistleblowers who disclose their identity while making a protected disclosure will be afforded confidentiality protections in respect to their identity as outlined in the next Section.

8. PROTECTIONS

Protections under the Corporations Act are available to disclosers who qualify for protection as a whistleblower. The protections apply not only to internal disclosures, but to disclosures to legal practitioners, regulatory and other external bodies, and public interest and emergency disclosures that are made in accordance with the Corporations Act.

8.1 Confidentiality

Strict confidentiality obligations apply in relation to any protected disclosures. The identity or any information that may lead to the identification of the whistleblower (**Confidential Information**) may only be disclosed by the recipient of the protected disclosure in limited circumstances under the Australian Whistleblower Regime.

FFA will adopt measures to protect the Confidential Information, including:

- (a) redacting personal information or references to the discloser witnessing an event;
- (b) referring to the discloser in a gender-neutral context;
- (c) contacting the discloser to help identify certain aspects of their disclosure that could inadvertently identify them;
- (d) ensuring qualified staff handle and investigate disclosures; and
- (e) taking appropriate steps to secure access to the Confidential Information.

Confidential Information may be disclosed if:

- (f) the disclosure is made with the consent of the whistleblower;
- (g) the disclosure is made to:
 - (i) ASIC, APRA or a member of the Australian Federal Police (**AFP**);
 - (ii) a legal practitioner for the purposes of obtaining advice or legal representation in relation to the operation of the Australian Whistleblower Regime; or
 - (iii) a person or body prescribed by the regulations; or
- (h) the disclosure only relates to information that may lead to the identification of the whistleblower and the disclosure:

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- (i) is reasonably necessary for the purpose of investigating the disclosure; and
 - (ii) all reasonable steps are taken to reduce the risk that the whistleblower will be identified.

It is illegal for a person to identify a discloser, or disclose information that is likely to lead to the identification of the discloser, outside the exceptions listed above.

8.2 Protection from legal action

Eligible whistleblowers who make a protected disclosure under the Australian Whistleblower Regime are protected from certain legal action taken by FFA or any individuals because of the disclosure, including:

- (a) civil, criminal, and administrative (including disciplinary) action against the whistleblower; and
- (b) contractual action, including termination of a contract on the basis that making a disclosure is a breach of that contract.

This means that no employee will be subject to discipline from FFA because they made a protected disclosure under the Australian Whistleblower Regime.

However, these protections do not grant immunity for any misconduct a whistleblower has engaged in that is revealed in their disclosure.

Any information that is disclosed as part of a protected disclosure to ASIC, APRA or a prescribed Commonwealth authority will not be admissible in evidence against the whistleblower in criminal proceedings or in proceedings for the imposition of a penalty, except for proceedings in respect of the falsity of the information.

8.3 Prohibition against detriments and threats

The Australian Whistleblower Regime makes it unlawful for a person to:

- (a) engage in conduct that causes any detriment to a whistleblower or another person because the person engaging in the conduct believes or suspects that the other person or a third person made, may have made, proposes to make, or could make, a protected disclosure; or
- (b) make a threat (whether express or implied, conditional or unconditional, intentional or reckless) to cause any detriment to a whistleblower or another person because the whistleblower or another person has made, or may make, a protected disclosure.

"Detriment" is defined broadly under the Australian Whistleblower Regime and includes dismissal, disciplinary action, injuring an employee in their employment, altering an employee's position or duties to their disadvantage, harassment or intimidation of a person, discrimination between an employee and other employees of the same employer, damage to a person's property, reputation, business or financial position, and any other damage to a person.

Penalties apply for engaging in any of the conduct referred to above. Any person involved in the contravention may be found liable.

Actions that are not detrimental conduct include administrative action that is reasonable for the purpose of protecting a discloser from detriment (such as moving a whistleblower who

has made a disclosure about their immediate work area to another office to prevent them from detriment) and managing a whistleblower's unsatisfactory work performance, if the action is in line with FFA's performance management framework.

A discloser may seek independent legal advice or contact regulatory bodies, such as ASIC or APRA, if they believe they have suffered detriment.

If a person suffers detriment or is threatened detriment by another person's conduct that is in contravention of the Australian Whistleblower Regime, the person may apply to the court for an order of compensation or another remedy against those involved. A discloser, or any other employee or person, can seek compensation and other remedies if they suffer detriment or are threatened detriment because of a disclosure, and FFA failed to take reasonable precautions and exercise due diligence to prevent the detrimental conduct.

Courts are given broad scope to make orders if satisfied detrimental conduct has occurred or been threatened. Courts may order compensation (against the individual involved and their employer), injunctions, apologies, reinstatement, exemplary damages, or any other order the court thinks appropriate.

FFA will adopt measures to protect disclosers from detriment, including by adopting:

- (a) processes for assessing the risk of detriment against a discloser and other persons (e.g. other staff who might be suspected to have made a disclosure), which will commence as soon as possible after receiving a disclosure; and
- (b) strategies to help a discloser minimise and manage stress, time or performance impacts, or other challenges resulting from the disclosure or its investigation.

8.4 Other protections available

As noted above, there is a separate whistleblower protections regime under the *Tax Administration Act 1953* (Cth). Broadly speaking, the types of disclosures that are protected under this separate regime relate to information about the tax affairs of FFA.

Disclosures that qualify for protection under the Australian Whistleblower Regime may also amount to the exercise of a workplace right. FFA is prohibited under the *Fair Work Act 2009* (Cth) from taking adverse action against employees or contractors because they exercised or propose to exercise any workplace rights.

9. How FFA will investigate disclosures

FFA takes all protected disclosures seriously and, where appropriate, will investigate protected disclosures that are reported to an eligible recipient within FFA. FFA will generally direct the matter to the FFA Whistleblower Officer who will attempt to ensure all protected disclosures are investigated as soon as reasonably practicable.

FFA will need to make preliminary enquiries to decide whether a full investigation will be necessary. If such an investigation is necessary then, depending on the nature of the disclosable matter, a protected disclosure will be either:

- (a) investigated internally (by the FFA Whistleblower Officer); or
- (b) referred to the appropriate external person for investigation.

The referral of a protected disclosure for investigation will be done in accordance with the confidentiality obligations that FFA owes to the whistleblower. If compliance with FFA's confidentiality obligations will result in the inability to conduct a fair investigation, the whistleblower will be informed in advance of being identified. FFA may not be able to undertake an investigation if it is not able to contact the discloser.

FFA will aim to keep the whistleblower informed of the progress of the investigation and its expected timescale. Ordinarily FFA will endeavour to investigate matters raised within 3 months of receipt of the protected disclosure, subject to the nature of the disclosure. However, confidentiality concerns, if any, may prevent FFA from providing specific details of the investigation or any disciplinary action taken as a result. All staff should treat any information about the investigation as confidential.

The findings of any investigation will be documented in writing by FFA and reported to the appropriate decision makers on an as-needs basis, whilst preserving the confidentiality of any Confidential Information contained in the findings. The method for documenting and reporting the findings of any investigation will depend on the nature of the disclosure. There may be circumstances where it may not be appropriate to provide details of the outcome to the discloser.

10. SUPPORT FOR WHISTLEBLOWERS

By this Policy, FFA is committed to ensuring all personnel feel supported and able to raise issues which relate to any misconduct or improper state of affairs or circumstances within FFA.

FFA will treat a disclosure that meets the criteria under the Australian Whistleblower Regime as a protected disclosure, even if any subsequent investigation finds no wrongdoing.

Where a protected disclosure is made, FFA will reiterate the requirements of this Policy and the Australian Whistleblower Regime with any person concerned in the investigation of the disclosure.

As stated in Section 0, FFA will conduct investigations into protected disclosures in a manner which is fair in all of the circumstances and will have regard to the protections afforded to the whistleblower and the privacy and fair treatment of persons referred to in the disclosure, including those to whom the disclosure relates.

FFA will determine whether any disciplinary outcomes or other remedies are appropriate after an investigation into a protected disclosure is completed.

11. FAIR TREATMENT

FFA will not tolerate any reprisals or threats of reprisals made against whistleblowers and will take appropriate steps to protect whistleblowers from such retaliation, consistent with the provisions of Section 8.3 of this Policy. This may include conducting an investigation into the alleged reprisal, where appropriate.

It is important that all investigations into protected disclosures are conducted in a procedurally fair and confidential manner, to ensure the fair treatment of any individuals named in the protected disclosure or to whom the protected disclosure relates.

12. ACCESSIBILITY OF THE POLICY

This Policy will be made available to FFA's employees and officers via the FFA Intranet, and more broadly to others via the FFA Website. This Policy also forms part of the induction materials for all new FFA employees and officers.