

ADM Whistleblower Protection Policy

December 2019

Purpose

This policy sets out the approach of Anglican Deaconess Ministries (ADM) to building its culture of integrity and robust risk management through:

- encouraging reporting of wrongdoing, that is, actual or suspected misconduct or an improper state of affairs or circumstances;
- providing protection and support to a person who makes an eligible disclosure (discloser);
- ensuring fair treatment of both disclosers and of people mentioned in a disclosure; and
- implementation and compliance with the requirements of applicable whistleblowing laws.

ADM is a regulated entity under the Corporations Act 2001 (the Act) and is subject to its whistleblower protection provisions because of its status as a public company limited by guarantee under the Act.

Access

This policy is available to all staff in the Staff Resources Dropbox folder and the Staff Policies area of the ADM website. All new staff are provided with time to familiarise themselves with the policies and are given an opportunity to ask questions about the policies to ensure they are understood. All staff are notified when a new policy is approved by the Board and given an opportunity to ask questions about the policy.

The policy is also publicly available on the ADM website for external disclosers.

Related documents

This policy should be read in conjunction with ADM's suite of internal policies and procedures which are also available to all staff in the Staff Resources Dropbox folder and in the Staff Policies area of the ADM website, and particularly:

ADM Code of Conduct

Conflicts of Interest Policy

Staff Grievance Policy

Delegations of Authority Policy

Privacy Policy

Counselling and Discipline Policy

Related Legislation

Corporations Act 2001, Pt 9.4AAA, s9, 45A, 1311(1), 1317AA, 1317AAA, 1317AAC, 1317AAD, 1317AADA, 1317AAE, 1317AB(1), 1317AC, 1317AD, 1317ADA, 1317AE(3)(b),

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1317AI, 1317AJ

Treasury Laws Amendment (Enhancing Whistleblower Protections) Act 2019 (Whistleblower Protections Act)

ASIC Regulatory Guide 270 Whistleblower Policies (November 2019)

Application

This policy applies to anyone who is entitled to whistleblower protections under the Corporations Act 2001 or other relevant legislation. In this policy, a person making a disclosure that is eligible for whistleblower protections is referred to as the discloser.

A whistleblower is generally considered to be an insider within an organisation, including an employee of the organisation, an individual who supplies services or goods to the organisation or their employee. The person does not have to be paid for their contribution, and so likely includes volunteers. The policy does not apply to students of Mary Andrews College who should refer to the policies of the Australian College of Theology.

People at ADM who could be eligible for whistleblower protections under the Act are current or former:

- Directors;
- Employees;
- Volunteers;
- Contractors or consultants;
- A person providing goods or services to ADM, or their employee;
- An associate of ADM;
- The spouse, dependent or relative of any of these listed people; or
- A person prescribed by regulation under whistleblower legislation.

This policy also applies to people making disclosures under the Treasury Laws Amendment (Enhancing Whistleblower Protections) Act 2019 (Whistleblower Protections Act) (referred to here as tax whistleblowers). Eligible tax whistleblowers are current or former employees, their spouses and dependents.

There is no requirement for a discloser to identify themselves in order to be eligible for legislated whistleblower protections.

Whistleblower protections

People considering making a disclosure are strongly encouraged to seek their own legal advice to confirm their eligibility for whistleblower protections.

The criteria for whistleblower protections require that the person making a disclosure, the recipient of the disclosure and the matter being disclosed are all eligible under the Act. Protections under the Act are available to people making their disclosure either by internal or external reporting processes described in this policy.

Other disclosures, including disclosures that are not about 'disclosable matters' do not qualify for protection under the Act.

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Legislated whistleblower protections are:

- Confidentiality (protection of identity);
- Protection from detrimental acts or omissions;
- Compensation and remedies; and
- Civil, criminal and administrative liability protection.

In addition to the legislated whistleblower protections, ADM has nominated the Company Secretary as its Whistleblower Protection Officer with the responsibility to:

- Ensure fair treatment of anyone making a disclosure under this policy;
- Provide them with mentoring; and
- Keep them informed of the progress of the investigation (subject to the privacy of the person/s who are the subject of the disclosure).

ADM will not take any disciplinary action against a discloser where the disclosure is not substantiated, provided the discloser had reasonable grounds to believe it to be true. However, disciplinary action may be taken in the case of a disclosure found to be unsubstantiated and to have been made maliciously or with knowledge that it was false.

ADM will not tolerate any retaliation or victimisation in reprisal against a discloser or their associates. A discloser who believes they have suffered detriment may elect to contact the Whistleblower Protection Officer, the regulator (ASIC or a prescribed body under the Act) or Australian Tax Office as applicable, or seek legal advice.

ADM will not disclose the identity of the discloser without their consent except where;

- Reporting to the Australian Federal Police, regulators or government authorities is required; or
- It is required by law.

Matters that can be disclosed

A broad definition of types of wrongdoing covered by this policy is provided in the Act, which describes these as 'disclosable matters'. At ADM 'disclosable matters' would include a current or former officer or employee of ADM engaging in conduct which:

- Constitutes an offence against any legislation prescribed in the Act;
- Constitutes an offence against any other Commonwealth legislation punishable by imprisonment for a period of 12 months or more;
- Represents a danger to the public or the financial system; or
- Is set out in regulations under the whistle blowing laws.

Wrongdoing that may be reported under this Policy is misconduct (refer section 9 of the Corporations Act) or an improper state of affairs or circumstances. The concept of 'misconduct or an improper state of affairs' is broad and is not limited by the list of conduct in the legislation. Below are further examples of conduct that may meet the definition of wrongdoing under this Policy: illegal conduct; fraud or corruption or abuse of public trust; maladministration; unethical conduct or serious breach of the ADM Code of Conduct or other ADM policies or procedures.

The person making a disclosure of actual or suspected wrongdoing must have reasonable grounds to believe that it is true.

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For tax whistleblowers, reporting is to the Australian Taxation Office or to an 'eligible recipient' as defined in the Whistleblowers Protections Act.

This policy and the whistleblower protections under the Act do not apply to disclosure of other matters including personal work-related grievances. Staff should refer to the Staff Grievance Policy for guidance on these matters.

Making a disclosure

There are allowable reporting avenues for disclosures that qualify for whistleblower protections, called 'eligible recipients', for anyone making a disclosure under this policy:

- An 'eligible recipient' within ADM
 - Internal disclosers are encouraged to report directly to the relevant Senior Team member or the Chief Operating Officer or CEO as appropriate, or to the Chair (chair@deaconessministries.org.au) or a member of the ADM Board.
 - External disclosers are encouraged to report their concern to an ADM employee or Board member more senior than the person with whom they usually deal.
 - Disclosures can be made verbally, in writing or by email and can be anonymous.
- ADM's auditor, or other external independent body nominated by ADM from time to time, where the internal or external discloser does not consider the internal reporting process to be appropriate. The contact details of ADM's current auditor are:
Cheryl Kennedy, Partner
Deloitte Touche Tohmatsu
Grosvenor Place 225 George Street
Sydney NSW 2000
Phone: 02 9322 7000
Email: chkennedy@deloitte.com.au
- A legal practitioner.
- Regulatory bodies (ASIC or ATO) and other external parties.
- In the case of an emergency or public interest disclosure as described in the Act, to a journalist or member of Commonwealth, state or territory parliaments. In these instances the Act includes requirements relating to the time and manner in which the matter has been previously reported to ADM.

The discloser may choose to remain anonymous throughout the reporting and investigation process. Protections under the Act are available to anonymous disclosers.

Handling and investigating a disclosure

Whenever a disclosure is received, ADM will appoint an Investigator as soon as practicable after the matter has been reported to conduct a proper assessment and, if appropriate, undertake and document an investigation using appropriate internal or independent expertise, to gather evidence relevant to the disclosure. The selection of the Investigator will be conducted in a fair and independent manner. The objective of an investigation is to determine whether there is enough evidence to substantiate or refute the matters reported. When an investigation needs to be undertaken, the process will be objective, fair and independent.

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The Investigator will, through the Whistleblower Protection Officer, keep the discloser informed of the progress and outcomes of the investigation subject to considerations of privacy of those against whom a disclosure has been made. In all instances, ADM manages personal information in accordance with the Australian Privacy Principles.

The substance and potential impact of disclosures made under this policy will be reported to the ADM Board and its Audit and Risk Committee as part of broader Board Risk Reporting. The identity of the discloser need not form part of this reporting and can be included only with the discloser's consent.

People mentioned in a disclosure

ADM is committed to fair treatment of anyone mentioned in a disclosure received under this policy. The Whistleblower Protection Officer will decide when and if the person named in a disclosure is notified of the substance of the disclosure and the outcome of any investigation.

The following measures will be applied to ensure fair treatment of individuals mentioned in a disclosure (where applicable):

- Disclosures will be handled confidentially, when it is practical and appropriate in the circumstances;
- An employee who is the subject of a disclosure will be advised about the subject matter of the disclosure at a time determined by ADM, as and when required by principles of natural justice and procedural fairness and prior to any actions being taken—for example, if the disclosure will be the subject of an investigation;
- In any case, ADM will inform any person mentioned in a disclosure before making any adverse finding against them; and
- An employee who is the subject of a disclosure may contact ADM's Employee Assistance Program (e.g. for counselling).

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