



CASL

Whistleblower Policy

1. Purpose

- 1.1. CASL group of companies, including CASL Governance Ltd and all related corporate entities (**CASL**), is committed to fostering a culture of honest and ethical behaviour and high standards of corporate governance.
- 1.2. The purpose of this Policy is to help encourage disclosures of wrongdoing, to help deter wrongdoing relating to CASL's operations, and ensure that anyone who makes a disclosure can do so safely, securely and with confidence that they will be protected and supported.
- 1.3. The *Corporations Act 2001* (Cth) and the *Taxation Administration Act 1953* (Cth) provide for protections for whistleblowers (the **Whistleblower Protections**).
- 1.4. This Policy sets out information relating to the Whistleblower Protections, including information about:
 - (a) the types of disclosures that qualify for protection;
 - (b) the protections available to whistleblowers;
 - (c) who disclosures can be made to and how they can be made;
 - (d) how CASL will support whistleblowers and protect them from detriment;
 - (e) how CASL will investigate disclosures;
 - (f) how CASL will ensure fair treatment of employees who are the subject of or are mentioned in disclosures; and
 - (g) how this Policy is to be made available to previous, current and future officers, employees, agents, representatives and contractors of CASL.

2. What disclosures are protected?

- 2.1. A disclosure will 'qualify' for protection under the Whistleblower Protections if:
 - (a) it is a disclosure by an 'eligible whistleblower' (see section 3) to:
 - (i) an 'eligible recipient' (see section 8);
 - (ii) the Australian Securities and Investments Commission (**ASIC**), the Australian Prudential Regulation Authority (**APRA**), a prescribed Commonwealth authority;
 - (iii) the Commissioner of Taxation or a registered tax agent or BAS agent who provides tax or BAS services to CASL (in relation to tax matters); or

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- (iv) a legal practitioner (to obtain legal advice or legal representation about the operation of the Whistleblower Protections); and
 - (b) the discloser has 'reasonable grounds' to 'suspect' that the disclosed information concerns a disclosable matter.
- 2.2. Public interest and emergency disclosures also qualify for protection (see section 11).

3. Who is an 'eligible whistleblower'?

- 3.1. The following persons are capable of being 'eligible whistleblowers' (**discloser(s)**):
- (a) officers of CASL;
 - (b) employees of CASL (including permanent, part-time, fixed-term or temporary, interns, secondees and managers);
 - (c) an individual who is an associate of CASL;
 - (d) an individual who supplies goods or services to CASL (whether paid or unpaid) or an employee of a supplier (which may include, among others, contractors, consultants, service providers and business partners);
 - (e) an individual who previously held any of the positions or functions in section 3.1(a)-(d) above; and
 - (f) an individual who is a relative, dependent or spouse (or the dependent of a spouse) of the individuals set out in 3.1(a)-(e) above.

4. What information will be a disclosable matter?

- 4.1. A disclosable matter is information that:
- (a) concerns misconduct or an improper state of affairs or circumstances in relation to CASL; or
 - (b) indicates CASL or one of its officers or employees has engaged in conduct that constitutes an offence against, or a contravention of:
 - (i) *Corporations Act 2001* (Cth);
 - (ii) *Australian Securities and Investments Commission Act 2001* (Cth)
 - (iii) *Financial Sector (Collection of Data) Act 2001*;
 - (iv) *National Consumer Credit Protection Act 2009*;
 - (v) any other Act listed in *Corporations Act 2001* (Cth) Section 1317AA(5)(c); and any instrument made under these Acts; or
 - (c) constitutes an offence against any other law of the Commonwealth punishable by imprisonment for 12 months or more; or
 - (d) represents a danger to the public or the financial system.

- 4.2. The misconduct or an improper state of affairs or circumstances can also be in relation to tax affairs.
- 4.3. Disclosable matters do not necessarily involve a contravention of a law. For example, 'misconduct or an improper state of affairs or circumstances' could involve conduct that, whilst not unlawful, indicates a systemic issue of concern that the relevant regulator should know about for the regulator to properly perform its functions. It may also relate to business behaviour and practices that may cause consumer harm. It may also relate to dishonest or unethical behaviour and practices, conduct that may cause harm, or conduct prohibited by professional standards or code(s) of conduct.
- 4.4. Also, information that indicates a significant risk to public safety or the stability of, or confidence in, the financial system is a disclosable matter, even if it does not involve a breach of a particular law.
- 4.5. Further examples of disclosable matters include:
- (a) illegal conduct, such as theft, dealing in, or use of illicit drugs, violence or threatened violence, and criminal damage against property;
 - (b) fraud, money laundering or misappropriation of funds;
 - (c) offering or accepting a bribe;
 - (d) financial irregularities;
 - (e) failure to comply with, or breach of, legal or regulatory requirements; and
 - (f) 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.
- 4.6. A discloser who makes a disclosure must have 'reasonable grounds to suspect' the information to qualify for protection. This means that even if a disclosure turns out to be incorrect, the protections will still apply provided the discloser had 'reasonable grounds to suspect'.
- 4.7. Disclosures that are not about a disclosable matter are not covered by this Policy and do not qualify for protection under the Whistleblower Protections. However, such disclosures may be protected under other legislation, such as the *Fair Work Act 2009* (Cth), for example, personal work-related grievances (set out below).

5. Deliberate false reports

- 5.1. CASL will treat all reports of disclosable matters seriously and endeavour to protect anyone who raises concerns in line with this Policy. A discloser can still qualify for protection under this Policy where their disclosure turns out to be incorrect.
- 5.2. However, deliberate false or vexatious reports will not be tolerated. Anyone found to have made a deliberate false claim or report may be liable to disciplinary action which, in the case of employees, could include dismissal.

6. Personal work-related grievances

- 6.1. A disclosure does not qualify for protection under the Whistleblower Protections to the extent that the information disclosed:

- (a) relates solely to a personal work-related grievance; and
 - (b) does not concern a contravention, or an alleged contravention of the detriment provisions referred to in section 16 of this Policy.
- 6.2. A disclosure is a 'personal work-related grievance' if:
- (a) the information concerns a grievance about a matter relating to the discloser's employment, or former employment, having (or tending to have) implications for the discloser personally; and
 - (b) the information:
 - (i) does not have significant implications for CASL, or another regulated entity, that do not relate to the discloser; and
 - (ii) does not concern conduct, or alleged conduct, referred to in subsection 4.1(b), (c) or (d) of this Policy.
- 6.3. However, a personal work-related grievance may still qualify for protections if:
- (a) it includes information about misconduct, or information about misconduct includes or is accompanied by a personal work-related grievance (i.e. a mixed report);
 - (b) CASL has breached employment or other laws punishable by imprisonment for a period of 12 months or more, engaged in conduct that represents a danger to the public, or the disclosure relates to information that suggests misconduct beyond the discloser's personal circumstances;
 - (c) the discloser suffers from or is threatened with detriment for making a disclosure; or
 - (d) the discloser seeks legal advice or legal representation about the operation of the Whistleblower Protections.
- 6.4. Examples of personal work-related grievances include:
- (a) an interpersonal conflict between the discloser and another employee;
 - (b) a decision relating to the engagement, transfer or promotion of the discloser;
 - (c) a decision relating to the terms and conditions of engagement of the discloser;
 - (d) a decision to alter the duties or responsibilities of the discloser; or
 - (e) a decision to suspend or terminate the employment of the discloser, or otherwise to discipline the discloser.

7. Who can receive a disclosure?

- 7.1. For the protections under the Whistleblower Protections to apply, a disclosure must be made directly to one of the recipients detailed in sections 8-10 below (**Recipients**).
- 7.2. A discloser's disclosure qualifies for protection from the time it is made to a Recipient, regardless of whether the discloser or the Recipient recognises that the disclosure qualifies for protection at that time.

8. Eligible recipients

8.1. A disclosure can be made directly to one of CASL's eligible recipients:

- (a) an officer or senior manager of CASL;
- (b) CASL's auditor; or
- (c) a person authorised by CASL to receive disclosures that may qualify for protection.

8.2. CASL encourages disclosures to be made internally to the persons set out below (referred to as Authorised Recipients):

Authorised Recipients

Chairman

Chief Executive Officer

Compliance Officer

CASL's Authorised Recipients can be contacted by email, letter, telephone or in person. Contact details for each Authorised Recipient are provided to all employees on internal CASL systems and will also be made available on CASL's website www.casl.com.au.

8.3. While CASL encourages disclosures to an Authorised Recipient, if the disclosure relates to the CEO or a Director of CASL, it should be raised directly with the Chair of CASL, who can be contacted in the ways outlined above. If the disclosure relates to the Chair of CASL, it should be raised directly with the Managing Director of CASL. Contact details for the Managing Director are provided to all employees on internal CASL systems and will also be made available on CASL's website www.casl.com.au.

9. Disclosure to external regulatory bodies

9.1. While CASL encourages disclosures to be made internally, a discloser may also choose to raise disclosable matters outside of CASL with:

- (a) ASIC;
- (b) APRA;
- (c) a Commonwealth authority prescribed in the Corporations Regulations; or
- (d) the Commissioner of Taxation or a registered tax agent or BAS agent who provides tax or BAS services to CASL (in relation to tax matters).

9.2. This Policy does not affect, or derogate from, any mandatory reporting requirement that CASL may have under any other Commonwealth or State/Territory law.

10. Disclosure to a legal practitioner

10.1. A report of a disclosable matter will also be protected if it is to a qualified legal practitioner for the purpose of taking legal advice or legal representation in relation to the operation of the whistleblower provisions under law.

11. Public interest disclosures and emergency disclosures

11.1. 'Public interest disclosures' also qualify for protection. These can be made to journalists and members of Parliament (Commonwealth, State or Territory) but only if the discloser complies

with the following strict requirements:

- (a) the discloser must have first made a qualifying disclosure to ASIC, APRA or a prescribed Commonwealth authority;
- (b) at least 90 days has passed since the qualifying disclosure was made;
- (c) the discloser does not have reasonable grounds to believe that action is being, or has been, taken to address the matters to which the qualifying disclosure related;
- (d) the discloser has reasonable grounds to believe that making a public interest disclosure would be in the public interest;
- (e) after 90 days has passed, the discloser must give the body to which the qualifying disclosure was originally made, a written notification that:
 - (i) includes sufficient information to identify the qualifying disclosure; and
 - (ii) states that the discloser intends to make a public interest disclosure; and
 - (iii) the extent of the information disclosed in the public interest disclosure is no greater than to inform the journalist or member of Parliament of the misconduct or improper state of affairs or circumstances, or other conduct falling within the scope of the Whistleblower Protections.

11.2. 'Emergency disclosures' also qualify for protection. These can be made to journalists and members of Parliament but only if the discloser complies with the following strict requirements:

- (a) the discloser must have first made a qualifying disclosure 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 or safety of one or more persons or to the natural environment;
- (c) the discloser gave notice to the body to which the qualifying disclosure was made that states:
 - (i) that they intend to make an emergency disclosure; and
 - (ii) includes sufficient information to identify the qualifying disclosure; and
- (d) the extent of the information disclosed in the emergency disclosure is no greater than is necessary to inform the journalist or member of Parliament of the substantial and imminent danger.

11.3. Before making a public interest or emergency disclosure, it is important that a discloser understands the criteria for protection under the relevant legislation. Disclosers should obtain independent legal advice prior to making any disclosure.

12. Anonymous Disclosures

12.1. A discloser can choose to make a disclosure anonymously and to remain anonymous over the course of the investigation and after the investigation is finalised. They may also decide not to answer questions that they feel could reveal their identity at any time, including during follow-up conversations. For example, they may do so because of concerns about their identity becoming known. If such concerns exist, a discloser may prefer to adopt a pseudonym (not their true

name) for the purposes of their disclosure, or to create an anonymised email address for the purpose of their disclosure. Regardless, anonymous disclosures are still capable of being protected under the Whistleblower Protections.

- 12.2. CASL encourages anonymous disclosers to maintain ongoing two-way communication (such as via an anonymised email address), so CASL can ask follow-up questions or provide feedback.

13. Protections

- 13.1. Important protections relating to confidentiality and detriment apply to disclosers who report disclosable matters in accordance with the Whistleblower Protections outlined in this Policy. The protections apply to internal disclosures as well as to disclosures to legal practitioners, regulatory and other external bodies, and public interest and emergency disclosures that are made in accordance with the Whistleblower Protections.
- 13.2. CASL takes contraventions of these protections very seriously and are likely to take disciplinary action against anyone for doing so. If a discloser has any particular concerns about this, they can raise them with an Authorised Recipient.
- 13.3. Civil and criminal sanctions also apply for breaches of these protections.

14. Confidentiality

- 14.1. Strict confidentiality obligations apply in respect of any disclosures that qualify for protection under the Whistleblower Protections.
- 14.2. Unless the discloser consents, it is against the law for a person to disclose a discloser's identity or any information that may lead to their identification (subject to the exceptions set out below).
- 14.3. If a discloser's disclosure qualifies for protection set out in this Policy, it is likely that the discloser will be asked to provide consent to the disclosure of their identity or information that is likely to lead to their identification. This would be to facilitate any investigation and/or resolution of the matter. If consent is withheld, it may not be possible to adequately investigate and respond (if at all) to the disclosure.
- 14.4. If a discloser does not consent to their identity being disclosed, it will still be lawful to disclose their identity to:
- (a) ASIC, APRA, a member of the Australian Federal Police (**AFP**) (within the meaning of the *Australian Federal Police Act 1979*) or the Commissioner of Taxation (in relation to tax matters);
 - (b) a legal practitioner for the purposes of obtaining legal advice or legal representation about the disclosure; or
 - (c) to a person or body prescribed by the Corporations Regulations.
- 14.5. It will also be lawful to disclose information in a disclosure without the discloser's consent if this is reasonably necessary for the purpose of investigating the disclosure (provided the information does not include the discloser's identity and CASL takes all reasonable steps to reduce the risk that the discloser will be identified as a result of the disclosure).
- 14.6. ASIC, APRA or the AFP can disclose the identity of a discloser, or information that is likely to lead to the identification of the discloser, to a Commonwealth, State or Territory authority for the purpose of assisting the authority in the performance of its functions or duties.

14.7. CASL takes the protection of a discloser's identity seriously. Steps it will take to help achieve this may include:

- (a) maintaining mechanisms to reduce the risk that the discloser will be identified from the information contained in a disclosure (such as redactions or referring to the person in gender neutral terms etc);
- (b) maintaining mechanisms for secure record-keeping and information-sharing processes and limiting access to records and information;
- (c) reminding each person (as appropriate) who is involved in handling and investigating a disclosure about the confidentiality requirements, including that an unauthorised disclosure of a discloser's identity may be a criminal offence.

14.8. In practice, it is important to recognise that a discloser's identity may still be determined if the discloser has previously mentioned to other people that they are considering making a disclosure, the discloser is one of a very small number of people with access to the information or the disclosure related to information that a discloser has previously been told privately and in confidence.

14.9. If there is a breach of confidentiality, a discloser can lodge a complaint with an Authorised Recipient or a regulator such as ASIC for investigation.

15. Detriments and threats of detriment prohibited

15.1. The protections also make it unlawful for a person to engage in conduct against another person that causes or will cause a detriment:

- (a) in circumstances where the person believes or suspects that the other person or a third person made, may have made, proposes to make or could make a qualifying disclosure; and
- (b) if the belief or suspicion held by that person is the reason or part of the reason for their conduct.

15.2. Threats of detriments will also be unlawful if the person making the threat intended to cause fear that a detriment would be carried out or was reckless as to whether the person against who it was directed would fear the threatened detriment being carried out.

15.3. Threats may be express or implied, conditional or unconditional. A discloser (or another person) who has been threatened in relation to a disclosure does not have to actually fear that the threat will be carried out.

15.4. The meaning of 'detriment' is very broad and includes:

- (a) dismissing an employee;
- (b) injuring an employee in their employment;
- (c) altering an employee's position or duties to their disadvantage;
- (d) discriminating between an employee and other employees;
- (e) harassing or intimidating a person;
- (f) harming or injuring a person;

- (g) damaging a person's property, reputation, business or financial position; and
 - (h) any other damage to a person.
- 15.5. It may be necessary during the course of an investigation to take reasonable administrative action to protect a discloser from detriment (e.g. changing the discloser's reporting line if the disclosure relates to a manager). Such conduct will not be detrimental conduct. A disclosure will also not prohibit CASL from managing (in the ordinary way) any separate performance issues that may affect the work of a discloser.
- 15.6. A discloser may be subject to disciplinary action if, in the course of investigating a disclosure, CASL determines that the discloser was complicit in the misconduct or improper state of affairs or has otherwise acted in an improper way.
- 15.7. Information about what CASL will do to provide support to and protect a discloser is set out in section 21. However, if a discloser believes they have suffered detriment they can lodge a complaint with an Authorised Recipient or a regulator such as ASIC or APRA for investigation.

16. Compensation and other remedies

- 16.1. A discloser can seek compensation or other remedies through the Courts if:
- (a) they suffer loss, damage or injury because of a disclosure; and
 - (b) CASL failed to take reasonable precautions and exercise due diligence to prevent the detrimental conduct.
- 16.2. CASL encourages disclosers to seek independent legal advice in regards to seeking compensation or other remedies.

17. CASL cannot pursue action against the discloser

- 17.1. A discloser is protected from any civil liability, criminal liability and/or administrative liability (including disciplinary action) for making a qualifying disclosure in accordance with the Whistleblower Protections, and no contractual or other remedy may be enforced or exercised against the discloser on the basis of a qualifying disclosure.
- 17.2. However, the protections do not grant immunity for any misconduct a discloser has engaged in that is revealed in their disclosure.

18. Are there any other protections that are available?

- 18.1. Disclosures may also amount to the exercise of a workplace right by an employee or contractor. CASL and its employees are 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.

19. Further steps and investigation of disclosures

- 19.1. CASL will acknowledge receipt of a disclosure immediately if possible, or where this is not possible, acknowledgement will be made as soon as practicable, assuming the 'discloser' can be contacted (including through anonymous channels).
- 19.2. CASL will assess disclosures to determine whether:
- (a) they fall within the Whistleblower Protections; and

- (b) an investigation is required – and if so, how that investigation should be carried out.
- 19.3. Generally, if an investigation is required, CASL will determine:
- (a) the nature and scope of the investigation;
 - (b) who should lead the investigation – including whether an external investigation is appropriate;
 - (c) the nature of any technical, financial or legal advice that may be required to support the investigation; and
 - (d) the anticipated timeframe for the investigation. Each investigation will be different which will impact the applicable timeframe. However, CASL's intent is to complete an investigation as soon as practicable.
- 19.4. Where practicable, CASL will keep the discloser informed of the steps taken or to be taken (or if no action is to be taken, the reason for this), and provide appropriate and timely updates, including about the completion of any investigation. However, the extent of the information provided, or whether it will be provided at all, will be subject to applicable confidentiality considerations, legal obligations and any other factors CASL considers relevant in the particular situation.
- 19.5. CASL may not be able to undertake an investigation, or provide information about the process etc, if it is not able to contact the discloser; for example, if a disclosure is made anonymously and the discloser has not provided a means of contact.
- 19.6. Where practicable, disclosers will receive updates about when the investigation has begun, while the investigation is in progress and after the investigation has been finalised. The frequency and timeframe of any updates may vary depending on the nature of the disclosure. CASL will also have regard to confidentiality considerations when providing updates.

20. Documenting and reporting the findings of an investigation

- 20.1. A report of the findings of an investigation will be provided to CASL's Board. The method for documenting and reporting the findings of an investigation will depend on the nature of the disclosure – but may include a summary report of the findings. Any reporting of findings will have regard to applicable confidentiality requirements. There may be circumstances where it may not be appropriate to provide details of the outcome to the discloser.

21. Support and fair treatment

- 21.1. CASL is committed to transparency and to building an environment in which people feel free to raise legitimate issues relating to CASL's operations. CASL is also committed to protecting disclosers from detriment.
- 21.2. When a qualifying disclosure under the Whistleblower Protections is made, CASL will reiterate the requirements of this Policy to relevant individuals to ensure the protections are not undermined.
- 21.3. Disciplinary action, which in the case of employees may include dismissal, may be taken against any person who causes or threatens to cause any detriment against a discloser.
- 21.4. CASL may also consider a range of other matters to protect a discloser from the risk of suffering detriment and to ensure fair treatment of individuals mentioned in a disclosure. Steps it will take to help achieve this may include:

- (a) assessing whether anyone may have a motive to cause detriment—information could be gathered from a discloser about:
 - (i) the risk of their identity becoming known;
 - (ii) who they fear might cause detriment to them;
 - (iii) whether there are any existing conflicts or problems in the workplace; and
 - (iv) whether there have already been threats to cause detriment.
- (b) analysing and evaluating the likelihood of each risk and evaluating the severity of the consequences;
- (c) developing and implementing strategies to prevent or contain the risks—for anonymous disclosures, it may be worthwhile assessing whether the discloser's identity can be readily identified or may become apparent during an investigation;
- (d) monitoring and reassessing the risk of detriment where required—the risk of detriment may increase or change as an investigation progresses, and even after an investigation is finalised;
- (e) taking steps to ensure that:
 - (i) disclosures will be handled confidentially, when it is practical and appropriate in the circumstances;
 - (ii) each disclosure will be assessed and may be the subject of an investigation;
 - (iii) the objective of an investigation is to determine whether there is enough evidence to substantiate or refute the matters disclosed;
 - (iv) when an investigation needs to be undertaken, the process will be objective, fair and independent;
- (f) assisting the discloser by providing support services such as counselling services and access to resources for strategies to manage stress, time or performance impacts resulting from the investigation;
- (g) allowing the discloser (where appropriate) to perform their duties from another location or reassigning the discloser to another role of the same level or making other modifications to the workplace or the way the discloser performs their duties; and/or
- (h) where necessary, undertaking specific interventions to protect a discloser where detriment has already occurred including disciplinary action, extended leave for the discloser and alternative career development and training.

21.5. If the disclosure mentions or relates to employees of CASL other than the discloser, CASL will take steps to ensure that those individuals are treated fairly. Typically, this would include giving those persons an opportunity to respond to the subject matter of the disclosure having regard to principles of procedural fairness. In addition, action would only be taken against such a person if there is cogent evidence of wrongdoing.

22. Vexatious or false disclosures

22.1. A discloser will only be protected if they have objectively reasonable grounds to suspect that the information that they disclose concerns misconduct or an improper state of affairs or

circumstances or other conduct falling within the scope of the Whistleblower Protections.

- 22.2. The protections under the Whistleblower Protections will not extend to vexatious or deliberately false complaints. If any investigation of a disclosure demonstrates that it was not made on objectively reasonable grounds, it will not be protected.
- 22.3. Depending on the circumstances, it may be appropriate for CASL to take disciplinary action against any person who does not have objectively reasonable grounds for their disclosure. Such action may include the termination of employment.

23. Other matters

- 23.1. This Policy will be made available to CASL's employees and officers via CASL's shared drive.
- 23.2. This Policy may also be made available on CASL's website at www.casl.com.au.
- 23.3. Further information on whistleblowing protections and general information on whistleblowing can be obtained from the ASIC website - <https://asic.gov.au/about-asic/asic-investigations-and-enforcement/whistleblowing/>.
- 23.4. This Policy is not intended to go beyond the legislation. This Policy is not a term of any contract, including any contract of employment and does not impose any contractual duties, implied or otherwise, on CASL.
- 23.5. This Policy may be varied by CASL from time to time, including as part of any review.

24. Review of the Policy

- 24.1. CASL will periodically review this Policy and accompanying processes and procedures, with a view to ensuring that the Policy is operating effectively.
- 24.2. The Policy will be reviewed no later than every two years.

25. Training

- 25.1. Information about this Policy will form part of the induction process for new employees and refresher training for existing employees may be offered from time to time.
- 25.2. Training will be provided to senior staff members, including those who have specific responsibilities under the Policy. The training will include information about CASL's processes and procedures for receiving and handling disclosures, training relating to confidentiality and the prohibitions against detrimental conduct.

This Policy was adopted by the board of directors of CASL Governance Ltd on 12 November 2020.