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| Policy number | 12 | Version | 1 |
| Drafted by | Michael Coleman | Approved by Board on | 18/07/2018 |
| Responsible person | AMS Board | Scheduled review date | 27/02/2019 |

INTRODUCTION

Australian Marist Solidarity (AMS) is committed to operating legally (in accordance with applicable legislation and regulation), properly (in accordance with organisational constitutions, policy and procedures), and ethically (in accordance with recognised ethical principles). Any person who reports misconduct, according to this policy, should not be personally disadvantaged in any way.

PURPOSE

The purpose of this policy is to:

- a) encourage reporting of matters that may cause harm to individuals or financial or non-financial loss to AMS or damage to its reputation;
- b) enable AMS to deal with reports from whistleblowers in a way that will protect the identity of the whistleblower and provide for the secure storage of the information provided;
- c) protect whistleblowers against reprisal by any person internal or external to the entity;
- d) help to ensure AMS maintains the highest standards of ethical behaviour and integrity.

SCOPE

This policy applies to all board members, staff members, contractors, external consultants, agencies, volunteers and project partners who operate under the auspices of AMS. It also applies to a person or organization who reports serious misconduct within or by an AMS employee/s.

POLICY

No person should be personally disadvantaged for reporting a wrongdoing. Not only may this misconduct be illegal, but it may directly oppose the values and mission of AMS.

AMS is committed to maintaining an environment where legitimate concerns are able to be reported without fear of retaliatory action or retribution.

When a person makes such a disclosure they are entitled to expect that:

- their identity remains confidential at all times to the extent permitted by law or is practical in the circumstances,
- They will be protected from reprisal, harassment or victimisation for making the report,
- Should retaliation occur for having made the disclosure then AMS will treat it as serious wrongdoing under this policy.

DEFINITIONS

A 'whistleblower' is a person who reports serious misconduct in accordance with this policy and procedures.

'Misconduct' includes behaviour that:

- is fraudulent or corrupt
- is illegal
- is unethical, such as acting dishonestly; altering company records; wilfully making false entries in official records; engaging in questionable accounting practices; or wilfully breaching AMS's code of conduct or the ACFID Code of Conduct
- is potentially damaging to AMS's reputation or cause serious financial or non-financial loss to AMS, such as maladministration
- endangers health and safety of the staff, volunteers, or general public
- involves and retaliatory action against a whistleblower for having made a wrongdoing disclosure.

MONITORING & REVIEW OF POLICY

AMS will undertake a review of this policy in accordance with the AMS Policy Review Process as it appears in the *AMS Operations Manual* or sooner if required.

AUTHORISATION



Signature of Board Secretary

Michael Coleman

Name of Board Secretary

18.7.18

Date of approval by the Board

RELEVANT LEGISLATION

Australia – [Public Interest Disclosure Act 2013](#)

ACT – [Public Interest Disclosure Act 2012](#)

NSW – [Public Interest Disclosures Act 1994](#)

NT – [Public Interest Disclosure Act 2008](#)

Queensland – [Public Interest Disclosure Act 2010](#)

South Australia – [Whistleblowers Protection Act 1993](#)

Tasmania – [Public Interest Disclosures Act 2002](#)

Victoria – [Protected Disclosure Act 2012](#)

Western Australia – [Public Interest Disclosure Act 2003](#)

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RESPONSIBILITIES

It is the responsibility of the AMS Board to establish and maintain the *AMS Whistleblower Policy*. It is the responsibility of the Chief Executive Officer to implement the *AMS Whistleblower Procedures*.

All AMS board members, staff, contractors, volunteers and project partners 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, as outlined in the *AMS Whistleblower Policy and Procedures*.

PROCEDURES

Dissemination of this policy

All AMS staff and volunteers will be made aware of this policy and their responsibilities to report wrongdoing to the Chief Executive Officer. It is the responsibility of the Chief Executive Officer to ensure all staff are adequately trained in understanding, identifying and (where possible) mitigating any activity that may breach the definitions of fraudulent or corrupt behaviour (as outlined in the *AMS Fraud Risk Management Policy*).

All AMS stakeholders have access to the *AMS Whistleblower policy* via the AMS website.

Reporting Procedures

1. **In contemplating the use of this policy** a person should consider whether the matter of concern may be more appropriately raised under the organisation's complaints handling policy or occupational health and safety procedures.
2. **Reports must** be made in good faith and be as thorough as possible. False or malicious allegations may result in disciplinary action.
3. **Receiving the report:**
 - 3.1. Where a whistleblower believes in good faith on reasonable grounds that any AMS employee, volunteer, or contractor has engaged in misconduct, as defined by this policy, that person must report their concern to:
 - 3.1.1. the CEO: or, if they feel that the CEO may be complicit in the breach,
 - 3.1.2. the Chair of the AMS Finance and Risk Committee, or
 - 3.1.3. a person or office independent of the organisation nominated by the organisation to receive such information, that person or office being the Marist Province of Australia Professional Standards Office; or
 - 3.1.4. where a breach of general law is alleged, the duly constituted legal authorities responsible for the enforcement of the law in the relevant area.
 - 3.2. Evidence to support such concerns should be brought forward at this time if it exists and should, where possible, be in writing and contain details of:
 - the nature of the allegations,
 - people or persons responsible,
 - facts substantiating the misconduct's occurrence,

- nature and whereabouts of any further evidence that would substantiate the complainant's allegations.

3.3. The absence of evidence will be taken into account in 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.

4. Inform the whistleblower that:

- 4.1. as far as lies in the organisation's power, the person will not be disadvantaged for the act of making such a report; however,
- 4.2. reporting such a breach does not necessarily absolve the complainant from the consequences of any involvement on their own part in the misconduct complained of.
- 4.3. Where the complainant wishes to remain anonymous:
 - 4.3.1. their wish shall be honoured except insofar as it may be overridden by due process of law.
 - 4.3.2. The complainant should be informed that the maintenance of such anonymity may make it less likely that the alleged breach can be substantiated in any subsequent investigation.
 - 4.3.3. 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 Procedures

1. On receiving a report of a breach, the CEO or Chair of the AMS Finance and Risk Committee shall:
 - 1.1. if they believe the complaint to be unquestionably trivial or fanciful, dismiss the allegation and notify the person making the allegation of their decision.
 - 1.2. if they believe the complaint to be neither trivial nor fanciful, put in motion the investigation process described below.
2. The CEO or Chair of the AMS Finance and Risk Committee shall be responsible for ensuring that an investigation of the charges is established and adequately resourced.
3. Terms of reference for the investigation will be drawn up to clarify the key issues to be investigated and that the scale of the investigation is in proportion to the seriousness of the allegation(s).
4. Throughout the investigation:
 - 4.1. All information obtained will be properly secured to prevent unauthorised access.
 - 4.2. All relevant witnesses will be interviewed and documents examined.
 - 4.3. Notes of all discussions, phone calls and interviews will be made.
 - 4.4. The principles of procedural fairness (natural justice) will be observed¹. 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.
 - 4.5. The person or persons conducting the investigation shall be as far as possible unbiased.

¹ 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.

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) and to the AMS Board.

Obligations

These procedures do not authorise any person 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 person to report internally, or
- existing reporting channels have failed to deal with issues effectively.

RELATED DOCUMENTS

- AMS Complaints Handling Policy
- Employee confidentiality agreements as included in employment contracts
- AMS Fraud Risk Management Policy

AUTHORISATION



Signature of CEO

ALLEN SHERRY

Name of CEO, AMS

19.07.2018

Date of approval by the Board