



**BCG Policy 9.1**  
**Whistleblower Policy**  
**Version 2020.1**

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## 1. Introduction

### 1.1. Purpose

In all of our undertakings Gateway strives to observe both the specific requirements and the spirit of codes and legislation relevant to the industry. It is our hope that if there were any illegal practices or general wrongdoing that they would be brought to the attention of senior officers of the business to be addressed without delay.

Therefore, this policy seeks to encourage disclosures of wrongdoing and to reassure potential disclosers, that in the event of them making a protected disclosure, there are many protections available to them under this policy and the whistleblower regime.

### 1.2. Policy Review

This policy will be reviewed in accordance with policy BCG 11 Policy Framework Development & Review by Risk Governance Division and submitted to the Board Risk Committee for approval.

In addition, the awareness of the policy and the procedure for making a disclosure will be assessed as part of ongoing feedback mechanisms such as surveys, with findings being reported to the relevant board committees.

### 1.3. Legislative/Regulatory Obligations

Under Part 9.4AAA, the Corporations Act 2001 requires all public companies to hold a Whistleblower policy from 1 January 2020. It also provides protection for whistleblowers.

ASIC provides the following guidance for whistleblowers and how information that ASIC receives will be treated.

- Regulatory Guide 270 Whistleblower policies
- Information Sheet 238 *Whistleblower rights and protections* (INFO 238)
- Information Sheet 239 *How ASIC handles whistleblower reports* (INFO 239)

The Taxation Administration Act 1953 provides protections under Part IVD for disclosures pertaining to tax matters.

## 2. Who is a Whistleblower?

The Corporation Act defines the following individuals as eligible whistleblowers in relation to a regulated entity.

- a) an officer or employee (e.g. current and former employees who are permanent, part-time, interns, managers, and directors);

- b) a supplier of services or goods to the entity (whether paid or unpaid), including their employees (e.g. current and former contractors, consultants, service providers and business partners);
- c) an associate of the entity;
- d) a relative, dependent or spouse of an individual (e.g. relatives, dependants or spouse of current and former employees, contractors, consultants, service providers, suppliers and business partners); and
- e) an individual prescribed by the regulations.

### **3. Matters that qualify as a protected disclosure**

#### **3.1. Types of wrongdoing that are covered**

A disclosable matter may involve misconduct, the improper state of affairs or circumstances, or the failure of Gateway to comply in the following matters:

- (a) constitutes an offence against, or a contravention of, a provision of any of the following:
  - (i) the Corporations Act;
  - (ii) the Australian Securities and Investments Commission Act 2001;
  - (iii) the Banking Act 1959;
  - (iv) the Financial Sector (Collection of Data) Act 2001;
  - (v) the National Consumer Credit Protection Act 2009;
- (b) constitutes an offence against any other law of the Commonwealth that is punishable by imprisonment for a period of 12 months or more;
- (c) represents a danger to the public or the financial system; or
- (d) is prescribed by regulation.

In practical terms a disclosable matter could involve:

- dishonest, corrupt or unlawful conduct or practices;
- fraud, money laundering or misappropriation of funds;
- offering or accepting a bribe;
- questionable accounting or auditing practices;
- failure to comply with, or breach of, legal or regulatory requirements; and
- 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.

### 3.2. Discouraging false reporting

The Whistleblower protections are designed for disclosures of a particular nature, as defined in section 3.1 above.

From time to time an individual may have grievances of a different nature that do not fall within the scope of these protections, they are encouraged to ensure that they understand the scope of this policy and to address matters outside the scope through other appropriate avenues.

It is important that we maintain the integrity of the Whistleblower policy/procedures, therefore the first step following any disclosure will be to ensure that it qualifies as a protected disclosure. Through this step, we would also want to deter and/or minimise the impact of any false or vexatious disclosures.

It is important to note that personal work-related grievances made by current or former employees in most circumstances would not qualify to receive protection under the Corporations Act.

Personal work-related grievance are those that relate to the discloser's current or former employment and tend to have implications for the discloser personally, but do not:

- (a) have any other significant implications for the entity (or another entity); or
- (b) relate to any alleged conduct about a disclosable matter.

Some examples of grievances that may be personal work-related grievances include:

- (a) interpersonal conflict between the discloser and another employee;
- (b) a decision that does not involve a breach of workplace laws; or
- (c) a decision to suspend or terminate the employment of the discloser, or otherwise to discipline the discloser.

A personal work-related grievance may still qualify for protection if:

- (a) it includes information about misconduct;
- (b) the entity 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 under the Corporations Act.

## 4. Who can receive a disclosure?

A whistleblower disclosure must be made to one of Gateway's eligible recipients or to one of the designated external bodies to qualify for protection as a whistleblower under the Corporations Act.

Gateway has designated the following groups or contacts as eligible recipients:

- Members of the leadership team
- The provider of Gateway's Employee Assistance Program
- Gateway's Internal Auditor
- Members of the Gateway Board

For current contact details refer to the Register of Eligible Recipients for Protected Disclosures.

Gateway encourages employees to make a whistleblower disclosure to one of the internal eligible recipients in the first instance if they feel comfortable to do so. This assists Gateway in addressing any wrong doing as quickly as possible while fostering a culture of confidence and trust.

If the employee does not feel comfortable in making a whistleblower disclosure to any of the contacts noted above, they may make a disclosure direct to:

- ASIC;
- the Australian Prudential Regulation Authority (APRA); or
- or another Commonwealth body prescribed by regulation.

Under certain circumstances, a 'public interest or emergency disclosure' can be made to a journalist or parliamentarian and qualify for protection, if a discloser has previously made a disclosure to one of the regulatory bodies listed above.

## **5. Seeking advice on making a disclosure**

Anyone seeking advice on making a disclosure, whether internal or external, can consult Gateway's Complaints Officer on any aspect of the process. These enquiries will be kept confidential. The contact details for the Complaints Officer are listed on the Register of Eligible Recipients.

Similarly, eligible recipients can gain confidential advice and assistance on the process from Gateway's Complaints Officer.

## **6. How to make a disclosure**

### **6.1. Making a disclosure to an internal eligible recipient**

The name and positions of those designated within Gateway as eligible recipients are listed on the Register of Eligible Recipients. A discloser wanting to make a disclosure can do so by contacting the eligible recipient via any of the means listed on the Register.

In order that the eligible recipient recognises the contact as a disclosure, it is recommended that any correspondence or contact is commenced with an upfront statement that the discloser wishes to make a protected disclosure to them as an eligible recipient.

While it may not be possible to make an anonymous protected disclosure to an internal eligible recipient, it is possible to make a confidential disclosure. In this instance the discloser's identity would not be disclosed to anyone other than the original eligible recipient without the express permission of the discloser.

## 6.2. Making a disclosure to a member of Gateway's Board

The Register of Eligible Recipients provides the contact details for making a disclosure to the Chair of Gateway's Board or to individual Directors. This includes the means by which a protected disclosure can be made anonymously via Gateway's Internal Auditor.

## 6.3. Making a disclosure to an external eligible recipient

Gateway also has two designated external channels by which a protected disclosure can be made. These are through the provider of Gateway's Employee Assistance Program or to the Internal Auditor, an external firm which undertakes Gateway's Internal Audit function. These details are listed on the Register of Eligible Recipients.

## 7. Legal protections for disclosers

An eligible whistleblower has the following protections available. These protections apply to both internal and external disclosers as outlined in section 4 above.

Protections available:

- (a) identity protection (confidentiality);
- (b) protection from detrimental acts or omissions;
- (c) compensation and other remedies; and
- (d) civil, criminal and administrative liability protection

For further details on these protections, refer to section 8 below.

## 8. Support and practical protection for disclosers

Support and protection will be available for disclosers if a discloser qualifies for protection as a whistleblower under the Corporations Act.

In addition, if a discloser sought legal advice or representation from a legal practitioner in relation to the operation of the whistleblower provisions, they would still be protected even if the matter was concluded to not be a disclosable matter.

- (a) The protections available to a discloser include the right to have their identity withheld throughout the investigation process. It is illegal for a person to identify a discloser or disclose information that is likely to lead to the identification of the discloser.

Gateway will take all necessary steps to ensure that this right is strictly observed in line with the requirements of the legislation. This will be achieved both through training of the eligible recipients and by carefully assessing the steps required to maintain confidentiality as part of the investigation process.

Should any breach of confidentiality occur, the discloser can lodge a complaint regarding the breach for investigation, to either Gateway or to the relevant regulator for investigation.

(b) Other protections include the right for a discloser not to suffer any detriment as a result of making a complaint. Actions that would be defined as detrimental include:

- dismissal of the employee;
- alteration of the employee's position or duties to their disadvantage;
- damage to their reputation; or
- other forms of harassment or intimidation.

Should any detrimental conduct occur as a result of making a complaint, the discloser can seek compensation and other remedies through the courts.

(c) Disclosers should seek appropriate legal advice if they believe that their protections have been violated.

(d) Disclosers making a protected disclosure in line with this policy are protected from any of the following in relation to their disclosure:

- civil liability, e.g. legal action for the breach of a contractual obligation, such as duty of confidentiality;
- criminal liability, e.g. attempted prosecution of the discloser for unlawfully releasing information; and
- administrative liability, e.g. disciplinary action for making the disclosure.

## **9. Handling and investigating a disclosure**

There will be a number of stages that follow a disclosure to an eligible recipient, including assessing the eligibility of the disclosure and the means by which it can be investigated, taking into account factors such as the scope of the matter and the discloser's preference in relation to anonymity.

### **9.1. Qualifying the eligibility of the disclosure**

On receipt of a disclosure, the eligible recipient should determine if the disclosure is an eligible disclosure which falls within the scope of the whistleblower protections. The discloser must be notified of the outcome of this assessment.

If the disclosure falls outside the scope of this policy and the whistleblower protections, the eligible recipient will advise the discloser of the means to address legitimate concerns in a more appropriate manner.

### **9.2. Planning the investigation process**

Having assessed a disclosure as a protected disclosure, the eligible recipient will determine the means by which the matter can be investigated with reference to the Guidelines for Investigation of Protected Disclosures. This will take into account access to information, confidentiality and related factors such as the need to redact information that may lead to

the identification of the discloser. It will also include an assessment of the timeframes needed to investigate the disclosure.

If the disclosure relates to a significant breach of the financial services law, the disclosure will be reported to ASIC and/or APRA within 5 business days of Gateway becoming aware of a potential breach.

### **9.3. Undertaking the investigation**

The investigation will be undertaken in line with the planned process, with progress and findings being reported to the appropriate party.

Unless determined otherwise due to a conflict of interest, the progress and findings of the investigation will be reported either to the Leadership Team or the Convenor of the Board Committee with responsibility for oversight of the area.

During, and at the conclusion of the investigation, all correspondence, documents, and reports relating to the investigation will be stored securely to maintain the confidentiality of the matter and the discloser.

### **9.4. Ensuring that the discloser is kept informed**

It is expected that the eligible recipient will confirm the planned process with the discloser and agree timeframes in which they would revert with updates. The eligible recipient will also notify the discloser of any obstacles or constraints that arise.

### **9.5. Outcome of the investigation**

The outcome of the investigation and subsequent actions taken will largely depend on the nature and the scope of the matter. In addition to reporting the findings to the appropriate party as noted in 9.3 above, the actions could include the following:

- (a) further investigation of the actions of specific employees;
- (b) additional disclosure to the relevant regulators; and
- (c) independent assessment of additional processes and controls required.

At the conclusion of the investigation, the discloser will be advised of the outcome of the investigation, to the extent that is appropriate, dependant on the nature of the findings.

## **10. Ensuring fair treatment of individuals mentioned in a disclosure**

If a specific employee is named or implicated as part of a disclosure, the actions or conduct of that employee will be investigated in line with Gateway's Workplace Dispute Resolution procedures. These procedures provide for the person concerned to be notified of the allegation/s against them and for them to be able to respond to the allegation/s. Should an investigation be required, it would be conducted in a confidential, fair and thorough manner by an independent party.

If an investigation determined that an individual had behaved in a manner that was illegal or in breach of legislation or company policy, they would be subject to the appropriate disciplinary action.

## 11. Ensuring that the policy is easily accessible

To ensure this policy is understood by all staff and also by eligible whistleblower recipients (if applicable), this policy will be made accessible via Gateway's intranet for current employees and by an external website link for eligible external whistleblowers as defined in section 2.

Training on whistleblower policy and procedures will be provided as part of the induction for new employees and also through ongoing yearly training.

Eligible recipients will be trained when they are appointed to this role and then through ongoing refresher training. The register of Eligible Recipients provides details of the eligible recipients who have been trained to receive disclosures.

## 12. Version Control

Version	Details of Amendments	Effective Date	Author/Reviewer	Approved by
2017.1	Extracted from BCG 9: Fit & Proper to create a separate policy	12 Sept 2017	Andrew Billing	Risk Committee 12 Sept 2017
2020.1	Full re-write of policy to meet the requirements of the Corporations Act 2001 - Part 9.4AAA	1 January 2020	Andrew Billing/ Caroline Bessemer	Risk Committee Dec2019