



Pacific Assist

Inspiring Self-reliance

Whistleblowing Policy

2020

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Policy Statement

In line with our four core principles of self-reliance, Pacific Assist is committed to personal responsibility, integrity, respect for the law, and treating individuals with respect and dignity. We are committed to being open, honest, ethical, transparent, and law abiding in all our endeavours. We expect all Pacific Assist representatives to exercise personal responsibility and integrity, to place the interests of the organisation over their own interests or those of any other person or persons, and to act in compliance with Australian law, and the laws of nations where we pursue our charitable purposes. As such, we seek to foster a culture where people are encouraged to raise concerns about unethical and/or unlawful conduct without fear of retribution.

Purpose

The purpose of this policy is to communicate Pacific Assist's stance on the reporting of misconduct, the protection in place for those who report misconduct, and to outline the processes to be followed for reporting misconduct.

Scope

This policy applies to the organisation as a whole and to all Pacific Assist projects and is to be adhered to by all personnel, volunteers, partners, and service providers as it relates to their involvement with Pacific Assist projects.

Definitions

Whistleblowing

The reporting of actual or suspected misconduct in an organisation that reveals financial crime, corruption, violation of human rights, other illegal activities, gross mismanagement, or any other serious wrongdoing.

Whistle-blower

A person who reports serious misconduct in accordance with this policy and who seeks the protection offered by the policy.

Misconduct

Behaviour that:

- Is fraudulent or corrupt
- Is illegal
- Is dishonest
- Is unethical
- Is negligent (particularly in relation to leadership, management, governance obligations, and the protection and well-being of others)
- Is seriously harmful or potentially seriously harmful to a Pacific Assist representative, stakeholder, participant, or beneficiary
- May cause serious financial or non-financial loss to Pacific Assist or damage its reputation
- Involves any other kind of serious wrongdoing including retaliatory action against a whistle-blower for having made a wrongdoing disclosure

Policy

It is Pacific Assist policy that personnel, volunteers, partners, primary stakeholders, participants, service providers, and any others engaging with Pacific Assist have a right, are encouraged, and are obligated to report actual or suspected misconduct. Reports of misconduct must be kept confidential and responded to effectively and in a fair and timely way.

Those who raise misconduct allegations (whistle-blowers):

- Have a right to do so safely and without fear of retribution
- Have a right to expect that their report will be treated confidentially (except where it is necessary to share information with law enforcement agencies, to protect others or the organisation from harm, or to carry out an effective and fair investigation)
- Have a right to raise misconduct allegations with external authorities

Pacific Assist representatives who make allegations of misconduct in good faith will not be subjected to any form of discrimination, even if the concerns turn out to be unfounded. Even though a whistle-blower may be implicated in the wrongdoing they must not be discriminated against in retaliation for making a report. Under this policy, whistle-blowers are protected from retaliation, harassment, victimisation, or discipline for making a misconduct report. Any discrimination as a result of reporting misconduct is considered serious misconduct and

should be reported to Pacific Assist's projects manager, the chair of the board, or an external regulator if any form of discrimination is at the hands of Pacific Assist leaders.

As a member of the Australian Council for International Development (ACFID), Pacific Assist adheres to the ACFID Code of Conduct. If Pacific Assist is thought to be in breach of the Code of Conduct, personnel, volunteers, partners, primary stakeholders, participants, service providers, and any others engaging with Pacific Assist can make a complaint regarding the alleged breach, including misconduct, directly to the [ACFID Code of Conduct Committee](#).

It is important to note that making a report may not protect the whistle-blower from the consequences resulting from involvement in the wrongdoing itself. Personal responsibility for misconduct is not waived as a result of reporting misconduct. However, taking the initiative to disclose the misconduct, a willingness to assist in the investigation, and acknowledgement of and remorse for their actions may be considered when determining disciplinary or other action.

Procedures

Making a Report of Misconduct

A person considering making a whistle-blower report is obliged to act in good faith and have reasonable grounds for the allegation of misconduct. A Whistle-blower must provide information to assist any inquiry/investigation of the misconduct reported.

To report misconduct, complainants can:

- Speak directly to their project coordinator
- Send an email to the project coordinator, projects manager, or info@pacificassist.org (received by the projects manager)
- Complaints of misconduct about the projects manager should be sent directly to the Chair (email and mobile are available on the Pacific Assist website under About Us: Our Team)
- Navigate to the Feedback/Make a Complaint page on the Pacific Assist web page www.pacificassist.org (see About: Feedback/Make a Complaint)
- Phone us on +61 427 681 232 (AUS)
- Mail a letter addressed to the projects manager, women and children's advocate, or the chair of the board to Level 4/420 Collins Street, Melbourne 3000 Victoria Australia

- Visit our office and make a face-to-face report
- Anonymous reports of misconduct can be made by mail or by completing the “Email A Complaint” form on the website (leave the name, phone contact, and email address sections blank)
- Provide feedback through monitoring and evaluation processes
- Reports of misconduct can also be made via the following Pacific Assist management meetings:
 - Project committee meetings
 - Pacific Assist planning and development meetings
 - Quarterly board of directors meetings

If any person believes that Pacific Assist has breached the ACFID Code of Conduct a report can be lodged directly on the ACFID website to the Code of Conduct Committee at www.acfid.asn.au .

Receiving and Recording a Report of Misconduct

All reports of misconduct must be immediately referred to the projects manager. Any reports of misconduct against the projects manager should be referred to the chair of the board of directors.

As soon as the complaint is received, use either the Child Safety and Wellbeing Complaint Form (see Appendix 1 of the Complaint Handling Record) or the Misconduct Report Form (see Appendix 2 of the Complaint Handling Record) to record the details of the complaint and manage the complaint. For complaints relating to child safety and well-being, refer to Pacific Assist’s Child Safety and Well-being Policy for an outline of specific procedures to follow. For all other reports of misconduct, follow the procedures outlined below.

Thank the whistle-blower for raising their concerns and assure them that the complaint will be handled in a fair and timely manner. Also inform the complainant that they will receive a progress update within five days outlining the intended resolution process and timeframe.

Handling Reports of Misconduct

Once a complaint has been received, the Projects Manager must assess its validity and seriousness, and the required response. To do this the Projects Manager:

- Asks the Whistle-blower to disclose any personal interest they may have in the matter. This must include full disclosure of any involvement the Whistle-blower has had in the misconduct.
- Ascertain as much of the following information as possible from the person making the misconduct report:
 - What occurred – describe the act that is suspected or has been witnessed. Also, describe what should have happened, so the nature of the misconduct being described is clear. Report:
 - What occurred
 - The sequence of events leading up to witnessing the act
 - Any actions taken to confirm suspicions or observations
 - How the misconduct arose – describe any factors that may have enabled the misconduct or contributed to the misconduct going undetected, being concealed or being previously unidentified
 - Where it occurred:
 - The physical location/address where the misconduct occurred
 - The work location of those perpetrating the misconduct or the location where the misconduct was observed
 - When the misconduct occurred – key dates of actions suspected or observed relating to the misconduct being disclosed. If a series of events occurred, record these in chronological order if possible
 - Who was involved – request the names and job titles of those associated with the misconduct if known or information that may help identify those that may have been associated with the misconduct. Also request names of others that may have witnessed or played a role in the acts being reported
- Informs the board of directors of the complaint, and consults with them about the course of action to be pursued moving forward (all courses of action should be in line with the policies and procedure outlined in this document). The projects manager and the board:
 - Assess the seriousness of the complaint (lacks substance; important concern – perceptions, miscommunications, and disputes that impact on wellbeing that are not misconduct; misconduct)
 - Does the weight and reliability of the evidence demonstrate that there is substance to the complaint

- What are the circumstances and context of the complaint
- Determine whether evidence was presented by the whistle-blower and witnesses in a credible and consistent manner
- Absence of evidence where it should logically exist
- Decide, in accordance with legal requirements and duty of care, whether the matter should/must be reported to police and make a report as soon as possible if required

NOTE: If an allegation involves conduct that might be criminal, there is evidence that the allegation is credible, and/or the complainant is at risk of danger, the matter should immediately be reported to Police.

Where the initial assessment leads to a decision to report the complaint to the police, an external investigator should be appointed to conduct a thorough investigation into the complaint. This is separate to the police investigation. It is required to meet Pacific Assist's obligation to comprehensively investigate, report on, and review child safety and wellbeing complaints. An external investigator is appointed because the seriousness of the complaint is deemed to be beyond the investigative experience and expertise of Pacific Assist officers.

NOTE: police should be consulted to ensure that any internal investigation does not interfere with a police investigation. An internal investigation should **only proceed with police clearance**.

Where the initial assessment does **not** lead to a decision to report the complaint to the police, the Project Manager proceeds as follows:

- In consultation with the board of directors, conducts a thorough investigation into the complaint:
 - Ensure the subject of allegation receives natural justice (also referred to as procedural fairness. For further information see Guidance for Organisations Investigating a Reportable Conduct Allegation, 2018, pp.18-20).
 - Establish the terms of reference (use the Terms of Reference Template)
 - Plan the investigation (use the Investigation Plan Template)
 - Conduct the investigation (see Guidance for Organisations Investigating a Reportable Conduct Allegation, 2018, pp.13-20, and, Toten, Workplace investigations: the dos and don'ts, 2020). The Whistle-blower may be asked to provide more information during the investigation.

- Inform the subject of allegation (use the Letter of Allegation Template)

NOTE: Careful consideration should be given to the best timing of a letter of allegation. While the subject of allegation is entitled to know the details of the allegation and be provided with an opportunity to respond, the subject of allegation might not be told about the allegation or the investigation until the evidence has been collected, including witness statements, documentation and any physical evidence. However, there should not be an unreasonable delay in giving notice about the allegation to the subject of allegation (for further information, see Guidance for Organisations Investigating a Reportable Conduct Allegation, 2018, p.12). In limited cases, for example, when an allegation is plainly false and can be dealt with and resolved in the favour of the subject of allegation without their involvement, it may be that they are not told about that allegation (Commission for Children and Young People, Information Sheet 13: Workers and Volunteers and the Reportable Conduct Scheme, 2018, p.3).

- Assess the evidence (for further information see Guidance for Organisations Investigating a Reportable Conduct Allegation, 2018, p.20)
- Prepares a report, including findings and recommendations to be submitted to the board of directors (Use the Investigation Report Template. For further information see Guidance for Organisations Investigating a Reportable Conduct Allegation, 2018, pp. 21-22).

NOTE: If the investigation uncovers evidence of criminal conduct, the matter should be **immediately reported** to police (see Guidance for Organisations Investigating a Reportable Conduct Allegation, 2018, p.8; and, Commission for Children and Young People Information Sheet 5: Other Reporting Obligations, 2017).

- In consultation and with the approval of the board of directors, implement recommendations from the report, including:
 - Submitting reports to external bodies such as police
 - Initiating disciplinary action
 - Adjusting policies and/or procedures
 - Adjusting communication information to reflect any changes in policy or procedure
 - Conducting training on any changes in policy and procedure

NOTE: in the case of criminal misconduct an external investigator will have conducted the investigation and made the findings and recommendations

- In consultation and with approval of the board of directors, take disciplinary action consistent with the findings and recommendations:

- Finding: Unsubstantiated

- Action options:

- Clarify any misunderstandings and deal with the issues
- Acknowledge different perspectives
- Remind those involved of expected standards of conduct
- Monitor the situation

- Finding: Complaint is substantiated – **Important concern** (perceptions, miscommunications, and disputes that impact on wellbeing that are **not misconduct**)

NOTE: Misconduct generally involves wrongful, improper, or unlawful conduct, motivated by a premeditated or intentional purpose or by a blatant disregard to the consequences of one's acts. Misconduct may involve either gross negligence or a deliberate departure from accepted standards.

- Action options:

- Clarify any misunderstandings and deal with the issues
- Clarify expectations of appropriate conduct
- Clarify roles, policies, and procedures
- Provide training or retraining as necessary
- Transfer personnel to other duties, or otherwise change roles, structures, processes, and/or the environment as needed
- Provide suitable personal or performance-based counselling as needed
- Other appropriate action

- Finding: Complaint is substantiated – **Misconduct**

- Disciplinary action options:

- **Immediately report criminal misconduct** to police (see Guidance for Organisations Investigating a Reportable Conduct Allegation, 2018,

p.8; and, Commission for Children and Young People Information Sheet 5: Other Reporting Obligations, 2017).

- Clarify expectations of appropriate conduct
 - Clarify roles, policies and procedures
 - Provide training or retraining as necessary
 - Transfer personnel to other duties, or otherwise change roles, structures, processes, and/or the environment as needed
 - Provide suitable personal or performance-based counselling as needed
 - Receive a written undertaking that inappropriate behaviour will cease
 - Set up additional support and/or supervision
 - Issue a caution in relation to the consequences of continued behaviour, and keep a copy in the individual's personnel file, and add to the investigation report
 - Implement a period of monitoring
 - Provide a mentor
 - Restrict access to computer equipment and/or remove document access
 - Terminate involvement with Pacific Assist
 - Other appropriate action
- Under the direction of the board of directors, the Projects Manager is responsible for ensuring that the determined course of action is implemented.
 - The Projects Manager should provide a written response outlining the resolution outcome. The reasons for it should be provided to the subject of allegation. This should include:
 - Whether the complaint had substance
 - The reasons for the decision
 - The source of information relevant to the decision
 - Any action to be taken as a result of the decision
 - In the case of non-criminal misconduct, if the subject of allegation refuses to accept the findings, recommendations, decisions, and/or disciplinary actions of the investigation, the Projects Manager and the board of directors can choose to:
 - Take the matter to the Dispute Settlement Centre of Victoria – a free mediation service offered by the Victorian Government (1300 372 888 / <https://www.disputes.vic.gov.au>)

- Take the matter to arbitration. The decision of the arbitrator is binding. For more information about arbitration contact the [Dispute Settlement Centre of Victoria](#) (1300 372 888) or [Victoria Legal Aid](#) (1300 792 387)
- If the complaint relates to a matter outside of Victoria, provide determine a relevant interstate, national, or international dispute settlement agency to mediate the dispute
- The Projects Manager should provide a written response to the complainant informing them that an investigation has taken place, has been completed, and that it resulted in an appropriate outcome. To maintain confidentiality and comply with privacy requirements do not share specific details and outcomes. The response should also include a note that if the complainant is unhappy with the outcome of the investigation they can appeal to an external dispute resolution body. Options for external review include:
 - Take the matter to the Dispute Settlement Centre of Victoria – a free mediation service offered by the Victorian Government (1300 372 888 / <https://www.disputes.vic.gov.au>)
 - Take the matter to arbitration. The decision of the arbitrator is binding. For more information about arbitration contact the Dispute Settlement Centre of Victoria (1300 372 888) or Victoria Legal Aid (1300 792 387)
 - If the complaint relates to a matter outside of Victoria, determine a relevant interstate, national, or international dispute settlement agency to mediate the dispute

Throughout the process of receiving and responding to a complaint, the Projects Manager and the board of directors should ensure that record keeping, information sharing, and privacy obligations are met. To do this, the Projects Manager and the board of directors:

- Adhere to Pacific Assist’s record keeping policy and procedures
- Adhere to Pacific Assist’s privacy policy and procedures
- Record all misconduct complaints (use the Complaint Handling Record)
- Keep a record of action taken, including details of complaint assessments, internal investigations, and reports made to statutory authorities or professional bodies (use the Complaint Handling Record and file with it the investigation report)

NOTE: The **file path** for all documents referenced or referred to in this section is: "P:\Pacific Assist\Business Management\Administration\Governance & Compliance\Policies & Procedures\Policies & Procedures Development Tools\Conducting Investigations.

Induction and Training

As part of their induction, and at least semi-annually, project coordinators, the projects manager, and directors will review:

- Complaints Handling Policy
- Complaints Handling Reports - Template
- Child Safety and Well-being Policy
- Safeguarding Policy
- Safeguarding Incident Response Plan
- Fraud and Corruption Prevention Policy
- Whistleblowing Policy