



## 1. Introduction

The Leprosy Mission Australia has an overarching commitment to glorifying God in all we do. We seek to conduct our activities honestly and with integrity at all times and to commit to the highest standards of transparency and accountability.

We aim to always act truthfully and justly but acknowledge that, even with the best of intentions and with checks in place, malpractice, inappropriate behaviour and dishonesty might occur.

Queries about this policy can be directed to the Designated Safeguarding Lead (DSL) listed at the end of this Policy. If you are uncertain whether something is within the scope of this policy, advice should be sought from the TLMA DSL.

## 2. Background

Whistleblowing protections provide avenues for individuals reporting wrongdoing, within or by organisations, in a manner that allows them to be safe from reprisals. It will ensure protections are upheld for individuals who take the courageous step to shed light on behaviour that is illegal, immoral or dangerous.

While TLMA will accept whistleblowing complaints from any person regardless of their association with TLMA, Part 9.4AAA of the *Corporations Act 2001* establishes a whistleblower protection regime, which applies to "regulated entities". TLMA is a "regulated entity". The *Taxation Administration Act 1953* also has application.

In considering TLMA's obligations, we have regard to the whistleblower requirements as contained in Australian Standard, *Whistleblower Protection Programs for Entities* (AS 8004-2003).<sup>1</sup>

## 3. Protections available to whistleblowers under the Corporations Act

Part 9.4AAA of the *Corporations Act 2001* provides an "eligible whistleblower" with certain protections in circumstances where the individual makes "protected disclosures" to "eligible recipients". Under the Corporations Act, protections for an *eligible whistleblower* include the following:

- (a) Protection of information provided by an eligible whistleblower.
- (b) Protections for an eligible whistleblower against legal action.
- (c) Protections for an eligible whistleblower from detriment.

### 3.1 Protection of information provided by whistleblowers

#### a) Protection by TLMA

If an eligible whistleblower gives a whistleblower report to TLMA, you can ask for your identity, or information that is likely to lead to your identification, to be kept confidential. Despite your request, TLMA may report the information to ASIC or the Australian Federal Police, or to a lawyer for advice about the whistleblower protections.

In TLMA's investigation of the concerns raised in an eligible whistleblower's report, TLMA must take reasonable steps to ensure that information likely to lead to your identification is not

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<sup>1</sup> It should be noted that this Australian Standard was withdrawn in 2015. It will ultimately be replaced by ISO 37002 in or around 2021. Therefore, TLMA will continue to integrate AS 8004 within our practice. For further details, see <https://www.standards.org.au/standards-catalogue/sa-snz/other/sa/as--8004-2003>.

disclosed without your consent. However, TLMA may face difficulties investigating or internally addressing or correcting the misconduct unless you provide some approval for TLMA to use your information.

#### **b) Protection by ASIC**

ASIC must keep information provided by a whistleblower confidential and may not disclose either the information or the identity of the whistleblower without the whistleblower's consent or unless that disclosure is specifically authorised by law. ASIC can also resist producing documents to a court or tribunal where it may reveal a whistleblower's identity, unless a court or tribunal thinks it necessary or in the interests of justice.

### **3.2 Protections for whistleblowers against legal action**

The Corporations Act protects an eligible whistleblower against certain legal actions related to making the whistleblower disclosure, including:

- (a) criminal prosecution (and the disclosure cannot be used against the whistleblower in a prosecution, unless the disclosure is false);
- (d) civil litigation (such as for breach of an employment contract, duty of confidentiality, or other contractual obligation); and
- (e) administrative action (including disciplinary action).

If you are the subject of an action for making a whistleblower disclosure, you may rely on this protection in your defence.

This protection does not grant immunity to you for any misconduct in which you were involved that is revealed in the disclosure.

### **3.3 Protections for whistleblowers from detriment**

#### **a) Taking action against people who cause or threaten detriment**

The Corporations Act makes it illegal (through a criminal offence and civil penalty) for someone to cause or threaten detriment to you because they believe or suspect that you have made, may have made, or could make a whistleblower disclosure. The offence and penalty require that the detriment be the result of an actual or suspected whistleblower disclosure.

#### **b) Compensation**

You can seek compensation through a court if you suffer loss, damage or injury for making your disclosure. If you are, or were, an employee and experienced detriment at work for reporting misconduct, the court may order the person causing you detriment or your employer to compensate you.

You can also pursue other remedies, such as:

- (i) your employer reinstating you to your original position or a comparable position
- (ii) the court issuing an injunction to prevent or stop detrimental conduct
- (iii) the person, company or organisation that caused you detriment or threatened you with detriment apologising to you.

#### 4. Disclosures not protected

To be clear, a disclosure of information by an individual will not receive whistleblower protection to the extent that the information disclosed:

- (a) concerns a personal work-related grievance<sup>2</sup> of the discloser (unless made in accordance with item (c)); and
- (b) does not concern a contravention, or an alleged contravention, of the victimisation prohibitions in the *Corporations Act 2001* that involves detriment caused to the discloser or a threat made to the discloser.

#### 5. Disclosures protected for whistleblowers

##### 5.1 Who is an “eligible whistleblower”?

###### An “eligible whistleblower” at law

To be an “eligible whistleblower”, the individual must be a current or former:

- (a) employee of TLMA
- (b) officer of TLMA or a related company or organisation
- (c) contractor, or an employee of a contractor, who has supplied goods or services to TLMA, or a related company or organisation;
- (d) volunteer to TLMA, or a related company or organisation;
- (e) “associate” of TLMA [usually a person with whom TLMA acts in concert]; or
- (f) spouse, relative or dependant of one of the people listed above.

###### Extended protection

In addition to anyone who is entitled to whistleblower protection under the Corporations Act, TLMA extends the protection to which this policy refers to:

- Australian Volunteers for International Development (AVID) program participants working with TLMA-funded projects in Implementing Countries; and
- National Council members
- Visitors to TLMA-funded Implementing Country programs and projects
- TLMA-organised Insight Trip participants

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<sup>2</sup> Information concerns a personal work-related grievance of the discloser if:

- (a) the information concerns a grievance about any matter in relation to the discloser’s employment, or former employment, having (or tending to have) implications for the discloser personally, such as:
  - (i) an interpersonal conflict between the discloser and another employee;
  - (ii) a decision relating to the engagement, transfer or promotion of the discloser;
  - (iii) a decision relating to the terms and conditions of engagement of the discloser;
  - (iv) a decision to suspend or terminate the engagement of the discloser, or otherwise to discipline the discloser; and
- (b) the information:
  - (i) does not have significant implications for the regulated entity to which it relates, or another regulated entity, that do not relate to the discloser; and
  - (ii) does not concern conduct, or alleged conduct, to which item 0 refers.

## 5.2 "Protected disclosures"

A disclosure will be a "protected disclosure" where it is made by an "eligible whistleblower" and that person has reasonable grounds to suspect that that the information:

- (a) concerns misconduct, or an improper state of affairs or circumstances, in relation to TLMA, a related body corporate of TLMA, the tax affairs of TLMA, or the tax affairs of an associate of TLMA, such as (but not limited to):
  - (i) illegal behaviour (such as sexual offences, abduction, stealing money or property);
  - (ii) breaches of legal obligations (including negligence, breach of contract, breach of administrative law etc.);
  - (iii) miscarriage of justice in the conduct of organisational processes
  - (iv) abuse of authority (such as bullying, bribery and blackmail etc.);
  - (v) fraudulent or corrupt conduct;
  - (vi) acts creating risk to health and safety, in Australia or in the field;
  - (vii) sexual, physical or emotional harassment, exploitation or abuse of members of staff, volunteers or beneficiaries;
  - (viii) acts causing environmental damage (such as illegal refuse disposal etc.);
  - (ix) the concealment of any of the above; or
- (b) indicates that TLMA or a related body corporate, or an officer or employee of TLMA or a related body corporate, has engaged in conduct that:
  - (x) constitutes an offence against, or a contravention of, a provision of any of:
    - (A) the Corporations Act 2001;
    - (B) the Australian Securities and Investments Commission Act 2001;
    - (C) the Banking Act 1959;
    - (D) the Financial Sector (Collection of Data) Act 2001;
    - (E) the Insurance Act 1973;
    - (F) the Life Insurance Act 1995;
    - (G) the National Consumer Credit Protection Act 2009;
    - (H) the Superannuation Industry (Supervision) Act 1993;
    - (I) an instrument made under an Act referred to in any of the foregoing; or
  - (ii) constitutes an offence against any other law of the Commonwealth that is punishable by imprisonment for a period of 12 months or more; or
  - (iii) represents a danger to the public or the financial system; or
  - (iv) is prescribed by the Corporation Regulations 2001 (none prescribed as at the date of this policy).

## 5.3 Who can receive disclosures qualifying for protection?

Provided that the disclosure meets the criteria in item 5.2 of this policy, protected disclosures by an eligible whistleblower will receive whistleblower protection when disclosed to those identified in this item 5.3.

### (a) Eligible recipients

Each of the following is an "eligible recipient" of TLMA:

- (i) An officer or senior manager of TLMA or a related body corporate.
- (ii) TLMA's auditor, or a member of an audit team conducting an audit of TLMA or a related body corporate.
- (iii) An actuary of TLMA.

- (iv) A person authorised by TLMA to receive eligible disclosures that may qualify for protection under this Part 9.4AAA of the Corporations Act 2001. At the end of this policy is a list of personnel and organisations authorised by TLMA to receive protected disclosures.

(b) Regulators

A protected disclosure can be made to:

- (i) ASIC;
- (ii) APRA: or
- (iii) a Commonwealth authority prescribed for the purposes of paragraph 1317AA(1)(b)(iii) of the *Corporations Act 2001*.

(c) Legal practitioner

A disclosure of information may be made to a legal practitioner for the purpose of obtaining legal advice or legal representation in relation to the operation of the whistleblower protection regime under the *Corporations Act 2001*.

(d) Public Interest Disclosures and Emergency Disclosures

A disclosure meets the definition of Public Interest Disclosure or Emergency Disclosure and is made to a member of Federal or State (or Territory) Parliament, or to a journalist<sup>3</sup>, where:

Public Interest Disclosure

A Public Interest Disclosure is a disclosure;

- (i) a disclosure has already been made by that person to a regulator identified at item 5.3(b); and
- (ii) at least 90 days has passed; and
- (iii) the eligible whistleblower:
  - (A) does not have reasonable grounds to believe that action is being, or has been, taken to address the matters to which the previous disclosure related; and
  - (B) has reasonable grounds to believe that making a further disclosure of the information would be in the public interest; and
- (iv) the extent of the information disclosed in the public interest disclosure is no greater than is necessary to inform the recipient of the misconduct or the improper state of affairs or circumstances.

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<sup>3</sup> Subsection 1317AAD(3) of the *Corporations Act 2001* defines **journalist** as a person who is working in a professional capacity as a journalist for any of:

- (a) a newspaper or magazine;
- (b) a radio or television broadcasting service;
- (c) an electronic service (including a service provided through the internet) that:
  - (i) is operated on a commercial basis, or operated by a body that provides a national broadcasting service (within the meaning of the Broadcasting Services Act 1992); and
  - (ii) is similar to a newspaper, magazine or radio or television broadcast.

## Emergency Disclosure

An Emergency Disclosure is a disclosure where:

- (i) a disclosure has already been made by that person to a regulator identified at item 5.3(b); and
- (ii) the eligible whistleblower:
  - (A) 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; and
  - (B) gives the body to which the previous disclosure was made a written notification that:
    - (I) includes sufficient information to identify the previous disclosure; and
    - (II) states that the discloser intends to make an emergency disclosure; and
    - (III) the extent of the information disclosed in the emergency disclosure is no greater than is necessary to inform the recipient of the substantial and imminent danger.

## **6. How TLMA will support whistleblowers and protect them from detriment**

- Investigate whistleblower complaints thoroughly, promptly and confidentially.
- Provide outcome advice to the whistleblower in accordance with confidentiality requirements.<sup>4</sup>

### **6.1 Anonymity**

TLMA hopes that TLMA workers, partners, customers and beneficiaries will feel able to voice their concerns openly under this policy. However, if a whistleblower wants to remain anonymous, TLMA will make every effort to keep that individual's identity secret. In some instances, other parties may need to be advised of the complaint issues (such as relevant authorities or an external investigator of any TLMA action etc). In these circumstances, the DSL will first discuss this requirement with the whistleblower as well as the disclosure of their identity to the relevant authorities. Written consent will be obtained from the whistleblower prior to the release of their details to another party. In circumstances requiring urgent action, TLMA may initially obtain verbal consent from the whistleblower to release their details to the relevant authority.<sup>5</sup>

Proper investigation may be more difficult or impossible if TLMA is unable to obtain further information from a whistleblower. It may also hinder our ability to establish the credibility of the disclosure. Whistleblowers who are concerned about possible reprisals if their identity is revealed, should contact the DSL, Board Safeguarding Lead or Safecall to discuss their options for anonymity and the protections provided to them under the whistleblower provisions. Further advice can be sought through the DSL or Safecall for reporting options (contact details available at the end of this policy).

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<sup>4</sup> As specified by the AS 8004-2003, November 2004, p8 which states that a whistleblower protection policy "should also be a guarantee that whistleblowers will receive feedback".

<sup>5</sup> In accordance with AS 8004-2003, November 2004, p10 which states "Information received from a whistleblower must be held in the strictest confidence and must only be disclosed to a person not connected with the investigation of the matters raised – (a) if the whistleblower has been consulted and consents in writing to the disclosure; or (b) if the entity or the entity's whistleblower protection officer or whistleblower investigations officer are compelled by law to do so."

## 6.2 Protection from victimisation and detriment

Ensure no TLMA worker, partner or beneficiary will be victimised for raising a concern or an issue under this policy.

## 7. How TLMA will investigate disclosure qualifying for protection

### 7.1 How TLMA will investigate protected disclosures

If the matter is determined as a eligible whistleblowing complaint, further action is to be initiated as soon as possible, but no later than seven working days of the matter being assessed as a whistleblowing matter. The following steps will be taken

- (a) The designated officer will determine the appropriate process to be followed.
- (b) The Whistleblower will be made aware of protections afforded to them, along with the relevant timeframes.
- (c) The confidential report will be provided to the CEO in the first instance, as well as the DSO at the international office.
- (d) Depending on the locality of the incident, the CEO will liaise with the DSO to keep other country leaders informed as appropriate.
- (e) If any external agencies need to be advised, this will be discussed with the Whistleblower.
- (f) The Whistleblower will be kept informed throughout the process and advised on the resolution of the matter.

If the matter is determined not to be a whistleblowing complaint, the issues are to be addressed in accordance with a more relevant TLMA policy. For example, if the matter relates to anger directed from one TLMA worker to another but does not involve violence or bullying factors then the matter would be best addressed in accordance with other employment grievance strategies such as informal resolution as outlined in the Safeguarding policy.

For further details refer to Attachment 2 for structure of complaint avenues in relation to workplace issues.

TLMA will consider termination of contracts or funding for Partners if we have reason to believe they have not responded appropriately to allegations of misconduct or maintained standards in alignment with our Safeguarding position.

### 7.2 Timeline for complaints<sup>6</sup>

Once received, whistleblowing complaints will be assessed to determine whether the matter requires investigation.

The table below is a guide to inform TLMA's response to whistleblowing matters from the date of receipt of disclosure.

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<sup>6</sup> AS 8004-2003, November 2004, p10 states "A program for timely reporting to the whistleblower on progress on dealing with the complaint and a timeframe for reporting should be established."

ACTION	TIMEFRAME FOR COMPLETION
Assessment	7 working days (from receipt of disclosure)
Investigation	21 working days (from end of assessment phase)
Reporting to authorities (if applicable)	4 working days (from receipt of disclosure)
Finalise report	4 working days (from conclusion of investigation)
Providing outcome advice	5 working days (from conclusion of investigation)
Issuing decision – discipline	7 working days (from advising Responsible Person of investigation outcome)

### 7.3 Complaint mechanisms

Matters relating to Safeguarding or CAVAP concerns should be disclosed to either the TLMA DSL, Deputy DSL, Board Safeguarding Lead or Safecall service. However, in the event that an individual becomes aware of serious misconduct performed by TLMA worker/s, they should contact one of these reporting mechanisms to advise that a suspected Whistleblowing matter has been brought to their attention. Seeking whistleblower status allows the individual receiving the complaint to be aware of any relevant issues that need to be considered at the time of initial contact with the Notifier.

This policy should not be used for complaints relating to minor workplace issues, such as desk arrangement or fan/air conditioning placement etc, instead this policy intends to deal with significant misconduct. Therefore, measures will be taken to protect the validity of issues reported in accordance with this policy.

If you are uncertain whether something is within the scope of this policy, advice should be sought from the TLMA DSL, whose contact details are listed at the end of this policy.

The DSL should be advised of any concerns reported to other TLMA workers through the course of their duties, particularly if the matter appears to amount to a whistleblower complaint. This may include concerns obtained by TLMA staff from beneficiaries or third parties indicating serious misconduct by other TLMA staff members or partners. In these circumstances, the whistleblower provisions will be afforded to the individual making the initial report of misconduct. For TLMA staff, the whistleblower protections will be applied in circumstances where the individual is fearful of reprisal or has expressed an incident of reprisal having occurred.

### 7.4 Alternate complaint mechanisms

It is important for personnel to be aware of alternate avenues to raise complaints. Whilst TLMA endeavours to respond to complaints and concerns in a professional and timely manner, we acknowledge that there may be circumstances where individuals would prefer to access external avenues for reporting their complaints. Refer to Whistleblower Procedure (Attachment 2) for further details.

### 7.5 Partner Organisations

In relation to concerns raised against Partner staff, the DSL or CEO will formally advise the Head of the Partner organisation of the allegations for their response in accordance with their policies and procedures. If the complaint matter relates to the Head of the Partner organisation, then

appropriate measures will be taken in consultation with TLMA CEO and Board Safeguarding Lead to notify relevant authorities, including local police or government oversight bodies of the concerns.

## 7.6 Accountability

TLMA may be required to report matters dealt with under this policy to authorities and other organisations including:

- Local authorities in Australia and/or the Implementing Country, such as police
- Australian Federal Police (AFP)
- the Australian Charities and Not-for-profits Commission (ACNC)
- the Australian Council for International Development (ACFID)
- the Victorian Commission for Children and Young People (CCYP)
- the Department of Foreign Affairs and Trade (DFAT)
- the Fair Work Commission
- the Fair Work Ombudsman
- The Leprosy Mission Global Fellowship
- WorkSafe Victoria – state health and safety regulator.

## 8. How TLMA will ensure fair treatment of employees who are mentioned in protected disclosures, to whom such disclosures relate

### Due process

Truth and integrity are paramount in all aspects of our response to whistleblowing matters. Hence our values are to be upheld in the pursuit of an honest and accurate account of the issues or events reported. We will implement procedural fairness as we respond to the issues raised and provide an outcome based on facts, analysis of evidence and sound reasoning. Refer to Safeguarding Procedure for further details regarding TLMA investigation process.

### False reports

False reports, which are therefore not a protected disclosure, may be subject to disciplinary action (including, depending on the circumstances, termination or disengagement).

## 9. How this policy will be made available to officers and employees

Our induction processes make staff and officers aware of all the safeguarding policies and procedures including Whistleblowing protections. Regular training is undertaken with staff each year.

In line with DFAT safeguarding requirements, TLMA commits to providing these partner organisations with advice and training in developing a complaint policy and procedure that ensures whistleblowers do not suffer reprisal for raising concerns about misconduct by partner personnel. This is reviewed annually as part of the Quality Assurance Review conducted with field partners.

TLMA will implement an ongoing program to make all of its employees, volunteers and other persons with whom we deal closely, aware of the TLMA Code of Conduct and this policy and its implementation.

## 10. Avenues of review

As a matter of procedural fairness, personnel will be advised of their options to lodge a request for review of a whistleblowing matter through an external agency. This includes:

- Australian Charities and Not-for profits Commission (ACNC) – national charity regulator accepts complaints including allegations about a CEO or a Board Member.

- Australian Council for International Development (ACFID) – The Code of Conduct Committee provides an independent mechanism to address a complaint about an ACFID member (which includes TLMA) having breached the Code of Conduct.<sup>7</sup>
- Australian Securities and Investments Commission (ASIC) – maintains, facilitates and improves the performance of the financial system and entities in it.

If a TLMA employee believes they have been unfairly dismissed they should contact the Fair Work Commission (within 21 days of the dismissal becoming effective).<sup>8</sup>

## 11. Key Legislation and Standards

For further details regarding relevant legislative requirements and standards, refer to:

- ACFID Code of Conduct - Commitment 9.2 of ACFID Code of Conduct “We protect, value and support our people”
  - [Compliance Indicator 9.2.2 Members enable staff and volunteers to make complaints and report wrongdoing through fair, transparent and accessible procedures](#)
- ACNC Governance Standards<sup>9</sup> and External Conduct Standards<sup>10</sup>
- [Australian Securities and Investments Commission Act 2001](#)
- [Corporations Act 2001](#)
- [Fair Work Act 2009](#)
- [Occupational Health and Safety Act 2004](#)
- [Work Health and Safety Act 2011](#)
- [Work Health and Safety Regulations 2011](#)
- [Workplace Injury Rehabilitation and Compensation Act 2013](#).

## 12. Authorised persons to whom a protected disclosure may be made

TLMA Designated Safeguarding Lead (DSL)	Name: Nerida Collard Email: <a href="mailto:neridac@leprosymission.org.au">neridac@leprosymission.org.au</a> Post: Mark as “Confidential” Nerida Collard PO Box 293 Box Hill, Victoria 3128 Phone: 03 9890 0837
Deputy DSL	TBC
Country Leader / Chief Executive Officer (CEO)	Name: Sheldon Rankin Email: <a href="mailto:sheldonr@leprosymission.org.au">sheldonr@leprosymission.org.au</a> Post: Mark as “Confidential” Sheldon Rankin PO Box 293 Box Hill, Victoria 3128 Phone: 03 9890 0835
TLMA Board Safeguarding Lead	Name: Steven Meredith Email: <a href="mailto:steve.meredith@live.com.au">steve.meredith@live.com.au</a>
Safecall (External independent reporting agency)	Phone: 1800 312 928 Online: <a href="http://www.safecall.co.uk/report">www.safecall.co.uk/report</a>

<sup>7</sup> For further details refer to <https://acfid.asn.au/content/complaints-0>

<sup>8</sup> For further details refer to <https://www.fwc.gov.au/termination-of-employment/unfair-dismissal>

<sup>9</sup> For details refer to <https://www.acnc.gov.au/for-charities/manage-your-charity/governance-standards/facts-about-acnc-governance-standards>

<sup>10</sup> For details refer to <https://www.acnc.gov.au/node/3202006>

TLM Global Fellowship Designated Safeguarding Officer (DSO)	Name: Jannine Ebenso Email: <a href="mailto:DSO@leprosymission.org">DSO@leprosymission.org</a>
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### 13. Related documents

TLMA:

- Anti-Corruption Policy and Procedure
- Child and Vulnerable Adults Protection Policy and Procedure
- Counter-Terrorism Policy
- Diversity Policy
- Human Rights Policy
- Safeguarding Policy and Procedure
- Staff Manual HR Guidelines

TLM's wider safeguarding and protection measures are implemented through the following policies and procedures:

- Safeguarding Policy
- Safety and Security Policy
- Bullying and Harassment Policy

### 14. Policy Review

This Policy will be reviewed in 5 years.

#### Revision History

Version	Date	Author	Summary
3.0	20 September 2017	N Collard	Draft created for new revisions
3.1	14 November 2018	S D'Arcy	Amendments following review of policies and development of Safeguarding suite of policies and procedures
3.2	26 January 2019	S D'Arcy	Amendments following feedback from Nerida Collard and April Holmes
3.3	7 February 2019	S D'Arcy	Amendments following feedback from the Human Resources and Governance (HRG) Committee
3.4	25 February 2019	S D'Arcy	Amendments following feedback from the International Programs Committee and clarity from HRG Committee
3.5	16 April 2019	N Collard	Updated Pathways for complaints added
4.0	7 March 2019	N Collard	New draft created for next revision
4.1	31 October 2019	A Walker	Revised to accommodate amendments to Australian whistleblower protection laws that took effect 1 July 2019.
4.2	1 November 2019	A Holmes	Reviewed from IP perspective
4.3	11 November 2019	N Collard	Reviewed
4.4	22 November	N Collard	Updated from HRG discussion and revised procedure.

**Document Approval History**

Version	Date	Approved by
1.0	12 December 2016	TLMA Board
2.1	2 September 2017	TLMA Board
3.4	4 March 2019	TLMA Board
4.4	2 December 2019	TLMA Board

**Attachments**

- 1. Definitions
- 2. Pathways for complaints

## Attachment 1: Key Definitions and Concepts

<b>Beneficiary</b>	An individual in receipt of programs, services and assistance from TLMA. In most cases, this is a person located in one of the six countries we have programs operating in and may be affected by leprosy and/or disability.
<b>CAVAP</b>	Child and Vulnerable Adult Protection
<b>Customer/s</b>	An individual, or group, providing donations or purchasing goods or services (e.g. visiting TLMA-funded IC programs and projects) from TLMA in support of people affected by leprosy.
<b>Designated Safeguarding Lead (DSL)</b>	<p>A person specifically designated and trained to receive Safeguarding, CAVAP and whistleblowing concerns and complaints. The DSL will ensure appropriate supports are implemented to assist individuals impacted by Safeguarding issues.</p> <p>TLMA Deputy DSL will support the DSL in these tasks or will lead these activities in any event where the DSL may be unavailable or it may be inappropriate for the DSL to undertake these duties, for example, if Safeguarding allegations have been raised against the DSL.</p> <p>For further information regarding the DSL's role and responsibilities refer to Safeguarding Policy.</p>
<b>Notifier</b>	A person who discloses Safeguarding or suspected Safeguarding issues/concerns.
<b>Partner</b>	An organisation or group executing a project, program or undertaking work in the name of TLMA or The Leprosy Mission. The Partner group is required to sign and adhere to Partnership Agreement with TLMA.
<b>Safeguarding</b>	What organisations do to keep people, including workers and beneficiaries, safe. This may include actions, policies and procedures that create and maintain protective environments. <sup>11</sup>
<b>Serious Misconduct</b>	<p>Defined by the Fair Work Regulations 2009<sup>12</sup> as follows:</p> <ul style="list-style-type: none"> <li>(a) Wilful or deliberate behaviour by an employee that is inconsistent with the continuation of the contract of employment; and</li> <li>(b) Conduct that causes serious and imminent risk to: <ul style="list-style-type: none"> <li>i. The health or safety of a person; or</li> <li>ii. The reputation, viability or profitability of the employer's business.</li> </ul> </li> </ul> <p>The Regulation also lists the following as serious misconduct:</p> <ul style="list-style-type: none"> <li>(a) The employee, in the course of the employee's employment engages in theft, fraud or assault;</li> </ul>

<sup>11</sup> Adapted from ACFID General Definitions (<https://acfid.asn.au/content/general-definitions>)

<sup>12</sup> Available at [http://www6.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol\\_reg/fwr2009223/s1.07.html](http://www6.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_reg/fwr2009223/s1.07.html)

	<p>(b) The employee being intoxicated at work;</p> <p>(c) The employee refusing to carry out a lawful and reasonable instruction that is consistent with the employee’s contract of employment.</p>
<b>whistleblower</b>	A member of staff, volunteer, contractor, beneficiary, customer or partner who reports wrongdoing, or suspected wrongdoing, including suspicion of fraud, misuse of resources, breach of Code of Conduct or a risk to health and safety. <sup>13</sup> A person who raises a genuine concern of serious misconduct in accordance with this policy.
<b>whistleblowing</b>	<p>The disclosure, by an individual, of actual or suspected misconduct in an organisation that reveals fraud, corruption, illegal activities, gross mismanagement, malpractice or any other serious wrongdoing.<sup>14</sup></p> <p>whistleblowing legislation and standards provide protections for whistleblowers and:</p> <ul style="list-style-type: none"> <li>• Leans on mandatory reporting</li> <li>• Is found in Federal legislation</li> <li>• Guarantees right to reprisal protection</li> <li>• Outlines protection pathways for notifiers.</li> </ul>

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<sup>13</sup> DFAT Financial Wrongdoing – Definitions (<https://acfid.asn.au/financial-wrongdoing-policy/part-2-good-practice-guidelines-and-tips>)

<sup>14</sup> Adapted from UNICEF Australia Whistleblower Policy, page 1 (<https://www.unicef.org.au/Upload/UNICEF/Media/AboutUs/AccountabilityandGovernance/UNICEF-Australia-Whistle-blower-Policy.pdf>)

## Attachment 2: Whistleblower Procedure

### 1. Application

This procedure applies to any individual to whom whistleblower protections are afforded in line with the TLMA Whistleblower Policy.

### 2. Overview

#### 2.1 Type of Incidents Covered

Staff, volunteers, and individuals associated with TLMA as per the Whistleblower Policy are encouraged to speak up regarding issues outlined in Section 5.2 of the policy

However, it is important to note that failure to report a serious indictable offence<sup>15</sup> (such as child abuse, murder, drug trafficking, fraudulent misappropriation of monies collected or received etc) may result in legal action or criminal charges against the individual who has failed to report the matter to police or if that individual has concealed evidence of the crime.<sup>16</sup>

#### 2.2 Grievances not Covered

The following situations are not covered under this procedure and should be dealt with in line with the appropriate policy and procedure

- Personal work-related grievances should be addressed in line with the Grievance Procedure.

### 3. Process

1. Reports may be made in person, telephone or in writing, marked "Confidential", to the DSL, a senior manager, or one of the people in the table under Section 12 of the Whistleblower Policy or by telephone or online form to SafeCall (independent external reporting agency).
  - a. In accordance with standard processes, SafeCall will provide the details of the complaint to The Leprosy Mission Global Fellowship Designated Safeguarding Officer (DSO).
  - b. If for some reason it is inappropriate to report to TLMA's DSL, the Whistleblower or TLM Global Fellowship DSO may report the concerns directly to the CEO or TLMA Board Safeguarding Lead.
2. The Whistleblower should be made aware of all the protections afforded them, and be advised of expected timeframes for the matter to be investigated.
3. The person receiving the complaint will respect the whistleblower's right to remain anonymous, however it should be made clear that proper investigate may be impeded if TLMA is unable to obtain further information from the whistleblower.

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<sup>15</sup> An indictable offence requires a trial by judge and jury (<http://www.findlaw.com.au/faqs/1188/what-is-the-difference-between-a-summary-and-indic.aspx>) and a serious indictable offence is defined as an indictable offence which is punishable by imprisonment for life or for a term of five years or more (<https://www.claytonutz.com/knowledge/2008/september/conceal-or-reveal-reporting-white-collar-crime>).

<sup>16</sup> Concealing A Serious Offence: When Not reporting a Crime Could Land you in Gaol, LY Lawyers (<https://lylawyers.com.au/concealing-serious-offence-not-reporting-crime-land-gaol/>)

4. The confidential report will be provided to the CEO in the first instance, as well as the DSO at the international office.
  - a. Depending on the locality of the incident, the CEO will liaise with the DSO to keep other country leaders informed as appropriate.
  - b. If any external agencies need to be advised, this will be discussed with the Whistleblower. TLMA may report the information to ASIC or the Australian Federal Police, or to a lawyer for advice about the whistleblower protections.
5. Reports will be dealt with thoroughly, promptly and confidentially. The outcome of the investigation will be reported back to the Whistleblower (in consideration of confidentiality requirements and if the Whistleblower's identity is known), the individual subject to the complaint and TLMA Board Safeguarding Lead.
6. If misconduct is discovered, TLMA will deal with any breaches under its disciplinary procedures outlined in the Staff manual – HR Guidelines. Any appropriate external action such as notifying the Police of any legal breaches, or notifying Regulatory bodies of non-compliance, will be initiated as early as possible.
7. The Whistleblower will be kept informed throughout the process and advised on the resolution of the matter.

#### **4. Alternate review mechanisms**

Whistleblowers should be made aware of their options to:

- contact alternative complaint bodies
- seek legal advice
- ask questions regarding their rights and options for external support.

The following agencies are developed to assist with workplace matters:

Workplace Health and Safety, including bullying and harassment issues

##### **WorkSafe Victoria**

Phone: 1800 136 089

Online contact form: <https://www.worksafe.vic.gov.au/form/contact>

Website: <https://www.worksafe.vic.gov.au/>

##### Fraud and Corruption

##### **Australian Securities & Investments Commission (ASIC)**

(Including reports about raising money from the public)

Phone: 1300 300 630

Online Form: <https://asic.gov.au/report-misconduct>

Website: <https://asic.gov.au/about-asic/asic-investigations-and-enforcement/whistleblowing/guidance-for-Whistleblowers/#AmlaWhistleblower>

##### **Australian Charities and Not-for-profits Commission (ACNC)\***

Phone: 13 22 62

Online Form: [https://public-](https://public-forms.acnc.gov.au/form/5ad817c1a71dbe77e8fc3790/app/5c458ae4b3624f2e30c2dd96)

[forms.acnc.gov.au/form/5ad817c1a71dbe77e8fc3790/app/5c458ae4b3624f2e30c2dd96](https://public-forms.acnc.gov.au/form/5ad817c1a71dbe77e8fc3790/app/5c458ae4b3624f2e30c2dd96)

Website: <https://www.acnc.gov.au/raise-concern/concerns-about-charities/how-raise-concern>

\*ACNC advises that there is no specific protection for Whistleblowers under the ACNC Act. However, the ACNC will accept complaints lodged anonymously or by using a pseudonym, where reasonable.

### Abuse and Exploitation

#### **Australian Federal Police**

(Commonwealth crimes including child sex offences by Australians in foreign countries, human trafficking and terrorism)

Phone: (02) 6131 3000 – AFP National Switchboard

(02) 6126 7777 – After hours AOCC Watchfloor

1800 123 400 – 24 hour National Security Hotline (Terrorism matters)

1800 333 000 – Crimestoppers (Anonymous information about any crime)

Website: <https://www.afp.gov.au/contact-us/report-commonwealth-crime>

#### **Fair Work Ombudsman**

(In relation to unfair work practices and pay rates)

Phone: 13 13 94

Online Enquiries: <https://www.fairwork.gov.au/contact-us/online-enquiries>

Website: <https://www.fairwork.gov.au/>