

ORG – 010 v.7

# Speak-Up Policy

## Complaints and Whistleblowing

### Global

Policy Owner: Business Operations Executive Director

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#### 1. PURPOSE

- 1.1 The Fred Hollows Foundation (**The Foundation**) welcomes feedback and believes that encouraging a transparent speaking-up culture and environment, being open to feedback and complaints and taking them seriously is an important component of our corporate culture. Feedback enables The Foundation to identify areas for continuous improvement, develop the quality of our work and enhance the trust and confidence that stakeholders have in The Foundation.
- 1.2 This Policy is intended to apply to any General or Whistleblower Complaint, regardless of who makes it or how it is made.
- 1.3 This Policy needs to be understood and used by all staff, our volunteers, our partners, our contracted service providers and Board directors.
- 1.4 This Policy separates complaints into two categories:
  - 1.4.1 General Complaints; and
  - 1.4.2 Whistleblowing Complaints;and sets out how to make both of these complaints.
- 1.5 Anyone has the right to raise a General Complaint, have that complaint addressed in a timely manner and receive an accurate and thoughtful response. Every effort will be made to resolve General Complaints in a respectful and satisfactory manner, where appropriate, keep the complainant informed, keep the complainant's identity confidential and adhere to any request for anonymity so far as reasonably practicable.
- 1.6 The Foundation also encourages Personnel to make Whistleblowing Complaints and will support those who do so. Any Whistleblowing Complaint will be dealt with in accordance with the applicable provisions of the *Corporations Act 2001* (Cth).
- 1.7 The Foundation is a signatory to the Australian Council for International Development's Code of Conduct (**ACFID Code of Conduct**) and is committed to recognising the importance and value of listening and responding to concerns and complaints and ensuring its feedback and complaints handling process is fair, effective, safe, confidential and accessible to stakeholders without prejudice.

#### 2. DEFINITIONS

**Corporate Regulators** means the Australian Securities and Investments Commission (ASIC), the Australian Prudential Regulation Authority (APRA), (in relation to tax disclosures) the Australian Tax Office (ATO) or other prescribed Australian authorities or regulators.

**General Complaint** means an expression of dissatisfaction about The Foundation's work. General Complaints do not include:

- (a) a general enquiry about The Foundation's work;
- (b) a request for information;
- (c) an initial request to amend donor records;
- (d) a request to unsubscribe or be removed from The Foundation's database; or
- (e) a Grievance.<sup>1</sup>

**Grievance** means an expression of unfair treatment by paid employees regarding their employment or by volunteers regarding work they perform for The Foundation. These issues are dealt with through The Foundation's internal procedure, which employees and volunteers are able to access on The Foundation's intranet.<sup>2</sup>

**Personnel** means any person who carries out work in any capacity for the benefit of The Foundation or its related bodies corporate, which includes employees, contractors, sub-contractors, consultants, partners, suppliers, work experience students and volunteers and any other person who formally acts on The Foundation's behalf.

**Whistleblower** means an individual who can make a Whistleblowing Complaint, which can include the following:

- (a) an officer of The Foundation;
- (b) an employee of The Foundation;
- (c) an individual who supplies goods or services to The Foundation including implementing partners;
- (d) an employee of contractor who supplies goods or services to The Foundation;
- (e) an individual who is an associate of The Foundation (e.g. a director or secretary of The Foundation or any related body corporate of The Foundation);
- (f) a relative, dependant or spouse of any person that meets any of the above categories of persons; or
- (g) a member of The Foundation

**Whistleblowing Complaint** means a complaint which relates to misconduct or any improper state of affairs or circumstances at The Foundation as set out in section 6 of this Policy. Whistleblowing Complaints do not include:

- (a) a general enquiry about The Foundation's work;
- (b) a request for information;
- (c) an initial request to amend donor records;

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<sup>1</sup> This Policy is not intended to deal with complaints that relate to a work-related Grievance. While the Foundation encourages and supports a speak-up culture and the Guiding Principles set out in this Policy continue to apply, The Foundation has a separate internal procedure that specifically supports complaints of this nature for employees.

<sup>2</sup> For more information contact your People Partner or [pod@hollows.org](mailto:pod@hollows.org)

- (d) a request to unsubscribe or be removed from The Foundation's database; or
- (e) a personal Grievance<sup>3</sup>.

### 3. GUIDING PRINCIPLES

3.1 The guiding principles of this Policy are as follows.

- 3.1.1 We recognise the importance and value of listening and responding to all concerns and complaints.
- 3.1.2 The complaints handling process is effective, safe, responsive, fair, confidential (subject to The Foundation's compliance with other legal obligations) and accessible to all stakeholders including the most vulnerable. It considers minority and disadvantaged stakeholders irrespective of their gender, status, background, location, whether in Australia or in other countries where we work, and without prejudice to their future participation.
- 3.1.3 We encourage Whistleblowing Complaints and protect Whistleblowers from detriment.
- 3.1.4 We will accept complaints relating to any Personnel, which extends to our partners.
- 3.1.5 We review and analyse complaint information to ensure continuous improvement.

### 4. COMMITMENTS UNDER THIS POLICY

4.1 The Foundation is committed to the following:

- 4.1.1 **Visibility:** Information about The Foundation's complaints processes will be clear and well publicised to supporters, rights holders participating in programs, and other stakeholders.
- 4.1.2 **Accessibility:** The Foundation's complaints handling processes will be easily accessible to all stakeholders and be publicised on The Foundation's [website](#) and intranet. There will be readily accessible information about the process of making and resolving complaints with The Foundation in a range of formats so no complainants who have acted reasonably are disadvantaged. Where literacy is a constraint we will orally invite expressions of concern and complaint on a regular basis. We will take care to give this invitation in a way that is culturally appropriate recognising that in some cultures, people require greater encouragement to make a complaint. We will aim to take special care in relation to complaints from vulnerable populations including children and marginalised groups. The Foundation also aims to ensure that complainants are afforded the flexibility to call, write or e-mail complaints and/or to raise concerns in person both in Australia and in the other countries in which we work (complaints can also be made through our partners outside Australia).
- 4.1.3 **Responsiveness:** The Foundation aims to take all complaints seriously and handle them both appropriately and as quickly as practicable. All complainants will be treated courteously and

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<sup>3</sup> Personal Grievances will not be dealt with under this Policy and are not protected under whistleblowing legislation or this Policy. Some examples of personal Grievances include:

- an interpersonal conflict between the discloser and another employee;
- a decision relating to the employment, transfer or promotion of the discloser;
- a decision relating to the terms and conditions of employment of the discloser; or
- a decision to suspend or terminate the employment of the discloser, or otherwise discipline or performance manage the discloser.

respectfully and The Foundation will keep complainants updated on the progress of their complaint through the complaints handling process, where appropriate.

- 4.1.4 **Objectivity:** The Foundation will ensure that all complaints are addressed in a fair, equitable, objective and unbiased manner throughout the complaints handling process. When brought to the attention of The Foundation, issues of conflict of interest will be appropriately managed to ensure objectivity.
  - 4.1.5 **Confidentiality:** Confidentiality relating to the complaint will be safeguarded and requests for anonymity adhered to so far as reasonably practicable. On occasion, it may be necessary for complaint information to be used and disclosed for the purposes of investigating, reporting or continuous improvement. In that case The Foundation will use all reasonable efforts to de-identify information not required for the purpose of the disclosure.
  - 4.1.6 **Stakeholder-focused approach:** The Foundation has a strong stakeholder-focused approach and actively welcomes feedback including complaints and is committed to actively resolve all complaints.
  - 4.1.7 **Accountability:** Accountability for handling complaints and reporting on complaints-related actions and decisions of The Foundation with respect to complaints handling will be clearly established. All complaints will be recorded before action is taken. Complaints will be addressed at a local level as much as possible using the agreed procedure and escalated to management if they are of a serious nature.
  - 4.1.8 **Continuous improvement:** The Foundation is committed to the continuous improvement of the complaints handling process and the quality of The Foundation's work. The commitment is practically supported by: the collection and classification of complaint trends; analysis and reporting of complaints trends; monitoring of complaints handling processes; and auditing / management reviews.
  - 4.1.9 **Organisational commitment:** The Foundation will ensure that appropriate resources and expertise are provided to handle complaints. Staff will be briefed on the nature and purpose of this Policy and The Foundation will ensure that senior managers and other recipients of complaints are adequately trained to be able to receive and handle them. Complaints will be handled in accordance with The Foundation's policies and procedures, with Australian laws and regulations and with local law as applicable.
- 4.2 The Foundation's handling of complaints will meet the following minimum standards:
- 4.2.1 All complainants will be treated respectfully, whether it is felt the complaint is justified or not.
  - 4.2.2 All complaints will be acknowledged as soon as possible, ideally within five working days, by the recipient.
  - 4.2.3 All complainants will receive a response to their complaint giving the outcome (subject to legal and regulatory requirements or guidance including the ACFID Code of Conduct) as soon as possible and, as a standard rule, at least within thirty working days from receipt.
  - 4.2.4 If the matter is more complex and this timeframe proves impossible, the complainant will be notified of the likely timeframe for resolution.
  - 4.2.5 Complaints will be appropriately recorded by The Foundation.
  - 4.2.6 The Foundation is committed to ensuring this Policy is accessible via The Foundation's website.

- 4.2.7 The Foundation will work with overseas country offices, partners and suppliers, where necessary, to ensure awareness of the Policy, including their role in handling complaints and raising concerns with The Foundation about any of our programs and / or behaviours of country program or country office staff.
- 4.2.8 A complainant will be made aware of the ability to make a complaint regarding an alleged breach of the ACFID Code of Conduct to the ACFID Code of Conduct Committee (see section 5.2.3 below).

## 5. GENERAL COMPLAINTS

### 5.1 How to make a General Complaint

- 5.1.1 The Foundation encourages all stakeholders to set out any General Complaints to The Foundation in the first instance so that we may have an opportunity to address any concerns directly. As contact details change from time to time, we set out our contact details in the Complaints section of our website at <https://www.hollows.org/au/Complaints>
- 5.1.2 If you would like to speak with someone about making a General Complaint, or how to escalate a General Complaint, you can also call us on 1800 352 352 from within Australia or +61 2 8741 1900 from outside Australia.

### 5.2 What The Foundation will do when a General Complaint is received

- 5.2.1 Upon receipt of a General Complaint, The Foundation will address the complaint in a way The Foundation deems appropriate having regard to the terms of this Policy, the ACFID Code of Conduct, and any relevant legislation.
- 5.2.2 If The Foundation does not resolve a General Complaint to the individual's satisfaction, escalation is available to one of the following national industry bodies at no cost.
- 5.2.3 The Foundation is a signatory organisation under the ACFID [Code of Conduct](#). Unresolved General Complaints against The Foundation can be made to the ACFID Code of Conduct Committee. Contact details are available on our website (<https://www.hollows.org/au/Complaints>) or ACFID's own website <https://acfid.asn.au/content/Complaints>.
- 5.2.4 If the unresolved General Complaint relates to marketing or fundraising it can be escalated to The Fundraising Institute of Australia. Contact details are available on our website above or FIA's own website <https://fia.org.au/fiacode/Complaints/>.

## 6. WHISTLEBLOWING COMPLAINTS AND PROTECTIONS FOR WHISTLEBLOWER

- 6.1 The Foundation encourages Whistleblowers to speak-up and will support those who do so. Indeed all Whistleblowers who are aware of possible wrongdoing that would qualify as a Whistleblowing Complaint have a responsibility to disclose that information.
- 6.2 A Whistleblowing Complaint is a complaint where the Whistleblower has objectively reasonable grounds to suspect:
- 6.2.1 misconduct or an improper state of affairs or circumstances in relation to The Foundation or a related body corporate of The Foundation;
- a contravention by The Foundation or a related body corporate of The Foundation of the *Corporations Act 2001* (Cth) (or of a provision of any of the legislation set out in section 1317AA(5)(c) of the *Corporations Act 2001* (Cth)) or their associated regulations;

- 6.2.2 that The Foundation or a related body corporate of The Foundation has engaged in conduct which constitutes an offence against any other law of the Commonwealth that is punishable by imprisonment for a period of 12 months or more;
- 6.2.3 that The Foundation or any related body corporate of The Foundation has engaged in conduct which represents a danger to the public or the financial system; or
- 6.2.4 any other eligible conduct proscribed by relevant regulations.
- 6.3 Whistleblower Complaints can include concerns regarding safeguarding people, financial crime, or other conduct endangering the health and safety of an individual or the public including clinical serious untoward incidents.

## 6.4 How to make a Whistleblowing Complaint

- 6.4.1 Whistleblowing Complaints can be made by a Whistleblower to any of the following individuals within The Foundation:
- (a) Whistleblower Protection Officer;
  - (b) Chief Executive Officer, any Executive Director, the Safeguarding Officer or an Internal Auditor;
  - (c) any other officer or senior manager<sup>4</sup> employed by The Foundation or a related entity; or
  - (d) an auditor of The Foundation or its related entities.

These individuals have an obligation to listen to the Whistleblowing Complaint and comply with this Policy and any related procedures including the protections listed in 6.5.2.

- 6.4.2 To make a Whistleblowing Complaint, The Foundation encourages Whistleblowers to:
- (a) send an email to the Whistleblower Protection Officer at [speak-up@hollows.org](mailto:speak-up@hollows.org);
  - (b) call +61 2 8741 1900 or call / text +61 418 814 609 and ask to speak with the Whistleblower Protection Officer; or
  - (c) speak with any of the individuals listed in paragraph 6.4.1.
- 6.4.3 The Foundation will accept complaints which do not comply with the above requirements. These complaints can be lodged as General Complaints in accordance with paragraph 5 above.
- 6.4.4 The Foundation also recognises that more serious concerns may be raised by a member of the public who does not fall within the definition of a Whistleblower. These concerns can be raised under the processes set out in our Safeguarding People Policy or Financial Crime Policy or simply sent to [speak-up@hollows.org](mailto:speak-up@hollows.org).
- 6.4.5 Under applicable Australian whistleblowing laws, Whistleblowers may also make Whistleblower Complaints to certain Corporate Regulators. However, if a report is made to one of these Corporate Regulators, The Foundation may not be aware of the report and therefore may not be able to respond to it in accordance with this Policy.

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<sup>4</sup> A senior manager is a person who makes or participates in making decisions that affect the whole or a substantial part of The Foundation's business or who has the capacity to affect significantly The Foundation's financial situation.

## 6.5 What The Foundation will do when a Whistleblowing Complaint is received

6.5.1 Upon receipt of a Whistleblowing Complaint, The Foundation will address the complaint in a way The Foundation deems appropriate having regard to the terms of this Policy, the ACFID Code of Conduct, and any relevant legislation. The detailed process is set out in our complaints handling procedure, which can be accessed by emailing [speak-up@hollows.org](mailto:speak-up@hollows.org) or going to <https://www.hollows.org/au/safeguarding-and-policies>.

6.5.2 Provided the complaint meets the above requirements of a Whistleblowing Complaint, the following safeguards will be in place to ensure protection is afforded to all Whistleblowers in accordance with the requirements of the *Corporations Act 2001* (Cth). It is an offence to breach confidentiality, not respect a request for anonymity or cause detriment to a Whistleblower. Whistleblowers can seek legal recourse where an obligation is breached.

- (a) **Protection from detriment:** The Foundation recognises that the decision to report a suspicion can be a difficult one to make, not least because of the fear of reprisal from those being reported. The Foundation will take all practical steps to protect those who raise a Whistleblowing Complaint on objectively reasonable grounds. The Foundation will not tolerate detrimental conduct caused, or threatened to be caused, against a Whistleblower or anyone else who has made or is believed to have made a report under this Policy (including dismissal from position, injury, adjusting job duties to impact the Whistleblower negatively, discrimination, harassment or intimidation, psychological harm, as well as damage to their property, reputation or financial position). Whistleblowing laws make it a criminal offence to victimise a Whistleblower because the Whistleblower has made a Whistleblowing Complaint and provides that if a Whistleblower suffers damage because of such victimisation, the Whistleblower can claim compensation for that damage from the offender. A Whistleblower should raise concerns relating to victimisation or retaliation immediately with the person to whom they made their Whistleblowing Complaint.
- (b) **Support:** The Foundation commits to providing reasonable support to those who raise Whistleblowing Complaints. The reasonable support needed will depend on the circumstances. This may include provision of employee support services or making case-by-case changes to an employee's working arrangements.
- (c) **Investigation:** The Foundation will assess all concerns raised by Whistleblowers and instigate a fair and impartial investigation as appropriate in accordance with the above complaints handling procedure].
- (d) **Confidentiality and Anonymity:** The Foundation will protect an individual's identity when he or she raises an issue and does not want their name to be disclosed. The Foundation will also accept anonymous Whistleblower Complaints. This means that a person receiving a Whistleblower Complaint is not permitted to reveal the identity of the Whistleblower or information that is likely to lead to the identification of the Whistleblower (except in very limited circumstances). Such action may constitute a criminal offence.

However, if a Whistleblower's identity is not disclosed, it should be noted that this may prevent The Foundation from re-contacting the Whistleblower confidentially to clarify or confirm information supplied and may also impact The Foundation's ability to properly investigate the Whistleblowing Complaint. This may also affect The Foundation's ability to take steps to protect the Whistleblower from detrimental conduct.



- (e) **Legal immunity:** In Australia and similar jurisdictions Whistleblower laws protect a Whistleblower against civil or criminal litigation (including a case for breach of contract) in relation to protected disclosures. If the Whistleblower is the subject of an action for disclosing protected information, they may rely on this protection in their defence. If a Whistleblowing Complaint qualifies for protection under whistleblowing laws the information is not admissible in evidence against the Whistleblower in criminal proceedings or in proceedings for the imposition of a penalty, other than proceedings in respect of the falsity of the information. A Whistleblower is not protected from civil or criminal liability for any wrongdoing that is exposed in the Whistleblower's disclosure. However, if a Whistleblower reports such conduct and actively cooperates in an investigation in which they may be implicated, there may be some cases where the fact they have made a report will be taken into account as a mitigating factor when determining actions which may be taken against them.
- (f) **Proven misconduct:** The Foundation reserves the right to take disciplinary action, including termination of employment or engagement, in relation to any person who has engaged in misconduct. The Foundation also reserves the right to refer matters to law enforcement or regulatory bodies at any time if, in The Foundation's reasonable opinion, conduct warrants such a referral.
- (g) **Untrue or unproven allegations:** If a Whistleblowing Complaint is made on objectively reasonable grounds but is not confirmed by an investigation, The Foundation will not take any adverse action against the complainant. If it comes to light that a staff member, contractor or supplier has maliciously, falsely or vexatiously made allegations or reports under this Policy, The Foundation may take appropriate disciplinary action against the relevant individual or individuals which may include termination of employment or engagement.

6.5.3 The Foundation shall also ensure that any individual mentioned in a Whistleblowing Complaint is treated fairly and in accordance with the principles and processes of natural justice.

6.5.4 Where this Policy is contrary to any obligation under any legislation applicable to The Foundation, The Foundation will comply with those legislative obligations.

## 7. RESPONSIBILITIES & ACCOUNTABILITIES

### 7.1 Board

- 7.1.1 The Foundation's Speak-Up Policy needs to be transparent and applied consistently. In very serious cases, a complaint may require The Foundation's Board to investigate and provide a response.
- 7.1.2 The Governance and Nominations Committee of The Foundation's Board has an important role to play in overseeing the nature of the complaints process as well as material complaints received by The Foundation and ensuring that they have been handled satisfactorily, that appropriate corrective action has been implemented and that trends are identified and addressed.
- 7.1.3 The Legal Governance Risk & Compliance Director, who also acts as Safeguarding Officer, will ensure material complaints made against The Foundation, including any investigations, are included in quarterly Board reporting. In addition, complaints deemed very high risk by the Safeguarding Officer and/or CEO will be escalated to the Board Chair immediately out-of-cycle.



## **7.2 Chief Executive Officer (CEO)**

- 7.2.1 The CEO is responsible for ensuring this Policy is upheld and will inform the Board of any concerns relating to complaints, dispute resolution and whistleblowing that may present risk to The Foundation, its Personnel, beneficiaries, partners, reputation, operations or other activities.
- 7.2.2 The CEO will ensure progress in relation to complaints and whistleblowing across The Foundation is included in standard reporting to The Board.
- 7.2.3 The CEO will hold relevant Executive Directors accountable to this Policy.

## **7.3 Executive Directors**

- 7.3.1 The Business Operations Executive Director will promote the existence of this Policy to all Personnel.
- 7.3.2 Executive Directors will ensure Foundation and Divisional procedures, practices, plans and operations align with this Policy and that all relevant Personnel are aware of this Policy and their responsibilities under it.
- 7.3.3 Executive Directors are responsible for monitoring and responding to any complaint, dispute resolution or Whistleblowing risk or concerns arising within The Foundation's business activities that are brought to their attention. Executive Directors will include risks on the Divisional risk register, incidents in reporting and seek the advice of the Policy Owner on issues of contention.

## **7.4 Policy Owner**

- 7.4.1 The Policy Owner is responsible to ensure The Foundation's Speak-Up Policy complies with The Foundation's obligations and contemporary practice and will update this Policy as required.
- 7.4.2 The Policy Owner is responsible to ensure The Foundation has appropriate procedures in place to support the principles and commitments in this Policy.
- 7.4.3 The Policy Owner will be responsible for addressing any issues arising in relation to this Policy and will be or arrange a point of contact for all Personnel for any issue of contention.
- 7.4.4 The Policy Owner will assist the CEO prepare the reporting set out in 7.2.2.
- 7.4.5 The Policy Owner will inform the CEO of any key risk to The Foundation regarding complaints, or whistleblowing and will record risks on the organisational risk register and incidents in reporting.

## **7.5 Managers (Country and People Managers)**

- 7.5.1 Managers will demonstrate a commitment to a speak-up culture and model transparent complaint management practices.
- 7.5.2 Managers are to communicate this Policy and all related procedures to Personnel, where appropriate, including ensuring that complaint management and the ability speak-up on matters not consistent with The Foundation's values is regularly a standard agenda item at team meetings and/or one on one meetings as appropriate to local context.
- 7.5.3 Managers will engage with their teams in an open, honest and meaningful way to ensure they know what is expected of them.
- 7.5.4 Managers will constructively participate in the resolution of complaints where necessary and appropriate.

## 7.6 All Personnel

All Personnel will adhere to the principles and commitments under this Policy and any related procedures and will take all reasonable care to ensure that their actions or omissions are not in breach of this Policy nor directly or indirectly encourage others to breach this Policy.

## 7.7 All associated stakeholders

All associated stakeholders operating with or on behalf of The Foundation are responsible to abide by the principles and relevant commitments under this Policy and to advise their primary contact point within The Foundation promptly of any issues that may arise.

## 8. MONITORING

- 8.1 This Policy will be reviewed every three years and the Policy Owner is responsible for this review.
- 8.2 A report on the implementation of this Policy will be submitted to the Board no less than every three years across The Foundation’s business activities, including the countries in which we work. The Policy Owner is responsible for compiling this report and submission to the CEO.
- 8.3 The Business Operations Division has oversight for all Governance and Operational Policy and will ensure the Policy is listed on the Policy Register and provide support to the Policy Owner to ensure monitoring and reporting obligations are met.

## CONTROL OF DOCUMENTATION

<b>Document Number</b>	ORG-010		
<b>Document Name</b>	Speak-Up Policy – Complaints and Whistleblowing		
<b>History</b>	This policy refreshes the previous version taking into account recent best practice developments and adding specific reference to clinical SUIs		
<b>Date Created</b>	1/08/2002		
<b>Author(s)</b>	Legal Governance Risk & Compliance Director		
<b>Master document location</b>	FredNet		
<b>Policy owner(s)</b>	Business Operations Executive Director		
<b>Division</b>	Business Operations		
<b>First Review</b>	ELT		
<b>Second Review</b>	Governance & Nominations Committee		
<b>Approval Body</b>	Board		
<b>Version Date</b>	30/05/2022	<b>Version Number</b>	7
<b>Next review date</b>	29/05/2025	<b>Review Period</b>	3 years
<b>Related Policies</b>	ORG-001 Financial Crime Policy; ORG-069 Procurement Policy; ORG-003 Safeguarding People Policy; ORG-024 Communications & Transparency Policy; Speak-Up – Concerns / Complaints & SUI Handling Procedure and Grievance & Conflict Resolution Procedure; and any other Foundation policy or procedure that includes a complaint element/avenue.		