

Christians Against Poverty - WHISTLEBLOWER POLICY

1 RESPONSIBILITY

This policy is reviewed annually by the Policy & Compliance Manager, and as required. Any recommendations that this policy should be amended will be made to the Senior Leadership Team for approval.

1.1 Whistleblower Officer means: Christians Against Poverty's Board nominated eligible recipient for the receipt of whistleblower disclosure reports.

1.2 You may make a Whistleblower Disclosure Report to the **Whistleblower Officer**, [here](#).

2 OVERVIEW

As a regulated entity, Christians Against Poverty (Australia) Ltd (**Christians Against Poverty, we, us, the company**) complies with Part 9.4AAA of the *Corporations Act 2001 (Cth)*, as amended by the *Treasury Laws Amendment (Enhancing Whistleblower Protections) Act 2019 (the Whistleblower Provisions)*¹, and is committed to ensuring that we comply with the law.

- 2.1** The Whistleblower Provisions set out the protections granted to a person (whistleblower) making a disclosure about a regulated entity to a regulator or to an eligible recipient.
- 2.2** As we are a regulated entity, we are required to set out our obligations in a Whistleblower Policy, which complies with the requirements of the Whistleblower Provisions.
- 2.3** We make this Policy available to all current directors and senior managers, to all employees upon commencement of their employment with Christians Against Poverty and to former directors, employees and suppliers, by publishing it on our website www.capaust.org.
- 2.4** This Policy is designed to deter wrongdoing, improve Christians Against Poverty's culture and increase the degree of transparency in relation to disclosures of wrongdoing in the workplace.
- 2.5** This Whistleblower Policy sets out the following information:
 - 2.5.1** the protections that we have in place for whistleblowers, including the protections under the Whistleblower Provisions¹
 - 2.5.2** how and to whom a person can make a disclosure
 - 2.5.3** how we support whistleblowers and protect whistleblowers
 - 2.5.4** how we investigate disclosures
 - 2.5.5** how we ensure the fair treatment of employees mentioned in disclosures and

¹ A potential whistleblower should read ASIC Information Sheet 238 for further detail about their rights and protections

2.5.6 how the policy is made available to our officers and employees.

2.6 Each of the underlined terms is defined in section 8.

3 PROTECTIONS FOR WHISTLEBLOWERS

Christians Against Poverty has implemented the following protections for whistleblowers:

3.1 Anonymous disclosure - whistleblower

3.1.1 A whistleblower is not required to provide their name when making a disclosure. Accordingly, Christians Against Poverty ensures that it keeps the following information confidential:

- (a) the whistleblower's identity
- (b) any information that is likely to lead to the identification of the whistleblower; and
- (c) any information obtained directly or indirectly as a result of the disclosure, which reveals the whistleblower's identity,

except where:

- (d) the whistleblower has consented to the disclosure of their identity
- (e) the disclosure is reasonably necessary for the purposes of investigating the conduct disclosed by the whistleblower, and all reasonable steps are taken to reduce the risk of the whistleblower being identified
- (f) the identity information is required to be disclosed to a regulator, or to the Australian Federal Police, or to other Commonwealth, State or Territory authorities with functions or duties relevant to the disclosure
- (g) the identity information is disclosed to a legal practitioner for the purpose of obtaining legal advice or representation in relation to the disclosure, or
- (h) where the regulations provide that disclosure of the whistleblower's identity is permitted.

3.1.2 A person (including Christians Against Poverty) is not required to disclose the identity of a whistleblower, or information that is likely to lead to the identification of a whistleblower, to a court or tribunal unless it is necessary for the purpose of giving effect to the Whistleblower Provisions, or if the court or tribunal orders.

3.2 Anonymous disclosure - tax whistleblower

3.2.1 A tax whistleblower is not required to provide their name when making a disclosure. Accordingly, Christians Against Poverty ensures that it keeps the following information confidential:

- (a) the tax whistleblower's identity
- (b) any information that is likely to lead to the identification of the tax whistleblower, and
- (c) any information obtained directly or indirectly as a result of the disclosure, which reveals the tax whistleblower's identity,

except where:

- (d) the tax whistleblower has consented to the disclosure of their identity
- (e) where the disclosure is reasonably necessary for the purposes of investigating the conduct disclosed by the tax whistleblower, and all reasonable steps are taken to reduce the risk of the tax whistleblower being identified
- (f) the identity information is required to be disclosed to the Australian Taxation Office, or to the Australian Federal Police
- (g) the identity information is disclosed to a legal practitioner for the purpose of obtaining legal advice or representation in relation to the disclosure, or
- (h) it is disclosed to a person or body prescribed by the regulations.

3.2.2 A person (including Christians Against Poverty) is not required to disclose the identity of a tax whistleblower, or information that is likely to lead to the identification of a tax whistleblower, to a court or tribunal unless it is necessary for the purpose of giving effect to the Whistleblower Provisions, or if the court or tribunal orders.

3.3 Immunities for whistleblowers and tax whistleblowers

3.3.1 Whistleblowers and tax whistleblowers are protected from civil, criminal and administrative liability, and from the imposition of a penalty. This means that disclosures made by a whistleblower are not admissible as evidence against the whistleblower or the tax whistleblower in legal proceedings, unless the proceedings against the whistleblower relate to whether the disclosure is false.

3.3.2 Tax whistleblowers are also protected from contractual or other remedies which arise on the basis of the tax disclosure. This means that where the tax whistleblower is a party to a contract (including an employment contract), that contract cannot be terminated on the basis that the tax disclosure constitutes a breach of the contract.

3.3.3 A tax whistleblower is not liable for an action for defamation which arises as a result of the tax disclosure, except in certain limited situations.

3.4 Protection from victimisation for whistleblowers and tax whistleblowers

3.4.1 Whistleblowers and tax whistleblowers are protected from victimisation. It is an offence for Christians Against Poverty or any other person engaged by or

affiliated with Christians Against Poverty to engage in detrimental conduct that causes, or threatens to cause, any detriment to another person, even where:

- (a) a disclosure has not occurred
- (b) the victimiser has no actual knowledge that the disclosure or tax disclosure has occurred, or
- (c) the victimiser does not intend that the conduct will cause detriment.

3.4.2 This protection extends to persons involved in receiving or investigating the disclosure or tax disclosure, or a colleague, supporter, friend or family member of the whistleblower or the tax whistleblower.

3.4.3 A person can seek compensation from Christians Against Poverty for any loss, damage or injury suffered as a result of the detrimental conduct. Compensation can, in some situations, include reinstatement of employment.

3.4.4 Christians Against Poverty has procedures in place to take reasonable steps to prevent a person, including its employees and officers, from engaging in detrimental conduct. Refer to the following Policy & Procedure documents:

- Harassment (covers anti-discrimination, anti-bullying, etc.)
- Stress
- Confidentiality

4 HOW AND TO WHOM A PERSON CAN MAKE A DISCLOSURE OR A TAX DISCLOSURE

4.1 Eligible recipient

4.1.1 A whistleblower can make a disclosure to an eligible recipient, which includes Christians Against Poverty officers and managers, the Christians Against Poverty Whistleblower Officer, Christians Against Poverty's auditors, a regulator, a journalist and a parliamentarian (see section 8.1.6).

4.1.2 A tax whistleblower can make a tax disclosure to a tax recipient, which includes the above recipients, as well as the Commissioner.

4.2 How to make a disclosure

4.2.1 As a first step, we encourage staff to report a disclosure or a tax disclosure to the Whistleblower Officer.

4.2.2 If staff are not confident in reporting the disclosure to the Whistleblower Officer for some reason then they may report to their immediate line manager, department manager, department director, CEO or Board Chairperson.

4.2.3 The disclosure report should include as much detail and clarity as possible.

4.2.4 We encourage the report to be made in writing. If the report is made verbally, the recipient will make notes of the report and confirm with the

person making the report that the details of the disclosure are correct as they understand them.

- 4.2.5 The disclosure will be investigated by the Whistleblower Officer as per Section 6 of this policy.

5 HOW CHRISTIANS AGAINST POVERTY WILL PROTECT AND SUPPORT WHISTLEBLOWERS AND TAX WHISTLEBLOWERS

5.1 Protecting and supporting whistleblowers and tax whistleblowers

- 5.1.1 As set out in section 3, Christians Against Poverty has in place policies and procedures which ensure that:

- (a) as part of the disclosure and investigation process, we maintain the confidentiality of the whistleblower's and the tax whistleblower's identity and do not disclose this information except as permitted under the Whistleblower Provisions
- (b) if the whistleblower or tax whistleblower is an employee or one of our suppliers, we will not terminate our contract or arrangement with them simply because they have made a disclosure or a tax disclosure
- (c) we take reasonable steps to ensure that whistleblowers and tax whistleblowers are not the subject of detrimental conduct. For example, refer to Harassment Policy re anti-discrimination & anti-bullying
- (d) we will not take action against a whistleblower or a tax whistleblower on the basis of a breach of their employment contract, where the breach of the employment contract relates to the disclosure

6 HOW CHRISTIANS AGAINST POVERTY INVESTIGATES DISCLOSURES AND TAX DISCLOSURES

- 6.1 Christians Against Poverty is committed to ensuring that it proceeds deliberately and promptly in investigating disclosures and tax disclosures. Where the disclosure or tax disclosure is material in scope or may involve regulators and/or external third parties, we will consider whether to obtain external advice or engage counsel in order to conduct the investigation.

- 6.2 Christians Against Poverty has a procedure to investigate disclosures and tax disclosures, as follows:

- 6.2.1 If a disclosure is made to a Christians Against Poverty officer or senior manager, the matter will immediately be referred to the Whistleblower Officer, who will develop an investigation plan. The investigation plan will include:

- (a) (assuming no conflict of interest exists) appointing compliance staff members to form part of the investigation team and ensuring that they are aware of this Policy and the legislative protections for whistleblowers and tax whistleblowers; in particular, regarding the

- protection of confidential information
- (b) collecting all information relevant to the disclosure or the tax disclosure from the whistleblower or the tax whistleblower, including:
 - (i) a full description of the circumstances upon which the disclosure or the tax disclosure is based
 - (ii) the names of the Christians Against Poverty personnel, agents, or clients involved, and an explanation of their involvement, and
 - (iii) details of the persons who are aware of the matter, both within Christians Against Poverty and externally
 - (c) within 7 days of collecting all of the above information, reviewing the information collected in order to prepare a preliminary report regarding the matter to the Christians Against Poverty Board. The preliminary report will summarise the information collected, and include recommendations to the Christians Against Poverty Board regarding:
 - (i) the cause of the issue which led to the disclosure or the tax disclosure
 - (ii) the extent of the issue (for example, the number of employees, customers or related parties who are either involved in or aware of the matter)
 - (iii) the potential harm to Christians Against Poverty, and
 - (iv) the measures to be taken to address the issues raised by the disclosure or the tax disclosure, which include compliance with all relevant legislation, and
 - (d) consult with the Christians Against Poverty Board regarding the appropriate action that Christians Against Poverty needs to take regarding the disclosure, which may include:
 - (i) where appropriate, delegating the investigation to an external third party
 - (ii) obtaining external legal advice
 - (iii) notifying a regulator of the disclosure or of the tax disclosure, and/or
 - (iv) communicating with Christians Against Poverty staff, customers and related parties (where appropriate) regarding the disclosure or the tax disclosure.

7 HOW CHRISTIANS AGAINST POVERTY ENSURES FAIR TREATMENT OF EMPLOYEES MENTIONED IN A DISCLOSURE OR A TAX DISCLOSURE

- 7.1** As set out in section 3, Christians Against Poverty takes all reasonable and prompt steps to ensure that all staff are protected from detrimental conduct. This obligation includes protecting persons

named in a disclosure or a tax disclosure from detrimental conduct.

- 7.2** Christians Against Poverty has in place detailed policies and procedures which deal with our anti-bullying and anti-discrimination obligations. All staff and officers receive training and are required to read our policies and procedures upon commencing their employment or engagement with Christians Against Poverty and must review those policies annually and attest that they have done so. We regularly monitor and review our compliance with internal policies, the Law and industry best practice.

8 DEFINITIONS

8.1 In this Policy:

8.1.1 applicable laws include the following Commonwealth Acts:

- (a) the *Corporations Act 2001*
- (b) the *ASIC Act 2001*
- (c) the *Australian Charities and Not-for-profits Commission Act 2012* (Cth)
- (d) the *Banking Act 1959*
- (e) the *Financial Sector (Collection of Data) Act 2001*
- (f) the *Insurance Act 1973*
- (g) the *Life Insurance Act 1995*
- (h) the *National Consumer Credit Protection Act 2009*
- (i) the *Superannuation Industry (Supervision) Act 1993*, and
- (j) any regulations made under those laws, or
- (k) an offence against any other law of the Commonwealth that is punishable by imprisonment for a period of 12 months or more.

8.1.2 Commissioner means the Commissioner of Taxation.

8.1.3 detriment includes:

- (a) dismissal of a person
- (b) injury to a person in their employment
- (c) alteration of a person's position or duties, to their disadvantage
- (d) discrimination between the person and other Christians Against Poverty employees
- (e) harassment or intimidation of a person
- (f) harm or injury to a person, including psychological harm

- (g) damage to a person's property
- (h) damage to a person's reputation
- (i) damage to a person's business or financial position; or
- (j) a threat to cause any of items (a) to (i) to a person. The threat can be express or implied, or conditional or unconditional. The person affected does not need to actually fear that the threat will be carried out.

8.1.4 detrimental conduct means conduct that causes detriment to a person due to a belief or suspicion that the person has made, or proposes to make, a disclosure or a tax disclosure.

8.1.5 disclosure means information known to the whistleblower:

- (a) where they have reasonable grounds to suspect that Christians Against Poverty is involved in misconduct, or in an improper state of affairsⁱⁱ; or
- (b) which indicates that Christians Against Poverty, or one of its officers or employees has engaged in:
 - (i) a contravention of the applicable laws, or
 - (ii) represents a danger to the public or to the financial system
- (c) is made to either a regulator or to an eligible recipient, and
- (d) does not constitute a personal work-related grievance.

8.1.6 eligible recipient includes:

- (a) Christians Against Poverty's officers and senior managers, auditors or actuaries
- (b) the Whistleblower Officer, or
- (c) a legal practitioner, where the disclosure or tax disclosure is made for the purposes of obtaining legal advice or representation on the operation of the Whistleblower Provisions or in relation to the disclosure or tax disclosure, or
- (d) if the disclosure or tax disclosure is a public interest disclosure or an emergency disclosure, to a journalist or a parliamentarian.

8.1.7 emergency disclosure means a disclosure to a journalist or parliamentarian where the whistleblower:

- (a) has previously disclosed the information to a regulator
- (b) has reasonable grounds to believe that information concerns a substantial and imminent danger to the health or safety of one or more persons, or to the natural environment

- (c) has given written notification to the regulator that they intend to make a public interest disclosure in relation to the information contained in the initial disclosure, and
- (d) the information to be disclosed is no greater than necessary to inform the journalist or parliamentarian of the substantial and imminent danger.

8.1.8 personal work-related grievance means information about the whistleblower's employment or former employment, having (or tending to have) implications for the discloser personally, **unless the information:**

- (a) has significant implications for Christians Against Poverty, which do not relate to the whistleblower personally, and
- (b) concerns conduct or alleged conduct which:
 - (i) contravenes the applicable laws
 - (ii) represents a danger to the public or to the financial system, or
 - (iii) is prescribed by regulations
- (c) concerns detriment to the discloser caused by any alleged victimisation
- (d) is made to a legal practitioner regarding the Whistleblower Provisions, or
- (e) has significant implications for Christians Against Poverty and concerns alleged conduct that could be an offence, or a contravention of the law.

Some personal work-related grievances may involve serious wrongdoing, thereby entitling the discloser to protection.

Examples of personal work-related grievances include an interpersonal conflict between employees, or a decision relating to the engagement, transfer or promotion of a person.

8.1.9 public interest disclosure means a disclosure to a journalist or parliamentarian, where the whistleblower:

- (a) has previously disclosed the information to a regulator (the initial disclosure), and 90 days has passed since that disclosure
- (b) does not have reasonable grounds to believe that action is being taken in relation to the initial disclosure
- (c) has reasonable grounds to believe that making a further disclosure to a journalist or a parliamentarian would be in the public interest
- (d) has given written notification to the regulator that they intend to make a public interest disclosure in relation to the information contained in the initial disclosure, and

- (e) the information to be disclosed is no greater than necessary to inform the journalist or parliamentarian of the improper state of affairs to which the initial disclosure related.

8.1.10 regulated entity includes companies, foreign corporations, trading or financial corporations formed within the limits of the Commonwealth, Authorised Deposit Institutions, insurers, life companies, superannuation entities and other prescribed entities.

8.1.11 regulator means:

- (a) the Australian Securities and Investments Commission (ASIC);
- (b) the Australian Prudential Regulation Authority (APRA); or
- (c) any other Commonwealth body that is prescribed by the regulations.

8.1.12 tax affairs means all affairs or activities in relation to taxes imposed, assessed or collected by or under all tax laws administered by the Commissioner.

8.1.13 tax disclosure means a disclosure by a tax whistleblower:

- (a) which may assist the Commissioner to perform their functions or duties under a tax law in relation to the tax entity;
- (b) where the whistleblower has reasonable grounds to suspect that the information indicates misconduct, an improper state of affairs or circumstances, in relation to Christians Against Poverty's tax affairs; and
- (c) may assist the tax recipient to perform their functions or duties in relation to Christians Against Poverty's tax affairs,

but does not include:

- (d) information about purely workplace issues that do not suggest misconduct or an improper state of affairs with regards to Christians Against Poverty's tax affairs.

Examples of tax disclosures include details of non-compliance with a tax law, tax evasion, tax avoidance schemes, unexplained wealth or other tax-related misconduct.

8.1.14 tax entity means an individual, company, partnership, trust and superannuation entity, and/or includes Christians Against Poverty.

8.1.15 tax law means:

- (a) an Act of the Commonwealth of which the Commissioner of Taxation has general administration, or a legislative instrument made under that Act; or
- (b) the *Tax Agent Services Act 2009 (Cth)*, or a legislative instrument made under that Act;

- (c) income tax and capital gains tax laws
- (d) Goods and Services Tax legislation, and
- (e) Fringe Benefits Tax legislation.

8.1.16 tax recipient includes:

- (a) an officer or employee of Christians Against Poverty
- (b) the Commissioner
- (c) a registered tax agent or Business Activity Statement agent who provides services to Christians Against Poverty
- (d) an auditor conducting an audit of Christians Against Poverty's financial or tax affairs
- (e) a legal practitioner, where the disclosure is made for the purposes of obtaining legal advice or representation on the operation of the Part 2 of the Whistleblower Provisions, and
- (f) the Whistleblower Officer.

8.1.17 tax whistleblower means a person who makes a tax disclosure about Christians Against Poverty (a tax entity) to a tax recipient, but is not required to have specific knowledge of tax laws, or the functions or duties of the Commissioner, and includes:

- (a) a whistleblower
- (b) a spouse, child or dependent of a whistleblower or their spouse
- (c) any other individual prescribed by the Whistleblower regulations.

For example, a tax whistleblower includes a registered tax agent, volunteer, intern or other unpaid worker, in circumstances where they supplied services to Christians Against Poverty, as well as shareholders of Christians Against Poverty.

8.1.18 Christians Against Poverty means Christians Against Poverty (Australia) Ltd and its related bodies corporate, e.g., Christians Against Poverty, CAP Money.

8.1.19 whistleblower includes a current or former:

- (a) officer, employee or associate of Christians Against Poverty, or
- (b) individual who supplies goods or services (whether paid or unpaid) to Christians Against Poverty, or an employee of a company which supplies goods or services (whether paid or unpaid) to Christians Against Poverty, who makes a disclosure to a regulator or to an eligible recipient.

8.1.20 Whistleblower Officer means: Christians Against Poverty's Board nominated eligible recipient for the receipt of whistleblower disclosure reports.

ⁱ The 2019 amendments removed the requirement that disclosure must be made in "good faith" and replaced it with a "reasonable grounds" test and also removed the requirement for the discloser to identify themselves. Now, a whistleblower is protected if they have reasonable grounds to suspect that "misconduct or an improper state of affairs exists" in relation to a regulated entity.

ⁱⁱ The assessment of whether a discloser's grounds to suspect misconduct were reasonable is to be determined by considering what the discloser said they knew at the time of the disclosure. Matters

unknown to the discloser at the time of the disclosure are irrelevant in determining whether the disclosure qualifies for protection.