

# **Global Aid Network (GAIN)**

## **Whistleblower Protection Policy**

### **Purpose**

The purpose of this policy is to:

- Assist GAIN deal with whistleblowers in a way that complies with the law, and
- Ensure that GAIN maintains the highest standards of behaviour and integrity.

### **Scope**

This policy applies to the whole organisation and all Eligible Whistleblowers.

### **Definitions**

#### Eligible Whistleblower

Eligible Whistleblower refers to present and past employees, volunteers, directors, contractors or suppliers of goods and services to GAIN or any associates of GAIN, or a relative, dependent or spouse of such individuals.

#### A Discloser

For the purpose of this policy, an Eligible Whistleblower who makes a disclosure under this policy is referred to as a Discloser.

#### Power to Change Whistleblower Protection Officer (Officer)

The Officer is also the whistleblower protection officer for GAIN and is the responsible person for receiving whistleblowing disclosures.

#### Whistleblower Protection Regime

Whistleblower Protection Regime refers to the whistleblower protection provided under the Corporations Act 2001 (Cth) (Corporations Act) or the Taxation Administration Act 1953 (Cth).

#### Reportable Matter

A reportable matter refers to the types of wrongdoing that can be reported under the Whistleblower Protection Regime.

### **Policy Position**

#### Commitment

GAIN is committed to encouraging the reporting of any instances of suspected unethical, illegal, fraudulent or undesirable conduct involving GAIN's activities and provides protections and measures so that people who make a report can do so confidentially and without fear of intimidation, disadvantage or reprisal.

### Application

If an Eligible Whistleblower has reasonable grounds to suspect that a Reportable Matter exists in relation to GAI's operations or practices, then he or she may qualify for protection under the Whistleblower Protection Regime if they make a disclosure.

Reportable Matters include the following types of wrongdoing:

- Misconduct (including fraud, negligence, breach of trust or breach of duty)
- An offence against any Commonwealth law that is punishable by imprisonment for a period of 12 months or more
- A contravention or breach of certain commonwealth legislation, such as the Corporations Act 2001 (Cth), or
- Represents a danger to the public or the financial system.

Disclosures which relate to personal work-related grievances do not provide the Discloser with protection under the Whistleblower Protection Regime and may give rise to disciplinary action.

A personal work-related grievance may include:

- An interpersonal conflict between the discloser and another employee
- A decision that does not involve a breach of workplace laws, or
- A decision about the engagement, transfer or promotion of the discloser.

A personal work-related grievance may give rise to protections under legislation, such as the Fair Work Act 2009 (Cth).

If an Eligible Whistleblower is unsure whether the type of misconduct is covered by the Whistleblower Protection Regime, they should contact the Officer, Safe Ministry Resources (details are on the GAI's web site) or seek independent legal advice.

### Making a Disclosure

To qualify for protection, an Eligible Whistleblower may report their concern either personally, or anonymously to:

- The GAI's National Director
- The Executive Director (ED)
- Power to Change's Whistleblower Protection Officer
- Safe Ministry Resources, as the independent organisation contracted by to receive such information
- Power to Change and GAI's external auditor
- A legal practitioner, or
- The Australian Securities and Investments Commission (ASIC), the Australian Prudential Regulation Authority (APRA), the Commissioner of Taxation or another commonwealth authority prescribed by legislation.

In limited circumstances, an Eligible Whistleblower may report their concern to a journalist or a parliamentarian and still qualify for protection. It is recommended the Discloser contact an independent legal adviser before making a disclosure in such circumstances.

### Legal Protection for Disclosers

The Discloser may remain anonymous or use a pseudonym when making the disclosure, during the course of investigation and after the investigation is finalised.

The Discloser may refuse to answer questions that could reveal their identity.

GAiN is prohibited from disclosing the identity of the Discloser (or any information which may identify the Discloser) unless:

- The Discloser consents
- The disclosure is to a recipient permitted by law, such as the Commissioner of Taxation or the Australian Federal Police, or
- The disclosure is otherwise allowed or required by law.

If a Discloser believes that they have suffered detriment as a consequence of the disclosure, they may seek independent legal advice.

The Discloser is protected from civil, criminal and administrative liability arising from the disclosure if it is made in accordance with the Whistleblower Protection Regime.

The Discloser should be aware that the protections granted under the Whistleblower Protection Regime do not include immunity from any misconduct in which the Discloser has participated that forms the subject matter of the disclosure.

#### Support and Practical Protections for Disclosers

GAiN will take such steps as is necessary to ensure that the name of the Discloser is not revealed without the Discloser's consent, including by way of redacting documents containing the name of the Discloser and ensuring all records are kept and maintained confidentially by the Power to Change Whistleblower Protection Officer.

The Discloser should be aware that if the identity of the Discloser is not disclosed to GAiN then it may be difficult for GAiN to investigate and assess the information provided by the Discloser (e.g. if GAiN is unable to contact the Discloser for more information or has not been provided with a means of contacting the Discloser).

GAiN will take all reasonable measures to ensure that a Discloser is protected from detriment arising from the Disclosure.

If a person breaches a whistleblower's confidentiality or causes detriment to a whistleblower because of their disclosure, that person can face criminal or civil penalties.

#### Handling and Investigating a Disclosure

If the disclosure is made to GAiN, then the:

- Officer will assess the disclosure to determine whether it qualifies for protection and a formal investigation is required
- If the Officer determines that an investigation is required, it will initiate an investigation following the rules of natural justice and fair procedure. Depending on the nature of the disclosure, it may engage external investigators
- Officer will endeavour to finalise the investigation within 30 days of notification to it
- Officer will update the Discloser on the progress of the investigation and provide the Discloser with a report at the conclusion of the investigation, and
- The method for documenting and reporting the findings will depend on the nature of the disclosure.

The objective of the investigation is to determine whether there is enough evidence to substantiate or refute the matters reported.

## Record Keeping and Confidentiality

Confidential and controlled record keeping is essential under the Whistleblower Protection Regime and GAIN must ensure that:

- All paper and electronic documents and other materials relating to disclosures will be stored securely
- Access to all information relating to a disclosure will be limited to those directly involved in managing and investigating the disclosure
- Only a restricted number of people who are directly involved in handling and investigating a disclosure will be made aware of a Discloser's identity (subject to the Discloser's consent) or information that is likely to lead to the identification of the Discloser
- Communications and documents relating to the investigation of a disclosure will not be sent to an email address or to a printer that can be accessed by other staff, and
- Each person who is involved in handling and investigating a disclosure will be reminded about the confidentiality requirements, including that an unauthorised disclosure of a Discloser's identity may be a criminal offence.

The principles espoused in the Privacy Act 1988 about the handling of personal information about individuals must be followed.

## Ensuring Fair Treatment of Individuals Mentioned in a Disclosure

GAIN wishes to foster a culture of transparency that encourages reporting of misconduct and improper circumstances the subject of the Whistleblower Protection Regime whilst balancing the interests and rights of individuals the subject of the disclosure.

All investigations will be handled confidentially and in accordance with the rules of natural justice and procedural fairness.

## Communication of Policy

GAIN will alert all its volunteers and employees of the Whistleblower Protection Policy..

## **Responsibilities**

### Power to Change National Director

The National Director is responsible for appointing the Power to Change Whistleblower Protection Officer.

### ED

The ED will be responsible for the implementation of this policy.

### Power to Change Whistleblower Protection Officer

The Whistleblower Protection Officer (Officer) will be responsible for alerting personnel to the policy and making it accessible to them. The Officer will also be responsible for coordinating investigations, receiving disclosures and record keeping. The Officer is required to advise the National Director immediately any disclosure is received and will report directly to the National Director on such matters. Confidential advice or information can be sought from the Officer, without making a disclosure, about the following:

- How GAIN's whistleblower policy works
- What the policy covers, and
- How a disclosure might be handled.

## Related Documents

- Operational Conflict of Interest Policy
- Anti-Fraud and Anti-Corruption Policy
- Anti-money Laundering and Counter Terrorism Policy
- Anti-trafficking and anti-human slavery policy
- Safe Ministry Policy
- Financial Policy
- Employment policies
- Records Management Policy
- Privacy Policy

## Policy Review

This policy is to be reviewed every two years by the Board unless there are changes to relevant legislation or standards that require an earlier review.

Any minor changes such as updating “Related Documents” that have no material effect on the intent of the policy will be made without being referred to the Board.

## Document Control

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