



*everyone's family*

# Whistleblowing (Serious Reportable Issues)

## *Policy and Procedures*

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### 1 Policy summary

The Smith Family is a child safe organisation committed to ethical behaviour that is aligned with our values and complies with all relevant Commonwealth, State and Territory laws.

To demonstrate our commitment, this Whistleblowing Policy provides:

- guidelines for any person or organisation associated with The Smith Family who may wish to discuss or report an actual or suspected wrongdoing; and
- information about the protections available under the *Corporations Act 2001* (Cth) (**Corporations Act**) and *Tax Administration Act 1953* (Cth) (**Taxation Administration Act**) for individuals who make a report of wrongdoing and qualify for protection as a whistleblower

A person considering making a whistleblower report is expected to have reasonable grounds for believing that wrongdoing has occurred.

The Smith Family is committed to providing a supportive environment for the person wishing to discuss or report their concerns. The person can expect that:

- their identity remains confidential at all times to the extent permitted by law;
- they will be protected from retaliation, harassment or victimisation; and
- should retaliation occur, it will be treated as serious wrongdoing under this Policy.

If you would like to have a confidential discussion about your concerns or make a formal report, or obtain any additional information or clarification of the operation of this policy, contact one of the following Whistleblower Governance Officers:

**Julia Farrant, Head of People and Culture**

Phone: (02) 9085 7222 or

Email: [julie.farrant@thesmithfamily.com.au](mailto:julie.farrant@thesmithfamily.com.au)

**Paul Johnston, Chief Financial Officer**

Phone: (02) 9085 7222 or

Email: [paul.johnston@thesmithfamily.com.au](mailto:paul.johnston@thesmithfamily.com.au)

All reports of actual or suspected wrongdoing made under this Policy to a Whistleblower Governance Officer will be properly assessed, and if appropriate, independently investigated.

The Smith Family recognises that a person who has had a report made against them will also need to be supported during the investigation and The Smith Family will take reasonable steps to treat the person fairly during this process.

## 2 Policy overview and principles

### 2.1 Policy statement

The Smith Family is committed to developing an internal culture based on ethical behaviours that are aligned with our corporate values. The Smith Family will ensure that we comply with all applicable laws and practices governed by State, Territory and Commonwealth legislation.

The Smith Family recognises that people who have a work, service or client relationship with the organisation are often the first to realise there may be something seriously wrong. However they may not wish to speak up for fear of appearing disloyal or may be concerned about being victimised or subject to other reprisals if they report the matter. No person should be personally disadvantaged for reporting a wrongdoing. Not only is it illegal, but it directly opposes the values of The Smith Family.

The Smith Family is committed to maintaining an environment where legitimate concerns are able to be reported without fear of retaliatory action or retribution. When a person makes such a disclosure they are entitled to expect that:

- their identity remains confidential at all times to the extent permitted by law;
- they will be protected from reprisal, harassment or victimisation for making the report; and
- should retaliation occur for having made the disclosure, it will be treated as serious wrongdoing under this Policy.

The purpose of this Policy is to provide a supportive environment where wrongdoing within or by The Smith Family can be raised without fear of retribution. This is achieved by:

- encouraging reporting of wrongdoing issues of legitimate concern;
- providing safe wrongdoing reporting alternatives to remove inhibitions that may impede such disclosures;

and by establishing procedures that enable:

- protection for those that make serious wrongdoing disclosures including statutory protections available under the Corporations Act and Taxation Administration Act;
- independent internal inquiry/investigation of disclosures made; and
- resolution of the issue(s) identified.

### 2.2 Scope

This Policy applies to any individual who is (or has been):

- an employee or officer of the The Smith Family (including board members, executive, managers and paid team members);
- a volunteer with The Smith Family; or
- a supplier of services or goods (whether paid or unpaid) to The Smith Family including an individual who is or has been employed by such a supplier.

A disclosure made by a relative, spouse or dependant of an individual identified above will also be handled in accordance with this Policy and the protections in this Policy will apply to such individuals.

An individual covered by this paragraph who makes a report in accordance with this Policy (**Whistleblower Report**) is described as a **Whistleblower** in this Policy.

### 2.3 Matters that should be reported

It is not possible to provide an exhaustive list of the activities that should be reported for the purposes of this Policy (**Reportable Conduct**).

## Policy overview and principles

However, by way of general guidance, Reportable Conduct includes any conduct of The Smith Family or any employee or officer of The Smith Family, which a Whistleblower has reasonable grounds to suspect is:

- (a) misconduct or an improper state of affairs (for these purposes misconduct includes fraud, negligence, default, breach of trust and breach of duty) in relation to The Smith Family;
- (b) dishonest, corrupt or illegal (including theft, drug sales/use, violence or threatened violence and criminal damage against property);
- (c) misleading or deceptive conduct including practices or representations which amount to improper or misleading accounting or financial reporting practices;
- (d) an offence under Commonwealth or State laws which is punishable by imprisonment for a period of 12 months or more;
- (e) a contravention of Commonwealth or State laws including (without limitation), the Corporations Act 2001 (Cth), any laws administered by the Australian Securities and Investments Commission (**ASIC**), the Competition and Consumer Act 2010 (Cth), the Income Tax Assessment Act 1936 (Cth) or the Privacy Act 1988 (Cth), anti-bribery or anti-money laundering laws;
- (f) an unsafe work practice;
- (g) a danger to the public or the financial system; or
- (h) likely to cause financial or non-financial loss to The Smith Family or that is otherwise detrimental to the interests of The Smith Family.

Reportable Conduct also includes conduct of the nature outlined above engaged in by a person outside of The Smith Family but who has a business connection to The Smith Family (for example, a supplier, contractor or other corporate or business partner) where the conduct could have legal implications for The Smith Family or materially impact the reputation of The Smith Family.

Reportable Conduct does not necessarily require a breach of a particular law. For example, if the information would be of interest to a regulatory authority or suggest a risk of harm to the children or young people (or families) that we support or a significant risk to public safety.

### 2.4 Personal work related grievances

Personal work related grievances are **not** generally considered Reportable Conduct under this Policy and do not qualify for statutory protection under the Corporations Act. These grievances should be reported through the other mechanisms The Smith Family has established to receive these complaints. Personal work related grievances have or tend to have implications for the discloser personally. Examples include:

- (a) an interpersonal conflict between the discloser and another employee;
- (b) a decision relating to the engagement, transfer or promotion of the discloser;
- (c) a decision relating to the terms and conditions of engagement of the discloser; and
- (d) a decision to suspend or terminate the engagement of the discloser, or otherwise to discipline the discloser.

These types of complaints should be raised with People & Culture and may be dealt with in accordance with the Grievance Resolution Policy in the case of bullying, discrimination and harassment complaints.

However, if a complaint involves a personal work related grievance, but:

- (a) it has significant implications for The Smith Family; or
- (b) it includes information about misconduct beyond the individual's personal circumstances or which suggest a systemic issue; or
- (c) it concerns conduct or alleged conduct referred to at paragraphs 2.3(b) to 2.3(e) and 2.3(h) above or The Smith Family has breached employment or other laws punishable by imprisonment for a period of 12 months or more,

## Policy overview and principles

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then it will also be considered to be Reportable Conduct and qualify for statutory protection and should be reported in accordance with this Policy.

### **Victimisation excluded**

Where a personal work related grievance:

- (a) relates to alleged detrimental treatment or threatened detrimental treatment; and
  - (b) is taken because the individual has made or may make a Whistleblower report under this Policy,
- then it will be considered to be Reportable Conduct and qualify for statutory protection and should be reported in accordance with this Policy.

## **2.5 Responsibilities and approvals**

This Policy has been approved by The Smith Family Board. The Policy Owner is The Smith Family Board (People & Culture Committee). The Smith Family Executive is responsible for implementation of the Policy.

See further Section 3 (Responsibilities).

### 3 Responsibilities

#### 3.1 Whistleblower Governance Officers

Whistleblower Governance Officers have a responsibility to conduct sufficient inquiry to be satisfied that:

- a Whistleblower Protection Officer is appointed to provide support to the Whistleblower;
- each Whistleblower Report referred to them is appropriately investigated by:
  - a trained and experienced internal investigator who is independent of the area where the wrongdoing is alleged to have occurred, or
  - a trained and experienced external investigator independent of The Smith Family where considered necessary;
- action taken in response to the findings of an investigation is appropriate to the circumstances; and
- retaliatory action has not been taken against the Whistleblower.

There are two Whistleblower Governance Officers:

**Julia Farrant, Head of People and Culture**

Phone: (02) 9085 7222 or

Email: [julia.farrant@thesmithfamily.com.au](mailto:julia.farrant@thesmithfamily.com.au)

**Paul Johnston, Chief Financial Officer**

Phone: (02) 9085 7222 or

Email: [paul.johnston@thesmithfamily.com.au](mailto:paul.johnston@thesmithfamily.com.au)

The Whistleblower Governance Officers have direct, unfettered access to independent financial, legal and operational advisers as required, and a direct line of reporting to the Chief Executive Officer or the Board as may be required to satisfy the objectives of this Policy. The Whistleblower Governance Officers must report on Whistleblower Reports in broad terms to the Chair of the Finance, Audit and Risk Committee.

#### 3.2 Senior managers

If a Whistleblower Report contains allegations against either of the Whistleblower Governance Officers, or the Whistleblower has a reasonable belief that this avenue would not be sufficiently independent, then they may make their report to any officer or senior manager of The Smith Family.

The senior managers designated for receiving Whistleblower Reports include:

**Oliver Poss, Risk Manager and Privacy Officer**

Phone: (02) 9085 7208 or

Email: [oliver.poss@thesmithfamily.com.au](mailto:oliver.poss@thesmithfamily.com.au)

**Gabrielle Pither, General Counsel**

Phone: (02) 9085 4942 or

Email: [gabrielle.pither@thesmithfamily.com.au](mailto:gabrielle.pither@thesmithfamily.com.au)

Whistleblower Reports made for the purpose of this Policy should be made to the designated officers above, or a Whistleblower Governance Officer, so they can ensure the report is handled in accordance with this Policy.

#### 3.3 Whistleblower Protection Officer

The Whistleblower Protection Officer is an officer, senior manager or team member appointed by a Whistleblower Governance Officer to provide protection to the Whistleblower according to this Policy. The Whistleblower Protection Officer will have a direct reporting line to an executive team member from

an area of the organisation that is independent of line management in the area that is the subject of the Whistleblower Report. The Whistleblower Protection Officer will provide mentoring and other support deemed necessary by the Whistleblower Protection Officer.

The Whistleblower Protection Officer is responsible for keeping the Whistleblower informed of the progress and outcomes of the inquiry/investigation, subject to considerations of privacy of those against whom the allegations have been made.

### 3.4 Investigation Officer

The Investigation Officer is appointed by the Whistleblower Governance Officer and may be internal or external to The Smith Family.

The Investigation Officer:

- must have investigation training and experience;
- must have internal independence of line management of the area affected by the Whistleblower Report;
- must not be the subject of the investigation or have significant links or connections (actual or perceived) to the person(s) or practice(s) under investigation; and
- if appropriate, may be one of the Whistleblower Governance Officers.

The appointed Whistleblower Protection Officer and the appointed Investigation Officer act independently of each other and the responsibilities of these roles do not reside with one person.

### 3.5 Whistleblower

A person considering making a Whistleblower Report is obliged to have reasonable grounds for believing the disclosure concerns Reportable Conduct. As explained above in sections 2.3 and 2.4, this Policy is intended to apply to reports of wrongdoing which are serious in nature and which have significant implications for The Smith Family.

A Whistleblower must provide information to assist any inquiry/investigation of the wrongdoing disclosed.

Trivial or vexatious matters with no substance will be treated in the same manner as a false report and may themselves constitute wrongdoing. Unsubstantiated allegations which are found to have been made maliciously and not on reasonable grounds will be viewed seriously and may be subject to disciplinary action including dismissal, or termination of a service or client relationship. However, provided that a Whistleblower Report is made on reasonable grounds and in accordance with this Policy, a Whistleblower will not suffer detrimental treatment or be disadvantaged as a result of making that report, even if the report is subsequently determined to be incorrect or is not substantiated.

Even though a Whistleblower may be implicated in the wrongdoing they must not be subjected to any actual or threatened retaliatory action or victimisation in reprisal for making a Whistleblower Report under this Policy.

It is important to note that making a Whistleblower Report may not protect the Whistleblower from the consequences flowing from involvement in the wrongdoing itself. A person's liability for their own conduct is not affected by their reporting of that conduct under this Policy. However active cooperation in the investigation, an admission and remorse may be taken into account when considering disciplinary or other action.

## 4 Reporting and disclosure

### 4.1 How to make a report

The Smith Family encourages a person seeking to make a Whistleblower Report to make that report directly through one of the channels below to ensure that wrongdoing is addressed by The Smith Family as early as possible and because they are eligible to receive disclosures that qualify for statutory protection:

- an email or phone call to one of the Whistleblower Governance Officers listed in section 3.1; or
- an email or phone call to one of the designated senior managers in section 3.2

For emails, the subject line should make clear that the email is being made as a Whistleblower Report under this Policy, for example: “*Whistleblower Report – CONFIDENTIAL*”.

Information received from a Whistleblower will be kept confidential to the extent possible in accordance with section 5.2 below, subject to the need to meet legal and regulatory requirements. In particular, The Smith Family may disclose the information received to appropriate regulatory authorities, such as ASIC, Australian Not-For-Profits and Charities Commission, the Australian Federal Police or other governmental agencies. The Smith Family may also disclose the information received to a legal practitioner for the purpose of obtaining legal advice in relation to the operation of the statutory whistleblower protections.

Alternatively, for external confidential advice regarding ethical matters, you may wish to contact **St James Ethics Centre – Ethics Helpline on 1800 672 303** where you will be referred to a counsellor. This is a free service for (non-legal) matters that are ethical in nature.

The reporting options identified above are not intended to restrict the right of a person to make disclosures directly to any regulatory or law enforcement authority or other eligible recipient under the Corporations Act (or Tax Administration Act, where relevant) as set out in section 8. A disclosure of Reportable Conduct via one of those mechanisms external to The Smith Family may still receive statutory protection. However, it will not be handled in accordance with this Policy.

### 4.2 Supporting documentation

While The Smith Family does not expect a Whistleblower to have absolute proof or evidence of Reportable Conduct, a report should show the reasons for their concerns and make full disclosure of the relevant details and supporting documentation. If a report is made it will be valued and appreciated, even if it is not confirmed by subsequent investigation.

### 4.3 Anonymous reports

A Whistleblower may elect to make a report anonymously. The Smith Family will respect the Whistleblower's right to not identify themselves. However, electing to make a report anonymously may hinder The Smith Family's ability to fully investigate the matter.

Under the Corporations Act, a Whistleblower can remain anonymous and still be protected. A Whistleblower can choose to remain anonymous while making a disclosure, over the course of the investigation and after the investigation is finalised. A Whistleblower can refuse to answer questions that they feel could reveal their identity at any time, including during follow-up conversations. The Smith Family suggests that a Whistleblower who wishes to remain anonymous should maintain ongoing two-way communication to allow The Smith Family to ask follow-up questions or provide feedback.

Other steps that The Smith Family may take to protect the anonymity of a Whistleblower include:

- permitting the use of a pseudonym for the purposes of their Whistleblower Report;
- permitting the use of an anonymous email set out by the Whistleblower if that is their preferred means of communicating with The Smith Family.

## 5 Protection of Whistleblowers

### 5.1 Commitment to protection

Not all disclosures of serious wrongdoing are protected by law. To meet The Smith Family's philosophy of accepting disclosures from anyone, the organisation adopts the principle of providing protection to people or organisations with a relationship with The Smith Family:

- at least to the extent of protection at law; and
- beyond legal protection wherever it is practical in the circumstances.

The following principles establish The Smith Family's commitment to protection for people who bring a disclosure of serious wrongdoing forward, whether they are:

- managers, team members, contractors or consultants, or
- a person who has a relationship with The Smith Family.

### 5.2 Confidentiality of the Whistleblower's identity and Whistleblowing Reports

The Smith Family is committed to ensuring that Whistleblower Reports are managed with appropriate confidentiality and in accordance with applicable confidentiality regimes in the Corporations Act and the Tax Administration Act, where applicable.

Subject to compliance with legal reporting requirements, when implementing any process under this Policy, The Smith Family will:

- not disclose the identity of a Whistleblower without their consent;
- ensure that information contained in a Whistleblower Report is only disclosed to the extent necessary to conduct an investigation or administer this Policy; and
- take reasonable steps to reduce the risk that the Whistleblower will be identified as part of any process conducted under this Policy.

Nothing in this Policy prevents The Smith Family or any person from disclosing information required by law. The Smith Family may also disclose the information received to a legal practitioner for the purpose of obtaining legal advice in relation to the operation of the statutory whistleblower protections.

The Smith Family will also take reasonable precautions to store any records relating to a Whistleblower Report securely and to permit access by authorised persons only. Other steps The Smith Family will take in practice to protect the confidentiality of the Whistleblower's identity include, but are not limited to:

- removing (where possible) personal information or references to a Whistleblower witnessing an event;
- contacting a Whistleblower (where possible) to help identify aspects of their Whistleblower Report that could inadvertently identify them; and
- reminding individuals involved in handling and investigating a Whistleblower Report of confidentiality requirements.

Other than in circumstances required by law, any unauthorised disclosure of information relating to a Whistleblower Report, the identity of a Whistleblower or information from which the identity of the Whistleblower could be inferred will be regarded seriously and may result in disciplinary action, which may include dismissal. It may also be an offence subject to individual penalties under the Corporations Act.

If a Whistleblower thinks there has been a breach of confidentiality, they can make a complaint under the processes described in section 4. A Whistleblower may also lodge a complaint with a regulator, such as ASIC, ACNC or the ATO, for investigation.

## Protection of Whistleblowers

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### 5.3 Retaliation

The Smith Family is committed to ensuring that a Whistleblower making a Whistleblower Report will not suffer detrimental treatment or be disadvantaged as a result of making that report, even if the report is subsequently determined to be incorrect or is not substantiated.

All reasonable steps will be taken by The Smith Family to ensure that a person does not suffer detrimental treatment and is not subject to any form of victimisation because they have made, may have made, propose to make, or could make, a report in accordance with this Policy. Steps The Smith Family will take in practice to protect a Whistleblower from detrimental treatment include:

- assisting a Whistleblower to develop strategies to help minimise and manage stress or other challenges that may result from making a Whistleblower Report or any subsequent investigation;
- agreeing that a Whistleblower can perform their duties from another location or make other modifications to the way a Whistleblower perform work;
- consider conducting a risk assessment to manage the risk of detriment to a Whistleblower.

Detrimental treatment includes dismissal, injury, demotion, discrimination, harassment, intimidation, disciplinary action, bias, threats or other unfavourable treatment because the person made, may have made, proposes to make or could make a Whistleblower Report. It does not include reasonable administrative action (for example, moving a Whistleblower's work location away from an individual the subject of their Whistleblower Report) or managing unsatisfactory performance in line with The Smith Family's performance management framework.

A person who subjects an person to detrimental treatment because the person has made, may have made, proposes to make, or could make, a Whistleblower Report will be in breach of this Policy and will be dealt with under The Smith Family's disciplinary procedures. This is a serious matter which may expose the person to civil and criminal sanctions under the legislation discussed in section 5.4 below.

If a person believes that retaliatory action or victimisation has occurred or been threatened in breach of this Policy, that person has the right to make a submission to a Whistleblower Governance Officer. They can also contact regulatory bodies, such as ASIC, ACNC or the ATO, if they believe they have suffered detriment.

### 5.4 Support for Whistleblowers

The Smith Family is committed to providing appropriate support to Whistleblowers. The nature of the support that may be offered will depend on the nature of the Reportable Conduct reported and the personal circumstances of the Whistleblower.

However, examples of the support provided for Whistleblowers include:

- appointment of a Whistleblower Protection Officer who is responsible for ensuring Whistleblower Reports are handled in accordance with the mechanisms in this Policy which are designed to safeguard Whistleblowers;
- a fair and objective investigation process in accordance with section 6 below;
- supporting anonymous Whistleblower Reports;
- handling Whistleblower Reports on a confidential basis in accordance with section 5.2 above;
- access to The Smith Family's employee assistance program; or
- support from People & Culture where reasonably required by a Whistleblower.

If you have any further questions about the support available, you should contact the Head of People & Culture.

### 5.5 Statutory protection

## Protection of Whistleblowers

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Both the *Corporations Act 2001* (Cth) (**Corporations Act**) and the *Taxation Administration Act 1953* (Cth) (**Taxation Administration Act**) provide special protections for Whistleblowers in respect of disclosures which qualify for protection under each Act. These protections are outlined in section 8 below. The Smith Family is committed to ensuring these legislation protections are complied with.

### 6 Investigation of wrongdoing allegations

All reports of alleged or suspected wrongdoing made under this Policy to a Whistleblower Governance Officer will be properly assessed to determine if they fall within this Policy and may qualify for statutory protection, and if appropriate, independently investigated by an appointed Investigation Officer. The objective of investigation is to gather evidence relating to the claims made by the Whistleblower. That evidence may substantiate or refute the claims made.

The Investigation Officer will be responsible for ensuring the proper conduct of the investigation and for keeping the Whistleblower Governance Officer and the Whistleblower Protection Officer informed of progress.

The manner and timeframe of the investigation will vary depending on the nature of the Reportable Conduct, the amount of information provided by the Whistleblower and any limitations on the investigation, such as an inability to contact the Whistleblower.

In some circumstances, the Investigation Officer may seek the expertise of other officers in The Smith Family to assist in the investigation and may seek the advice of internal or external experts as required.

Investigations must be conducted in a fair and independent manner in accordance with an established investigation procedure. This means investigations must be independent from the business unit concerned, the Whistleblower and any person who is a subject of or involved in the Whistleblower Report.

To avoid jeopardising an investigation, a Whistleblower is required to keep confidential the fact that they have made a Whistleblower Report and the information contained in the report (subject to any legal requirements).

Following an investigation, the Investigation Officer may produce, or require the production of, an investigation report. Circulation of any investigation report (while preserving confidentiality in accordance with the Policy and legislative requirements) will be restricted to individuals who will be involved in determining any action to be taken.

Wherever possible, a Whistleblower will be kept informed of the progress of the investigation subject to privacy and confidentiality obligations. The frequency and detail of any updates will depend on the nature of the Reportable Conduct and the contact information provided. Typically, a Whistleblower will be contacted through the channel used for making the original Whistleblower Report (including through anonymous channels). As a general rule, a Whistleblower will be informed of the results of an investigation as soon as the investigation is finalised and acted upon. However, in some circumstances, privacy, confidentiality or other constraints may limit the feedback that can be provided.

## Management of a person against whom a report is made

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### 7 Management of a person against whom a report is made

The Smith Family recognises that individuals against whom a report is made must also be supported during the investigation of the Whistleblower Report. The Smith Family will take reasonable steps to treat fairly any person who is the subject of or mentioned in a report, particularly during the assessment and investigation process in accordance with an established investigation procedure. Any such person will be provided with access to People & Culture support or The Smith Family's employee assistance program as necessary.

Where a person is suspected of possible wrongdoing, but preliminary enquiries determine that the suspicion is baseless or unfounded and that no formal investigation is warranted, the Whistleblower will be informed of this outcome and the matter laid to rest. The Whistleblower Governance Officer will decide whether or not the person named in the allegation should be informed that a suspicion was raised and found to be baseless upon preliminary review.

This decision will be based on a desire to preserve the integrity of a person so named, so as to enable workplace harmony to continue unfettered and to protect the Whistleblower if it was a bona fide disclosure.

Where an investigation does not substantiate the conduct disclosed in the Whistleblower Report, the fact that the investigation has been carried out, the results of the investigation and the identity of the person who is the subject of the report must be handled confidentially.

Generally, an Investigation Officer must ensure that the person who is the subject of any report where an investigation is commenced:

- is informed of the substance of the allegations;
- is given a reasonable opportunity to respond to the allegations before any investigation is finalised;
- is informed about the substance of any adverse comments that may be included in any report arising from the investigation before it is finalised, and;
- has their response set out fairly in the Investigation Officer's report.

Where the allegations in a Whistleblower Report have been investigated and the person who is the subject of the report is aware of the allegations or the fact of the investigation, then the Investigation Officer must formally advise the person of the outcome of the investigation subject to any privacy, confidentiality or legal requirements.

The Smith Family will give its full support to a person who is the subject of a Whistleblower Report where the allegations contained in the report are clearly wrong.

## 8 Statutory protections

### *Protections available under the Corporations Act*

#### 8.1 Overview

The Corporations Act gives special protection to disclosures about certain types of Reportable Conduct (see sections 2.3 to 2.4) which are made in accordance with the requirements of the Corporations Act.

This Policy is designed to comply with the requirements of the Corporations Act and to ensure that the protections available in the Corporations Act are afforded to Reporting Persons who make a Whistleblower Report which qualifies for protection under the Corporations Act.

#### 8.2 Who is protected?

The protections in the Corporations Act apply to an individual who is a Whistleblower (set out in section 2.2) or an associate of The Smith Family (as defined in the Act) and makes a disclosure which qualifies for protection under the Corporations Act (or Tax Administration Act, where relevant) as addressed below.

#### 8.3 What kind of reports are protected

To be protected by the Corporations Act:

- (a) the individual must have reasonable grounds to suspect that the information they are reporting:
  - (i) concerns misconduct or an improper state of affairs relating to The Smith Family;
  - (ii) constitutes an offence or contravention of certain nominated Acts; or
  - (iii) represents a danger to the public or the financial system.

This would include most cases of Reportable Conduct under this Policy; and

- (b) the report is made to:
  - (i) ASIC;
  - (ii) APRA;
  - (iii) the auditor for The Smith Family, or a member of an audit team conducting an audit of the entity;
  - (iv) a director, company secretary or senior manager of The Smith Family;
  - (v) the Whistleblower Governance Officer; or
  - (vi) a legal practitioner for the purpose of obtaining legal advice or representation in relation to the operation of the whistleblower protections in the Act (even if the legal practitioner concludes the disclosure is not ultimately about Reportable Conduct).

The Corporations Act also provides protection for public interest disclosures and emergency disclosures which meet specific requirements prescribed by the Corporations Act. There are certain criteria for these disclosures which must be met, including that the disclosure must have previously been made to ASIC, APRA or a prescribed body and written notice provided to the body to which the disclosure was made. In the case of a public interest disclosure, at least 90 days must have passed since the previous disclosure. Independent legal advice should be sought before making a public interest disclosure or an emergency disclosure.

Disclosures which are not about Reportable Conduct do not qualify for protection under the Corporations Act (or Tax Administration Act, where relevant). Such disclosures may be protected under other legislation, for example, the Fair Work Act 2009. A Whistleblower can still qualify for statutory protection even if their disclosure turns out to be incorrect or is not substantiated.

## Statutory protections

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### 8.4 The protections available

The protections available under the Corporations Act to an individual who meets the requirements above include (see further section 5):

- (a) the right to have their identity protected in accordance with the provisions of that legislation (see further section 5.2);
- (b) the right to have information provided as part of the disclosure handled in accordance with the provisions of that legislation;
- (c) the right to be protected from civil, criminal or administrative liability (including disciplinary action) for making the disclosure; from contractual or other remedy on the basis of the disclosure; and from the admissibility of the information provided in evidence against the person, in each case in accordance with the provisions of that legislation;
- (d) the right to be protected from detrimental treatment or any form of victimisation in accordance with the provisions of that legislation (see further section 5.3);
- (e) the right to compensation and other remedies in accordance with the provisions of that legislation (including a right not to be required to pay costs incurred by another person when litigation is commenced); and
- (f) the right not to be required to disclose their identity before any court or tribunal in accordance with the provisions of that legislation.

These protections apply from the time the disclosure is made irrespective of whether the disclosure has been made internally (for example, to the Whistleblower Governance Officer) or externally (for example, to a regulatory authority) or otherwise to a legal practitioner or a public interest or emergency disclosure in accordance with the Corporations Act. The protections do not grant immunity for any misconduct a discloser has engaged in that is revealed in their disclosure.

A Whistleblower can seek compensation and other remedies through the courts if they suffer loss damage or injury because of a disclosure (for example, if The Smith Family fails to take reasonable precautions and exercise due diligence to prevent detrimental treatment from being suffered by the Whistleblower). The Smith Family encourages you to seek independent legal advice in these circumstances.

If you have any further questions about these protections, you should contact a Whistleblower Governance Officer or (if relevant), your assigned Whistleblower Protection Officer.

### *Protections available under the Taxation Administration Act*

### 8.5 Protected disclosures

The Taxation Administration Act also provides protection for disclosures of information indicates misconduct or an improper state of affairs, in relation to the tax affairs of an entity or an associate of an entity where the discloser considers that the information may assist the eligible recipient to perform functions or duties in relation to the tax affairs of the entity or an associate.

Protection is provided for disclosures made to the Commissioner of Taxation, to any registered tax agent that provides services to The Smith Family or any person or agency specified in 8.3(b) above.

### 8.6 Protections available

The protections available to an individual making a protected disclosure under the Taxation Administration Act are the same as those outlined above in section 8.5.

## 9 Other related areas

### 9.1 Breach of Whistleblowing Policy

Any breach of this Policy may result in disciplinary action which may include dismissal.

### 9.2 Availability of this Policy and training

This Policy is available to all officers and employees of The Smith Family through SmithNet and to members of the public via The Smith Family's website.

Training about the Policy will be provided to the Executive team and employees who have specific responsibilities under this Policy. Further training opportunities for staff will be considered by the Head of People and Culture in consultation with the People & Culture Committee, as required.

### 9.3 Other complaint mechanisms

This Policy is in addition to:

- The Smith Family's *External Complaints Policy*;
- The Smith Family's Child Protection Framework to Safeguard Children and other Vulnerable People from Abuse and Neglect;
- grievance procedures for The Smith Family which allow team members to raise any matters they may have in relation to their work or their work environment, other persons, or decisions affecting their employment or engagement;
- the standard complaint mechanisms for students and families, supporters or volunteers; and
- the exercising of rights under the terms of their contract by contractors and suppliers.

This Whistleblowing Policy does not replace other reporting structures such as those for child protection matters, grievance and dispute resolution, discrimination or matters relating to workplace bullying or harassment. An exception to this is where the issue is wrongdoing of a serious nature yet the existing reporting system failed to process the issue or has processed it in a substantially inappropriate, grossly unfair or heavily biased manner.

### 9.4 Dissatisfaction with outcomes of the process

If a Whistleblower or person/s who are the subject of a report are dissatisfied with the outcome of the investigation process, external confidential advice can be obtained by contacting the **St James Ethics Centre – Ethics Helpline on 1800 672 303**. This is a free service for (non-legal) matters that are ethical in nature.

### 10 Supporting documents

Other organisational policies that should be read in conjunction with this Policy include:

- Delegation of Internal Authorities
- Code of Conduct
- Grievance Resolution Policy and Procedures
- Child Protection Framework: Safeguarding Children and Other Vulnerable People from Abuse and Neglect
- External Complaints Policy
- Disciplinary procedures

A Document information

Document details	
<b>Name of document</b>	Whistleblowing (Serious Reportable Issues) Policy and Procedures
<b>Function</b>	To document the guidelines for persons and organisations associated with The Smith Family who may wish to discuss or report actual or suspected wrongdoing.
<b>Author</b>	Annette Young, Head of People & Culture
<b>Approved By</b>	The Smith Family Board (People & Culture Committee)
<b>Date of Effect</b>	1 January 2020
<b>Date of Approval</b>	28 November 2019
<b>Assigned Review Period</b>	Every two years after Date of Approval
<b>Date of Next Review</b>	18 September 2024

Version control				
Version No.	Version Date	Amendment Details	Amended By	Approved By
1.0	28/10/14	Implemented	Annette Young	P&C Committee
2.0	05/02/16	Policy review and minor updates to format, terminology and dates	Annette Young	P&C Committee
3.0	04/04/16	Change details of Whistleblower Contact Office from Ian Torrance to Eamon Daly, CFO	Annette Young	TSF Board
4.0	29/06/2018	Policy review includes changes to refer wrong doing disclosure to Chair of FAR committee and minor changes to Supporting documents	Annette Young	TSF Board
5.0		Legislative change requiring update to policy to be effective 1 January 2020	Annette Young on the advice of KWM	TSF Board
6.0	16/12/2019	Further updates to address ASIC 'guidance in Regulatory Guidance 270	Gabrielle Pither on the advice of KWM	TSF Board
7.0	06/06/2020	Removal of vague term "unethical behaviour" that is not used within the statutory definition of "reportable conduct" in relation to Whistleblowing	Annette Young on advice of KWM	TSF Board
8.0	08/09/2020	Change details of Whistleblower Contact Officer from Eamon Daly, to Paul Wilson CFO.	Annette Young	TSF Board
8.1	06/09/2021	Change details of Whistleblower Contact Officer from Paul Wilson to Paul Johnston, CFO	Annette Young	
8.2	19/09/2022	Change details of Whistleblower Contact Officer from Annette to Julia Farrant, HOPC	Julia Farrant	

## Document information

Related documents		
Version	Name	Date
	See Section 10	