



WHISTLEBLOWER CASE OFFICER MANUAL

Internal use only

INTRODUCTION

There are three roles within the Whistleblower function at APRA:

Whistleblower Manager

Responsible for:

- allocation of case officers;
- managing case officer caseload;
- approval of all peer regulator releases prior to delegate consideration;
- approval of all closure memos prior to delegate consideration;
- strategic priorities of the Whistleblower function;
- Whistleblower Policy and Procedure review and revision; and
- Whistleblower function performance against KPI's.

Whistleblower Coordinator

Responsible for:

- intake and initial review of all new matters;
- notifying Supervision of new Whistleblower matters;
- setting up IM folders;
- assigning matter ID's;
- setting up Whistleblower Tracker entries;
- updating and maintaining the Whistleblower Tracker;
- monthly, quarterly, and annual reporting;
- liaison with divisional Business Managers;
- assisting case officers with novel or challenging matters;
- considering issues of legal professional privilege; and
- liaison with ASIC and other peer regulators.

Case Officers

Responsible for:

- day to day contact with the Supervision teams;
- attending Whistleblowers meetings;
- assisting Supervision with peer regulators releases;
- assisting Supervision to implement their strategy with due consideration of s 56 obligations and obligations under Whistleblower regime; and
- assisting Supervision with drafting closure memos.

KEY RESOURCES

OFFICIAL: Sensitive

- ss 47E(d) [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

KEY INFORMATION

Mailbox Access

- When you join the Whistleblower team as a Case Officer you need to request access to the Whistleblower Matters (whistleblower@apra.gov.au) mailbox. This will allow you to send emails from the Whistleblower Matters email address and access the previous emails on your matter.
- S47E(d) [REDACTED]
[REDACTED]
[REDACTED]

Record Keeping

- Copy in whistleblower@apra.gov.au into all emails sent regarding a whistleblower matter (qualifying or non-qualifying).
- Key actions taken on a Whistleblower matter should be recorded in the [Whistleblower Tracker](#) i.e. 01/01/2023 – Assessment sent to Supervision.
- Key emails (disclosure received from Whistleblower; Assessment sent to Supervision; Release made to a peer regulator) should be saved in the relevant IM folder.
- All emails on a matter are filed in the Whistleblower Matters mailbox folders. The [Whistleblower Coordinator](#) is responsible for maintaining these folders and the mailbox in general.

Matter ID's

- All potential Whistleblower matters are assigned a Matter ID when received by the [Whistleblower Coordinator](#). Be sure to use this matter ID in all documents you prepare for the matter (release memos, closure memos etc) and in the subject line for all emails.

Whistleblower Tracker

OFFICIAL: Sensitive

- The **s47E(d)** is the central source for recording high level information and progress on Whistleblower matters.
- The **47C** is accessible by all APRA staff so no identifying or protected information is to be included in the spreadsheet. High level information and records of actions taken is all that is required. There are instructions on the first page of the spreadsheet.
- The Spreadsheet is organised by the year the disclosure was received. The **Whistleblower Coordinator** is responsible for maintaining the spreadsheet in its entirety (formulas, inputting matters etc); however both the Case Officer and Supervision should update the spreadsheet regularly.
- The **Whistleblower Coordinator** will set up the matter entry in the **s47E(d)**, but many fields must be input or updated by the Case Officer. These key fields include:
 - Status (select one of the options from the drop down menu). It is critical this field remains up to date;
 - Qualifying Whistleblower Y/N;
 - Comments/Actions;
 - Has the matter been referred to another APRA department? (link email if applicable);
 - Pending Corporate Legal Advice (link email if applicable);
 - Has the matter been referred to an external organisation? (link email if applicable); and
 - Has consent to refer the matter been obtained from the discloser? (link email if applicable).

Information Governance

- When the **Whistleblower Coordinator** notifies Supervision of a disclosure related to their entity, the **Whistleblower Coordinator** will also provide access to a folder in the restricted **s47E(d)**
- Only the relevant members of the Supervision team and the APRA Whistleblower Team have access to these folders. As a Case Officer you will only have access to matters for which you are responsible.
- It is the responsibility of the Supervision Team to notify the APRA Whistleblower Team of changes to the Supervision team that may affect access to Whistleblower matters. The **Whistleblower**

Coordinator will make the necessary changes to the folder permissions.

- It is the policy of the APRA Whistleblower Team not to send any Whistleblower information as attachments to emails. To maintain the confidentiality of our Whistleblowers identities and information, we save everything in the restricted folders and provide links to the documents. Supervisors are also required to also follow this procedure.

• s47C(1)

Whistleblower Manager Approval

- At several instances in a Whistleblower matter you will require approval from the Whistleblower Manager. When you send an email to the Whistleblower Manager that requires approval please put FOR APPROVAL as the start of the subject line.

Handover Memo

- If you leave the Whistleblower team or are on extended leave (3 weeks or more) please prepare a handover memo and provide it to the Whistleblower Coordinator and Whistleblower Manager.
- See the s47E(d) for a template handover memo.

Reporting

- The Whistleblower Coordinator prepares three regular reports on the Whistleblower Function:
 - Monthly report to Strategy and Risk;
 - Quarterly report to the divisional Business Managers; and
 - Annual report to the Executive Committee.
- To support accurate reporting please ensure your matters are updated in the s47E(d) in the last week of every month.

s47E(d)

OFFICIAL: Sensitive

- Section 47E(d)

■

CASE OFFICER RESPONSIBILITY

There are 5 stages in a Whistleblower matter lifecycle. The key responsibilities for a Whistleblower Case Officer are stages 2 -5.

As a Case Officer you will become aware of a Whistleblower matter once it is assigned to you by the [Whistleblower Coordinator](#).



RECEIVE

No responsibility for case officer.

ASSESS

You will receive an email from the [Whistleblower Coordinator](#) notifying you that you have been assigned as the Case Officer for a matter. This email will include the Matter ID, a link to the restricted IM folder, and details of the relevant Supervision team.

The email will be directed to the Supervision team to notify them that the Whistleblower team has received a disclosure related to their regulated entity. As a Case Officer you will be copied in to notify Supervision of their ongoing contact on the matter. An example of this initial notification email is below at Figure 1.

The [Whistleblower Coordinator](#) will have already emailed the potential Whistleblower to acknowledge the email. See the s47E(d) [REDACTED] for an example of this email.

The [Whistleblower Coordinator](#) will have already set up the s47E(d) [REDACTED] and the matter entry in the s47E(d) [REDACTED]

S47E(d)

ASSESS

Step 1 – there is a 4 day KPI to complete the assessment

Your first responsibility upon receiving this email from the [Whistleblower Coordinator](#) is to review the potential Whistleblower disclosure. Once you have reviewed the disclosure you need to complete the Whistleblower checklist form ([template here](#)).

The form requires an assessment of eligibility for Whistleblower protections under [Part 9.4AAA of the Corporations Act 2001](#). The form also requires an assessment of the seriousness of the potential Whistleblowers allegations, and the reliability of the source of the information.

If you have any questions regarding the assessment feel free to reach out the [Whistleblower Coordinator](#) and/or the [Whistleblower Manager](#) for assistance. The Whistleblower team can also seek advice from the [Corporate Legal team](#).

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

The assessment form also requires consideration of whether the disclosure should be shared with a peer regulator, or a law enforcement agency. Remember that APRA has obligations to report a serious indicatable offence to law enforcement. APRA also has requirements to notify ASIC of a material breach of ASIC provisions. Under section 55D of the APRA Act, to notice ASIC “as soon as practicable” if APRA has a reasonable belief that a material breach of a law administered by ASIC has occurred.

[s47C\(1\)](#) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[Section 47C\(1\)](#) [REDACTED]
[REDACTED]

OFFICIAL: Sensitive

s47C(1)

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
 - [REDACTED]
 - [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

Step 2

Once you have completed the assessment and signed the form, send the assessment form to the **Whistleblower Manager** for approval.

Step 3

Once the assessment has been approved and signed off by the **Whistleblower Manager** you need to input the following information into the s47E(d)

[REDACTED]

Section 47C(1)

- [REDACTED]
- [REDACTED]
- [REDACTED]

Step 4

The next step is to email Supervision to notify them of your assessment. The s47E(d) [REDACTED] has a template email for if the disclosure qualifies, and if the disclosure does not qualify. Examples of these emails are attached below (Figure 2 and Figure 3).

Section 47C(1)

The Supervision team will already have access to the restricted IM folder.

Step 5

Once you have notified Supervision the next step is to wait for Supervision to notify you of their proposed strategy, or proposed releases to peer regulators.

Non-Qualifying Informant

If you have assessed that the Informant does not qualify for Whistleblower protections you still need to consider, in consultation with the relevant Supervision team if applicable if the disclosure should be released to a peer regulator or law enforcement agency.

- s47E(d) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

s47E(d) [REDACTED]
[REDACTED]
[REDACTED].

If no peer regulator or law enforcement release is required, or the release has been sent, the matter can be closed as a Whistleblower matter by the [Whistleblower Coordinator](#) in the s47E(d) [REDACTED].

Note: Just because the Informant does not qualify for Whistleblower protections does not mean the information may not be protected information or documents under s 56 of the *APRA Act 1998*. You will still need to consider if the information is protected information. s47E(d) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

S47E(d)

STRATEGISE

The main responsibility of the Case Officer in the STRATEGISE phase is to support Supervision. s47E(d)

As the Case Officer your responsibility is to support Supervision in understanding their responsibilities and obligations to the Whistleblower under the *Corporations Act 2001*. You are also required to support Supervision with any questions they have on the handling of protected documents and information under s 56 of the *APRA Act 1998*. The **Corporate Legal team** provide legal advice about the operation of s 56 and should be contacted as required.

Remember it is an offence to reveal a Whistleblowers identity or identifying information.

WARNING

Unauthorised disclosure of a Whistleblower's identity, or of information that could lead to their identification, is an offence under section 1311(1) of the *Corporations Act 2001*.

ACTION

More information from Whistleblower

It is Supervision's decision whether to obtain more information from the Whistleblower. If the Supervision team requires more information from the Whistleblower it is your responsibility as the Case Officer to arrange this meeting.

s47E(d)

OFFICIAL: Sensitive

When you email the Whistleblower, email them from the Whistleblower Matters email address, s47E(d)

Meetings with a Whistleblower should always be attended by a member of the Whistleblower team. The Whistleblower Coordinator or Whistleblower Manager may attend the meeting to support you as required.

S47E(d)

s47E(d)

- [REDACTED]
[REDACTED]
- [REDACTED]
[REDACTED]
- [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
- [REDACTED]
[REDACTED]
- [REDACTED]
[REDACTED]
- [REDACTED]
[REDACTED]
[REDACTED]

The secrecy provisions contained in section 56 of the Australian Prudential Regulation Authority Act 1998 prevent APRA and its officers from disclosing information relating to the supervision of a particular regulated institution. Accordingly, APRA is restricted in the feedback we are able to provide.

OFFICIAL: Sensitive

APRA does not provide legal advice, and we suggest that you obtain independent legal advice to satisfy yourself as to whether or not you are protected as a Whistleblower under the Corporations Act regime. That said, I can tell you that APRA treats disclosures in the same manner, irrespective of whether the informant qualifies as a Whistleblower.

s47E(d)

Release to a Peer Regulator

s47E(d)

Where APRA considers it necessary to disclose the identity of the Whistleblower, or information that is likely to lead to the identification of the Whistleblower, to a third party other than ASIC, the AFP or a Commonwealth, State or Territory authority (Third Party), the Whistleblower will be asked to consent to the information being disclosed. s47E(d)

Where APRA considers it necessary to disclose information to a Third Party that does not identify the Whistleblower, the Whistleblower will be asked if they have any concerns regarding the information being shared with the third-party. The Whistleblower's response will be considered when determining whether information will be shared.

s47C(1)

Section 47E(d)

Consent from the Whistleblower is not required where another subsection of s 1317AAE of the *Corporations Act 2001* is satisfied (see Figure 4).

s47E(d)

s47E(d)

Consent from the Whistleblower is not required to share the disclosure with a member of the Australian Federal Police (s 1317AAE (2) (c) *Corporations Act 2001*) (see Figure 4).

Consent is not required to release information to AUSTRAC, the ATO, the FWO, the OAIC, the AFP and the ACCC, as they fall under the definition of Commonwealth authorities under s 1317AAE (3)(b) of the *Corporations Act 2001* (see Figure 5). For example,

- AUSTRAC established under the [Financial Transaction Reports Act 1988](#);
- ATO established under the [Taxation Administration Act 1953](#);
- ACCC established under the [Competition and Consumer Act 2010](#).

Consent is not required to release information to a State or Territory police authority as these authorities fall under the definition of State or Territory Authority under s 1317AAE (3) of the *Corporations Act 2001* (see Figure 5 and Figure 6). Victoria Police established under the [Victoria Police Act 2013](#);

- New South Wales Police established under the [Police Act 1990](#);

OFFICIAL: Sensitive

- Australian Capital Territory Police is a division of the AFP covered by s 1317AAE (2) (c) *Corporations Act 2001*;
- Queensland Police established under the [Police Service Administration Act 1990](#);
- Western Australia Police established under the [Police Act 1892](#);
- South Australia Police established under the [Police Act 1998](#);
- Northern Territory Police established under the [Police Administration Act 1978](#).

s47E(d)

Consent may be required for other regulators or authorities if they do not fall within the definition of State or Commonwealth Authority under s 1317AAE (3) of the *Corporations Act 2001* s47E(d)

s47E(d)

CORPORATIONS ACT 2001 - SECT 1317AAE

Confidentiality of whistleblower's identity

- (1) A [person](#) (the *first person*) contravenes this [subsection](#) if:
- (a) another [person](#) (the *discloser*) [makes](#) a disclosure of information (the *qualifying disclosure*) that qualifies for protection under this Part; and
 - (b) the first [person](#) discloses any of the following (the *confidential information*):
 - (i) the identity of the discloser;
 - (ii) information that is likely to lead to the identification of the discloser; and
- (2) A disclosure referred to in [paragraph](#) (1)(b) is authorised under this [subsection](#) if it:
- (a) is [made](#) to [ASIC](#); or
 - (b) is [made](#) to [APRA](#); or
 - (c) is [made](#) to a member of the [Australian](#) Federal Police (within the meaning of the *[Australian Federal Police Act 1979](#)*); or
 - (d) is [made](#) to a legal practitioner for the purpose of obtaining legal advice or legal representation in relation to the operation of this Part; or
 - (e) is [made](#) to a [person](#) or body [prescribed](#) by [the regulations](#) for the purposes of this [paragraph](#); or
 - (f) is [made](#) with the consent of the discloser.

- (3) Without [limiting subsection \(2\)](#), a disclosure referred to in [paragraph \(1\)\(b\)](#) is authorised under this [subsection](#) if it:
- (a) is [made](#) by [ASIC](#), [APRA](#) or a member of the [Australian Federal Police](#) (within the meaning of the [Australian Federal Police Act 1979](#)); and
 - (b) is [made](#) to a Commonwealth authority, or a [State or Territory authority](#), for the purpose of assisting the authority in the performance of its functions or duties.

"State or Territory authority" means an authority or other [body](#) (whether incorporated or not) that is established or continued in existence by or under a [law of a State or Territory](#).

As the Case Officer your responsibilities in preparing a peer regulator or law enforcement release are to:

- Contact the Whistleblower and request their consent (if applicable);

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

- s47E(d) [REDACTED]
[REDACTED]
[REDACTED]
- [REDACTED]
- [REDACTED]
[REDACTED]
- [REDACTED]
- [REDACTED]
[REDACTED]
[REDACTED]
- [REDACTED]
[REDACTED]
[REDACTED]
- [REDACTED]
[REDACTED]
[REDACTED]

s47E(d) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Discussion with Regulated Entity

APRA cannot discuss anything with the regulated entity that may suggest that we have received a Whistleblower disclosure as unauthorised disclosure of the identity or identifying information of a Whistleblower is an offence under s 1317AAE (1) of the *Corporations Act 2001*.

s47E(d) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Some examples of techniques the Whistleblower team have used previously to obtain more information from the regulated entity without revealing the Whistleblower include:

- Information request based on information provided by entity;
- Inclusion of questions in the scope of planned prudential meetings;
- Expansion of scope of planned information requests; and
- Inclusion of questions in the scope of planned risk reviews.

s47E(d)

S47E(d)



s47E(d)

As the Case Officer your responsibilities are to:

- Provide Supervision the s47E(d) and instructions for closure;
 - s47C(1)
 -
 -
 -
 -
 - Request Supervision to obtain sign off from the delegate (relevant GM).

-

OFFICIAL: Sensitive

- Section 47E(d) [REDACTED]
[REDACTED]
[REDACTED]
- [REDACTED]
[REDACTED]
[REDACTED]
- [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
- [REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

If you have any questions or concerns please contact the [Whistleblower Coordinator](#) or [Whistleblower Manager](#) for assistance.