

Whistleblower Policy

Policy number	005	Version	1
Drafted by	Senior Policy Officer	Approved by Board on	15/09/2022
Responsible person	Governance and Policy Sub-Committee	Scheduled review date	01/08/2024

1. Introduction

- 1.1 Assistive Technology Suppliers Australia Ltd (ACN 628 080 517) (“**ATSA**”) is committed to fostering a culture of legal, ethical and moral behaviour and exemplary corporate governance.
- 1.2 ATSA recognises the value of transparency and accountability in its administrative and management practices, and supports the reporting of improper conduct.
- 1.3 This Whistleblower Policy has been developed so that people can raise concerns regarding situations where they believe that ATSA or an officer or employee of ATSA has acted in a way that constitutes serious wrongdoing, including unethical, illegal, corrupt or other inappropriate conduct, as set out below.

2. Terms used in this Policy

- 2.1 In this Policy:

“**Board**” means the directors of ATSA;

“**Eligible Person**” means a person who is able to make a report under this Policy as set out in section 4.

“**Eligible Recipient**” has the meaning given in section 6.5.1.

“**Protected Disclosure**” has the meaning given in section 6.6.

“**Reportable Conduct**” has the meaning given in section 6.2.

“**Whistleblower**” has the meaning given in section 6.1.

“**Whistleblower Laws**” means the laws referred to in section 11.

“**Whistleblower Protection Officer**” means the Company Secretary.

“**Worker**” has the meaning given in section 4.1.

3. Purpose

- 3.1 This Policy aims to:
- encourage a person to report any Reportable Conduct in good faith if they know or have reasonable grounds to suspect such conduct
 - provide a mechanism to report any Reportable Conduct that has occurred or is suspected within ATSA
 - enable ATSA to deal with reports from Whistleblowers in a way that will protect the identity of the whistleblower and provide for secure storage of the information provided by the Whistleblower
 - ensure that any Reportable Conduct is identified and dealt with appropriately
 - ensure that Whistleblowers can make reports safely, securely and with confidence that they will be protected and supported, and
 - help to ensure that ATSA maintains the highest standards of ethical behaviour and integrity.

4. Scope

- 4.1 This Policy applies to:

Employees	Directors	Officers	Contractors (including employees of contractors)	Volunteers	Suppliers	Consultants
✓	✓	✓	✓	✓	✓	✓

Within this Policy, all of these people are represented by the term “**Workers.**”

- 4.2 Although they are under no obligation to do so, any associate, family member or dependant of any person in the above groups of people may also speak up. If they do choose to speak up in line with this Policy, we will extend to them the relevant rights and protections under this Policy.

5. Principles

- 5.1 **Higher standard** – This Policy is designed to comply with ATSA’s legal obligations. If anything in this Policy is inconsistent with any law imposed on ATSA, that legal obligation or the “higher standard” will prevail over this Policy.

- 5.2 **Speak up and report it!** – We encourage Workers at ATSA to report any concerns in line with our policies and procedures.
- 5.3 **Our expectations of Workers** – ATSA expects Workers to act honestly and ethically, and to make any report on reasonable grounds.
- 5.4 **Our responsibility to Whistleblowers** – Our obligations to Workers are spelled out in this Policy, but in particular in section 7 ‘Protection’.
- 5.5 **Confidentiality and consent** - ATSA will maintain confidentiality of all reports and protect the identity of reporters to the fullest extent possible. While ATSA encourages Whistleblowers to identify yourself to the Whistleblower Protection Officer you may opt to report your concerns externally and/or anonymously.
- 5.6 The latest information on Whistleblowers can be found on the ASIC website at <https://asic.gov.au/about-asic/asic-investigations-and-enforcement/whistleblowing/> Information on this website takes precedence over this Policy.

6. Reportable Conduct

6.1 Who can make a report?

- 6.1.1 A Whistleblower is a person who, whether anonymously or not, attempts to report Reportable Conduct and wishes to avail themselves of protection against reprisal for having made the report.
- 6.1.2 A Whistleblower may be a current or former Worker with ATSA.

6.2 What is Reportable Conduct?

- 6.2.1 A person may disclose any information that the person has reasonable grounds to suspect Reportable Conduct.
- 6.2.2 Reportable Conduct is any past, present or likely future activity, behaviour or state of affairs considered to be:
- dishonest;
 - corrupt (including soliciting, accepting or offering a bribe, or facilitating payments or other such benefits);
 - fraudulent;
 - illegal (including theft, drug sale or use, violence or threatened violence, or property damage);
 - in breach of regulation or internal policy;
 - improper conduct relating to accounting, internal controls, compliance, actuarial, audit or other matters of concern to the Whistleblower;
 - a serious impropriety or an improper state of affairs or circumstances;

- h) endangering health or safety;
- i) damaging or substantially risking damage to the environment;
- j) a serious mismanagement of ATSA's resources;
- k) detrimental to ATSA's financial position or reputation;
- l) maladministration (an act or omission of a serious nature that is negligent, unjust, oppressive, discriminatory or is based on improper motives);
- m) concealing Reportable Conduct;
- n) any action taken against, or harm suffered by an employee as a result of making or intending to make a report under this Policy; OR
- o) any conduct that is a deliberate cover up of any of the above.

6.2.3 Reportable Conduct usually relates to the conduct of employees or directors, but it can also relate to the actions of a third party, such as a funder, customer/client, supplier or service provider.

6.3 What is *not* Reportable Conduct?

6.3.1 While everybody is encouraged to speak up and report any concerns to ATSA, not all types of conduct are intended to be covered by this Policy or by the protections under the *Corporations Act 2001* (Cth). This Policy does not apply to complaints about the service provided by ATSA or any contractual disputes or personal work-related grievances (see 6.3.2, 6.3.3 and 6.3.4), unless the grievance includes victimisation due to whistleblowing. Those matters are dealt with under other policies.

6.3.2 Personal work-related grievances are those that relate to the discloser's current or former employment with ATSA that might have implications for the discloser personally but do not:

- a) have any other significant implications for ATSA (or another entity); or
- b) relate to any conduct or alleged conduct about a matter set out in 5.2.2.

6.3.3 Personal work-related grievances include grievances such as interpersonal conflicts, decisions about promotions, decisions that do not involve a breach of workplace laws, or terms and conditions of employment.

6.3.4 However, personal work-related grievances may be covered by this Policy where they include information about misconduct, an allegation that the entity has breached employment or other laws punishable by imprisonment by a period of 12 months or more, or the grievance includes victimisation due to whistleblowing. Disclosures relating to these matters should be reported through management and internal reporting channels if practicable.

6.4 What information do I need to make a report?

6.4.1 To make a protected report you must know of or have reasonable grounds to suspect that there has been Reportable Conduct. Reasonable grounds means that a reasonable person in your position would also suspect the information indicates Reportable Conduct or a breach

of the law. A disclosure may have serious consequences, including potential damage to the reputation of people who are the subject of allegations. Therefore, it is important that those who make a disclosure under this Policy do so based on reasonable grounds for believing that the information being reported is true or likely to be true.

- 6.4.2 For a report to be investigated, it must contain enough information to form a reasonable basis for investigation. It is important therefore that you provide as much information as possible. This includes any known details about the events underlying the report such as the:
- date;
 - time;
 - location;
 - name of person(s) involved;
 - possible witnesses to the events; and
 - evidence of the events (e.g. documents, emails).

- 6.4.3 In your report, include any steps you may have already taken to report the matter elsewhere or to resolve the concern.

6.5 How can I make a report?

- 6.5.1 If an Eligible Person becomes aware of any conduct or behaviour which they believe constitutes a Reportable Conduct, they can make a report in writing or in person to one of the following parties who are **Eligible Recipients** under this Policy:

- the Whistleblower Protection Officer;
- a senior executive or member of the board of ATSA;
- ATSA's auditor, or a member of the audit team;
- ProAct Link

ProAct Link reporting options are available 24/7: Online; www.proactlink.com.au

Phone; 1800 888 340 Email; report@proactlink.com.au

- 6.5.2 **Anonymous Reporting:** Reports can be made anonymously if preferred and will still qualify for the protections under the Whistleblower Laws. Anonymous reports can be made to an Eligible Recipient or to ProAct Link. However, anonymous reports may limit the ability for ATSA to investigate and to provide protections to the discloser.

- 6.5.3 **External Reporting:** ATSA has an external and independent reporting service dedicated to receiving reports from Eligible Persons where they do not wish to report using internal channels. The ProAct Link reporting service can be used to report externally for all concerns where the Whistleblower wishes to report anonymously or externally to a channel that is independent of ATSA. Disclosures can be made directly to ProAct Link, which is operated by Proactive Strategies. ProAct Link is an Eligible Recipient under this Policy.

ProAct Link reporting options are available 24/7:

Online; www.proactlink.com.au

Phone; 1800 888 340

Email; report@proactlink.com.au

Experienced investigators will respond to reports. You can identify yourself or remain anonymous when you make a report to ProAct Link. If you disclose your identity to ProAct Link, you can request that your identity not be disclosed to ATSA. ProAct Link will not disclose your identity to ATSA without your consent unless it is legally required to do so.

6.5.4 If you are the person that a report is made to, and you believe that behaviour reported may be regarding Reportable Conduct under this Policy, report the information to:

- the Whistleblower Protection Officer OR
- ProAct Link.

Do not discuss the report or the identity of the person making the report with anyone else. Unauthorised disclosure of the Whistleblower's identity or information from which the identity of the Whistleblower could be inferred will be regarded as a disciplinary matter, and will be dealt with in accordance with ATSA's disciplinary procedures.

6.6 When is a Report a Protected Disclosure?

6.6.1 For a report to be a Protected Disclosure under this Policy, (and therefore provide the discloser with protections under the Whistleblower Laws), the person disclosing must be an Eligible Person who:

1. Reports conduct that is Reportable Conduct
2. Reports based on Reasonable Grounds
3. Makes the report in accordance with this policy to an Eligible Recipient (see section 6.5).

A Person who has themselves been involved in the Reportable Conduct being disclosed by them will not be included in these protections.

ATSA will also protect individuals who have made a report in connection with ATSA:

- a) to the Australian Securities and Investments Commission (**ASIC**) or the Australian Prudential Regulation Authority (**APRA**) or another Commonwealth regulatory body prescribed in legislation;
- b) to a legal practitioner for the purposes of obtaining legal advice or legal representation about whistleblower protections; or
- c) in certain limited circumstances such as if the Reportable Conduct has an imminent risk of causing harm or danger to public health or safety, an Emergency or Public Interest disclosure can be made to a journalist or a Member of Parliament. These reports may be protected under the Whistleblower Laws and this Policy, where certain criteria are met. Independent legal advice should be sought in relation to Emergency or Public Interest Disclosures.

7 Protection

7.1 How will I be protected if I speak up about Reportable Conduct?

- 7.1.1 If you have reasonable grounds to suspect Reportable Conduct, even if it turns out your concerns are mistaken, ATSA will support and protect you and anyone else assisting in the investigation.
- 7.1.2 ATSA will not tolerate any detriment inflicted on you because you or somebody else has made, or might make, a report of Reportable Conduct. Examples of detriment include:
- retaliation, dismissal, suspension, demotion, disciplinary action or termination of your role;
 - bullying, harassment, threats or intimidation;
 - discrimination, subject to current or future bias, or derogatory treatment;
 - harm or injury;
 - damage or threats to your property, business, financial position, disadvantage in your contractual arrangements with ATSA or reputation;
 - revealing your identity as a Whistleblower without your consent or contrary to law; and
 - threatening to carry out any of the above actions.

Detrimental conduct does not include reasonable administrative actions or managing a Whistleblower's unsatisfactory work performance.

- 7.1.3 This protection applies regardless of whether any concerns raised in a report are found to be true, provided that you are acting honestly and ethically and made the report on reasonable grounds.
- 7.1.4 This protection also applies to individuals conducting, assisting or participating in an investigation. You will also be entitled to the protection if you make a report of Reportable Conduct to an external body under this Policy.
- 7.1.5 Anyone found to be victimising or disadvantaging another individual for making a disclosure under this Policy will be disciplined and may be dismissed or subject to criminal or civil penalties.
- 7.1.6 If you believe you have suffered detriment in violation of this Policy, we encourage you to report this immediately to a Whistleblower Protection Officer or an external body under this Policy. Your concerns of being disadvantaged will be treated as a report of Reportable Conduct in line with this Policy.
- 7.1.7 Anyone engaging in detrimental conduct may be subject to serious consequences, including disciplinary action and/or termination of engagements or contracts, as applicable. They may also be subject to civil and criminal penalties.

- 7.1.8 You may also be entitled to the following legal protections for making a report:
- protection from civil, criminal or administrative legal action;
 - protection from having to give evidence in legal proceedings; and/or
 - compensation or other legal remedy.
- 7.1.9 Other Protections: You will be protected from any of the following in relation to a Protected Disclosure:
- Civil liability (e.g., any legal action against the discloser for breach of an employment contract, duty of confidentiality or another contractual obligation).
 - Criminal liability (e.g., attempted prosecution of the discloser for unlawfully releasing information, or other use of the disclosure against the discloser in a prosecution (other than for making a false disclosure)
 - Administrative liability (e.g., disciplinary action for making the disclosure)

The protections do not grant immunity for any misconduct the discloser may have engaged in, that is revealed in the disclosure.

You can seek compensation and other remedies through the courts if you have suffered loss or injury because of the disclosure or if ATSA failed to take reasonable precautions to prevent the detrimental conduct.

You can still qualify for the protections under this Policy even if the disclosure turns out to be incorrect or if your legal practitioner has advised you that the disclosure is not Reportable Conduct.

A Whistleblower who has made a Protected Disclosure must, at all times during the reporting process and any resulting investigation process, continue to comply with this Policy.

7.2 How will ATSA ensure confidentiality?

- 7.2.1 A Whistleblower can choose to remain anonymous while making a report, over the course of the investigation and after the investigation is finalised. ATSA will do all it can to protect confidentiality.
- 7.2.2 However, we encourage all individuals to disclose their identity when raising a concern. This will assist us to gather further information on your report. If you choose to disclose your identity, your details will be treated confidentially to the fullest extent possible in connection with the investigation. ATSA will take measures to protect your identity such as by redacting your personal information, storing your information and disclosure securely, referring to you in a gender-neutral context and only allowing qualified staff to investigate your disclosures.

7.2.3 You may choose to report your concerns anonymously. However, if you choose to disclose your identity, your details will be treated confidentially to the fullest extent

possible in connection with the investigation, and your identity will not be disclosed unless:

- a) you consent in writing to the disclosure;
- b) the disclosure is made to ASIC, APRA or the Australian Federal Police;
- c) the disclosure is made to a legal practitioner for the purpose of obtaining legal advice;
- d) the disclosure is authorised under the *Corporations Act 2001* (Cth); and/or
- e) disclosure is necessary to prevent or lessen a threat to a person's health, safety or welfare.

7.2.4 We encourage all individuals to disclose their identity when raising a concern. This will assist us to gather further information on your report. All information relating to a report of Reportable Conduct will be stored securely and access will be limited to authorised staff.

7.2.5 It is illegal for a person to identify a Whistleblower, or disclose information that is likely to lead to the identification of the Whistleblower unless an exception above applies. If you feel that the confidentiality of your identity has been breached, you can lodge a complaint with a regulator, such as ASIC, APRA or the ATO, for investigation. ATSA may also take disciplinary action against individuals that breach the confidentiality of a Whistleblower's identity, including summary dismissal.

7.3 **How will ATSA protect a discloser from detriment?**

As part of the initial review of the disclosure, an assessment will be made of the potential risk of breach of confidentiality regarding your identity, and risk of detriment to you. Decisions regarding response and investigation methods will be made having regard to these risks, and suitable measures will be considered and implemented to mitigate these risks as required

7.4 **False reports or disclosures**

7.4.1 Protected Disclosures must be made on reasonable grounds. Anyone who knowingly makes a false report/disclosure of Reportable Conduct may be subject to disciplinary action, including dismissal.

7.4.2 The disciplinary action will depend on the severity, nature and circumstance of the false disclosure.

8 **Handling and investigating a disclosure**

8.1 Where the disclosure assessment indicates an investigation is practical and appropriate, an investigation will be undertaken. A Whistleblower Protection Officer will review the report and escalate to the Board as appropriate and coordinate any required

investigations. ATSA may engage the services of independent investigators as required and appropriate. Any such investigation shall observe the rules of natural justice and the provisions of procedural fairness. Unless there are confidentiality or other considerations that preclude it, persons to whom the report relates will be informed of any allegation at an appropriate time and given the chance to respond to those allegations. The investigation process will be conducted so as to protect all paper and electronic documents and other materials relating to the disclosure from unauthorised access. At the conclusion of the investigation, where you have provided an avenue to contact you, we will report to you on the outcome of the investigation subject to privacy considerations. If you are dissatisfied with the response tendered to you, you may request that the complaint be reviewed by the Board of ATSA. Following its review, the Board will notify you of its decision.

- 8.2 ATSA will endeavour provide the Whistleblower with regular updates.
- 8.3 ATSA may not be able to investigate a report if it is unable to contact the Whistleblower.
- 8.4 ATSA will handle and investigate Protected Disclosures in accordance with the Whistleblowing Procedure below.

9. Monitoring and assurance

This Policy will be distributed and available to all employees via the Policy and Procedures shared folder and shared during orientation. This Policy will also be publicly available on the company website at <https://atsa.org.au/>. To ensure effective protection under the Policy, the ATSA Governance and Policy Sub-Committee will monitor and review this Policy annually.

10. Related Documents

- Whistleblowing Procedure
- Human Resources Policy
- ATSA Code of Practice.

11. Legislation & Industrial Instruments

- *Corporations Act 2001 (Cth)*

- *Fair Work Act 2009 (Cth)*
- *Fair Work Regulations 2009 (Cth)*
- *Insurance Act 1973 (Cth)*
- *Life Insurance Act 1995 (Cth)*
- *Public Interest Disclosure Act 2013 (Cth)*
- *Superannuation Industry (Supervision) Act 1993 (Cth)*
- *Taxation Administration Act 1953 (Cth)*

This policy & procedure is not intended to override any industrial instrument, contract, award or legislation.

Whistleblowing Procedure

Procedure number	005	Version	1
Drafted by	Senior Policy Officer	Approved on	15/09/2022
Authorised person	Board	Scheduled review date	01/08/2024

1. Responsibilities

- 1.1 **The Whistleblower Program Team (WP Team)**, comprised of the Whistleblower Protection Officer (the Company Secretary) (**WPO**) and Proactive Strategies, which operates an external reporting service called ProAct Link (independent from ATSA), is responsible for:
- Assessment and oversight of whistleblower reports
 - Providing advice and support to Whistleblowers
 - Maintaining a secure and restricted record of all reports made under this Policy and Procedure
 - Arranging role-specific training as and when required.
- 1.2 The **Executive Officer (EO)** is responsible for ensuring that:
- Workers are made aware of their rights and responsibilities in relation to whistleblowing at induction
 - Workers are regularly encouraged to speak up about concerns of Reportable Conduct.
- 1.3 The **WPO** is responsible for:
- Receiving Whistleblower reports and protecting the interests of reporters
 - Determining whether the report falls within the scope of the Policy
 - Determining whether and how a report should be investigated
 - Appointing a Whistleblowing Investigator where an investigation is deemed appropriate
 - Ensuring investigations are conducted in accordance with this Policy
 - Ensuring any reports involving a Director or the Executive Officer are reported to the Chair of the Board
 - Updating Whistleblowers on progress and details of outcomes to the fullest extent possible
 - Maintaining to the fullest extent possible confidentiality of the identity of and reports received by Whistleblowers
 - Immediately reporting concerns in relation to any detrimental conduct to the Chair of the Board (provided that the concerns do not relate to them)
 - Determining the appropriate courses of action to remediate or act on the investigation
 - Reporting matters to relevant authorities
 - Making recommendations to prevent future instances of reportable misconduct
 - Completing any training mandated by the WP Team
 - Seeking to ensure the integrity of the Whistleblower Policy is maintained.

Note: Where a report has been made externally using ProAct Link rather than to the WPO, ATSA may engage an independent professional service provider to carry out some or all of the WPO's responsibilities as and when appropriate.

- 1.4 **Whistleblower Investigators** are responsible for:
- a) Investigating reports in accordance with this Policy and Procedure
 - b) Maintaining to the fullest extent possible confidentiality of the identity of and reports received by reporters
 - c) Gathering evidence and taking steps to protect or preserve evidence
 - d) Making findings based on a fair and objective assessment of the evidence gathered during the investigation, and formalising this in a report
 - e) Keeping comprehensive records about the investigation
 - f) Making recommendations to the WPO about how to implement the strategy in relation to how reported misconduct can be stopped, prevented and/or mitigated in future
 - g) Reporting back to the WPO on the progress of their investigation 7 days after the report and every 14 days thereafter
 - h) Complying with the directions of the WPO in relation to any further follow up, and reporting action and requirements, including the implementation of any recommendations.
- 1.5 **Workers** are responsible for reporting misconduct or dishonest or illegal activity that has occurred or is suspected within ATSA as quickly as possible, whether anonymously or otherwise.

2. Procedure

2.1 Overview

Where the disclosure assessment indicates an investigation is practical and appropriate, an investigation will be undertaken. The WPO will review the report and escalate to the Board as appropriate and coordinate any required investigations. ATSA may engage the services of independent investigators as required and appropriate. Any such investigation shall observe the rules of natural justice and the provisions of procedural fairness. Unless there are confidentiality or other considerations that preclude it, persons to whom the report relates will be informed of any allegation at an appropriate time and given the chance to respond to those allegations. The investigation process will be conducted so as to protect all paper and electronic documents and other materials relating to the disclosure from unauthorised access. At the conclusion of the investigation, where you have provided an avenue to contact you, we will report to you on the outcome of the investigation subject to privacy considerations. If you are dissatisfied with the response tendered to you, you may request that the complaint be reviewed by the Board of ATSA. Following its review, the Board will notify you of its decision.

2.2 How do I make a report?

- 2.2.1 Whistleblowing protections will only apply to reports of Reportable Conduct made in accordance with this Procedure.
- 2.2.2 Where you have reasonable grounds to suspect that an individual has engaged in Reportable Conduct, you should report the matter to any person authorised by ATSA to receive Whistleblower disclosures (“**Eligible Recipient**”). Eligible Recipients are:
- a) The Whistleblower Protection Officer
 - b) Any director or officer of ATSA
 - c) ATSA’s auditors or a member of the audit team
 - d) ProAct Link (external reporting service independent of ATSA)
- 2.2.3 If you are not comfortable or able to report Reportable Conduct internally or to the external agency appointed by ATSA, you may report it to the Australian Securities and Investments Commission.

2.3 How are reports investigated?

- 2.3.1 After receiving your report the WPO will:
- a) assess the report of Reportable Conduct;
 - b) consider whether there are any conflicts of interest prior to investigating;
 - c) determine whether external authorities need to be notified;
 - d) determine whether and how to investigate; and
 - e) appoint a Whistleblowing Investigator if appropriate.
- 2.3.2 If an investigation is deemed necessary, it will be conducted fairly, objectively and in a timely manner. The investigation process will vary depending on the nature of the Reportable Conduct and the amount of information provided.
- 2.3.3 Any individuals who are accused of misconduct in a report (a **Respondent**) will have an opportunity to respond to allegations before any adverse findings are made and before any disciplinary action (if appropriate) is taken. Any such investigation shall observe the rules of natural justice and the provisions of procedural fairness towards the persons whose conduct the report relates. Unless there are confidentiality or other considerations that preclude it, a Respondent will be informed of any allegation at an appropriate time and given the chance to respond to those allegations prior to any actions being taken which may impact on their employment or relationship with ATSA.

2.3.4 The Whistleblowing Investigator may need to speak with a Whistleblower as part of an investigation. If the identity of the Whistleblower is known, ATSA will endeavour to keep them informed about the status of an investigation.

2.3.5 If there is insufficient information to warrant further investigation, or the initial investigation immediately identifies there is no case to answer, the individual who reported the Reportable Conduct will be notified at the earliest possible opportunity.

2.4 Outcome of an investigation

2.4.1 At the conclusion of the investigation, a report will be prepared outlining:

- a) a finding of all relevant facts;
- b) a determination as to whether the allegation(s) have been substantiated or otherwise;
- c) the action that will be taken, which may include disciplinary action and dismissal.

2.4.2 The disciplinary action will be dependent on the severity, nature and circumstances of the Reportable Conduct.

2.4.3 Where possible and appropriate, having regard to ATSA's privacy and confidentiality obligations, the Whistleblower will be informed of the outcome of any investigation into their concerns.