



VicSuper Pty Ltd

(VicSuper)

ABN 69 087 619 412

WHISTLEBLOWERS' PROTECTION POLICY

December 2019

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Executive summary

Reporting	<p>If a person suspects a <i>Disclosable Matter</i>, guidance is provided on:</p> <ul style="list-style-type: none">• <i>who can report</i>• <i>how to report</i>• <i>when to report.</i> <p><i>See Clause 1 for more details.</i></p>
Protections and requirements	<p>Various protections and support apply for Whistleblowers, including:</p> <ul style="list-style-type: none">• confidentiality and anonymity• protections against victimisation or retaliation• receiving updates on investigation and outcomes of reports <p>Requirements for and limitations on these protections also apply, including:</p> <ul style="list-style-type: none">• reporting must be based on reasonable grounds• personal work-related grievances should not be reported under this policy, unless the matter concerns victimization on the basis of a report made under this Policy, or the matter has significant implications for the company unrelated to the reporter. <p>The <i>Trustee</i> takes deliberate, vexatious or malicious false disclosures under this Policy very seriously. It may result in:</p> <ul style="list-style-type: none">• disciplinary action; and/or• Termination of employment or contract.• See Clause 1 for more details.
Investigations	<p>All reports made under this Policy are to be treated with the utmost seriousness. Where appropriate an investigation will be conducted.</p> <p>The manner of conducting investigations is prescribed under this Policy.</p> <p><i>See Clause 5 for more details.</i></p>
Roles and responsibilities	<p>All employees have responsibilities under this Policy:</p> <ul style="list-style-type: none">• <i>Employees</i> must not cause detriment to a whistleblower• <i>Whistleblower Protection Officers</i> will provide support and protection to whistleblowers <p><i>See Clause 3 for more details.</i></p>
Review and reporting	<p>Reporting must occur in accordance with this Policy.</p> <p>This Policy must be reviewed at least annually.</p> <p>The Board (through the AC&RMC) must approve any material amendments to this Policy.</p> <p><i>See Clause 7 for more details.</i></p>

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Section A – Overview

This Policy aims to:

- encourage detection and reporting of *Disclosable Matters*;
- demonstrate the *Trustee's* commitment to ethical and compliant business activities and high standards of governance;
- encourage and enhance compliance with relevant laws;
- improve confidence in management;
- prevent reprisals against individuals who make a report under this Policy; and
- Outline the process for reporting *Disclosable Matters* and the ways in which the *Trustee* will protect those who make such reports.

This Policy is an important element in the *Trustee's* Governance Framework. The Framework incorporates policies and procedures necessary to achieve good corporate governance.

The *Trustee* has a strong commitment to conduct its business activities in a way that is both ethical and compliant. The *Trustee* expects the highest standards of professional behaviour from the board, the executive team, senior management and *employees*. Accordingly, and as part of the *Trustee's* culture of transparency, integrity and accountability all persons covered by this Policy are encouraged to report any *Disclosable Matter*.

This Policy is to be read in conjunction with the Conflict Management Framework and its Policy. The Conflicts Management Framework and its Policy are to be considered and applied consistently when administering this Policy.

This Policy will be made available on the VicSuper website, and training will be provided to officers and employees where required.

Reports under this Policy can be made by anyone who is or has been, any of the following with respect to VicSuper Pty Ltd; VicSuper Ecosystem Services Pty Ltd; or any of the unit trusts for which it acts as corporate trustee:

- *employees*, senior managers, officers and Board directors;
- *contractors*, suppliers and their *employees*;
- any Associate (as defined in the *Corporations Act 2001 (Cth)*);
- a trustee, custodian or investment manager (including their *employees*);
- an officer of a body corporate that is a trustee, custodian or investment manager (including their *employees*);
- a supplier of goods or services to a trustee, custodian or investment manager, or an employee of such supplier; and
- a spouse, relative or dependent of any of the above persons.

Section B – Detail

1. Reporting

What to report?

A report should only be made under this Policy in relation to a *Disclosable Matter*. A *Disclosable Matter* means any information about the Trustee (or an officer or employee of the Trustee) that the discloser has reasonable grounds to suspect concerns misconduct or an improper state of affairs or circumstances in relation to the Trustee. This includes conduct that:

- constitutes an offence against, or a contravention of the *Corporations Act 2001* (Cth), the *Australian Securities and Investments Commission Act 2001* (Cth); the *Superannuation Industry (Supervision) Act 1993* (Cth); or any other law of the Commonwealth that is punishable by imprisonment for a period of 12 months or more;
- represents a danger to the public or the financial system (even if it does not involve a contravention of a particular law);
- is a serious breach of any internal policy or code of the Trustee;
- is illegal (such as theft, use of illicit drugs, violence or criminal damage against property);
- constitutes dishonest, fraudulent or corrupt activity, including bribery and tax evasion;
- constitutes a danger to health and safety at the Trustee;
- is likely to damage the Trustee’s reputation; and
- The deliberate concealment of any of the above matters.

Personal Work Related Grievances of current or former employees are not covered under this Policy, and should be reported to your line manager or HR representative. Disclosures about these matters may be protected under other legislation. A “Personal Work Related Grievance” means a grievance about any matter in relation to the discloser’s employment, or former employment, having (or tending to have) implications for the discloser personally. This includes:

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

However, it does not include any conduct that would be considered victimisation of an individual because they have made, may have made, or propose to make a report under this Policy, or a matter that would have significant implications for the Trustee. These matters will be Disclosable Matters.

Reports that are not about a Disclosable Matter will not qualify for protection under the Corporations Act or the Taxation Administration Act (although those reports may qualify for protection under other legislation such as the Fair Work Act 2009 (Cth)).

How to report?

The *Trustee* encourages employees to discuss suspected instances of *Disclosable Matters* with your direct manager or People Experience advisor, or report these matters internally as detailed below. However, if this is not appropriate in a particular instance or if you are not comfortable making a report through these channels, you may make a report through the external hotline service as detailed below.

Reports may be made through any of the following channels.

Report to a Whistleblower Protection Officer

The VicSuper Whistleblower Protection Officers (WPOs) are:

- the General Counsel & Company Secretary; and
- The Executive Manager People Experience.
The Chief Executive Officer may designate additional WPOs and these will be notified to employees and officers.

A report to a WPO should be made by telephone or in person. You should first inform the WPO that you wish to make a disclosure under this policy so that they can make appropriate arrangements regarding confidentiality.

Report to External Hotline

A report can be made to VicSuper's secure external Whistleblower Hotline, managed by KPMG using any of the following methods:

- By Telephone on 1800 500 965
- By Email to faircall@kpmg.com.au
- By fax to +61293357466; or
- By mail to: The FairCall Manager, C/-KPMG, 300 Barangaroo Ave, Barangaroo, NSW 2000

If a report is received by KPMG on the FairCall hotline, KPMG will:

- Assure the anonymity of the person making the report, unless permission is given to identify the individual;
- Forward a report summarizing the information received (which will be de-identified if the discloser wishes to remain anonymous) to the General Counsel & Company Secretary
- Forward a report summarising the information received (which will be de-identified if the discloser wishes to remain anonymous) to the General Counsel & Company Secretary.

If KPMG considers it inappropriate to report any matters to the General Counsel & Company Secretary due to the General Counsel & Company Secretary being implicated in the allegation in any capacity, otherwise, the report will be made to the Chief Executive Officer, or if appropriate, to either the Chair of the Board or the chair of AC&RMC.

Report to External Body

The Trustee encourages employees and other disclosers to make a report to the Trustee in the first instance, so that it can identify and address wrongdoing as early as possible. However, the discloser may make a report about a Reportable Matter to an external party such as A SIC or APRA, as set out in [Appendix 1](#).

Reporting to Eligible Recipients

If a discloser is unable to use any of the above reporting channels, a disclosure can be made to an "eligible recipient". Eligible recipients in relation to the Trustee are:

- officers;
- directors;
- senior managers;
- auditors or members of an audit team conducting an audit;
- actuaries; and
- (only for tax related disclosures) a registered tax agent or BAS agent, or any other employee or officer who has functions or duties that relate to the tax affairs of the entity.

When a report is made to an eligible recipient:

- the report must be made in person or by telephone

- You must first inform the eligible recipient that you wish to make a report under this Policy so that they can make appropriate arrangements regarding confidentiality.

An eligible recipient may direct you to make the report to the Fair Call hotline, or to the WPO, if they consider it appropriate in the circumstances.

Who can report?

Reports under this Policy can be made by anyone who is or has been, any of the following with respect to VicSuper Pty Ltd; VicSuper Ecosystem Services Pty Ltd; or any of the unit trusts for which it acts as corporate trustee:

- employees, management/executive, officers and Board directors;
- contractors, suppliers and their employees;
- spouses, dependents and relatives of any person above; and
- any associate (as defined in the *Corporations Act 2001 (Cth)*);
- a trustee, custodian or investment manager (including their employees);
- an officer of a body corporate that is a trustee, custodian or investment manager (including their employees);
- a supplier of goods or services to a trustee, custodian or investment manager, or an employee of such supplier; and
- a spouse, relative or dependent of any of the above persons.
See Clause 3 for protections for whistleblowers and the requirements for and limitations on protection.

Any of the above individuals who makes a report under this Policy may also be eligible for protection as a whistleblower under the *Corporations Act 2001 (Cth)* in certain circumstances. More information on this is set out in Appendix 1.

When to report?

A discloser should make a report where they have reasonable grounds to suspect a *Disclosable Matter* in relation to VicSuper Pty Ltd; VicSuper Ecosystem Services Pty Ltd; or any of the unit trusts for which it acts as corporate trustee.

‘Reasonable grounds’ might be constituted by first-hand experience of an event or first-hand knowledge of facts (including who is involved) that indicates a *Disclosable Matter* has occurred, is occurring, or will occur, and ideally should be supported by documentary evidence. A mere allegation with no supporting information is unlikely to be considered as having reasonable grounds. However a discloser does not need to prove their allegations. A discloser will still qualify for protection under this Policy even if their disclosure turns out to be incorrect (except where they are found to have made a deliberate or malicious false disclosure).

Awareness of a continuing or repeated *Disclosable Matter*, however minor, should be pursued through the appropriate channels; small matters, when repeated, can become bigger matters. Reporting of a *Disclosable Matter* can be made even if you have been aware of parts, or indeed all, of the *Disclosable Matter* for some time.

If you have any doubt about whether your concern falls within this Policy, you should discuss the matter with a *VicSuper Whistleblower Protection Officer*. You should do this in person or by telephone, and you should first inform the WPO that you wish to discuss a potential report under this Policy. The WPO can advise you whether the matter:

- Is within the scope of this Policy; or
- Would ordinarily be viewed as one of the normal commercial business judgement or opinion (and therefore not a matter of a breach of *Trustee’s* compliance or ethics policies.

Information to include in the Report

For a report to be investigated, it must contain sufficient information to form a reasonable basis for investigation. For this reason, disclosers should provide as much information as possible, in any form, about the Disclosable Matter.

For example, information could include (but must not necessarily include):

- the date, time and location;
- the name(s) of person(s) involved and possible witnesses to the events;
- evidence of the events (e.g. documents, emails etc); and
- Steps the discloser or another person may have already taken to report the matter or to resolve the concern.

False reports

The Trustee takes deliberate or malicious false reports of Disclosable Matters very seriously. Any person found to have made a deliberate or malicious false disclosure will be subject to disciplinary action, which may include termination of employment, contract or entitlements. This will not apply if the person who reported genuinely believed the report to be true on reasonable grounds.

2. Anonymity and Confidentiality

Anonymity

- You are encouraged (but not required) to disclose your identity when making a report. Providing your identity will assist in monitoring your well-being and protections against detriment, and in investigating and responding to your report
- You may elect to remain anonymous when making a report under this Policy.
- All reports under this Policy and all discussions with a *Whistleblower Protection Officer* about a report or potential report must be treated as confidential.
- If the discloser has not consented to the disclosure of their identity, the matter may still be referred for investigation, but the investigator will be required to take all reasonable steps to reduce the risk that the discloser will be identified as a result of the investigation. Further information on the discloser's right to anonymity is set out in the [Appendix 1](#).

Disclosure of Information

Information about a discloser's identity may only be disclosed without consent in the following circumstances:

- Where the information is disclosed to ASIC, APRA, the Australian Federal Police or to a person or body prescribed by regulations; or
- Where the information is disclosed to a legal practitioner for the purpose of obtaining legal advice in relation to the operation of applicable whistleblowing protection laws.

Information that may be likely to lead to the identification of the discloser may be disclosed without consent if:

- The information does not include the discloser's identity;
- all reasonable steps have been taken to reduce the risk that the discloser will be identified from the information; and
- It is reasonably necessary for investigating the issues raised in the report.

It is illegal for a person to identify a discloser or disclose information that is likely to lead to the identification of a discloser, apart from the exceptional circumstances described above. If a discloser is concerned about possible reprisals if their identity is revealed, they should contact a Whistleblowers Protection Officer and appropriate measures can then be taken to protect them.

Confidentiality

Participants in the investigation of any report under this Policy are required to keep confidential all relevant information. All paper and electronic documents and other materials relating to reports will be stored securely, and access to all information relating to a report will be limited to those directly involved in managing and investigating the report.

Disclosers should also keep confidential the fact that they have made a report, and the content of the report, as well as all information relating to an investigation of their report.

Additional assistance

While every effort will be made to maintain the anonymity of a person who makes a report during an investigation, if there is a reasonable possibility that the person's identity will become known, various options will be considered. These may include leave of absence, transfer, or relief from obligations.

3. Protection and Support for Disclosers

Immunity

An individual who makes a report under and consistent with this Policy cannot be subject to any civil, criminal or administrative liability (including disciplinary action) or a contractual remedy because of the disclosure. However, this does not apply to the discloser's own misconduct or improper actions that come to light as a result of a report.

Feedback

If you have not elected to remain anonymous, during any investigation of your report, the *Whistleblower Protection Officer* will maintain regular contact with you. To the extent possible in the circumstances, you will be kept informed of the progress of the investigation subject to the privacy rights of those against whom the allegations are made.

If you have not elected to remain anonymous, the *Whistleblower Protection Officer* will usually advise you of the progress or outcome of the investigation within 30 days of the conduct being reported. The WPO will continue to advise you of progress at similar intervals until the conclusion of the investigation.

Prohibition of Reprisals

It is a breach of this Policy to cause detriment to a person because they have made a report under this Policy. Detriment includes, but is not limited to:

- dismissal;
- injury of an employee in his or her employment;
- alteration of an employee's position or duties to his or her disadvantage;
- discrimination between an employee and other employees of the same employer;
- harassment or intimidation;
- harm or injury (including psychological harm);
- damage to a person's property; and
- Reputational, financial or any other damage to a person.

Detriment does not include administrative action that is reasonable to protect a discloser from Detriment (for example a temporary transfer), or reasonable management action in relation to managing an employee's work performance, if the action is in line with the Trustee's performance management framework.

Where a person who has made a report of a *Disclosable Matter* considers that action has been taken either against them, their colleagues or their relatives that amounts to detriment, they should contact a *Whistleblower Protection Officer* immediately.

Further information on legal protections and remedies is set out in [Appendix 1](#).

Other protections

In addition to maintaining your anonymity and confidentiality, giving you feedback about the investigation and protecting you from any personal detriment, the *Trustee* is committed to treating all disclosers fairly, and to maintaining the security of documents it receives or generates in the process of investigating a report.

Support for Disclosers

Additional support available for disclosers includes:

- connecting the discloser with access to the Employee Assistance Program (EAP)
- connecting the discloser with third party support providers such as Lifeline (13 11 14) and Beyond Blue (1300 22 4636)

Use of these support services by a discloser may require the discloser to consent to disclosure of their identity or information that is likely to lead to the discovery of their identity.

4. Fair treatment of persons implicated

The Trustee will ensure that any person who is the subject of a report or to whom a report relates is treated fairly. This includes:

- No action will be taken against employees or officers who are implicated in a report under this Policy until an investigation has determined whether any allegations against them are substantiated.
- An employee or officer who is implicated in a report under this Policy may be temporarily stood down on full pay whilst an investigation is in process, or may be temporarily transferred to another office, department or workplace, if appropriate in the circumstances. Any such stand-down or temporary transfer may only continue for the duration of the investigation. If the investigation determines that the allegations are not substantiated, the employee or officer must be immediately reinstated to full duties.
- Any disclosures that implicate an employee or officer must be kept confidential, even if the discloser has consented to the disclosure of their identity, and should only be disclosed to those persons who have a need to know the information for the proper performance of their functions under this Policy, or for the proper investigation of the report.
- An employee or officer who is implicated in a disclosure has a right to be informed of the allegations against them, and must be given an opportunity to respond to those allegations and provide additional information, if relevant, in the course of an investigation into those allegations (subject to the discloser's right to anonymity).

5. Investigation

Threshold for investigation

The *Trustee* requires a *Whistleblower Protection Officer* to treat all disclosures made under this Policy with the utmost seriousness. However one-off, minor infringements may be most constructively dealt with without formal investigations or action. In addition, if the allegations concern historical events, do not contain sufficient detail (and the discloser is unable to be contacted to provide further details); or are otherwise impractical or unable to be properly investigated, the WPO may decide not to commence an investigation.

Whistleblower Protection Officer to take all reasonable steps in Investigation

The WPO may engage a third party internal or external investigator to conduct an investigation, and in addition may engage experts to provide input into the investigation where considered necessary by the WPO. On receiving a request to undertake any investigation, the *Whistleblower Protection Officer* must take all reasonable steps to confirm that investigations into disclosures are fair and unbiased. This means that:

- any person who is the subject of allegations should have the opportunity to be informed of and respond to the allegations and evidence against them, subject to the right of the person who made the report to remain anonymous;
- the officer will obtain specialist, independent advice on matters outside the knowledge or expertise of the officer and all *employees* are required to assist the officer to the maximum possible extent, if requested, in carrying out investigations; and
- investigations will be carried out as fast as reasonably practicable and with confidentiality for all persons involved.

Effective audit trail to be kept

The *Whistleblower Protection Officer* will ensure that the investigator keeps records of all interviews conducted and all matters reviewed which affect the outcome of the investigation. All of this material will be maintained securely so as to retain confidentiality and an effective audit trail.

Feedback to Whistleblowers

The *Whistleblower Protection Officer* will provide updates and feedback to the person who made the report (if the report is not anonymous) where appropriate.

Final report

At the end of the investigation, the *Whistleblower Protection Officer* will submit a confidential investigation report to the Audit, Compliance & Risk Management Committee. This confidential report will:

- summarise the conduct of the investigation and the evidence collected;
- draw conclusions about the extent of any *Disclosable Matter* and its consequences, including non-compliance with the law, policies or codes of conduct; and
- Recommend remedial action to prevent recurrence of the *Disclosable Matter* (including any disciplinary action against the perpetrator).

The *Trustee* may need to lodge a report with APRA, ASIC, the police or another law enforcement body.

6. Roles and responsibilities

All employees

Each *employee* of the *Trustee* must act in all ways necessary to facilitate this Policy and to achieve its objectives. Specifically, every *employee* must respect the anonymity of a whistleblower and the

confidentiality of a report. *Employees* must not speculate about or discuss whether a person is a whistleblower. *Employees* must not subject a whistleblower to any form of detriment.

A breach of this Policy by an *employee* is grounds for disciplinary action up to and including dismissal.

Whistleblower Protection Officers

A *Whistleblower Protection Officer* is the first point of contact for *employees* wishing to report *Disclosable Matters*. The officer will safeguard the interests of the Whistleblower in accordance with this Policy and any applicable legislation, and make sure the Whistleblower is kept informed of how the investigation is proceeding.

The *Trustee's Whistleblower Protection Officers* are:

- The General Counsel & Company Secretary;
- The Executive Manager People Experience; and
- Other officers with appropriate skills that are appointed by the CEO.

The names and contact details of those officers are posted on the *Trustee's* intranet, usually near the link to, or copy of, this Policy. They are also available from the CEO, CEO's executive assistant and the General Counsel & Company Secretary.

The independence of each *Whistleblower Protection Officer* is a high priority for the *Trustee*. The *Trustee* provides the officer the authority and resources needed to effectively perform the role.

Trustee's senior office bearers and governance bodies

The *Trustee's* CEO, the Audit, Compliance & Risk Management Committee (AC&RMC), the Chair of the ACRMC and the Chair of the Board of the *Trustee* all have important roles under this Policy which are mentioned in this or in other clauses.

Training

Induction and ongoing training for *employees* will be conducted in order to effectively implement this Policy. In particular, training will focus on:

- the objectives of this Policy;
- the *Trustee's* approach to *Disclosable Matters*;
- how to identify *Disclosable Matters*;
- how to report *Disclosable Matters*;
- protection for Whistleblowers;
- The investigation process.

7. Review and reporting

Reporting

The *Whistleblower Protection Officer*:

- will, in the first instance, generally report to the Chief Executive Officer;
- may choose to refer a matter to the Audit, Compliance & Risk Management Committee or the Board directly (particularly if the report is about major allegations of non-compliance);
- must report to the Audit, Compliance & Risk Management Committee on at least a quarterly basis regarding any whistleblower allegations. All such reports shall be de-identified and shall ensure the confidentiality of Whistleblowers.

Review

In order to monitor the effectiveness of the *Trustee's* whistleblowers' protection procedures, this Policy will be subject to ongoing review to enable compliance with law, industry standards and best practice. This Policy will be reviewed at least annually by the General Counsel & Company Secretary but may be reviewed more frequently as circumstances require. The review will address generally the efficacy of the Whistleblowers' protection program, in particular:

- the number of reports generated;
- the fairness of investigations undertaken;
- the actual consequences of making disclosures;
- the performance of the *Whistleblower Protection Officer*, provided the performance of the General Counsel & Company Secretary as a *Whistleblower Protection Officer* is to be reviewed by the CEO; and
- compliance with this Policy.

Approval

This Policy, as amended from time to time, is to be approved by the Board (operating through the Audit, Compliance and Risk Management Committee).

This Policy will be made available to all officers and *employees* of the *Trustee* by being posted on the *Trustee's* intranet site and on request to the People Experience team.

Section C – Definitions

APRA	Australian Prudential Regulation Authority.
ASIC	Australian Securities and Investments Commission.
ATO	Australian Taxation Office.
Contractor Corporations Legislation	A person with a contract to supply goods or services to the <i>Trustee</i> . The <i>Corporations Act 2001</i> , the <i>Australian Securities and Investments Commission Act 2001</i> and rules of court made by a Federal Court because of a provision of the <i>Corporations Act 2001</i> .
Corruption	Dishonest activity in which a Director, executive, manager, <i>employee</i> or <i>contractor</i> of an entity acts contrary to the interests of the entity and abuses his/her position of trust in order to achieve some personal gain or advantage for him or herself or for another person or entity.
Disclosable Matter	Is defined in Section B1.
Fraud	Dishonest activity causing actual or potential financial loss to any person or entity including theft of moneys or other property by <i>employees</i> or persons external to the entity and whether or not deception is used at the time, immediately before or immediately following the activity. It also includes the deliberate falsification, concealment, destruction or use of falsified documentation used or intended for use for a normal business purpose or the improper use of information or position.
Fund	Victorian Superannuation Fund.
SIS Act	Superannuation Industry (Supervision) Act 1993 (Cth).
Employees	Includes permanent and temporary employees, agency employees, casuals, contractors and employees of contractors, students and volunteers, directors and any other officers of the <i>Trustee</i> or related entities for the purposes of this Policy.
Personal workplace grievances	<p>Means a grievance about any matter in relation to the discloser's employment, or former employment, having (or tending to have) implications for the discloser personally. This includes:</p> <ul style="list-style-type: none">• an interpersonal conflict between the discloser and another employee;• a decision relating to the engagement, transfer or promotion of the discloser;• a decision relating to the terms and conditions of engagement of the discloser; and• a decision to suspend or terminate the engagement of the discloser, or otherwise to discipline the discloser. <p>However, it does not include:</p> <ul style="list-style-type: none">• any conduct that would be considered victimisation of an individual because they have made, may have made, or propose to make a report under this Policy; or• a matter that would have significant implications for the <i>Trustee</i>;
Whistleblower Protection Officer (WPO)	The <i>Trustee's</i> Whistleblower Protection Officer (see clause 4).
Trustee	VicSuper Pty Ltd; VicSuper Ecosystem Services Pty Ltd; and all of the unit trusts for which VicSuper Pty Ltd acts as corporate trustee.
Whistleblower	A person to whom this Policy applies (Section A) who makes, attempts to make or wishes to make a report in connection with a <i>Disclosable Matter</i> .

Section D – Appendices

Appendix 1 – Additional Information on Legal Protections

Protections for Whistleblowers under the Corporations Act

A person who makes a report under this Policy may qualify for protection as a whistleblower under the *Corporations Act 2001* (Cth) if they are an 'eligible whistleblower' in relation to the Trustee, and:

- They have made a disclosure of information relating to a 'disclosable matter' directly to an 'eligible recipient, or to ASIC, the Australian Prudential Regulation Authority (APRA) or another Commonwealth body prescribed by regulation;
- They have made a disclosure to a legal practitioner for the purposes of obtaining legal advice or legal representation about the operation of the whistleblower provisions in the Corporations Act (even in the event that the legal practitioner concludes that a disclosure does not relate to a 'disclosable matter'); or
- They have made an 'emergency disclosure' or a 'public interest disclosure'.

Public interest disclosures and emergency disclosures

Disclosures can be made to a journalist or a parliamentarian under certain circumstances and qualify for protection under the Corporations Act. Amongst other requirements, such disclosures must first be made to ASIC, APRA or another Commonwealth body prescribed by regulation, and a further written notice must be given to the body to whom the disclosure was initially made. In the case of a public interest disclosure, at least 90 days must have passed since the previous disclosure. A Discloser should obtain independent legal advice to ensure that they understand the criteria for making an emergency disclosure or a public interest disclosure that qualifies for protection.

Anonymous Reports

A report can be made anonymously and still be protected under the Corporations Act. A Discloser can choose to remain anonymous while making a disclosure, over the course of the investigation and after the investigation is finalised. A Discloser can refuse to answer questions that they feel could reveal their identity at any time, including during follow-up conversations. A Discloser who wishes to remain anonymous should maintain ongoing two-way communication with VicSuper, so that VicSuper can ask follow up questions or provide feedback. Disclosers who wish to remain anonymous are encouraged to use the external hotline reporting system.

Legal Remedies

A Discloser that suffers loss, damage or injury because of a protected disclosure may seek compensation and other remedies through the courts. A Discloser should seek independent legal advice if they wish to obtain such a remedy. A Discloser may also contact regulatory bodies such as ASIC or APRA if they believe that they have suffered Detriment due to making a report about a disclosable matter, or if there has been a breach of confidentiality such as a disclosure of their identity without their consent.

Appendix 2 - Background and rationale

Disclosable Matters may damage the Fund's reputation with:

- government;
- regulators;
- employers;
- members;
- *employees* of the Fund;
- other industry participants;
- suppliers/service providers;
- bankers; and
- The community generally.

Consequently, the *Trustee* is committed to minimising the incidence of Disclosable Matters and other forms of inappropriate conduct through a range of strategies, including:

- Governance Policy;
- the *Trustee's* Code of Conduct for the *Trustee's employees* and directors;
- Recruitment Policy and procedures;
- Occupational Health & Safety Policy;
- Equal Opportunity Policy;
- Conflicts Management Framework and Policy
- Gifts & Hospitality Policy;
- Fit & Proper Policy;
- Anti-Money Laundering & Counter-Terrorism Financing Policy and Program;
- Fraud awareness and ethics training; and
- Fraud Control Plan.

Benefits of reporting

The *Trustee's* Whistleblowers Protection Policy is an integral part of its compliance program. The *Trustee* recognises that an effective Whistleblowers Protection Policy:

- assists the *Trustee* to comply with its legal and ethical obligations;
- assists the *Trustee* to properly address the concerns of *employees*; and
- does not penalise *employees* for fulfilling their obligation to support the *Trustee's* policies on good governance, compliance and ethics.

File details

Revision history

Version	Revision date	Department	Revision Notes
2.0	April 2014	C&RM	Reviewed, date change
2.01	April 2015	C&RM	Reviewed, date change
2.02	October 2015	C&RM	Inserted reference to the Conflicts Management Framework and Policy
2.03	April 2016	C&RM	Cosmetic changes only
2.04	Mar 2017	C&RM	Reviewed, date change.
2.05	June 2018	C&RM	Cosmetic and format changes.
3.0	November 2019	Legal (Independent review by KPMG)	Revised to incorporate changes to Australian whistleblower laws enacted in The Treasury Laws Amendment (Enhancing Whistleblower Protections) Act 2019, and ASIC Regulatory Guidance on Whistleblower Policies