



BBI

The Australian
Institute of Theological
Education

WHISTLEBLOWER POLICY AND PROCEDURE

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BBI The Australian Institute of Theological Education

ABN 22 161 120 118

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ACKNOWLEDGEMENT

This policy is based on the *Australian Securities & Investments Commission (ASIC) Regulatory Guide 270 Whistleblower policies*. As recommended in the Guide, this policy uses considerable sections from the Guide, particularly those sections required by ASIC as part of a whistleblower policy, indicated in the RG270 text as ‘must’ be included.

WHISTLEBLOWER POLICY AND PROCEDURE

1. INTRODUCTION

BBI The Australian Institute of Theological Education (BBI-TAITE or the Institute) is a not-for-profit Australian public company limited by guarantee, and a Registered Charity under the *ACNC Act 2012* (Cth). BBI-TAITE is committed to the highest standards of conduct, ethical behaviour and sound corporate governance and does not tolerate improper conduct. These values and principles also mean that the Institute is committed to a culture of corporate compliance and ethical behaviour, including providing all eligible parties with the opportunity to report any actual or suspected wrongdoing or any other issue. In addition, the Institute is committed to protecting and supporting disclosers and identifying and addressing wrongdoing promptly.

BBI-TAITE wishes to identify and address wrongdoing as early as possible. In addition, we want to build confidence and trust in our whistleblower policy, processes and procedures.

2. PURPOSE

2.1 This Whistleblower Policy (the Policy) encourages and supports reporting actual or suspected wrongdoing and misconduct. The Policy is an important tool for helping the Institute identify wrongdoing that may not be uncovered unless there is a safe and secure process to disclose it.

2.2 At BBI-TAITE, our staff, students, and community are our greatest assets, so we are committed to providing a safe and supportive *speaking-up* culture where officers, employees, students, and non-employees who are aware of wrongdoing have the confidence to speak up.

2.3 The purpose of this policy is:

- to encourage more disclosures of wrongdoing
- to help deter wrongdoing, in line with BBI-TAITE's risk management and governance framework
- to ensure individuals who disclose wrongdoing can do so safely, securely and with confidence that they will be protected and supported
- to ensure disclosures are dealt with appropriately and on a timely basis
- to provide transparency around the Institute's framework for receiving, handling and investigating disclosures
- to support BBI-TAITE's values, code of conduct and/or ethics policy
- to support the Institute's long-term sustainability and reputation
- to meet the Institute's legal and regulatory obligations, and
- to align with the ACNC's Governance Standards, which, with some minor exceptions, apply to all Australian Registered Charities.

2.4 The ACNC Governance Standards are:

1. *Purposes and not-for-profit nature* – a charity must work towards its charitable purpose...
2. *Accountability to members* – a charity that has members must take reasonable steps to be accountable to its members...

3. *Compliance with Australian laws* – a charity must not commit a serious offence (such as fraud) under any Australian law or breach a law that may result in a penalty of 60 penalty units or more.
4. *Suitability of responsible people* – a charity must be satisfied that its Responsible People... are not disqualified from managing a corporation under the *Corporations Act 2001* (Cth) or disqualified from being a Responsible Person of a registered charity by the ACNC Commissioner; and remove any Responsible Person who does not meet these requirements.
5. *Duties of Responsible People* – a charity must take reasonable steps to make sure that its Responsible People are subject to, understand, and carry out the duties set out in Governance Standard 5.
6. *Maintaining and enhancing public trust and confidence in the Australian not-for-profit sector* – a charity must take reasonable steps to become a participating non-government institution if the charity is, or is likely to be, identified as being involved in the abuse of a person either in application for redress..., or in information given in response to a request from the National Redress Scheme Operator...

2.5 This policy:

- a. supports the Institute's:
 - Governance Charter
 - Code of Conduct Policy and Procedure
 - Anti-Discrimination, Bullying and Harassment Policy and Procedure, and its
 - Mission, Values, and long-term sustainability and reputation.
- b. ensures that those reporting any perceived wrongdoing can do so with the confidence that the Institute is a safe, secure, and transparent environment where receiving, handling, and investigating disclosures is dealt with in a timely manner.
- c. assists in the prevention of corrupt and illegal or other undesirable conduct.
- d. provides information about:
 - the disclosures that qualify for protection under the Whistleblower Protection Scheme
 - the protections available to disclosers when making qualifying disclosures
 - who disclosers make qualifying disclosures to
 - how disclosers make qualifying disclosures safely and securely
 - how BBI-TAITE will support disclosers and protect them from harm
 - how qualifying disclosures will be received and handled
 - the processes involved in investigating qualifying disclosures appropriately and promptly, and
 - how BBI-TAITE will ensure fair treatment of employees or others mentioned in qualifying disclosures.

3. SCOPE

This policy applies to:

- all current or former officers (including directors and executive managers)
- employees, students, volunteers, contractors, consultants, and service providers
- associated entities as defined in the *Corporations Act 2001* (Cth), and
- third parties (suppliers) and their employees, and
- the relatives, spouses and dependents of those listed above.

4. KEY PRINCIPLES

- 4.1 BBI-TAITE values and promotes a *speaking-up* culture where all disclosers feel comfortable raising matters of legitimate concern to them, including potential breaches of any legal or regulatory requirement or policy applicable to the Institute.
- 4.2 BBI-TAITE will support disclosers and protect them from harm.
- 4.3 BBI-TAITE will ensure fair treatment of employees or others mentioned in qualifying disclosures.
- 4.4 BBI-TAITE will ensure that appropriate protections are available to disclosers when making qualifying disclosures.

5. DEFINITIONS

ACNC – Australian Charities and Not-for-Profits Commission

ACNC Governance Standards “are a set of core, minimum standards that deal with how a charity is run (including its processes, activities and relationships) – its governance”

ASIC – Australia Securities and Investments Commission

An Associated Entity means an entity that is in some way related to another party. [Section 50AAA](#) of the *Corporations Act 2001* (Cth) details the ways in which associated entities can be related to other parties

ATO – Australian Tax Office

Auditor – For this Policy, an ‘auditor’ is an external person or entity acting in that capacity to review or audit financial reports of BBI-TAITE as required by the *Corporations Act 2001* (Cth) or a BBI-TAITE employee within the Audit and Risk committee acting in the capacity of an internal auditor.

Company limited by guarantee – A company where the liability of its members is limited to the respective amounts that the members have undertaken to contribute to the property of the company if it is wound up

Corporations Act – *Corporations Act 2001*, including regulations made for the purposes of that Act

Detriment – Has the meaning given in [s1317ADA](#) of the *Corporations Act*, and [s14ZZZAA](#) of the *Taxation Administration Act*

Detrimental conduct – Conduct, or a threat to engage in conduct, that causes detriment to a discloser

Director has the meaning given in [s9](#) of the *Corporations Act*

Disclosable matter – Information to which the whistleblower protections apply

Discloser is an eligible whistleblower, that is, an individual who discloses wrongdoing

Disclosures qualifying for protection – Disclosures pertaining to tax matters are referred to as ‘disclosures qualifying for protection’

An Eligible Recipient – An individual who can receive a disclosure

A Eligible Whistleblower (discloser) – An individual to whom the whistleblower protections apply. A discloser/eligible whistleblower *speaks up* to report perceived wrongdoing or misconduct under this policy. They may be any of the following in relation to the Institute:

- current or former officers of the Institute (including directors or executive managers),
- current or former employees (permanent, part-time, fixed-term, casual or sessional, interns or secondees)
- students, volunteers, contractors, consultants, or service providers
- associated entities as defined under the *Corporations Act 2001* (Cth),
- third parties (suppliers, whether paid or unpaid), including their employees, and/or
- the relatives, spouses and dependents of those individuals listed above.

A discloser/eligible whistleblower has legal rights under the *Corporations Act 2001* (Cth), the *Tax Administration Act 1953* (Cth), and other legislation. This policy does not override those rights.

Emergency Disclosure – The disclosure of information to a journalist or parliamentarian, where the discloser has reasonable grounds to believe that the information concerns a substantial and imminent danger to the health or safety of one or more persons or to the natural environment

Improper state of affairs or circumstances – This term is not defined in S9 of the *Corporations Act*, and is left intentionally broad.

Legal practitioner means a duly qualified individual who practices law in Australia, and, in relation to a person, such a practitioner acting for the person

Misconduct includes fraud, negligence, default, breach of trust and breach of duty

Officer includes a director or company secretary of the Institute

Parliamentarian – A member of the Commonwealth, state or territory parliaments

Personal information – Information or an opinion about an identified individual, or a reasonably identifiable individual, whether true or not, and recorded in a material form or not

Personal work-related grievances are those that relate to the discloser’s current or former employment and have, or tend to have, implications for the discloser personally but do not:

- have any other significant implications for BBI-TAITE, or
- relate to any conduct, or alleged conduct, about a disclosable matter.

Privacy Act – *Privacy Act 1988*

Public interest disclosure is the disclosure of information to a journalist or a parliamentarian, where the discloser has reasonable grounds to believe that making a further disclosure of the information is in the public interest. In addition, the disclosure must meet a number of other criteria to qualify

Reasonable grounds to suspect is based on the objective reasonableness of the reasons for the discloser’s suspicion. It ensures that a discloser’s motive for making a disclosure, or their

personal opinion of the person(s) involved, does not prevent them from qualifying for protection.

Senior manager is a senior executive within BBI-TAITE who is a member of the Leadership Team of the Institute, other than a director or the company secretary, who:

- makes or participates in making decisions that affect the whole, or a substantial part, of the business of the Institute, or
- has the capacity to significantly affect the Institute's financial standing.

Strict liability – An offence where there is no need for fault or intent in order for a person to be liable

Taxation Administration Act – *Taxation Administration Act 1953*, including regulations made for the purposes of that Act

Whistleblower – a discloser who has made a disclosure that qualifies for protection under the Corporations Act

Whistleblower investigation officer – The role under BBI-TAITE's whistleblower policy that is responsible for investigating disclosures

Whistleblower protection officer – The role under BBI-TAITE's whistleblower policy that is responsible for protecting or safeguarding disclosers and ensuring the integrity of the reporting mechanism

Whistleblower Protections Bill – *Treasury Laws Amendment (Enhancing Whistleblower Protections) Bill 2018*

6. DISCLOSABLE MATTERS

6.1 A disclosable matter involves information that the discloser has reasonable grounds to suspect misconduct, or improper state of affairs or circumstances, in relation to BBI-TAITE, its officers or employees. A disclosable matter is a disclosure of reportable conduct by a 'discloser or eligible whistleblower' to an 'eligible recipient'.

6.2 Disclosable matters may include any conduct, issue, or wrongdoing, considered to be:

- illegal conduct, such as theft, dealing in or use of illicit drugs, violence or threatening violence, and criminal damage against property
- unethical or improper behaviour
- dishonest or fraudulent conduct, money laundering or misappropriation of funds
- offering or accepting a bribe
- financial irregularities
- engaging in or threatening to engage in detrimental conduct against a person who has made a disclosure or is believed or suspected to have made, or be planning to make, a disclosure
- anti-discrimination, bullying or harassment
- failure to comply with, or breach of, legal or regulatory requirements
- a breach of an internal policy
- an activity that threatens the environment or the health or safety of officers, employees, students, volunteers, contractors, consultants, service providers, associated entities as defined in the *Corporations Act 2001* (Cth), or third parties (suppliers) and their employees
- a whistleblower protection issue

- representing a danger to the public or the financial system – Information that indicates a significant risk to public safety or the stability of, or confidence in, the financial system is a disclosable matter, even if it does not involve a breach of a particular law
- any other inappropriate behaviour or misconduct prescribed as Reportable Conduct by regulations, for example, [s1317AA](#) of the *Corporations Act 2001* (Cth), and
- an offence against or contravention of a provision of the following legislation:
 - the *ACNC Act 2012* (Cth)
 - the *Australian Securities and Investments Commission Act 2001* (Cth)
 - the *Banking Act 1959* (Cth)
 - the *Children and Young Persons (Care and Protection) Act 1998* (NSW)
 - the *Corporations Act 2001* (Cth)
 - the *Financial Sector (Collection of Data) Act 2001* (Cth)
 - the *Insurance Act 1973* (Cth)
 - the *National Consumer Credit Protection Act 2009* (Cth)
 - the *Privacy Act 1998* (Cth)
 - the *Superannuation Industry (Supervision) Act 1993* (Cth)
 - the *Taxation Administration Act 1953* (Cth)
- an offence against any other law of the Commonwealth punishable by imprisonment of 12 months or more.

6.3 Disclosable matters may include conduct that may not involve a contravention of a particular law.

6.4 Disclosable Matters can also relate to the tax affairs of BBI-TAITE if the discloser considers that this information may assist BBI-TAITE in performing functions or duties concerning its tax affairs.

6.5 Disclosers may qualify for the protections under the Whistleblower Protection Scheme if their disclosure turns out to be incorrect or unsubstantiated. They must have had reasonable grounds to suspect that a Disclosable Matter existed at the time of the disclosure.

7. PERSONAL WORK-RELATED GRIEVANCES

7.1 Potential disclosers should raise personal work-related grievances under the BBI-TAITE *Anti-Discrimination, Bullying and Harassment Policy and Procedure* and/or the *Code of Conduct Policy and Procedure*.

7.2 Disclosures that relate solely to personal work-related grievances, and that do not relate to detriment or threat of detriment to the discloser or another person, do not qualify for protection under the *Corporations Act*: see [s1317AADA\(1\)](#)

7.3 Examples of grievances that may be personal work-related grievances include, among others:

- an interpersonal conflict between the discloser and another employee
- a decision that does not involve a breach of workplace laws
- 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, or

- a decision to suspend or terminate the engagement of the discloser, or to otherwise discipline the discloser.

7.4 A personal work-related grievance may still qualify for protection if:

- it includes information about misconduct, or information about misconduct includes or is accompanied by a personal work-related grievance (known as a mixed report)
- the Institute has breached employment or other laws punishable by imprisonment of 12 months or more, engaged in conduct that represents a danger to the public, or the disclosure relates to information that suggests misconduct beyond the discloser's personal circumstances
- the discloser suffers from or is threatened with detriment for making a disclosure: see the *Corporations Act* [s1317AC](#), or
 - the discloser seeks legal advice or representation about the operation of the whistleblower protections under the *Corporations Act*.

7.5 An employee may raise internally a personal work-related grievance(s) and other types of issues or concerns not covered by this Policy.

7.6 BBI-TAITE encourages its employees to seek legal advice about their rights and protections under employment or contract law and to resolve their work-related grievances internally through this process.

8. FALSE REPORTING

8.1 BBI-TAITE strongly discourages deliberate false reporting, that is, a discloser making a report that the discloser knows to be untrue.

8.2 If a discloser has information leading to a suspicion, albeit not all the details, the Institute encourages the discloser to report this to an 'eligible recipient.'

9. SPEAKING UP

9.1 The Institute encourages you to speak up and report any actual or suspected instances of wrongdoing or misconduct. BBI-TAITE is committed to fostering a safe *speaking-up* culture where you feel comfortable raising matters of legitimate concern, including breaches of legal and/or regulatory requirements.

9.2 The Institute will protect you when you speak up.

9.3 You can choose to provide your details or remain anonymous, and in all circumstances, we will treat your identity and the information you provide in the strictest confidence. The Institute will only share your name and the information you provide with your consent or if the law requires it.

10. WHO CAN RECEIVE A DISCLOSURE

10.1 **The role of an eligible recipient** is to receive disclosures that qualify for protection under the *Corporations Act 2001* (Cth).

10.2 **BBI-TAITE's eligible recipients** are:

- an officer or senior manager of the Institute (i.e. a Director or Executive Manager)
- the Institute's External Auditors

- the Institute’s Whistleblower Protection Officer
- the Institute’s Whistleblower Investigations Officer
- a legal practitioner, for the discloser to obtain legal advice or legal representation concerning the protection of eligible whistleblowers under the *Corporations Act 2001* (Cth) provisions, even if the legal practitioner concludes that a disclosure does not relate to a ‘disclosable matter’: see *Corporations Act s1317AA(3)*
- a regulatory body; for example, ACNC, ASIC¹, or another Commonwealth body prescribed by regulation – the discloser may do so without making a prior disclosure to the Institute, or
- under certain circumstances, a disclosure can be made to a journalist or parliamentarian and qualify for protection: see *Corporations Act s1317AAD*.

10.3 **Tax affairs** – For matters which relate only to the tax affairs of BBI-TAITE, an eligible recipient is, in addition to the above:

- any registered tax agent or BAS agent who provides tax agent or BAS services to BBI-TAITE, or
- a BBI-TAITE employee with functions or duties related to BBI- TAITE’s tax affairs (generally regarded as a BBI-TAITE employee within the accounting section).

10.4 **Qualifying for protection as a whistleblower/discloser** – A discloser must make a disclosure directly to one of BBI-TAITE’s internal or external ‘eligible recipients’ to qualify for protection as a whistleblower under the *Corporations Act 2001* (Cth) or the *Taxation Administration Act 1953* (Cth).

11. PUBLIC INTEREST DISCLOSURES AND EMERGENCY DISCLOSURES

11.1 **A public interest disclosure** is the disclosure of information to a journalist or a parliamentarian, where:

- at least 90 days have passed since the discloser made the disclosure to ACNC, ASIC, or another Commonwealth body prescribed by regulation
- the discloser does not have reasonable grounds to believe that action is being or has been taken concerning their disclosure
- the discloser has reasonable grounds to believe that making a further disclosure of the information is in the public interest, and
- before making the public interest disclosure, the discloser has given written notice to the body to which they made previous disclosure that:
 - includes sufficient information to identify the previous disclosure, and
 - states that the discloser intends to make a public interest disclosure.

11.2 **An emergency disclosure** is the disclosure of information to a journalist or parliamentarian, where:

- the discloser has previously disclosed the information to ACNC, ASIC, or another Commonwealth body prescribed by regulation

¹ Refer ASIC’s [Information Sheet 239 – How ASIC handles whistleblower reports](#).

- the discloser has reasonable grounds to believe that the information concerns a substantial and imminent danger to the health or safety of one or more persons or to the natural environment
- before making the emergency disclosure, the discloser has given written notice to the body to which the previous disclosure was made:
 - that includes sufficient information to identify the previous disclosure, and
 - that states that the discloser intends to make an emergency disclosure, and
- the extent of the information disclosed in the emergency disclosure is no greater than is necessary to inform the journalist or parliamentarian of the substantial and imminent danger.

11.3 **Criteria for making a public interest or emergency disclosure:**

- The discloser should contact an independent legal adviser before making a public interest disclosure or an emergency disclosure, and
- The disclosure must have previously been made to ACNC, ASIC, or a prescribed body, and written notice provided to the body to which they made the disclosure, and
- In the case of public interest disclosures, at least 90 days must have passed since making the previous disclosure.

12. HOW TO MAKE A DISCLOSURE

12.1 **In the first instance** – While disclosures can be made to any ‘eligible recipient,’ BBI-TAITE encourages disclosers who have reasonable grounds to suspect a disclosable matter to make a disclosure to the following eligible recipients by contacting directly any member of the Whistleblower Committee:

- Principal/CEO
- Associate Dean (Academic)
- Chair of the Board of Directors (Independent)
- Chair of the Audit and Risk Committee (Independent), or
- an external member of a Board Committee – the Academic Board, Governance Committee, or Audit and Risk Committee (Independent)

Note: Those listed above marked ‘Independent’ are not employed by BBI-TAITE; however, they fulfil roles within the organisation as either *Independent non-executive Directors* or *External members of Board Committees*.

12.2 **Alternate disclosure methods** – If a discloser does not feel comfortable making a disclosure as outlined in section 12.1 above, they may make a disclosure to any ‘eligible recipient’ as outlined in Section 10.2 of this Policy.

12.3 **Anonymous and/or confidential disclosures**

- **A discloser:**
 - may choose to remain anonymous while making a disclosure throughout the investigation and after the finalisation of the investigation
 - can refuse to answer questions that they feel could reveal their identity at any time, including during follow-up conversations

- who wishes to remain anonymous should maintain ongoing two-way communication with the BBI-TAITE, so the Institute can ask follow-up questions or provide feedback.
- **Protection:** Disclosures can be made anonymously and still be protected under the *Corporations Act*: see [s1317AAE](#).
- **Anonymous and/or confidential disclosures** should be made in writing, marked *strictly confidential*, to one of the following:
 - Chair, Audit and Risk Committee**
 BBI-The Australian Institute of Theological Education
 Caroline Chisholm Centre
 PO Box 662, Pennant Hills NSW 1715
 - The Whistleblower Investigations Officer**
 BBI-The Australian Institute of Theological Education
 Caroline Chisholm Centre
 PO Box 662, Pennant Hills NSW 1715
- **Measures for protecting anonymity:**
 - Disclosers should ensure that their telephone number is set to 'Private' so that their anonymity is maintained
 - Communication with disclosers will be through an anonymised email address
 - A discloser may adopt a pseudonym for the purpose of their disclosure – this may be appropriate in circumstances where the discloser's identity is known to their supervisor, the whistleblower protection officer, or equivalent, but the discloser prefers not to disclose their identity to others.

13. LEGAL PROTECTIONS FOR DISCLOSERS

- 13.1 Protections are available under the *Corporations Act* and the *Taxation Administration Act* to disclosers who qualify for protection as a whistleblower.
- 13.2 These protections apply not only to internal disclosures, but to legal practitioners, regulatory and other external bodies, and public interest and emergency disclosures made under the *Corporations Act*.
- 13.3 These protections are:
- **Identity protection (confidentiality)**
 - BBI-TAITE has a legal and ethical obligation to protect the confidentiality of a discloser's identity.
 - A person cannot disclose the identity of a discloser or information likely to lead to the identification of the discloser (which they have obtained directly or indirectly because the discloser made a disclosure that qualifies for protection).
 - The exception to this is if a person discloses the identity of a discloser:
 - to ACNC, ASIC, or a member of the Australian Federal Police, within the meaning of the *Australian Federal Police Act 1979*
 - to a legal practitioner to obtain legal advice or legal

- representation about the whistleblower provisions in the Corporations Act
 - to a person or body prescribed by regulation, or
 - with the consent of the discloser.
- A person can disclose the information contained in a disclosure with or without the discloser’s consent if:
 - the information does not include the discloser’s identity
 - BBI-TAITE has taken all reasonable steps 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 disclosure.
- It is illegal for a person to identify a discloser or disclose information likely to lead to the identification of the discloser, outside the exceptions under 13.3.a, dot points three and four.
- A discloser may lodge a complaint concerning a breach of confidentiality with BBI-TAITE, ACNC, ASIC, or the ATO for investigation.
- **Protection from detrimental acts or omissions**
 - A person cannot engage in conduct that causes detriment to a discloser, or another person, concerning a disclosure, if:
 - the person believes or suspects that the discloser, or another person, made, may have made, proposes to make or could make a disclosure that qualifies for protection
 - the belief or suspicion is the reason, or part of the reason, for the conduct.
 - In addition, a person cannot threaten to cause detriment to a discloser (or another person) concerning the disclosure. A threat may be express or implied, or conditional or unconditional. A discloser (or another person) who has been threatened concerning a disclosure does not have to actually fear that the threat will be carried out.
 - Employees of BBI-TAITE found to have engaged in conduct that may cause detriment will be subject to disciplinary action. In addition, any person who engages in conduct that may cause detriment may also be subject to civil and criminal liability (including imprisonment) for that conduct, and the detriment caused.
 - Under the Whistleblower Protection Scheme, courts have broad scope to make orders remedying a detriment or threatened detriment. These include injunctions, compensation orders (including against individual employees and their employer), reinstatement, exemplary damages and the making of apologies. (For example, civil and criminal sanctions apply to breaches of the Whistleblower Protection Scheme.)

- [S1317ADA](#) of the *Corporations Act* defines detrimental conduct as the following:
 - dismissal of an employee
 - 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
 - harassment or intimidation of a person
 - harm or injury to a person, including psychological harm
 - damage to a person’s property
 - damage to a person’s reputation
 - damage to a person’s business or financial position, or
 - any other damage to a person.
- The following actions are not detrimental conduct:
 - administrative action that is reasonable to protect a discloser from detriment. (For example, moving a discloser who made a disclosure about their immediate work area to another office to prevent them from detriment), and
 - managing a discloser’s unsatisfactory work performance if the action is in line with BBI-TAITE’s performance management framework.
- BBI-TAITE should ensure that a discloser understands the reason(s) for its administrative or management actions.
- **Compensation and other remedies**
 - A discloser, or any other employee or person, may seek compensation and other remedies through the courts if:
 - they suffer loss, damage or injury because of a disclosure, and
 - BBI-TAITE failed to take reasonable precautions and exercise due diligence to prevent the detrimental conduct: see *Corporations Act s1317AD*, and *s14ZZZA* of the *Taxation Administration Act*.)
 - BBI-TAITE encourages disclosers to seek independent legal advice concerning compensation and other remedies through the courts.
- **Civil, criminal, and administrative liability protection**
 - A discloser is protected from any of the following concerning their disclosure:
 - civil liability, for example, any legal action against the discloser for breach of an employment contract, duty of confidentiality or another contractual obligation
 - criminal liability, for example, 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, and

- administrative liability, for example, disciplinary action for making the disclosure.
- These protections do not grant immunity for any misconduct a discloser has engaged in that is revealed in their disclosure.

14. SUPPORT AND PRACTICAL PROTECTION FOR DISCLOSERS

14.1 Identity Protection (Confidentiality)

The Whistleblower Protection Officer, or equivalent, is responsible for discussing with the discloser BBI-TAITE's measures to ensure their identity's confidentiality. In practice, people may be able to guess the identity of the discloser if the discloser:

- has previously mentioned their intention to make a disclosure, or,
- is one of a very small number of people with access to the information, or
- has previously been told privately or in confidence the information they are disclosing.

The Institute will implement the following mechanisms for protecting the confidentiality of a discloser's identity:

- *Reducing the risk that the discloser will be identified from the information contained in a disclosure*
 - The Institute will redact all personal information or references to the discloser witnessing an event
 - The Institute will refer to the discloser in a gender-neutral context
 - Where possible, the Institute will contact the discloser to help identify certain aspects of their disclosure that could inadvertently identify them, and
 - Disclosures will be handled and investigated by qualified staff.
- *Secure record-keeping and information-sharing processes*
 - The Institute will securely store all paper and electronic documents and other materials relating to disclosures
 - The Institute will limit access to all information relating to a disclosure to those directly involved in managing and investigating the disclosure
 - Only a restricted number of people who are directly involved in handling and investigating a disclosure will be made aware of a discloser's identity (subject to the discloser's consent) or information that is likely to lead to the identification of the discloser
 - The Institute will not send communications and documents relating to the investigation of a disclosure to an email address or a printer that other staff can access, and
 - The Institute will remind each person involved in handling and investigating a disclosure about confidentiality requirements, including that an unauthorised disclosure of a discloser's identity may be a criminal offence.

14.2 Protection from detrimental acts or omissions

BBI-TAITE will, in practice, protect disclosers from detriment by ensuring:

- processes for assessing the risk of detriment against a discloser and other persons, for example, other staff who might be suspected to have made a disclosure, commence as soon as possible after receiving a disclosure
- support services, including counselling or other professional or legal services as appropriate, are available to disclosers
- the implementation of strategies to help a discloser minimise and manage stress, time or performance impacts, or other challenges resulting from the disclosure or its investigation
- the implementation of actions for protecting a discloser from the risk of detriment, for example, the Institute may:
 - allow the discloser to perform their duties from another location
 - reassign the discloser to another role at the same level
 - make other modifications to the discloser’s workplace or the way they perform their work duties, or
 - reassign or relocate other staff involved in the disclosable matter.
- management are aware of their responsibilities to:
 - maintain the confidentiality of a disclosure
 - address the risks of isolation or harassment
 - manage conflicts, and
 - ensure fairness when managing the performance of, or taking other management action relating to, a discloser.
 - put into place procedures on how a discloser can lodge a complaint if they have suffered detriment, and the actions BBI-TAITE may take in response to such complaints, for example, the complaint may be investigated as a separate matter by an officer who is not involved in dealing with disclosures and the investigation findings provided to the Board of Directors or the Audit and Risk Committee.
- that if detriment has already occurred, the Institute implements appropriate interventions for protecting a discloser – these interventions may include investigating and addressing the detrimental conduct by:
 - taking disciplinary action
 - allowing the discloser to take extended leave
 - developing a career development plan for the discloser that includes new training and career opportunities, or
 - other compensatory remedies, and
- that a discloser understands they may seek independent legal advice or contact a regulatory body such as ACNC, ASIC, or the ATO, if they believe they have suffered detriment.

14.3 Processes for assessing and controlling the risk of detriment

- **Risk identification:** In assessing whether anyone may have a motive to cause detriment, gather the following information from the discloser:
 - the risk of their identity being known
 - who they fear might cause detriment to them
 - whether there are any existing conflicts or problems in the workplace, and
 - whether there have been threats to cause detriment already.
- **Risk analysis and evaluation:** Analysing and evaluating the likelihood of each risk and evaluating the severity of the consequences.
- **Risk control:** Developing and implementing strategies to prevent or contain the risks – for anonymous disclosures, it may be worthwhile assessing whether the discloser’s identity can be readily identified or may become apparent during an investigation.
- **Risk monitoring:** Monitoring and reassessing the risk of detriment where required – the risk of detriment may increase or change as an investigation progresses and even after the Institute finalises an investigation.

15. HANDLING AND INVESTIGATING A DISCLOSURE

15.1 Handling a Disclosure

- The Institute will ensure the confidentiality of its disclosure handling and investigation processes.
- The Institute will maintain appropriate records and documentation for each step in the handling process.
- BBI-TAITE’s designated eligible recipient(s) will assess each disclosure to determine whether:
 - it qualifies for protection
 - a formal, in-depth investigation is required
 and they will ensure that
 - the location and time for the discloser to make the disclosure is comfortable for the discloser, and
 - the discloser is protected.
- The eligible recipient(s) will ensure the Institute focuses on the substance of the disclosure rather than what they believe to be the discloser’s motive for reporting.
- The eligible recipient(s) will not assume that disclosures about conduct or behaviour that appear to have had a personal impact on a discloser are somehow less severe, as the discloser’s experience may indicate a more significant or systemic issue. For example, bullying or harassment experienced by the discloser may represent a more general culture in the workplace or indicate an environment where other misconduct is occurring.
- In circumstances where it may be unclear whether a disclosure qualifies for protection, BBI-TAITE may elect to treat the discloser as though they are protected as a whistleblower under the *Corporations Act* or the *Taxation Administration Act*, where relevant.

15.2 Investigating a disclosure

- Further to clause 13.3.a and 14.1 above, the Institute cannot disclose information about the discloser that is likely to lead to their identification as part of its investigation, unless:
 - the information does not include the discloser's identity
 - the Institute removes information relating to the discloser's identity or other information that is likely to lead to the identification of the discloser, for example, the discloser's name, position title and other identifying details
 - BBI-TAITE may determine that it is reasonably necessary for the investigations of the issues raised in the disclosure, and
 - to assist a Commonwealth, state or territory authority in the performance of its functions or duties, in [s1317AAE\(4\)](#) of the *Corporations Act*, and [s14ZZW\(3\)](#) of the *Taxation Administration Act*, ACNC, ASIC, the ATO, or the Australian Federal Police may disclose the discloser's identity or information that is likely to lead to the identification of the discloser.
- BBI-TAITE may be limited in its investigation processes or not be able to undertake an investigation if it is not able to contact a discloser, that is if the discloser makes an anonymous disclosure and refuses to provide or has not provided a means of contacting them.
- In practice, the Institute may investigate a disclosure by asking the discloser for consent to a limited disclosure, for example a disclosure to BBI-TAITE's whistleblower protection officer, and/or the whistleblower investigations officer, or equivalent.
- Alternatively, BBI-TAITE may investigate a disclosure by conducting a broad review on the subject matter or the work area disclosed. In addition, it could investigate an anonymous disclosure if the discloser has provided sufficient information to the Institute and the Institute removes information likely to lead to the identification of the discloser.

15.3 Ensuring investigations follow best practice

- BBI-TAITE will follow best practices in its investigations of whistleblower complaints (disclosures)
- Investigations must be objective, fair, and independent while preserving the confidentiality of the investigation
- To ensure fairness and independence, investigations must be independent of the discloser, the individuals who are the subject of the disclosure, and the business unit involved, and
- BBI may undertake investigations jointly with an external body where additional specialist skills, expertise, or independent assessments are necessary.

15.4 Keeping a discloser informed

- The whistleblower protection officer, or equivalent, may explain to the discloser that if BBI-TAITE needs to investigate a disclosure, they may have to determine:
 - the nature and scope of the investigation
 - the person(s) within and/or outside the Institute that should lead the investigation
 - the nature of any technical, financial or legal advice that may be required to support the investigation, and
 - the timeframe for the investigation.
- BBI-TAITE will acknowledge the receipt of a disclosure from a discloser, and the Institute will provide updates to the discloser during key stages of the investigation, such as:
 - when the investigation has begun
 - while the investigation is in progress, and
 - after the investigation is finalised.
- If the Institute can contact the discloser, they will provide them with regular updates on the progress of the investigation. However, the frequency and timeframe of those updates may vary depending on the nature of the disclosure.
- BBI-TAITE will keep a discloser informed and updated during various stages of the investigation and will provide a discloser with the assurance that the Institute is taking their disclosure seriously and that the discloser's anonymity is not compromised when providing regular updates.

15.5 Findings documented, reported internally and communicated to the discloser

- The method for documenting and reporting the investigation's findings will depend on the nature of the disclosure. In addition, there may be circumstances where it may not be appropriate to provide details of the outcome of the investigation to the discloser.
- The whistleblower investigations officer will keep confidential records of all disclosures, their investigation processes, and the investigation's outcomes.
- Refer to section 15.4 for communication procedures concerning communicating with the discloser.

15.6 Avenues for a review of the outcomes of a disclosure

- This policy provides an avenue for review of the outcomes a disclosure to determine if BBI-TAITE's policy, processes and procedures have been adhered to if the discloser is not satisfied with the outcome of the investigation.
- However, disclosers should be aware that BBI-TAITE is not obliged to reopen an investigation and can conclude a review if it finds that the Institute conducted the investigation properly or new information is unavailable or would not change the findings of the investigation.
- If a discloser is not satisfied with the outcome of the investigation, they may lodge a complaint with ACNC, ASIC or the ATO.

16. ENSURING FAIR TREATMENT OF INDIVIDUALS MENTIONED IN A DISCLOSURE

16.1 Mechanisms for ensuring fair treatment of individuals mentioned in a disclosure

- Where applicable, the measures/mechanisms to ensure fair treatment of disclosers when disclosing are:
 - the Institute will handle all disclosures confidentially when it is practical and appropriate to do so
 - each disclosure will be assessed and may be the subject of an investigation
 - the objective of an investigation is to determine whether there is enough evidence to substantiate or refute the matters reported
 - when an investigation needs to be undertaken, the process will be objective, fair and independent
 - an employee who is the subject of a disclosure will be advised about the subject matter of the disclosure as and when required by principles of natural justice and procedural fairness and prior to any actions being taken – for example, if the disclosure will be the subject of an investigation, and
 - an employee subject to a disclosure may contact BBI-TAITE’s support services, for example, counselling).
- BBI-TAITE may determine the most appropriate time to inform the individual who is the subject of a disclosure about the investigation, provided that the Institute informs the individual before making any adverse finding against them.
- In some circumstances, informing an individual at an early stage of an investigation may compromise the effectiveness of the investigation, such as when there may be concerns that the individual may destroy information or the Institute needs to refer the disclosure to ACNC, ASIC, the ATO or the Federal Police.

17. ENSURING THE POLICY IS EASILY ACCESSIBLE

17.1 Disclosers within BBI-TAITE

- BBI-TAITE will ensure the whistleblower policy is available and easily accessible to the Institute’s officers and employees.
- The Institute may use the following methods for making the whistleblower policy available to its officers and employees, where applicable:
 - holding staff briefing sessions and/or smaller team meetings
 - posting the policy on the staff intranet or other communication platform
 - circulating staff concerning the policy and its reference location
 - incorporating the policy in employee induction information and training, and
 - actively and regularly promoting the Institute’s whistleblower policy.

17.2 Upfront and ongoing education and training

BBI-TAITE will:

- conduct upfront and ongoing education and training for all employees regarding its whistleblower policy, processes and procedures to ensure that BBI-TAITE's whistleblower policy stays fresh in the minds of all employees
- ensure that the Institute's executive team, and other line managers, receive the appropriate training to deal with disclosures effectively, including the Institute's commitment to protecting disclosers of wrongdoing
- inform its external eligible recipients, for example, the external auditor, about their obligations under the *Corporations Act* and the *Taxation Administration Act*, where applicable
- ensure that any updates to the whistleblower policy and procedures will be disseminated to and easily accessible by individuals covered by the policy, and
- ensure that those staff members with specific responsibilities under the policy, for example, the Institute's eligible recipients, will receive training in the policy concerning receiving and handling disclosures, confidentiality, and the prohibitions against detrimental conduct.

This training may include:

- the important arrangements of BBI-TAITE's whistleblower policy, processes and procedures, including:
 - practical examples of disclosable matters
 - practical information on how to make a disclosure, and
 - advice on how disclosers can seek further information about the policy if required.
- information related to protecting and supporting disclosers, including:
 - the measures the Institute has in place for protecting and supporting disclosers
 - practical working examples of conduct that may cause detriment to a discloser, and
 - the consequences for engaging in detrimental conduct.
- information about matters not covered by the Institute's policy, including:
 - practical examples of personal work-related grievances
 - information on the Institute's other policies, for example, bullying and harassment, workplace health and safety, grievances, and the Institute's Code of Conduct.
- information on how and where employees can report general employee feedback or personal work-related grievances, and
- practical examples of circumstances where disclosure has led to positive outcomes for the Institute and the discloser.

17.3 Disclosers outside BBI-TAITE

- To ensure disclosers outside BBI-TAITE can access the Institute’s whistleblower policy, it will be available on the Institute’s external website, and
- Where appropriate, BBI-TAITE may exclude information that would not be useful or relevant to external disclosers, or that would not be suitable for external publication, for example, names and contact numbers of internally eligible recipients for employees.

18. NOTES

Contact Officer	Associate Dean (Academic)
Implementation Officer/s	Board of Directors Chair, Board of Directors Chair, Academic Board Chair, Audit and Risk Committee Chair, Governance Committee Principal/CEO Chairs of Committees Associate Dean (Academic) Associate Dean (Courses)
Approval Authority / Authorities	Board of Directors
Date Approved	27 February 2023
Date of Commencement	27 February 2023
Date for Review	24 Months after commencement
Amendment History	Whistleblower Policy and Procedure created November, 2022
Key Stakeholders	Board of Directors Chairs of Boards and Committees Principal/CEO Associate Dean (Academic) Associate Dean (Courses)