

1. Introduction

Motorsport Australia is committed to a culture of integrity and ethical behaviour in fulfilling its responsibilities to its members and stakeholders and to complying with the *Corporations Act 2001 (Cth)* in its operations and interactions.

2. Purpose

- (a) The purpose of this Policy is to encourage the reporting of serious misconduct or wrongdoing that is of legitimate concern to Motorsport Australia (**Reportable Conduct**), by providing a convenient and safe reporting mechanism that ensures protection for anyone who makes a disclosure.
- (b) This Policy defines who can make a protected disclosure (**Whistleblower**), identifies who can receive a protected disclosure (**Eligible Recipient**) and establishes a process for Whistleblowers to make a protected disclosure (**Report**) and a corresponding process for Motorsport Australia to address reports from Whistleblowers.
- (c) Any person who raises a concern and makes a disclosure of a serious nature (a **Report**) (for example unethical, illegal, corrupt or other inappropriate conduct) should not be subject to victimisation, harassment or discriminatory treatment.
- (d) This Policy sets out the avenues available to Whistleblowers to report serious wrongdoing to Motorsport Australia and how Motorsport Australia will deal with any such Reports.
- (e) For the purposes of this Policy a person who is the subject of a Report is referred to as the **Named Person** which includes a reference to more than one person.

3. Scope

- (a) This Policy applies to Motorsport Australia and is applicable to all current and former directors, officers, employees, associates, volunteers and contractors, as well as suppliers and service providers to Motorsport Australia and other persons who may be aware of Reportable Conduct. In this clause former directors means persons who ceased being directors up to 7 years from the relevant date,
- (b) Motorsport Australia makes this Policy available in an accessible format to all persons bound by it.

4. Reportable Conduct

- (a) Any conduct or wrongdoing that is genuinely believed to be in breach of the law or Motorsport Australia's Regulations or Policies should be reported in accordance with this Policy.
- (b) Reportable Conduct includes, but is not limited to, any conduct that involves:

- (i) illegal activities (including but not limited to theft, dealing in or use of illicit drugs, violence, discrimination, harassment, intimidation or threatened violence and criminal damage against property);
 - (ii) dishonest behaviour;
 - (iii) fraudulent or corrupt activity, including financial fraud or bribery;
 - (iv) perverting the course of justice;
 - (v) unlawful, corrupt or irregular use of company funds or practices;
 - (vi) unethical behaviour, including any form of discrimination, harassment or bullying;
 - (vii) improper or misleading accounting or financial reporting practices;
 - (viii) a breach of any legislation relating to Motorsport Australia's operations or activities;
 - (ix) behaviour that is oppressive, unjust, discriminatory or grossly negligent (including gross mismanagement, serious or substantial waste of Motorsport Australia's resources or repeated breaches of administrative procedures);
 - (x) any behaviour that poses a serious risk to the health and safety of any person at the workplace including any risk of discrimination, harassment or bullying;
 - (xii) a serious risk to public health, public safety or the environment;
 - (xiii) an improper state of affairs in relation to Motorsport Australia;
 - (xiv) any other conduct which may cause loss to Motorsport Australia or be otherwise detrimental to the interests of Motorsport Australia or any of its employees; and
 - (xv) the deliberate concealment of information tending to show any of the conduct listed above.
- (c) Reportable Conduct does not include personal work-related grievances. Personal work-related grievances include but are not limited to interpersonal conflicts between the Whistleblower and another employee, or a decision relating to the engagement, transfer or promotion of the Whistleblower. Such grievances should be addressed by the appropriate Motorsport Australia Manager or the Motorsport Australia CEO under the provisions of the relevant employment agreement, Motorsport Australia Grievance Policy and or the *Fair Work Act 2009 (Cth)*.

5. Responsibility to Report

It is expected that any person becoming aware of any Reportable Conduct will notify the appropriate personnel as per this Policy. A Whistleblower must provide information to assist in any inquiry or investigation of the conduct disclosed.

6. Protection of Whistleblowers

6.1 General

- (a) Motorsport Australia will take all reasonable steps to ensure that a Whistleblower will not be subject to any form of victimisation, discrimination, harassment, demotion, dismissal, threats or prejudice because they have made a Report, even if the disclosure is subsequently determined to be incorrect or is not substantiated. This also applies to anyone providing information related to an investigation under this Policy.
- (b) Motorsport Australia will take all reasonable steps to protect the identity of a Whistleblower and will adhere to statutory requirements in respect of the confidentiality of Reports made. In appropriate cases, disclosure of the identity of a Whistleblower or the allegation made may be unavoidable, such as if court proceedings result from a Report under this Policy.
- (c) This Policy will not protect a Whistleblower if they are also involved in, or connected with, the misconduct or wrongdoing reported.

6.2 Reporting on Reasonable Grounds

- (a) A Report may have serious consequences, including potential damage to the career prospects and reputation of the Named Person who is the subject of allegations of misconduct or wrongdoing. Therefore, it is very important that those who make a Report under this Policy do so with reasonable grounds for believing that the information is correct or likely to be correct.
- (b) Motorsport Australia takes very seriously any Reports made under this Policy and will look particularly unfavourably on any false reports or claims. Disciplinary action may be taken against anyone who makes a Report that is false or not on reasonable grounds.
- (c) A Report will not be considered to be made on reasonable grounds if it is frivolous, vexatious, raised for a malicious reason, for personal gain or an ulterior motive, or if it is not based on facts and/or circumstances that provide a reasonable basis for the report. Repeated reports about trivial matters will also be considered not to be made on reasonable grounds and if so, will not be investigated under this Policy.

6.3 Anonymous Reporting

A Report can be made anonymously, but it may be difficult for the matter to be properly investigated without the Whistleblower's identity. If legal action is taken on the reported matter, it may become necessary for the Whistleblower to identify themselves. If the Whistleblower wishes to benefit from statutory protections provided under the *Corporations Act 2001 (Cth)*, they may have to disclose their name. In these instances, Motorsport Australia will continue to take all reasonable steps to protect the Whistleblower from any possible reprisal. Whistleblowers are encouraged to provide their identity to enable a robust process to be undertaken.

7. Procedures

7.1 Making a Report to an Eligible Recipient

- (a) Any person who has reasonable grounds to suspect that Reportable Conduct has occurred is encouraged to first discuss the matter informally with their direct line manager or Motorsport Australia's External Legal Counsel in order to determine if serious misconduct or wrongdoing has occurred. This provides an opportunity to clarify the conduct in question, ask questions and determine if the conduct is Reportable Conduct under this Policy. At all times, these discussions must and will remain confidential.
- (b) If informal discussion is not considered appropriate, or the conduct has already been confirmed as Reportable Conduct, a Report should be made through the Motorsport Australia website. This service has been established to enable anonymous and confidential reporting. Reports can be made online or over the phone. All reports will be forwarded to Motorsport Australia's External Legal Counsel for assessment and, if they relate to Reportable Conduct, will be investigated under this Policy. The website is <http://motorsport.org.au> and the contact details for Motorsport Australia's External Legal Counsel is as follows:

Mr Ian Fullagar – Lex Sportiva
Email: lexsportiva@icloud.com
Phone: 0428 082 087

- (c) If a Whistleblower does not wish to discuss the matter informally or use the Motorsport Australia website they can submit a Report to an **Eligible Recipient**. An Eligible Recipient is:
 - (i) Motorsport Australia's External Legal Counsel; or
 - (ii) Motorsport Australia's CEO.
- (d) Where possible, a Report of Reportable Conduct should be in writing and should contain, as appropriate, details of the following to allow a reasonable investigation to be conducted:
 - (i) nature of the alleged breach;
 - (ii) name/s of persons or persons believed to be responsible for the breach;
 - (iii) facts on which the Whistleblower's belief that a breach has occurred are based; and
 - (iv) nature and whereabouts of any further evidence that may substantiate the Whistleblower's allegations, if applicable.

7.2 Investigation

- (a) Any Reports of alleged or suspected misconduct or wrongdoing made under this Policy will be properly assessed, and if appropriate, inquired into or independently investigated. The Motorsport Australia CEO or External Legal Counsel will determine the appropriate method and personnel for an investigation. Where appropriate, assistance may be sought from internal or external specialists as deemed necessary.

- (b) During an investigation, an investigator must conduct sufficient inquiry to be able to draw conclusions and make any recommendations regarding the Report.
- (c) The investigator and/or any specialists involved in the investigation shall be given access to all relevant materials, documents, and records and all personnel, including the Whistleblower, must co-operate fully with the investigator.
- (d) Any investigation will be conducted in a fair and independent manner and all reasonable efforts will be made to preserve the confidentiality of an investigation.
- (e) Information contained in Reports, or otherwise provided by Whistleblowers, or produced in the course of an investigation, will be kept confidential, except as required by law or where disclosure is necessary to regulatory authorities, law enforcement agencies or investigators and specialists, as per clause 7.2(a). to Motorsport Australia.
- (f) A Whistleblower must keep confidential the fact that a Report has been made (subject to any legal requirements) to avoid jeopardising an investigation.
- (g) During an investigation, Motorsport Australia will take all reasonable steps to fairly treat any Named Person.

7.3 Investigation Findings

- (a) On conclusion of the investigation, the investigator must prepare a report of the findings for the CEO or External Legal Counsel (as the case may be) which should include recommendations for steps to be taken to prevent the misconduct from occurring in the future, as well as any action that should be taken to remedy any harm or loss arising from the misconduct, including disciplinary proceedings against the Named Person responsible for the conduct, and the referral of the matter to appropriate authorities, as is deemed necessary.
- (b) The Whistleblower will be kept informed of the progress, findings and conclusion of an investigation by the investigator, subject to privacy and confidentiality considerations.
- (c) Where a Named Person is identified as being suspected of possible wrongdoing or misconduct, but preliminary enquiries determine that the suspicion is baseless or unfounded and that no formal investigation is warranted, then the Whistleblower will be informed of this outcome and the matter concluded with no further action.
- (d) The CEO, President, or Chair of the Finance Risk and Audit Committee (as the case may be) will decide whether the Named Person should be informed that a Report was lodged and found to be baseless upon preliminary review. This decision will be based on the need to preserve the integrity of the Named Person and to protect the Whistleblower.
- (e) Where an investigation is conducted and the investigator believes there may be a case for Named Person to respond to, the investigator must ensure that the Named Person:

- (i) is informed of the substance of the allegations in the Report;
 - (ii) is given a fair and reasonable opportunity to answer the allegations in the Report before the investigation is finalised;
 - (iii) has their response set out fairly in the investigator's report; and
 - (iv) is informed about the substance of any adverse conclusions in the investigator's report that affects them.
- (f) Where adverse conclusions are made in an investigator's report about a Named Person, that individual has a right to respond to those conclusions prior to any action being taken by Motorsport Australia against them.
- (g) All relevant parties must adhere to the determination and any recommendations of an investigation or inquiry held under this Policy.

7.4 Reporting to a third party

No protection will be provided by Motorsport Australia to any Whistleblower who informs an external (to Motorsport Australia) third party of concerns about Reportable Conduct unless the Whistleblower:

- (a) has previously made a Report regarding the matter to an Eligible Recipient and either:
 - (i) at least 90 days have passed since the Report was made; and
 - (ii) the Whistleblower does not have reasonable grounds to believe that action is being, or has been taken to address the Report; and
 - (iii) the Whistleblower has reasonable grounds to believe that making a further Report would be in the public interest; or
 - (iv) the Whistleblower has reasonable grounds to believe that the information concerns a substantial and imminent danger to the health and safety of a person, persons, or the environment; and
- (b) provides prior written notification to Motorsport Australia that:
 - (i) includes sufficient information to identify the previously made Report;
 - (ii) clearly states that the Whistleblower intends to make a public interest disclosure or an emergency disclosure under this section of the Policy; and
 - (iii) the information disclosed is no greater than necessary to inform the third party of the misconduct or the otherwise improper state of affairs.

7.5 Internal reporting

Motorsport Australia's External Legal Counsel and/or CEO will prepare regular reports to be provided to the Finance Risk and Audit Committee and/or Board on matters raised under this Policy and the application, operation and effectiveness of this Policy.



8. Breach of this Policy

- (a) Motorsport Australia is committed to protecting and respecting the rights of a Whistleblower who reports wrongdoing or misconduct on reasonable grounds under this Policy. Motorsport Australia will not tolerate any reprisals or threats of reprisals against a Whistleblower, or against a Whistleblower's colleagues, employer or relatives.
- (b) Any such retaliatory action or victimisation in reprisal for a Report made under this Policy will be treated as serious misconduct and will result in disciplinary action, which may include dismissal. In some circumstances, it may be illegal in which case Motorsport Australia may notify the Australian Securities and Investments Commission or the appropriate state or federal police.

9. Availability of this Policy

This Policy is available on the Motorsport Australia website and intranet site.

10. Review of this Policy

The Motorsport Australia In house Legal Counsel and the Finance Risk and Audit Committee will monitor and annually review the effectiveness of this Policy.

11. Amendment of this Policy

This Policy can only be amended with the approval of the Motorsport Australia Board.

12. Related rules, policies or procedures

Member Protection Policy

Anti-Discrimination, Harassment and Bullying Policy

Occupational Health and Safety Policy

Privacy Policy

13. General

The Policy Manager is the Motorsport Australia In house Legal Counsel, to whom any questions in relation to this Policy should be directed.

This Policy was approved on 4 June 2020.

Policy Review Date	September 2022