

Whistleblower Procedure

Document Owner: Executive Leadership team

Approved By: CEO

Relevant Standards / Legislation (if applicable):

NSQHS Standard 1: Clinical Governance

Corporations Act 2001 (Cth)

Treasury Laws Amendment (Enhancing Whistleblower Protections) Act 2019

Purpose

This procedure gives information on:

- The ways to report actual or suspected improper conduct;
- The investigation and reporting process for reportable conduct;
- The steps taken by RFDS to protect those that report actual or suspected improper conduct.

Note: Persons wishing to register an allegation of improper conduct immediately should contact the **RFDS Victoria Manager of Quality and Impact** or **'Your Call'**. Reading of this procedure is recommended so that the responsibilities of persons making a disclosure and the subsequent steps are understood.

Scope

This procedure applies to:

- All RFDS Victoria employees, contractors and volunteers, whether full-time, part-time or casual, at any level of seniority;
- Employees, including managers, of organisations which have a commercial relationship with RFDS as clients, suppliers, consultants, agents or otherwise.
- Disclosure officers and board directors of the organisation
- Relatives, dependants and spouses of such persons listed above

Responsibilities

Role / Position / Team	Responsibilities
All staff, volunteers, clients, contractors, suppliers, consultants	<ul style="list-style-type: none">• Report actual or suspected improper conduct• Make notifications with reasonable grounds• Provide evidence to support any disclosure they make when safely possible• Participate in investigations as required• Maintain confidentiality for disclosures and investigations• Support and protect whistleblowers, reporting retaliatory action/detriment against them• not make vexatious or malicious complaints
'Your Call' (External Disclosure Service)	<ul style="list-style-type: none">• Provide access to electronic access to the Services, including Your-Call's Protected Disclosure Form, to lodge Disclosures with Your Call via www.yourcall.com.au• Communicate as is necessary in respect of the Disclosure

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	<ul style="list-style-type: none"> • Notify RFDS of any Disclosure within one business day of receiving the Disclosure • Provision of information from the Disclosure to the officer(s), protecting the identity of the discloser if they have elected to remain anonymous.
Manager, Quality & Impact (MQI)	<ul style="list-style-type: none"> • Act as Disclosure Officer • Assess nature of disclosure – escalate if required • Convene Disclosure Investigation team • Facilitating periodic review and updating of whistleblower procedure • Ensure that whistleblower training is included on the organisations training matrix for staff, managers and directors • Maintain confidentiality of the disclosure • Ensure that the Whistleblower procedure is reviewed annually
General Manager, People and Culture	<ul style="list-style-type: none"> • Act as Disclosure Officer • Act as Disclosure Officer if allegation involves a member of the Quality team, is made by a member of Quality or involves the General Manager, Corporate Services. • Ensuring that a suitable training program is available to staff • Maintain confidentiality of the disclosure
Disclosure Investigation team	<ul style="list-style-type: none"> • Determine pathway for investigation • Prepare review reports for relevant board-subcommittee • Maintain confidentiality of the disclosure • Support and protect those that report improper conduct • Advise reporters of investigation outcomes
Executive Leadership team	<ul style="list-style-type: none"> • Support implementation of this procedure • Participate in Disclosure Investigation team as required • Investigate reports of retaliatory action • Refer to external bodies is required from a legal or regulatory perspective. • Maintain confidentiality of the disclosure
Board of Directors	<ul style="list-style-type: none"> • Responsible for the whistleblower policy, as part of the broader risk management and corporate governance framework. • The Board (either directly or through the Finance Audit and Risk committee) ensures that the broader trends, themes and/or emerging risks highlighted by the disclosures made under its policy are addressed and mitigated as part of its risk management and corporate governance work plans • Participate in training • Support the implementation of this procedure

Definitions

Whistleblower Procedure

Term	Definition
Disclosure	A notification of actual or suspected improper conduct made to the Disclosure Officer under the RFDS Victoria Whistleblower Policy and Whistleblower Procedure.
Disclosure Officer	RFDS Victoria or external providers appointed staff member(s) who receives notifications of actual or suspected improper conduct and who is trained in workplace investigations.
Eligible recipients	Individuals within the organisation that can receive disclosures that qualify for protection. Eligible recipients at RFDS include: board directors and senior managers on ELT or OMT; and Members of the internal audit team, External auditors or actuaries.
Disclosure Investigation Team	Team convened to manage investigation for allegations of improper conduct.
Disclosable Matters	<p>Information that the discloser has reasonable grounds to suspect concerns misconduct, or an improper state of affairs or circumstances, in relation to an entity or related body corporate.</p> <p>Disclosable Matters include any conduct that constitutes an offence against, or a contravention of, a provision of any of the following:</p> <ul style="list-style-type: none"> i) the Corporations Act ii) the ASIC Act; iii) the Banking Act 1959; iv) the Financial Sector (Collection of Data) Act 2001; v) the Insurance Act 1973; vi) the Life Insurance Act 1995; vii) the National Consumer Credit Protection Act 2009; viii) the Superannuation Industry (Supervision) Act 1993; ix) any other law of the Commonwealth that is punishable by imprisonment for a period of 12 months or more; or <p>represents a danger to the public or financial system.</p> <p>For example:</p> <ul style="list-style-type: none"> • Sexual harassment • Contractors issuing false invoices, or invoicing for work not complete • Use of an RFDS fuel card to fuel a personal vehicle
Improper conduct	<p>Behaviour, practice or activity that a reporter reasonably believes or perceives to:</p> <ul style="list-style-type: none"> • Be Misconduct (as defined) • Be unethical or not in keeping with RFDS Victoria values • Constitute financial malpractice, impropriety, corruption, bribery or fraud • Be potentially damaging to RFDS Victoria, or one of its employee's, reputation • Be in breach or potentially in breach of any law or regulation • Amount to an abuse of authority • Amount to non-disclosure or manipulation of an internal or external audit process

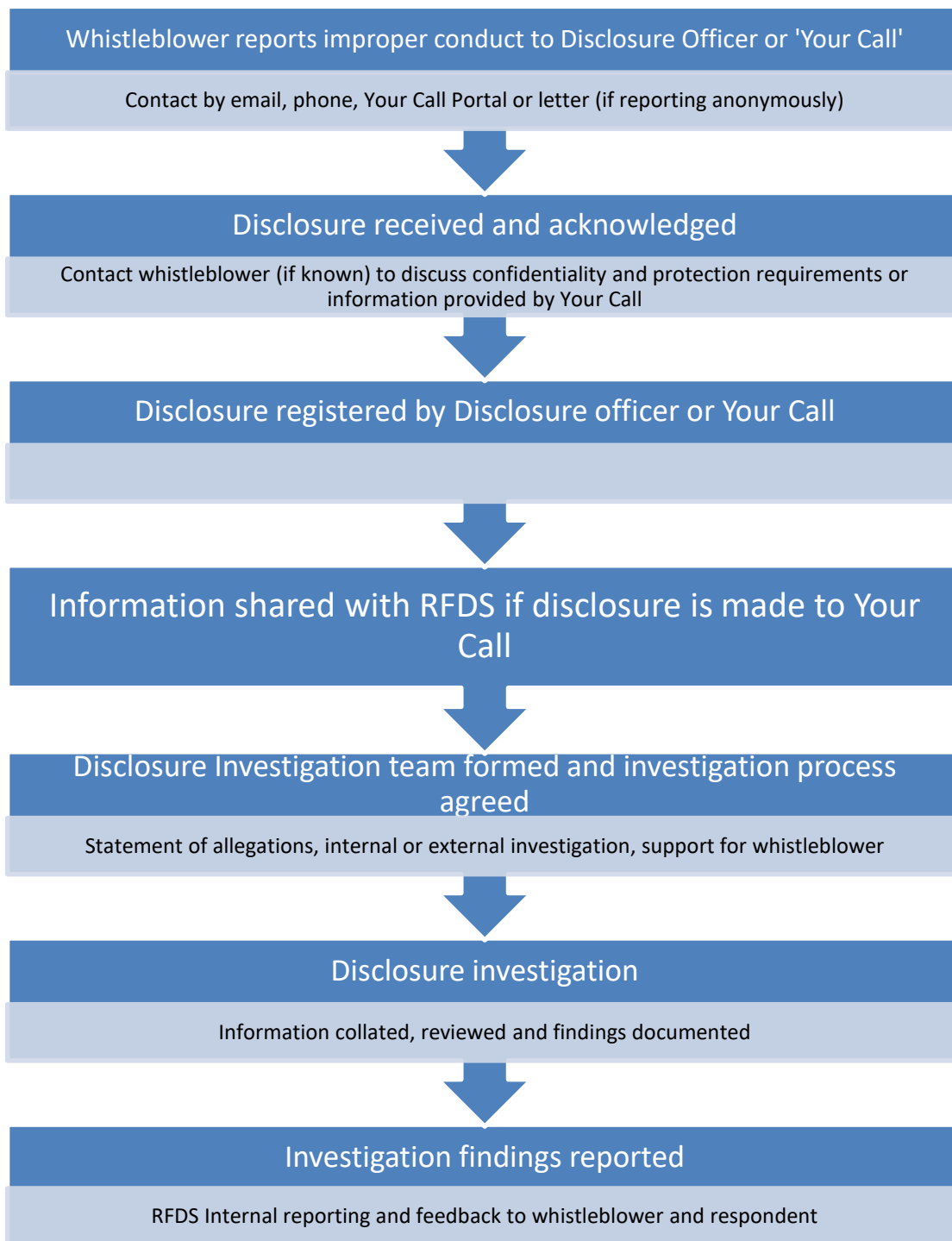
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	<ul style="list-style-type: none"> • Be in breach of RFDS Victoria’s policies or Code of Conduct • systemic harassment, discrimination, victimisation or bullying <p><u>Exclusions:</u> Minor misconduct that may warrant a reprimand such as:</p> <ul style="list-style-type: none"> • Minor misconduct resulting from employee conflict • Behaviour such as rudeness towards staff, clients or public
Misconduct	<p>Includes fraud, negligence, default, breach of trust and breach of duty) or an improper state of affairs or circumstances or a danger to the public or the financial system.</p> <p>Misconduct or an improper state of affairs or circumstances may be legal but may indicate a systemic issue that the relevant regulator should know about to properly perform its functions. It may also relate to business behaviour and practices that may cause consumer harm (e.g. violation of code of conduct/unethical behaviour)</p>
Notification of Investigation statement	Document provided to respondent(s) of a disclosure that supports procedural fairness by outlining the allegations under investigation.
Retaliatory/detrimental action	<p>Action taken against a person <u>after</u> they make a report of improper conduct. May include:</p> <ul style="list-style-type: none"> • Bullying and harassment and intimidation • Unfair dismissal or demotion for reporting • Exclusion from projects or work that would usually be assigned • Poor performance reviews • Legal action
Whistleblower	Anyone who makes or attempts to make a report of improper conduct under the RFDS Victoria Whistleblower Policy.

Process

The diagram shows the steps taken for reports of actual or suspected improper conduct. Appendix I gives details on management of the disclosure by the Disclosure Investigation team.

Whistleblower Procedure



Employees should use existing reporting channels, where possible, to resolve issues:

- relating to their own personal circumstances (e.g employment matters).
- where business procedures exist (e.g reporting hazards, risks and adverse events, performance management).

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However, RFDS encourages staff to report under the Whistleblower policy and procedure when the staff member believes that they may suffer personal disadvantage.

Reporting actual or suspected improper conduct

Whistleblowers can make a disclosure to the appropriate RFDS Victoria Disclosure Officer by email, letter, phone call or a meeting. Whistleblowers are also able to make a disclosure through an external provider 'Your Call' via the disclosure portal at www.yourcall.com.au. Whistleblowers who wish to remain anonymous should disclose by letter, email, Your Call Portal or phone. Note that reporting anonymously may limit the investigation of some disclosures.

A discloser needs to make a disclosure directly to one of the organisations eligible recipient to qualify for protection as a whistleblower under the Corporations Act.

Disclosure Officers	Types of Disclosure
Manager of Quality and Impact (MQI)	<ul style="list-style-type: none">Any disclosure Exceptions <ul style="list-style-type: none">Disclosure involving members of the Quality teamDisclosure involving the General Manager, Corporate Services
General Manager People and Culture	<ul style="list-style-type: none">Any disclosure Exceptions <ul style="list-style-type: none">Disclosure involving People and Culture team members

**Please seek assistance from the General Manager, Corporate Services if the MQI is away and your disclosure involves a member of the People and Culture team.*

A whistleblower should provide some background and context for their disclosure such as:

- details of events underlying the report such as date, time, location, name of person(s) involved, possible witnesses to events, evidence of the events (e.g documents, emails)
- any policy, procedure, regulation or law that they believe has been breached
- any steps that they may have already taken to report the matter elsewhere or to try and resolve the concern
- Information about any risks or harms that may have occurred or could occur

Receipt of disclosure and information for whistleblowers

The Internal or External Disclosure Officer will acknowledge receipt of a disclosure with the whistleblower (if not anonymous). Whistleblowers, witnesses and whistleblower program staff must maintain confidentiality to ensure procedural fairness and minimise disruption in the workplace during investigation of the disclosure.

RFDS Victoria will take all reasonable steps to protect and respect the rights, including the identity, of a person who makes a disclosure of actual or suspected improper conduct on reasonable grounds. Fabricated disclosures are a form of misconduct. The protections of the Corporations Act do not grant immunity for any misconduct a discloser has engaged in that is revealed in their disclosure.

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A discloser may seek independent legal advice or contact regulatory bodies, such as ASIC, APRA or the ATO, if they believe they have suffered detriment.

The Disclosure Investigation team will keep the identity of a whistleblower confidential where possible. A whistleblower who reports anonymously must note that there is a possibility that their identity may become known, by inference, to the person about whom the allegations were made.

Others who know or suspect that another person has made a disclosure must protect and maintain the identity of that person. People, including RFDS Victoria as an organisation, proven to breach confidentiality will be subject to disciplinary action and potentially severe Corporations Act penalties.

RFDS Victoria will take all reasonable steps to avoid retaliatory action against a whistleblower. The Disclosure Investigation team will investigate allegations of retaliatory action and, if proven, participants will face disciplinary action and potentially severe Corporations Act penalties. It is a criminal offence to cause or threaten to cause detriment to a person because they have made, proposed to make or could make a disclosure that qualifies for protection. A whistleblower who is subjected to detriment in these circumstances may also seek compensation from a Court under the Corporations Act.

Personal work-related grievances

Disclosures that relate solely to personal work-related grievances, and that do not relate to detriment or threat of detriment to a discloser do not qualify for protection under Australian whistleblowing laws. 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 have significant implications for the organisation or do not relate to misconduct or alleged misconduct. Examples of personal work-related grievances include:

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

Personal work-related grievances should be internally raised using the Grievance policy. Sometimes, there are grievances which do qualify as protected disclosures, for example, if they are part of a problematic pattern or systemic issue within the organisation, or if the grievance is bundled with illegal activity or another protected disclosure.

Disclosure registration

The Disclosure Officer registers the report of actual or suspected misconduct on the 'Your Call' disclosure portal as a "walk-up" disclosure.

The Disclosure Officer will:

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- Prepare a statement of the issues for review by the whistleblower (if known) and the Disclosure Investigation team
- Seek confirmation from the whistleblower, directly or through Your Call, that the statement captures their disclosure accurately
- Keep an electronic record of the statement in a secure location accessible only to the RFDS Disclosure Officer who receives the disclosure

Disclosure Investigation team and investigation process

The Disclosure Officer convenes an impartial Disclosure Investigation Team on a case-by-case basis to manage a disclosure (Further information in Appendix 1).

Ensuring fair treatment of individuals mentioned in a disclosure

The disclosure investigation team will:

- Handle disclosures confidentially
- Assess the risk of each disclosure to determine the need for investigation
- When an investigation is undertaken, ensure the process is objective, fair and independent

Public interest and emergency disclosures

Whistleblowers can also make a public interest disclosure or an emergency disclosure to a member of parliament or a journalist in the following circumstances:

Public interest disclosures

A Whistleblower may make a disclosure in the public interest to a member of parliament or a journalist if:

- the Whistleblower has previously made that disclosure to ASIC, APRA or another Commonwealth body prescribed by regulation; and
- at least 90 days have passed since the disclosure was made and the Whistleblower does not have reasonable grounds to believe that action is being, or has been, taken to address the misconduct to which the previous disclosure related; and
- the Whistleblower has reasonable grounds to believe that making a further disclosure of the misconduct would be in the public interest; and
- after the end of the 90-day period the Whistleblower notifies the body to whom he or she made the disclosure (ASIC, APRA or other Commonwealth body) in writing with sufficient information to identify the previous disclosure, and state that the Whistleblower intends to make a public interest disclosure to a member of parliament or a journalist; and
- the extent of the information disclosed in the public interest disclosure is no greater than is necessary to inform the recipient of the misconduct or the improper state of affairs or circumstances.

Emergency disclosures

A Whistleblower may also make an emergency disclosure to a member of parliament or a journalist if:

- the Whistleblower previously made that disclosure to ASIC, APRA or another Commonwealth body prescribed by regulation;
- the Whistleblower 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;
- the Whistleblower notifies the body to whom he or she made the disclosure (ASIC, APRA or other Commonwealth body) in writing with sufficient information to identify the previous disclosure, and state that the Whistleblower intends to make an emergency disclosure to a member of parliament or a journalist;
- the extent of the information disclosed in the emergency disclosure is no greater than is necessary to inform the recipient of the substantial and imminent danger.

A Whistleblower should seek legal advice before making a public interest disclosure or an emergency disclosure to a parliamentarian or journalist.

Seeking additional information

Disclosers may wish to seek additional information prior to making a disclosure. Disclosers can contact the organisation's disclosure officers (Manager Quality and Impact or General Manager People and Culture) or seek advice from an independent legal advisor.

Effectiveness Criteria and Evaluation

Each convened Disclosure Investigation Team must evaluate the effectiveness of this procedure for management of the disclosure and provide recommendations to the Executive team.

References and Related Documents

Internal

RFDS Victoria Respondent Notification of Investigation statement (draft pending)

RFDS Victoria Guide to Investigation Participants form (draft pending)

RFDS Victoria Guide to Investigation Support Person form (draft pending)

RFDS Victoria Suppliers and Purchasing Procedure

External

IBAC Guidelines for making and handling protected disclosures

Whistleblower Procedure



IBAC Guidelines for protected disclosure welfare management, 2016

Protected Disclosure Act 2012 (Vic)

Fair Work Act 2009 (Cth)

Enhancing Whistleblower Protections Act 2019

Corporations Act 2001 (Cth)

APPENDIX I: Disclosure Management by the Disclosure Investigation Team

Disclosure Investigation team and investigation process

The Disclosure team convened should be impartial to the disclosure and members will not be from an operational area related to the disclosure. The Disclosure team will:

- Assess the disclosure to determine whether it qualifies for protection and whether a formal, in-depth investigation is required
- Determine if there are sufficient grounds to proceed with an investigation
- Document the scope of investigation and appoint an investigator (internal or external)
- Identify staff required for interview as part of the investigation
- Decide if the investigation should be protected by legal privilege
- Prepare wording for notifications to respondents
- Agree on types of evidence to be gathered
- Review draft investigation reports
- Provide investigation findings and outcome letters to whistleblowers and respondents

The table below shows the team composition, along with any specific responsibilities or authorities for each team member.

Team Member	Responsibilities and Authorities
Disclosure Officer (disclosure recipient) Delegate: None – mandatory member	<p><i>Responsibilities</i></p> <ul style="list-style-type: none"> • Obtain written confirmation from the discloser whether they consent to disclose their identity. If the discloser does not consent or has made an anonymous disclosure, ensure all reasonable steps are taken to protect discloser’s identity. • Provide disclosure information • Identify possible procedure / regulatory breaches • Assist with allegation statement preparation • Arrange interview times and locations • Conduct investigation interviews as required • Document team activities and retain records • Ensure confidentiality agreements are obtained from all individuals involved in investigation and processes are followed to maintain confidentiality <p><i>Authorities</i></p> <ul style="list-style-type: none"> • Update incident register for the disclosure
General Manager People and Culture Delegate 1: Manager, People & Culture (see <i>Notes on conflict and delegates</i>)	<p><i>Responsibilities</i></p> <ul style="list-style-type: none"> • Identify possible procedure / regulatory breaches • Review requirements for respondent leave / duties • Present allegation statements to respondents • Identify Fair Work / EBA obligations

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	<ul style="list-style-type: none"> • Conduct investigation interviews as required • Provide support for the whistleblower <p><i>Authorities</i></p> <ul style="list-style-type: none"> • Co-opt internal team members • Engage external members up to financial delegation
General Manager - impartial Delegate: alternative General Manager	<p>Role: Team Leader (refer Note 1 below. Only appointed if conflict exists with P & C team members)</p> <p><i>Responsibilities</i></p> <ul style="list-style-type: none"> • Lead the team • Identify possible investigators • Conduct investigation interview if required • Oversee the investigation process • Prepare communications for stakeholders <p><i>Authorities</i></p> <ul style="list-style-type: none"> • Appoint investigators up to financial delegation • Engage legal counsel up to financial delegation

Notes on People and Culture representatives:

1. The Disclosure Officer and General Manager People and Culture will appoint a second General Manager or member of the Operational Management Team if there is conflict for the nominated People and Culture team members.
2. If the General Manager People and Culture was the subject of the disclosure, then the Manager, People and Culture, will join the team.
3. In the event that the Manager, People and Culture is unavailable then Disclosure Officer consults to appoint an alternative team member as follows: General Manager of Corporate Services or CEO if disclosure relates to the General Manager of Corporate Services.

The Disclosure team must review the allegation type and the respondent's position against the matrix below and assign an investigator based on the rating.

- Low and Medium – appoint internal investigators
- High – appoint external investigators

	Staff, volunteer, contractor, supplier	CEO or General Manager	Board or sub-Board member
Breach of internal Policy or Procedure	Low	Medium	High
Abuse of Authority / Unethical behaviour	Medium	High	High
Illegal activity / Legislation breach	High	High	High

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Additionally, the appointment of an independent investigator may be appropriate when:

- the alleged behaviour is very serious, such as a possible criminal offence
- the neutrality of possible internal investigators may be compromised or questioned
- there may be some form of perceived bias

Allegations that involve possible criminal activity at a high level in the organisation may require consideration of legal privilege and appointment of external investigators by the RFDS legal counsel. The Disclosure Investigation team engage legal counsel through:

1. RFDS Victoria Chief Executive (CE)
2. RFDS Chair of the Board – in absence of the CE or if a conflict exists for the CE
3. Chair Finance, Audit and Risk Committee – in absence of Chair of Board or if conflict exists

Preparation of the Notification of Investigation statement to the respondent(s) may be possible from the information provided in the disclosure. If insufficient information is available, then the statement must be prepared after the investigator has interviewed the whistleblower (if not anonymous). The statement must contain:

- Details of each allegation (include, if possible the date, location and names of those involved)
- Each allegation statement must include any procedures / regulations breached
- The purpose of the investigation
- Any changes to the respondent's employment status (such as changed duties or suspension)
- Requirement to maintain confidentiality
- A copy of the Guide to Participants form
- Support services, such as EAP, that the respondent can access

Note: Present allegations in chronological order so that each allegation is considered in order and to reduce the likelihood of a claim of bias or pre-judgment.

Disclosure Investigation

The investigation process should include:

- Policy review
- First evidence review (before any interviews take place)
- Allegations
- Interviews
- Confirmation of statements
- Supplementary evidence
- Report findings

Internal investigation:

- The investigator must be trained in Workplace Investigations

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- The investigator must be must be impartial and free from conflict
- Can be conducted by members of the Disclosure Investigation Team
- Interview notes must document the allegations or questions and the participants response

Outsourced investigation:

- The company providing services must hold relevant accreditations and identified as a quality critical supplier.
- The investigator cannot make recommendations for disciplinary action as the investigative process and disciplinary process must be separate.
- The investigator must follow the investigation scope provided by the Disclosure Investigation Team.

Reporting Investigation Findings

Internal investigation reports should provide the following information:

- Executive Summary
- Background – why the investigation was conducted
- The investigation process – investigators, summary of interview conducted, overview of findings, relevant procedures / regulations
- Discussion of evidence – information from whistleblower, respondents, witnesses and finding for each allegation (substantiated/not substantiated/partially substantiated)
- Risk Analysis – specific areas of concern identified
- Conclusion – overall summary of findings
- Recommendations – should relate to the scope of the investigation

The Disclosure Investigation Team provides reports (internal or external to):

- RFDS Victoria Chief Executive (CE)
- RFDS Chair of the Board – in absence of the CE or if a conflict exists for the CE
- Chair Finance, Audit and Risk Committee – in absence of Chair of Board or if conflict exists via the General Manager Corporate Services

The Disclosure Investigation Team will provide the whistleblower and the respondent(s) with a letter informing them of the investigation findings and outcome. The letter must include:

- Each allegation raised and the finding made
- A short summary of the evidence that led to the finding
- Any next steps to be taken (decided by the forum reviewing the investigation report)
- Support service contacts such as EAP

Record Retention

Document	Storage
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Whistleblower Procedure

Initial Disclosure information	Secure folder accessible to Disclosure Officers
Interview records	Secure folder accessible to Disclosure Officers
Investigation report	Secure folder accessible to Disclosure Officers Secure folder accessible to review forum
Investigation outcome letters	Secure folder accessible to Disclosure Officers
Disclosure summary	RiskMan incident register
'Your Call'	Online disclosure database