



Murrumbidgee
Irrigation

MURRUMBIDGEE IRRIGATION LIMITED

WHISTLEBLOWER PROTECTION POLICY & PROCEDURE



ISSUED BY	MI Audit & Risk Committee		
INTRODUCED	1 July 2019		
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VERSION NUMBER	2	REVIEW REQUIRED:	30 June 2021
POLICY TYPE:	Regulatory		

POLICY

1. POLICY STATEMENTS

- 1.1 MI is committed to upholding the intention of the law by providing a safe and transparent process for Whistleblowers to report instances of corporate misconduct, or an improper state of affairs involving MI or a related body corporate of MI. MI will provide protections and measures so that Whistleblowers can make a report confidentially and without fear of intimidation, disadvantage or reprisal.
- 1.2 This Policy is made in accordance with the *Corporations Act 2001* (Cth) and the *Taxation Administration Act 1953* (Cth) and accompanying Regulations with respect to the protection of Whistleblowers.
- 1.3 This Policy complements MI's internal Code of Conduct and Managing Misconduct Policy, however, it is a regulatory policy by nature. There is a separate whistleblower policy available on MI's website for those Eligible Whistleblowers (see 3.2 below) who are not current employees or officers of MI.
- 1.4 Unless stated otherwise, any term capitalised in this Policy has the meaning given by the *Corporations Act 2001* (Cth).

2. WHO AND WHAT IS A WHISTLEBLOWER?

- 2.1 A person is an "Eligible Whistleblower" if they report or attempt to report a "Disclosable Matter" (as defined under section 1317AA of the *Corporations Act 2001* (Cth)) to an "Eligible Recipient".

3. HOW DOES AN ELIGIBLE WHISTLEBLOWER QUALIFY FOR PROTECTION?

- 3.1 To qualify for protection, disclosures by an Eligible Whistleblower must be:
 - made to an *Eligible Recipient*; and
 - in respect of *Disclosable Matters* (as opposed to a personal complaint, commercial business dispute or work-related grievance).
- 3.2 These terms are explained below.

"Eligible Whistleblower"	An Eligible Whistleblower means a person who is or has been one of the following of MI: <ul style="list-style-type: none">• an officer;• an employee;• an individual who supplies services or goods to MI (paid or unpaid);• an employee of a person that supplies services or goods to MI (paid or un-paid);• an individual who is an Associate of MI;• a relative of an individual referred to in any of points (a) to (e);• a dependent of an individual referred to in any of points (a) to (e), or of such an individual's spouse; and• an individual relevantly prescribed by the regulations in relation to MI.¹
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"Eligible Recipient"	The following persons are Eligible Recipients: <ul style="list-style-type: none">• a member of MI's Leadership Team;• MI's internal Legal Advisor;
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¹ At the date of this Policy, the regulations do not prescribe any individual.

- MI's Internal Audit Manager;
- a hotline service provider independent of MI; or
- a member of MI's Board of Directors.

You may also report to one or more of these prescribed authorities:

- MI's external auditor;
- ASIC;
- APRA;
- the ATO;
- a lawyer (to obtain advice about the *Corporations Act 2001* (Cth) or the *Taxation Administration Act 1953* (Cth)); or
- a relevantly prescribed Commonwealth authority.²

"Disclosable Matter"

A Disclosable Matter is conduct which an Eligible Recipient has reasonable grounds to suspect concerns "misconduct, or an improper state of affairs or circumstances", in relation to MI or its related body corporates.

Without limitation, a Disclosable Matter includes:

- an offence against, or contravention of, a range of specified banking, finance, corporate and insurance legislation;
- an offence against any other law of the Commonwealth that is punishable by imprisonment of 12 months or more; or
- conduct which represents a danger to the public or the financial system.

3.3 A Disclosable Matter does not include personal workplace grievances. Examples of grievances that may be personal work-related grievances include:

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

² Note – at the time of the release of this Policy, no such authority has been prescribed.

PROCEDURES

1. HOW DOES A WHISTLEBLOWER MAKE A DISCLOSURE UNDER THIS POLICY?

- 1.1 The Eligible Whistleblower must refer to this Policy or request the protections under this Policy when reporting a Disclosable Matter.
- 1.2 A Whistleblower may report a Disclosable Matter either directly to MI or to an external agency.

Reporting to MI

- 1.3 For Whistleblowers who are currently employees or officers of MI, the first contact should be with either the General Manager Corporate Services, the Legal Advisor or the HR Manager. If it is not appropriate to report the matter to any employee or management, then contact should be made with a member of the Board. Disclosure can be made in person, by email or by post.
- 1.4 For Whistleblowers who are **not** currently employees or officers of MI, disclosure should be made:
 - by email: whistleblower@mirrigation.com.au; or
 - by post: Locked Bag 6010, Hanwood NSW 2680, marked "Privileged and Confidential" and addressed to "The Eligible Whistleblower Officer".

Reporting to an external party

- 1.5 If a Whistleblower is not comfortable or able to report misconduct directly to MI, they may report it to a regulating agency, police, government entity, or to MI's external and independent whistleblowing service provider, "Your Call".
- 1.6 Your Call gives a Whistleblower the option to:
 - remain completely anonymous;
 - identify themselves to Your Call only; or
 - identify themselves to both Your Call and MI.
- 1.7 The Your Call reporting options include a 24/7 online reporting service <https://www.yourcall.com.au/report> or they can be contacted on 1300 790 228 between 9am and 12am (AEST) on recognised business days.

2. CAN A WHISTLEBLOWER REMAIN ANONYMOUS?

- 2.1 The Eligible Whistleblower may request to remain anonymous when making a disclosure, or place restrictions on who is informed of their disclosure. MI's default position is that a disclosure will **not** be treated as made anonymously unless stated otherwise by the Eligible Whistleblower. Therefore, an Eligible Whistleblower requesting to remain anonymous must state this to MI when making a disclosure.
- 2.2 Where the Eligible Whistleblower requests to remain anonymous, then MI will use best endeavours to investigate the disclosure whilst keeping anonymity. There may be some practical limitations in maintaining anonymity if the Eligible Whistleblower does not agree to share their disclosure or identity. MI will notify the Eligible Whistleblower if this is the case.
- 2.3 Information received from the Eligible Whistleblower (or that could lead to their identification), will be treated strictly confidentially, and will not be shared unless:
 - the Eligible Whistleblower has provided prior consent (in writing wherever possible or required);
 - MI is compelled by law to do so; or
 - MI considers it appropriate to make a disclosure to the police or a regulator under legislation.

3. WHAT IS THE PROCESS ONCE A REPORT HAS BEEN MADE BY A WHISTLEBLOWER?

Report made to MI

3.1 Where a Whistleblower has made a report internally to MI of what they believe to be a Disclosable Matter, MI will investigate that allegation. The process is as follows:

- **Step 1:** The recipient of the Disclosable Matter must promptly provide that information to either the Legal Advisor or the Company Secretary. The Legal Advisor and Company Secretary will then arrange for the matter to be investigated.
- **Step 2:** MI must ensure that all investigations:
 - are conducted by someone competent and impartial (and never by the recipient of the Disclosable Matter, or anyone connected to its subject matter);
 - are conducted in strict confidence;
 - are conducted without delay and expeditiously;
 - are as thorough as possible;
 - are appropriately resourced;
 - protect the anonymity of the Eligible Whistleblower (if requested); and
 - give anyone who is implicated in the subject matter of the Disclosable Matter an opportunity to respond to any allegations made against them, without foregoing the Eligible Whistleblower's anonymity (where applicable).
- **Step 3:** At the end of the investigation, the investigator must provide the Legal Advisor and the Company Secretary with a written report that:
 - summarises the Disclosable Matter reported by the Eligible Whistleblower;
 - describes the investigation in enough detail to allow the Legal Advisor and the Company Secretary to assess the adequacy of the investigation process;
 - sets out the findings in a clear and concise manner; and
 - that annexes any supporting material.
- **Step 4:** The Legal Advisor and Company Secretary must take appropriate action in connection with the investigator's report. This may include:
 - requiring further investigations;
 - recommending disciplinary action to the Human Resources Manager of MI;
 - referring the matter to the Audit & Risk Committee or to the Board; and
 - notifying the appropriate regulatory bodies as required.

Report made to external hotline service

3.2 Where a Whistleblower has made a report externally to Your Call of what they believe to be a Disclosable Matter, then Your Call will document the disclosure made and provide a written notification to MI. MI will then follow steps 1 to 4 as set out above under *a. Report made to MI*. Information on the reporting procedure Your Call follows can be found at <https://www.whistleblowing.com.au/learn/whistleblower-protection/what-happens-to-the-information/>.

Investigation process – internal or external

3.3 When considering whether or not an eligible matter that has been disclosed should be investigated internally or externally, MI will have regard to whether:

- there are appropriate skills, experience or resources internally to investigate the matter;

- there are complex or multiple allegations made by the whistleblower;
- allegations have been made against senior management or several parties within MI itself such that it may impact the extent to which an internal investigation can be conducted;
- the nature of the alleged behaviour is sensitive or controversial;
- a breakdown of trust in the relationship between the parties has occurred; or
- an internal investigation could be perceived as biased.

Natural justice

3.4 Principles of natural justice apply to all investigations of disclosures. These include:

- avoiding any bias;
- providing procedural fairness to both the Eligible Whistleblower and any person who is the subject of a disclosure;
- evidence-based decision making, considering only relevant factors;
- a hearing as appropriate to the circumstances; and
- inquiring into matters in dispute and verification of asserted facts.

4. HOW WILL MI SUPPORT WHISTLEBLOWERS AND PROTECT THEM FROM DETRIMENTAL TREATMENT?

Identity protection

- 4.1 When an Eligible Whistleblower reports under this policy, then the default position is that they are consenting to MI disclosing his or her identity as part of the investigation. An Eligible Whistleblower may elect to remain anonymous, however where it remains impractical for MI to investigate a disclosure without the identity of the Eligible Whistleblower, then MI will notify that person of the impracticality.
- 4.2 MI will try to keep the Eligible Whistleblower's identity confidential. This may include redacting documents, keeping records secure, restricting access to information and communicating through channels that cannot be inadvertently accessed by other staff (e.g., printing to secure printers and communicating through confidential processes). The Eligible Whistleblower should speak to the Legal Advisor if they have any concerns.
- 4.3 To help MI keep the Eligible Whistleblower's identity confidential, the Eligible Whistleblower is recommended to take their own precautionary steps, including by not talking to other persons about their concerns and making sure that they comply with this policy. This does not prevent the Eligible Whistleblower reporting under either of the Acts or speaking with a lawyer about their report.
- 4.4 MI may refer the Eligible Whistleblower's report to ASIC, APRA, the ATO, the AFP, or lawyers.

Support services

- 4.5 Employees may access MI's EAP to support them through this process.

5. WHAT PROTECTIONS ARE PROVIDED TO A WHISTLEBLOWER?

- 5.1 MI considers the welfare of a Whistleblower to be of utmost importance and strictly prohibits all forms of retaliation against a Whistleblower as a direct result of making a disclosure that qualifies under this Policy. MI will take steps to protect the Eligible Whistleblower from being treated detrimentally or being threatened with detriment or harm because they have reported under this policy or the Acts. Reasonable steps will be taken to protect Whistleblowers from such retaliation, including (without limitation) protection from:
- adverse action, such as disciplinary action or termination of employment (in the case of employees);

- harassment or bullying;
- personal or financial disadvantage;
- unlawful discrimination; or
- any other conduct that constitutes retaliation.

5.2 MI may need to change the way the Eligible Whistleblower and or any person named in an Eligible Disclosure interacts with MI to ensure that any investigation can be conducted without prejudice to any party.

6. HOW MI WILL SUPPORT THOSE PERSONS NAMED IN AN ELIGIBLE DISCLOSURE AND PROTECT THEM FROM DETRIMENTAL TREATMENT THROUGHOUT THE INVESTIGATION AND BEYOND?

6.1 Where a person has been named in an Eligible Disclosure by an Eligible Whistleblower, then MI will notify that person in private that they are subject of a disclosure under this Policy. In addition to the principles of natural justice set out in 3.4 above, MI will maintain the confidentiality of those persons named in an Eligible Disclosure and will not disclose their details to any other persons named in an Eligible Disclosure, unless:

- required to do so by law;
- it is otherwise impractical to maintain confidentiality for the purposes of any investigation; or
- MI believes there is a reasonable basis for disclosure and such disclosure would not be prejudicial to any ongoing investigation.

6.2 A person who is named in an Eligible Disclosure is required to maintain a high level of confidentiality in relation to the disclosure and issues relating to the process or substance of any investigation. This means that the person should not discuss any Eligible Disclosure with any other person, other than a support person who is present during any investigation interview.

6.3 If a person elects to have a support person during an investigation, then the support person is also required to maintain a high level of confidentiality and may be required to sign a confidentiality agreement before being allowed to attend any such interview.

6.4 Where an adverse finding is made against a person following an investigation, then that person will be subject to the disciplinary process set out in MI's Managing Misconduct Policy and the Code of Conduct respectively.

6.5 Where no adverse finding is made against a person following an investigation, or MI does not proceed to an investigation on the basis that a claim is deemed to be frivolous or vexatious, then no further action will be taken and the matter will be closed.

7. WHAT IF THE ELIGIBLE WHISTLEBLOWER BELIEVES THAT THE DISCLOSURE IS AN EMERGENCY?

7.1 A Whistleblower will be protected if:

- they have previously made a report protected by this Policy;
- they reasonably believe that serious harm to public health or safety, or to the financial system may result if their report of the Disclosable Matter is not acted on immediately;
- they have given written notice to the recipient that they intend to make an emergency disclosure of the report; and
- the emergency disclosure is made to a Member of Parliament (whether State or Federal) or a "Journalist".

7.2 MI encourages a Whistleblower to seek legal advice before making an emergency disclosure.

8. WHAT CAN A WHISTLEBLOWER DO IF THEY CONSIDER THEMSELVES AT RISK OF RETALIATION?

- 8.1 A Whistleblower who considers themselves at risk of retaliation can ask the Legal Advisor or Company Secretary to assist them to take appropriate action. However, the Legal Advisor or the Company Secretary (as applicable) may be unable to do so if the Eligible Whistleblower wishes to remain anonymous. Where this is the case, the Eligible Whistleblower will be told why.
- 8.2 A Whistleblower who considers that they have been retaliated against or is concerned about how the policy has been applied to their disclosure, should raise this with the Legal Advisor, the Company Secretary, or, where neither are appropriate, the Chief Executive Officer. The recipient of that complaint must then take action as they consider appropriate to address the Eligible Whistleblower's concerns.

9. CAN A WHISTLEBLOWER TAKE THEIR OWN PERSONAL ACTION AGAINST SOMEONE WHO HAS VICTIMISED THEM FOR REPORTING A DISCLOSABLE MATTER?

- 9.1 Yes. A Whistleblower who makes an Eligible Disclosure may claim relief against someone who has victimised them in connection with reporting a Disclosable Matter. If successful, a Court may make orders in favour of the Eligible Whistleblower, including compensation orders, injunctions, apology orders, reinstatement orders (in the case of termination of employment), exemplary damages. Monetary penalties may also be payable by the victimiser.

10. WHAT HAPPENS IF THERE IS A BREACH OF THIS POLICY?

- 10.1 For current MI employees, breach of the policy may be regarded as misconduct, which will be resolved under MI's Managing Misconduct Policy. An individual who is found to have disclosed the information or to have retaliated (or threatened to retaliate) against a Whistleblower may be subject to further action (including disciplinary action in the case of employees).
- 10.2 Any individual who breaches the legislation that governs this policy may also be exposed to criminal or civil liability.

11. HOW WILL THIS POLICY BE MANAGED?

- 11.1 MI's Audit & Risk Committee will review the policy at least every two years.
- 11.2 This Policy will be available on MI's Intranet for access by current employees. There is also a separate policy available on MI's website for third parties including people who are not current employees or officers of MI.