

Whistleblowing Policy

Details

Policy & Procedure Owner	ERFA Board	
Approved by	ERFA Board of Directors	
Date Approved	Date of Last Revision	Next Review
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Abbreviations

ACFID	Australian Council for International Development
CHO	Complaints Handling Officer
CHP	Complaints Handling Policy
CPO	Child Protection Officer
CPP	Child Protection Policy
DFAT	Department of Foreign Affairs and Trade
ERFA	Edmund Rice Foundation Australia

Definitions

Associates	Anyone in the community who interacts with ERFA Board, Staff and Partners
ACFID Member	A not-for-profit organisation that has obtained accreditation with ACFID
Beneficiary	Children and adults who participate in and benefit from ERFA-funded programs
Donation	A voluntary contribution or gift, whether in cash or in kind. Donations must be made voluntary and by way of benefaction
Donor	Members of the public who contribute to ERFA in cash or in kind
Partner	Any organisation which has an MOU / contract with / or receives funding from ERFA
Program	Programs are overarching development approaches and initiatives that set priorities and guide project outcomes, results and activities. Programs can comprise ministries or entities
Projects	Projects are the development activities of a Program supported by ERFA
Project Beneficiaries	Children and adults who participate in and benefit from ERFA-funded programs
Staff	Board members, employees, volunteers, contractors, subcontractors, outworkers, apprentices and trainees, work experience students, volunteers, employers and any other person who performs work for ERFA or ERFK

Contact information

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ACFID	http://www.acfid.asn.au or +61 6 02 6285 1816

Related policies and tools

- ERFA Anti-Corruption & Anti-Fraud Policy
- ERFA Child Protection Policy
- ERFA Code of Conduct
- ERFA Complaints Handling Policy
- ERFA Conflict of Interest Policy
- ERFA Prevention of Sexual Exploitation, Abuse & Harassment Policy
- ERFA Risk Management Framework

Compliance

This policy applies to all staff and associates that act for, represent or visit ERFA and ERFA's implementing partners. Failure of ERFA implementing partners to fully comply with this policy could result in termination of agreements including, but not limited to, MOUs, partnerships agreements and funding contracts.

Organisational overview

Edmund Rice Foundation Australia (ERFA) believes education is the key to sustainable change. We are an international development organisation that focuses on sustainable and transformational education. We operate in some of the poorest communities in the world, including in Africa, East Timor, the Philippines, and Papua New Guinea. We also partner with domestic programs in Australia. ERFA's goal is to design and implement high impact education programs that will enable our beneficiaries to stand independently and break free from the cycle of poverty. ERFA-funded education programs range from kindergartens to advanced microfinance projects and are designed with the needs of the community at their core.

Legal definitions

Edmund Rice Foundation (Australia) is a company limited by guarantee. The objects of the company are set out in clause 4 of ERFA's constitution.

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1.0 Policy overview

At all times ERFA is committed to conducting its activities professionally, honestly and with integrity. However, ERFA recognises there is a possibility of unprofessional conduct, criminal behaviour or mismanagement transpiring in all organisations. ERFA has thus established whistleblowing procedures that enable such situations to be disclosed and remedied.

ERFA's Whistleblowing Policy is an articulation of ERFA's commitments to operating:

- legally, in accordance with Australian legislation and regulations;
- correctly, in accordance with its organisational constitution, its policies and procedures as well as those of external institutions to which it is bound, including the Australian Department for Foreign Affairs and Trade and the Australian Council for International Development;
- ethically, in accordance with the principles enunciated in the ERFA Code of Conduct.

This policy will be made available to all individuals working within ERFA via a board and employee induction pack, staff policy folder and website access, as well as to those outside ERFA via website access.

The purpose of this policy is to:

- encourage disclosures of wrongdoing and thus deter wrongdoing;
- apprise staff, volunteers, contractors and partners of their responsibility to disclose serious wrongdoing that may cause harm to individuals, financial or non-financial loss to ERFA or damage to its reputation;
- strengthen ERFA's core values, as articulated in ERFA's Code of Conduct, by empowering all ERFA personnel and others within and outside ERFA to disclose any wrongful acts if they have objectively reasonable grounds for suspecting wrongdoing;
- provide reporting mechanisms and the means through which all individuals, regardless of their position and location, can report alleged or suspected wrongful acts and can do so in safely, securely and with confidence that they will be protected and supported;
- transparently communicate ERFA's framework for receiving, handling and investigating disclosures;
- protect whistleblowers from internal or external reprisal;
- securely store disclosed information;
- ensure disclosures are dealt with appropriately and in a timely way;
- ensure that ERFA maintains the highest standards of ethical behaviour and integrity.

1.1 Links to other ERFA policies

There is an overlap with this Whistleblowing Policy and other ERFA policies that variously deal with matters of high risk, including:

- ERFA's Child Protection Policy;
- ERFA's Prevention of Sexual Exploitation, Abuse & Harassment Policy;
- ERFA's Counter-Terrorism Policy;
- ERFA's Anti-Corruption & Anti-Fraud Policy.

This Whistleblowing Policy differs from these four policies in that it concerns a matter of procedure: the process whereby an associate or staff member employed by ERFA, or by a program that ERFA partners with, lodges a disclosure about internal wrongdoing. ERFA treats its Whistleblowing Policy with precedence over these other high risk policies. For example, if ERFA were to receive an internal disclosure of financial wrongdoing from one of its partner program staff, ERFA would consult its Whistleblowing Policy first, and if appropriate, its Anti-Fraud & Corruption Policy.

For guidance on ERFA's process for responding to complaints handling principles, the roles and responsibilities of ERFA Staff, associates and program partners, and the complaints handling process of lodging, triaging, registering, responding to, and finalising complaints, please refer to ERFA's [Complaints Handling Policy](#).

2.0 Policy context

2.1 Obligations to ACFID

The ACFID Code of Conduct requires that, in accordance with Quality Principle (QP) 9.2.2, "Members enable staff and volunteers to make complaints and report wrongdoing through fair, transparent and accessible procedures", members create a Whistleblowing Policy that has the following conditions as a minimum:

- a clear statement that staff, volunteers, contractors and partners who are aware of possible wrongdoing have a responsibility to disclose that information;
- a guarantee that staff and volunteers who in good faith disclose perceived wrongdoing, will be protected from adverse employment consequences;
- the establishment of a fair and impartial investigative process;
- provides protection for whistleblowers.

This Whistleblowing Policy completely satisfies these conditions.

2.2 Obligations under the Corporations Act

As a company limited by guarantee under the Corporations Act, ERFA is a public company and therefore required to have a whistleblower policy in place which meets the requirements of the Whistleblower Protection Regime.

Whistleblowers, which can include people outside ERFA, are in certain circumstances afforded additional special protections under the Corporations Act in relation to reports made regarding corporate misconduct and the Taxation Administration Act in relation to breaches of tax law.

Annexure A of the Corporations Act sets out the matters required, the protections available to whistleblowers and the circumstances in which those protections will apply. Annexure B sets out the protections available to whistleblowers under the Taxation Administration Act. ERFA affords these protections in addition to the ones described in this policy.

Individuals should read the first section of this policy and then read Annexures A and B as applying in addition to the contents of ERFA's internal policy.

3.0 Roles and responsibilities

This Whistleblowing Policy outlines the different responsibilities designated to the internal stakeholder categories of ERFA Staff and overseas implementing Partners. This includes the responsibilities of specific ERFA Staff positions, including the CEO, Programs Director and Policy and Risk Officer, as well as specific Partner positions, including the Complaints Handling Officer (CHO). The CHO is a specialty position of an implementing Partner; each Program that ERFA funds must designate at least one CHO.

3.1 Responsibilities of Australian Staff

Responsibilities of ERFA Staff are as follows:

- sign ERFA's Code of Conduct; ERFA's Code of Conduct outlines expectations of Staff conduct. This Whistleblowing Policy is one of several related policies incorporated into the document;
- adhere to ERFA's Whistleblowing Policy;
- disclose wrongdoing and suspected wrongdoing to the ERFA CEO.

The responsibilities of the CEO include those of ERFA staff as well as the following:

- act as a first recipient of lodged whistleblowing complaints;
- assess whether a complaint concerns a high-risk incident per the complaints triage process;
- report the disclosure to the ERFA Board and work with them to investigate the matter;
- work in a collaborative manner with the Governing Authority, Programs Director and Complaints Handling Officer of a partner program to resolve received whistleblowing reports as required;
- manage entries into the ICCR as required;
- foster a safe culture where ERFA personnel are encouraged to raise concerns about wrongdoing and unethical conduct;
- respond in a timely, respectful and confidential manner to all disclosures of wrongdoing;
- protect its personnel from detrimental treatment or dismissal if they have disclosed wrongdoing in accordance with this policy.

The responsibilities of the Programs Director include those of all ERFA staff as well as the following:

- manage entries into the ICCR as required;
- assume the responsibilities of the CEO when contacted directly with a whistleblowing complaint in the capacity as a secondary contact;
- work with the Governing Authority, Programs Director and Complaints Handling Officer of a partner program to resolve received whistleblowing reports as required.

The responsibilities of the Policy and Risk Officer include those of all ERFA staff as well as the following:

- manage entries into the ICCR as required;
- liaise with partner programs to manage the formal lodging of whistleblowing complaints using the Whistleblowing Reporting Form.

3.2 Responsibilities of Partners internationally

The responsibilities of Partner Staff are as follows:

- sign and adhere to their Program-specific Complaints Handling Policy or Position on complaints handling;
- complete CH training as instructed by their CHO;
- disclose wrongdoing and suspected wrongdoing to their CHO.

The responsibilities of CHOs include those of all Partners as well as the following:

- provide regular complaints handling training for their staff that includes information on what constitutes whistleblowing and how to lodge a whistleblowing complaint of an internal incident;
- create a Complaints Notice and publicly display it and other complaints handling procedures in their local language so it is visible to all stakeholders;
- report to their Governing Authority and the ERFA CEO disclosures of wrongdoing classified as whistleblowing reports within 24 hours of interception;
- comply with ongoing CH monitoring and evaluation by ERFA;
- foster a safe culture where project personnel are encouraged to raise whistleblowing concerns about wrongdoing and unethical conduct;
- respond in a timely, respectful and confidential manner to all internal disclosures of wrongdoing.

The responsibilities of Partner Project Managers and Governing Authorities include those of all Partners as well as the following:

- work in a collaborative manner with ERFA to investigate allegations of wrongdoing raised in partner whistleblowing reports;
- foster a safe culture where its personnel are encouraged to raise concerns about wrongdoing and unethical conduct;

- protect its personnel from detrimental treatment or dismissal if they have disclosed internal wrongdoing.

4.0 Classifying whistleblowing disclosures

4.1 Definition

This Whistleblowing Policy is intended to cover “high risk” incidents that meet one or more of the following conditions:

- concerns an ongoing breach of ERFA policy / laws / regulations;
- poses an impact on operations / financial implications;
- requires corrective action at an organisational level;
- puts the wellbeing or safety of a stakeholder at risk;
- raises potential interest from external regulatory authorities;
- risks reputational damage, adverse PR or media attention.

“High risk” incidents are to be differentiated from “medium risk” and “low risk” incidents, which are to be reported in accordance with ERFA’s Complaints Handling Policy.

4.2 Examples of “high risk” incidents worthy of whistleblowing disclosure

High risk incidents that should be reported as whistleblowing disclosures include but are not limited to:

- criminal offences / illegal acts;
- actual or suspected corrupt behaviour, theft, fraud, embezzlement, incorrect financial reporting, questionable accounting and auditing matters;
- activities such as and including the above, potentially damaging to ERFA’s reputation or that could result in serious financial or non-financial loss for ERFA;
- breaches of legal obligations including negligence, breaches of employment or other contracts or procurement procedures;
- unethical behaviour such as acting dishonestly, altering organisational records, wilfully making false entries in official records;
- serious abuse of authority;
- serious conflicts of interests;
- serious breaches of ERFA policy, ERFA Code of Conduct or the ACFID Code of Conduct;
- serious disregard for work health or safety of staff, volunteers, program participants and the general public;
- actual or potential harm or threats to an individual’s safety or health;
- physical, psychological, emotional or sexual abuse of ERFA personnel or program participants;
- harassment, unlawful discrimination and bullying;
- actual or threatened retaliation against a whistleblower who has made a disclosure of wrongdoing;
- serious actual or potential environmental damage;
- the concealment of any of the above

The above is defined in this policy as **Reportable Conduct**.

Many of these issues concern incidents that ERFA automatically categorises as “high risk” in their own right, including:

- child safeguarding;
- sexual exploitation, abuse and harassment;
- terrorism;
- corruption and fraud

[Note: All of the above would also constitute breaches of the ACFID Code of Conduct, to which ERFA is a signatory.]

Section 1: Receiving whistleblowing complaints

5.0 Lodging a report

Where a person has reasonable grounds for suspecting that an individual has engaged in Reportable Conduct, as defined by this policy, that person must report their concern. The following avenues are available for reporting:

- Primary contact: ERFA CEO;
- Governance contact: ERFA Board Chair (if it is believed that the CEO or a Board Member may be complicit in a breach);
- Where a whistleblower is of the view that an exceptionally serious issue warrants reporting to an external body independent of ERFA management and governance, the disclosure can be made to:
 - Carroll & O’Dea Lawyers (ERFA appointed external legal firm);
 - the ACFID Code of Conduct Committee

(ERFA Disclosure Recipients)

Where a breach of general law is alleged, the duly constituted legal authorities responsible for enforcement of the law in the relevant geographical area must be notified.

ERFA recommends strongly that in making a report, a Whistleblower first follow the procedures in this policy to provide ERFA with the opportunity to investigate and respond to the subject of the report. If considering making an external report, Whistleblowers should be aware of their duty of confidentiality and that they will only be protected from disclosures made to a third party as set out in Annexures A and B of the Corporations Act.

6.4 Contact Information for recipients of Whistleblowing Reporting Forms

Whistleblowing complaints can be lodged through different avenues, tabulated below.

Contact	Contact avenue
Primary contact: ERFA CEO, Bren Arkinstall	Via email: CEO@erf.org.au
	Via telephone: +61 7 3621 9649
	Via post: Chief Executive Office, PO Box 130, Virginia BC, QLD, 4014
Secondary contact: ERFA Programs Director, Emily Faller	Via email: ejfaller@edmundrice.org
	Via telephone: +61 7 0400 882 812
Governance contact: ERFA Board of Directors Chair, Paul Gallagher	Via email: paul.gallagher@bdo.com.au
Alternative contact: If this is a whistleblowing report that you wish to escalate beyond ERFA Management and Governance, please lodge this complaint with ERFA’s lawyer, Carroll & O’Dea Lawyers Partner, Josephine Heesh	Via email: Josephine_Heesh@codea.com.au
	Via telephone: +61 2 9291 7100
	Via post: Level 18, St James Centre, 111 Elizabeth Street, Sydney, NSW, Australia 2000
Alternative contact: If you are not completely satisfied with ERFA’s response, please lodge a complaint externally to the Australian Council for International Development (ACFID).	Via online portal: https://acfid.asn.au/content/complaints
	Via telephone: +61 6 02 6285 1816
	Via post: C/- ACFID, Private Bag 3, Deakin, ACT, Australia 2600

5.1 Reporting procedures

- In contemplating the use of this policy, a potential whistleblower should consider whether the matter of concern would be more appropriately raised through ERFA's Complaints Handling Policy procedures.
- A report must be made only if the Whistleblower has objectively reasonable grounds for suspecting Reportable Conduct and the report should be as thorough as possible. False or malicious allegations made by personnel may result in disciplinary action.
- Individuals may make reports anonymously and/or confidentially and outside of ERFA's usual business hours.
- While whistleblowing reports may initially be made verbally and by telephone, because evidence to support the allegation(s), if it exists, should be provided as part of the report, it is preferred that reports be provided in writing and include details of:
 - The nature of the allegation(s)
 - Person or persons responsible
 - The substantiating facts on which the whistleblower has formed the view that the Reportable Conduct being reported did in fact occur and was committed by the person or persons named in the report
 - Nature and whereabouts of any further evidence that would substantiate the allegation(s)
- ERFA will need to assess each disclosure to determine whether:
 - it qualifies for protection under the Whistleblower Protection Regime; and
 - a formal, in-depth investigation is required.

[Note: The absence of evidence will be taken into account in considering whether to open an investigation. However, the absence of evidence is not an absolute bar to the activation of an investigation if the existence and nature of the concern is sufficient to trigger ERFA's investigative responsibilities.]

To facilitate the provision of written reports, ERFA Whistleblower Report template is available on ERFA website at <https://erf.org.au/about-erfa/contact-us/> (see below - Annexure C).

5.2 Anonymous Reports

Whilst ERFA encourages Whistleblowers to put their names to allegations in order to facilitate appropriate follow-up and investigation, ERFA will accept anonymous disclosures.

However, in the investigation of anonymous disclosures consideration will be given to the following:

- The seriousness of the issue raised
- The credibility of the concern
- The likelihood of confirming the allegation from other sources

A Whistleblower who wishes to remain anonymous should maintain ongoing two-way communication with ERFA so that ERFA can follow up questions or provide feedback without knowing the Whistleblower's identity.

Where possible, ERFA will protect the anonymity of disclosers by:

- Communicating through an anonymous phone number or email address; and
- Allowing the discloser to adopt a pseudonym for the purpose of the disclosure.

Disclosures made anonymously will still be protected under the Corporations Act as set out in Annexures A and B.

[Note: The *Treasury Laws Amendment (Enhancing Whistleblower Protections) Act 2019* allows for anonymous disclosures – see below under 'Relevant Australian Legislation']

6.0 Investigation Procedures

- All reports received by the CEO or Board Chair must be provided to the Board within 1 business day.
- If the Board reasonably believes the report to be unquestionably trivial or fanciful and dismisses the allegation, the person who made the allegation must be notified of the decision.
- If the Board reasonably believes that the report has substance, the Board must put in motion the following investigative process:
 - The CEO or Board Chair will ensure that an investigation of the allegations is established and adequately resourced
 - Terms of Reference for the investigation will be drawn up to clarify the issues to be investigated and the scale of the investigation in proportion to the seriousness of the allegation(s)
 - The investigation must commence within 1 business day of it being provided to the Board.
- Throughout the investigation:
 - All information obtained will be properly secured to prevent unauthorised access and disclosure in accordance with this policy
 - All relevant witnesses will be interviewed and documents examined
 - Notes will be made of all discussions, phone calls and interviews
 - The principles of procedural fairness (natural justice) will be observed. In particular, where adverse comment about a person is likely to be included in a report, the person affected will be given an opportunity to comment beforehand and any comments will be considered before the report is finalised.
 - The person or persons conducting the investigation will be as far as possible unbiased.
 - Without the Whistleblower's consent, ERFA cannot disclose information that is likely to lead to the identification of the Whistleblower as part of its investigation process, unless:
 - the information does not include the Whistleblower's identity;
 - ERFA removes information relating to the Whistleblower's identity or other information that is likely to lead to the identification of the Whistleblower (e.g. name, position, title, other identifying details); and
 - it is reasonably necessary for investigation the issues raised in the disclosure.
- If the Whistleblower has provided contact details, ERFA will provide the Whistleblower with regular updates. The frequency and timeframe of such updates will vary depending on the subject matter of the disclosure.
- The Board will ensure the investigation is completed within a reasonable time depending on the circumstances and within no less than 90 days of the investigation commences, subject to extraordinary circumstances justifying extension beyond this time.
- A Whistleblower who makes an anonymous report may choose to remain anonymous while making a disclosure, over the course of the investigation and after the investigation is finalised.
 - Accordingly, a Whistleblower can refuse to answer questions that they feel could reveal their identity at any time.

ERFA's investigation process may be subject to some limitations, including that ERFA may not be able to undertake an investigation if it is not able to identify the Whistleblower, for example, if a disclosure is made anonymously and the Whistleblower has refused to provide or has not provided a means of contact for any further questions or follow up which ERFA may need as part of the investigation.

[Note: Natural Justice and procedural fairness do not require that the affected be informed of the identity of the person making the initial disclosure, unless that communication constitutes part of the evidence relied upon in making the eventual finding.]

7.0 Findings

A report will be prepared for the Board when the investigation is complete. The report will include:

- The allegation(s)
- A statement of all relevant findings of fact and the evidence gathered and upon which conclusions have been based
- The conclusions reached, including the damage caused, if any, and the impact on ERFA and any other affected parties
- Recommendations, based on the report's conclusions, to address any wrongdoing identified and any other matters that arose during the investigation

The Report will be provided to ERFA Board and to the Whistleblower (if possible) with, if necessary, any applicable confidential stipulations.

Section 2: Responding to whistleblowing complaints

8.0 Whistleblower protection

8.1 Whistleblower protection

- ERFA encourages all Whistleblowers or people considering Whistleblowing to obtain independent legal advice.
- ERFA will not tolerate any form of harassment or retaliation against personnel who on objectively reasonable grounds report concerns regarding ERFA's operations.
- Any ERFA personnel who engage in retaliation or harassment of a Whistleblower will be subject to disciplinary action, which could result in termination.
- Any person who has made a whistleblowing report and who believes subsequently that they are the subject of retaliation of any kind by should immediately report that, utilising the appropriate avenue.
- Reports of retaliation will be investigated promptly in a manner intended to protect confidentiality and consistent with a full and fair investigation and the party conducting the investigation will notify the whistleblower of the outcome of the investigation.

ERFA will protect the confidentiality of a Whistleblower's identity by:

- Reducing the risk that the Whistleblower will be identified from the information contained in the disclosure by:
 - redacting all personal information or reference to the identity of the Whistleblower witnessing an event;
 - referring to the Whistleblower in gender-neutral terms;
 - contacting the Whistleblower to help identify certain aspects of the disclosure that could inadvertently identify them; and
 - ensuring that disclosures are handled and investigated by qualified individuals.
- Ensuring that record-keeping and information sharing processes protect the Whistleblower's identity, such as by:
 - storing all records securely;
 - ensuring access to all records and information relating to the disclosure is limited to those directly involved in managing and investigating the disclosure;
 - ensuring that only a restricted number of individuals directly involved in the handling and investigation of a disclosure will be aware of the Whistleblower's identity (subject to the Whistleblower's consent) or information which may identify the Whistleblower;
 - ensuring that material relating to the matter will not be sent to an email address or left in a situation (such as, at a communal printer) that can be accessed by other individuals; and
 - reminding all individuals involved in the handling and investigation of a matter are regularly reminded of their confidentiality requirements, including that in the circumstances set out in Annexures A and B, the unauthorised disclosure of an individual's identity may be a criminal offence.

8.2 Whistleblower rights and obligations

Whistleblowers must be informed that as far as lies within the power of ERFA, a Whistleblower will not be disadvantaged or suffer adverse employment consequences for the act of making a Whistleblowing report where that report has been made on objectively reasonable grounds. However, reporting a breach does not necessarily absolve a Whistleblower from the consequences of any involvement they may have had in the Reportable Conduct being reported.

Where the Whistleblower wishes to remain anonymous, they should be informed of the following:

- ERFA will not disclose a Whistleblower's identity unless the Whistleblower consents to the disclosure.

- Their wish will be honoured except insofar as it may be overridden by the due process of law.
- Subject to the circumstances outlined in Annexures A and B, the Whistleblower is required to maintain confidentiality regarding the breach(es) reported and to refrain from discussing them with any unauthorised third parties.