



Murray Irrigation

Murray Irrigation Whistleblower Procedure

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1 Document Revision Summary

This Whistleblower Policy (**the Policy**) is available on the Murray Irrigation intranet and website.

The People & Safety team will monitor and review this Policy every two years to ensure it meets its objectives. Any amendments to this Policy shall be made known to employees and officers of Murray Irrigation by posting an updated version of the Policy on the intranet and website.

Rev No	Rev Date	Section Revised	Revision Description	Prepared by	Checked by	Approved by
1	01/12/2019	All	Changes to align with legislation updates	Megan Quirk/Angela Hussey	TG Lawyers	Suni Campbell
0	26/06/2018	Adopted	First Release	Megan Quirk	Angela Hussey	Suni Campbell

1.1 Approval Record

Name	Title	Signature	Date
Suni Campbell	Whistleblower Policy		

2 Purpose

The purpose of this Policy is to detail Murray Irrigation's commitment to ensuring all team members and shareholders are aware of their rights and responsibilities when reporting Misconduct pursuant to this Policy.

Murray Irrigation's objectives are to:

- encourage and allow persons to disclose Misconduct;
- ensure disclosures are properly and lawfully dealt with;
- support and protect relevant individuals involved in the disclosure from victimisation and retaliation;
- ensure the identity of Whistleblower's and the content of their disclosures are kept confidential.

Nothing in this Policy is intended to change or take away any other protections which may be available at law.

3 Scope

The Policy applies to all previous and current staff of Murray Irrigation (including full-time, part-time and casual employees), all previous and current persons who perform work for, or associated with Murray Irrigation, including Directors, contractors, consultants and volunteers of Murray Irrigation (collectively referred to as 'staff' in this Policy), spouses, children or dependents of individuals referred to above.

4 Roles and Responsibilities

Roles	Responsibilities
Murray Irrigation Disclosure Officer	<p>Their role is to liaise between Murray Irrigation and Your Call, coordinate all aspects of Misconduct reports and ensure the welfare of all parties involved. This includes but not limited to:</p> <ul style="list-style-type: none"> determination of the appropriate process for dealing with the report; ensuring confidentiality; appointments of either internal or external investigators; communications to the Whistleblower (through Your Call where anonymity has been sought and an external disclosure made) of the progress of the matter when permissible and appropriate; safeguard the interests of the Whistleblower in terms of this Policy and any applicable legislation; give support to protect Whistleblowers from victimisation; advise the Whistleblower of any legislative or administrative protections available; respond as appropriate and necessary to any concerns raised; attend to the general welfare of Whistleblowers as required.
Staff	<p>All staff have a responsibility to:</p> <ul style="list-style-type: none"> remain alert to, and report known or suspected, Misconduct in the workplace in accordance with the Policy; act in a way that limits, prevents or stops unlawful or inappropriate conduct; refrain from any activity that is or could be perceived to be victimisation; support, protect and maintain the confidentiality of a Whistleblower they know or suspect to have reported a Misconduct; adhere to the Murray Irrigation Code of Conduct at all times.
Whistleblower	Review and comply with this Policy.
Your Call	<p>Murray Irrigation has contracted Your Call Whistleblowing Solutions ("Your Call") to receive and manage reports of Misconduct with impartiality and confidentiality.</p> <p>This service gives you the option to:</p> <ul style="list-style-type: none"> remain completely anonymous; identify yourself to Your Call only; or identify yourself to both Your Call and Murray Irrigation.

5 Definitions

Term	Definition
Journalist	<p>A person who is working in a professional capacity as a journalist for any of the following:</p> <ul style="list-style-type: none"> a newspaper or magazine; a radio or television broadcasting service; an electronic service (including a service provided through the internet) that:

	<p>(a) is operated on a commercial basis, or operated by a body that provides a national broadcasting service (within the meaning of the Broadcasting Services Act 1992); and</p> <p>(b) is similar to a newspaper, magazine or radio or television broadcast.</p>
Misconduct	<p>Misconduct is an act done with a wrongful, improper or unlawful intention. It is determined from the nature of the conduct and not from its consequences. Examples of Misconduct are specified in the section "What should be reported."</p>
Murray Irrigation Disclosure Officer	<p>The Murray Irrigation Disclosure Officer is nominated by Murray Irrigation. Murray Irrigation's Disclosure Officer is Angela Hussey, People and Safety Manager.</p>
Personal Work-Related Grievances	<p>Personal Work-Related Grievances are those that relate to the Whistleblower's current or former employment and have, or tend to have, implications for the Whistleblower personally, but do not:</p> <ul style="list-style-type: none"> • have any other significant implications for Murray Irrigation (or another entity); or • relate to any conduct, or alleged conduct, about a disclosable matter. <p>Examples of Personal Work-Related Grievances include:</p> <ul style="list-style-type: none"> • an interpersonal conflict between the Whistleblower and another employee; • a decision that does not involve a breach of workplace laws; • a decision about the engagement, transfer or promotion of the Whistleblower; • a decision about the terms and conditions of engagement of the Whistleblower; or • a decision to suspend or terminate the engagement of the Whistleblower; or otherwise to discipline the Whistleblower.
Whistleblower	<p>An individual who is, or has been, any of the following in relation to Murray Irrigation:</p> <ul style="list-style-type: none"> (a) an officer or employee (e.g. current and former employees who are permanent, part-time, fixed-term or temporary, interns, secondees, managers, and directors); (b) a supplier of services or goods to Murray Irrigation (whether paid or unpaid), including their employees (e.g. current and former contractors, consultants, service providers and business partners); (c) an associate of Murray Irrigation; and (d) a relative, dependant or spouse of an individual in (a)–(c) (e.g. relatives, dependants or spouse of current and former employees, contractors, consultants, service providers, suppliers and business partners).
Witness	<p>Someone who when requested to do so:</p> <ul style="list-style-type: none"> • gives information; or • provides documentation; or • otherwise provides assistance; <p>to a Murray Irrigation Disclosure Officer or other official exercising a whistleblowing function.</p>
Your Call	<p>Your Call Whistleblowing Solutions is the appointed online service provider for the taking of confidential complaints.</p>

6 Related Documents and Legislation

Description	Doc Reference
<i>Corporations Act 2001</i> (Cth) ("Corporations Act")	Part 9.4AAA - Protection for Whistleblowers
Murray Irrigation Code of Conduct	POLI-03-08-01
<i>Privacy Act 1988</i> (Cth)	https://www.oaic.gov.au/privacy-law/privacy-act/

7 Reporting

7.1 What should be reported

The subject matter of a whistleblower disclosure must concern one or more disclosable matters.

- A disclosable matter is one in which the discloser has reasonable grounds to suspect misconduct, or an improper state of affairs or circumstances in relation to Murray Irrigation or a related body corporate.
- This includes (but is not limited to) information that indicates that an officer or employee of Murray Irrigation has engaged in conduct that:
 - (a) constitutes an offence against any other Commonwealth law punishable by imprisonment of 12 months or more;
 - (b) represents a danger to the public safety or to the financial system; or
 - (c) constitutes an offence under, or contravention of any of the following legislation (or any instrument made under them):
 - *Corporations Act 2001*
 - *Australian Securities and Investments Commission Act 2001*
 - *Banking Act 1959*
 - *Financial Section (Collection Data) Act 2001*
 - *Insurance Act 1973*
 - *Life Insurance Act 1995*
 - *National Consumer Credit Protection Act 2009*
 - *Superannuation Industry (Supervision) Act 1993*

Examples of Misconduct include but is not limited to:

- illegal conduct, such as theft, dealing in, or use of illicit drugs, violence or threat of violence, criminal damage or against property;
- fraud, money laundering or misappropriation of funds;
- offering or accepting a bribe;
- financial irregularities;
- failure to comply with, or breach of, legal or regulatory requirements; and
- engaging in or threatening to engage in detrimental conduct against a person who has made a disclosure or is believed or suspected to have made, or be planning to make, a disclosure.

Any Personal Work-Related Grievance should be reported under Murray Irrigation's grievance policy rather than this Policy unless:

- it includes information about Misconduct, or information about Misconduct which includes or is accompanied by a Personal Work-Related Grievance;
- Murray Irrigation has breached employment or other laws punishable by imprisonment for 12 months or more, engaged in conduct that represents a danger to the public, or the disclosure relates to information that suggests Misconduct beyond the Whistleblower's personal circumstances;
- the Whistleblower suffers from or is threatened with detriment for making a disclosure; or
- the Whistleblower seeks legal advice or legal representation about the operation of whistleblower protections under the Corporations Act.

7.2 How to report Misconduct

There are three ways to report Misconduct .

7.2.1 Internal reporting process

You should report Misconduct internally to:

- an officer or senior manager of Murray Irrigation;
- the internal or external auditor;
- the People and Safety Manager.

7.2.2 External reporting process

Murray Irrigation encourages all reports via internal means, however an external reporting process is offered as an alternative.

If you are not comfortable or able to report Misconduct internally, you may report Misconduct to our external and independent whistleblowing service provider. Murray Irrigation has contracted Your Call to receive and manage your report with impartiality and confidentiality.

This service gives you the option to:

- remain completely anonymous or use pseudonym;
- identify yourself to Your Call only; or
- identify yourself to both Your Call and Murray Irrigation.

The Your Call reporting options include a 24/7 online reporting service <https://www.yourcall.com.au/report> or you can call on **1300 790 228** between 9am and 12am on recognised business days, AEST. When contacting YourCall, you will be required to enter the Murray Irrigation unique identifier code (**MIL2710**).

Your Call remains the intermediary always, receiving and forwarding communication between all parties. Only the nominated Murray Irrigation Disclosure Officers will have access to Whistleblower reports within Murray Irrigation, unless you otherwise consent.

However, Your Call can circumvent any of the above officers upon your request.

After making a disclosure, you will be provided with a unique Disclosure Identification Number (**DIN**) and access to a secure online Message Board.

The Message Board allows ongoing anonymous communication with Your Call and/or Murray Irrigation. The Message Board can be used to receive updates, share & securely upload any relevant documentation and/or material relevant to your disclosure and request support or report victimisation. If you cannot access the Message Board, you can contact Your Call via phone during office hours (above) for verbal updates.

National Relay Service

If you are deaf, or have a hearing or speech impairment, you can contact Your Call online or through the National Relay Service. Simply choose your contact method at www.relayservice.gov.au and request Your Call's hotline **1300 790 228**.

7.2.3 Disclosure to external authorities and entities

You can also disclose Misconduct directly to regulatory bodies or other external parties and qualify for protection under the Corporations Act.

External parties and regulatory bodies, could include ASIC, APRA, ATO or a legal practitioner.

Public Interest Disclosures

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

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

Emergency Disclosures

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

- the Whistleblower has previously made a disclosure of the information 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;
- before making the emergency disclosure, the Whistleblower has given written notice to the body that:
 - includes sufficient information to identify the previous disclosure; and
 - states that the Whistleblower intends to make an emergency disclosure; and
- the extent of the information disclosed in the emergency disclosure is no greater than is necessary to inform the journalist or parliamentarian of the substantial and imminent danger.

You should contact an independent legal adviser before making a public interest disclosure or an emergency disclosure.

7.2.4 Evidence of Misconduct report

Murray Irrigation do not expect a disclosure to include absolute proof of Misconduct. Where possible it should include:

- the name, job title and workplace address of the person the subject of the disclosure;
- details of the Misconduct including dates and places;
- names of anyone who may substantiate the disclosure;
- any other evidence that supports the disclosure such as email, documents, CCTV.

These details will assist us in deciding how best to deal with and resolve the disclosure.

7.3 Consequences of making a false report/disclosure

Anyone who knowingly makes a false report/disclosure, or who otherwise fails to act on reasonable grounds in respect of the report may be subject to disciplinary action, including dismissal.

Any disciplinary action will depend on the severity, nature and circumstance of the false disclosure.

7.4 Reports from Your Call

Once Your Call has received a Whistleblower report they will refer the matter, with a copy of any relevant documents or records provided to the nominated Murray Irrigation Disclosure Officer within one business day.

Your Call may require further information from the Whistleblower to clarify the report, or to ensure the anonymity requested by the Whistleblower is not compromised before referring the matter to Murray Irrigation.

Murray Irrigation will carefully assess and use the information provided to decide the best action to take, including whether an investigation is required to address and determine if the Misconduct is proven or refuted.

8 Whistleblower Protections

Murray Irrigation is committed to a workplace culture whereby Whistleblowers are treated fairly.

8.1 Confidentiality and Privacy

It is unlawful for any person to disclose a Whistleblower's identity, or information that may lead to a Whistleblower's identity, except:

- to ASIC, APRA, or a member of the Australian Federal Police (within the meaning of the *Australian Federal Police Act 1979*);
- to a legal practitioner (for the purposes of obtaining legal advice or legal representation about the whistleblower provisions in the Corporations Act);
- to a person or body prescribed by regulations; or
- With the consent of the Whistleblower.

A person can disclose the information contained in a disclosure with or without the Whistleblower's consent if:

- the information does not include the Whistleblower's identity;
- the entity has taken all reasonable steps to reduce the risk that the Whistleblower will be identified from the information; and
- it is reasonably necessary for investigating the issues raised in the disclosure.

If you believe your confidentiality has been breached, you can lodge a complaint with a regulator such as ASIC, APRA or the ATO for investigation.

8.2 Protection against civil, criminal and administrative liability

You are protected from civil liability and criminal liability in relation to your disclosure. However, this does not extend to any Misconduct you have engaged in that is revealed in your disclosure.

8.3 Protection against victimisation

A person cannot engage in conduct that causes detriment to a Whistleblower (or another person), in relation to a disclosure, if:

- the person believes or suspects that the Whistleblower (or another person) made, may have made, proposes to make or could make a disclosure that qualifies for protection; and
- the belief or suspicion is the reason, or part of the reason, for the conduct.

In addition, a person cannot make a threat to cause detriment to a Whistleblower (or another person) in relation to a disclosure. A threat may be express or implied, or conditional or unconditional. A Whistleblower (or another person) who has been threatened in relation to a disclosure does not have to actually fear that the threat will be carried out.

Detrimental conduct as including the following:

- dismissal of an employee;
- injury of an employee in his or her employment;
- alteration of an employee's position or duties to his or her disadvantage;
- discrimination between an employee and other employees of the same employer;
- harassment or intimidation of a person;
- harm or injury to a person, including psychological harm;
- damage to a person's property;
- damage to a person's reputation;
- damage to a person's business or financial position; or
- any other damage to a person.

However, the following will not constitute detrimental conduct:

- administrative action that is reasonable for the purpose of protecting a Whistleblower from detriment;
- managing a Whistleblower's unsatisfactory work performance, if the action is in line with the Murray Irrigation's performance management framework.

Remedies for detrimental conduct

A Whistleblower can seek compensation and other remedies through the Courts if:

- they suffer loss, damage or injury because of a disclosure; and
- Murray Irrigation failed to take reasonable precaution and exercise due diligence to prevent the detrimental conduct.

You should seek independent legal advice if you believe the above apply to you.

8.4 Immunity from disciplinary action

Murray Irrigation want you to speak up against Misconduct.

Anyone who makes a disclosure:

- with reasonable grounds for suspecting Misconduct has or may occur, and
- has not engaged in serious Misconduct or illegal conduct relating to the disclosure

will be provided with immunity from disciplinary action.

NOTE: Murray Irrigation has no power to offer any person immunity against prosecution in the criminal jurisdiction. Immunity against prosecution can only be granted, in most jurisdictions, by the Director of Public Prosecutions.

9 Support for Whistleblowers

9.1 Keeping the Whistleblower informed

Murray Irrigation will provide Whistleblowers updates during key stages such as:

- when the investigation process has begun;
- while the investigation is in progress;
- after the investigation has been finalised.

9.2 Support

If necessary Murray Irrigation will appoint a person (whether internal or external) to arrange or coordinate support for anyone who has or is in the process of making a disclosure. The support may include a support person and or other support services as may be appropriate based on the circumstances.

As a first step, employees can contact our Employee Assistance Program ("EAP") Services at:

Access EAP

www.accesseap.com.au

1800 81 87 28

The internal or external appointee will be instructed to:

- assess the immediate welfare and protection needs of a Whistleblower;
- safeguard the interests of a Whistleblower in accordance with this Policy and the law;
- address any issues or concerns of victimisation/detrimental treatment.

10 Investigation

The investigator will assess and use the information provided in the disclosure to decide the best action to take, including whether:

- it qualifies for protection; and
- a formal, in-depth investigation is required.

The investigator will determine the appropriate investigation process, including:

- the nature and scope of the investigation;
- who will conduct the investigation and whether that person should be external to our organisation;
- the nature of any technical, financial or legal advice that may be required;
- a timeframe for the investigation (having regard to the level of risk).

The investigation must be conducted in an impartial and lawful way according to the principles of natural justice and procedural fairness.

The investigator will:

- gather information, material and documentation concerning the disclosure as quickly as possible. This may involve taking steps to protect or preserve documents, materials and equipment;
- take a statement or record of interview and or tape formal interviews with witnesses as required. Where the Whistleblower wishes to remain anonymous and does not wish to make a statement they will not be asked to do so;
- keep information gathered in the investigation securely;
- take all reasonable steps to protect the identity of the Whistleblower. Where disclosure of the identity of the Whistleblower cannot be avoided due to the nature of the allegations, the investigator will warn the Whistleblower of this probability;
- complete the investigation and may produce a report of their findings as soon as is reasonably practical.

If a report is produced, Murray Irrigation may provide the Whistleblower a copy of the report or a summary of findings at its discretion.

At the conclusion of the investigation, the investigator may provide a written report including:

- a finding of all relevant facts;
- whether the disclosure is proven, not proven or otherwise;
- recommendation/s, when requested to do so, as to any action that may be taken in respect of the findings.

Murray Irrigation will use the report to determine the action (if any) to be taken including disciplinary action.

The findings will be communicated to the relevant parties involved to the extent that it is legally permissible and appropriate to do so.

Murray Irrigation will take appropriate action depending on the findings and this may include reporting to external authorities.

11 Review

Murray Irrigation will monitor and review the effectiveness of the Policy every two years.

Subject to privacy and confidentiality the report will include:

- a brief description of the disclosures;
- the action taken in response to the disclosures;
- the outcomes; and
- the timeframe in resolving/finalising the disclosures.