

CYGNETT

WHISTLEBLOWER POLICY

INTRODUCTION

Cygnett encourages the disclosure of suspected wrongdoing in relation to its business and seeks to promote an ethical culture by encouraging the reporting of misconduct.

To encourage disclosure of wrongdoing, the *Corporations Act* and the *Tax Administration Act* (**whistleblower laws**) mandate a statutory whistleblower regime that provides legally enforceable protections for people who make **Protected Disclosures**. This regime recognises the critical role whistleblowing can play in the early detection and prosecution of misconduct in businesses and how it can improve compliance with the law.

PURPOSE

This policy is a tool to help Cygnett identify wrongdoing and to provide a safe and secure means for disclosing wrongdoing.

The purpose of this policy includes:

- to encourage the disclosure of wrongdoing;
- to deter wrongdoing;
- to ensure that individuals who become aware of wrongdoing can disclose this safely, securely and with confidence that they will be protected and supported by Cygnett;
- to ensure disclosures are dealt with appropriately and in a timely manner;
- to provide transparency around Cygnett's framework for receiving, handling and investigating disclosures; and
- to meet Cygnett's legal and regulatory obligations

WHO THE POLICY APPLIES TO

To qualify for protection as a whistleblower under the Corporations Act, you must be an **Eligible Whistleblower** (except in limited circumstances as set out below).

You will be an Eligible Whistleblower if you are, or have been, any of the following in relation to Cygnett:

- an officer or employee of Cygnett (including permanent, part-time, fixed-term or temporary employees, interns, secondees, managers and directors);
- a supplier of services or goods to Cygnett (whether paid or unpaid) and the employees of any such suppliers (including current and former contractors, consultants, service providers and business partners);
- an officer of a related body corporate of Cygnett; or
- a relative, dependent or spouse of any of the above individuals.

You will have protection as a whistleblower if:

- you are an Eligible Whistleblower and:
 - you have made a disclosure of information relating to a **Disclosable Matter** directly to an Eligible Recipient (referred to as a Protected Disclosure);

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- you have made an Emergency Disclosure or Public Interest Disclosure; or
- whether or not you are an Eligible Whistleblower, you have made a disclosure to a legal practitioner for the purposes of obtaining legal advice or legal representation about the operation of the whistleblower provisions in the Corporations Act or the Tax Administration Act.

You will not be required to be an Eligible Whistleblower if you make a disclosure for the purpose of obtaining legal advice or representation. In those circumstances, a person may not know whether or not they are an Eligible Whistleblower until they receive legal advice, and therefore a person who makes a disclosure in those circumstances will still be protected.

There is no requirement for you to identify yourself in order for a disclosure to qualify for protection under the whistleblower laws. Further, you can still qualify for protection even if your disclosure turns out to be incorrect.

TYPES OF MATTERS THIS POLICY APPLIES TO

An Eligible Whistleblower will be entitled to protection as a whistleblower if they make a **Protected Disclosure** to an **Eligible Recipient**.

Protected Disclosures

A disclosure will be a Protected Disclosure if it involves a **Disclosable Matter**. A Disclosable Matter relates to information that the discloser has reasonable grounds to suspect:

- concerns misconduct, or an improper state of affairs or circumstances, in relation to Cygnett or a related body corporate or in relation to their tax affairs;
- indicates that Cygnett or a related body corporate (including their employees or officers) have engaged in conduct that:
 - constitutes an offence under, or contravenes a provision of, any of the following laws:
 - *Corporations Act 2001* (Cth)
 - *Australian Securities and Investment Commissions Act 2001* (Cth)
 - *Banking Act 1959* (Cth)
 - *Financial Sector (Collection of Data) Act 2001* (Cth)
 - *Insurance Act 1973* (Cth)
 - *Life Insurance Act 1995* (Cth)
 - *National Consumer Credit Protection Act 2009* (Cth)
 - *Superannuation Industry (Supervision) Act 1993* (Cth);
 - represents a danger to the public or the financial system; or
 - constitutes an offence against any other law of the Commonwealth that is punishable by imprisonment for 12 months or more.

Examples of Disclosable Matters that might relate specifically to Cygnett's business include:

- illegal conduct such as theft, dealing in or use of illicit drugs, violence or threatened violence;
- fraud or misappropriation of funds;
- offering or accepting a bribe;
- financial irregularities;
- failure to comply with, or breach of, legal or regulatory requirements; and

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- engaging in or threatening to engage in detrimental conduct against a person who has made (or who is believed or suspected to have made or planning to make) a disclosure.

Other Protected Disclosures

A Protected Disclosure may include a Disclosable Matter that does not involve a contravention of a particular law.

A disclosure to a legal practitioner for the purposes of obtaining legal advice or representation on the operation of the whistleblower regime will qualify for protection.

A disclosure will also qualify for protection if it is a Public Interest Disclosure or an Emergency Disclosure as described below.

TYPES OF MATTERS THIS POLICY DOES NOT APPLY TO

Personal work-related grievances

A disclosure that relates solely to a personal work-related grievance and that does not relate to detriment or threat of detriment to the discloser, **does not** qualify for protection under the whistleblower laws.

A personal work-related grievance is a grievance that relates to the discloser's current or former employment that has, or tends to have, implications for them personally and does not:

- have significant implications for Cygnett or a related body corporate that do not relate to the discloser; or
- relate to any conduct or alleged conduct about a Disclosable Matter.

The following are examples of some of the types of personal work-related grievances that **would not** be a Protected Disclosure:

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

However, a personal work-related grievance may still qualify for whistleblower protection if:

- it includes information about misconduct, or information about misconduct includes or is accompanied by a personal work-related grievance (mixed report);
- Cygnett has breached employment or other laws punishable by imprisonment for a period of 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 discloser's personal circumstances;
- the discloser suffers from or is threatened with detriment for making a disclosure; and
- the discloser seeks legal advice or legal representation about the operation of the whistleblower protections under the Corporations Act.

WHO CAN RECEIVE A DISCLOSURE

Eligible Recipients

To qualify for whistleblower protection, the disclosure must be made directly to an **Eligible Recipient**. In relation to Cygnett, an Eligible Recipient is any one of the following:

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Eligible recipient:

An officer or senior manager of Cygnett or a related body corporate

A person authorised by Cygnett to receive disclosures that may qualify for whistleblower protection

Persons in this category include:

Directors and senior managers of Cygnett:

- James Roche – Director – E: jroche@rocheholdings.com.au
- Paul Santoro – Director & Chief Executive Officer – E: paul@cygnett.com
- Kimberley Swann – Director – E: kimberley@modamore.com.au
- Jason Carrington - Chief Financial Officer – E: jasonc@cygnett.com

Stopline Pty Ltd

Email: makeareport@stopline.com.au

Website: <https://cygnett.stoplinereport.com>

Mail: Cygnett c/o Stopline Pty Ltd, PO Box 403, Diamond Creek, VIC 3089

Telephone: 1300 30 45 50

QR Code:



If your disclosure concerns an officer or senior manager of Cygnett, your disclosure should not be made directly to that person.

An Eligible Recipient also includes ASIC, APRA, the AFP and the ATO.

A disclosure to a legal practitioner for the purposes of obtaining legal advice or legal representation in relation to the operation of the whistleblower provisions in the Corporations Act or the Tax Administration Act is protected (even in the event that the legal practitioner concludes that a disclosure does not relate to a Disclosable Matter).

If you wish to seek additional information before formally making a disclosure, you can obtain additional information by contacting our Whistleblower Protection Officer, Jason Carrington by email at JasonC@cygnett.com.

PUBLIC INTEREST DISCLOSURES AND EMERGENCY DISCLOSURES

Public interest and emergency disclosures can be made to a member of Parliament or to a journalist in certain situations.

In order to be eligible to make a public interest or emergency disclosure, the discloser must have first made a Protected Disclosure to a regulatory body and must have given notice to that body that he or she intends to make the public interest or emergency disclosure.

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Public interest disclosure

In order to make a public interest disclosure the following requirements must be met:

1. 90 days must have passed since the previous Protected Disclosure has been made; and
2. the discloser must have given notice to the entity to which the previous disclosure was made which identifies the previous disclosure and states that the discloser intends to make a public interest disclosure; and
3. the discloser must not have reasonable grounds to believe that action is being, or has been, taken to address the matters to which the previous disclosure related; and
4. the discloser has reasonable grounds to believe that making a further disclosure of the information would be in the public interest.

A public interest disclosure may then be made to either:

- a member of the State or Federal parliaments; and
- a journalist.

The extent of the information disclosed in a public interest disclosure must be no greater than is necessary to inform the recipient of the concerns in the Protected Disclosure.

Emergency disclosure

If a discloser has previously made a Protected Disclosure and the discloser reasonably believes 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 discloser may consider making an emergency disclosure.

In order to make an emergency disclosure, the discloser must:

1. have given notice to the entity to which the previous Protected Disclosure was made that identifies the previous disclosure and states that the discloser intends to make an emergency disclosure; and
2. have reasonable grounds to believe that the information concerns a substantial and imminent danger to the health or safety of one or more persons or the natural environment.

An emergency disclosure may then be made to either:

- a member of the State or Federal parliaments; and
- a journalist.

The extent of the information disclosed in an emergency disclosure must be no greater than is necessary to inform the recipient of the concerns in the Protected Disclosure.

HOW TO MAKE A DISCLOSURE

A discloser may make a disclosure to any Eligible Recipient by any of the following means and marking or noting that the disclosure is made under this policy:

- by post in an envelope marked – “private and confidential”;
- by email sent directly to the Eligible Recipient; or
- in person.

The disclosure may be made by any option that allows for the disclosure to be made anonymously and/or confidentiality, securely and outside business hours.

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A disclosure of information in respect of which the discloser does not have reasonable grounds to suspect that the information concerns or relates to a Protected Disclosure will not attract the whistleblower protections. This may include a disclosure not made in good faith or is vexatious or malicious. Further, disclosures not made in good faith or which are made vexatiously or maliciously may result in disciplinary action being taken against you.

Anonymous disclosures

A discloser is not required to disclose their name or identity in order to qualify for protection under the whistleblower laws.

Where a Protected Disclosure is made by an Eligible Whistleblower, the confidentiality of that person's identity will be protected.

A discloser can choose to remain anonymous while making a disclosure, over the course of the investigation and after the investigation is finalised. A discloser can also refuse to answer questions if you feel they could reveal your identity at any time, including during follow-up conversations.

If a discloser wishes to remain anonymous, it is suggested that they should maintain ongoing two-way communication with Cygnett, so that we can ask follow-up questions or provide feedback.

The following measures and/or mechanisms for protecting anonymity can be adopted by Cygnett to provide anonymity:

- communication through anonymous telephones and/or anonymised email addresses; and/or
- the discloser may adopt a pseudonym for the purpose of their disclosure.

However, to enable the matters a discloser raises to be properly and thoroughly considered and investigated, the discloser should ensure that all information relevant to their concerns are disclosed. In some circumstances, if the discloser is not identified it may limit or restrict the ability of Cygnett to fully investigate the disclosure.

LEGAL PROTECTION FOR DISCLOSURES

Under the whistleblower laws, if an Eligible Whistleblower makes a Protected Disclosure to an Eligible Recipient they will receive certain protections in relation to their identity and victimisation for making the disclosure. In particular, an Eligible Whistleblower will be protected from any of the following in relation to their disclosure:

- civil liability (e.g. any legal action against the discloser for breach of an employment contract, duty of confidentiality or another contractual obligation);
- criminal liability (e.g. attempted prosecution of the discloser for unlawfully releasing information, or other use of the disclosure against the discloser in a prosecution – other than for making a false disclosure); and
- administrative liability (e.g. disciplinary action for making the disclosure).

However, these protections will not grant a discloser immunity from being subject to any civil, criminal or administrative liability for the discloser's own misconduct that is revealed by their disclosure.

Confidentiality

Cygnett has a legal obligation to protect the confidentiality of a protected discloser's identity.

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A person cannot disclose a discloser's identity or information that is likely to lead to the discloser's identification (which they have obtained directly or indirectly because the discloser made a Protected Disclosure).

There are limited exceptions to this prohibition which relate to disclosures of the discloser's identity to ASIC, APRA, a legal practitioner (for the purposes of obtaining legal advice or legal representation about the whistleblower provisions in the Corporations Act), to a member of the Australian Federal Police or when the disclosure of the discloser's identity is made with their consent.

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

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

Outside these exceptions, it is illegal for a person to identify a discloser or to disclose information that is likely to lead to their identification.

If a discloser becomes aware of a breach of confidentiality, they can lodge a complaint directly with Cygnett's Whistleblower Protection Officer, Jason Carrington by email at JasonC@cygnett.com. A discloser may also lodge a complaint with ASIC, APRA or the ATO for investigation.

Victimisation

Cygnett has a legal obligation to protect person who makes a Protected Disclosure, or any other person, from detriment in relation to a disclosure.

It is an offence for a person, including Cygnett, to cause detriment or threaten to cause detriment to a discloser because they made, or are believed to have made, a Protected Disclosure to an Eligible Recipient.

Detriment conduct includes the following:

- dismissal as an employee;
- injury in employment;
- alteration of the discloser's position or duties as an employee to their disadvantage;
- discrimination between the discloser as an employee and other employees of Cygnett;
- being harassed or intimidated;
- harm or injury to the discloser, including psychological harm; or
- damage to the discloser's property, reputation or to the discloser's business or financial position.

A threat to cause detriment may be express or implied, or conditional or unconditional. If a discloser has been threatened in relation to a disclosure they do not have to actually fear that the threat will be carried out.

However, examples of actions that are **not** detrimental conduct include:

- administrative action that is reasonable for the purpose of protecting you from detriment (e.g. moving you away from your immediate work area to another office to prevent any detriment); and

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- managing any unsatisfactory work performance.

The courts are also empowered to make such orders as they think appropriate to correct any detrimental conduct towards a discloser, including awarding them compensation for any loss, damage or injury that they may have suffered.

Compensation and other remedies

A person who has made a Protected Disclosure or any other employee or person can seek compensation and other remedies through the courts if:

- (a) they suffer loss, damage or injury because of a disclosure; and
- (b) Cygnett has failed to take reasonable precautions and exercise due diligence to prevent the detrimental conduct.

You may seek independent legal advice in relation to any rights you may have to compensation or other remedies.

SUPPORT AND PROTECTION FOR DISCLOSERS

Cygnett will provide support and protection for any Eligible Whistleblower by:

- implementing training across our organisation to ensure that whistleblower disclosures are recognised and dealt with confidentially and in accordance with the whistleblower laws;
- ensuring that whistleblowers are not subjected to any detrimental conduct;
- having a review process to ensure that any whistleblower process has been properly and effectively managed in accordance with this policy; and
- providing all reasonable support services that may be necessary for the whistleblower that may assist them to deal with the disclosure that has been made.

Identity protection – confidentiality

Cygnett will ensure that measures and/or mechanisms are in place to protect the confidentiality of the identity of disclosers.

To reduce the risk that a discloser will be identified from information contained in a disclosure, Cygnett will ensure that:

- all personal information or reference to the discloser witnessing an event will be redacted;
- the discloser will be referred to in a gender-neutral context;
- where possible, the discloser will be contacted to help identify certain aspects of their disclosure that could inadvertently identify them; and
- disclosures will be handled and investigated by senior staff or by external advisors who are subject to strict confidentiality obligations.

Cygnett will also ensure that it maintains secure record-keeping and information-sharing processes, including:

- all paper and electronic documents and other materials relating to a disclosure will be stored securely;
- access to any information relating to a disclosure will be restricted to those directly involved in managing and investigating the disclosure;

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- only a restricted number of people who are directly involved in handling and investigating a disclosure will be made aware of the discloser's identity (subject to the discloser's consent) or information that is likely to lead to the identification of the discloser;
- communications and documents relating to a disclosure will not be sent to an email address or to a printer that can be accessed by other staff; and
- each person who is involved in handling and investigating a disclosure will be reminded about their confidentiality obligations, including that an unauthorised disclosure of a discloser's identity may be a criminal offence.

Protection from detrimental acts or omissions

Cygnett will ensure that measures and/or mechanisms are in place to protect disclosers from detriment.

To protect disclosers from detrimental acts or omissions, Cygnett will:

- as soon as possible after receiving a disclosure, assess the risk of detriment against the discloser and other persons (e.g. other staff who might be suspected to have made a disclosure);
- provide such support services as are considered necessary to support the discloser, including counselling or other professional or legal services;
- assist the discloser with strategies to minimise and manage stress, time or performance impacts, or other challenges resulting from the disclosure or its investigation;
- consider what actions will assist to protect the discloser from risk of detriment (e.g. allow the discloser to perform their duties from another location, reassign the discloser to another role at the same level, make other modifications to the workplace or the way the discloser performs their work duties, or reassign or relocate other staff involved in the disclosure);
- ensure that there are processes in place to ensure that management are aware of their responsibilities to maintain the confidentiality of a disclosure;
- inform the discloser that they may lodge a complaint if they have suffered detriment, and the actions Cygnett may take in response to such complaints; and
- ensure that there are interventions for protecting a discloser if detriment has already occurred.

Further, 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.

"Detriment" includes:

- dismissal of an employee;
- injury of an employee in his or her employment;
- alteration of an employee's position 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;

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- damage to a person's property;
- damage to a person's reputation
- damage to a person's business or financial position; and
- other damage to a person.

HANDLING AND INVESTIGATING A DISCLOSURE

Handling a disclosure

In the first instance, Cygnett will need to assess each disclosure to determine whether:

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

The Eligible Recipient of the disclosure will determine an appropriate location and time for the discloser to make their disclosure comfortably and for ensuring that the discloser is protected.

Investigating a disclosure

As soon as practicable after becoming aware of a Protected Disclosure, Cygnett will need to determine:

- the nature and scope of the investigation;
- the person(s) within and/or outside Cygnett that should lead the investigation (which may include appointing an independent external investigator);
- the nature of any technical, financial or legal advice that may be required to support the investigation; and
- the timeframe for the investigation.

Depending on the nature of the concerns raised in a Protected Disclosure, Cygnett may follow the processes set out in its other policies, including those relating to grievances and complaints.

Generally, the person appointed to conduct the investigation will decide on the appropriate process to undertake the investigation, taking into account the principles of natural justice and fairness. In undertaking any investigation or engaging any external investigator, Cygnett will take into account the protections afforded to the discloser as a whistleblower under the whistleblower laws and this policy, including those relating to confidentiality of the discloser's identity.

Without the discloser's consent, Cygnett cannot disclose information that is likely to lead to the discloser being identified as part of its investigation process unless:

- the information does not include the discloser's identity;
- Cygnett removes information relating to the discloser's identity or other information that is likely to lead to the discloser being identified (e.g. their position title and other identifying details); and
- it is reasonably necessary for investigating the issues raised in the disclosure.

There may be limitations of the investigation process. For instance, Cygnett may not be able to undertake an investigation if it is not able to contact the discloser (e.g. if a disclosure is made anonymously and the discloser has refused to provide, or has not provided, a means of contacting them).

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The Investigator will, as soon as practicable:

1. conduct an investigation into the concerns and allegations raised in the Protected Disclosure;
2. conduct interviews of relevant persons and seek any further information the Investigator considers necessary;
3. provide to Cygnett a confidential report of his or her findings in relation to the concerns and allegations; and
4. take such other action as may be requested by Cygnett (if any).

Cygnett will consider the findings, and recommendations if any, and determine what further action, if any, to take in relation to the discloser's concerns and allegations.

If the concerns and allegations involve a possible criminal offence, Cygnett will refer the matter to the police before beginning its own investigation, if appropriate.

Keeping a discloser informed

Disclosers will be provided with regular updates, if the discloser can be contacted, which may include through anonymous channels. The frequency and timeframe for updates may vary depending on the nature of the disclosure.

Documenting and reporting investigation findings

The findings of the investigation will be documented by the investigator in a confidential report addressed to Eligible Recipient or to such other person that Cygnett may nominate and who is responsible for the oversight of this policy. However, the method for documenting and reporting the findings may depend on the nature of the disclosure.

Subject to the nature of the findings and consideration of obligations of confidentiality, the discloser may receive a summary of the findings at the end of the investigation. However, there may be circumstances where it may not be appropriate to provide details of the outcome to the discloser.

Ensuring fair treatment of individuals mentioned in a disclosure

To ensure the fair treatment of individuals mentioned in a disclosure, Cygnett will undertake the following measures and/or mechanisms:

- disclosures will be handled confidentially, when it is practical and appropriate in the circumstances;
- each disclosure will be assessed and may be the subject of an investigation;
- the objective of an investigation will be to determine whether there is enough evidence to substantiate or refute the matters reported;
- when an investigation needs to be undertaken, the process will be objective, fair and independent;
- an employee who is the subject of a disclosure will be advised about the subject matters of the disclosure as and when required by principles of natural justice and procedural fairness and prior to any actions being taken; and
- an employee who is the subject of a disclosure may make use of any of the Cygnett resources available (e.g. the EA Program) located on the Cygnett Sharepoint home page).

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COMMUNICATION

This policy will be made available for officers and employees of Cygnett by being published on its Intranet and being made available in its induction programs and during recruitment and enrolment processes for employees.

DEFINITIONS

AFP is the Australian Federal Police.

APRA is the Australian Prudential Regulation Authority.

ASIC is the Australian Securities and Investment Commission.

ATO is the Australian Tax Office.

Corporations Act means the *Corporations Act 2001* (Cth).

Journalist means, for the purposes of a public interest disclosure or an emergency disclosure, a person who works in a professional capacity as a journalist for a newspaper, magazine, radio or television broadcast or an electronic service (such as through the internet) that is operated on a commercial basis and is similar to a newspaper, magazine or radio or television broadcast.

Tax Administration Act means the *Taxation Administration Act 1953* (Cth).

Whistleblower laws means the Corporations Act and the Tax Administration Act.