

# Whistleblowing Checklist



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**Contents from this checklist are taken from the Whistleblowing compliance register.**

## The LexisNexis Regulatory Compliance Whistleblowing Compliance Register

The Whistleblowing Compliance Register assists entities in the public and private sectors with complying with their compliance obligations related to whistleblowing. It informs entities what policies and procedures they should have in place to ensure whistleblowers are protected when they make a disclosure.

In addition, it covers what is eligible for protection under Australian whistleblower protection laws and the protections available to whistleblowers who come forward.

## About the Experts

### Kate Mills

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Partner at Gadens



Kate has broad experience in company mergers, acquisitions, contested takeovers (including Takeovers Panel matters), capital and debt raisings, continuous disclosure, and general corporate advisory work. Kate is a specialist in corporate governance and regulatory matters and investigations, including compliance and regulation of credit, financial markets and services, funds management, prudential and financial services executive accountability regimes, licensing, and anti-money laundering/counter-terrorism financing.

Kate has government policy experience with the Federal Treasury. Among other things, Kate was the Chair and Convenor of the ASIC Enforcement Review Taskforce and the Government expert panel on corporate whistleblowing, the chief policy adviser on the design and development of the corporate collective investment vehicle and was Australia's representative in multilateral negotiations with Japan, Thailand, South Korea and New Zealand to establish the Asia Region Funds Passport. Kate was also General Counsel and company secretary to the Financial Adviser Standards and Ethics Authority (FASEA) (responsible for the development of professional standards in the financial services sector) for two years.

Kate has in-house legal experience as well having spent two years as chief legal adviser to the head of ASX Investigations & Enforcement, six months as head of compliance at UBS AG (on secondment), and stints as lead or general counsel to ASX-listed companies.

Since 2008, Kate has been rated by peers as a Best Lawyer in a variety of categories including Regulatory Practice, Financial Institutions, Tax & Accounting Law, Class Actions, and ADR & Litigation.

Kate is also the legal expert advising LexisNexis on its training modules on stockbroking and financial markets, and corporate whistleblowing.

# WHISTLEBLOWING CHECKLIST

This checklist has been designed to help you identify your compliance requirements related to whistleblowing.

## Overview

| Requirement                                                                                                  | Yes | Don't know | Needs work |
|--------------------------------------------------------------------------------------------------------------|-----|------------|------------|
| Does the entity ensure that it complies with its obligations under Australian whistleblower protection laws? |     |            |            |

## Entities Subject to Whistleblowing Laws

| Requirement                                                                                                              | Yes | Don't know | Needs work |
|--------------------------------------------------------------------------------------------------------------------------|-----|------------|------------|
| If the entity is a regulated entity, does it ensure that it complies with Australian whistleblowing laws, unless exempt? |     |            |            |
| Does the commonwealth entity ensure it complies with public interest disclosure laws?                                    |     |            |            |

## Whistleblowers

| Requirement                                                                                                                                                     | Yes | Don't know | Needs work |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------|-----|------------|------------|
| Does the entity ensure that it does not victimise, cause detriment (or threaten to cause detriment), or take reprisal action against an eligible whistleblower? |     |            |            |
| Does the entity ensure that the whistleblower has reasonable grounds to suspect misconduct or a breach of law by the entity?                                    |     |            |            |

## Disclosures

| Requirement                                                                                                                                       | Yes | Don't know | Needs work |
|---------------------------------------------------------------------------------------------------------------------------------------------------|-----|------------|------------|
| Is the entity aware of what qualifies as a protected disclosure under Australian whistleblowing laws?                                             |     |            |            |
| Is the entity aware of what qualifies as a public interest or emergency disclosure to a journalist or parliamentarian made by a whistleblower?    |     |            |            |
| Is the entity aware that disclosures about personal work-related grievances are not eligible for protection under Australian whistleblowing laws? |     |            |            |

## Eligible Recipients of Whistleblower Complaints

| Requirement                                                                                           | Yes | Don't know | Needs work |
|-------------------------------------------------------------------------------------------------------|-----|------------|------------|
| Does the entity ensure that protected disclosures are provided to regulatory and eligible recipients? |     |            |            |
| Does the entity ensure that protected disclosures are provided to authorised persons?                 |     |            |            |

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## Whistleblower Policies and Procedures

| Requirement                                                                                                                                                                                                       | Yes | Don't know | Needs work |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----|------------|------------|
| Unless exempt, does the entity ensure it has a compliant whistleblower policy in place to protect whistleblowers who make disclosures of information?                                                             |     |            |            |
| Does the entity ensure that it develops a whistleblower policy with the required content under Australian whistleblowing laws?                                                                                    |     |            |            |
| Does the entity implement and maintain a whistleblower policy in accordance with the Australian Securities and Investments Commission good practice guidance?                                                     |     |            |            |
| Does the commonwealth entity establish an internal reporting policy that includes procedures for receiving, acknowledging and dealing with public interest disclosures made to authorised officers of the entity? |     |            |            |
| Does the entity adopt the best practice approach to implementing an effective whistleblowing management system?                                                                                                   |     |            |            |

## Protections for Whistleblowers

| Requirement                                                                                                                                  | Yes | Don't know | Needs work |
|----------------------------------------------------------------------------------------------------------------------------------------------|-----|------------|------------|
| Does the entity ensure that it must not disclose confidential information that is likely to lead to the identification of a whistleblower?   |     |            |            |
| Does the entity ensure that it does not engage in (or threaten to engage in) reprisal action or detrimental conduct against a whistleblower? |     |            |            |
| Does the entity ensure that it does not take adverse action against an employee for exercising, or not exercising, a workplace right?        |     |            |            |
| Does the entity ensure that whistleblowers are protected from legal actions related to protected disclosures?                                |     |            |            |
| Does the entity adopt the best practice approach to implementing an effective whistleblowing management system?                              |     |            |            |

## Your Free Demonstration.

If you would like a demonstration of the Whistleblowing compliance register click or scan the QR Code →



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