

## Whistleblower Policy

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## 1. Purpose

The purpose of this policy is to:

- encourage disclosers to report an issue if they reasonably believe someone has engaged in serious wrongdoing
- outline how Polyglot Theatre will deal with whistleblowing reports; and
- set out the avenues available to disclosers to report serious wrongdoing to Polyglot Theatre

By implementing this policy, Polyglot Theatre would like to make clear that misconduct or any improper action by workers will **not** be tolerated. To understand who workers encompass, please refer to the definitions section in part 10 of this document.

## 2. Who this policy applies to

This policy applies to anyone who discloses misconduct or an improper state of affairs or circumstances ("discloser") warranting protection under Australia's whistleblower laws, and anyone who interacts or engages with a discloser, including persons who accept and manage protected disclosures for Polyglot Theatre.

To qualify for protection, a discloser must be someone who is, or has been, any of the following with respect to all entities within Polyglot Theatre:

- workers
- contractors (including employees of contractors)
- suppliers (including employees of suppliers)
- associates
- consultants; and
- relatives, dependants, spouses, or dependants of a spouse of any of the above.

While every worker is required to comply with this policy, this policy is not incorporated as a term of any employment contract or contract for services and does not create any rights enforceable by a worker against Polyglot Theatre. To the extent that there is an inconsistency between the law and this policy, the law will prevail.

## 3. Protected disclosures

Under whistleblower laws, disclosures will receive protection if the matter relates to a protected disclosure. Protected disclosures must be made on reasonable grounds. To understand what a protected disclosure is, please refer to the definition in Section 10 of this document.

Personal workplace grievances are **not** protected disclosures, and should be reported and addressed in accordance with Polyglot Theatre's relevant policies, procedures, documents and

agreements, including but not limited to Polyglot Theatre's Complaints Handling and Investigation Procedure.

The protected disclosure does not ultimately have to be true to constitute a disclosure made on unreasonable grounds. Disclosers can still qualify for protection even if the disclosure turns out to be untrue.

## **4. Who can disclosures be made to?**

### **4.1 Internal reporting**

Polyglot Theatre encourages anyone wishing to make a disclosure to first report any matters of concern to one of Polyglot Theatre's eligible recipients:

- Kath Fyffe, General Manager
- Sue Giles, Artistic Director

Polyglot Theatre's preference is for disclosures to be reported internally in the first instance; however, Polyglot Theatre recognises that it may not always be appropriate to do so. Disclosers will still qualify for whistleblower protections if a protected disclosure is made to a legal practitioner, an authorised regulatory body, or external third party, as explained below.

### **4.2 National Regulatory Bodies**

Where it is not appropriate to make an internal disclosure, or where the person making a report does not feel comfortable making an internal report, or where a discloser has made an internal report but no action has been taken within a reasonable timeframe, protected disclosures may be made to regulatory bodies or authorities, such as:

- Australian Securities and Investments Commission (ASIC)
- Australian Prudential Regulation Authority (APRA)
- The Australian Taxation Commissioner
- The Australian Federal Police (AFP)
- A lawyer to obtain advice about the disclosure and the associated implications.

### **4.3 Disclosures to parliamentarians and journalists**

It is recognised that if conduct in connection with Polyglot Theatre is of particular gravity and urgency, disclosure to a member of parliament or to a journalist may be justified.

A public interest disclosure may be made to a member of parliament or to a journalist where:

- A disclosure has been made to a regulatory body.
- 90 days has passed since the disclosure was made.
- There are reasonable grounds to believe that no action is being, or has been, taken to address the matters raised.
- The discloser has informed the regulatory body that they intend to make a public interest disclosure.

- The extent of the information disclosed is no greater than necessary to inform the recipient of the misconduct or improper state of affairs to which the first disclosure related.

An emergency disclosure may be made to a member of parliament or to a journalist where:

- A disclosure has been made to a regulatory body.
- There is an imminent risk of serious harm or danger to public health or safety, or to the financial system, if the information is not acted on immediately.
- The discloser has informed the regulatory body that they intend to make an emergency disclosure.
- The extent of the information disclosed must be no greater than is necessary to inform the recipient of the substantial and imminent danger.

Polyglot Theatre recommends that a discloser seek independent legal advice before making a public interest or emergency disclosure.

## **5. How to make a disclosure**

If a person has reasonable grounds to believe that behaviour constituting misconduct or an improper state of affairs or circumstances exists in connection with Polyglot Theatre, Polyglot Theatre strongly encourages that person to report their concerns, whether verbally or in writing, to an eligible recipient within Polyglot Theatre or as otherwise specified under Section 4 of this Policy.

Polyglot Theatre encourages disclosers to provide their name when making a disclosure in order to facilitate appropriate follow up questions and assist with the investigation process. However, a discloser can report a protected disclosure anonymously and still qualify for whistleblower protections.

To maintain confidentiality, disclosers should not talk with other workers, clients or suppliers, extended family or friends, or the media (except in the circumstances specified under Section 4.3) about any protected disclosure, other than on a 'need to know' basis or if the eligible recipient has directed or approved the disclosure on behalf of Polyglot Theatre.

Breaching the confidentiality of a current disclosure, complaint or investigation, or inappropriately disclosing personal information obtained in the course of a disclosure, complaint or investigation is a serious breach of this policy and may lead to formal disciplinary action.

Those directly involved in a protected disclosure (i.e. discloser and respondent) are entitled to seek personal and professional support or advice, and seeking of such support or advice (for example, from someone who has knowledge of the protected disclosure) is not considered a breach of confidentiality.

## **6. Handling and investigating disclosures**

Polyglot Theatre will handle and investigate any protected disclosures raised in accordance with the organisation's Complaints Handling and Investigation Procedure.

## **7. Support and protections for disclosers**

If a person makes a protected disclosure on reasonable grounds in accordance with this policy, the law protects them against:

- victimisation or suffering any detriment due to making a protected disclosure
- the disclosure of their identity without their consent
- civil, criminal or administrative liability for making a disclosure. In addition, information shared by disclosers generally cannot be used in legal proceedings against them, unless the proceedings relate to the falsity of the information disclosed.

Polyglot Theatre will take steps to ensure that:

- Disclosers and any person who is the subject of a protected disclosure are treated fairly and with respect – for example, by:
  - Conducting investigations with regard to a person's right to natural justice and procedural fairness.
  - Maintaining transparency around the complaints handling and investigations process.
- The protected disclosure and investigation are dealt with in strict confidence – for example, by:
  - Password protecting sensitive documents.
  - Keeping sensitive documents in a locked filing cabinet or safe.
  - Only disclosing information to those directly involved in the investigation.
  - Reminding those involved about confidentiality requirements.
- The identity of the discloser is protected (where requested by the discloser) – for example, by:
  - Redacting the discloser's name and other identifying information from documents.
  - Only those directly involved in the investigation will know the discloser's identity.
  - Referring to the discloser using gender-neutral pronouns.
- The discloser does not suffer any detriment – for example, by:
  - Allowing the discloser to work from home.
  - Helping the discloser to manage stress, time, performance or other challenges resulting from making a protected disclosure.

Examples of unlawful and detrimental conduct taken against a discloser includes:

- dismissing them or terminating their employment, even if the making of a protected disclosure constitutes a breach of contract
- altering their position
- discriminating against them
- harassing them; or
- damaging their reputation

## 8. Consequences of breaching this policy

If a person breaches this policy, they may be subject to disciplinary action which may lead to termination of their employment or contract of services with Polyglot Theatre.

If a discloser suffers any detriment or damage because they have made a protected disclosure, the discloser may claim remedies such as compensation, an injunction or an apology pursuant to the relevant whistleblower legislation.

## 9. Communication

Information about this policy will be provided to all workers:

- with their contracts of employment
- whenever the document is reviewed and/or amended.

A copy can also be found on Polyglot Theatre's website: <https://www.polyglot.org.au/about-us/whistleblower-policy/>

If you have a query about this policy or need more information, please contact Kath Fyffe or Sue Giles.

## 10. Definitions

TERM	DEFINITION
Complaint	A formal allegation against a party.
Personal workplace grievance	<p>A grievance about any matter in relation to the discloser's employment, or former employment, having (or tending to have) implications for the discloser personally. This includes:</p> <ul style="list-style-type: none"> <li>• an interpersonal conflict between the discloser and another employee</li> <li>• a decision relating to the engagement, transfer or promotion of the discloser</li> <li>• a decision relating to the terms and conditions of engagement of the discloser; and</li> <li>• a decision to suspend or terminate the engagement of the discloser, or otherwise to discipline the discloser.</li> </ul>

Protected disclosure	<p>'Protected disclosures' broadly include any matter that a discloser has reasonable grounds to believe is misconduct, or an improper state of affairs or circumstances. For example, the disclosure could include information about:</p> <ul style="list-style-type: none"> <li>• dishonest behaviour</li> <li>• fraudulent activity</li> <li>• unlawful, corrupt or irregular use of company funds or practices</li> <li>• illegal activity (including theft, dealing in or use of illicit drugs, violence or threatened violence, and criminal damage against property)</li> <li>• unethical behaviour, including anything that would breach the Polyglot Theatre Code of Conduct</li> <li>• improper or misleading accounting or financial reporting practices</li> <li>• a breach of legislation relating to Polyglot Theatre's operations or activities, including the <i>Corporations Act 2001</i> (Cth)</li> <li>• behaviour that is oppressive, discriminatory or grossly negligent</li> <li>• an unsafe work-practice</li> <li>• any behaviour that poses a serious risk to the health and safety of any person at the workplace</li> <li>• a serious risk to public health, public safety or the environment; or</li> <li>• any other conduct which may cause loss to Polyglot Theatre or be otherwise detrimental to the interests of Polyglot Theatre.</li> </ul>
Reasonable grounds	Reasonable grounds means that a person in your position, acting reasonably, would also suspect that the information demonstrates misconduct or an improper state of affairs or circumstances within Polyglot Theatre.
Victimisation	Victimisation is subjecting or threatening to subject someone to a detriment because they have asserted their rights under equal opportunity law, made a complaint, helped someone else make a complaint, or refused to do something because it would be discrimination, harassment, sexual harassment or bullying. It is also victimisation to threaten someone (such as a witness) who may be involved in an investigation of a complaint.
Vilification	Vilification is behaviour that incites hatred, serious contempt for, or revulsion or severe ridicule of a person or group of people because of their race, religion, sexuality or gender.
Workers	<p>Polyglot Theatre defines workers as:</p> <ul style="list-style-type: none"> <li>• Board members.</li> </ul>

	<ul style="list-style-type: none"><li>• Leadership and management personnel e.g. producers, promoters, CEOs, executive directors, artistic directors, general managers, company managers, managers, supervisors, etc.</li><li>• Production and venue personnel e.g. artists, actors, dancers, directors, choreographers, writers, stage management, chaperones, technical crew, front of house, etc.</li><li>• Full-time, part-time, season and casual employees.</li><li>• Job candidates, including people auditioning for roles.</li><li>• Student placements, apprentices, work experience students/interns</li><li>• Contractors, sub-contractors and secondees.</li><li>• Volunteers and anyone working in an unpaid capacity.</li></ul>
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## 11. Review details

This policy was adopted by Polyglot Theatre on 01/01/2020.

This policy was last updated on 16/03/2020.