

**B1 We propose to give:**

(a) guidance on the matters that must be addressed by an entity's whistleblower policy under s1317A(5); and

(b) some good practice guidance (which is not mandatory) on establishing, implementing and maintaining a whistleblower policy.

**Note:** See Section B of draft RG 000.

**Your feedback**

**B1Q1 Do you agree with our proposed guidance in Section B of draft RG 000? If not, why not?**

- We agree with the guidance that has been given. We believe that it may be useful to provide some references to academic studies that have explored best practice in implementing speak-up policies and procedures to provide some examples of what an effective speak up arrangement looks like. This research shows the benefit of, for example, providing more than one channel and evolving the process over time, responding to disclosures as much as possible, and the importance of building trust before implementing the speak-up system. Works that address these issues and others are:
- ACCA (2016) "Effective Whistleblowing Arrangements". Available at: <http://www.accaglobal.com/uk/en/technical-activities/technical-resources-search/2016/may/effective-speak-up-arrangements-for-whistle-blowers.html>
- Kenny, K., Vandekerckhove, W. and Fotaki, M. (2019) *The Whistleblowing Guide: Speak-Up Arrangements, Challenges, and Best Practices*. London: Wiley.

**B1Q2 Do you agree that the information that must be covered by a whistleblower policy, as set out in s1317A(5), has been adequately addressed in our proposed guidance? If not, please provide details.**

- Yes we agree that the legal requirements are well covered.

**B1Q3 Do you agree that the matters we have included in our proposed guidance will be useful in helping entities to establish, implement and maintain a robust and clear whistleblower policy? If not, please provide details.**

- We believe that referencing the academic literature on how to implement effective whistleblowing policies will be useful to ensure that policies are robust and effective. Please see sources listed above.

**B1Q4 Do you agree with our proposed guidance that an entity's whistleblower policy should focus on disclosures of information that qualify for protection, rather than reports about all issues and concerns, in relation to the entity? If not, please provide details.**

Best practice allows for all reports to be received in a safe manner. Academic research has found that best practice in speak-up systems requires recipients to be open to receiving a variety of kinds of disclosures, rather than dismissing these because they do not qualify for protection. This may be counter-intuitive but is a key aspect of success because it signals receptivity and openness, not only to the discloser of information but also to his or her colleagues, and the organization more generally. Trust-building is an essential aspect of effective speak up systems, but it is difficult to achieve and

takes time. Organizations need to find smaller, less obvious ways to build trust and how they receive and deal with all kinds of disclosures represents an ideal opportunity to do this. Staff see that the organization is open, receptive and responsive for smaller disclosures and are thus more likely to come forward with more meaningful and serious information. Research into best practice in national healthcare services, engineering and banking, found this to be the case ([ACCA report- Recommendation #2](#), p. 26, *The Whistleblower Guide*, Chapter 4, p. 108-117).

A second key point is that disclosures that do not immediately seem to be serious can point indirectly to more serious wrongdoing that warrants investigation. “Best practice is to give importance to, rather than dismissing, those concerns that may not appear to be speak-up or whistle-blowing cases. These concerns may indicate potential signals of previously unidentified underlying risks of an operational, people management, or compliance nature” (ACCA, 2016: 26). In other words, some issues that are brought up may not necessarily be protected under the legislation, but allowing all issues to be brought forward facilitates more areas of concern being detected. Therefore, speak-up arrangements work best when they allow workers to speak up about a wide range of issues.

**B1Q5 Do you agree with our proposed guidance that an entity’s whistleblower policy should cover ‘eligible whistleblowers’ outside the entity? If not, please provide details.**

- We agree with this guidance.

**B1Q6 Is the proposed good practice guidance useful and appropriate? If not, please provide details.**

- We believe the good guidance is useful and appropriate. We believe it could be strengthened by referencing academic work in the area of implementing speak-up arrangements (see answer to B1Q1).

**B1Q7 Do you agree with our proposed good practice guidance that entities’ whistleblower policies could include a statement discouraging deliberate false reporting? If not, please provide reasons.**

- We agree with this guidance.

**B1Q8 Do you agree with our proposed good practice guidance that smaller entities (particularly those with a limited number of employees) should consider authorising an independent whistleblower service provider to receive disclosures and consider engaging third-party service providers to help investigate disclosures? If not, please provide details.**

- We agree with this guidance, but add three key points:
  - 1. Best practice shows that having a variety of whistleblowing channels in place works best (ACCA, 2016, p. 10; Kenny et al, 2019, p. 84-88), so independent service providers would ideally be required to offer these, or organizations may want to implement additional internal procedures.
  - 2. The use of an independent and external party to work with the organization on receiving disclosures is shown to be an effective means of encouraging speak-up, as employees require an independent channel if they are disclosing serious information that has not been heeded within the organization (ACCA, 2016, p. 14-15; Kenny, et al., 2019, p. 88-92) .
  - 3. It is helpful to advise these entities about research-based guidance on how to implement effective speak up arrangements. This will give them an idea of how much work and how many resources are required to have an effective speak up

system (Kenny, et al, 2019, see also [ACCA \(2016\) “Effective Speak Up Arrangements for Whistle-blowers: Recommendations for managers](#)) With this information at hand, they will be more able to judge whether they have the capacity to implement all or part of the speak-up system in-house.

**B1Q9 Do you have any suggestions on how the guidance in Section B of draft RG 000 can be improved? Please provide details.**

- See answers to questions B1Q1, B1Q3, B1Q4, B1Q6, and B1Q8

**B1Q10 Are there any practical problems associated with our guidance? Please provide details.**

- None that we can identify beyond the suggestions provided above.

**B2 We propose to provide additional good practice guidance on the matters that an entity should consider when establishing, implementing and maintaining its whistleblower policy: see Section C of draft RG 000.**

**Your feedback**

**B2Q1 Do you agree with our proposed additional good practice guidance in Section C of draft RG 000? If not, please provide details.**

- We agree that guidance on fostering a whistleblowing culture, ensuring the privacy and security of personal information, drafting the policy, and other whistleblowing principles and standards is useful, but that it could be strengthened by pointing to academic research that explores and articulates: how to build trust in speak-up systems, what the challenges with anonymous disclosures are and how these can be overcome, why multiple channels are required when implementing a speak up system, the need for speak up systems to evolve over time and providing best practice from a wide range of institutions and sectors - that organizations may want to consider when creating their policy. (See answer to B1Q1). This research points to some of the challenges in this area (for example, providing reporting channels that suit the communication preferences of employees, and the difficulties responding to anonymous disclosures, which in turn can impact trust in the system) and will help organizations think through these challenges before they implement a system that has crippling weaknesses. While we don't think an endorsement of the research is required, it is useful to point organizations to sources of information that are available.

**B2Q2 Do you have any suggestions on how the additional good practice guidance can be improved? Please provide details.**

- See Above

**B2Q3 Are there any practical problems associated with our additional good practice guidance? Please provide details.**

- See above