

Ash St. Summary

*ASICs Good Practice Guide - Implementing And
Maintaining A Whistleblower Policy*

Author

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Further to our [recent communications](#) and effective 13 November 2019, the final [Whistleblower guidance has now been released by ASIC](#).

The final *Regulatory Guide 270 – Whistleblower policies* has been reformatted and is considerably clearer, moves a number of recommended policy content requirements from **should** to **must** and provides more prescriptive information on minimum content requirements that need be included in your whistleblower policy. There is some relief for small not-for-profits and the guidance is less prescriptive in relation to key whistleblower roles and responsibilities.

A good practice guide has been included in a new Section C, removing previous good practice guidance from the body of the document and making it easier to distinguish between minimum requirements and good practice. While the good practice guidance is not mandatory, we recommend entities consider developing and implementing their whistleblower policies in line with the good practice guidance set out in ASIC’s Guide, wherever possible and practicable.

Some of the key changes in the revised guide are summarised below:

August 2019 Version	November 2019 Version (Final)
No equivalent	New – RG270.4 – the protections under Pt 9.4AAA are available to any disclosure, regardless of whether the entity that is the subject of the disclosure must have a policy.
No equivalent	New – Summary of guidance – Table 1
No equivalent	New – RG 270.20-270.22 - relief for small not-for-profits
No equivalent	New – RG 270.23 - ASIC will conduct surveillance activities
Draft Regulatory Guide 000.24 - 000.26	Revised –270.29 – 270.33 – more detailed guidance on the format, structure and approach to designing a whistleblower policy.

Whistleblower Policy Checklist

We have developed a Whistleblower Policy checklist that aims to assist organisations with deciphering whether they have all the key elements that must be incorporated into a compliant Whistleblower Policy by **1 January 2020**.

This is **complementary**. To obtain a copy please send your request through to Catherine Tomic on ctomic@ashstreet.com.au

Implementation

Overall, implementation of the recommendations under the proposed ASIC guidance will require careful planning in the format and structure of an organisation's whistleblower policy and supporting procedures and processes, to ensure that the overall effectiveness of the policy is maintained. In particular the proposed guidance recommends it is good practice to ensure the policy is easy to understand by:

- using plain English and avoiding legal or industry jargon;
- adopting a simple structure; and
- including diagrams and/or flowcharts where possible.

Key Timeframes

New or revised whistleblower policies which are compliant with the new legislative obligations must be in place by 1 January 2020.

Failure to comply with the requirement to have and make available a whistleblower policy is a strict liability offence with a penalty of 60 penalty units (currently \$12,600).

Ash St. Can Help You

The graphic features the Ash St. logo in the top left corner. A woman is shown in profile, looking thoughtful. A red circular badge in the top right corner reads 'Action Required' and states: 'New or existing organisations, previously impacted by the regime, will need to have a compliant whistleblower policy and framework in place before 1 January 2020'. The main text reads 'The New Whistleblower Regime'. At the bottom, it says: 'Australia's whistleblowing protections have changed. Effective 1 July, whistleblowers will have greater protection against harassment and victimisation, with more organisations now being captured under the regime.'

The Ash St. Governance, Compliance and Regulation Team have developed three **Whistleblower Essentials Packages** - comprehensive but practical tools to assist with implementing a new whistleblower policy and framework or enhancing existing frameworks within your organisation. View our solutions [here](#).

Training solutions are also available for:

- employees (refer to our Strategic Partners - [GRC Solutions](#)); and
- management, key persons involved in managing and implementing the whistleblower policy.

More Information?

Reach out to [Catherine Tomic](#) to find out more about our solutions.

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Samantha is a governance, compliance and regulation expert with 10 years' experience in the Governance and Compliance division of a top-tier law firm and three years as the Head of Compliance for a mid-tier bank.

Samantha has significant experience advising public and private sector clients on the implementation, upgrading and review of their governance and compliance systems and is an accredited Governance, Risk and Compliance professional and Fellow GRC Institute. Samantha also has extensive experience advising public and private organisations at an executive and board level and has held board positions. She is currently the Deputy Chair on the BABI Youth and Family Service Board and a fellow of the Governance Institute of Australia.