



# Speaking-Up / Whistleblowing Policy

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NYRSTAR GROUP POLICY



Contents

1. Purpose & Scope..... 3

2. What is Speaking-Up? ..... 4

2.1. What is excluded? ..... 4

3. Reporting a Concern ..... 4

3.1. When do you Speak Up?..... 5

3.2. How to Speak Up?..... 5

3.3. Protecting a whistle-blower’s identity ..... 5

3.4. What happens after you Speak Up? ..... 6

3.5. Non-Retaliation..... 6

4. Data protection, Confidentiality and Data Retention..... 6

5. Annexes ..... 7

## 1. Purpose & Scope

At Nyrstar we believe that upholding our corporate values is extremely important. **Integrity** and **respect** are two of the five core values that underpin how we work, and how we treat each other at Nyrstar. These values imply that we listen and treat each other fairly. We recognize that from time to time there may be things that go wrong, or where there is room for improvement.

Nyrstar is committed to encourage the prompt and transparent escalation of issues and concerns from a wide range of internal and external stakeholders. To facilitate this objective Nyrstar established a Speak-Up hotline.

This policy (also known as a Whistleblowing Policy) aims to clarify when, and how, Nyrstar employees or stakeholders can report a particular issue that concerns them. It also describes how Nyrstar deals with a particular report or concern, in order to make sure the reporter feels safe and the issue is dealt with in a fair, consistent and timely matter.

This policy is leading, but where local laws or regulations are stricter than the policy, they prevail. Part 9.4AAA of Australia's *Corporations Act 2001* contains particular requirements for whistleblower policies of certain Australian companies, including that apply to each of Nyrstar's Australian companies: Nyrstar Australia Pty Ltd; Nyrstar Hobart Pty Ltd; and Nyrstar Port Pirie Pty Ltd. Annexure 1 of this policy contains particular requirements applying to Nyrstar's Australian companies, and these should be read in conjunction with the balance of the policy.

## 2. What is Speaking-Up?

This Speaking-Up/ Whistleblowing Policy can be used to raise concerns about any (possible) violation, even suspected, of laws and regulations, our **Code of Business Conduct**, and/or Nyrstar policies and procedures.

What should you Speak Up about? (please note this is a non-exclusive list of examples)

- Fraud;
- Money laundering;
- Terrorism-financing violations;
- Insider trading;
- Competition law violations;
- Gifts and entertainment procedure violations;
- Bribery or corruption;
- Criminal offences;
- Privacy violations;
- Sanctions and export control law violations;
- Conflicts of interest;
- Discrimination, aggression and (sexual) harassment;
- Environmental, health and safety issues;
- Human rights violations;
- Improper use of company resources;
- Retaliation against anyone for speaking up in good faith.

### 2.1. What is excluded?

- This policy should in principle not be used to report:
- Immediate threats to life or property: If you need emergency assistance, contact your local authorities, or call your country's emergency phone number;
- Practical customer complaints;
- Concerns or grievances in relation to HR matters;
- Interpersonal non-work-related grievances or personal (legal) disputes;
- With the intent to obtain answers to questions or to provide comments on Nyrstar policies or procedures: Contact the relevant internal owner for policy- or procedure-related questions.

## 3. Reporting a Concern

### 3.1. When do you Speak Up?

You should speak up as soon as possible, ideally when the potential violation can still be prevented or before the situation escalates. Anyone who speaks up is encouraged to first report internally via the Speak-Up channels available within Nyrstar as explained in section 3.2 in this policy.

### 3.2. How to Speak Up?

If you see, experience or suspect illegal, or unethical, behaviour, there are various escalation channels available:

(i) Talk to your manager/supervisor

First and foremost, in case of concerns on the work floor, you are encouraged to address them directly with the individual(s) involved. If this would not be appropriate, or if you feel that this might lead to escalated tension, it is crucial that the issue is being discussed with the employee's supervisor or line manager. You might also decide to discuss the matter with your local HR representative who can mediate on your behalf.

(ii) Contact Nyrstar's compliance officer

In case an employee suspects misconduct, and genuinely believes that the matter cannot be dealt with through the available channels mentioned above (for instance if the manager or HR representative is subject in the matter), the issue can be reported to Nyrstar's compliance department at [compliance.officer@nyrstar.com](mailto:compliance.officer@nyrstar.com).

(iii) Use the Speak-Up Helpline

If the matter cannot be reported to a manager, or to Nyrstar's compliance department, or if the matter has not been satisfactorily dealt with by them, you can report your concern through the dedicated external helpline. This mechanism allows you to raise concerns confidentially and anonymously.

Reporting can be done in the local language of the employee, in total confidence and anonymous, if preferred. Toll free phone numbers per country can be found at the end of this policy and on Nyrstar's Intranet. Nyrstar's compliance officer is responsible for investigating the matter and has access to the Speak-Up report database.

### 3.3. Protecting a whistle-blower's identity

We recognize that individuals who have a concern, and wish to report it, will do so under assurance of confidentiality. We will handle all reports confidentially and we equally expect persons reporting a breach to keep this confidential too.

We do however acknowledge that in some situations the investigation process may reach a point where the person who reported the concern needs to make a statement or provide further evidence. The Speak-Up Helpline allows for two-way anonymous communication even if a whistle-blower chooses to report a protected concern without disclosing his or her identity.

### 3.4. What happens after you Speak Up?

Once a matter has been reported, Nyrstar's compliance department will be responsible for following up, researching the validity of the matter and for the closure of the issue. In case the matter has been reported through the Speak-Up helpline, the reporting individual will receive a receipt confirmation immediately. In case the report has been filed with the compliance department, this will happen within 7 working days after the report has been filed.

Duration of the investigation and closure of the issue will depend on the complexity of the matter, but the Compliance department commits that it will be urgently dealing with all matters. Compliance will report back to the whistle-blower about the outcome of the investigation within three months, regardless of their content, as long as they fall within the scope of this policy, see chapter 2.

It is important to strike a balance between the legitimate interest of the reporting person to receive information about the status of the investigation and the need to keep the investigation process and outcome confidential to protect the course of the investigation, the rights of the accused person or the confidential nature of any follow-up measure. Nyrstar endeavours to keep anyone who raises concerns under this policy abreast of how their concerns are being addressed. For legal or practical reasons this is not always feasible: for example, the fact that disciplinary action has been taken against an individual can generally not be shared because of privacy issues and an investigation by a regulator or law enforcement agency will usually be confidential in itself.

### 3.5. Non-Retaliation

Employees need to feel confident that they will not suffer for raising concerns in good faith about suspected misconduct. Nyrstar does therefore not tolerate retaliation, or employees seeking revenge against another employee who has reported an issue, concern or complaint. Anyone who engages in retaliatory conduct will be subject to disciplinary action, including immediate termination of employment.

## 4. Data protection, Confidentiality and Data Retention

Nyrstar is committed to protecting the privacy of everyone involved. It will do everything reasonable to protect personal data from unauthorized access and processing. The individuals handling speak up reports are strictly bound by rules of confidentiality. All reported issues will be treated confidentially regardless of position or seniority.

Nyrstar will ensure that all personal data is handled in accordance with its **Privacy Policy**, as well as that anyone who is involved in the investigation is aware of the data protection requirements. Personal data relating to reports that are "admissible and valid" will be kept in line with our **Retention Policy**.

## 5. Annexes

- **Annexure 1 – particular requirements relating to Nyrstar’s Australian companies**

### 1. Application of these requirements

The requirements in this Annexure 1 apply to:

1. Nyrstar Australia Pty Ltd (ACN 124 535 468);
2. Nyrstar Hobart Pty Ltd (ACN 124 818 113); and
3. Nyrstar Port Pirie Pty Ltd (ACN 008 046 428).

Collectively these companies are referred to in this Annexure 1 as Nyrstar Australia.

### 2. Who this Speaking-Up Policy protects

This policy protects all eligible whistleblowers of Nyrstar Australia. Under section 1317AAA of the *Corporations Act 2001* (Cth) (“Corporations Act”) this includes:

- (a) officers and employees of Nyrstar Australia;
- (b) individuals who supply services or goods to Nyrstar Australia (whether paid or unpaid);
- (c) employees of persons that supply services or goods to Nyrstar Australia (whether paid or unpaid);
- (d) individuals who are associates of Nyrstar Australia; (where “associate” has the meaning given by sections 10 – 17 of the Corporations Act); and
- (e) relatives or dependents of individuals referred to in any of paragraphs (a) to (d), or of such an individual’s spouse.

Persons above who deal with the Hobart or Port Pirie sites, as well as with corporate representatives of Nyrstar Australia in Australia, will be protected under this policy.

### 3. Disclosable matters under this policy

A matter is disclosable under this policy where a discloser has reasonable grounds to suspect misconduct within Nyrstar Australia. This may include conduct that is not necessarily in contravention of any particular law but which is in conflict with ethical and honest operating practices or which poses a risk to safety. A matter is likely to be disclosable if it involves dishonest behaviour, fraudulent activity, or unlawful, unethical or otherwise improper use of company funds or assets.

A disclosable matter may also concern the contravention of any of the provisions as described in section 1317AA(5)(c) of the Corporations Act, including conduct that:

- (a) contravenes:
  - the Corporations Act;
  - the *ASIC Act 2001*;



- the *Banking Act 1959*;
- the *Financial Sector (Collection of Data) Act 2001*;
- the *Insurance Act 1973*;
- the *Life Insurance Act 1995*;
- the *National Consumer Credit Protection Act 2009*;
- the *Superannuation Industry (Supervision) Act 1993*;
- an instrument made under an Act referred to in any of subparagraphs (i) to (viii);

(b) constitutes an offence against any other law of the Commonwealth of Australia that is punishable by imprisonment for a period of 12 months or more; or

(c) represents a danger to the public or the financial system.

To reach the standard of having reasonable grounds to suspect misconduct it would generally (but not necessarily always) be expected that a discloser would have some evidence, or have knowledge of where evidence could be obtained. Speculation or rumour may not be sufficient grounds to make a disclosure.

A person who makes an eligible disclosure in accordance with this policy will not be subject to any civil, criminal or disciplinary action, including in relation to any subsequent investigation by Nyrstar.

#### 4. Matters that are not disclosable under this policy

Not all matters of perceived misconduct are disclosable in a manner that will attract whistleblower protection under the Corporations Act (although they may attract protection under other legislation, such as the Fair Work Act 2009 (Cth)).

Under section 1317AADA of the Corporations Act, a matter will not be disclosable if it concerns a personal work-related grievance of the discloser and does not otherwise concern a contravention, or an alleged contravention, of section 1317AC of the Corporations Act that involves detriment caused to the discloser or a threat made to the discloser (effectively victimisation of a discloser on account of that person making, or possibly making, a disclosure protected under the Corporations Act).

**Examples** of grievances that may be personal work-related grievances (subject to the victimisation prohibition referred to above) include:

- (a) an interpersonal conflict between the discloser and another employee;
- (b) a decision that does not involve a breach of workplace laws;
- (c) a decision relating to the engagement, transfer or promotion of the discloser;
- (d) a decision relating to the terms and conditions of engagement of the discloser; and
- (e) a decision to suspend or terminate the engagement of the discloser, or otherwise to discipline the discloser.

Personal work-related grievances should be raised directly with a line manager or applicable HR manager at the Hobart or Port Pirie site. Persons with such grievances should also consider obtaining independent legal advice about their rights and protections under employment and contract law, as well as advice as to how to resolve their grievance.



It is possible that a disclosure about, or including, a personal work-related grievance may still qualify for protection (for example, where it includes information about misconduct, or information about misconduct includes or is accompanied by a personal work-related grievance (mixed report)).

## 5. To whom a disclosure may be made

Issues of concern should be raised in accordance with section 3 of this policy.

However, if for any reason a concern cannot be raised in that manner, the concern may also be raised with an “eligible recipient” of Nyrstar Australia. Nyrstar’s eligible recipients are its officers, directors, site General Managers and Nyrstar Australia’s auditor. A whistleblower may also make a disclosure to the Australian Securities & Investments Commission (“ASIC”) or the Australian Prudential Regulation Authority (“APRA”) or another Commonwealth body prescribed by regulation.

An eligible disclosure may also be made to a legal practitioner for the purpose of obtaining legal advice or representation connected with the disclosure.

A whistleblower qualifies for protection from the time that they make the disclosure to an eligible recipient. This is the case whether or not the discloser or eligible recipient recognises that the disclosure qualifies for protection.

An eligible disclosure can be made outside of usual business hours, particularly if urgent. Eligible disclosers are encouraged to first make contact by telephone.

### Public Interest Disclosure

A public interest disclosure is a disclosure to a journalist or parliamentarian. To qualify as a public interest disclosure:

- (a) at least 90 days must have passed since the disclosure was made to ASIC, APRA or another Commonwealth body;
- (b) there are reasonable grounds to believe that action is not being taken by the government body; and
- (c) the discloser writes to the government body, informing it of the previous disclosure and its intention to make a public interest disclosure.

### Emergency disclosure

An emergency disclosure is a disclosure to a journalist or parliamentarian. To qualify as an emergency disclosure:

- (a) the disclosure must have been previously made to ASIC, APRA or another Commonwealth body;
- (b) the discloser believes that the information concerns a substantial and imminent danger to a person or the natural environment;
- (c) the discloser writes to the body to which it made the disclosure, informing it of its previous disclosure and its intention to make an emergency disclosure;
- (d) the information disclosed is no greater than is necessary to inform of the substantial and imminent danger.

Persons who are considering making a public interest or emergency disclosure are encouraged to seek independent legal advice before doing so.

Eligible whistleblowers other than officers and employees should raise issues of concern with an eligible recipient.

Eligible disclosures can be made anonymously. A discloser may choose to adopt a pseudonym for the purposes of their disclosure, and not use their true name. Furthermore a discloser can refuse to answer questions that they feel could reveal their identity during follow-up conversations. In addition, an eligible discloser may identify themselves at the time of disclosure and request that their identity be further disclosed during the course of the investigation. If a discloser chooses to remain anonymous, they should maintain ongoing two-way communication with Nyrstar Australia so that follow-up questions can be asked and feedback can be provided.

It is generally preferable if the initial disclosure is made verbally (by phone or in a face-to-face meeting) such that fulsome information can be obtained. If this is not possible a disclosure may be made in writing (e-mail or handwritten/typed document delivered to a line manager or eligible recipient).

## **6. Protections for eligible whistleblowers**

Disclosers who qualify for protection as a whistleblower will be entitled to the following protections:

- (a) identity protection (confidentiality);
- (b) protection from detrimental acts or omissions;
- (c) compensation and other remedies; and
- (d) civil, criminal and administrative liability protection.

### **Identity protection**

Subject to certain exceptions permitted by law, it is illegal for a person to disclose the identity of a discloser or information that is likely to lead to the identification of the discloser. If a discloser has a concern that there has been unlawful disclosure, they may lodge a complaint with an eligible recipient of Nyrstar Australia, or with a regulator, such as ASIC, APRA or the ATO, for investigation.

### **Protection from detrimental acts or omissions**

A person cannot engage in conduct that causes detriment to a discloser (or another person), in relation to a disclosure (or threaten such conduct), if:

- (a) the person believes or suspects that the discloser (or another person) made, may have made, proposes to make or could make a disclosure that qualifies for protection; and
- (b) the belief or suspicion is the reason, or part of the reason, for the conduct.

Examples of detrimental conduct include:

- (a) dismissal of an employee;
- (b) injury of an employee in his or her employment;

- (c) alteration of an employee's position or duties to his or her disadvantage;
- (d) discrimination between an employee and other employees;
- (e) harassment or intimidation of a person;
- (f) harm or injury to a person, including psychological harm;
- (g) damage to a person's property; and
- (h) damage to a person's reputation.

Detrimental conduct will not include, for example:

- (a) administrative action that is reasonable for the purpose of protecting a discloser from detriment (e.g. moving a discloser who has made a disclosure about their immediate work area to another office to prevent them from detriment); and
- (b) managing a discloser's unsatisfactory work performance, if the action is in line with Nyrstar's performance management framework.

### **Compensation and other remedies**

A discloser can seek compensation and other remedies through the courts if they suffer loss, damage or injury because of a disclosure, and Nyrstar Australia failed to take reasonable precautions and exercise due diligence to prevent detrimental conduct.

### **Civil, criminal and administrative liability protection**

A discloser is protected from any of the following in relation to their disclosure:

- (a) civil liability (e.g. any legal action against the discloser for breach of an employment contract, duty of confidentiality or another contractual obligation);
- (b) 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
- (c) administrative liability (e.g. disciplinary action for making the disclosure).

However, the protections do not grant immunity from any misconduct a discloser has engaged in that is revealed in their disclosure.

## **7. Fair treatment of individuals mentioned in disclosures**

Nyrstar Australia will not pre-judge persons against whom allegations are made. Those persons will be notified of allegations and given the opportunity to formally respond. A support person may attend formal interviews with such persons. Where the discloser has requested anonymity Nyrstar Australia will be unable to disclose the identity of the discloser, and this will be taken into account if it reasonably hampers the ability of a person to defend himself or herself against allegations.

As far as reasonably practicable Nyrstar Australia will maintain confidentiality in relation to allegations, but it will naturally be necessary for these to be disclosed to those conducting or otherwise involved in the investigation.

Persons against whom allegations have been made will be notified of the outcome of the investigation.

## 8. Availability of policy

This policy is available on the webpage [www.nyrstar.com](http://www.nyrstar.com) for all employees and other persons who may make an eligible disclosure.

## 9. Other information

Disclosers should be aware that there are additional protections provided in the Tax whistleblower regime under the Taxation Administration Act 1953.