



AUSTRALIAN VINTAGE LTD

## Whistleblower Policy

### 1. Introduction

Australian Vintage Limited (**AVL**) is committed to its values – working collaboratively with integrity, innovative and courageous, nimble and responsive and empowered and accountable.

AVL:

- (a) considers that implementing an effective Whistleblower Policy will assist it to maintain lawful and ethical conduct in its workplace and business activities and enhance integrity;
- (b) is committed to protecting Eligible Whistleblowers who report concerns about Misconduct in AVL's workplace or business activities in accordance with this Policy to ensure they are empowered to speak up; and
- (c) will make this Policy available to Workers by providing a copy on AVL's intranet and website.

### 2. Terms used in this Policy

- 2.1 **APRA** means the Australian Prudential Regulation Authority;
- 2.2 **ASIC** means the Australian Securities and Investments Commission;
- 2.3 **Detrimental Conduct** includes:
  - (a) dismissal of an employee;
  - (b) injury of an employee in their employment;
  - (c) alteration of an employee's position or duties to their disadvantage;
  - (d) discrimination between an employee and other employees of the same employer;
  - (e) harassment or intimidation of a person;
  - (f) harm or injury to a person, including psychological harm;
  - (g) damage to a person's property;
  - (h) damage to a person's reputation;
  - (i) damage to a person's business or financial position; or
  - (j) any other damage to a person; but



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excludes:

- (k) an administrative action that is reasonable for the purpose of protecting an Eligible Whistleblower; and
- (l) managing an Eligible Whistleblower's unsatisfactory work performance.

2.4 **Eligible Recipient** means any one of the following:

- (a) an officer or senior manager of AVL or a related body corporate;
- (b) an auditor, or member of an audit team conducting an audit, of AVL or a related body corporate;
- (c) an actuary of AVL or a related body corporate;
- (d) the individuals employed by AVL in the positions of Head of Legal and Head of People and Performance, or equivalent, from time to time;
- (e) a legal practitioner for the purpose of obtaining legal advice; or
- (f) any other individual prescribed by the law.

2.5 **Eligible Whistleblower** means a person who is currently, or was previously:

- (a) an officer of AVL (within the meaning of the *Corporations Act 2001* (Cth));
- (b) an employee of AVL;
- (c) an individual who supplies services or goods to AVL (whether paid or unpaid) or that individual's employee;
- (d) an individual who is an associate of AVL;
- (e) a relative or a dependant of any individual referred to in paragraphs 2.5(a) to 2.5(d) above; or
- (f) any other individual prescribed by law.

2.6 **Emergency Disclosure** means an emergency report of Misconduct to a member of the Parliament of the Commonwealth or a State or the legislature of a Territory, or a Journalist in accordance with clause 6.4 of this Policy.

2.7 **Journalist** means a person who is working in a professional capacity as a journalist for a newspaper, magazine, radio or television broadcasting service or certain other electronic services similar to newspaper, magazine or radio that operate on a commercial basis or by a body providing a national broadcasting service.

2.8 **Misconduct** means information which an Eligible Whistleblower has reasonable grounds to suspect concerns misconduct or an improper state of affairs or circumstances in relation to AVL or a related body corporate of AVL including if the Eligible



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Whistleblower suspects AVL or a related body corporate (or officers or employees of AVL or a related body corporate) have engaged in conduct which:

- (a) constitutes an offence against, or in contravention of, a provision of any of the following:
  - (i) the *Corporations Act 2001* (Cth);
  - (ii) the *Australian Securities and Investment Act 2001* (Cth);
  - (iii) the *Banking Act 1959* (Cth);
  - (iv) the *Financial Sector (Collection of Data) Act 2001* (Cth);
  - (v) the *Insurance Act 1973* (Cth);
  - (vi) the *Life Insurance Act 1995* (Cth);
  - (vii) the *National Consumer Credit Protection Act 2009* (Cth);
  - (viii) the *Superannuation Industry (Supervision) Act 1993* (Cth);
  - (ix) the *Taxation Administration Act 1953* (Cth); or
  - (x) an instrument made under any of the laws set out in paragraphs 2.8(a)(i) to 2.8(a)(ix) above;
- (b) constitutes an offence against any other law of the Commonwealth that is punishable by imprisonment for a period of 12 months or more;
- (c) constitutes tax-related misconduct and the information may assist an AVL team member or officer, or the Commissioner of Taxation, to perform their functions or duties under Commonwealth taxation law in relation to the tax affairs of AVL;
- (d) represents a danger to the public or the stability of, or confidence in, the financial system (even if it does not involve a breach of a particular law); or
- (e) is prescribed by the law.

2.9 **Personal Work-related Grievance** means a grievance:

- (a) about any matter in relation to the Eligible Whistleblower's employment or former employment having or tending to have personal implications for the Eligible Whistleblower;
- (b) that does not have significant implications for AVL except that it relates to the Eligible Whistleblower; and
- (c) that does not concern conduct or alleged conduct referred to in paragraphs 2.8(a) to 2.8(e).

Examples of a Personal Work-related Grievance may include:



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- (d) an interpersonal conflict between the Eligible Whistleblower and another employee; and
- (e) decisions relating to engagement, transfer or promotion of employment.

A Personal Work-related Grievance may still qualify for protection if it includes information about Misconduct or information about Misconduct is accompanied by a Personal Work-related Grievance.

- 2.10 **Public Interest Disclosure** means the disclosure of a report of Misconduct to a member of the Parliament of the Commonwealth, a State or a legislature of Territory, or a Journalist in accordance with clause 6.3 of this Policy.
- 2.11 **Victimisation** means engaging in, or threatening to engage in, Detrimental Conduct against a person because the perpetrator of the Detrimental Conduct believes or suspects the person or any other person made, may have made, proposes to make or could make a Whistleblower Disclosure and the belief or suspicion is the reason or part of the reason for the conduct.
- 2.12 **Victimise** has a corresponding meaning to Victimisation.
- 2.13 **Threats** or **threaten** for the purposes of Victimisation can be express, implied, conditional or unconditional and it is not necessary to prove that the person actually feared the threat would be carried out, but the perpetrator must have intended the other person to fear that the threat would be carried out or been reckless as to causing that fear.
- 2.14 **Whistleblower Disclosure** means a report by an Eligible Whistleblower to an Eligible Recipient about Misconduct in AVL's workplace or business activities.
- 2.15 **Whistleblower Investigation Officer** is an employee or officer of the AVL responsible for investigating a Whistleblower Disclosure in accordance with clause 7 of this Policy. The current Whistleblower Investigation Officer is the individual employed by AVL in the position of Head of Legal, or equivalent, from time to time.
- 2.16 **Worker** means any current:
  - (a) director or officer (within the meaning of the *Corporations Act 2001 (Cth)*);
  - (b) employee;
  - (c) contractor;
  - (d) supplier;
  - (e) employee of a contractor or a supplier; or
  - (f) associate (within the meaning of the *Corporations Act 2001 (Cth)*),  
of AVL.



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### 3. Scope and application

This policy applies:

- (a) to AVL, its Workers and Eligible Whistleblowers; and
- (b) to disclosures made on or after 1 July 2019, regardless of when the alleged conduct occurred.

### 4. Purpose

The purpose of this Policy is to:

- (a) encourage and promote the reporting of Misconduct within AVL;
- (b) encourage Eligible Whistleblowers to make Whistleblower Disclosures without fear of Victimisation; and
- (c) properly manage reports of Misconduct in a lawful manner.

### 5. Principles

5.1 AVL does not tolerate Misconduct in its workplace or business activities.

5.2 Workers:

- (a) must not engage in Misconduct in AVL's workplace or in conducting business activities on behalf of AVL;
- (b) must report any actual or suspected Misconduct in accordance with this Policy;
- (c) must cooperate with any investigation undertaken by AVL under this Policy or as otherwise required at law; and
- (d) must not Victimise an Eligible Whistleblower as a consequence of a Whistleblower Disclosure.

5.3 In addition to the obligations set out in clause 5.2 above, Workers, Eligible Recipients and Whistleblower Investigation Officers must comply with the confidentiality obligations set out in clause 8 of this Policy.

5.4 AVL will:

- (a) review and investigate (where appropriate) a Whistleblower Disclosure, of which it becomes aware, in accordance with this Policy;
- (b) to the extent such a report is required by law, report to ASIC, APRA or the Australian Federal Police a Whistleblower Disclosure and cooperate with such entities;
- (c) comply with the confidentiality obligations set out in clause 8 of this Policy;



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- (d) endeavour to communicate with an Eligible Whistleblower about the progress and outcome of a Whistleblower Disclosure;
- (e) take all reasonably necessary steps to ensure Misconduct, which is substantiated, ceases;
- (f) take appropriate steps to remedy any wrongdoing or adverse effects of any Misconduct which are substantiated;
- (g) in accordance with this Policy, investigate allegations of breach of confidentiality or Victimisation under clause 8 of this Policy;
- (h) not Victimise a person, and will take all reasonable steps to ensure its directors, officers, employees and associates refrain from engaging in such behaviour; and
- (i) take appropriate disciplinary action against a director, officer, employee or associate, up to and including termination of their engagement or employment, if they engage in substantiated Misconduct, if they Victimise a person or if they unreasonably fail to comply with this Policy.

### 6. Making a Whistleblower Disclosure

#### *Whistleblower Disclosure*

- 6.1 It is AVL's preference that any concerns held by Workers regarding suspected Misconduct be reported internally within AVL in the first instance. However, AVL recognises that it will not always be appropriate to make an internal report of suspected Misconduct.

An Eligible Whistleblower is entitled to seek additional information from AVL about the process for making a Whistleblower Disclosure, or seek independent legal advice about making a Whistleblower Disclosure.

Whistleblower Disclosures may be made anonymously and/or confidentially, and may also be made outside of business hours. If a Whistleblower Disclosure is made in an email from which the person's identity cannot be determined, it will be treated as an anonymous Whistleblower Disclosure.

- 6.2 To qualify for a protection under the *Corporations Act 2001* (Cth), an Eligible Whistleblower must make a report of Misconduct:
- (a) verbally or in writing to an Eligible Recipient; or
  - (b) verbally or in writing to ASIC, APRA or a prescribed Commonwealth authority such as the Australian Federal Police; or
  - (c) to a legal practitioner (for the purpose of obtaining legal advice or representation in relation to the operation of the whistleblower provisions in the *Corporations Act 2001* (Cth)).



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### *Public Interest Disclosure*

- 6.3 An Eligible Whistleblower may make a Public Interest Disclosure, other than a disclosure relating to the *Taxation Administration Act 1953* (Cth) or tax-related misconduct, if:
- (a) at least 90 days has passed since an Eligible Whistleblower made a report of Misconduct to ASIC, APRA or another body that is prescribed by law under clause 6.2(b) of this Policy; and
  - (b) the Eligible Whistleblower does not believe, on reasonable grounds, that action is being taken, or has been taken, to address the Misconduct; and
  - (c) the Eligible Whistleblower has reasonable grounds to believe that making a further disclosure of the information in accordance with this clause would be in the public interest; and
  - (d) after the end of the period referred to in clause 6.3(a), the Eligible Whistleblower gave to the body they had given their previous disclosure a written notification which included sufficient information to identify the previous report of Misconduct, and stated that the Eligible Whistleblower intended to make a Public Interest Disclosure; and
  - (e) the extent of the information disclosed is no greater than necessary to inform of the Misconduct; and
  - (f) the Eligible Whistleblower has sought independent legal advice before making the Public Interest Disclosure.

### *Emergency Disclosure*

- 6.4 An Eligible Whistleblower may make an Emergency Disclosure, other than a disclosure relating to the *Taxation Administration Act 1953* (Cth) or tax-related misconduct, if:
- (a) the Eligible Whistleblower made a report of Misconduct to ASIC, APRA or another body prescribed by law under clause 6.2(b) of this Policy; and
  - (b) the Eligible Whistleblower has reasonable grounds to believe that the information concerns a substantial and imminent danger to the health or safety of one or more persons or to the natural environment; and
  - (c) after the Eligible Whistleblower's report referred to in clause 6.4(a), the Eligible Whistleblower then gave written notification to the body who received the previous report referred to in clause 6.4(a) which written notification includes sufficient information to identify the previous report of Misconduct and states that the Eligible Whistleblower intends to make an Emergency Disclosure; and
  - (d) the extent of the information disclosed is no greater than necessary to inform of the substantial and imminent danger associated with the Misconduct; and



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(e) the Eligible Whistleblower has sought independent legal advice before making the Emergency Disclosure.

6.5 If a Whistleblower Disclosure relates to an individual who qualifies as an Eligible Recipient, the Eligible Whistleblower may notify another Eligible Recipient or report the alleged Misconduct to ASIC, APRA or the Australian Federal Police and cooperate with such entities (including in an investigation if necessary) so far as is lawfully required.

6.6 An Eligible Recipient who receives a Whistleblower Disclosure:

- (a) must promptly review the disclosure; and
- (b) must ensure the disclosure is investigated (where appropriate) by a Whistleblower Investigation Officer as set out in clause 7 of this Policy; or
- (c) must report the alleged Misconduct to ASIC, APRA or the Australian Federal Police and cooperate with such entities so far as is lawfully required; and
- (d) must not disclose information obtained directly or indirectly because of the Whistleblower Disclosure if it would identify the Eligible Whistleblower or any information that is likely to lead to the identification of the Eligible Whistleblower unless the disclosure is made:
  - (i) with the Eligible Whistleblower's consent;
  - (ii) in accordance with clause 6.6(c) of this Policy;
  - (iii) to a legal practitioner for the purposes of obtaining legal advice or representation in relation to a Whistleblower Disclosure; or
  - (iv) to a person prescribed by law; and
- (e) must not Victimise an Eligible Whistleblower as a consequence of a Whistleblower Disclosure.

## 7. Investigation

7.1 AVL and the Eligible Recipients must ensure that Whistleblower Disclosures are investigated (where appropriate) in accordance with this clause 7. All Whistleblower Disclosures will be treated seriously and sensitively, and assessed and considered by AVL in determining whether the report should be investigated. The investigation process will vary depending on the nature of the report.

Any investigations commenced will be conducted in a timely manner. All Workers must cooperate with any investigations.

7.2 An Eligible Recipient who receives a Whistleblower Disclosure must report the Whistleblower Disclosure to a Whistleblower Investigation Officer to investigate the Whistleblower Disclosure. The Whistleblower Investigation Officer must be a different person to the Eligible Recipient.

The Whistleblower Investigation Officer may undertake an investigation themselves or



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engage appropriately qualified and independent investigators to do so. It is at Whistleblower Investigation Officer's discretion to determine whether the report is investigated and whether that investigation is conducted internally or externally.

7.3 In the event that:

- (a) the Whistleblower Disclosure involves or relates to the Whistleblower Investigation Officer; or
- (b) the Eligible Recipient who received the Whistleblower Disclosure is the Whistleblower Investigation Officer,

the Whistleblower Disclosure must instead be investigated (where appropriate) by the person holding the position of Risk Manager within AVL, or a person determined by them to conduct such investigation, which may be internal or external to AVL.

7.4 A Whistleblower Investigation Officer or any other person investigating the Whistleblower Disclosure pursuant to this Policy:

- (a) must take all reasonable steps to reduce the risk that the Eligible Whistleblower will be identified as a result of the Whistleblower Disclosure;
- (b) must maintain a confidential record of the allegations and processes concerning an investigation into a Whistleblower Disclosure;
- (c) will report their findings to the Chief Executive Officer and the Chair of the Risk Committee, who must make a determination about whether the alleged Misconduct is substantiated and, if so, any appropriate response in accordance with this Policy, any other applicable AVL policies and any applicable legislation. The findings of the investigation should be documented;
- (d) may report a Whistleblower Disclosure to ASIC, APRA or the Australian Federal Police and must cooperate with such entities so far as is lawfully required;
- (e) so far as is lawful and appropriate, must endeavour to inform the Eligible Whistleblower about the progress and/or outcome of their investigation into the Whistleblower Disclosure in a timely manner. If this occurs, the Eligible Whistleblower must maintain confidentiality of such information and not disclose any information provided to them to any other person;
- (f) subject to clauses 7.4(c), 7.4(d) and 8 of this Policy, and so far as is lawful, must maintain confidentiality about the identity of an Eligible Whistleblower and any details of a Whistleblower Disclosure which they are aware of (or have a reasonable suspicion of);
- (g) must not engage in any conduct which constitutes Victimisation;
- (h) must conduct the investigation into the Misconduct in a timely manner, and will use reasonable endeavours to finalise this process within 2 months, noting that the timeframes for investigation will vary depending on the nature of a Whistleblower Disclosure and the timeframes for delivery of advice by external advisors (if any);
- (i) must ensure the investigation process is thorough, objective, fair and independent of anyone, or any business unit of AVL, who is subject of the Whistleblower Disclosure;



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and

- (j) must only initiate an investigation if there are reasonable grounds to suspect the Misconduct and apply the presumption of innocence of the accused throughout the investigation process.

7.5 The relevant Whistleblower Investigation Officer must ensure that the Board or a subcommittee of the Board is informed of any material incidents reported to him or her under this Policy.

### **8. Protections, compensation and confidentiality**

8.1 A Whistleblower Disclosure qualifies for protection under the *Corporations Act 2001* (Cth) or the *Taxation Administration Act 1953* (Cth) (where appropriate) and includes a Public Interest Disclosure and an Emergency Disclosure. If an Eligible Whistleblower makes a Whistleblower Disclosure:

- (a) they will not be subject to any civil, criminal or administrative liability (including disciplinary action) for making the disclosure; and
- (b) no contractual or other remedy may be enforced, and no contractual or other right may be exercised, against them on the basis of the disclosure; and
- (c) where a Whistleblower Disclosure is an Emergency Disclosure, Public Interest Disclosure, or a disclosure under clause 6.2(b) of this Policy, then subject to the *Corporations Act 2001* (Cth) and the *Taxation Administration Act 1953* (Cth) the information is not admissible in evidence against the Eligible Whistleblower in criminal proceedings or proceedings for the imposition of a penalty (unless the proceedings relate to the Whistleblower Disclosure in question being false); and
- (d) that reveals Misconduct on their part, this Policy does not grant them an immunity from an appropriate disciplinary action.

8.2 The *Corporations Act 2001* (Cth) protects people from Victimisation.

8.3 AVL and Workers must not Victimise an Eligible Whistleblower for making, proposing to make or being able to make a Whistleblower Disclosure.

8.4 AVL will take appropriate disciplinary action against an employee, up to and including termination of their engagement or employment, if they engage in substantiated Misconduct, if they Victimise a person or if they unreasonably fail to comply with this Policy, for example by making unauthorised disclosures of the identity of the Eligible Whistleblower, or the information from which their identity could be inferred.

8.5 Subject to clauses 8.6 and 8.7 below, if the Eligible Whistleblower's identity, or information that is likely to lead to identifying the Eligible Whistleblower, is obtained directly or indirectly by a person by virtue of the Whistleblower Disclosure, then that person may not disclose that information without the permission of the Eligible Whistleblower.

8.6 An Eligible Whistleblower is able to anonymously make a Whistleblower Disclosure. Notwithstanding clause 8.5 of this Policy, a person may lawfully disclose the identity of an Eligible Whistleblower, or information that is likely to lead to identification of an Eligible Whistleblower, without the permission of the Eligible Whistleblower to:



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- (a) ASIC, APRA or the Australian Federal Police;
  - (b) ASIC, APRA or the Australian Federal Police and the Commonwealth, State or Territory authorities for the purpose of assisting that authority in the performance of its functions or duties;
  - (c) such other body or authority that is prescribed by law; or
  - (d) a legal practitioner for the purpose of obtaining legal advice.
- 8.7 Information that is likely to lead to identification of an Eligible Whistleblower may be disclosed if it is reasonably necessary to investigate the report of Misconduct and the discloser takes all reasonable steps to reduce the risk of identifying the Eligible Whistleblower. It is possible that someone might deduce the Eligible Whistleblower's identity without there having been a breach of confidentiality as a consequence of the nature of the investigatory process.
- To ensure the anonymity of an Eligible Whistleblower, AVL may:
- (a) redact all personal information or references to the Eligible Whistleblower witnessing an event;
  - (b) refer to the Eligible Whistleblower in a gender-neutral manner;
  - (c) remind each person who is involved in handling and investigating a Whistleblower Disclosure about their obligations to maintain confidentiality; or
  - (d) limit access to all information relating to a Whistleblower Disclosure to those directly involved in managing and investigating the Whistleblower Disclosure.
- 8.8 It is illegal for a person to identify an Eligible Whistleblower in circumstances other than outlined above and unauthorised disclosures may constitute an offence and attract penalties. An Eligible Whistleblower may make a complaint to a Whistleblower Investigation Officer, or a regulatory body (such as ASIC or APRA), if they are concerned about a breach of confidentiality or if they believe that are being, or have been, Victimised.
- 8.9 A Worker who makes a whistleblower disclosure but does not have reasonable grounds to suspect the information the subject of the whistleblower disclosure concerned Misconduct against AVL or another Worker:
- (a) is not entitled to the protections available for Eligible Whistleblowers under the *Corporations Act 2001* (Cth) or other applicable State and Federal anti-discrimination legislation;
  - (b) is not afforded any protection under this Policy;
  - (c) may be subject to disciplinary action, including up to termination of their engagement or employment; and
  - (d) may be guilty of an offence.
- 8.10 The making of a Whistleblower Disclosure will not prevent AVL from commencing or continuing with any investigation into allegations of misconduct against the Eligible Whistleblower or any management of the Eligible Whistleblower's performance that do not relate to the Eligible Whistleblower making a Whistleblower Disclosure.



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8.11 AVL will take all reasonable steps to ensure that adequate and appropriate protection is being provided to those who make, propose to make, or could make, a Whistleblower Disclosure. The protection applies if the matter is proven or not and regardless of whether it is reported to an external authority. If an Eligible Whistleblower believes that they have suffered Victimisation as a result of raising a concern, they should inform the Whistleblower Investigation Officer and may also seek independent legal advice or contact regulatory bodies (such as ASIC or APRA).

The protections offered will vary depending on the nature of the Misconduct reported and the people involved. Protections may include:

- (a) monitoring and managing the behaviour of other employees;
- (b) offering a leave of absence or flexible workplace arrangements while a matter is investigated; and/or
- (c) access to and support from AVL's People and Culture department.

8.12 Any Worker that makes or is the subject of a Whistleblower Disclosure may also access counselling through AVL's Employee Assistance Program.

8.13 An Eligible Whistleblower may also seek compensation and other remedies through the courts if:

- (a) they suffer loss, damage, or injury because of making of a Whistleblower Disclosure; and
- (b) AVL failed to take reasonable precautions and exercise due diligence to prevent the Detrimental Conduct.

### **9. Review**

This Policy may be periodically reviewed to check that it is operating effectively and to consider whether any amendments are required.