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BY: LACA

M.R.

Dr Anna Dacre  
Committee Secretary  
House of Representatives Standing Committee on Legal and Constitutional  
Affairs  
PO Box 6021  
Parliament House  
CANBERRA ACT 2600

Dear Dr Dacre

Thank you for your letter to Dr Garrett of 17 November 2008 inviting CSIRO to make a submission to the Inquiry into whistleblower protections within the Australian Government public sector. I apologise for the delay in responding to your letter.

A submission from CSIRO addressing the Terms of Reference is attached.

CSIRO would be pleased to contribute to further discussions on any proposed model and whether scientific misconduct should be included as one of the areas for disclosure and how such matters should be managed.

Yours sincerely

Alastair Robertson  
Deputy Chief Executive, Science Strategy and Investment

## CSIRO Submission

### Inquiry into whistleblowing protections within the Australian Government public sector

#### Background

The Commonwealth Scientific and Industrial Research Organisation (CSIRO) is a statutory authority established under the Science and Industry Research (SIR) Act 1949. CSIRO staff members are employed under the SIR Act.

The primary functions of CSIRO (SIR Act s9) are:

- (a) to carry out scientific research for any of the following purposes:
  - (i) assisting Australian industry;
  - (ii) furthering the interests of the Australian community;
  - (iii) contributing to the achievement of Australian national objectives or the performance of the national and international responsibilities of the Commonwealth;
  - (iv) any other purpose determined by the Minister;
- (b) to encourage or facilitate the application or utilization of the results of such research;

One of the means through which CSIRO applies research is the provision of scientific advice to government.

CSIRO established an internal Whistleblower Scheme in 2004 (**Attachment 2**). The Scheme brought CSIRO into line with standard business and Australian Public Service (APS) practices.

The Whistleblower Scheme enables staff members to report a breach or alleged breach in relation to the CSIRO Code of Conduct including unethical behaviour, scientific fraud or criminal activity by a CSIRO staff member (**Attachment 3**). The range of matters is potentially very broad, for example, the Code refers to staff being expected to “Behave at all times in a manner that maintains or enhances the reputation of CSIRO”.

Under the Scheme, reports of possible misconduct may only be made by CSIRO staff members (anonymous reports are not accepted) and must be made in good faith. CSIRO also commits to take reasonable steps to protect the whistleblower and the reputation of all persons involved.

The Whistleblower Scheme is not designed to resolve personal grievances about employment decisions, which are the subject of other CSIRO policies and procedures.

The Scheme includes procedures for making a whistleblower report to the designated Disclosure Officers, namely the Chief Executive (or an appointee of the Chief Executive) and the Chair of the CSIRO Audit Committee (who is a member of the CSIRO Board).

In the first instance, reports should be made to the appointee of the Chief Executive unless the matter relates to the Chief Executive or appointee of the Chief Executive, or would be

inappropriate to report to the appointee of the Chief Executive. If a matter is referred to the Chair of the CSIRO Board Audit Committee, the Chair will report the outcome of an investigation to the CSIRO Board Audit Committee.

The Disclosure Officer has the responsibility for identifying and commissioning a suitable internal or external investigator, as appropriate. The choice of investigator will be dependant upon the nature and severity of the alleged incident. The Disclosure Officer must ensure that the investigation is properly conducted and documented, recognising the rights of all involved, and that the findings are able to withstand public scrutiny.

The Whistleblower Scheme is part of CSIRO's governance framework and assurance processes, which includes a range of related policies and procedures on conduct and ethics, as well as workplace harassment and bullying, staff appeals and grievances, and fraud.

As CSIRO staff members are not employed under the Public Service Act 1999 they cannot make whistleblower disclosures to the Public Service Commissioner. The CSIRO Whistleblower Scheme does not affect a staff member's right to complain to the Commonwealth Ombudsman about actions taken or decisions made by CSIRO.

## **Comments against Terms of Reference**

CSIRO would like to make the following observations on the matters raised in the Terms of Reference, including the possibility of including allegations of scientific misconduct which may be included as one of the types of disclosures that should be protected.

### **1. Categories of people protected**

1. *the categories of people who could make protected disclosures:*
  - a. *these could include:*
    - i. *persons who are currently or were formerly employees in the Australian Government general government sector, whether or not employed under the Public Service Act 1999,*
    - ii. *contractors and consultants who are currently or were formerly engaged by the Australian Government;*
    - iii. *persons who are currently or were formerly engaged under the Members of Parliament (Staff) Act 1984, whether as employees or consultants; and*
  - b. *the Committee may wish to address additional issues in relation to protection of disclosures by persons located outside Australia, whether in the course of their duties in the general government sector or otherwise;*

An overarching Commonwealth whistleblower scheme could have both merit and disadvantages for CSIRO, depending on how it was structured and administered.

On the positive side, participating in an expanded Commonwealth scheme could address issues associated with:

- Perceptions of a lack of independence and impartiality associated with 'internal' scheme, which might affect a staff member's confidence in making a disclosure. (To avoid this perception, the CSIRO Scheme allows disclosures to the Chair of the Board Audit Committee who is at arms length from management.)

- Maintenance of a scheme for a low number of disclosures annually where the disclosures may vary considerably in complexity.
- Without economies of scale, it is difficult to develop the expertise necessary to receive disclosures and commission and conduct investigations. Investigations are often contracted-out and expensive.

An expanded Commonwealth scheme would avoid duplication, ensure minimum standards, and support small agencies which are outside the APS.

There could be some disadvantages:

- Some matters may be more appropriately managed through an internal, institution-based scheme and perhaps in a timelier manner (eg: minor incident of misuse of funds, etc).
- It might be difficult for a Commonwealth-level scheme to assess the veracity of some disclosures, which might lead to unnecessary investigations.
- Some staff members may be reluctant to make disclosures about matters which they consider are not serious to an 'outside' body, which might lead to fewer disclosures overall.
- Agencies such as CSIRO also have extensive commercial and collaborative arrangements, so disclosures about such matters may be more appropriately managed internally to ensure intellectual property and commercial in confidence information is not inadvertently disclosed and third party obligations are respected.

The relationship between internal and external processes would need to be defined as well responsibility for initiating disciplinary procedures if misconduct is proven.

It would be expected that institutions would continue to maintain separate but complementary staff grievance and fraud procedures.

Overall, CSIRO considers it important however that whatever arrangements are in place that they do not diminish the high responsibility the Organisation accepts to manage reporting well, to act on disclosures, and to protect staff members involved, whether as part of a broad Commonwealth scheme or through its own internal process.

## **2. Types of disclosures protected**

2. *the types of disclosures that should be protected:*
  - a. *these could include allegations of the following activities in the public sector: illegal activity, corruption, official misconduct involving a significant public interest matter, maladministration, breach of public trust, scientific misconduct, wastage of public funds, dangers to public health and safety, and dangers to the environment; and*
  - b. *the Committee should consider:*
    - i. *whether protection should be afforded to persons who disclose confidential information for the dominant purpose of airing disagreements about particular government policies, causing embarrassment to the Government, or personal benefit; and*
    - ii. *whether grievances over internal staffing matters should generally be addressed through separate mechanisms;*

The CSIRO Whistleblower Scheme, being an internal scheme, does not limit the significance of the matter reportable. The CSIRO policy notes that “Whistleblowing refers to the reporting, **in the public interest**, of information which alleges a breach of the CSIRO Code of Conduct by a CSIRO staff member” (emphasis added). In CSIRO it is expected that breaches of the Code of Conduct would continue to be addressed appropriately by managers at a local level. But, if for some reason a staff member has a genuine concern that a breach is not being adequately addressed and feels they cannot discuss this with their manager, then staff members have the option of reporting the matter through the CSIRO Whistleblower Scheme.

The types of disclosures that might be protected referred to in the Terms of Reference would be consistent with CSIRO’s policy. CSIRO considers that allegations related to personal grievances about employment decisions should be outside the scope of the Commonwealth scheme and are better handled through institutional procedures.

### **Scientific misconduct**

The Australian Code for the Responsible Conduct of Research 2007 developed by the National Health and Medical Research Council, Australian Research Council and Universities Australia includes a section on managing scientific misconduct (Part B – Breaches of the Code, Research Misconduct, and the Framework for Resolving Allegations).

The Australian Code notes:

“Research misconduct includes fabrication, falsification, plagiarism or deception in proposing, carrying out or reporting the results of research, and failure to declare or manage a serious conflict of interest. It includes avoidable failure to follow research proposals as approved by a research ethics committee, particularly where this failure may result in unreasonable risk or harm to humans, animals or the environment. It also includes the wilful concealment or facilitation of research misconduct by others.

Repeated or continuing breaches of this Code may also constitute research misconduct, and do so where these have been the subject of previous counselling or specific direction.

Research misconduct does not include honest differences in judgment in management of the research project, and may not include honest errors that are minor or unintentional. However, breaches of this Code will require specific action by supervisors and responsible officers of the institution.

Box B.1 contains some examples of research misconduct.

#### **Box B.1 Examples of research misconduct**

There are many ways in which researchers may deviate from the standards and provisions of this Code, including but not limited to:

- fabrication of results
- falsification or misrepresentation of results
- plagiarism
- misleading ascription of authorship

- failure to declare and manage serious conflicts of interest
- falsification or misrepresentation to obtain funding
- conducting research without ethics approval as required by the National Statement on Ethical Conduct in Research Involving Humans and the Australian Code of Practice for the Care and Use of Animals for Scientific Purposes
- risking the safety of human participants, or the wellbeing of animals or the environment
- deviations from this Code that occur through gross or persistent negligence
- wilful concealment or facilitation of research misconduct by others.

The framework in this part of the Code is designed to investigate and make findings on the veracity of allegations about research misconduct. The **need for a framework specifically for the investigation of research misconduct arises because of the complex and technical issues commonly associated with research**; because third parties, such as collaborators, publishers, and potential beneficiaries of the research, will usually be from outside the institution; and because of the need to assure the public that researchers and their institutions regard research misconduct as a serious matter (emphasis added).

The research misconduct framework contained in this Code is designed to determine findings of fact and what, if any, research misconduct has occurred. This research misconduct framework does not address disciplinary issues.”

(Australian Code for the Responsible Conduct of Research, Section 10.1)

In the United States the **Code of Federal Regulations** “Research misconduct means fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting research results.

- (a) Fabrication is making up data or results and recording or reporting them.
- (b) Falsification is manipulating research materials, equipment, or processes, or changing or omitting data or results such that the research is not accurately represented in the research record.
- (c) Plagiarism is the appropriation of another person's ideas, processes, results, or words without giving appropriate credit.
- (d) Research misconduct does not include honest error or differences of opinion.”

### **Why include Scientific Misconduct?**

The focusing question could be: For what purpose would scientific misconduct be specifically included as one of the areas for disclosure under a Commonwealth Scheme? Is it intended to cover all incidents or only those where the scientific misconduct has direct or indirect implications for government policy and/or Australia’s economic, environmental and social wellbeing?

In which case, the Committee could consider distinguishing between misconduct with respect to the conduct of research and misconduct with respect to how the findings of that research have been interpreted, reported and applied.

Research findings may, for example, be referred to selectively to support a certain position or quoted out of context or without full acknowledgement of the researcher's qualifications.

The question may then be whether the scope should be broader to cover misconduct with respect to the provision of all information and analysis to government, not just information and analysis based on scientific research.

The issues to consider in deciding whether to cover scientific misconduct include:

***Importance of reliable scientific information and advice:*** The integrity of scientific information, and the analysis and advice based on that information, is of critical importance to the well being of the community and the development of sound public policy. Scientific advice is relied upon by government when making decisions as diverse environmental impacts, the safety of pharmaceuticals, and the efficacy of different technology options.

The process of scientific research and the findings of scientific research are often very complex and technical and beyond the understanding of most laymen. Policy makers are dependent on the robustness of the research conducted and integrity of the individuals and organisations concerned.

Scientific research is conducted across a broad range of fields and disciplines, including social sciences.

***Sensitivity of research:*** Research in some fields such as stem cell research can invoke ethical, religious, moral and political concerns.

***Continuity of research:*** The nature of scientific research and discovery is that it is continuing. Positions on a matter may be revised as new information emerges from further research. It is therefore important that research findings and analysis be qualified appropriately.

***Reputational and other risks to researchers of misconduct:*** Researchers and research institutions need to maintain the confidence of the community in the value of their research and the robustness of their research processes in order to retain their 'licence to operate' in their field of study. An allegation of misconduct could severely affect the reputation of a researcher or institution and capacity to attract future research funding.

***Role of Institutions:*** In the majority of cases it would be expected that allegation of scientific misconduct would be addressed appropriately at the institutional level. It is in the institution's reputational interest to have a very firm position on such matters. The onus is on institutions to mitigate the risk of scientific misconduct. A Commonwealth Whistleblower scheme could complement such strategies.

***Jurisdiction and coverage:*** The breadth of institutions and the extent of collaboration between institutions may merit an overarching Commonwealth approach.

A range of public sector organisations at the Commonwealth and State level are involved in science and related activities, and could potentially provide scientific information and advice to government, including:

- Universities

- Publicly funded research agencies (eg: CSIRO, the Australian Institute of Marine Science, and the Australian Nuclear Science and Technology Organisation)
- Other government funded research institutions.

The Commonwealth Government also supports research conducted by not for profit organisations and the private sector.

The approach should be aligned with the role of regulatory bodies (eg: Office of Gene Technology Regulator).

### **CSIRO policy on scientific misconduct**

CSIRO does not have a specific policy on scientific misconduct, as such, but has affirmative statements on the conduct of science in its Code of Conduct and Policy on Public Comment by CSIRO Staff. “Improper conduct as a scientist, such as deliberate falsification or misrepresentation of research results” is one of the examples of behaviour that may entail misconduct in the CSIRO Misconduct Policy. CSIRO observes academic traditions with respect to ensuring the integrity of scientific publications, including peer review. (Some business units in CSIRO also have more explicit statements and guidelines on scientific publication, eg: authorship.)

The CSIRO Whistleblower policy enables staff members to report a breach of the CSIRO Code of Conduct including scientific fraud. The policy does not define the term ‘scientific fraud’.

- b. *the Committee should consider:*
  - i. *whether protection should be afforded to persons who disclose confidential information for the dominant purpose of airing disagreements about particular government policies, causing embarrassment to the Government, or personal benefit; and*

It is possible that an allegation of scientific misconduct might be politically motivated because the individual wishes to discredit the policy position of the government or has some moral objection to the science. CSIRO however recognises that limiting protection may constrain the effectiveness of the scheme.

The motivations for making an allegation are rarely one dimensional. Electing to make an allegation under a whistleblower scheme can be an emotional and stressful decision for some people. Even though people might wish to air a disagreement with, or seek to embarrass, the government, there may be some truth in their allegations which is worthy of investigation.

Any overarching Commonwealth approach should be complemented by institutional arrangements. In CSIRO there is an emphasis on peer review and publication procedures, which minimise the risk of scientific misconduct. Institutions could also support more cultural initiatives that clarify roles and responsibilities of institutions and employees.

For example, the Minister for Innovation, Industry, Science and Research and the CSIRO Board signed a Charter in November 2008 to document and reaffirms the shared commitment to encourage debate on scientific and other research issues of public



interest, based on expert opinion arising from independent, peer reviewed research (see <http://csiro.au/org/Governance.html>).

The Charter provides guidance to CSIRO and its researchers when engaging in public debate, based on a set of principles agreed by the Minister and the CSIRO Board. The principles are subject to the provision of CSIRO's governing legislation, the Science and Industry Research Act 1949 and Commonwealth Authorities and Companies Act 1997, and to the policies of the Commonwealth Government and the policies of CSIRO including CSIRO's privacy, security and intellectual property (IP) policies and third party obligations.

The Charter reflects to a large extent the principles outlined in CSIRO's Policy on Public Comment by CSIRO Staff.

Similar Charters have been signed with the Australian Institute of Aboriginal and Torres Strait Islander Studies, the Australian Institute of Marine Science, and the Australian Nuclear Science and Technology Organisation.

- b. the Committee should consider:*
  - ii. whether grievances over internal staffing matters should generally be addressed through separate mechanisms;*

CSIRO considers that any Commonwealth scheme would need to complement institutional processes and would expect internal staffing matters to be an institutional issue. Individual internal staffing issues are not normally matters which require reporting in the public interest unless indicative of matters of a systemic nature.

### **3. Conditions that should apply to a person making a disclosure**

- 3. the conditions that should apply to a person making a disclosure, including:*
  - a. whether a threshold of seriousness should be required for allegations to be protected, and/or other qualifications (for example, an honest and reasonable belief that the allegation is of a kind referred to in paragraph 2(a)); and*
  - b. whether penalties and sanctions should apply to whistleblowers who:*
    - i. in the course of making a public interest disclosure, materially fail to comply with the procedures under which disclosures are to be made; or*
    - ii. knowingly or recklessly make false allegations;*

The difficulty with thresholds is that a minor incident may be indicative of a systemic problem.

### **4. Scope of statutory protection**

- 4. the scope of statutory protection that should be available, which could include:*
  - a. protection against victimisation, discrimination, discipline or an employment sanction, with civil or equitable remedies including compensation for any breaches of this protection;*
  - b. immunity from criminal liability and from liability for civil penalties; and*
  - c. immunity from civil law suits such as defamation and breach of confidence;*

CSIRO has no specific comments on this aspect other than recognising the importance of protections to the effectiveness of any whistleblower scheme.

## **5. Procedures in relation to protected disclosures**

5. *procedures in relation to protected disclosures, which could include:*
  - a. *how information should be disclosed for disclosure to be protected: options would include disclosure through avenues within a whistleblower's agency, disclosure to existing or new integrity agencies, or a mix of the two;*
  - b. *the obligations of public sector agencies in handling disclosures;*
  - c. *the responsibilities of integrity agencies (for example, in monitoring the system and providing training and education); and*
  - d. *whether disclosure to a third party could be appropriate in circumstances where all available mechanisms for raising a matter within Government have been exhausted;*

CSIRO recognises the importance of matters being investigated fairly, impartially and professionally and that the persons who are subject of reports must receive the benefit of the principles of procedural fairness.

With respect to procedures for investigating scientific misconduct, the Committee should refer to the Australian Code for the Responsible Conduct of Research.

All allegations of scientific misconduct must be treated with utmost sensitivity because the slightest perception of misconduct could damage the reputation of the individual scientist and the institution nationally and internationally.

CSIRO would also be concerned if information regarding CSIRO's intellectual property or of a commercial in confidence nature was inappropriately disclosed. The procedures should recognise the importance of protecting an agency's intellectual property and the intellectual property of its collaborators.

## **6. Models**

6. *the relationship between the Committee's preferred model and existing Commonwealth laws; and*

## **7. Other Matters**

7. *such other matters as the Committee considers appropriate.*

CSIRO has no comment on the References 6 and 7 but would be willing to provide comment on proposed models.

## **References**

- Australian Code for the Responsible Conduct of Research 2007 (National Health and Medical Research Council, Australian Research Council, Universities Australia)
- Code of Federal Regulations Title 42, Volume 1, Revised as of October 1, 2007 (Title 42 - Public Health, Chapter I - Public Health Service, Department of Health and Human Services, Part 93 - Public Health Service Policies on Research Misconduct)

## **Attachments**

1. Terms of Reference
2. CSIRO Whistleblower Scheme policy
3. CSIRO Code of Conduct

## Inquiry into whistleblowing protections within the Australian Government public sector

### Terms of Reference

The Committee is to consider and report on a preferred model for legislation to protect public interest disclosures (whistleblowing) within the Australian Government public sector. The Committee's report should address aspects of its preferred model, covering:

1. the categories of people who could make protected disclosures:
  - a. these could include:
    - i. persons who are currently or were formerly employees in the Australian Government general government sector\*, whether or not employed under the Public Service Act 1999,
    - ii. contractors and consultants who are currently or were formerly engaged by the Australian Government;
    - iii. persons who are currently or were formerly engaged under the Members of Parliament (Staff) Act 1984, whether as employees or consultants; and
  - b. the Committee may wish to address additional issues in relation to protection of disclosures by persons located outside Australia, whether in the course of their duties in the general government sector or otherwise;
2. the types of disclosures that should be protected:
  - a. these could include allegations of the following activities in the public sector: illegal activity, corruption, official misconduct involving a significant public interest matter, maladministration, breach of public trust, scientific misconduct, wastage of public funds, dangers to public health and safety, and dangers to the environment; and
  - b. the Committee should consider:
    - i. whether protection should be afforded to persons who disclose confidential information for the dominant purpose of airing disagreements about particular government policies, causing embarrassment to the Government, or personal benefit; and
    - ii. whether grievances over internal staffing matters should generally be addressed through separate mechanisms;
3. the conditions that should apply to a person making a disclosure, including:
  - a. whether a threshold of seriousness should be required for allegations to be protected, and/or other qualifications (for example, an honest and reasonable belief that the allegation is of a kind referred to in paragraph 2(a)); and
  - b. whether penalties and sanctions should apply to whistleblowers who:
    - i. in the course of making a public interest disclosure, materially fail to comply with the procedures under which disclosures are to be made; or
    - ii. knowingly or recklessly make false allegations;
4. the scope of statutory protection that should be available, which could include:

- a. protection against victimisation, discrimination, discipline or an employment sanction, with civil or equitable remedies including compensation for any breaches of this protection;
  - b. immunity from criminal liability and from liability for civil penalties; and
  - c. immunity from civil law suits such as defamation and breach of confidence;
5. procedures in relation to protected disclosures, which could include:
- a. how information should be disclosed for disclosure to be protected: options would include disclosure through avenues within a whistleblower's agency, disclosure to existing or new integrity agencies, or a mix of the two;
  - b. the obligations of public sector agencies in handling disclosures;
  - c. the responsibilities of integrity agencies (for example, in monitoring the system and providing training and education); and
  - d. whether disclosure to a third party could be appropriate in circumstances where all available mechanisms for raising a matter within Government have been exhausted;
6. the relationship between the Committee's preferred model and existing Commonwealth laws; and
7. such other matters as the Committee considers appropriate.

\*As defined in the Australian Bureau of Statistics publication Australian System of Government Finance Statistics: Concepts, Sources, Methods, 2003 p.256.

## CSIRO Whistleblower Scheme

### Overview

The policy brings CSIRO into line with standard business and Australian Public Service (APS) practices. Under the Scheme, reports of possible misconduct may only be made by CSIRO staff members (anonymous reports are not accepted) and must be made in good faith. CSIRO will take reasonable steps to protect the whistleblower and the reputation of all persons involved.

The Whistleblower Scheme is not designed to resolve personal grievances about employment decisions, which are the subject of other CSIRO policies and procedures. Breaches of the Code of Conduct will continue to be addressed appropriately by managers at a local level. But, if for some reason a staff member has a genuine concern that a breach is not being adequately addressed and feels they cannot discuss this with their manager, then CSIRO considers the Whistleblower Scheme to be an appropriate approach to take.

The Scheme includes procedures for making a whistleblower report to the designated Disclosure Officers, namely:

- An appointee of the Chief Executive. For the purposes of this procedure the person appointed by the Chief Executive is Dr Alastair Robertson.
- the Chair of the CSIRO Audit Committee (who is a member of the CSIRO Board).

In the first instance, reports should be made to the appointee of the Chief Executive unless the matter relates to the Chief Executive or appointee of the Chief Executive, or would be inappropriate to report to the appointee of the Chief Executive. If a matter is referred to the Chair of the CSIRO Audit Committee, the Chair will report the outcome of an investigation to the Audit Committee. The Disclosure Officer has the responsibility of identifying and commissioning a suitable internal or external investigator, as appropriate. The choice of investigator will be dependant upon the nature and severity of the alleged incident. The Disclosure Officer must ensure that the investigation is properly conducted and documented, recognising the rights of all involved, and that the findings are able to withstand public scrutiny.

The CSIRO Board and Executive are committed to the Whistleblower Scheme for CSIRO.

### Purpose

The aim of this Scheme is to create an environment where people feel comfortable raising concerns about compliance within the Organisation; and to provide an appropriate and effective mechanism for reporting and responding to such concerns. Whistleblowing refers to the reporting, in the public interest, of information which alleges a breach of the CSIRO Code of Conduct by a CSIRO staff member.

The Scheme is consistent with CSIRO's core beliefs, in particular, "integrity, honesty and openness are fundamental to the way we operate" (CSIRO 2002-07 Strategic Plan).

### Definitions

The following defined terms apply to this policy:

Term	Meaning
"Business Unit"	means a research Business Unit, Flagship or other independent unit of CSIRO, or a Corporate Group.

"Code of Conduct"	means the CSIRO <u>Code of Conduct</u>
"Disclosure Officer"	means the whistleblower Disclosure Officer, ie either:  The Chief Executive or person appointed by the Chief Executive; The Chair, CSIRO Audit Committee.
"Investigator"	means the person commissioned by the Disclosure Officer to investigate a whistleblower report.
"Investigation report"	means the report prepared by or provided to the Disclosure Officer on the findings of an investigation of a whistleblower report.
"Staff member"	means an officer appointed under the Science and Industry Research Act 1949.
"Whistleblower"	means a staff member who alleges a breach of the CSIRO Code of Conduct, including misconduct by another CSIRO staff member, and who elects to have this misconduct dealt with under the CSIRO Whistleblower Scheme.
"Whistleblower report"	means the report made by the whistleblower of an alleged breach of the CSIRO Code of Conduct.

## Policy Statement

This policy statement is to be read in conjunction with the CSIRO Code of Conduct.

1. CSIRO will operate a Whistleblower Scheme which enables staff members to report a breach or alleged breach in relation to the CSIRO Code of Conduct (including unethical behaviour, scientific fraud or criminal activity) by a CSIRO staff member.
2. All whistleblower reports by staff members must be made in good faith and in accordance with the CSIRO Whistleblower Scheme procedures.
3. CSIRO must properly investigate such matters (whistleblower reports) and undertake whatever action is deemed appropriate in response to any findings of a breach of the Code of Conduct.
  - i. Whistleblower reports must be investigated fairly, impartially and professionally. In all circumstances, the persons who are subject of reports must receive the benefit of the principles of procedural fairness.
  - ii. In some circumstances, such as allegations of criminal behaviour, the matter may be referred to an authority external to CSIRO.
4. CSIRO must take reasonable steps to protect the whistleblower and the reputation of all persons involved when alleged misconduct is reported.
  - i. A person performing functions in or for CSIRO, including staff members and contractors, must not victimise or discriminate against a staff member because the staff member has made a whistleblower report under the CSIRO Whistleblower Scheme, or is contemplating the use of or thought to have used the Scheme
  - ii. Business Unit Leaders will ensure staff members are aware of their obligations and rights under the Whistleblower Scheme and that this is an appropriate approach to take if they have genuine concerns.

## Scope

This policy applies to all CSIRO staff members.

Contact CSIRO for details of procedures.

## CSIRO Code of Conduct

### Overview

CSIRO is committed to producing world class research in a working environment which relies on integrity, quality management and service. Staff are expected to achieve and maintain the highest standards in professional and business ethics and, through their work performance and behaviours, to ensure that confidence in the Organisation is justified and maintained.

The Code is a formal document binding on all current and future staff as a condition of employment and is to be read in conjunction with the [CSIRO Terms and Conditions of Service \(T&C\)](#), and policies issued from time to time, including People and Culture, Finance and Commercial policies.

### Purpose

The CSIRO Code of Conduct sets out expected standards of behaviour in relation to dealing with the public, external clients and with colleagues within the organisation.

### Definitions

The following defined terms apply to this policy:

Term	Meaning
"Business Unit"	means a research Business Unit, Flagship or other independent unit of CSIRO, or a Corporate Group.
"Department"	means the responsible Department for CSIRO.
"Minister"	means Chief of Division, Manager of a Business Unit or Flagship Director.
"Relevant Executive Team member"	means the member of the Executive Team with line responsibility for the staff member's Business Unit.
"Staff" or "staff member"	means an officer appointed under the Science and Industry Research Act 1949.

### Policy Statement

It is a condition of employment that staff comply with CSIRO's Code of Conduct, organisational policies and legislation relevant to CSIRO operations.

### Scope

This policy applies to all staff, supervisors and managers throughout CSIRO.

### General Delegation

This policy does not involve the exercise of delegated authority. Delegations are available in the [CSIRO Authorities Manual](#).

### Group Responsible

CSIRO People and Culture.

## Further Advice

People and Culture staff or P&C Specialist Services.

## Code of Conduct - Details

### General Principles

This Code of Conduct addresses issues and situations that may arise in day-to-day work and is based on four main principles:

- staff are expected to perform their duties with professionalism and integrity, and work efficiently to enable CSIRO to meet its research and corporate goals;
- fairness, honesty, equity and all legal requirements are to be observed by all CSIRO staff in the conduct of official duties and during interactions with clients and members of the public;
- real or apparent conflicts of interest are to be avoided; and
- there is to be adequate protection of intellectual property and confidential information and strict observance of business and commercial protocols while staff are employed by CSIRO and after they leave.

### Key obligations

Staff are expected to:

- perform their official duties with skill, care and diligence, using their authority in a fair and unbiased way;
- apply their knowledge and skills in a positive and imaginative way, not just obeying instructions;
- comply with all Acts (In particular, staff members are expected to comply with the *Science and Industry Research Act 1949* and the *Commonwealth Authorities and Companies Act 1997.*), Regulations, Determinations, Awards, CSIRO policies, instructions and lawful directions that relate to their official duties;
- treat colleagues, clients and members of the public with courtesy and sensitivity to their rights, duties and aspirations; and
- behave at all times in a manner that maintains or enhances the reputation of CSIRO.

### Conflict of interest

If staff find that they may have some personal, financial, commercial or other interest that might affect the way they perform their official duties, or the way they are seen to perform their official duties, they must declare that interest to their Business Unit Leader or relevant Executive Team member, and take whatever action is necessary to avoid a real or apparent conflict of interest. This may involve divesting themselves of those interests or, with CSIRO's agreement, having their duties changed to avoid the conflict. See also separate policies on [Conflict of interests](#) and [Registration of private interests](#).

### Use of official position

Staff are not permitted to use their official position to seek or obtain any financial advantage, bribe or kickback for themselves, their family or any other person or organisation. Nor can they use their official position to harass, compromise or deny the rights of another organisation, individual or group of people.

### Accepting gifts and benefits

Staff are not permitted to accept gifts or benefits of any significant value related to the performance of their official duties without the approval of their Business Unit Leader or relevant Executive Team member.



It is normally all right to accept a meal or a few drinks in the interest of normal business practice but not to give the impression that there may be any connection with business opportunities. Likewise, financial support to attend international conferences and technical meetings or to visit clients' premises is acceptable in most cases but should be discussed with the Business Unit Leader or relevant Executive Team member before acceptance.

If it is awkward to refuse a gift (eg in overseas countries where offering and accepting a gift is normal local practice), it may be appropriate to accept the gift but, upon return, it must be declared to the Business Unit Leader or relevant Executive Team member.

The Chief Executive is able to approve situations where external earnings related to CSIRO's activities may be retained. This might include consultancy fees, or fees for lecturing or examination of research theses.

See separate policy on [Acceptance of Gifts, Travel and Hospitality](#).

## **Dress and appearance**

Appropriate dress and appearance will give a good impression when representing the Organisation externally. By this means staff can enhance their own and CSIRO's image and reputation. Staff must wear any protective clothing or safety equipment provided, in the manner prescribed by Commonwealth and CSIRO policies or as required by external organisations with whom they may work.

## **Use of CSIRO's money, property, goods or services**

Staff are expected to use the Organisation's money, property (including resources, facilities and equipment), goods, services or credit cards economically and for official purposes only. They will need to know their delegations, should obtain them in writing and exercise them with impartiality and care.

Staff may have access to information about other staff members or external clients or members of the public. Privacy and administrative law contains strict controls on the disclosure or use of such information other than for quite specific purposes.

## **Supervisors responsibilities**

Supervisors are expected to show leadership by example and particularly to:

- ensure that the work results and decisions arising from the work of both themselves and their staff are recorded and kept in accord with CSIRO's records management policies;
- be accurate and fair in appraising the work of others;
- resolve conflicts fairly and quickly using established procedures;
- be strictly impartial when considering reward outcomes, promotions or redundancies;
- avoid unfair or misleading statements to committees or tribunals investigating appeals or grievances lodged by staff; and
- provide accurate, informative references.

## **Breaches of the Code of Conduct**

A staff member who does not comply with the Code of Conduct may be subject to disciplinary action, as defined under the CSIRO Terms and Conditions of Service. In addition, they will be held accountable through their Annual Performance Appraisal (APA), which will take into account compliance with the principles and practices set out in this Code. See also [Misconduct policy](#).

## **Witnessing a breach of the Code or illegal behaviour**

All CSIRO staff are responsible for doing something about any illegal behaviour or behaviour outside of the spirit of this Code of Conduct. It may only be necessary to speak to other staff involved or affected to fix the matter. Alternatively, it may be appropriate to discuss the matter with the relevant Business Unit Leader or relevant Executive Team member.

Staff who bring complaints, without malice and with reasonable belief that a case of misconduct or non-compliance with policy exists, to the attention of their Business Unit Leader or relevant Executive Team member, will not be disadvantaged or discriminated against in any way. On the other hand, where staff make malicious, vexatious or frivolous allegations or allegations without having reason to believe that they are true, CSIRO will not support them if legal proceedings are initiated against them. See also [Whistleblower Scheme](#).

Staff are bound by various legislative instruments such as the Crimes Act, Privacy Act, and Occupational Health and Safety (OHS) and Equal Employment Opportunity (EEO) legislation. Each individual must make a judgement on which action is best for any particular situation.

## **Working environment within CSIRO**

### **The Work Environment**

CSIRO recognises that the creative output of its staff, the conditions under which people work and the way in which they are managed, have significant impact on performance, productivity and level of satisfaction. The Organisation provides significant resources for the provision, development and improvement of the work environment for CSIRO staff in terms of health, safety, equality of opportunity and participative work practices.

### **Participation in decision making**

By being an active member of a work team and participating fully in the planning and conduct of quality research and other work, both the quality of CSIRO's effort and the way in which we achieve it will be enhanced. Supervisors and managers have a particular responsibility to ensure that the work arrangements are conducive to maximum participation by all and that the right of subordinates to exercise their discretion is recognised.

All staff members have a responsibility to attempt to resolve matters of concern through the line management structure in the first instance.

### **Equity and fair treatment**

All staff are responsible for treating colleagues fairly and with consideration. Equity and natural justice principles should underpin all working relationships and the application of CSIRO rules and processes.

In undertaking their official duties, particularly supervisors or managers, staff should be aware of the responsibilities placed on them by the Organisation's Equal Opportunity policies and by administrative and employment law. Staff are not permitted to discriminate against or harass any colleague, client or member of the public, on the basis of:

- race
- religion
- gender
- political or union affiliation
- sexual preference
- political opinion
- marital status
- pregnancy
- social origin

- criminal record
- age
- physical, intellectual or mental disability or impairment.

See also policies on [Workplace harassment and bullying](#) and [Discrimination](#).

### **Occupational health and safety**

Staff, supervisors and managers should be aware of the implications and responsibilities placed on them by Commonwealth legislation and Corporate policies (see OHS&E Policies in [Related material](#)).

All reasonably practical steps must be taken to provide a safe work environment, particularly with:

- the handling, storage, use and disposal of chemicals and equipment;
- the provision of information, instruction, and training in safe working procedures; and
- the monitoring of employees' health and workplace conditions, keeping appropriate records and providing access to appropriate medical, first aid and counselling services.

### **External interactions**

Where staff are required to interact with commercial clients, granting bodies, the media or to present the outcomes of work in public or professional forums, then the following principles apply. These are necessary to protect the property, reputation and integrity of CSIRO. CSIRO's service charter describes the standards of service we aim to deliver to our clients.

Staff are to communicate with the Minister and Department in accord with CSIRO policies and procedures.

### **Managing Official Information**

Staff are not permitted to use or disclose official information without approval from their Business Unit Leader or relevant Executive Team member. Inadvertent disclosure of confidential information can damage prospects for commercialisation of CSIRO's research results. The Organisation has specific protocols and procedures covering commercial and intellectual property dealings which are to be observed absolutely by all staff. See also Commercial policies in [Related material](#).

Staff may be aware of, or be entrusted with, business information that relates to customers or external organisations that expect, on both legal and ethical grounds, that this information will be protected. Staff have an absolute duty of care to comply with those expectations and must make themselves aware of any agreements and expectations which relate to their research program or work area.

### **Publishing or making statements or commitments about official matters**

Staff are only permitted to make statements or commitments on behalf of the Organisation by following relevant protocols and guidelines and, where necessary, with the approval of their Business Unit Leader or relevant Executive Team member (see Public Comment by CSIRO Staff policy in [Related material](#)).

In making public comment, acting as an expert witness or in presenting or publishing work outcomes staff must:

- always obtain express permission for reproduction of figures, drawings, tables and direct quotations to avoid copyright infringement or civil breaches;
- give accurate and full reference to past scientific work to avoid potential defamation action;
- acknowledge all substantial assistance or advice;
- obtain written permission from CSIRO before entering into any publication contracts or disclosing any information which may be confidential or protected by commercial arrangements; and

- not use their position as a CSIRO officer to add any credence to public statements they might make about non-CSIRO matters.

Staff should ensure they have sought all relevant views and that they have access to all necessary information before committing the Organisation to:

- a CSIRO 'official point of view';
- commercial or contract negotiations which bind the Organisation;
- signing research or resourcing contracts; and
- exercising CSIRO commercial or financial delegations.

## **Related Material**

Client Service Charter [external site]

Commercial operational policies

Finance policies

Health Safety Environment policies

Whistleblower Scheme