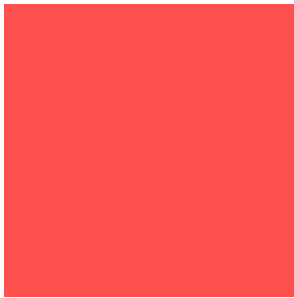




## **POL-HRM-0019**

### Kestrel Policy



### **Your Voice Matters**

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Status: Approved and Authorised by General Manager People and Public Relations

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Business Owner: Principle People and Public Relations

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## 1. Context

Kestrel Coal Resources Pty Ltd and Kestrel Coal Pty Ltd (collectively the "Company") is committed to a culture of respect and ethical conduct in the way we work and relate to each other.

We recognise the value of keeping the laws and procedures that apply to us in our work and encourage everyone to report misconduct.

We will not tolerate corrupt, illegal or other undesirable conduct nor condone victimisation of anyone who intends to disclose or has disclosed misconduct.

## 2. Scope

This procedure applies to all employees, contractors and visitors of Kestrel Coal Pty Ltd and Kestrel Coal Resources Pty Ltd (collectively the "Company").

## 3. Objectives of this procedure

Our objectives are to:

- encourage more disclosures of wrongdoing;
- help deter wrongdoing, in line with the entity's risk management and governance framework;
- ensure individuals who disclose wrongdoing can do so safely, securely and with confidence that they will be protected and supported;
- ensure disclosures are dealt with appropriately and on a timely basis;
- provide transparency around the entity's framework for receiving, handling and investigating disclosures;
- support the Company's values and Code of Conduct;
- support the entity's long-term sustainability and reputation;
- meet the Company's legal and regulatory obligations; and
- align with the ASX Corporate Governance Principles and Recommendations and relevant procedures.

This procedure is a very important tool for helping Kestrel to identify wrongdoing that may not be uncovered unless there is a safe and secure means for disclosing wrongdoing.

Nothing in this procedure is intended to change or take away any other protections which may be available at law.

## 4. Relationship to other procedures

This procedure:

- forms a part of the Company's risk management system and corporate governance framework
- is one of the mechanisms in the Company's risk management tool kit for identifying wrongdoing
- is available to all employees as part of their employment information

## 5. Every person's responsibility

Every person to whom this procedure applies has the responsibility to:

- remain alert to misconduct
- report known or suspected misconduct in accordance with this policy
- act in a way that reduces, prevents or stops misconduct
- support (and not victimise) those who have made or intend to make a disclosure
- ensure the identity of the Discloser and the person/s who is the subject of the disclosure are kept confidential

## 6. Who does this Procedure apply to?

This policy applies to anyone who has or is working for us or doing something in connection with their work for us.

It includes past and current:

- officers and managers
- board members
- employees
- volunteers
- individuals who supply goods and services to us, and, their employees
- work experience students
- commissioned agents and consultants
- a relative of an individual referred to above
- a dependent of an individual referred to above or of such an individual's spouse (collectively referred to as 'Disclosers').

## 7. Disclosures

### 7.1 Who may make a disclosure?

Any person defined as a discloser in the paragraph above may make a disclosure under this procedure.

### 7.2 What misconduct should be disclosed?

If you have seen or have reasonable grounds to suspect misconduct, or an improper state of affairs or circumstances concerning our organisation, report it. (Disclosure)

Misconduct includes but is not limited to:

- illegal conduct, such as theft, dealing in, or use of illicit drugs, violence or threatened violence, and criminal damage against property
- fraud, money laundering or misappropriation of funds
- offering or accepting a bribe
- financial irregularities
- failure to comply with, or breach of, legal or regulatory requirements
- engaging in or threatening to engage in detrimental conduct against a person who has made a disclosure or is believed or suspected to have made, or be planning to make, a disclosure

- information that indicates a significant risk to public safety or the stability of, or confidence in, the financial system is also a disclosable matter, even if it does not involve a breach of a particular law
- serious inappropriate or unethical conduct
- serious misuse of information
- bullying, discrimination, harassment or other serious unacceptable behaviour
- serious breach of our procedures and procedures or the law
- substantial waste of company resources
- causing substantial financial or non-financial loss or detriment to our organisation

(collectively referred to as "Misconduct")

### **7.3 Personal work related grievances**

Personal work-related grievances are not matters of misconduct which can be reported under this policy and are not matters which provide specific whistleblower protections to the discloser under Australian law. Personal work related grievances relate to current or former employment and have implications for the discloser personally but do have significant implications for the organisation or do not relate to misconduct disclosable under this policy. Examples of personal work related grievances include:

- an interpersonal conflict between the whistleblower and another employee
- a decision that does not involve a breach of workplace laws
- a decision relating to the engagement, transfer or promotion of the whistleblower
- a decision relating to the terms and conditions of engagement of the whistleblower
- a decision to suspend or terminate the engagement of the whistleblower, or otherwise to discipline the whistleblower
- Personal work related grievances should be internally raised using the Dispute Resolution Procedure/policy. Also refer to the section relating to raising personal work related grievances of this procedure.
- How do I make a disclosure?

## **8. How to make a disclosure**

A disclosure may be made:

1. internally to our organisation
2. to the independent whistleblower service provider – Your Call
3. to external authorities and entities

Making a disclosure internally to our organisation

We support openness and teamwork. This policy is not intended to replace our first obligation to resolve issues quickly and internally where appropriate. All reasonable attempts to resolve an issue should first be tried. You are encouraged to raise misconduct at any time with your supervisors and managers and to resolve misconduct informally and internally.

If you do not feel safe or able to raise misconduct with your supervisor or manager you may make a disclosure to:

- an officer or senior manager of our company or related company

- an auditor, or a member of an audit team conducting an audit of our company or related company
- an actuary of our company or related company
- a person authorised by our company to receive disclosures

The Company's Disclosure Officers to whom you may make a disclosure and their contact details are set out below:

Name and position	Location	Contact details
Jess Roberson Group Manager People	Kestrel - Site	Office Tel: 0419 709 746 Email: jess.roberson@kestrelcoal.com
Gail Jukes Chief Financial Officer	Kestrel - Brisbane	Office Tel: 0417 798 427 Email: gail.jukes@kestrelcoal.com

## 8.1 Making a disclosure to the independent service provider - Your Call

If for any reason you do not feel safe or able to make a disclosure internally you may do so to independent whistleblower service provider, Your Call.

Your Call operates under a Service Agreement with our organisation and acts as the intermediary, providing the means for a whistleblower to retain anonymity. Disclosures received by Your Call are reported to us in accordance with this policy. Your Call also enables us to obtain further information if required and enables the whistleblower to receive updates from us.

This is done via the use of an online anonymous Message Board which the whistleblower will have access to after making a disclosure.

The Message Board allows you to:

- communicate with Your Call and/or the Company without revealing your identity
- securely upload any relevant documentation and/or material that you wish to provide
- receive updates
- request support or report victimisation

This option allows you to:

- remain completely anonymous if you wish
- identify yourself to Your Call only
- identify yourself to both Your Call and the Company

Your Call enables disclosures to be made anonymously and confidentially. Whilst we prefer whistleblowers to disclose their identity in order to facilitate an investigation whistleblowers are not required to identify themselves and will not be named in any report to our organisation unless they have consented to their identity being disclosed.

Your Call reporting options include:

- Website: <https://www.yourcall.com.au/report> Available 24/7

- Telephone: 1300 790 228 Available 9am and 12am on recognised Australian national business days (AEST)

Online reports can be made via the website address listed above. Our organisation's unique identifier code is: "KES".

In the event a disclosure received by Your Call relates to a Disclosure Officer, Your Call will exclude that Disclosure Officer from all communications when providing the disclosure to our organisation. The Disclosure Officers who are not named in the disclosure will then receive and determine how the matter will be addressed or investigated as required.

Your Call remains an independent intermediary at all times and will only communicate with those authorised within our organisation.

#### National Relay Service

If you are deaf, or have a hearing or speech impairment, you can contact Your Call online or through the National Relay Service. Simply choose your contact method at [www.relayservice.gov.au](http://www.relayservice.gov.au) and request Your Call's hotline 1300 790 228

## 8.2 Making a disclosure to external authorities and entities

### 8.2.1 Concerning misconduct under the Act

If the misconduct relates to the Corporations Act 2001 Section 1317AA (1) you may make a disclosure to:

- ASIC:  
<https://compliance.asic.gov.au/#/form/583b77dc397bbc319837ea2a/app/5de48f4c8c212107b4c13f22>
- APRA:  
<https://www.apra.gov.au/become-a-whistleblower-and-make-a-public-interest-disclosure>
- a Commonwealth authority prescribed for the purposes of Section 1317AA (1)

### 8.2.2 Concerning disclosures made to legal practitioner

If you make a disclosure to a legal practitioner for the purpose of obtaining legal advice or legal representation in relation to the operation of Part 9.4 of the Act (which includes the whistleblower protections and confidentiality of a whistleblower's identity) the disclosure will be protected under the Act.

### 8.2.3 Concerning public interest disclosures

You may make a disclosure in the public interest to a member of the Parliament of the Commonwealth, the Parliament of a State or the legislature of a Territory or a journalist if:

1. you have previously made a disclosure of that misconduct, and
2. at least 90 days have passed since the previous disclosure was made; and
3. you do not have reasonable grounds to believe that action is being, or has been, taken to address the misconduct to which the previous disclosure related; and



4. you have reasonable grounds to believe that making a further disclosure of the misconduct would be in the public interest; and
5. after the end of the 90 day period you give the person to whom you made the previous disclosure a written notification that:
  - includes sufficient information to identify the previous disclosure; and
  - state that you intend to make a public interest disclosure; and
6. the public interest disclosure is made to:
  - a member of the Parliament of the Commonwealth, the Parliament of a State or the legislature of a Territory; or
  - a journalist; and
7. the extent of the information disclosed in the public interest disclosure is no greater than is necessary to inform the recipient of the misconduct or the improper state of affairs or circumstances.

#### **8.2.4 Concerning emergency disclosures**

You may also make an emergency disclosure to a member of the Parliament of the Commonwealth, the Parliament of a State or the legislature of a Territory or a journalist if:

1. you previously made a disclosure that qualifies for protection under the Act (Part 9.4 under subsection 1317AA(1)); and
2. you have 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
3. you give the body to which the previous disclosure was made a written notification that:
  - includes sufficient information to identify the previous disclosure; and
  - state that you intend to make an emergency disclosure; and
4. the emergency disclosure is made to:
  - a member of the Parliament of the Commonwealth, the Parliament of a State or the legislature of a Territory; or
  - a journalist; and
5. the extent of the information disclosed in the emergency disclosure is no greater than is necessary to inform the recipient of the substantial and imminent danger.

## **9. Where can I get information and advice?**

If you need information and advice about how to make a disclosure or the support and protection available you may discuss the matter in confidence with your immediate supervisor, manager or HR [hr@kestrelcoal.com](mailto:hr@kestrelcoal.com) or 07 4991 4541. Note: In the event you do not formally make a disclosure we may nevertheless be compelled to act on the information provided during the discussion if the information reasonably suggests misconduct has or may occur.

## 10. Protections under the law

To qualify for protection as a whistleblower under the Act and to receive specific legal rights you must meet all three of the following requirements:

- you must be an eligible discloser (as defined above)
- disclose reportable conduct subject to the work grievance exemptions (as defined above)
- make the disclosure through an appropriate reporting channel and recipient (as defined above)

## 11. Do I have to disclose my identity

There is no requirement for a whistleblower to identify themselves in order for a disclosure to qualify for protection under the Act. A discloser can:

- choose to remain anonymous while making a disclosure, over the course of the investigation and after the investigation is finalised, and
- refuse to answer questions that they feel could reveal their identity at any time, including during follow-up conversations.

The Company encourages disclosers who wish to remain anonymous to maintain ongoing two-way communication with Your Call, so the Company can ask follow-up questions or provide feedback.

### 11.1 Will my identity be treated confidentially?

#### 11.2 Your identity will not be disclosed by Your Call or the Company unless:

- you consent to disclosing your identity
- the disclosure is required by law
- it is necessary to prevent a serious threat to a person's health or safety
- it is reasonably necessary for investigating the issues raised in the disclosure.

The Company has in place the following measures and mechanisms for protection the confidentiality of a discloser's identity:

Reducing the risk that the discloser will be identified from the information contained in a disclosure

- all personal information or reference to the discloser witnessing an event will be redacted
- the discloser will be referred to in a gender-neutral context
- where possible, the discloser will be contacted to help identify certain aspects of their disclosure that could inadvertently identify them and
- disclosures will be handled and investigated by qualified staff.

Secure record-keeping and information-sharing processes

- all paper and electronic documents and other materials relating to disclosures will be stored securely

- access to all information relating to a disclosure will be limited to those directly involved in managing and investigating the disclosure
- only a restricted number of people who are directly involved in handling and investigating a disclosure will be made aware of a discloser's identity (subject to the discloser's consent) or information that is likely to lead to the identification of the discloser
- communications and documents relating to the investigation of a disclosure will not to be sent to an email address or to a printer that can be accessed by other staff and
- each person who is involved in handling and investigating a disclosure will be reminded about the confidentiality requirements, including that an unauthorised disclosure of a discloser's identity may be a criminal offence

An unauthorised disclosure of: the identity of a whistleblower, or information that is likely to lead to the identification of the whistleblower where the information was obtained because of the disclosure, will be regarded as a disciplinary matter and will be dealt with in accordance with the Company's disciplinary procedures. It is also an offence/contravention under the Act which carries serious penalties for individuals and companies. If you are a discloser of a reportable matter and your identity is revealed without your consent you may also be eligible to claim compensation and remedies under the Act.

As a discloser you should be aware that in practice, people may be able to guess your identity if: you have previously mentioned to other people that you are considering making a disclosure; you are one of a very small number of people with access to the information; or your disclosure relates to information that you have previously been told privately and in confidence.

You can lodge a complaint with us if you believe a breach of your confidentiality as a discloser has occurred by contacting a Disclosure Officer. You can also lodge a complaint with a regulator including ASIC, APRA or the ATO if you believe a breach of your confidentiality as a discloser has occurred.

## **12. Protection against detrimental conduct**

We will do everything reasonably possible to support and protect anyone who:

- intends to or actually makes a disclosure
- is mentioned in the disclosure
- acts as a witness
- otherwise assists with the investigation and resolution of the disclosure from detrimental conduct, acts and omissions.

Examples of detrimental conduct, acts and omissions include but are not limited to:

- dismissal of an employee
- alteration of an employee's position or duties to his or her disadvantage
- harassment or intimidation of a person
- harm or injury to a person, including psychological harm
- damage to a person's reputation

Examples of actions that are not detrimental conduct and omissions include but are not limited to:

- 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
- managing a discloser's unsatisfactory work performance, if the action is in line with the entity's performance management framework.

The Company has in place the following measures and mechanisms to protect disclosers from detriment:

- processes for assessing the risk of detriment against a discloser and other persons (e.g. other staff who might be suspected to have made a disclosure), which will commence as soon as possible after receiving a disclosure
- support services (including counselling or other professional or legal services) that are available to disclosers
- strategies to help a discloser minimise and manage stress, time or performance impacts, or other challenges resulting from the disclosure or its investigation;
- actions for protecting a discloser from risk of detriment—for example, we may allow the discloser to perform their duties from another location, reassign the discloser to another role at the same level, make other modifications to the discloser's workplace or the way they perform their work duties, or reassign or relocate other staff involved in the disclosable matter
- processes for ensuring that management are aware of their responsibilities to maintain the confidentiality of a disclosure, address the risks of isolation or harassment, manage conflicts, and ensure fairness when managing the performance of, or taking other management action relating to, a discloser
- procedures on how a discloser can lodge a complaint if they have suffered detriment, and the actions we may take in response to such complaints (e.g. the complaint may be investigated as a separate matter by an officer who is not involved in dealing with disclosures and the investigation findings will be provided to the board or audit or risk committee); and
- interventions for protecting a discloser if detriment has already occurred—for example, we may investigate and address the detrimental conduct, such as by taking disciplinary action, or we may allow the discloser to take extended leave, develop a career development plan for the discloser that includes new training and career opportunities, or offer compensation or other remedies.

We will thoroughly investigate reports of detrimental acts. If proven, those who have victimised another will be subject to management action including disciplinary action up to dismissal. It is also an offence/contravention under the Act which carries serious penalties for individuals and companies. If you are a discloser of a reportable matter and you suffer detrimental acts or detrimental acts you may also be eligible to claim compensation and remedies under the Act. Nothing in this policy is intended to change or take away any other protections which may be available at law.

## **12.1 Assessing and controlling the risk detriment**

The Company has established processes for assessing and controlling the risk of detriment and keeps records of its risk assessments and risk control plans.

Steps in the Company's framework for assessing and controlling the risk of detriment

- Risk identification: We assess whether anyone may have a motive to cause detriment—information may be gathered from a discloser about:
- the risk of their identity becoming known;
  - who they fear might cause detriment to them;
  - whether there are any existing conflicts or problems in the work place; and
  - whether there have already been threats to cause detriment.
- Risk analysis and evaluation: We analyse and evaluate the likelihood of each risk and evaluate the severity of the consequences.
- Risk control: We developing and implement strategies to prevent or contain the risks—for anonymous disclosures, we assess whether the discloser's identity can be readily identified or may become apparent during an investigation.
- Risk monitoring: We monitor and reassess the risk of detriment where required—the risk of detriment may increase or change as an investigation progresses, and even after an investigation is finalised

## 12.2 Support and protection

If necessary, the Company will appoint a Protection Officer to arrange or coordinate support and protection for anyone who has or is in the process of making a disclosure.

The discloser can contact Jess Roberson, Group Manager People to discuss how a Protection Officer may be able to provide support and protection.

The Protection Officer is appointed by the Company to:

- assess the immediate welfare and protection needs of a whistleblower
- safeguard the interests of a whistleblower in accordance with this policy and the law
- address any issues or concerns of detrimental acts/detrimental treatment

The Company may appoint a person from within the organisation or a third party to be the Protection Officer.

## 13. What will Kestrel do with the disclosure?

The Disclosure Officer has been appointed by the Company to receive the disclosure directly from you (if you make an internal disclosure to our organisation) or from Your Call (if you make an external disclosure to Your Call).

The Disclosure Officer will:

- carefully assess the information provided to decide the best action to take, including whether an investigation is required, to determine whether the misconduct is proven or not proven
- keep the information provided in a confidential and secure system
- coordinate and oversee the investigation where an investigator has been appointed
- appoint a Protection Officer to support and protect the Whistleblower, if necessary, from detrimental acts

- advise the Whistleblower (through Your Call where anonymity is requested) of the progress of the matter to the extent it is legally permissible and appropriate to do so
- take all reasonable steps to ensure fair treatment for and to ensure the identity of the Whistleblower and the person/s who is the subject of the disclosure are kept confidential. An employee who is the subject of a disclosure will be advised about the subject matter of the disclosure as and when required by principles of natural justice and procedural fairness and prior to any actions being taken.

### **13.1 Investigation of the disclosure**

The Disclosure Officer will carefully assess and use the information provided in the disclosure to decide the best action to take, including whether an investigation is required and, if so, determine the appropriate investigation process, including:

- the nature and scope of the investigation
- who will conduct the investigation and whether that person should be external to our organisation
- the nature of any technical, financial or legal advice that may be required
- a timeframe for the investigation (having regard to the level of risk)

### **13.2 How will the investigation be conducted?**

The investigation will be conducted in a constructive, impartial and lawful way according to the principles of natural justice and procedural fairness and all efforts will be made to meet investigation best practices.

The Investigator will:

- gather information, material and documentation concerning the disclosure as quickly as possible. (This may involve taking steps to protect or preserve documents, materials and equipment.)
- focus on the substance of the disclosure and will not focus on the motives of the discloser
- not assume that disclosures about conduct or behaviour that appear to have had a personal impact on a discloser are somehow less serious. The discloser's experience may indicate a larger or systemic issue.
- take a statement or record of interview and or tape formal interviews with witnesses as required (Where the whistleblower wishes to remain anonymous and does not wish to make a statement they will not be asked to do so.)
- keep information gathered in the investigation securely
- take all reasonable steps to protect the identity of the Whistleblower. Where disclosure of the identity of the whistleblower cannot be avoided due to the nature of the allegations, the investigator will first gain the consent of the whistleblower before providing identifying information to any additional persons
- complete the investigation and provide a report of their findings as soon as is reasonably practical

### **13.3 Investigator's report**

At the conclusion of the investigation, the investigator will provide a written report that will include:

- a finding of all relevant facts
- whether the disclosure is proven, not proven or otherwise
- recommendation/s, when requested to do so, as to any action that may be taken in respect of the findings

The Company will use the report to determine the action (if any) to be taken including disciplinary action.

The findings will be communicated to the relevant parties involved to the extent that it is legally permissible and appropriate to do so.

### **13.4 Will the whistleblower be kept informed?**

Subject to privacy and confidentiality requirements the whistleblower will be kept informed of:

- when the investigation process has begun
- relevant progress of the investigation
- the outcome of the investigation

to the extent that it is legally permissible and appropriate to do so.

### **13.5 What happens if the misconduct is proven**

If the misconduct is proven the Company will decide what action to take including disciplinary action up to dismissal. The disciplinary action will depend on the severity, nature and circumstance of the misconduct.

## **14. Avenues for Review**

A discloser may request a review of the investigation findings if the discloser is not satisfied with the outcome. The review will be conducted by an officer who is not involved in handling and investigating disclosures and the review findings will be shared with the board or audit or risk committee.

The Company is not obliged to reopen an investigation if it finds that the investigation was conducted properly, or new information is either not available or would not change the findings of the investigation.

### **14.1 What immunities are available to a whistleblower**

We want you to speak up against misconduct. Anyone who makes a disclosure:

- with reasonable grounds for suspecting misconduct has or may occur, and
- has not engaged in serious misconduct or illegal conduct relating to the disclosure

will be provided with immunity from disciplinary action.

If you make a disclosure that qualifies for protection under the Act:

- you are not subject to any civil, criminal or administrative liability (including disciplinary action) for making the disclosure; and

- no contractual or other remedy may be enforced, and no contractual or other right may be exercised, against you on the basis of the disclosure; and
- the information is not admissible in evidence against the whistleblower in criminal proceedings or in proceedings for the imposition of a penalty, other than proceedings in respect of the falsity of the information.

Note: Except as provided for by the Act it does not prevent a whistleblower being subject to any civil, criminal or administrative liability for conduct of the whistleblower that is revealed by the disclosure.

## 14.2 What are the consequences of making a false disclosure?

Anyone who makes a disclosure knowing it to be false or misleading may be subject to disciplinary action, including dismissal. The disciplinary action will depend on the severity, nature and circumstance of the false disclosure.

The Company however does not wish to deter staff from making disclosures. In cases where disclosers have some information leading to a suspicion, but not all the details, staff are encouraged to speak up and report the misconduct and will not face disciplinary action in those circumstances.

## 15. How will this document be made available to officers and employees of our organisation

The Company makes the procedure available to employees and officers by:

- holding briefing sessions and/or smaller team meetings;
- posting the procedure on the intranet;
- posting information on noticeboards;

## 16. Terms and Definitions

Title	Definition
<b>Act</b>	Means Corporations Act 2001 (Commonwealth)
<b>Protection Officer</b>	Means the person appointed by the Company to support and protect a Whistleblower, if necessary, from detrimental action.
<b>Whistleblower</b>	Means a person who makes a disclosure under this procedure. They may also be referred to as a Discloser within this procedure.



## 17. Revision History

Rev	Date	Reason for Issue	Originator	Checked	Approved
0	18/12/2019	Issued for use	Lee Matthews		Jess Roberson
A	13/12/2019	<p>Issued for review – new document - KCR is</p> <ul style="list-style-type: none"> <li>Committed to a culture of respect and ethical conduct in the way we work and relate to each other.</li> <li>We recognise the value of keeping the laws and procedures that apply to us in our work and encourage everyone to report misconduct.</li> <li>We will not tolerate corrupt, illegal or other undesirable conduct nor condone victimisation of anyone who intends to disclose or has disclosed misconduct.</li> </ul>		<p>Lee Matthews</p> <p>Senior Leadership</p>	