

Protected Disclosure (Whistleblower)



Policy Details

Policy Category:	Human Resources	Policy No:	HR009
Created by:	People and Culture	Creation Date:	September 2019
Approved by:	Policy & Risk Committee	Last Modified:	March 2023
Status:	Active	Next Review Date:	March 2026
Version Number:	02		

Purpose

People Who Care has adopted this policy in order to:

- Ensure employees and other person's disclosing concerns regarding misconduct or an improper state of affairs or circumstances can do so without fear of being subject to victimisation, harassment or discriminatory treatment.
- Meet the requirements of Protected Disclosure
- Encourage disclosure and investigation of improprieties before they can disrupt the business or operations of the organisation or lead to serious damage to People Who Care;
- Promote a climate of accountability with respect to organisation resources, including its volunteers and employees;
- Enable safe disclosure of conduct or a state of affairs that compromises client wellbeing or that would constitute a Reportable Incident.
- Ensure no protected persons are disadvantaged in properly raising legitimate concerns;

Scope

This policy applies to:

The protections in this policy apply to anyone who is, or has been, any of the following with respect to People Who Care:

- employee
- director
- officer
- contractor (including employees of a contractor)
- supplier (including employees of suppliers)
- associate
- consultant, or
- a relative, dependant, spouse, or dependant of a spouse of any of the above.

Definitions

The Department of Parliamentary Services describes "*whistle blowing*" as:

"The disclosure by organisation members (former or current) of illegal, immoral or illegitimate practices under the control of their employers to persons that may be able to effect action".

Specifically, these include, but are not limited to, actions or practices related to:

- Any unlawful activity

- Inappropriate and/or illegal financial dealings
- Dangerous practices
- Activities which are not in accord with People Who Care's Code of Conduct, Values and Policies
- Serious misconduct.
- Any other conduct or act which may cause loss to People Who Care or which may otherwise be detrimental to its interests.
- Protected Persons: anyone who is, or has been an employee, director, officer, contractor (including employees of a contractor), supplier (including employees of suppliers), associate, consultant, or a relative, dependant, spouse, or dependant of a spouse of any of the above, with regards to People Who Care Inc.

Policy

In this policy, the person making the disclosure is referred to as the "*Concerned Person*" and the person subject of the disclosure "*the Respondent*".

The Policy allows individuals to anonymously make a report in good faith without fear of being penalised or disadvantaged by or within the organisation for having made the disclosure. However, the policy does not remove the possibility of action that may be required if the Concerned Person has been implicated in actions that would require disciplinary action.

In applying this policy the following principles will be observed:

- Victimisation or harassment will not be tolerated;
- Confidentiality will be maintained (see below: Confidentiality of Disclosure);
- Anonymous concerns will be investigated dependent on the gravity and credibility of the concern.

The Policy is distinct from the Grievance Procedure and should be read in conjunction with other relevant policies and procedures.

Protection for Whistleblowers

People Who Care will support whistleblowers and protect them from detriment in the following ways:

(a) Protection from detrimental conduct

If a person makes a disclosure that qualifies for protection they will not be subject to any unlawful disciplinary or other detrimental action by People Who Care. This includes (but is not limited to) protection from:

Unlawful termination of employment;
Unwarranted disciplinary action;
Unwarranted performance management;
Bullying or harassment; or
Unlawful discrimination.

Protection of the identity of the whistleblower

Except in the circumstances specified below, People Who Care will not disclose the information, the identity of the discloser or any information that is likely to lead to the identification of the discloser, unless the discloser agrees.

The circumstances in which People Who Care may disclose the information are where disclosure is made:

- I. to ASIC, Australian Prudential Regulation Authority, Australian Federal Police or to a Commonwealth authority, or a state or territory authority, for the purpose of assisting the authority in the performance of its functions or duties;
- II. to a lawyer to obtain legal advice or legal representation in relation to the operation of the whistleblowing provisions; and/or
- III. because it is reasonably necessary to do so for the purposes of investigating a matter to which the qualifying

disclosure relates (in which case every effort will be made to ensure the disclosure does not identify the whistleblower and will take all reasonable steps to reduce the risk the discloser will be identified as a result of the disclosure).

Protection of files and records

All files and records created from an investigation will be securely retained.

Additional support

People Who Care recognises that making a disclosure as a whistleblower can be stressful. If a person who makes a disclosure is an employee of People Who Care, they may access the Confidential Counselling Service, and may also request additional support.

Variations

People Who Care reserves the right to vary, replace or terminate this Policy from time to time.

Where reports are determined to be false and not to have been made in good faith, disciplinary action may be taken.

1. Administrative Procedures

Making a report:

- Any concern of a grave or sensitive nature may be reported in writing or verbally to either the CEO or to the People and Culture Manager (PCM) provided neither party is implicated in the matter of concern.
- The CEO/PCM will investigate the case if appropriate or may appoint another party, internal or external to investigate and who is not associated with the area under investigation.
- In the event that neither the CEO nor PCM are appropriate to oversee the investigation, the matter should be referred to the Chair of the People Who Care Board.

Dealing with a Concern:

- The investigating officer will prepare a report and forward it to the person overseeing the process who will determine the appropriate response.
- In the event the CEO is the subject of an investigation or allegation, the Chairman of the Board will determine the report and corrective measures.

Conclusion:

- Where appropriate and reasonable to do so, the Concerned Person will be advised of the outcome of the investigation (subject to Privacy and confidentiality considerations).

Breaches

Breaches of policy are serious and may result in disciplinary action up to and including termination.

Applicable Standard/s

N/A

Cross reference to relevant policy

- Staff Grievance and Dispute Resolution
- Code of Conduct

Forms/Documents/Records pertaining to this policy

N/A