

Summary

Objective

The Whistleblower Protection Policy is one of a number of policies that promote a culture of good governance, compliance, honesty and ethical behavior at Better Health Network (BHN). The Policy is intended to outline the principles, scope and responsibilities of Board Directors, staff, volunteers and contractors who wish to make disclosures related to alleged detrimental action, improper or corrupt conduct, or wrongdoing in the management or conduct of BHN.

This Policy is supported by the Whistleblower Protection Procedure, which provides instruction on how to make a disclosure.

Background

BHN supports a workplace culture where the making of protected disclosures is valued by the organisation and the right of any individual to make a protected disclosure is taken seriously. Such concerns should be related to improper or corrupt conduct, or wrongdoing by an employee, volunteer, executive or Board Director.

Owner Chief Executive Officer

Expert Director of Policy & Advocacy

Policy






1.0 Scope




- a** This policy applies to the BHN Board of Directors, all current or former employees, contractors, and volunteers.
- b** This policy applies if any eligible person within its scope knows of information and has reasonable grounds to suspect the information concerns corrupt conduct or wrongdoing; improper conduct; detrimental action, or an improper situation or circumstances, in relation to BHN.
- c** Clients and carers can make a complaint directly by contacting BHN, or alternatively via the Health Services Commission, the Aged Care Commission, or the Disability Services Commission.

2.0 Definitions

- a** Wrongdoing including corrupt conduct:
A breach of regulation or laws; A breach of the Code of Conduct or Policies and Procedures; Dishonest or corrupt behavior including soliciting, accepting or offering a bribe, facilitation of payments or other benefits; Fraudulent activity; Illegal activity; Impeding internal or external audit process; An activity that imposes substantial risk to the environment; A serious impropriety; Conduct endangering health and safety; A substantial mismanagement of Better Health Network resources; Conduct detrimental to Better Health Network's financial position or reputation; Concealment of wrongdoing.
- b** Improper conduct:
Improper conduct has the meaning set out in section 4 of the Protected Disclosure Act 2012 (the Act). "Improper conduct" means corrupt conduct or specified conduct that is not corrupt but that would, if proved, constitute a criminal offence or reasonable grounds for dismissal. Specified conduct is defined in the Act to mean conduct that is dishonest, breaches public trust, involves the misuse of information, a substantial mismanagement of public resources, a substantial risk to public health or safety or a substantial risk to the environment.
- c** Detrimental action:
Detrimental action as defined by the Act includes: action causing injury, loss or damage; intimidation or harassment; and discrimination, disadvantage or adverse treatment in relation to a person's employment, career, profession, trade or business, including the taking of disciplinary action.
A person can have taken detrimental action without having taken the action itself, but just by threatening to take such action.

3.0 Relevant Legislation

- a** This Policy and accompanying Procedure have been developed in line with the following Acts and Guides (where required) and influenced by the principles of the legislation.
 -  Public Interest Disclosures Act 2012 (Victoria)
https://www.austlii.edu.au/cgi-bin/viewdoc/au/legis/vic/consol_act/pida2012313/
 -  Protected Disclosure Act 2012 (Victoria)
https://www.austlii.edu.au/cgi-bin/viewdoc/au/legis/vic/num_act/pda201285o2012279/
 -  Health Services Act 1988 (Victoria)
https://www.austlii.edu.au/cgi-bin/viewdoc/au/legis/vic/consol_act/hsa1988161/
 -  Occupational Health and Safety Act 2004 (Victoria)
https://www.austlii.edu.au/cgi-bin/viewdoc/au/legis/vic/consol_act/ohasa2004273/
 -  Australian Health Practitioner Regulation Agency (AHPRA) Guidelines
<https://www.ahpra.gov.au/Registration/Registration-Standards/codes-guidelines.aspx>

-  Public Interest Disclosure Act 2013 (Cth)
https://www.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/pida2013295/
 -  Fair Work Act 2009 (Cth)
https://www.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/fwa2009114/
 -  Corporations Act 2001 (Cth)
https://www.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/ca2001172/
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4.0 Principles

- a** BHN will provide processes that encourage and facilitate disclosure and investigation of improper or corrupt conduct, or wrongdoing in the governance, management or conduct of its services to the appropriate internal and/or external senior personnel.
- b** BHN is committed to protecting and supporting the dignity, wellbeing and good name of anyone reporting wrongdoing ensuring that they are free from victimisation.
- c** This Policy and accompanying Procedure seek to:
Foster an environment that promotes ethical decision making.

Ensure that disclosures are received, assessed, investigated and dealt with confidentially and within reasonable timeframe.

Establish a procedure that will enable the prompt reporting of misconduct and ensure that individuals who report misconduct can do so safely, securely, and with confidence that they will be protected and supported.

5.0 Breach of Policy

- a** Any breach of this policy may result in disciplinary action, up to and including termination of employment or engagement, based on the severity of the breach and in accordance with the BHN Board Governance Charter, Code of Conduct, and/or the Misconduct and Performance Management Policy.
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6.0 Eligible Whistleblowers Under the Corporations Act

- a** An officer (director, trustee), employee, or volunteer of BHN;
 - b** An individual who is an associate of BHN;
 - c** An individual, or an employee of a person that is, supplying goods and services (paid and unpaid) to BHN;
 - d** A relative and dependent of any of the above, or a dependant of the spouse of any of the above; and/ or an individual prescribed by the Corporations Regulations 2001 (Cth) as an eligible whistleblower.
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7.0 Procedure

- a** BHN supports a workplace culture where the making of protected disclosures is valued by the organisation and the right of any individual within the scope of this policy to make a protected disclosure is taken seriously. Such concerns should be related to improper or corrupt conduct, or wrongdoing by an employee, executive or Board Director.
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7.1 Better Health Network will:

- a** Ensure this Policy and accompanying procedure is accessible.
 - b** Not tolerate the taking of detrimental action in reprisal against any person for making a protected disclosure, including to take any reasonable steps to protect such persons from such action being taken against them.
 - c** Afford natural justice and treat fairly those who are the subject of allegations contained in disclosures.
 - d** Take the appropriate disciplinary and other action against any BHN employees engaged in the taking of detrimental action.
 - e** Ensure that BHN handles the welfare management of people connected with protected disclosures matters consistently and appropriately in accordance with its obligations under the Act, these procedures; and
 - f** Be visible, approachable, openly communicative and lead by example in establishing a workplace that supports the making of protected disclosures.
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 **PROCESS** **Whistleblower Protection Procedure**

 **PROCESS** **Board Governance Charter (Policy)**

 **PROCESS** **Code of Conduct Policy**

Summary

Objective

This Procedure links to the Whistleblower Protection Policy, and provides instruction on how to make a disclosure.

Background

Better Health Network supports a workplace culture where the making of protected disclosures is valued by the organisation and the right of any individual to make a protected disclosure is taken seriously. Such concerns should be related to improper or corrupt conduct, or wrongdoing by an employee, volunteer, executive or Board Director.

Owner Chief Executive Officer

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Procedure

1.0 Reporting Wrongdoing

- a** Better Health Network has several channels for reporting wrongdoing, detrimental action, or improper and/or corrupt conduct. Disclosures of improper conduct/wrongdoing or detrimental action by the organisation, its employees, volunteers, contractors or Board Directors shall be reported to the Chief Executive Officer.
- b** Should a Board Director, employee, volunteer or contractor wish to disclose wrongdoing, detrimental action, or improper and/or corrupt conduct by the Chief Executive Officer the report should be provided to the Chairperson of the Board. The Chairperson of the Board may choose to resolve this matter or refer the report to an external body of their choice for independent investigation.
- c** Should the Chief Executive Officer want to disclose wrongdoing, detrimental action, or improper and/or corrupt conduct by a Board Director, the report should be provided to an external body of their choice for independent investigation.
- d** Should a Board Director want to disclose wrongdoing, detrimental action, or improper and/or corrupt conduct by an employee the report should be provided to the Chief Executive Officer.

2.0 Making a Disclosure

- a** A whistleblower may make a report regarding wrongdoing, detrimental action, or improper and/or corrupt conduct directly to a BHN Disclosure Coordinator. The BHN Disclosure Coordinators are:
The Chief Executive Officer
PO Box 2177, St Kilda West, Victoria 3182
Phone: 9525 1300
Email: bhnceooffice@bhn.org.au
- b** The Chairperson of the BHN Board
PO Box 2177, St Kilda West, Victoria 3182
Phone: 9525 1300
Email: boardchair@bhn.org.au
- c** In the instance that a report concerns the wrongdoing, detrimental action, or improper and/or corrupt conduct of both BHN Disclosure Coordinators, a report can be made directly to:
The Executive Director of People and Culture.
PO Box 2177, St Kilda West, Victoria 3182
Phone: 9525 1300
Email: Peopleandculture@bhn.org.au

The Executive Director of People & Culture may choose to refer the report to an external body of their choice for independent investigation.
- d** Where a disclosure is made via letter it must be marked "Confidential – Addressee Only". For example: To BHN Chief Executive Officer, Confidential – Addressee Only.
- e** Where a disclosure is made via email the subject line must be marked "CONFIDENTIAL - ADDRESSEE ONLY: TO (INSERT INTENDED RECIPIENT)". For example: CONFIDENTIAL - ADDRESSEE ONLY: TO BHN CHIEF EXECUTIVE OFFICER.

3.0 Roles and Responsibilities

3.1 Responsibilities of BHN Disclosure Coordinators

- a Act appropriately in compliance with this policy, and related procedures including: Determining the steps required to be taken following receipt of a report under this policy, including where necessary referring and/or reporting matters to external bodies. And;
 - b Taking appropriate disciplinary, remedial or other managerial action based on the outcome of an investigation.
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3.2 Responsibilities of the Board of Directors

- a Act appropriately in compliance with this Procedure, and related Policy.
 - b Ensure appropriate governance mechanisms and framework are in place to achieve the objectives of this policy.
 - c Reviewing summary reports relating to whistleblower disclosures to ensure BHN has appropriate mechanisms in place to prevent, detect and respond to risks associated with alleged improper or corrupt conduct or wrongdoing.
 - d Overseeing, reviewing and monitoring the effectiveness of this Procedure and accompanying Policy.
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3.3 Responsibilities of People & Culture

- a Ensure compliance with legislation and support this policy through effective processes and systems.
 - b Educate and promote awareness of this policy.
 - c Provide advice and support to employees.
 - d Monitor any changes in legislation or enterprise agreements and update this policy accordingly.
 - e Periodically review and assess policy effectiveness and make improvements as necessary.
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3.4 Responsibilities of Managers

- a Act appropriately in compliance with this procedure, and related Policies.
 - b Declare any perceived or real conflict of interest identified in relation to any action or decision you are required to make in relation to this policy and related processes.
 - c Educate and raise awareness among their team on BHN policies.
 - d Regularly review any policy when notified of any updates to remain current and informed.
 - e Provide guidance and support to their team in understanding and adhering to BHN policies.
 - f Contact People and Culture for guidance or support when in doubt, or further clarification is needed in relation to this policy.
 - g Act promptly and appropriately to address any breach of this policy, including resolving issues locally where suitable, in accordance with this policy and related processes.
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4.0 Protection for Whistleblowers

- a BHN will protect and support whistleblowers and anyone who makes a disclosure in accordance with this policy in the following ways:
 - b Identity protection (see section 4.1).
 - c Protection from detrimental acts or omissions (see section 4.2).
 - d Civil, criminal and administrative liability protection (see section 4.3).
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4.1 Identity Protection (Confidentiality)

- a Whistleblowers are encouraged, but not required, to disclose their identity when reporting a disclosure. Providing their identity will assist in monitoring their wellness and protections against any detrimental actions.
- b If a whistleblower chooses to remain anonymous, the most practical way to protect their anonymity is to make the report in writing to the PO Box listed in section 2 of this Procedure.
- c If the whistleblower's identity is known to the eligible recipient who they made the report, but they prefer not to disclose their identity to others, a pseudonym may be adopted for reporting purposes.
- d A whistleblower's identify will remain confidential to the extend required by law.

- e Information about a whistleblower's identity, or information that is likely to lead to their identification, cannot be disclosed except in the following circumstances:

The Disclosure Coordinator can disclose a whistleblower's identity: To ASIC, AHPRA or a member of the AFP or for tax-related disclosures to the Tax Commissioner; To a lawyer (for the purposes of obtaining legal advice or legal representation about the whistleblower provisions in the Corporations Act.; A person or body prescribed by the Corporations Act 2001 (Cth); or With the whistleblower's consent.

The Disclosure Coordinator can disclose information contained in a whistleblower's report, with or without their consent if: the information does not include their identity; all reasonable steps have been taken to reduce the risk that their identity will be identified from the information; and it is reasonably necessary for investigating the issues raised by the whistleblower.

- f If a whistleblower's identity, or information that is likely to lead to their identity, is disclosed the whistleblower may lodge a complaint about the breach of confidentiality with: the BHN Disclosure Coordinators or Executive Director of People & Culture; or a regulator, such as ACNC, ASIC, AHPRA or the Australian Taxation Office, for investigation.
- g BHN will take the following measures to protect a whistleblower's identity: all personal information, including a whistleblower name, will be redacted or a pseudonym used in relevant documentation; all paper and electronic documents and other materials relating to the disclosure will be stored securely; access to information relating to the disclosure will be limited to those directly involved in managing and investigating the disclosure; and each person who is involved in handling and investigating a disclosure will be reminded about the confidentiality requirements.

4.2 Protection from Detrimental Acts or Omissions

- a If a whistleblower makes a disclosure under this policy, there are legal protections in place for safeguarding them, or any other person, from detriment in relation to their report.
- b A person cannot make a threat to cause detriment to a whistleblower, or another person, in relation to the reported disclosure. A threat may be express or implied, conditional or unconditional. It is not a requirement that the whistleblower, or other person, actually fear that the threat will be carried out.
- c Detrimental conduct that is prohibited under the law includes: dismissal of an employee; injury of an employee in their employment; alteration of an employee's position or duties to their disadvantage; harassment or intimidation of a person; harm or injury to a person, including psychological harm; or damage to a person's property, reputation, business or financial position.
- d Actions that are not detrimental conduct include administrative action that is reasonable for the purpose of protecting a whistleblower from detriment (e.g., moving a whistleblower to another location to prevent them from detriment).

4.3 Civil, Criminal and Administrative Liability Protection

- a A whistleblower is protected for any of the following in relation to a disclosure report in accordance with this policy:

Civil liability (e.g., any legal action against you for breach of an employment contract, duty of confidentiality or another contractual obligation);

Criminal liability (e.g., attempted prosecution for unlawfully releasing information (other than for making a false disclosure)).

Administrative liability (e.g., disciplinary action for making the report).

- b The above protections do not grant immunity for any misconduct the whistleblower may have engaged in that is revealed in the disclosure report or through an investigation. Independent legal advice should be sought by the whistleblower.

5.0 Investigating a Disclosure

- a For a report to be investigated, it must contain sufficient information for a reasonable basis of investigation. For this reason the whistleblower should provide as much information as possible about the disclosable matter. This information could include: the date, time and location of the disclosable matter; the name(s) of the person(s) involved and any witnesses to the matter; evidence of the disclosable matter (e.g, documents, emails etc); and steps the whistleblower, or another person, may have already taken to report or resolve the matter.
- b If sufficient information exists to allow the disclosure to be investigated, the CEO or Board Chairperson will, as soon as reasonably practicable after the disclosure has been made, appoint an investigating officer, who may be internal or external to BHN.
- c The investigation will be conducted independently of any person who is the subject of the disclosure. The investigating officer will determine: The nature and scope of the investigation; the nature of any technical, financial or legal advice that may be required; and a timeframe for the investigation having regard to the level of risk and complexity.
- d A person(s) who is alleged to have engaged in will be informed of the allegations and provided with the opportunity to respond.
- e The investigation officer will present their findings to the CEO or Chairperson receiving the disclosure. The CEO or Chairperson will determine the action (if any) to be taken which may include disciplinary action.

6.0 Support

- a BHN recognises that making a disclosure as a whistleblower can be stressful. All BHN employees are eligible to access the Employee Assistance Program (EAP). This program provides short-term, confidential coaching and counselling services to support a range of personal and work-related issues. This free service connects you with experienced professionals, including psychologists, social workers, and management coaches. Contact Converge International at 1300 687 327.



Converge International

<https://convergeinternational.com.au/>

7.0 Grievance and Dispute Resolution

- a Employees may apply for a review of an employment or engagement related action, or decision made in relation to this policy that directly concerns them and that they consider is unfair or unreasonable through the Grievance and Dispute Resolution Policy.
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