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Whistleblower Protection Policy



Policy Statement

Nepean Community & Neighbourhood Services (NCNS) is committed to the operation of its service in a manner that is consistent with its values, purpose, way and impact, and, in doing so, expects its employees, contractors and board members to uphold the highest standards of legal, ethical and moral behaviour in their work and the performance of their duties and functions.

This policy establishes a process for staff to raise concerns of misconduct without fear of retaliatory action or retribution.

Where a governing body member, director, employee, volunteer, student, contractor or associate of the organisation believes, on reasonable grounds, that another person or persons associated with the organisation has been involved in illegal, improper or unethical conduct, they are encouraged and supported to report the conduct without reprisal or consequence.

NCNS protects whistleblowers from retaliatory action of any kind including:

- dismissal
- demotion
- harassment or discrimination
- victimisation of any kind
- current or future bias
- threats of any of the above.

Scope

This policy applies to all Board members, staff, volunteers, students and contractors of NCNS.

Policy context

The Corporations Act 2001 (Corporations Act) provides a consolidated whistleblower protection regime for Australia’s corporate sector.

Transparent whistleblower policies are essential to good risk management and corporate governance. They help uncover misconduct that may not otherwise be detected. Often, such wrongdoing only comes to light because of individuals (acting alone or together) who are prepared to disclose it, sometimes at great personal and financial risk.

This policy relates to:

Legislation	<ul style="list-style-type: none">• Treasury Laws Amendment (Enhancing Whistleblower Protection) Act 2019 (Cth)• Corporations Act 2001 (Cth) (Corporations Act)• Taxation Administration Act 1953 (Cth)• The Fair Work Act 2009• Privacy Act 1988 (Privacy Act)• Public Interest Disclosures Act 1994 (NSW)• Public Interest Disclosures Act 2013 (Cth)
Organisation policies	See under ‘Related documents’

Definitions

Detrimental conduct: actions or other conduct against a whistleblower or potential whistleblower that results in a detriment or harm to a person, which includes making threats to cause detriment or harm to that person. Such actions might be to:

- dismiss them from their employment
- injure them in their employment
- alter their position or duties as an employee to their disadvantage
- discriminate between them as an employee and other employees of the same employer
- harass or intimidate them
- harm or injure them, including causing them psychological harm
- damage their property
- damage their reputation
- damage their business or financial position
- cause them any other damage.

Disclosable matter: information to which the whistleblower protections apply

Discloser: an individual who discloses wrongdoing or an eligible whistleblower. See also 'Whistleblower'.

Disclosure: the matter disclosed by the whistleblower; a disclosure of information relating to wrongdoing

Misconduct: includes fraud, negligence, default, breach of trust and breach of duty

Leadership Team: Managing Director, Operations Manager, Program Managers and Team Leaders

Public interest disclosure: The disclosure of information to a journalist or a parliamentarian, where the discloser has reasonable grounds to believe that making a further disclosure of the information is in the public interest. The disclosure must meet a number of other criteria to qualify.

Whistleblower: someone with inside knowledge of an organisation who reports misconduct or dishonest or illegal activity that may have occurred within that organisation. (See also Procedure 2.). Also referred to as the 'discloser'. An **eligible whistleblower** is an individual to whom the whistleblower protections apply.

Whistleblowing: deliberate, voluntary disclosure of individual or organisation wrongdoing by a person with access to data, events or information about misconduct by the organisation.

Whistleblower protections: these are the protections provided to whistleblowers to enable them to come forward to report misconduct without fear of retribution or personal detriment.

WPO: Whistleblower Protection Officer

Wrongdoing: illegal, improper or unethical conduct that:

- is in breach of legislation or regulations, or which is otherwise illegal
- is fraudulent or dishonest
- could cause financial or non-financial damage to the organisation, or the reputation of the organisation
- is a breach of the organisation's Code of Conduct
- constitutes maladministration
- infringes on the rights of any person
- endangers the health and safety of others
- is a misuse of organisational, public or other funds.

Procedures

1. Roles and responsibilities

1.1 Whistleblower Protection Officer (WPO)

The NCNS Board will nominate an appropriately qualified/experienced whistleblower protection officer (WPO).

The Operations Manager is the organisation's WPO. Their responsibilities include:

- implementing NCNS's whistleblower protection policy through the Leadership Team
- initial response to an accusation of wrongdoing
- ensuring the protection and/or anonymity of the discloser, where possible
- conducting or assisting in investigations into alleged wrongdoings
- informing the discloser of the progress and outcomes of investigations
- ensuring that disclosers do not suffer any retaliation or negative consequences
- providing support and referrals for both disclosers and those accused of wrongdoing.

NCNS will ensure that all people associated with the organisation know who the designated WPO is and their contact details.

1.2 Company directors and senior managers

If you are a company director (Board member) or senior manager, you are an 'eligible recipient' under the Corporations Act. This means that eligible whistleblowers can make 'qualifying disclosures' to you and then access the whistleblower rights and protections. (Refer Procedure 3 on 'qualifying disclosures', and Procedure 6 on 'How to make or receive a disclosure').

You are also responsible for:

- leading by example to create an organisational culture that gives a clear message that making reports of wrongdoing is encouraged and valued and public interest wrongdoing is not acceptable
- identifying areas where opportunities for public interest wrongdoing might occur and/or management systems are inadequate
- ensuring that procedures for making, receiving and managing reports of wrongdoing are in place and evaluated on a regular basis
- ensuring that all employees and contractors involved in managing reports of wrongdoing understand the principles of the relevant legislation, in particular

confidentiality

- ensuring that internal disclosures are addressed quickly and effectively
- taking all reasonable steps to ensure that employees who make reports of wrongdoing are not subject to reprisals or any form of detrimental action
- ensuring that the rights of those who are the subject of a report of wrongdoing are protected and natural justice is accorded
- taking action following the outcome of any investigation or review, including taking any disciplinary or management action required
- implementing any organisational change necessary as a result of a disclosure
- reporting offences to the appropriate authorities, particularly that any criminal offence should be reported to the police
- supporting staff who make reports of wrongdoing

1.3 Roles and responsibilities of staff members

All staff members are responsible and accountable for:

- reporting matters where there is evidence that shows or tends to show public interest wrongdoing
- ensuring the success of the relevant legislation within their workplace
- identifying areas where opportunities for public interest wrongdoing might occur and/or management systems are inadequate
- supporting those who have made reports of wrongdoing
- keeping confidential the identity of the reporter and any officer against whom the report was made.

2. Who is an eligible whistleblower?

Under the whistleblower protection legislation, an 'eligible whistleblower' can be someone who is or was:

- an officer or employee of the organisation (e.g. current and former employees who are permanent, part-time, fixed-term or temporary, interns, secondees, managers, and board members / directors)
- an individual or an employee or a volunteer of a person who supplies services or goods to the organisation (e.g. current and former contractors, consultants, service providers and business partners)
- an individual who is an associate of the organisation

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- a relative or dependant or spouse of any of the above, or a dependant of the spouse of any of the above

An eligible whistleblower can remain anonymous and still qualify for protection.

3. What are qualifying disclosures?

A whistleblower is entitled to protection under the Corporations Act if they make a **qualifying disclosure** to an eligible recipient.

A qualifying disclosure is a disclosure of information from an eligible whistleblower who has reasonable grounds to suspect that the information concerns:

- misconduct
- an improper state of affairs or circumstances
- a breach of the law, or
- danger to the public or the financial system.

To qualify for protection, the whistleblower must have reasonable grounds to suspect that the information they will disclose indicates misconduct.

The definition of 'misconduct' in the Corporations Act includes fraud, negligence, default, breach of trust and breach of duty. 'Improper state of affairs or circumstances' may not involve unlawful conduct, but may indicate a systemic issue that a relevant regulator should know about to properly perform its functions. It may also relate to unethical business behaviour and practices that may cause consumer harm.

4. Matters this policy applies to ('disclosable matters')

4.1 Disclosable matters

Matters that qualify for protection under the *Corporations Act 2001* are 'disclosable matters'. Disclosable matters involve information that the discloser has reasonable grounds to suspect concerns misconduct, or an improper state of affairs or circumstances, in relation to NCNS.

NCNS considers the following to be disclosable matters:

- 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

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- 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

Disclosable matters include conduct that may not involve a contravention of a particular law. Information that indicates a significant risk to public safety or the stability of/confidence in NCNS and its financial system is also a disclosable matter.

A discloser can still qualify for protection even if their disclosure turns out to be incorrect.

Note: Disclosures that are not about disclosable matters do not qualify for protection under the *Corporations Act 2001* (or the *Tax Administration Act 1953*, where relevant). Such disclosures may be protected under other legislation, such as the *Fair Work Act 2009*.

4.2 Personal work-related grievances

Disclosures that relate solely to personal work-related grievances, and that do not relate to detriment or threat of detriment to the discloser, do **not** qualify for protection under the *Corporations Act 2001*.

Examples of a personal work-related grievance include:

- a) an interpersonal conflict between the discloser and another employee
- b) a decision that does not involve a breach of workplace laws
- c) a decision about the engagement, transfer or promotion of the discloser
- d) a decision about the terms and conditions of engagement of the discloser
- e) a decision to suspend or terminate the engagement of the discloser, or otherwise to discipline the discloser.

However, a personal work-related grievance may still qualify for protection if:

- a) it includes information about misconduct, or information about misconduct includes or is accompanied by a personal work-related grievance (mixed report)
- b) the organisation has breached employment or other laws punishable by imprisonment for a period of 12 months or more, engaged in conduct that represents a danger to the public, or the disclosure relates to information that suggests misconduct beyond the discloser's personal circumstances
- c) the discloser suffers from or is threatened with detriment for making a disclosure
- d) the discloser seeks legal advice or legal representation about the operation of the whistleblower protections under the *Corporations Act 2001*.

Employees of NCNS can raise internally work-related grievances and other types of issues or concerns not covered by this policy through the *Internal Disputes Policy*.

5. Who can receive a disclosure?

5.1 An eligible recipient

To qualify for protection, a whistleblower must make their disclosure to an eligible recipient. These include:

- the Australian Securities and Investment Commission (ASIC)
- the Australian Prudential Regulatory Authority (APRA)
- a Commonwealth body nominated for this purpose in the Regulations, such as the Australian Tax Office
- a legal practitioner, if someone is seeking legal advice about whether the protections will apply to them
- an officer or senior manager of NCNS
- an auditor or member of the audit team for the organisation
- a person that NCNS has authorised to receive a disclosure (this can include a person external to the charity).

For NCNS personnel, this means you have the option to make a disclosure to a Board member or member of the Leadership Team of NCNS. (*Refer also Procedure 6, 'How to make or receive a disclosure'.*)

Note: you can access more information on making an external disclosure by accessing the [ASIC Information Sheet 239](#) *How ASIC handles whistleblower reports*.

5.2 Public interest disclosures and emergency disclosures

Disclosures can be made to a journalist or parliamentarian under certain circumstances and qualify for protection.

It is important for the discloser to understand the criteria for making a public interest or emergency disclosure. The disclosure must have previously been made to ASIC, APRA or a prescribed body, and the discloser must notify this body that they intend to make a public interest disclosure.

In the case of a public interest disclosure, at least 90 days must have passed since the previous disclosure.

A discloser should contact an independent legal adviser before making a public interest disclosure or an emergency disclosure.

The full criteria for a 'public interest disclosure' and an 'emergency disclosure' can be found in the Appendix.

6. How to make or receive a disclosure

NCNS would like to identify and address wrongdoing as early as possible. In addition, NCNS is committed to building confidence and trust in our whistleblower policy, processes and procedures.

Please note, however, if you would prefer not to make a disclosure to NCNS directly, you can make a disclosure directly to regulatory bodies, or other external parties, about a disclosable matter and qualify for protection under the Corporations Act without making a prior disclosure to us.

6.1 Who you can make a disclosure to

You can make disclosures both internally and externally. Internally, you can make a disclosure to a Board member or a member of the Leadership Team (senior managers). Externally, you can make a disclosure to ASIC, APRA or another body prescribed under the regulations to be an 'eligible recipient' (see *Procedure 5*).

6.2 Anonymous disclosures

Disclosures can be made anonymously and still be protected under the *Corporations Act 2001*.

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

A discloser who wishes to remain anonymous should maintain ongoing two-way communication with the organisation, so the organisation can ask follow-up questions or provide feedback.

If a disclosure comes from an email address from which the person's identity cannot be determined, and the discloser does not identify themselves in the email, NCNS will treat it as an anonymous disclosure.

NCNS will use the following mechanisms for protecting anonymity:

- communication with disclosers will be through anonymous telephone hotlines and anonymised email addresses. (*See the internet for how to do this.*)
- a discloser may adopt a pseudonym for the purpose of their disclosure— this may be appropriate in circumstances where the discloser's identity is known to their direct supervisor, the Whistleblower Protection Officer, or equivalent, but the discloser prefers not to disclose their identity to others.

6.3 If you are receiving a disclosure: for Board members and the Leadership Team

- When disclosing to you as an eligible recipient, a whistleblower does not have to give you their name or contact details, and, as noted above, they can remain anonymous.
- Even if you know the whistleblower's identity, you must maintain their confidentiality. This can mean that, once you receive a qualifying disclosure, you cannot disclose the whistleblower's identifying details to others, including other eligible recipients. However, in some instances you may be authorised to disclose their identity under the law – for example, if the whistleblower consents or if it is necessary for the investigation into the concerns (the 'investigation defence').

7. What are the available legal protections?

Whistleblowers, or potential whistleblowers, can be compensated for any loss, damage, or injury they suffer. It is illegal to fire, harass or discriminate against a whistleblower or potential whistleblower because someone thinks they made a disclosure.

Protections apply not only to internal disclosures, but to disclosures to legal practitioners, regulatory and other external bodies, and public interest and emergency disclosures that are made in accordance with the *Corporations Act 2001*.

If a person breaches a whistleblower's confidentiality or causes detriment to a whistleblower because of their disclosure, the person faces criminal or civil penalties.

Importantly, these penalties are not limited to situations with an actual disclosure. They extend to situations where the person merely believes or suspects someone made or could have made a disclosure.

7.1 Identity protection (confidentiality)

NCNS has a legal obligation to protect the confidentiality of a discloser's identity.

A person cannot disclose the identity of a discloser or information that is likely to lead to the identification of the discloser (which they have obtained directly or indirectly because the discloser made a disclosure that qualifies for protection).

7.2 Authorised disclosure of a whistleblower's identity

An 'authorised disclosure' of a whistleblower's identity, or information likely to lead to their identification, is a disclosure:

- to ASIC, the Australian Prudential Regulation Authority or the Australian Federal Police
- to a lawyer for advice about the whistleblower provisions, or
- with the whistleblower's consent.

You can disclose the information contained in a disclosure with or without the discloser's consent if:

- a) the information does not include the discloser's identity
- b) the organisation has taken all reasonable steps to reduce the risk that the discloser will be identified from the information (e.g. removing the discloser's name, position title and other identifying details)
- c) it is reasonably necessary for investigating the issues raised in the disclosure.

It is illegal for a person to identify a discloser, or disclose information that is likely to lead to the identification of the discloser, outside the exceptions detailed above.

A discloser can lodge a complaint with NCNS about a breach of confidentiality by following the processes in the *Internal Disputes Policy (Governance GO.09)*.

A discloser may also lodge a complaint with a regulator, such as ASIC, APRA or the ATO, for investigation.

7.3 Protection from detrimental acts or omissions

NCNS or any individual cannot engage in conduct that causes detriment to a discloser (or another person), in relation to a disclosure, if:

- a) they believe or suspect that the discloser (or another person) made, may have made, proposes to make or could make a disclosure that qualifies for protection
- b) the belief or suspicion is the reason, or part of the reason, for the conduct.

In addition, NCNS (or any individual) cannot make a threat to cause detriment to a discloser (or another person) in relation to a disclosure. A threat may be express or implied, or conditional or unconditional. A discloser (or another person) who has been threatened in relation to a disclosure does not have to actually fear that the threat will be carried out.

Examples of detrimental conduct that are prohibited under the law include the following list. NCNS personnel who make a disclosure will not be subject to any of the following forms of conduct as a consequence of their disclosure:

- a) dismissal of an employee
- b) injury of an employee in his or her employment
- c) alteration of an employee's position or duties to his or her disadvantage
- d) discrimination between an employee and other employees of the same employer
- e) harassment or intimidation of a person
- f) harm or injury to a person, including psychological harm
- g) damage to a person's property

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- h) damage to a person's reputation
 - i) damage to a person's business or financial position
 - j) any other damage to a person.

Examples of actions *that are not* detrimental conduct include the following:

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

NCNS will strive to ensure that a discloser understands the reason for any administrative or management action.

7.4 Compensation and other remedies

A discloser (or any other employee or person) can seek compensation and other remedies through the courts if:

- a) they suffer loss, damage or injury because of a disclosure; and
- b) NCNS failed to take reasonable precautions and exercise due diligence to prevent the detrimental conduct.

Disclosers to seek independent legal advice in relation to compensation and other remedies.

7.5 Civil, criminal and administrative liability protection

A discloser is protected from any of the following in relation to their disclosure:

- a) civil liability e.g. any legal action against the discloser for breach of an employment contract, duty of confidentiality or another contractual obligation
- b) criminal liability e.g. attempted prosecution of the discloser for unlawfully releasing information, or other use of the disclosure against the discloser in a prosecution (other than for making a false disclosure)
- c) administrative liability e.g. disciplinary action for making the disclosure

These protections do not grant immunity for any misconduct a discloser has engaged in that is revealed in their disclosure.

8. Support and practical protection for disclosers

8.1 Identity protection (confidentiality)

NCNS will implement the following measures and mechanisms to protect the confidentiality of a discloser's identity:

(a) 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
- disclosures will be handled and investigated by staff who are eligible recipients

(b) 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 be sent to an email address or to a printer that can be accessed by other staff
- 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

8.2 Protection from detrimental acts or omissions

NCNS will implement the following measures and mechanisms to assess and control the risk of detriment to whistleblowers:

- 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

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- 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, the organisation could 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 the organisation may take in response to such complaints (e.g. the complaint could 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)
 - interventions for protecting a discloser if detriment has already occurred - for example, the organisation could investigate and address the detrimental conduct, such as by taking disciplinary action, or the organisation could 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

A discloser may seek independent legal advice or contact regulatory bodies, such as ASIC, APRA or the ATO, if they believe they have suffered detriment.

9. Handling and investigating a disclosure

9.1 Key principles in handling whistleblower disclosures

The key principles for NCNS in handling whistleblower disclosures are:

- respect and fair treatment for whistleblowers
- a commitment to addressing whistleblower concerns
- reporting whistleblower concerns to senior executives and board members.

NCNS will **not**:

- disclose a whistleblower's identity or information likely to lead to their identification, unless that disclosure is authorised under the law or consent from the whistleblower is given

-
- cause or threaten to cause detriment to (or victimise) a whistleblower for making their disclosure.

9.2 Handling a disclosure

NCNS will take the following key steps after it receives a disclosure:

- all disclosures will be considered seriously
- an internal investigation of the facts of the case will be conducted by the WPO to verify the allegations made and take further action if necessary
- an internal investigation will be undertaken if the matter does not necessitate a police investigation
- when a report is received, the WPO will use their discretion to decide whether legal advice is required.

NCNS will assess each disclosure to determine whether:

- a) it qualifies for protection; and
- b) a formal, in-depth investigation is required.

9.3 Investigating a disclosure

NCNS will take the key steps detailed below:

- The WPO will first notify the Managing Director of any alleged misconduct. The person/s accused will then be notified, so that they may present their case.
- In consultation with the WPO, the Managing Director and other relevant managers, terms of reference and an investigation plan will be prepared, which will include:
 - the key issues to be investigated
 - the scale of the investigation, in proportion to the alleged wrongdoing
 - allocation of resources

The investigation will normally take place within a 4-week timeframe; however, the process may vary depending on the nature of the disclosure.

NCNS may not be able to undertake an investigation if it is not able to contact the discloser.

9.4 Keeping a discloser informed

A discloser will be provided with regular updates, if the discloser can be contacted (including through anonymous channels). The frequency and timeframe may vary depending on the nature of the disclosure.

NCNS will acknowledge a discloser after receiving their disclosure.

In addition, NCNS will provide updates to a discloser during the key stages, such as:

- when the investigation process has begun
- while the investigation is in progress
- after the investigation has been finalised.

9.5 How the investigation findings will be documented, reported internally and communicated to the discloser

Findings from an investigation will be documented and reported to those responsible for oversight of the policy, while preserving confidentiality.

Throughout the course of the investigation conversations, interviews, communications and relevant documents will be recorded and stored. Upon completion, an investigation report will be prepared and filed.

The investigation report will include:

- the allegations
- a statement of facts and the corroborating evidence
- conclusions reached by the investigation
- recommended amendments to organisational policy to avoid future wrongdoing

All documents relating to whistleblowing reports and investigations will be kept securely and confidentially, and access to documents granted only when necessary.

Disclosers will receive information on the outcome of their disclosure at the end of the investigation, as appropriate.

The method for documenting the findings will depend on the nature of the disclosure. There may be circumstances in which it may not be appropriate to provide details of the outcome to the discloser.

10. Ensuring fair treatment of individuals mentioned in a disclosure

NCNS will ensure the fair treatment of our employees who are mentioned in a disclosure that qualifies for protection, including those who are the subject of a disclosure.

NCNS will implement the following measures and mechanisms to ensure the fair treatment of employees mentioned in a disclosure that qualifies for protection:

- disclosures will be handled confidentially, when it is practical and appropriate in the circumstances
- each disclosure will be assessed and may be the subject of an investigation
- the objective of an investigation is to determine whether there is enough

evidence to substantiate or refute the matters reported

- when an investigation needs to be undertaken, the process will be objective, fair and independent (e.g. the employee's direct supervisor will not be involved)
- 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—for example, if the disclosure will be the subject of an investigation. The employee who is the subject of a disclosure will be given the opportunity to respond to allegations, while NCNS will maintain confidentiality of the whistleblower's identity
- an employee who is the subject of a disclosure may contact the organisation's support services (e.g. counselling).]

11. Addressing employment issues relating to a whistleblower

The whistleblower provisions protect whistleblowers for making qualifying disclosures. They do not provide an immunity from liability for the whistleblower if they are involved in the misconduct they disclose, or any other performance or misconduct matter.

If it is the case that there is a work-related grievance or performance issues that needs to be addressed with an employee who has made a qualifying disclosure, NCNS has the right to:

- manage unsatisfactory performance or conduct under the Disciplinary Policy (Underperformance & Misconduct)
- make changes to their employment arrangements or position
- conduct a disciplinary process or take appropriate disciplinary action against them
- terminate their employment

Note: It is important that such action in no way relates to the fact the employee made a qualifying disclosure, otherwise this would be deemed to be causing detriment to a whistleblower and prohibited under the law.

NCNS would ensure that any employment issue would be handled separately from the whistleblower's qualifying disclosure, with separate documentation of the employment issue and the qualifying disclosure, and different staff members responsible for handling each issue.

12. Accessibility of this policy

Within the organisation

This policy will be made available to all officers and employees of NCNS. NCNS will:

- hold staff briefing sessions and/or smaller team meetings to discuss the policy
- post the policy on to the SharePoint shared filing system website
- include the policy in the employee handbook
- ensure the policy is included in employee induction information packs and training for new starters

Awareness and education

NCNS will inform and educate our employees of the whistleblower policy, procedures for reporting, and the protections available to them in order to facilitate a safe environment in which concerns of misconduct may be voiced without reprisal.

Staff involved in the management of whistleblower reports will receive appropriate training in dealing with reports, investigation, and supporting disclosers and employees who are the subject of allegations.

Outside the organisation

This policy will be made available to people outside the organisation through the NCNS website, and a hard copy provided on request.

Related Documents

- Statement of Purpose, Way and Impact (including values)
- Internal Disputes Policy
- Managing Stress in the Workplace Policy
- Privacy & Confidentiality Policy
- Staff Orientation Policy

References

Australian Charities and Not-for-Profit Commission (ACNC)

Whistleblower Protections

<https://www.acnc.gov.au/tools/factsheets/whistleblower-protections>

Australian Securities & Investments Commission (ASIC)

Whistleblower Policies – Regulatory Guide 270

<https://download.asic.gov.au/media/5702691/rg270-published-13-november-2019-20200727.pdf>

Company officer obligations under the whistleblower protection provisions–
Information Sheet No. 247 from ASIC

<https://asic.gov.au/for-business/running-a-company/company-officeholder-duties/company-officer-obligations-under-the-whistleblower-protection-provisions/>

Policy Review

Version	Date reviewed	Amendment notes	Next Review Date
V.1 Created	April 2023	Draft policy created. <i>Action:</i> policy to be put up on the NCNS website once ratified.	
Review and Ratification	April 2023	Reviewed by the Policy Subcommittee 26/04/2023. Ratified on behalf of the Board.	April 2025

Date

26 April 2023

Appendix

Public interest disclosure and emergency disclosure criteria

The full criteria for a 'public interest disclosure' and an 'emergency disclosure' are as follows –

A 'public interest disclosure' is the disclosure of information to a journalist or a parliamentarian, where:

- b) at least 90 days have passed since the discloser made the disclosure to ASIC, APRA or another Commonwealth body prescribed by regulation
- c) the discloser does not have reasonable grounds to believe that action is being, or has been taken, in relation to their disclosure
- d) the discloser has reasonable grounds to believe that making a further disclosure of the information is in the public interest
- e) before making the public interest disclosure, the discloser has given written notice to the body to which the previous disclosure was made that:
 - i) includes sufficient information to identify the previous disclosure
 - ii) states that the discloser intends to make a public interest disclosure.

An 'emergency disclosure' is the disclosure of information to a journalist or parliamentarian, where:

- a) the discloser has previously made a disclosure of the information to ASIC, APRA or another Commonwealth body prescribed by regulation;
- b) the discloser has reasonable grounds to believe that the information concerns a substantial and imminent danger to the health or safety of one or more persons or to the natural environment;
- c) before making the emergency disclosure, the discloser has given written notice to the body to which the previous disclosure was made that:
 - i) includes sufficient information to identify the previous disclosure; and
 - ii) states that the discloser intends to make an emergency disclosure; and
- d) the extent of the information disclosed in the emergency disclosure is no greater than is necessary to inform the journalist or parliamentarian of the substantial and imminent danger.