

## 11.0 WHISTLEBLOWER POLICY

1.	<b>Purpose</b>
1.1	This policy outlines the position of Bendigo Community Health Care Services (BCHS) on the protection of people who report improper conduct. BCHS is committed to operating legally (in accordance with applicable legislation and regulation), properly (in accordance with organisational policy and procedures) and ethically (in accordance with recognised ethical principles).
2.	<b>Scope</b>
2.1	This policy applies to reports made by individuals about the conduct of BCHS Board Directors, employees, volunteers or students where there are reasonable grounds to believe that a breach under laws referred to in the whistleblower provisions of the <i>Corporations Act 2011</i> (Cth) has occurred.
3.	<b>Definitions</b>
3.1	<p><b>Whistleblower</b> – [reportee] person who, whether anonymously or not, makes, attempts to make or wishes to make a disclosure in connection with reportable conduct and qualifies for protection against reprisal for having made the report. An individual is an eligible whistleblower if they are, or have been, an officer, employee, supplier, associate or relative of an officer, employee, supplier, associate or BCHS.</p> <p><b>Reportable matters</b> - include, but are not limited to, the following:</p> <ul style="list-style-type: none"> <li>• Unlawful activity including, but not limited to, theft, dealing in or using illicit drugs, violence and criminal damage.</li> <li>• Behaviour which is dishonest, unethical, fraudulent or corrupt.</li> <li>• Practices which pose a serious risk to public health, safety or the environment.</li> <li>• Unsafe work practices that pose a serious risk to BCHS employees, volunteers, consumers or a third party.</li> <li>• Behaviour which involves harassment, discrimination, victimisation, bullying or which amounts to an abuse of authority.</li> <li>• 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.</li> <li>• Behaviour which involves any other kind of serious impropriety.</li> </ul> <p><b>Breaches of general law, organisational policy or generally recognised principles of ethics</b> - include, but are not limited to, the following:</p> <ul style="list-style-type: none"> <li>• corrupt conduct;</li> <li>• fraud or theft;</li> <li>• official misconduct;</li> <li>• maladministration;</li> <li>• harassment or unlawful discrimination;</li> <li>• serious and substantial waste of organisation resources;</li> </ul>

	<ul style="list-style-type: none"> <li>• practices endangering the health or safety of persons;</li> <li>• practices endangering the environment.</li> </ul> <p>Complaints regarding work health and safety should, where possible, be made through BCHS's work health and safety procedures.</p> <p><b>Eligible recipients</b> – a BCHS Whistleblower Protection Officer; directors, officers and senior managers of BCHS; an auditor or member of an audit team conducting an audit of BCHS; an actuary of BCHS; ASIC; APRA; a Commonwealth authority prescribed by the regulations of the Act; a legal practitioner if the protected disclosure is made for the purposes of obtaining legal advice or representation in relation to the operation of the whistleblower provisions in the Act; a journalist or a member of the commonwealth, State or Territory Parliament if the protected disclosure is a public interest or emergency disclosure made in accordance with the Act; or other persons/entities identified to receive reportable disclosures under the Act or this policy.</p>
4.	<b>Policy Overview</b>
4.1	<p>BCHS is committed to the highest standards of conduct and ethical behaviour in all of our business activities and to promoting and supporting a culture of honest and ethical behaviour, corporate compliance and good corporate governance.</p> <p>BCHS encourages the reporting of any instances of suspected unethical, illegal, fraudulent or undesirable conduct involving BCHS' board members, employees, volunteers or students and provides protections and measures so that those persons who make a report may do so confidentially and without fear of intimidation, disadvantage or reprisal.</p> <p>BCHS encourages disclosures regarding the following types of behaviour which it considers to be improper and not tolerated:</p> <ul style="list-style-type: none"> <li>• Behaviour that may cause financial loss, damage to reputation or be otherwise detrimental to BCHS;</li> <li>• Misuse of BCHS financial resources including theft, fraud or inappropriate purchases;</li> <li>• Dishonest, fraudulent or corrupt behaviour, including offering or accepting bribes;</li> <li>• Behaviour that is unethical or in breach of BCHS policies (such as dishonestly altering company records or data, adopting questionable accounting practices or willfully breaching BCHS' Code of Conduct or other policies or procedures);</li> <li>• Abuse of authority or misuse of position for personal gain;</li> <li>• Misuse of information or material that was obtained in an official capacity;</li> <li>• Illegal behaviour that is likely to bring BCHS into disrepute;</li> <li>• Behaviour toward another that constitutes abuse and/or neglect;</li> <li>• Behaviour toward another that is discriminatory, intimidating or harassing;</li> <li>• Behaviour or practices that may cause consumer harm.</li> <li>• Actions that create a significant risk to health, safety or the environment;</li> <li>• Reprisals against whistleblowers;</li> <li>• Conspiring with or attempting to engage others in any of the above.</li> </ul>

4.2	<p>Protected disclosures are those made by a whistleblower to an eligible recipient in circumstances where the whistleblower has reasonable grounds to suspect misconduct or an improper state of affairs or circumstances in relation to BCHS. Protected disclosures under Whistleblower legislation includes information indicating that an organisation, including its employees or officers, have engaged in conduct that:</p> <ul style="list-style-type: none"> <li>• Constitutes an offence under the Corporations Act, the <i>Australian Securities and Investments Commission Act 2001</i>, the <i>Banking Act 1959</i>, the <i>Financial Sector (Collection of Data) Act 2001</i>, the <i>Insurance Act 1973</i>, the <i>Life insurance Act 1995</i>, the <i>National Consumer Credit Protection Act 2009</i>, the SIS Act, and any instrument made under any of the afore-mentioned Acts;</li> <li>• Constitutes an offence against any other law of the Commonwealth that is punishable by imprisonment for a period of 12 months or more;</li> <li>• Represents a danger to the public or the financial system; or</li> <li>• Is prescribed by regulation.</li> </ul>
5.	<b>Policy</b>
5.1	<p>BCHS does not tolerate improper or corrupt conduct by the Board, employees, students or volunteers and expects transparency and accountability in its people as well as its administrative and management practices.</p>
5.2	<p>Any individual, acting in good faith, who has knowledge of, or reasonable grounds to suspect, misconduct or an improper state of affairs or circumstances, even in there is not a breach of law, can make a report to BCHS, in line with the BCHS Whistleblower Procedure. A report should be made in writing, where possible, with evidence to support the reportee's concerns, if it exists, produced at the time of reporting. The absence of evidence is not an absolute bar to the activation of BCHS' investigation procedures – the existence of the reportee's concern is sufficient to trigger reporting responsibilities.</p>
5.3	<p>A reportee qualifies for protection as a whistleblower under the Corporations Act if they are an eligible whistleblower as set out in Table 1. A reportee is required to make a disclosure directly to a BCHS eligible recipient (as detailed in the BCHS Whistleblower Procedure) to qualify for protection as a whistleblower under the Corporations Act. A reportee can still qualify for protection even if their disclosure turns out to be incorrect. Disclosures to a legal practitioner for the purposes of obtaining legal advice or representation are protected even in the event that a disclosure does not constitute a reportable matter.</p>
5.4	<p>BCHS will take all reasonable steps to protect individuals who make a report or cooperate with an investigation from any detrimental action or reprisal.</p> <p>Legal protections for reportees who qualify for protection as whistleblowers under the Corporations Act include:</p> <ul style="list-style-type: none"> <li>• <b>Identity protection (confidentiality)</b> – it is illegal for a reportee to be identified, or for information to be disclosed that is likely to lead to the identification of the reportee aside from disclosure to: <ul style="list-style-type: none"> <li>○ ASIC, AHPRA or a member of the Australian Federal Police (within the meaning of</li> </ul> </li> </ul>

	<p>the Australian Federal Police Act 1979;</p> <ul style="list-style-type: none"> <li>○ A legal practitioner for the purposes of obtaining legal advice or representation about the whistleblower provisions in the Corporations Act;</li> <li>○ To a person or body prescribed by regulations; or</li> <li>○ Without the consent of the discloser</li> </ul> <ul style="list-style-type: none"> <li>● <b>Protection from detrimental acts or omissions</b> – detrimental conduct prohibited under law includes: <ul style="list-style-type: none"> <li>○ dismissal of an employee;</li> <li>○ alteration of an employee’s position or duties to their disadvantage;</li> <li>○ discrimination, harassment or intimidation;</li> <li>○ harm or injury to a person (including psychological harm);</li> <li>○ damage to a person’s reputation, business or financial position, or property; or any other damage/harm to a person.</li> </ul> </li> <li>● <b>Compensation and other remedies</b> – a reportee (or any other employee or person) can seek compensation and other remedies through the judicial system if they suffer loss, damage or injury because of a disclosure where the organisation failed to take reasonable precautions and exercise due diligence to prevent such.</li> <li>● <b>Civil, criminal and administrative liability protection</b> – a reportee is protected from civil liability, criminal liability and administrative liability in relation to their disclosure.</li> </ul> <p>These protections apply to internal disclosures, as well as reports to legal practitioners, regulatory and other external bodies, and public interest and emergency disclosures that are made in accordance with the Corporations Act. These protections do not grant immunity for any misconduct that a reportee has engaged in that is revealed in their disclosure. A person’s liability for their own conduct is not minimised by their reporting of that conduct under this policy.</p> <p>The measures and mechanisms that BCHS utilises to ensure the practical protection for reportees are detailed in the BCHS Whistleblower procedure.</p>
5.5	<p>BCHS will treat all reports confidentially and will support the whistleblower to not reveal themselves or give out information that would enable others to identify them as a whistleblower. A reportee can refuse to answer questions or provide information during an investigation if they feel such information could reveal their identity. A reportee who wishes to remain anonymous is encouraged to maintain ongoing two-way communication with BCHS so that follow-up questions or feedback can be provided.</p>
5.6	<p>BCHS will investigate all matters reported under this policy as soon as possible after the disclosure has been made in accordance with the BCHS Whistleblower procedure.</p> <p>All investigations will be conducted in an objective and fair manner and shall observe the rules of natural justice and the provisions of procedural fairness, having regard to the nature of the reportable conduct and the individual circumstances.</p> <p>Strict security will be maintained during the investigative process and all information obtained will be properly secured to prevent unauthorised access.</p>

5.7	BCHS will encourage both the whistleblower and others involved in the investigation to seek support through the BCHS Employee Assistance Program.
5.8	BCHS recognises that employees against whom reports are made must be supported during the handling and investigation process. BCHS will afford natural justice to the person who is the subject of the investigation.
5.9	BCHS will give its full support to an employee who is the subject of an investigation where the allegations are clearly wrong or unsubstantiated. If the matter has been publicly disclosed the CEO will consider any request by that person to issue a statement of support.
5.10	Subject to privacy considerations against whom the allegations are made and customary practices of confidentiality, the reportee will be kept informed of relevant progress of the investigation and relevant outcomes. A report will be prepared when an investigation is complete.
5.11	<p>Personal related work grievances are excluded from this policy, apart from where such grievances relate to a systemic organisation issue. Personal work-related grievances are those that relate to the reportee's current or former employment and have, or tend to have, implications for the reportee personally, but do not have any other significant implications for the organisation or relate to any reportable conduct, or alleged conduct, relating to the organisation. Examples of personal work-related grievances include:</p> <ul style="list-style-type: none"> <li>• An interpersonal conflict between the discloser and another employee;</li> <li>• A decision that does not involve a breach of workplace laws;</li> <li>• A decision about the engagement, transfer or promotion of the reportee;</li> <li>• A decision about the terms and conditions of engagement of the reportee; or a decision to suspend or terminate the engagement of the reportee or otherwise discipline the reportee.</li> </ul> <p>Personal grievances should be addressed via the appropriate organisation procedures (ie. complaint handling procedures, human resources procedures).</p> <p>A disclosure about, or including, a personal work-related grievance may still qualify for whistleblower protection if:</p> <ul style="list-style-type: none"> <li>• it includes information about misconduct;</li> <li>• 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 public safety, or the disclosure relates to information that suggests misconduct beyond the reportee's personal circumstances;</li> <li>• the reportee suffers from or is threatened with detriment for making a disclosure; or</li> <li>• the discloser seeks legal advice or representation about the operation of the whistleblower protections under the Corporations Act.</li> </ul>
5.12	Any reportee making a disclosure who informs commercial media or utilises social media or any other means of communication to raise their concern, will not be protected under this policy, unless it is not feasible for whistleblowers to report internally or existing reporting channels have failed to deal with the issues effectively.



5.9	This policy will be made available via the BCHS intranet and website.
<b>6.</b>	<b>Responsibilities</b>
6.1	<p>BCHS Board</p> <ul style="list-style-type: none"> <li>• be aware of the Whistleblower Policy, related procedures and documents;</li> <li>• ensure they understand their responsibilities as eligible recipients and comply with this policy and related documents.</li> </ul>
6.2	<p>BCHS Executive</p> <ul style="list-style-type: none"> <li>• endorse the Whistleblower Policy, related procedures and documents;</li> <li>• ensure they understand their responsibilities and comply with this policy and related documents;</li> <li>• ensure BCHS employees understand their responsibilities and comply with this policy and related documents;</li> <li>• ensure this policy and related documents are regularly reviewed and maintained in line with applicable legislation, guidelines and standards;</li> <li>• ensure any breaches of this policy are managed in line with Performance Improvement Policy and Procedures.</li> </ul>
6.3	<p>BCHS Managers</p> <ul style="list-style-type: none"> <li>• ensure they understand their responsibilities and comply with this policy and related documents;</li> <li>• ensure BCHS employees understand their responsibilities and comply with this policy and related procedures;</li> <li>• ensure any breaches of this policy are managed in line with Performance Improvement Policy and Procedures.</li> </ul>
6.4	<p>BCHS Employees</p> <ul style="list-style-type: none"> <li>• ensure they understand their responsibilities and comply with this policy and related documents.</li> </ul>
<b>7.</b>	<b>Approval</b>
7.1	Approved By: Board of Directors
7.2	Date: 25 <sup>th</sup> August 2020
<b>8.</b>	<b>Implementation and Review</b>
8.1	Author: Policy, Procedure and Quality Coordinator
8.2	Responsible Team: Office of the CEO
8.3	Date to be reviewed: August 2021
<b>9.</b>	<b>Forms and Related Documents</b>
9.1	Whistleblowers Procedure Performance Improvement Procedure

**Table 1: Criteria for protection as a whistleblower**

Criteria	The law requires
Role of reportee	<p>Reportees <b>must</b> be a current or former:</p> <ul style="list-style-type: none"> <li>• employee or officer (director or company secretary), of the organisation that the disclosure is about, or a related company or organisation;</li> <li>• contractor, or an employee of a contractor, who has supplied goods or services to the organisation that the disclosure is about, or a related company or organisation (this can be either paid or unpaid, and can include volunteers);</li> <li>• associate of the organisation, usually a person with whom the organisation acts in concert; or</li> <li>• spouse, relative or dependent of one of the people referred to above.</li> </ul> <p>Whilst a reportee must hold, or have held, one of these roles to access the protections, they do not have to identify themselves or their role and their concerns can be raised anonymously.</p>
Organisation that the disclosure is about	<p>The organisation that the disclosure is about <b>must</b> be:</p> <ul style="list-style-type: none"> <li>• a company;</li> <li>• a bank;</li> <li>• a provider of general insurance or life insurance;</li> <li>• a superannuation entity or a superannuation trustee, or</li> <li>• an incorporated association or other body corporate that is a trading or financial corporation. This includes not for-profit organisations that trade in goods or services, lend or borrow money, or provide other financial services, and their trading or financial activities make up a sufficiently significant proportion of their overall activities. Not all not-for-profit organisations are subject to the whistleblower protections.</li> </ul>
Disclosure submission	<p>Disclosures <b>must</b> be made to:</p> <ul style="list-style-type: none"> <li>• a director, company secretary, company officer, or senior manager of the organisation, or a related organisation;</li> <li>• an auditor, or a member of the audit team, of the organisation, or a related organisation;</li> <li>• an actuary of the organisation, or a related organisation;</li> <li>• a person authorised by the organisation to receive whistleblower disclosures;</li> <li>• ASIC or the Australian Prudential Regulation Authority (APRA), or</li> <li>• Your legal practitioner.</li> </ul>

<p>Disclosure subject matter</p>	<p>There <b>must</b> be <b>reasonable grounds</b> to suspect that the information being disclosed about the organisation concerns misconduct or an improper state of affairs. This information can be about the organisation or an officer or employee of the organisation engaging in conduct that:</p> <ul style="list-style-type: none"> <li>• breaches the Corporations Act;</li> <li>• breaches other financial sector laws enforced by ASIC or APRA;</li> <li>• breaches an offence against any other law of the Commonwealth that is punishable by imprisonment for a period of 12 months; or</li> <li>• represents a danger to the public or the financial system.</li> </ul> <p>'Reasonable grounds' means that a reasonable person in the reportee's position would also suspect the information indicates misconduct or a breach of the law.</p>
<p>Additional protections</p>	<p>There are additional protections for reportees making disclosures relating to matters in the public interest or an emergency (refer to the ASIC website for more information in these instances).</p>