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| **QMS 30: WHISTLEBLOWER MANAGEMENT POLICY AND PROCEDURE** |

**DOCUMENT CONTROL**

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| **Date**  | **Version**  | **Revision Description**  |
| 12/08/2015 | 1.1 | Reviewed; update to PHN |
| 27/03/2019 | 1.2 | Reviewed to ensure currency |
| 15/04/2019 | 1.3 | Updated to reflect new Whistleblower laws to take effect from 1 July 2019 arising from the Treasury Laws [Amendment (Enhancing Whistleblower Protections) Bill 2018](https://parlinfo.aph.gov.au/parlInfo/download/legislation/bills/s1120_aspassed/toc_pdf/1729120.pdf;fileType=application%2Fpdf) |
| 26/06/2020 | 1.4 | Updated to reflect expanded whistleblower protections regarding all Australian companies (requirements to specify who can make whistleblower disclosures and who can disclosures be made to in order to be protected) as per REG-26 (New Federal whistleblower laws were enacted on 19 March 2019. On 4 April the law was modified, resulting in the new law taking effect on 1 July 2019). |
| 01/03/2022 | 1.5 | Lite Review – nil updates; changed next review Date and version (AR).  |
| 09/03/2022 | 1.5 | Updated Managed by to HR Manager as per Folio QMS Register (TMcD) |
| 14/01/2025 |  | Updated to reflect changes to Policy requirements under ASIC Regulatory Guide 270 November 2019 |

# PART ONE: POLICY

## PURPOSE

The purpose of this Policy is to demonstrate the Gold Coast Primary Health Network’s (GCPHN) commitment to promoting a culture that encourages and supports the disclosure of suspected misconduct for any known or suspected misconduct in relation to GCPHN. The Policy outlines the procedures for making and managing disclosures of alleged or suspected misconduct including receiving, assessing and responding to any whistleblower complaints as required by the *Corporations Act 2001* (Cth) (the Act)*.*

The Policy intends to help deter wrongdoing, by encouraging disclosure and ensuring that anyone who makes a disclosure can do so safely, securely and with confidence that they will be protected and supported.

It aims to:

1. Discourage wrongdoing and to encourage reporting of known or suspected misconduct in relation to GCPHN;
2. Detail the types of disclosures that qualify for protection;
3. Outline the processes and procedures for the disclosure, assessment, investigation and resolution of reports of protected disclosures;
4. Support and protect the rights of persons make a report;
5. Outline how appropriate consideration is given to the interests of persons who are the subject of a disclosure; and
6. Ensure the complaint process is managed in accordance with the Act and appropriate confidentiality is maintained.

This Policy is available for public viewing at the [Gold Coast PHN](https://gcphn.org.au/) website and internally via SharePoint.

## POLICY STATEMENT

GCPHN is committed to the highest standards of integrity and conduct and to providing an environment in which people feel free to raise legitimate issues relating to its operations.

This policy reinforces GCPHN’s commitment to providing a safe and confidential environment where concerns regarding wrongdoing can be raised without fear of detrimental treatment.

The Act provides for protections for whistleblowers (Whistleblower Protection Scheme).

You are a protected Whistleblower and entitled to protection under the Act if:

1. you are an Eligible Whistleblower; and
2. you make a disclosure that qualifies for protection under the Act (protected disclosure); and
3. the disclosure is made to an Eligible Recipient.

This Policy applies to all employees, officers, contractors, suppliers, and their representatives, as well as other eligible individuals inside and outside GCPHN who may make disclosures which qualify for protection under the Act in making a protected disclosure.

## DEFINITIONS

**Eligible Whistleblower (Discloser):**

Any person who is or has been any of the following with respect to GCPHN:

* an employee (including current and former employees who are permanent, part-time, fixed term or temporary, interns, secondees) or a related company or organisation
* an officer (usually that means a director or company secretary) or a related company or organisation
* a person (or employee of a person or entity) who has supplied goods or services the disclosure is about, or a related company or organisation – this can be either paid or unpaid, and can include volunteers
* an associate of the company, or
* a spouse, relative or dependant of one of the people referred to above, or a dependant of such an individual’s spouse.

**Reportable Matters:**

You **must** have reasonable grounds to suspect that the information you are disclosing about GCPHN concerns:

* misconduct, or
* an improper state of affairs or circumstances.

This information can be about the company or organisation, or an officer or employee of the company or organisation, engaging in conduct that:

* breaches the Act
* breaches other financial sector laws enforced by the Australian Securities and Investment Commission (ASIC) or the Australian Prudential Regulation Authority (APRA)
* breaches an offence against any other law of the Commonwealth that is punishable by imprisonment for a period of 12 months, or
* represents a danger to the public or the financial system.

'Reasonable grounds' means that a reasonable person in your position would also suspect the information indicates misconduct or a breach of the law.

Disclosures can be for conduct that, whilst not unlawful, indicates a systemic issue of concern that the relevant regulator should know about to properly perform its functions.

**Eligible Recipient:**

You **must** make your disclosure to:

* a director, company secretary, company officer, or senior manager of GCPHN, or a related company or organisation
* an auditor, or a member of the audit team, of the company or organisation, or a related company or organisation
* an actuary of the company or organisation, or a related company or organisation
* a person authorised by the company or organisation to receive whistleblower disclosures
* ASIC or APRA, or
* your lawyer.

While you must make your disclosure to one of these people or organisations, you can raise your concerns anonymously.

Eligible recipients must assess and manage any potential whistleblower disclosure made to them in accordance with their obligations under the law, which includes maintaining confidentiality and may include seeking legal advice on the disclosure.

**Protection from Detriment:**

Under the Act, detrimental conduct is defined to include the following:

* dismissal of an employee;
* injury of an employee in his or her employment;
* alteration of an employee’s position or duties to his or her disadvantage;
* discrimination between an employee and other employees of the same employer;
* harassment or intimidation of a person;
* harm or injury to a person, including psychological harm;
* damage to a person’s property;
* damage to a person’s reputation;
* damage to a person’s business or financial position;
* any other damage to a person

## ADDITIONAL DISCLOSURES

There are two additional categories of disclosures which are protected under the Whistleblower Protection Scheme:

* 'Public interest disclosures' (as defined under the Corporations Act, not the Public Interest Disclosure [PID] Act) which can be made to journalists and members of Parliament but only if the Eligible Whistleblower complies with the strict requirements set out in the legislation; and
* 'Emergency disclosures' which can be made to journalists and members of Parliament where there is a substantial and imminent danger to the health or safety of one or more persons or to the natural environment, and only if the Eligible Whistleblower complies with strict requirements set out in the legislation.

Before making a public interest or emergency disclosure, it is important that an Eligible Whistleblower understands the criteria for protection under the relevant legislation. GCPHN encourages Eligible Whistleblowers to obtain independent legal advice prior to making a public interest or emergency disclosure under the Whistleblower Protection Scheme.

Eligible Whistleblowers are encouraged to make a disclosure to GCPHN as a first step. Eligible Whistleblowers will be respected and supported should they disclose to an external authority. It is very likely that the external authority will discuss the disclosure with GCPHN who will make every effort to assist and cooperate with any external authority to work towards a satisfactory outcome.

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| **Type of Protected Disclosure** | **External bodies who can accept disclosures** |
| Whistleblower Disclosures | * Australian Securities and Investment Commission (ASIC)
* Australian Tax Office
* Other Commonwealth authority prescribed in the Corporations Regulations
* A qualified legal practitioner for the purpose of taking legal advice or legal representation in relation to the operation of the Commonwealth Protected Disclosure Scheme
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| Public Interest Disclosures | * Crime and Corruption Commission (CCC) for disclosures about corrupt conduct, including reprisal
* Member of the Legislative Assembly (Queensland Member of Parliament) for any wrongdoing or danger
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## PROTECTION FOR WHISTLEBLOWERS

* 1. **Protecting the identity of a Whistleblower**

GCPHN will treat disclosures from Eligible Whistleblowers confidentially and sensitively and will take steps to protect the identity of the Eligible Whistleblower.

Protections apply to anonymous disclosures. You can remain anonymous in making your report, over the course of the investigation and after the investigation is finalised. You can refuse to answer any questions that may reveal your identity at any time.

It is illegal for a person to identify a discloser or disclose information that is likely to lead to the identification of the discloser. If you are an Eligible Whistleblower, your identity and position (or any other information which would be likely to identify you) will only be shared where permitted by the Act, including if:

* you consent to the information being shared;
* the disclosure is to a recipient permitted by the Act, such as the ASIC or Australian Federal Police; or
* the disclosure is otherwise allowed or required by the Act (for example, to a lawyer to receive legal advice or legal representation relating to the whistleblower provisions of the Act).

Disclosers may be asked to consent to limited disclosure of their identity, or information that is likely to lead to their identification to enable GCPHN to investigate the matter.

In this circumstance, all reasonable steps will be taken to reduce the risk that you will be identified. For example, conducting interviews off-site or in a confidential setting, storing records securely, and limiting access to a need-to-know basis. As a discloser, you can refuse to answer questions that you feel could reveal your identity at any time.

* 1. **Protection against detrimental treatment**

GCPHN is committed to protecting Eligible Whistleblowers from detriment and will take practical action, as necessary, to protect Eligible Whistleblowers from the risk of detriment and intervene if detriment has already occurred.

The Act prohibits a person from engaging in conduct that causes, or threatens to cause, detriment to a discloser or another person by reason of a believe that the discloser or another person made or could make a disclosure that qualifies for protection.

See Definitions for Protection from detriment under the Act.

If an Eligible Whistleblower believes that they have suffered detriment they can lodge a complaint with an Eligible Recipient or ASIC for investigation. GCPHN encourages Eligible Whistleblowers seek independent legal advice.

* 1. **Other legal protections**

The Act provides a number of other legal protections for persons who make disclosures that qualify for protection, including:

* the right to seek compensation and other remedies through the courts if they suffer loss, damage or injury because of a disclosure as a result of GCPHN failing to take reasonable precautions and exercise due diligence to prevent detrimental conduct;
* protection from a civil liability (e.g. arising out of legal action for breach of an employment, confidentiality or other contractual obligation);
* protection from criminal liability relating to the making the disclosure (other than liability for making a false disclosure); and
* administrative liability (e.g. disciplinary action for making the disclosure).

The protections under the Act do not include protection from misconduct a discloser has engaged in that is revealed in their disclosure.

## SUPPORT AND PROTECTION

GCPHN will take the following measures to reduce the risk that the discloser will be identified from any information contained in the disclosure.

**6.1 Identity protection**

* Redact identifying information or references to the discloser
* Refer to the discloser in a gender-neutral context
* Liaise with the discloser to identify aspects of their disclosure that could inadvertently identify them
* Disclosures will be handled and investigated by qualified staff which may include an appointed external agency.
	1. **Secure record-keeping**

GCPHN will ensure that all records are kept securely by taking the following steps:

* Storing and sending all paper and electronic documents and other materials relating to disclosures securely.
* Limiting access to all information relating to disclosures to those directly involved in managing and investigating the disclosure.
* Restricting the number of people who are aware of the disclosure and the discloser’s identity (subject to the disclosers’ consent).
* Reminding all persons handling and investigating a disclosure about the confidentiality requirements, including that an unauthorised disclosure of a discloser’s identity may be a criminal offence.
* If disclosure is required, seek the disclosers’s consent.

Disclosers should be aware that in some circumstances it may be possible for people with relevant knowledge to guess the discloser’s identity or where:

* The discloser has previously mentioned to other people that they are considering making a disclosure.
* The discloser is one of a small number of people with access to the information.
* The disclosure relates to information that has previously been told privately and in confidence.

## FALSE OR MISLEADING INFORMATION

Disclosers must not intentionally provide false or misleading information when making a protected disclosure or in connection with an assessment or investigation about a protected disclosure.

If a discloser is found to have intentionally provided false or misleading information, disciplinary action may be taken against them (if they are an employee) or other action if they are an officer or contractor.

Intentionally providing false or misleading information may be subject to civil liability, criminal liability or other administrative liability.

## NON PROTECTED DISCLOSURES

Disclosures concerning a personal work-related grievance of an employee will not amount to misconduct and will not be covered by this policy or protected under the whistleblower protections. Such excluded conduct may include, but is not limited to:

* interpersonal conflict between employees;
* a decision that does not involve a breach of workplace laws;
* a decision about the engagement, transfer or promotion an employee;
* a decision about terms and conditions of employment;
* a decision to suspend or terminate employment, or which otherwise relates to workplace disciplinary matters.

These matters will be managed in accordance with GCPHN’s *Grievance and Dispute Resolution Procedure.*

However, a personal work-related grievance may still qualify for protection and be covered by this policy if it includes, or is accompanied by information that meets the requirements for a reportable matter as defined:

* includes information about misconduct beyond the personal circumstances of the employee and that meets the requirements for a reportable matter
* it concerns a contravention, or alleged contravention of the Act prohibition where the discloser is threatened with detriment from making the disclosure; or
* the discloser seeks legal advice or legal representation about the operation of the whistleblower protections under the Act.

# PART TWO: PROCEDURE

## INVESTIGATING AND MANAGING THE DISCLOSURE

This Whistleblower Procedure outlines the process for disclosing suspected misconduct. This procedure ensures that disclosures are managed confidentially, fairly, and in accordance with the *Corporations Act 2001* (Cth) (the Act).

By adhering to this procedure, we aim to:

* Protect whistleblowers from detrimental treatment or reprisals.
* Ensure allegations are thoroughly investigated and resolved.
* Promote ethical practices and strengthen trust within our organisation and the broader community.

## MAKING AN INTERNAL PROTECTED DISCLOSURE

Reports should be marked ‘confidential’ and forwarded to one of the Eligible Recipients or to the Whistleblower Protection Officer (WPO).

**Note:** *GCPHN Eligible Recipients (Directors, CEO, Company Secretary or Senior Managers) will forward any disclosures received to the WPO.*

Refer to Section 4 of the Policy for Additional (external) Disclosure information.

## INFORMATION TO BE INCLUDED

While there is no particular information that the discloser needs to provide, the information provided should be clear, factual, avoid speculation and be presented in an unbiased fashion (and any possible perception of bias is disclosed).

Disclosures must be made honestly and on objectively reasonable grounds. This means a discloser must have a genuine belief in its truth and/or, if available, provide evidence which tends to show the wrongdoing has occurred. However, a discloser is not required (and is discouraged) from undertaking their own investigation into the matter before making the Protected Disclosure. A disclosure will be protected even if it eventually is not found to be true.

Depending on the circumstances, the discloser should where possible provide information on:

* The nature of the wrongdoing.
* The name, job title and workplace address of the person the subject of the disclosure.
* When (dates and times) and where the wrongdoing occurred.
* Events surrounding the issue.
* If the discloser did anything in response to the wrongdoing.
* Others who also know about the wrongdoing and have allowed it to continue.
* If the discloser is concerned about possible reprisal because of making the disclosure.
* Names of others who may be able to support the disclosure or any other evidence to support the disclosure.
* Steps already taken by the discloser to report the matter internally should also be included, if relevant.

Disclosers will be asked by GCPHN to consent to limited disclosure of their identity, or information that is likely to lead to their identification, to enable GCPHN to deal with and/or investigate the matter. If consent is withheld, it may not be possible to adequately investigate and/or respond (if at all) to the disclosure.

## ANONYMOUS DISCLOSURES

A discloser can choose to make a disclosure anonymously and to remain anonymous over the course of the investigation and after the investigation is finalised – they may also decide not to answer questions that they feel could reveal their identity at any time, including during follow-up conversations. For example, they may do so because of concerns about their identity becoming known. If such concerns exist, a discloser may prefer to adopt a pseudonym for the purposes of their disclosure (not their true name) – or to create an anonymous email address to make their Protected Disclosure.

Anonymous disclosures are still capable of being protected under the legislation and this Policy.

Reporting anonymously may make it difficult for GCPHN to fully investigate a reported matter. For this reason, anonymous disclosers are encouraged to maintain ongoing two-way communication (such as via an anonymous email address), so that questions can be asked and updates provided.

## ASSESSMENT

All disclosures, including those that are made anonymously, will be assessed by the WPO to determine if the:

* disclosure concerns a matter about which a Protected Disclosure can be made, in accordance with the Whistleblower Protection Scheme and/or PID Act and this Policy;
* disclosure has been made to a proper authority under the PID Act or eligible recipient under the Whistleblower Protection Scheme and in accordance with this Policy; and
* person making the disclosure is able to receive the protections of the Whistleblower Protection Scheme and/or PID Act.

If there is doubt about whether a disclosure is a Protected Disclosure, further information may be obtained to inform the assessment. If doubt remains, the WPO will assume the disclosure is protected and manage it as if it is a Protected Disclosure.

Where the complaint is assessed as not being a Protected Disclosure, the reasons for this will be explained to the Discloser in writing, as well as any other action GCPHN proposes to take in relation to the matter. If the Discloser is dissatisfied with the decision, they can request a review by writing to the CEO within 28 days of receiving the written reasons for decision.

## INITIAL STEPS

The WPO will provide a report to GCPHN’s CEO, who will determine:

* The nature and scope of the investigation including referral to an external agency if required.
* Who should lead the investigation, noting this is not the WPO or receiving officer.
* Any technical, financial or legal advice that may be required to support the investigation.
* The timeframe for the investigation

 The CEO will consider if any immediate action needs to be taken to halt the conduct or remedy the loss or danger to which the Protected Disclosure relates.

The discloser will be advised:

* that their information has been received and assessed as a Protected Disclosure under either or both of the Whistleblower Protection Scheme and/or PID Act;
* the action which will be taken in relation to the Protected Disclosure;
* the likely timeframe involved;
* the Discloser's obligations regarding confidentiality, except as permitted by law;
* the protections the Discloser has under the legislation;
* the commitment of GCPHN to keep the Discloser's identity and the information disclosed confidential, except where permitted under the Whistleblower Protection Scheme and/or PID Act or with their consent;
* the Discloser's likely involvement in any action to be taken and how they will be provided updates regarding intended actions and outcomes; and
* the arrangements that will be put in place to support the Discloser, including the name of any support person appointed and contact details for GCPHN’s Employee Assistance Scheme.

If an investigation is authorised, GCPHN must consider and control any risk of Detrimental Conduct to the discloser.

To the extent possible, the Investigator will keep the discloser informed regarding the process of an investigation:

* When the investigation process has begun
* While the investigation is in progress
* After the investigation has been finalised.

Following an investigation, the CEO may decide to close the investigation or forward a report on the investigation to the Board. The Board may adopt or reject the findings of the report and any recommendation of the CEO. If required, the Board will notify any relevant external body.

Any investigation into Reportable Conduct will be conducted in accordance with the rules of natural justice.

Any person who is mentioned in a disclosure, including those who are the subject of a disclosure, will be treated fairly and will be offered support through GCPHN’s Employee Assistance Scheme.

## RESPONSIBILITIES

**Whistleblower Protection Officer**

* Obtain all necessary information regarding the protected disclosure.
* Secure all information including unauthorised access.
* Maintain confidentiality unless required to by the law or the discloser has provided permission to so.
* Undertake an initial assessment and make recommendations to the CEO and/or Board Chair.

**CEO/Chair of the Board**

* Authorised to commence an investigation or forward the whistleblower complaint onto ASIC, the Australian Charities and Not for profit Commission (ACNC) or the Australian Federal Police.
* Assign an Investigating Officer.
* Approve the investigation scope developed by the Investigation Officer.
* Manage the outcome of the investigation.

**Investigation Officer**

* Apply natural justice.
* Treat all information obtained throughout the investigation as confidential and store information in a secure location.
* Maintain regular contact with the discloser advising of the status and outcome of the investigation.
* Prepare a report for the CEO and Board Chair outlining:
	+ details surrounding the complaint;
	+ root causes and contributing factors;
	+ confirm if the complaint is an isolated incident or systematic; and
	+ recommendations to address the root causes.
* Ensure the report outcome can withstand scrutiny by any party internal or external to the investigation.
	1. **DOCUMENT CONTROL - MONITORING, EVALUATION AND REVIEW**

This Policy has been classified as a Level 1 under the Quality Manual and QMS Controlled Documents Procedure and should be reviewed every 12 months or otherwise as improvements arise.

* 1. **ASSOCIATED DOCUMENTS**
* Australian Securities and Investment Commission – Regulatory Guide 270 (November 2019)
* Western Queensland Whistle-blower Policy and Procedure
* *Australian Securities and Investment Commission Act 2001*
* Monash University Whistleblower Policy and Procedure
* Footprints Whistleblower Policy and Procedure
* [Whistleblowing | ASIC](https://asic.gov.au/about-asic/asic-investigations-and-enforcement/whistleblowing/)