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## Purpose

ACH Group's culture is built on its purpose of Good Lives for Older People, its values of accountability, honest, integrity and trust, and on its service behaviours:

**The best in you brings out the best in us**



LOVE WHAT  
WE DO



PUT OUR HANDS UP  
FOR CHALLENGES



TAKE ACTION &  
RESPONSIBILITY



CELEBRATE  
UNIQUENESS

ACH Group's Workforce is expected to follow the ACH Group Code of Conduct and the Aged Care Code of Conduct in both its content and spirit, always bearing in mind that each member of the Workforce has a personal responsibility to incorporate the principles of both these Codes into their work for ACH Group.

At times, individuals may witness, or be subject to, behaviours or actions that are illegal, unacceptable or undesirable. Such behaviours or actions may at times be so serious as to be eligible for protection under this Whistleblower Policy.

The purpose of this Whistleblower Policy (**Policy**) is to:

- a) encourage Whistleblowers to raise any concerns and report instances of Reportable Conduct where there are reasonable grounds to support such action, without fear of intimidation, disadvantage or reprisal;
- b) outline the mechanisms for the reporting and investigation of reported matters;
- c) outline the measures in place to protect and ensure the fair treatment of Whistleblowers;
- d) provide information about how the Policy will be made available to Whistleblowers;
- e) help to ensure that ACH Group maintains high standards of ethical behaviour and integrity; and
- f) outline procedures and protections that apply to Whistleblowers under the Corporations Act in relation to the reporting of possible breaches of the Corporations Legislation and the Aged Care Act in relation to breaches of the Aged Care Act.

Capitalised terms used in this Policy are defined in the Definitions.

# Whistleblower - Policy

## Scope

This Policy applies to all Whistleblowers who wish to report Reportable Conduct regarding ACH Group's activities.

## What is whistleblowing?

Whistleblowing is where an individual "blows the whistle" and reports misconduct, wrongdoing and breaches of the law by an organisation (i.e. ACH Group) or an individual.

What is a Whistleblower Disclosure	What is not a Whistleblower Disclosure
Unsafe workplace and health practices that are not being addressed by ACH Group.	Having an argument with another co-worker.
Fraudulent or corrupt behaviour. <i>i.e., falsifying rosters to claim funding for support that is not actually delivered.</i>	Complaints about a reduction in working hours.
Illegal behaviour such as theft, violence, harassment or victimisation.	Being unhappy after not getting a pay rise.
Concerns and feedback about ACH Group's delivery of funded aged care services.	Other work-related conflicts between an employee and ACH Group.

## Definitions

For standard definitions, please see [Business Glossary - Reference](#)

For this procedure the following definitions apply:

Term	Definition
Aged Care Act	the Aged Care Act 2024 (Cth) and associated rules and regulations.
ASIC	the Australian Securities and Investments Commission.
Corporations Act	Corporations Act 2001 (Cth).
Corporations Legislation	has the meaning given to that term in clause 9 of the Corporations Act and includes the Corporations Act and Australian Securities and Investments Commission Act 2001 (Cth), the Banking Act 1959, the Financial Sector Act (Collection of Data) Act 2001, the Insurance Act 1973, the National Consumer Credit Protection Act 2009, and the Superannuation Industry (Supervision) Act 1993.
Detriment	includes (without limitation) 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 advantage, 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 property, reputation or business or financial position, any other damage to a person.

Term	Definition
Registered Provider	is as defined in clause 11(2) of the Aged Care Act.
Reportable Conduct	is as defined in clause 2 of this Policy.
Responsible Person	is as defined in clause 12 of the Aged Care Act.
Whistleblower	a Whistleblower who alerts ACH Group and/or a regulatory authority to Reportable Conduct within ACH Group. A Whistleblower is as defined in clause 1 of this Policy.
Whistleblower Protection Officer	the person nominated by ACH Group whose key responsibilities include protecting whistleblowers who report concerns under this Policy as identified in clause 3.1 of this Policy.
Workforce	as the context requires, all employees, volunteers and students of ACH Group.

## Policy

### 1. WHO CAN REPORT?

- 1.1. An officer, director, secretary, employee, secondee or contractor, whether current or former or permanent, part time, fixed term or temporary.
- 1.2. A supplier of goods or services to ACH Group (whether paid or unpaid) including their current or former employees, contractors, consultants, service providers or business partners.
- 1.3. An associate of ACH Group.
- 1.4. A relative, dependant or spouse of an individual in clauses 1.1 to 1.3.
- 1.5. A recipient of funded aged care services from ACH Group and supporters of those individuals (for example, family members, representatives, carers, advocates), and any other persons who have a complaint or would like to give feedback about ACH Group's delivery of funded aged care services.

### 2. WHAT IS REPORTABLE CONDUCT?

- 2.1. Reportable Conduct means conduct that is illegal, unacceptable or undesirable, or the concealment of such conduct and includes conduct that:
  - a) is against the law or is a failure by ACH Group to comply with any legal obligation including under the Aged Care Act;
  - b) is unethical or breaches ACH Group's policies or the Code of Conduct;
  - c) is dishonest, fraudulent or corrupt, or amounts to coercion, harassment, victimisation or discrimination;
  - d) is misleading or deceptive conduct of any kind (including conduct or representations that amounts to improper or misleading accounting or financial reporting practices either by, or affecting, ACH Group);

- e) is potentially damaging to ACH Group, a member of the Workforce or a third party, including unsafe work practices, environmental damage, health risks or substantial wasting of company resources;
  - f) may cause financial loss to ACH Group or damage its reputation or be otherwise detrimental to ACH Group;
  - g) may be misconduct, an improper state of affairs or circumstances in relation to the tax affairs of ACH Group; or
  - h) involves any other serious impropriety.
- 2.2. Personal work related grievances are not Reportable Conduct. This includes:
- a) an interpersonal conflict between a whistleblower and another employee of ACH Group;
  - b) a decision by ACH Group that does not involve a breach of workplace laws;
  - c) a decision by ACH Group about the engagement, transfer or promotion of the Whistleblower;
  - d) a decision by ACH Group about the terms and conditions of engagement of the Whistleblower; or
  - e) a decision by ACH Group to suspend or terminate the engagement of a Whistleblower or otherwise discipline the Whistleblower.

Personal work-related grievances should be reported to ACH Group in accordance with the Workplace Behaviour Policy.

### 3. WHO TO REPORT REPORTABLE CONDUCT TO?

- 3.1. A Whistleblower can report Reportable Conduct to the following Whistleblower Protection Officer nominated by ACH Group:

Executive Manager People, Culture & Safety

Mail: PO Box, 646, Torrensville Plaza, SA 5031

Email: [whistleblower@ach.org.au](mailto:whistleblower@ach.org.au)

Direct: 8159 3422

A Whistleblower can also make a report via ACH Group's Whistleblower Hotline on 8228 1168 (operated by Cowell Clarke Lawyers).

- 3.2. In addition to the Whistleblower Protection Officer, a Whistleblower can report to any of the persons or entities listed in clause 13 and clause 14 of this Policy.
- 3.3. If a Whistleblower requires additional information before reporting conduct, they may contact the Whistleblower Protection Officer or a legal practitioner.

## 4. HOW TO REPORT REPORTABLE CONDUCT

A Whistleblower can report Reportable Conduct by any means the Whistleblower elects including, but not limited to, telephone, email or post. A report will be confidential and secure and can be made anonymously and outside of business hours.

## 5. ANONYMITY

A Whistleblower can elect to remain anonymous while making a disclosure, over the course of an investigation and after the investigation is finalised. A Whistleblower is not obliged to answer any questions that they feel could reveal their identity at any time.

ACH Group will protect the anonymity of whistleblowers using various mechanisms (for example, using pseudonyms for the whistleblower's name).

## 6. WHAT HAPPENS WHEN ACH GROUP RECEIVES A REPORT?

- 6.1. All reports of Reportable Conduct will be investigated by a person with appropriate skills and qualifications appointed by ACH Group on a timely basis. This person may be a member of the ACH Group Workforce or may be independent of ACH Group. External experts may be appointed to assist with any investigation if ACH Group decides it is necessary or desirable.
- 6.2. The Whistleblower Protection Officer will ensure that the findings of each investigation, including recommendations on how to deal with any issues identified, are provided to the CEO as soon as practicable following the conclusion of an investigation.
- 6.3. The CEO will ensure that the Chair of ACH Group is informed of any report of Reportable Conduct as soon as practicable.
- 6.4. The CEO will ensure that the Board of ACH Group, via the Governance, Risk and Compliance Committee, are informed of any report received by the Whistleblower Protection Officer, through any avenue of reporting, on a quarterly basis.

## 7. WHAT IS THE ROLE OF WHISTLEBLOWER PROTECTION OFFICER?

- 7.1. The Whistleblower Protection Officer is responsible for:
  - a) receiving a report of Reportable Conduct from a Whistleblower and confirming receipt of the report if the Whistleblower's identity is known;
  - b) co-ordinating the provision to ACH Group of information from the Whistleblower for the purposes of an investigation into that report; and
  - c) providing updates to the Whistleblower and reporting back to the Whistleblower on the finalisation of the investigation and providing support for the Whistleblower by protecting and safeguarding the Whistleblower and reviewing the integrity of the investigation process.
- 7.2. The Whistleblower Protection Officer will at all times have direct and unrestricted access to reasonable financial, legal and operational assistance when this is required for any investigation.

## **8. ROLE OF INVESTIGATOR**

The person appointed to investigate a report is responsible for coordinating the investigation into any disclosure received from a Whistleblower, documenting and handling all matters in relation to the disclosure and investigation and finalising all investigations. The investigator will have direct and unrestricted access to reasonable financial, legal and operational assistance when this is required for any investigation.

## **9. RIGHTS OF THE PERSON UNDER INVESTIGATION**

A person who is the subject of an investigation is entitled to be:

- a) informed as to the substance of a disclosure; and
- b) given a reasonable opportunity to put their case to the person who is investigating the report.

## **10. WHISTLEBLOWER WILL BE KEPT APPROPRIATELY INFORMED**

The Whistleblower will be kept appropriately informed of the progress of action taken in respect of their report. At the conclusion of the investigation, they will be informed of the outcome, subject to considerations of privacy.

## **11. CONFIDENTIALITY**

ACH Group and any persons receiving reports will not disclose the particulars of disclosures that would suggest the identity of the Whistleblower without obtaining the Whistleblower's prior consent, subject to any applicable laws. Any disclosures made with the Whistleblower's consent will be made on a strictly confidential basis. All files and records created from an investigation will be retained under strict security.

## **12. GENERAL PROTECTIONS FOR WHISTLEBLOWERS**

12.1. Whistleblowers who have reasonable grounds to suspect that information concerns misconduct and report a concern under this Policy must not be personally disadvantaged by:

- a) dismissal;
- b) demotion;
- c) any form of harassment;
- d) discrimination;
- e) damage to reputation;
- f) current or future bias; or
- g) damage to financial position.

12.2. The Whistleblower is also protected from civil and criminal liability or administrative liability in accordance with clause 13 of this Policy.

- 12.3. The Whistleblower is not granted immunity for any misconduct which is revealed as part of their disclosure. However, if a Whistleblower is actively co-operating in the investigation, there may instances where the fact they have made a disclosure is considered a mitigating factor when determining any actions taken against them for their misconduct.
- 12.4. A Whistleblower will still be protected in accordance with this clause 14 if the report turns out to be incorrect.

## 13. THE CORPORATIONS LEGISLATION

### 13.1. Eligibility for Protections under the Corporations Legislation

The Corporations Act provides protections in relation to the reporting of possible contraventions of the Corporations Legislation, an offence against any other law of the Commonwealth (punishable by twelve (12) months imprisonment or more) or conduct which represents a danger to the public or the financial system.

A disclosure of information by a person qualifies for protection under the Corporations Act if:

- a) the Whistleblower is a Whistleblower;
- b) the report, which may be made anonymously, is made to:
  - i. ASIC, APRA or a prescribed authority;
  - ii. ACH Group's auditor or a member of the audit team;
  - iii. an officer or senior manager of ACH Group;
  - iv. a person authorised by ACH Group to receive disclosures of that kind (that is, the Whistleblower Protection Officer);
  - v. a legal practitioner for the purpose of obtaining representation or advice;
  - vi. in the case of "emergency disclosure" (where the disclosure has previously been made and the discloser has reasonable grounds to believe that the information concerns a substantial and imminent danger to the health or safety of people, or to the natural environment) to a member of Parliament (Commonwealth or State) or a journalist; or
  - vii. in the case of "public interest disclosure" (where the disclosure has previously been made and the discloser believes no action is being taken in relation to their disclosure and the discloser has reasonable grounds to believe that making further disclosure of the information is in the public interest) to a member of Parliament (Commonwealth or State) or a journalist,



- c) the Whistleblower has reasonable grounds to suspect misconduct, an improper state of affairs or circumstances relating to ACH Group. This includes, but is not limited to:
  - i. a contravention of the Corporations Legislation by ACH Group or Group or any of its officers or employees;
  - ii. an offence against any other law of the Commonwealth (punishable by twelve (12) months imprisonment or more); or
  - iii. conduct which represents a danger to the public or the financial system.

## 13.2. Corporations Act Protections

If these conditions are met, the Corporations Act provides the following protections to the Whistleblower:

- a) a person cannot engage in conduct that causes Detriment to a Whistleblower;
- b) the Whistleblower is not subject to any civil or criminal liability for making the disclosure (including disciplinary action). The Whistleblower is not, however, protected from civil or criminal liability for any of the misconduct that may be revealed by the report;
- c) no contractual or other remedy may be enforced or exercised against a Whistleblower on the basis of the disclosure and a contract to which the Whistleblower is a party may not be terminated on the basis that the disclosure constitutes a breach of the contract;
- d) if ACH Group purports to terminate the employment of a Whistleblower on the basis of the disclosure, a court may reinstate the Whistleblower to the same position or a position at a comparable level;
- e) the information is not admissible in evidence against the Whistleblower in criminal proceedings (unless the information is false);
- f) the Whistleblower is protected from actual or threatened Detriment because of the disclosure and may receive compensation for any damage caused by such Detriment;
- g) the Whistleblower will not be required to pay the costs of any other party in court proceedings for compensation unless acting vexatiously or without reasonable cause in taking the proceedings, or acted unreasonably causing the cost to be incurred;
- h) an apology may be ordered to be given to the Whistleblower or an injunction granted by the court to prevent, stop or remedy any detrimental conduct or its effects; and
- i) subject to limited exceptions, the person to whom the disclosure is made must not disclose the substance of the report, the Whistleblower's identity or information likely to lead to the identification of the Whistleblower.

ACH Group is committed to full compliance with these protective provisions.



## 14. THE AGED CARE ACT

### 14.1. Eligibility for Aged Care Act Protections

The Aged Care Act provides protections to Whistleblowers whereby:

- a) a Whistleblower reports Reportable Conduct to one of the following recipients:
  - i. the Commissioner, Complaints Commissioner or a member of staff at the Aged Care Quality and Safety Commission;
  - ii. the System Governor (being the secretary of the Department of Health and Aged Care), or an official of the Department of Health or Aged Care;
  - iii. the Registered Provider (i.e., ACH Group, which can be reported to in accordance with this Policy);
  - iv. a Responsible Person of the Registered Provider;
  - v. an aged care worker of the Registered Provider;
  - vi. a police officer;
  - vii. an independent aged care advocate; or
  - viii. any other eligible recipient outlined in the Aged Care Act.
- b) the disclosure is made orally or in writing (and whether made anonymously or not); and
- c) the Whistleblower has reasonable grounds to suspect that the information indicates that ACH Group may have contravened a provision of the Aged Care Act.

### 14.2. Aged Care Act Protections

If the conditions are met, the Aged Care Act provides the following protections to the Whistleblower:

- a) the Whistleblower is not subject to any civil, criminal or administrative liability (including disciplinary action) for making the disclosure;
- b) no contractual or other remedy may be enforced, and no contractual or other right may be exercised, against the individual on the basis of the disclosure; and
- c) a person cannot engage in conduct that causes Detriment to a Whistleblower. The Whistleblower is protected from actual or threatened Detriment because of the disclosure.

ACH Group is committed to comply with these provisions.

# Whistleblower - Policy



## 15. OTHER MATTERS

### 15.1. Amendment of policy

This Policy can only be amended with the approval of the Board.

### 15.2. Communication of Policy

ACH Group will distribute this Policy to its workforce and communicate any Policy amendments to employees. The Policy will be available to employees via The Library.

ACH Group will ensure that this Policy is on ACH Group's website.

## Related Documents

[Whistleblower - Factsheet](#)

## Review

The Whistleblower Policy will be reviewed at least annually by the ACH Group Board.

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