

1 Purpose

CCH is committed to:

- encouraging the reporting of matters that may cause harm to individuals or financial or non-financial loss to CCH or damage to its reputation
- dealing with reports from whistleblowers in an effective and transparent manner
- protecting whistleblowers against reprisal by any person internal or external to CCH, and
- ensuring the highest standards of ethical behaviour and integrity are maintained.

This Whistleblower Policy (Policy) and the related Whistleblower Procedure (Procedure) guides how CCH will manage and investigate whistleblower reports received from a staff member, resident, client, volunteer, contractor, supplier or member of the public who detects or has reasonable grounds for suspecting illegal and/or unethical conduct associated with CCH operations.

The Policy outlines the eligibility criteria for making a whistleblower disclosure, including who can make a whistleblower disclosure and what can be reported as an eligible whistleblower disclosure. The Procedure outlines how eligible whistleblowers can make whistleblower disclosures and the CCH whistleblower disclosure investigation process.

A person who makes an eligible disclosure will be entitled to the protections outlined in this Policy and the associated Procedure.

2 Scope

This policy applies to all eligible whistleblowers, which includes:

- CCH employees, volunteers, Board Directors, and officers (both current or former or permanent, part time, fixed term or temporary).
- Contractors and suppliers (both paid and unpaid), including their current or former employees, contractors, consultants, service providers or business partners.
- Associates of CCH.
- Relatives, dependants or spouses of the above individuals and entities.
- Residents 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 CCH's delivery of funded aged care services.

CCH will ensure that this Policy and the Procedure are available to view and download from the CCH website.

3 Definitions

The following terms have the following meaning in this Policy and the Procedure.

Aged Care Act means the *Aged Care Act 2024* (Cth) and associated rules and regulations.

Corporations Act means *Corporations Act 2001* (Cth).

Corporations Legislation has the meaning given to that term in section 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*.

Document title	Whistleblower Policy		
Responsibility	Governance Committee		
Document ID	BoDPOL-003	Version	1.00
Approver	Board of Directors		
Review date	August 2022	Next review date	August 2026

Detriment includes any actual or threatened:

- dismissal of an employee
- victimisation
- injury of an employee in their employment
- alteration of an employee's position or duties to their disadvantage
- discrimination between an employee and other employees
- harassment or intimidation of a person
- harm or injury to a person, including psychological harm
- damage to a person's property, reputation, business or financial position, or
- any other damage to a person.

Examples of actions that are not Detriment are:

- administrative action that is reasonable for the purpose of protecting a Whistleblower from Detriment (e.g. moving a Whistleblower who has made a Disclosure about their immediate work area to another office to prevent them from Detriment), and
- managing a Whistleblower's unsatisfactory work performance, if the action is in line with CCH's performance management framework.

Disclosure means when a Whistleblower notifies a person or organisation identified in this policy of Reportable Conduct on reasonable grounds.

Eligible whistleblowers are defined in paragraph 2 of this Policy.

Whistleblower means an eligible whistleblower who makes a Disclosure of Reportable Conduct under this policy.

Reportable Conduct means reasonably credible information relating to CCH operations which suggests that those operations may involve illegality, misconduct or impropriety including:

- fraud or theft
- corrupt conduct, such as bribery
- material accounting irregularities
- tax avoidance
- failure of CCH to comply with any legal obligation, including under the Aged Care Act
- misleading or deceptive conduct of any kind
- serious malpractice, including abuse or mistreatment of residents
- conflicts of interest (including no proper disclosure of the conflict)
- unethical behaviour
- unsafe work practices
- conduct representative of gross mismanagement, serious and substantial waste and/or a repeated breach of administrative procedures; and
- any other serious impropriety.

Reportable Conduct does not include personal, work-related grievances or other non-reportable conduct which are outlined in paragraph 6 of this Policy.

4 Making a Disclosure of Reportable Conduct

Depending on the nature of the Reportable Conduct the subject of a Disclosure, a Whistleblower may report any Reportable Conduct to the individuals outlined in paragraph 4 of the Procedure. Disclosures may be made anonymously.

A Whistleblower may also make a Disclosure to:

- a legal practitioner if the Disclosure is made for the purposes of obtaining legal advice or legal representation about the operations of the whistleblower provisions under the *Corporations Act 2001* (Cth) (Corporations Act)

- Australian Securities and Investments Commission (ASIC)
- Australian Prudential Regulation Authority (APRA)
- a journalist or parliamentarian for the purposes of making a public interest¹ or emergency Disclosure², or
- the Australian Tax Office in relation to suspected tax avoidance.

Corporations Act

The whistleblower must have reasonable grounds to suspect misconduct, an improper state of affairs or circumstances in relation to CCH. This includes, for example, a contravention of the Corporations Legislation by CCH or its officers / employees, an offence against any other Commonwealth law (punishable by twelve (12) months imprisonment or more), or conduct which represents a danger to the public or financial system.

Aged Care Act

In accordance with the Aged Care Act, whistleblowers can report Reportable Conduct relating to the provision of supported aged care services to the following recipients:

- the Commissioner, Complaints Commissioner or a member of staff at the Aged Care Quality and Safety Commission.
- 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.
- the Registered Provider (i.e., CCH, which can be reported to in accordance with this Policy);
- a Responsible Person of the Registered Provider.
- an aged care worker of the Registered Provider.
- a police officer; or
- an independent aged care advocate.

When making a disclosure under the Aged Care Act, the disclosure must be made verbally or in writing (whether made anonymously or not), and the whistleblower must have reasonable grounds to suspect that the information indicates that CCH may have contravened a provision of the Aged Care Act.

A Whistleblower should familiarise themselves with the relevant legal provisions and/or seek independent legal advice before making a disclosure to an external agency.

5 Protections available and CCH's obligations

A Whistleblower is entitled, as outlined below, to the following protections in accordance with the Corporations Act and Aged Care Act:

- the protection of the confidentiality of their identity (outlined further below);

¹ A public interest disclosure is where the disclosure has previously been made, 90 days have passed since the disclosure was made, and the whistleblower 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. Notification must be made to the entity to which the disclosure was made that it intends to make a public interest disclosure.

² An emergency disclosure is where the disclosure has previously been made and the whistleblower 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. Notification must be made to the entity to which the disclosure was made that it intends to make an emergency disclosure.

- protection from any Detriment (actual or threatened or implied or conditional) as a result of their Disclosure (outlined further below).
- 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 his/her misconduct that may be revealed by the Disclosure.
- 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.
- if CCH 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.
- the information is not admissible in evidence against the whistleblower in criminal proceedings (unless the information is false);
- 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; and
- an apology may be ordered to be given to the whistleblower or an injunction granted by the court to prevent, stop or remedy any Detriment or its effects.

The protections do not grant immunity for any misconduct the Whistleblower has engaged in that is revealed in their Disclosure or the investigation of any Disclosure. Any vexatious or frivolous complaint will be treated seriously. Such misconduct or a breach of this Policy may result in disciplinary action.

Identity protection (confidentiality)

Whistleblowers can elect to remain anonymous when making a Disclosure. CCH will not disclose the identity of a Whistleblower or information that is likely to lead to the identification of the Whistleblower unless the disclosure is:

- authorised by law, or
- with the consent of the Whistleblower.

CCH may disclose information contained in a Disclosure with or without the Whistleblower's consent if:

- the information does not include the Whistleblower's identity
- CCH has taken all reasonable steps to reduce the risk that the Whistleblower will be identified from the information, and
- it is reasonably necessary for investigating the issues raised in the Disclosure.

Protection from detrimental acts or omissions

CCH will not engage in conduct that causes Detriment to a Whistleblower (or another person) in relation to a Disclosure if:

- the Disclosure could qualify for protection under this Policy, and
- that is the reason, or part of the reason, for the conduct.

CCH will take all reasonable steps to ensure that these protections are applied and maintained in dealing with any Disclosure in accordance with the measures outlined in the Procedure. Retaliation or threats of retaliation action against any person who has made or who is believed to have made a Disclosure will not be tolerated. Any such retaliatory action or victimisation by any employee or other individual will be treated as serious misconduct and will result in disciplinary action that may include dismissal.

The protections outlined in this Policy do not apply if the information disclosed concerns a personal-work-related grievance.

Personal work-related grievances are those that relate to an individual's current or former employment and have, or tend to have, implications for an individual personally but do not have any other significant implications for CCH. Personal work-related grievances include:

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

If an individual has a grievance about this type of matter the individual should follow the CCH Grievance Procedure.

A personal work-related grievance may qualify for protection if:

- it includes information about misconduct, or information about misconduct is accompanied by a personal work-related grievance (mixed report)
- the grievance results from a breach by CCH of any law, or
- the grievance results from actual or threatened Detriment following the making of a Disclosure.

Notwithstanding this policy, any concerns held by an employee related to conduct that is unlawful, unethical or in breach of a CCH policy should, where possible, be reported and dealt with through the usual CCH line management arrangements and organisational policies in the first instance.

7 Education and Training

Training for the Board, executive and senior managers, and staff will be provided in relation to the application of this Policy and the Procedure.

Officers who have responsibilities under this Policy and the related Procedure such as receiving and investigating Disclosures will receive education and training in how to effectively meet their obligations.

To meet its obligations under the Aged Care Act, training for aged care workers and responsible persons will be provided at least annually. CCH will ensure that its aged care workers and responsible persons will be reminded of the ability to utilise the Policy and Procedure by [insert mechanisms].

8 Key Relevant Legislation

Corporations Act and Corporations Legislation

Aged Care Act

Aged Care Quality Standards – Standard 8 Organisational Governance

9 Supporting Documents

Whistleblower Procedure

10 Related Documents

Code of Conduct

Delegations of Authority
Counselling and Disciplinary Policy
Work Health and Safety Policy
Privacy and Confidentiality Policy
Counselling and Disciplinary Procedure
Grievance Procedure