

## 5.16 Whistleblower Procedure

### Related Policy: Financial Management

#### Purpose & Objectives

Centacare is committed to protecting employees and company officers who seek to identify and report internal misconduct that is harmful to Centacare, our clients and the community. Centacare is aware that recognising potential misconduct or breaches of the law can put employees and officers in a compromising position and reporting any knowledge of such misconduct or illegal activity can risk harm to an individual's career, health and personal safety.

The purpose of this policy and procedure is to:

- encourage individuals to report concerns about serious wrongdoing;
- ensure the safety and equal treatment of those who raise concerns about misconduct or an improper state of affairs or circumstances and establish processes that allow employees and company officers to do so without being subject to victimization, harassment or discrimination; and
- outline how Centacare will deal with whistleblowing reports and establish appropriate channels for reporting where avenues outside the normal channels of line management may be necessary.

#### Scope

This *Whistleblower policy and procedure* apply to eligible whistleblowers which includes anyone who is a current or former:

- employee;
- director, secretary or other officer of Centacare or a related company or organisation;
- contractor, including their employees;
- supplier, including their employees (whether or not the goods and/or services supplied were paid or voluntary);
- associates; and
- spouse, relative or dependant of one of the above listed people.

The whistleblower protections also apply to anyone who discloses information regarding Centacare or a related entity to a legal practitioner in order to obtain legal advice or representation in relation to whistleblower protection laws.

#### Definitions

Terminology	Definition
Anonymous reporting	Making a report without having one's identity made known to others.
Australian Securities and Investments Commission (ASIC)	An independent Australian government body that acts as Australia's corporate regulator. ASIC's role is to enforce and regulate company and financial services laws to protect Australian consumers, investors and creditors.
Eligible recipient	A position within Centacare to whom a reportable matter can be made.
Emergency disclosure	Circumstances where there is a substantial and imminent danger to the health or safety of one or more persons or to the natural environment.
Personal work-related grievance	A grievance about matters relating to employment or former employment that has personal implications for the person seeking to make the disclosure, including: <ul style="list-style-type: none"> <li>• an interpersonal conflict between the individual and another employee;</li> <li>• a decision relating to the engagement, transfer or promotion of the individual;</li> </ul>

	<ul style="list-style-type: none"> <li>• a decision to discipline an employee;</li> <li>• a decision relating to the terms and conditions of the individual's employment; and/or</li> <li>• a decision to suspend or terminate the individual's employment or undertake disciplinary action.</li> </ul>
Public interest disclosures	Circumstances where there are reasonable grounds to believe that the information would be in the public interest.
Reasonable grounds	Means a reasonable person in the whistleblower's position would also suspect that the information indicates misconduct or illegal activity.
Protected matters	Misconduct or an improper state of affairs, including unethical, illegal, corrupt or other inappropriate conduct.
Whistleblower	Person eligible to make a disclosure protected by Whistleblower laws, i.e. the protections contained in <i>Part 9.4AAA</i> of the <i>Corporations Act 2001</i> .

## Policy Statement and Principles

Centacare is committed to a culture of ethical behaviour. This includes ensuring Centacare acts with integrity, honesty and in accordance with good governance principles.

Centacare relies on employees and eligible whistleblowers to assist in maintaining a culture of honest and ethical behaviour. Accordingly, it is expected that a person who becomes aware of such conduct will make a report.

### 1. Procedure

#### 1.1 Protected matters

Protected matters would include concerns that Centacare, its related companies, employees or officers has/have engaged in conduct that:

- constitutes a contravention of the *Corporations Act 2001*, the *ASIC Act*, the *Superannuation Industry (Supervision) Act 1993*, the *Banking Act 1959* or any insurance or life insurance statutes;
- constitutes an offence against a law of the Commonwealth which is punishable by imprisonment for 12 months or more; and/or
- represents a danger to the public or the financial system.

Any matter or information that an eligible whistleblower has reasonable grounds to believe is misconduct or an improper state of affairs or circumstances by Centacare or any of its employees or officers should be reported in accordance with this policy and procedure.

Misconduct or an improper state of affairs includes unethical, illegal, corrupt or other inappropriate conduct. Such conduct can involve:

- dishonest behaviour;
- fraudulent activity;
- unlawful, corrupt or irregular use of company funds or practices;
- illegal activity, including theft, dealing in or using illicit drugs, violence or threatened violence, criminal damage against property;
- unethical behaviour, including that which would breach Centacare policies and/or procedures;
- improper or misleading accounting or financial reporting practices;
- breaches of legislation relating to Centacare's operations or activities, including the *Corporations Act 2001 (Cth)* or any Commonwealth law that is punishable by imprisonment for a period of 12 months;
- oppressive, discriminatory or grossly negligent conduct;
- unsafe work practices;
- conduct that poses a serious risk to the health and safety of those at the workplace; or
- conduct that represents danger to the public, the financial system or natural environment.

This policy and procedure do not cover personal work-related grievances and should be reported to your line manager or a People and Culture representative.

Conduct that would be considered victimisation for making or proposing to make a report under this policy and procedure or a matter that would otherwise have serious implications for Centacare is not otherwise excluded.

## **1.2 Reporting a protected matter**

Whistleblowing is generally only necessary in unusual situations. In most situations, an employee or contractor should raise any concerns of improper conduct through their ordinary reporting line by raising the issue and/or their concern/s with:

- their manager;
- their manager's manager; or
- a People and Culture representative.

In situations where it is not appropriate to report the matter to their direct line manager or a People and Culture representative, the matter should be reported to an eligible recipient pursuant to this policy and procedure.

A whistleblower may also contact an eligible recipient (refer *Internal reporting*) to obtain additional information before making a disclosure.

### **1.2.1 Internal reporting**

A protected disclosure can be made to an eligible recipient within the company. Eligible recipients are the:

- General Manager, Corporate Services; and
- General Manager, People and Organisational Development.

Should the protected disclosure matter involve behaviour by the General Manager, Corporate Services and/or General Manager, People and Organisational Development, the matter should be reported to the Chief Executive Officer.

Reports to an eligible recipient should preferably be made in person or by telephone to:

- Ross Wheatland, General Manager, Corporate Services;
- Karen Willey, General Manager, People and Organisational Development; and/or
- Tony Fitzgerald, CEO.

These positions are based at the Central Office, 4 – 6 Peel Street, Ballarat and can be contacted via telephone by dialing 03 5337 8999.

Reports to an eligible recipient may also be posted to the eligible recipient and must be addressed as Private and Confidential for the addressee only at Centacare, Catholic Diocese of Ballarat, PO Box 2537, Bakery Hill VIC 3354.

The eligible whistleblower must first inform the eligible recipient that they wish to make a report under this policy and procedure. An eligible recipient may direct the whistleblower to an alternative internal avenue if they consider it appropriate in the circumstances.

#### **(i) Anonymous reporting**

Eligible whistleblowers are open to make an anonymous report at their discretion. Anonymous reporting may increase the complexity of subsequent investigations or other action taken to address the matters disclosed in the anonymous report. Any person making an anonymous report should be aware that anonymity makes it much more difficult for Centacare to extend all the protections of this policy and procedure to the whistleblower.

If an eligible whistleblower has not authorized disclosure of their identity, the matter may be referred for investigation. The investigator must take all reasonable steps to reduce the risk that the investigation will cause the eligible whistleblower to be identified. However, persons making anonymous disclosures should

be aware that anonymity makes it much more difficult for Centacare to extend all the protections of this policy and procedure to the whistleblower.

Information about the eligible whistleblower's identity may be disclosed where necessary to ASIC or the Australian Federal Police, to a legal practitioner for the purpose of obtaining legal advice in relation to the operation of the whistleblowing protection laws or under other arrangements consented to by the whistleblower.

## **(ii) Guidance on information to be disclosed**

A protected disclosure should include specific information to assist in investigating the matter. Where possible, the following information should be included:

- a full description of the conduct the whistleblower is concerned about;
- why the whistleblower considers the conduct to be improper conduct;
- names of person/s involved and what each person is alleged to have said and done;
- key dates on which the improper conduct is said to have occurred; and
- where possible documents or other material that may evidence the improper conduct.

### **1.2.2 External reporting**

#### **(i) Reports to ASIC**

An eligible whistleblower is covered by the whistleblower protections in making a report to ASIC, even if the concern has not been raised internally. This can be done by lodging a report through ASIC's [online misconduct reporting](#) form or by writing to ASIC.

#### **(ii) Reports to a journalist or parliamentarian**

Protected disclosures can be made to a journalist or a member of the Commonwealth Parliament or state or territory parliamentarian if the disclosure concerns matters in the public interest or matters of emergency.

The criteria for public interest disclosures are:

- a protected report must have been previously made to ASIC (or APRA);
- 90 days must have passed since the concern was reported to ASIC (or APRA);
- the eligible whistleblower must not have reasonable grounds to believe that action to address the concerns is being or has been taken;
- the eligible whistleblower must have reasonable grounds to believe that it would be in the public interest to report their concern to a journalist or parliamentarian;
- after 90 days elapsing from the time the report to ASIC (or APRA) was made, the eligible whistleblower must give ASIC (or APRA) written notice that includes sufficient information to identify the earlier report (e.g. by contacting the officer that considered the concerns and quoting the reference number) and state their intention to make a public interest disclosure; and
- the person who the public interest disclosure is made to must be a journalist or parliamentarian.

The criteria for emergency disclosures are:

- a protected report must have been previously made to ASIC (or APRA);
- the eligible whistleblower must have reasonable grounds to believe that the information in the report concerns substantial and imminent danger to the health or safety of one or more people or to the natural environment;
- the eligible whistleblower must give written notice that includes sufficient information to identify their earlier report and states their intention to make an emergency disclosure;
- the person who the emergency disclosure is made to must be a journalist or parliamentarian.

This policy and procedure, as well as legislated whistleblower protections, do not apply to external disclosures made to the public in any other circumstances.

## **1.3 Protections and support**

### **1.3.1 Whistleblowers**

A whistleblower will still qualify for the following protection and support even if their disclosure turns out to be incorrect.

#### **(i) Confidentiality**

The identity of the whistleblower may only be disclosed:

- with the consent of the whistleblower;
- to ASIC, APRA or the Australian Federal Police; or
- a legal practitioner for the purposes of obtaining legal advice.

Centacare will not communicate the identity of the whistleblower, including information that can identify the whistleblower) internally within Centacare without the whistleblower's consent. Where consent is given, the whistleblower's identity will only be internally disclosed to the extent necessary to allow the effective investigation of the disclosure made by the whistleblower.

#### **(ii) Immunity**

An eligible whistleblower will not be subject to civil, criminal or disciplinary action for making a report in accordance with this policy and procedure or for participating in a subsequent investigation by Centacare in relation to the matter disclosed.

#### **(iii) Victimization prohibited**

It is against the law for a person to cause or threaten detriment to another person on the basis of a belief or suspicion that they have made or could make a disclosure.

No employee, officer or contractor may engage in conduct that is adverse or harmful to a person who has reported or proposes to report a matter in accordance with this policy and procedure because of that course of conduct. Such harm or detriment may include:

- dismissal from employment;
- injury in or during employment;
- altering employment or duties to the whistleblower's disadvantage;
- discrimination;
- harassment or intimidation;
- harm or injury, whether physical or psychological;
- damage to property, reputation, business or financial position; or
- any other damage.

Centacare will take all reasonable steps to ensure that an eligible whistleblower will not be subject to any form of victimization, discrimination, harassment, demotion, dismissal or prejudice.

#### **(iv) Support**

Centacare will support whistleblowers by:

- providing access to the Employee Assistance Program;
- investigating complaint in accordance with the procedures outlined;
- implementing investigation processes which are procedurally fair to the whistleblower and respondent/s to the allegations;
- in circumstances where the whistleblower consents, having an appropriate manager and/or People and Culture representative monitor the whistleblower's treatment in the workplace for an appropriate period of time to ensure no victimisation takes place; and
- taking appropriate disciplinary action against any employee that breaches the victimisation or confidentiality provisions of the *Corporations Act 2001 (Cth)*.

Where a whistleblower who is an employee has consented to their identity being communicated internally, the whistleblower may request the following steps be taken by Centacare:

- to change the employee's work location so they no longer work with the alleged wrongdoer;
- to change the employee's reporting line so they no longer report to the alleged wrongdoer; or
- where neither of the previous actions is reasonably practicable, to allow the employee a leave of absence while the alleged improper conduct is investigated.

A whistleblower can seek compensation and other remedies through the courts if they suffer loss, damage or injury because of a disclosure and Centacare failed to take reasonable precautions and exercise due diligence to prevent detrimental conduct.

### **1.3.2 Persons implicated in a report**

No action will be taken against individuals who are implicated in a report until an investigation is complete and the investigator has determined whether any allegations are substantiated.

Centacare may temporarily stand down on full pay an employee or officer who is implicated in a report during the course of the investigation. If the investigator finds the allegations to be unsubstantiated, the employee or officer will be immediately reinstated to full duties.

Disclosures that implicate an employee or officer will be kept confidential even if they were not made anonymously and will only be disclosed to parties who need to know the information for the proper performance of their functions under this policy and procedure or for the proper investigation of the report.

An individual who has been implicated in a report has a right to be informed of the allegations against them and will be given the opportunity to respond to those allegations and provide additional information relevant to the investigation, subject to the whistleblower's anonymity.

Employees or officers who are implicated in a report may access the Employee Assistance Program or appoint an independent support person.

### **1.4 Receiving a disclosure**

An eligible recipient who receives a whistleblower report should assess the disclosure to determine whether it qualifies for protection and whether a formal, in-depth investigation is required.

Where the whistleblower report qualifies for protection, an eligible recipient who receives the report should:

- Provide the whistleblower with a copy of:
  - this policy and procedure; and
  - acknowledgement and consent to disclosure for investigation and reporting purposes (consent);
- If the whistleblower signs the consent, determine the appropriate investigation into the reported matter/s;
- If the whistleblower is unwilling to sign the consent or the report is anonymous, you may disclose the substance of the report to the General Manager, Corporate Services or General Manager, People and Organisational Development (as appropriate) to determine the appropriate investigation into the reported matter/s. The substance of the report must have any identifying information about the whistleblower removed or redacted so that the report does not disclose the identity of the whistleblower or information that is likely to lead to the identification of the whistleblower.

Whistleblower laws protect a whistleblower's confidentiality and against detrimental conduct towards them for making a report. It is therefore critical that such reports are treated with the strictest confidentiality.

### **1.5 Investigating a report**

It will usually be appropriate for the eligible recipient to refer a report to a person that has experience in the field of the alleged reportable matter (e.g. Finance, People and Culture, etc.) to conduct an investigation into the matter. Centacare will, if it deems necessary, engage an external investigator to undertake the investigation either in conjunction with Centacare or independently. Where an external investigator has been

engaged, the General Manager, Corporate Services and/or General Manager, People and Organisational Development will ordinarily be responsible for coordinating investigations.

If the whistleblower consents to their identity being disclosed, the investigator will ordinarily contact the whistleblower to discuss the reported matter and investigation process.

If a report is submitted anonymously or consent to disclose the identity of the whistleblower has not been given, the existence of a protected matter (and thus report) may be disclosed without disclosing the identity of the whistleblower to the extent necessary for the matter/s to be investigated provided all reasonable steps are taken to reduce the risk that the whistleblower's identity can be discovered. These disclosures may include disclosures to:

- the General Manager, Corporate Services or General Manager, People and Organisational Development or Chief Executive Officer; and
- respondent/s to complaints to ensure that the respondent/s (person/s against whom allegations are made) are given the opportunity to respond to any allegations.

All investigations will be conducted fairly and independently as expeditiously as reasonably practicable. The level of investigation conducted by Centacare will generally reflect the level of evidence supplied by the whistleblower in their disclosure. Generally, non-specific claims or vague allegations make investigations much more difficult.

Investigations will be conducted with procedural fairness, including giving any person against whom improper conduct is alleged the opportunity to understand and respond to the allegations. This may necessitate the identity of the whistleblower becoming known by the alleged wrongdoer. Where the whistleblower does not consent to their identity being disclosed, it may not be possible for Centacare to investigate the matters raised by the whistleblower.

The findings from the investigation will be provided to the eligible recipient and will be de-identified to protect the anonymity of the whistleblower in circumstances where the whistleblower has not consented to their identity to be known. The eligible recipient will be responsible for securely storing all information, including the investigation report. To the extent practicable in all circumstances, Centacare is committed to rectifying any improper conduct verified by the investigation in accordance with other relevant Centacare policies and procedures.

The eligible recipient responsible for coordinating the investigation will provide the whistleblower with updates at key stages of the investigation in circumstances where the whistleblower can be contacted. The frequency and timeframe of updates will vary depending on the nature of the disclosure. At the end of the investigation, the whistleblower will be provided with the findings relevant to the matter they have disclosed.

To avoid compromising an investigation, an eligible whistleblower must preserve confidentiality of the fact that a report has been made.

## Communication and Publication of Procedure

The Whistleblower policy and procedure is made available to all employees during induction and on the Centacare intranet.

The Whistleblower policy and procedure is made available to all other persons on Centacare's website.

## Responsibilities

Eligible recipient	<ul style="list-style-type: none"> <li>• Receive reports.</li> <li>• Keep the whistleblower's identity strictly confidential unless the whistleblower consents to their identity being disclosed for the purposes of investigation the protected matter.</li> <li>• If considered necessary or appropriate, report the whistleblower's identity and the subject matter to ASIC, the ATO or the Australian Federal Police.</li> <li>• Coordinate the investigation of the protected matter.</li> </ul>
Employees	<ul style="list-style-type: none"> <li>• Act with honesty and ethically.</li> <li>• Report misconduct or an improper state of affairs, including unethical, illegal, corrupt or other inappropriate conduct.</li> </ul>
People and Culture	<ul style="list-style-type: none"> <li>• Provide support to whistleblower as required by the whistleblower.</li> </ul>

	<ul style="list-style-type: none"> <li>• Coordinate investigations.</li> <li>• Protect the identity of the whistleblower where anonymity is requested.</li> </ul>
Whistleblower	<ul style="list-style-type: none"> <li>• Be honest.</li> <li>• If they are an employee, continue to comply with the responsibilities and duties of their employment (or other contractual arrangements)</li> <li>• Keep the fact that they have made a disclosure confidential.</li> </ul>

**Appendix:**

Acknowledgement and consent to disclosure for investigation and reporting purposes.

**Related Documents:**

5.09 Fraud Prevention PR

3.15 Employee Grievance and Complaint PR

3.07 Equal Opportunity Anti-Discrimination Anti-Harassment and Bullying PR

**Document History:**

Created: 06.09.2018 as requested by the Board and to meet the requirements of the Treasury Laws Amendment (Enhancing Whistleblower Protections) Bill 2017. Amended by CEO to include reference to EAP etc.

Amended: 27.11.2018 as requested by Board including the report to be in writing, expansion of assistance offered, replaced timelines with reasonable timeframes.  
 25.03.2019 as requested by Board to add in natural justice for accused person and amend 'unauthorised persons' to 'any other persons'.  
 20.10.2019 GM P&C redrafted policy and procedure aligned with new legislative requirements, in particular further information on investigation process, confidentiality of identity of whistleblower, guidelines for managing whistleblower reports and consent to disclose form.  
 15.11.2019 GM P&C Update eligible recipients as General Manager, Corporate Services and General Manager, People and Organisational Development.

## Acknowledgement and consent to disclosure for investigation and reporting purposes

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### Confidential

1. I, \_\_\_\_\_ (name of person making a disclosure), have made a disclosure of information to the following person:

<b>Name of person:</b>	
<b>Position title:</b>	

2. I have reasonable grounds to suspect that the information concerns a reportable matter/s.
3. I have received a copy of Centacare, Catholic Diocese of Ballarat *Whistleblower protection policy and procedure*.
4. I understand that information about my report that is unlikely to reveal my identity can be disclosed without my consent.
5. I understand that if my report is captured under whistleblower protections set out in the *Corporations Act 2001 (Part 9.4AAA-Protection for whistleblowers)*, my identity and information that is likely to lead to my identity cannot be disclosed unless authorised by law in the following circumstances:
- (i) my consent has been given; or
  - (ii) is disclosed to a legal practitioner for the purpose of obtaining advice and representation in relation to whistleblower laws; or
  - (iii) is reasonably necessary for the purpose of investigation of the matter and all reasonable steps to reduce the risk that I will be identified have been taken; or
  - (iv) is disclosed to *Australian Securities Investment Commission (ASIC)*, the *Tax Commissioner* (if a tax matter) or the *Australian Federal Police (AFP)*.
6. I hereby give my consent to the disclosure of my identity, under conditions of confidentiality, and for the purpose of investigation and reporting as set out in the policy and procedure to the following persons:

Name of person	Position title or role

**Signed by:**

<b>Name of reporting person:</b>	
<b>Signature of reporting person:</b>	
<b>Date:</b>	