

Whistleblower Policy and Procedure

SECTION 1 – POLICY

POLICY STATEMENT

The Board and Executive Management of Brisbane South PHN Ltd (**Brisbane South PHN**) are committed to cultivating and maintaining a workplace free of unacceptable behaviour and misconduct consistent with the Brisbane South PHN Code of Conduct Policy which is underpinned by our values of Courage, Respect, Integrity, Synergy and Purpose. Brisbane South PHN is committed to operating:

- legally, in accordance with all laws and legislation;
- properly, in accordance with all organisational policy and procedures; and
- ethically, in accordance with Brisbane South PHN's values.

Brisbane South PHN requires all employees, the Board, the Company Secretary, Member Organisations, Councils, contractors or employees of a contractor to perform their duties to the highest standards of conduct and ethical behaviour and to promote a culture of honest and ethical behaviour. All individuals working in and with Brisbane South PHN are encouraged to raise concerns about corporate misconduct as soon as practicable after they become aware of it or form a reasonable suspicion.

1. Purpose

1.1 As a company limited by guarantee under the Corporations Act, Brisbane South PHN is a public company. Brisbane South PHN is also a registered income tax charity as a Health Promotion Charity and is endorsed as a deductible gift recipient. As such, Brisbane South PHN:

- (1) is bound by the Whistleblower Protection Regime in the Corporations Act and Taxation Administration Act; and
- (2) must have a whistleblower policy which complies with the Corporations Act.

1.2 This policy:

- (1) is designed to give guidance so that honesty and integrity are maintained at all times at Brisbane South PHN; and
- (2) deals with issues relating to those employees (or others) who wish to raise issues about whether Brisbane South PHN or its employees have complied with applicable laws and other standards of behaviour, such as Brisbane South PHN's policies and Code of Conduct Policy.

1.3 The purpose of this policy is to:

- (1) encourage the reporting of matters that may cause harm to individuals or financial or non-financial loss to Brisbane South PHN or damage its reputation;
- (2) help deter wrongdoing, in line with Brisbane South PHN's commitments described in the Policy Statement above;
- (3) enable Brisbane South PHN to deal with reports from whistleblowers in a way that will protect the identity of the whistleblower, provide for the secure storage of the information provided and ensure fair treatment of employees of Brisbane South PHN who are mentioned in disclosures that qualify for protection under the Whistleblower Protection Regime;
- (4) provide reporting mechanisms and means through which all individuals, regardless of their position or location, are able to report alleged or suspected wrongful acts and can do so safely, securely and with confidence that they will be protected and supported;
- (5) provide transparency regarding Brisbane South PHN's framework for receiving, handling and investigating reports;
- (6) establish the mechanisms for protecting whistleblowers against victimisation by any person, whether internal or external to Brisbane South PHN;
- (7) ensure reports are dealt with appropriately and in a timely way;
- (8) help to ensure Brisbane South PHN maintains the highest standard of ethical behaviour, integrity and legal compliance.

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2. Policy Application and Availability

- 2.1** This policy applies to Brisbane South PHN Directors, CEO, Company Secretary, employees, founding member organisations, contractors, or employees of a contractor, who has a current contract to supply goods or services to the company.¹ (referred to as 'you' for the purposes of this policy).
- 2.2** This policy will be available to all officers, employees, Directors and the Company Secretary through Brisbane South PHN's intranet (Sharepoint) on the Quality Documents page under Policies and Procedures. It is also available on Brisbane South PHN's website that includes a disclosure contact email address. A copy of this policy will be made available on request and will be provided during all induction training.

3. Definitions

In this Policy:

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| AFP | means the Australian Federal Police. |
| APRA | means the Australian Prudential Regulation Authority. |
| ASIC | means the Australian Securities & Investments Commission. |
| Corporations Act | means the <i>Corporations Act 2001</i> (Cth). |
| EAP | means Brisbane South PHN's employee assistance program. |
| report or disclosure | means the making of a report or disclosure to a third party, either within or external to Brisbane South PHN, as the context requires. |
| Whistleblower Investigations Officer | means the person referred to in section 5.6 or another individual assuming this role. |
| Whistleblower Protection Officer | means the person referred to in section 5.5 or another individual assuming this role. |
| Whistleblower Protection Regime | means the regime contained in Part 9.4AAA of the Corporations Act which contains protections for individuals who disclose information regarding suspected wrongdoing or misconduct within an entity where certain requirements are met. |

3.1 Whistleblower Protection Regime – what is it?

The Whistleblower Protection Regime is a regime contained in Part 9.4AAA of the Corporations Act which contains protections for individuals who disclose of information regarding suspected wrongdoing or misconduct within an entity where certain requirements are met. The regime applies to all Australian corporations

Note: Part IVD of the *Taxation Administration Act 1953* (Cth) contains a similar whistleblower protection regime in relation to the reporting of information which either assists the Commissioner of Taxation in performing his or her functions and duties OR indicates misconduct or an improper state of affairs or circumstances in relation to the tax affairs of a corporation.

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4. When the protections apply

4.1 An individual is eligible for protection as a whistleblower under the Whistleblower Protection Regime in relation to a disclosure of information if:

- (1) he or she is an **Eligible Whistleblower**;
- (2) the disclosure is made to an **Eligible Recipient**; and
- (3) the disclosure concerns a **Disclosable Matter**.

4.2 A disclosure made to a legal practitioner (e.g. a lawyer) for the purpose of obtaining legal advice or legal representation in relation to the operation of the Whistleblower Protection Regime will also be protected.²

4.3 In certain circumstances, the Whistleblower Protection Regime allows Eligible Whistleblowers to make disclosures to professional journalists and members of parliament.³ These are called an "emergency disclosure" and "public interest disclosure". Strict conditions apply in order for a disclosure to qualify for protection.

4.4 Eligible Whistleblower⁴ – who qualifies for protection?

An individual is an Eligible Whistleblower if he or she is, or has been, any of the following:

- (1) an officer of Brisbane South PHN as defined in the Corporations Act (which includes, amongst other people, a director or secretary);
- (2) an employee of Brisbane South PHN;
- (3) an individual who supplies services or goods to Brisbane South PHN (whether paid or unpaid);
- (4) an employee of a person that supplies goods or services to Brisbane South PHN (whether paid or unpaid);
- (5) an individual who is an associate of Brisbane South PHN⁵;
- (6) a relative of an individual referred to in 4.4(1) to 4.4(5) above; and
- (7) a dependent of an individual referred to in 4.4(1) to 4.4(5) above, or of such an individual's spouse.

4.5 Disclosable Matter⁶ – What kind of disclosures can be made under this policy that will qualify for protection?

A Disclosable Matter means information based on which an Eligible Whistleblower has reasonable grounds to suspect:

- (1) misconduct (which is defined in the Corporations Act to include fraud, negligence, default, breach of trust and breach of duty) or an improper state of affairs or circumstances in relation to Brisbane South PHN or a related body corporate of Brisbane South PHN;
- (2) that the information indicates that Brisbane South PHN, or an officer or employee of Brisbane South PHN, or an officer or employee of a related body corporate of Brisbane South PHN has engaged in conduct that:
 - (a) is an offence against, or contravention of, a provision of the Corporations Act, the *Australian Securities and Investments Commission Act 2001* (Cth), or any of the other legislation set out in section 1317AA(5)(c) of the Corporations Act;
 - (b) is an offence against any other law of the Commonwealth that is punishable by imprisonment for up to 12 months or more; or
 - (c) represents a danger to the public or the financial system.

² Section 1317AA(3), Corporations Act.

³ Section 1317AAD, Corporations Act.

⁴ Section 1317AAA, Corporations Act.

⁵ Within the meaning of "Associate" given by sections 10 to 17 of the Corporations Act, which will generally include a director or secretary, a related body corporate and a director or secretary of a related body corporate.

⁶ Section 1317AA(4), (5), Corporations Act.

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4.6 What kind of disclosures will not qualify for protection?

A Disclosable Matter **does not** include a **Personal Work Grievance**. A Personal Work Grievance has the same meaning as "personal work-related grievance" as defined in the Corporations Act which, as at the date of this policy, means information disclosed relating to the discloser if:

- (1) the information concerns a grievance about any matter in relation to the discloser's employment, or former employment, having (or tending to have) implications for the discloser personally; and
- (2) the information does not:
 - (a) have significant implications for Brisbane South PHN, or another regulated entity, that do not relate to the disclosure; and
 - (b) does not concern a Disclosable Matter.

Examples of a Personal Work Grievance are:

- (a) an interpersonal conflict between the discloser and another employee;
- (b) a decision relating to the engagement, transfer or promotion of the discloser;
- (c) a decision relating to the terms and conditions of engagement of the discloser; and
- (d) a decision to suspend or terminate the engagement of the discloser, or otherwise discipline the discloser.

Such disclosures may be protected under other policies of Brisbane South PHN, such as its Code of Conduct Policy, or other legislation such as the *Fair Work Act 2009* (Cth).

SECTION 2 - PROCEDURE

5. How to make a report

5.1 Brisbane South PHN is committed to providing a safe, reliable and confidential means of reporting any Disclosable Matters.

5.2 A report may be made verbally, including via telephone, or in writing, including by email to an Eligible Recipient. Eligible Recipient's at Brisbane South PHN include:

- (1) an officer or senior manager of Brisbane South PHN, or an officer or senior manager of a related body corporate of Brisbane South PHN;
- (2) the auditor or member of an audit team conducting an audit of Brisbane South PHN or a related body corporate of Brisbane South PHN; or
- (3) a person authorised by Brisbane South PHN to receive disclosures that may qualify for protection under the Corporations Act, such as the Whistleblower Protection Officer, Whistleblower Investigations Officer, Brisbane South PHN's Auditor, or Stopline. Contact details of each are set out in parts 5.5 to 5.8 below.

5.3 The report should include details of:

- (1) the nature of the allegation(s);
- (2) the individuals involved;
- (3) the key facts on which the person making the report has formed the view that a Disclosable Matter exists and involves the individual or individuals named in the report; and
- (4) the nature and whereabouts of any additional evidence that substantiates the allegation(s).

5.4 Reports will be treated **confidentially**.

- (1) The telephone numbers listed below will be manned only by Eligible Recipients and numbers will not be recorded. Individuals may also send text messages to the telephone numbers listed below. If you wish to remain anonymous, any text messages should be sent from a number that is not known to Brisbane South PHN.

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- (2) Written reports sent to the email address listed below will only be accessible by Eligible Recipients and will be password protected. If a reporter wishes to remain anonymous, any emails should be sent from an email address that is unknown to Brisbane South SPHN, and which does not identify the reporter.

5.5 Whistleblower Protection Officer

- (1) Deputy CEO/General Manager Corporate Services is appointed as Brisbane South PHN's Whistleblower Protection Officer whose role is to safeguard the interests and identity of the Eligible Whistleblower in terms of this policy and any applicable legislation and employment policies subject to any law.
- (2) The Whistleblower Protection Officer will have direct, unfettered access to independent legal and operational advisers, as required for the purposes of fulfilling their role.
- (3) The Whistleblower Protection Officer can be contacted by the following means:
 - Email: privacy@bsphn.org.au
 - Phone (direct number): 07 3864 7502
 - In person: Level 1, Building 20, Garden City Office Park, 2404 Logan Road, Eight Mile Plains, Queensland

5.6 Whistleblower Investigations Officer

- (1) The HR Business Partner is appointed as Brisbane South PHN's Whistleblower Investigations Officer whose role is to investigate the disclosure and prepare a report as required under this policy.
- (2) The Whistleblower Investigations Officer can be contacted by the following means:
 - Email: mkleinoth@bsphn.org.au
 - Phone (direct number): 07 3864 7504
 - In person: Level 1, Building 20, Garden City Office Park, 2404 Logan Road, Eight Mile Plains, Queensland

5.7 Brisbane South PHN's Auditor

- (1) Reports can also be made to Brisbane South PHN's Auditor, or a member of the audit team.
- (2) Brisbane South PHN's Auditor is KPMG and the contact is Ms Bronwyn Lovell. Ms Lovell can be contacted by the following means:
 - Email: blovell@kpmg.com.au
 - Phone (direct number): 07 3233 3266

5.8 Independent Service – Whistleblowing Reports

Brisbane South PHN uses Stoptline as an independent external provider of whistleblowing programs, including a related hotline, investigation and forensic technology services. All reports should be made to Stoptline in the first instance. A report can also be made anonymously to Stoptline using the email: makeareport@stoptline.com.au, or visiting: <http://bsphn.stoptlinereport.com/>.

5.9 Line of reporting

- (1) The Whistleblower Protection Officer and the Whistleblower Investigations Officer will report to the next reporting line e.g. Chief Executive Officer. If this line of reporting is affected by the Disclosable Matter, or if the Disclosable matter relates to an executive of the organisation then the matter would be referred to the Chair of the Board.
- (2) An assessment will then be made regarding whether the report qualifies for protection under the Whistleblower Protection Regime and if a formal, in-depth investigation is required.

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5.10 Anonymous reporting

- (1) Whilst the identity of a reporter will enable the Eligible Recipients and Whistleblower Protection Officer to have ongoing communication with a reporter (which will likely assist in the investigation), reporters may remain anonymous.
- (2) If a reporter wishes to remain anonymous, they should maintain ongoing two-way communication with the Whistleblower Protection Officer so that the officer can ask follow up questions or provide feedback without knowing the reporter's identity.
- (3) Brisbane South PHN will protect the anonymity of a reporter by communicating via an anonymous phone number or email address and allowing the reporter to adopt a pseudonym for the purposes of the disclosure and investigation.
- (4) Importantly, disclosures made anonymously will still be protected under the Whistleblower Protection Regime.

5.11 False Reports

- (1) An Eligible Whistleblower will not be disadvantaged or subject to discipline unless the Eligible Whistleblower knowingly makes a false report.

5.12 If the report is false, Brisbane South PHN will consider the making of a false report a serious matter and the reporter may be subject to disciplinary proceedings in accordance with Brisbane South PHN's employment policies.

5.13 Emergency disclosure

An individual will be protected under the Whistleblower Protection Regime if they make an "emergency disclosure" that meets the following conditions:

- (1) the individual is an Eligible Whistleblower and makes an initial disclosure which meets the requirements set out in section 4.1 in relation to Brisbane South PHN; and
- (2) the individual has reasonable grounds to believe that the information concerns a substantial and imminent danger to:
 - (a) the health or safety of one or more persons; or
 - (b) to the natural environment; and
- (3) the individual gives to the person to whom the first disclosure was made written notice that:
 - (a) includes sufficient information to identify the first disclosure; and
 - (b) states that the individual intends to make an emergency disclosure; and
- (4) the individual makes the second disclosure to:
 - (a) a member of parliament (either Commonwealth or State); or
 - (b) a journalist (as defined in the Corporations Act and meaning, as at the date of this policy, a person who is working in a professional capacity as a journalist for a newspaper, magazine, radio or television broadcasting service, or an electronic service which is operated on a commercial basis or by a body that provides a national broadcasting service and which is similar to a newspaper, magazine or radio or television broadcast); and
- (5) the extent of the information disclosed by the individual in making the emergency disclosure is no greater than necessary to inform the recipient of the substantial and imminent danger.

5.14 Public interest disclosure

An individual will be protected under the Whistleblower Protection Regime if they make a "public interest disclosure" that meets the following conditions:

- (1) the individual is an Eligible Whistleblower and makes an initial disclosure which meets the requirements set out in section 4.1 in relation to Brisbane South PHN; and

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- (2) 90 days have passed since the first disclosure was made;
- (3) the individual does not have reasonable grounds to believe that action is being, or has been, taken to address the matters to which the previous disclosure related;
- (4) the individual has reasonable grounds to believe that making a further disclosure of the information would be in the public interest;
- (5) after at least 90 days from when the first disclosure was made, the individual gives to the person to whom the first disclosure was made written notice that:
 - (a) includes sufficient information to identify the first disclosure; and
 - (b) states that the individual intends to make a public interest disclosure;
- (6) the individual makes the second disclosure to:
 - (a) a member of parliament (either Commonwealth or State); or
 - (b) a journalist (as defined in the Corporations Act and meaning, as at the date of this policy, a person who is working in a professional capacity as a journalist for a newspaper, magazine, radio or television broadcasting service, or an electronic service which is operated on a commercial basis or by a body that provides a national broadcasting service and which is similar to a newspaper, magazine or radio or television broadcast); and
- (7) the extent of the information disclosed by the individual in making the public interest disclosure is no greater than is necessary to inform the recipient of the Disclosable Matter.

6. Investigations

- 6.1 Brisbane South PHN will investigate all matters reported pursuant to this policy as soon as practicable once a report has been received and within 7 days of a report being received.
- 6.2 The purpose of the investigation is to determine whether or not the reported concerns or allegations are substantiated, with a view to rectifying any wrongdoing uncovered to the extent that it is practicable to do so in all the circumstances.
- 6.3 The investigation will be thorough, objective, fair and independent of the reporter and anyone who is implicated in the Disclosable Matter. This includes investigating without bias and any person implicated in Disclosable Matter will have a right to response to any allegations put to them.
- 6.4 The reporter (where possible, having regard to the reporter's request for anonymity) will be kept informed of the outcomes of the investigation arising from their report, subject to considerations of the privacy of anyone who is the subject of the Disclosable Matter and confidentiality requirements.
 - (1) Any reporter who is not an employee must first agree in writing that he or she will maintain the strict confidentiality of the report and the substance of the report and investigation before they can be kept informed of the investigation. This will ensure the fair treatment of individuals mentioned in any report, particularly when such allegations may transpire to be unsubstantiated.
- 6.5 The investigation process will vary depending on the precise nature of the matter being investigated but generally will proceed as follows:
 - (1) With the consent of the reporter, the Eligible Recipient will inform the Whistleblower Protection Officer of the report. If the Eligible Recipient determines that this is not appropriate (for example, the information relates to the Whistleblower Protection Officer or the Whistleblower Investigations Officer) he or she will inform another appropriate, responsible individual e.g. Chief Executive Officer or Chair of the Board.
 - (2) The Whistleblower Protection Officer will appoint the Whistleblower Investigations Officer or, if the Whistleblower Protection Officer determines that this is not appropriate (for example, the information relates to the Whistleblower Investigations Officer), he or she will inform another appropriate, responsible individual.
 - (3) The Whistleblower Investigations Officer (or other person appointed to investigate the report) will be required to notify the Chair (or, if the matter concerns the Chair another Director) of Brisbane

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South PHN in order to commence the investigation. The identity of the reporter will be protected if required by the reporter.

- (4) Where appropriate, Brisbane South PHN may, in its discretion, provide a reporter with feedback regarding the investigations and outcome.
- (5) An investigation will be conducted in a fair and objective manner, as is reasonable and having regard to the nature of the matter reported, the report made and any relevant circumstances.
- (6) The particular enquiries made and the process of the investigation will be determined by the individual/s conducting the investigation having regard to the nature and substance of the report. This may include the investigation being undertaken internally or the appointment of an independent third party.
- (7) If the report is not made anonymously, or the reporter has otherwise provided a means of contact, the Whistleblower Protection Officer will contact with the reporter to discuss the investigation process including who may be contacted during the process and other matters relevant to the investigation.
- (8) If the report is made anonymously, and the reporter does not provide a means by which he or she may be contacted, the investigation will be conducted based solely on the content of the report.

6.6 Throughout the investigation:

- (1) All information obtained will be properly secured to prevent unauthorised access and disclosure in accordance with this policy.
- (2) All relevant witnesses will be interviewed and documents examined.
- (3) The identity of any individuals named or implicated in the reported conduct will be kept confidential.
- (4) Witnesses will be directed not to draw inferences regarding the identity of any individuals involved in any alleged misconduct based on the substance of the questions asked.
- (5) Notes will be made of all discussions, phone calls and interviews.
- (6) Without the reporter's consent, Brisbane South PHN cannot disclose information that is likely to lead to identification of the reporter as part of the investigation process, unless:
 - (a) The information does not include the reporter's identity; or
 - (b) Brisbane South PHN removes information relating to the reporter's identity or other information that is likely to lead to identification of the reporter (e.g. name, position, title, other identifying details); or
 - (c) The disclosure is authorised under the Whistleblower Protection Regime (for example, the disclosure is made to ASIC, APRA, the AFP or a legal practitioner for the purpose of obtaining legal advice or legal representation in relation to the operation of the Whistleblower Protection Regime); or
 - (d) It is reasonably necessary for the investigation of the issues raised in the disclosure.
- (7) If the reporter has provided contact details or means by which he or she may be contacted, Brisbane South PHN will provide the reporter with regular updates. The frequency and timeframes of updates will vary depending on the subject matter of the report.
- (8) The Whistleblower Protection Officer will provide the reporter a support person and/or access to the Employee Access Program (**EAP**).

6.7 The Board of Brisbane South PHN will ensure that the investigation is completed within a reasonable time depending on the circumstances and within no less than 90 days of the commencement of the investigation, subject to extraordinary circumstances justifying extension beyond this time.

6.8 A reporter who makes an anonymous report may choose to remain anonymous while making a report, over the course of the investigation and after the investigation is finalised. Accordingly, a reporter can refuse to answer questions that they feel could reveal their identity at any time.

6.9 The investigation process may be subject to some limitations, including that Brisbane South PHN may not be able to undertake an investigation if it is not able to identify the reporter; for example, if a report is made anonymously and the reporter has refused to provide, or has not provided a means of contact for

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any further questions or follow up with Brisbane South PHN that may be needed as part of its investigation.

6.10 At the conclusion of the investigation, the Whistleblower Investigations Officer will prepare a report for the Board of Brisbane South PHN which will include:

- (1) the allegations;
- (2) a statement of all relevant findings of fact and evidence gathered and upon which conclusions have been based;
- (3) the conclusions reached, including the damage caused, if any, and the impact on Brisbane South PHN and any other affected parties;
- (4) recommendations, based on the report's conclusions, to address any wrongdoing identified and any other matters that arose during the investigation.

6.11 The report will be provided to the Board of Brisbane South PHN and the reporter (if possible) with any applicable confidentiality stipulations.

7. Protection of Eligible Whistleblowers

7.1 To encourage reporting, Brisbane South PHN is committed to ensuring the confidentiality of all matters raised under this policy and the protection and fair treatment of those who make a report and those named or implicated in a report during the investigation process.

7.2 Eligible Whistleblowers will be protected as set out in the following paragraphs:

Protection against Detriment

7.3 Detriment⁷ includes dismissal, demotion or disadvantageous alteration of an Eligible Whistleblower's duties, harassment or intimidation, discrimination, bullying, harm or injury, disciplinary action, threats, bias or other unfavourable treatment of an Eligible Whistleblower in connection with a report made under this policy (**Detriment**). Detriment **does not** include things like genuine performance management or the genuine exercise of legal rights against a person.

7.4 Brisbane South PHN will not tolerate or permit a person with Brisbane South PHN to:

- (1) engage in conduct that causes Detriment to a reporter (or another person) in relation to a report, if:
 - (a) the person believes or suspects that the reporter (or another person) made, might have made, proposed to make or could make a report that qualifies for protection; and
 - (b) the belief or suspicion is the reason, or part of the reason for the conduct;
- (2) make a threat (whether express or implied, conditional or unconditional) to cause Detriment to a reporter (or another person) in relation to a report.

7.5 If a reporter is subjected to Detriment as a result of making a report under this policy, he or she should immediately inform the Whistleblower Protection Officer or other individual handling the report.

Protection of reporter's identity and confidentiality

7.6 Subject to any legal requirements, on receiving a report under this policy, Brisbane South PHN will only share a reporter's identity as a whistleblower or information likely to identify a reporter if:

- (1) the reporter consents;
- (2) the report is made to ASIC, APRA, or the AFP; or
- (3) the concern is raised with a legal practitioner (e.g. lawyer) for the purpose of obtaining legal advice or representation in relation to the operation of the Whistleblower Protection Regime.

7.7 Any disclosure of a reporter's identity or information likely to reveal a reporter's identity will be made on a strictly confidential basis.

⁷ Section 1317ADA, Corporations Act.

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7.8 Brisbane South PHN will protect the confidentiality of a reporter by:

- (1) reducing the risk that the reporter will be identified from the information contained in the disclosure by:
 - (a) redacting all personal information or reference to the identity of the reporter witnessing an event;
 - (b) referring to the reporter in gender-neutral terms;
 - (c) contacting the reporter to help identify certain aspects of the disclosure that could inadvertently identify them; and
 - (d) ensuring that disclosures are handled and investigated by qualified individuals;
- (2) ensuring that its record-keeping and information sharing processes are adequate to ensure the protection of a reporter's identity, such as by:
 - (a) storing all records securely;
 - (b) ensuring access to all records and information relating to the disclosure is limited to those directly involved in managing and investigating the disclosure;
 - (c) ensuring that only a restricted number of individuals directly involved in the handling and investigation of a disclosure will be aware of the reporter's identity (subject to the reporter's consent) or information which may identify the reporter;
 - (d) ensuring that material relating to the matter will not be sent to an email address or left in a situation (such as at a communal printer) that can be accessed by other individuals; and
 - (e) reminding all individuals involved in the handling and investigation of a matter are regularly reminded of their confidentiality requirements, including that in the circumstances that apply under the Whistleblower Protection Regime, the unauthorised disclosure of an individual's identity may be a criminal offence.

Protection of file and records

7.9 In order to protect the reporter and any individual named or implicated in a report, Brisbane South PHN will ensure that all files and records created from an investigation arising from a report made under this policy will be stored safely and securely and will be appropriately protected having regard to whether the records are stored in electronic form or in paper copy.

7.10 This will be achieved by:

- (1) If the file/s is/are electronic – ensuring that the system is adequately protected by password protection or encryption, and the files and records stored on secure data storage systems and accessible only be authorised individuals involved with the investigation or with sufficient internal security clearance;
- (2) If the files are hard copy – ensuring that the files are stored in locked storage and that the keys to the storage are kept safely and securely in a location known only to authorised individuals involved with the investigation or with sufficient internal security clearance.

8. Protections under the Corporations Act

Special protections

8.1 In addition to the above internal mechanisms to protect a reporter, the Corporations Act contains special protections to Eligible Whistleblowers if the conditions in clause 4.1 are met.

8.2 These special protections are:

- (1) the Eligible Whistleblower is immune from any civil, criminal or administrative legal action (including disciplinary action) for making the disclosure;
- (2) no contractual or other remedy may be enforced, and no contractual or other right may be exercised, against the Eligible Whistleblower for making the disclosure;

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- (3) in some circumstances, the disclosed information is not admissible against the Eligible Whistleblower in criminal proceedings or in proceedings for the imposition of a penalty;⁸
- (4) anyone who causes or threatens to cause Detriment to an Eligible Whistleblower or another person in the belief or suspicion that a report has been made, or may have been made, proposes to or could be made, may be guilty of an offence and may be liable for damages;
- (5) an Eligible Whistleblower's identity cannot be disclosed to a court or tribunal except where considered necessary; and
- (6) the person receiving the report commits an offence if he or she discloses the Eligible Whistleblower's identity or information that is likely to lead to the identification of the Eligible Whistleblower, without the Eligible Whistleblower's consent, to anyone except:
 - (a) ASIC;
 - (b) APRA;
 - (c) the AFP; or
 - (d) a legal practitioner (e.g. lawyer) for the purpose of obtaining legal advice or representation in relation to the disclosure.

*However, these protections **do not** grant immunity for any misconduct that an Eligible Whistleblower has engaged in that is revealed in their disclosure.*

8.3 Brisbane South PHN will ensure that Eligible Whistleblowers are protected against Detriment by:

- (1) undertaking an assessment of the risk of Detriment against the Eligible Whistleblower and other persons (e.g. other personnel who may be suspected to have made a disclosure) as soon as possible after receiving the disclosure;
- (2) where possible, providing support services to the Eligible Whistleblower, including services available through the EAP e.g. counselling sessions, to assist the Whistleblower in minimising and managing stress;
- (3) where possible, engaging with the Eligible Whistleblower to assist in providing or identifying strategies to minimise and manage time and performance impacts, or other challenges resulting from the disclosure or the investigation, such as by providing other modifications for the Eligible Whistleblower to continue to work e.g. reassignment to another role, changes to their role or the way in which they perform their duties;
- (4) ensuring Brisbane South PHN's management is aware of their responsibilities to maintain the confidentiality of a report, address the risks of isolation or harassment, manage conflicts and ensuring fairness when managing the performance of, or taking other managerial action relating to, an Eligible Whistleblower;
- (5) informing the Eligible Whistleblower that they can lodge a complaint with Brisbane South PHN via the Whistleblower Protection Officer if they have suffered Detriment in accordance with Brisbane South PHN's Complaints and Incidents Reporting Procedure. Any complaint will be taken seriously and dealt with by Brisbane South PHN in accordance with that procedure.

Confidentiality of a report made under the Corporations Act

8.4 If a disclosure is made, the identity of the Eligible Whistleblower must be kept confidential unless one of the following exceptions arises:

- (1) the Eligible Whistleblower consents to the disclosure of their identity;
- (2) disclosure of details that might reveal the Eligible Whistleblower's identity is reasonably necessary for the effective investigation of the Disclosable Matter;
- (3) the concern is reported to ASIC, APRA, or the AFP; or

⁸ For example, where the disclosure has been made to ASIC or APRA, or where it qualifies as a public interest disclosure or emergency disclosure.

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(4) the disclosure is made to a legal practitioner (e.g. lawyer) for the purpose of obtaining legal advice or representation in relation to the operation of the Whistleblower Protection Regime.

8.5 It is illegal for a person to identify a disclosure or disclose information that is likely to lead to the identification of an Eligible Whistleblower, outside these exemptions.

8.6 An Eligible Whistleblower may lodge a complaint with Brisbane South PHN about a breach of confidentiality in accordance with Brisbane South PHN's Complaints and Incidents Reporting Procedure. An Eligible Whistleblower may also lodge a complaint with a regulator, such as ASIC, APRA or the ATO if their confidentiality is not protected.

Compensation and remedies

8.7 An Eligible Whistleblower can seek compensation and other remedies through the courts if:

- (1) they suffer loss, damage or injury because of a disclosure; and
- (2) Brisbane South PHN failed to take reasonable precautions and failed to exercise due diligence to prevent the Whistleblower from suffering Detriment.

9. Ensuring fair treatment of employees named in reports

9.1 To ensure that employees are mentioned in reports are treated fairly, Brisbane South PHN will ensure that the principles of natural justice are adhered to throughout the investigation process whilst maintaining the protection of Eligible Whistleblowers.

9.2 For example, Brisbane South PHN will ensure that employees named in a report are provided with details of any allegations made against them along with relevant evidence substantiating those allegations and afford them a right to respond to those allegations.

10. Failure to comply

Any breach of this policy may result in disciplinary action that could result in termination of employment with Brisbane South PHN. A breach of this policy includes making a false disclosure.

11. Review

This policy and procedure will be reviewed by the Governance, People and Culture Committee not less than every two years.

12. Related documents and policies

- Code of Conduct
- Fraud-Corruption Control Policy
- Conflict of Interest and Related Party Transactions Policy
- Delegation of Authorities
- Procurement Policy
- Human Resources Policies
- Finance Policies
- IT Policies
- Commissioning Framework
- Complaints and Incidents Reporting Procedure