

# Whistleblower Information Guide

## 1. Whistleblowers

Whistleblowers play an important role in identifying and calling out misconduct. To encourage whistleblowers to come forward with their concerns and protect them when they do, the *Corporations Act 2001* (“the Act”) gives certain people legal rights and protections as whistleblowers. In accordance with the Act, WQPHN has an established Whistleblower Policy – see WQPHN website or intranet. A Whistleblower policy is an important tool for helping WQPHN identify wrongdoing that may not be uncovered unless there is a safe and secure means for disclosing wrongdoing.

The purposes of WQPHN’s Whistleblower policy and procedure are to:

- encourage more disclosures of wrongdoing;
- help deter wrongdoing, in line with WQPHN’s risk management and governance framework;
- ensure individuals who disclose wrongdoing can do so safely, securely and with confidence that they will be protected and supported;
- ensure disclosures are dealt with appropriately and on a timely basis;
- provide transparency around the entity’s framework for receiving, handling and investigating disclosures;
- support WQPHN’s values, code of conduct and ethics policy;
- support WQPHN’s long-term sustainability and reputation;
- meet WQPHN’s legal and regulatory obligations; and
- align with the ASX Corporate Governance Principles and Recommendations and relevant standards.

WQPHN values the people who report potential misconduct or breaches of the law and take the concerns whistleblowers raise with us seriously. Most people with a connection to WQPHN who may observe or be affected by misconduct can access the legal rights and protections for whistleblowers. These protections also extend to spouses and relatives. (*Corporations Act section 1317AAA*)

## 2. Can I disclose?

An eligible whistleblower is an individual who is, or has been, any of the following in relation to WQPHN:

- a. an officer or employee;
  - e.g. current and former employees who are permanent, part-time, fixed-term or temporary, interns, secondees, managers and directors)
- b. a supplier of goods to the entity (whether paid or unpaid), including their employees;
  - e.g. current and former contractors, consultants, service providers and business partners
- c. an associate of the entity; and
- d. relative, dependent or spouse of an individual listed above.

- e.g. relatives, dependents or spouse of current and former employees, contractors, consultants, service providers, suppliers and business partners.

You qualify for protection as a whistleblower under the Act if you are an eligible whistleblower as set out above in relation to WQPHN and:

- a. you have made a disclosure of information relating to a “disclosable matter” (see below) directly to an “eligible recipient” (see below) or to ASIC, APRA or another Commonwealth body prescribed by regulation;
- b. you have made a disclosure to a legal practitioner for the purposes of obtaining legal advice or legal representation about the operation of the whistleblower protections in the Act; or
- c. you have made an “emergency disclosure” or “public interest disclosure” (see below).

### 3. What can I disclose?

You must have reasonable grounds to suspect that the information you are disclosing about WQPHN concerns misconduct, or an improper state of affairs or circumstances for it to be considered “reportable conduct” for the purposes of Whistleblower protections.

The term “reasonable grounds to suspect” is based on the objective reasonableness of the reasons of your suspicion. A mere allegation with no supporting information is not likely to be considered as having “reasonable grounds to suspect”. In saying this, you will not need to “prove” your allegations, and you can still qualify for protection under the Act if your disclosure turns out to be incorrect. Please note that any employee who knowingly discloses false information may face disciplinary action.

#### 3.1. Disclosable matters

Disclosable matters are reportable conduct that can be about WQPHN, or an officer or employee of WQPHN, engaging in conduct that:

- constitutes an offence against, or a contravention of, a provision of any of the following:
  - the Corporations Act 2001;
  - the Australian Securities and Investments Commission Act 2001;
  - the Banking Act 1959;
  - the Financial Sector (Collection of Data) Act 2001;
  - the Insurance Act 1973;
  - the Life Insurance Act 1995;
  - the National Consumer Credit Protection Act 2009;
  - the Superannuation Industry (Supervision) Act 1993; or
  - an instrument made under an Act referred to above.
- constitutes an offence against any other law of the Commonwealth that is punishable by imprisonment for a period of 12 months, or
- represents a danger to the public or the financial system.

(Corporations Act section 1317AA(4)-(5))

“Disclosable matters” covered by this policy include, but are not necessarily limited to:

- illegal conduct, such as theft, dealing in, or use of illicit drugs, violence or threatened violence, and criminal damage against property;
- fraud, money laundering or misappropriation of funds;
- offering or accepting a bribe;
- financial irregularities;
- failure to comply with, or breach of, legal or regulatory requirements;
- engaging in or threatening to engage in detrimental conduct against a person who has made a disclosure or is believed or suspected to have made, or be planning to make, a disclosure; and
- information that indicates a significant risk to public safety or the stability of, or confidence in, the financial system – even if it does not constitute a breach of a particular law.

### 3.2. Personal work-related grievances

- Disclosures that relate solely to personal work-related grievances, and that do not relate to detriment or threat of detriment to you will not qualify for protection under the Act. Personal work-related grievances are those that relate to your current or former employment and have, or tend to have, implications for you personally, but do not:
  - a. have any other significant implications for WQPHN; or
  - b. relate to any conduct, or alleged conduct, about a disclosable matter.
- Examples of personal work-related grievances include, but are not limited to:
  - an interpersonal conflict between you and another employee;
  - a decision that does not involve a breach of workplace laws;
  - a decision about engaging, transferring or promoting you;
  - a decision about the terms and conditions of your engagement;
  - a decision to suspend or terminate your employment; or otherwise to discipline you.
- Disclosures regarding personal work-place grievances such as the examples provided above will not qualify for protection under the Act.
- A personal work-related grievance will still qualify for protection if:
  - it includes information about misconduct, or information about misconduct includes or is accompanied by a personal work-related grievance (mixed report);
  - the entity has breached employment or other laws punishable by imprisonment for a period of 12 months or more, engaged in conduct that represents a danger to the public, or the disclosure relates to information that suggests misconduct beyond your personal circumstances;
  - you suffer from or are threatened with detriment for making a disclosure; or

- you seek legal advice or legal representation about the operation of the whistleblower protections under the Act.

In the event that you are suffering with a personal work-related grievance or have another issue or concern and will not be covered under this policy, we would advise that you internally raise this grievance with your WQPHN line manager or the WQPHN CEO, so that it can be resolved. We also encourage all employees to seek legal advice about their rights and protections under employment and contract law.

In circumstances where it may be unclear whether a disclosure qualifies for protection, WQPHN could elect to treat the discloser as though they were protected under the Act.

## 4. How do I access Whistleblower Protections?

If you believe you are a whistleblower with information about misconduct or potential breaches of the law within WQPHN, you access the whistleblower rights and protections when you report or disclose your concerns to any of the eligible recipients listed below. (Corporations Act section 1317AA(1)-(2))

There is no requirement for you to identify yourself in order for a disclosure to qualify for protection under the Act.

Disclosures made that are not about disclosable matters do not qualify for protection under the Act.

## 5. Who do I make a disclosure to?

A disclosure must be made to an eligible recipient. The role of an eligible recipient is to receive disclosures that qualify for protection. Any person who is seeking to make a disclosure of disclosable material, is encouraged to contact our internal or external Whistleblower Complaints Officers (WC) via their contact information provided below.

<b>Internal WCO</b>	Sandy Gillies Chief Executive Officer	Mobile: 0456 001 673 Email: <a href="mailto:confidential-ceo@wqphn.com.au">confidential-ceo@wqphn.com.au</a>
<b>External WCO</b>	Intensive Group Rachel Portelli	Mobile: 0418 179 714 Email: <a href="mailto:cosec@wqphn.com.au">cosec@wqphn.com.au</a>

Disclosures made to our WCOs are confidential.

Disclosure can also be made to:

- an officer or senior manager of WQPHN;
  - where an officer refers to a director or company secretary of WQPHN, and a senior manager would be a senior manager who makes or participates in making decisions that affect the whole, or a substantial part, of WQPHN, or has the capacity to significantly affect WQPHN's financial standing.
- the Australian Securities and Investments Commission (ASIC), Phone: 1300 300 630;
- the Australian Prudential Regulation Authority (APRA); phone 1300 558 849;
- a legal practitioner for the purposes of obtaining legal advice or representation.

While you may contact any of the eligible recipients listed above to disclose reportable conduct, the process of review and investigation may be handled more efficiently if it is made to the CEO in the first instance. This would enable us to identify and address wrongdoing as early as possible, and would help to build confidence and trust in our Whistleblower policy, processes and procedure. In spite of this, if you make your disclosure to an eligible recipient outside of WQPHN, you will still qualify for protection under the Act.

In order to qualify for protection under the Act, you must make your disclosure to one of the eligible recipients referred to above.

## 6. Anonymous disclosures

Disclosures can be made anonymously and will still be protected under the Whistleblower Policy and the Act. The identity of any person making a disclosure of reportable conduct will be kept confidential, unless the discloser gives permission for their identity to be disclosed. (s 1317AAE). The discloser can choose to remain anonymous while making the disclosure, over the course of the investigation and after the investigation is finalised. A discloser can refuse to answer questions that they feel could reveal their identity at any time, including during follow-up conversations. WQPHN suggests that disclosers who wish to remain anonymous should maintain ongoing two-way communication with WQPHN, so that WQPHN can ask follow-up questions or provide feedback. WQPHN will implement the following measures when dealing with an anonymous disclosure to protect the discloser's anonymity:

- communication via anonymous telephone hotlines and anonyms email addresses; and
- will encourage the discloser to adopt a pseudonym for the purpose of their disclosure if they have not already done so themselves.

For sake of clarity, if a disclosure is received from an email address from which the person's identity cannot be determined, and the discloser does not identify themselves in an email, it will be treated as an anonymous disclosure.

## 7. Protections

### 7.1. Identity Protection:

WQPHN has legal obligations to protect the confidentiality of your identity when you make a disclosure. A person cannot disclose your identity or information that is likely to lead to your identification (which they have obtained directly or indirectly because you have made a disclosure that qualifies for protection). The exceptions to this are that a person discloses your identity:

- a. to ASIC, APRA, or a member of the Australian Federal Police (within the meaning of the Australian Federal Police Act 1979);
- b. to a legal practitioner (for the purposes of obtaining legal advice or legal representation about the whistleblower provisions in the Act);
- c. to a body or person prescribed by regulations; or
- d. with your consent.

A person can disclose information contained in your disclosure with or without your consent if:

- the information does not include your identity;
- WQPHN has taken all reasonable steps to reduce the risk that you will be identified from the information; and
- it is reasonably necessary for investigating the issues raised in the disclosure.

When conducting the investigation, WQPHN can only disclose information that would likely lead to your identification without your consent when:

- the information does not include your identity;
- WQPHN removes information relating to your identity or other information that is likely to lead to your identification (e.g. your name, position title and other identifying details); and
- it is reasonably necessary for investigating the issues raised in the disclosure.

Outside of the exceptions listed above, it is illegal for a person to identify a discloser or disclose information that is likely to lead to the identification of a discloser. If you have made a disclosure and are concerned that there has been a breach of confidentiality, you can lodge a complaint with WQPHN through its general complaints process. You may also lodge a complaint with a regulator, such as ASIC, APRA or the ATO, for investigation.

WQPHN's WCO is responsible for discussing WQPHN's measures for ensuring confidentiality of their identity. WQPHN will follow the following measures and/or mechanisms for protecting the confidentiality of your identity:

#### **7.1.1. Reducing the risk that you will be identified from the information contained in the disclosure:**

- all personal information or reference to you witnessing an event will be redacted;
- you will be referred to in a gender-neutral context;
- where possible, you will be contacted to help identify certain aspects of your disclosure that could inadvertently identify you; and
- disclosures will be handled and investigated by qualified staff.

WQPHN may not be able to undertake an investigation if it is not able to contact you (e.g. if you have made an anonymous disclosure and have refused to provide or not provided a means of contacting you). In saying this, WQPHN may still investigate the disclosure by asking you for consent to a limited disclosure. WQPHN may also investigate a disclosure by conducting a broad review on the subject matter or the work area disclosed. In addition, it could investigate an anonymous disclosure, even if it cannot get in contact with you, if you have provided sufficient information and WQPHN removed information that is likely to lead to your identification.

## **7.2. Secure record-keeping and information-sharing processes:**

- all paper and electronic documents and other materials relating to disclosures will be stored securely;

- access to all information relating to a disclosure will be limited to those directly involved in managing and investigating the disclosure;
- only a restricted number of people who are directly involved in handling and investigating a disclosure will be made aware of a your identity (subject to your consent) or information that is likely to lead to your identification;
- communications and documents relating to the investigation of a disclosure will not be sent to an email address or to a printer that can be accessed by other staff; and
- each person who is involved in handling and investigating a disclosure will be reminded about the confidentiality requirements, including that an unauthorised disclosure of a discloser's identity may be a criminal offence.

Despite the extensive measures and mechanisms listed above, in practice, people may be able to guess your identity if:

- you have previously mentioned to other people that you were considering making a disclosure;
- you are one of a very small number of people with access to the information; or
- the disclosure related to information that you had previously been told privately and in confidence.

### **7.3. Protection from detrimental acts or omissions:**

There are legal protections for protecting a discloser, or any other person, from detriment in relation to a disclosure. A person cannot engage in conduct that causes detriment to a discloser (or another person), in relation to a discloser, if:

- the person believes or suspects that the discloser (or another person) made, may have made, proposes to make or could make a disclosure that qualifies for protection; and
- the belief or suspicion is the reason, or part of the reason, for the conduct.

In addition, a person cannot make a threat to cause detriment to a discloser (or another person), in relation to a disclosure. A threat may be express or implied, or conditional or unconditional. A discloser (or another person) who has been threatened in relation to a disclosure does not have to actually fear that the threat will be carried out.

The Act defines detrimental conduct as including the following:

- a. dismissal of an employee;
- b. injury of an employee in his or her employment;
- c. alteration of an employee's position or duties to his or her disadvantage;
- d. discrimination between an employee and other employees of the same employer;
- e. harassment or intimidation of a person;
- f. harm or injury to a person, including psychological harm;
- g. damage to a person's property;
- h. damage to a person's reputation;
- i. damage to a person's business or financial position; or

- j. any other damage to a person.

Actions that WQPHN does not consider detrimental conduct include the following:

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

Where applicable, WQPHN may implement the following measures and mechanisms for protecting disclosers from detrimental acts or omissions:

- processes for assessing the risk of detriments against you and other persons (e.g. other staff who might be suspected to have made a disclosure), which will commence as soon as possible after receiving a disclosure;
  - **Risk identification:** Assessing whether has a motive to cause detriment – information could be gathered from you about:
    - the risk of your identity becoming known;
    - who you fear might cause detriment to you;
    - whether there are any existing conflicts or problems in the work place; and
    - whether there have already been threats to cause detriment.
  - **Risk analysis and evaluation:** Analysing and evaluating the likelihood of each risk and evaluating the severity of the consequences.
  - **Risk control:** Developing and implementing strategies to prevent or contain the risks – for anonymous disclosures, it may be worthwhile assessing whether the discloser's identity can be readily identified or may become apparent during an investigation.
  - **Risk monitoring:** Monitoring and reassessing the risk of detriment where required – the risk of detriment may increase or change as an investigation progresses, and even after and investigation is finalised.
- support services (including counselling or other professional or legal services) that are available to disclosers;
- strategies to help you minimise and manage stress, time or performance impacts, or other challenges resulting from the disclosure or its investigation;
- actions for protecting you from risk of detriment – for example, WQPHN could allow you to perform your duties from another location, reassign you to another role at the same level, make other modifications to your workplace or the way you perform your work duties, or reassign or relocate other staff involved in the disclosable matter;
- processes for ensuring that management are aware of their responsibilities to maintain the confidentiality of a disclosure, address the risks of isolation or harassment, manage conflicts, and ensure fairness when managing the performance of, or taking other management action relating to, a discloser;



- procedures on how you can lodge a complaint if you have suffered detriment, and the action WQPHN may take in response to such complaints (e.g. the complaint could be investigated as a separate matter by an officer who is not involved in dealing with disclosures and the investigation findings will be provided to the board or audit or risk committee); and
- interventions for protecting a discloser if detriment has already occurred – for example, WQPHN could investigate and address the detrimental conduct, such as by taking disciplinary actions, or WQPHN could allow the discloser to take extended leave, develop a career development plan for the discloser that includes new training and career opportunities, or offer compensation or other remedies.

If you believe you have suffered detriment, you may seek independent legal advice or contact regulatory bodies such as ASIC, APRO or the ATO.

#### **7.4. Compensation and other remedies:**

You are entitled to compensation and other remedies through the courts if you make a disclosure and:

- a. you suffer loss, damage or injury because of a disclosure; and
- b. WQPHN failed to take reasonable precautions and exercise due diligence to prevent the detrimental conduct.

WQPHN strongly encourages all potential disclosers to seek independent legal advice prior to, during and after making a disclosure.

#### **7.5. Civil, criminal and administrative liability protection:**

You are protected from any of the following in relation to your disclosure:

- civil liability (e.g. any legal action against you for breach of an employment contract, duty of confidentiality or another contractual obligation);
- criminal liability (e.g. attempted prosecution of you for unlawfully releasing information, or other use of the disclosure against you in a prosecution (other than for making a false disclosure)); and
- administrative liability (e.g. disciplinary action for making the disclosure)

Note that the protections do not grant you immunity for any misconduct you have engaged in that is revealed in your disclosure.

WQPHN will protect any person who makes a disclosure from detrimental conduct. Examples of detrimental conduct include dismissal, injury, change to employment, discrimination harassment, psychological harm, damage to property, reputation, business or financial position, and any other damage. (Corporations Act section 1317ADA)

## **8. Handling and investigating the disclosure**

If a disclosure is made in person, the eligible recipient will:

- determine whether the location and time is appropriate for the discloser to make their disclosure comfortably; and
- determine whether the identity of the discloser will be protected at this time and location.

After receiving a disclosure, WQPHN will need to assess it to determine whether it qualifies for protection and whether a formal, in-depth investigation is required. In circumstances where it may be unclear whether a disclosure qualifies for protection, WQPHN could elect to treat the discloser as though they were protected under the Act.

When determining whether to investigate a disclosure, WQPHN will consider:

- the nature and scope of the investigation;
- the person(s) within and/or outside the entity that should lead the investigation;
- the nature of any technical, financial or legal advice that may be required to support the investigation; and
- the timeframe for the investigation.

WQPHN will provide the discloser with regular updates, if the discloser can be contacted (including through anonymous channels). The mode, content, frequency and timeframe may vary depending on the nature of the disclosure. At a minimum, WQPHN will provide updates to a discloser during the key stages, such as:

- when the investigation process has begun;
- while the investigation is in progress; and
- after the investigation has been finalised.

Depending on the nature of the disclosure, it may not be appropriate to provide details of the outcome to the discloser.

When a disclosure of reportable conduct is received, WQPHN will appoint a Decision Maker to investigate the information. Any investigation will be conducted in accordance with the rules of natural justice. If appropriate, a report will be provided to the Board and the Board will decide whether to adopt the recommendations of the Decision Maker. If required, the Board will notify any relevant external body of an investigation.

Any person who is mentioned in a disclosure, including those who are the subject of reportable conduct, will be treated fairly and will be offered support through the WQPHN Employee Assistance Program (EAP). To the extent possible, the person who makes the disclosure will be kept informed and will be offered support through the WQPHN Employee Assistance Program (EAP).

## 9. Public interest disclosure

If 90 days pass following your disclosure and you do not have reasonable grounds to believe that action is being taken, or has been taken in relation to your disclosure, you can notify the recipient you made your disclosure to in writing that you intend to make a public interest disclosure. You must have reasonable grounds to believe that making a further disclosure of the information would be in the public interest. In your written notice, you must:

- a. include sufficient information to identify the previous disclosure; and
- b. state that you intend to make a public interest disclosure.

A public interest disclosure can be made to a journalist or a member of parliament.

When making a public interest disclosure, it is important to understand the criteria for doing so. You should always contact an independent legal adviser before making a public interest disclosure.

## 10. Emergency disclosure

If you have previously made a disclosure to an eligible recipient and you have reasonable grounds to believe that the information concerns a substantial and imminent danger to the health and safety of one or more persons or to the natural environment, you can make an emergency disclosure. Before making an emergency disclosure, you must give written notice to the eligible recipient you made your disclosure to that:

- a. includes sufficient information to identify the previous disclosure; and
- b. states that you intend to make an emergency disclosure

An emergency disclosure can be made to a journalist or a member of parliament. You must only disclose the extent of the information necessary to inform the journalist or parliamentarian of the substantial and imminent danger.

When making an emergency disclosure, it is important to understand the criteria for doing so. You should always contact an independent legal adviser before making an emergency disclosure.

## 11. Unhappy with the outcome of the investigation?

If you are not satisfied with the outcome of the investigation following your disclosure, you can apply the CEO to review whether the policy, processes and procedures were adhered to. WQPHN is not obliged to reopen an investigation and can conclude a review if it finds that the investigation was conducted properly, or new information is either not available or would not change the findings of the investigation.

If you are still not satisfied with WQPHN's response to your disclosure, you may lodge a complaint with a regulator, such as ASIC, APRA or the ATO.

## 12. Employees mentioned in a disclosure

WQPHN will ensure the fair treatment of its employees who are mentioned in a disclosure that qualifies for protection, including those who are the subject of a disclosure. The measures and mechanisms for ensuring the fair treatment of individuals mentioned in a disclosure include that may be implemented (dependent on circumstances) are:

- disclosures will be handled confidentially, when it is practical and appropriate in the circumstances;
- each disclosure will be assessed and may be the subject of an investigation;
- the objective of an investigation is to determine whether there is enough evidence to substantiate or refute the matters reported;
- when an investigation needs to be undertaken, the process will be objective, fair and independent;
- an employee who is the subject of a disclosure as and when required by principles of natural justice

and procedural fairness and prior to any actions being taken – for example, if the disclosure will be the subject of an investigation; and

- an employee who is the subject of a disclosure may contact the entity’s support services.

WQPHN may determine the most appropriate time to inform the individual who is the subject of a disclosure about the investigation, provided that they inform the individual before making any adverse finding against them. In some circumstances, informing the individual at an early stage of an investigation may compromise the effectiveness of the investigation, such as when there may be concerns that the individual may destroy the information or the disclosure needs to be referred to ASIC, APRA, the ATO or the Federal Police.

### 13. Review of policy and procedure

Employees may be appropriately consulted on an annual basis to ensure their awareness of Whistleblower processes and to seek feedback regarding the efficacy of the processes.

Whistleblower documentation will be reviewed and updated as required, including after any implementation of the processes.

### 14. More information

WQPHN’s employee induction and triennial refresher program will include training on the Whistleblower Policy.

WQPHN’s Whistleblower policy and procedure are available via WQPHN’s website and SharePoint.

If you wish to seek additional information prior to formally making your disclosure, please contact a WCO.

If you intend to make your disclosure to ASIC, APRA or the ATO, please see their websites on whistleblowing information. For example, for ASIC - <https://asic.gov.au/about-asic/asic-investigations-and-enforcement/whistleblowing/>.

### 15. Amendment History

Version	Date	Author	Description
1	3 Apr 2020	Fox Lawyers	Initial version approved by Board
2	21 Nov 2023	Senior Quality & Compliance Advisor	Updated version approved by Board