

## Policy: Whistleblower

### Purpose & Statement:

LCCHS is guided by our values: providing excellent customer service; creating a successful environment; always providing a personal best; and acting with the utmost integrity. LCCHS encourages the disclosure of any instances of suspected unethical, illegal, fraudulent or undesirable conduct involving LCCHS. Under the Corporations Act 2001 (Cth) (the Act), individuals qualify for protection when reporting a “disclosable matter” so they can do so confidentially, without fear of intimidation, disadvantage and reprisal.

The purpose of this Whistleblower Policy is to provide guidance for the disclosure and management of any reports alleging misconduct, corruption or other unlawful behaviour by an LCCHS office holder, staff or contractor who has dealings with LCCHS.

This Whistleblower Policy is made available to all officers, staff of and contractors either via the LCCHS Intranet, document management system Prompt, and externally on the LCCHS website. Disclosures under the Whistleblower Policy are an important part of LCCHS's risk management framework. This Whistleblower Policy and reports on disclosures received in any financial year will be made to the Board bi-annually and annually to LCCHS's external auditor.

### What is a disclosable matter

A disclosable matter is a disclosure that qualifies for protection under the Corporations Act 2001 (Cth) involving information that the discloser has reasonable grounds to suspect concerns misconduct, or an improper state of affairs or circumstances relating to LCCHS. The concerns may not relate to unlawful conduct and could relate to a systemic issue or business practices that may cause harm to LCCHS clients.

A disclosable matter is anything defined under the Corporations Act 2001 (Cth) involving types of wrongdoing including:

- Fraudulent activity;
- Unlawful, corrupt or irregular use of company funds;
- Illegal activities e.g. theft, or dealing in or use of illicit drugs, violence or threatened violence;
- Systemic issues, dishonest or unethical behaviour or practices;
- A breach of any legislation including relating to LCCHS's operations or a breach or offence under the Corporations Act 2001 (Cth);
- A significant risk to public health, public safety or the stability of, or confidence in, the financial system of LCCHS, even if it does not involve a breach of a particular law;
- Misconduct or an improper state of affairs or circumstances in relation to the tax affairs of LCCHS; and
- The deliberate concealment of information tending to show any of the matters listed above.

Proof of the allegation is not required, but there needs to be reasonable basis for the suspicion with some supporting information.

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A disclosure that does not qualify for protection under the Corporations Act 2001 (Cth), or this Policy include:

- Personal work-related grievances such as interpersonal workplace conflicts, managerial decisions including staff rostering, decisions that do not involve a breach of workplace laws, or terms and conditions of employment. Those matters can be raised in accordance with the LCHS Managing Grievances, Performance and Inappropriate Behaviour Procedure; or
- Complaints with respect to client care which are covered by the LCHS feedback and complaints process.

In certain circumstances, a personal work-related grievance may still qualify for protection where a disclosure involves:

- a mixed-report;
- the discloser suffers or is threatened with detriment;
- the discloser has sought legal advice or legal representation about the operation of whistleblower protections;
- LCHS has breached employment or other laws punishable by imprisonment for a period of 12 months or more; or
- the misconduct is beyond personal circumstances.

Any other disclosure that is not a disclosable matter does not qualify for protection under the Act, or this Policy.

### Who is eligible for protection

An individual is an “eligible whistleblower” and qualifies for protection under this Policy if they are current or former:

- officer or LCHS staff member;
- volunteer;
- contractor, consultant or service provider (and their employees); or
- relative, dependent or family member of the above listed individuals.

An eligible whistleblower is entitled to protection even if the disclosable matter reported is found to be incorrect.

### How to make a disclosure

A report can be made verbally or in writing, and the eligible whistleblower can opt to remain anonymous or adopt a pseudonym throughout the disclosure reporting and investigation process.

### Who can receive a disclosure

The eligible whistleblower must report the disclosable matter to an “eligible recipient”. LCHS encourages all individuals to consider making an internal report in the first instance, as this will enable LCHS to identify and address any wrongdoing as early as possible.

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Eligible Recipients	
<b>Anonymous disclosures</b>	<p>Can be made by phone, in writing by email, post or hand delivery to:</p> <p>Latrobe Community Health Service Attention: Chief Executive Officer Postal address: PO Box 960, Morwell, Victoria 3840 Telephone: 1800 242 696 Email: <a href="mailto:CEO@lchs.com.au">CEO@lchs.com.au</a> Office: Visit your nearest LCHS premises. All locations are made available on the organisation’s website at <a href="http://www.lchs.com.au">www.lchs.com.au</a></p> <p>It is recommended that all disclosures made in writing by post or hand delivery are marked Private and Confidential.</p>
<b>Relevant Executive Director</b>  <b>Manager Governance</b>  <b>Board Chair</b>  <b>Board Audit &amp; Risk Committee Chair</b>	Email, phone or in-person
<b>Chief Executive Officer</b>	Email: <a href="mailto:CEO@lchs.com.au">CEO@lchs.com.au</a>
<b>*Company Secretary</b>	via the LCHS Website

\*If the disclosure involves the LCHS CEO, or the organisation is seen to be compromised, the disclosure must be solely made to the LCHS Company Secretary. The Company Secretary will appropriately refer the disclosure internally as relevant.

For disclosures made regarding illegal or corrupt behaviour, the eligible whistleblower must report their concern to the duly constituted authorities responsible for the enforcement of the law in the relevant areas such as ASIC, Australian Taxation Office, or any prescribed Commonwealth authority.

Under certain circumstances, public interest disclosures and emergency disclosures can be made to journalists and parliamentarians and qualify for protection. To make this type of disclosure, key criteria must be met.

Before making a disclosure, further information can be obtained by contacting ASIC via website [www.asic.gov.au](http://www.asic.gov.au), or by seeking legal advice.

### What legal protections, support and practical protection is available to eligible whistleblowers

#### Confidentiality

LCHS is legally required to protect the confidentiality by not disclosing the eligible whistleblower’s identity, or information that is likely to lead to the identification of the whistleblower. LCHS will take every reasonable step possible to maintain confidentiality throughout the disclosure process e.g. using gender neutral language, redacting any personal or potentially identifiable information, using secure record keeping and information sharing processes.

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Under the Corporations Act 2001, the following exceptions apply:

- The discloser's identity is disclosed to ASIC or a member of the Australian Federal Police; a legal practitioner for the purpose for obtaining legal advice or representation; a person or body prescribed by regulations; or with the consent of the eligible whistleblower.
- Information contained in a disclosure can be disclosed with or without the eligible whistleblower's consent if the information does not contain their identity; LCHS has taken all reasonable steps to reduce the risk that the discloser will be identified from the information; and it is reasonably necessary for investigating the issues raised in the disclosable matter.

If it is believed confidentiality has been breached, the eligible whistleblower can lodge a complaint with LCHS, with ASIC or the ATO.

### Protection from detrimental acts or omissions

LCHS is legally required to protect an eligible whistleblower, and any other person, from detrimental conduct in relation to the disclosable matter. This protection extends to circumstances where a person may suspect, or it is proposed a disclosable matter will be reported.

A person cannot make a threat of detriment, whether it is express or implied, or conditional or unconditional, regardless of if the eligible whistleblower (or other person) believes that the threat would be carried out. Following the receipt of a disclosable matter, LCHS will conduct a risk assessment to assess the likelihood of detrimental action and identify appropriate strategies to minimise the risk of detriment.

Detrimental conduct does not include moving the eligible whistleblower to another work location in as a prevention strategy or managing unsatisfactory work performance in line with LCHS performance management procedures.

### Compensation and other remedies

If an eligible whistleblower (or other employee or person) has suffered loss, damage, or injury because of the disclosure, and LCHS failed to take due care to prevent detrimental conduct, compensation and other remedies can be sought through the courts.

In the event of loss, damage or injury, LCHS encourages disclosers to seek legal advice.

### Civil, criminal and administrative liability protection

An eligible whistleblower is protected from civil, criminal and administrative liability in relation to the disclosable matter.

If it is revealed that the discloser has engaged in misconduct, the protections available do not grant immunity.

### **How a reported disclosure is handled and investigated**

All disclosable matters handled confidentially by the Chief Executive Officer (CEO), or if the matter involves the CEO, it will be handled by the Chair of the Board Audit and Risk Committee.

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The CEO will inform the Executive that a report has been made (unless the report concerns a member of the Executive), who will then be involved and retain oversight. The CEO or Executive will appoint the following roles to ensure objectivity and fair treatment is maintained:

**Welfare Manager:** A person nominated to provide support to the whistleblower and ensures that the disclosure by the whistleblower is properly and appropriately assessed and acted upon.

**Investigator:** A person nominated to investigate the claims and provides a report of the outcomes to the Protected Disclosure Coordinator. Where deemed appropriate, LCHS may nominate an external party to undertake the investigation.

**Protected Disclosure Coordinator:** A person nominated to coordinate the investigation and ensure the integrity of the process is maintained and communicates the investigation findings with the discloser. The CEO may act in this capacity.

Access to support through the LCHS Employee Assistance Program is provided to eligible whistleblowers, those subject to or mentioned in a disclosable matter throughout the investigation process.

### Target Audience:

All LCHS officers and staff, volunteers, contractors, consultants, service providers, and their family members. Clients and members of the public.

### Key Aligned Documents:

- **Prompt:**
  - Whistleblower Procedure - To be developed
- **SPARK:**
  - This document did not contain links at the time of migration.

### Legislation:

- *Corporations Act 2001* (Cth)
- *Income Tax Assessment Act 1997* (Cth)
- *Income Tax Assessment Act 1936* (Cth)
- *Privacy Act 1988* (Cth)
- *Tax Administration Act 1953* (Cth)

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### Standards:

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- Aged Care Quality Standards (Cth)
- Quality Innovation Council (QIC) Health and Community Services Standards
- Social Services Standards
- National Safety and Quality in Primary and Community Healthcare Standards

### References:

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- Federal Register of Legislation: <https://www.legislation.gov.au/>.
- Australian Securities and Investments Commission: RG 270 Whistleblower policies | AS <https://www.asic.gov.au/regulatory-resources/find-a-document/regulatory-guides/rg-270-whistleblower-policies/>.

### Monitoring and Compliance Review:

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All LCHS documents are reviewed every 3 years from date of approval, or as required.

This document may be subject to regular audits to ensure ongoing compliance. Audit findings may lead to further review or updates as necessary.

### Considerations:

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As a child safe organisation child safety and wellbeing is considered in the development of all policies, procedures and documents.

LCHS's advocacy process and commitment to open dialogue with First Nations, marginalised and disadvantaged groups is considered in communication.

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### Definitions:

Word or Term	Definition
<b>Associate</b>	Has the meaning given under section 318 of the <i>Income Tax Assessment Act 1936 (Cth)</i> .
<b>Administrative liability</b>	Disciplinary action from making the disclosure.
<b>Civil liability</b>	Legal action against the eligible whistleblower for breach of an employment contract, duty of confidentiality or another contractual obligation.
<b>Criminal liability</b>	Attempted prosecution of the eligible whistleblower for unlawfully releasing information, or other use of disclosure against the discloser in a prosecution (other than making a false disclosure).
<b>Detrimental conduct</b>	The definition given under Section 1317ADA of the <i>Corporations Act 2001 (Cth)</i> , which includes the following: <ul style="list-style-type: none"> <li>○ Dismissal of an employee.</li> <li>○ Injury of an employee in the individual's employment.</li> <li>○ Alteration of an employee's position or duties to the individual's disadvantage.</li> <li>○ Discrimination between an employee and other employees of the same employer.</li> <li>○ Harassment or intimidation, harm or injury to a person, including psychological harm.</li> <li>○ Damage to a person's property, reputation, a person's business or financial position, or any other damage to a person.</li> </ul>
<b>Disclosable matter</b>	Information to which the whistleblower protections apply under the <i>Corporations Act 2001 (Cth)</i> .
<b>Disclosure</b>	A disclosure of information relating to wrongdoing or a disclosable matter.
<b>Eligible recipient</b>	An individual who can receive a disclosure.
<b>Eligible whistleblower</b>	An individual to whom the whistleblower protections apply.
<b>Emergency disclosure</b>	Is a disclosure to a journalist or parliamentarian when the discloser has previously reported a disclosable matter to AISC or a Commonwealth body prescribed by the regulation and has reasonable grounds to believe that the information concerns a substantial and imminent danger to the health or safety of one or more persons or to the natural environment. Specific criteria must be met when making a Public Interest Disclosure. Refer to RG 270, the ASIC website <a href="http://www.asic.gov.au">www.asic.gov.au</a> .
<b>Individual</b>	A current or former officer or employee, supplier of services or goods (unpaid or paid) to the entity (including their employees), an associate of the entity, a relative, dependent or spouse of the above listed.
<b>Mixed-report</b>	Information about misconduct that is included or accompanied by a personal work-related grievance.
<b>Misconduct</b>	Includes fraud, negligence, default, breach of trust and breach of duty (section 9 of the <i>Corporations Act 2001 (Cth)</i> ).
<b>Public Interest Disclosure</b>	Is a disclosure to a journalist or parliamentarian when the discloser has previously reported a disclosable matter to AISC or a Commonwealth body prescribed by the regulation and does not have reasonable grounds to believe that action is being taken, or has been taken, in relation to their disclosure, and believe that making a

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	further disclosure of the information is in the public interest. Specific criteria must be met when making a Public Interest Disclosure. Refer to RG 270, the ASIC website <a href="http://www.asic.gov.au">www.asic.gov.au</a> .
<b>Reasonable grounds to suspect</b>	Defined by RG 270 as ‘the objective reasonableness of the reasons for the discloser’s suspicion’.
<b>RG 270</b>	Australian Securities and Investments Commission Regulatory Guide 270: Whistleblower Policies.
<b>Public Interest Disclosure</b>	Is a disclosure to a journalist or parliamentarian when the discloser has previously reported a disclosable matter to AISC or a Commonwealth body prescribed by the regulation and does not have reasonable grounds to believe that action is being taken, or has been taken, in relation to their disclosure, and believe that making a further disclosure of the information is in the public interest. Specific criteria must be met when making a Public Interest Disclosure. Refer to RG 270, the ASIC website <a href="http://www.asic.gov.au">www.asic.gov.au</a> .
<b>Staff</b>	LCHS paid employees, volunteers, and students.

### Document Governance:

<b>Executive Sponsor:</b>	Executive Director Corporate
<b>Document Owner:</b>	Manager, Governance
<b>Risk Rating:</b>	High Risk
<b>Author:</b>	Ania Belewias, Lead Quality Advisor, Governance
<b>Consultation:</b>	Nicole Fife, Acting Manager Governance
<b>Approving Committee:</b>	Board Governance Committee
<b>Date Approved:</b>	25 September by Board

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