

# Whistleblower Policy

## Purposes

The policy establishes BCNA's commitment to the provision of a safe and protected process for reporting wrongdoing related to misconduct that may be an improper state of affairs or circumstances, or any other undesirable misconduct, along with the protections that are established for protecting and supporting reports of this nature.

This policy provides a clear process for how to make an allegation of misconduct and provides Whistleblowers with an understanding of what a Whistleblower Disclosure is under the Corporations Act.

## Scope

This policy applies to all Eligible Whistleblowers and BCNA representatives who become aware of and report eligible disclosures of misconduct or improper state of affairs or circumstances.

Eligible Whistleblowers are defined in Schedule I of this policy, including the following BCNA representatives:

- board members
- employees
- casuals
- volunteers
- Consumer Representatives
- agency supplied temporary staff
- contractors
- sole traders engaged by BCNA.

This policy and the attached policy schedules provide:

- how BCNA deal with reports from Whistleblowers in a way that will protect their identity
- how allegations of misconduct or improper state of affairs or circumstances will be handled
- a system of fair treatment to anyone who is the subject of an allegation of misconduct or improper state of affairs or circumstances and
- the process of escalation in circumstances where the Whistleblower is not satisfied with the outcome.

## Out of Scope

This policy does not apply to:

- Work-related grievances and complaints (please refer to the Grievance and Complaints Policy).
- Disclosures made without reasonable grounds to suspect misconduct or improper state of affairs or circumstances against BCNA or another Whistleblower.

## Policy Statement

Breast Cancer Network Australia (BCNA) is committed to the highest standard of ethical and moral behaviour in the work that we undertake and the services we deliver.

To support this commitment, BCNA encourages employees, board members, casuals, volunteers, consumer representatives, agency supplied temporary staff, contractors, and sole traders (ABN) to cooperate with BCNA in maintaining legal, proper and ethical operations, and to confidently report wrongdoing.

No person shall be personally disadvantaged for reporting any such wrongdoing. As such, BCNA is committed to providing an environment where legitimate concerns are reported, alongside an escalation process without fear of retaliatory action or retribution.

BCNA will ensure that the investigation of reports of wrongdoing will be thorough, objective, fair and independent of anyone who is the subject of the Whistleblower Disclosure.

## Application

This policy is applied within BCNA's operations through the implementation of seven schedules as outlined in this policy. The seven schedules included in this policy, cover:

- Schedule I: What is a Whistleblower,
- Schedule II: Whistleblower Disclosures,
- Schedule III: Reporting a Disclosure,
- Schedule IV: Investigating an Eligible Disclosure,
- Schedule V: Confidentiality and Privacy,
- Schedule VI: Protection from Victimisation, and
- Schedule VII: Terms and Definitions.

## Non-Compliance

There are no exceptions to this policy or the attached Schedules. BCNA may consider breaches of this policy as amounting to serious misconduct that may result in disciplinary action including, but not limited to, suspension or dismissal.

BCNA's Board Chair, or their nominated delegate, has complete discretion in relation to the management of breaches of this policy. In accordance with our Disciplinary Policy, BCNA will consider each matter on a case-by-case basis and manage each breach accordingly.

If you become aware that a BCNA representative has breached this policy, you must inform your manager or Executive member. While it is BCNA's preference for breaches to be reported internally, if you are not comfortable in doing so, breaches can be reported directly through to the Australian Charities and Not-for-profits Commission (ACNC) via the '[Raise a Concern about a Charity Form](#)' or the Australian Securities & Investments Commission (ASIC) via their '[Report Misconduct Form](#)'.

## Related Policies and Documentation

The following documents are referenced within, or related to, this policy and should be reviewed in support of the interpretation and application of this policy:

- Code of Conduct
- Grievance and Complaints Policy
- Privacy Policy
- Confidentiality Policy
- Disciplinary Policy.

## Policy Administration

This policy is reviewed every three year/s, or earlier as determined by the Approval Authority or Policy Sponsor. Both endorsement by the Policy Sponsor and approval from the Approval Authority must be obtained prior to the implementation of this policy.

## Schedule I: What is a Whistleblower?

A Whistleblower is a person with inside knowledge of BCNA who reports misconduct or dishonest or illegal activity that may have occurred within BCNA.

### Who is an Eligible Whistleblower?

Eligible Whistleblowers include a person who is currently or was previously:

- An officer of BCNA (within the meaning of the Corporations Act)
- An employee of BCNA
- A volunteer of BCNA
- An individual who supplies services or goods to BCNA (whether paid or unpaid) or that individual's employee
- An individual who is an associate of BCNA
- A relative or a dependant of any individual referred to in the preceding dot points of this definition
- Any other individual prescribed by law.

## Schedule II: Whistleblower disclosures

### What is a Whistleblower Disclosure?

A Whistleblower disclosure is a report of misconduct or improper state of affairs or circumstances made by an Eligible Whistleblower to an Eligible Recipient.

### What are Disclosable Matters?

A disclosable matter is information that concerns misconduct or an improper state of affairs or circumstances in relation to BCNA, or any BCNA representative that has engaged in conduct that constitutes:

- an offence against, or in contravention of, the:
  - The Corporations Act
  - The Australian Securities and Investment Act (Cth)
  - The *Banking Act* (Cth)
  - The Financial Sector (Collection of Data) Act (Cth)
  - The *Insurance Act* (Cth)
  - The Life Insurance Act (Cth)
  - The National Consumer Credit Protection Act (Cth)
  - The Superannuation Industry (Supervision) Act (Cth)
  - An instrument made under any of the laws set out in the preceding dot points
- an offence against any other law of the Commonwealth that is punishable by imprisonment for 12 months or more
- a danger to the public or the financial system or
- an offence prescribed by the law.

To qualify for protection, a Whistleblower must have reasonable grounds to suspect that the information they disclose indicates misconduct.

## What is not a Disclosure?

This policy (and protections under the Corporations Act) does not apply to:

- disclosures containing information without reasonable grounds to suspect misconduct or improper state of affairs or circumstances by BCNA or another Whistleblower.
- Personal work-related grievances, which means a grievance:
  - about any matter in relation to the Whistleblower's employment or engagement or former employment or engagement having or tending to have personal implications for the Whistleblower
  - that does not have significant implications for BCNA except that it relates to the Whistleblower; and
  - that does not concern misconduct or improper state of affairs or circumstances.

Examples of Personal Work-related Grievances may include:

- An interpersonal conflict between the Whistleblower and another Whistleblower; and
- Decisions relating to engagement, transfer or promotion of employment.
- Reports made with the intention of damaging the career prospects and reputation of people who are the subject of the misconduct or improper state of affairs or circumstances.

BCNA encourages raising personal work-related grievances with our HR team in accordance with the Grievance and Complaints Policy.

## ***Disclosures not protected***

A Whistleblower is not protected under the Corporations Act or other applicable anti-discrimination legislation if they submit a disclosure without reasonable grounds for the misconduct or improper state of affairs or circumstances by BCNA, or reports with the intention of damaging career prospects and or the reputation of the subject of the disclosure.

Making a false, damaging or misleading report may be subject to disciplinary action, including up to termination of their engagement or employment.

## Schedule III: Reporting a Disclosure

A Whistleblower with reasonable grounds to suspect the information they disclose indicates misconduct can report their disclosure verbally or in writing to an eligible recipient.

The report should include the:

- nature of the conduct
- name, job title and location of those involved in the reportable conduct, and the date the conduct first became known
- how the conduct became known
- whether there is evidence of misconduct available, and of what type
- preference of the Whistleblower to remain anonymous and if no, Whistleblower contact details,

- any other relevant information.

BCNA respects your right to report anonymously, however in these circumstances, BCNA investigators will not be able to communicate with you any outcomes or reports on the investigation.

### BCNA Eligible Recipient List:

BCNA encourages reports to be made to our Chief of Staff in the first instance either directly or via [reportmisconduct@bcna.org.au](mailto:reportmisconduct@bcna.org.au).

However, the following is the list of Eligible Recipients who can receive reports of misconduct or improper state of affairs or circumstances:

- The Whistleblower's manager,
- A member of the BCNA Executive team,
- The BCNA Chief Executive Officer,
- The Chair of the BCNA Board.

For Whistleblowers who are external to our organisation, please email your report to our Chief of Staff via [reportmisconduct@bcna.org.au](mailto:reportmisconduct@bcna.org.au).

Eligible recipients are all inducted into this policy and trained in the process for managing Whistleblower disclosures.

### Reporting disclosures externally

BCNA recognises that it will not always be appropriate to make an internal report of suspected misconduct or improper state of affairs or circumstances. If it is not appropriate to make an internal report, such as when Whistleblower disclosure relates to an individual who qualifies as an Eligible Recipient, the Whistleblower may report their disclosure to:

- The Australia Securities and Investments Commission (ASIC),
- Australian Prudential Regulation Authority (APRA), or
- The Australian Federal Police (AFP).

If reporting to an external party, BCNA and the Whistleblower shall cooperate with that external body's directions so far as is lawfully required. Contact information to make a report to ASIC, APRA or AFP is as follows:

CONTACT	CONTACT METHOD	PROCEDURE
ACNC	<a href="#">Raise a Concern about a Charity Online Form</a>	<a href="#">How to Raise a Concern</a>
ASIC	<a href="#">Report Misconduct ASIC Online Form</a>	<a href="#">Report Misconduct to ASIC</a>
APRA	<a href="mailto:PID@apra.gov.au">PID@apra.gov.au</a>	<a href="#">Make a public interest disclosure</a>
AFP	<a href="#">Report a Commonwealth crime online form</a>	<a href="#">How do I report a crime to the AFP?</a>

## Reporting disclosures Anonymously

Whistleblowers may make anonymous disclosures by reporting directly through the ASIC online form, using the above contact information. For further information on Whistleblower anonymity, please refer to Schedule V: Confidentiality and Privacy.

## Escalating a disclosure

A Whistleblower may escalate a disclosure to ASIC, APRA or the AFP if they have concerns that:

- At least 90 days have passed since the initial report to the internal Eligible Recipient
- There are reasonable grounds that indicate no action is or has been taken to address the Misconduct or Improper State of Affairs or Circumstances or
- There are reasonable grounds that indicate the information concerns a substantial and imminent danger to the health or safety of one or more persons or the natural environment.

## Schedule IV: Disclosure Investigations

### Who investigates a report?

Eligible Recipients must ensure the disclosure is investigated (where appropriate) by an Investigator. The Investigator may undertake an investigation themselves or engage appropriately qualified and independent investigators to do so. It is at the Investigator's discretion to determine whether the report is investigated and whether that investigation is conducted internally or externally.

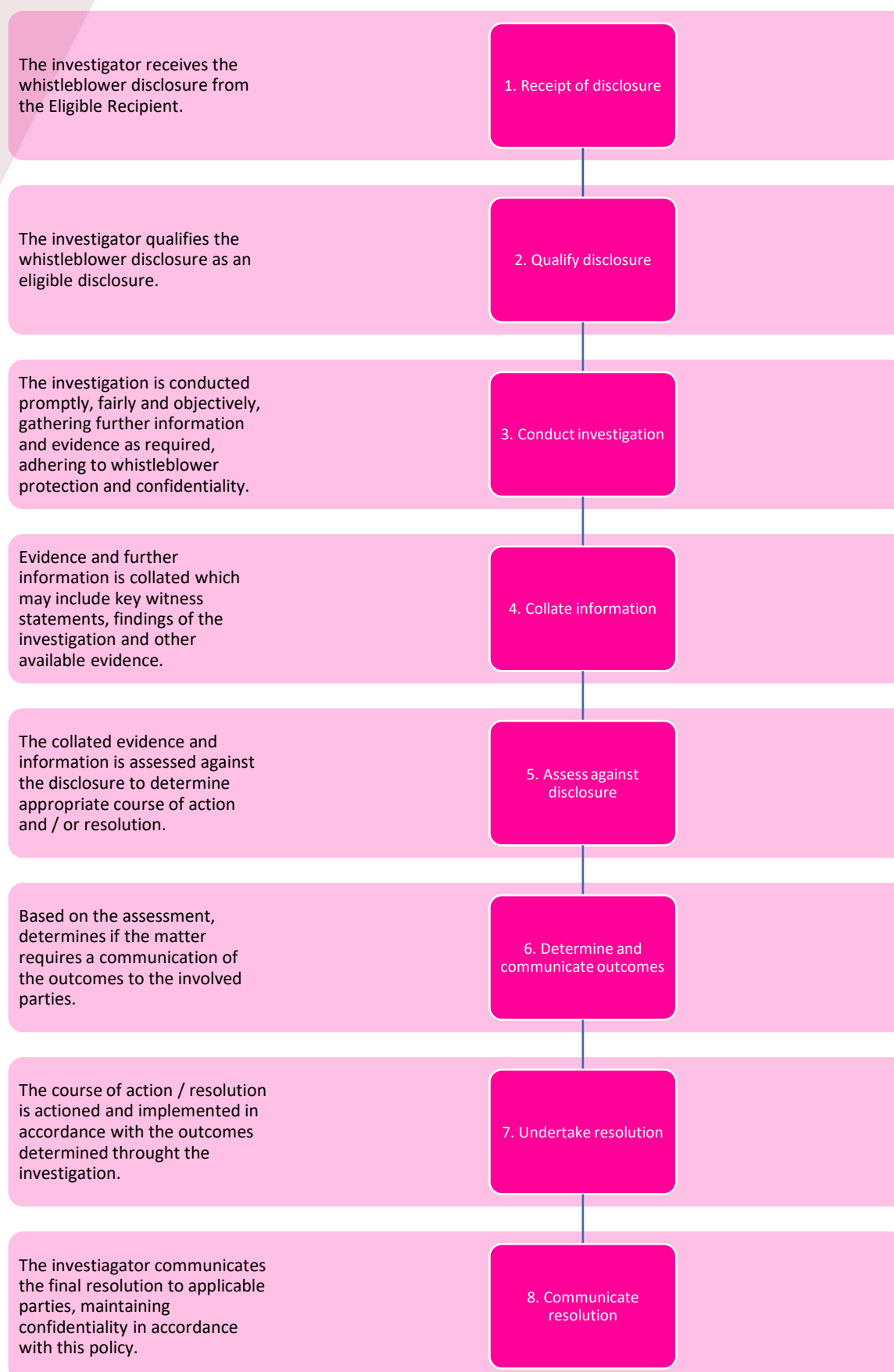
If the Whistleblower disclosure relates to the Investigator, the Eligible Recipient must instead make the report to the Chair of the BCNA Board who will then act as Investigator for that investigation.

### What is the investigation process?

All Whistleblower disclosures will be treated seriously and sensitively and assessed and considered by BCNA in determining whether the report should be investigated. The investigation process will vary depending on the nature of the report and be conducted promptly, fairly and objectively.

All BCNA representatives are expected to fully cooperate with any investigations.



**Standard investigation process:**



## **Roles and responsibilities of the Investigator**

The current internal Investigator within BCNA who is responsible for managing WhistleBlower Disclosures is our Manager, People and Performance. Our Investigator is responsible for:

- providing assistance to Whistleblowers in relation to the process and this policy,
- considering whether the conduct raised constitutes a Whistleblower Disclosure and where it does not, notify the discloser of any other processes outside of the Whistleblower process that can be taken to address the allegations,
- investigating into the misconduct or improper state of affairs or circumstances, including engaging external parties, such as the AFP
- maintaining the Whistleblower's confidentiality, privacy and anonymity (as required),
- documenting and creating the investigation report that includes:
  - the key witness statements
  - other available evidences
  - the findings of the investigation, and where applicable
  - the remediation plan.

## **What happens after an investigation?**

After the investigation, the Investigator will report their findings to the BCNA Board who will determine the appropriate response in accordance with the Policy and any applicable legislation.

The response will aim to rectify any misconduct or improper state of affairs or circumstances and take the action necessary to prevent any future occurrences of the same or similar conduct.

Where issues of discipline arise, the BCNA response will be made in accordance with the Disciplinary Policy and any relevant legislation.

Where appropriate, the Whistleblower will be informed of the outcome of the investigation and may be provided with information relating to the outcome of the investigation. If this occurs, the Whistleblower must maintain confidentiality and not disclose any information provided to them to any person.

## Schedule V: Confidentiality and privacy

### Anonymity of the Whistleblower's identity

The eligible recipient will not reveal the Whistleblower's identity, or any information that is likely to lead to the identification of their identity, unless:

- the Whistleblower consents to the disclosure of their identity
- disclosure of the Whistleblower's identity is required or permitted under any applicable legislation or
- it is reasonably necessary to investigate the report of Misconduct or Improper State of Affairs or Circumstances and the discloser takes all reasonable steps to reduce the risk of identifying the Whistleblower.

### Unauthorised disclosures

Unauthorised disclosure information in respect to the eligible disclosure will be regarded as a disciplinary matter and will be dealt with appropriately by BCNA. Such unauthorised disclosures may also constitute an offence under the Corporations Act and other laws and may attract penalties.

Unauthorised disclosures include:

- the identity of a Whistleblower who has made a report of Misconduct or Improper State of Affairs or Circumstances or
- information from which the identity of the Whistleblower could be inferred.

### Personal Information

Personal information will be protected in accordance with **BCNA's Privacy Policy** and the applicable legislation.

### Whistleblower Protection

A Whistleblower who makes a disclosure will not be subject to any civil, criminal or administrative liability (including disciplinary action) for making the disclosure. No disadvantage or adverse actions of employees or contractors may be exercised against the Whistleblower based on their disclosure, in accordance with Schedule VII.

However, Whistleblowers will not have immunity from liability or disciplinary action for any misconduct they have engaged in.

### Treatment of BCNA Representatives referred to in reports

BCNA will ensure that the investigation process will be thorough, objective, fair and independent of anyone who is the subject of the Whistleblower disclosure.

### Confidentiality of the identity of accused persons

The identity of accused individuals will only be disclosed on a strict need to know basis and information containing the identity of the accused individual will only be available to individuals who are directly involved in an investigation, or those involved due to their role within BCNA (for example, senior management).

### **Preserve a presumption of innocence during the investigation process**

An investigation will only be initiated if there are reasonable grounds to suspect the Misconduct or Improper State of Affairs or Circumstances reported by the Whistleblower. Where reasonable grounds exist and an investigation occurs, the presumption of innocence applies to the accused.

## **Schedule VI: Protection from victimisation**

### **Whistleblowers will not be victimised**

BCNA and BCNA representatives must not victimise a Whistleblower as a consequence of a Whistleblower disclosure. BCNA will promptly investigate allegations of victimisation under the Policy.

### **Protections available**

BCNA will take all reasonable steps to ensure that adequate and appropriate protection is provided to those who make a report.

The protection applies if the matter is proven or not and regardless of whether it is reported to an external authority. The protections offered will vary depending on the nature of the misconduct reported and the people involved.

If a Whistleblower believes that they have suffered victimisation as a result of raising a concern, they should inform the Investigator.

### **Additional support**

For further information or support, BCNA encourages talking to your manager, executive or HR. The BCNA Employee Assistance Program (EAP) is also available if you are concerned or have any anxiety around the Whistleblower disclosure and managing your health and wellbeing.

The phone number for the EAP is ☎ 1300 851 695.

## Schedule VII: Terms and Definition

Term	Definition
<b>ACNC</b>	Australian Charities and Not-for-profits Commission
<b>AFP</b>	Australian Federal Police
<b>APRA</b>	Australian Prudential Regulation Authority
<b>ASIC</b>	Australia Securities and Investments Commission (ASIC)
<b>Eligible Disclosure</b>	A report of Misconduct or Improper State of Affairs or Circumstances made by an Eligible Whistleblower to an Eligible Recipient.
<b>Eligible Recipient</b>	<ul style="list-style-type: none"> <li>• The Whistleblower's manager</li> <li>• A member of the BCNA Executive team</li> <li>• The Chief Executive Officer</li> <li>• The Chair of the BCNA Board</li> <li>• Chief of Staff.</li> </ul>
<b>Eligible Whistleblower</b>	<p>A person who is currently or was previously:</p> <ul style="list-style-type: none"> <li>• an officer of BCNA</li> <li>• an employee of BCNA</li> <li>• a volunteer of BCNA</li> <li>• an individual who supplies services or goods to BCNA (whether paid or unpaid) or that individual's employee</li> <li>• an individual who is an associate of BCNA</li> <li>• a relative or a dependant of any individual referred to in the preceding dot points of this definition or</li> <li>• any other individual prescribed by law.</li> </ul>
<b>Misconduct or improper state of affairs or circumstances</b>	<p>Information which a Whistleblower has reasonable grounds to suspect misconduct or an improper state of affairs or circumstances in relation to BCNA, including if the Whistleblower suspects BCNA (or any BCNA Representative) has engaged in conduct which:</p> <ul style="list-style-type: none"> <li>• is an offence against, or in contravention of: <ul style="list-style-type: none"> <li>• The Corporations Act</li> <li>• The Australian Securities and Investment Act (Cth)</li> <li>• The Banking Act (Cth)</li> <li>• The Financial Sector (Collection of Data) Act (Cth)</li> <li>• The Insurance Act (Cth)</li> <li>• The Life Insurance Act (Cth)</li> <li>• The National Consumer Credit Protection Act (Cth)</li> <li>• The Superannuation Industry (Supervision) Act (Cth) or</li> </ul> </li> <li>• is an instrument made under any of the laws set out in the preceding dot points,</li> <li>• is an offence against any other law of the Commonwealth that is punishable by imprisonment for 12 months or more</li> <li>• presents a danger to the public or the financial system or</li> <li>• is prescribed by the law.</li> </ul>