

APNAGOV013

WHISTLEBLOWER POLICY



VERSION	APPROVED BY	APPROVAL DATE	REVIEW DATE
01.00	APNA Board	25 July 2024	July 2025

1. Values Statement

- 1.1 The Australian Primary Health Care Nurses Association Ltd (APNA) values that inform this Policy are:
- *Better Together* which focuses on our team being passionate and collaborative and fostering an environment where diversity is valued, and all voices are heard.
 - *Pursue Excellence* which focuses on holding each other accountable as we strive for the highest standards.
 - *Positive Disruptor* which focuses on our team being community minded champions of change, innately curious and always open to innovation and ideas of the future.
- 1.2 These values support behaviours including, leading by example, respect and kindness in every action, championing positive leadership and having an inquisitive mind. The behaviours we do not tolerate are bullying, disrespect, dishonesty, arrogance dishonesty, being inflexible or unprofessional.

2. Policy Objective

- 2.1 APNA strongly encourages the reporting of any instances of suspected unethical, illegal, fraudulent, or undesirable conduct involving our Board, Team Members, or businesses.
- 2.2 This Policy outlines processes to allow people to make a report confidentially and without fear of intimidation, disadvantage, or reprisal. All terms in bold and italic font are defined in Appendix A.
- 2.3 APNA is committed to the highest standards of integrity and conduct, and any Team Member who are aware of wrongdoing, will be supported and protected.

3. To whom and what does this Policy apply?

- 3.1 This Policy applies to people who are entitled to protection under the *Corporations Act 2001* (Cth) and, if applicable, under the *Taxation Administration Act 1953* (Cth) if they:
- are an ***eligible whistleblower***; and
 - have disclosed (or intend to disclose) a ***reportable matter*** directly to:
 - an ***eligible recipient***;
 - the Australian Securities and Investments Commission (ASIC);
 - the Australian Prudential Regulation Authority (APRA); or
 - another entity prescribed under the *Corporations Act*; or
 - in more specific and limited circumstances, have disclosed a matter of public interest or in an emergency (see Annexure B) to a journalist or a member of Parliament.
- 3.2 An ***eligible whistleblower*** is a person who is, or has been, any of the following:
- a current or former officer or Team Member of APNA, regardless of employment type;
 - a person or employee of a person who supplies goods or services to APNA or an employee of a person who supplies goods or services to APNA, whether paid or unpaid – this could include current and former volunteers, contractors, consultants, service providers, and business partners;
 - a person who is an associate of APNA - for example, a director or company secretary of APNA; or
 - a relative, dependent, or dependent of the spouse of any person referred to above.
- 3.3 To be a ***protected whistleblower*** or to make a public interest or emergency disclosure, APNA recommends that people get advice from a legal practitioner about:

- the operation of whistleblowing protection laws; or
- the criteria for making a public interest or an emergency disclosure.

4. **Reportable matters**

- 4.1 A disclosure will concern a **reportable matter** if an **eligible whistleblower** has reasonable grounds to suspect that the information being disclosed is about:
- misconduct (including fraud, negligence, default, breach of trust and breach of duty) or an improper situation or circumstances in relation to APNA (both of which can include tax affairs); or
 - indicates that APNA or one of its or their officers or Team Members has engaged in conduct that:
 - constitutes an offence against, or a contravention of, the:
 - *Corporations Act 2001 (Cth)*;
 - *Taxation Administration Act 1953 (Cth)*;
 - *Australian Securities and Investments Commission Act 2001 (Cth)*;
 - *Australian Charities and Not-for-profits Commission Act 2012*;
 - *Modern Slavery Act 2018*; or
 - any instrument made under any of these Acts;
 - constitutes an offence against any other law of the Commonwealth that is punishable by imprisonment for a period of 12 months or more; or
 - represents a danger to the public or the financial system.
- 4.2 An **eligible whistleblower** who makes a disclosure must have 'reasonable grounds to suspect' the information to qualify for protection. This means that even if a disclosure turns out to be incorrect the protections will still apply, provided they had 'reasonable grounds to suspect'.
- 4.3 Disclosures that are not about a **reportable matter** are not covered by this Policy, so will not qualify for protection.

5. **Personal work-related grievances**

- 5.1 Personal work-related grievances that do not involve a detriment caused to you as a protected whistleblower (or a threat of detriment) are not reportable matters and aren't protected under the Acts or this Policy.
- 5.2 A personal work-related grievance is one that relates to your current or former employment that has implications for you personally but not for APNA outside your circumstances.
- 5.3 An example of an unprotected work-related grievance might be if you believe that you have missed out on a promotion that you felt you deserved or if you do not like the managerial style of your supervisor.
- 5.4 However, a work-related grievance may still qualify for protection under the law if (for example):
- it is a mixed report that includes information about a **reportable matter** (as well as a work-related grievance);
 - APNA has broken Commonwealth laws which are punishable by imprisonment for 12 months or more, or has breached or contravened any of the legislation listed in paragraph 3.1 of this Policy or acted in a way that is a threat to public safety;
 - the disclosure relates to information that suggests misconduct that goes further than the

whistleblower's personal circumstances; or

- the whistleblower suffers from or is threatened with detriment for making a disclosure.

6. How do I make a report?

- 6.1 Reports can be made in person or by calling the Whistleblower Hotline on 1800 857 376, post, or email. Reports can be made at any time, whether within business hours or not.
- 6.2 If, at any time, you are not sure about whether to make a protected disclosure, you should get independent legal advice. Any discussions you have with a lawyer will be protected under this Policy and under the law.

7. Who can receive a report?

- 7.1 A protected disclosure of a **reportable matter** must be made to an **eligible recipient**, namely:
- the Chief Executive Officer (CEO);
 - a Director;
 - the Company Secretary of APNA; or
 - the external auditor of APNA.

If you are not sure who to make a disclosure to, you can contact the President or CEO at apna.president@apna.asn.au or ken.griffin@apna.asn.au before making a disclosure.

- 7.2 Disclosures of a **reportable matter** may also be protected when made by an **eligible whistleblower** to:
- ASIC;
 - APRA;
 - ACNC;
 - the Commissioner of Taxation; or
 - another Commonwealth authority prescribed by law.
- 7.3 Public interest disclosures or emergency disclosures can be made by **eligible whistleblowers** to journalists or members of Parliament, but only if they comply with the strict requirements set out in Annexure B.
- 7.4 A disclosure of a **reportable matter** by an **eligible whistleblower** will also be protected if it is to a qualified legal practitioner for the purpose of taking legal advice or seeking legal representation in relation to the operation of the whistleblower provisions in the *Corporations Act* or the *Tax Administration Act*.

8. False reports?

- 8.1 A **protected whistleblower** will still qualify for protection for a disclosure even if their disclosure turns out to be incorrect.
- 8.2 However, anyone who knowingly makes a false report of a reportable matter, or who otherwise fails to act honestly with reasonable suspicion in respect of the report may be subject to disciplinary action, including dismissal.

9. Anonymity when reporting

- 9.1 A **protected whistleblower** may choose to remain anonymous when disclosing a reportable matter, over the course of the investigation, and even after the investigation is finalised. There is no requirement in law to share your identity.
- 9.2 If you don't share your identity, APNA will assess your disclosure in the same way as if you had revealed your identity.
- 9.3 However, there may be some practical limitations in conducting the investigation if you don't share your identity, such as limiting the ability for APNA to communicate with you or to address your reportable matter.

10. How do we investigate disclosures?

- 10.1 As soon as practicable after a report of a **reportable matter** has been received from an **eligible whistleblower**, APNA will commence an investigation into those allegations, if required.
- 10.2 If APNA determines that the information disclosed doesn't amount to a **reportable matter**, the **eligible whistleblower** will, if possible, be informed of that decision.
- 10.3 Any investigation will:
 - follow a fair process for both the whistleblower and the subject of their report;
 - balance, and be respectful of, the rights of all people involved in the investigation;
 - be conducted in as timely a manner as the circumstances allow; and
 - be independent of the person(s) about whom an allegation has been made.
- 10.4 Provided there are no restrictions or reasons why it may not be appropriate, a person against whom an allegation has been made will be informed of the allegation and will have an opportunity to respond to it.
- 10.5 Where appropriate, APNA will report findings of an investigation to the Board. The method for documenting and reporting the findings of an investigation will depend on the nature of the disclosure – but may include a summary report of the findings.
- 10.6 Any reporting of findings will be treated with appropriate levels of confidentiality.

11. Communications with the *Protected Whistleblower*

- 11.1 Provided the claim was not submitted anonymously, APNA will ensure that the **protected whistleblower** is kept informed of the outcomes of the investigation of their allegations, subject to the privacy of those against whom allegations were made and the need for confidentiality.
- 11.2 If the **protected whistleblower** is not a Team Member of APNA, they will be kept informed of the outcomes of the investigation (again, subject to privacy considerations as above). This will only occur once they have agreed in writing to maintain confidentiality in relation to any information provided to them.

12. Confidentiality

- 12.1 It's illegal for a person to identify a **protected whistleblower** or disclose information that is likely to lead to their identification, so all disclosures will be treated confidentially and sensitively regardless of who makes or receives the report.

- 12.2 Once a report is received, the **eligible recipient** will take immediate steps to protect the identity of the **protected whistleblower**, including redacting their name and position from any written record of the report and making sure appropriate document security is implemented.
- 12.3 If you are a **protected whistleblower**, your identity and position (or any other information which would be likely to identify you) will only be shared if:
- you consent to the information being shared;
 - the disclosure is to a recipient permitted by law such as the Commissioner of Taxation (in relation to tax matters), the Australian Federal Police, or ASIC; or
 - the disclosure is otherwise allowed or required by law (for example, disclosure to a lawyer of APNA to receive legal advice relating to the law on whistleblowing).
- 12.4 Information likely to identify an **eligible whistleblower** may be shared if it is reasonably necessary for the purposes of an investigation (provided the information does not include the **protected whistleblower's** identity). In such circumstances all reasonable steps will be taken to reduce the risk that you will be identified.

13. Protection against detrimental treatment

- 13.1 It's illegal for a person to engage in conduct that causes (or threatens) detrimental treatment to an individual in the belief or suspicion that a person has made, may make, proposes to make, or could make a report of a **reportable matter**, and where that belief or suspicion is a reason for the conduct.
- 13.2 Detrimental treatment could include:
- dismissal;
 - injuring you in your employment;
 - demotion, harassment;
 - damage to your reputation;
 - discrimination;
 - disciplinary action;
 - bias;
 - threats; or
 - other unfavourable treatment connected with making a disclosure.
- 13.3 APNA will seek to ensure that **protected whistleblowers** or **eligible whistleblowers** are not subjected to detrimental treatment arising from making (or intending to make) a disclosure by:
- assessing the risk of detriment as soon as possible after receiving a disclosure of a **reportable matter**;
 - making sure that APNA management is aware of its responsibilities to maintain the confidentiality of a **protected whistleblower**, address the risks of detriment, and ensure fairness when managing the performance of, or taking other management action relating to, a **protected whistleblower**; and
 - taking practical action, as necessary, to protect a **protected whistleblower** from the risk of detriment and intervene if detriment has already occurred.
- 13.4 If an **eligible whistleblower** believes that they have been subject to detrimental treatment, they should inform an **eligible recipient** immediately.

14. Other protections

- 14.1 **Protected whistleblowers** are protected from civil, criminal, or administrative liability (including disciplinary action) for disclosing a **reportable matter**.
- 14.2 No contractual right (including under an employment contract) can be exercised against a **protected whistleblower** to stop them making a disclosure.
- 14.3 However, the protections do not grant immunity for any misconduct a **protected whistleblower** has engaged in that is revealed in their disclosure.
- 14.4 A **protected whistleblower** who has disclosed to an **eligible recipient** or other designated recipient as set out above cannot have the disclosed information used against them in criminal proceedings or in proceedings for the imposition of a penalty (except if the proceedings are in respect of the falsity of the information).
- 14.5 **Protected whistleblowers** may also be entitled to seek compensation and other remedies through the courts if APNA fails to protect them from detriment and they suffer loss or damage.

15. Further Policy details

- 15.1 This Policy is made available on the APNA website and Director induction information packs. APNA Team Members are provided a Whistleblower Policy as part of induction.

Annexure A – Definitions

<p><i>eligible recipient</i></p>	<p>Any person who can receive a disclosure from an <i>eligible whistleblower</i>, namely:</p> <ul style="list-style-type: none"> • the CEO; • a Director; • the Company Secretary of APNA; or • the external auditor of APNA.
<p><i>eligible whistleblower</i></p>	<p>A person making a disclosure who is, or has been, any of the following:</p> <ul style="list-style-type: none"> • a current or former officer or Team Member of APNA, regardless of employment type; • a person or employee of a person who supplies goods or services to APNA or an employee of a person who supplies goods or services to APNA, whether paid or unpaid – this could include current and former volunteers, contractors, consultants, service providers, and business partners; • a person who is an associate of APNA - for example, a Director or Company Secretary of APNA; or • a relative, dependent, or dependent of the spouse of any person referred to above.
<p><i>protected whistleblower</i></p>	<p>A whistleblower protected under the <i>Corporations Act 2001</i> (Cth) or the <i>Taxation Administration Act 1953</i> (Cth).</p>
<p><i>reportable matter</i></p>	<p>A disclosure potentially concerning:</p> <ul style="list-style-type: none"> • misconduct (including fraud, negligence, default, breach of trust and breach of duty); • an improper situation or circumstances in relation to APNA (both of which can include tax affairs); or • conduct that constitutes an offence against certain laws or that represents a danger to the public or the financial system.

Annexure B – Public interest or emergency disclosures

Public interest disclosures

'Public interest disclosures' can be made to journalists and members of Parliament, but only if the **protected whistleblower** complies with the following strict requirements:

- the **protected whistleblower** must have first made a qualifying disclosure to ASIC, APRA, or a prescribed Commonwealth authority;
- at least 90 days has passed since the qualifying disclosure was made;
- the **protected whistleblower** does not have reasonable grounds to believe that action is being, or has been, taken to address the matters to which the qualifying disclosure related;
- the **protected whistleblower** has reasonable grounds to believe that making a public interest disclosure would be in the public interest;
- after 90 days has passed, the **protected whistleblower** must give the body to which the qualifying disclosure was originally made, a written notification that:
 - includes sufficient information to identify the qualifying disclosure; and
 - states that the **protected whistleblower** intends to make a public interest disclosure; and
- the extent of the information disclosed in the public interest disclosure is no greater than to inform the journalist or member of Parliament of the misconduct or improper situation or circumstances, or other conduct falling within the scope of the *Corporations Act*.

Emergency disclosures

'Emergency disclosures' can be made to journalists and members of Parliament, but only if the **protected whistleblower** complies with the following strict requirements:

- the **protected whistleblower** must have first made a qualifying disclosure to ASIC, APRA or a prescribed Commonwealth authority;
- the **protected whistleblower** has reasonable grounds to believe that information concerns a substantial and imminent danger to the health or safety of one or more persons or to the natural environment;
- the **protected whistleblower** gave notice to the body to which the qualifying disclosure was made that states:
 - that they intend to make an emergency disclosure; and
 - includes sufficient information to identify the qualifying disclosure; and
- the extent of the information disclosed in the emergency disclosure is no greater than is necessary to inform the journalist or member of Parliament of the substantial and imminent danger.

It is important that the person understands the criteria for protection under the relevant legislation before making a public interest or emergency disclosure. Independent legal advice should be obtained prior to making any disclosure.