

# CHALLENGE COMMUNITY SERVICES

## Organisation Procedure: WHISTLEBLOWERS POLICY

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### **General Policy Statement:**

**Challenge Community Services (Challenge) is committed to creating and maintaining an open working environment in which concerns may be raised regarding actual or suspected reportable conduct.**

**The Board of Challenge recognises that any genuine commitment to detecting and preventing illegal and other undesirable conduct must include a mechanism whereby staff and others can report concerns, wrongdoings, corruption or illegal activity freely and without fear of reprisal or intimidation.**

**Challenge must comply with the protections provided in the *Corporations Act 2001*.**

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### **Purpose**

The purpose of this Policy is to:

- Encourage the reporting of any concerns where an eligible individual has reasonable grounds to suspect misconduct, illegal or undesirable activities, without fear of reprisal, dismissal or discriminatory treatment;
- Demonstrate Challenge's commitment to a fair workplace and outline the process for managing misconduct, illegal or undesirable matters.
- Assist in ensuring that reported misconduct, illegal or undesirable activities are identified and dealt with appropriately.

### **1. How is this Policy to be made available?**

A copy of this Policy will be made available:

- in the Challenge Policies and Procedures accessible via the Challenge intranet (accessible by all Challenge staff);
- on the Challenge website (publicly available);
- to all staff, employees and contractors during induction; and
- to all officers and Directors of Challenge.

### **2. What is reportable conduct?**

Reportable conduct means conduct, actual or suspected, which a person suspects on reasonable grounds is illegal, unacceptable or undesirable and includes conduct that:

- a) breaches Challenge's Professional Conduct and Integrity Guidelines, policies or the law;
- b) is dishonest, fraudulent, corrupt or unlawful;
- c) is misleading or deceptive conduct, including but not limited to conduct or representations which amount to improper or misleading accounting or financial reporting practices;
- d) is coercion, harassment or discrimination;
- e) is conduct endangering the health and safety of any person or persons which has been reported to management but not acted upon;

- f) is any action taken against, or harm suffered by a person as a result of making a report under this policy;
- g) may cause loss to Challenge or which may otherwise be detrimental to its interests;
- h) is illegal activity (including but not limited to theft, drug sale/use, violence or threatened violence and property damage);
- i) is conduct endangering health or safety;
- j) involves a substantial mismanagement of Challenge resources;
- k) involves conduct that is detrimental to Challenge’s financial position or reputation;
- l) involves concealment of wrongdoing.

Reportable conduct does not include personal work related grievances. Please refer to the Challenge Grievance Process procedure regarding workplace grievances.

### 3. How and to whom conduct may be reported?

Challenge provides the following reporting mechanisms for reporting reportable conduct:

Report to	How to report?
<b>Internal</b>	
Chairman of Challenge Board	<a href="mailto:TheChariman@challengecommunity.org.au">TheChariman@challengecommunity.org.au</a>
A Challenge officer or senior manager	Please refer to organisational chart located on intranet and contact the relevant officer or manager by telephone or email.
Quality and Complaints Department (Emma Pollard)	Phone: 0408 983 151 Email: Emma.Pollard@challengecommunity.org.au
Challenge Complaints Hotline	Telephone: 1300 058 113
Online Reporting	Submit report via the Challenge website “Your Feedback” (internet based reporting system where concerns of misconduct can be reported on an identified or anonymous basis).
<b>External</b>	
Contact Head Office	1800 849 217
	Submit report via the Challenge website “Your Feedback” (internet based reporting system where concerns of misconduct can be reported on an identified or anonymous basis).

### 4. Investigation

All reports of misconduct, illegal or undesirable activities are treated seriously and will be investigated appropriately where required (either internally or externally). Challenge’s response to matters reported will vary depending on the nature of what is reported and the information provided. When an investigation takes place, it will be conducted in a manner that is confidential, fair and objective. An investigation process

will vary depending on the nature of what is reported and the amount of information provided.

For a report to be investigated, it must contain sufficient information to form a reasonable basis for investigation. Misconduct reported anonymously, should provide as much information as possible so as not to compromise the ability to fully investigate the report.

Challenge staff, employees, volunteers and contractors must cooperate fully with any investigation which takes place.

## **5. Reporting of Investigation Findings**

At the end of an investigation a written report of the findings will be sent to the CEO who will determine the appropriate response and report outcomes to the Board. This response will include addressing any unacceptable conduct and taking remedial action required to prevent any future occurrences of the same misconduct. In the event the CEO is the subject of the investigation or allegation, the Challenge Board will determine the report and corrective measure.

The written report of an investigation's findings will not be provided to an individual who reports or any other person subject to the investigation.

The individual who reports misconduct, illegal or undesirable activities may be informed of the investigation outcome. However, it may not always be appropriate to provide such individuals with this information and where this is the case, investigation outcomes will not be shared.

Following completion of an investigation, appropriate disciplinary action may be taken where a breach of Challenge policy and/or the law is discovered. This may include but is not limited to termination of employment.

## **6. Protection of Whistleblowers**

Challenge will take reasonable steps to protect and respect the rights of an individual who reports misconduct, illegal or undesirable activities ("**whistleblower**") in accordance with this policy. Individuals that report concerns on reasonable grounds under this Policy (and provided they have not been involved in the concern reported), must not be penalised or personally disadvantaged because they have reported a concern by:

- a) Dismissal;
- b) Injury in their employment;
- c) Harm or injury, including psychological harm;
- d) Alteration of position or duties or to their disadvantage;
- e) Discrimination between an employee and other employees at Challenge;
- f) Any form of harassment or intimidation;
- g) Damage to property or reputation;
- h) Damage to business or financial position;
- i) Current or future bias;
- j) Any other damage.

### Protection under the *Corporations Act 2001*

An individual who reports reportable conduct qualifies for protection under the *Corporations Act 2001* if:

- a) that individual is an Eligible Whistleblower (defined below);
- b) the report is made to:
  - i. ASIC;
  - ii. APRA;
  - iii. A prescribed Commonwealth authority;
  - iv. A legal practitioner for the purpose of obtaining legal advice or representation in relation to the operation of the whistleblowing provisions of the *Corporations Act 2001*;
  - v. an auditor, or a member of the audit team, conducting an audit of Challenge;
  - vi. an actuary of Challenge;
  - vii. an officer or senior manager of Challenge (for example, the immediate local senior HR representative of the Whistleblower);
- c) the Whistleblower has reasonable grounds to suspect that the information reported relates to misconduct, or an improper state of affairs or circumstances in relation to Challenge.

When the above conditions are met, the *Corporations Act 2001* provides protections to whistleblowers, including:

- a) that they are not subject to any civil, criminal or administrative liability (including disciplinary action) for making the disclosure. (They are not, however, protected from civil, criminal or administrative liability for any of its conduct which may be revealed by the report);
- b) no contractual or other remedy may be enforced or exercised against them on the basis of the disclosure;
- c) a contract to which they are a party may not be terminated on the basis the disclosure constitutes a breach of the contract;
- d) in some circumstances, the reported information is not admissible against them in criminal proceedings or in proceedings for the imposition of a penalty, other than proceedings in respect of the falsity of the information;
- e) protection from actual or threatened detriment because of the report and may receive compensation for any damage caused by such detriment;
- f) subject to limited exceptions, the person to whom a disclosure is made must not disclose the substance of the matter reported, the whistleblower's identity or information likely to lead to identification of the whistleblower.

An Eligible Whistleblower is any individual who is, or has been, any of the following:

- a) an officer of Challenge;
- b) an employee or staff member of Challenge;
- c) an individual who supplies services or goods to Challenge (whether paid or unpaid);
- d) an employee or staff member of a person that supplies services or goods to Challenge (whether paid or unpaid);
- e) an individual who is an associate of Challenge;
- f) a relative of an individual referred to in any of paragraphs (a) to (f);

- g) a dependant of an individual referred to in any of paragraphs (a) to (f), or of such an individual's spouse; or
- h) an individual prescribed by the regulations for the purposes of this paragraph in relation to the regulated entity.

## **7. Support for whistleblowers**

Whistleblowers may access Challenge's Employee Assistance Program service.

All reasonable steps will be taken to ensure whistleblowers are protected as set out in item 6 of this Policy. However, this Policy will not protect a whistleblower who is involved in improper conduct or illegal activities that are the subject of reportable conduct or that may arise due to an investigation.

Challenge may also provide a whistleblower with immunity from Challenge initiated disciplinary proceedings in relation to matters that arise as a result of matters reported.

Where the whistleblower is not a Challenge staff member they should be asked if they require any support during this process, if support is required suitable assistance will be provided.

## **8. Anonymity**

Reports may be made anonymously however, this may lead to difficulty in Challenge being able to properly investigate or take action in relation to such reports.

Further, if requested the identity of the whistleblower will be kept strictly confidential unless:

- a) the person making the report consents to the disclosure; or
- b) information is disclosed to ASIC, APRA or the Australian Federal Police; or
- c) information is disclosed to a legal practitioner for the purpose of obtaining legal advice in relation to the operation of whistleblowing protection laws; or
- d) the disclosure is required by law.

## **9. Feedback and Communication**

Where possible, and assuming the identity of the whistleblower is known, the whistleblower will be kept informed of the outcome of the investigation of his or her report, subject to privacy and confidentiality considerations.

All whistleblowers must maintain confidentiality of all such reports, and not disclose details to any person.

## **10. False Reporting**

No whistleblower will be victimised or adversely affected because of taking action in reporting their concerns (provided that the whistleblower has reasonable grounds to suspect that the information reported concerns misconduct, or an improper state of affairs or circumstances in relation to Challenge).

Where it is established that a whistleblower has made a false report, that is, an allegation is not substantiated and such allegation is found to have been made

maliciously, or with the knowledge of being false, he or she may be subject to disciplinary action or termination.

Whilst not intending to discourage whistleblowers from reporting matters of genuine concern, whistleblowers must ensure as far as possible, that reports are factually accurate, completed from firsthand knowledge, presented in an unbiased fashion (and any possible perception of bias of the whistleblower is disclosed), and without material omission.

## **11. Document Retention and Confidentiality**

All information, documents, records and reports relating to the investigation of a reported misconduct will be confidentially stored and retained in an appropriate and secure manner by the Practice and Quality department, to the extent possible, subject to legal and regulatory requirements.