

	WHISTLEBLOWER PROTECTION POLICY
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Applies to: All Staff and Volunteers	Version: 2
Specific Responsibility: Executive Leadership Team, All Staff	Date approved: 23/3/2022
	Next review date: 18/12/2024

Policy context: This policy relates to the Glenhaven Family Care framework for receiving, investigating, and addressing disclosures and protecting whistleblowers from being subject to victimisation, harassment, or discriminatory treatment.	
Standards or other external requirements	Quality and Safety All relevant State and National Standards
Legislation or other requirements	The <i>Corporations Act 2001</i> The <i>Tax Administration Act 1953</i> The <i>Fair Work Act 2009</i>
Contractual obligations	Relevant Government Departments, Alliance, MOU's, NDIS

POLICY STATEMENT

Whistleblowing¹ can be an effective way of uncovering fraud and other misconduct which may not be identified by internal or external controls within an organisation. Glenhaven Family Care is committed to the principles of transparency and accountability, and views whistleblowing as an opportunity to reflect upon organisational procedures and promote an ethical culture.

When a board member, employee, contractor, or associate of the organisation believes on reasonable grounds, that another person or persons associated with the organisation has been involved in illegal or unethical conduct², they are encouraged and supported to report the conduct without reprisal or consequence.

Glenhaven Family Care protects Whistleblowers from retaliatory action of any kind including:

- Dismissal;
- Demotion;
- Harassment or discrimination;
- Victimisation of any kind; or
- Threats of any of the above.

DEFINITIONS

Anonymity: Is when one's identity is unknown. In the case of an anonymous Whistleblower, their identity is not known by anyone, including those who receive and investigate the report.

¹ ... is a key element of ensuring that Glenhaven maintains its standards for service, support and protections for the people we care for and our people. This is another way in which Glenhaven supports an ethical culture.

² ... conduct that is not consistent with the Glenhaven Code of Conduct, including any wrongdoing, and illegal and unethical conduct.

Confidentiality: is when one's identity is protected to prevent harm. In the case of a Whistleblower, their identity may be known to those receiving and investigating the report, but is protected from the broader organisation and the public.

Detrimental Conduct: Conduct, or a threat to engage in conduct, that causes detriment to a discloser.

Disclosable Matter: Information to which the whistleblower protections apply.

Discloser: An individual who discloses wrongdoing, or an eligible whistleblower.

Disclosure: A disclosure of information relating to wrongdoing or a disclosable matter.

Eligible Recipient: An individual who can receive a disclosure.

Eligible Whistleblower: An individual to whom the whistleblower protections apply.

Emergency Disclosure: The disclosure of information to a journalist or parliamentarian, where the discloser has reasonable grounds to believe the information concerns a substantial and imminent danger to the health or safety of one or more persons or to the natural environment.

Personal Information: Information or an opinion about an identified individual, or an individual who is reasonably identifiable, whether:

- True or not, or
- Recorded in a material form or not.

Personal Work-Related Grievance: A disclosure that relates to the discloser's current or former employment, which has implication for the discloser personally, but does not:

- Have any other significant implications for the organisation (or another organisation); or
- Relate to conduct, or alleged conduct, about a disclosable matter.

Public Interest Disclosure: The disclosure of information to a journalist or a parliamentarian, where the discloser has reasonable grounds to believe that making a further disclosure of the information is in the public interest. The disclosure must meet several other criteria to qualify.

Whistleblower: A discloser who has made a disclosure that qualifies for protection under the *Corporations Act 2001*.

Whistleblower Protection Officer (WPO): The role under an organisation's whistleblower policy that is responsible for protecting or safeguarding disclosers and ensuring the integrity of the reporting mechanism.

Wrongdoing: is illegal, improper, or unethical conduct that:

- Is in breach of legislation or regulations, or which is otherwise illegal;
- Is fraudulent or dishonest;
- Could cause financial or non-financial damage to the organisation, or the reputation of the organisation;
- Is a breach of the organisation's Code of Conduct;
- Constitutes maladministration;
- Infringes on the rights of any person;
- Endangers the health and safety of others; or
- Is a misuse of organisational, public, or other funds.

PURPOSE

Glenhaven Family Care's Whistleblower Policy is an important tool for helping our organisation to identify wrongdoing that may not be discovered unless there is a safe and secure means for disclosing wrongdoing.

Our policy is drafted with the intention of addressing the following aims:

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

Roles and responsibilities: Whistleblower Protection Officer (WPO)

The board will nominate a Whistleblower Protection Officer (WPO) when a decision has been made to investigate a disclosure.

Their responsibilities will include:

- Ensuring the protection and/or anonymity of the discloser, where possible;
- Informing the discloser of the progress and outcomes of the investigations;
- Ensuring that disclosers do not suffer any retaliation or negative consequences;
- Referring disclosers to EAP for support.

Glenhaven Family Care will ensure the discloser knows who the designated WPO is and their contact details.

Application of the policy: who is an "eligible whistleblower"

Under this policy, an eligible whistleblower is:

- a) An officer or employee (e.g. current and former employees who are permanent, part-time, fixed-term or casual);
- b) A supplier of services or goods to the organisation (whether paid or unpaid), including their employees (e.g. current and former contractors, consultants, service providers and business partners);
- c) An associate of the organisation; and
- d) A relative, dependent or spouse of an individual listed in (a) to (c) (e.g. relatives, dependants or spouse of current and former employees, contractors, consultants, service providers, suppliers, and business partners).

How to make a disclosure

To make an "Online" report go to:

- <https://www.whistleblowing-service.com.au/glenhaven/>

Then please click on the **Make a Report** button.

You will be redirected to a new page where you need to

- Enter **GLEN2020** in the **Unique Key** field
- Enter **ask2021** in the **Client Reference Number** field
- Click on the **Data Verified** field and then Click **Next**

What happens when I lodge a report?

When you lodge a report, you will be provided with your own unique number which will be up to 20 characters long. Please keep a record of the unique number. It will be important if you wish to resume a report, upload more information for your disclosure or monitor progress of your disclosure.

Anonymous disclosures

Disclosures can be made anonymously and still be protected.

A discloser can choose to remain anonymous while making a 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.

A discloser who wishes to remain anonymous should maintain ongoing two-way communication, for follow-up questions or to provide feedback.

A person can disclose the information contained in a disclosure with or without the discloser's consent if:

- a) The information does not include the discloser's identity;
- b) The organisation has taken all reasonable steps to reduce the risk that the discloser will be identified from the information (e.g. removing the discloser's name, position title and other identifying details); and
- c) It is reasonably necessary for investigating the issues raised in the disclosure.

It is illegal for a person to identify a discloser or disclose information that is likely to lead to identification of the discloser, outside the exceptions detailed above.

A discloser can lodge a complaint with Glenhaven Family Care about a breach of confidentiality, by making a fresh disclosure under this policy.

A discloser can lodge a complaint with a regulator such as ASIC, APRA or the ATO, for investigation.

Protection from detrimental acts or omissions

Glenhaven Family Care or any individual cannot engage in conduct that causes detriment to a discloser (or another person), in relation to a disclosure if:

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

In addition, Glenhaven Family Care (or any individual) 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.

Examples of detrimental conduct that are prohibited under the law include the following list. Employees of Glenhaven Family Care who make a disclosure, will not be subjected to any of the following forms of conduct as a consequence of their disclosure:

- 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.

Examples of actions that are not 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 organisation's performance management framework.

Glenhaven Family Care will strive to ensure that the discloser understands the reasons for any administrative or management action.

Compensation and other remedies

A discloser (or any other employee or person) can seek compensation and other remedies through the courts if:

- a) They suffer loss, damage or injury because of a disclosure; and
- b) Glenhaven Family Care failed to take reasonable precautions and exercise due diligence to prevent the detrimental conduct.

Disclosers should seek independent legal advice in relation to compensation and other remedies.

Civil, criminal and administrative liability protection

A discloser is protected from any of the following in relation to their disclosure:

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

These protections do not grant immunity for any misconduct a discloser has engaged in that is revealed in their disclosure.

Support and practical protection for disclosers

Identity protection (confidentiality)

Glenhaven Family care will implement the following measures and mechanisms to protect the confidentiality of a discloser's identity:

Reducing the risk that the discloser will be identified from the information contained in a disclosure

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

Secure record-keeping and information-sharing processes

- all paper and electronic documents and other materials relating to disclosures will be stored securely;
- information relating to a disclosure will be reviewed to help identify aspects of the disclosure that could inadvertently identify the discloser;
- only a restricted number of people who are directly involved in handling and investigating a disclosure will be made aware of a discloser's identity (subject to the discloser's consent) or information that is likely to lead to the identification of the discloser;
- 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;
- 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.

Protection from detrimental acts or omissions

Glenhaven Family Care will implement the following measures and mechanisms to protect the disclosers from detrimental acts or omissions:

- Processes for assessing the risk of detriment against a discloser and other persons (e.g. other staff who might be suspected to have made a disclosure), will commence as soon as possible after receiving a disclosure;
- Support services (including counselling or other professional or legal services) that are available to disclosers e.g. EAP;
- Strategies to help a discloser minimise and manage stress, time or performance impacts, or other challenges resulting from the disclosure or its investigation;
- Actions for protecting a discloser from risk of detriment – for example, the organisation could allow the discloser to perform their duties from another location, reassign the discloser to another role at the same level, make other modifications to the discloser's workplace or the way they perform their work duties, or reassign or relocate other staff involved in the disclosable matter;
- Processes for ensuring that management are aware of their responsibilities to manage conflicts, and ensure fairness when managing the performance of, or taking other management action relating to, a discloser;
- Procedures on how a discloser can lodge a complaint if they have suffered detriment, and the actions the organisation 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 disclosers 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, the organisation could investigate and address the detrimental conduct, such as by taking disciplinary action, or the organisation 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.

A discloser may seek independent legal advice or contact regulatory bodies, such as ASIC, APRA or the ATO, if they believe they have suffered detriment.

Keeping a discloser informed

A discloser will be provided with regular updates, if the discloser can be contacted (including through anonymous channels). The frequency and timeframe may vary depending on the nature of the disclosure.

Accessibility of this policy

Within the organisation

This policy will be made available to all officers and employees of Glenhaven Family Care.

The whistleblower protection policy will be accessible and will be communicated in the following ways:

- Holding staff briefing sessions and/or smaller team meetings;
- Posting the policy on the staff intranet or other communication platform including the website;
- Posting information on staff noticeboards;
- Setting out the policy in the employee handbook; and
- Incorporating the policy in employee induction information packs and training for new employees.

Awareness and education

Glenhaven Family Care will inform and educate our employees about the whistleblower policy, procedures for reporting, and the protections available to them in order to facilitate a safe environment in which concerns of misconduct may be voiced without reprisal.

Staff involved in the management of whistleblower reports will receive appropriate training in dealing with reports, investigation, and supporting disclosers and employees who are the subject of allegations.

Reviewing and updating this policy

Glenhaven Family Care will review its whistleblower policy, processes and procedures every two years ensuring they reflect the most up-to-date legal and corporate governance requirements.

Any changes made to the policy will be communicated to all employees.

DOCUMENTATION

Documents related to this policy	
Related policies	Dispute Resolution Confidentiality
Forms, record keeping or other organisational documents	

Reviewing and approving this policy		
Frequency	Person responsible	Approval
Bi-Annually	Executive Leadership Team	Executive Leadership Team

Policy review and version tracking			
Review	Date Approved	Approved by	Next Review Due
1	18/12/19	CEO	18/03/22
2	23/03/22	CEO	18/12/24
3		Executive Leadership Team	
4		Executive Leadership Team	

Appendix 1 – Further Information

A discloser will qualify for protection as a whistleblower under the *Corporations Act 2001* if they are an eligible whistleblower in relation to Glenhaven Family Care, and:

- a) They have made a disclosure of information relating to a 'disclosable matter' directly to an 'eligible recipient' or to ASIC, APRA or another Commonwealth body prescribed by regulation;
- b) They have made a disclosure to a legal practitioner for the purposes of obtaining legal advice or legal representation about the operation of the whistleblower provisions in the *Corporations Act 2001*; or
- c) They have made an 'emergency disclosure' or 'public interest disclosure'.

Matters this policy applies to

Disclosures that are not about disclosable matters do not qualify for protection under the *Corporations Act 2001* (or the *Tax Administration Act 1953*, where relevant). Such disclosures may be protected under other legislation, such as the *Fair Work Act 2009*.

Disclosable matters

Matters that qualify for protection under the *Corporations Act 2001* are 'disclosable matters'. Disclosable matters involve information that the discloser has reasonable grounds to suspect concerns misconduct, or an improper state of affairs or circumstances, in relation to Glenhaven Family Care.

Glenhaven Family Care considers the following to be disclosable matters:

- 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;
- 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.

Disclosable matters include conduct that may not involve a contravention of a particular law. Information that indicates a significant risk to public safety or the stability of/confidence in Glenhaven Family Care's financial system is also a disclosable matter. A discloser can still qualify for protection even if their disclosure turns out to be incorrect.

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 the discloser, do not qualify for protection under the *Corporations Act 2001*.

Examples of a personal work-related grievance include:

- a) An interpersonal conflict between the discloser and another employee;
- b) A decision that does not involve a breach of workplace laws;

- c) A decision about the engagement, transfer or promotion of the discloser;
- d) A decision about the terms and conditions of engagement of the discloser; or
- e) A decision to suspend or terminate the engagement of the discloser, or otherwise to discipline the discloser.

However, a personal work-related grievance may still qualify for protection if:

- a) It includes information about misconduct, or information about misconduct includes or is accompanied by a personal work-related grievance (mixed report);
- b) The organisation 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 the discloser's personal circumstances;
- c) The discloser suffers from or is threatened with detriment for making a disclosure; or
- d) The discloser seeks legal advice or legal representation about the operation of the whistleblower protections under the *Corporations Act 2001*.

Employees of Glenhaven Family Care can internally raise work-related grievances and other types of issues or concerns not covered by this policy, through other mechanisms such as the Glenhaven Family Care Dispute Resolution Policy.

Who can receive a disclosure

Eligible recipients (those who receive disclosures that can qualify for protection)

An 'eligible recipient' is someone who receives disclosures that qualify for protection.

A discloser must make a disclosure directly to one of Glenhaven Family Care's eligible recipients in order to be able to qualify for protection as a whistleblower under the *Corporations Act 2001* (or the *Tax Administration Act 1953*, where relevant).

An eligible recipient includes:

- a) An officer or senior manager of the organisation;
- b) An internal or external auditor (including a member of an audit team conducting an audit) or actuary of the organisation; and
- c) A person authorised by the organisation to receive disclosures that may qualify for protection.

Legal practitioners

Disclosures to a legal practitioner for the purposes of obtaining legal advice or legal representation in relation to the operation of the whistleblower provisions in the *Corporations Act 2001* are protected (even in the event that the legal practitioner concludes that a disclosure does not relate to a 'disclosable matter').

Regulatory bodies and other external parties

Disclosures of information relating to disclosable matters can be made to ASIC, APRA or another commonwealth body prescribed by regulation, and will qualify for protection under the *Corporations Act 2001*.

Employees can access more information on making an external disclosure by accessing the *ASIC Information Sheet 239 How ASIC handles whistleblower reports*.

Public interest disclosures and emergency disclosures

Disclosures can be made to a journalist or parliamentarian under certain circumstances and qualify for protection.

It is important for the discloser to understand the criteria for making a public interest or emergency disclosure. The disclosure must have previously been made to ASIC, APRA or a prescribed body, and the discloser must notify this body that they intend to make a public interest disclosure.

In the case of a public interest disclosure, at least 90 days must have passed since the previous disclosure.

A discloser should contact an independent legal adviser before making a public interest disclosure or an emergency disclosure.

The full criteria for a 'public interest disclosure' and an 'emergency disclosure' are as follows –

A 'public interest disclosure' is the disclosure of information to a journalist or a parliamentarian, where:

- a) At least 90 days have passed since the discloser made the disclosure to ASIC, APRA or another Commonwealth body prescribed by regulation;
- b) The discloser does not have reasonable grounds to believe that action is being, or has been taken, in relation to the disclosure.
- c) The discloser has reasonable grounds to believe that making a further disclosure of the information is in the public interest; and
- d) Before making the public interest disclosure, the discloser has given written notice to the body to which the previous disclosure was made that:
 - a. Includes sufficient information to identify the previous disclosure; and
 - b. States that the disclosure intends to make a public interest disclosure.

An 'emergency disclosure' is the disclosure of information to a journalist or parliamentarian, where:

- a) The discloser has previously made a disclosure of the information to ASIC, APRA or another Commonwealth body prescribed by regulation;
- b) The discloser 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;

- c) Before making an emergency disclosure, the discloser has given written notice to the body which the previous disclosure was made that:
 - a. Includes sufficient information to identify the previous disclosure; and
 - b. States that the discloser intends to make an emergency disclosure; and
- d) The extent of the information disclosed in the emergency disclosure is no greater than is necessary to inform the journalist or parliamentarian of the substantial and imminent danger.

Legal protections for disclosers

Protections apply not only to internal disclosures, but to disclosures to legal practitioners, regulatory and other external bodies, and public interest and emergency disclosures that are made in accordance with the *Corporations Act 2001*.

Identity protection (confidentiality)

Glenhaven Family Care has a legal obligation to protect the confidentiality of a discloser's identity.

A person cannot disclose the identity of a discloser or information that is likely to lead to the identification of the discloser (which they have obtained directly or indirectly because the discloser made a disclosure that qualifies for protection).

An exception to this confidentiality is if a person discloses the identity of the discloser:

- 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 *Corporations Act 2001*);
- c) To a person or body prescribed by regulations; or
- d) With the consent of the discloser.