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## Purpose

EMPHN is committed to the highest standards of conduct and ethical behaviour in its activities, and to promoting a culture of honest and ethical behaviour, compliance and good governance.

This policy outlines EMPHN's approach to receiving and managing reports of significant wrongdoing from individuals with intimate knowledge of EMPHN without fear of reprisal; and, with the support and protection of EMPHN.

It does not replace existing complaints, conduct or compliance policies but provides an additional venue for matters to be raised in relation to specific types of conduct covered by the Policy.

This policy is compliant with the Corporations Act 2001 and Australian Securities and Investment Commission (ASIC) guidance RG270 and supports:

- EMPHN's organisational values of integrity, working together and courage
- Code of Conduct
- Fraud and Corruption Prevention and Control Policy
- risk management and compliance
- the integrity and delivery of high-quality programs
- continuous improvement

The policy is available on EMPHN's internal and externally-facing websites.

## Scope

The policy applies to *eligible whistleblowers* who make a *qualifying disclosure* to an *eligible recipient*.

An **eligible whistleblower** must be a current or former employee, officer, service provider, associate, or a spouse, relative or dependant of one of the people referred to previously in this definition, or a dependant of such an individual's spouse.

An **eligible recipient** includes EMPHN's authorised whistleblower complaints service, Stopline, a Director, Company Secretary and Legal Counsel, or officer or senior manager of EMPHN, EMPHN's auditors, EMPHN's Whistleblower Protection Officer (WPO), ASIC, the eligible whistleblower's solicitor if disclosing to obtain legal advice or representation under the whistleblower provisions of the Corporations Act.

A **qualifying disclosure** is one where the eligible whistleblower has *reasonable grounds* to suspect that the information they are disclosing about the organisation concerns a **disclosable matter**.

**Disclosable matters** relate to:

- misconduct, or
- an improper state of affairs or circumstances.

This information can be about EMPHN, or an officer or employee of the company or organisation, engaging in conduct that:

- breaches the Corporations Act
- breaches other financial sector laws enforced by ASIC
- is an offence against any other law of the Commonwealth that is punishable by imprisonment for a period of 12 months, or

- represents a danger to the public or the financial system.

For the purposes of this definition, *reasonable grounds* means that a reasonable person in the whistleblower's position would also suspect the information indicates misconduct or a breach of the law.

Examples of conduct that might form the basis of a disclosable matter follow:

- illegal or material breaches law or regulation, including contravention of the Corporations Act 2001 or the Australian Securities and Investment Commission Act 2001
- significant breaches EMPHN's Code of Conduct or an employee's contractual obligations
- fraudulent or corrupt, including misappropriation of funds, bribery or undue influence
- misleading or deceptive conduct, such as providing critical information that is factually and deliberately incorrect
- a significant risk to the health or safety of people, or a significant danger to the environment, and that has been reported formally, but not addressed by senior management
- bullying, harassment, sexual harassment, discrimination, violence, or relates to drug abuse, and that a whistleblower cannot discuss with their manager or human resources and/or has not been addressed by senior management.

The protections can also apply to a whistleblower report made to a journalist or Member of Parliament in certain limited circumstances relating to matters in the public interest and emergencies. If a disclosure about these matters is made to the public in another way, the protections do not apply. For more information see [Whistleblower rights and protections | ASIC](#)

An eligible whistleblower can remain anonymous and still qualify for protection. If a whistleblower chooses to remain anonymous, EMPHN may not be able to effectively investigate a matter if it cannot contact the discloser.

Reports of crimes such as aggravated assault or theft should be made to the police urgently.

Matters that do not meet the threshold required for a qualifying disclosure will be dealt with in accordance with EMPHN's appropriate policies and procedures.

## What this policy does not cover

### a) Personal work-related grievances

Personal work-related grievances are not qualified disclosures. Personal work-related grievances are issues that are solely related to personal employment with EMPHN, and do not involve illegal, dishonest or improper conduct. Workplace grievances are to be addressed via Human Resources, a line manager or the relevant executive director in accordance with EMPHN's policies and procedures.

Examples of personal work-related grievances include:

- an interpersonal conflict with another employee
- a decision about employment, transfer, or promotion
- a decision about the terms and conditions of employment
- a decision to suspend or terminate employment or other disciplinary measures.

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## b) False claims

Allegations which prove to be malicious or made falsely are viewed as a disciplinary offence.

## Policy

### Making a whistleblower report

Stopline is EMPHN's independent, external whistleblower receipt and investigations service. Stopline fulfils the role of EMPHN's Whistleblower Investigation Officer (WIO). Reports to Stopline are managed to ensure the identity and rights of the whistleblower are protected. Once a report has been assessed as requiring investigation by EMPHN, Stopline undertakes that investigation on behalf of EMPHN.

Reports to Stopline can be made via telephone, email, voicemail, or online via a dedicated website, 24 hours a day, 365 days a year. Language and translation support and services are also available.

EMPHN has appointed its Company Secretary and Legal Counsel as the Whistleblower Protection Officer (WPO). The WPO approves investigations of eligible reports. The WIO will liaise with the WPO as required once an eligible disclosure is made to assist with the investigation and ensure the protections afforded by the Act are invoked. The WPO deals with queries about whistleblower disclosures in relation to EMPHN.

If the whistleblower report involves the WPO, Stopline will liaise with the Chief Operating Officer in relation to the investigation without notification to the WPO.

### Protections afforded to Eligible Whistleblowers

#### a) Protection of information and identity

EMPHN will keep the identity of an eligible whistleblower, or information that is likely to lead to their identification, confidential – it will not be disclosed without their consent.

EMPHN may report information to ASIC, the Australian Federal Police, or to a lawyer for advice about whistleblower matters where required. There may also be circumstances where EMPHN is required to disclose the information to a court or tribunal, where the court or tribunal considers it necessary in the interests of justice or to give effect to the whistleblower provisions in the Corporations Act. It is illegal for a person to reveal the identity of a whistleblower, or information likely to lead to the identification of a whistleblower, outside of these circumstances without the whistleblower's consent.

Documents, reports and records relating to the investigation of a report are confidential and retained securely with restricted access.

#### b) Protection against reprisals

It is illegal for someone to cause or threaten detriment to a whistleblower because they believe or suspect that the whistleblower has made, may have made, proposes to make or could make a whistleblower disclosure. EMPHN protects whistleblowers from actual or threatened detriment, harm or reprisals for making an eligible disclosure. They cannot be terminated, demoted,

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discriminated against, harassed or intimidated because they made an eligible disclosure or because someone at EMPHN suspected or believed they have done so.

Suppliers, contractors, medical clinics or other stakeholders will not have contracts or business arrangements threatened if they report disclosable matters.

Legal action will not be taken against whistleblowers making eligible disclosures – except where they are found to be implicated in the misconduct. The WIO and WPO will consider steps required to further support whistleblowers.

Any employee who retaliates against a whistleblower will be subject to disciplinary action. External legal advice may be taken to support safeguarding the rights of the individual or the business entity being investigated.

### **c) Compensation and remedies**

A whistleblower can seek compensation through a court if they suffer loss, damage or injury for making a disclosure. Other remedies available include:

- Employment reinstatement to an original position or a comparable position
- An injunction to prevent or stop detrimental conduct
- An apology.

It is the whistleblower's responsibility to bring any action for compensation based on their own independent legal advice.

If a whistleblower is unsuccessful in a claim for compensation for detriment against a person, company or organisation, they are protected from having to pay their legal costs (unless a court finds the claim to be vexatious unreasonable).

### **d) Immunity**

Commonwealth laws provide legal protection and immunity for whistleblower disclosures. This includes immunity from civil, criminal and administrative liability that arises from making the whistleblower disclosure.

## **Handling and investigating a disclosure**

Stopline will assess and make a recommendation to EMPHN's WPO as to whether a disclosure made:

1. qualifies for protection, and;
2. a formal, in-depth investigation is required.

If an investigation is deemed necessary by the WPO, it will be conducted by the WIO, with assistance from the WPO.

Unless the whistleblower has opted to remain anonymous, they will be told who has been appointed to investigate and given an indication of how long the investigation is expected to take, and be informed of progress and receive a written account of the final outcome of the investigation. If the whistleblower chooses to remain anonymous, they will be issued with a confidential reference and password and must initiate contact through one of the methods listed on the Stopline website to receive feedback.

Once the substance of a whistleblower report is confirmed, it is investigated thoroughly. The confidentiality of the whistleblower remains paramount.

The WIO and WPO have access to independent financial, legal and operational advisers as required for the purposes of assessing a whistleblower report for the purposes of conducting an investigation.

The WIO has a duty to report any act or omission that may involve suspected criminal activity to the police as soon as they become aware of the circumstances during an investigation.

## Addressing the investigation outcome

The WIO provides its investigation report to the CEO. Where the CEO or Board Chair is the subject of or implicated in the whistleblower report, the report is made to the Chair of the Finance, Audit and Value Committee.

Recommendations will be activated in accordance with investigation reports via the CEO or as otherwise provided in this policy as appropriate. In addition, processes and controls will be reviewed/implemented to reduce further incidents.

## Exemptions

Nil.

## Breaches

Suspected breaches of this policy are investigated by the WIO in accordance with law and EMPHN's Complaints Handling Procedure.

## Reporting

De-identified whistleblower incidents are included in EMPHN's compliance and risk reporting which is reviewed at least quarterly by the Executive Leadership Team, the Strategy and Risk Committee, and the Board.

Records must be made and kept securely for each whistleblower report received.

## Where to get help?

- For questions on this Whistleblowers Policy, contact the policy owner, Company Secretary and Legal Counsel.
- You can provide feedback on this policy by creating a feedback incident report in EMPHN's risk management system, TICKIT. You can do this by logging into the risk system and creating a feedback incident report, or by using the feedback option on our website.