



Fight Cancer Foundation™

*Giving hope. Saving lives.*

## **WHISTLEBLOWER POLICY**

APRIL 2020

## **1.0 Policy statement**

Fight Cancer Foundation and associated companies, Bone Marrow Donor Institute and Ovcare National Cancer Centre (FCF Group), are committed to the protection of individuals who disclose information about illegal or improper conduct occurring within the FCF Group. This policy has been adopted to provide a safe and confidential environment where such concerns can be raised by whistleblowers without fear of reprisal or detrimental treatment.

This policy sets out:

- Who is entitled to protection as a whistleblower under this policy;
- The protections whistleblowers are entitled to under this policy; and
- How disclosures made by whistleblowers in accordance with this policy will be handled by FCF Group.

This policy applies to all Directors, employees, volunteers and contractors of FCF Group.

This policy is available to officers and employees in the about us section of our website ([www.fightcancer.org.au](http://www.fightcancer.org.au))

## **2.0 Who is eligible for whistleblower protection under this policy?**

To be treated as a whistleblower under this policy you must:

- Be one of the individuals set out in section 2.1
- Disclose information regarding the type of matters set out in section 2.2
- Disclose that information to one of the persons identified in section 2.3.

### **2.1 Who may make a disclosure?**

Disclosures can be made by current or former:

- Officer, employee or volunteer of FCF Group
- Contractor or supplier of goods and services to FCF Group, or their current and former employees, paid or unpaid
- Associate of FCF Group or
- Spouse, relative or dependent of one of the people referred to above.

While you must hold or have held one of these roles to access the protections, you do not have to identify yourself or your role, and you can choose to disclose information and concerns anonymously.

### **2.2 What types of matters can be disclosed?**

Disclosures can be about improper conduct which you suspect on reasonable grounds has occurred or is occurring within the FCF Group, including conduct by an officer or employee of FCF Group. However, disclosures cannot be made under his policy about solely personal work-related

grievances. Such matters will be dealt with in accordance with the FCF Group Staff Grievance Policy (as amended and/or updated from time to time).

Examples of disclosable matters include:

- Illegal conduct at FCF Group, or by an officer or employee of FCF Group, such as fraud, corruption, bribery, theft, violence, harassment or intimidation, criminal damage to property or other breaches of applicable laws
- Misconduct or improper state of affairs or circumstances in relation to FCF Group, including in relation to:
  - Corporate governance
  - Accounting or audit matters
  - Tax affairs, or the tax affairs of an associate of FCF Group
  - Substantial mismanagement of FCF Group resources
- Conduct at FCF Group that represents a danger to the public (including Public health, safety or the environment)
- Conduct at FCF Group which amounts to an abuse of authority
- Conduct which may cause financial loss to FCF Group or damage to its reputation or be otherwise detrimental to FCF Group's interests.

### **2.3 Who should I disclose to?**

Our Disclosure Coordinators are:

- The Company Chair / President and/or
- The Managing Director
- The Finance, Audit and Risk Director

Please refer to Schedule 1 (Contact Details for details of our Disclosure Coordinators)

Alternatively, you can make a disclosure to any one of the following:

1. An officer or senior manager within FCF Group
2. An auditor or member of an audit team conducting an audit on FCF Group

## **3.0 Confidentiality**

### **3.1 Whistleblower identity must be kept confidential**

Subject to section 3.2, the identity of a whistleblower (or information that is likely to lead to their identity becoming known) must be kept confidential unless the whistleblower has consented to the disclosure. For instance, personal information should be redacted, the whistleblower referred to in gender neutral terms, all related matters will be handled by suitably trained and qualified staff with prudent record keeping to ensure access to documents is limited and secure.

### **3.2 Permitted exceptions**

The identity of a whistleblower (or information that is likely to lead to their identity becoming known) may be disclosed without the whistleblower's consent if the disclosure is made to:

1. An in-house or external lawyer for the purpose of obtaining legal advice or legal representation in relation to the operation of the Australian whistleblower laws
2. The Australian Federal Police

3. The Australian Securities and Investments Commission
4. The Australian Prudential Regulatory Authority
5. The Australian Commissioner of Taxation if the disclosure concerns FCF Group's tax affairs
6. The Australian Charities and not for profits Commission

### **3.3 Provision of whistleblower information to a court or tribunal**

No person at FCF Group may disclose or produce to a court or tribunal any information or documents which discloses the identity of a whistleblower (or information likely to lead to their identity becoming known) without seeking the advice of our legal advisor.

### **4.0 Prohibition against victimisation**

No person at FCF Group may cause or threaten any detriment to any person for a reason which includes that they or any other person:

1. Is or proposes to be a whistleblower, or
2. Is suspected or believed to be, or could be a whistleblower

"detriment" includes (but is not limited to)

- Dismissal
- Injury of an employee in their employment
- Alteration of an employee's position or duties to their disadvantage
- Discrimination, harassment or intimidation
- Harm or injury including psychological harm
- Damage to property, reputation or financial position-
- Taking action against a whistleblower to enforce a right (for example, a breach of confidentiality ) or subjecting them to liability or action simply because they have made a disclosure

However, a whistleblower may be held liable for any personal misconduct revealed by their disclosure or an investigation following a disclosure.

### **5.0 Investigations of information disclosed under this policy**

When a disclosure is made which may fall under this policy, the following steps must be followed except where, in the opinion of the Disclosure Coordinator, it would be inappropriate or unreasonable in the circumstances to do so:

1. Any person listed in section 2.3 who receives the information must provide the information to a Disclosure Coordinator as soon as practicable, removing any information which identifies or may identify the discloser of the information (the potential whistleblower)
2. As soon as practicable, the Disclosure Coordinator responsible for the matter must determine whether the disclosure falls within the scope of this policy and, if so, appoint an investigator with no personal interest in the matter to conduct an investigation into the matters disclosed, if they determine it to be necessary or appropriate
3. The investigator must conduct any investigation in an objective and fair manner, ensuring to provide any employee who has been adversely mentioned in information provided by a

whistleblower an opportunity to respond to the allegation made in respect of them prior to any adverse finding being made

4. The outcome of the investigation must be reported to the Board or its delegated subcommittee, and may be reported to the whistleblower and any persons affected as the Disclosure Coordinator considers appropriate
5. Subject to the exceptions allowed under section 3.2 of this policy or otherwise by law, the identity of a whistleblower (or information that is likely to lead to their identity becoming known) must be kept confidential at all times during and after the investigation (including in any reporting to the Board or to any persons affected). All persons responsible for or involved in an investigation must take all reasonable steps to reduce the risk that a whistleblower will be identified
6. A whistleblower may raise any concerns or complaints regarding this policy or their treatment with the Disclosure Coordinator.

Investigations must be commenced within seven days of receipt of a disclosure. Investigations will proceed without undue delay. The time taken for investigation may vary subject to the nature and complexity of the disclosure.

## **6.0 Reporting to the Board or its delegated subcommittee**

Subject to the confidentiality obligations in Section 3, the Company Secretary must provide the Board or its delegated subcommittee quarterly updates on all material whistleblower matters, including information on:

1. The status of any investigations underway
2. The outcomes of any investigations completed and actions taken as a result of those investigations.

## **7.0 How this policy interacts with Australian whistleblower laws**

By making a disclosure in accordance with this policy, you may be afforded protection under Australian whistleblower laws.

While this policy principally deals with the internal disclosures of information, Australian whistleblower laws also protect some types of disclosure made to external parties (such as to legal representatives, the Australian Securities and Investments Commission (ASIC), to the Australian Commissioner of Taxation, members of parliament or journalists). Any person who is a whistleblower under Australian whistleblower laws must be treated in accordance with, and is entitled to, protections afforded by, this policy.

For more information about these laws, see the information available on the ASIC website and the ATO website.

## **8.0 Policy review**

This policy must be reviewed by the Managing Director at least every 2 years to ensure that it is operating effectively.

## **9.0 Consequences for non-compliance with policy**

Any breach of this policy by an officer, employee or contractor will be taken seriously by FCF Group, and may be the subject of a separate investigation and/or disciplinary action.

A breach of this policy may also amount to a civil or criminal contravention under the Australian whistleblower laws, giving rise to significant penalties.

## 10.0 Definitions

**Associate** means any individual who is:

- An associate within the meaning of the Corporations Act
- If the disclosure relates to our tax affairs, an associate within the meaning of section 318 of the Income Tax Assessment Act 1936 (Cth)

**Australian whistleblower laws** means either or both of regimes contained in Part 9.4AAA of the Corporations Act and Part IVD of the Taxation Administration Act 1953 (Cth)

**Corporations Act** means the Corporations Act 2001 (Cth)

**Detriment** has the meaning given in section 4 of this policy

**Disclosure Coordinators** means the person(s) identified in section 2.3 of this policy

**Family member** means a

- Spouse, parent, child, sibling or other relative of an individual
- Dependent of the individual or their spouse

**FCF Group** means Fight Cancer Foundation and associated companies Bone Marrow Donor Institute and Ovcare National Cancer Centre.

**Officer** has the same meaning as in the Corporations Act (which includes but is not limited to directors and company secretary)

**Personal workplace grievances** mean a grievance about any matter in relation to an individual's employment or former employment which has, or tends to have, implications only for the individual personally, and where the information does not

1. Have significant implications to the entity to which it relates, or any other entity, that does not relate to the individual
2. Concern whistleblower victimisation (see section 4 of this policy)
3. Concern the following types of misconduct or an improper state of affairs or circumstances
  - a. A criminal offence or contravention of the Corporations Act or Australian Securities and Investments Commission Act 2001 (Cth) suspected to have been committed by FCF Group, or an officer or employee of FCF Group
  - b. A Commonwealth criminal offence punishable by more than 12 months imprisonment suspected to have been committed by FCF Group, or an officer or employee of FCF Group

- c. A danger to the public or the financial system posed by FCF Group, or an officer or employee of FCF Group
- d. Misconduct or an improper state of affairs or circumstances in relation to FCF Group's tax affairs

**Relative** has the same meaning as in the Corporations Act

**Spouse** means the married, de facto or registered partner of the individual

**Tax affairs** means affairs relating to any tax imposed by or under, or assessed or collected under, a law administered by the Australian Commissioner of Taxation.

**Whistleblower** means a person who is eligible for protection as a whistleblower under this policy or under the Australian whistleblower laws

### **Schedule 1 Contact details**

The contact details for PWDA's Disclosure Coordinators as at December 2019 are:

#### **Company Chair / President**

Dr Leonie Walsh  
Ground Floor, Rotary Bone Marrow Research Centre  
1d Royal Parade  
PARKVILLE VIC 3052  
Telephone: 0429 106 217  
Email: [Leonie.Walsh@fightcancer.org.au](mailto:Leonie.Walsh@fightcancer.org.au)

#### **Managing Director**

Eric Wright  
Ground Floor, Rotary Bone Marrow Research Centre  
1d Royal Parade  
PARKVILLE VIC 3052  
Telephone: 0433 033 203 or 03 9342 7888  
Email: [Eric.Wright@fightcancer.org.au](mailto:Eric.Wright@fightcancer.org.au)

#### **Director Finance, Audit & Risk**

Philip Hodgkinson  
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