

## Whistleblower

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## Whistleblower

### Context

1. Southern Cross Care QLD Ltd (SCCQ) values a culture of ethical behaviour, corporate compliance and good corporate governance. SCCQ also values transparency and accountability in its management practices and supports the making of disclosures that reveal misconduct, improper state of affairs, fraudulent activity or mismanagement of resources.

### Commitment

2. SCCQ will take all reasonable steps to protect persons who make disclosures (Whistleblowers) from any reprisal action when they raise matters that are of legitimate concern to them, including in relation to a potential breach of any legal or regulatory requirement or policy. SCCQ will deal fairly with employee(s) who are the subject of the disclosure.

The purpose of this policy is to:

- Provide Whistleblowers with an avenue for reporting unacceptable or improper conduct;
- Protect Whistleblowers who appropriately report unacceptable or improper conduct where they had reasonable grounds to suspect such conduct; and
- demonstrate the commitment of SCCQ to its good governance.

### Application

3. This policy covers disclosure(s) made by Whistleblowers who are either current or former:
  - Employees, Volunteers or Officers (including Board Members) of SCCQ;
  - Contractors, suppliers to SCCQ and their employees (whether or not they are paid for their services), medical practitioners, allied health professionals and other providers of services to residents;
  - Individuals who are an Associate of SCCQ;
  - Relatives, dependents and/or spouses of any of the above.

#### 3.1 Scope

This policy only applies to a disclosure of information if the Whistleblower has reasonable grounds to suspect that the information:

- a) concerns Misconduct (see the Definitions section); or
- b) concerns an improper state of affairs or circumstances in relation to SCCQ; or
- c) indicates SCCQ or an officer or employee of SCCQ has engaged in conduct that:
  - i. constitutes an offence against, or a contravention of, a provision of any Related Legislation (see the Definitions section);
  - ii. constitutes an offence against any other law of the Commonwealth that is punishable by imprisonment for a period of 12 months or more; or
  - iii. represents danger to the public or the financial system; or
  - iv. is prescribed by the regulations.

If the disclosure does not relate to any of these matters, the Whistleblower will not qualify for protections outlined in this Policy.

## Whistleblower

### 3.2 Workplace Grievances

This policy does not apply to disclosure of information that concerns a personal work-related grievance of the Whistleblower. See the Definitions for the meaning of a personal work-related grievance.

A disclosure could qualify for protection if it concerns a personal work-related grievance but also concerns alleged detrimental conduct towards the Whistleblower.

Disclosures about personal work-related grievances that do not qualify for protection under this Policy will generally be dealt with under the Grievance and Dispute Policy.

### 3.3 Where conduct is notifiable under other legislation

Where a Whistleblower identifies conduct or behaviour that is notifiable under Related Legislation, there are protections in place for the Whistleblower under that legislation.

Reports made to the Whistleblower Protection Officer (WPO) will ensure the reported matter is managed in accordance with the Related Legislation, and where suitable, the Feedback Management Policy and Guideline.

Where the WPO or Alternate WPO makes a referral under Related Legislation, to the extent it is within the control of SCCQ, this Policy will not limit the protection/s available under other that legislation.

## Principles

### 4. Protections available to Whistleblowers

After making a disclosure, the Whistleblower's identity will be treated as confidential subject to any requirements to disclose the identity. If a person makes a disclosure that qualifies for protection:

- a) the person is not subject to any civil, criminal or administrative liability (including disciplinary action) for making the disclosure; and
- b) no contractual or other remedy may be enforced, and no contractual or other right may be exercised, against the person on the basis of the disclosure; and
- c) if the disclosure qualifies for protection under the Corporations Act relating to disclosures to ASIC, APRA or prescribed body; or relating to public interest and emergency disclosures of the Corporations Act the information is not admissible in evidence against the person in criminal proceedings or in proceedings for the imposition of a penalty, other than proceedings in respect of the falsity of the information.

Note: Except as provided for by paragraph (c), this does not prevent the person being subject to any civil, criminal or administrative liability for conduct of the person that is revealed by the disclosure.

#### 4.1 Victimization prohibited

Victimization or threatening to victimise a Whistleblower or a person because it is believed or suspected that they or any other person made, may have made, proposed to make or could make a disclosure that qualified for protection as a Whistleblower is strictly prohibited. Victimization includes engaging in Detrimental conduct towards a Whistleblower or any person involved in an investigation of a matter disclosed under this Policy. Threatening to victimise includes threatening to cause detriment to a person.

## Whistleblower

### 4.2 Role of the Whistleblower Protection Officer (WPO)

The Whistleblower Protection Officer ensures the protection and fair treatment of the Whistleblower as well as investigation, follow up and reporting where required.

## Guidelines and Procedure

### 5.1 Disclosure Process

A disclosure within the scope of this policy is to be made to a Whistleblower Protection Officer or other Eligible Recipient in order to qualify for the protections available.

In the first instance, a disclosure should be made to SCCQ's Company Secretary, who has been appointed as the Whistleblower Protection Officer (WPO). The Company Secretary is external to SCCQ. Contact details are:

Justin Hogg – SCCQ Company Secretary

Email: [justin.hogg@rightsource.com.au](mailto:justin.hogg@rightsource.com.au)

Phone: 1300 141 333

Alternatively, the disclosure may be made to the Alternate Whistleblower Protection Officer – the Chair of the Governance, Risk and Finance Committee, who is a director on the Board of SCCQ. Contact details are:

Chair, Governance, Risk and Finance Committee

Email: [Governance@sccqld.com.au](mailto:Governance@sccqld.com.au)

Phone: 07 3340 2200

You also have the option of making disclosures to any Eligible Recipient – that is:

- the Chief Executive Officer;
- any member of the Executive Leadership Team; or
- any member of the Board.

If you would like more information about the process before making your disclosure, you can contact any of the Eligible Recipients.

Disclosures may also qualify for protection where they are made to ASIC, APRA or other prescribed Commonwealth authorities.

Under this very specific circumstances, disclosures may be made to a journalist or a parliamentarian. Those circumstances are:

- Public Interest disclosures; and
- Emergency disclosures.

See the Definitions section for an explanation of the conditions for these types of disclosures.

## Whistleblower

Disclosures should be made in writing and include all relevant information associated with the disclosure that the Whistleblower is permitted to provide. In the event that direct information (i.e. copies of information) is not able to be provided, a clear explanation in writing of the information should be provided so that the information, if relevant and/or necessary, can be obtained at a later date by an authorised person.

It is preferred that the Whistleblower identifies themselves when making a disclosure, as this greatly assists the investigation process. However, Whistleblowers may choose to make their disclosure anonymously. In these circumstances, the protections under the Whistleblower Policy still apply. Ideally, the Whistleblower should provide sufficient information to allow the matter to be properly investigated. Southern Cross Care encourages the Whistleblower to provide an anonymous email address through which additional questions can be asked and additional information provided.

### 5.2 Investigation process

- Following a disclosure, the WPO will determine the investigation process, including who in the organisation is to be informed.
- Confidentiality of the identity of the Whistleblower will be maintained at all stages, unless otherwise required by law.
- In order to avoid damaging the reputations of innocent persons initially suspected of wrongful conduct, information regarding the disclosure and the results of audits / investigations will only be disclosed to those persons necessary to properly investigate the matter and who require the knowledge in the proper performance of their office or function.
- The initiation and outcome of the investigation may be reported to the Chief People & Mission (or the CEO or Alternate WPO if the matter involves the Chief People & Mission), who will determine the action to be taken. This may include suspension with pay while the matter is being investigated through to the termination of employment of any worker. A decision will be made in each case about whether the matter is to be referred to any relevant external agency.
- The principles of natural justice will be observed in relation to those persons against whom allegations are made, whilst upholding the protections afforded to the Whistleblower.

SCCQ, at its absolute discretion, may seek external assistance or make an external appointment at any time to ensure the disclosure is appropriately dealt with.

The length of time taken to conduct the investigation will vary. The person conducting the investigation will update the Whistleblower on progress as appropriate, and will also communicate the outcome of the investigation to the Whistleblower.

### 5.3 Managing the welfare of the Whistleblower

SCCQ is committed to the protection of genuine Whistleblowers against reprisal action from making disclosures. Strategies to support the Whistleblower will be put in place.

If the person who makes a disclosure is implicated in misconduct, SCCQ will handle the disclosure and protect the Whistleblower from reprisal in accordance with this policy. SCCQ acknowledges that the act of whistleblowing should not shield Whistleblowers from the consequences of their involvement in improper conduct. A person's liability for their own conduct is not affected by the person's disclosure of this misconduct.

## Whistleblower

### 5.4 Managing the person against whom a disclosure is made

SCCQ recognises that employees against whom disclosures are made must also be treated fairly. The fact that an investigation has been carried out, the results of the investigation, and the identity of the person who is the subject of the disclosure will remain confidential, other than as is required to properly investigate the matter and take appropriate action.

The Whistleblower Protection Officer will ensure that the person who is the subject of any disclosure investigated by or on behalf of SCCQ is provided with natural justice, including being given an opportunity to respond to the allegations prior to a final decision being made.

This does not prevent the need to conduct investigations.

### 5.5 Breach of policy

False reports can have significant effects on the reputation of Southern Cross Care and on the reputation of its employees, and would cause considerable waste of time and effort. Accordingly, any deliberately false disclosures under the Whistleblower Policy will be treated as a serious disciplinary matter.

Breaches of this policy may result in disciplinary action up to and including termination, depending on the seriousness of the breach/es, being taken against the employee.

For other persons a breach of this policy may result in appropriate action, which may include the termination of the person's agreement with SCCQ.

## Quality

6. SCCQ recognises that Whistleblower protection is a requirement under the Corporations Regulations 2001 and other legislation; refer to definitions table.

## Accountability

7. The Board has overall responsibility for ensuring this policy is complied with.
8. The Chief Executive Officer (CEO) delegates responsibility through the Executive Leadership Team (ELT) for the operation of this policy.
9. Leaders of functions, areas and teams are responsible for supporting and communication of this policy to all workers. Demonstrating compliance with the policy is implemented and operational.
10. All workers are responsible for understanding and complying with the policy.
11. This policy is available on SCCQ's intranet, and for external parties, on the website.

## Quality Improvement

12. SCCQ values feedback from stakeholders and is committed to system and process improvement. Feedback and suggestions about this Policy should be directed to [quality@sccqld.com.au](mailto:quality@sccqld.com.au).

### Terms and Definitions

The following key terms and definitions apply to this Policy:

Term	Definition
Agency Worker	A person engaged under a labour hire arrangement with an external agency to perform work duties for an Organisation. The Organisation is the host employer; however, there is no employment relationship between the Agency worker and any Organisation (for example, an Agency Nurse or Physiotherapist.)
Alternative Whistleblower Protection Officer	Means the person's named below, who will be the Whistleblower Protection Officer if the disclosure relates to or involves the Whistleblower Protection Officer.
Consultant	A person who is engaged to provide professional services on an 'as needed' or ad hoc basis, either as a sole trader or via an external business or a company to provide advice and/or support to the Organisation's business activities. There is no employment relationship between the Consultant and the Organisation. For example, a lawyer, auditor or business consultant. A Consultant is not a worker for the purpose of this Policy.
Contractor	A person who is engaged to provide professional services functions to the Organisation either as a sole trader or via an external business or company that employs them. This person may be based in an office and/or on site to provide services for a limited term or for the duration of a project. The Organisation is the host employer; however, there is no employment relationship between the Contractor and any Organisation (for example, a Project Officer, Change Manager or Rehabilitation Services Contractor).
Detrimental Conduct	Includes actual or threatened conduct including but not limited to): <ul style="list-style-type: none"> <li>• Termination of employment;</li> <li>• Injury to employment including demotion or disciplinary action;</li> <li>• Alteration of position or duties;</li> <li>• Discrimination;</li> <li>• Harassment or intimidation;</li> <li>• Harm or injury, including psychological harm;</li> <li>• Damage to a person's property;</li> <li>• Damage to a person's reputation;</li> <li>• Damage to a person's business or financial position;</li> <li>• Any other damage to a person.</li> </ul>
Eligible Recipient	Includes: <ul style="list-style-type: none"> <li>• the Chief Executive;</li> <li>• any member of the Executive Leadership Team;</li> <li>• any member of the Board including the Chair of the Governance and Risk Committee;</li> </ul>
Emergency disclosure	<b>The disclosure of information to a journalist or parliamentarian, where:</b> <p>(a) the discloser has previously made a disclosure of the information to ASIC, APRA or another Commonwealth body prescribed by regulation;</p> <p>(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;</p>

## Whistleblower

Term	Definition
	<p>(c) before making the public interest disclosure, the discloser has given written notice to the body in (a) above to which the previous disclosure was made that:</p> <ul style="list-style-type: none"> <li>(i) includes sufficient information to identify the previous disclosure; and</li> <li>(ii) states that the discloser intends to make a public interest disclosure.</li> </ul> <p><b>(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.</b></p>
Employee	An employee is a person paid a salary or wages to undertake work for SCCQ
Leader	A person in a leadership and management role including, but not limited to, an Executive, 'Head of', Manager, Supervisor or Team Leader. Leaders may be responsible for a function, area and/or team.
Misconduct	<p>Includes without limitation:</p> <ul style="list-style-type: none"> <li>a) Fraud</li> <li>b) Negligence</li> <li>c) Breach of duty or trust</li> <li>d) Default</li> <li>e) Criminal offences</li> <li>f) Failure to comply with any legal obligation</li> <li>g) Failure to comply with any obligation of SCCQ as a provider of aged care services</li> <li>h) Unfair or unethical dealing with a customer, supplier or agent of SCCQ</li> <li>i) Corrupt conduct</li> <li>j) Human rights abuses</li> <li>k) Risk to the health or safety of any person</li> <li>l) Unethical conduct</li> </ul> <p>Any deliberate concealment relating to the above.</p>
Personal work-related grievance	<p>The information disclosed concerns a personal work-related grievance of the Whistleblower if:</p> <ul style="list-style-type: none"> <li>a) the information concerns a grievance about any matter in relation to the Whistleblower's employment, or former employment, having implications for the Whistleblower personally; and</li> <li>b) the information <ul style="list-style-type: none"> <li>i. does not have significant implications for SCCQ, or another regulated entity, that do not relate to the Whistleblower</li> </ul> </li> </ul> <p>Examples of grievances that may be personal work-related grievances are as follows:</p> <ul style="list-style-type: none"> <li>▪ an interpersonal conflict between the Whistleblower and another employee;</li> <li>▪ a decision relating to the engagement, transfer or promotion of the Whistleblower;</li> <li>▪ a decision relating to the terms and conditions of engagement of the Whistleblower;</li> <li>▪ a decision to suspend or terminate the engagement of the Whistleblower, or otherwise to discipline the Whistleblower.</li> </ul>
Public Interest disclosure	<p>The disclosure of information to a journalist or parliamentarian where:</p> <ul style="list-style-type: none"> <li>(a) the matter has already been disclosed to ASIC, APRA or another Commonwealth body prescribed by regulation, and at least 90 days have passed since that disclosure was made;</li> <li>(b) the discloser does not have reasonable grounds to believe that action is being, or has been taken, in relation to their disclosure;</li> </ul>



## Whistleblower

Term	Definition								
	<p>(c) the discloser has reasonable grounds to believe that making a further disclosure of the information is in the public interest; and</p> <p>(d) before making the public interest disclosure, the discloser has given written notice to the body in (a) above to which the previous disclosure was made that:</p> <ul style="list-style-type: none"> <li>(i) includes sufficient information to identify the previous disclosure; and</li> <li>(ii) states that the discloser intends to make a public interest disclosure.</li> </ul>								
Regulated entity	As per the definition set out in section 1317AAB of the Corporations Act 2001								
Regulations	Means the Corporations Regulations 2001								
Related legislation	<p>Means legislation referred to in Clause 4.1(c) of the Policy including:</p> <ul style="list-style-type: none"> <li>• Corporations Act 2001;</li> <li>• Australian Securities and Investments Commission Act 2001;</li> <li>• Banking Act 1959;</li> <li>• Financial Sector (Collection of Data) Act 2001;</li> <li>• Insurance Act 1973;</li> <li>• Life Insurance Act 1995;</li> <li>• National Consumer Credit Protection Act 2009;</li> <li>• Superannuation Industry (Supervision) Act 1993.</li> </ul>								
SCCQ	Southern Cross Care (Qld) Ltd ABN: 65 104 033 471 ACN: 627 193 962								
Volunteer	A person who willingly gives their time for the common good of SCCQ and without financial gain.								
Whistleblower Protection Officer (WPO)	<p>Means the following persons:</p> <table border="1" data-bbox="427 1182 1489 1447"> <tbody> <tr> <td>WPO</td> <td>Company Secretary</td> <td>1300 141 333</td> <td>justin.hogg@rightsource.com.au</td> </tr> <tr> <td>Alternate WPO</td> <td>Chair of the Governance, Risk, and Finance Committee (a non-executive director)</td> <td>07 3340 2200</td> <td>Southern Cross Care (Qld) Ltd 2078 Logan Road Upper Mount Gravatt Qld 4122 <a href="mailto:governance@sccqld.com.au">governance@sccqld.com.au</a></td> </tr> </tbody> </table>	WPO	Company Secretary	1300 141 333	justin.hogg@rightsource.com.au	Alternate WPO	Chair of the Governance, Risk, and Finance Committee (a non-executive director)	07 3340 2200	Southern Cross Care (Qld) Ltd 2078 Logan Road Upper Mount Gravatt Qld 4122 <a href="mailto:governance@sccqld.com.au">governance@sccqld.com.au</a>
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Worker	<p>A person who carries out work for SCCQ as:</p> <ul style="list-style-type: none"> <li>(a) An employee;</li> <li>(b) A trainee;</li> <li>(c) A student gaining work experience;</li> <li>(d) A volunteer;</li> <li>(e) A consultant; or</li> <li>(f) A contractor.</li> </ul>								

### Version History

Version	Date	Description of change and reason for change
V1	04/08/2014	First issue
V2	18/12/2019	Reviewed and updated (approved at Board Meeting)

# Policy

## Whistleblower



V3	29/03/2023	Reviewed. Updated to include further definitions; disclosure and investigation process and Whistleblower Protection Officer. Approved at Board Meeting (29/3/23).
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