

Whistleblower Policy & Procedure



Barnardos Australia (**'Barnardos'**) is a values based organisation that prioritises ethical behaviour, transparency, integrity and accountability in all its activities.

Whistleblowing plays an important role in preventing misconduct and this is especially important for Barnardos who receives funding from governments and donations or grants from corporations, philanthropists and donors to work with vulnerable children and families.

Barnardos prides itself on having an organisational culture that supports and encourages people to raise concerns about misconduct and that in doing so they will be protected.

The Barnardos Board, Executive and Management are committed to maintaining a workplace free of misconduct and is supportive of whistleblowing.

This policy has been prepared to ensure Barnardos complies with its obligations in relation to whistleblowers as set out in the *Corporations Act*.

1. Scope of this Policy

This policy applies to all Board Members and employees (including volunteers, consultants and contractors) of Barnardos and related entities and it will be made available to all such persons.

The purpose of this policy is to provide information in relation to:

- who can be eligible for whistleblower protection when they make a disclosure
- types of disclosures that qualify for whistleblower protection
- whom a whistleblower's disclosure can be made to, and how to make a disclosure
- legal protections available for whistleblowers
- how Barnardos will support whistleblowers and protect them from detriment
- how Barnardos will investigate disclosures that qualify for whistleblower protection, and
- how Barnardos will ensure fair treatment of employees who are mentioned in disclosures that qualify for whistleblower protection, and employees to whom such disclosures relate.

2. Circumstances where whistleblower protection applies

For whistleblower protection to apply, each of the following three requirements must be met:

- (a) the person who makes the disclosure is within categories of people who are prescribed as eligible whistleblowers in the *Corporations Act* (as discussed in **section 3** below),
- (b) the disclosure is of a type that qualifies for whistleblower protection (as discussed in **section 4** below), and
- (c) the disclosure is made to a person to whom a disclosure can be made (as discussed in **section 5 and section 6** below).

3. Who can make a disclosure and be eligible for whistleblower protection?

Persons who are within the following categories (or formerly in one of these categories, or their relatives), can make a disclosure and be eligible for whistleblower protection:

- Barnardos officers
- full time, part time, casual staff and volunteers
- contractors (and their employees)
- suppliers whether unpaid or not (and their employees and volunteers).

4. What types of disclosures qualify for whistleblower protection?

Barnardos encourages the disclosure of information that suggests misconduct, an improper state of affairs or a contravention of legislation.

A disclosure qualifies for protection if the discloser has **objectively reasonable grounds** to suspect the information:

- concerns **misconduct, or an improper state of affairs or circumstances** in relation to Barnardos or a related body corporate, or
- indicates that Barnardos, or an officer or employee of Barnardos (or a related body corporate, or an officer or employee of a related body corporate), has engaged in conduct that:
 - breaches the *Corporations Act, Australian Securities and Investments Commission (ASIC) Act 2001, Taxation Administration Act 1953, Banking Act 1959, Financial Sector (Collection of Data) Act 2001, Insurance Act 1973, Life Insurance Act 1995, National Consumer Credit Protection Act 2009, Superannuation Industry (Supervision) Act 1993* or breaches an instrument made under one of the above mentioned Acts
 - constitutes an offence against any other law of the Commonwealth that is punishable by imprisonment for a period of 12 months or more, or
 - represents a danger to the public or the financial system.

As noted above, the person making the disclosure must have objectively reasonable grounds to suspect wrongdoing.

Misconduct or an improper state of affairs or circumstances includes breaches of general law, organisational policy or generally recognised principles of ethics and, depending upon the specific circumstances and the seriousness of the breach) includes:

- corrupt conduct
- fraud or theft
- official misconduct
- systemic harassment or unlawful discrimination

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- systemic practices seriously endangering the health or safety of staff, volunteers or the general public
- systemic practices seriously endangering the environment.

An example of a disclosure that qualifies for whistleblower protection under this policy include the following hypothetical scenario:

- *Conflict of interest/fraud:* Information suggests that an employee owns a share in a company that is being used as a supplier on a project, and no disclosure of the employee's interest in the supplier has occurred (and Barnardos has not approved the supplier in full awareness of the conflict of interest).

Personal work-related grievances **do not** qualify for protection under this policy **unless** they relate to a detriment suffered in contravention of this policy. A personal work-related grievance is where the information concerns a grievance about any matter in relation to the discloser's employment, or former employment, having (or tending to have) implications for the discloser personally, provided:

- the information does not have significant implications for Barnardos that do not relate to the discloser, and
- the information does not concern conduct that indicates a breach of the legislation set out above or constitute an offence against any other law of the Commonwealth that is punishable by imprisonment for a period of 12 months or more, or represent a danger to the public or the financial system.

Examples of grievances that may be personal work-related grievances, and consequently **do not** qualify for protection under this policy, are as follows:

- an interpersonal conflict between the discloser and another employee
- a decision relating to the engagement, transfer or promotion of the discloser
- a decision relating to the terms and conditions of engagement of the discloser
- a decision to suspend or terminate the engagement of the discloser, or otherwise to discipline the discloser.

This policy must not be used for frivolous or vexatious purposes since there must always be objectively reasonable grounds to suspect wrongdoing for it to be reported under this policy.

This policy is aligned to and supports Barnardos Code of Conduct and is one of a number of policies and procedures to support and promote honest and ethical behaviour within the workplace.

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5. To whom can a whistleblower's disclosure be made and how can a whistleblower disclose misconduct or improper affairs/circumstances

A disclosure can be made to an 'eligible recipient'. It is Barnardos' preference that disclosures be made to the following 'eligible recipients':

Eligible Recipients	What
Executive Manager	Any disclosure concerning an employee, volunteer or contractor.
Executive Manager, People & Practice	Any disclosure concerning an employee, volunteer or contractor (except those involving or implicating other Executive Managers)
CEO	Any disclosure concerning an Executive Manager
Chair of the Board	Any disclosure concerning the CEO or Board member
Deloitte Australia (Barnardos' Auditor)	Any potential financial breach of the Corporations Act 2001
ASIC	Any potential breach of the laws ASIC administers (i.e. Corporations Act 2001)

Alternatively, disclosures can be made to any of the following 'eligible recipients':

- an actuary of Barnardos (or a related entity)
- the Australian Prudential Regulation Authority (APRA) or
- a commonwealth authority prescribed as an 'eligible recipient'.

Disclosers are encouraged to initially make a disclosure on a non-anonymous basis since such a report can assist the 'eligible recipient' to more readily investigate the allegations. Although disclosers are entitled to make an anonymous disclosure if they wish, doing so results in certain challenges in both investigating the disclosure and seeking to provide whistleblower protection and support to the discloser.

If a person makes a disclosure that would otherwise qualify for protection under this policy, to a person who is not an 'eligible recipient' (as set out above – for example, to a colleague or supervisor), the person to whom the disclosure is made must:

- keep it strictly confidential
- not disclose the name of the person who made the disclosure

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- not victimise the discloser, and
- direct the person to this policy and encourage them to report it to an 'eligible recipient' as listed above.

This ensures the discloser is entitled to the whistleblower protections that are available in the *Corporations Act* and under this policy and enables the matter to be investigated properly.

6. Can I disclose misconduct or improper affairs/circumstances to an independent and external organisation?

Barnardos has contracted **Your Call Whistleblowing Solutions (Your Call)** to receive and manage disclosures under this policy with impartiality and confidentiality.

This service allows whistleblowers to:

- remain completely anonymous
- identify themselves to Your Call only
- identify themselves to both Your Call and Barnardos.

The Your Call reporting options include:

Website <https://www.yourcall.com.au/report>
24/7

Telephone 1300 790 228
9am and 12am, recognised business days, AEST

Online reports can be made via the website address listed above. You will be required to enter Barnardos unique identifier code (BA2007).

Your Call remains the intermediary at all times, receiving and forwarding communication between all parties. Barnardos Officers who will have access to your reports include:

- Executive Manager, People & Practice
- CEO
- Barnardos Board Chair.

Your Call can circumvent any of the above Officers upon your request.

You are able to securely upload any relevant documentation and/or material relevant to your disclosure.

After making a disclosure, you will be provided with a unique Disclosure Identification Number (DIN) and access to a secure online Message Board.

The Message Board allows ongoing anonymous communication with Your Call and/or Barnardos. Your Call remains the intermediary at all times, receiving and forwarding communication between all parties. The Message Board can be used to receive updates, share further information/evidence and request support or report retaliation. If you cannot access the Message Board, you can contact Your Call via phone (above) for verbal updates.

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If you are deaf, or have a **hearing or speech impediment**, you can contact Your Call online or through the National Relay Services. Simply choose your contact method at www.relayservice.gov.au and request Your Call's hotline 1300 790 228 relevant number.

If you have **difficulty speaking or understanding English**, contact Your Call through the Translating and Interpreting Services (TIS) 131 450 and ask for Your Call on 1300 790 228 relevant number.

7. How Barnardos will investigate disclosures?

To reassure disclosers as to the integrity with which the material they provide will be assessed by Barnardos, the investigation of a disclosure will be undertaken by appropriately qualified parties, depending on the matter or content of the material disclosed.

Investigations will be conducted in accordance with the usual principles that apply to ensure a fair investigation occurs. The exact procedure will be determined on a case by case basis.

Where appropriate to do so, the discloser will receive relevant and timely feedback on the progress of the investigation, which may vary on a case by case basis. At the conclusion of the investigation they will typically be informed of the outcome.

If the discloser chooses to disclose an issue anonymously, this may affect the ability to fully investigate the matter. However, Barnardos will still assess the material that is provided and investigate to the extent possible.

8. How Barnardos will support whistleblowers and protect them from detriment

Barnardos will provide this policy and training to all Officers and Senior Managers who are entitled to receive a disclosure under this policy. This training will include ensuring they are aware of their strict obligation not to reveal a whistleblower's identity in contravention of this policy, and to ensure they are aware of their obligations in relation to no detriments or reprisals towards the discloser.

Barnardos will provide this policy to all employees.

All Officers and employees must ensure they are familiar with this policy and in particular, the description in **section 9** of this policy, of what it means for a person to suffer a detriment or be victimised. They must ensure they do not engage in such conduct where they are either aware of the identity of a whistleblower or suspect they are aware of the identity of a whistleblower.

If a whistleblower is concerned that they have suffered any detriment or victimisation as a result of having made a disclosure, the whistleblower is encouraged to contact the Executive Manager, People & Practice, and provide full details of what has occurred. The Executive Manager, People & Practice (or another key contact person as appointed by Barnardos) will

be available to respond to queries or concerns raised by the whistleblower.

Where the whistleblower is a current Barnardos employee, the Employee Assistance Program (EAP) is also available as a source of support.

9. Legal protection for whistleblowers

A discloser who meets the requirements for legal whistleblower protection is entitled to protections under the *Corporations Act* including:

- not to have their identity revealed by Barnardos, and
- not to have information revealed by Barnardos that is likely to lead to the identification of the discloser.

These requirements will not be contravened where Barnardos provides information to ASIC, APRA, a member of the Australian Federal Police, a legal practitioner for the purpose of obtaining legal advice, a Commonwealth or State authority for the purpose of assisting the authority in the performance of its functions, or where the discloser consents. Further, provided the identity of the discloser is not revealed and all reasonable steps are taken to reduce the risk that the discloser's identity will be revealed, steps may be taken that are reasonably necessary for the purpose of investigating the matter.

For example, if a discloser alleges that a staff member has endangered the safety of a child or young person in out-of-home care, Barnardos is required by law to report to this to the relevant statutory child protection authorities and Ombudsman (if it's a reportable conduct allegation against an employee or carer).

A discloser who meets the requirements for legal whistleblower protection is also entitled to:

- protection from civil or criminal liability for making the disclosure
- not suffer any detriment (real or threatened as discussed further below) as a result of the disclosure
- have their contract not terminated on the basis of their disclosure, and
- protection from victimisation (as discussed further below).

In particular, a discloser must not be disadvantaged by any form or detriment or victimisation including reprisals such as dismissal, demotion, alteration of their position or duties, blocking of promotion, discrimination, harassment, intimidation, harm or injury (including psychological harm), damage to property, damage to reputation, damage to their business or financial position or any other damage.

10. How Barnardos will ensure fair treatment of employees who are mentioned in disclosures that qualify for whistleblower protection, and employees to whom such disclosures relate

Please refer to the section above in relation to how Barnardos will investigate disclosures.

Further, Barnardos, through the Executive Manager, People & Practice, will take reasonable steps to protect other employees who have been requested to assist in investigating from any detriment or reprisal as a consequence of their involvement in an investigation.

Where any Officer, employee or contractor breaches the Whistleblower Policy by acts of intimidation, retaliation etc this will be considered to be a breach of Barnardos' Code of Conduct and will be dealt with as such as outlined within that policy.

Unsubstantiated, malicious allegations which are proven to be false will be viewed seriously and followed up with appropriate disciplinary action up to and including termination of employment.

11. Relationship to Barnardos' Complaints and Grievances Policy

Complaints

Under Barnardos Complaints Policy clients (children, young people, birth parents, carers, family/kin) can raise concerns about:

- decisions made by Barnardos staff about Barnardos program and services
- the conduct of staff, volunteers and carers, including the quality of services provided,
- Barnardos' policies.

The procedure for investigating a complaint includes four tiers:

1. Talking to your Program Manager
2. Escalation to the Centre Manager or Regional Manager
3. Escalation to the Executive Manager,
4. Escalation to the CEO.

To make navigation of the complaints process easier, clients can call 02 9218 2455 or email complaints@barnardos.org.au. The complaint will then be directed to the relevant tier and its resolution oversighted centrally. A central complaints register is kept and updated quarterly.

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If the CEO hasn't resolved a client's complaint to their satisfaction, they can contact the:

ACT	NSW
<p>Human Rights Commission (HRC) (for services for children and young people and people with a disability) Physical Address: Level 4, CFM Building, 12 Moore St, Canberra City, ACT Phone: 02 6205 2222 Fax: 02 6207 1034 TTY: 02 6205 1666 Email: human.rights@act.gov.au Web: http://www.hrc.act.gov.au</p>	<p>NSW Ombudsman (for matters related to children and young people) Level 24/580 George Street Sydney, NSW, 2000 Phone: 02 9286 1000 Toll free: 1800 451 524 Email: nswombo@ombo.nsw.gov.au Web: www.ombo.nsw.gov.au</p>
<p>Public Advocate of the ACT (PA) (children and young people) 3rd Floor, CFM Building, 12 Moore St, Canberra City Phone: 02 6207 0707 Phone Enquires can be made Monday to Friday 9.00am to 1.00pm & 2:00 to 4:30 Fax: 6207 0688 Email: pa@act.gov.au Web: http://www.publicadvocate.act.gov.au/</p>	<p>NDIS Quality and Safeguards Commission (for NDIS services) Phoning: 1800 035 544 (free call from landlines) or TTY 133 677. Interpreters can be arranged. National Relay Service and ask for 1800 035 544.</p>
<p>ACT Civil and Administrative Tribunal (ACAT) (for tenancy issues, reviewable administrative decision and discrimination complaints) Phone: (02) 62071740 Fax: (02) 62054855 Email: tribunal@act.gov.au Web: www.acat.act.gov.au</p>	<p>NSW Civil and Administrative Tribunal (NCAT) (for tenancy issues, reviewable administrative decisions and discrimination complaints) Telephone 1300 006 228 1300 006 228 and follow the prompts Interpreter Service (TIS): 13 14 50 Web: www.ncat.nsw.gov.au</p>
	<p>Early Childhood Education Directorate (compliance issues in early childhood services) Phone: 1800 619 113 Email: ececd@det.nsw.edu.au</p>

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Grievances

Under Barnardos Complaints Policy, Barnardos staff and volunteers can raise concerns related to the work environment. For example, a grievance could be about:

- a transfer or promotion
- staff development or training
- rosters or hours of work
- wage or salary levels
- leave allocation
- the work environment
- safety in the workplace
- supervision
- inappropriate behaviour by another staff member,
- performance appraisal.

The procedure for investigating a grievance under the Barnardos Complaints Policy includes four tiers:

1. Issues raised with the Program Manager
2. Escalation to the Centre Manager or Regional Manager
3. Escalation to the Executive Manager,
4. Escalation to the CEO.

If the grievance is sufficiently serious, an external investigator may be appointed to conduct the investigation on behalf of Barnardos.

If the CEO is unable to resolve the grievance the employee or volunteer can contact:

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ACT	NSW
<p>Fair Work Commission (FWC) Level 3, CFM Building 12 Moore Street, Canberra City Phone: 1300 799 675 Fax: 02 6247 9774 Email: canberra@fwc.gov.au Web: http://www.fwc.gov.au</p>	<p>Fair Work Commission (FWC) Level 10, Terrace Tower 80 William Street, East Sydney Phone: 1300 799 675 Fax: 02 9380 6990 Email: sydney@fwc.gov.au Web: http://www.fwc.gov.au</p>
<p>ACT Human Rights Commission (HRC) Level 4, CFM Building, 12 Moore St, Canberra City Phone: 02 6205 2222 Fax: 02 6207 1034 TTY: 02 6205 1666 Email: human.rights@act.gov.au Web: http://www.hrc.act.gov.au</p>	<p>Human Rights Commission (HRC) Level 3, 175 Pitt Street, Sydney Phone: 1300 656 419 Fax: 02 9284 9611 Email: infoservice@humanrights.gov.au Web: http://www.humanrights.gov.au</p>
<p>WorkSafe (ACT) Phone: 02 6207 3000 Email: worksafe@act.gov.au Website: www.worksafe.act.gov.au</p>	<p>SafeWork (NSW) Phone: 13 10 50 Email: contact@safework.nsw.gov.au Website: www.safework.nsw.gov.au</p>
<p>ACT Civil and Administrative Tribunal (ACAT) Phone: (02) 6207 1740 Fax: (02) 6205 4855 Email: tribunal@act.gov.au Web: www.acat.act.gov.au</p>	<p>NSW Civil and Administrative Tribunal (NCAT) Phone: 1300 006 228 Interpreter Service (TIS): 13 14 50 Web: www.ncat.nsw.gov.au</p>

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12. Version control and change history

Approved by:	Board	Approval date:	September 2018
Date Effective:	September 2018	Next Review Due: (3 years from Date Effective)	September 2021
Contact for Queries:	Executive Manager, People and Practice		

Version Number	Approval Date	Approved by	Amendment
1.0	September 2018	Board	N/A
2.0	June 2019	CEO	Incorporating changes arising from the Treasury Laws Amendment (Enhancing Whistleblower Protections) Bill 2018. Engagement of Your Call Whistleblowing Solutions (Your Call) to receive and manager disclosures impartiality and confidentiality.