

Whistleblower Policy & Guidelines

barnardos.org.au



**Barnardos
Australia**

Whistleblower Policy & Guidelines

Contents

1. Purpose	4
2. Scope	4
3. Definitions	4
4. Policy	5
5. How a whistleblower can disclose misconduct	5
What happens next?.....	6
Support for Employees Raising Concerns.....	6
Protection for Whistleblowers.....	7
Relationship to Complaints and Grievances.....	8
Grievances.....	9
Whistleblowing.....	10
Confidentiality.....	10
False Disclosure of Improper Conduct.....	10
Breach.....	10
Version control and change history	11

Whistleblower Policy & Guidelines

1. Purpose

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.

2. Scope

This policy and the guidelines apply to all Board Members and employees (including volunteers, consultants, and contractors) of Barnardos Australia and related entities.

3. Definitions

'Whistleblowing' is the act of raising concerns about misconduct within an organisation. In particular, the disclosure of illegal, immoral, or illegitimate practices, to persons that may be able to effect action.

A 'whistleblower' can be any employee, director, officer, volunteer, or contractor who, whether anonymously or not, makes or attempts to make a disclosure as defined above.

Misconduct includes breaches of general law, organisational policy or generally recognised principles of ethics and includes:

- corrupt conduct
- fraud or theft
- official misconduct
- harassment
- unlawful discrimination
- practices endangering the health or safety of staff, volunteers or the general public
- practices endangering the environment.

Whistleblower Policy & Guidelines

“Officer” - The Corporations Act defines an officer as a person who:

- makes decisions that affect the whole or a substantial part of the business
- has the capacity to affect significantly the corporation's financial standing, or
- in accordance with whose instructions or wishes the directors are accustomed to act (excluding advice given by a person in the proper performance of functions attaching to the person's professional capacity or their business relationship with the director).

4. Policy

Barnardos actively encourages the reporting of misconduct. While such disclosures would ordinarily occur through the normal lines of reporting to management, any person may, in good faith, report potential misconduct through alternative pathways (Table 1) where matters are considered to be significantly grave or where the whistleblower fears reprisal.

Barnardos recognises the personal impact that making disclosures of misconduct may have on an individual and will treat all disclosures made in good faith with sensitivity, confidentiality, and security to protect the anonymity of whistleblowers (wherever possible).

This policy must not be used for frivolous or vexatious purposes, solely or substantially to avoid disciplinary action and/or for matters more appropriately dealt with under other Barnardos policies and guidelines.

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

5. How a whistleblower can disclose misconduct

Under normal circumstances, employees should disclose information in relation to misconduct with their line manager. Where this is not possible, for example where the line manager is involved in the conduct themselves, employees may raise their concerns as per the below.

Table 1: Disclosing Misconduct in Barnardos

To Whom	What
Executive Leader, People & Culture	Any allegation of misconduct concerning an employee, volunteer or contractor
CEO	Any allegation of misconduct concerning an Executive Leader
Chair of the Board	Any allegation of misconduct concerning the CEO or Board member

Whistleblower Policy & Guidelines

Deloitte Australia (Company Auditor)	Any potential financial breach of the Corporations Act 2001
ASIC	Any potential breach of the laws ASIC administers (i.e. Corporations Act 2001)

Williamson Barwick Lawyers are available to support whistleblowers. This includes:

- providing advice about who a whistleblower can disclose to
- receiving disclosures directly from a whistleblower who are not comfortable with reporting in accordance with Table 1, and
- providing advice about what protections may apply under the Corporations Act 2001.

Managing Director, Williamson Barwick Lawyers can be contacted on (02) 9251 4900 and after hours on 0419 620 026.

What happens next?

All allegations of misconduct will be investigated by Barnardos. The only exceptions being that if it is a police matter, the police investigation must be finalised first. Barnardos will ensure that all investigations of misconduct observe the rules of procedural fairness (or natural justice) which means that Barnardos will:

- inform the person being investigated of the accusations
- allow them to present their case
- hear the case without bias, and
- act only on the evidence.

All allegations of misconduct (within the scope of the Whistleblowing Policy) regarding an Executive Manager, the CEO or a Board member, will be referred for independent investigation.

Support for Employees Raising Concerns

The Employee Assistance Program (EAP) is also available as a source of support for employees who have made a disclosure.

Whistleblower Policy & Guidelines

Protection for Whistleblowers

Any employee who discloses misconduct under this policy will be protected.

An employee who discloses misconduct in good faith and without having been involved in the misconduct will not be personally disadvantaged as a result of having made a disclosure. Being personally disadvantaged includes, but is not limited to:

- dismissal or suspension or demotion
- any form of harassment, including being threatened,
- discrimination. For a whistleblower to be protected under the Corporations Act 2001 they must meet five criteria and do certain things when making a disclosure.

Table 2: Criteria for protection as a whistleblower under the Corporations Act 2001

Criteria	Requirements
1. Your role	You must be a: <ul style="list-style-type: none"> • current officer (usually that means a director or secretary) of the company your disclosure is about • current employee of the company your disclosure is about, or • contractor, or the employee of a contractor, who has a current contract to supply goods or services to the company your disclosure is about.
2. Who the disclosure is made to	You must make your disclosure to: <ul style="list-style-type: none"> • the company's auditor, or a member of the company's audit team • a director, secretary or senior manager of the company a person authorised by the company to receive whistleblower disclosures, or • ASIC.
3. Providing your name	You must give your name to the person or authority you are making the disclosure to. To claim protection under the Corporations Act, ASIC requires whistleblowers to provide their name. If a whistleblower does not wish to claim this protection, then they do not have to identify themselves when disclosing the issue to Barnardos
4. Reasonable grounds to suspect breach	You must have reasonable grounds to suspect that the information you are disclosing indicates that the company or company officer may have

Whistleblower Policy & Guidelines

	breached the Corporations Act or the Australian Securities and Investments Commission Act 2001 (ASIC Act).
5. Made in good faith	You must make the disclosure in 'good faith'. That means your disclosure must be honest and genuine, and motivated by wanting to disclose misconduct. Your disclosure will not be 'in good faith' if you have any other secret or unrelated reason for making the disclosure.

Relationship to Complaints and Grievances

Complaints

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

NSW	ACT
NSW Ombudsman Ph: 1800 451 524 e-mail: ombo@nsw.gov.au	ACT Children and Young People Commissioner and Public Advocate Ph: 02 6205 2222 e-mail: humanrights@act.gov.au

Whistleblower Policy & Guidelines

Grievances

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 includes four tiers:

1. Issues is raised with the supervisor or 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:

NSW	ACT	Commonwealth
SafeWork NSW Ph: 13 10 50 e-mail: contact@safework.nsw.gov.au	WorkSafe ACT Ph: 13 22 81 e-mail: worksafe@act.gov.au	Fair Work Ombudsman Ph: 13 22 81 web: www.fairwork.gov.au
Anti-Discrimination Board of NSW e-mail: complaintsadb@justice.nsw.gov.au web: www.antidiscrimination.justice.nsw.gov.au	ACT Human Rights Commissioner Ph: (02) 6205 2222 e-mail: human.rights@act.gov.au	

Whistleblower Policy & Guidelines

Whistleblowing

A disclosure under the Whistleblower Policy must meet the definition of misconduct (see Definitions). There is a higher threshold for whistleblowing than for a complaint or grievance. However, nothing in this policy precludes a person from making a disclosure under this policy if it is not clear whether it is a grievance or complaint. In the event that an investigation of a grievance or complaint identifies misconduct under this Policy, the Whistleblower Policy and Guidelines will immediately apply.

Confidentiality

Barnardos encourages employees to include their name with disclosures made under this policy, although reports will be accepted anonymously.

Please note that if a whistleblower wants to claim protection under the Corporations Act, ASIC requires that the person's name be included with the disclosure.

All disclosures under this policy must be treated confidentially. Barnardos will not disclose information to anyone not connected with the investigation without the consent of the person raising the misconduct, unless the investigating officer is obliged to do so by law or it is necessary to prevent a serious threat to a person's health or safety.

For example, if a disclosure 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 NSW Child Protection Helpline (if it meets the threshold of risk of significant harm) and NSW Ombudsman (if it's a reportable conduct allegation against an employee or carer).

Not all allegations of misconduct allow for the identity of the complainant to be concealed. For example, in a case of sexual harassment this will involve the consideration of evidence from more than one person. In such cases, it may not be possible to conceal the identity of the person making the disclosure.

Also, raising a matter with a person may be sufficient for them to identify who has made the disclosure. Each disclosure will be examined on its merits and where in complex cases, independent legal advice will be sought.

False Disclosure of Improper Conduct

Barnardos takes deliberate or malicious false disclosures of misconduct very seriously. Any employee found to have made a false disclosure will be subject to disciplinary action, which may include termination of employment.

Breach

A breach of this policy will be taken very seriously and may result in disciplinary action, up to and including the termination of employment.

Whistleblower Policy & Guidelines

Version control and change history

Approved by:	Executive Leader, People & Culture	Approval date:	July 2024
Date Effective:	July 2024	Next Review Due:	July 2027
Contact for Queries:	People & Culture		

Version Number	Approval Date	Approved by	Amendment
V1.0			No Prior version control prior to May 2021
V2.0	May 2021	Executive Leader, People & Culture	Template update and version control and history added
V3.0	July 2024	Executive Leader, People & Culture	Updated roles and names attached to this.