

Board Governance System

Policy 1.11A – Whistleblower Framework

The Board of Benevolent Aged Care Ltd is committed to the highest standard of integrity and conduct. The Board recognises the value of transparency and accountability in its administrative and management practices, and fully supports and encourages the reporting of any improper conduct. This Whistleblower policy is an important tool assisting the Board with this commitment.

Purpose

This policy has been developed to:

- encourage the reporting of any instances where a person believes that the organisation, or anybody connected with the organisation, has acted in a way that constitutes improper conduct (such as of suspected unethical, illegal, fraudulent or undesirable conduct) involving Benevolent Aged Care (and its related entities) (BAC);
- help deter wrongdoing, in line with BAC's Risk Management and Governance Frameworks;
- ensure people who make disclosures can do so safely, securely and with the confidence that they will be protected and supported;
- ensure disclosures are addressed confidentially and in a timely manner;
- outline the protections and measures that have been implemented so that people who make a report can do so confidentially and without fear of intimidation, disadvantage or reprisal and with the protections offered under the Corporations Act (2001) s1317AI, and the Taxation Administration Act 1953 Part IVD.
- provide transparency on the processes that will be followed once a disclosure has been received;
- support the Value Statement of the organisation, as well as the Employee Code of Conduct.
- maintain and support BAC reputation as a quality service provider and good corporate citizen;
- meet BAC's legislative and regulatory obligations.

The board will at all times remain vigilant and be prepared to listen, initiate actions, and have the courage and tenacity to follow through on intelligence received from *Protected Whistleblowers*.

Who this policy applies to:

This policy applies to and provides protections to Protected Whistleblowers.

Protected Whistleblower

You are a Protected Whistleblower if:

- you are an Eligible Whistleblower; and
- you have disclosed (or intend to disclose) a Reportable Matter to an Eligible Recipient or to the Australian Securities and Investments Commission (ASIC), or another entity prescribed under the Corporations Act.

Board Governance System

Policy 1.11A – Whistleblower Framework

You will also be entitled to protection as a Protected Whistleblower if you get advice from a legal practitioner on the operation of whistleblowing protection laws. In more specific and limited circumstances where a matter is of public interest or there is an emergency, a report may also be protected if it is made to a journalist or a member of Parliament.

It is important that you understand the criteria for making a public interest or an emergency disclosure to be covered by the Whistleblower protections, and this policy. We recommend that you contact an independent legal adviser before making a public interest or an emergency disclosure.

Eligible Whistleblower

An Eligible Whistleblower is a person who is, or has been, any of the following:

- an officer or employee of BAC. This includes current and former employees.
- a person who supplies goods or services to BAC or an employee of a person who supplies goods or services to BAC (whether paid or unpaid) - this could include current and former volunteers, contractors, consultants, service providers and business partners;
- a person who is an associate of BAC - for example, a director or company secretary; or
- a relative or dependent of the spouse of any person referred to in this definition of Eligible Whistleblower.

Reportable Matters (Matters this policy applies to)

This section defines what is a Reportable Matter that will qualify for legal protection under the Corporations Act (or the Taxation Administration Act, where relevant). Disclosures that are not classed as a Reportable Matter will not be protected under the Corporations Act, the Taxation Administration Act and this policy. Such disclosures may be protected under other legislation such as the Fair Work Act 2009.

Reportable Matter

A disclosure will be a Reportable Matter if an Eligible Whistleblower, acting in good faith, has reasonable grounds to suspect concerns about misconduct, or an improper state of affairs or circumstances in relation to BAC.

Misconduct is defined by the s9 of the Corporations Act and includes Fraud, negligence, default, breach of trust and breach of duty.

Improper state of affairs, or circumstances may include situations that would include the identification of a systemic issue that the relevant regulator should be made aware of.

Other examples of a Reportable Matter include information that someone has engaged in conduct such as:

Board Governance System

Policy 1.11A – Whistleblower Framework

- Illegal conduct (such as theft; dealing in, stealing or using drugs, violence or threatened violence; criminal damage against property, etc)
- Fraud, money laundering or the misappropriation of funds;
- Breach of the Code of Conduct;
- Offering or accepting a bribe;
- Financial irregularities
- Failure to comply with, or a breach of, legal or regulatory requirements
- Engaging in or threatening to engage in detrimental conduct against a person who has made a disclosure or is believe or suspected to have made, or be planning to make a disclosure.
- Activity that constitutes a breach of the Corporations Act.
- A systemic breach of the Aged Care and Quality Standards or the Aged Care Act 1997.
- a breach of the Taxation Administration Act or improper conduct in relation to the tax affairs.

Personal or Work-related Grievances

Personal or work-related grievances that are not as a result of detrimental treatment caused to you as a Protected Whistleblower are not considered a Reportable Matter and are not protected by this policy.

A personal or work-related grievance is one that relates to your current or former employment that has implications for you personally but doesn't have significant implications for BAC. Examples of work-related grievances include:

- interpersonal conflict between the you and another employee;
- a decision that does not involve a breach of workplace laws;
- a decision about your engagement, transfer or promotion; or
- issues arising from performance management processes such as a decision to suspend, terminate or otherwise disciplinary actions.

Whilst these work-related grievances are not considered a Reportable Matter under this policy, but we do encourage you to follow the established organisation based policies.

A work-related grievance may still qualify for protection under the law if (for example):

- it is a mixed report that includes information about a Reportable Matter (as well as a work-related grievance);
- BAC has broken employment or other laws which are punishable by imprisonment for 12 months or more or acted in a way that is a threat to public safety;
- the disclosure relates to information that suggests misconduct that goes further than the Eligible Whistleblower's personal circumstances; or

Board Governance System

Policy 1.11A – Whistleblower Framework

- the Eligible Whistleblower suffers from or is threatened with detriment for making a disclosure.

Making a Report

This section outlines how to make a report and who to make the report to.

A Whistleblower can contact the Company Secretary or the CEO for additional information and/or guidance before making a disclosure.

If, at any time, you are not sure about whether to make a protected disclosure, you can get independent legal advice. Any discussions you have with a lawyer will be protected under this policy and under law.

Eligible Recipients

Whistleblower reports can be made in person, over the telephone (during and after business hours), by post or by email to an Eligible Recipient. Eligible Recipients include:

- any member of the Board;
- the Company Secretary;
- the Chief Executive Officer (CEO);
- any member of the Senior Leadership Team; or
- the company external Auditor.

We encourage Eligible Whistleblowers to make a report to one of the above Eligible Recipients in the first instance however, under certain circumstances, make a report to a journalist or a member of the state or commonwealth parliament.

Disclosures of a Reportable Matter may also be protected when made to:

- ASIC;
- The Aged Care Quality and Safety Commission;
- the Commissioner of Taxation; or
- another Commonwealth authority prescribed by law.

False Reports

A Protected Whistleblower will still qualify for protection even if their disclosure turns out to be incorrect, however anyone found to have knowingly making a false disclosure of improper conduct, or who otherwise fails to act honestly (in good faith) with reasonable belief in respect of the report may be subject to disciplinary action including dismissal.

Board Governance System

Policy 1.11A – Whistleblower Framework

Reporting Anonymously

You have the option to remain anonymous or using a pseudonym when disclosing a Reportable Matter, over the course of the investigation, and after the investigation is finalised.

Whilst you have this option, we encourage you to share your identity when making a report, as it may make it easier for us to investigate and address your report and for us to communicate throughout the process.

If you chose to report anonymously we will assess your disclosure in the same way as if you had revealed your identity. However, there may be some practical limitations in conducting the investigation if you don't share your identity.

Legal Protections

There are a number of legal and legislative protections which are applied to Protected Whistleblowers.

Confidentiality

All reports received from Protected Whistleblowers will be treated confidentially and sensitively. Once a report is received, the Eligible Recipient will make sure immediate steps are taken to protect the identity of the Protected Whistleblower. This will include redacting the name, position or other information which may be used to identify the Protected Whistleblower from any written record of the report, use gender-neutral terms when referencing the Protected Whistleblower, and making sure appropriate document security is implemented.

It is illegal for a person to identify a Protected Whistleblower or disclose information that is likely to lead to their identification. If you are a Protected Whistleblower, your identity and position (or any other information which would be likely to identify you) will only be shared if:

- you consent to the information being shared;
- it is reasonably necessary for the purpose of conducting an investigation into the matter/s you have disclosed. In this circumstance all reasonable steps will be taken to reduce the risk that you will be identified.
- the disclosure is to a recipient permitted by law such as the Commissioner of Taxation or Australian Federal Police; or
- the disclosure is otherwise allowed or required by law (for example, disclosure to a lawyer acting on behalf of BAC to receive legal advice relating to the law on whistleblowing).

Board Governance System

Policy 1.11A – Whistleblower Framework

The Eligible Recipient is responsible for ensuring that all records relating to the disclosure including all correspondence and investigations into the disclosure will be stored securely and only accessible by approved persons. Any information stored electronically will be password protected.

Protection against Detrimental Treatment

Detrimental treatment can be defined as dismissal, demotion, harassment, damage to your reputation, discrimination, disciplinary action, bias, threats, bullying, or other unfavourable treatment connected with making a disclosure as a Protected Whistleblower.

It's illegal for a person to engage in conduct that causes (or threatens to cause) detrimental treatment to a Protected Whistleblower in the belief or suspicion that a person has made, may make, proposes to make or could make a disclosure of a Reportable Matter and where that belief or suspicion is a reason for the conduct.

BAC will at all times seek to ensure that Protected Whistleblowers are not subjected to any detrimental treatment as a result of making (or intending to make) a disclosure under this policy.

To protect Protected Whistleblowers from detrimental treatment, we will:

- make an assessment of the risk of detrimental treatment against a Protected Whistleblower as soon as possible after receiving a disclosure of a Reportable Matter;
- ensure that the Eligible Recipient, senior leadership team and/or those investigating the report are aware of their responsibilities to maintain the confidentiality of a Protected Whistleblower, address the risks of detriment treatment (from both management and fellow workers) and ensure fairness when managing the performance of, or taking other management action relating to, a Protected Whistleblower; and
- take practical action, as necessary, to protect a Protected Whistleblower from the risk of detriment and intervene if detriment has already occurred.

If as a Protected Whistleblower you believe you have been subject to detrimental treatment, you should inform an Eligible Recipient immediately. If you believe that the Eligible Recipient is responsible for the detrimental treatment, you should immediately contact either the Chair or Deputy Chair of the Board.

Board Governance System

Policy 1.11A – Whistleblower Framework

Other Protections Available

Protected Whistleblowers are protected from civil, criminal or administrative liability (including disciplinary action) for making reports of Reportable Matters. No contractual right (including under an employment contract) can be exercised against a Protected Whistleblower to stop them disclosing a Reportable Matter.

If you're a Protected Whistleblower and the disclosure is to an Eligible Recipient or other designated body as set out above, or is a public interest disclosure or emergency disclosure, the information you disclose also can't be used against you in criminal proceedings or in proceedings for the imposition of a penalty (except if the proceedings are in respect of the falsity of the information).

Eligible Whistleblowers may also be entitled to seek compensation and other remedies through the courts if we fail to protect the Eligible Whistleblower from detriment and the Eligible Whistleblower suffers loss or damage.

Our Investigation Process

Once a report of a Reportable Matter has been received from an Eligible Whistleblower, the Eligible Recipient will immediately notify the Board and the CEO taking steps to ensure that the Whistleblowers identity remains confidential.

The Eligible Recipient will then assess the disclosure to determine:

- they believe there are reasonable grounds that a Reportable Matter has occurred;
- identify, with the assistance of the CEO, an investigation process which will address the matters raised in the disclosure.
- commence an investigation of those allegations will begin as soon as practicable, and in any case within 3 business days.

If this initial assessment determines that the information disclosed doesn't amount to a Reportable Matter, the Board and the CEO are to be provided a report outlining how this determination was reached.

If the Board and the CEO concur with the Eligible Recipient's findings, the Eligible Whistleblower will, as soon as practicable, be informed of that decision. If the Eligible Whistleblower has chosen to remain anonymous this notification will not be possible.

If the assessment determines that the information disclosed is a Reportable Matter, an investigation will commence as soon as practical.

Board Governance System

Policy 1.11A – Whistleblower Framework

The scope and nature of the investigation will be documented and will outline:

- the person/s, internal or external to BAC, that will lead the investigation;
- the areas of the organisation that will be subject to the investigation;
- outline any technical, financial or legal advice that may be required;
- the expected timeframe for the completion of the investigation.

The Protected Whistleblower will be notified that an investigation will be undertaken.

Investigations will be conducted promptly and fairly with due regard for the nature of the allegation and the rights of the people involved in the investigation. BAC recognises the importance of balancing the rights of the Eligible Whistleblower and the rights of people against whom a report is made in ensuring fairness.

The objective of the investigation is to determine whether there is enough evidence to substantiate or refute the matters reported. The investigation will:

- follow a fair process;
- be conducted in as timely a manner as the circumstances allow;
- be independent of the person(s) about whom an allegation has been made. It should be noted that, provided there are no reasonable basis for doing so, the person(s) against whom the allegation has been made, will be informed of the allegation, and will be given the opportunity to address the actions raised in the disclosure. At all times, BAC will take steps to ensure the fair treatment of any person who is a subject of the disclosure as well as the Protected Whistleblower; and
- will ensure that, without the Protected Whistleblowers' consent, they will not disclose information that is likely to lead to the identity of the Protected Whistleblower.

The Board and the CEO will be provided with updates on the investigation on a regular (no less than monthly) basis.

Once the investigation has been finalised, the Board and the CEO will receive a full report outlining the findings from the investigation making sure to maintain the confidentiality of the Protected Whistleblower.

Communications with the Protected Whistleblower

We will ensure that, provided the claim was not submitted anonymously, the Protected Whistleblower is kept informed of the outcomes of the initial assessment investigation of their allegations. This will be subject to the considerations of privacy of those against whom allegations are made and considerations of confidentiality affecting BAC.

Board Governance System

Policy 1.11A – Whistleblower Framework

If the Protected Whistleblower is not a current employee of BAC, the Protected Whistleblower will be kept informed of the investigative outcomes (subject to privacy considerations listed as above), once the Protected Whistleblower has agreed in writing to maintain confidentiality in relation to any information provided to them regarding a report made by them.

Further support for Protected Whistleblowers

Employees who are Protected Whistleblowers have access to the Employee Support Services. Should you believe that further assistance/support is required, they should immediately contact the Eligible Recipient.

How this policy is made available

In accordance with section s 1317A(5)(f) of the Corporations Act, this policy will be made available:

- to all staff through the Policies and Procedures folder on Q Drive.
- Reference to this policy will also be included in the Employee Handbook;
- Reference to this policy will be included in the annual in-service training program;
- Be available on request;
- On our Website.

Policy Review

This policy forms part of the Board Governance suite of policies and will be reviewed no less than annually and following any changes in relevant legislative, regulatory or standard requirements.

Related Policies

BAC Policy GOV-1.11 Whistleblower Policy

Definitions

Board Benevolent Aged Care Ltd Board of Directors

Organisation Benevolent Aged Care and its related entities

Board Governance System

Policy 1.11A – Whistleblower Framework
