

Approver: Board

Release Date: July 2023

1. Outcome

Southern Cross Care (NSW & ACT) Limited (**SCC**) is committed to providing a safe work environment where individuals are encouraged to speak up and report conduct that causes them concern.

This Policy is designed to:

- encourage and facilitate disclosure of misconduct;
 - provide anonymity and protection for individuals in relation to such disclosures; and
 - ensure that the matters disclosed are properly investigated and dealt with.
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2. Scope

This policy applies to:

- all current and former employees, volunteers, contractors and on-hire workers engaged by SCC
 - officers of SCC
 - individuals who supply services or goods to SCC
 - an employee of a person that supplies goods or services to SCC
 - an associate of SCC
 - a relative, dependent or spouse of any of the above.
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3. Definitions

The following definitions are used in this policy:

Detriment includes any actual or threatened:

- dismissal of an employee;
- injury of an employee in their employment;
- alteration of an employee's position or duties to their disadvantage;
- discrimination between an employee and other employees;
- harassment or intimidation of a person;
- harm or injury to a person, including psychological harm;
- damage to a person's property, reputation, business or financial position
- any other damage to a person.

Disclosure means when a Whistleblower notifies a person or organisation identified in this policy of Reportable Conduct on reasonable grounds.

Whistleblower means a person who makes a Disclosure of Reportable Conduct under this policy.

Reportable Conduct means information that the Whistleblower has reasonable grounds to suspect or concerns misconduct, or an improper state of affairs that includes:

- A contravention of legislation or other unlawful behaviour (including theft, drug sale/use, violence or threatened violence and criminal damage against property);
- Fraud;

- Theft;
- Corrupt conduct, such as bribery;
- Accounting irregularities;
- Tax avoidance behaviours (known as tax whistleblowers);
- Malpractice;
- Undeclared conflict of interest (i.e. no proper disclosure of the conflict);
- Unethical behaviour;
- Unsafe work practices;
- Conduct representative of gross mismanagement, serious and substantial waste and/or a repeated breach of administrative procedures;
- Conduct which indicates a significant risk to public safety;

4. Who must a disclosure be made to?

A Whistleblower may report any Reportable Conduct to any eligible recipient including:

- a director, company secretary or executive of SCC;
- internal or external auditors (including members of an audit team conducting an audit) or actuary of SCC; or
- a person authorised by SCC to receive Disclosures that may qualify for protection.

A Whistleblower may also make a Disclosure to:

- a legal practitioner if the Disclosure is made for the purposes of obtaining legal advice or legal representation about the operations of the whistleblower provisions under the Corporations Act 2001 (Cth) (Corporations Act);
- Australian Securities and Investments Commission (ASIC);
- Australian Prudential Regulation Authority (APRA); or
- A journalist or parliamentarian for the purposes of making a public interest or emergency Disclosure.

A Whistleblower may only make a public interest or emergency Disclosure after the Disclosure has previously been made to ASIC or APRA. In the case of a public interest Disclosure, at least 90 days must have passed since the previous Disclosure. A Whistleblower should familiarise themselves with the Whistleblower provisions in the Corporations Act and see independent legal advice before making a public interest or emergency Disclosure.

A Whistleblower who discloses tax avoidance behaviours can also make a Disclosure to the Australian Taxation Office (ATO) if the information is considered useful in assisting the ATO perform its duties.

5. Reporting procedure

A Whistleblower may report any Reportable Conduct to the key people listed below, or any eligible recipient listed in section 4

Eligible recipient	Contact details
GM People & Culture	1800 915 850
CEO	
Board	
Stopline	See details below

A Whistleblower who becomes aware of Reportable Conduct must report it to SCC as soon as practicable.

A Whistleblower may make a Disclosure anonymously, although an anonymous report may impair SCC's ability to investigate the matter. An anonymous Disclosure will still qualify for protection under the Corporations Act. It is important that the Whistleblower maintain ongoing two-way communication with SCC,

while remaining anonymous, to allow SCC to ask any necessary follow-up questions.

Where a Whistleblower wishes to remain anonymous, SCC will ensure the protection of the anonymity by:

- ensuring all communication is via anonymous telephone hotlines; and/or
- encouraging a Whistleblower to adopt a pseudonym.

On receipt of a complaint, SCC will contact the Whistleblower (if their identity is disclosed) to notify the Whistleblower that the Disclosure has been received and to confirm details of the concern.

SCC will then promptly review the Disclosure and commence an investigation where the Disclosure contains allegations of Reportable Conduct.

Depending on the nature and severity of the allegations, SCC may commence an investigation into the reported conduct themselves or, where considered appropriate, appoint a suitable third party to investigate.

A person named in the Disclosure will be given the opportunity to respond to the allegations. All individuals must co-operate fully with any investigation conducted under this policy. SCC will keep the Whistleblower informed regarding the progress of the investigation as far as is reasonably possible.

In certain cases, for example suspected fraud, it may be necessary to keep details of the complaint confidential until evidence has been gathered or the investigation is finalised.

When an investigation is finalised, the Whistleblower will be advised (if their identity is disclosed). It may be appropriate to inform the Whistleblower of the findings or outcome, subject to any issue of confidentiality, privacy, privilege or ongoing investigation.

For confidentiality reasons, it may not be appropriate to include details of the precise nature of any formal action that SCC has taken in response to the complaint.

All findings of the investigation will be documented electronically.

Alternative Reporting Process

Where a Whistleblower is uncomfortable making a Disclosure of Reportable Conduct in accordance with the above procedure, or it would be inappropriate to do so, the Whistleblower may instead report or escalate the Reportable Conduct to:

STOPLINE

Phone: 1300 30 45 50

Email: southerncrosscare@stopline.com.au

Web: <http://southerncrosscare.stoplinereport.com>

Fax: Attention Case Manager C/- Stopline Fax Number: 03 9882 4480

Post: C/- Stopline Locked Bag 8 Hawthorn VIC Australia 3122

6. Disclosures qualifying for protection

A Whistleblower qualifies for protection if they are an eligible Whistleblower in relation to SCC and:

- they have made a Disclosure of information relating to a disclosable matter directly to an eligible recipient or to ASIC, APRAH or another Commonwealth body prescribed by regulation;
- they have made a Disclosure to a legal practitioner for the purposes of obtaining legal advice or legal representation about the operation of the Whistleblower provisions in the Corporations Act; or
- they have made an emergency Disclosure or public interest disclosure.

Whistleblowers whose Disclosure turns out to be incorrect may still qualify for protection.

Disclosures that are not about Reportable Conduct do not qualify for protection under the Corporations Act.

7. Legal protections for Disclosures

Identity protection (confidentiality)

A person cannot disclose the identity of a Whistleblower or information that is likely to lead to the identification of the Whistleblower unless the Disclosure is:

- to ASIC, APRA or a member of the Australian Federal Police;
- to a legal practitioner for the purposes of obtaining legal advice or legal representation about the whistleblower provisions in the Corporations Act;
- to a person or body prescribed by regulations; or
- with the consent of the Whistleblower.

A person can disclose the information contained in a Disclosure with or without the Whistleblower's consent if:

- the information does not include the Whistleblower's identity;
- the entity has taken all reasonable steps to reduce the risk that the Whistleblower will be identified from the information; and
- it is reasonably necessary for investigating the issues raised in the Disclosure.

It is illegal for a person to identify a Whistleblower or disclose information that is likely to lead to the identification of the Whistleblower outside the exceptions listed above.

In order to protect the confidentiality of a Whistleblower, SCC will ensure that:

- all personal information or reference to the Whistleblower witnessing an event will be redacted (de-identified);
- the Whistleblower will be referred to in a gender-neutral context;
- where possible, the Whistleblower will be contacted to help identify certain aspects of their Disclosure that could inadvertently identify them;
- Disclosures will be handled and investigated by qualified staff;
- all paper and electronic documents and other materials relating to Disclosures will be stored securely;
- access to all information relating to a Disclosure will be limited to those directly involved in managing and investigating the disclosure;
- only a restricted number of people who are directly involved in handling and investigating a Disclosure will be made aware of a Whistleblower's identity (subject to the Whistleblower's consent) or information that is likely to lead to their identification;
- communications and documents relating to the investigation of a Disclosure will not be sent to an email address or to a printer that can be accessed by other staff; and
- each person who is involved in handling and investigating a Disclosure will be reminded about the confidentiality requirements, including that an unauthorised Disclosure of a Whistleblower's identity may be a criminal offence.

Protection from detrimental acts or omissions

A person cannot engage in conduct that causes Detriment to a Whistleblower (or another person) in relation to a Disclosure if:

- the person believes or suspects that the Whistleblower (or another person) made, may have made, proposes to make or could make a Disclosure that qualifies for protection; and
- this is the reason, or part of the reason, for the conduct.

A person cannot make a threat to cause Detriment to a Whistleblower (or another person) in relation to a Disclosure. A threat may be express or implied, or conditional or unconditional.

Examples of actions that are not detrimental conduct are:

- administrative action that is reasonable for the purpose of protecting a Whistleblower from detriment

(e.g. moving a Whistleblower who has made a Disclosure about their immediate work area to another office to prevent them from Detriment); and

- managing a Whistleblower's unsatisfactory work performance, if the action is in line with the entity's performance management framework.

SCC will ensure that:

- processes for assessing the risk of Detriment against a Whistleblower and other persons (e.g. other staff who might be suspected to have made a Disclosure), will commence as soon as possible after receiving a Disclosure;
- support services (including counselling or other professional or legal services) are made available to Whistleblowers;
- strategies to help a Whistleblower minimise and manage stress, time or performance impacts, or other challenges resulting from the Disclosure or its investigation are made available;
- it has a procedure in place which outlines how a Whistleblower can lodge a complaint if they have suffered detriment and the actions SCC will take in response to the complaint; and
- any necessary adjustments or modifications are made to the Whistleblower's role or workplace.

Compensation and other remedies

A Whistleblower can seek compensation and other remedies through the courts if:

- they suffer loss, damage or injury because of a Disclosure; and
- the entity failed to take reasonable precautions and exercise due diligence to prevent the detrimental conduct.

Civil, criminal and administrative liability protection

A Whistleblower is protected from any of the following in relation to their Disclosure:

- civil liability (e.g. any legal action against the Whistleblower for breach of an employment contract, duty of confidentiality or another contractual obligation);
- criminal liability (e.g. attempted prosecution of the Whistleblower for unlawfully releasing information, or other use of the Disclosure against the Whistleblower in a prosecution (other than for making a false disclosure)); and
- administrative liability (e.g. disciplinary action for making the Disclosure).

The protections do not grant immunity for any misconduct the Whistleblower has engaged in that is revealed in their Disclosure.

8. SCC's obligations

SCC will:

- be supportive and protective of any Whistleblower who, acting in good faith, reports a breach or wrongdoing to SCC under this policy;
- treat the identity, if disclosed, of the Whistleblower as confidential unless the Whistleblower indicates (or the law requires) otherwise;
- keep investigations confidential so far as is practicable;
- treat all Disclosures seriously;
- investigate Disclosures promptly, thoroughly and consistently with applicable law;
- not tolerate any act of reprisal, repercussion, victimisation or other Detriment against anyone who makes a Disclosure, or who participates in an investigation relating to possible wrongdoing.

This policy will be made available by:

- posting the policy on the intranet and website
- setting out the policy in the Employee Handbook and training material for new starters

- publishing posters on noticeboards.

SCC provides a confidential Employee Assistance Program (**EAP**) to all SCC employees. Employees are encouraged to use the EAP for professional counselling for any matter, whether work related or not.

Any vexatious or frivolous complaint will be treated seriously. Such misconduct or a breach of this policy may result in disciplinary action up to termination without notice.

This policy does not form part of any employee's contract of employment. SCC may vary, replace or terminate this policy from time to time.

9. Non-reportable conduct

If an individual has a concern about conduct involving an employee, volunteer, contractor, or on-hire worker engaged by SCC that is not Reportable Conduct, it should still be reported. If the concern does not amount to Reportable Conduct, SCC will review the complaint and decide on any next steps.

This policy does not apply to any personal work-related grievance, or about employment arrangements (such as pay or rosters). If an individual has a grievance about this type of matter the individual should follow the Grievance & Dispute Resolution Policy.

Personal work-related grievances are those that relate to an individual's current or former employment and have, or tend to have, implications for an individual personally but do not:

- have any other significant implications for SCC; or
- relate to any conduct, or alleged conduct that is Reportable Conduct or does not concern Detriment or threatened Detriment to the individual.

Personal work-related grievances include:

- an interpersonal conflict between an individual and another employee;
- a decision that does not involve a breach of workplace laws;
- a decision about the engagement, transfer or promotion of an individual;
- a decision about the terms and conditions of engagement of an individual; or
- a decision to suspend or terminate the engagement of an individual, or otherwise to discipline them.

The protections under the Corporations Act, and as outlined in this Policy, do not apply if the information disclosed concerns a personal-work related grievance of an individual and does not concern Detriment or threatened Detriment to an individual.

A personal work-related grievance will qualify for protection if:

- it includes information about misconduct, or information about misconduct includes or is accompanied by a personal work-related grievance (mixed report);
- SCC has breached employment or other laws punishable by imprisonment for a period of 12 months or more, engaged in conduct that represents a danger to the public, or the disclosure relates to information that suggests misconduct beyond an individual's personal circumstances;
- an individual suffers from or is threatened with detriment for making a disclosure; or
- an individual seeks legal advice or representation about the operation of the whistleblower protections under the Corporations Act.