

# WHISTLEBLOWER POLICY

October 2023

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## 1. Purpose

The Barbara May Foundation (the “Foundation”) is committed to maintaining the highest standards of legal, ethical, and moral behaviour. A key part of supporting these standards is enabling people to ‘speak up’ about unethical and unlawful conduct. The purpose of this Policy is to provide a framework which helps people to ‘speak up’ providing guidance on how to report on, and investigate, suspected or actual wrongdoing.

The Foundation encourages the reporting of matters which may be considered unethical or unlawful. The Foundation will provide protection so that persons who make a report can do so confidentially and without fear of intimidation, disadvantage, or other reprisal.

## 2. Scope

This Policy applies to Whistleblowers, who have access to legal rights and protections under the Corporations Act 2001 (Cth).

## 3. Definitions

**Detrimental Conduct:** is any action taken against a Whistleblower as a result of whistleblowing including discrimination, harassment, victimisation, retaliation, or threat of retaliation. This may be evidenced by dismissal, suspension, or demotion; alteration of a person’s position or duties to their disadvantage; disciplinary action; harm (including psychological harm) or injury; damage to a person’s reputation, property, business, or financial position.

**Disclosable Matters:** a concern or wrongdoing where the whistleblower has **reasonable grounds** to suspect misconduct.

**Eligible Recipient:** the person to whom you should disclose your claim of wrongdoing, including:

- The Whistleblower Protection Officer (the “WPO”);
- A member of the Board, the Company Secretary, or the Medical Director;
- The Foundation’s external auditor, Kelly Partners (South West Sydney) Pty Ltd;
- A legal practitioner for the purposes of determining how, and if, the whistleblower protections under the Corporations Act or the Taxation Administration Act apply to them. In these instances, a person can make a report to certain government entities in accordance with these Acts (including the Australian Taxation Office).

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**Foundation Partners:** refers to local overseas organisations with which the Foundation forms alliances for the receipt of overseas aid resources, funding, or services for the in-country delivery of maternal health care services in East Africa.

**Whistleblower:** is an individual who is a current or former:

- Employee of the Foundation;
- Board member of the Foundation;
- Volunteer, contractor, consultant, partner, or service provider who has supplied goods or services to the Foundation; or
- A spouse, relative or dependent of any of the persons mentioned above;

who reports potential misconduct or breaches of the law by the Foundation to an Eligible Recipient in accordance with this Policy.

**Whistleblower Protection Officer (WPO):** the Chair of the Audit, Risk and Compliance Committee to whom a report under this Policy is made and who has responsibility to support and safeguard the interests of the Whistleblower and ensure the integrity of the reporting mechanism.

**Wrongdoing:** Conduct that includes but is not limited to:

- Illegal conduct such as theft, dealing in or use of illicit drugs, violence or threatened violence, and criminal damage against property;
- Fraud, money laundering or misappropriation of funds;
- Offering or accepting a bribe;
- Financial irregularities;
- Failure to comply with, or breach of legal or regulatory requirements;
- Engaging in, or threatening to engage in, detrimental conduct against a person who has made a disclosure.

## 4. Policy

The aim of this Policy is to make Whistleblowers feel confident about raising concerns of any suspected or actual wrongdoing, by offering a reporting and investigative mechanism that is objective, independent and protects them from detriment, reprisal, or disadvantage.

This policy is an important part of the Foundation's risk management and corporate governance framework.

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## 4.1 Disclosable Matters

This Policy only applies to reports about Disclosable Matters.

This Policy is not intended to apply to matters concerning a person's individual employment such as, personal work related grievances, alleged workplace discrimination, or bullying or personal disputes between staff.

Such matters should be raised with the Chair of the Board of Directors.

This Policy is also not intended to apply to reporting concerns involving children or vulnerable people. These concerns should be raised in accordance with the Foundation's Safeguarding Vulnerable People Policy.

Disclosures about matters other than an alleged wrongdoing do not qualify for protection under Whistleblower legislation but may be protected under other legislation.

## 4.2 Reporting a Disclosable Matter

A whistleblower can report a disclosable matter verbally or in writing to an Eligible Recipient (as defined in the definitions above).

Consistent with the Foundation's commitment to identify and address wrongdoing as early as possible, we encourage Whistleblowers to make a report in the first instance to the WPO via email: [ARCC@barbaramayfoundation.com](mailto:ARCC@barbaramayfoundation.com)

A written report can be sent to:

The Whistleblower Protection Officer  
Barbara May Foundation  
PO Box 2371  
Bowral NSW 2576

A Whistleblower should ensure, as far as they are able, that their report is factually accurate and presented in an unbiased fashion. Reports should include as much information as possible, including the details of the misconduct, people involved, dates, locations and any other evidence that exists.

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A person making a report must not make a false or vexatious claim. Protections under this policy will not be applied to false reports or vexatious claims.

### **4.3 Investigating a Disclosable Matter**

The WPO will assess all reports received and determine whether the matter reported falls under this Policy. Disclosable Matters will be investigated with the objective of obtaining evidence that substantiates or refutes the claims made.

If the WPO determines a report does not fall under this Policy, they will advise the person making the report and advise them how the report will be handled.

The investigation process will vary depending on the precise nature of the conduct being investigated. The WPO will determine whether the investigation should be conducted by an internal or external investigator.

The investigator shall conduct the investigation promptly. The investigation shall be thorough, fair, objective, and independent of the Whistleblower, anyone who is the subject of the Disclosable Matter, and any business area concerned. The investigator shall also ensure that each person subject to the investigation is given sufficient opportunity to reply to the allegations.

The WPO will inform the Whistleblower of the outcomes of the investigation. The details of the investigation and the outcome will be shared with the Audit, Risk and Compliance Committee and the Board of Directors, on a confidential and anonymous basis.

The Foundation will rectify any wrongdoing uncovered to the extent that is practicable.

### **4.4 Confidentiality and Anonymous Reporting**

The Foundation will treat all reports, as well as all information acquired while investigating a report, with the strictest confidence.

To reduce the risk that the Whistleblower will be identified from the information contained in their report, the Foundation will ensure, to the extent possible, that:

- all paper and electronic documents and other materials relating to reports are stored securely;
- access to all information relating to a report will be limited to those directly involved in managing and investigating the disclosure;

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- only a restricted number of people who are directly involved in handling and investigating a report will be made aware of a Whistleblower's identity (subject to the Whistleblower's consent) or information that is likely to lead to the identification of the whistleblower;
- each person who is involved in handling and investigating a report will be aware of the relevant confidentiality requirements, including that an unauthorised disclosure of a Whistleblower's identity may be a criminal offence.

If you choose to reveal your identity to an Eligible Recipient other than the WPO, then that person will ask for your consent to confidentially disclose information about the report and your identity to the WPO for the purposes of investigating the matter you have reported.

The Foundation may disclose the information received to their legal practitioner for the purpose of obtaining legal advice in relation to the operation of the statutory whistleblower protections.

Subject to legal requirements, the Foundation will only disclose the identity of the person who made the report, or any information that is likely to lead to the identification of that person, with their prior consent.

In limited circumstances, the Foundation may need to disclose the identity of the person who made the report to certain third parties without their consent, including:

- the Foundation's lawyers;
- the Australian Securities and Investment Commission;
- the Australian Taxation Office;
- the Australian Charities and Not-for-profits Commission;
- the Australian Federal Police or State Police.

Persons who choose to make a report anonymously will receive protection provided under this Policy. However, reporting anonymously may limit The Foundation's ability to investigate the matter fully.

#### **4.5 Protection from Detrimental Conduct**

The Foundation understands that the decision to make a report can be a difficult one. Therefore, the Foundation is committed to ensuring that if a person makes a report under this Policy in good faith, the person will not be penalised or disadvantaged because they have made a report.

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Under this Policy, any Detrimental Conduct against a person reporting a Disclosable Matter or participating in a Disclosable Matter investigation will be treated as serious wrongdoing. Such behaviour may constitute serious misconduct and may result in disciplinary measures, up to and including dismissal.

If a person makes a report and subsequently faces any kind of Detrimental Conduct, they are encouraged to notify the WPO. The WPO will ensure the matter is investigated promptly and addressed with appropriate remedial action.

#### **4.6 Support for persons implicated**

The Foundation recognises that individuals against whom a report is made must also be supported during the handling and investigation of the Disclosable Matter. The WPO will take reasonable steps to ensure that they are treated fairly during the investigation.

No action will be taken against employees or officers who are implicated in a report under this Policy until an investigation has determined whether any allegations against them are substantiated.

#### **4.7 Statutory protections**

There are statutory protections (including in relation to civil liability, criminal liability, and administrative liability) available to Whistleblowers who make disclosures in respect of certain matters to defined recipients under the Corporations Act or the Taxation Administration Act. Persons wishing to make a report are encouraged to seek independent legal advice to determine how, and if, these statutory protections apply to them.

In circumstances where such protections are available, persons can seek compensation and other legal remedies if:

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

#### **4.8 Public Interest and Emergency Disclosure Reporting**

The Foundation encourages a person to make a report by contacting the Whistleblower email via [ARCC@barbaramayfoundation.com](mailto:ARCC@barbaramayfoundation.com) in the first instance where possible.

Reports made in 'public interest' and 'emergency disclosure' contexts are protected under the Corporations Act. In these circumstances, reports can be made to an Eligible Public Recipient such

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as journalists and members of Commonwealth, State or Territory Parliaments. It is important that a person making a report understands the criteria for making a public interest or emergency disclosure. We recommend that independent legal advice is sought on the relevant requirements for these types of disclosures.

Reports made in the public interest are protected from Detrimental Conduct if a person:

- has already made a report to the Foundation concerning a Disclosable Matter (initial report) and at least 90 days has lapsed since the initial report was made; and
- has no reasonable grounds to believe that action is being, or has been, taken to address the matters relating to the initial report; and
- has reasonable grounds to believe that making a further report would be in the public interest; and
- gives written notification to the Foundation after the 90 days mentioned above have lapsed, that easily identifies the initial report and the intention to make a public interest report; and
- makes the public interest report to an Eligible Public Recipient and the extent of the information reported is no greater than necessary to demonstrate the misconduct or improper state of affairs or circumstances.

Reports made in emergency situations are protected from Detrimental Conduct if a person:

- has already made an initial report to the Foundation; and
- has given the Foundation written notification that easily identifies the Initial Report and intention to make an emergency report; and
- has reasonable grounds to believe that the information in the Initial Report concerns a substantial and imminent danger to the health or safety of person(s) or the natural environment; and
- makes the emergency report to an Eligible Public Recipient and the extent of the information reported is no greater than is necessary to inform the Eligible Public Recipient of the substantial and imminent danger.

## 5. Responsibilities

### 5.1 Persons making a report in accordance with this Policy

All persons to whom this Policy applies should only report Disclosable Matters where they have reasonable grounds to suspect that the information concerns wrongdoings as outlined in this Policy.

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By making a report under this Policy, a Whistleblower consents to the WPO and the Investigator taking the actions, and performing their roles and responsibilities, with respect to the report, as set out in this Policy.

To avoid jeopardising an investigation, a Whistleblower is required to keep confidential the fact that they have made a report and the information contained in the report.

### **5.2 Whistleblower Protection Officer (WPO)**

The WPO is the officer appointed to receive particulars about all reports on Disclosable Matters.

The WPO is responsible for:

- providing support to and protecting the confidentiality of the Whistleblower reporting the Disclosable Matter;
- keeping the Whistleblower informed of the progress and outcomes of the inquiry/ investigation subject to considerations of privacy of those against whom a disclosure has been made;
- reporting to the Audit, Risk and Compliance Committee and the Board of Directors, on a confidential and anonymous basis, each report made under this Policy, including details of the investigation and its outcomes.

### **5.3 Investigator**

The Investigator is appointed by the WPO and may be internal or external to the Foundation.

Where the Investigator is internal, they must be independent of the area/individuals affected by the alleged wrongdoing. The Investigator will:

- as directed by the WPO, investigate reports received from Whistleblowers;
- provide timely updates to the WPO on their inquiry/ investigation
- maintain confidentiality when conducting investigations;
- be fair, objective, and independent throughout the investigation and conduct a sufficient and proper inquiry into the content of the report.

### **5.4 The Foundation's Board of Directors**

The Board is responsible for fostering a culture in which the values of integrity, honesty and compassion are evident in all the Foundation's dealings and for monitoring compliance with this Policy and reviewing it on a regular basis to ensure it is operating effectively.



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## 5.5 Foundation Partners

The Board has delegated the following responsibilities to the Board members of its Foundation Partners to ensure that they and all project employees and volunteers are fully aware of their obligations under this Policy. Foundation Partners are required to:

- comply with all obligations as defined in their Memorandum of Understanding with the Foundation;
- develop whistleblowing policies and procedures with assistance from the Foundation where required;
- ensure any Disclosable Matters reported to them, as well as the resolution and action taken are reported to the Foundation Board.

Foundation Partners should also make clear to Whistleblowers that they can make their report to the WPO directly, where the reporting person believes it is necessary.

## 6. Compliance with this Policy

Any breach of this Policy may be regarded as misconduct and may result in disciplinary action, up to and including dismissal where relevant.

A breach of this Policy may also amount to a civil or criminal contravention under the Australian whistleblower protection laws (in particular, the provisions in the Corporations Act or the Tax Administration Act), giving rise to significant penalties.

## 7. Availability of this Policy

This Policy will be communicated to all employees when it initially comes into effect and when any revisions are subsequently made, and it will be available on the Foundation's website.

## 8. Review and Amendments

The Whistleblower Policy shall be reviewed by the Audit, Risk and Compliance Committee periodically, at least every two years, to ensure its continued relevance and effectiveness. Any proposed amendment or updates shall be presented to the Board of Directors for approval.

## 9. Contacts

For questions about this Policy please email the WPO at: [ARCC@barbaramayfoundation.com](mailto:ARCC@barbaramayfoundation.com)