

Date Created	14 November 2019
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**bestchance** is the operating name of bestchance Child Family Care

## **Whistleblowing Policy**

### **1. Objective**

This Policy is written to provide information to Employees and Officers about:

- the protections available to Whistleblowers;
- to whom disclosures that qualify for protection may be made, and how they may be made;
- how the Employer will support Whistleblowers and protect them from detriment;
- how the Employer will ensure fair treatment of Employees who are mentioned in disclosures that qualify for protection; and
- how the Policy is to be made available to Officers and Employees.

This Policy is intended to supplement, and not limit in any way, the provisions of the Corporations Act in relation to whistleblowing. Where a provision of this Policy is inconsistent with a provision of the Corporations Act, the Corporations Act will apply to the extent of the inconsistency.

The policy aligns to bestchance's values of Humility, High Expectations, Curiosity, Evidence and Challenge.

### **2. Application**

This Policy applies to all people who work for or with bestchance, including:

- Employees;
- any individual who supplies goods and services to the Employer (eg volunteers, contractors, and consultants); and
- Board Members

Referred to in this policy as "**Relevant Persons**".

### **3. Subordinate documents/forms**

- Whistleblower Procedure
- Understanding Assessment
- List of Designated Persons

### **4. Definitions**

<b><i>Corporations Act</i></b>	means the <i>Corporations Act 2001</i> (Cth).
<b><i>'Designated Person'</i></b>	means a person specified in the List of Designated Persons.
<b><i>'Eligible Person'</i></b>	includes any Employee, Officer, volunteer, contractor, or associate of the Employer; and also includes any relative, dependant, or spouse (including a former spouse) of those persons.
<b><i>'Employer'</i></b>	means bestchance Child Family Care.

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<b>'Employee'</b>	means any person employed by the Employer.
<b>'Journalist'</b>	means a person working in a professional capacity as a journalist for a newspaper or magazine; a radio or television broadcasting service; or an electronic service operating on a commercial basis or national broadcasting basis and is similar to a newspaper, magazine, radio, or television broadcasting service.
<b>'Officer'</b>	includes a director (board member) of the Organisation.
<b>'Protected Disclosure'</b>	means a disclosure that is protected under the Corporations Act.
<b>'Protected Information'</b>	means information concerning misconduct or an improper state of affairs or circumstances in relation to the Organisation or a Related Body Corporate of the Organisation. See clause 5.5 of this Policy.
<b>'Related Body Corporate'</b>	includes subsidiaries and parent companies of the Organisation.
<b>'Relevant Person'</b>	has the meaning provided in clause 2 of this Policy.
<b>'Whistleblower'</b>	means any Eligible Person who makes a disclosure that is protected in accordance with the Corporations Act.
<b>'Whistleblower Contact Officer'</b>	means the Executive Manager of Quality and Risk or the General Manager People and Culture

## 5. Policy requirements

### Protections Available to Whistleblowers

- 5.1. A Whistleblower will not be subject to any of the following as a result of making a Protected Disclosure:
  - 5.1.1. termination of employment;
  - 5.1.2. injury in their employment;
  - 5.1.3. alteration of their position or duties to their disadvantage;
  - 5.1.4. discrimination between him or herself and another Employee of the Employer;
  - 5.1.5. harassment or intimidation;
  - 5.1.6. harm or injury, including psychological harm; or
  - 5.1.7. damage to property, reputation, financial position, or any other damage.
- 5.2. Nothing in this Policy prevents the Employer from disciplining an Employee who has disclosed information inconsistently with the Corporations Act and/or this Policy, who has disclosed information that is not Protected Information, or for reasons unrelated to a Protected Disclosure made by a Whistleblower.
- 5.3. The identity of a Whistleblower is confidential. Where a Whistleblower reveals their identity in the course of making a Protected Disclosure, their identity will not be disclosed to any other person or entity (unless permitted by the Corporations Act).

### Protected Disclosures

- 5.4. A disclosure is a Protected Disclosure if:
  - 5.4.1. it is made in relation to Protected Information; and
  - 5.4.2. it is made to a person set out in clause 5.11; and
  - 5.4.3. it is not in relation to a personal work-related grievance.
- 5.5. Protected Information includes information in relation to conduct that:

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- 5.5.1. constitutes an offence against, or contravention of, a provision of any of the following:
- (a) the Corporations Act;
  - (b) the *Australian Securities and Investments Commission Act 2001* (Cth);
  - (c) the *Banking Act 1959* (Cth);
  - (d) the *Financial Sector (Collection of Data) Act 2001* (Cth);
  - (e) the *Insurance Act 1973* (Cth);
  - (f) the *Life Insurance Act 1995* (Cth);
  - (g) the *National Consumer Credit Protection Act 2009* (Cth);
  - (h) the *Superannuation Industry (Supervision) Act 1993* (Cth); and
  - (i) any instrument made under any of the above Acts.
- 5.5.2. constitutes an offence against any Commonwealth law punishable by 12 or more months imprisonment; or
- 5.5.3. represents a danger to the public or the financial system.

### **Personal Work-Related Grievances**

- 5.6. A disclosure is not a Protected Disclosure to the extent that the disclosure concerns a personal work-related grievance and does not concern any Protected Information.
- 5.7. Notwithstanding clause 5.6, a disclosure in relation to a personal work-related grievance is a Protected Disclosure where:
- 5.7.1. an Eligible Person has made a Protected Disclosure;
  - 5.7.2. that Eligible Person has been victimised in relation to that Protected Disclosure; and
  - 5.7.3. that Eligible Person makes a disclosure in relation to the victimisation.
- 5.8. A disclosure concerns a personal work-related grievance if the information concerns a grievance about any matter in relation to the Relevant Person's employment or former employment, having implications for the Relevant Person personally and does not, for example, relate to Protected Information.
- 5.9. Examples of personal work-related grievances are:
- 5.9.1. an interpersonal conflict between the people in the workplace;
  - 5.9.2. a decision relating to the engagement, transfer, or promotion of the Relevant Person;
  - 5.9.3. a decision relating to the terms and conditions of employment of the Relevant Person; and
  - 5.9.4. any disciplinary action (including suspension and/or termination of employment) taken against the Relevant Person.
- 5.10. Personal work-related grievances will be managed in accordance with the Grievance Policy

### **To Whom Protected Disclosures can be Made**

- 5.11. Protected Disclosures can be made to specific internal and external persons and bodies.
- 5.12. External Protected Disclosures can be made by contacting the Australian Consumer and Competition Commission or the Australian Prudential Regulation Authority.
- 5.13. A disclosure may be made to a lawyer for the purpose of seeking advice in relation to whistleblower laws. This includes the disclosure of information to a lawyer that is not Protected Information to the extent that the disclosure is made for the purpose of obtaining legal advice.
- 5.14. Internal Protected Disclosures can be made to:
- 5.14.1. an Officer or senior manager of the Employer (or a related entity of the Employer);

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- 5.14.2. an auditor or actuary of the Employer;
- 5.14.3. a Designated Person of the Employer.

- 5.15. Additionally, a current Relevant Person can contact the Whistleblower Contact Officer (the General Manager of People and Culture) to seek guidance on an appropriate person to make a Protected Disclosure to.

***Note that if the Employee discloses Protected Information to the Contact Officer (the General Manager People and Culture) in the course of seeking guidance, the disclosure will not constitute a Protected Disclosure for the purposes of this Policy.***

### **Members of Parliament and Journalists**

- 5.16. A Whistleblower may make a Protected Disclosure to a Member of Parliament (Federal or Victorian) or Journalist if, and only if, all the following criteria have been satisfied:
  - 5.16.1. the Whistleblower has previously made a Protected Disclosure;
  - 5.16.2. either:
    - (a) at least 90 days have passed since the Protected Disclosure was made, and the Whistleblower does not have reasonable grounds to believe that action is being taken or has been taken in relation to the Protected Disclosure;
    - or
    - (b) the Whistleblower has reasonable grounds to believe that the information concerns a substantial and imminent danger to the health or safety of one or more persons or to the natural environment;
  - 5.16.3. the Whistleblower has reasonable grounds to believe that making a further disclosure would be in the public interest;
  - 5.16.4. the Whistleblower notifies the person or body (after the period in clause 5.16.2, where applicable) to which the Protected Disclosure was made, including sufficient information to identify the Protected Disclosure, that the Whistleblower intends to make a 'public interest disclosure';
  - 5.16.5. the 'public interest disclosure' does not contain information greater than necessary to inform the Member of Parliament or Journalist of the misconduct or improper state of affairs (within the definition of Protected Information) alleged.
  - 5.16.6. Note that a Journalist does not include any disclosure made on social media. Social media disclosures are not protected disclosures and are subject to the Social Media Policy.

### **How the Employer will Investigate Protected Disclosures**

- 5.17. The procedures in relation to making disclosures are set out in the Whistleblower Procedure.

### **Support, Protection, and Fair Treatment**

- 5.18. The Employer offers various means of support for Employees, including Employees who have made a Protected Disclosure. This includes:
  - 5.18.1. the Employee Assistance Program.
  - 5.18.2. People and Culture Business Partners

Note: the protections offered by this Policy will not apply to an Employee who discloses Protected Information to any persons or bodies in this list who are not a person or body to whom a Protected Disclosure can be made.

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- 5.19. Where an Employee or Officer is implicated in any alleged wrongdoing as a result of a disclosure, the Employer will follow its standard investigative procedures set out in the Employee Disciplinary Policy.
- 5.20. Where an investigation into a Protected Disclosure involves the interviewing of other Employees or Officers as witnesses, no Employee or Officer will be disadvantaged in their employment as a result of their participation in the procedure.
- 5.21. Nothing in this Policy prevents the Employer disciplining an Employee for a lawful reason.

#### **Availability of this Policy**

- 5.22. This Policy will be available to all Employees and Officers of bestchance on bestchance's intranet called Buzz.

## **6. Responsibilities**

### **The organisation**

- 6.1. The Employer is responsible for ensuring that this Policy is documented, implemented, maintained and communicated to all Employees. This includes ensuring that the Policy is available for Relevant Persons to access, and is periodically reviewed.
- 6.2. The Employer will provide Employees with appropriate training, information, instruction, and resources to assist them in understanding this Policy.
- 6.3. The Employer will develop, implement and monitor action to appropriately manage any Protected Disclosures in accordance with the *Whistleblower Procedure* .

### **Managers and Supervisors**

- 6.4. Managers and Supervisors are responsible for ensuring all Employees understand this Policy, and where an Employee has not completed the *Whistleblower Understanding Assessment* (ERPOL 35.2) within three (3) working days of commencement of employment with the Employer, direct the Employee to complete it within three (3) working days or other such reasonable period, and ensure that this occurs.
- 6.5. Where an Employee completes the *Whistleblower Understanding Assessment* (ERPOL 35.2) as required by this Policy but has not done so successfully (all questions correct), the Supervisor must address the errors with the Employee, direct them to the relevant provisions of this Policy, and ensure that they complete another *Whistleblower Understanding Assessment* (ERPOL 35.2). Both copies of the Assessment must be retained for the Employee's file.

### **Employees**

Employees and other Relevant Persons (where applicable) must:

- 6.6. comply with the policy, which includes complying with any reasonable instruction given by the Employer in relation to the policy;
- 6.7. make any Protected Disclosures in accordance with this Policy;
- 6.8. report any suspected instances of non-compliance with this Policy to management;
- 6.9. comply with any reasonable requests of the Employer in relation to investigation arising from a Protected Disclosure;
- 6.10. comply with any reasonable requests of the Employer in relation to investigation into potential breaches of this Policy; and

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6.11. successfully complete the *Whistleblower Understanding Assessment* (ERPOL 35.2) as required by the Employer.

**7. Non-compliance**

Failure of an Employee to comply with this policy may result in disciplinary action, up to and including termination of employment.

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**8. VERSION CONTROL**

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Version	Section Amended	Amendment	Date Amended	Author
1.1		New policy approved for distribution	6 Dec 2019	General Manager People and Culture