

# DCA Whistleblower Policy



## **POL-HR-17(43) WHISTLEBLOWER POLICY – December 2019**

### **1. Introduction**

Deaf Children Australia (DCA) is committed to fostering a culture of legal, ethical and moral behaviour and good corporate governance.

From 1 January 2020, DCA is required to have a **Whistleblower Policy** due to amendments in the new section 1317AI of the Corporations Act 2001 (Cth). This legislation is designed to provide protections to individuals who are making very serious complaints about an organisation and may need protection against retaliation.

**Whistleblower protections** are the protections provided to Whistleblowers to enable them to come forward to report misconduct without fear of retribution or personal detriment.

### **2. What is a Whistleblower?**

A Whistleblower is someone with inside knowledge of an organisation who reports misconduct or dishonest or illegal activity that may have occurred within that organisation.

### **3. Who is an Eligible Whistleblower?**

An individual making a complaint is an **Eligible Whistleblower** in relation to DCA if that person is:

- an officer of DCA,
- an employee of DCA,
- an individual who supplies services or goods to DCA (whether paid or unpaid),
- an employee of a person that supplies services or goods to DCA (whether paid or unpaid),
- an individual who is an associate of DCA,
- a relative of an individual referred to above,
- a dependent or spouse of an individual referred to above, or
- an individual prescribed by the regulations for the purposes of this paragraph in relation to the regulated entity.

#### 4. What matters can I make a complaint about under the DCA Whistleblower's Policy?

If you want to make a Whistleblowing complaint you must have reasonable grounds to suspect that the information concerns *misconduct*, or *an improper state of affairs* in relation to DCA.

The complaint can be about DCA or an officer or employee of DCA engaging in conduct that:

- breaches the Corporations Act,
- breaches other financial sector laws enforced by ASIC or APRA,
- is an offence against any other law of the Commonwealth that is punishable by imprisonment for a period of 12 months, or
- represents a danger to the public or the financial system.

*Reasonable grounds* means that a reasonable person in your position would also suspect the information indicates misconduct or a breach of the law.

#### 5. What complaints cannot be made under the DCA Whistleblower's Policy

Personal work-related grievances are not covered by this legislation unless that grievance is about a threat made to that person about making a complaint under this legislation.

Examples of *personal work-related grievances* include:

- an interpersonal conflict between the discloser and another employee
- a decision relating to the engagement, transfer or promotion of the discloser
- a decision relating to the terms and conditions of engagement of the discloser
- a decision to suspend or terminate the engagement of the discloser, or otherwise to discipline the discloser

#### 6. Who can I make a Whistleblower complaint to?

If you have a complaint under this Whistleblower Policy, you must make it to one of the following people:

- A Board member of DCA
- The Company Secretary of DCA
- A Senior Manager at DCA
- One of DCA's Auditors (Saward Dawson)
- ASIC (Australian Securities and Investment Commission)
- APRA (Australian Prudential Regulatory Authority)
- Your lawyer

You can make a complaint anonymously if you choose.

## **7. Protections available to Whistleblowers**

If you make a qualifying disclosure under this legislation, then DCA will protect your identity.

It is illegal (through a criminal offence and civil penalty) for someone to cause or threaten detriment to you because they believe or suspect that you have made, may have made, or could make a whistleblower disclosure.

The criminal offence and civil penalty apply even if you have not made a Whistleblower report, but the offender causes or threatens detriment to you because they believe or suspect you have or might make a report.

A person may be causing you detriment if they:

- dismiss you from your employment,
- injure you in your employment,
- alter your position or duties to your disadvantage,
- discriminate between you and other employees of the same employer,
- harass or intimidate you,
- harm or injure you, including causing you psychological harm,
- damage your property,
- damage your reputation,
- damage your business or financial position, or
- cause you any other damage.

## **8. Taking action against people who cause or threaten detriment**

ASIC can investigate allegations that a person caused or threatened detriment to you but would need your assistance to investigate the claim. Any action ASIC take may result in a penalty to the person but not necessarily any compensation.

## **9. How the company will support and protect Whistleblowers?**

If you are making a qualifying disclosure under this legislation, you can ask the person you have chosen to disclose to, to keep your identity, or information that is likely to lead to your identification, confidential. DCA is restricted from disclosing your identity or the information you provide. However, they may report the information to ASIC, APRA, or the Australian Federal Police, or to a lawyer for advice about the Whistleblower protections.

It is illegal for a person to reveal the identity of a Whistleblower, or information likely to lead to the identification of Whistleblower, outside of these circumstances. ASIC can investigate allegations from a Whistleblower that their confidentiality has been breached following their report.

In DCA's investigation of the concerns raised in your report, DCA must take reasonable steps to ensure that information likely to lead to your identification is not disclosed without your consent.

#### **10. What happens after a report is made?**

DCA will investigate all reported concerns appropriately and will, where applicable, provide feedback regarding the investigation's outcome. DCA will take the necessary course of action in response to a report and if no action is taken, we will give you an explanation.

Your identity and the fact you have made a report and the contents of the report will be kept confidential and no details of your participation in the process will be included in your personnel file or performance review. The report will not be disclosed to anyone except those who are actively involved in investigating the matters raised in the report.

#### **11. What happens if nothing is done or I hear nothing back after making a complaint?**

If a Whistleblower makes an eligible disclosure and 90 days have passed and the Whistleblower has reasonable grounds to believe that no action is being taken to address the complaint, then the person can give notice to DCA that he/she is intending to make a public interest disclosure then can make a disclosure to a member of Parliaments or a journalist.

You do not need to wait 90 days if you believe that concerns a substantial or imminent danger to health or safety to an individual or group or the natural environment.

#### **12. What happens to you as a Whistleblower?**

DCA will ensure fair treatment of employees who are mentioned in Whistleblower disclosures.

You will not be discriminated against or disadvantaged in your employment with DCA for making a report in accordance with this policy, nor will you receive reprisals due to your actions in making a report.

DCA will take all reasonable steps to ensure that adequate and appropriate protection is being provided for those who, in good faith, make a report. This protection applies if the matter is proven or not, regardless of whether it is reported to an external authority.

Whistleblowing is not about airing a grievance. It's about reporting real or perceived malpractice. A report may damage the career prospects and reputation of people who are the subject of serious allegation and therefore if your report is not made in good faith or found to be malicious, deliberately misleading or frivolous, you may be subject to disciplinary action.

DCA will make this policy available to all staff members on the DCA Internet and through the HR manual.