

Policy

Subject: **Whistleblower Policy**
Approval Date: November 2019
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1 Introduction

We are committed to conducting RCPA with honesty and integrity, and we expect our officers, employees, suppliers and to maintain high standards in our policies. A culture of openness and accountability is essential to minimise the risk of illegal or unethical conduct and to address this conduct if it occurs.

This policy sets out a process for reporting illegal, corrupt or unethical conduct occurring in RCPA. Your disclosure can be made anonymously and your identity will be kept confidential (except in certain permitted circumstances). We are committed to ensuring that anyone who reports such conduct is not victimised as a result.

There are protections available under this policy and at law provided:

- you are one of our officers, employees, or otherwise have a connection with us, as set out at paragraph 3.1 and 3.2 of this policy;
- you have reasonable grounds for your Concern;
- your Concern relates to the types of matters set out at paragraph 5 of this policy; and
- you raise your Concern with one of the recipients set out at paragraph 6, or as set out at paragraph 13.

2 Interaction rules

- 2.1 The Whistleblower Protection Laws protect whistleblowers from negative treatment. One of the aims of this policy is to comply with our legislative obligations to provide information about the protections available to whistleblowers, including the protections under the Whistleblower Protection Laws. This policy is to be read subject to those statutory protections.
- 2.2 RCPA has a number of other policies (**Other Policies**) which address issues of behaviour by employees and officers. Where there is an inconsistency between this policy and one or more of the Other Policies then this policy prevails to the extent of the inconsistency.) Among other things, this means that any requirement of “good faith” referred to in the Other Policies does not apply to any disclosure made under this policy.

3 Who does this policy apply to?

- 3.1 This policy applies to anyone who performs work for us, which includes:

- our officers and employees, secondees and volunteers;
- our associates¹; and
- our suppliers and their employees.

3.2 If you are not an individual described above, please refer to Schedule 1 titled “Disclosures by external persons”.

3.3 As a condition of working with us, you are required to comply with any lawful directions made by RCPA in respect of this policy. This policy is not intended to be contractually binding and does not form part of any contract you may have with us.

4 Interpretation

4.1 In this policy, where the context requires, the following terms are used:

- (1) **ASIC** means Australian Securities and Investments Commission;
- (2) **APRA** means Australian Prudential Regulation Authority;
- (3) **you** refers to individuals to whom this policy applies;
- (4) **concern** means types of conduct outlined in clause 5 of this Policy.
- (5) **CEO** means Chief Executive Officer;
- (6) **DCEO** means Deputy Chief Executive Officer;
- (7) **RCPA** means the Royal College of Pathologists of Australasia, and its related bodies corporates in Australia, including Company RCPA QAP Pty Ltd;
- (8) **we or us** refers to RCPA;
- (9) **discloser** means a person who makes a disclosure;
- (10) **disclosure** means a disclosure of improper conduct, made on reasonable grounds;
- (11) **improper conduct** means the matters set out in paragraph 5 of this policy;
- (12) **Other Policies** means Anti-Discrimination, Harassment and Bullying Policy, Board Charter, Conflicts of Interest Policy, Code of Ethics, Complaints Handling Policy, Equal Opportunity, Discrimination and Harassment Policy contained in section 8 of the RCPA Human Resources Manual, and such cognate policies as exist from time to time;
- (13) **protected disclosure** means a disclosure protected by the Whistleblower Protection Laws (and includes a public interest disclosure and an emergency disclosure as defined in the *Corporations Act*);
- (14) **protected matter** means a matter protected under the Whistleblower Protection Laws;
- (15) **tax affairs** means affairs relating to any tax imposed by or under, or assessed or collected under, a law administered by the Commissioner of Taxation;

¹ Associate in this context means an individual who is an associate of RCPA within the meaning of the Corporations Act. This includes directors and company secretaries of RCPA, and may also include a range of individuals with whom RCPA acts in concert or is otherwise associated in a formal or informal way.

(16) **Whistleblower Protection Laws** means the *Corporations Act 2001* (Cth) and *Taxation Administration Act 1953* (Cth).

5 What can be the subject of a disclosure?

5.1 This policy allows reporting of the following types of improper conduct, provided you have reasonable grounds for your Concern:

Type of conduct	Example/s
<p>Misconduct in relation to RCPA.</p> <p>Misconduct includes fraud, negligence, default, breach of trust, or breach of duty in relation to RCPA.</p>	<p>Examples: Deliberately or negligently breaching laws in the conduct of our business.</p> <p>Deliberately overcharging customers or charging customers for services they did not receive.</p> <p>Billing for services not performed or for goods not delivered.</p> <p>Fraudulent financial reporting.</p>
<p>An improper state of affairs or circumstances, in relation to RCPA.</p>	<p>Example: Unethical conduct, such as systemic or serious breaches of our policies, including, but not limited to our Code of Ethics; Code of Conduct applicable to Directors and Senior Management (contained in Appendix C of the Board Charter); Employee's Code of Conduct (contained in section 6 of RCPA Human Resources Manual); Gift for Employee and Directors Policy, etc.</p> <p>Conduct which may be detrimental to the interests of RCPA, such as financial mismanagement.</p>
<p>Information that indicates that RCPA or any of our officers or employees have engaged in conduct that constitutes a breach of the Corporations Act or other laws administered by ASIC and APRA, as set out in Schedule 2.</p>	<p>Examples:</p> <p>Breach of continuous disclosure rules.</p> <p>Victimising a person who is, or is thought to be, a discloser.</p> <p>Breaching the confidentiality of a discloser.</p>
<p>Information that indicates that RCPA or any of our officers or employees have engaged in conduct that breaches any other Commonwealth laws, punishable by 12 months or more imprisonment.</p>	<p>Example: Bribing a government official.</p> <p>Widespread or repetitive sexual harassment, as stated in our <i>Anti-Discrimination, Harassment and Bullying Policy</i> and our <i>Equal Opportunity, Discrimination and Harassment Policy</i> contained in section 8 of the <i>RCPA Human Resources Manual</i>.</p>

Information that indicates that RCPA or any of our officers or employees have engaged in conduct that represents a danger to the public or to the financial system.	Examples: Deliberately or negligently misleading the public about the safety of a product. Systemic conduct that might pose a risk to stability of, or confidence in, our financial system
Information that indicates misconduct or an improper state of affairs or circumstances, in relation to the tax affairs of RCPA, or an associate ² of RCPA and you consider this information may assist the recipient to perform their functions or duties in relation to those tax affairs.	Example: Irregularities in relation to GST or input tax credits.
Any attempt to conceal or delay disclosure of any of the above conduct.	

5.2 Concerns should not be reported under this policy if they are more appropriately raised under another company policy.

5.3 This policy should not be used for complaints relating to personal work-related grievances, such as an interpersonal conflict between the discloser and another person, a decision relating to engagement, transfer or promotion of the discloser, a decision relating to the terms and conditions of engagement of the discloser, or a decision relating to suspension, termination or discipline of the discloser.

5.4 Concerns of that nature should be raised with:

- if you are one of our employees, officers, secondees or volunteers – with Human Resources or use the Employee Grievances Policy contained in the RCPA Human Resources Manual (as appropriate);
- otherwise – Concerns should be raised with HR Consultant.

6 How do I make a disclosure?

6.1 If you wish to make a disclosure about improper conduct pursuant to this policy, we encourage you to report it to one of our designated whistleblowing officers. They are authorised to receive disclosures and have received special training to handle disclosures. They can be contacted via the RCPA switchboard.

6.2 However you may also make an internal disclosure to:

- the CEO;
- the DCEO;
- the Human Resources Consultant;
- an officer or senior manager of RCPA;
- an auditor or a member of an audit team conducting an audit of RCPA; or

² Associate in this context refers to an associate of a company as defined in the *Income Tax Assessment Act 1936*, and includes a partner, a trustee of a trust where the company or their associate benefits from the trust, a controlling entity, and a controlled company.

- an actuary of RCPA.

6.3 If the disclosure relates to improper conduct in our tax affairs, internal disclosures may also be made to:

- an officer or senior manager of RCPA;
- any other employee or officer who has functions or duties relating to the tax affairs of RCPA;
- an auditor or a member of an audit team conducting an audit of RCPA; or
- a registered tax agent or BAS agent providing tax agent or BAS services to RCPA.

6.4 You may also be able to report your Concern externally. Please read paragraph 13 of this policy if you are considering this.

6.5 You may wish to seek independent legal advice (at your own cost) for the purpose of obtaining legal advice or representation in relation to making a disclosure.

7 Can I make a disclosure anonymously?

7.1 You can make a disclosure of improper conduct anonymously. However to enable us to properly investigate and respond to disclosures, we encourage disclosers to provide their name when making a disclosure.

7.2 If you make an anonymous disclosure, the person investigating the disclosure may not be able to provide you with information about the status of any investigation into the conduct.

8 Confidentiality of disclosures

8.1 We will keep a discloser's identity (or information likely to lead to a person being identified as a discloser) confidential, except in the following circumstances:

- the discloser consents in writing to this information being disclosed;
- during the investigation process, we are permitted to disclose information (other than the identity of the discloser) reasonably necessary for the purposes of investigating the disclosure. We will take reasonable steps to reduce the risk of the discloser being identified;
- we need to disclose this information to obtain confidential legal advice or representation; or
- we are required or permitted to do so by law, or we need to disclose the information to prevent a serious and imminent threat to life, health or property.

8.2 If you receive information about the identity of a discloser (whether directly or indirectly), you must keep that information confidential (except in the circumstances permitted above). If you do not keep that information confidential or you disclose information likely to lead to the person being identified as a discloser (except in the circumstances permitted above):

- if you are one of our employees – you will be subject to disciplinary action, which may include a formal written warning, or termination of your employment,
- if you are not one of our employees – we may terminate your engagement or appointment, or take other appropriate corrective action; and

- you may be exposed to criminal and civil penalties, including substantial fines and / or jail.

8.3 Files and records relating to disclosures will be treated as confidential and stored securely.

9 How will we investigate a disclosure?

9.1 The way RCPA investigates disclosures will depend on who raises the Concern, the seriousness and nature of the conduct disclosed, and who receives the disclosure. The objective of an investigation is to determine whether there is evidence which substantiates the Concern raised in the disclosure.

9.2 The usual steps in responding to a disclosure are set out below:



9.3 If the disclosure is appropriately dealt with under this policy, we will endeavour to:

- investigate the disclosure within a reasonable period of time,
- ensure that any investigation is fair and objective;
- avoid conflicts of interest in carrying out any investigation; and
- keep information relating to disclosures (including the identity of the discloser) confidential, except as required by law and permitted under this policy.

9.4 The investigation team will be coordinated by the designated whistleblowing officers. In some cases we may appoint external investigators such as lawyers or forensic accountants.

9.5 If the discloser can be contacted, the recipient of the disclosure will discuss the likely steps of the investigation with the discloser (including whether the discloser consents to their identity being disclosed) and provide the discloser with updates from time to time (where appropriate).

9.6 The outcome of any investigation will be reported to the Board of Directors.

10 How do we ensure fair treatment of employees mentioned in a disclosure?

10.1 Our usual practice is to ensure that any investigation process is confidential and fair.

10.2 We will endeavour to:

- maintain the privacy of employees who are mentioned in a disclosure or to whom a disclosure relates;
- provide employees who are mentioned in a disclosure or to whom a disclosure relates, an opportunity to respond (where appropriate and subject to our requirements to maintain confidentiality).

11 Victimization is prohibited

11.1 We are committed to protecting persons from being victimised in the workplace as a result of an actual or potential disclosure. These protections are essential to creating an environment where our employees, officers and others who work with us are comfortable reporting any improper conduct. However for practical reasons, we may not be able to extend the full range of protections to persons who are not our officers or employees.

11.2 **Victimization** is conduct that:

- causes **any** detriment to another person; or
- constitutes the making of a threat to cause detriment to another person;

where the reason (or part of the reason) for that conduct is a belief or suspicion that the other person (or any other person) made, may have made, proposes to make, or could make a disclosure of improper conduct.

11.3 **Detriment** includes but is not limited to:

- dismissing or demoting an employee;
- injuring an employee in their employment;
- altering an employee's position or duties to their disadvantage;
- discriminating between an employee and other employees;
- harassing or intimidating a person;
- harming or injuring a person, including causing psychological harm;
- damaging a person's property, reputation, business or financial position or causing any other damage to a person.

11.4 If you consider that you have been victimised as a result of making a disclosure, or in the belief that you have made, or may make, a disclosure, you should immediately report this to the CEO. You can also report victimising conduct under this policy.

11.5 If you are found to have engaged in victimisation:

- if you are one of our employees - you will be subject to disciplinary action which may include a formal written warning, or termination of your employment with us;
- if you are not one of our employees – we may terminate your engagement or appointment, or take other appropriate corrective action.

11.6 The Whistleblower Protection Laws prohibit victimisation. If a court decides that you have victimised another person in breach of the Whistleblower Protection Laws, the court may order you to:

- pay compensation to the person who was victimised;
- pay substantial fines and / or go to jail.

11.7 We may also be ordered to pay substantial penalties and legal costs if found to have engaged in victimisation.

12 What support and protections do we provide for disclosers?

- 12.1 If you are one of our employees or officers, you are entitled to support through the Employee Assistance Program. We may explore options such as taking leave, relocation to another area of business or a secondment arrangement while the disclosure is being investigated.
- 12.2 If you are one of our employees, you will not be subject to disciplinary action for making a disclosure on reasonable grounds. You may however still be subject to disciplinary action for misconduct that is revealed as a result of your disclosure. We may take the disclosure into account when determining the nature of any disciplinary action taken against you.
- 12.3 If you think your disclosure has not been dealt with sufficiently, you may raise the Concern with the CEO if you have not already done so, or report this Concern under this policy.

13 Can I report my Concern externally?

- 13.1 This policy is intended to facilitate internal disclosures of improper conduct as defined in this policy.
- 13.2 In addition to being reportable under this policy, disclosures about protected matters (as defined in the Whistleblower Protection Laws) can be reported directly to ASIC or APRA, or the Commissioner of Taxation (for a protected disclosure under the *Taxation Administration Act*).
- 13.3 The Corporations Act enables you to make a public interest disclosure or an emergency disclosure about a protected matter to a journalist or a member of parliament in certain limited circumstances.
- 13.4 We recommend you seek independent legal advice (at your own cost) before reporting any Concern to an external regulatory body, a journalist or a member of parliament. A disclosure to a legal practitioner for the purposes of obtaining legal advice or representation in relation to the operation of the Whistleblower Protection Laws is a protected disclosure.
- 13.5 Nothing in this policy is intended to prevent any person from reporting possible breaches of laws to relevant government agencies or authorities.

14 Protections available to disclosers at law

- 14.1 If your disclosure is a protected disclosure as defined under the Whistleblower Protection Laws, these laws provide that:
- you cannot be subject to any civil, criminal or administrative liability, for making a protected disclosure;
 - no contractual or other remedy may be enforced and no contractual or other right may be exercised against you on the basis of the protected disclosure;
 - you may be subject to civil, criminal or administrative liability for conduct that is revealed by the protected disclosure;
 - if the protected disclosure is to ASIC, APRA or the Commissioner of Taxation, or is a public interest disclosure or emergency disclosure as permitted under the Corporations Act (see clause 13 of this policy), the information is not admissible in evidence against you in criminal proceedings, or in proceedings for the imposition of a penalty, except for proceedings in respect of providing false information.
- 14.2 If you have been victimised for making a protected disclosure under the Whistleblower Protection Laws or in the belief that you have, or may make such a disclosure, possible remedies available under the Whistleblower Protection Laws include reinstatement, compensation, an order prohibiting the victimisation or an apology. The victimiser can be

ordered to pay substantial monetary fines or imprisoned. Protections for RCPA employees also exist under the Fair Work Act 2009 (Cth). These are enforceable as a matter of statute and do not form part of this policy.

15 What are the consequences of a baseless disclosure?

- 15.1 You may be liable to disciplinary or other form of appropriate corrective action if we conclude that you have made a disclosure maliciously and without having reasonable grounds to do so.

16 Other information about this policy

- 16.1 The CEO has responsibility for this policy, including ensuring it is reviewed every two years.
- 16.2 This policy is located on RCPA's website, which has member/staff log in arrangements. The policy is also located on SharePoint.
- 16.3 We reserve the right, at our absolute discretion, to change this policy from time to time. You are required to periodically review the policy to update yourself on any changes to the policy.
- 16.4 Training on this policy will be offered from time to time. Employees and officers are required to attend this training within 1 month of commencement and then every year.
- 16.5 If you have any questions about this policy, please contact the Human Resources Consultant.

Schedule 1

Disclosures by external persons

This schedule applies to individuals including:

- our former officers, employees, consultants and associates³;
- relatives of our current and former officers, employees, consultants and associates⁴;
- our former contractors, suppliers, agents, and their employees;
- relatives of current and former contractors, suppliers, agents and their employees.

A relative includes a spouse (including de facto), parent, child or dependant.

If you have a Concern about improper conduct occurring in relation to our business, you can make a report to CEO or President of RCPA on ceo@rcpa.edu.au, president@rcpa.edu.au.

You can raise your Concern anonymously. The identity of a discloser (or information likely to lead to a discloser being identified as a discloser) will be kept confidential, except to the limited extent advised otherwise.

Your Concern must be based on reasonable grounds **and** relate to the types of conduct outlined below:

Type of conduct	Example/s
<p>Misconduct in relation to RCPA.</p> <p>Misconduct includes fraud, negligence, default, breach of trust, or breach of duty in relation to RCPA.</p>	<p>Examples:</p> <p>Deliberately or negligently breaching laws in the conduct of our business.</p> <p>Deliberately overcharging customers or charging customers for services they did not receive.</p> <p>Billing for services not performed or for goods not delivered.</p> <p>Fraudulent financial reporting.</p>
<p>An improper state of affairs or circumstances, in relation to RCPA.</p>	<p>Example:</p> <p>Unethical conduct, such as systemic or serious breaches of our policies, including, but not limited to our Code of Ethics; Code of Conduct applicable to Directors and Senior Management (contained in Appendix C of the Board Charter); Employee’s Code of Conduct (contained in section 6 of RCPA Human Resources Manual); Gift for Employee and Directors Policy, etc.</p>

³ Associate in this context is defined in the Corporations Act 2001.

⁴ Associate in this context is defined in the Corporations Act 2001.

	Conduct which may be detrimental to the interests of RCPA, such as financial mismanagement.
Information that indicates that RCPA or any of our officers or employees have engaged in conduct that constitutes a breach of the Corporations Act or other laws administered by ASIC and APRA, as set out in Schedule 2.	<p>Examples:</p> <p>Breach of continuous disclosure rules.</p> <p>Victimising a person who is, or is thought to be, a discloser.</p> <p>Breaching the confidentiality of a discloser.</p>
Information that indicates that RCPA or any of our officers or employees have engaged in conduct that breaches any other Commonwealth laws, punishable by 12 months or more imprisonment.	<p>Example:</p> <p>Bribing a government official.</p> <p>Widespread or repetitive sexual harassment, as stated in our <i>Anti-Discrimination, Harassment and Bullying Policy</i> and our <i>Equal Opportunity, Discrimination and Harassment Policy</i> contained in section 8 of the <i>RCPA Human Resources Manual</i>.</p>
Information that indicates that RCPA or any of our officers or employees have engaged in conduct that represents a danger to the public or to the financial system.	<p>Examples:</p> <p>Deliberately or negligently misleading the public about the safety of a product.</p> <p>Systemic conduct that might pose a risk to stability of, or confidence in, our financial system</p>
Information that indicates misconduct or an improper state of affairs or circumstances, in relation to the tax affairs of RCPA, or an associate ⁵ of RCPA and you consider this information may assist the recipient to perform their functions or duties in relation to those tax affairs.	<p>Example: Irregularities in relation to GST or input tax credits..</p>
Any attempt to conceal or delay disclosure of any of the above conduct.	

⁵ Associate in this context refers to an associate of a company as defined in the *Income Tax Assessment Act 1936*, and includes a partner, a trustee of a trust where the company or their associate benefits from the trust, a controlling entity, and a controlled company.

Schedule 2

Legislation administered by Australian Securities and Investment Commission (ASIC) or Australian Prudential Regulation Authority (APRA)

ASIC:

- the *Corporations Act 2001*;
- the *ASIC Act 2001*;

APRA:

- the *Banking Act 1959*;
- the *Financial Sector (Collection of Data) Act 2001*;
- the *Insurance Act 1973*;
- the *Life Insurance Act 1995*;
- the *National Consumer Credit Protection Act 2009*;
- the *Superannuation Industry (Supervision) Act 1993*; or
- an instrument made under those Acts.