



Emergency Medicine Foundation

WHISTLEBLOWER PROTECTION

Policy and Procedure

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Purpose

This policy and procedure provides guidance on the actions which shall be undertaken by the Emergency Medicine Foundation Limited (EMF) in respect to Whistleblower Protection as set out in Part 9.4AAA of the *Corporations Act 2001* (the Act) and in accordance with Regulatory Guide 270.

EMF is committed to creating an ethical and open work environment, to ensure that the organisation has a governance and accountability structure that supports its values and mission and to encourage and enable Directors, Officers, Employees and Volunteers of EMF to raise serious concerns about the occurrence of illegal or unethical actions within the organisation before turning to outside parties for resolution.

Scope

This policy and procedure applies to both current and former employees, officers, contractors (temporary or otherwise), suppliers and agents of EMF and will be referred to collectively as “staff”. Applicability will also extend to a relative or dependant of one of those individuals.

This Whistleblower Policy does not form part of an employment contract and does not modify the employment relationship between EMF and any of its staff, nor does it change the fact that all employees of the organisation are employees at will. No information set out within this Whistleblower Policy provides any employee with any additional rights or causes of actions not otherwise available under applicable law.

Protections

S1317AA of the Act allows protection for a discloser who is:

- An officer of the company
- An employee of the company
- A person who has a contract for the supply of services or goods to the company
- An employee of a person who has a contract for the supply of services or goods to the company
- A relative or dependant of one of those individuals

This section allows protection for the disclosure of information about the misconduct or an improper state of affairs or circumstances, anonymously or otherwise, to:

- ASIC
- The company’s auditor or member of an audit team conducting an audit of the company
- A director, secretary or senior manager of the company
- A person authorised by the company to receive disclosers of that kind

Victimisation

EMF is committed to ensuring that an individual who, in good faith, reports any violation or conduct or suspected violation or conduct does not suffer harassment, retaliation, victimisation or adverse employment consequences. Anyone who retaliates against a member of staff, as defined above, who has made a disclosure in good faith is subject to discipline and may lead to termination of employment. A person must not cause any detriment to that person, or threaten to do so, because of a belief or suspicion that they made, may have made, proposed to make or could make a disclosure that would qualify for protection.

As set out in s1317AC of the Act, victimisation occurs when a person:

- Intends their conduct to cause detriment to another person
- Threatens to cause detriment to another person
- Delivers threats are express or implied, conditional or unconditional, to another person.

Compensation

As set out in s1317AD of the Act, an individual may recover compensation from a person if they suffer loss or detriment as a result of a person's or the company's contravention of s1317AC.

Confidentiality Requirements

S1317AE of the Act allows for where protected disclosure is made to a person, or another person obtains the information indirectly, the information and the discloser's identity must be treated as confidential. Their identity, or information that is likely to lead to their identification, cannot be disclosed by any person in connection with their disclosure without their consent. There are a number of exceptions that enable information to be passed onto the following organisations:

- Australian Securities and Investment Commission (ASIC)
- Australian Prudential Regulation Authority (APRA)
- A member of the Australian Federal Police (AFP).

Reporting Responsibility

All staff of EMF have a responsibility to report any action or suspected action or conduct within the organisation that is illegal, unethical or violates any adopted policy of EMF. Staff can also disclose circumstances whereby EMF has contravened certain corporate and financial sector laws, any law of the Commonwealth punishable by 12 months or more imprisonment or has engaged in conduct that is questionable or represents a danger.

An individual reporting a violation or conduct must act in good faith, without malice to the organisation or any individual and have reasonable grounds for believing that the information shared in the disclosure indicates that a violation has occurred. Any individual who makes a disclosure maliciously, that is false or not in good faith, will be subject to the EMF's disciplinary policy.

Reporting Process

All employees of EMF should address their concerns relating to a violation to any person within the organisation who can properly address those concerns. In most cases, the direct supervisor of an employee is the person best suited to address a concern. However, if an individual is not comfortable speaking with a direct supervisor or if they are not satisfied with the supervisor's response, they are encouraged to speak with the Chair of the Finance, Risk and Audit Committee or to anyone in a management position within the organisation. The report may be made in person, by telephone, email or other written communication and can be made anonymously.

The types of conduct that may give rise to a protected disclosure include:

- Illegal conduct
- 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/threatening to engage in detrimental conduct against a person who has made a disclosure or is believed/suspected to have made/be planning to make a disclosure

This list is not exhaustive and in all instances consent will be sought from an individual who discloses concerning conduct to share their disclosure as needed.

EMF encourages all staff who are reporting a violation to identify themselves when making a report in order to facilitate the investigation of that violation. However, reports may be submitted on a confidential basis and may be submitted to the relevant Officer anonymously. Individuals who make reports anonymously should recognise the limits that are inherent in investigating anonymous reports.

Report Content

Any report should contain sufficient information to permit adequate investigation and at a minimum should include the following information:

- The name, contact information of the reporting party
- Description of the nature of the improper activity
- Name(s) of the employee(s), other individual(s) and department(s) engaging in the activity or with knowledge of the activity
- Actual or approximate date(s) the activity took place
- Explanation of any steps taken internally with EMF management to report or resolve the complaint.

Board Responsibility

The Chair of the Finance, Risk and Audit Committee is responsible for promptly investigating all reported violations and for causing appropriate corrective action to be taken if warranted by the investigation.

The Finance, Risk and Audit Committee of the Board is responsible for addressing all reported concerns or complaints of violations relating to corporate accounting practices, internal controls or auditing.

The Chair of the Finance, Risk and Audit Committee has direct access to the Board of Directors and is required to report to the Board of Directors at least annually on compliance activity.

Further information

For further information, please refer to the *Corporations Act 2001* and *Regulatory Guide 270*.

This policy will be reviewed periodically, at least bi-annually, to ensure currency and effectiveness.

Policy active date:

13 May 2020