

**Policy:** **CLAN Whistleblower Policy**  
Version No: 1.1 (6 July 2018, March 2020, February 2024)

Date updated: September 2025  
Date Approved: September 2025  
Date Review Scheduled: September 2027

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## 1. Introduction

CLAN is a non-government organization whose mission is ‘To maximize the quality of life for children and their families who are living with chronic health conditions in resource-poor settings of the world.’ This involves CLAN working with partners and communities to achieve outcomes to build capacity and sustainability for their projects and activities. CLAN is committed to fostering a culture where representatives are encouraged to raise concerns about unethical and unacceptable conduct and managing arising issues or complaints promptly in a fair and ethical manner and in a safe environment.

## 2. Purpose

This policy aims to provide support for an individual who approaches CLAN to provide information about potential breach of the *Corporations Act 2001* by person/s within CLAN and to manage such disclosures effectively.

## 3. Scope

This Policy is intended to apply to any report or information about misconduct within CLAN, including our paid staff, our volunteers, our partners, our contracted service providers or anyone else acting on behalf of CLAN. CLAN will give serious consideration to the matters they raise.

## 4. Definitions

| <b>TERM</b>    | <b>DEFINITION</b>  |
|----------------|--|
| Whistleblower  | A whistleblower is an insider within an organization, who reports misconduct or dishonest or illegal activity that has occurred within that same organization. It may include former officers, employees, contractors, suppliers and family members.   |
| Whistleblowing | A deliberate, voluntary disclosure of individual or organizational wrongdoing by a person who has access to data, events of information about an actual, suspected or anticipated wrongdoing within the organization   |
| Wrongful Act   | A wrongful act includes, but not limited to breach of legal obligations, criminal offences, mismanagement of funds, actual or suspected fraud, abuse of authority, disclosures related to miscarriages of justice, health and safety risks including risks to the public as well as to CLAN staff, damage to the environment, unauthorized use of organizational funds, corruption, sexual or physical abuse of clients or CLAN staff, unethical conduct, or the concealment of above. |

## 5. Commitment

CLAN will ensure that staff, volunteers contractors and partners are informed prior to engagement that they have a responsibility to disclose to CLAN information about any possible or real wrongdoing that occurs in a CLAN activity. CLAN is committed to managing information effectively that is disclosed by a whistleblower. CLAN seeks to ensure all actions are implemented to investigate such information ethically and with integrity.

## 6. CLAN's role

### 6.1 Criteria to determine a whistleblower:

- I. A whistleblower must be a current officer of CLAN, a current employee, contractor or volunteer.
- II. The disclosure must be made to the CLAN's President or Vice-President, CLAN's auditor, or a person authorized by CLAN to receive whistleblower disclosures;
- III. The person presenting the information is required to give their name to the person they are making the disclosure to;
- IV. There must be evidence to demonstrate reasonable grounds that the information disclosed may have breached the *Corporations Act 2001*; is a 'wrongful act', as defined above
- V. The disclosure must be made in good faith, that is, it is honest and genuine to disclose misconduct, and not for any other unrelated reason.

### 6.2 Protection for the whistleblower

The *Corporations Act 2001* contains protections for whistleblowers who meet the criteria in s.4 and s.6.

- I. Information provided by whistleblowers is classified as a 'protected disclosure', which must be kept confidential. CLAN must not disclose either the information or identity of the whistleblower unless that disclosure is specifically required by law, or the whistleblower consents to the disclosure or the disclosure is necessary to further the investigation. At some stage it might be necessary to disclose the fact and substance of the report to the person subject of the report.
- II. A whistleblower may submit reports without the need to declare their identity or prove that the disclosure is being made in 'good faith'.
- III. A whistleblower is protected against civil or criminal litigations (including a breach of contract) for protected disclosures; administrative and disciplinary action; contractual remedies; defamation, reprisal and victimization.
- IV. Legal protections for whistleblowers may include: compensation for those who suffer reprisal or retaliation following a disclosure. If the whistleblower is the subject of an action for disclosing protected information they may rely on this protection in their defense. If an employer terminates a whistleblower's employment as a result of a protected disclosure, the whistleblower may ask the court for an order to reinstate them either in their original position or in another position at a comparable level.
- V. It is a criminal offence to victimize a whistleblower because of a protected disclosure. If a whistleblower suffers damage, the whistleblower can claim compensation for that damage from the offender.

- VI. A whistleblower who is implicated in a wrongful act will not be subjected to any actual or threatened retaliatory action, victimization or punishment by CLAN for making a report under this policy. However, this will not necessarily shield the whistleblower from the law of that person's involvement in the wrongful act.

### **6.3 Management of a disclosure**

- (i) When an individual indicates that they wish to report misconduct or dishonest or illegal activity that has occurred, the disclosure will be made to one of CLAN's nominated persons. The protections for whistleblowers will be shared with the whistleblower. A report may also be made on CLAN's website at [clanchildhealth.org](http://clanchildhealth.org) on the Contact CLAN page using the Contact Form or email to [info@clanchildhealth.org](mailto:info@clanchildhealth.org), or post to CLAN PO Box 996

- (ii) CLAN will review the information disclosed and assess the matter to determine if a formal investigation is required or not, and then consider if other procedures may be effective to remedy the situation such as disciplinary action or a more informal approach to deal with the matter.

The focus of a formal investigation will determine the nature and seriousness of the misconduct, conduct of the person after the alleged misconduct, the strength of the case, potential impact of the remedy and any other mitigating factors. The person subject of the allegation will be informed of the allegation, given the opportunity to answer allegations and have their defense set out fairly in any report.

If the whistleblower is not satisfied with the response they received they have the option to raise the matter directly with the Chair of CLAN's governing body.

- (iii) In cases where there is evidence of misconduct, dishonest or illegal activity, remedies may include court action, punitive action for misconduct, protective action to protect CLAN, corrective action for misleading information given about CLAN, or a negotiated resolution to improve compliance.
- (iv) In a case where an allegation is found to be unsubstantiated, CLAN will endeavor to address any negative effect on the reputation of CLAN and/or personnel involved.

### **References**

ASIC 'Whistleblowing protections for not-for-profit organisations'. [asic.gov.au](http://asic.gov.au)

Corporations Act 2001

Treasury Laws Amendment (Enhancing Whistleblower Protections) Bill 2018

## **ANNEXURE - WHISTLEBLOWER REPORT**

**Whistleblower Policies and Procedures, ACFID ([acfid.asn.au](http://acfid.asn.au)), sample questions for a written report from a whistleblower:**

1. Please state your full name
2. Please state your position title and your office location
3. What is your work telephone number and email address?
4. What is the name of your immediate manager?
5. Please describe in detail the matter you would like to disclose
6. How was the matter discovered?
7. Over what period of time has the suspected activity occurred?
8. Why do you consider this matter to be a wrongful act?
9. Please name all the people involved in the suspected wrongful act
10. Are there any witnesses? If 'yes" please state their names
11. Do you have any supporting evidence?
12. Where is the evidence located?
13. Is the evidence in danger of being lost or destroyed?
14. Please explain how this evidence can be retrieved by the person involved in investigating this matter OR Provide the evidence with your report.
15. Have you been told about this matter by someone else?
16. Who else knows about this matter?
17. Please state (in detail) if you have any concerns regarding reprisal or recriminatory action taken or that might be taken against you.
18. Please include any other details which you believe are relevant. This should include whether you have any personal interest in the matter.