

<b>Title</b>	<b>WHISTLEBLOWER POLICY</b>
<b>Summary</b>	<p>Under the <i>Corporations Act 2001</i> (Cth), BSH Home Appliances Pty Ltd is required to implement and maintain a 'Whistleblower Policy'.</p> <p>The Whistleblower Policy:</p> <ul style="list-style-type: none"> <li>(a) is essential to uncovering misconduct and ensuring good risk management;</li> <li>(b) will describe how misconduct will be uncovered, handled, reported and managed by BSH;</li> <li>(c) will also identify the different types of disclosures within and outside of BSH and who can make a disclosure that qualifies for protection; and</li> <li>(d) will promote greater compliance with applicable laws and promote an ethical culture by increasing awareness of misconduct.</li> </ul>
<b>Version</b>	1
<b>Valid as of</b>	1 January 2020
<b>Applicable to</b>	BSH-AU
<b>Responsible department</b>	Human Resources (AU/BA-HR)
<b>Category</b>	Human Resources

## 1. PURPOSE OF THE POLICY

Under the *Corporations Act 2001* (Cth) (**Act**), BSH Home Appliances Pty Ltd (**BSH**) is required to establish and maintain a Whistleblower Policy (**Policy**).

The purpose of the Policy is to deter, and when necessary, identify wrongdoing in line with BSH's risk management, compliance and governance framework. To do so, the Policy will provide transparency around BSH's framework for receiving, handling and investigating disclosures.

The Policy will ensure that persons who disclose wrongdoing can do so safely, securely and with the confidence that they will be protected and supported.

Ultimately, the Policy will promote greater compliance with applicable laws and an ethical culture by increasing awareness of misconduct and appropriate avenues for its management.

## 2. WHO THE POLICY APPLIES TO – ELIGIBLE WHISTLEBLOWERS

An eligible whistleblower is a person who is, or has been, any of the following in relation to BSH:

- (a) an officer or employee (including current and former employees whether permanent, part-time, fixed-term or temporary, interns, secondees, managers and directors);
- (b) a supplier of services or goods to BSH (whether paid or unpaid), including their employees (current and former contractors, consultants, service providers and business partners);
- (c) an associate of BSH; or
- (d) a relative, dependent or spouse of a person outlined in paragraphs (a) - (c) (above), including relatives, dependents or spouses of current and former employees, contractors, consultants, service providers, suppliers and business partners.

Any person outlined above who discloses 'disclosable matters' (part 3 below describes these) qualifies for protection as a whistleblower under the Act if:

- (a) they have disclosed the 'disclosable matter' directly to an 'eligible recipient' (see part 4 below for a description of these individuals) or to ASIC, APRA or another Commonwealth body prescribed by legislation;

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- (b) they have made a disclosure to a legal practitioner for the purposes of obtaining legal advice or legal representation about the operation of the whistleblower provisions in the Act; or
- (c) they have made an 'emergency disclosure' or 'public interest disclosure' (part 4 below contains more detail on these).

### 3. MATTERS THE POLICY APPLIES TO

#### Disclosable matters

Disclosable matters involve information that the discloser has *reasonable grounds to suspect*:

- (a) concerns misconduct, or an improper state of affairs or circumstances in relation to BSH or one of its related bodies corporate; or
- (b) indicates BSH, a related body corporate or one of its officers or employees has engaged in conduct that:
  - (i) constitutes an offence against, or a contravention of, a provision of any of the following:
    - (1) the *Coporations Act 2001*;
    - (2) the *Australian Securities and Investments Commission Act 2001*;
    - (3) the *Banking Act 1959*;
    - (4) the *Financial Sector (Collection of Data) Act 2001*;
    - (5) the *Insurance Act 1973*;
    - (6) the *Life Insurance Act 1995*;
    - (7) the *National Consumer Credit Protection Act 2009*;
    - (8) the *Superannuation Industry (Supervision) Act 1993*; or
    - (9) any instrument made under these Acts,
  - (ii) constitutes an offence against any other law of the Commonwealth that is punishable by imprisonment for a period of 12 months or more;
  - (iii) represents a danger to the public or the financial system, (even if it does not involve a breach of a particular law); or
  - (iv) is prescribed by legislation.

Such disclosable matters may include information about:

- (a) fraud, money laundering or misappropriation of funds;
- (b) offering or accepting a bribe;
- (c) financial irregularities;
- (d) failure to comply with, or breach of, legal or regulatory requirements; and
- (e) engaging in, or threatening to engage in detrimental conduct against a person who has made a disclosure or is believed or suspected to have made, or be planning to make, a disclosure,

involving BSH, a related body corporate or one of their officers or employees.

It is important to note that a discloser can still qualify for protection even if the disclosure is incorrect. But, disclosures that are not about disclosable matters will not qualify for protection under the Act.

#### Reasonable grounds to suspect

*Reasonable grounds to suspect* is based on the objective reasonableness for the discloser's suspicion. For instance, a mere allegation with no supporting evidence is unlikely to be considered as having reasonable grounds

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to suspect. However, a discloser does not need to prove their allegations.

### **Misconduct, or an improper state of affairs or circumstances**

*Misconduct* includes fraud, negligence, default, breach of trust and breach of duty.

It is important to note that, *misconduct or an improper state of affairs or circumstances* may not involve unlawful conduct in relation to BSH, but may indicate a systematic issue that regulators should know about in order to properly perform their functions. These terms may also relate to business behaviours and practices that may cause consumer harm.

### **Personal work-related grievances**

Disclosures that relate solely to personal work-related grievances and that do not relate to detriment or threat of detriment to the discloser, will not qualify for protection under the Act.

Personal work-related grievances are those that relate to the disclosers' current or former employment and have, or tend to have, implications for the discloser *personally*, but do not have any significant implications for BSH, or another entity or, relate to any conduct, or alleged conduct, about a disclosable matter.

Personal work-related grievances may include an interpersonal conflict between the discloser and another employee, a decision about the engagement, transfer or promotion of the disclosure or, a decision to suspend or terminate the engagement of the discloser, or otherwise to discipline the discloser.

A personal work-related grievance may still qualify for protection if:

- (a) it includes information about misconduct, or information about misconduct includes or is accompanied by a work-related grievance (mixed report);
- (b) BSH has breached employment or other laws punishable by imprisonment for a period of 12 months or more, engaged in conduct that represents a danger to the public, or the disclosure relates to information that suggests misconduct beyond the discloser's personal circumstances;
- (c) the discloser suffers from or is threatened with detriment for making a disclosure; or
- (d) the discloser seeks legal advice or legal representation about the operation of whistleblower protections under the Act.

## **4. WHO CAN RECEIVE A DISCLOSURE?**

For the whistleblower protections under the Act to apply, a disclosure must be made directly to an 'eligible recipient'. These people are detailed below. An eligible whistleblower's disclosure qualifies for protection from the time it is made to an eligible recipient, regardless of whether the eligible whistleblower or the recipient recognises that the disclosure qualifies for protection at that time.

### **Internally**

The following are eligible to receive disclosures internally by email, telephone or in person:

- (a) officers (director or company secretary) and senior managers (for these purposes, a senior manager includes the Managing Director and Finance Director) of BSH and any related body corporate of BSH;
- (b) department managers;
- (c) the Local Compliance Officer; and
- (d) internal auditors (including a member of an audit team conducting an audit) of BSH and any related body corporate of BSH.

See CODI on the Intranet for contact details.

## Externally

Disclosure can also be made via:

BSH's Trust and Tell System, which is a secure reporting site that allows for safe, anonymous and confidential disclosures and that is located at:

<https://www.bkms-system.net/bkwebanon/report/clientInfo?cin=2BSH8&language=eng>

BSH Group's Compliance Organisation contactable by email at:

[compliance@bshg.com](mailto:compliance@bshg.com)

BSH's Lawyer of Trust, who is an external lawyer who handles compliance violations confidentially and, if requested, will receive anonymous disclosures, details of which are:

### Dr. Karl Sidhu, LLM

Phone: +49 (0)89 244 133 4 60                      Mobile: +49 176 225 74 526  
Fax: +49 (0)89 244 133 4 68                      Email: sidhu@svs-legal.deor  
Mail: Widenmayerstr. 36, 80538 Munich, Germany

## Legal practitioners

Disclosures to a qualified legal practitioner for the purposes of obtaining legal advice or legal representation in relation to the operation of the whistleblower provisions in the Act are protected (even in the event that the legal practitioner concludes that a disclosure does not relate to a 'disclosable matter').

## Regulatory bodies and other external parties

Disclosures of information relating to disclosable matters can be made to ASIC, APRA, or other Commonwealth bodies prescribed by legislation and qualify for protection under the Act. Further information can be found at the following links:

**Australian Securities and Investments Commission** (corporate, markets and financial services regulator)

<https://asic.gov.au/about-asic/asic-investigations-and-enforcement/whistleblowing/how-asic-handles-whistleblower-reports/>

**Australian Prudential Regulation Authority** (banking, insurance and superannuation institutions regulator)

<https://www.apra.gov.au/become-a-whistleblower-and-make-a-public-interest-disclosure>

Disclosures can also be made to the external auditor (including a member of an audit team conducting an audit) or actuary of BSH or related body corporate.

## Public disclosures and emergency disclosures

Where disclosure is in the *public interest*, or where there is an *emergency*, whistleblowers can disclose information to a journalist or parliamentarian and be protected by the Act.

A *public interest* disclosure is the disclosure of information to a journalist or a parliamentarian, where:

- (a) at least 90 days have passed since the discloser made the disclosure to ASIC, APRA or another Commonwealth body prescribed by legislation;
- (b) the discloser does not have reasonable grounds to believe that action is being, or has been taken, in relation to their disclosure;
- (c) the discloser has reasonable grounds to believe that making a further disclosure of the information is in the public interest; and

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- (d) before making the public interest disclosure, the discloser has given written notice to the relevant body (i.e. ASIC, APRA or another Commonwealth body prescribed by legislation) to which the previous disclosure was made that includes sufficient information to identify the previous disclosure and states that the discloser intends to make a public interest disclosure.

An *emergency disclosure* is the disclosure of information to a journalist or parliamentarian, where:

- (a) the discloser has previously made a disclosure of the information to ASIC, APRA or another Commonwealth body prescribed by legislation;
- (b) the discloser 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;
- (c) before making the emergency disclosure, the discloser has given written notice to the relevant body (i.e. ASIC, APRA or another Commonwealth body prescribed by legislation) to which the previous disclosure was made that includes sufficient information to identify the previous disclosure and states that the discloser intends to make an emergency disclosure; and
- (d) the extent of the information disclosed in the emergency disclosure is no greater than is necessary to inform the journalist or parliamentarian of the substantial and imminent danger.

### **Criteria for making public disclosures and emergency disclosures**

It is important for disclosers to understand the criteria for making a public interest or emergency disclosure.

In both instances, a disclosure *must* have been made to ASIC, APRA or another Commonwealth body prescribed by legislation and written notice provided to the relevant body to which the disclosure was made.

In the case of public interest disclosure, at least 90 days *must* have passed since the previous disclosure.

A discloser should contact an independent legal adviser *before* making a public interest disclosure or an emergency disclosure.

## **5. HOW TO MAKE A DISCLOSURE?**

Disclosures can be made internally or externally, anonymously and/or confidentially, securely and outside of business hours to the internal and external eligible recipients as described in part 4 above.

### **Anonymous Disclosures**

Disclosures can be made anonymously and still be protected under the Act.

Disclosers can choose to remain anonymous while making a disclosure, over the course of the investigation and after the investigation is finalised. Disclosers can refuse to answer questions if there is concern that answering the question could reveal their identity, including during follow-up conversations.

If a disclosure comes from an email address from which the person's identity cannot be determined and the discloser does not identify themselves in the email, it will be treated as an anonymous disclosure.

## **6. LEGAL PROTECTIONS FOR DISCLOSERS**

Important protections relating to confidentiality and detriment apply to eligible whistleblowers who report disclosable matters in accordance with the whistleblower protections in the Act outlined in this Policy. These protections apply to internal disclosures as well as disclosures to legal practitioners, regulatory and other external bodies, and public interest and emergency disclosures that are made in accordance with the Act.

All information gathered at the time of a disclosure and/or during an investigation will be protected and secured as per BSH Group Policies and Regulations.

A whistleblower's identity (if known) and information pertaining to an investigation will only be accessible to those directly involved in managing the investigation.

## Identity Protection (Confidentiality)

Where a discloser makes an anonymous disclosure, BSH will keep the discloser's identity confidential.

It is illegal for a person to identify a discloser, or disclose information that is likely to lead to the identification of the discloser. A person cannot disclose the identity of a discloser or information that is likely to lead to the identification of the discloser, *except* if the person discloses the identity of the discloser:

- (a) to ASIC, APRA, or a member of the Australian Federal Police;
- (b) to a legal practitioner (for the purposes of obtaining legal advice or legal representation about the whistleblower provisions in the Act);
- (c) to a person or body prescribed by legislation; or
- (d) with the consent of the discloser.

A person *can* disclose the information contained in a disclosure *with or without* the disclosers consent if:

- (a) the information does not include the discloser's identity;
- (b) the entity has taken all reasonable steps to reduce the risk that the discloser will be identified from the information; and
- (c) it is reasonably necessary for investigating the issues raised in the disclosure.

## Protection from Detrimental Acts or Omissions

There are legal protections for protecting a discloser, or any other person, from detriment in relation to a disclosure.

A person cannot engage in conduct that causes detriment to a discloser (or another person), in relation to the disclosure if:

- (a) a person believes or suspects that the discloser (or another person) made, may have made, proposes to make or, could make a disclosure that qualifies for protection; and
- (b) the belief or suspicion is the reason, or part of the reason, for the conduct.

Additionally, a person cannot make a threat to cause detriment to a discloser (or another person) in relation to a disclosure. A threat may be expressed or implied, or conditional or unconditional. A discloser (or another person) who has been threatened in relation to a disclosure does not have to actually fear that the threat will be carried out.

Detrimental conduct includes:

- (a) dismissal of an employee;
- (b) alteration of an employee's position or duties to his or her disadvantage;
- (c) harassment or intimidation of a person;
- (d) harm or injury to a person, including psychological harm;
- (e) damage to a person's reputation.

In contrast, detrimental conduct will *not* include:

- (a) administrative action that is reasonable for the purpose of protecting a discloser from detriment (i.e. moving a discloser who has made a disclosure about their immediate work area to another office to prevent them from detriment);

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- (b) managing a discloser's unsatisfactory work performance, if the action is in line with the entity's performance management framework.

### **Compensation and other remedies**

A discloser can seek compensation and other remedies through the courts if:

- (a) they suffer loss, damage or injury because of a disclosure; and
- (b) BSH failed to take reasonable precautions and exercise due diligence to prevent the detrimental conduct.

BSH encourages disclosers to seek independent legal advice in regards to seeking compensation or other remedies.

### **Civil, criminal and administrative liability protection**

A discloser is protected from any of the following in relation to their disclosure:

- (a) Civil liability (e.g. any legal action against the discloser for breach of an employment contract, duty of confidentiality or another contractual obligation);
- (b) Criminal liability (eg attempted prosecution of the discloser for unlawfully releasing information, or other use of the disclosure against the discloser in a prosecution (other than for making a false disclosure)); and
- (c) Administrative liability (e.g. disciplinary action for making the disclosure).

Protections do not grant immunity for any misconduct a discloser has engaged in that is revealed in their disclosure.

## **7. SUPPORT AND PRACTICAL PROTECTION FOR DISCLOSERS**

BSH will support disclosers, protect the confidentiality of a discloser's identity and protect disclosers from detriment.

### **Support disclosers**

The following are available to support disclosers:

- (a) BSH's Human Resources Department
- (b) BSH's Work Health and Safety Adviser
- (c) Employee Assistance Program provided by BSH free of charge.

Brochures are available from Human Resources, made available around the building or go to <https://www.lifeworks.com/au/> or call 1300 361 008.

### **Confidentiality of a discloser's identity**

BSH takes the protection of an eligible whistleblower's identity seriously. Steps it will take to help achieve this may include:

- (a) maintaining mechanisms to reduce the risk that the eligible whistleblower will be identified from the information contained in a disclosure (such as redactions or referring to the person in gender neutral terms etc);
- (b) maintaining mechanisms for secure record-keeping and information-sharing processes and limiting access to records and information;
- (c) reminding each person (as appropriate) who is involved in handling and investigating a disclosure about the confidentiality requirements, including that an unauthorised disclosure of an eligible whistleblower's identity may be a criminal offence.

## **Protect disclosers from detriment**

BSH may also consider a range of other matters to protect an eligible whistleblower from the risk of suffering detriment and to ensure fair treatment of individuals mentioned in a disclosure. Steps it will take to help achieve this may include:

- (a) assessing whether anyone may have a motive to cause detriment (i.e. information could be gathered from an eligible whistleblower about the risk of their identity becoming known);
- (b) developing and implementing strategies to prevent or contain the risks—for anonymous disclosures, it may be worthwhile assessing whether the discloser's identity can be readily identified or may become apparent during an investigation;
- (c) monitoring and reassessing the risk of detriment where required—the risk of detriment may increase or change as an investigation progresses, and even after an investigation is finalised;
- (d) taking steps to ensure that:
  - (i) disclosures will be handled confidentially, when it is practical and appropriate in the circumstances;
  - (ii) each disclosure will be assessed and may be the subject of an investigation;
  - (iii) the objective of an investigation is to determine whether there is enough evidence to substantiate or refute the matters disclosed;
  - (iv) when an investigation needs to be undertaken, the process will be objective, fair and independent;
- (e) assisting the eligible whistleblower by providing support services; and
- (f) where necessary, undertaking specific interventions to protect an eligible whistleblower where detriment has already occurred including disciplinary action, extended leave for the eligible whistleblower and alternative career development and training.

## **8. HANDLING AND INVESTIGATING A DISCLOSURE**

BSH will acknowledge receipt of a disclosure within a reasonable period, assuming the 'eligible whistleblower' can be contacted (including through anonymous channels). BSH will assess disclosures to determine whether:

- (a) they fall within the whistleblower protections in the Act; and
- (b) an investigation is required – and if so, how that investigation should be carried out.

Generally, if an investigation is required, BSH will determine:

- (a) the nature and scope of the investigation;
- (b) who should lead the investigation – including whether an external investigation is appropriate;
- (c) the nature of any technical, financial or legal advice that may be required to support the investigation; and
- (d) the anticipated timeframe for the investigation. Each investigation will be different which will impact the applicable timeframe. However, BSH's intent is to complete an investigation as soon as practicable.

Where practicable, BSH keep the eligible whistleblower informed of the steps taken or to be taken (or if no action is to be taken, the reason for this), and provide appropriate updates, including about the completion of any investigation. However, the extent of the information provided, or whether it will be provided at all, will be subject to applicable confidentiality considerations, legal obligations and any other factors BSH considers relevant in the particular situation.

BSH may not be able to undertake an investigation, or provide information about the process etc, if it is not able to



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contact the eligible whistleblower, for example, if a disclosure is made anonymously and has not provided a means of contact.

Where practicable, whistleblowers will receive updates about when the investigation has begun, while the investigation is in progress and after the investigation has been finalised. The frequency and timeframe of any updates may vary depending on the nature of the disclosure. BSH will also have regard to confidentiality considerations when providing updates.

## **9. ENSURING THE POLICY IS EASILY ACCESSIBLE**

BSH will make this policy available to the company's employees and officers via BSH's TeamSpace or by request from Human Resources or the Local Compliance Officer.

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