

# Whistleblower (Protected Disclosure) Policy New Zealand

## 1. Purpose

The Board of HOME in PLACE (New Zealand) Limited (HOME in PLACE NZ) is committed to ensuring HOME in PLACE NZ, and its officers and employees, act at all times in compliance with all laws, and in compliance with HOME in PLACE NZ's ethical standards, as set out in HOME in PLACE NZ POL-8028 Code of Conduct Policy and HOME in PLACE NZ POL-8019 Privacy Policy.

This Policy aims to achieve the following benefits for HOME in PLACE NZ and employees:

- More effective compliance with laws;
- More efficient fiscal management;
- A healthier and safer work environment;
- More effective management;
- Improved morale; and
- A living record of the fact that HOME in PLACE NZ takes its governance obligations seriously.

## 2. Scope

The Policy applies to all Workers, Directors and Members of decision-making committees and advisory bodies for HOME in PLACE NZ. The Policy applies to third parties engaged to carry out activities on behalf of HOME in PLACE NZ if stipulated by agreements.

References to HOME in PLACE in this policy apply to all HOME in PLACE Group companies and workers carrying out activities on behalf of HOME in PLACE NZ.

## 3. Policy Statement

The HOME in PLACE NZ Board recognises that any genuine commitment to detecting and preventing serious wrongdoing in the workplace. Illegal and other undesirable conduct must include, as a fundamental cornerstone, a mechanism whereby employees and others can report their concerns freely and without fear of repercussion or reprisal. This policy provides such a mechanism and encourages the reporting of such conduct.

The term 'whistleblowing' deals with serious wrongdoing in the workplace however for the purpose of this policy a Whistleblower or Protected Discloser can be described as "a person from a workplace that has information about serious wrongdoing or misconduct which could impact on or pose a risk to others connected with that workplace. The Whistleblower or Protected Discloser then relays that information to

the attention of a person or body authorised to receive such information in accordance with the Protected Disclosures (Protection of Whistleblowers') Act 2022 (The Act).

### *What is a protected disclosure?*

A Protected Disclosure is when the discloser believes on reasonable grounds that there is, or has been, serious wrongdoing in or by their organisation, they disclose in accordance with The Act, and they do not disclose in bad faith.

### *Who is the discloser?*

A Discloser is a person who has an employment type relationship with the organisation they are disclosing about. This includes current and former employees, or their immediate relatives such as a spouse, homeworkers, secondees, contractors, volunteers and board members.

### *What types of matters of Serious Wrongdoing should be reported under this policy?*

The types of matters that should be reported under this policy includes any conduct by any person employed by who holds an office in, or is otherwise connected with HOME in PLACE NZ, which in the view of the Whistleblower, acting in good faith, is:

- Dishonest;
- Fraudulent;
- Illegal (including theft, drug sale or use, violence or threatened violence and criminal damage against property);
- Unlawful, corrupt or irregular use of funds or resources or in breach of any state or federal legislation;-
- Unethical;
- Serious improper conduct;
- A serious risk to public health, or public safety, or the health or safety of any individual, or to the environment;
- A serious risk to the maintenance of the law including the prevention, investigation and detection of offences or the right to a fair trial;
- An unsafe work practice; or
- Any other conduct which may cause loss to HOME in PLACE NZ, or otherwise which may be detrimental to its interests.

### *What is not Serious Wrongdoing?*

Serious Wrongdoing is not any of the following:

- Dissatisfaction with the leadership of HOME in PLACE NZ
- Minor misconduct matters that may not amount to Serious Wrongdoing.
- Matters concerning any of the above, should be reported under other Incident Reporting tools such as Staff Grievance, Notification to Management and or Fraud Incident Reporting.

## Reporting

Whistleblowers are encouraged to report matters in the first instance to their managers or to an appropriate authority.

Where this is not appropriate, where the Whistleblower does not feel comfortable in doing so, where the Whistleblower has previously done so and believes no action has been taken, or where the Whistleblower matters should be reported to the Chief Executive Officer New Zealand (CEONZ) or were reporting the matter to the CEONZ is not appropriate, the Whistleblower should report the matter to the HOME IN PLACE GCEO.

In addition to the POL-8034 Whistleblower (Protected Disclosure) policy NZ, POL-028 Workplace Relations Policy Manual has been established to assist with the resolution of issues generally. Matters raised via POL-028-02 Grievance Policy are not anonymous.

A Whistleblower may make a disclosure to an appropriate authority at any time. An appropriate authority is a trusted external party who can be approached if a Whistleblower is not confident about making the disclosure within their own organisation. An appropriate authority includes:

- The head of any public sector organisation
- Any officer of Parliament (an Ombudsman, the Controller and Auditor-General or the Parliamentary Commissioner for the Environment)

An appropriate authority does not include a Minister or Member of Parliament.

A Whistleblower may also make the disclosure to another person, as long as they do so in a confidential manner and for the purposes of seeking advice about how to make a protected disclosure in accordance with The Act.

Disclosures to the media are not protected under The Act.

## What happens once a report has been made?

All reports of reportable conduct will be the subject of a thorough investigation with the objective of locating evidence that either substantiates or refutes the claims made by the Whistleblower. Such investigations will be conducted by a Whistleblower Investigations Officer, who will follow best practice in investigations and be fair and independent. This may include the engagement of an external professional to undertake the investigation on behalf of HOME IN PLACE NZ. The principles of natural justice will be observed in that the investigation will be conducted without bias and any person against whom an allegation is made will be given the opportunity to respond.

HOME in PLACE NZ is committed to implementing the findings and recommendations of any investigation with a view to rectifying any wrongdoing as far as are reasonably practicable in the circumstances.

## Whistleblower Anonymity

If requested, consideration will be given to keep the identity of the Whistleblower confidential by HOME in PLACE NZ however confidentiality cannot be guaranteed in all circumstances including:

- If the Discloser consents to the release; or
- If there are reasonable grounds to believe that the release is essential for the effective investigation, or
- To prevent a serious risk to public health, public safety or the environment; or
- Comply with the principles of natural justice or an investigation by a law enforcement or regulatory agency.

The Discloser must be informed of any release of information that falls under any of the above categories.

Any commitment of confidentiality is subject to the requirements of the law which may require disclosure of the identity of the Whistleblower in legal proceedings. Information obtained from a Whistleblower will only be disclosed to the extent necessary to investigate the matter, or if the Whistleblower consents to the disclosure, or as may be required by law.

Unauthorised disclosure of information other than in accordance with this policy may be the subject of disciplinary proceedings, including summary dismissal.

HOME in PLACE NZ will follow best practice to protect your identity when possible, including:

- Editing documents used in investigations to remove names, position and any contextual material that could identify them
- Restricting access of relevant documents to staff managing the disclosure
- Conducting meetings in a private and safe space for example, away from relevant staff or offsite.

## Acknowledgement

HOME in PLACE NZ will send an acknowledgement receipt, investigate and close out the matter within twenty (20) working days.

## Investigation

HOME in PLACE NZ will:

- Acknowledge the Discloser, the date the disclosure was received (and if the disclosure was made orally, summarise the receivers understanding of the disclosure)
- Consider the disclosure and whether it warrants investigation and check whether the disclosure has been made elsewhere (and any outcome)
- Deal with the matter by doing 1 or more of the following:
  - Investigate the disclosure
  - Address any serious wrongdoing by acting or recommending action
  - Referring the disclosure under the requirements of the ACT or deciding that no action is required under the requirements of the ACT and inform the discloser (with reasons) about what the Whistleblower Officer has done or is doing to deal with the matter

When it is impractical to complete an investigation within twenty (20) working days, HOME in PLACE NZ will:

- Acknowledge the disclosure
- Consider if it warrants investigation
- Check if the disclosure has been made elsewhere
- Inform the discloser how long the Whistleblower Officer expects to take to deal with the matter and update appropriately with progress
- Deal with the matter and inform the discloser with reasons about what the Whistleblower Officer has done or is doing to deal with the matter.

A Whistleblower Officer/Investigations Officer may decide that no action is required and, if so, must inform the discloser of reasons. Reasons could include that:

- The requirements of the ACT are not met
- The length of time between the alleged serious wrongdoing and the disclosure makes an investigation impracticable or undesirable
- The matter is better addressed by other means.

A Whistleblower Officer/Investigations Officer of HOME in PLACE NZ may refer the Protected Disclosure to an appropriate authority.

## Communication with the Whistleblower

Where possible and assuming the identity of the Whistleblower is known, the Whistleblower will be kept informed of the outcome of the investigation of their report, subject to privacy and confidentiality considerations. All Whistleblowers must maintain confidentiality of all such reports and not disclose the same to any person.

## Will a Whistleblower be penalised for reporting a matter?

Whistleblowers who report matters in good faith, and provided they have not been involved in the conduct reported, will not be penalised or personally disadvantaged because they have reported a matter, by any of the following:

- Dismissal;
- Demotion;
- Any form of harassment (inclusive of cyber and social media);
- Discrimination; or
- Bias.

A Whistleblower who believes they, or his or her family, has been the victim of any of the above by reason of their status as a Whistleblower, should immediately report the same to the Whistleblower Investigation Officer.

Any employee or manager who is found to have dismissed, demoted, harassed, or discriminated against a Whistleblower by reason of their status as a Whistleblower, may be subjected to disciplinary measures, including summary dismissal.

A Whistleblower who has been involved in the reported conduct may still be provided with immunity from Company initiated disciplinary proceedings, by agreement with HOME in PLACE NZ. HOME in PLACE NZ however has no power to provide immunity from criminal prosecution.

## **Whistleblower Protection**

A Whistleblower is entitled to protection for a protected disclosure made in accordance with The Act, even if they are mistaken and there is no serious wrongdoing. The protections a Whistleblower is entitled to are confidentiality, not retaliated against or treated less favourably, and immunity from civil, criminal, and disciplinary proceedings.

Where it is not possible to maintain the anonymity of the Whistleblower, the Whistleblower may request off the Whistleblower Investigation Officer that an alternative means of protection such as a relocation or leave of absence be provided. Any such requests will be considered in good faith by HOME in PLACE NZ and will be actioned with the assistance of the Whistleblower Protection Officer.

HOME in PLACE NZ will not retaliate, or threaten to retaliate, against any employee because the employee intends to make or has made a protected disclosure. Retaliation means doing any of the following:

- Refusing or omitting to offer or afford the same terms of employment, conditions of work, fringe benefits, opportunities for training, promotion, and transfer, subject the employee to any detriment or disadvantage
- Requiring or causing the employee to retire or resign.

These protections extend to people who volunteer supporting information for the disclosure including Discloser's relatives.

### *What is the function of the Whistleblower Protection Officer?*

In limited circumstances the Whistleblower Investigation Officer will engage the Whistleblower Protection Officer to assist the Whistleblower. The Whistleblower Protection Officer has responsibility for protecting a Whistleblower and their interests, in view of this policy, the policies under which the Whistleblower is employed and any applicable legislation.

### *What if the Whistleblower is not acting in good faith or falsely reporting?*

Where it is established by the Whistleblower Investigations Officer that the Whistleblower is not acting in good faith, or they have made a false report of reportable conduct, then they will be subjected to disciplinary proceedings, including summary dismissal.

Whilst not intending to at all discourage Whistleblowers from reporting matters of genuine concern, it is strongly suggested Whistleblowers ensure as far as possible that reports are factually accurate, complete,

from firsthand knowledge, presented in an unbiased fashion (and any possible perception of bias of the Whistleblower is disclosed), and without material omission.

*What if the Whistleblower Officer/Investigations Officer has not acted according to the ACT*

If the Discloser believes on reasonable grounds that the Whistleblower Officer/Investigations Officer of a protected disclosure has not acted as it should under the ACT or has not dealt with the matter so as to address the serious wrongdoing, the Discloser is entitled to protection under the ACT for a protected disclosure made to a Minister.

*Reporting Findings*

The Whistleblower Investigations Officer and the Whistleblower Protection Officer will both report their findings and actions directly to the CEONZ. The CEONZ will report to the Risk and Audit Committee (ARC) and the HOME in PLACE NZ Board. In cases where the CEONZ is subject to the investigation, the Whistleblower Investigations Officer and/or the Whistleblower Protection Officer are to report to the HOME in PLACE NZ Board Chair. Where a member of one of a decision-making committee or advisory board has been accused of reportable conduct, or where they have a close personal relationship with the person against whom the accusation is made, they will be excluded from the reporting process.

## 4. Definitions and Acronyms Glossary

For clarification of any definitions or acronyms contained within this document, please click on the [Glossary](#) for information.