

# WHISTLEBLOWER POLICY

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Drafted by	Manager, People & Organisational Development	Approved on	30 June 2020
Responsible person	Manager POD	Scheduled review date	5 Years

## 1. POLICY SUMMARY

Common Equity Housing Limited (CEHL) is committed to the highest standards of conduct and to promoting and supporting a culture of honest and ethical behaviour that is aligned with our values and complies with all relevant State and Federal laws.

To demonstrate our commitment, this policy provides guidelines for any individual or organisation associated with CEHL who may wish to discuss or report any actual or suspected wrongdoing.

CEHL encourages the reporting of any instances of actual or suspected unethical, illegal, fraudulent or undesirable conduct involving CEHL and is committed to providing a supportive environment for any individual wishing to discuss or report their concerns. CEHL will ensure the necessary protections and measures are in place for those individuals to do so confidently.

Individuals can expect that:

- Their identity will remain confidential at all times to the extent permitted by law or that is practicable under the circumstances;
- They will be protected from intimidation, harassment, disadvantage or retaliation; and
- Should retaliation occur, it will be treated as serious wrongdoing under this Policy.

Should you wish to have a confidential discussion about any concerns or make a formal report, please contact the most appropriate CEHL Whistleblower Protection Officer:

- Managing Director
- Corporate Director / Company Secretary
- Program Director
- Chair, CEHL People, Culture & Governance Committee

Any report of actual or suspected wrongdoing made under this Policy to a Whistleblower Protection Officer, will be properly assessed, and if required, independently investigated.

## 2. POLICY STATEMENT

CEHL is committed to developing, promoting and supporting an internal culture of honest and ethical behaviours, corporate compliance and good corporate governance.

We recognise that individuals who have a working relationship with us are often the first to realise there may be something seriously wrong. However, they may not wish to speak up for fear of appearing disloyal or they may be concerned about being victimised or subject to reprisal.

No individual should be personally disadvantaged for reporting a wrongdoing. CEHL remains committed to maintaining an environment where legitimate concerns are able to be reported without fear.

The purpose of this Policy is to provide a supportive environment where wrongdoing within or by CEHL can be raised without fear of retribution.

## 3. SCOPE

This policy is relevant and applies to all eligible Whistleblowers which includes both current and former:

- An officer\* or employee;
- An individual or an employee of a person that supplies services or goods to the entity (including volunteers);
- An individual who is an associate of the entity;
- A relative or dependant of any of the above, or a dependant of the spouse of any of the above; and
- An individual prescribed by the (Corporations Act) Regulations as being an eligible whistleblower.

CEHL's legal advisors have advised that co-ops, co-op members and tenants are not eligible whistleblowers and therefore whistleblower protections under the Corporations Act are not available to these parties. This is because co-ops are not natural persons and co-op members and tenants are too far removed to be a protected individual in the above associate category. As per section 6.5 other complaint mechanisms are available to other parties.

A potential Whistleblower is encouraged to seek external legal advice or review the ASIC Guidance on Whistleblowing before making a disclosure: <https://asic.gov.au/about-asic/asic-investigations-and-enforcement/whistleblowing/guidance-for-whistleblowers/>

*\*Under section 9 of the Corporations Act an officer of a corporation means a director or secretary of the corporation (this includes Member Elected Directors and Appointed Directors).*

## 4. DEFINITIONS

Key terms used in this Policy are:

**Whistleblowing** - The disclosure by or for a witness, of actual or suspected wrongdoing in an organisation that reveals fraud, corruption, illegal activities, gross mismanagement, malpractice or any other serious wrongdoing.

**Whistleblower** - An individual who reports serious wrongdoing in accordance with this Policy.

**Wrongdoing** - Includes (but is not limited to) conduct that:

- Is fraudulent, corrupt or perverts the course of justice;
- Is illegal, including theft, drug sale or use, violence, harassment, criminal damage to property or any other breaches to State or Federal legislation;
- Is unethical, such as acting dishonestly; altering company records; wilfully making false statements or entries into company records; engaging in questionable accounting and financial practices; or wilfully breaching the CEHL Code of Conduct;
- Is potentially damaging to CEHL's reputation such as maladministration or substantial waste of resources;
- Is seriously or potentially harmful to a CEHL employee or contractor, such as deliberate unsafe work practices or wilful disregard for the safety of others in the workplace;
- May cause serious financial or non-financial loss to CEHL or damage to its reputation;
- Involves any other kind of serious misconduct including retaliatory action against an individual for having made a wrongdoing disclosure.

## 5. RESPONSIBILITIES

### 5.1 Whistleblowers

Protection is available to Whistleblowers who disclose wrongdoing that is made with reasonable grounds to believe it is true.

To ensure that all employees are treated fairly and that resources are not wasted, protection is not available where the disclosure is:

- Trivial or vexatious in nature with no substance. This will be treated in the same manner as a false report and may itself constitute wrongdoing.
- Unsubstantiated allegations which are found to have been made maliciously, or knowingly to be false. These will be viewed seriously and may be subject to disciplinary action that could include dismissal, termination of service or cessation of a service or client relationship.

A Whistleblower must provide information to assist any inquiry/investigation of the wrongdoing disclosed.

Making a disclosure may not protect the Whistleblower from the consequences flowing from involvement in the wrongdoing itself. A person's liability for their own conduct is not affected by their report of that conduct under this policy. However active cooperation in the investigation, an admission and remorse may be taken into account when considering disciplinary or other action.

Even though a Whistleblower may be implicated in the wrongdoing they must not be subjected to any actual or threatened retaliatory action or victimisation in reprisal for making a report under this policy in accordance with the Protections outlined.

## **5.2 Whistleblower Protection Officer**

A Whistleblower Protection Officer/s will be a senior manager/s and/or an appropriate Board Director to support and provide protection to the Whistleblower according to this policy.

The Whistleblower Protection Officer is responsible for keeping the Whistleblower informed of the progress and outcomes of the inquiry/investigation subject to considerations of privacy of those against whom a disclosure has been made.

## **5.3 Investigator**

The Investigator may be internal or external to CEHL and must have internal independence of line management in the area affected by the wrongdoing disclosure.

The Investigator may support the expertise of other individuals within CEHL appointed to assist in the investigation and may seek the advice of internal or external experts as required.

## **5.4 Managers & Team Leaders**

Any CEHL Manager or Team Leader who receives a disclosure about suspected wrongdoing must notify a Whistleblower Protection Officer and provide the required detail regarding the wrongdoing and maintain full confidentiality about it.

# **6. DISCLOSURE & REPORTING**

## **6.1 Qualifying Disclosures**

A Whistleblower is protected under the Corporations Act if they make a Qualifying Disclosure to an eligible recipient.

A protected Qualifying Disclosure is one where a Whistleblower has reasonable grounds to suspect that the information they are disclosing about CEHL concerns:

- Misconduct;
- An improper state of affairs or circumstances; or a
- Breach of law.

## **6.2 Disclosure to Eligible Recipients**

Whistleblowers must make the Disclosure to an Eligible Recipient to qualify for protection under the Corporations Act. The disclosure can be made to the following Eligible Recipients:

- The Australian Securities and Investment Commission (ASIC)
- The Australian Prudential Regulatory Authority (APRA)
- A Commonwealth body nominated for this purpose in the Regulations (this does not include the ACNC)
- A legal practitioner, if someone is seeking legal advice about whether the protections will apply to them
- An officer or senior manager of the organisation in question
- An auditor or member of the audit team for the organisation

- An actuary of the organisation (mainly relevant for banking, insurance, and superannuation entities)
- A person that the CEHL has authorised to receive a disclosure (e.g. Chair, CEHL People, Culture & Governance Committee)

### 6.3 Eligible Whistleblowers

Under the Corporations Act whistleblower protection legislation, an eligible whistleblower is someone who is or was:

- An officer or employee;
- An individual or an employee of a person that supplies services or goods to the entity (including volunteers);
- An individual who is an associate of the entity;
- A relative or dependant of any of the above, or a dependant of the spouse of any of the above; and
- An individual prescribed by the (Corporations Act) Regulations as being an eligible whistleblower.

Whistleblowers are encouraged to report their concerns to their supervisor or their supervisors' manager in the first instance to seek an immediate response. Where the whistleblower believes this is not appropriate, they can raise their concerns with a Whistleblower Protection Officer.

### 6.4 Anonymous Reporting

Anonymous reports of wrongdoing are accepted under this policy, however, they have significant limitations that may inhibit or hinder a proper or appropriate investigation. These limitations include the inability to provide feedback on the outcome and/or to gather additional particulars to assist the inquiry/investigation.

Disclosures made anonymously are protected under the Corporations Act.

### 6.5 Other Complaint Mechanisms

This policy is in addition to:

- Grievance procedures for employees, which are for all employees to raise any matters they may have in relation to their work or their work environment, other persons, or decisions affecting their employment. This policy does not replace other reporting structures such as those for dispute resolution, discrimination or matters relating to workplace bullying or harassment.
- Standard complaint mechanisms for co-operative members, tenants, or other clients.
- Any exercising of rights under the terms of their contract for contractors or suppliers.

## 7. INVESTIGATIVE PROCESS

CEHL will investigate all matters reported under this policy as soon as practicable after the matter has been reported. A Whistleblower Protection Officer will initially investigate the matter and where necessary, appoint an external investigator to assist in conducting the investigation. All investigations will be conducted in a fair, independent and timely manner and all reasonable efforts will be made to preserve confidentiality during the investigation.

If the report is not anonymous, the Whistleblower Protection Officer or external investigator will contact the individual to discuss the investigation process and any other matters that are relevant to the investigation.

Where the individual has chosen to remain anonymous, their identity will not be disclosed to the investigator or to any other person (other than if required by law) and CEHL will conduct the investigation based on the information provided to it.

Where possible, the Whistleblower Protection Officer will provide the individual with feedback on the progress and expected timeframes of the investigation. The person against whom any allegations have been made will also be informed of the concerns and will be provided with an opportunity to respond (unless there are any restrictions or other reasonable reasons for not doing so).

To the extent permitted by law, the Whistleblower Protection Officer may inform the individual and/or the person against whom allegations have been made of the findings. Any report will remain the property of CEHL and will not be shared with the individual or any person against whom the allegations have been made unless required by law.

## **8. PROTECTION OF WHISTLEBLOWERS**

### **8.1 Commitment to Protection**

CEHL is committed to ensuring that any individual who makes a disclosure is treated fairly and does not suffer detriment, retaliatory action or victimisation and that confidentiality is preserved in respect of all matters raised under this policy.

### **8.2 Protection from Legal Action**

Subject to clause 8.5, any individual who makes a disclosure will not be subject to any civil, criminal or administrative legal action (including disciplinary action) for making a disclosure under this policy or participating in any investigation.

Any information provided will not be admissible in any criminal or civil proceedings other than for proceedings in respect of the falsity of the information.

### **8.3 Protection Against Detrimental Conduct**

Subject to clause 8.5, CEHL will not engage in any 'Detrimental Conduct' against an individual if they have made a disclosure under this Policy.

Detrimental Conduct includes actual or threatened conduct including (but not limited to):

- Termination of employment;
- Injury to employment including demotion or disciplinary action;
- Discrimination;
- Harassment, bullying or intimidation;
- Victimisation;
- Harm or injury including psychological harm;
- Current or future bias;
- Damage to an individual's property;
- Damage to an individual's reputation;
- Damage to an individual's business or financial position; or
- Any other damage to an individual who has made a disclosure under this Policy.

In accordance with this Policy, CEHL will take all reasonable steps to protect the individual from Detrimental Conduct and will take necessary action where such conduct is identified.

CEHL prohibits all forms of Detrimental Conduct against any person who is involved in an investigation of a matter disclosed under the Policy in response to their involvement in that investigation.

If an individual is subjected to Detrimental Conduct as a result of making a disclosure under this policy or participating in an investigation, you should inform a Whistleblower Protection Officer in accordance with the reporting guidelines outlined above.

#### **8.4 Protection of Confidentiality**

If an individual makes a report of alleged or suspected wrongdoing under this Policy, CEHL will endeavour to protect that individual's identity from disclosure.

CEHL will not disclose an individual's identity unless:

- the individual making the report consents to the disclosure;
- the disclosure is required or authorised by law; and/or
- the disclosure is necessary for the effective investigation of the matter, and this is likely to lead to an individual's identification. Should this occur, all reasonable steps will be taken to reduce the risk that an individual will be identified in order to further the investigation.

CEHL will take all reasonable precautions to store any records relating to a report of wrongdoing securely and to restrict access to authorised persons only.

#### **8.5 Exclusions Where Protection is Not Available to a Whistleblower**

Certain disclosures do not qualify for protection under the Corporations Act. Protection is not available where the disclosure is:

- Trivial or vexatious in nature with no substance;
- A personal work-related grievance that should be reported to People & Organisational Development and managed in accordance with the relevant CEHL workplace policy;
- Unsubstantiated allegations which are found to have been made maliciously, or knowingly to be false.

### **9. AVAILABLE SUPPORT**

Any individual who makes a disclosure under this policy or is implicated as a result of a disclosure that is made, may access the CEHL Employee Assistance Program.

Where appropriate, CEHL may also appoint an independent support person from our People & Organisational Development team to deal with any ongoing concerns an individual may have.

## **10. LEGAL AND OTHER REQUIREMENTS**

Any breach of this policy will be taken seriously and may result in disciplinary action, which may include termination of employment.

Any changes to our Whistleblowing Policy will be communicated with all employees and any relevant stakeholders through publication on the CEHL website and intranet.

Any changes to this Policy must be approved by the Board.

Employees are required to read this policy in conjunction with other relevant CEHL policies including:

- CEHL Code of Conduct

## **11. AUTHORISATION**

Approved: by: CEHL Board

Date of Approval: 30 June 2020