

GOV: Whistleblower Policy

Date Reviewed: 28 June 2021 (V3)



1. Purpose

The objective of this policy is to encourage reporting of wrongdoing that is of legitimate concern by providing a convenient and safe reporting mechanism, and protection for people who make serious wrongdoing disclosures.

2. Scope of Policy

This policy relates to all Lighthouse Disability services and personnel including its Directors, executives, managers, staff, contractors, consultants, volunteers and interns. It extends to Lighthouse Disability clients along with spouses, relatives and dependants of any of the people listed above.

3. Principles

Lighthouse Disability is committed to the highest standards of conduct and ethical behaviour and to promoting and supporting a culture of honest and ethical behaviour, corporate compliance and good governance.

We know that people who have a working relationship with Lighthouse Disability are often the first to realise that there may be something seriously wrong. However, they may not wish to speak up for fear of appearing disloyal or may be concerned about being victimised or subject to reprisals for reporting wrongdoing.

Lighthouse Disability encourages the reporting of any instances of suspected unethical, illegal, fraudulent or undesirable conduct involving Lighthouse Disability and provides protections and measures so that those persons who make a report may do so confidentially and without fear of intimidation, disadvantage or reprisal.

When a person makes a disclosure:

- Their identity must remain confidential according to their wishes.
- They will be protected from reprisal, discrimination, harassment or victimisation for making the disclosure.
- An independent inquiry or investigation will be conducted.
- Issues identified from the inquiry/investigation will be resolved and/or rectified.
- They will be informed about the outcome of the inquiry/investigation.
- Any retaliation for having made the disclosure will be treated as serious wrongdoing under this policy.

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4. Discloseable matters

A person can make a disclosure about wrongdoing which they suspect on reasonable grounds has occurred or is occurring within Lighthouse Disability.

This policy defines wrongdoing as conduct that includes but is not limited to:

- breaches of legislation, regulations or local government by-laws or is otherwise illegal (including whistleblower laws, corporations law, theft, drug sale/use, violence or threatened violence or criminal damage against property).
- an offence against any other law of the Commonwealth that is punishable by imprisonment for a period of 12 months or more.
- corruption or is an abuse of public trust or position as a public official.
- conduct which is dishonest or fraudulent.
- conduct which perverts the course of justice.
- conduct which unreasonably endangers health and safety or the environment.
- maladministration (e.g. unjust, based on improper motives, is unreasonable, oppressive or negligent).
- conduct which is serious or substantial waste (including public money or public property).
- gross mismanagement or repeated breaches of administrative procedures.
- conduct which has financial or non-financial loss detrimental to the interests of Lighthouse Disability.
- an unethical breach of Lighthouse Disability's Code of Conduct.
- serious improper conduct or an improper state of affairs.

Disclosures about personal work-related grievances are **not** generally protected by the laws. This includes disclosures about:

- matters pertaining to a discloser's employment that impact upon the employee personally;
- interpersonal conflict between a discloser and another employee;
- decisions relating to promotions, demotions, terms and conditions of employment; and
- decisions about taking disciplinary action against a discloser (including decisions about suspension and termination of employment).

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5. Procedure

A person who becomes aware of any wrongdoing should raise the matter with (in order):

- A member of the **Senior Leadership Team (SLT)** of Lighthouse Disability, unless the matter is about the member of the SLT, in which case the CEO should be notified directly.
- The **Chief Executive Officer** of Lighthouse Disability (the CEO), unless the matter is about the CEO, in which case the Chair of the Board of Lighthouse Disability (Chair) should be notified directly.
- The **Chair of the Board**, if raising the matter with the CEO is not appropriate, or if the matter relates to a Director of the Board
- The **Deputy Chair of the Board** or the appointed **external Auditor** of Lighthouse Disability (for details refer to the annual report), if the matter is about the Chair of the Board.

Details are provided in **Appendix 1**.

Where this is not appropriate, an alternative reporting mechanism is available. This is available where:

- The normal reporting channel is considered inappropriate to the circumstances;
- Lighthouse Disability was notified but failed to deal with it; or
- The person or organisation disclosing wrongdoing is concerned about possible retaliation.

In any of these circumstances, a person may raise the matter directly with a person or entity who is eligible to receive the disclosure under the *Corporations Act 2001 (Cth)* or the *National Disability Insurance Act 2013 (Cth)*. A summary of these is provided at **Appendix 2**.

6. Investigation

All reports of alleged or suspected wrongdoing made under this policy will be properly assessed and investigated as a matter of priority, in confidence, and if appropriate, inquired into or independently investigated – with an objective of gathering evidence relating to the claims made by the whistleblower. That evidence may substantiate or refute the claims made.

The investigation will be conducted in an objective and fair manner, and as is reasonable and appropriate having regard to the nature of the disclosure and the circumstances.

The CEO (or the Board, if the report relates to the CEO) will determine whether the investigation will be conducted by an internal or external investigator, depending on the nature of the report.

The investigator will conduct the investigation as soon as practicable and will ensure it is fair and independent from any persons to whom the disclosure relates. The investigator will conduct the investigation promptly, and in an objective and fair manner, ensuring that every individual

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subject to the investigation is granted sufficient opportunity to reply to allegations before any findings are made.

Lighthouse Disability will take any necessary action as a result of the inquiry or investigation and provide appropriate feedback to the person making the report.

The details of an inquiry or investigation and the outcome will be reported to the Board, via the Governance Committee, on a confidential and anonymous basis.

A summary of the investigation process is provided at **Appendix 3**.

Where a report is submitted anonymously, Lighthouse Disability will conduct the inquiry or investigation and its enquiries based on the information provided to it. However, anonymity can sometimes prevent Lighthouse Disability from taking the issue further if Lighthouse Disability is not able to obtain further information from the source of the report.

7. Protections

Protection is available to ‘eligible whistleblowers’ who disclose wrongdoing that is made with reasonable grounds to believe it is true and disclosed to a person able to receive the disclosure. A summary of legal protection is provided at **Appendix 2**.

An eligible whistleblower¹ can be a:

- current or former employee of Lighthouse Disability;
- current or former officer (i.e. director or company secretary) of Lighthouse Disability;
- contractor (current or former) who has supplied goods and services to Lighthouse Disability;
- volunteer (current or former) who has supplied goods and services to Lighthouse Disability, or
- a spouse, relative or dependant of any of the people listed above.

While you must hold or have held one of these roles to be an ‘eligible whistleblower’, you do not have to identify yourself or your role, and you can choose to disclose information and concerns anonymously.

When disclosing wrongdoing in relation to the provision of support or service from Lighthouse Disability, as an NDIS provider, an eligible whistleblower² can also be a:

- current employee of Lighthouse Disability;
- current officer (i.e. director or company secretary) of Lighthouse Disability;

¹ Section 1317AAA of the *Corporations Act 2001 (Cth)*.

² Section 73ZA of the *National Disability Insurance Scheme Act 2013 (Cth)*.

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- current contractor who has supplied goods and services to, or on behalf of, Lighthouse Disability;
- person with disability who is receiving a support or service from Lighthouse Disability; or a family member, carer, independent advocate or significant other of that person.

In this instance, protection is available when disclosing wrongdoing that is made with reasonable grounds to believe it is true and the disclosure is made in good faith. A person also needs to provide their name before making the disclosure in order for protection to be available.³

To ensure that all personnel 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.

8. Confidentiality

Lighthouse Disability will protect and not disclose a whistleblower’s identity unless:

- it is necessary to further an investigation and the whistleblower consents to the disclosure; and/or
- the disclosure is required or authorised by law.

When a report is investigated it may be necessary to reveal its substance to people such as other Lighthouse Disability personnel, external persons involved in the investigation process and, in appropriate circumstances, law enforcement agencies.

³ Ibid.

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It will be necessary to disclose the facts and substance of a report to a person who may be the subject of the report as it is essential for natural justice to prevail. Although confidentiality is maintained, in some circumstances, the source of the reported issue may be obvious to a person who is the subject of a report.

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

Unauthorised disclosure of information that could prejudice confidentiality and identify a whistleblower will be regarded seriously and may result in disciplinary action and where applicable, Lighthouse Disability will notify law enforcement agencies.

9. Related policies and procedures

Lighthouse Disability Code of Conduct

Compliments and Complaints Policy

Disciplinary Process and Termination Procedure

Disputes and Grievance Procedure

Sexual Harassment and Bullying Procedure

10. Standards and Conventions

NDIS Practice Standards

11. Legislation

Corporations Act 2001 (Cth)

National Disability Insurance Act 2013 (Cth)

Taxation Administration Act 1953 (Cth)

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Appendix 1 – Current officials for this policy

Senior Leadership Team

Michelle Holian – Chief Executive Officer
8256 9824 / michelleh@lighthousedisability.org.au

Rachel Emmott – General Manager, Client Wellbeing
8256 9819 / rachel@lighthousedisability.org.au

Chris Soteriou – General Manager, Finance
8256 9813 / chris@lighthousedisability.org.au

Dan Pak – Manager, People, Culture and Communications
8256 9812 / dan@lighthousedisability.org.au

Chair of the Board

Tim Jackson – Chair of the Board
0417 016 161 / tjvolunteering@internode.on.net

Deputy Chair of the Board

Lea Stevens – Deputy Chair of the Board
0448 966 826 / leastevens@bigpond.com

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Appendix 2 – Legal Protection

Part 9. 4AAA of the Corporations Act 2001 (as amended)	
Essential Element	Description
Reportable conduct	A report is made about serious breaches of the corporation laws or other reportable conduct such as information concerning misconduct or an improper state of affairs or circumstances by the company or by an officer or employee of the company
Reasonable grounds for suspecting	The person making the report has reasonable grounds for suspecting the reportable conduct
Person making the disclosure	The person is or has been: <ul style="list-style-type: none"> - an officer of Lighthouse Disability; - an employee of Lighthouse Disability; - a supplier (including their employees) who provides or has provided services or goods to Lighthouse Disability; - an associate of Lighthouse Disability; or - a spouse, relative or dependant of an individual referred to any of the above.
Person receiving the disclosure	The person receiving the report is one of either: <ul style="list-style-type: none"> - a Manager, Service Delivery of Lighthouse Disability - a Director, the CEO, or General Manager of Lighthouse Disability; - the auditor or an audit team member for Lighthouse Disability; - an actuary of Lighthouse Disability; - ASIC - the Australian Federal Police (AFP) - the Australian Prudential regulation Authority (APRA); - the whistleblower’s lawyer; or - the Australian Charities and Not-for-profits Commission (ACNC).

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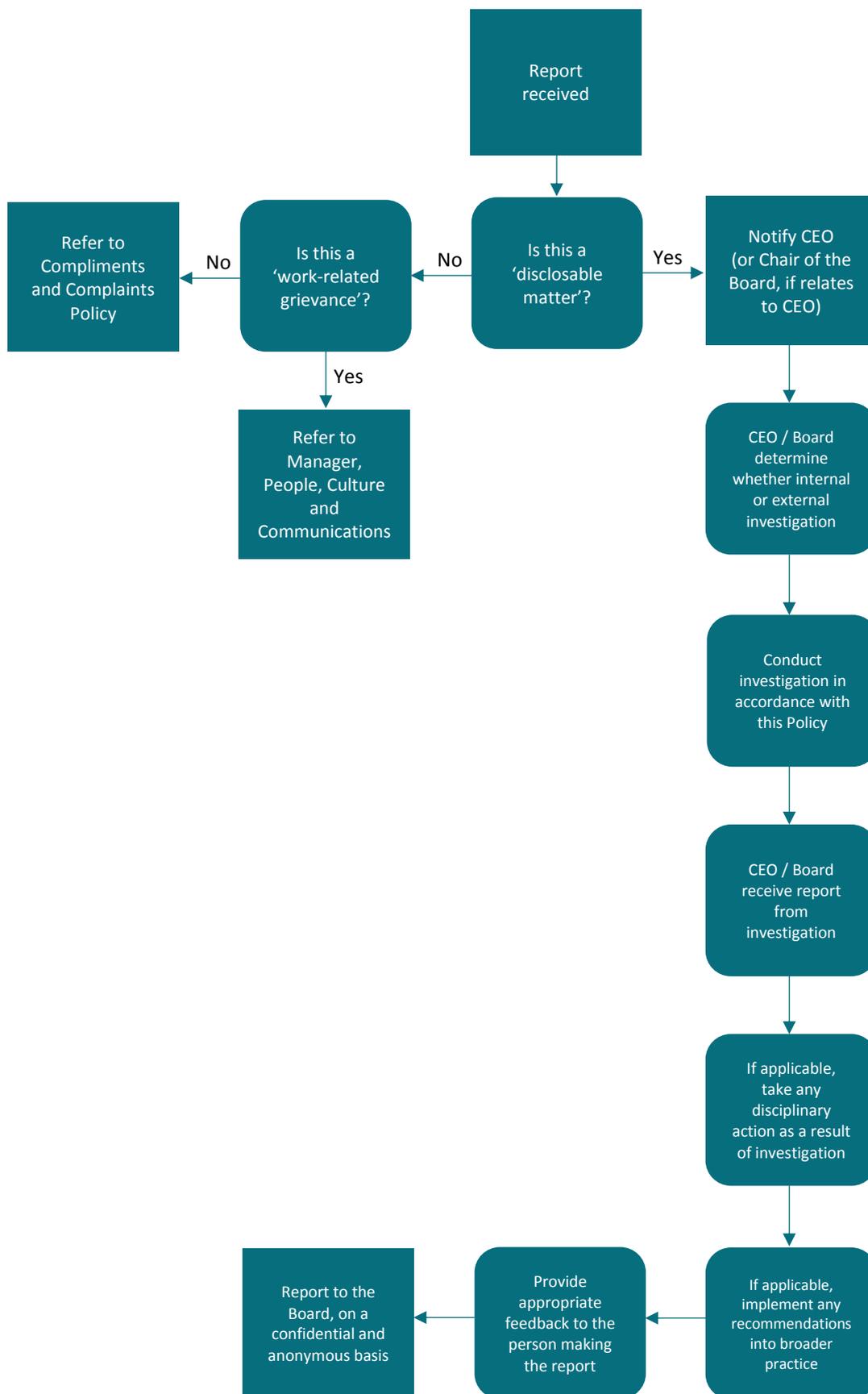
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Part 3A of the National Disability Insurance Scheme Act 2013	
Essential Element	Description
Protected disclosures	Information is provided about a breach, or possible breach, of the NDIS Act by Lighthouse Disability, as an NDIS provider.
Reasonable grounds for suspecting	The person making the disclosure has reasonable grounds for suspecting the information indicates there has, or may be, a breach of the NDIS Act by Lighthouse Disability, as an NDIS provider.
Good faith	The person making the disclosure makes the disclosure with honesty and reasonableness and without malice.
Person making the disclosure	<p>The person is:</p> <ul style="list-style-type: none"> - an officer of Lighthouse Disability; - an employee of Lighthouse Disability; - a supplier (including their employees) who provides or has provided services or goods to, or on behalf of, Lighthouse Disability; - a person with disability who is receiving a support or service from Lighthouse Disability; or a family member, carer, independent advocate or significant other of the person listed above <p>AND</p> <p>The person informs the person receiving the disclosure of their name before making the disclosure.</p>
Person receiving the disclosure	<p>The person receiving the report is one of either:</p> <ul style="list-style-type: none"> - a Manager, Service Delivery of Lighthouse Disability - a Director, the CEO, or General Manager of Lighthouse Disability; - the National Disability Insurance Scheme Quality and Safeguards Commissioner (the Commission); or - the National Disability Insurance Agency (the Agency).

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Appendix 3 – Investigation Process Flowchart



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