

# Whistleblower Policy



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## Introduction

The Board of Teachers Federation Health Limited (TFH) trading as Teachers Health (TH), Nurses and Midwives Health (NMH) and UniHealth (UNI) is committed to the highest standards of conduct and ethical behaviour in all of its business activities, and to promoting and supporting a culture of honest and ethical behaviour, corporate compliance and good corporate governance.

TH supports and encourages the disclosure of information concerning illegal or unethical activities or misconduct within TH and will deal with such disclosures promptly.

The TH Board are committed to observing applicable laws that concern the protection of specific individuals when making a disclosure of information that qualifies for protection.

TH will take all reasonable steps to meet its obligations under applicable laws in relation to the protection of **whistleblowers**.

This Policy applies to all **eligible whistleblowers** (term defined below) and to disclosures of information that amount to a **disclosable matter**. However, this Policy does not apply to member complaints or a disclosure of information by a person to the extent that the information disclosed concerns a **personal work-related grievance** of the person and does not concern a contravention, or an alleged contravention, of section 1317AC of the Corporations Act that involves detriment caused to the person/discloser or a threat made to the person/discloser.

This Policy will be reviewed on a periodic basis (usually every two years) or more frequently in the event of material changes (e.g., legislative, regulatory and best practice etc).

This Policy is not incorporated into an employee's contract of employment and does not operate to impose contractual obligations on TH.

## 1. Purpose

The purpose of the Whistleblower Policy is to comply with TH's obligations under applicable legislation, including the Corporations Act and the Taxation Administration Act about:

- (a) the protections available to **eligible whistleblowers**;
- (b) to whom **qualifying disclosures** may be made, and how they may be made;
- (c) how TH will support **eligible whistleblowers** and protect them from **detriment**;
- (d) how TH will investigate disclosures that qualify for protection;
- (e) how TH will ensure fair treatment of employees of TH who are mentioned in disclosures that qualify for protection, or to whom such disclosures relate; and
- (f) how this Policy is to be made available to officers and employees of TH.

The Policy will help improve TH's culture and transparency in relation to handling disclosures that fall within the scope of this Policy. All new employees will be provided with training regarding the Whistleblower Policy during the induction process, and a copy will also be made available on TH's intranet and TH's/NMH's/UNI's website as well as in line with section 20 of this Policy.

A potential discloser may contact any of the **eligible recipients** to obtain additional information before making a disclosure.

## 2. Objectives

The objectives of the Whistleblower Policy are:

- (a) to encourage and facilitate the making of disclosures of information about possible **disclosable matters**;
- (b) to provide information to officers and employees of TH on the protections available to **eligible whistleblowers**; and
- (c) to meet TH's obligations under applicable legislation, including the Corporations Act and the Taxation Administration Act.

## 3. What disclosures qualify for protection under the Corporations Act?

### 3.1. Disclosures to ASIC, APRA or a prescribed body

A disclosure by an **eligible whistleblower** to ASIC, APRA, or other Commonwealth body prescribed by regulation, qualifies for protection under the Corporations Act if it is of information about a **disclosable matter**.

### 3.2. Disclosure to eligible recipients

A disclosure by an **eligible whistleblower** to an **eligible recipient** qualifies for protection under the Corporations Act if it is of information about a **disclosable matter**.

### 3.3. Disclosure to a legal practitioner

A disclosure to a legal practitioner for the purposes of obtaining legal advice or representation on the operation of the whistleblower regime qualifies for protection under the Corporations Act.

### 3.4. Emergency disclosures

A disclosure of information (**emergency disclosure**) by an individual (**discloser**) qualifies for protection under this Policy if:

- (a) the **discloser** has previously made a qualifying disclosure to ASIC, APRA or a prescribed body (**previous disclosure**) (term defined below);
- (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) the **discloser** gives the body to which the previous disclosure was made a written notification that includes sufficient information to identify the **previous disclosure** and states that the discloser intends to make an **emergency disclosure**;
- (d) the **emergency disclosure** is made to a member of the Parliament of the Commonwealth or the Parliament of a State or legislature of a Territory or to a journalist (i.e. working in a professional capacity for a newspaper or magazine; radio or television broadcasting service; or an electronic service that is operated on a commercial basis or operated by a national broadcasting service and similar to a newspaper, magazine or radio or television broadcast); and
- (e) the extent of the information disclosed in the **emergency disclosure** is no greater than necessary to inform the recipient referred to under (d) of the substantial and imminent danger.

### 3.5. Public interest disclosures

A disclosure of information (**public interest disclosure**) by an individual (**discloser**) qualifies for protection under the Corporations Act if:

- (a) the **discloser** has previously made a qualifying disclosure to ASIC, APRA or a prescribed body (**previous disclosure**);
- (b) at least 90 days have passed since the previous disclosure was made;
- (c) the **discloser** does not have reasonable grounds to believe that action is being, or has been taken to address the matters to which the previous disclosure related;
- (d) the **discloser** has reasonable grounds to believe that making a further disclosure of the information in accordance with section 1317AAD of the Corporations Act would be in the public interest;
- (e) after the end of the period referred to under (b), the **discloser** gave the body to which the previous disclosure was made a written notification that includes sufficient information to identify the previous disclosure and states that the discloser intends to make a **public interest disclosure**;
- (f) the **public interest disclosure** is made to a member of the Parliament of the Commonwealth or the Parliament of a State or legislature of a Territory or to a journalist (within the meaning referred to under clause 3.4 (d) of this Policy); and
- (g) the extent of the information disclosed in the **public interest disclosure** is no greater than necessary to inform the recipient referred to under (f) of the misconduct or the improper state of affairs or circumstances referred to in subsection 1317AA(4) of the Corporations Act or the conduct referred to in subsection 1317AA(5) of the Corporations Act, as the case may be.

## 4. What conduct may be the subject of a qualifying disclosure?

The conduct that may be the subject of a **qualifying disclosure** includes actual or suspected conduct by TH that is:

- (a) misconduct, or an improper state of affairs or circumstances in relation to TH;
- (b) contravention of any law administered by ASIC and/or APRA;
- (c) conduct that represents a danger to the public or the financial system; or
- (d) an offence against any other law of the Commonwealth that is punishable by imprisonment for a period of 12 months or more.

A discloser can still qualify for protection even if their disclosure turns out to be incorrect.

A disclosure of information that does not amount to a **qualifying disclosure** or a **disclosable matter** does not qualify for protection under the Corporations Act.

A member complaint or a disclosure of information by a person to the extent that the information disclosed concerns a **personal work-related grievance** of the person and does not concern a contravention, or an alleged contravention of section 1317AC of the Corporations Act that involves detriment caused to the person/discloser or a threat made to the person/discloser, cannot be the subject of a qualifying disclosure and is not caught by, or dealt with by, this Policy.

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

- (e) it includes information about misconduct, or information about misconduct includes or is accompanied by a personal work-related grievance (mixed report);
- (f) TH 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;
- (g) the discloser suffers from or is threatened with detriment for making a disclosure; or
- (h) the discloser seeks legal advice or legal representation about the operation of the whistleblower protections under the Corporations Act.

**5. Who can make a qualifying disclosure and who are *eligible whistleblowers*?**

If an individual is, or has been, any of the following:

- (a) an officer of TH;
- (b) an employee of TH;
- (c) a contractor or subcontractor that supplies services or goods to TH (whether paid or unpaid);
- (d) an employee of a contractor or subcontractor that supplies services or goods to TH (whether paid or unpaid);
- (e) an individual who is an associate of TH;
- (f) a relative or dependent of an individual referred to in any of paragraphs (a) to (e) (this includes a spouse, parent or other linear ancestor, child or grandchild, and sibling); or
- (g) an individual prescribed by the regulations to the Corporations Act;

they can make a **qualifying disclosure**. These individuals are referred to as **eligible whistleblowers** in this Policy, and in the Corporations Act.

**6. How can a disclosure be made?**

- (a) If you wish to make a disclosure in accordance with this Policy:
  - (i) TH encourages you to report actual or suspected disclosable matters to us as soon as you become aware of it. TH would like to identify and address any such conduct as soon as possible.
  - (ii) You are encouraged to make a report to one of the following eligible recipients:

Name	Role	Email	Telephone
Greg McNeill	Chief Risk Officer	<a href="mailto:greg.mcneill@teachershealth.com.au">greg.mcneill@teachershealth.com.au</a>	02 8346 2296
Bernadette Gates	Chief People Officer	<a href="mailto:bernadette.gates@teachershealth.com.au">bernadette.gates@teachershealth.com.au</a>	02 8346 2200
Penny Jones	General Counsel	<a href="mailto:penny.jones@teachershealth.com.au">penny.jones@teachershealth.com.au</a>	02 8346 2297

- (iii) Alternatively, you may make a report using our whistleblowing service, Your Call. Your Call is an external, independent provider that provides confidential reporting of whistleblower concerns related to this policy. Reporting to Your Call also enables your report to be made anonymously if you choose to do so. You can make a whistleblower report to Your Call:

- Online: <https://www.yourcall.com.au/report>. You will be required to enter TH’s unique identifier code THF.
- By phone using Your Call’s external reporting hotline: 1300 790 228 (9am to midnight AEST on business days).

(iv) How Your Call works

Your Call uses an online message board which you will have access to after making the report. The message board allows you to:

- communicate with Your Call and with TH with or without revealing your identity;

- securely upload any relevant documentation and/or material that you wish to provide;
- receive updates; and
- request support or report detriment.

Your Call will provide the Disclosure Officers with a copy of your report and any relevant documents or records provided by you to Your Call. If your report relates to a Disclosure Officer, Your Call will exclude that person from all communications when Your Call provide information about your report to us.

How to use Your Call if you have a speech or hearing impairment

If you are deaf or have a hearing or speech impairment, you can contact Your Call online. If you would like to contact Your Call by phone, you can do so through the National Relay Service.

Simply choose your contact method at [www.relayservice.gov.au](http://www.relayservice.gov.au) and request Your Call's hotline 1300 790 228.

- (b) Anonymous disclosures will be acted on and will be protected under the Corporations Act. A whistleblower can choose to remain anonymous while making a disclosure over the course of the investigation and after the investigation is finalised.
- (i) A discloser can refuse to answer questions that reveal their identity at any time, including during follow-up conversations.
  - (ii) A discloser who wishes to remain anonymous is encouraged to maintain ongoing two-way communications with an eligible recipient including with the independent whistleblowing service provider; Your Call (see clause 6(c)).
- (c) However, the following are reasons why disclosers may wish to identify themselves, or at least provide a means of contact:
- (i) the Corporations Act requires that the discloser's identity be kept confidential (subject to limited exceptions);
  - (ii) it will be difficult to ensure protection from reprisal if the identity of the discloser is not known;
  - (iii) if the discloser cannot be contacted for the purpose of obtaining further information to satisfy the **eligible recipient** that the conduct has occurred, the matter may not proceed, or it will be difficult to conduct an investigation; and
  - (iv) the discloser cannot be contacted to be updated on the progress of the matter, including the findings made as part of the investigation.

## 7. What needs to be provided when making a qualifying disclosure?

When making a **qualifying disclosure**, a discloser should provide the following:

- (a) if not an anonymous disclosure, the discloser's name and contact details;
- (b) details of the person/s who have engaged or are alleged to have engaged in misconduct;
- (c) the nature of the misconduct, where it took place, and the date(s) on which it is alleged it took place;
- (d) the names of any witnesses to the alleged misconduct or who may be able to verify what the discloser is saying;
- (e) relevant events surrounding the issue;
- (f) whether the discloser did anything in response to the alleged misconduct;
- (g) whether the discloser is concerned about possible reprisal or detriment as a result of making the disclosure; and
- (h) any evidence the discloser has to support the allegation of misconduct (such as supporting documentation, file notes, diary of events).



A discloser should be clear and factual and avoid speculation, personal attacks or emotive language. Disclosers must not attempt to investigate the matter before making the disclosure because it may hinder any future investigation regardless if the disclosure turns out to be incorrect. A qualifying disclosure must be made on reasonable grounds to suspect based on the objective reasonableness of the reasons for the discloser's suspicion.

A discloser (provided they are not anonymous), will be asked to sign a form that captures details of their disclosure, and this will be stored securely.

A discloser is encouraged to seek independent legal advice. Alternatively, a discloser may rely on protections afforded under emergency disclosures to make a disclosable matter to a Member of Parliament or to a journalist (see clause 3.4).

## 8. What protections does an eligible whistleblower have under the Corporations Act?

If an **eligible whistleblower** makes a **qualifying disclosure** to an **eligible recipient**:

- (a) the **eligible whistleblower** cannot be subject to legal liability (including disciplinary action) for making the disclosure;
- (b) no contractual or other remedy may be enforced, and no contractual or other right may be exercised, against the **eligible whistleblower** on the basis of the disclosure;
- (c) the information is not admissible in evidence against the **eligible whistleblower** in criminal proceedings or in proceedings for the imposition of a penalty, other than proceedings in respect of the falsity of the information;
- (d) anyone who directly or indirectly victimises or threatens the **eligible whistleblower** is guilty of an offence and/or contravention and may be liable to pay damages; and
- (e) the person receiving the disclosure may commit an offence if they disclose the **eligible whistleblower's** identity or information that is likely to lead to the identification of the **eligible whistleblower**, without the **eligible whistleblower's** consent, to anyone except ASIC, the Australian Federal Police, APRA, a prescribed body, or a legal practitioner (for the purpose of obtaining legal advice or legal representation in relation to the operation of the Corporations Act).
- (f) Nothing under this Policy clause grants immunity for any misconduct a discloser has engaged in that is revealed in that person's disclosure.

## 9. Are whistleblowers protected under other legislation?

A disclosure of information by an **eligible whistleblower** to the Commissioner of Taxation regarding **misconduct**, or an improper state of affairs or circumstances, in relation to the **tax affairs** of TH, or an associate (within the meaning of section 318 of the *Income Tax Assessment Act 1936*) of TH, or to a legal practitioner for the purposes of obtaining legal advice or representation in relation to the operation of the whistleblower protections, may also qualify for protection under the Tax Administration Act.

## 10. The Reporting System

### 10.1. Contact persons within TH

Disclosures may be made to an **eligible recipient** who cannot identify to others the discloser or disclose information that is likely to lead to the identification of the discloser outside of any statutory exceptions (see clause 12).

All disclosures (whether made by correspondence, phone calls or emails) from an **eligible whistleblower** will be treated as being submitted on a strictly confidential basis, subject to any regulatory or legislative requirements or where the disclosure involves a threat to life, property or may involve, or potentially involve, illegal activities. If a decision is made to investigate a disclosure, details of the disclosure may be revealed in order to investigate the disclosure.

Where a person is contemplating making a disclosure and is concerned about approaching an **eligible recipient**, particularly in the workplace, he or she can contact the relevant person and request a meeting in a discreet location away from the workplace or can make an anonymous disclosure using the whistleblowing service; Your Call (see clause 6(c) above).

## 11. Roles and Responsibilities

### 11.1. Eligible whistleblowers

**Eligible whistleblowers** are encouraged to make disclosures in accordance with these procedures.

All employees of TH have an important role to play in supporting those who have made a **qualifying disclosure**. They must refrain from any activity that is, or could be perceived to be, victimisation or harassment of a person who makes a qualifying disclosure. Furthermore, they should protect and maintain the identity of a person they know or suspect to have made a qualifying disclosure. Employees of TH may also seek support through the external provider of TH's Employee Assistance Program.

### 11.2. Eligible recipients

The **eligible recipient** will:

- (a) be a contact point for general advice for any person wishing to make a disclosure;
- (b) where possible, make arrangements for a disclosure to be made privately and discreetly and, if necessary, away from the workplace;
- (c) receive any disclosure made orally or in writing on a confidential basis;
- (d) commit to writing any disclosure made orally;
- (e) impartially assess the allegation and determine whether it is a **disclosable matter**;
- (f) take all necessary steps to ensure the identity of the **eligible whistleblower** and the identity of the person who is the subject of the disclosure, are kept confidential;
- (g) assess whether further investigation of the disclosure is appropriate, and if so, appoint an Investigation Officer (see section 11.3), and with the **eligible whistleblower's** consent, forward the disclosure and any supporting evidence available to the Investigation Officer;
- (h) if it is determined that there is insufficient information or evidence to warrant further investigation, inform the **eligible whistleblower** at the earliest possible opportunity that no further action will be taken;
- (i) as far as is reasonably possible, receive all phone calls, emails and letters from the **eligible whistleblower** seeking to make a disclosure;
- (j) be responsible for overseeing and co-ordinating an investigation where an Investigation Officer has been appointed;
- (k) appoint by agreement with the **eligible whistleblower** who is a current employee a Support Officer (see section 11.4) to support the **eligible whistleblower**;
- (l) protect the **eligible whistleblower** from **detriment**;
- (m) where possible, advise the **eligible whistleblower** of the outcome of an investigation into a disclosure;
- (n) establish and manage a confidential recording system; and,
- (o) liaise with the CEO of TH or other **eligible recipients**, as appropriate.

### 11.3. Investigation Officer

If a decision is made to investigate a disclosure, the Investigation Officer will be responsible for carrying out an internal investigation into a disclosure. An investigator may be a person from within TH, or a consultant engaged for that purpose.

The Investigation Officer should follow best practice in investigations and be fair and independent of either the business unit concerned, the **eligible whistleblower**, or any person who is the subject of the disclosure.

### 11.4. Support Officer

The Support Officer is responsible for providing support to the **eligible whistleblower** if they are a current employee. The Support Officer:

- (a) will examine the immediate protection needs of the **eligible whistleblower** who has made a disclosure and seek to foster a supportive work environment;
- (b) will advise the **eligible whistleblower** of the legislative and administrative protections available to him or her;
- (c) will listen and respond to any concerns of harassment, intimidation or victimisation in reprisal for making a disclosure;
- (d) will try and manage the expectations of the **eligible whistleblower**; and
- (e) may be a person from within TH, or a consultant engaged for that purpose.

## 12. Identity of whistleblower

If an **eligible whistleblower** makes a disclosure of information that qualifies for protection under the Corporations Act or the Taxation Administration Act, the **eligible recipient** or any other person, will not disclose the identity of the **eligible whistleblower** without the whistleblower's consent unless any statutory exceptions apply, subject to the exceptions below.

Circumstances in which a person may disclose information obtained about a disclosure include:

- (a) where exercising the functions of a director, secretary or senior manager of the company and the disclosure is (relevantly) made to ASIC, APRA, the Commissioner of Taxation, or to a member of the Australian Federal Police; or
- (b) to a legal practitioner for the purposes of legal advice; or
- (c) as required by law.

TH will take all reasonable steps to maintain confidentiality and ensure all files, whether paper or electronic, are securely kept and can only be accessed by the person to whom the disclosure was made, the Investigation Officer or Support Officer (in relation to providing support to the **eligible whistleblower** who is a current employee).

## 13. Collating information

TH will establish a secure register to record information, and to generally keep account of the status of the **eligible whistleblower** disclosures for TH. The register will be confidential, on a no-names basis and will not record any information that may identify an **eligible whistleblower**.

The register may contain the following information:

- (a) the number and types of disclosures made during the year; and
- (b) any recommendations made by TH.

## 14. Receiving and assessing disclosures

Where a disclosure of information that amounts to a **disclosable matter** has been received by an **eligible recipient**, an investigation may be carried out if the disclosure warrants further investigation, and the disclosure relates to an employee or consultant/contractor of TH or a member of the TH Board.

A disclosure made against a member of the Board will be referred to the Chairperson, except if the disclosure is made against the Chairperson, then it will be referred to the Deputy Chairperson and/or Company Secretary.

Where a disclosure is made to a member of the TH Board about a disclosable matter involving the Chairperson and the CEO, the board member should seek external legal advice to determine how best to handle the disclosure. Board members can submit invoices for external legal advice regarding disclosures anonymously to the Chief Financial Officer.

## 15. Investigations

### 15.1. Introduction

Where a decision is made to investigate a disclosure, an investigator will be appointed to carry out the investigation.

Such investigation should be conducted by the Investigation Officer. The investigation must be conducted in an objective, independent and confidential manner. The Investigation Officer should be independent of the business unit in respect of which allegations have been made or are concerned, the *eligible whistleblower* (if known), or any person being the subject of the disclosure.

The objectives of the investigation will be to:

- (a) collate information relating to the disclosure and the allegations as quickly as possible. This may involve taking steps to protect or preserve documents, material and equipment;
- (b) consider the information collected;
- (c) maintain procedural fairness in the treatment of the person who is the subject of the disclosure; and
- (d) make findings, after considering all available information, as to whether the matters alleged in the disclosure are substantiated or not.

### 15.2. Investigation Plan

Unless TH determines the circumstances warrant a different approach, the Investigation Officer will prepare an investigation plan for approval by the recipient of the disclosure. The plan will list the issues to be substantiated and it will address the following issues:

- (a) what is alleged?
- (b) how is the investigation to be conducted?
- (c) what resources are required?
- (d) what witnesses need to be questioned?

At the commencement of the investigation, the *eligible whistleblower* (if known), should be contacted by the Investigation Officer and:

- (a) notified that the Investigation Officer has been appointed to conduct the investigation;
- (b) asked to clarify any matters relating to the disclosure;
- (c) asked to provide any additional material he or she might have in relation to the disclosure; and
- (d) informed of expected timeframes for the investigation.

The Investigation Officer will be sensitive to the *eligible whistleblower's* possible fear of reprisals and will be aware of the statutory protections provided to the *eligible whistleblower*.

### 15.3. Procedural fairness

Procedural fairness will be afforded to any person who is mentioned in a disclosure that qualifies for protection, including those who are the subject of a disclosure.

### 15.4. Conduct of the investigation

The Investigation Officer will make notes of all the discussion and telephone calls undertaken, and all interviews with witnesses may be recorded with the permission of each witness. All information gathered in an investigation will be stored securely. Interviews will be conducted in private and the Investigation Officer will take all reasonable steps to protect the identity of the *eligible whistleblower*. Where disclosure of the identity of the *eligible whistleblower* cannot be avoided and is reasonably necessary in order to investigate the disclosure and due to the nature of the allegations, the Investigation Officer will warn the *eligible whistleblower* and where relevant, his or her Support Officer of this probability.

It is within the discretion of the Investigation Officer to allow any witness to have legal or other representation or support during the interview. If a witness has a special need for legal representation or support, permission should be granted.

### 15.5. Reporting requirements

Where possible, the person to whom a disclosure was made, will ensure the *eligible whistleblower* is advised of the findings of the investigation. However, the *eligible whistleblower* will not receive a copy of the Investigation Officer's report or any other documents provided to the Investigation Officer in the course of the investigation.

## 16. Action taken after the investigation

### 16.1. Action to be taken

Where an investigation substantiates an allegation arising from the disclosure, the person who is the subject of the disclosure may, if they are a current employee or contractor, be subject to disciplinary action, including termination of their employment or engagement.

Where the investigation substantiates an allegation arising from the disclosure, the recipient of the disclosure will report this finding to the *eligible whistleblower*.

### 16.2. Investigator's final report

At the end of the investigation, the Investigation Officer will submit a written report of his or her findings to the recipient of the disclosure. The report will contain:

- (a) the allegation/s;
- (b) an account of all relevant information received and, if the Investigation Officer has rejected evidence as being unreliable, the reasons for this opinion being formed; and,
- (c) the findings reached and the basis for them.

The report will be accompanied by:

- (a) the transcript or other record of any oral evidence taken, including audio recordings; and
- (b) all documents, statements or other exhibits received by the Investigation Officer during the course of the investigation.

The report will not, however, disclose particulars likely to lead to the identification of the *eligible whistleblower*, unless the *eligible whistleblower* has consented to their identity being revealed. As noted above, the *eligible whistleblower* will not be provided with a copy of the report.

## 17. Providing support to a whistleblower

### 17.1. Commitment to protecting an eligible whistleblower

TH is committed to the protection of *eligible whistleblowers* from being subject to *detriment*, or detrimental conduct (including victimisation) for making a *qualifying disclosure*.

If a person makes a disclosure that qualifies for protection under the Corporations Act:

- (a) the person is not subject to any civil, criminal or administrative liability (including disciplinary action) for making the disclosure; and
- (b) no contractual or other remedy may be enforced, and no contractual or other right may be exercised, against the person on the basis of the disclosure; and
- (c) the information is not admissible in evidence against the *whistleblower* in criminal proceedings or proceedings for the imposition of penalty, other than proceedings in respect of the falsity of the information.

## 17.2. Threatening or causing detriment to an eligible whistleblower

If an **eligible whistleblower** reports any conduct that would amount to a **detriment**, the recipient will:

- (a) record details of the incident and/or conduct;
- (b) advise the **eligible whistleblower** of his or her rights under this Policy and the Corporations Act; and
- (c) advise the recipient of the disclosure of the detriment.

The taking of any **detriment** against an **eligible whistleblower** for the making of a disclosure may be an offence and/or contravention as well as grounds for making a further disclosure. Where any threat to cause **detriment** to an **eligible whistleblower** is made, or any conduct that would amount to a detriment is reported, the recipient of the initial whistleblowing disclosure, will treat the report as a new disclosure.

## 17.3. Eligible whistleblower implicated in misconduct

TH acknowledges that the act of whistleblowing should not shield the **eligible whistleblower** from the reasonable consequences flowing from any involvement in misconduct or other matters that are the subject of a qualifying disclosure. However, in some circumstances, an admission may be a mitigating factor when considering disciplinary action. Where a person who makes a disclosure is implicated in misconduct, TH will consider the appropriate next steps.

The CEO (or the Chairperson, if the CEO is the subject of the disclosure), will make the final decision as to whether disciplinary action or other action will be taken against an **eligible whistleblower**. Where disciplinary or other action relates to conduct that is the subject of the **eligible whistleblower's** disclosure, the disciplinary or other action will only be taken after the disclosed matter has been dealt with.

Where appropriate, TH will document the reasons why the disciplinary or other action is being taken, and the reasons why the action is not in retribution for the making of the disclosure. The **eligible whistleblower** will be advised of the action to be taken, and of any mitigating factors that have been taken into account.

## 18. Management of the persons against whom a disclosure has been made

TH recognises that persons against whom disclosures are made must be supported during the handling and investigation of disclosures. TH will to the extent that they are able, maintain the confidentiality of the person who is the subject of the disclosure during the assessment and investigation process. Where investigations do not substantiate disclosures, the findings of the investigation, will be marked confidential.

The recipient of a disclosure will ensure that the person who is the subject of any disclosure being investigated is:

- (a) informed as to the substance of the allegations; and
- (b) given the opportunity to respond to the allegations.

Where the allegation in a disclosure has been investigated, and the person who is the subject of the disclosure is aware of the allegations or the facts of the investigation, the recipient of the disclosure will, where possible, advise the person who is the subject of the disclosure of the findings of the investigation. They are not however, entitled to a copy of the investigation report or any documents provided to the Investigation Officer during the course of the investigation.

TH will give its support to a person who is the subject of a disclosure where the allegations contained in a disclosure are clearly wrong or unsubstantiated. Employees of TH may also seek support through the external provider of TH's Employee Assistance Program. If the matter has been publicly disclosed, the CEO will consider any request by that person to issue a statement of support setting out that the allegations were clearly wrong or unsubstantiated.

## 19. Amendments to Schedule A

It is recognised that changes in the business may from time to time require changes to Schedule A. It is therefore part of this policy that the CEO of TH is authorised to amend Schedule A as appropriate when changes at Senior Management level occur.

## 20. Availability of this Policy

This Policy will be:

- (a) available on TH's intranet and TH's, NMH's and UNI's website; and
- (b) retained by the Company Secretary.

## 21. Breach of this Policy

All incidents of non-adherence to this Policy will be addressed in accordance with this Policy and may, in the case of TH employees, be the subject of disciplinary action, up to and including termination of employment.

## 22. Training and further information in relation to this Policy

- (c) The Chief People Officer will be responsible for ongoing education and training on the whistleblower policy, processes and procedures to all officers and employees.
- (d) If you require further information in relation to this Policy, or how to make a Protected Report, you can contact one of the Disclosure Officers listed in clause 6(b) of this Policy.

## 23. Reporting to the Board

The Board has ultimate responsibility for the Whistleblower Policy and will be kept advised of emerging themes and trends. This includes periodically receiving sufficient information from other eligible recipients to evaluate and to effectively perform its oversight function in accordance with best practice requirements.

## 24. Definitions

The following words have these meanings in this document, unless the context requires otherwise:

**APRA** means the Australian Prudential Regulatory Authority.

**ASIC Act** means the Australian Securities and Investments Commission Act 2001 (Cth) as amended from time to time.

**Corporations Act** means the Corporations Act 2001 (Cth) as amended from time to time.

**Detriment** includes (without limitation) any of the following:

- (a) dismissal of an employee;
- (b) injury of an employee in his or her employment;
- (c) alteration of an employee's position or duties to his or her disadvantage;
- (d) discrimination between an employee and other employees of TH;
- (e) harassment or intimidation of a person;
- (f) harm or injury to a person, including psychological harm;
- (g) damage to a person's property;
- (h) damage to a person's reputation;
- (i) damage to a person's business or financial position;
- (j) any other damage to a person.

A **disclosable matter** is either:

- (a) a disclosure of information where the **eligible whistleblower** has reasonable grounds to suspect that the information concerns **misconduct**, or an **improper state of affairs or circumstances** in relation to:

- (i) TH; or
  - (ii) a related body corporate of TH; or
- (b) a disclosure of information where the **eligible whistleblower** has reasonable grounds to suspect that the information indicates that any of the following:
- (i) TH, or an officer or employee of TH;
  - (ii) a related body corporate of TH, or an officer or employee of a related body corporate of TH;
- has engaged in conduct that:
- a. constitutes an offence against, or a contravention of, a provision of any of the following:
    - (A) the *Corporations Act 2001* (Cth);
    - (B) the *ASIC Act 2001* (Cth);
    - (C) the *Banking Act 1959* (Cth);
    - (D) the *Financial Sector (Collection of Data) Act 2001* (Cth);
    - (E) the *Insurance Act 1973* (Cth);
    - (F) the *Life Insurance Act 1995* (Cth);
    - (G) the *National Consumer Credit Protection Act 2009* (Cth);
    - (H) the *Superannuation Industry (Supervision) Act 1993* (Cth);
    - (I) an instrument made under an Act referred to in any of subparagraphs (A) to (H); or
  - b. constitutes an offence against any other law of the Commonwealth that is punishable by imprisonment for a period of 12 months or more; or
  - c. represents a danger to the public or the financial system.

An **eligible recipient** means each of the following in relation to TH:

- (a) an officer or senior manager of TH or a related body corporate;
- (b) an auditor, or a member of an audit team conducting an audit of TH, or a related body corporate;
- (c) an actuary of TH, or a related body corporate; or
- (d) a registered tax agent or BAS agent (within the meaning of the *Tax Agent Services Act 2009* (Cth)) who provides tax agent services or BAS services to TH (in the case of disclosures concerning the tax affairs of TH).

**Eligible whistleblower** means an individual who is, or has been, any of the following:

- (a) an officer of TH;
- (b) an employee of TH;
- (c) a contractor or subcontractor that supplies services or goods to TH (whether paid or unpaid);
- (d) an employee of a contractor or subcontractor that supplies services or goods to TH (whether paid or unpaid);
- (e) an individual who is an associate of TH;
- (f) a relative or dependent of an individual referred to in any of paragraphs (a) to (e) (this includes a spouse, parent or other linear ancestor, child or grandchild, and sibling); or
- (g) an individual prescribed by the regulations to the Corporations Act.

**Information** that:

- (a) indicates **a danger to the public** or **a danger to the financial system** is intended to cover a broad range of conduct that poses significant risk to public safety or the stability of, or confidence in, the financial system, whether or not it is in breach of any law; or,
- (b) concerns **an improper state of affairs or circumstances** in relation to TH or a related body corporate of TH, may not involve unlawful conduct but may indicate a systemic issue that would assist the relevant regulator in performing its functions.

**Investigation Officer** means a person or persons being a director or manager or a consultant of TH who has responsibility for conducting preliminary investigations into reports received from an **eligible whistleblower**.



A person who is the recipient of a disclosure should not also be appointed as an Investigation Officer in respect of the disclosure.

**misconduct** or **an improper state of affairs or circumstances** in relation to TH includes conduct that is dishonest, fraudulent, illegal, in breach of laws, unethical, serious improper conduct, negligence, conduct that may cause financial or non-financial loss to TH or be otherwise detrimental to the interests of TH, breach of trust and breach of duty, but does not include a **personal work-related grievance** except under the definition below of **personal work-related grievance** part (f). Examples of fraud include dishonest activity causing actual or potential financial loss to any person or entity including theft of moneys or other property by employees or persons external to the entity and whether or not deception is used at the time, immediately before or immediately following the activity. It also includes the deliberate falsification, concealment, destruction or use of falsified documentation used or intended for use for a normal business purpose or the improper use of information or position.

**personal work-related grievance** has the same meaning as in the Corporations Act. It includes but is not limited to:

- (a) a grievance about any matter in relation to the discloser's employment, or former employment, having (or tending to have) implications for the discloser personally and doesn't have significant implications for TH;
- (b) an interpersonal conflict between the discloser and another employee;
- (c) a decision relating to the engagement, transfer or promotion of the discloser;
- (d) a decision relating to the terms and conditions of engagement of the discloser;
- (e) a decision to suspend, or terminate the engagement of the discloser, or otherwise to discipline the discloser.
- (f) RG270.63: A personal work-related grievance may still qualify for protection if:
  - (i) it includes information about misconduct, or information about misconduct or it is accompanied by a personal work-related grievance (mixed report);
  - (ii) TH 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;
  - (iii) the discloser suffers from or is threatened with detriment for making a disclosure; or
  - (iv) the discloser seeks legal advice or legal representation about the operation of the whistleblower protections under the Corporations Act.

**qualifying disclosure** means a disclosure that qualifies for protection under the Corporations Act.

**Support Officer** means a person from within TH or a consultant engaged for the purpose to provide support to an **eligible whistleblower**.

**tax affairs** means affairs relating to any tax imposed by or under, or assessed or collected under, a law administered by the Commissioner of Taxation.

**Taxation Administration Act** means the *Taxation Administration Act 1953* (Cth), as amended from time to time.

**whistleblower** means an **eligible whistleblower** with information, usually gained from his or her working relationship with an organisation, concerning illegal or unethical activities or misconduct within an organisation, and who reports that information.

## Schedule A

### Eligible Recipients

In addition to the eligible recipients listed in clause 6 (b) of this Policy, a disclosure can also be made to:

- A director of the Board;
- Group Chief Executive Officer (also Company Secretary);
- The Chief Financial Officer;
- The Chief Customer Officer;
- The Chief Executive Officer – Subsidiary Business;
- The Chief Information Officer;
- The External Auditor.

### Investigation Officers

Investigation Officers will usually be chosen from the eligible recipients.

TH reserves the right to appoint an external Investigation Officer in any particular case.

### Support Officers

On request by the **eligible whistleblower**, a Support Officer will be designated in coordination with the TH Chief People Officer or the recipient of the disclosure, as appropriate.