

## 418 Protected Disclosures (Whistleblower) Policy

### 1. Introduction

Link Housing is committed to ensuring an ethical workplace which is free of corruption and maladministration. Link Housing is committed to providing an environment where any staff or Director, member of the public or contractor with concerns about conduct within Link Housing is free to raise those concerns without fear of adverse repercussions, particularly where their immediate supervisor or senior manager is involved in the alleged conduct.

This Protected Disclosures (Whistleblower) Policy is an important part of deterring corrupt, illegal or other undesirable conduct.

### 2. Purpose

The purpose of this document is to provide a framework for Link Housing in dealing with protected disclosures.

### 3. Policy

Link Housing expects all staff, Directors and volunteers (referred to in this policy as “Representatives”) to act:

- ethically, honestly, responsibly and diligently;
- in full compliance with the letter and spirit of the law, and
- in the best interests of Link Housing, its applicants, occupants, tenants, volunteers and contractors.

Link Housing is committed to:

- encouraging individuals to report their concerns ensuring that in reporting their concerns, individuals are afforded respect, confidentiality and procedural fairness;
- ensuring that the matter is properly investigated with a view to establishing the truth and correcting any wrongdoing;  
ensuring that the individual is advised of the outcome and any action taken; and
- ensuring that the individual is not victimised or detrimentally affected because of their actions.

### 4. Definitions

A **whistleblower**, or “**discloser**” is a person who makes a protected disclosure and is usually a person within an organisation who reports misconduct or dishonest or illegal activity that has occurred within that same organisation or a related organisation. A discloser may also be a member of the public, an external contractor or employee of an external contractor.

The law calls the information provided by disclosers a **Protected Disclosure** (or PD).

The types of **disclosable matters** which can be reported and those which are not disclosable matter are listed at page 6 of this Policy.

## 5. Responsibilities

Link Housing Representatives, members of the public or contractors wishing to make a protected disclosure should contact either the CEO or the Chair of the Board who are the designated appropriate Officers.

The disclosure may be made in writing or in person.

The disclosure may be made anonymously and out of normal business hours.

It should be noted that a senior manager or officer may also receive a protected disclosure if the employee does not want to disclose to the CEO or the Chair.

The discloser may also make a disclosure to a legal practitioner who will make the disclosure known to the company or appropriate body without disclosing the discloser's identity.

Where it is not appropriate to contact the above officers, individuals are encouraged to contact the Registrar of Community Housing ([www.nrsch.gov.au](http://www.nrsch.gov.au)).

The person making the disclosure may also make the disclosure to the Australian Securities and Investment Commission ([asic.gov.au](http://asic.gov.au)) the Australian Charities and Not for Profits Commission ([acnc.gov.au](http://acnc.gov.au)), or the Australian Taxation Office (ATO).

The discloser may also make a disclosure to their local Member of Parliament (state or federal) or a journalist.

To obtain additional information before making a disclosure, the discloser may contact the Head of Legal or the Chief Financial Officer (CFO).

Contact details are at page 8 of this policy. Staff members to whom a disclosure may be made are listed at page 7 of the Policy.

Upon receipt of a protected disclosure, Link Housing will:

- Ensure the matter is appropriately investigated in a timely manner;
- Ensure that confidentiality is always maintained;
- Where appropriate, seek external consultancy or legal advice to ensure efficacy of the investigation and confidentiality for all parties;
- Ensure a written report is prepared for the Board;
- Ensure appropriate action is taken to correct any wrong doing;
- Ensure that the individual is advised of the outcome and any action taken; and
- Ensure that the individual is not victimised or suffer any detrimental action in reprisal as a result of their disclosure.

## 6. Protections for disclosers

The discloser's identity will be kept confidential and can only be used if the discloser consents. If the discloser has consented to their identity being disclosed, this information will be provided on a need to know basis and only for the purposes of carrying out any investigation.

The penalty for individuals and corporations if a discloser's identity is revealed without their consent could be a prison sentence of up to 6 months. The discloser may also be compensated if they suffer a detriment such as termination.

Other detriments which are unlawful are changes to duties causing disadvantage, discrimination, harassment and intimidation, damage or injury to the discloser, the discloser's property, reputation, business or financial position.

Non-detrimental conduct includes administrative action that is reasonable for protecting the discloser (e.g. moving them to another office). A discloser could still be performance managed for unsatisfactory work performance if it is in line with Link Housing's performance management framework.

A discloser is protected from civil liability including actions for employment contract breaches such as breach of confidentiality. The discloser is protected from criminal liability and administrative liability such as disciplinary action for making the disclosure.

If the discloser is an employee, they will be provided with access to the Employment Assistance Program (EAP).

For any proposed action concerning the employment of a discloser (such as a transfer or change in role), the discloser will be provided with procedural fairness and particular care taken to ensure that the law concerning the avoidance of detriment to the discloser is followed.

A written assessment will be made concerning action taken to minimise the risk that the action is detrimental. This will be approved by the CEO. An external consultant may be engaged to provide an opinion as to whether the action is lawful and whether the action is a detriment and is appropriate in the circumstance.

## **7. Procedural Fairness for witnesses and people mentioned in a protected disclosure**

If a protected disclosure is made against another employee or Director of Link Housing, that person and any witnesses will be afforded procedural fairness. Any Link Housing Representatives mentioned or involved in the protected disclosure will be treated fairly, afforded procedural fairness and given access to the EAP.

## **8. Investigation Process**

A protected disclosure will be investigated in accordance with the Corrupt Conduct and Fraud Control Plan Investigation Process.

In addition to the Corrupt Conduct and Fraud Control Plan Investigation Process, on receipt of a protected disclosure Link Housing will:

- Register the disclosure and place all documentation relating to the disclosure in a secure folder with limited access by management.
- Assess each disclosure and determine whether each is a protected disclosure and qualifies for protection and determine whether it requires a formal, in depth investigation.
- Contact the discloser to confirm receipt and outline the steps of the process. This email may seek consent for a limited disclosure of the discloser's identity in order to reasonably investigate the complaint.
- Update the discloser at least every 14 days as to the progress of the investigation. The timing of this update may be varied depending on the nature of the disclosure.

Link Housing may not be able to investigate the matter if it is unable to contact the discloser.

The findings of the investigation will be confidentially communicated to the CEO and the Board in accordance with the Investigation Process under the Corrupt Conduct and Fraud Control Plan. The disclosers identity will remain confidential.

The findings of the investigation will be communicated to the discloser in writing having regard to the privacy and confidentiality of witnesses.

## 9. Related Policies

- Code of Conduct
- Corrupt Conduct and Fraud Control Plan.
- Employee Complaints & Grievance Handling Procedure
- Equal opportunity, discrimination, harassment & bullying prevention policy
- Privacy and Confidentiality Statement
- Client Feedback & Complaints Policy
- Appeals Policy

## 10. Legislative and Regulatory Framework

- *Treasury Laws Amendment (Enhancing Whistleblower Protections) Act 2018* (Commonwealth)
- Corporate Governance Framework
- National Regulatory System for Community Housing
- ASIC Regulatory Guide 270.

## 11. Privacy & Confidentiality

Link Housing or another body must keep information provided by a **discloser** confidential. Further, Link Housing or other body may not disclose either the information or the identity of the discloser unless that disclosure is specifically authorised by law.

The identity of the discloser will be de-identified in all communications. The disclosure and any related documentation will be kept in a secure folder with access limited to the CEO, the CFO, the Head of Legal and their administrative support officers.

It is unlawful to identify a discloser or disclose information that is likely to lead to the identification of the discloser.

In any communication or report, Link Housing will redact identifying personal information, use gender neutral language, and any information which indirectly identifies the discloser.

Documents related to the disclosure must not be printed unless absolutely necessary and on a secure basis.

## 12. Complaints & Appeals

Any person who is not happy with a decision made by Link Housing or believes that Link Housing has not followed this policy, may lodge a grievance using our Complaints & Appeals Policies.

An employee who believes that Link Housing has not followed this policy may lodge a grievance through the Employee Complaints and Grievance Handling Policy and Procedure.

Any complaint or appeal will be dealt with in accordance with Link Housing's policies addressing complaints & appeals, as well as implementing the protections and confidentiality afforded to a discloser under this Protected Disclosures (Whistleblower) Policy.

If dissatisfied with Link Housing's investigation, the discloser may lodge a complaint with Registrar of Community Housing ([www.nrsch.gov.au](http://www.nrsch.gov.au)), the Australian Securities and Investment Commission, the Australian Charities and Not for Profits Commission or the Australian Taxation Office (ATO).

### 13. Quality Assurance

The Protected Disclosures (Whistleblower) Policy) will be formally reviewed every two years or when necessitated through a sufficient change in circumstances by the Head of Legal.

### 14. Policy Dissemination

The policy is available on the Link Housing intranet and the Link Housing website.

New employees and Directors will be made aware of the policy on induction. Current employees will be made aware of the policy by email on a yearly basis and at the “All Staff” meeting following 18 December 2019, and the June “All Staff Meeting” each year.

## Disclosable and Non-disclosable Matters:

### Disclosable Matters

Disclosable Matter include:

- illegal conduct, such as theft, dealing in, or use of illicit drugs, violence or threatened violence, and criminal damage against property;
- fraud, money laundering or misappropriation of funds;
- offering or accepting a bribe;
- financial irregularities;
- failure to comply with, or breach of, legal or regulatory requirements;
- engaging in or threatening to engage in detrimental conduct against a person who has made a disclosure or is believed or suspected to have made, or be planning to make, a disclosure;
- Link Housing breaching 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; and
- if the discloser suffers from or is threatened with detriment for making a disclosure or the discloser seeks legal advice or legal representation about the operation of the whistleblower protections under Corporations law.

Disclosable matters include conduct that may not involve a contravention of a particular law.

Information that indicates a significant risk to public safety or the stability of, or confidence in, the financial system is also a disclosable matter, even if it does not involve a breach of a particular law.

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

### Non-disclosable Matters

Disclosable matters do not include matters which relate solely to personal work-related grievances, and that do not relate to detriment or threat of detriment to the discloser and do not qualify for protection.

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

Examples of 'personal work-related grievance' which are NOT Protected Disclosures include:

- an interpersonal conflict between the discloser and another employee;
- a decision that does not involve a breach of workplace laws;
- a decision about the engagement, transfer or promotion of the discloser;
- a decision about the terms and conditions of engagement of the discloser
- a decision to suspend or terminate the engagement of the discloser, or
- otherwise to discipline the discloser; and
- a personal work-related grievance still qualifies for protection if it includes information about misconduct, or information about misconduct includes or is accompanied by a personal work-related grievance (known as a mixed report).

**Link Housing management to whom a Protected Disclosure may be made:**

**Email = name.name@linkhousing.org.au**

**Management Directory**

<b>Name</b>	<b>Position</b>
Andrew McAnulty	Chief Executive Officer
Margaret Maljkovic	Chief Operating Officer
Paul Hunt	Chief Development Officer
Mark Woodward	Chief Development Officer
Denise McGrath	Head of People & Culture
Shiva Mathivannan	Head of Finance
Nathan Cureton	Head of Legal & Risk
Deon Wyngaard	Manager Risk and Compliance
Alison O'Neill	Head of Housing Services
Pablo Marques	Area Manager
Robin Fletcher	Head of Community & Partnerships
Brianna Ragel	Head of Marketing and Communications
Gino Espinosa	Head of Assets
Simon Wade	Head of Business Improvement
Nirmal Hansra	Board Chair/Director – c/o <a href="mailto:chair@linkhousing.org.au">chair@linkhousing.org.au</a>

### Contact Information

Chief Executive Officer - [andrew.mcanulty@linkhousing.org.au](mailto:andrew.mcanulty@linkhousing.org.au)

Chief Financial Officer/Company Secretary - [mark.woodward@linkhousing.org.au](mailto:mark.woodward@linkhousing.org.au)

Chair – c/o [brid.walker@linkhousing.org.au](mailto:brid.walker@linkhousing.org.au)

Head of Legal - [nathan.cureton@linkhousing.org.au](mailto:nathan.cureton@linkhousing.org.au)

Feedback and Complaints – [Feedback@linkhousing.org.au](mailto:Feedback@linkhousing.org.au)

New South Wales Registrar of Community Housing - [registrar@facs.nsw.gov.au](mailto:registrar@facs.nsw.gov.au)

Australian Securities and Investment Commission ([asic.gov.au](http://asic.gov.au))

The Australian Charities and Not for Profits Commission ([acnc.gov.au](http://acnc.gov.au)),

The Australian Taxation Office (ATO) ([www.ato.gov.au](http://www.ato.gov.au))

To find your local member of parliament go to:

Federal

[www.aph.gov.au](http://www.aph.gov.au)

State

[www.parliament.nsw.gov.au/members/pages/all-members.aspx](http://www.parliament.nsw.gov.au/members/pages/all-members.aspx)

To find a lawyer to make the protected disclose on your behalf, go to:

<https://www.lawsociety.com.au/for-the-public/find-a-lawyer>