

Whistleblower Policy

A policy that delivers a pathway for Whistleblowers to come forward to report misconduct without fear of retribution or personal detriment.

Document information

Effective Date: 1 May 2023

Feedback: Employees and customers can provide feedback on this document by emailing policyfeedback@newhorizons.org.au.

Policy Contact: Questions and further details can be obtained from the General Manager, Enterprise Risk & Business Assurance via this link EBRA@newhorizons.org.au

Monitoring and Review: The Content & Document Control Champion will co-ordinate the review of the effectiveness and relevancy of this document on the date specified in the Approval and Review section.



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1 Introduction

The purpose of this Whistleblower Policy (the 'Policy') is to ensure that wrongdoings and conduct not aligned with New Horizons policies or breaches any laws (Acts or Regulations) are identified so that individuals can disclose wrongdoings safely, securely and with confidence that they will be protected and supported.

Wrongdoing is defined in detail within this policy; however wrongdoing is more commonly known to be an act that is illegal, immoral or unethical in nature.

New Horizons encourages individuals to disclose wrongdoing and speak up when they perceive something isn't right. New Horizons is committed to ensuring disclosures are dealt with on a timely basis, in accordance with the Corporations Act 2001 (Cth) (the 'Act') and other regulatory obligations.

This Policy is important in helping identify wrongdoing that otherwise would not have been uncovered without the protections granted by the Act which are detailed below.

2 Eligible Disclosures

An eligible Whistleblower, as defined under Section 2, is able to make a disclosure relating to a 'disclosable matter.' At the point of disclosure, the matter is considered to be "alleged".

A disclosable matter must fulfil the following criteria:

1. The eligible whistleblower must have reasonable grounds to suspect conduct in Section 3 has occurred.
 - Australian Securities & Investments Commission (ASIC) suggests an allegation with no supporting information is not likely to have 'reasonable grounds to suspect'; and
2. The conduct outlined in Section 3 relates to New Horizons or a related body corporate of New Horizons; and
3. Disclosable conduct which is:
 - Misconduct
 - Negligence or breach of duty
 - Illegal such as:
 - Theft, dealing in, or use of illicit drugs or violence or threatened violence Fraud, money laundering or misappropriation of funds;
 - Offering or accepting a bribe;
 - Financial irregularities;
 - Failure to comply with, or a breach or legal or regulatory requirements; and
 - Engaging in or threatening to engage in detrimental conduct against an eligible whistleblower who has made a disclosure or is believed or suspected to make or planned to make a disclosure.
 - Conduct that is an offence against, or a breach of
 - *Corporations Act 2001* (Cth)
 - *Banking Act 1959* (Cth)
 - An offence against an Australian Commonwealth law (law which is not state governed law) which is punishable by imprisonment for 12 months or more; or
 - Business behaviour and practices that may contribute to an unreasonable negative impact for the consumer: or

- Improper state of affairs or circumstances; or
- Represents a danger to the public or financial system; or
- Prescribed by regulation.

(Collectively referred to as 'disclosable matters').

Disclosable matters may relate to issues of public safety but do not necessarily involve a breach of law.

3 Non-Eligible Disclosures

3.1 Personal Work Grievances

Disclosures that relate solely to:

1. Personal work-related grievances; and
2. Non-relatable matters concerning the detriment or threat of detriment of a discloser do not qualify as a disclosable matter.

3.2 Personal Work grievances include (but are not limited to):

1. Conflict between an eligible whistleblower and another employee or worker;
2. A decision that does not involve a breach (or suspected breach) of workplace laws;
3. A decision about a Workers employment status, transfer or promotion;
4. A decision about the terms of a Workers engagement or contract;
5. Reasonable management action such as managing performance or addressing behaviours of concern;
6. A decision to suspend, terminate or discipline a Worker.

Workers are able to raise personal work grievances via New Horizons' *Grievance Management Policy*. Workers may want to consider seeking external legal advice about their rights under employment and contract law.

3.3 False, Vexatious, or Misleading Disclosures

New Horizons discourages deliberate false reporting, which may delay the investigation of valid disclosures. Any false reporting will be treated seriously and may be subject to reporting to appropriate authorities. Employees making disclosures without reasonable grounds to suspect, or in a deliberately false or misleading manner, may be subject to disciplinary action.

4 Who can receive a disclosure?

New Horizons encourages eligible Whistleblowers to make a disclosure to New Horizons as the first port of call so that wrongdoing can be identified and addressed in a timely manner.

4.1 Who can receive a disclosure within New Horizons?

The following people are able to receive a disclosure within New Horizons:

1. A person authorised by the New Horizons to receive disclosures;
2. New Horizons has engaged an independent whistleblowing service provider, Stopline, to receive whistleblowing disclosures. Stopline can be the first port of call for an eligible whistleblower via the following link. <https://newhorizons.stoplinereport.com/>

3. An internal or external auditor; or
4. Any one of the following individuals to qualify for protection:

Disclosure Officers - (Whistleblower Protection Officers):	Board President
	Chief Executive Officer
	Deputy Chief Executive Officer
	Chief Financial Officer
	General Manager, People Excellence
	General Manager, Enterprise Risk & Business Assurance
	Ethics, Integrity & Conduct Assurance Lead

(collectively referred to as 'Disclosure Officers')

4.2 Who can receive a disclosure external to New Horizons?

An eligible whistleblower can make a disclosure to one of the following individuals to qualify for protection:

4.2.1 LAWYER

A lawyer you have engaged to provide advice on the disclosure or to represent you.

- In the event that your lawyer concludes that a disclosure does not fulfil the criteria of a disclosable matter, protections still may apply.

4.2.2 REGULATORY BODIES

Disclosures can also be made to ASIC, or another Commonwealth body (body prescribed by regulation) and still qualify for protections granted under the Act outlined in Section 6.

4.2.3 PUBLIC INTEREST DISCLOSURE

Disclosures can be made to a journalist or parliamentarian under certain circumstances and still qualify for protection, this is called a 'public interest disclosure.' A public interest disclosure can be made where all of the below criteria are met:

- At least 90 days have passed since the eligible whistleblower made the disclosure to ASIC or another Commonwealth body (prescribed by regulation);
- The eligible whistleblower does not have reasonable grounds to believe that action is being, or has been taken;
- The eligible whistleblower has reasonable grounds to believe making another disclosure is in the public interest; **and**
- Before making a public interest disclosure, the eligible whistleblower has given written notice to ASIC, Australian Charities and Not-for-profits Commission (ACNC) or another Commonwealth body (prescribed by regulation) that identifies their original disclosure, and outlines that they intend to make a public interest disclosure.

4.2.4 EMERGENCY DISCLOSURE

Disclosures can be made to a journalist or parliamentarian under certain circumstances and still qualify for protection, this is called an 'emergency disclosure.' An emergency disclosure can be made where all of the below criteria are met:

- An eligible whistleblower has made the disclosure to ASIC, ACNC or another Commonwealth body (prescribed by regulation);

- The eligible whistleblower has reasonable grounds to believe that the information concerns a substantial and imminent danger to the health and safety of one or more persons or the natural environment;
- Before making a public interest disclosure, the eligible whistleblower has given written notice to ASIC or another Commonwealth body (prescribed by regulation) that identifies their original disclosure, and outlines that they intend to make an emergency disclosure; **and**
- The extent of the information disclosed is no greater than necessary to inform the journalist or parliamentarian of the substantial and imminent danger.

Before making a public interest or emergency disclosure it is important to ensure all of the above criteria are met. A Worker may wish to seek external legal advice from a lawyer prior to making this type of disclosure.

5 Making a Disclosure

An eligible whistleblower who makes a disclosure (a 'discloser') is able to disclose their report by internal and external means. If the individual has any concerns regarding whistleblower protections or procedures, they can contact the third party service, Stoptime or the individuals listed in Section 4 noting that they will not have legal protections available to them outlined in Section 6.

6 Legal protections for disclosures

Disclosers who fulfil the criteria outlined in Sections 3-5 have the following legal protections available to them for both internal and external disclosures:

6.1 Protection of a Disclosers Identity

New Horizons has a legal obligation to protect the confidentiality of a discloser's identity.

A person cannot disclose the identity of a discloser or information that is likely to lead to the identification of the discloser *unless* a person discloses the identity of a discloser to:

1. ASIC, ACNC or a member of the Australia Federal Police;
2. A lawyer (to obtain legal advice or legal representation);
3. A person or body prescribed by regulations; **or**
4. With the consent of the discloser.

A person can disclose the information contained in the disclosure with or without the disclosers consent if:

1. The information does not include the discloser's identity;
2. New Horizons has taken all reasonable steps to reduce the risk that the discloser will be identified from the information; and
3. It is reasonably necessary for investigating issues mentioned in the disclosure.

It is illegal for a person to identify a discloser or disclose information that is likely to lead to the identification of the discloser. If this has occurred, you can:

1. Lodge a complaint for breach of confidentiality via Stoptime.
2. A discloser may also lodge a complaint with a regulator such as ASIC or ACNC for investigation.

6.2 Anonymity

Disclosures by a discloser who fulfils the criteria in Sections 1-5 can make a disclosure anonymously and still be protected by the Act.

A discloser who makes a disclosure can choose to remain anonymous:

1. Whilst making a disclosure;
2. Over the course of the investigation;
3. After the investigation is finalised.

A discloser can refuse to answer any questions which could reveal their identity at any time.

If a disclosure is received from an email address where a person's identity cannot be determined, it will be treated as an anonymous disclosure. Other mechanisms for protecting anonymity include adopting a pseudonym.

6.3 Protection from detrimental acts or omissions

A person cannot engage in conduct that causes detriment to a discloser (or another person) in relation to a disclosure if:

1. The person believes or suspects that the discloser made, may have made, proposes to make or could make a valid disclosure; and
2. The belief or suspicion is the reason (whole or in part) for the conduct.

Threats, (whether expressed or implied) to cause detriment to a discloser (or another person) is not permitted.

Damaging behaviours which is prohibited under law includes:

1. Dismissal, injury to employment, alteration of position or duties;
2. Discrimination between an workers and other workers;
3. Harassment or intimidation;
4. Harm or injury to a person, property or reputation;
5. Damage to a person's business or financial position; or
6. Any other damage.

Detrimental conduct does not include:

1. Administrative action which is reasonable to protect the discloser from detriment; or
2. Management action to manage a discloser's unsatisfactory work performance or conduct.

If a discloser is subject to administrative or management action, they will be informed of the reasons for taking this action.

6.4 Compensation and other remedies

A discloser (or any other worker or person) can seek compensation and other remedies through the courts if:

1. They suffer loss, damage or injury because of a disclosure;
2. New Horizons failed to take reasonable precautions and exercise due diligence to prevent detrimental conduct.

If a person wishes to proceed with seeking compensation and/or other remedies from the courts independent legal advice should be sought.

6.5 Civil, criminal and administrative liability protection

A discloser is protected from the below in regard to their disclosure:

1. Civil liability
 - Such as legal action against a discloser for breach of an employment contract or duty of confidentiality.
2. Criminal liability
 - Such as attempted prosecution of the discloser for unlawfully releasing information.

This does not include protections for making a false disclosure. These protections do not grant immunity for misconduct by the discloser which is revealed throughout the disclosure procedure.

7 Support and Practical Protection for Disclosures

New Horizons is committed to supporting disclosers and protecting disclosers from detriment throughout the disclosure process.

7.1 Protection of a discloser's identity

7.1.1 RECEIVING A DISCLOSURE

- All personal information or reference to the discloser witnessing an event will be redacted.
- The discloser will be referred to with a pseudonym.
- Where possible, the discloser will be contacted to help identify certain aspects of their disclosure that could inadvertently identify them.
- Disclosures will be handled and investigated by qualified staff.

7.1.2 RECORD KEEPING

- All paper and electronic documents and other materials relating to disclosures will be stored securely.
- Access to all information relating to a disclosure will be limited to those directly involved in managing and investigating the disclosure.
- Only a restricted number of people who are directly involved in handling and investigating a disclosure will be made aware of a discloser's identity (subject to the disclosers consent) or information that is likely to lead to the identification of the discloser.
- Communication and documents relating to the investigation of a disclosure will not be sent to an email address or printed that can be accessed by other staff.
- Each person who is involved in handling and investigating a disclosure will be reminded about the confidentiality requirements.

7.2 Protection from detrimental acts or omissions

7.2.1 DETRIMENT IN THE WORKPLACE

- Assessing the risk of detriment against a discloser and other persons once a disclosure is received.
- Actions to protect a discloser from potential detriment.
 - Such as allowing a discloser to perform their duties at a different location or reassigning a discloser to a different role at the same level.
- Ensure that Disclosure Officers are aware of the need to manage conflicts, ensure fairness and assess the risk of harm to the discloser.
- A discloser can lodge a grievance with Stopleveline if they have suffered detriment.

7.3 Personal Wellbeing

In some instances personal wellbeing services may be offered to a discloser, or those subject to detriment including:

- Support services
 - Such as counselling or psychologist services.
- Strategies to help a discloser minimize and manage stress, time, performance impacts and other challenges resulting from a disclosure and subsequent investigation.
- If personal detriment has occurred New Horizons may take disciplinary action against individuals who contributed to the detriment. The discloser will not be notified of any disciplinary outcomes.

8 Handling and Investigating a Disclosure

8.1 Receiving a disclosure

Once New Horizons, or a service provider authorised by New Horizons to receive whistleblowing disclosures receives a disclosure it will assess each disclosure to determine whether:

- The disclosure qualifies for protection; and

- A formal, in-depth investigation is required.

8.2 When and why a disclosure will be investigated

Disclosures raised will be received and treated seriously and with the utmost sensitivity. Whilst making a disclosure does not guarantee a matter will be formally investigated, all disclosures will be reviewed and based on the disclosures' nature and evidence provided. From here a decision will be made as to whether the disclosure warrants an investigation.

In determining whether to investigate the disclosure, the following be considered:




- The objective seriousness of the disclosure.
- The quality of information or evidence provided.
- Whether the disclosure concerns serious systemic conduct.
- Whether similar disclosures have been receive.
- Whether the conduct involves Disclosure Officers, significant financial matters or non-compliance.

New Horizons may not be able to undertake an investigation if it is unable to contact the discloser and/or if the discloser has refused to provide or has not provided a means of contacting them. If this is the case, New Horizons may opt to conduct a broad review on the subject matter disclosed.

8.3 The Investigation Process

New Horizons is committed to conducting objective, fair and independent investigations. Where this cannot be fulfilled by New Horizons in whole or part, New Horizons will opt for a completely external investigation. Throughout the investigation process, confidentiality requirements outlined in Sections 6 and 7(7.1, 7.2) will continue to be applied.

For disclosures that qualify for protection, New Horizons will follow the below investigation process:

Investigation Action	Instructions	Stopline	WPO	Executive Leadership	General Managers & Management	Leads & Team Leaders	Specialist identified roles
Receive the disclosure	Disclosures will be received by a Disclosure Officer, (refer to 5.1)						
Acknowledge the disclosure	A Disclosure Officer will acknowledge receipt of the disclosure within a reasonable timeframe.						
Assess the disclosure and address immediate risks	A Disclosure Officer will assess the disclosure determining: Whether the disclosure fulfils the criteria outlined in Sections 1-4 The objective seriousness of the disclosure						

Investigation Action	Instructions	Stopline	WPO	Executive Leadership	General Managers & Management	Leads & Team Leaders	Specialist identified roles
	<p>The quality of information or evidence provided</p> <p>Whether the disclosure concerns serious systemic conduct</p> <p>Whether similar disclosures have been received</p> <p>Whether the conduct involves Disclosure Officers, significant financial matters or non-compliance</p> <p>Whether the disclosure warrants an investigation</p>						
Resolve the disclosure	For disclosures that do not meet the criteria in Sections 1-4 or do not warrant an investigation the Disclosure Officer will seek to resolve the disclosure directly with the discloser or redirect their disclosure accordingly as per the <i>Grievance Management Policy</i>						
Investigate or review the disclosure	Stopline, a Disclosure Officer of New Horizons will conduct an investigation. All workers of New Horizons must cooperate fully with any investigators.						
Provide regular updates throughout the process	Stopline will provide regular updates to disclosers and New Horizons regarding the process of the investigation.						
Provide the final outcome	The findings of the investigation will be provided to New Horizons & communicated as appropriate to the discloser and involved Parties.						
Close the investigation and record the outcome	Stopline will close out the investigation and maintain appropriate records.						

Investigation Action	Instructions	Stopline	WPO	Executive Leadership	General Managers & Management	Leads & Team Leaders	Specialist identified roles
Facilitate ongoing support for those involved	New Horizons will provide referrals to professional services to disclosers and other employees as appropriate.						
Continuous improvement	Stopline will provide recommendations for improvement for future investigations.						

8.4 Closing the loop on investigations

A discloser will be provided with regular updates so long as the discloser can be contacted, the main updates will be when the investigation:

- has begun;
- is in process; and
- has been finalised.

A person who is the subject of an allegation will be provided the:

- information regarding the allegation and the nature of the allegation to the extent that it is lawful and reasonable to do so;
- opportunity to respond to the allegation; and
- outcome of the investigation or report.

Pending the nature of the disclosure, timelines of when a discloser will be provided an update will vary. The discloser may be informed of the outcomes of an investigation, though there may be circumstances where it may not be appropriate to provide details of the outcome to the discloser. In these instances the discloser will be advised that

8.5 Review

If a discloser is dissatisfied with the outcome of the investigation the discloser may:

- Request a review be conducted by an officer who is not involved in handling and investigating disclosures and provide the review findings to the Risk Committee; or
- Lodge a complaint with ASIC or the ACNC.

New Horizons is not obliged to reopen an investigation where it can confirm:

- The investigation was conducted properly;
- New information is not available; and
- New information would not change the findings of the investigation.

9 Fair Treatment of Individuals Mentioned in a Disclosure

New Horizons is committed to fair treatment of its workers who are mentioned in a disclosure that qualifies for protections under the Act, including those who are subject of a disclosure.

To ensure fair treatment of individuals mentioned in a disclosure:

- Disclosures will be handled confidentially in accordance with Section 6 and 7 (7.1, 7.2).
- Each disclosure will be assessed as to whether the conduct listed warrants an investigation. The investigation is conducted to determine whether there is sufficient evidence to substantiate the claims made in the disclosure.
- Investigations will be objective, fair and independent as outlined in Section 8.

If the investigation of a disclosure identifies that there is a worker alleged to be involved, internal disciplinary management processes will be followed.

- A worker who is subject of a disclosure may access personal wellbeing services outlined in Section 8 (8.3).

10 Accessibility

This policy will be made publicly available via <https://www.newhorizons.org.au> and New Horizons' staff can also access the policy via the internal Document Centre.

New Horizons will conduct staff training sessions on this policy as required to ensure that workers are aware of this Policy. Training at all levels of management will occur to ensure that they are equipped on how to deal with disclosures.

11 Accountability & Continuous Improvement

This Policy will be reviewed periodically and training may be recommended by Whistleblower Protection Officers of New Horizons as appropriate.

Key themes of disclosures will be provided to the senior leadership to show patterns disclosures or systemic issues. Any information provided will not contain personal or identifying information in compliance with 6 and 7 (7.1).

12 Definitions

Alleged	A matter that has been said to have taken place without substantiated evidence
Conduct	The manner in which a person behaves in a particular place or situation
Disclosure	Act of revealing or exposing a matter of concern
Negligence	A failure to behave with the level of care that someone of ordinary prudence would have exercised under the same circumstances
Wrongdoing	An act of behaving improperly, legally or dishonestly

13 Related legislation and documents

Category	Description	Hyperlink
Legislation	Corporations Act 2001 (Cth)	http://classic.austlii.edu.au/au/legis/cth/consol_act/ca2001172/s1317ai.html
	Banking Act 1959 (Cth)	http://classic.austlii.edu.au/au/legis/cth/consol_act/ba195972/
	ASIC Whistleblower policies, Regulatory Guide 270	https://asic.gov.au/media/5702691/rg270-published-13-november-2019-20200727.pdf
Policies	Grievance Management Policy	https://newhorizonsenterprises.sharepoint.com/Document-Centre/Documents/Grievance%20Management%20POL%20v04-1221.pdf
Procedures		
Guidelines		
Forms		
Tools		

14 Responsibilities

Position Level	Details
Chief Executive Officer (CEO)	The Chief Executive Officer ultimately endorses all policies.
C-Suite Members	C-Suite is responsible for providing advice to the CEO from an employee, policy, transformation, strategy, customer, risk and finance perspective.
General Manager	General Managers are responsible for measuring the effectiveness and adoption of policy amongst their teams.
Manager	Managers are responsible for ensuring policies are effectively implemented and adopted by team members.
Lead	Team leaders are responsible for ensuring employees have read and understood the policy and have been supported to ensure compliance across all reports.
All Employees	Employees have an individual responsibility to ensure they are adhering to policy directions and acting in accordance with them.
Content and Document Control Champion (CDCC)	The CDCC is responsible for co-ordinating policy reviews in a timely manner and in accordance with approved review dates.

15 Approval and Review

Approval and Review	Details
Approval Authority	Chief Executive Officer
General Manager/Advisor to Approval Authority	C-Suite and General Manager, Enterprise Risk & Business Assurance
Administrator	Content & Document Control Champion
Next Review Date	May 2025

Approval and Amendment History	Details
Original Approval Authority and Date	