



## WHISTLE BLOWER POLICY

Policy number	012	Version	1
Drafted by	Board	Approved by Board on	15 <sup>th</sup> May 2020
Responsible person	CEO	Scheduled review date	May 2021

### INTRODUCTION

The Board of NoosaCare Inc. is committed to operating legally (in accordance with applicable legislation and regulation), properly (in accordance with organisational policy and procedures), and ethically (in accordance with recognised ethical principles). Board members, employees, volunteers and contractors are expected to cooperate with the organisation in maintaining legal, proper, and ethical operations, if necessary by reporting non-compliant actions by other people. Correspondingly, individuals who do assist in maintaining legal, proper, and ethical operations should be protected and not be penalised in any way.

### PURPOSE

The purpose of this policy is to:

- a) encourage the reporting of matters that may cause harm to individuals or financial or non-financial loss to NoosaCare Inc or damage to its reputation;
- b) enable NoosaCare Inc to deal with reports from whistleblowers in a way that will protect the identity of the whistleblower and provide for the secure storage of the information provided;
- c) establish the policies for protecting whistleblowers against reprisal by any person internal or external to the entity;
- d) provide for the appropriate infrastructure;
- e) help to ensure NoosaCare Inc maintains the highest standards of ethical behaviour and integrity.

### POLICY

#### Concerns regarding illegal or corrupt behaviour

Where an employee, director, volunteer and contractor of NoosaCare Inc. believes in good faith and on reasonable grounds that any other Board member, employee, volunteer, or contractor has breached any provision of the general law that person must report their concern to

- The CEO : or, if they feel that the CEO may be complicit in the breach,
- The organisation's nominated Whistle blower Protection Officer; being:
  - President of the Board, PRIVATE & CONFIDENTIAL c/- NoosaCare Incorporated, 186 Cooroy-Noosa Road, Tewantin Qld 4565.
- A person or office independent of the organisation nominated by the organisation to receive such information, or

➤ Dore & Webb Lawyers, Ms Fiona Allen, PRIVATE & CONFIDENTIAL,  
2/67 Mary St, Noosaville QLD 4566 phone: 07 5302 7933

- The duly constituted authorities responsible for the enforcement of the law in the relevant area.

Nothing in this policy is intended to abrogate or diminish any additional or alternative protections which may be available at law.

The person making their concern known is entitled to protection under this policy and must not be the subject of disciplinary action, victimisation, retaliation or claims by the organisation. That person shall not suffer any sanctions from the organisation on account of their actions in this regard provided that they:

- act in good faith, and
- act honestly with a genuine and reasonable belief that the information in the allegation is true or likely to be true, and
- conform to the designated procedures, and
- have not themselves engaged in serious misconduct or illegal conduct in relation to the reported concern.

A person who makes a disclosure knowing it to be false or being reckless about whether it is false:

- is not afforded any protection under this policy; and
- may have engaged in misconduct and be subject to disciplinary action.

Any person within the organisation to whom such a disclosure is made shall

- if they are satisfied that the behaviour complained of is unquestionably trivial or fanciful, dismiss the allegation and notify the person making the allegation of their decision;
- if they are satisfied that the behaviour complained of is neither trivial nor fanciful, ensure that the allegation is investigated in accordance with the investigation procedure set out in the Whistleblower Procedures, a finding is made, and the person making the allegation is informed of the finding.

Any such investigation shall observe the rules of natural justice and the provisions of procedural fairness.

Disclosures may be made anonymously, and this anonymity shall as far as possible be preserved by the organisation.

**AUTHORISATION  
PRESIDENT,**

Ann Harrap  
NoosaCare Inc



## WHISTLE BLOWER PROCEDURES

Procedures number	12	Version	1
Drafted by	Megan D'Elton	Approved by CEO on	15 <sup>th</sup> May 2020
Responsible person	CEO	Scheduled review date	May 2021

### RESPONSIBILITIES

The organisation's Board is responsible for adopting this policy, and for nominating the organisation's Whistleblower Protection Officer.

The organisation's CEO is responsible for the implementation of this policy.

All employees, volunteers, directors and contractors are responsible for reporting breaches of general law, organisational policy, or generally recognised principles of ethics to a person authorised to take action on such breaches.

### DEFINITIONS

A whistleblower is a person (being a director, manager, employee, volunteer or contractor of NoosaCare Inc.) who, whether anonymously or not, makes, attempts to make or wishes to make a report in connection with reportable conduct and wishes to avail themselves of protection against reprisal for having made the report.

Breaches of general law, organisational policy, or generally recognised principles of ethics include:

- breach of negligence (elder abuse)
- corrupt conduct
- fraud or theft
- official misconduct
- maladministration
- harassment or unlawful discrimination
- serious and substantial waste of public resources
- practices endangering the health or safety of the staff, volunteers, or the general public
- practices endangering the environment.

Complaints regarding occupational health and safety should where possible be made through the organisation's occupational health and safety procedures.

## PROCESSES

### EXTERNAL REPORTING ENTITIES

The Board may nominate external persons to whom or agencies to which disclosures may be made under the protections offered under this policy. Where such a nomination is made, staff and volunteers should be informed by any appropriate method.

### REPORTING

Where an employee of NoosaCare Inc believes in good faith on reasonable grounds that any other director, employee, volunteer, or contractor has breached general law, organisational policy, or generally recognised principles of ethics, that employee must report their concern to

- their supervisor: or, if they feel that their supervisor may be complicit in the breach,
- the CEO: or, if they feel that the CEO may be complicit in the breach,
- the organisation's nominated Whistleblower Protection Officer,
  - President of the Board, PRIVATE & CONFIDENTIAL c/- NoosaCare Incorporated, 186 Cooroy-Noosa Road, Tewantin Qld 4565.
- a person or office independent of the organisation nominated by the organisation to receive such information, or (where a breach of general law is alleged)
  - Dore & Webb Lawyers, Ms Fiona Allen, PRIVATE & CONFIDENTIAL, 2/67 Mary St, Noosaville QLD 4566 phone: 07 5302 7933
- the duly constituted legal authorities responsible for the enforcement of the law in the relevant area.

These procedures do not authorise any employee to inform commercial media or social media of their concern, and do not offer protection to any employee who does so, unless

- it is not feasible for employees to report internally, or
- existing reporting channels have failed to deal with issues effectively.

Any person reporting such a breach should be informed that

- as far as lies in the organisation's power, the employee will not be disadvantaged for the act of making such a report; and
- if the complainant wishes to make their complaint anonymously, their wish shall be honoured except insofar as it may be overridden by due process of law; however,
- reporting such a breach does not necessarily absolve the complainant from the consequences of any involvement on their own part in the misconduct complained of.
- If a report has been found to be vexatious, then the person making the false report will be dealt with under the performance policy or if they gave false and misleading information and that offence is an indictable offence, the person will be dealt with under the Whistleblower Act 1994 Section 56 (1) (a) (b) and (2).

Any such report should where possible be in writing and should contain, as appropriate, details of

- the nature of the alleged breach;
- the person or persons responsible for the breach;
- the facts on which the complainant's belief that a breach has occurred, and has been committed by the person named, are founded;
- the nature and whereabouts of any further evidence that would substantiate the complainant's allegations, if known.

Evidence to support such concerns should be brought forward at this time if it exists. The absence of such evidence will be taken into account in subsequent consideration of whether to open an investigation into the matter. However, absence of such evidence is not an absolute bar to the activation of the organisation's investigative procedures. The existence of such a concern is sufficient to trigger reporting responsibilities.

In contemplating the use of this policy a person should consider whether the matter of concern may be more appropriately raised under either the organisation's constitutional grievance procedures or its disputes resolution policy.

## **ANONYMITY**

If the complainant wishes to make their complaint anonymously in writing or verbal, their wish shall be honoured except insofar as it may be overridden by due process of law.

The complainant should, however, be informed that the maintenance of such anonymity may make it less likely that the alleged breach can be substantiated in any subsequent investigation.

Where anonymity has been requested the complainant is required to maintain confidentiality regarding the issue on their own account and to refrain from discussing the matter with any unauthorized persons.

## **INVESTIGATION**

On receiving a report of a breach, the person to whom the disclosure is made shall

- if they are satisfied that the behaviour complained of is unquestionably trivial or fanciful, dismiss the allegation and notify the person making the allegation of their decision
- if they are satisfied that the behaviour complained of is neither trivial nor fanciful, put in motion the investigation process described below.

The person to whom the disclosure was made will ensure the CEO and/or President of the Board are fully informed (depending on which party the disclosure was reported to). The CEO will be responsible for investigating or appointing an Investigator to conduct the Investigation, and ensure that an investigation of the charges is established and adequately resourced.

Where the Whistleblower feels that the CEO may be complicit in the breach, the President of the Board shall conduct the investigation or appoint an Investigator.

Terms of reference for the investigation will be drawn up, in consultation with the CEO, to clarify the key issues to be investigated.

An investigation plan will be developed to ensure all relevant questions are addressed, the scale of the investigation is in proportion to the seriousness of the allegation(s) and sufficient resources are allocated.

Strict security will be maintained during the investigative process.

All information obtained will be properly secured to prevent unauthorised access.

All relevant witnesses will be interviewed and documents examined.

Contemporaneous notes of all discussions, phone calls and interviews will be made.

Where possible, interviews will be taped.

The principles of procedural fairness (natural justice) will be observed<sup>1</sup>. In particular, where adverse comment about a person is likely to be included in a report, the person affected will be given an opportunity to comment beforehand and any comments will be considered before the report is finalised.

The person or persons conducting the investigation shall be as far as possible unbiased.

## **FINDINGS**

A report will be prepared when an investigation is complete. This report will include

- the allegations
- a statement of all relevant findings of fact and the evidence relied upon in reaching any conclusions
- the conclusions reached (including the damage caused, if any, and the impact on the organisation and other affected parties) and their basis
- recommendations based on those conclusions to address any wrongdoing identified and any other matters arising during the investigation.

The report will be provided to the person making the allegation (with, if necessary, any applicable confidentiality stipulations).

The Investigator will not be responsible for implementing the recommendations and actions from the findings eg. If the CEO investigates the conduct, the President of the Board shall approve any proposed actions from the report.

## **PROTECTION OF INFORMANT**

Where the investigation has found that the person making the allegation made it in good faith and on reasonable grounds, the CEO shall designate an officer to be responsible for ensuring that the person suffers no employment-related disadvantage on account of their actions in this matter and to provide additional support for the person where necessary.

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<sup>1</sup> Natural justice and procedural fairness do not require that the person affected be informed of the identity of the person making the initial disclosure, unless that communication constitutes part of the evidence relied upon in making the eventual finding.

## **RELATED DOCUMENTS**

- Disputes Resolution Policy
- Confidentiality Policy

## **AUTHORISATION**

Megan D'Elton, Chief Executive Officer  
NosoaCare Inc

## **RELEVANT LEGISLATION**

**Australia** – [Public Interest Disclosure Act 2013](#) , Corporations Act 2001, Fair Work Act 2009

**ACT** – [Public Interest Disclosure Act 2012](#)

**NSW** – [Public Interest Disclosures Act 1994](#)

**NT** – [Public Interest Disclosure Act 2008](#)

**Queensland** – [Public Interest Disclosure Act 2010](#); [Whistleblower Act 1994](#)

**South Australia** – [Whistleblowers Protection Act 1993](#)

**Tasmania** – [Public Interest Disclosures Act 2002](#)

**Victoria** – [Protected Disclosure Act 2012](#)

**Western Australia** – [Public Interest Disclosure Act 2003](#)