

# Whistleblower Policy

## 1. Purpose

The purpose of this policy is to ensure Stellar Living carries out its operations and activities with honesty, fairness and respect and complies with the law and contractual obligations. This policy provides a process, direction, guidance, and protection for individuals to stand up and report wrongdoings which may otherwise go undetected if this policy did not exist.

## 2. Objective

This policy aims to:

- encourage disclosures of wrongdoing;
- help to deter wrongdoing;
- ensure individuals who disclose wrongdoing can do so safely, securely and with confidence that they will be protected and supported;
- ensure the process for disclosures is transparent and timely, with fair investigation and necessary corrective actions are taken to resolve issues promptly and effectively;
- support our values, our code of conduct and uphold and promote a culture of integrity, transparency and accountability, reinforcing our commitment to high ethical standards;
- support our long-term sustainability and reputation;
- meet our obligations under the whistleblower protection sections of the Corporations Act 2001;
- meet all other legal, regulatory and contractual obligations.

## 3. Eligibility for legal protection

### 3.1 Protection under the Corporations Act

Provision is made under the Corporations Act to protect eligible persons, called whistleblowers, who expose wrongdoings such as misconduct, illegal activities and fraud.

To be eligible, the person making the disclosure must be one of the persons listed in [3.3](#), the disclosure must meet the definition of a disclosure matter as listed in [3.4](#), and the disclosure must be reported to an eligible person as defined in Section [4](#).

A personal work-related grievance as described in Section [3.6](#) is not a disclosable matter and should be addressed through the relevant mechanisms listed.

### 3.2 Stellar Living's 'Speak Up' Culture

Whilst eligibility criteria must be met to receive protection under the law, Stellar Living encourages a 'Speak Up' culture to address issues such non-compliance with organisational policies and procedures, or any other wrongdoing within Stellar Living.

As such, we are committed to ensuring that individuals who disclose legitimate wrongdoings that do not meet the eligibility criteria required by law can still make

disclosures safely, securely and with confidence that they will be protected and supported by Stellar Living. As far as reasonably practical, the process for disclosures not covered by law will be similarly transparent and timely, with fair investigation and necessary corrective actions are taken to resolve issues promptly and effectively.

### **3.3 Eligible person**

To be eligible, the whistleblower must be:

- a current or former Stellar Living employee including officers, manager, directors, secondees, volunteers and interns;
- suppliers of services or goods (whether paid or unpaid) including their employees such as current and former contractors, consultants, service providers and business partners;
- an associate company, organisation or agency;
- tenants or a person acting on behalf of a tenant;
- a relatives or dependents of any of the persons listed above.

### **3.4 Disclosable matters**

To access whistleblower protections under the law, the disclosure must meet the definition of a disclosable matter.

Disclosable matters include, but are not limited to:

- 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.

It should be noted that a disclosable matter or wrongdoing may not contravene a law.

### **3.5 Incorrect disclosures**

Whistleblowers who report a suspected wrongdoing which turns out to be incorrect are still protected by law, or if the wrongdoing has not met the criteria for a disclosable matter under the law, will still be protected by Stellar Living so long as the report is genuine, and the disclosure has not been made falsely, fabricated and/or with malicious intent.

### **3.6 Personal work-related grievances**

Disclosure of a wrongdoing which has implications for the discloser personally but does not have significant implications for Stellar Living, or it does not relate to the conduct or alleged conduct about a disclosable matter, is considered to be a personal work-related grievance and is not covered under the Corporations Act, nor is it covered by Stellar Living under this policy.

Examples of personal work-related grievances include, but are not limited to:

- 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 discipline the discloser.

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

- a) it includes information about a wrongdoing which is accompanied by a personal work-related grievance;
- b) the discloser is threatened for making a disclosing a wrongdoing.

Stellar Living has a number of complaint and reporting processes available to assist in the resolution of grievances. These include:

- Code of Conduct
- Conflict of Interest Policy
- Employee Complaints and Grievance Handling Policy
- Equal Opportunities, Bullying and Harassment Prevention Policy
- Fraud and Corruption Policy
- Occupational Health and Safety Policy
- Office Etiquette Policy
- Use of Company Equipment and Resources Policy.

Staff are encouraged to seek advice for employment grievances by contacting the Department of Mines, Industry Regulation and Safety and/or Fair Work Australia.

## 4. Making a disclosure

To be eligible for whistleblower protection under the law, a report of wrongdoing must be reported to an 'eligible person'.

The 'eligible persons' within Stellar Living are the Chief Executive Officer (CEO), details of whom can be found at <https://stellarliving.com.au/about/executive-team/> or any member of the Board of Directors, the details of whom can be found at <https://stellarliving.com.au/about/board-of-directors/>.

Reports can be made verbally or in writing by:

- Ringing (08) 9452 9200 and requesting to speak to the CEO or Board Director;
- Writing to PO Box 370, Thornlie WA 6988 addressing the letter for the attention of the CEO or Board Director and marking the letter 'Confidential';
- Emailing [enquiries@stellarliving.com.au](mailto:enquiries@stellarliving.com.au) and marking it 'Confidential' and for the attention of the CEO or Board Director.

Stellar Living is committed to identifying and addressing wrongdoings as early as possible and to build confidence and trust in this policy and associated procedures. As such, we encourage disclosures to be made internally in the first instance. However, if a whistleblower feels they are unable to make a disclosure to the CEO or Board Director, they can choose to make a protected disclosure to the [Australian Securities & Investments Commission](#) (ASIC), the [Australian Prudential Regulation Authority](#) (APRA) or their own lawyer.

A public interest or emergency disclosure can be made to a journalist or parliamentarian, but specific criteria applies. The disclosure must have previously been made to ASIC, APRA or a prescribed body and written notice provided to the body to which the disclosure was made. In the case of a public interest disclosure, at least 90 days must have passed since the previous disclosure. A discloser should contact an independent legal adviser before making a public interest disclosure or an emergency disclosure.

Disclosures which do not come under the law but relate to a breach of Stellar Living's Code of Conduct or policy and procedures, can be made to the CEO, a member of the Board of Directors, a line manager, or any other person that the discloser feels comfortable with.

Any person who is considering making a report of a wrongdoing but wishes to receive more information, may contact any of the above persons.

## 5. Anonymity

Whistleblowers who are eligible for protection under the Corporations Act may choose to remain anonymous. If they choose to do so, the anonymity will continue over the course of the investigation and after it is finalized.

A whistleblower who wishes anonymity can:

- refuse to answer questions that they feel could reveal their identity at any time, including during follow-up conversations.
- adopt a pseudonym for the purpose of their disclosure. This may be appropriate in circumstances where the discloser's identity is known to trusted people within the organisation, but the discloser prefers not to disclose their identity to others.

A whistleblower who wishes to remain anonymous should maintain ongoing two-way communication with Stellar Living so follow-up questions can be asked and/or provide feedback to the extent that it is legal permissible and appropriate to do so. It must be noted if Stellar Living are unable to contact an anonymous discloser for further information, this may limit the extent of an investigation.

Such protection applies whether the report has been made internally or externally.

## 6. Identity protection

Under the law, it is illegal for anyone to identify a whistleblower, or disclose information that is likely to lead to the identification of the discloser, except in the following circumstances:

The whistleblower's identity is disclosed to:

- a) the Australian Securities & Investments Commission (ASIC), the Australian Prudential Regulation Authority (APRA) or a member of the Australian Federal Police (within the meaning of the Australian Federal Police Act 1979);
- b) to a legal practitioner (for the purposes of obtaining legal advice or legal representation about the whistleblower provisions in the Corporations Act);
- c) to a person or body prescribed by regulations; or
- d) with the consent of the discloser.

A person can disclose the information contained in a disclosure with or without the discloser's consent if:

- a) the information does not include the discloser's identity;
- b) the entity has taken all reasonable steps to reduce the risk that the discloser will be identified from the information; and
- c) it is reasonably necessary for investigating the issues raised in the disclosure.

Whistleblowers who feel that there has been a breach of confidentiality can lodge a complaint with Stellar Living. This should be made to the Chief Executive Officer or the Chair of the Board, refer Section [4](#) for contact details. They may also lodge a complaint with a regulator, such as

the [Australian Securities & Investments Commission](#) (ASIC) or the [Australian Prudential Regulation Authority](#) (APRA).

### **6.1 Measures to protect confidentiality**

Stellar Living will take the following measures for protecting the confidentiality of a discloser's identity, where applicable:

- all personal information or reference to the discloser witnessing an event will be redacted;
- the discloser will be referred to in a gender-neutral context;
- 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 senior staff members;
- 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 discloser's consent) or information that is likely to lead to the identification of the discloser;
- communications and documents relating to the investigation of a disclosure will not be sent to an email address or to a printer 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, including that an unauthorised disclosure of a discloser's identity may be a criminal offence.

Whistleblowers must be aware that despite protection measure, people may be able to work out the discloser's identity if:

- the discloser has previously mentioned to other people that they are considering making a disclosure;
- the discloser is one of a very small number of people with access to the information;
- the disclosure relates to information that a discloser has previously been told privately and in confidence.

## **7. Protection from detrimental acts**

Whistleblowers are protected under the law against any detrimental act made against them following disclosure of a wrongdoing. This includes but is not limited to:

- threats or implied threats;
- dismissal of an employee;
- injury of an employee in his or her employment;
- alteration of an employee's position or duties to his or her disadvantage;
- discrimination between an employee and other employees of the same employer;
- harassment, bullying or intimidation of a person;
- harm or injury to a person, including psychological harm;
- damage to a person's property;
- damage to a person's reputation;
- damage to a person's business or financial position; or
- any other damage to a person.

Any reports of such unacceptable conduct will be thoroughly investigated by Stellar Living and, if proven, those who have engaged in such conduct may be subject to disciplinary action, including dismissal.

Whistleblowers who experience detrimental acts following a disclosure may be entitled to compensation through the courts and as such, are advised to seek independent legal advice.

It should be noted that managing a discloser's unsatisfactory work performance, if the action is in line with the Stellar Living's Managing Performance Policy, is not considered to be a form of detrimental action.

### **7.1 Action to prevent detriment**

Stellar Living will take the following action to protect whistleblowers from detriment:

- Immediately after a disclosure is made, we will conduct a risk assessment regarding the likelihood of detriment for the whistleblower and any others who may be suspected of being the whistleblower;
- Advise the whistleblower of the Employee Assistance Program (EAP) and other support mechanisms;
- Discuss with the discloser strategies to help them minimise and manage stress, time or performance impacts, or other challenges resulting from the disclosure or its investigation;
- In consultation with the discloser, consider what actions may be necessary to protect them from risk of detriment such as working from home or an alternative location, making modifications to the discloser's workplace or the way they perform their work duties;
- Ensure that management involved in the investigation process are aware of their responsibilities to maintain the confidentiality of a disclosure, address the risks of isolation or harassment, manage conflicts, and ensure fairness when managing the performance of, or taking other management action relating to, a discloser;
- Ensure the discloser is aware of Section [7](#) of this policy and that such behaviour against them will not be tolerated.

## **8. Civil, criminal and administrative liability protection**

Whistleblowers are protected from:

- Civil liability - e.g., any legal action against the discloser for breach of an employment contract, duty of confidentiality or another contractual obligation;
- Criminal liability - e.g., attempted prosecution of the discloser for unlawfully releasing information, or other use of the disclosure against the discloser in a prosecution (other than for making a false disclosure), and
- Administrative liability - e.g., disciplinary action for making the disclosure.

Protections under the law do not grant immunity for any misconduct a discloser has engaged in that is revealed in their disclosure.

## **9. Receiving a disclosure**

An 'eligible person' as defined in Section [4](#) upon receipt of a disclosure must carry out an assessment within 10 working days to determine:

- whether the discloser qualifies for protection under the law and

- if the discloser is not protected by the law, whether the discloser is protected by this policy i.e., there has been a breach of organisational policy and procedures and
- whether a formal, in-depth investigation is required.

The discloser must be sent notification of receipt of a written disclosure within 3 working days, including through anonymous channels.

## 10. Investigation

- 10.1 If an investigation is required, Stellar Living will ensure that the investigation is objective, fair and independent, while preserving the confidentiality of the investigation.
- 10.2 The objective of an investigation is to determine whether there is enough evidence to substantiate or refute the matters reported.
- 10.3 Depending on the nature of the disclosure and those involved, an investigation will be led by the Chief Executive Officer or Board Director. If the investigation itself is to be carried out by a senior staff member, consent will be sought from the discloser to engage with this person.
- 10.4 Where the disclosure is anonymous and it is not possible to contact the discloser, an investigation will proceed providing the discloser has provided sufficient information. The investigation may focus on a specific area or may take the form of broad investigation of the area of concern.
- 10.5 At the start of the investigation, during and at the end, consideration must be given to the following sections of this policy:
- [Section 5 Anonymity](#)
  - [Section 6 Identity Protection](#)
  - [Section 6.1 Measures to protect confidentiality](#) and
  - [Section 7.1 Action to prevent detriment](#).
- 10.6 If the discloser can be contacted (including through anonymous channels), the discloser will be advised that an investigation has commenced within 5 working days of the investigation commencing.
- Depending on the nature and extent of the investigation, the discloser may be contacted at least once during the investigation.
- Information provided to the discloser will be subject to privacy and confidentiality obligations.
- 10.7 An employee who is the subject of a disclosure will be advised about the subject matter of the disclosure as and when required by principles of natural justice and procedural fairness and prior to any actions being taken and will be advised of Employee Assistance Program (EAP).
- 10.8 The outcome of the disclosure and investigation (if required) will be reported to the Board of Directors where the report is not likely to lead to the identification of the discloser.
- 10.9 The discloser will be sent notification that the investigation has ended within 5 working days of the investigation ending. Any additional information is subject to privacy and confidentiality obligations.

- 10.10 The outcome of a disclosure is final and Stellar Living is not obliged to reopen an investigation if the original investigation was conducted properly, new information is not available or would not change the findings of the investigation.
- 10.11 A discloser who is unhappy with the outcome of their disclosure and/or investigation may lodge a complaint with a regulator, such as [Australian Securities & Investments Commission](#) (ASIC) or the [Australian Prudential Regulation Authority](#) (APRA).

## 11. Malicious or vexatious disclosures

If a disclosure is not made in good faith and without reasonable grounds, a discloser may not be protected by this policy and the disclosure itself may constitute a wrongdoing. This would be the case if the disclosure is trivial or vexatious in nature or without substance. Malicious or knowingly false disclosures are viewed seriously and may result in termination of service or cessation of a service.

## 12. Training and Accessibility

### 12.1 Training

All staff will be trained on this policy as part of the induction process and thereafter regular updates and reminders about the policy will be provided.

### 12.2 Accessibility

- This policy will be made available on Stellar Living's staff intranet and the Stellar Living website.
- Contractors will be advised of this policy as part of the terms of engagement.
- Tenants will be advised of this policy as part of the sign up of a tenancy and periodically throughout their tenancy via the Stellar Living newsletter.

## External references

- Corporations Act 2001
- ASIC Regulatory Guide 270
- Public Interest Disclosure Act 2003 (WA)
- Privacy Act 1988

## Internal references

- Appeals Policy
- Code of Conduct
- Complaints Policy
- Conflict of Interest Policy
- Employee Complaints and Grievance Handling Policy
- Equal Opportunities, Bullying and Harassment Prevention Policy
- Fraud and Corruption Policy
- Occupational Health and Safety Policy
- Office Etiquette Policy
- Use of Company Equipment and Resources Policy



## Document history

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