Whistleblower Policy

We may vary this policy at any time. A reference to this policy in any document refers to this policy as amended from time to time.

1. Introduction

Paper Australia Pty Ltd (ABN 63 061 583 533) together with its subsidiaries, including Opal Packaging Australia Pty Ltd (ABN 77 636 682 883), Opal Commercial Services Pty Ltd (ABN 56 637 020 467), Paper Products Marketing Pty Ltd (ABN 78 069 837 592) (collectively referred to in this policy as **Opal AU**) and Opal Packaging New Zealand Limited (NZBN 9429047752900) (**Opal NZ,** and together with Opal AU, **Opal**) is committed to being a responsible corporate citizen operating at the highest ethical and legal standards. This means that people who deal with Opal must be able to raise genuine issues of concern, confident that those issues will be addressed professionally and confidentially.

This policy is an important resource that will help maintain trust in Opal and strengthen relationships with our customers, partners, suppliers and the local community.

2. Aims of this Policy

The aims of this policy are to:

(a) encourage the reporting of:

(i) genuine concerns regarding Reportable Conduct (as described in Section 5 below) in respect of Opal AU; or

(ii) Serious Wrongdoing (as described in the Appendix) in respect of Opal NZ;

(b) ensure that individuals who disclose Reportable Conduct or Serious Wrongdoing can do so safely and securely and in the knowledge that they will be supported and protected from victimisation, detriment and retaliation;

(c) ensure any reports of Reportable Conduct or Serious Wrongdoing are dealt with appropriately and in a timely way;

(d) provide transparency as to Opal's framework for receiving, handling and investigating disclosures of Reportable Conduct or Serious Wrongdoing;

(e) afford natural justice and procedural fairness to anyone who is the subject of an allegation of Reportable Conduct or Serious Wrongdoing;

(f) support Opal's long-term sustainability and reputation as a good corporate citizen; and

(g) meet Opal's legal and regulatory obligations.

3. How this Policy works

Due to the dual jurisdictions in which Opal operates, this policy is set out in two parts:

(a) the Whistleblower Policy; and

(b) an appendix containing supplementary New Zealand-specific information which, where appropriate for the New Zealand legislation, amends the terms and operations of this policy for Opal NZ to reflect local requirements in New Zealand (**NZ Appendix**).

It is also supported by the Opal Whistleblower Procedure.

For disclosures of Serious Wrongdoing made in relation to Opal NZ, if there is any inconsistency between the provisions in the body of this policy and the NZ Appendix, the NZ Appendix will apply.

4. Who can make a report under this Policy?

This policy applies to:

(a) a current or former:

(i) employee of Opal;

(ii) officer of Opal;

(iii) supplier of services or goods to Opal (whether paid or unpaid) including that supplier's employees, current and former contractors, consultants, service providers and business partners; and

(b) a spouse, relative or dependant of one of the people referred to in paragraph (a);

who makes or attempts to make a disclosure under this policy, whether anonymously or not (each an **eligible whistleblower**).

For specific provisions relating to who can make a report in New Zealand, please see the NZ Appendix.

5. What concerns can be raised under this Policy?

5.1 Reportable Conduct

This policy applies to a disclosure of **Reportable Conduct** by an eligible whistleblower (as defined above) in relation to Opal AU. Disclosures which are not about Reportable Conduct do not qualify for protection under this policy.

An eligible whistleblower must have reasonable grounds to suspect Reportable Conduct. Reportable

Conduct includes:

(a) conduct which constitutes an improper state of affairs or circumstances in relation to Opal, including in relation to its tax affairs;

(b) fraud, negligence, default, breach of trust and breach of duties under the *Corporations Act 2001* (Cth) (**Corporations Act**);

(c) conduct by Opal or its officers or employees which constitutes an offence against, or a contravention of:

(i) the Corporations Act or an instrument made under it, or other financial sector laws enforced by the Australian Securities Investments Commission (**ASIC**) or the Australian Prudential Regulation Authority (**APRA**);

(ii) any other law of the Commonwealth that is punishable by imprisonment for a period of 12 months or more;

(d) conduct by Opal or its officers or employees which represents a danger to the public or the financial system (even if the conduct does not involve a breach of a particular law); or

(e) instances of "modern slavery" as that term is defined in the *Modern Slavery Act 2018* (Cth).

Examples of Reportable Conduct include:

(a) fraud, money laundering, misappropriation of funds or corrupt practices (including offering or accepting bribes or otherwise gaining advantage from a relationship with Opal to which Opal has not agreed);

(b) illegal conduct, such as theft, dealing in or use of illicit drugs, violence or threatened violence or criminal damage to property;

(c) failure to comply with, or a breach of, legal or regulatory requirements;

(d) significant breaches of any contract to which Opal is a party;

(e) financial irregularities;

(f) unethical or improper conduct which raises significant implications for Opal.

This may include:

(a) serious and / or systematic breaches of Opal policies;

(b) misuse of sensitive or confidential information;

(c) unfair or unethical business behaviour or practices in dealing with an investor, other customer, contractor or supplier (including a potential investor, customer, contractor, supplier) or their employees;

(d) conduct likely to damage Opal's financial position or reputation;

(e) victimisation for making or proposing to make a disclosure under this policy;

(f) any conduct or practice that poses a serious risk to the health and safety of any person at the workplace, or to public health or safety, or the environment (even where this does not constitute a breach of any law); and

(g) serious exploitation such as trafficking in persons; slavery, servitude, forced marriage, forced labour, debt bondage, deceptive recruiting for labour or services and the worst forms of child labour. The worst forms of child labour means situations where children are subjected to slavery or similar practices, or engaged in hazardous work.

If you become aware or reasonably suspect continuing or repeated Reportable Conduct, however minor, you are encouraged to report it via the channels outlined in Section 6 of this policy.

See Section 8 below for more information regarding the circumstances in which a disclosure of Reportable Conduct will be eligible for the protections under this policy.

5.2 What is not Reportable Conduct?

Reportable Conduct does not generally include a "**personal work-related grievance**".

Personal work-related grievances are grievances relating to a person's current or former employment with Opal which have, or tend to have, implications for the person but do not:

(a) have significant implications for Opal; or

(b) relate to any Reportable Conduct, or alleged Reportable Conduct.

Examples of personal work-related grievances include, but are not limited to, disclosures regarding interpersonal conflicts with other employees, transfer and promotion decisions, decisions regarding the terms and conditions of employment, decisions regarding suspension and termination of employment and disciplinary decisions.

Disclosures relating to these matters do not qualify for whistleblower protection under this policy or Australian law. For these types of complaints, please contact a member of Opal's Human Resources team.

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

(a) it includes information about Reportable Conduct, or forms part of a disclosure which also includes Reportable Conduct;

(b) the disclosure is that the person has suffered, or has been threatened with, a detriment for making a disclosure of Reportable Conduct; or

(c) the person has made the disclosure to a legal practitioner for the purposes of obtaining legal advice or legal representation about the operation of the whistleblower protections under the Corporations Act.

For specific provisions relating to matters that can and cannot be reported as protected disclosures in New Zealand, please see the NZ Appendix.

6. How to make a report under this Policy

6.1 Eligible Recipients

You must make a disclosure directly to one of the Eligible Recipients referred to in this section to qualify for protection as a whistleblower under this policy and under Australian and New Zealand law.

Opal would like to identify and address wrongdoing as early as possible. We therefore encourage you to disclose Reportable Conduct or Serious Wrongdoing to one of the following Eligible Recipients:

(a) **Opal Independent Alert Service**

Opal has appointed an independent alert service (**Alert Service**) to receive allegations of improper conduct.

You can contact the Alert Service at any time by:

(i) calling 1300 668 759 (if calling from within Australia);

(ii) calling 0800 457 030 (if calling from within New Zealand); or

(iii) calling +613 7034 0003 (if calling from outside Australia and New Zealand) and leaving a voice message; or

(iv) emailing alert@linchpinlegal.com.au

Upon receipt of a disclosure, the Alert Service will provide a report to Opal of the matters raised by you, while preserving your anonymity (unless you consent to your name being disclosed). The matters raised by you will then be investigated by Opal in accordance with this policy (see Section 7 below).

(b) **A "senior manager" of Opal**

For the purpose of this policy, a senior manager means any person holding one of the following roles at the relevant time:

(i) Chief Executive Officer;

(ii) Chief Financial Officer;

(iii) Executive General Manager – Packaging;

(iv) Executive General Manager – Paper;

(v) Group General Manager – CEO Office & Strategy Development;

(vi) Chief People Officer;

(vii) Group General Counsel;

(viii) General Manager – Public Relations and Sustainability;

(ix) Group General Manager – Opal Australian Paper;

(x) Group General Manager – Opal Fibre Packaging; and

(xi) Group General Manager – Opal Converting Group.

(c) **A director or company secretary of Opal**

(d) **Other Eligible Recipients**

If you do not wish to raise your concern via any of the above methods, you may still qualify for protection as a whistleblower under Australian law if you:

(i) make a disclosure of Reportable Conduct to ASIC, APRA, or an auditor or member of an audit team conducting an audit of Opal;

(ii) make a disclosure of Reportable Conduct regarding the tax affairs of Opal to a registered tax agent who provides tax services to Opal; or

(iii) make a disclosure of information to an external legal practitioner for the purposes of obtaining legal advice or representation about making a disclosure under this policy (even if the external legal practitioner concludes that a disclosure does not concern Reportable Conduct).

For disclosures made in New Zealand, other applicable Eligible Recipients are listed in the NZ Appendix.

6.2 Public interest and emergency disclosures

Note that this section does not apply to New Zealand.

In limited circumstances, you may make a public interest disclosure or an emergency disclosure to a journalist or parliamentarian which qualifies for protection in accordance with Australian whistleblowing laws. However, it is important to understand the criteria for making a disclosure in these circumstances, which includes, among other things:

(a) you have first made the disclosure to ASIC, APRA or other Commonwealth prescribed body; and

(b) you have provided written notice to that entity that you now intend to make a public interest or emergency disclosure in relation to this issue.

In the case of a public interest disclosure, at least 90 days must have passed since the original disclosure.

6.3 Information you should provide when making a report under this Policy

When making a disclosure under this policy, you should provide as much information as possible, including the details of the Reportable Conduct or Serious Wrongdoing, and, if known, the people involved, dates, locations and any other evidence or material which may be relevant.

You should also clearly specify that you are making a disclosure in accordance with this policy, particularly if disclosing to a senior manager, director or company secretary.

In relation to disclosures in Australia, you must have reasonable grounds to believe that the information you are disclosing is true, however you will still qualify for protection under this policy and under Australian law if the information you provide turns out to be incorrect.

In relation to disclosures in New Zealand, you may not qualify for protection under the relevant law if you make a disclosure that you know to be false or where you have made a disclosure in bad faith.

6.4 Anonymous Reports

Opal encourages you to provide your name when making a disclosure under this policy, as this will assist Opal to investigate and address your report, and ensure you are protected from detriment in relation to making the disclosure.

However, if you do not want to reveal your identity, you may make an anonymous disclosure under this policy, and may choose to remain anonymous over the course of any investigation and after the investigation is finalised.

There are various mechanisms available for protecting your anonymity when making a disclosure under this policy, including:

(a) communicating through the Alert Service;

(b) using an anonymised email address;

(c) adopting a pseudonym for the purpose of your disclosure.

Disclosures which are made anonymously will still be protected under this policy and under Australian law. However, Opal may be unable to provide you with the same level of practical support and protection if you do not provide your name.

If you choose to make an anonymous disclosure under this policy, any investigation will be conducted as best as possible in the circumstances. You may refuse to answer questions that you feel could reveal your identity at any time during the investigation or at any other time. You should, where possible, maintain ongoing communication with Opal so that Opal can seek further information or clarification to assist in investigating and addressing your disclosure.

7. What happens when I make a report?

All disclosures made under this policy will be treated sensitively and seriously, and will be dealt with promptly, fairly and objectively.

Where you have elected to provide your name in making the disclosure, it will only be disclosed with your consent, or in exceptional circumstances where the disclosure is allowed or required by law. If you have any concerns regarding this issue, you should discuss them with the Eligible Recipient.

7.1 Initial assessment of the disclosure

Subject to the confidentiality requirements outlined in this policy, all disclosures of Reportable Conduct or Serious Wrongdoing made pursuant to this policy must be referred to the Whistleblowing Investigation Officer (**WIO**) (or, where there is a conflict of interest, another appropriate person).

The current WIO is the Opal Group General Counsel.

The WIO will assess the information provided and determine in consultation with Opal whether:

(a) the disclosure relates to Reportable Conduct or Serious Wrongdoing and qualifies for protection under this policy; and

(b) an investigation is necessary or appropriate, taking into account whether sufficient information exists to allow the disclosure to be investigated.

Opal may not be able to undertake an investigation in some circumstances, including if the issue has already been investigated within another complaints mechanism, or if it is not able to contact the whistleblower to obtain the necessary consent or information to enable an investigation to proceed in a timely manner.

7.2 Investigating a disclosure

Where the WIO is satisfied that an investigation should be conducted, the WIO will determine the appropriate investigation process, including:

(a) the nature and scope of the investigation;

(b) who will conduct the investigation (including whether an external investigator should be engaged);

(c) the nature of any technical, financial or legal advice that may be required; and

(d) the timeframe for the investigation (having regard to the nature and scope of the Reportable Conduct or Serious Wrongdoing, the complexity of the issues and any other relevant factors).

The exact nature and outcome of an investigation will depend on the disclosure and may involve consultation with or referral to external organisations such as the police or corporate regulators.

7.3 Communications with whistleblower

If you make a disclosure of Reportable Conduct or Serious Wrongdoing under this policy and are able to be contacted, Opal will contact you to acknowledge receipt of your disclosure, within three business days.

In addition, where practicable, once the matter has been passed to the WIO, you will be contacted within 15 business days to discuss next steps and will also be contacted during key stages in the process such as:

(a) when the investigation process has begun (or if no investigation is to be conducted, to advise you of this);

(b) when the investigation is in progress; and

(c) when the investigation has been completed;

provided that you are able to be contacted and that the contact does not compromise your anonymity.

7.4 Fair treatment of employees mentioned in disclosures

The WIO will ensure that any employee who is the subject of a disclosure made under this policy is treated fairly during the course of an investigation of Reportable Conduct or Serious Wrongdoing.

Employees will have the opportunity to be informed of, and respond to, any report of Reportable Conduct or Serious Wrongdoing made against them during the investigation, prior to any findings being made. The WIO will determine when it is appropriate for this to occur.

7.5 Investigation findings

Opal will apply principles of procedural fairness and natural justice to the conduct of any investigation conducted under this policy.

Once the investigation is completed, the WIO will determine, in consultation with the appropriate stakeholders, the recommended course of action (if any) that Opal should take in response to the findings.

Such action may include a disciplinary process or another form of escalation of the report within or outside of Opal.

The method of documenting and reporting the findings of any investigation will depend on the nature of the disclosure. If appropriate, and subject to any applicable confidentiality, privacy or legal constraints, the WIO will notify the whistleblower, and any employee who is the subject of a disclosure, of the outcome of the investigation.

However, there may be circumstances where it is not appropriate to provide details of the outcome to the whistleblower or the person who is the subject of the disclosure.

Opal will ensure that, in accordance with this policy, publication of an investigation's findings will not breach a whistleblower's confidentiality.

8. Protections available under this Policy

8.1 Eligibility for the protections under this policy

Note that this section is subject to specific provisions relating to New Zealand, as listed in the NZ Appendix.

In order to be eligible for the protections under this policy, you must:

(a) be an eligible whistleblower;

(b) make a disclosure of Reportable Conduct to an Eligible Recipient or as otherwise provided in accordance with this policy;

(c) have a genuine or reasonable belief that the information in your disclosure is true or

likely to be true; and

(d) have not engaged in serious misconduct or illegal conduct in relation to the Reportable Conduct.

The protections in this policy apply not only to disclosures of Reportable Conduct made to Eligible Recipients, but also to:

(a) disclosures made to legal practitioners for the purpose of obtaining legal advice or representation regarding the operation of whistleblowing provisions under Australian law;

(b) disclosures to regulatory and other external bodies; and

(c) "public interest" and "emergency" disclosures that are made in accordance with the Corporations Act (see Section 6.2).

You can still qualify for the protections under this policy even if your disclosure turns out to be incorrect or your legal practitioner has advised you that your disclosure is not Reportable Conduct.

If you have made a disclosure which qualifies for protection under this policy, you must, at all times during the reporting process, continue to comply with this policy.

8.2 Identity Protection (Australia)

This section is for Australia only. Please see the NZ Appendix for applicable provisions regarding disclosures made in New Zealand.

If you make a disclosure of Reportable Conduct in accordance with this policy, the Eligible Recipient cannot disclose your identity, or information that is likely to lead to your identification, except:

(a) to ASIC, APRA, or a member of the Australian Federal Police;

(b) to a legal practitioner for the purpose of obtaining legal advice or legal representation about the whistleblowing provisions of the Corporations Act;

(c) to a person or body prescribed by the Corporations Act regulations; or

(d) with your consent.

The information contained in a disclosure made by you under this policy may be disclosed without your consent if the disclosure of this information is reasonably necessary to investigate the issues raised in the report, provided that:

(a) the information does not include your identity; and

(b) all reasonable steps have been taken by Opal to reduce the risk that your identity will be revealed from the information provided.

It is unlawful for a person to identify a whistleblower, or disclose information that is likely to lead to the identification of the whistleblower, outside of the circumstances listed above.

Opal will take all reasonable steps to reduce the risk that a person will be identified as a result of making a disclosure under this policy and to ensure their identity remains confidential throughout the investigation process. Measures that may be taken to protect an eligible whistleblower's confidentiality, where Opal considers it appropriate in the circumstances, include:

(a) ensuring that disclosures will be handled and investigated by qualified staff;

(b) redacting all personal information or reference to a whistleblower witnessing an event;

(c) using gender neutral terms when referring to a whistleblower;

(d) where possible, liaising with a whistleblower to identify any aspects of their disclosure that could inadvertently identify them;

(e) securely storing documents (whether electronic or paper) relating to disclosures;

(f) limiting access to information to those or investigating the disclosure;

(g) restricting the number of people who may be made aware of a whistleblower's identity;

(h) putting in place measures to prevent information about investigations of disclosures being sent to an email address or printer that can be accessed by other staff; and / or

(i) reminding those persons handling investigations of their confidentiality obligations.

The unauthorised disclosure of a whistleblower's identity, or information which may identify the whistleblower, may be regarded as a disciplinary matter to be dealt with in accordance with Opal's disciplinary procedures. It may also, in some circumstances, be a criminal and civil offence under the Corporations Act.

Any concerns regarding breach of confidentiality should be raised with the WIO. You may also lodge a complaint with a regulator, such as ASIC, APRA or the ATO, for investigation.

8.3 Protection from detriment (Australia)

This section is for Australia only. Please see the NZ Appendix for applicable provisions regarding disclosures made in New Zealand.

A person must not cause, or threaten to cause, detriment to a person because they have made, may make, proposes to make or could make, a disclosure that qualifies for protection under this policy and Australian law.

Examples of detrimental conduct include dismissal, discrimination, harassment or intimidation, altering a person's position in employment to their prejudice, altering an employee's position or duties to their disadvantage, physical or psychological harm; or damage to a person's property, reputation, business or financial position.

Actions that are not detrimental conduct include:

(a) administrative action that is reasonable for the purpose of protecting a discloser from detriment (e.g. moving a person who has made a disclosure from their immediate work area to another location where necessary to prevent detriment from occurring); and / or

(b) managing a whistleblower's unsatisfactory work performance in accordance with Opal's policies and procedures.

Opal is committed to making sure that eligible whistleblowers are treated fairly and do not suffer detriment for making a disclosure under this policy. Opal may take the following measures to ensure that eligible whistleblowers who have made an eligible disclosure are protected from detriment:

(a) provide a whistleblower with support services including counselling or other professional services;

(b) where practicable, allow the whistleblower to perform duties to another location;

(c) where practicable, reassign or relocate the whistleblower to another role at the same or substantially the same level;

(d) make modifications to the whistleblower's workplace or way they perform their duties;

(e) develop processes for ensuring that senior management are aware of their responsibilities to maintain the confidentiality of 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 whistleblower;

(f) intervene where detrimental conduct has already occurred ,including investigating and taking disciplinaryaction.

Opal will investigate any reports of adverse action taken against a person who is eligible for protection under this policy. If proven, those who have engaged in such behaviour may be subject to disciplinary proceedings and potential criminal and civil liability under the Corporations Act or the Taxation Administration Act.

8.4 Employee Assistance Program

Opal subscribes to an Employee Assistance Program (**EAP**), which is available to provide counselling and support to assist employees when dealing with any concerns.

For free, independent and confidential counselling, contact Drake Wellbeing Hub (Australia) on 1300 135 660, Vitae (North Island NZ) on 0508 664 981 and Workplace Support (South Island NZ) on 0800 443 445.

8.5 Other remedies and protections (Australia)

This section is for Australia only. Please see the NZ Appendix for applicable provisions regarding disclosures made in New Zealand.

There are a number of other legal protections under Australian whistleblowing laws if you make a disclosure which is eligible for protection under this policy, including:

(a) in some circumstances (e.g. if the disclosure has been made to a regulator) the information you provide is not admissible in evidence against you in criminal proceedings or in proceedings for the imposition of a penalty, other than proceedings in respect of the falsity of the information;

(b) you are protected from liability in relation to your disclosure for:

(i) civil liability (e.g. any legal action against you for breach of an employment contract, duty of confidentiality or other contractual obligation);

(ii) criminal liability (e.g. attempted prosecution for unlawfully releasing information, or other use of your disclosure against you in a prosecution (other than for making a false disclosure); or

(iii) administrative liability (e.g. disciplinary action for making the disclosure); and

(c) no contractual or other remedy may be enforced or exercised against you based on the disclosure.

The protections do not grant you immunity from any misconduct you were involved in that is revealed in the disclosure.

8.6 Consequences of making a false report

To receive the protections described in this policy, you must have reasonable grounds to suspect that the information you disclose concerns Reportable Conduct.

Any person who knowingly makes a false report of Reportable Conduct or Serious Wrongdoing, or who otherwise fails to act honestly with reasonable belief in respect of the report, may be subject to disciplinary action, including dismissal (in the case of employees), or other sanctions.

The disciplinary action or sanction will depend on the severity, nature and circumstance of the false report.

9. Record keeping and accountability

Opal's Group General Counsel is the officer responsible for:

(a) communicating this policy and the Advice Service details to Opal management and employees; and

(b) otherwise ensuring maintenance and adherence to this policy.

Opal will establish and maintain a Whistleblower Register, which contains details of the eligible disclosures received in accordance with this policy.

The WIO will:

(a) coordinate and support the impartial investigation of eligible disclosures under this policy;

(b) submit a quarterly summary report to the Executive Committee, which whilst maintaining confidentiality, provides details of:

(i) the number of reports received, per quarter;

(ii) for each report, the type of misconduct alleged, the level of seniority of the alleged wrongdoer and the level of perceived risk;

(iii) for each report, the time taken to investigate it;

(iv) the conclusion of each investigation (upholding or dismissing the report) and the nature of the action taken (such as disciplinary action).

(c) periodically review the Whistleblower Register to ensure that proper processes are being followed.

For disclosures made in New Zealand, all files and records will be stored in accordance with the *Privacy Act 2020*.

10. Availability of the Policy and training

This policy will be made available on Opal's website which can be accessed at: www.opalanz.com/policies/

11. Monitoring and reviewing this Policy

The Group General Counsel and the Executive Committee of Opal will review this policy at least every two years to ensure that it meets its goals and remains effective.

The Group General Counsel and the Executive Committee may, in its discretion, adjust or exclude a specific requirement of this policy from time to time, either generally or on a case by case basis.

Opal.

Whistleblower Policy

Appendix 1

New Zealand Specific Provisions

This Appendix details specific exclusions and additional protections which are applicable for Opal NZ employees, in accordance with the *Protected Disclosures Act (Protection of Whistleblowers) 2022 (NZ)* (**PDA**).

Opal employees are encouraged to take independent advice, and/or to refer to the New Zealand Ombudsman's guidance for employees for more information, should they wish to make a report of Serious Wrongdoing.

Who can make a report under this Policy?

This policy will apply to all current and past Opal workers, which is defined to include directors, officers, any other person concerned in the management of the organisation, employees, contractors, sub-contractors, service providers (such as consultants) and their employees, homeworkers, secondees and volunteers (**eligible whistleblowers**).

1. What concerns can be raised under this Policy?

Under the PDA, disclosures of "serious wrongdoing" (**Serious Wrongdoing**) are protected rather than "Reportable Conduct" (as defined in the policy).

An eligible whistleblower may disclose information in accordance with the PDA if:

(a) the information is about Serious Wrongdoing in or by that organisation;

Serious Wrongdoing includes any act, omission, or course of conduct in or by Opal that constitutes one or more of the following:

(A) a serious risk to public health, public safety, the health or safety of any individual, or the environment;

(B) a serious risk to the maintenance of law (including the prevention, investigation, and detection of offences and the right to a fair trial);

(C) an unlawful, corrupt, or irregular use of public funds or public resources;

(D) an offence; or

(E) an act, omission, or course of conduct that is oppressive, improperly discriminatory, or grossly negligent, or that constitutes gross mismanagement, by either a public official, or by a person performing (or purporting to perform) a function or duty or exercising (or purporting to exercise) a power on behalf of a public sector organisation or the government.

(b) the whistleblower believes on reasonable grounds that that there is, or has been, Serious Wrongdoing in or by Opal;

(c) the whistleblower discloses information about that Serious Wrongdoing in accordance with the PDA; and

(d) the whistleblower does not disclose the information in bad faith.

Note that Serious Wrongdoing can include a "personal work-placed grievance" if the relevant matter said to give rise to any work-related grievance could also satisfy the criteria outlined in (a) to (d) above.

2. How to make a report under this Policy

Eligible Recipients of disclosures under this policy

See Section 6.1 of the policy.

Other Eligible Recipients

A disclosure of Serious Wrongdoing can be made at any time to an "appropriate authority" under the PDA, including in circumstances where the whistleblower has also made a disclosure to Opal or another appropriate authority. An appropriate authority includes (but is not limited to):

(a) the Commissioner of Police;

(b) the Controller and Auditor-General;

(c) the Director of the Serious Fraud Office;

(d) the Inspector-General of Intelligence and Security;

(e) an Ombudsman;

(f) the Ministry for the Environment;

(g) the Independent Police Conduct Authority;

(h) the Solicitor-General;

(i) WorkSafe New Zealand;

(j) the Public Service Commission;

(k) the head of any public sector organisation; or

(l) a private sector body which comprises members of a particular profession which has the power to discipline that member.

The PDA protection does not extend to the disclosure of information that is protected by legal professional privilege.

3. Protections available under this Policy

Eligibility for the protections under this policy

A whistleblower who makes a protected disclosure is protected against retaliation (i.e. any "detriment" in the workplace) and victimisation.

"Victimisation" means any situation where a whistleblower (or a relative or associate of the whistleblower) receives actual or threatened unfavourable treatment because of making, or intending to make, encouraging, or giving information in support of a protected disclosure. It can also include a situation where a whistleblower receives actual or threatened unfavourable treatment because a person suspects that the whistleblower (or their relative or associate) intends to, or has done, any of these things.

"Retaliation" applies to whistleblowers who are employees of Opal. In summary, an employer must not retaliate, or threaten to retaliate, against an employee because they intend to make or have made a protected disclosure.

A disclosure will not be prevented from being protected because of a technical failure to comply with the procedural requirements of the PDA or this policy (provided that they have substantially complied). A whistleblower is entitled to protection even if they are mistaken and there is no Serious Wrongdoing.

The protections in this policy will not apply if the information disclosed is known by the whistleblower to be false, or if the whistleblower has made the disclosure in bad faith. Disciplinary action may be taken against any whistleblower who makes a false disclosure or a disclosure in bad faith.

Identity protection

A person to whom a protected disclosure is made to must use their best endeavours to keep confidential information that might identify the whistleblower, unless:

(a) the whistleblower consents to the release of the identifying information; or

(b) the person who has acquired knowledge of the protected disclosure reasonably believes that identifying the whistleblower:

(A) is essential to the effective investigation of the allegations in the protected disclosure;

(B) is essential to prevent serious risk to public health, public safety, the health or safety of any individual, or the environment;

(C) is essential to comply with the principles of natural justice; or

(D) is essential to an investigation by a law enforcement or regulatory agency for the purpose of law enforcement.

Any disclosure of identifying information in New Zealand will be managed in accordance with Opal's obligations under law, including the PDA and Privacy Act 2020.

Other protections

(a) A person who makes a protected disclosure of information or refers a protected disclosure of information to an appropriate authority for investigation is not liable to any civil or criminal proceeding or to a disciplinary proceeding by reason of having made or referred that disclosure of information.

(b) This immunity applies despite any prohibition or restriction on the disclosure of information under any other enactment, contract, law, oath or practice.

(c) This protection also applies to any person who volunteers supporting information as if the information itself was a protected disclosure, as long as the person does not disclose it in bad faith. In volunteering information, the person must provide the information to a person investigating the disclosure at Opal or to an appropriate authority, in accordance with the PDA.