

Background

This policy outlines the law surrounding Protected Disclosures and Whistleblowing of serious wrongdoing and governs how QLCHT and its staff will manage these activities, if and when necessary. This policy is intended to encourage transparency, maintain the highest standards of integrity, and protect individuals who report such concerns.

Scope

This policy provides an avenue for current and past employees, secondees, volunteers, board members, and contractors and other stakeholders associated with QLCHT to report concerns regarding misconduct, fraud, violations of our policies, or other unethical behaviour within QLCHT.

Definitions

Appropriate Authority – an entity listed in the Protected Disclosures (Protection of Whistleblowers) Act 2022 (PDA) which has been recognised as having investigative powers for disclosures of serious wrongdoing related to their organisational purpose. For housing matters, this will likely fall to the Ministry of Housing and Urban Development and/or the Office of the Ombudsman.

Discloser – an individual who files a Protected Disclosure.

Protected Disclosure - a report, made in good faith and through the process in this policy, by an individual where they reasonably believe there has been ‘serious wrongdoing’ within the organisation.

Protected Disclosures (Protection of Whistleblowers) Act 2022 (PDA) – the relevant legislation which establishes the legal responsibilities for reporting serious wrongdoing and managing Protected Disclosures.

Protected Disclosure Officers – QLCHT staff members who are empowered and suitably skilled to investigate disclosures of wrongdoing within the organisation. These individuals should be identified to all QLCHT staff.

Serious Wrongdoing – an unethical, illegal, or fraudulent activity or omission by an organisation or individual which results in an unlawful offence or a serious risk to the health, safety, or legal rights of a person(s).

Victimisation – where the Discloser has suffered disadvantage or been threatened with suffering disadvantage either in the workplace or access to services provided by QLCHT.

Principles

QLCHT's leadership and governance encourage staff to make Protected Disclosures where they have identified serious wrongdoing. QLCHT has a responsibility of care to its staff, Trustees, households, contractors and other stakeholders. Protected Disclosures and subsequent investigations are important to QLCHT for maintaining credibility and relationships with the communities we serve.

QLCHT may have more than one Protected Disclosure Officer to provide Disclosers a choice of who they may report to.

QLCHT attempts at all times to act with integrity, care for community, and demonstrate our organisational values – this includes the handling of Protected Disclosures and subsequent investigations.

QLCHT staff who disclose wrongdoing demonstrate the values of our organisation and our commitment to integrity, continuous improvement, and care.

If QLCHT staff or Board members are aware of any possible serious wrongdoing within QLCHT, they have a responsibility to disclose that information at the earliest opportunity for further investigation.

Disclosers are protected from retaliation, by law, from any consequences from the act of making a disclosure in good faith and through the processes in this policy.

Where possible, QLCHT will uphold the anonymity of a Discloser and will ensure the Discloser is kept updated about any actions taken in response to the disclosure.

A disclosure won't be protected if the Discloser knows the allegations are false; has acted in bad faith; the information being disclosed is protected by legal professional privilege; or the information is not about serious wrongdoing (and there are not reasonable grounds to believe it is about serious wrongdoing). If it is established that the Discloser is not acting in good faith, or has made a false report of wrongdoing, they may be subject to appropriate disciplinary procedures.

Policy

Making a Protected Disclosure

A Protected Disclosure is a report - made in good faith and through the process set out in this policy - by an individual who reasonably believes there has been 'serious wrongdoing' within the organisation.

Note: If the individual is unsure whether the wrongdoing could be regarded as 'serious wrongdoing' they can contact the Office of the Ombudsman or consult relevant guidance. If they believe the issue does not meet the definition of "serious wrongdoing", they should be encouraged to talk to management (or the Board Chair if the matter is regarding management), read QLCHT's Complaints Policy, Privacy Policy, or any other relevant policies. Appendix 1 provides guidance and information relating to making a disclosure.

If the individual wishes to continue with their Protected Disclosure they can do so with the form in Appendix 2.

QLCHTs process upon receiving a disclosure

Acknowledging a Protected Disclosure

When a disclosure has been made, QLCHT has a responsibility to acknowledge it within 20 days of receipt. The acknowledgment will:

- State how QLCHT will investigate the disclosure.
- Seek information from the Discloser as to whether they have made the disclosure to anyone else.
- Deal with the matter by doing one or more of the following:
 - Investigating the disclosure.
 - Addressing any serious wrongdoing by acting or recommending action.
 - Referring the disclosure elsewhere, for example, to an Appropriate Authority.
 - Deciding that no action is required.

Appendix 3 contains a form to be used for acknowledging Protected Disclosures.

If an investigation is required and takes more than 20 days to complete, or if QLCHT believes that an Appropriate Authority may need to be made aware of a disclosure; QLCHT will inform and update the Discloser on the status of the disclosure.

Directing Discloser to services

QLCHT will direct the Discloser to the supports offered in Appendix 1.

Undertaking Investigations

The principles underpinning the process for undertaking investigations:

- Confidentiality will be maintained to the fullest extent possible.
- The process will be undertaken and completed as soon as possible.
- A fair, reasonable and respectful approach will be taken in relation to the Discloser, the person(s) the disclosure relates to, and any person involved in the process as a witness.
- The investigation will be as thorough as necessary to determine the truth of the disclosure.
- The process will involve only those most likely to have information relevant to determining the truth of the disclosure.
- Full written records will be kept.
- The person investigating the disclosure will have access to all relevant documents and information held by QLCHT.
- All people involved may rely on a family/whānau support person to represent or assist them.
- A thorough report will be prepared, setting out the process, findings and conclusions. The report must state:
 - Serious wrongdoing has been established; or
 - Serious wrongdoing has not been established; or
 - Less serious matters of concern have been identified, with recommendations for appropriate action by QLCHT.
- The report will be given to the Chief Executive who will decide on the appropriate next steps.

Seeking support from Appropriate Authorities

If QLCHT does not believe it can conduct a sufficient internal investigation, it may seek the support from Appropriate Authorities. If a disclosure is referred to an Appropriate Authority than the Discloser should be made aware of this.

If a Discloser is not satisfied with how QLCHT responds to a disclosure, Disclosers are also empowered to elevate their disclosures to an Appropriate Authority.

Confidentiality

QLCHT will use its best efforts to keep the Discloser's identity confidential, unless the Discloser consents in writing to their identity being disclosed and QLCHT believes disclosing their identity:

- Is essential to the investigation by it, law enforcement or regulatory agencies, of the allegations in the Protected Disclosure.
- Is essential to prevent serious risk to public health, public safety, the health or safety of any individual or the environment.
- Is required for a fair process to be followed.

If it is not practicable to consult the Discloser before identifiable information is released for the above reasons, then QLCHT has a responsibility to inform the Discloser that this has occurred. Whenever identifiable information is shared, QLCHT has an obligation to inform the Discloser that this occurred.

Where possible, meetings will be held in person and offsite to maintain the anonymity of Disclosers. It may be appropriate to use pseudonyms in any meeting notes taken.

Communication

The Discloser will be kept informed of the outcome of the investigation of their disclosure, subject to privacy and confidentiality requirements. Disclosers must maintain confidentiality of all reports and not disclose details to any person.

Grievances

This Policy is not intended for employees to report alleged personal grievances nor should it be used to appeal disciplinary decisions or interfere with a disciplinary process. Employees must instead report grievances or raise concerns about disciplinary procedures in accordance with the process set out in the in their employment agreement. Any retaliation, harassment, or adverse action taken against a Discloser by a QLCHT employee will be subject to disciplinary action.

Associated documents and relevant legislation

Protected Disclosure Act (Protection of Whistleblowers) 2022
Health and Safety at Work Act 2015
Employment Relations Act 2000
Human Rights Act 1993
Privacy Act 2020

Appendix 1: QLCHT Information Sheet for Making Protected Disclosures

What is a Protected Disclosure

A Protected Disclosure is a report - made in good faith and through the process in QLCHTs 'Protected Disclosure and Whistleblowing Policy' - by an individual where they reasonably believe there has been 'serious wrongdoing' within the organisation. These can be made anonymously and are treated confidentially.

QLCHTs encourages the reporting of serious wrongdoing where it is identified. It's an important element of our values, commitment to continuous improvement, and maintaining a positive reputation.

If you are unsure the information that you wish to disclose could be regarded as 'serious wrongdoing' you can contact the Office of the Ombudsman or consult relevant guidance here: [Guide to Making a Protected Disclosure](#) or [Checklist: Can I Make a Protected Disclosure](#). If you do not believe that the issue meets the definition of the "serious wrongdoing"; consult QLCHT management (or the Board Chair if the issue is regarding management), QLCHTs Complaints Policy, Privacy Policy, or any other relevant policies.

Contact: Admin@qlcht.org.nz or Chair@qlcht.org.nz

Your Rights

You may make a Protected Disclosure to QLCHT at any point you become aware of serious misconduct. You and your disclosure are always protected under the Protected Disclosure Act. QLCHT is prohibited from treating less favourably staff members who have made a Protected Disclosure.

Making a Protected Disclosure

QLCHTs 'Protected Disclosure and Whistleblower' Policy contains information and forms to assist you in making a Protected Disclosure.

Supports for making a Protected Disclosure

QLCHT can offer access to Employment Assistance Programme, peer support (from an individual not involved in the investigation), and the identification of an appropriate senior QLCHT contact with whom to confidentially discuss any support needs.

Reference to the Ombudsman's statutory role in providing information and guidance to both organisations handling Protected Disclosures, and a confidential advice service for employees who are considering making, or who have made Protected Disclosures. Advice can be sought from the Ombudsman in a number of ways:

- Telephone: 0800 802 602
- Email: info@ombudsman.parliament.nz
- Post: PO Box 10152, Wellington 6143

Other resources to support making a Disclosure include:

- [The Public Service Commission's Speaking Up Standards](#), which should also be consulted in respect of the 'continuum' of speak-up culture. The standards set out how organisations should go about seeking all feedback and concern, not just Protected Disclosures.

Appendix 2: Protected Disclosure Form

If you believe that QLCHT has engaged in serious wrongdoing then use the form below to indicate the nature of the wrongdoing, any relevant time or date information, and the involved parties. The completed form should be addressed to the Chief Executive. If the nature of the serious wrongdoing involves the Chief Executive, then the disclosure should be reported to QLCHT's Chair. Completed Protected Disclosure forms can be printed and given to relevant personnel or sent via email.

Alternatively, Protected Disclosures can be made to an Appropriate Authority outside of QLCHT.

Disclosure of Serious Wrongdoing To: QLCHT Chief Executive / Board Chair

Describe the nature of the wrongdoing

This includes the nature of the wrongdoing, the names of persons involved, the area and location of the wrongdoing and any other relevant information. Continue on a separate sheet if necessary.

Do you have any supporting evidence of the wrongdoing?

List any attachments or evidence you consider needs to be considered, names of witnesses, why they could assist and contact details, continuing on another sheet if necessary.

Declaration

I believe that the information I am providing is true and that serious wrongdoing has occurred. I am acting in good faith. I acknowledge that while the Receiver will take all practicable steps to protect my identity, in the interests of giving the person the disclosure relates to a reasonable opportunity to respond, it may be necessary after consulting me for the Receiver to disclose my identity and the information contained in this form.

Signed: _____

Print name: _____

Date: _____

Appendix 3: Record of Protected Disclosure Form

For Completion by Chief Executive

Date disclosure received: _____ 20 working days ends: _____

Date receipt of disclosure acknowledged: _____

Serious wrongdoing – Yes / No / Not sure [delete one]

Reasons supporting this assessment :

Investigation required [delete three]:

Yes - information insufficient to ascertain whether serious wrongdoing has occurred

Yes - serious wrongdoing has occurred but need to understand full extent of the issue

No - serious wrongdoing has occurred and course of action is clear

No - No serious wrongdoing has occurred

Detail on investigation – who, timing.

Recommended action or process (specifying where urgent).

Whether confidentiality can be maintained, if not, why not.

Consideration of immediate support needs of employee and/or others involved.

Persons consulted, if applicable and whether Discloser confidentiality maintained.

Decision made by: Chief Executive / Board Chair [delete one]