

50-50 Foundation

Whistleblower Policy



1. Overview

We expect everyone we deal with to act with integrity and to comply with applicable laws and policies. This includes speaking up if you suspect something's not right in relation to the 50:50 Foundation Limited (**the Foundation**) or its activities.

If you suspect misconduct, we want you to tell us about it. You can contact any member of the Foundation's Board, using the contact details shown in section 10 of this policy.

If you don't feel comfortable raising concerns with us openly, depending on your relationship with the Foundation, who you report it to and what your report is about, you might be eligible for protection as a Whistleblower under legislation.

The purpose of this policy is to explain:

- how you can make a report that qualifies for whistleblower protection under legislation;
- protections available to whistleblowers;
- what support the Foundation can provide to whistleblowers;
- how the Foundation may investigate Eligible Disclosures; and
- fair treatment of team members involved with a report.

2. Who this policy applies to

This policy applies to the Foundation, and its current and former directors, officers, company secretaries, employees, contractors, volunteers, suppliers (and their employees), associates and relatives, dependents or dependent of a spouse of any of these people. Any of these individuals can be an **Eligible Whistleblower** under this policy.

3. Availability

This policy is available to all officers, employees and volunteers of the Foundation by asking your supervisor for a copy, by emailing info@5050foundation.net.au or visiting our website www.5050foundation.net.au.

4. Owner

This policy is owned by the Foundation's Board.

5. Effective date

This policy is effective from 1 January 2020 and will be reviewed regularly by the Foundation's Board.

The content of this policy is not incorporated into any contract of employment or engagement, and does not create any binding obligations on the 50-50 Foundation, nor confer any binding rights or benefits on any team member. The 50-50 Foundation may amend or remove this policy at its absolute discretion at any time.



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6. What disclosures will qualify for statutory protection?

The Corporations Act and Tax Administration Act provide protection to whistleblowers in certain circumstances. If you want to access that legislative protection as a whistleblower, you need to be aware of how to qualify for it.

To qualify, there are three key requirements:

1. You must be an Eligible Whistleblower;
2. The report you are making must be an Eligible Report; and
3. You must make the report to an Eligible Recipient.

7. Who is an Eligible Whistleblower?

To be an **Eligible Whistleblower** in relation to the Foundation, you must be a current or former director, officer, company secretary, employee, contractor, volunteer, supplier, employee of a supplier, associate or a relative, dependent or dependent of a spouse of any of these people.

8. What is an Eligible Report?

An **Eligible Report** is a disclosure about something you have reasonable grounds to suspect concerns of misconduct, or an improper state of affairs or circumstances, in relation to the Foundation. This is a broad concept. For example, it could include:

- bribery, corruption, dishonesty, fraud;
- breach of any of the Foundation's policies or its code of conduct;
- financial or reputational loss to the Foundation;
- breach of laws;
- danger to the public or financial system;
- conduct that is an offence against the Corporations Act or certain other financial services laws, or a Commonwealth offence punishable by at least 12 months' prison;
- certain misconduct or impropriety concerning the Foundation's tax affairs; or
- any complaint of alleged detriment or victimisation against a person in breach of this policy or the statutory whistleblower protections.

The conduct that's being reported doesn't have to be unlawful to meet the definition of an Eligible Report. For more information about what's an Eligible Report, see the guidance available at <https://asic.gov.au/about-asic/asic-investigations-and-enforcement/whistleblowing/whistleblower-rights-and-protections/#who>.

Reports that aren't Eligible Reports don't qualify for legislative whistleblower protection. (In some circumstances, though, they may be protected under other legislation, such as the Fair Work Act 2009).

An Eligible Whistleblower can still qualify for protection even if their report turns out to be incorrect or unsubstantiated, provided they had reasonable grounds for their suspicion. However, knowingly making a disclosure that is false or without reasonable grounds is a serious matter and will likely result in disciplinary action.

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9. What is not an Eligible Report?

Reports about personal work-related grievances are not Eligible Reports under this policy and should be reported instead to your supervisor or the Board by emailing info@5050foundation.net.au.

Personal work-related grievances are issues or concerns which have, or tend to have, implications for the discloser personally, such as:

- an interpersonal conflict between you and another team member;
- a decision relating to your engagement, transfer or promotion;
- a decision relating to your terms and conditions of engagement; and
- a decision to discipline you, or suspend or terminate your engagement.

A report about a personal work-related grievance may still qualify as an Eligible Report if it has broader significance to the Foundation, such as where it includes information about misconduct beyond your personal circumstances or relates to conduct arising from actual or suspected whistleblowing.

10. Who is an Eligible Recipient?

To qualify for the statutory protection, Eligible Whistleblowers must make their Eligible Reports directly to an Eligible Recipient. For reports in relation to the Foundation, Eligible Recipients are:

- a director, company secretary, officer or senior manager of the Foundation;
- an auditor or actuary of the Foundation; and
- if it relates to a taxation matter, a registered tax agent/BAS agent who provides tax agent services or BAS services to the Foundation, and any employee or officer who has functions or duties relating to the Foundation's tax affairs.

Note that protection is also available if the Eligible Report is:

- made to ASIC, APRA or another prescribed Commonwealth authority;
- made to a lawyer for the purpose of obtaining legal advice or representation about the operation of the whistleblower protections in the Corporations Act;
- of public interest or relates to a health and safety or similar emergency, and is made to a journalist or a member of the Parliament of the Commonwealth, the Parliament of a State or the legislature of a Territory provided certain statutory requirements have been satisfied. Refer to section 1317AAD of the Corporations Act for further information on protection eligibility criteria for these disclosures (we encourage you to seek independent legal advice first, to ensure the strict eligibility criteria are met); or
- in relation to a tax matter and is made to the Tax Commissioner and the discloser considers the information may assist the Tax Commissioner to perform his or her functions or duties under a taxation law in relation to the entity or an associate (within the meaning of section 318 of the Income Tax Assessment Act (1936)) of the entity.

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How to make an Eligible Report to an Eligible Recipient

The primary avenue is through contacting one of the Foundation's Directors or its Company Secretary, by the contact method indicated in the table below:

Name	Role	Contact
John Corry	Director	john.corry@5050foundation.net.au
Marcus Gaffney	Director	marcus@libertyinvest.com.au
Mike Duggan	Director	mike.duggan77@gmail.com
Annamarie Rooding	Director	annamarie.rooding@5050foundation.net.au
Lydia Deutscher	Director	lydia.deutscher@tabcorp.com.au
Andrew Shepherd	Director	0417 613 719
Michael Scott	Company Secretary	03 9868 2779

Or, by sending the report to the relevant Director / Company Secretary, marked to their attention and also marked "strictly confidential and only to be opened by addressee", via the Foundation's postal address:

50-50 Foundation
GPO Box 1066
Brisbane QLD 4001

Do not send whistleblower reports to the Board's general email address, info@5050foundation.net.au.

An Eligible Whistleblower may alternatively make an Eligible Report to any other Eligible Recipient. A report made externally to the Foundation (e.g. to ASIC) will not be handled in accordance with this policy but may still qualify for statutory protection. More information is available from ASIC at <https://asic.gov.au/about-asic/asic-investigations-and-enforcement/whistleblowing/whistleblower-rights-and-protections/#who>.

Eligible Reports can be made anonymously and still qualify for statutory protection. The Foundation respects an Eligible Whistleblower's right to not identify themselves. However, anonymity may hinder the Foundation's ability to fully investigate the matter, provide updates and provide effective and personalised support and protection.

11. Protection available to Eligible Whistleblowers

The following statutory protections are available to an Eligible Whistleblower who makes an Eligible Report to an Eligible Recipient:

General protections

- The individual is not subject to any civil, criminal or administrative liability (including disciplinary action) for making the report.

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- No contractual or other remedy may be enforced, and no contractual or other right may be exercised, against the individual on the basis of the disclosure.
- In some situations, if the disclosure is made to ASIC or another prescribed Commonwealth authority, the information won't be admissible in evidence against the individual other than in respect of the falsity of the information.

It's important to be aware that these protections don't grant immunity from any misconduct an Eligible Whistleblower has engaged in, that is revealed in their disclosure.

The protections apply from the time an Eligible Report is made irrespective of whether a disclosure has been made internally to the Foundation or to a legal practitioner, regulatory body or a public interest or emergency disclosure in accordance with the requirements of the Corporations Act.

An Eligible Whistleblower may also be eligible to seek compensation and other remedies if they suffer loss, damage or injury in specific circumstances, including in relation to detriment suffered in connection with the Whistleblowing. The Foundation encourages Eligible Whistleblowers to seek independent legal advice if they believe they have suffered detrimental treatment in these circumstances, or they can contact ASIC or the ATO.

Anonymity and confidentiality

An individual who qualifies for protection has the right to anonymity unless they consent to their identity being disclosed in connection with their Eligible Report. Subject to compliance with legal requirements, the Foundation will:

- not disclose an Eligible Whistleblower's identity unless they consent to that disclosure or as otherwise set out in this policy;
- ensure any information provided in an Eligible Report is only disclosed to the extent reasonably necessary to conduct an investigation or administer this policy or where required for the purpose of seeking legal advice; and
- take reasonable steps to reduce the risk an Eligible Whistleblower will be identified as part of any process under this policy, including by removing information relating to their identity or other information that may lead to identification.

By making an Eligible Disclosure under this policy, an Eligible Whistleblower is taken to have consented to their information being recorded and accessible by the relevant Eligible Recipient(s) in their roles under this policy (including their identity unless they have elected to remain anonymous). All information the Foundation receives from an Eligible Whistleblower, the fact a disclosure has been made and any records created in connection with it will be held securely and in confidence. Other steps the Foundation will take in practice to protect the confidentiality of an Eligible Whistleblower's identity include:

- contacting an Eligible Whistleblower (where possible) to help identify aspects of their Whistleblower Report that could inadvertently identify them; and
- educating and regularly reminding individuals involved in handling and investigating an Eligible Report about confidentiality requirements.

This protection does not extend to disclosure of the individual's identity to ASIC, a member of the Australian Federal Police, or a lawyer for the purpose of obtaining legal advice or legal representation in relation to the operation of the Corporations Act.

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Other than in circumstances required by law, any unauthorised disclosure of information without an Eligible Whistleblower's consent (including an Eligible Whistleblower's identity or information likely to lead to their identification) will be a breach of this policy and dealt with under the Foundation's disciplinary procedures. It may also be illegal and an offence, subject to penalties under the legislation.

If an Eligible Whistleblower believes there has been a breach of confidentiality, they can make a report about this using the same process as for making an Eligible Report. An Eligible Whistleblower may also lodge a complaint with a regulator, such as ASIC or the ATO.

Protection from retaliation, harassment, victimisation

The Foundation is committed to ensuring that an Eligible Whistleblower making a report on reasonable grounds under this policy will not suffer detrimental treatment or be disadvantaged as a result of doing so, even if the report is subsequently determined to be incorrect or is not substantiated.

The Foundation will take reasonable steps to ensure that an Eligible Whistleblower does not suffer detrimental treatment because they have made a disclosure or propose to make a disclosure in accordance with this policy. These steps include:

- a) assisting an Eligible Whistleblower to develop strategies to help minimise and manage stress or other challenges that result from making an Eligible Report or its investigation;
- b) considering alternative work arrangements for an Eligible Whistleblower; or
- c) conducting a risk assessment to assess and seek to manage the risk of detriment to an Eligible Whistleblower.

Detrimental treatment includes dismissal, injury, demotion, discrimination, harassment, intimidation, disciplinary action, bias, threats or other unfavourable treatment. Detrimental treatment does not include managing unsatisfactory work performance that is unrelated to a report. A person who subjects an Eligible Whistleblower to detrimental treatment because they have made or may make an Eligible Disclosure will be in breach of this policy and will be dealt with under the Foundation's disciplinary procedures. This is a serious matter which may also expose the person to civil and criminal sanctions.

12. Support for Eligible Whistleblowers

Various kinds of support are also available depending on the circumstances, for example:

- a fair and objective investigation process;
- respecting and protecting anonymity of Eligible Reports; and
- human resources support where reasonably required by an Eligible Whistleblower.

Please contact your preferred Foundation Eligible Recipient for more information.

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13. Support for individuals mentioned in an Eligible Report

The Foundation will also ensure the fair treatment for team members mentioned in a disclosure by:

- a) a fair and objective investigation process;
- b) maintaining confidentiality of the investigation as far as is reasonably practicable;
- c) advising the person of the outcome of the investigation where and to the extent reasonably appropriate to do so; and
- d) human resources support where reasonably required.

14. How we will investigate Eligible Reports

The Foundation's Eligible Recipient will assess each Eligible Report – with legal advice if required – to determine whether it is covered by this policy, qualifies for protection and should be investigated.

If an investigation is considered necessary, it will be conducted in a thorough and fair manner. How the investigation is undertaken will vary depending on the nature and content of the Eligible Report. In most instances, given the nature of the Foundation and its size, the investigation will be carried out externally.

The Foundation considers it essential an individual feels secure when speaking up, and takes the reporting of concerns seriously. Individuals may be interviewed as part of an investigation. All investigations are treated as confidentially as practicable, consistent with the need to investigate the matter and subject to legal requirements.

If you are asked to participate in an investigation, you are expected to:

- cooperate fully;
- not withhold, tamper with, or fail to communicate relevant information;
- maintain and safeguard the confidentiality of an investigation to the extent possible, except as otherwise permitted by applicable law; and
- not make false statements to or otherwise mislead internal or external auditors, investigators, legal counsel, the Foundation representatives, regulators, or other government entities. Doing so may be grounds for immediate termination of employment or other relationship with the Foundation and may also be a criminal act that can result in severe penalties.

Following an investigation, a report may be produced at the discretion of the Foundation. Circulation of any report (taking into account confidentiality) will be at the Foundation's discretion and will be restricted to individuals who will be involved in determining any action to be taken.

Wherever possible, an Eligible Whistleblower will be kept informed of the progress of the investigation subject to privacy and confidentiality obligations. The frequency and detail of any updates will depend on the nature of the Eligible Report. As a general rule, an Eligible Whistleblower will be informed of the results of an investigation once the investigation is finalised. In some circumstances, privacy, confidentiality or other constraints may limit the feedback that can be provided.

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15. Fair treatment

The Foundation is committed to ensuring the fair treatment of any officer or employee of the Foundation who is mentioned in a report made under this policy by:

- respecting the confidentiality of all parties during the investigative process;
- applying the investigation process described above; and
- providing access to support in the nature of human resources guidance and/or counselling as necessary.

16. Key definitions

ASIC means Australian Securities and Investments Commission.

ATO means Australian Tax Office.

Corporations Act means the *Corporations Act 2001 (Cth)* as amended by *Treasury Laws Amendment (Enhancing Whistleblower Protections) Act 2019 (Cth)*, and from time to time.

Director is as defined in section 9 of the Corporations Act.

Officer is as defined in section 9 of the Corporations Act.

Tax Administration Act means the *Tax Administration Act 1958 (Cth)*.

More information

If you have a query about this policy or need more information please contact info@5050foundation.net.au. (Do not make whistleblower reports to this address).

Review details

This policy was adopted by the Foundation on 1 January 2020.
This policy was last updated on 6 December 2021.

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