



# Whistleblowing Policy – January 2020

## 1 Purpose

- 1.1 Clarity Pharmaceuticals Ltd (the **Company**) is committed to fostering a culture of corporate compliance, ethical behaviour and good corporate governance. The purpose of this Policy is to:
- (a) encourage the raising of any concerns about actual or potential misconduct or any improper state of affairs or circumstances in relation to the Company;
  - (b) ensure that individuals who disclose misconduct or wrongdoing can do so safely, securely, and with confidence that they will be protected and supported; and
  - (c) ensure that disclosures of wrongdoing are dealt with appropriately and on a timely basis.
- 1.2 This Policy is available to staff on the Company's server and training will be provided to employees and officers where required.
- 1.3 Any questions about this Policy should be directed to the Company Secretary, Robert Vickery.

## 2 Who can make a Report

- 2.1 Reports may be made under this Policy by any current or former:
- (a) officers and employees of the Company;
  - (b) suppliers, consultants, and contractors of the Company (including their employees, whether paid or unpaid);
  - (c) associates of the Company; and
  - (d) relatives, spouses and dependants of any of the above individuals.
- 2.2 A **Discloser** is any of the above individuals who makes a report in accordance with this Policy.
- 2.3 A Discloser may also be eligible for protection as a whistleblower under the *Corporations Act 2001* (Cth) in certain circumstances. More information on this is attached in the Appendix.

## 3 Issues that should be Reported

- 3.1 A **Reportable Matter** is any information about the Company (or an officer or employee of the Company) if the Discloser has reasonable grounds to suspect concerns misconduct, or an improper state of affairs or circumstances in relation to the Company.

This includes where the Discloser has reasonable grounds to suspect that the information indicates the Company or any of its employees or officers has or may have engaged in conduct that:

- (a) constitutes an offence against, or a contravention of, any of the following:
  - (i) the *Corporations Act 2001* (Cth);
  - (ii) the *Australian Securities and Investments Commission Act 2001* (Cth); or
  - (iii) any other law of the Commonwealth that is punishable by imprisonment for a period of 12 months or more;
- (b) represents a danger to the public or the financial system (even if it does not involve a contravention of a particular law)
- (c) is a serious breach of any internal policy or code of the Company;
- (d) constitutes dishonest, fraudulent or corrupt activity, including bribery, tax evasion, money laundering or misappropriation of funds;
- (e) is illegal (such as theft, use of illicit drugs, violence or criminal damage against property);
- (f) causing or threatening to cause Detriment to a Discloser who has made, or who is believed or suspected to have made or be planning to make, a report under this Policy; or
- (g) the deliberate concealment of any of the above matters.

3.2 **Personal Work Related Grievances** of current or former employees are not covered under this Policy, and should be reported to your line manager or Human Resources representative. Such disclosures may be protected under other legislation such as the *Fair Work Act 2009* (Cth). A Personal Work Related Grievance means a grievance about any matter in relation to the Discloser's employment, or former employment, having (or tending to have) implications for the Discloser personally. This includes:

- (a) an interpersonal conflict between the Discloser and another employee;
- (b) a decision relating to the engagement, transfer or promotion of the Discloser;
- (c) a decision relating to the terms and conditions of engagement of the Discloser; and
- (d) a decision to suspend or terminate the engagement of the Discloser, or otherwise to discipline the Discloser.

3.3 However, Personal Work Related Grievances does not include:

- (a) any conduct that would be considered victimisation of an individual because they have made, may have made, or propose to make a report under this Policy; or
- (b) a matter that would have significant implications for the Company.

These matters will be Reportable Matters.

- 3.4 **Reasonable Grounds:** A Discloser must have reasonable grounds for a report made under this Policy. A mere allegation with no supporting information is unlikely to be considered as having 'reasonable grounds'. However a Discloser does not need to prove their allegations. A Discloser will still qualify for protection under this Policy even if their disclosure turns out to be incorrect.
- 3.5 **False Reports:** The reporting of false information is taken very seriously by the Company. Individuals who deliberately or knowingly report false information will not be able to access the protections available under this Policy for Disclosers, and individuals who are employees, officers or contractors of the Company may be subject to disciplinary action or termination of engagement.

## 4 How to make a Report

- 4.1 The following channels are available for reporting Reportable Matters. If a Discloser has any questions or wishes to obtain additional information before making a report, he or she should contact Robert Vickery or obtain independent legal advice.

### Reporting by Employees

- 4.2 Employees should first report any matters of concern to their direct line manager or human resources advisor. Where this is not appropriate, where the employee does not feel comfortable making an internal report, or where an employee has made an internal report but no action has been taken within a reasonable time, the report can be made using the reporting channels outlined below.

### Report to a Whistleblower Protection Officer

- 4.3 A report can be made directly to a Whistleblower Protection Officer (**WPO**) currently the Company Secretary, Robert Vickery.
- 4.4 Reports to a WPO:
- (a) must be made in person or by telephone; and
  - (b) the Discloser must first inform the WPO that they wish to make a report under this Policy, so that the WPO can make appropriate arrangements in relation to confidentiality.

### Report to an Eligible Recipient

- 4.5 If a Whistleblower is unable to use any of the above channels for reporting, a report can be made to an Eligible Recipient within the Company. **Eligible Recipients** in relation to the Company are:
- (a) officers,
  - (b) directors;
  - (c) senior managers; and
  - (d) internal or external auditors, or a member of an audit team conducting an audit.
- 4.6 Reports to an Eligible Recipient:

- (a) must be made in person or by telephone; and
  - (b) the Whistleblower must first inform the Eligible Recipient that they wish to make a report under this Policy, so that the Eligible Recipient can make appropriate arrangements in relation to confidentiality.
- 4.7 An Eligible Recipient may direct the Whistleblower to make the report to a WPO, if they consider it appropriate in the circumstances.

### **Other Reporting Channels**

- 4.8 The Company encourages employees and other Disclosers to make a report to the Company in the first instance, so that it can identify and address wrongdoing as early as possible. However, the Discloser may make a report about a Reportable Matter to an external party (such as the Australian Securities and Investments Commission (**ASIC**), the Australian Prudential Regulation Authority (**APRA**) or the Australian Taxation Office (**ATO**)) as set out in the Appendix.

### **Information to include in the Report**

- 4.9 For a report to be investigated, it must contain sufficient information to form a reasonable basis for investigation. For this reason, Disclosers should provide as much information as possible, in any form, about the Reportable Matter.
- 4.10 By way of example, information could include (but must not necessarily include):
- (a) the date, time and location;
  - (b) the name(s) of person(s) involved and possible witnesses to the events;
  - (c) evidence of the events (e.g. documents, emails etc); and
  - (d) steps the Discloser or another person may have already taken to report the matter or to resolve the concern.

## **5 Confidentiality and Anonymity**

- 5.1 Disclosers are encouraged (but not required) to disclose their identity when making a report. Providing their identity will assist in:
- (a) monitoring their wellness and protections against Detriment (as defined at clause 7.2 below); and
  - (b) investigating their report and obtaining further information from them as is necessary to complete the investigation.
- 5.2 If a Discloser has not consented to the disclosure of their identity, the matter may be referred for investigation, but the investigator will be required to take all reasonable steps to reduce the risk that the Discloser will be identified as a result of the investigation.
- 5.3 **Exceptions to Anonymity:** Information about a Discloser's identity may only be disclosed without consent in the following circumstances:

- (a) where the information is disclosed to ASIC, APRA, the Australian Federal Police or to a person or body prescribed by regulations;
  - (b) where the information is disclosed to a legal practitioner for the purpose of obtaining legal advice in relation to the operation of applicable whistleblowing protection laws.
- 5.4 Information that may be likely to lead to the identification of the Discloser may be disclosed if:
- (a) the information does not include the Discloser's identity;
  - (b) the Company 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 report.
- 5.5 It is illegal for a person to identify a Discloser or disclose information that is likely to lead to the identification of a Discloser, apart from the exceptional circumstances described above. If a Discloser is concerned about possible reprisals if their identity is revealed, they should contact the Company Secretary so that appropriate measures can be taken to protect them.

## 6 Investigation of Reports

### Assessment of Report

- 6.1 An initial assessment of a report made under this Policy will be carried out to assess whether it concerns a Reportable Matter, whether a formal, in-depth investigation is required, and whether the matter may be investigated or confirmed in other ways. The Company may not be able to conduct an investigation if it is not able to contact the Discloser (for example, if a report is made anonymously and no contact details are provided).

### Appointment of an Investigator

- 6.2 An investigator will be appointed to investigate the matter. The investigator can be:
- (a) an employee of the Company with the required skills and experience;
  - (b) an external independent resource; or
  - (c) another suitably qualified person,
- who, in whichever case, is not implicated directly or indirectly in the report.

### Conduct of the investigation

- 6.3 To the extent that they include sufficient detail and are able to be investigated, reports of Reportable Matters made under this Policy will be investigated as soon as possible after the matter has been reported. The investigator will use his or her best endeavours to conduct the investigation in a timely, thorough, confidential, objective and fair manner and as is reasonable and appropriate having regard to the nature of the Reportable Matter and all of the circumstances.
- 6.4 Where appropriate, the subject(s) of the report will be informed of the allegations and have an opportunity to respond.

- 6.5 Where appropriate, the WPO will update the Discloser on the progress of the investigation. A Discloser must keep confidential any details of the investigation, its progress or its outcome.
- 6.6 Where appropriate, and where the identity of the Discloser is known, the WPO will inform the Discloser of the outcome of an investigation into a report made by the Discloser in accordance with this Policy.

### **Investigation outcomes**

- 6.7 The method of documenting and reporting the findings of an investigation will depend on the nature of the report. Where a formal investigation is conducted, the investigator will provide a report to the WPO documenting the investigator's findings. This report must be kept strictly confidential and disclosed only to those who have a need to know the information.
- 6.8 The outcome of the investigation may result in disciplinary action for officers and employees up to and including dismissal without notice. Serious criminal matters will be reported to the police or the appropriate regulatory authorities.

### **Confidentiality**

- 6.9 Participants in the investigation of any report under this Policy are required to keep confidential all relevant information. All paper and electronic documents and other materials relating to reports will be stored securely, and access to all information relating to a report will be limited to those directly involved in managing and investigating the report.
- 6.10 Disclosers should also keep confidential the fact that they have made a report, and the content of the report, as well as all information relating to an investigation of their report.

## **7 Protection and Support for Disclosers**

- 7.1 It is a breach of this Policy to subject a Discloser to any Detriment because they have made, or propose to make, a report under this Policy. It will also be a breach of this Policy to make a threat to cause Detriment to a Discloser (or another person) in relation to a report. Any such action by an employee or officer will be treated as serious misconduct and will be dealt with in accordance with the Company's disciplinary procedures.
- 7.2 "**Detriment**" includes (without limitation):
  - (a) dismissal;
  - (b) injury of an employee in his or her employment;
  - (c) alteration of an employee's position or duties to his or her disadvantage;
  - (d) discrimination between an employee and other employees of the same employer;
  - (e) harassment or intimidation;
  - (f) harm or injury (including psychological harm);
  - (g) damage to a person's property; and
  - (h) reputational, financial or any other damage to a person.

- 7.3 Detriment does not include administrative action that is reasonable to protect a Discloser from Detriment (for example a temporary transfer), or reasonable management action in relation to managing an employee's work performance, if the action is in line with the Company's performance management framework.
- 7.4 If a Discloser believes they have suffered or may suffer Detriment because they have made a report under this Policy, or if any person has threatened to cause Detriment to them or another person in connection with a report, they should immediately report the matter to the Company Secretary. Further information on legal protections and remedies is set out in the [Appendix](#).
- 7.5 A Discloser is protected from civil, criminal and administrative liability in relation to a report made under this Policy or that is a protected disclosure under the law. This means that legal (criminal or civil) action cannot be taken against a Discloser for making a report, and they cannot be subject to disciplinary action for making a report. However, these protections do not mean that a Discloser has immunity for their own conduct that is revealed in a report.

### **Support for Disclosers**

- 7.6 Additional support available for Disclosers includes:
- (a) connecting the Discloser with access to appropriate counselling;
  - (b) appointing an independent support person from the human resources team to deal with any ongoing concerns they may have; or
  - (c) connecting the Discloser with third party support providers such as Lifeline (13 11 14) and Beyond Blue (1300 22 4636).
- 7.7 Use of these support services by a Discloser may require the Discloser to consent to disclosure of their identity or information that is likely to lead to the discovery of their identity.

## **8 Fair Treatment of Persons Implicated in a Report**

- 8.1 Each report will be assessed and may be the subject of an investigation.
- 8.2 No action will be taken against employees or officers who are implicated in a report under this Policy until an investigation has determined whether any allegations against them are substantiated. However, an employee or officer who is implicated may be temporarily stood down on full pay whilst an investigation is in process, or may be temporarily transferred to another office, department or workplace, if appropriate in the circumstances. Any such stand-down or temporary transfer may only continue for the duration of the investigation. If the investigation determines that the allegations are not substantiated, the employee officer must be immediately reinstated to full duties.
- 8.3 Any reports that implicate an employee or officer must be kept confidential, even if the Discloser has consented to the disclosure of their identity, and should only be disclosed to those persons who have a need to know the information for the proper performance of their functions under this Policy, or for the proper investigation of the report.

- 8.4 An employee or officer who is implicated in a disclosure has a right to be informed of the allegations against them, and must be given an opportunity to respond to those allegations and provide additional information, if relevant, in the course of an investigation into those allegations (subject to the Discloser's right to anonymity). An employee or officer who is implicated in a report will be informed of the outcome of any investigation.
- 8.5 Support available for persons implicated in a report under this Policy includes:
- (a) connecting the person with access to appropriate counselling;
  - (b) appointing an independent support person from the human resources team to deal with any ongoing concerns they may have; and
  - (c) connecting the person with third party support providers such as Lifeline (13 11 14) and Beyond Blue (1300 22 4636).

## 9 Review and Monitoring

- 9.1 The WPO will report to the Board annually regarding the effectiveness of this Policy, and the Company's whistleblowing processes. All such reports shall be de-identified and shall ensure confidentiality of Disclosers.
- 9.2 If a report under this Policy relates to serious misconduct or involve a serious risk to the Company, the WPO may immediately notify the Board.
- 9.3 The Company shall review this Policy, and its whistleblowing processes, on a periodic basis to ensure that it is operating effectively, and to rectify any issues identified in the review.

DocuSigned by:  
  
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Colin Biggin  
Managing Director



# Appendix

## Protections for Whistleblowers under the Corporations Act

A Discloser may qualify for protection as a whistleblower under the *Corporations Act 2001* (Cth) if they are an 'eligible whistleblower' in relation to the Company, and:

- they have made a disclosure of information relating to a 'disclosable matter' directly to an 'eligible recipient, or to ASIC, APRA or another Commonwealth body prescribed by regulation;
- they have made a disclosure to a legal practitioner for the purposes of obtaining legal advice or legal representation about the operation of the whistleblower provisions in the Corporations Act; or
- they have made an 'emergency disclosure' or a 'public interest disclosure'.

### Public interest disclosures and emergency disclosures

Disclosures can be made to a journalist or a parliamentarian under certain circumstances and qualify for protection under the Corporations Act. These kinds of disclosures must meet several legal requirements, as described below, in order for the discloser to be subject to the whistleblower protections under the law. A discloser should obtain independent legal advice to ensure that they understand the criteria for making an emergency disclosure or a public interest disclosure that qualifies for protection.

An **Emergency Disclosure** is the disclosure of information to a journalist or parliamentarian, where:

- (a) the discloser has previously made a disclosure of the information to ASIC, APRA or another Commonwealth body prescribed by regulation;
- (b) the discloser has reasonable grounds to believe that the information concerns a substantial and imminent danger to the health or safety of one or more persons or to the natural environment;
- (c) before making the emergency disclosure, the discloser has given written notice to the body to which the previous disclosure was made that:
  - (i) includes sufficient information to identify the previous disclosure; and
  - (ii) states that the discloser intends to make an emergency disclosure; and
- (d) the extent of the information disclosed in the emergency disclosure is no greater than is necessary to inform the journalist or parliamentarian of the substantial and imminent danger.

A **Public Interest Disclosure** is the disclosure of information to a journalist or a parliamentarian, where:

- (a) at least 90 days have passed since the discloser made the disclosure to ASIC, APRA or another Commonwealth body prescribed by regulation;
- (b) the discloser does not have reasonable grounds to believe that action is being, or has been taken, in relation to their disclosure;
- (c) the discloser has reasonable grounds to believe that making a further disclosure of the information is in the public interest; and
- (d) before making the public interest disclosure, the discloser has given written notice to the body to which the previous disclosure was made that:
  - (i) includes sufficient information to identify the previous disclosure; and
  - (ii) states that the discloser intends to make a public interest disclosure.

### **Legal Protections**

The following protections are available to whistleblowers who make a protected disclosure under the Corporations Act or the Taxation Administration Act (whether that disclosure is made internally, or to an external body such as ASIC, APRA, a legal practitioner or is a public interest or an emergency disclosure):

- Protection of the whistleblower's identity, if he or she wishes to remain anonymous;
- Protection from Detriment because of making a protected disclosure;
- The right to claim compensation for loss, damage or injury caused to the Whistleblower because of a protected disclosure;
- Protection from civil, criminal and administrative liability because of making the protected disclosure.

### **Anonymous Reports**

A report can be made anonymously and still be protected under the Corporations Act. A Whistleblower can choose to remain anonymous while making a disclosure, over the course of the investigation and after the investigation is finalised. A Whistleblower can refuse to answer questions that they feel could reveal their identity at any time, including during follow-up conversations.

### **Legal Remedies**

A Whistleblower that suffers loss, damage or injury because of a protected disclosure may seek compensation and other remedies through the courts. A Whistleblower should seek independent legal advice if they wish to obtain such a remedy. A Whistleblower may also contact regulatory bodies such as ASIC or APRA if they believe that they have suffered Detriment due to making a report about a disclosable matter, or if there has been a breach of confidentiality such as a disclosure of their identity without their consent.