

SAFE TO SPEAK POLICY

1. SCOPE

- 1.1 The Policy applies to all Eligible Whistleblowers and JLG. The Policy sets out how JLG assesses and protects the information provided by an Eligible Whistleblower who qualifies for protection under the whistleblower protection scheme in the *Corporations Act 2001* (Cth) (**Whistleblower Protection Scheme**) and the Protected Disclosures (**Protection of Whistleblowers**) Act 2022 in New Zealand.

2. DEFINITIONS

- 2.1 An **Eligible Whistleblower** means –
- A current or former officer of JLG;
 - A current or former employee of JLG;
 - An individual who supplies (or previously supplied) services or goods to JLG (whether paid or unpaid), or an employee of that person, contractor (or the employee of a contractor) of JLG, who reports misconduct or dishonest or illegal activity that has occurred within JLG;
 - A relative or dependent of any of the above persons.
- 2.2 An **Eligible Recipient** means –
- An officer or senior manager of JLG;
 - An auditor, or a member of an audit team conducting an audit of JLG;
 - An actuary of JLG;
 - A person authorised by JLG to receive Protected Disclosures;
 - The Australian Securities and Investment Commission
 - The Australian Prudential Regulatory Authority;
 - An otherwise appropriately authorised Commonwealth authority (eg. ATO); and
 - A legal practitioner for the purposes of obtaining advice about the operation of the Whistleblower Protection Scheme or related Act in New Zealand.

Board Members are specifically authorised by JLG to receive disclosures under the Whistleblower Protection Scheme or related Act in New Zealand.

- 2.3 **JLG** means:
- Johns Lyng Group Limited; and
 - Any related body corporate (as that term is defined in the *Corporations Act 2001* (Cth); and
 - Any other entity that relates to the employer or any other member of the Group by a common interest in an economic enterprise (for example, a Partner or another member of a joint venture).
- 2.4 **Policy** means: this whistleblower policy.
- 2.5 **Protected Disclosure** means a disclosure that qualified for protection under the Whistleblower Protection Scheme or related Act in New Zealand.
- 2.6 **Whistleblower** means a person who has made a Protected Disclosure and qualifies for protection under the Whistleblower Protection Scheme or related Act in New Zealand.



3. PURPOSE

- 3.1 The purpose of this Policy is to set out the protections the *Corporations Act 2001* (Cth) and aforementioned Act in New Zealand provides for Eligible Whistleblowers who make disclosures protected under the relevant scheme or Act. This includes:
- i. information about the types of disclosures that qualify for protection under the Whistleblower Protection Scheme or related Act;
 - ii. information about the protections available to Whistleblowers, including protections under the Whistleblower Protection Scheme or related Act;
 - iii. information about to whom disclosures that qualify for protection under the Whistleblower Protection Scheme or related Act may be made, and how they may be made;
 - iv. information about how JLG will support Whistleblowers and protect them from detriment;
 - v. information about how JLG will investigate disclosures that qualify for protection under the Whistleblower Scheme or related Act;
 - vi. information about how JLG will ensure fair treatment of employees of who are mentioned in disclosures that qualify for protection, or to whom such disclosures relate; and
 - vii. information about how this policy is to be made available to officers and employees of JLG.

4. SCOPE OF WHISTLEBLOWER PROTECTION

4.1 Protected Whistleblower Disclosure within JLG

A disclosure qualifies for protection under the Whistleblower Protection Scheme or related Act if:

- i. it is made by an Eligible Whistleblower;
- ii. it is made to an Eligible Recipient;
- iii. it is a disclosure of information that concerns misconduct or an improper state of affairs or circumstances in relation to JLG, its officers or its employees; and
- iv. the Eligible Whistleblower had reasonable grounds to suspect that the information concerns the matters identified at 4.1iii above.

There is no requirement for an Eligible Whistleblower to identify themselves to qualify for protection under the Whistleblower Protection Scheme or related Act.

4.2 What is misconduct or an improper state of affairs or circumstances?

Misconduct or an improper state of affairs or circumstances is a broad concept which includes (but is not limited to) the following:

- i. an offence or contravention of expressly identified Commonwealth legislation.¹
- ii. an offence against any other law of the Commonwealth punishable for a period of 12 months or more; or
- iii. a danger to the public or the financial system.

This is termed, serious wrongdoing, in New Zealand and includes (but is not limited to) the following:

- i. an offence.
- ii. a serious risk to the health or safety of the public or an individual.
- iii. a serious risk to the maintenance of the law.

¹ Specifically, the *Corporations Act 2001* (Cth), the *Australian Securities and Investments Commission Act 2001* (Cth), *Banking Act 1959* (Cth), *Financial Sector (Collection of Data) Act 2001* (Cth), the *Insurance Act 1973* (Cth), *Life Insurance Act 1995* (Cth), *National Consumer Credit Protection Act 2009* (Cth), *Superannuation Industry (Supervision) Act 1993* (Cth) or any instrument made under any of this legislation. This includes the *Protected Disclosures (Protection of Whistleblowers) Act 2022* in New Zealand.



- iv. Unlawful, corrupt or irregular use of public funds or resources; or
- v. Oppressive, discriminatory or grossly negligent acts or gross mismanagement by a public sector employee or a person performing a public function.

4.3 Public interest disclosures

A public interest disclosure can only be made where:

- i. a previous disclosure was made under the Whistleblower Protection Scheme;
- ii. it has been 90 days since this disclosure was made;
- iii. the Eligible Whistleblower has written to JLG identifying the previous disclosure and stating their intent to make a public interest disclosure;
- iv. the Eligible Whistleblower does not have reasonable grounds to believe that action is being, or has been, taken in relation to the previous disclosure; and
- v. the Eligible Whistleblower has reasonable grounds to believe that making a public interest disclosure would be in the public interest.

A public interest disclosure can only be made to a Member of Parliament (Commonwealth, State or Territory) or a journalist and only to no greater extent than is necessary to inform the recipient of the misconduct or improper state of affairs or circumstances.

4.4 Emergency disclosures

An emergency disclosure can only be made where:

- i. a previous disclosure was made under the Whistleblower Protection Scheme;
- ii. the Eligible Whistleblower 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;
- iii. the Eligible Whistleblower has written to JLG identifying the previous disclosure and stating their intent to make an emergency disclosure;
- iv. the Eligible Whistleblower does not have reasonable grounds to believe that action is being, or has been, taken in relation to the previous disclosure;
- v. the Eligible Whistleblower has reasonable grounds to believe that making a public interest disclosure would be in the public interest.

An emergency disclosure can only be made to a Member of Parliament (Commonwealth, State or Territory) or a journalist and only to no greater extent than is necessary to inform the recipient of the substantial and imminent danger.

5. JLG'S PROTECTIONS FOR WHISTLEBLOWERS

5.1 Confidentiality of Whistleblower Identity

Under the *Corporations Act 2001* (Cth) or related Act, it is an offence to disclose the identity of, or information that is likely to lead to the identification of, a person who has qualified for protection under the Whistleblower Protection Scheme or related Act where this information is obtained directly or indirectly because of a Protected Disclosure.

This is subject to certain exceptions, being disclosing this information to certain authorised sources (eg. ASIC, APRA, AFP, a legal practitioner), when done with the consent of the person who qualified for protection under the Whistleblower Protection Scheme or when the information was:

- not the identity of the person;



- was reasonably necessary to investigate the Protected Disclosure; and
- all reasonable steps to reduce the risk of identification were taken.

5.2 No action against the discloser

JLG (or any other person) is prohibited from pursuing any civil (including contractual), criminal, administrative or disciplinary action against a person in relation to any Protected Disclosure that they make.

5.3 Detriments and threats of detriment prohibited

The Whistleblower Protection Scheme or related Act makes it unlawful for a person (first person) to engage in conduct against another person that causes or will cause a detriment in circumstances where the first person believes or suspects that the other person or a third person made, may have made, proposes to make, or could make a qualifying disclosure, and this belief is the reason, or part of the reason, for their conduct.

Threats of detriments, either to the person who made the protected disclosure or another person, will also be unlawful if the person making the threat intended to cause fear that a detriment would be carried out or was reckless as to whether the person against who it was directed would fear the threatened detriment being carried out and the threat was made because the person made, or may make, a Protected Disclosure.

The meaning of 'detriment' is very broad and includes:

- i. dismissing an employee
- ii. injuring an employee in their employment;
- iii. altering an employee's position or duties to their disadvantage;
- iv. discriminating between an employee and other employees;
- v. harassing or intimidating a person;
- vi. harming or injuring a person; and
- vii. damaging a person's property, reputation, business or financial position.

If JLG discovers any detriment, threat of detriment and / or other inappropriate action towards a whistleblower because of a Protected Disclosure, it will take action to address these matters as soon as possible. This may include (but is not limited to) disciplinary action up to dismissal (for employees of JLG), termination of contracts for services and / or referral to an appropriate statutory agency (eg. ASIC, AFP) for investigation.

6. RESPONSIBILITIES

- 6.1** It is the responsibility of all JLG employees and contractors to be aware of and understand the scope of the Whistleblower Protection Scheme or related Act and the protections that are afforded to Whistleblowers, and to comply with the Whistleblower Protection Scheme and related Act's requirements. Although whistleblowing reports may be made to a range of JLG representatives, the following have special responsibilities under this policy.

JLG Managers and Officers

- with assistance from HR, ensure that all JLG personnel receive training in the operation of this Policy;
- enforce this Policy on a day-to-day basis; and
- pass on any reports that they believe may be eligible for protection under the Whistleblower Protection Scheme to a Board Member.



Board Members

- assess whether any disclosures reported to them by the above persons (or by an Eligible Whistleblower directly) are Protected Disclosures;
- take all reasonable steps to ensure that all JLG personnel receive training in the operation of this Policy and that the policy is available on the JLG intranet and provided as part of the induction of any personnel;
- take all reasonable steps to ensure compliance with this Policy on a day to day basis; and
- investigate, or coordinate the investigation of matters that are contained in Protected Disclosures.

7. SUPPORT, INVESTIGATIONS AND FAIR TREATMENT

7.1 Overarching Goals

JLG is committed to transparency and to building an environment in which personnel feel free to raise legitimate issues relating to misconduct or any improper state of affairs or circumstances that may be affecting JLG's operations.

7.2 Alignment with Policy

Whenever a Protected Disclosure is made JLG HR will reiterate the requirements of this Policy with any person against whom a disclosure may be made or with whom the discloser may work directly to ensure that the protections afforded under the Whistleblower Protection Scheme are not undermined.

7.3 Investigation

JLG will assess each Protected Disclosure based on its specific details and circumstances to determine the most appropriate means to investigate its content. In general, JLG is likely to conduct investigations of Protected Disclosures internally. However, on some occasions, JLG may determine it is appropriate to engage an external party to conduct this investigation. This can be determined by a range of factors including (but not limited to) the seriousness of the allegations, the nature of the allegations and the individuals alleged to be involved.

At times, it may be difficult to progress an investigation of a Protected Disclosure without further information from the Whistleblower. On these occasions, JLG may request further information from the Whistleblower where it is appropriate and able to do so. In circumstances where the Whistleblower has chosen to remain anonymous and there is no other means to contact them, this may mean that JLG cannot progress its investigation any further.

In some circumstances, it may be difficult to progress an investigation of a Protected Disclosure without revealing (or potentially revealing) the identity of the Whistleblower. JLG will not reveal a Whistleblower's identity without their consent (unless otherwise permitted by law). However, if a Whistleblower declines to consent to their identity being revealed, JLG may determine that it is not appropriate to progress its investigation any further in the interests of protecting the Whistleblower's identity.

7.4 Fair Treatment

It is crucial that procedural fairness be provided before any action is taken against a person against whom a disclosure is made. Such action will only occur where there is cogent evidence of the alleged misconduct or improper state of affairs or circumstances.

Any other applicable policies of JLG will be applied in JLG's treatment of any person against whom a disclosure is made.



Disciplinary action up to and including dismissal may be taken against any person who causes or threatens to cause any detriment against a Whistleblower.

8. PERSONAL WORK-RELATED GRIEVANCE

A disclosure of information that *concerns a personal work – related grievance* of the Eligible Whistleblower and does not concern a contravention, or an alleged contravention, of the prohibition on victimisation (set out above) cannot be a Protected Disclosure.

Information *concerns a personal work – related grievance* if:

- i. the information concerns a grievance about any matter in relation to the Eligible Whistleblower's employment, or former employment, having (or tending to have) implications for the Eligible Whistleblower personally;
- ii. the information does not have significant implications for JLG, or another regulated entity, that do not relate to the Eligible Whistleblower; and
- iii. the information does not concern conduct, or alleged conduct, of offences against the prescribed Commonwealth legislation, offences under any other Commonwealth law punishable by a period of 12 months or more or represent a danger to the public or the financial system.

If a personal work-related grievance is raised vexatiously, it may be appropriate for JLG to take disciplinary action. Such action may include the termination of employment.

9. ACCESS TO THIS POLICY

This Policy will be accessible to all Eligible Whistleblowers as follows:

- i. available on the JLG external website;
- ii. available on the JLG intranet;
- iii. provided to employees during induction processes
- iv. Referenced during internally facilitated training sessions.

10. OTHER MATTERS

Any breach of this Policy may result in disciplinary action, up to and including termination of employment.

If an employee has a complaint or grievance about their employment or their personal circumstances, as opposed to an eligible disclosure, then JLG's Grievance Policy should be used.

This Policy is not intended to go beyond the legislation. This Policy is not a term of any contract, including any contract of employment and does not impose any contractual duties, implied or otherwise, on JLG. This Policy may be varied by JLG from time to time.

11. ACKNOWLEDGEMENT

Your electronic sign off will be deemed as your acceptance that you have read, understood and agreed to the content of this Policy.