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1 PURPOSE

- (1) This policy outlines the position of The Fred Hollows Foundation (NZ) ('FHFNZ') with regard to whistleblowing and Wrongdoing:
 - (a) All FHFNZ Group Workers, including managers and trustees, are expected to adhere to ethical and legal standards. These standards are articulated in The FHFNZ Group's Code of Conduct, its various policies and procedures, the New Zealand Council for International Development Code of Conduct, and the laws of the countries where The FHFNZ Group works. They include standards relating to how we work with others (for example, harassment, bullying, health and safety, safeguarding and child safeguarding standards), how we manage money and business activities (for example, anti-corruption and anti-fraud standards), and how we manage our development programmes (for example, clinical governance and sustainability standards), among others. A serious breach of these standards is called a Wrongdoing.
 - (b) The FHFNZ Group seeks to maintain an open, transparent and accountable culture where Wrongdoings are reported. Workers are encouraged and supported to raise their concerns if they reasonably believe that The FHFNZ Group's legal or ethical standards have been seriously breached. This is known as Whistleblowing. FHFNZ Group Workers will not be punished, demoted, dismissed, harassed, intimidated, or discriminated against for reporting their concerns in good faith, even if their report relates to a manager, director, trustee, or any other senior staff member. 'Blowing the Whistle' in good faith will not affect an FHFNZ Group Worker's career in any way.
 - (c) The FHFNZ Group also seeks to maintain an open and transparent relationship with the public, its donors, and people who benefit from The FHFNZ Group's work, including students and patients. While this Whistleblower Policy deals with concerns reported by FHFNZ Group Workers, The FHFNZ Group has also implemented an External Complaints Policy to enable people outside The FHFNZ Group to raise and have resolved their complaints and concerns.
- (2) The aims of this policy are:
 - (a) to encourage FHFNZ Group Workers to report Wrongdoings without fear of retaliation, discrimination, punishment, or being treated unfairly;
 - (b) to reassure FHFNZ Group Workers that they will be protected from possible retaliation, reprisal or victimisation if they reasonably believe that they have reported a Wrongdoing in good faith;
 - (c) to provide clear reporting avenues for FHFNZ Group Workers to raise their concerns, with options for concerns to be raised anonymously;
 - (d) to ensure FHFNZ Group Workers receive a timely response to their concerns;
 - (e) to ensure Wrongdoings are dealt with in a timely manner; and



- (f) to ensure that FHFNZ Group Workers are aware of how to pursue concerns further if they are not satisfied with the response they receive from FHFNZ.

2 SCOPE

- (1) This policy applies to all Workers of The FHFNZ Group.

3 DEFINITIONS

Disclosure	A report of Wrongdoing under this Policy
The FHFNZ Group	Includes The Fred Hollows Foundation (NZ) (FHFNZ), The Fred Hollows Foundation NZ Pacific Eye Institute Ltd (FHFNZ-PEI), The Fred Hollows Foundation PNG Inc. (FHF-PNG), and The Fred Hollows Foundation NZ Solomon Islands Trust Board (Incorporated) (FHFNZ-SI).
Worker	Any individual who carries out work in any capacity for FHFNZ in any jurisdiction including employers; employees; trustees, contractors; sub-contractors, an employee of a contractor or subcontractor, people with responsibility for work and work places; volunteers doing work activity; people receiving work experience; people receiving on-the-job training; people working from home and mobile workers.
Wrongdoing	<p>A Wrongdoing is a serious breach of The FHFNZ Group's ethical or legal standards. It can include but is not limited to the following:</p> <ul style="list-style-type: none">a. a serious breach of The FHFNZ Group's Code of Conduct or other policy;b. the illegal, corrupt or irregular use of The FHFNZ Group's funds or resources;c. conduct that is a serious risk to the health and safety of any person, including Workers and patients at FHFNZ Group-supported service providers;d. conduct that is a serious risk to the environment;e. conduct that exploits vulnerable or marginalised people or communities;f. conduct that is a serious risk to the maintenance of law, including the prevention, investigation and detection of criminal offences and the right to a fair trial;g. any conduct that is a criminal offence in a country where The FHFNZ Group works;h. bullying, harassment, discrimination or oppressive conduct;i. physical, sexual or emotional abuse or exploitation;j. gross mismanagement or negligence;k. abuse of authority; andl. breaches of human rights.



4 POLICY CONTENT AND GUIDELINES

(1) Legislative background

- (a) This policy is based on applicable international and national law including the following:
 - (i) the United Nations Convention against Corruption, which encourages states to adopt legislation to provide protection against any unjustified treatment of whistleblowers;
 - (ii) the New Zealand Human Rights Act 1993, which prohibits employers from treating whistleblowers or potential whistleblowers less favourably than others;
 - (iii) the New Zealand Protected Disclosures Act 2000, which encourages people to report serious wrongdoing in their workplace; and
 - (iv) the New Zealand Employee Relations Act 2000, which provides that an employee who suffers retaliatory action for making a protected Disclosure under the Protected Disclosures Act 2000 can raise a personal grievance.
- (b) This policy applies across all countries where The FHFNZ Group works, including countries that have not enacted specific whistleblower legislation.

(2) Who can make a Disclosure?

- (a) Any FHFNZ Group Worker can make a Disclosure if they reasonably believe that an FHFNZ Group Worker has committed a Wrongdoing.
- (b) The purpose of the Disclosure should be to ensure that the wrongdoing is investigated and must be made in good faith.

(3) Making a Disclosure

- (a) A Disclosure should be reported as soon as possible.
- (b) The FHFNZ Group will treat all Disclosures with appropriate confidentiality. Disclosures may be made anonymously, although this will limit the ability of The FHFNZ Group to provide a response to the person making the Disclosure.
- (c) Disclosures can be communicated by contacting the People and Culture Adviser by email, letter, in phone or in person. Refer to Appendix 1 for the People & Culture Advisor's contact details.
- (d) If the person making the Disclosure reasonably believes that the People & Culture Adviser is involved in the wrongdoing, or that the People & Culture Adviser has a personal relationship or association with someone who is involved in the wrongdoing, a report should be made to the Executive Director. Refer to Appendix 1 for the Executive Director's contact details.
- (e) If the person making the Disclosure reasonably believes that the Executive Director is involved in the wrongdoing, or that the Executive Director has a personal relationship or association with someone who is involved in the wrongdoing, a report should be made to the Board Chair. Refer to Appendix 1 for the Board Chair's contact details.
- (f) A Disclosure can be made to an appropriate authority outside The FHFNZ Group if the FHFNZ Group Worker reasonably believes that:
 - (i) the head of The FHFNZ Group may be involved in the wrongdoing; or
 - (ii) it is justified because of urgent or exceptional circumstances; or
 - (iii) a Disclosure was made in accordance with this policy but FHFNZ has not acted or recommended action within 20 working days.



- (g) In the context of clause 5(3)(f) above, appropriate authorities in New Zealand are available in the Making a protected Disclosure – “blowing the whistle” guide published by the New Zealand Ombudsman and available here:
[http://www.ombudsman.parliament.nz/system/paperclip/document_files/document_files/1829/original/making_a_protected_disclosure_blowing_the_whistle .pdf?1482272444](http://www.ombudsman.parliament.nz/system/paperclip/document_files/document_files/1829/original/making_a_protected_disclosure_blowing_the_whistle.pdf?1482272444).
- (h) Disclosures may also be made in accordance with this policy (particularly clause 5(3)(f)) to appropriate authorities in other countries where The FHFNZ Group works, including, for example, law enforcement agencies (police) and ministries/national departments of health.
- (i) When making a Disclosure of serious Wrongdoing under the New Zealand Protected Disclosures Act 2000, the Worker should advise that the Disclosure is made under the Act for it to qualify as a protected Disclosure though failure to do so does not preclude a Disclosure being later considered as protected under the provisions of the Act.

(4) Obligations of Whistleblowers

- (a) When making a Disclosure, FHFNZ Group Workers should consider The FHFNZ Group’s ethical values of respect, responsibility, fairness, and integrity.
- (b) In that regard, it is not appropriate nor protected by New Zealand law or this policy, for an FHFNZ Group Worker to report alleged wrongdoing to a recipient who is not authorised to receive that Disclosure such as the media or members of the public.
- (c) An FHFNZ Group Worker who is reporting serious wrongdoing is required to act professionally and with due regard to the potential seriousness of the allegations, including maintaining appropriate confidentiality.
- (d) An FHFNZ Group Worker must not make a Disclosure that they know to be false, exaggerate or otherwise act deceitfully or maliciously when making a Disclosure.

(5) Protection of Whistleblowers

- (a) Subject to requirements of Clauses 4(3) and 4(4) of this Policy, no FHFNZ Group Worker who:
 - (i) makes a Disclosure of information or who volunteers information in support of a Disclosure; or
 - (ii) refers a Disclosure of information to an appropriate authority for investigationis liable to any disciplinary proceeding by reason of having made or referred that Disclosure of information. No FHFNZ Group Worker who discloses information in good faith under this policy will suffer reprisals or victimisation nor will their career be affected in any way. Note that additional protections exist in New Zealand under the Protected Disclosures Act 2000.
- (b) If a concern is raised but after investigation it turns out that there is a genuine and innocent explanation the matter will be treated as closed. The fact of having raised the concern will in no sense reflect badly on the FHFNZ Group Worker.
- (c) Where a Worker in New Zealand feels they have been victimised or retaliated against for making a general Disclosure or a protected Disclosure under the Act, they may take a personal grievance under the Employment Relations Act 2000 or make a complaint under the Human Rights Act 1993. An FHFNZ Group Worker may also take a personal grievance or make a complaint under the relevant legislation.
- (d) The FHFNZ Group treats any allegation of victimisation or retaliation seriously. Allegations of this nature that are established may result in disciplinary action, including dismissal.



(6) Managing Disclosures - Responding to the Whistleblower

- (a) The person who receives the Disclosure must:
- (i) respond to the Disclosure as soon as possible through the process described in this policy;
 - (ii) tell the Whistleblower about their rights under this policy (including their right to remain anonymous), how their Disclosure will be handled, and the likely timeframe for the investigation;
 - (iii) avoid revealing the identity of the Whistleblower (or any other person who volunteered information in support of a Disclosure) unless:
 - the person who made the Disclosure consented in writing to this information being released, or
 - releasing the identifying information is essential in order for the allegations to be properly investigated, or to prevent serious risk to public health or safety or to the environment, or to comply with the principles of natural justice;
 - (iv) notify the relevant Worker in all instances before their name or other identifying information is disclosed; and
 - (v) convene the Investigating Committee (described below) to investigate and manage the Disclosure.

(7) Responsibilities of the Investigating Committee

- (a) All complaints made under this policy must be investigated by the Investigating Committee.
- (b) The Investigation Committee will consist of:
- (i) the Executive Director;
 - (ii) the People & Culture Adviser; and
 - (iii) the Finance & Operations Director

unless any of those individuals are involved in the Wrongdoing or have a personal relationship or association with someone who is involved in the Wrongdoing, in which case they will be excluded from the Investigating Committee.

In all cases involving safeguarding, child safeguarding or sexual misconduct, a Safeguarding Officer will join the Investigating Committee. The contact details of the Safeguarding Officers can be found in Appendix 1.

The Investigation Committee can involve an independent third party or additional members if appropriate.

- (c) The Investigating Committee will:
- (i) determine if a Wrongdoing has occurred;
 - (ii) respect the rights of both the Whistleblower and the person(s) against whom the Disclosure is made, including by recruiting an independent third party to investigate where appropriate;
 - (iii) determine the appropriate course of action, including making recommendations appropriate to remedying any defects in practices or to deal with any unlawful activity that is revealed; and
 - (iv) keep the Whistleblower updated and informed of the outcome (provided the Whistleblower is not anonymous).



- (d) The Investigating Committee must ensure:
 - (i) appropriate remedies are made available to people who have been subject to retaliation for making a Disclosure;
 - (ii) appropriate action is taken against wrongdoers; and
 - (iii) appropriate action is taken against Workers who retaliate against whistleblowers who made a Disclosure in good faith.

5 POLICY REVIEW

- (1) This policy will be subject to a triennial review by FHFNZ Management and the Board of Trustees.

6 RELATED LEGISLATION AND DOCUMENTS

United Nations Convention against Corruption
Relevant country law where The FHFNZ Group works
New Zealand Employee Relations Act 2000
New Zealand Human Rights Act 1993
New Zealand Protected Disclosures Act 2000
New Zealand Council for International Development Code of Conduct
FHFNZ Group's Code of Conduct



Document control & amendment history

Document Control			
Document Title	Whistleblower Policy		
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Amendment History			
Version No.	Purpose/Change	Author	Date
October 2014	New policy	Legal & Development Effectiveness Manager	October 2014
2.0	Simplifying the process, making the language more accessible, ensuring the policy is applicable across the region, and emphasising safeguarding.	Legal & Development Effectiveness Manager	21.03.19



APPENDIX - CONTACT DETAILS

First point of contact

People & Culture Advisor - Bronny Raine

Email: braine@hollows.nz

Phone: 021 780 973

Address: The Fred Hollows Foundation NZ, Level 5, 41 Shortland Street, Auckland Central, Auckland 1010

Second point of contact

Executive Director - Andrew Bell

Email: abell@hollows.nz

Phone: +64 27 27 123 06

Address: The Fred Hollows Foundation NZ, Level 5, 41 Shortland Street, Auckland Central, Auckland 1010

Third point of contact

Board Chair - Craig Fisher

Email: craig.fisher@rsmnz.co.nz

Phone: +64 21 899 848

Address: RSM New Zealand, 1 Broadway, Newmarket, Auckland 1023

Safeguarding Officers

Jordana Dawson Hayes, Legal & Development Effectiveness Manager

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Address: The Fred Hollows Foundation NZ, Level 5, 41 Shortland Street, Auckland Central, Auckland 1010

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