

## **PROTECTED DISCLOSURES ACT 2000 WHISTLEBLOWING POLICY**

### **1. Introduction**

- 1.1 The Protected Disclosures Act 2000 ("the Act") – the purpose of the Act is to protect people who make an allegation of serious wrongdoing within Marsden Maritime Holdings Ltd (MMH).
- 1.2 The Act applies to both public and private organisations. MMH has adopted this policy in order to meet its obligations under the Act. As a major supplier of essential services MMH believes that this policy is necessary for the benefit of the Company, shareholders, staff and customers.
- 1.3 The purpose of the policy is to provide an internal procedure for staff to report any serious wrongdoing at MMH. Staff will be protected from any retaliatory action by MMH if the report of serious wrongdoing is made in accordance with this policy and the Act.

### **2. Application**

- 2.1 This policy only covers the disclosure of serious wrongdoing by MMH and is not intended to replace the standard internal procedures or employment issues or complaints contained in any individual or collective employment agreements.

### **3. Disclosures**

- 3.1 Before reporting any serious wrongdoing you must:
  - (a) be an employee of MMH;
  - (b) have information about serious wrongdoing by or at MMH;
  - (c) believe on reasonable grounds that this information is true or likely to be true;
  - (d) want the serious wrongdoing to be investigated; and
  - (e) want your disclosure to be protected.
- 3.2 If you report serious wrongdoing in accordance with clause 3.1(a) to (e) then it will be a protected disclosure for the purposes of the Act.

- 3.3 You may report serious wrongdoing in writing by letter or email or by telephone or in person.
- 3.4 When reporting serious wrongdoing you must:
  - (a) identify the person or persons you believe is or are involved in serious wrongdoing; and
  - (b) specify the nature of the serious wrongdoing.

#### **4. Procedure for Disclosures**

- 4.1 You must report any serious wrongdoing to the Chief Executive.
- 4.2 If you believe that the Chief Executive is, or may be involved, alone or in concert in the serious wrongdoing, then you must report the serious wrongdoing to the Chairman.

#### **5. Investigation**

- 5.1 If you report serious wrongdoing then an investigator must be appointed to investigate and report on the serious wrongdoing.
- 5.2 The investigator will be appointed by the Board.
- 5.3 The investigator must use his or her best endeavours to keep your identity confidential unless:
  - (a) you consent in writing; or
  - (b) the investigator reasonably believes that disclosure of your identity is essential to an effective investigation.
- 5.4 All reports of serious wrongdoing will be investigated within 20 working days of the report of wrongdoing being received.
- 5.5 The investigation must comply with the principles of natural justice which include:
  - (a) the investigator must be unbiased and impartial;
  - (b) a decision must only be made once all parties have been given the opportunity to be heard;
  - (c) all parties must be given reasonable notice of any interview;
  - (d) all parties must be advised that he or she may be represented at any interview; and
  - (e) all parties must be given a reasonable opportunity and period of time to respond to the allegation.
- 5.6 The investigator must produce any report in writing outlining the allegation of serious wrongdoing, any responses to the allegation, any supporting evidence and an assessment of the allegation with recommendations.

5.7 The report must in the first instance be provided to the person appointing the investigator.

## **6. Protection for Employees**

6.1 If you report serious wrongdoing in accordance with this policy then you will be protected under the Act.

6.2 If you make a protected disclosure and claim to have suffered retaliatory action from MMH or other persons affecting your relationship with MMH then you may take a personal grievance under the Employment Relations Act 2000.

6.3 MMH will not tolerate any attempt by any employee or contractor to apply any sanction or detriment to any person who has reported serious wrongdoing.

6.4 MMH will treat any such action or detriment by its employees as a serious disciplinary matter.

6.5 Where such sanction or detriment is undertaken by a contractor, MMH will regard this as a breach of contract.

## **7. Immunity to Civil and Criminal Proceedings**

7.1 If you make a protected disclosure in accordance with clause 3.1 then you are not liable to any civil or criminal proceeding or to a disciplinary proceeding by reason of having made or referred that disclosure of information.

7.2 This immunity from civil and criminal proceedings applies notwithstanding any contractual agreement you may have signed with MMH .

## **8. Limits on Protection and Disclosure**

8.1 The protection you are given under the Act does not apply where you make an allegation which you know to be false or if you acting in bad faith.

8.2 You are not allowed under the Act to disclose any information protected by legal professional privilege. This includes legal advice given to MMH or reports commissioned by MMH for the purposes of litigation.

## **9. Definitions**

9.1 **“Employee”** in relation to an organisation includes:

(a) a current employee

(b) a former employee

(c) a homemaker within the meaning of section 5 of the Employment Relations Act 2000

- (d) a person seconded to MMH
  - (e) an individual who is engaged or contracted under a contract for services to do work for MMH
  - (f) a person concerned in the management of MMH.
- 9.2 **“Investigator”** means a person independent of the person or persons who is or are alleged to have committed serious wrongdoing.
- 9.3 **“Serious wrongdoing”** includes any serious wrongdoing of any of the following types:
- (a) an unlawful, corrupt, or irregular use of MMH's funds or resources;
  - (b) an act, omission, or course of conduct that constitutes a serious risk to public health or public safety or the environment.
  - (c) an act, omission, or course of conduct that constitutes a serious risk to the maintenance of law, including the prevention, investigation, and protection of offences and the right to a fair trial;
  - (d) an act, omission, or course of conduct that constitutes an offence, or
  - (e) an act, omission, or course of conduct by an employee that is oppressive, improperly discriminatory, or grossly negligent, or that constitutes gross mismanagement.
  - (f) an act, or course of conduct that endangers the health and safety of an employee, which includes violent and threatening behaviour.

**10.** This Policy is to be reviewed within a three year period.