

Policy No: 4.11	Policy Name: Whistleblowers
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Applies to:	Version:
Date Approved:	Approved by:
	Review Date:

1. Purpose

This policy promotes an organisational culture built upon personal and business integrity and seeks to provide a supportive work environment where individuals can report serious wrongdoing without fear of retaliatory action or retribution.

2. Policy statement

The [Service name] Board is committed to the operation of its service in a manner that is consistent with its Vision, Mission and Values and, in doing so, expects its employees, contractors and board members to uphold the highest standards of legal, ethical and moral behaviour in their work and the performance of their duties and functions.

3. References

Associations Incorporation Act 2009 (NSW)

4. Definitions

Whistleblowing is the disclosure of actual or suspected wrongdoing in an organisation that reveals fraud, corruption, illegal activities, gross mismanagement, malpractice or any other serious wrongdoing.

A **whistleblower** is a person who reports serious wrongdoing in accordance with this policy.

Serious wrongdoing is conduct that:

- Is fraudulent or corrupt;
- Is illegal, such as theft, drug sale or use, violence, bullying, harassment, criminal damage to property or other breaches of State or Federal legislation;
- Is unethical, such as acting dishonestly; altering organisational records; wilfully making false entries in the books and records; engaging in questionable accounting practices or wilfully breaching the [Service name] Code of Conduct or other ethical statement;
- Is potentially damaging to [Service name], such as deliberate or substantial waste of resources;
- Is seriously harmful or potentially seriously harmful to an individual, such as deliberate unsafe work practices or wilful disregard for the safety of others in the workplace;
- Is seriously harmful, or potentially seriously harmful or unethical towards a person who uses our services;
- May cause serious financial or non-financial loss to [Service name] or damage its reputation, or be seriously contrary to [Service name] interests;
- Involves any kind of serious impropriety including retaliatory action against a Whistleblower for having made a disclosure of, or reporting, wrongdoing.

5. Procedure

Responsibilities

Whistleblower

- Acts in good faith with reasonable grounds for believing the disclosure constitutes serious wrongdoing
- Provides information to assist any inquiry / investigation of the serious wrongdoing disclosed.

Whistleblower Disclosure Officer

The Manager [Service name] is the designated position within [Service name] responsible for:

- Receiving, forwarding and / or acting on disclosures made in accordance with this policy
- Appointing Investigator(s) and considering when making appointments
 - Cultural or other specialist needs
 - Independence of the area that is the subject of the wrongdoing report
 - Appropriate experience
 - The requirement for an Investigator to be internal or external to [Service name]
- Reporting the investigation outcomes and recommended action to the Board Chairperson as agreed and recording the outcomes in the [Service name] risk register.

Whistleblower Protection Officer

- Provides mentoring and other support to the Whistleblower if required or requested
- Keeps the Whistleblower informed of the progress and outcomes of the inquiry / investigation subject to considerations of privacy of those against whom the allegations have been made.

Investigator

- Ensures the proper conduct of an investigation under the guidance of the Whistleblower Disclosure Officer, and in accordance with guiding principles for investigation under this policy
- Seeks the advice of internal and external experts as required and as approved by the Whistleblower Disclosure Officer
- Keeps the Whistleblower Disclosure Officer and Whistleblower Protection Officer informed of progress
- Reports the outcome of any investigation undertaken under this policy to the Whistleblower Disclosure Officer.

Policy principles

Legislation

The *Associations Incorporation Act 2009 (NSW)* contains provisions and protections relating to certain activities of whistleblowers. The legislation may provide certain statutory protections from civil or criminal liability for making disclosures. However, not all disclosures or reports of serious wrongdoing are protected by law. Whether the disclosure is protected will depend on the whistleblower's role, to whom the disclosure is made, whether the whistleblower provided their name, the grounds on which the suspicions are based and whether the disclosure was made in good faith.

[Service name] provides protection to the Whistleblower to the minimum required by the law and beyond this level wherever practical.

- Reporting serious wrongdoing under this policy does not protect a Whistleblower from any liability and consequences of any personal involvement in the wrongdoing
- Subject to the disclosure by a Whistleblower being made in good faith and not being found to be a malicious or vexatious complaint, a Whistleblower is not to be disadvantaged or victimised by:
 - Dismissal, demotion, current or future bias
 - Any form of discrimination or harassment
 - Threats of any of the above
- [Service name] will not tolerate retaliatory action or threats of retaliatory action against any Whistleblower, or against the person's colleagues or relatives
- A Whistleblower who believes that retaliatory action has occurred or been threatened, should inform the Whistleblower Disclosure Officer who will investigate the matter
- Any retaliatory action or threat will be treated seriously and for employees will result in disciplinary action which may include dismissal, or for non-employees, other appropriate sanctions.

Confidentiality

[Service name] will make every effort to protect the Whistleblower's identity from disclosure.

- There will be occasions where this is not possible and disclosure is necessary to report the matter to the police, other law enforcement agencies, prosecutorial authorities or regulators
- Where the disclosure is required or authorised by law
- Where the nature of the allegation is such that the identity of the Whistleblower can be deduced from the information provided
- Where disclosure to other [Service name] people including the Whistleblower Protection Officer and/or Investigator is necessary to investigate or address the disclosure
- [Service name] will treat seriously any unauthorised disclosure of information relating to a whistleblowing report, or the identity of a Whistleblower, or information from which the identity of the Whistleblower could be inferred. Such action by an employee will result in disciplinary action which may include dismissal, or for non-employees, other appropriate sanctions
- [Service name] will also take reasonable steps to store any records relating to a reported disclosure securely and limit access only to authorised people.

Anonymous reports of serious wrongdoing

Anonymous reports of serious wrongdoing are accepted under this policy. However, it should be noted that anonymous reports present significant limitations that inhibit a proper and appropriate inquiry and investigation.

Unfounded reports of serious wrongdoing

A Whistleblower should, to the extent possible, exercise due care regarding the accuracy of information when reporting serious wrongdoing under this policy. If a Whistleblower makes a report in good faith, which is not confirmed by subsequent investigation, no action will be taken against the Whistleblower.

Malicious or vexatious reports of serious wrongdoing

A Whistleblower who makes malicious or vexatious allegations will not be entitled to the protections afforded to Whistleblowers under this policy. [Service name] treats seriously any unsubstantiated allegations found to have been made maliciously or knowingly to be false. Such action by an employee will result in disciplinary action which may include dismissal, or for non-employees, other appropriate sanctions.

Other mechanisms for raising complaints, grievances or issues

This Whistleblower policy applies to wrongdoings of a serious nature. It does not apply to, or replace, other reporting structures such as those for dispute resolution, discrimination or matters relating to Reportable Conduct and Reportable Convictions under the Ombudsman Act 1974 (NSW) or Disability Inclusion Act 2014 (NSW).

When a disclosure or report of wrongdoing is received

When a serious wrongdoing report is received, the Whistleblower Disclosure Officer may:

- Provide appropriate support to the Whistleblower
- Write a record of any verbal disclosure with the Whistleblower's signature and date
- Take reasonable steps to securely store any written records
- Appoint a Whistleblower Protection Officer
- Appoint a qualified Investigator
- Refer the disclosure report to the Investigator for investigation or further enquiry
- Receive reports from the investigator
- Determine what action should be taken based on the findings and any recommendations
- Report the investigation, and the findings and recommendations to the Board Chairperson
- Record the outcomes in the risk register
- Take whatever steps are necessary to protect the Whistleblower

Investigation of serious wrongdoing

The Whistleblower Disclosure Officer will appoint a suitably experienced Investigator with regard to cultural or other specialist needs, independence from the area that is the subject of the wrongdoing report and the requirement to be internal or external to [Service name].

Under the guidance of the Whistleblower Disclosure Officer, the investigation is conducted in accordance with the following principles:

The Investigator:

- Explains the investigation process to the Whistleblower
- Identifies any circumstances relevant to the maintenance of confidentiality
- Informs the Whistleblower of the level of confidentiality applied to their identity and disclosure report
- Informs the Whistleblower of their right to be accompanied by a support person at any future interview or hearing held under these procedures
- Seeks full details and any required clarification of the disclosure, where possible, from the Whistleblower
- Determines, in consultation with the Whistleblower Disclosure Officer, any need to involve internal / external auditors or legal counsel and any other law enforcement agency at any stage

- Conducts the investigation in a fair and independent manner. Unless it is not appropriate or reasonably practicable to do so in the circumstances, this includes ensuring that any individual who is the subject of the disclosure is given a reasonable opportunity to answer the concerns before the investigation is finalised
- Engages where appropriate, other individuals / bodies to assist with or conduct the investigation
- Conducts relevant interviews and reviews data
- Keeps the Whistleblower Disclosure Officer informed of progress, as appropriate, throughout the investigation
- On completion of the investigation, prepares a written Investigation Report concerning the disclosure. This Investigation Report contains details of the concern / allegation and the findings and / or recommendations of the investigation
- Provides the written report to the Whistleblower Disclosure Officer.

Investigation outcomes

The Whistleblower Disclosure Officer will:

- Review any Investigation Report and decide what action is required, by law and / or organisational response, which may include appropriate disciplinary action
- Report the Investigation outcomes and recommended actions to the Board Chairperson and record outcomes in the risk register

If the Whistleblower is dissatisfied with the outcome and internal procedures are exhausted, [Service name] recognises the lawful rights of individuals to make disclosures to any relevant regulatory bodies or external stakeholders.

6. Related documents

To be reviewed and added to as part of the quality review cycle.

7. Review

Reviewing and approving this policy		
Frequency	Person responsible	Approval
[How often will this policy be reviewed]	[Position of person responsible for reviewing policy]	[position of person/group who approves this policy]

Policy review and version tracking			
Review	Date approved	Approved by	Next review date
1			
2			
3			