

Whistleblower Policy

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Drafted by	Sarah Stoddart	Approved by Board on	14 May 2020
Responsible person	Board	Scheduled review date	14 May 2023

INTRODUCTION

Queensland Alliance for Mental Health (QAMH) is committed to fostering a culture of legal, ethical and moral behaviour and exemplary corporate governance.

QAMH recognises the value of transparency and accountability in its administrative and management practices, and supports the reporting of improper conduct.

This Whistleblower Policy and Procedure enables Eligible Whistleblowers to raise concerns regarding situations where they believe that QAMH or a related body corporate of QAMH has acted in a way that constitutes serious wrongdoing or misconduct. The Policy and Procedure is not intended to be used for the purpose of raising workplace grievances.

PURPOSE

This purpose of this Policy is to:

- encourage disclosure of wrongdoing;
- improve the whistleblowing culture of QAMH and increase transparency in how disclosures of wrongdoing are handled;
- provide protections for individuals who disclose wrongdoing;
- ensure that any Reportable Conduct is identified and dealt with appropriately;
- deter wrongdoing and promote compliance with the law;
- ensure that QAMH maintains the highest standards of ethical behaviour and integrity.

SCOPE

This policy and procedure applies to QAMH's Board Members, Committee Members, employees, contractors, volunteers, suppliers and consultants ("Workers"). It also applies to any associate, family member or dependant of any Worker. For the purpose of this Policy and Procedure, Workers and any associate, family member or dependent of a Worker are "Eligible Whistleblowers".

Eligible Whistleblowers may report improper conduct in good faith if they know or have reasonable grounds to suspect such conduct. Eligible Whistleblowers who make a report in accordance with the terms of this Policy will be afforded the rights and protections set out in this Policy. QAMH expects Eligible Whistleblowers who elect to report improper conduct in accordance with the terms of this Policy and Procedure to act honestly and ethically and to make a report on reasonable grounds.

This Policy and Procedure has been implemented to ensure that QAMH complies with its legal obligations. If anything in this Policy and Procedure is inconsistent with any law imposed on QAMH, the law will prevail over this Policy and Procedure to the extent of the inconsistency.

REPORTABLE CONDUCT

Who is a Whistleblower?

A whistleblower is a person who, whether anonymously or not, discloses misconduct or dishonest or illegal activity that has occurred in connection with an organisation, such as QAMH, and who wishes to avail themselves of protection against reprisal for having made the report.

To be protected by this Policy, a whistleblower must be an Eligible Whistleblower.

What can an Eligible Whistleblower disclose?

An Eligible Whistleblower may disclose any conduct in relation to a Disclosable Matter that the Eligible Whistleblower has reasonable grounds to suspect concerns or may concern misconduct, or an improper state of affairs, activities, behaviours or circumstances in relation to:

- QAMH; or
- a related body corporate of QAMH.

("Reportable Conduct").

What is a Disclosable Matters?

An Eligible Whistleblower may disclose any past, present or likely future Reportable Conduct considered or likely to be:

- dishonest;
- corrupt (including but not limited to soliciting, accepting or offering a bribe, or facilitating payments or other such benefits);
- fraudulent;
- in breach of any law, regulation, policy or code;
- improper conduct relating to accounting, internal controls, compliance, actuarial, audit or other matters of concern to the Whistleblower;
- a serious impropriety or an improper state of affairs or circumstances;
- an endangerment to health or safety;
- damaging to the environment;
- a serious mismanagement of QAMH's resources;
- detrimental to QAMH's financial position or reputation;
- maladministration (that is, an act or omission of a serious nature that is negligent, unjust, oppressive, discriminatory or is based on improper motives);
- concealing Reportable Conduct

("Disclosable Matters").

Disclosable Matters usually relate to the conduct of at least one Worker, but can also relate to the actions of a third party, such as a funder, member or service provider of QAMH.

What is *not* a Disclosable Matter?

QAMH encourages any concerns to be reported via the appropriate channels and otherwise in accordance with QAMH's policies and procedures. However, not all types of Reportable Conduct are

intended to be covered by this Policy or by the whistleblower protections under the *Corporations Act 2001* (Cth).

This Policy does not apply to:

- service related complaints;
- work-related grievances; or
- disclosable matters that do not qualify for protection under the *Corporations Act 2001* (Cth).

Personal work-related grievances

For the avoidance of doubt, work-related grievances are grievances that relate to the discloser's current or former employment with QAMH that may have implications for the discloser personally but do not:

- have any other significant implications for QAMH (or any other entity); or
- relate to any actual or alleged Disclosable Matter.

Work-related grievances include grievances such as interpersonal conflicts, decisions about promotions, decisions that do not involve a breach of workplace laws, or terms and conditions of employment.

Work-related grievances may be covered by this Policy where the grievance includes information about misconduct, an allegation that QAMH has breached employment any law punishable by imprisonment by a period of 12 months or more, or the grievance includes victimisation due to whistleblowing.

What information does an Eligible Whistleblower need to make a disclosure?

To make a disclosure, the Eligible Whistleblower must know of or have reasonable grounds to suspect Reportable Conduct.

For a disclosure about Reportable Conduct to be investigated, it must contain enough information to form a reasonable basis for investigation. Therefore, it is important that when reporting the Reportable Conduct the Eligible Whistleblower provides as much information in relation to the Reportable Conduct as possible. This includes any known details about the events underlying the Reportable Conduct including but not limited to:

- date;
- time;
- location;
- name of person(s) involved;
- possible witnesses to the events; and
- evidence of the events (e.g. documents, emails).

The Eligible Whistleblower should include in their disclosure any steps that they have already taken to report the matter elsewhere or to resolve the concern themselves.

How does a Whistleblower make a disclosure?

A disclosure about Reportable Conduct may be made to:

- the Chair of the QAMH Governance Sub-Committee (unless the Reportable Conduct is in relation to the Chair in which case the disclosure can be made to any member of the QAMH Governance Sub-Committee;

- SRJ Walker Wayland Audit Team, being QAMH’s external auditor on (07) 3490 9988.

(“**Whistleblowing Protection Officer**”).

The disclosure may be made by telephone, email or post.

An Eligible Whistleblower may also make a disclosure in connection with QAMH:

- to the Australian Securities and Investments Commission (**ASIC**), the Australian Prudential Regulation Authority (**APRA**) or another Commonwealth regulatory body prescribed in legislation;
- to an Australian legal practitioner for the purposes of obtaining legal advice or legal representation about whistleblower protections; or
- that qualifies as an emergency or public interest disclosure under the Corporations Act 2001 (Cth). It is important that the Eligible Whistleblower understands the criteria for making a public interest or emergency disclosure before making the disclosure. The Eligible Whistleblower may wish to consult an independent legal adviser before making a public interest or emergency disclosure.

Each of the persons or bodies named in the preceding paragraphs as persons or bodies eligible to receive a disclosure about Reportable Conduct are “Eligible Recipients” for the purposes of this Policy.

If an Eligible Whistleblower needs to obtain additional information before making a disclosure about Reportable Conduct, the Eligible Whistleblower should contact either the Chair of the QAMH Governance Sub-Committee or the CEO of QAMH.

QAMH encourages Eligible Whistleblowers to contact QAMH regarding any Reportable Conduct, Disclosable Matter or further information regarding the contents or application of this Policy.

When can an Eligible Whistleblower make a disclosure?

An Eligible Whistleblower may make a disclosure about Reportable Conduct at any time, including outside of QAMH’s ordinary business hours. A disclosure may be made anonymously.

Unless otherwise stated in this Policy, all disclosures are treated confidentially and securely. For the avoidance of doubt, an anonymous disclosure made about Reportable Conduct is protected by this Policy and the *Corporations Act 2001* (Cth).

PROTECTION

How will a Whistleblower be protected if he/she discloses Reportable Conduct?

Provided the Eligible Whistleblower has acted honestly and ethically and has reasonable grounds to suspect Reportable Conduct, QAMH will provide protection to an Eligible Whistleblower and anyone else conducting, assisting or participating in the investigation of any actual or alleged Reportable Conduct. Such protection includes the protections afforded by the *Corporations Act 2001* (Cth).

Whistleblowers may also be entitled to the following legal protections for making a report of Reportable Conduct:

- protection from civil, criminal or administrative legal action;
- protection from having to give evidence in legal proceedings; and/or

- compensation or other legal remedy.

QAMH will not tolerate any detriment inflicted on an Eligible Whistleblower because the Eligible Whistleblower or somebody else has made, or may make a report of, Reportable Conduct. Examples of a detriment include but are not limited to:

- retaliation, dismissal, suspension, demotion, or termination of your role;
- bullying, harassment, threats or intimidation;
- discrimination, subject to current or future bias, or derogatory treatment;
- harm or injury;
- damage or threats to your property, business, financial position or reputation; or
- revealing your identity as a Whistleblower without your consent or contrary to law;
- threatening to carry out any of the above actions.

If any person reasonably believes they have suffered a detriment as a result of a report of Reportable Conduct, QAMH encourages the person to report the detriment immediately to the CEO of QAMH, the Chair of the QAMH Governance Sub-Committee or the audit team of SRJ Walker Wayland. All reports of detriment in violation of this Policy will be treated as a disclosure of Reportable Conduct in accordance with this Policy.

Anyone found to be victimising or disadvantaging another individual for making a report in accordance with this Policy will be subject to disciplinary action and may be dismissed or subject to criminal or civil penalties.

How will QAMH ensure confidentiality?

QAMH will endeavour to maintain confidentiality of all disclosures of Reportable Conduct and protect the identity of Eligible Whistleblowers to the fullest extent possible. QAMH encourages Eligible Whistleblowers to identify themselves when making a disclosure however an Eligible Whistleblower may choose to remain anonymous.

All information provided by an Eligible Whistleblower, including the identity of the Eligible Whistleblower, will be treated confidentially to the fullest extent possible and will not be disclosed to any third party unless:

- the Eligible Whistleblower provides written consent to the disclosure of his/her details;
- the disclosure is made to ASIC, APRA or the Australian Federal Police (“AFP”);
- the disclosure is made to an Australian legal practitioner for the purpose of obtaining advice;
- the disclosure is authorised under the *Corporations Act 2001* (Cth); or
- the disclosure is necessary to prevent or reduce a threat, or the likelihood of a threat, to a person’s health, safety or welfare.

QAMH will take reasonable measures to protect the identity of the Eligible Whistleblower including to:

- redact personal information contained in documents relating to the disclosure;
- store all information relating to the concern or report securely;
- refer to the Eligible Whistleblower in a gender-neutral context when possible; and
- only permit the person who received the disclosure from the Eligible Whistleblower and any other qualified and suitable person reasonably required to assist with the investigation to investigate the report unless otherwise advised to the Eligible Whistleblower. If the Eligible

Whistleblower elects to remain anonymous, QAMH may involve other persons in the investigation in its sole direction without first attempting to advise the Eligible Whistleblower.

If an Eligible Whistleblower has reasonable grounds to believe that his/her confidentiality has been breached, the Eligible Whistleblower may lodge a complaint with ASIC, APRA or the ATO.

QAMH may take disciplinary action against individuals that breach the confidentiality of an Eligible Whistleblower. Such action may include but are not limited to dismissal.

False reports or disclosures

Protected disclosures about Reportable Conduct must be made on reasonable grounds. Anyone who knowingly makes a false disclosure of Reportable Conduct may be subject to disciplinary action, including but not limited to dismissal.

MONITORING AND COMPLIANCE

This Policy will be distributed and made available to all Workers via SharePoint and included in induction pack upon commencement of the Workers employment or engagement with QAMH. A copy of the policy will also be made available on the QAMH website.

QAMH will use provide ongoing training and information to its Workers in relation to the contents and application of this Policy as reasonably required from time to time.

To ensure effective protection under the Policy, the Board of QAMH will monitor and review this Policy every two (2) years unless otherwise required by law or due to a change of circumstances.

RELATED DOCUMENTS

- 1.1 Whistleblowing Procedure
- 1.2 Legislative Compliance Policy
- 1.3 Code of Ethics Policy
- 1.4 Confidentiality Policy
- 1.5 Copyright Policy
- 1.6 Staff Grievances and Dispute Resolution Policy

LEGISLATION

- Corporations Act 2001 (Cth)
- Fair Work Act 2009 (Cth)
- Fair Work Regulations 2009 (Cth)
- Insurance Act 1973
- Life Insurance Act 1995
- Public Interest Disclosure Act 2013
- Superannuation Industry (Supervision) Act 1993
- Taxation Administration Act 1953

Whistleblowing Procedure

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1. Responsibilities

Whistleblowing Protection Officer(s) are responsible for:

- receiving disclosures and protecting the interests of Eligible Whistleblowers;
- determining whether the disclosure falls within the scope of this Policy and Procedure;
- determining whether and how a disclosure should be investigated;
- appointing a Whistleblowing Investigator where an investigation is deemed appropriate;
- ensuring investigations are conducted in accordance with this Policy and Procedure;
- ensuring any disclosures involving a Director or the Chief Executive Officer are reported to the Chair of the Governance Sub-Committee or if the Chair of the Governance Sub-Committee is the subject of the report, to the Chair of the Board;
- updating Eligible Whistleblowers on progress and details of outcomes to the fullest extent possible
- maintaining to the fullest extent possible confidentiality of the identity of and disclosures received by Eligible Whistleblowers
- immediately reporting concerns in relation to any detrimental conduct to the Chair of the Governance Sub-Committee or if the Chair of the Governance Sub-Committee is the subject of the report, to the Chair of the Board;
- determining the appropriate courses of action to remediate or act on an investigation;
- reporting matters to relevant authorities as appropriate or required by law;
- making recommendations to prevent future instances of reportable conduct;

seeking to ensure the integrity of this Policy and Procedure is maintained

Whistleblower Investigators are responsible for:

- investigating disclosures made in accordance with this Policy and Procedure;
- maintaining to the fullest extent possible confidentiality of the identity of and reports received by reporters ;
- gathering evidence and taking steps to protect or preserve evidence ;
- making findings based on a fair and objective assessment of the evidence gathered during the investigation, and formalising this in a report;
- keeping comprehensive records about the investigation;
- making recommendations to the Whistleblowing Protection Officer about how to implement the strategy in relation to how reported misconduct can be stopped, prevented and/or mitigated in future
- reporting back to the Whistleblower Protection Officer on the progress of their investigation 7 days after the report and every 14 days thereafter
- complying with the directions of the Whistleblower Protection Officer in relation to any further follow up, and reporting action and requirements, including the implementation of any recommendations.

Workers are responsible for reporting misconduct or dishonest or illegal activity that has occurred or is suspected within QAMH as quickly as possible, whether anonymously or otherwise.

PROCEDURE

How do I make a disclosure?

Whistleblowing protections will only apply to disclosures of Reportable Conduct made in accordance with this Policy and Procedure.

Where an Eligible Whistleblower has reasonable grounds to suspect Reportable Conduct, the Eligible Whistleblower should disclose the matter to a Whistleblower Protection Officer in accordance with this Policy and Procedure.

How are disclosures investigated?

Within 14 days of receiving a disclosure about Reportable Conduct, the Whistleblower Protection Officer will:

- assess the disclosure and determine whether the disclosure qualifies for protection and/or further investigation under this Policy and Procedure;
- consider whether there are any conflicts of interest prior to investigating the disclosure;
- determine whether any external authorities or regulatory bodies need to be notified of the disclosure;
- determine how the disclosure will be investigated; and
- appoint a Whistleblowing Investigator if appropriate.

If the Whistleblowing Protection Officer determines that the disclosure will be investigated, the investigation will be conducted fairly, objectively, in a timely manner and by the nominated Whistleblowing Investigator. The length of the investigation process will depend on the nature of the Reportable Conduct, the information provided and the capacity of the Whistleblowing Investigator.

Any individuals who are accused of Reportable Conduct in a disclosure (a Respondent) will be provided with an opportunity to respond to the allegations before any adverse findings are made against them and before any disciplinary action (if appropriate) is taken. If a Respondent declines or refuses to provide a response to any allegations or proposed disciplinary action, the Whistleblowing Investigator or the Whistleblowing Protection Officer as the case may be may make a decision in the absence of a response.

The Whistleblowing Investigator may wish to speak with an Eligible Whistleblower as part of an investigation. If the identity of the Eligible Whistleblower is known, the Whistleblowing Investigator will contact the Eligible Whistleblower directly using the contact details provided by the Eligible Whistleblower or via the Whistleblower Protection Officer.

If the identity of the Eligible Whistleblower is not known, the ability for the Whistleblowing Investigator and/or the Whistleblower Protection Officer to communicate with the Eligible Whistleblower may be limited or impossible. For this reason, Eligible Whistleblowers are encouraged to disclose their identity when making disclosure of Reportable Conduct.

If there is insufficient information to warrant further investigation of disclosure about Reportable Conduct, or the Whistleblowing Investigator at any time during the course of the investigation determines that the disclosure is malicious, vexatious or there is no case to answer, the Eligible

Whistleblower will be notified. QAMH reserves the right to take further action against any Whistleblower who is considered to have made a malicious or vexatious disclosure.

OUTCOME OF AN INVESTIGATION

At the conclusion of an investigation, the Whistleblowing Investigator will prepare a report for the Whistleblowing Protection Officer outlining:

- the relevant facts of the investigation;
- a finding of all relevant facts;
- a determination as to whether the subject matter of the disclosure has been substantiated or otherwise;
- recommended action to be taken (if any), which may include disciplinary action and dismissal.

Where possible and appropriate, having regard to QAMH's privacy and confidentiality obligations, the Eligible Whistleblower will be informed of the outcome of the investigation.

The report prepared by the Whistleblowing Investigator will at all times remain the property of QAMH and will not be disclosed to any third party unless required by law.