



85 Whistleblower Policy			
Version	APPROVAL	Effective Date	REVIEW DATE
001	CEO	01 May 2024	Every 2 years

ASES Standard	<p>Standard 2: Governance</p> <ul style="list-style-type: none"> Requirement 2.1 Sound Governance Standard Requirement 2.2 Policy and Procedures Standard <p>Standard 4: People</p> <ul style="list-style-type: none"> Requirement 4.1 Human Resources Standard
NRSCH Standard	PO 5 Probity a
Contractual Obligation(s)	NSW FACS Specialist Homelessness Services (SHSs) Funding Agreement: Lead Entity and/or Joint Working Agreements
Related Policies	<p>63 Professional Code of Ethics and Conduct Delegations of Authority Risk Management Financial Management Fraud Prevention Managing Staff Misconduct Disciplinary</p>

1. Scope

This policy provides legal protection to eligible whistleblowers who report suspected fraudulent or corrupt behaviour within SEARMS.

2. Purpose

The intent of this policy is to prevent fraudulent behaviour at SEARMS and to protect employees who disclose misconduct that occurs in the workplace.

3. Policy

SEARMS is committed to high standards of conduct and ethical behaviour. This policy establishes a process for staff to raise concerns of misconduct without fear of reprisal. It applies to all workplace participants (i.e., full-time, part-time, casual or volunteer) and to all Board members.

On 1 July 2019, new legislation relating to whistleblower protection was released. The legislation pertains to public companies and to large private companies, including the key elements of:

- an interpretation of what constitutes misconduct
- an interpretation of who is an 'eligible' whistleblower
- what whistleblowers are protected from
- to whom a whistleblower can make disclosures.



SEARMS supports the new whistleblower legislation. This policy ensures that all workplace participants comprehend their obligations in regard to making disclosures.

SEARMS will undertake a procedural fairness process when a report is made, by:

- informing the employee about the allegation against him or her
- investigating the allegation
- providing the employee with a reasonable opportunity to respond
- considering all the evidence and responses
- making a suitable decision based on all the relevant information.

All staff are encouraged to report any genuine matters or behaviour that they honestly believe constitutes as misconduct, which may include the following:

- a criminal offence that has been, is being, or likely to occur
- insolvent trading
- fraud
- failure to comply with legal and/or statutory reporting requirements
- money laundering
- activities that exploit organisations who receive government funding.

Examples may include:

Financial Reporting:

Falsification or destruction of business or financial records, misrepresentation or suppression of financial information, non-adherence to internal financial reporting policy/controls, including management over-rides, and auditor independence concerns.

Suspected Fraudulent Activity:

Theft, defalcation, and unlawful or improper payments.

Breaches of the Guidelines and other compliance policies

corrupt practice including giving or receiving bribes or other improper benefits, conflict of interest concerns, illegal, deceptive or anti-competitive sales practices, other violations of governing regulations, and non-adherence to internal compliance policies.

Retaliation or retribution against an individual who reports a concern

statements, conduct or actions involving discharging, demoting, suspending, harassing or discriminating against an individual reporting a concern in good faith in accordance with this Policy.

SEARMS includes this Policy in induction processes and provides staff with the necessary training and information to enable them to capably implement policies and procedures in the workplace.

4. Procedure

1. In terms of the eligible whistleblower

The *Treasury Laws Amendment (Enhancing Whistleblower Protection) Act 2019* defines an 'eligible whistleblower' as an individual who is, or has been, any of the following:

- an employee of the regulated entity
- an individual who supplies paid or unpaid services or goods
- an officer of the company (directors and senior managers)



- a relative or dependant of the above categories.

2. In terms of making a report

Anyone filing a written complaint concerning a violation or suspected violation must be acting in good faith and have reasonable grounds for believing the information disclosed indicates a violation. Any allegations that prove not to be substantiated and which prove to have been made maliciously or knowingly to be false will be viewed as a serious disciplinary offence.

A staff member who becomes aware of any matter or behaviour that he or she believes constitutes misconduct should raise the matter with (in order):

- his or her immediate Executive Officer
- the CEO (if raising the matter with the Executive Officer is not appropriate)
- the Chairperson, another Board member (if raising the matter with the CEO is not appropriate) or the external supervisor
- the funding body
- The Office of the Regulator of Indigenous Corporations (ORIC).
- The Registrar of Community Housing Providers

Details on how to lodge concerns re compliance breaches can be found at the following regulators websites:

ORIC <https://www.oric.gov.au/catsi-act/regulatory-powers>

NRSCH Registrar <https://www.form.nrsch.gov.au/>

It is expected that the CEO will advise funding body(ies) when there is substantial concern and when it is in accordance with any funding agreement(s). However, if this does not occur and the staff member still holds the same concerns, then he or she can advise the funding body and/or ORIC/NRSCH Registrar.

3. In terms of investigation

SEARMS will investigate all reported concerns and, when appropriate, provide feedback regarding the outcome. SEARMS will take any necessary course of action in response to a report; if no action is taken, then SEARMS will provide an explanation to the whistleblower.

An investigation will be conducted into the concerns that are raised—the scope of which will be proportional to the severity and seriousness of those concerns. This action may require consultation with the funding body.

It may be appropriate for the investigation to be outsourced to an independent investigator.

When an investigation is completed, a report will be prepared, including:

- the allegations
- a statement of all relevant findings of fact and the evidence used in reaching any conclusions
- the conclusions reached and their basis (including the damage caused, if any, and its influence on the organisation and other affected parties)



- the recommendations based on those conclusions to address any wrongdoing identified and any other matters arising during the investigation.

If staff misconduct was identified in the investigation, then the Unethical Conduct Policy is followed, along with the Disciplinary Policy if appropriate.

4. In terms of whistleblower protection

- Whistleblowers are protected from any civil, criminal or administrative liability.
- Any information that is disclosed is not admissible in evidence, except if the disclosure is challenged as false information.
- Whistleblowers are protected from victimising conduct, which includes discrimination, harassment, psychological harm and dismissal from their position.

5. In terms of anonymous disclosures

Under new legislation, whistleblowers can make anonymous disclosures. A civil or criminal penalty applies if anyone discloses the identity of a whistleblower who wishes to remain anonymous. Refer to the *Treasury Laws Amendment (Enhancing Whistleblower Protection) Act 2019* for a list of penalties.

SEARMS is committed to investigate all credible complaints. However, all parties should be aware that reporting anonymously can limit the ability of SEARMS to thoroughly investigate a report if insufficient information is provided.

5. Responsibilities

Responsibility	Delegation
Make a report	Chief Business Officer
Manage a report	Executive Officers
Manage an investigation	Chief Business Officer
Prepare a report	Chief Business Officer
Ensure whistleblower protection	Chief Executive Officer
Oversee disciplinary processes	Chief Executive Officer

6. Legislation

For more information on related legislation, please see:

- *Public Interest Disclosures Act 2013* (Cwlth)
http://www5.austlii.edu.au/au/legis/cth/consol_act/pida2013295/
- *Crimes Act 1900* No. 40
<https://www.legislation.nsw.gov.au/~view/act/1900/40>
- *Associations Incorporation Act 2009* No. 7
<https://www.legislation.nsw.gov.au/~view/act/2009/7>
- *Associations Incorporation Regulation 2016*



<https://www.legislation.nsw.gov.au/regulations/2016-538.pdf>

- *Australian Securities and Investments Commission Act 2001* No. 51
<https://www.legislation.gov.au/Details/C2013C00002>
- *Charitable Fundraising Act 1991* No. 69
<https://www.legislation.nsw.gov.au/~view/act/1991/69>
- *The Fair Work Act 2009* No. 28
<https://www.legislation.gov.au/Details/C2017C00323>
- *Treasury Laws Amendment (Enhancing Whistleblower Protections) Act 2019* No. 10
<https://www.legislation.gov.au/Details/C2019A00010>

7. Further resources

- Whistleblowing at Your Not-for Profit: A Leader's Guide

<https://www.ourcommunity.com.au/files/whistleblowingbook.pdf>

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Version 001	CEO	Review update for ASES	1 May 2024	Every 2 years