



1. POLICY STATEMENT

- 1.1 Open Minds (OM) is committed to promoting a culture of professionalism and maintaining the highest standards of integrity and ethical behaviour. OM encourages the disclosure of wrongdoing under this Whistleblower Policy (Policy), to ensure that OM operates with a safe and secure work environment and any illegal or inappropriate practices are eliminated.
- 1.2 This Policy and accompanying procedures, including the Code of Conduct, Workers Complaints and Grievance Policy, Feedback and Complaints Policy and the Whistleblower Procedure form part of OM's overarching framework in dealing with wrongdoing.
- 1.3 This Policy does not prevent a Worker, Associate, Officer, Director, Committee Member, or other individual from reporting wrongdoing under any other applicable law or regulations.

2. PURPOSE

- 2.1 Given that wrongdoing can adversely impact on a range of people and cause reputational damage and harm, it is important that all Workers, Associates, Officers, Directors and Committee Members disclose wrongdoing.
- 2.2 As part of this process and to encourage the disclosure of wrongdoing, it is equally important that OM has policies and procedures in place to appropriately receive disclosures of wrongdoing and to properly assess and deal with disclosures.

3. SCOPE

- 3.1 This Policy applies to Open Minds' Directors, Officers, Associates, Committee Members, Workers (including managers, workers, secondees, volunteers, interns or persons undertaking work experience, and independent contractors and consultants engaged in providing paid or in-kind services to or on behalf of Open Minds).

4. DEFINITIONS

The following definitions apply for the purpose of this Policy:

Associate - has the meaning given to it by sections 10 - 17 of the Corporations Act. For example, a director or secretary of OM or a related company of OM.

Committee Member – means an external member of an Open Minds' Board Committee that is not a member of Open Minds

Corporations Act - means the *Corporations Act 2001 (Cth)*

Initial Contact - has the meaning as defined in OM's Whistleblower Procedure.

Officer - includes a director or company secretary of OM.

Worker – For the purpose of this policy, “worker” may include any of the following:

- a) an employee; or

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- b) a contractor or subcontractor or an employee of a contractor or subcontractor; or
- c) an employee of a labour hire company who has been assigned to work at Open Minds
- d) an apprentice or trainee; or
- e) a student gaining work experience; or
- f) a volunteer.

5. WHAT IS WRONGDOING AND HOW SHOULD IT BE DISCLOSED?

- 5.1 **Wrongdoing** is any suspected or actual misconduct or improper state of affairs or circumstances in relation to Open Minds. This includes if you believe an Open Minds Worker, Associate, Officer, Director or Committee Member has engaged, or attempted to engage in conduct which:
- a. is dishonest, fraudulent or corrupt, including bribery or other activity in breach of the Code of Conduct;
 - b. is an illegal activity (such as theft, drug use or sale, violence, harassment or intimidation, criminal damage to property, breach of competition and consumer law, privacy law or any other breaches of state or federal law or local laws or regulations and regulations applicable to Open Minds;
 - c. represents a danger to clients, the public, or to the financial system;
 - d. is unethical or in breach of Open Minds policies (such as breaches of privacy or confidentiality, dishonesty, obtaining an unauthorised or inappropriate personal benefit, adopting questionable accounting practices or breaching any of Open Minds Code of Conduct or any other policies or procedures);
 - e. is potentially damaging to Open Minds, a team member or a third party, such as unsafe work practices, environmental damages, health risk or abuse of Open Minds’ property or resources;
 - f. is not in accordance with the Principles of the Disability Services legislation;
 - g. may cause financial loss to Open Minds or damage its reputation or be otherwise detrimental to Open Minds’ interests; or
 - h. concerns any other kind of serious misconduct or improper state of affairs or circumstances.
- 5.2 What constitutes wrongdoing may be a position held differently across individuals within an organisation and depending on the assessment of the wrongdoing, it can trigger different legislative regimes and requirements.
- 5.3 It is therefore critical that Workers, Associates, Officers, Directors and Committee members be prepared to disclose wrongdoing to OM so that it can be assessed and appropriately dealt with in accordance with OM's obligations as an employer but also in accordance with the requirements of specific regulatory regimes that apply to OM, including the Whistleblower protection requirements under the *Corporations Act (Protected Disclosure)*.
- 5.4 Where a person becomes aware of wrongdoing, OM encourages them to report it immediately, noting they are raising the concern under this Policy. Reports or disclosures of wrongdoing can be made at

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first instance to an Initial Contact. A report or disclosure can be made in person, in writing, by telephone as well as anonymously.

- 5.5 Once the report or disclosure has been made to the Initial Contact, it will be assessed using relevant OM procedures including the Whistleblower Procedure, so that the wrongdoing can be dealt with in accordance with the relevant policy/procedure as well as applicable statutory and regulatory requirements such as those under the Corporations Act if the wrongdoing triggers the requirements for being a Protected Disclosure under the Corporations Act.
- 5.6 In assessing the report or disclosure, the Initial Contact will provide further information regarding the applicable framework for how the disclosure will be dealt with along with further details regarding specific requirements that may apply including specific legislative or regulatory requirements for dealing with the wrongdoing and affording protections to the person or the "whistleblower" making the disclosure.

6. PROTECTIONS FOR WHISTLEBLOWERS

- 6.1 As part of the framework to encourage Workers, Associates, Officers, Directors and Committee Members, OM has obligations in providing protections for persons who make disclosures that apply under this Policy, through other related OM policies and procedures or that apply through statutory and regulatory requirements if the disclosure or wrongdoing has triggers these regimes.
- 6.2 The key protections that are afforded to those making disclosures are confidentiality protections and the protection against reprisals.
- 6.3 In terms of confidentiality, OM will deal with information provided under this Policy on a confidential basis, except in certain circumstances as outlined in applicable OM policies and procedure including the Whistleblower Procedure or as required by law or natural justice.
- 6.4 If the disclosure triggers certain statutory and regulatory frameworks, these frameworks may establish statutory confidentiality obligations which impose criminal sanctions for the unauthorised disclosure of confidential information disclosed by a discloser. The question of whether any of statutory confidentiality obligations are imposed will depend on the assessment of the disclosure and the wrongdoing under the relevant frameworks as determined by the Initial Contact.
- 6.5 OM also assures persons making disclosures that they will be protected and not subject to adverse action or reprisal because they made a disclosure or report of wrongdoing. As was the case with confidentiality requirements, there are statutory obligations regarding the protection against reprisal but whether any of these statutory obligations apply will depend on the assessment of the disclosure and whether it has triggered any of these statutory regimes such as the Whistleblower Protections include in the Corporations Act.
- 6.6 An Eligible Whistleblower does not have to be sure that Wrongdoing has occurred to raise a concern, however, a person must not make a report they know is untrue or is misleading. Where this happens, this will be a serious matter and may result in disciplinary action.
- 6.7 Further information regarding confidentiality and protections against reprisal will be provided by the Initial Contact on assessment of the disclosure.

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7. PUBLICATION OF POLICY

7.1 All Workers, Associates, Officers, Directors and Committee Members will be provided with access to this Policy and the Procedure available on Open Minds intranet. This Policy will also be made available online.

8. PUBLICATION OF POLICY

8.1 Concerns relating to personal work-related grievances, breaches of OM's P06.04 *Code of Conduct* and non-serious instances of suspected misconduct should be raised through the P06.02 *Worker Complaint and Grievance Policy*. What constitutes personal work-related grievances is explained in the Procedure.

8.2 Clients of OM or their carers should direct any complaints or concerns that do not relate to wrongdoing in accordance with our P04.01 *Feedback, Compliments and Complaints Policy*.

8. ROLES AND RESPONSIBILITIES

| POSITION | ROLE | RESPONSIBILITY |
|--|-----------|---|
| BOARD OR DELEGATE | Approve | Authorised to approve this Policy and any subsequent amendments to this Policy |
| CEO OR DELEGATE | Owner | Accountable and responsible to: <ul style="list-style-type: none"> - ensure that this Policy is implemented and communicated; - issue procedures or documents to support the operation of this Policy; - receive and consider suggested improvements - ensure this policy and related documents are reviewed within required timeframes or earlier as required. |
| CEO OR DELEGATE | Review | Accountable and responsible to ensure this policy is reviewed as per this Policy or as required. |
| OPEN MINDS STAFF (AS PER SCOPE) | Implement | Responsible to: <ul style="list-style-type: none"> - read, understand, and implement policy; and - suggest improvements as appropriate. |

RELATED LEGISLATION AND STANDARDS

| LEGISLATION AND/OR REGULATIONS |
|--|
| Corporations Act 2001 (Cth) |
| Privacy Act 1988 (Cth) |
| Open Minds has used the Regulatory Guide 270 - Whistleblower policies published by ASIC in November 2019 in drafting and adopting this Policy. |



| STANDARDS | |
|-----------|--|
| NQSF | NDIS Quality and Safeguarding Framework |
| NDIS | NDIS Practice Standards |
| NSMHS | National Standards for Mental Health Services |
| ISO | AS/NZS ISO9001:2015 Quality Management System |
| WHS | AS/NZS 4801:2008 Occupational Health & Safety Management Systems |

COMPLIANCE AND REPORTING MEASURES

Identify measures for how this Policy will be complied with and reported upon (e.g. a Report on all material breaches or non-compliances will be reported to the next scheduled Board meeting with a recommended course of action).

KEY RELATED DOCUMENTS

| DOC TYPE OR ID | DESCRIPTION / NAME |
|----------------|---|
| Policy | P04.01 Feedback Compliments and Complaints Policy |
| Policy | P06.04 Code of Conduct |
| Policy | P06.02 Worker Complaints and Grievance Policy |
| Policy | P02.24 Privacy of Confidentiality of Information |
| Procedure | PRO02.23 Whistleblower Procedure |
| Procedure | PRO06.19 Investigation Procedure |
| Procedure | PRO2.2.6.02 Disciplinary Procedure |

POLICY REVIEW

This Policy should be reviewed, at a minimum, every three years, or updated more regularly where circumstances require.

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