

1 Purpose

The purpose of this policy is to:

- help detect and address wrongdoing and protect employees and others who report (anonymously or not) actual or suspected wrongdoing;
- help provide employees, volunteers and contractors with a supportive work environment in which they feel able to raise legitimate concerns; and
- provide suitable avenues for reporting of matters that may cause loss to National Disability Services (NDS) or damage NDS's reputation;
- help NDS to maintain the highest standards of ethical behaviour and integrity.

2 Scope

This policy applies to employees, volunteers, contractors and clients of NDS in relation to reports concerning wrongdoing. It must not be used for trivial or vexatious matters (being matters that the reporter knows, or ought to know, have no substance).

This policy is not intended to replace other reporting structures such as those for dispute resolution, grievances, equal opportunity, discrimination, harassment or bullying, except where existing reporting systems have failed to deal with a serious issue in an appropriate, fair or unbiased manner.

3 Relevant legislation and related standards

Corporations Act 2001

ASIC Regulatory Guide 270 Whistleblower policies ([RG 270](#))

Treasury Laws Amendment (Enhancing Whistleblower Protections) Act 2019

4 Constitutional provisions

None.

5 Policy Statement

NDS is committed to the highest standards of legal and ethical behaviour and will not tolerate unethical or unlawful conduct. Wherever possible, it separates duties among personnel to minimise opportunities for fraud. NDS recognises that the most common method of detecting fraud is notification by staff. This policy supports NDS's commitment to maintain an environment in which employees, volunteers and contractors are able to report, without fear of retaliatory action, concerns about any serious wrongdoing.

This policy complements NDS's normal reporting and communication channels and provides an alternative means of reporting alleged or suspected wrongdoing where the usual channels appear to have failed or may be inappropriate.

6 Definitions

Whistleblowing is the deliberate, voluntary disclosure of individual or organisational wrongdoing by a person who has or had privileged access to data, events or information about actual, suspected or anticipated wrongdoing within or by an organisation.

Wrongdoing includes any conduct that:

- is dishonest, fraudulent or corrupt;
- is illegal, such as theft, drug sale or use, violence, harassment, criminal damage to property or other breaches of state or federal law;
- is unethical, such as dishonestly altering company records or engaging in;
- questionable accounting practices or wilfully breaching NDS's code of conduct;
- is potentially damaging, such as unsafe work practices or waste of resources;
- may cause financial loss to NDS or damage its reputation or interests; or
- involves any other kind of serious impropriety.

7 Procedure

7.1 How may wrongdoing be reported?

Normal reporting channels favoured

Any employee, volunteer or contractor who detects or has reasonable grounds for suspecting wrongdoing is encouraged to raise their concerns with their immediate manager through normal reporting channels. The manager must report the allegation to the Chief Executive Officer, who is responsible for responding properly. The response may include appointing an investigator independent of the area of operations to inquire into the allegation; alternatively, it may appropriately be dealt with by a line manager.

The concerns should, where possible, be in writing and include details of suspected wrong-doing, the person(s) responsible, facts on which the person is basing their concerns and where further information or evidence may be obtained.

Internal Whistleblower Protection Officers

If the employee, volunteer or contractor does not believe normal reporting channels are appropriate given the circumstances of the wrongdoing, they may report the matter directly to a designated internal Whistleblower Protection Officer:

- David Moody, Chief Executive Officer – (03) 8341 4343 or 0437 107 851
- Gayle Reed, Financial Controller – (02) 9256 3114 or 0450 537 589
- Joan McKenna Kerr, NDS President – (08) 9489 8900

External Whistleblower Protection Officer

If the above reporting options are considered inappropriate (biased or unwilling to act), the person may contact the external auditor of NDS. This avenue is generally appropriate only when the alleged or suspected wrongdoing involves senior NDS management.

The external auditor of NDS can be found on the website.

7.2 Links to Grievance Procedure

This policy is not intended to replace the grievance procedure, which is there for all staff to raise any matter in relation to their employment or their work environment.

7.3 Confidentiality

If a report concerns alleged or suspected breach(es) of corporations law or legal breach, the recipient of a report under this policy must seek legal advice before disclosing any information at all relating to the report.

If a person makes a report of alleged or suspected wrongdoing under this policy NDS will endeavour to protect that person's identity from disclosure. This may not occur if confidentiality is not a practical option.

Generally, NDS will not disclose the person's identity unless:

- the person making the report consents to the disclosure;
- the disclosure is required or authorised by law; or
- the disclosure is necessary to further the investigation.

Generally, reports made under this policy will be treated confidentiality. However, when a report is investigated it may be necessary to reveal its substance to people such as other NDS personnel, external persons involved in the investigation or law enforcement agencies. At some point in time it may also be necessary to disclose the fact and the substance of a report to the person who is the subject of the report. Even when confidentiality is maintained, in some circumstances, the source of the report may be obvious to the person who is its subject.

NDS will store records relating to a report of wrongdoing securely and to permit access by authorised persons only. Unauthorised disclosure of information relating to a report, including the identity of the person who has made the report, will be regarded seriously and will result in disciplinary action; this could include dismissal.

7.4 Protection of Whistleblowers

NDS is committed to protecting and respecting the rights of a person who reports wrongdoing in good faith. NDS will not tolerate any retaliatory action or threats against that person or against that person's colleagues, employer (if a contractor) or relatives. For example, the person must not be disadvantaged or victimised for having made the report by:

- dismissal
- demotion
- any form of harassment
- discrimination
- current or future bias
- threats of any of the above.

Any such retaliatory action will be treated as serious misconduct and will result in disciplinary action, which may include dismissal.

A whistleblower should not inform the commercial or social media of their concerns. NDS does not offer protection if an employee does so unless it is not feasible for an employee to report internally or channels prescribed in this policy have not dealt with the issues effectively within 28 days.

7.5 Disclosers implicated in wrongdoing

Making a report will not necessarily shield the discloser from consequences if they are involved in the wrongdoing itself. A person's liability for their own conduct is not affected by their reporting of that conduct under this policy. However, in some circumstances, an admission may be a mitigating factor when considering disciplinary or other action.

7.6 Whistleblower Protection Officers

The Whistleblower Protection Officer will endeavour to safeguard the interests of the person reporting wrongdoing. In the instance where the Whistleblower Protection Officer is not the CEO, the CEO may approve the Whistleblower Protection Officer to access independent financial, legal and operational advisers as required. They will have a direct line of reporting to the Chief Executive Officer and Board, as required.

The Whistleblower Protection Officer is responsible for appointing an investigator to inquire into the substance of reports. The Whistleblower Protection Officer will ensure that the whistleblower is kept informed of the outcomes of the inquiry or investigation, subject to consideration of the privacy of those against whom the allegations are made.

In addition, the Whistleblower Protection Officer will:

- report matters to the President and to the Chief Executive Officer (except where this is deemed inappropriate because the matter involves the Chief Executive Officer or President);
- offer judgement of the seriousness of the matter; and
- advise on how the matter is to be or should be resolved.

Matters to be reported include those re-directed by the Whistleblower Protection Officers to the internal grievance process.

The President and/or Chief Executive Officer will inform the Board of all reports by whistleblowers. The President will determine the urgency for bringing the matter to the Board's attention.

NDS will inform all employees of the identity of Whistleblower Protection Officers and the various ways in which employees can contact them.

7.7 Anonymous or false reporting

Anonymous reports of wrongdoing have significant limitations that inhibit a proper and appropriate investigation.

Where it is shown that a person purporting to be a whistleblower has knowingly made a false report of wrongdoing, then that conduct itself will be considered a serious matter and that person may be subject to disciplinary action, which may include dismissal.

7.8 Investigation of the report

All reports of alleged or suspected wrongdoing made under this policy will be properly assessed, and if appropriate, independently investigated. A Whistleblower Protection Officer (either internal or external) may appoint a Whistleblower Investigation Officer to conduct the investigation. Investigations must be conducted in a fair and independent manner. They must be independent of the business unit concerned, the whistleblower and any person who is the subject of the report.

Generally, the Whistleblower Investigation Officer must ensure that the person who is the subject of any report that is investigated:

- is informed as to the substance of the allegations;
- is given the opportunity to answer the allegations before any investigation is finalised;

- is informed about the substance of any adverse comments that may be included in
- any report arising from the investigation before it is finalised; and
- has his/her defence set out fairly in any report.

7.9 Management of a person against whom a report is made

NDS recognises that individuals against whom a report is made must also be supported during the investigation of the report. NDS takes reasonable steps to treat fairly the person who is the subject of a report, particularly during the assessment and investigation process.

Where preliminary inquiries determine that a suspicion is unfounded and that no formal investigation is warranted then the whistleblower will be informed and the matter laid to rest. The Whistleblower Protection Officer will decide whether or not the person named in the suspicion should be informed that a suspicion had been raised and found to be baseless. This decision will be based on a desire to preserve the integrity of a person so named, to enable workplace harmony and to protect the identity of the whistleblower.

7.10 Advice

Any information required by potential whistleblowers can be provided by any of the previously mentioned NDS Whistleblower Protection Officers.

8 Document Information

8.1 References or related documents

Description	Location
Corporations Act 2001	https://www.legislation.gov.au/Details/C2017C00328
ASIC Regulatory Guide 270 Whistleblower policies (RG 270)	https://asic.gov.au/regulatory-resources/find-a-document/regulatory-guides/rq-270-whistleblower-policies/
Treasury Laws Amendment (Enhancing Whistleblower Protections) Act 2019	https://www.legislation.gov.au/Details/C2019A00010
Code of Conduct Policy	[refer to Policy Library on intranet]
Equal Employment Opportunity (EEO) Policy	[refer to Policy Library on intranet]
Harassment and Bullying Policy	[refer to Policy Library on intranet]
Grievance Policy	[refer to Policy Library on intranet]

8.2 Approval and Review

NDS's Governance Committee is responsible for reviewing this policy, including the appointment of the Whistleblower Protection Officers.

Lead Author	Human Resources Manager
Approver	NDS Governance Committee
Date Endorsed	November 2016
Date Reviewed	July 2020
Timeframe for next review	3 years

8.3 Version History

Version No.	Date	Summary of amendment(s)
1	November 2016	Created.
2	February 2018	
3	July 2020	Reviewed and amendments included: <ul style="list-style-type: none"> • Policy reviewed by the Associations Forum in May 2020; • Final draft reviewed by the Governance Committee in June 2020 for recommendation to the Board in July 2020; • Insertion of 3 year timeframe for next review following advice from the Associations Forum.
4	October 2020	Remove 'Chief Financial Officer' and replace with 'Financial Controller' under Internal Whistleblower Protection Officers on page 3.