

## POLICY

# Whistleblower Policy

Required for Parent Folder - Yes

## 1. Purpose / Objective

The Whistleblower policy is an important tool for helping AEIOU to identify wrongdoing that may not be uncovered unless there is a safe and secure way to disclose wrongdoing.

AEIOU is committed to the highest standards of integrity and conduct. If you are aware of possible wrongdoing we encourage you to disclose this information and we will support you in doing so.

## 2. Application/Scope

This policy is relevant to the AEIOU Foundation Board of Directors and sub committees, employees, students and volunteers, contractors, consultants and those who interact with AEIOU. This policy applies to all children enrolled, their parents and carers, and any member of the public, or any other stakeholder with an interest in AEIOU, and is relevant across all locations that AEIOU operates.

This policy applies protections to any Whistleblower with an interest in AEIOU.

This policy also applies to and provides protections to Protected Whistleblowers under legislation.

You are a legally Protected Whistleblower and entitled to protection under the *Corporations Act 2001* (Cth) (**Corporations Act**) and, if applicable, under the *Taxation Administration Act 1953* (Cth) (**Taxation Administration Act**) if:

- you are an Eligible Whistleblower; and
- you have disclosed (or intend to disclose) a Reportable Matter to an Eligible Recipient or to the Australian Securities and Investments Commission (**ASIC**), the Australian Prudential Regulation Authority (**APRA**) or another entity prescribed under the Corporations Act.

You will also be entitled to protection as a Protected Whistleblower if you receive advice from a legal practitioner on the operation of whistleblowing protection laws.

Also, in more specific and limited circumstances where a matter is of public interest or there is an emergency, a report may be protected if it's made to a journalist or a Member of Parliament. It is important that you understand the criteria for making a public interest or an emergency disclosure to be covered by the whistleblower protections. AEIOU recommends that you contact an independent legal adviser before making a public interest or an emergency disclosure.

An **Eligible Whistleblower** is a person who is, or has been, any of the following:

- an officer or employee of AEIOU (this includes current and former employees who are permanent, part-time, fixed-term or temporary, interns, secondees, managers and directors);
- a person who supplies goods or services to AEIOU or an employee of a person who supplies goods or services to AEIOU (whether paid or unpaid) - this could include current and former volunteers, contractors, consultants, service providers and business partners;
- a person who is an associate of AEIOU - for example, a director or company secretary of AEIOU; or
- a relative, dependent or dependent of the spouse of any person referred to in this definition of Eligible Whistleblower.

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AEIOU also includes:

- a client of AEIOU (child, their family, carer, advocate or friend)
- a person with an interest in AEIOU.

### 3. Policy Statement

AEIOU is committed to encouraging the reporting of any instances of suspected misconduct or allegation; unethical, illegal, fraudulent or undesirable conduct involving AEIOU's businesses and provides protections and measures so that people who make a report can do so confidentially and without fear of intimidation, retribution, disadvantage or reprisal.

## 4. Requirements for Performance

### 4.1 Principles

#### 4.1.1 Reportable Matter

A disclosure will concern a Reportable Matter if an Eligible Whistleblower has reasonable grounds to suspect that the information being disclosed is about:

- misconduct (including fraud, negligence, default, breach of trust and breach of duty)
- an improper state of affairs or circumstances
- behaviour that represents a danger to the public or the financial system
- a breach of the Corporations Act, or
- a breach of the Taxation Administration Act or improper conduct in relation to the tax affairs, in relation to AEIOU.

#### 4.1.2 Personal Work-Related Grievances

Personal work-related grievances that don't involve a detriment caused to you as a Protected Whistleblower (or a threat of detriment) aren't a Reportable Matter and aren't protected under the Corporations Act or Taxation Administration Act.

A personal work-related grievance is one that relates to your current or former employment that has implications for you personally but doesn't have significant implications for AEIOU.

An example of a work-related grievance that is not protected by law could include if you believe you have missed out on a promotion that you deserve or if you don't like the managerial style of your supervisor.

However, a work-related grievance may still qualify for protection under the law if (for example):

- it is a mixed report that includes information about a Reportable Matter (as well as a work-related grievance)
- AEIOU has broken employment or other laws which are punishable by imprisonment for 12 months or more or acted in a way that is a threat to public safety
- the disclosure relates to information that suggests misconduct that goes further than the whistleblower's personal circumstances, or
- the whistleblower suffers from or is threatened with detriment for making a disclosure.

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## 4.2 Roles and Responsibilities

Position	Responsibility
Board	<ul style="list-style-type: none"> <li>• Informed of disclosures and investigation outcomes</li> <li>• Direct action, if required</li> </ul>
Finance and Risk Committee (FRC)	<ul style="list-style-type: none"> <li>• Approve Whistleblower Policy</li> </ul>
General Manager, Chief Executive Officer, Director, People and Performance	<ul style="list-style-type: none"> <li>• AEIOU Disclosure Officers</li> </ul>
Communications Team	<ul style="list-style-type: none"> <li>• This policy is made available on our on the AEIOU website</li> </ul>
Eligible Whistleblower	<ul style="list-style-type: none"> <li>• Reports instances of suspected misconduct; unethical, illegal, fraudulent or undesirable conduct involving AEIOU's businesses</li> </ul>
Disclosure Management Service	<ul style="list-style-type: none"> <li>• Receive and record all disclosures from employees, contractors, suppliers and other stakeholders made in accordance with AEIOU'S whistleblower policy and any other agreed policies relating to improper conduct as determined by AEIOU:               <ol style="list-style-type: none"> <li>(a) evaluate disclosures and provide appropriate management information;</li> <li>(b) redirect any disclosure of related issues or complaints that do not qualify under the agreed policy;</li> <li>(c) provide AEIOU with full and relevant details of disclosures within 24 hours or within a reasonable time of receiving a complaint or call (this applies to calls received or contact made afterhours and on public holidays) by Stopline;</li> <li>(d) provide centralised, confidential and secure document management;</li> <li>(e) provide professional and authoritative advice on the development / application of policy and procedure.</li> </ol> </li> </ul>

## 4.3 Definitions

Term	Definition
Eligible Whistleblower	<ul style="list-style-type: none"> <li>• an officer or employee of AEIOU (this includes current and former employees who are permanent, part-time, fixed-term or temporary, interns, secondees, managers and directors)</li> <li>• a person who supplies goods or services to AEIOU or an employee of a person who supplies goods or services to AEIOU (whether paid or unpaid) - this could include current and former volunteers, contractors, consultants, service providers and business partners</li> <li>• a person who is an associate of AEIOU - for example, a director or company secretary of AEIOU, or</li> <li>• a relative, dependent or dependent of the spouse of any person referred to in this definition of Eligible Whistleblower.</li> </ul> <p>AEIOU also includes:</p> <ul style="list-style-type: none"> <li>• a client of AEIOU (child, their family, carer, advocate or friend)</li> <li>• a person with an interest in AEIOU.</li> </ul>
Eligible Recipient	<ul style="list-style-type: none"> <li>• Stopline</li> <li>• AEIOU Disclosure Officers</li> </ul>

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|--|---|
|  | <ul style="list-style-type: none"> <li>• ASIC</li> <li>• APRA</li> <li>• the Commissioner of Taxation, or</li> <li>• another Commonwealth authority prescribed by law.</li> </ul> |
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## 4.4 Make a Disclosure

### 4.4.1 Disclosures to Eligible Recipients can be made to:

**(a) STOPLINE, via:**

**Telephone:** 1300 30 45 50 (in Australia)

**Facsimile:** AEIOU Foundation, C/o Stopleveline +61 3 9882 4480

**Email:** [aeiou@stopline.com.au](mailto:aeiou@stopline.com.au)

**On-line:** <https://aeiou.stoplinereport.com>

**Mail:** AEIOU Foundation, c/o Stopleveline, Locked Bag 8, Hawthorn, Victoria, 3122

**(b) AEIOU Disclosure Officers, via 07 3320 7500, or:**

- Alan Smith, Chief Executive Officer of AEIOU – [alan.smith@aeiou.org.au](mailto:alan.smith@aeiou.org.au)
- Shane Klintworth, General Manager of AEIOU – [shane.klintworth@aeiou.org.au](mailto:shane.klintworth@aeiou.org.au)
- Laura Dodd, Director, People and Performance of AEIOU – [laura.dodd@aeiou.org.au](mailto:laura.dodd@aeiou.org.au)

**(c) Disclosures of a Reportable Matter may also be protected when made to:**

- ASIC
- APRA
- the Commissioner of Taxation, or
- another Commonwealth authority prescribed by law.

If, at any time, you are not sure about whether to make a protected disclosure, you can get independent legal advice. Any discussions you have with a lawyer will be protected under this policy and under law.

## 4.5 False Reports

A Protected Whistleblower will still qualify for protection for a disclosure even if their disclosure turns out to be incorrect. However, anyone who knowingly makes a false report of a Reportable Matter, or who otherwise fails to act honestly with reasonable belief in respect of the report may be subject to disciplinary action, including dismissal.

## 4.6 Anonymity when reporting

You may choose to remain anonymous when disclosing a Reportable Matter, over the course of the investigation and after the investigation is finalised. While you are encouraged to share your identity when making a disclosure, as it may make it easier for AEIOU to address your disclosure of a Reportable Matter and for AEIOU to communicate with you, you are not required to share your identity. If you don't share your identity, AEIOU will assess your disclosure in the same way as if you had revealed your identity. However, there may be some practical limitations in conducting the investigation if you don't share your identity.

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## 4.7 Protection for Protected Whistleblowers

### 4.7.1 Confidentiality

Disclosures from Protected Whistleblowers will be treated confidentially and sensitively. Once a report is received, the Eligible Recipient will make sure immediate steps are taken to protect the identity of the Protected Whistleblower. This will include redacting the name and position of the Protected Whistleblower from any written record of the report, and making sure appropriate document security is implemented.

It's illegal for a person to identify Protected Whistleblowers or disclose information that is likely to lead to their identification. If you are a Protected Whistleblower, your identity and position (or any other information which would be likely to identify you) will only be shared if:

- you consent to the information being shared;
- the disclosure is to a recipient permitted by law such as the Commissioner of Taxation or Australian Federal Police; or
- the disclosure is otherwise allowed or required by law (for example, disclosure to a lawyer of AEIOU to receive legal advice relating to the law on whistleblowing).

In addition, for information likely to identify an Eligible Whistleblower, this may be shared if it is reasonably necessary for the purposes of an investigation. In this circumstance all reasonable steps will be taken to reduce the risk that you will be identified.

### 4.7.2 Protection against detrimental treatment

It's illegal for a person to engage in conduct that causes (or threatens) detrimental treatment to a Protected Whistleblower in the belief or suspicion that a person has made, may make, proposes to make or could make a report of a Reportable Matter and where that belief or suspicion is a reason for the conduct.

Detrimental treatment could include dismissal, demotion, harassment, damage to your reputation, discrimination, disciplinary action, bias, threats or other unfavourable treatment connected with making a disclosure as a Protected Whistleblower.

AEIOU will seek to ensure that Protected Whistleblowers are not subjected to detrimental treatment as a result of making (or intending to make) a disclosure under this policy. To protect Protected Whistleblowers from detrimental treatment, AEIOU will:

- make an assessment of the risk of detriment against a Protected Whistleblower as soon as possible after receiving a disclosure of a Reportable Matter;
- make sure AEIOU management are aware of their responsibilities to maintain the confidentiality of a Protected Whistleblower, address the risks of detriment and ensure fairness when managing the performance of, or taking other management action relating to, a Protected Whistleblower; and
- take practical action, as necessary, to protect a Protected Whistleblower from the risk of detriment and intervene if detriment has already occurred.

If a Protected Whistleblower believes that they have been subject to detrimental treatment, they should inform an Eligible Recipient immediately.

### 4.7.3 Other protections for Protected Whistleblowers

Protected Whistleblowers are protected from civil, criminal or administrative liability (including disciplinary action) for making reports of Reportable Matters. No contractual right (including under an employment contract) can be exercised against a Protected Whistleblower to stop them disclosing a Reportable Matter.

If you're a Protected Whistleblower and the disclosure is to an Eligible Recipient or other designated body as set out above or is a public interest disclosure or emergency disclosure, the information you disclose also

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can't be used against you in criminal proceedings or in proceedings for the imposition of a penalty (except if the proceedings are in respect of the falsity of the information).

Eligible Whistleblowers may also be entitled to seek compensation and other remedies through the courts if AEIOU fails to protect the Eligible Whistleblower from detriment and the Eligible Whistleblower suffers loss or damage.

## 4.8 How will AEIOU investigate disclosures

Once a report of a Reportable Matter has been received from an Eligible Whistleblower, who has provided reasonable grounds for their belief that the Reportable Matter has occurred, an assessment and investigation of those allegations will begin as soon as practicable after the report has been received.

Refer to the **Feedback Complaints Management Resolution Policy** and **Incidents and Reportable Incidents Management Plan** for further information.

If AEIOU determines that the information disclosed doesn't amount to a Reportable Matter, the Eligible Whistleblower will be, if practicable, informed of that decision. In some instances, reports may not be able to be responded to, for example, because they are anonymous reports.

If an investigation is conducted, it will:

- follow a fair process;
- be conducted in as timely a manner as the circumstances allow; and
- be independent of the person(s) about whom an allegation has been made.

Provided there are no restrictions or other reasonable bases for doing so, people against whom an allegation has been made will be informed of the allegation and will have an opportunity to respond to any allegation. That is, AEIOU will take steps to ensure fair treatment of any person who is the subject of the Reportable Matter report as well as the Protected Whistleblower.

Investigations will be conducted promptly and fairly with due regard for the nature of the allegation and the rights of the people involved in the investigation. AEIOU recognises the importance of balancing the rights of the Eligible Whistleblower and the rights of people against whom a report is made in ensuring fairness. AEIOU implements procedural fairness with guidelines on the process for procedural fairness.

## 4.9 Communications with Protected Whistleblowers

AEIOU will ensure that, provided the claim was not submitted anonymously, the Protected Whistleblower is kept informed of the outcomes of the investigation of their allegations. This will be subject to the considerations of privacy of those against whom allegations are made and considerations of confidentiality affecting AEIOU.

If the Protected Whistleblower is not an employee of AEIOU, the Protected Whistleblower will be kept informed of the investigative outcomes (subject to privacy considerations as above), once the Protected Whistleblower has agreed in writing to maintain confidentiality in relation to any information provided to them regarding a report made by them.

## 5 References / Information

### 5.1 Knowledge/ Competency Requirements

Competency Requirements			
<b>Complaint response and management</b> – AEIOU has policies and procedures in place for responding to and managing complaints and incidents, which are detailed in the related documents section.			
<b>Investigations training</b> – Internal and external investigators must be appropriately trained in conducting serious incident investigations, including investigating incidents that may involve a			
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criminal element and that they are trained in applying Procedural Fairness, which is detailed in the NDIS (Procedural Fairness) Guidelines 2018.

**NDIS (Procedural Fairness) Guidelines 2018** – the NDIS (Procedural Fairness) Guidelines 2018 and Whistle-Blower protections need to be understood when investigating complaints.

## 5.2 Related Documents

Controlled documents related to this policy are accessed from the master controlled documents system currently held in G:\Common\QA\AEIOU Policies Procedures Forms Manuals, and as migrated to the Mango platform.

Doc Number	Title
POL 5.0	Feedback Complaints Management Resolution Policy
PRO5.01	Feedback Complaint and Resolution_ Client Procedure
PRO5.02	Implementing Procedural Fairness Guidelines
F5.01A	Chronology of Events
F5.01B	Complaint Investigation Report
F5.01C	Complaints Compliments Feedback Form
F5.01D	Complaint Acknowledgement Letter
F5.01E	Complaint Closure Letter
POL 2.1	AEIOU Client Code of Conduct
POL6.0	Human Resource Policy
POL6.1	Workplace Health and Safety Policy
POL 6.2	Staff Code of Conduct
PRO6.012	Staff Grievances Procedure
POL1.4	Incidents and Reportable Incidents Management Plan
F1.4.1B	Serious Incident Investigation Report Form
POL1.8	Business Continuity – Issues and Crises Communication Plan

## 5.3 Legislation and Other Relevant Information

Key legislation and information to be aware of for further information and guidance.

Any offence against any other law of the Commonwealth, State or Territory or a local government, such as laws creating crimes punishable by imprisonment, laws relating to equal opportunity, occupational health and safety, and environmental protection, and any other form of recognised legal criminal code in jurisdiction, including internationally.

Australian Charities and Not-for-Profits Commission (ACNC)

Australian Securities and Investment Commission (ASIC)

Office of the Australian Information Commissioner (OAIC)

NDIS Quality and Safeguards Commission (NDISQSC)

Corporations Act 2001 (Cth)

Fair Work Act 2009 (Cth)

NDIS Act 2013 (Cth) and Rules

NDIS (Complaints Management and Resolution) Rules 2018

NDIS (Procedural fairness) Guidelines 2018

Privacy Act 1988 (Cth)

Information Privacy Principles 1992 (SA)

Information Privacy Act (QLD)

Work Health and Safety Act and Regulations 2011 (QLD)

Work Health and Safety Act and Regulations 2012 (SA)

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Work Health and Safety Act 2011
State government funding regulators
State government revenue offices – state taxes, stamp duty and compliance
Taxation Administration Act 1953 (Cth) (Taxation Administration Act)
Treasury Laws Amendment (Enhancing Whistleblower Protections) Act 2018

## 5.4 External Provider / Relationship Requirements

Provider/organisation	Contact details	Requirement
Stopleveline	<b>Telephone:</b> 1300 30 45 50 (in Australia) <b>Facsimile:</b> AEIOU Foundation, C/o Stopleveline +61 3 9882 4480 <b>Email:</b> <a href="mailto:aeiou@stopleveline.com.au">aeiou@stopleveline.com.au</a> <b>On-line:</b> <a href="https://aeiou.stoplevelinereport.com">https://aeiou.stoplevelinereport.com</a> <b>Mail:</b> AEIOU Foundation, c/o Stopleveline, Locked Bag 8, Hawthorn, Victoria, 3122	Disclosure Management Service

## 5.5 Quality Standards Map

NDIS Practice Standards - Quality Indicator	
QI 11	<b>Governance and Operational Management</b> (11.2, 11.3, 11.4, 11.5, 11.7, 11.8) <b>Outcome:</b> Each participant’s support is overseen by robust governance and operational management systems relevant to the size and scale of the provider and the scope and complexity of supports delivered.
QI 12	<b>Risk Management</b> (12.1, 12.2, 12.3) <b>Outcome:</b> Risks to participants, workers and the provider are identified and managed.
QI 13	<b>Quality Management</b> (13.1) <b>Outcome:</b> Each participant benefits from a quality management system relevant and proportionate to the size and scale of the provider, which promotes continuous improvement of support delivery.
QI 15	<b>Feedback and Complaints Management</b> (15.1, 15.2, 15.3, 15.4) <b>Outcome:</b> Each participant has knowledge of and access to the provider’s complaints management and resolution system. Complaints and other feedback made by all parties are welcomed, acknowledged, respected and well-managed.
QI 16	<b>Incident Management</b> (16.1, 16.2, 16.3, 16.4) <b>Outcome:</b> Each participant is safeguarded by the provider’s incident management system, ensuring that incidents are acknowledged, responded to, well-managed and learned from.

## 6 Document Management and Review

The organisation shall review, amend and/or update this document from time to time. Document reviews are scheduled in accordance with document management and Quality Management System Policy and Continual Improvement processes.

### 6.1 Document Ownership and Review

<b>Approver</b>	Finance and Risk Committee
<b>Document owner</b>	General Manager
<b>Content owner</b>	Director, People and Performance
<b>Contributor/s</b>	Director, People and Performance, Executive Management Team, Risk and Compliance Officer
<b>Metadata</b>	Whistleblower, disclosure, protected, eligible whistleblower, eligible recipient, Stopleveline, disclosure officers, complaint, reportable incident

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## 6.2 Document History

Version	Revision detail / section	Date of issue
1	New policy	31/03/2020