Policy and Procedure

Title: Whistleblower Management

Policy Statement

Boandik is committed to fostering a culture of legal, ethical and moral behaviour and good corporate governance.

We recognise the value of transparency and accountability in all care, administrative and management practices and supports the reporting of improper conduct.

This Whistleblower Policy and Procedure has been developed so that all stakeholders can raise concerns regarding situations where they believe or suspect that Boandik, or anybody connected with our organisation has acted in a way that constitutes serious wrongdoing, including unethical, illegal, corrupt or other inappropriate conduct, as set out below.

This Policy aims to:

- encourage confidential reports of improper conduct in good faith if misconduct is known or there are reasonable grounds to suspect such conduct
- provide a mechanism to report misconduct or dishonest or illegal activity that has occurred or is suspected within the organisation
- enable our organisation to deal with reports from whistleblowers in a way that will protect the identity of the whistleblower and provide for secure storage of the information
- ensure that any Reportable Conduct is identified and dealt with appropriately
- ensure that individuals who disclose wrongdoing can do so safely, securely and with confidence that they will be protected and supported, and
- help to ensure and demonstrate that we maintain the highest standards of ethical behaviour and integrity.

Boandik:

- encourages disclosure of misconduct in accordance with this policy providing whistleblowers a confidential means to do so, offering whistleblowers access to personal and professional support including psychological care and assistance to obtain independent legal advice if needed, confidentiality of records and investigation and whistleblower
- will provide protection and support for those reporting misconduct -
- will investigate and manage incidences of reported misconduct in a confidential and supportive manner

Definitions:

Term	Definition
Misconduct	• Dishonest, corrupt, illegal or fraudulent conduct • Unethical or immoral behaviour • Legal or regulatory non-compliance • Substantial mismanagement of our resources • Substantial mismanagement that involves a significant risk to health, safety or the environment • Behaviour damaging to the reputation of the organisation

Term	Definition
Not Reportable Conduct	Not all types of conduct are intended to be covered by this Policy or by the protections under the Corporations Act 2001 (Cth). For example, personal 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. [1]
Reportable Conduct	Reportable Conduct is any past, present or likely future activity, behaviour or state of affairs considered to be: • dishonest • corrupt (including soliciting, accepting or offering a bribe, or facilitating payments or other such benefits) • fraudulent • illegal (including theft, drug sale or use, violence or threatened violence, or property damage) • in breach of regulation, internal policy or code (such as our Code of Conduct); • 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 • endangering health or safety (of residents, clients, staff, contractors, volunteers or visitors) • damaging or substantially risking damage to the environment • a serious mismanagement of our organisation's resources • detrimental to our organisation's financial position or reputation • maladministration (an act or omission of a serious nature that is negligent, unjust, oppressive, discriminatory or is based on improper motives) • concealing reportable conduct. Reportable Conduct usually relates to the conduct of employees or directors, but it can also relate to the actions of a third party, such as a funder, customer/client, supplier or service provider.
Senior Leadership / Executive Team	The Senior Leadership/Executive Team comprises the following members: Chief Executive Officer (CEO), Executive Manager of Corporate and Client Services (EMC&CS), Executive Manager of People, Culture and Risk (EMPC&R), Senior Finance Manager, Senior Manager of Residential Clinical Services (SMRCS), Senior Manager of Community Services (SMCS).
Whistleblowing	The reporting in good faith by an individual of misconduct that is within the organisations ability to control. Reporting in good faith means the complainant has a reasonable grounds and honest belief that the alleged misconduct occurred.
Whistleblower	Any Board member, employee, volunteer, resident, client, family member, vendor or contractor who wishes to make a report in connection with misconduct and avails themselves of the protections offered in this Policy.
Whistleblower Protection Officer (WPO)	The person to whom a report under this Policy is made and who has responsibility to safeguard the interests of the whistleblower. To maintain independence from the organisation's operations, the WPOs may identify Board members to whom complaints may be made, in addition to other identified internal parties not associated with the reportable conduct.
Whistleblower Investigation Officer (WIO)	The person responsible for investigation of a report made under this Policy, investigating the substance of the report and determining where there is evidence in support of the matters raised. The WIO will be appointed by the WPO at their discretion and may be an investigator external to the organisation depending on the nature of the allegations made and the person or persons against whom they are made.
Workers	Employees, Directors, Officers, Contractors, Volunteers, Suppliers, Consultants

[1] *However, personal work-related grievances may be covered by this policy where they include information about misconduct, an allegation that the entity has breached employment or other laws, or the grievance includes victimisation due to whistleblowing.*

Procedure

1. Responsibilities

1.1 Boandik Governing Board and Executive:

- Expects workers to act honestly and ethically, and to make any report on reasonable grounds.
- Will protect those who report misconduct.
- Will delegate management of this Policy to the Whistleblower Program Team
- Will review disclosures, findings and recommendations made by the Whistleblower Program Team.
- Will oversee the effectiveness of this Policy.
- The organisation will maintain confidentiality of all reports and protect the identity of reporters to the fullest extent possible.

1.2 The Whistleblower Program Team (WP Team), comprised of CEO, Chair of the Board and Whistleblower Protection Officer (EMPC&R), are responsible for:

- Assisting the Whistleblower Protection Officer(s) (WPO) in the assessment and oversight of whistleblower reports
- Providing advice and support to reporters
- Maintaining a secure and restricted record of all reports made under this Policy and Procedure
- Arranging role-specific training as and when required
- Ensuring the Policy is communicated to all "Workers" as defined in the Whistleblower Policy.

1.3 Site/Program Managers are responsible for ensuring that:

- Workers are made aware of their rights and responsibilities in relation to whistleblowing at induction and have knowledge of this Policy and Procedure
- Workers are aware of who the WPO is
- Workers are regularly encouraged to speak up about concerns of Reportable Conduct.

1.4 Whistleblowing Protection Officer (WPO) is responsible for:

- Receiving whistleblower reports and protecting the interests of reporters
- Determining whether the report falls within the scope of the Policy
- Determining whether and how a report should be investigated
- Appointing a Whistleblowing Investigator where an investigation is deemed appropriate
- Ensuring investigations are conducted in accordance with this Policy
- Ensuring any reports involving a Board Director or the Chief Executive Officer are reported to the Chair of the Board or the Deputy Chair of the Board.
- Updating reporters on progress and details of outcomes, to the fullest extent possible
- Maintaining, to the fullest extent possible, confidentiality of the identity of and reports received by reporters
- Immediately reporting concerns in relation to any detrimental conduct to the CEO or Chair of the Board (provided that the concerns do not relate to them)
- Determining the appropriate courses of action to remediate or act on the investigation
- Reporting matters to relevant authorities
- Making recommendations to prevent future instances of reportable misconduct
- Completing any training mandated by the Whistleblower Program Team
- Seeking to ensure the integrity of the Whistleblower Program is maintained.

1.5 Whistleblower Investigators (WPI) are responsible for:

- Investigating reports 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.

1.6 All staff, volunteers and contractors are responsible for:

- Following the intentions of the policy and comply with the instructions in any related procedures.
- Reporting misconduct or dishonest or illegal activity that has occurred or is suspected within the organisation as quickly as possible, whether anonymously or otherwise.

2. Disclosure

- If a person has reasonable grounds to suspect Reportable Conduct, even if it turns out that the concerns are mistaken, Boandik will support and protect the person and anyone else assisting in the investigation.
- Boandik will not tolerate any form of detriment directed towards an individual because they, or another person, has made or may make a report of Reportable Conduct. Detrimental treatment may include, but is 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 personal property, business, financial position or reputation; or
  - revealing the person’s identity as a Whistleblower without their consent or contrary to law
  - threatening to carry out any of the above actions.
- This protection applies regardless of whether any concerns raised in a report are found to be true, provided that reporter is acting honestly and ethically and made the report on reasonable grounds.
- This protection also applies to individuals conducting, assisting or participating in an investigation. Reporters will also be entitled to the protection if they make a report of Reportable Conduct to an external body under this Policy.
- Anyone found to be victimising or disadvantaging another individual for making a disclosure under this Policy will be disciplined and may be dismissed or subject to criminal or civil penalties.
- If the reporter believes that they have suffered a detriment in violation of this Policy, we encourage them to report this immediately to the Whistleblowing Protection Officer, or an external body under this Policy. The person’s concerns of being disadvantaged will be treated as a report of Reportable Conduct in line with this Policy.
- Anyone engaging in detrimental conduct may be subject to serious consequences, including disciplinary action and/or termination of engagements or contracts, as applicable. They may also be subject to civil and criminal penalties.
- Individual’s may also be entitled to the following legal protections for making a report:
  - protection from civil, criminal or administrative legal action
  - protection from having to give evidence in legal proceedings; and/or
  - compensation or other legal remedy.
- Where it is established by the WIO that the whistleblower has not acted in good faith or they intentionally made a false, malicious or vexatious report of alleged misconduct, then this will be reported to the WPO and may result in the whistleblower being the subject of disciplinary measures, up to and including summary dismissal.

3. Confidentiality

- While Boandik encourages whistleblowers to identify themselves to a Whistleblowing Protection Officer, they may opt to report concerns anonymously. This can be done via the Australian Securities and Investments Commission (ASIC) or the Australian Prudential Regulation Authority (APRA), Australian Health Practitioner Regulation Agency (AHPRA) or another Commonwealth regulatory body such as the Aged Care Quality and Safety Commission.
- A discloser can choose to remain anonymous while making a disclosure, over the course of the investigation and after the investigation is finalised. Boandik will do all it can to protect confidentiality, however we encourage all individuals to disclose their identity when raising a concern. This will assist Boandik to gather further information on the report. If the reporter chooses to disclose their identity, their details will be treated confidentially to the fullest extent possible in connection with the investigation.
- Boandik will take all reasonable measures to protect the reporter's identity e.g., but not limited to redacting personal and identifying information, storing information and disclosure securely, referring to the reporter in a gender-neutral context and only allowing qualified staff to investigate disclosures.
- The reporter's identity will not be disclosed unless:
  - consent is received in writing to the disclosure, after steps have been taken to fully inform the reporter of the potential impacts of revealing their identity
  - the disclosure is made to ASIC, APRA or the Australian Federal Police (AFP)
  - the disclosure is made to a Legal Practitioner for the purpose of obtaining advice
  - the disclosure is authorised under the Corporations Act 2001 (Cth); and/or
  - disclosure is necessary to prevent or lessen a threat to a person's health, safety or welfare.
- It is illegal for a person to identify a discloser or disclose information that is likely to lead to the identification of the discloser unless an exception above applies. If the reporter feels that their confidentiality has been breached, they can lodge a complaint with a regulator, such as ASIC, for investigation. Boandik may also take disciplinary action against individuals that breach the confidentiality of a discloser, including summary dismissal.

4. Making a report

- Whistleblowing protections will only apply to reports of Reportable Conduct made in accordance with this Policy and Procedure.
- Where a reporter has reasonable grounds to suspect that an individual has engaged in Reportable Conduct, the matter should be reported to any person authorised by the organisation to receive Whistleblower disclosures. Authorised people are:
  a) Chief Executive Officer – [CEO]
  b) Whistleblower Protection Officer – [EMPC&R]
  c) Board Director
- If the reporter is not comfortable or able to report Reportable Conduct internally, it may be reported to ASIC or other external agencies, such as the Aged Care Quality and Safety Commission (ACQSC).
- To make a protected report, the person must know of or have reasonable grounds to suspect the Reportable Conduct.
- For a report to be investigated, it must contain enough information to form a reasonable basis for investigation. It is important that as much information is provided as possible. This includes any known details about the events underlying the report such as the:
  a) date
  b) time
  c) location
  d) name of person(s) involved
  e) possible witnesses to the events; and
  f) evidence of the events (e.g. documents, emails).
- The report should detail any steps already taken to report the matter elsewhere or to resolve the concern.

5. Investigating a disclosure (or reportable conduct)

- Upon receiving a Protected Disclosure regarding reportable conduct, within two (2) working days, Boandik will endeavour to assess the disclosure to determine whether:

a) It qualifies for protection; and
b) A formal, in-depth investigation is required.

- Boandik will endeavour provide the discloser with regular updates.
- Boandik may not be able to investigate a disclosure if it is unable to contact the discloser.
- After receiving the report, Boandik will:
  a) assess the report of Reportable Conduct
  b) consider whether there are any conflicts of interest prior to investigating
  c) determine whether external authorities need to be notified
  d) determine whether and how to investigate; and
  e) appoint a Whistleblowing Investigator if appropriate.
- If an investigation is deemed necessary, it will be conducted fairly, objectively and in a timely manner. The investigation process will vary depending on the nature of the Reportable Conduct and the amount of information provided.
- Any individuals who are accused of misconduct in a report (a Respondent) will have an opportunity to respond to allegations before any adverse findings are made and before any disciplinary action (if appropriate) is taken.
- Boandik may need to speak with a Whistleblower as part of an investigation. If the identity of the Whistleblower is known, we will endeavour to keep them informed about the status of an investigation.
- If there is insufficient information to warrant further investigation, or the initial investigation immediately identifies there is no case to answer, the individual who reported the Reportable Conduct will be notified at the earliest possible opportunity.

6. Outcome of an investigation

- At the conclusion of the investigation, a report will be prepared outlining:
  1. a finding of all relevant facts
  2. a determination as to whether the allegation(s) have been substantiated or otherwise
  3. the action that will be taken, which may include disciplinary action and dismissal.
- The disciplinary action will be dependent on the severity, nature and circumstances of the Reportable Conduct.
- Where possible and appropriate, having regard to Boandik's privacy and confidentiality obligations, the Whistleblower will be informed of the outcome of any investigation into their concerns.

7. Related Policies and Procedures

- Feedback and Complaints Policy
- Privacy Policy
- Incident Management Policy
- Regulatory Compliance Policy
- Bullying and Harassment Policy
- Code of Conduct
- Human Resources Policy
- Risk Management Policy

8. References

- Australian Securities and Investments Commission - - How to make a complaint https://asic.gov.au/about-asic/contact-us/reporting-misconduct-to-asic/
- Aged Care Quality and Safety Commission: https://www.agedcarequality.gov.au/

9. Applicable Legislation

- Accountability Principles 2014
- Aged Care Act 1997
- Anti-discrimination legislation nationally
- Australian Privacy Principles 2013
- Corporations Act 2001 (Cth)
- Fair Work Act 2009 (Cth)

- Fair Work Regulations 2009 (Cth)
- Privacy Act 1988
- Public Interest Disclosure Act 2013
- ASIC Corporations (Whistleblower Policies) Instrument 2019/1146

This policy & procedure is not intended to override any industrial instrument, contract, award or legislation.