

GOV-001 Whistleblower Policy

Authorised by: Board
Applies to: Current and former PWDA Board members, employees, contractors, volunteers, associates and family members.
Effective from: 13 December 2022
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Policy Owner: Director People, Quality & Systems

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Purpose

To set out:

- Our commitment to the role whistleblowers play in upholding ethical and legal conduct at PWDA.
- The responsibility of all at PWDA to come forward and disclose information when they are aware of any possible wrongdoing.
- PWDA's legal obligations to whistleblowers.
- Who is entitled to protection as a whistleblower.
- The protections whistleblowers are entitled to.
- How PWDA supports and protects whistleblowers.
- How PWDA handles whistleblower disclosures.

Scope

This policy applies to current and former PWDA Board members, employees, contractors, volunteers, associates, and their family members.

It applies to:

Disclosures about actual or possible wrongdoing which has happened, or is happening, within PWDA.

It does not apply to:

Disclosures about personal work-related grievances. These are covered by the PWDA Staff Grievance Policy.

Policy statement

People with Disability Australia (PWDA) is committed to an organisational culture of ethical and legal behaviour. We deal transparently with any actual or possible wrongdoing.

People in any role at PWDA have a responsibility to come forward and speak up if they are aware of possible wrongdoing.

We support and protect 'whistleblowers': people who speak up about dishonest, corrupt, unethical, illegal or harmful behaviour. (Please see 'What kinds of matters are covered by whistleblower protections?' on page 5 of this document for examples).

As a company limited by guarantee, PWDA complies with the whistleblower protection laws under the Corporations Act 2001 and the Taxation Administration Act 1953.

We make sure that everyone in any role at PWDA knows:

- they have a responsibility to disclose any information of possible wrongdoing;
- how to disclose and who they should tell; and
- how we will support and protect them.

This policy is available in the About Us - Policies section of our website (www.pwd.org.au). We include whistleblower responsibilities and protections in inductions for new Board members and staff.

We give people the supports they need to disclose information, and while we are handling the disclosure, as part of reasonable accommodations.

We protect people who give us information about possible illegal or improper conduct happening within PWDA. The protection includes:

- Keeping a person's identity confidential unless they have given us consent to disclose it; and
- Making sure they are not treated badly by anyone at PWDA because of their actions.

PWDA understands that there can be serious repercussions for people who are mentioned in a disclosure. We will make sure they are treated fairly. We will provide them with protections as appropriate.

PWDA takes any appropriate actions to deal with outcomes of investigations into whistleblower disclosures. This includes internal actions, such as disciplinary action, and reporting any criminal misconduct to the relevant authorities. We use information from whistleblower investigations to improve how we operate and how we handle disclosures.

The PWDA Board receives regular reports on the status of any whistleblower cases and on any actions taken.

PWDA will take any breach of this policy seriously. This could involve a separate investigation and/or disciplinary action.

A breach of this policy may also breach the Australian whistleblower laws.

Guiding principles

PWDA Guiding principles: as set out in our Strategic Directions.

Transparency, Fairness and Respect: PWDA handles whistleblower processes transparently. We support the right of everyone involved to be treated fairly and with respect.

Equity, access and non-discrimination: as set out in the UN Convention on the Rights of Persons with Disabilities (UNCRPD), the Disability Discrimination Act 1992 and other Commonwealth and state human rights legislation.

Accessibility: we provide the Whistleblower Policy in the formats people need, and provide other supports people may need during a whistleblower process due to their disability.

Good governance: PWDA complies with the Corporations Act 2001, the Taxation Administration Act 1953, the Charities Act 2012 and other relevant Commonwealth and state legislation. PWDA follows the Australian Council for International development (ACFID)'s Code of Conduct. The Code requires members to comply with whistleblower laws, and to ensure their policy includes the responsibility to disclose information of possible wrongdoing.

Quality management: PWDA is guided by the National Disability Services Standards regarding service management.

Risk Management: The Whistleblower Policy helps to identify, minimise and prevent financial and other types of misconduct that would threaten the organisation, our people and the community.

We assess all whistleblower disclosures for risk while they are active, to ensure the safety and wellbeing of the person making the complaint and others.

Continuous improvement: We use whistleblower disclosures, the outcomes of these and any feedback from people involved to:

- improve how we manage whistleblower disclosures, and
- improve how we operate.

Background information

About Australian Whistleblower laws

The Corporations Act 2001 and the Taxation Administration Act 1953 both contain protections for whistleblowers.

The Taxation Administration Act covers people who report tax avoidance behaviour or other tax related issues. The Corporations Act covers a much broader range of misconduct that can happen in organisations.

As a company limited by guarantee, PWDA must comply with whistleblower laws.

Who is covered by the whistleblower protections?

To be treated as a whistleblower under this policy you must be a current or former:

- Officer, employee or volunteer of PWDA
- Contractor or supplier of goods and services to PWDA, or their current and former employees, paid or unpaid
- Associate of PWDA or
- Spouse, relative or dependent of one of the people referred to above.

An officer is a Board member or Company Secretary. An associate is someone who often works together with PWDA.

You must hold or have held one of these roles to be covered by whistleblower protections. However, you do not have to identify yourself or your role. You can choose to disclose information and tell PWDA about your concerns anonymously.

To be treated as a whistleblower, you also need to disclose information about the type of matters set out below. You also need to disclose your information to one of the people listed in this policy.

What kinds of matters are covered by whistleblower protections?

Disclosures can be about improper conduct which you suspect on reasonable grounds has occurred or is occurring within PWDA, including conduct by an officer or employee of PWDA. However, disclosures cannot be made under his policy about solely personal work-related grievances. Such matters will be dealt with in accordance with the PWDA Staff Grievance Policy (as amended and/or updated from time to time).

Examples of disclosable matters include:

- Illegal conduct at PWDA, or by an officer or employee of PWDA, such as fraud, corruption, bribery, theft, violence, harassment or intimidation, criminal damage to property or other breaches of applicable laws
- Misconduct or improper state of affairs or circumstances in relation to PWDA, including in relation to:
 - Corporate governance
 - Accounting or audit matters
 - Tax affairs, or the tax affairs of an associate of PWDA
 - Substantial mismanagement of PWDA resources
- Conduct at PWDA that represents a danger to the public (including Public health, safety or the environment)
- Conduct at PWDA which amounts to an abuse of authority
- Conduct which may cause financial loss to PWDA or damage to its reputation or be otherwise detrimental to PWDA's interests.

Personal workplace grievances are generally not covered by whistleblower laws. These are grievances relating to an individual's employment or former employment about anything that only has implications for that individual. However, some personal grievances could relate to a whistleblower situation (such as being victimised).

A personal grievance could also raise other serious concerns that could be seen as whistleblowing. This could include:

- If PWDA, or an officer or employee of PWDA is suspected of criminal offence or not complying with the Corporations Act or Australian Securities and Investments Commission Act.
- If PWDA, or an officer or employee of PWDA is suspected of committing a Commonwealth criminal offence punishable by more than 12 months' imprisonment.
- If PWDA, or an officer or employee of PWDA poses a danger to the public or the financial system.
- If there is misconduct or improper circumstances regarding PWDA's tax affairs.

Can whistleblowers keep their identity confidential?

The law says that a whistleblower's identity (or information that is likely to identify them) must be kept confidential unless the whistleblower has consented to disclosing who they are.

Exceptions

However, there are some situations when a whistleblower's identity (or information that is likely to identify them) can be disclosed without their consent.

This includes if the disclosure is made to:

- a) An inhouse or external lawyer for the purpose of obtaining legal advice or legal representation relating to the Australian whistleblower laws
- b) The Australian Federal Police
- c) The Australian Securities and Investments Commission
- d) The Australian Prudential Regulatory Authority
- e) The Australian Commissioner of Taxation if the disclosure is about PWDA's tax affairs or the tax affairs of an associate of PWDA

Courts or tribunals

Sometimes a court or tribunal may ask for information or documents which would disclose the identity of a whistleblower (or contains information likely to identify them). No-one at PWDA should provide this information without first getting advice from our legal advisor and permission from the PWDA Board.

Anonymous whistleblowing

People can make anonymous disclosures. However, this will make it more difficult for PWDA to investigate and take action.

What protection is there to make sure whistleblowers aren't victimised?

The law says that we must not allow detrimental treatment. This means we must make sure no-one at PWDA threatens or treats a person badly because they:

- are a whistleblower,
- are planning to be a whistleblower, or
- are suspected, or believed to be, or could be, a whistleblower.

Examples of detrimental treatment include:

- Dismissal
- Injury of an employee at work
- Changing an employee's position or duties so they are disadvantaged
- Discrimination, harassment or intimidation
- Harm or injury including psychological harm
- Damage to property, reputation or financial position
- Taking action against a whistleblower who speak up about not getting their rights (for example, a breach of confidentiality). Or making them liable or taking action against them simply because they have made a disclosure.

However, if the investigation of their disclosure shows the whistleblower themselves engaged in personal misconduct they may be held liable.

PWDA protects whistleblowers by keeping their identity and information confidential. We make sure that the only people at PWDA who have that information are those are involved in handling the disclosure. We store all information securely.

Roles and Responsibilities

Everyone at PWDA has a responsibility to come forward and speak out if they are aware of any possible wrongdoing.

Whistleblowers are responsible for giving PWDA the information we need and being available and willing to help us manage their disclosure.

All staff understand their responsibility regarding whistleblower disclosures.

Disclosure Coordinators are responsible for receiving and managing disclosures and making sure whistleblowers have any support they need.

CEO is responsible for supporting Disclosure Coordinators and reviewing the outcomes of disclosures. The CEO reports to the Board on whistleblower disclosures, progress and outcomes, trends, actions taken to improve services and operations, and strategic recommendations.

PWDA Board is responsible for managing whistleblower disclosures that relate to the CEO or a Board member. The Board is also responsible for any strategic actions regarding whistleblower situations.

Procedures

How do I disclose some information?

You can contact one of PWDA's Disclosure Coordinators:

- The Company Secretary and/or
- The CEO,
- The Director, People, Quality & Systems, or
- The PWDA Board

You can find contact details for the Disclosure Coordinators in Schedule 1 of this policy.

Or, you can disclose the information to any one of the following:

- a) An officer or senior manager within PWDA
- b) An auditor or member of an audit team conducting an audit on PWDA
- c) If the disclosure concerns PWDA's tax affairs or the tax affairs of an associate of PWDA:
 - PWDA's registered tax agent or BAS agent, or
 - an employee or officer at PWDA who has functions or duties relating to its tax affairs and who you consider may be assisted in their role by knowing that information.

You can use the PWDA Whistleblower Disclosure Form (Attachment A) and give it or send it to one of the people above.

What information do I need to provide?

First of all, you must know of, or reasonably suspect, misconduct or wrongdoing.

You need to give PWDA as much information as possible to help us decide if we should investigate. This includes any details you know about the events you are reporting such as the:

- a) date;
- b) time;
- c) location;
- d) name of person or people involved;
- e) possible witnesses to what happened; and
- f) evidence of what happened such as documents or emails.

The Whistleblower Disclosure Form (Attachment A) includes the main information PWDA needs, but you can add any other information you think could be relevant.

Can I get support to disclose some information?

PWDA can provide support to help you disclose your information and throughout the investigation. This can include help to lodge a report, information in accessible formats, interpreters and other supports you may need, as part of reasonable accommodations.

When you contact us, let us know straight away if you need support, and the kind of you need.

You can also have your own support person to assist you if you wish.

What will happen?

The following steps set out what will happen when someone at PWDA makes a disclosure which may be covered by this policy.

The person who receives your disclosure must give the information to a Disclosure Coordinator within one (1) working day. They must remove any information which identifies or may identify the person who disclosed the information (the potential whistleblower).

The Disclosure Coordinator must decide whether the disclosure is covered by this policy. If so, and they decide it is necessary or appropriate, they will appoint a person within five (5) working days to investigate the matters that have been disclosed. The investigator must be a person who has no personal interest in the matter.

The investigator must be objective and fair when they carry out the investigation. Anyone mentioned in the disclosure as having done something wrong must have an opportunity to respond to the allegation about them.

The outcome of the investigation must be reported to the Board or its delegated subcommittee. The Disclosure Coordinator may report the outcome to the whistleblower and anyone else involved if they decide it is appropriate.

PWDA will keep your identity (or information that is likely to identify you) confidential during and after the investigation. This includes in reports to the Board or to any other people who are affected. Everyone responsible for or involved in an investigation must do everything they can to reduce the risk that you will be identified. PWDA can share your identity if you give your consent or share it without your consent in some specific legal situations (listed in the Background Information section of this policy).

If you have any concerns or complaints about this policy or how you have been treated, you should tell the Disclosure Coordinator.

Reporting to the Board or its delegated subcommittee

The CEO will provide the Board or its delegated subcommittee with updates on whistleblower matters. The quarterly reports will include information on:

- a) The status of any current investigations
- b) The outcomes of any completed investigations and any actions that have been taken as a result.

Contact details

The contact details for PWDA's Disclosure Coordinators as at September 2021 are:

Company Secretary Level 8 418A Elizabeth Street SURRY HILLS NSW 2012 Telephone +61 2 93703100 Email: pwd@pwd.org.au	PWDA Board Level 8 418A Elizabeth Street SURRY HILLS NSW 2012 Telephone +61 2 93703100 Email: pwd@pwd.org.au
Chief Executive Officer Level 8 418A Elizabeth Street SURRY HILLS NSW 2012 Telephone +61 2 93703100 Email: sebastianz@pwd.org.au	Director, People, Quality & Systems Level 8 418A Elizabeth Street SURRY HILLS NSW 2012 Telephone +61 2 93703100 Email: karinw@pwd.org.au

Related documents

Relevant legislation, regulations and standards

- Corporations Act
- Taxation Administration Act
- State and Territory Child Protection laws
- Disability Discrimination Act
- Fair Work Act
- Privacy Act
- National Disability Services Standards
- ACNC Standards

Relevant PWDA Policy

- Easy Read Whistleblower Policy
- Board Code of Conduct and Ethics
- Staff Code of Conduct and Ethics
- Child Protection Policy and Code of Conduct
- Preventing Sexual Exploitation, Abuse and Harassment Policy
- Staff Grievances Policy
- Privacy Policy
- Preventing Financial Wrongdoing Policy
- Reasonable Adjustment Policy
- Incident Reporting and Management Policy
- Performance Management Policy
- Risk Management Plan
- Continuous Improvement Plan

Supporting documents

Whistleblower Disclosure Form

Attachment A: Whistleblower Disclosure Form

Please fill in this form and attach any other information you think could be relevant. Give or send the completed form to any of the people listed in the policy. PWDA will keep all your information private and confidential.

Name:

Address:

Contact Information:

Home phone Work phone

Mobile phone TTY phone

Email: Facsimile

Are you eligible to be a Whistleblower? (Please read page 5 of this policy)

Yes

No

Who is this Whistleblower Disclosure about? (Please tell us the person's name and position at PWDA)

Name:

Position:

Are there any other people or organisations involved? (If yes, please tell us who they are)

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Please tell us about the misconduct/improper activity and how you knew about it. If there is more than one allegation, number each of them. Please tell us as much as possible. (Add more pages if you need to)

What misconduct/improper activity happened?

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Who committed the misconduct/improper activity?

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When did it happen, and when did you notice or find out about it?

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Where did it happen?

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Please tell us if you have, or know about, any other details, and any evidence, such as documents or a witness that might help us to investigate your disclosure? (If possible, attach copies of any documents and details of any witnesses. Please do NOT try to get evidence that you don't have a right to access).

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Please tell us if you are concerned about you or anyone else being treated badly because you are making this report. (See page 7 of this policy for more information and examples)

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Have you told anyone else about your concerns?

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Is there anything else you would like to tell us about this matter?

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Your signature:

Date: