



## **South India AIDS Action Programme**

### **WHISTLE BLOWER POLICY**

**Implemented with effect from: 25<sup>th</sup> December 2018**

## **SOUTH INDIA AIDS ACTION PROGRAMME**

### **WHISTLE BLOWER POLICY**

SIAAP's Whistle Blower Policy has been formulated with a view to provide a mechanism for associates of SIAAP to raise concerns on any violations of legal or regulatory requirements, and incorrect or misrepresentation of any financial statements and reports.

#### **POLICY**

The Whistle Blower policy intends to cover serious concerns that could have grave impact on the operations and performance of the Organization. The policy neither releases associates from their duty of confidentiality in the course of their work, nor is it a route for taking up a grievance about a personal situation.

#### **DEFINITIONS**

**"Disciplinary Action"** means any action that can be taken on the completion of /during the investigation proceedings including but not limited to a warning, imposition of fine, suspension from official duties, termination or any such action as is deemed to be fit considering the gravity of the matter.

**"Associate"** means every staff working with SIAAP, including full time, part time associates, consultants, and all others associated with SIAAP in the capacity of employment.

**"Protected Disclosure"** means a concern raised by a written communication made in good faith that discloses or demonstrates information that may evidence unethical or improper activity. Protected Disclosures should be factual and not speculative in nature.

**"Alleged wrongdoer"** means a person or group of persons against, or in relation to whom a Protected Disclosure is made, or evidence gathered during the course of an investigation under this Policy.

**"Whistle blower"** is someone who makes a Protected Disclosure under this Policy.

**"Whistle Officer"** or **"Whistle Committee"** or **"Committee"** means an officer or Committee of persons who is/are nominated/ appointed to conduct detailed investigation of the disclosure received from the whistle blower and recommend disciplinary action. Currently, the Administrator is nominated as Whistle Officer. The Administration Office of SIAAP will serve as

the hub of the Whistle Committee, and will have a Trustee, Director, Administrator & a representative from community as members of the Committee.

**“Organization ”** means, “South India AIDS Action Programme, SIAAP” including all branch / field offices, over which the Organization has management control.

**“Good Faith”**: An associate shall be deemed to be communicating in ‘good faith’ if there is a reasonable basis for communication of unethical and improper practices or any other alleged wrongful conduct. Good Faith shall be deemed lacking when the associate does not have personal knowledge on a factual basis for the communication or where the associate knew or reasonably should have known that the communication about the unethical and improper practices or alleged wrongful conduct is malicious, false or frivolous.

**“Policy or This Policy”** means, “Whistle Blower Policy”

## **SCOPE**

Various stakeholders of the Organization are eligible to make Protected Disclosures under the Policy. These stakeholders may fall into any of the following broad categories:

- Associates of the Organization and Associates of other agencies deployed for the Organization’s activities, whether working from any of the Organization’s offices or any other location,
- Contractors, vendors, suppliers or agencies (or any of their associates) providing any material or service to the Organization,
- Beneficiaries of the Organization or any other person(s) having an association with the Organization

**The Policy covers malpractices and events which have taken place/ suspected to take place involving:**

1. Abuse of authority,
2. Breach of contract,
3. Negligence causing substantial and specific danger to public health and safety,
4. Manipulation of organization data/records,
5. Financial irregularities, including fraud or suspected fraud or deficiencies in internal control and check or deliberate error in preparations of financial statements or misrepresentation of financial reports.
6. Any unlawful act whether criminal/ civil,
7. Pilferage of confidential/propriety information,

8. Deliberate violation of law/regulation,
9. Wastage / misappropriation of organization funds/assets,
10. Bribery or corruption,
11. Sexual Harassment,
12. Retaliation,
13. Breach of IT Security and data privacy,
14. Social media misuse,
15. Breach of Organization Policy or failure to implement or comply with any approved organizational policy,

**The Policy should not be used in place of the Organization grievance procedures or be a route for raising malicious or unfounded allegations against colleagues.**

### **GUIDING PRINCIPLES**

To ensure that this Policy is adhered to, and to assure that the concern will be acted upon seriously, the organization will:

1. Ensure that the whistle blower and/or the person processing the Protected Disclosure is not victimized for doing so,
2. Treat victimization as a serious matter, including initiating disciplinary action on person/(s) indulging in victimization,
3. Ensure complete confidentiality,
4. Not attempt to conceal evidence of the Protected Disclosure,
5. Take disciplinary action, if any one destroys or conceals evidence of the Protected Disclosure made/to be made,
6. Provide an opportunity of being heard to the persons involved especially to the Alleged wrongdoer.

### **ANONYMOUS DISCLOSURES**

Whistle blowers are encouraged to put their names to their disclosures. However, individuals may raise concerns anonymously. As compared to concerns raised where whistle blowers have chosen to identify themselves, the Organization will decide to take up an anonymously expressed concern based on the following factors:

- The seriousness of the issue raised;
- The credibility of the concern; and
- The likelihood of confirming the allegation from attributable sources.

Whistle blowers are, therefore, strongly encouraged to share their identity when making the disclosure.

## **PROTECTION TO WHISTLE BLOWER**

1. If one raises a concern under this Policy, he/she will not be at risk of suffering any form of reprisal or retaliation. Retaliation includes discrimination, reprisal, harassment or vengeance in any manner. Organization's associate will not be at the risk of losing her/ his job or suffer loss in any other manner like transfer, demotion, refusal of promotion, or the like including any direct or indirect use of authority to obstruct the whistleblower's right to continue to perform his/her duties/functions including making further Protected Disclosure, as a result of reporting under this Policy. The protection is available provided that:

1. The whistle blower has chosen to identify themselves,
2. The communication/ disclosure is made in good faith,
3. The whistle blower reasonably believes that information, and any allegations contained in it, are substantially true; and,
4. The whistle blower is not acting for personal gain.

Anyone who abuses the procedure (for example by maliciously raising a concern knowing it to be untrue) will be subject to disciplinary action, as will anyone who victimizes a colleague by raising a concern through this procedure. If considered appropriate or necessary, suitable legal actions may also be taken against such individuals.

However, no action will be taken against anyone who makes an allegation in good faith, reasonably believing it to be true, even if the allegation is not subsequently confirmed by the investigation.

2. The Organization will not tolerate the harassment or victimization of anyone raising a genuine concern. As a matter of general deterrence, the Organization shall publicly inform associates of the penalty imposed and disciplinary action taken against any person for misconduct arising from retaliation. Any investigation into allegations of potential misconduct will not influence or be influenced by any disciplinary or redundancy procedures already taking place concerning an associate reporting a matter under this policy.

Any other Associate/functioning associate assisting in the said investigation shall also be protected to the same extent as the Whistle blower.

## **ACCOUNTABILITIES – WHISTLE BLOWERS**

a) Bring to early attention of the Organization any improper practice they become aware of. Although they are not required to provide proof, they must have sufficient cause for concern. Delay in reporting may lead to loss of evidence and also financial loss for the Organization.

- b) Avoid anonymity when raising a concern.
- c) Follow the procedures prescribed in this policy for making a disclosure.
- d) Co-operate with investigating authorities, maintaining full confidentiality.
- e) The intent of the policy is to bring genuine and serious issues to the fore and it is not intended for petty disclosures. Associates are expected to avoid invoking their rights under this policy to settle personal scores or to give vent to their malicious intentions. Malicious allegations by associates may attract disciplinary action.
- f) A whistle blower has the right to protection from retaliation. But this does not extend to immunity for involvement in the matters that are the subject of the allegations and investigation.
- g) Maintain confidentiality of the subject matter of the disclosure and the identity of the persons involved in the alleged malpractice. It may forewarn the alleged wrongdoer and important evidence is likely to be destroyed.
- h) In exceptional cases, where the whistle blower is not satisfied with the outcome of the investigation carried out by the Whistle Officer or the Committee, he/she can make a direct appeal to the Executive Director / Chairperson of the Trust Board of the Organization .

#### **ACCOUNTABILITIES – WHISTLE OFFICER, AND WHISTLE COMMITTEE**

- a) Conduct the enquiry in a fair, unbiased manner.
- b) Ensure complete fact-finding.
- c) Maintain strict confidentiality, especially of the whistle blower's identity (if available).
- d) Decide on the outcome of the investigation, whether an improper practice has been committed and if so by whom.
- e) Recommend an appropriate course of action - suggested disciplinary action, including dismissal, and preventive measures.
- f) Record committee deliberations and document the final report.

#### **RIGHTS OF AN ALLEGED WRONGDOER**

- a) Subjects have the right to be heard and the Whistle Officer or the Committee must give adequate time and opportunity for the Alleged wrongdoer to communicate their say on the matter.
- b) Alleged wrongdoers have the right to be informed of the outcome of the investigation and shall be so informed in writing by the Organization after the completion of the inquiry/ investigation process.
- c) Alleged wrongdoers have no right to ask for or be given information about the identity of the whistle blower, even if it is available.

## **MANAGEMENT ACTION ON FALSE DISCLOSURES**

An associate who knowingly makes false allegations of unethical & improper practices or alleged wrongful conduct shall be subject to disciplinary action, up to and including termination of employment, in accordance with organizational rules, policies and procedures. Further this policy may not be used as a defense by an associate against whom an adverse personnel action has been taken independent of any disclosure made by him and for legitimate reasons or cause under Organization's rules and policies.

## **PROCEDURE FOR REPORTING & DEALING WITH DISCLOSURES**

For more details, refer to the procedure for reporting & dealing with disclosures given in **Annexure A**.

## **ACCESS TO REPORTS AND DOCUMENTS**

All reports and records associated with 'Disclosures' are considered confidential information and access will be restricted to the whistle blower, the Whistle Committee, the Whistle Officer, and the Director. 'Disclosures' and any resulting investigations, reports or resulting action will generally not be disclosed to the public except as required by any legal requirements or regulations or by any policy in place at that time.

## **RETENTION OF DOCUMENTS**

All Protected Disclosures in writing or documented along with the results of investigation relating thereto shall be retained by the Organization for a minimum period of 7 years.

## **REPORTS**

A quarterly status report on the total number of complaints received during the period, with summary of the findings of the Whistle Committee and the corrective actions taken will be sent to the Trust Board of the Organization .

## **ORGANIZATION'S POWERS**

The Organization is entitled to amend, suspend or rescind this policy at any time. Whilst, the Organization has made best efforts to define detailed procedures for implementation of this policy, there may be occasions when certain matters are not addressed or there may be ambiguity in the procedures. Such difficulties or ambiguities will be resolved in line with the broad intent of the policy. The Organization may also establish further rules and procedures, from time to time, to give effect to the intent of this policy and further the objective of good corporate governance.

## WHISTLE BLOWER POLICY - ANNEXURE A

### PROCEDURE FOR REPORTING & DEALING WITH DISCLOSURES

#### 1. How should a disclosure be made and to whom?

A disclosure should be made in writing. Letters can be submitted by hand-delivery, courier or by post addressed to the Whistle Officer appointed by the Organization . Emails can be sent to the email id: [disclosure@siaapindia.org](mailto:disclosure@siaapindia.org). Whilst, a disclosure should normally be submitted to the Whistle Officer, it may also be submitted directly to the Executive Director / Chairperson of the Organization 's Board of Trustees (via email at the email id: [disclosure.ed@siaapindia.com](mailto:disclosure.ed@siaapindia.com), when the Whistle blower feels it necessary under the circumstances

Disclosures against the Director or Trustees should be sent directly to the Chairperson of the Trust Board.

The Organization's administrator is the Chief Compliance Officer as well as the Whistle Officer for the Organization.

As per the compliance process wherein the disclosure has been made, he / she will jointly examine the allegations with the Vigilance Unit of the Organisation.

#### 2. Is there any specific format for submitting the disclosure?

While there is no specific format for submitting a disclosure, the following details MUST be mentioned:

- (a) Name, address and contact details of the whistle blower.
- (b) Brief description of the malpractice, giving the names of those alleged to have committed or about to commit a malpractice. Specific details such as time and place of occurrence are also important.
- (c) In case of letters, the disclosure should be sealed in an envelope marked "Whistle Blower" and addressed to the Whistle Officer OR Chairperson / ED, depending on position of the person against whom disclosure is made.

Associates wishing to make anonymous disclosures need not give details regarding their identity.

### **3. What will happen after the disclosure is submitted?**

(a) The Whistle Officer shall acknowledge receipt of the disclosure as soon as practical (preferably within 07 days of receipt of a disclosure), where the whistle blower has provided his/her contact details.

(b) The Whistle Officer, will examine the allegations to determine whether the allegations (assuming them to be true only for the purpose of this determination) made in the disclosure constitute a Malpractice. If the allegations do not constitute a malpractice, the Whistle Officer will record this finding with reasons and communicate the same to the whistle blower.

(c) If the allegations constitute a malpractice, the Whistle Officer will proceed to investigate the Disclosure with the assistance of the Whistle Committee comprising of Senior Level Officers of Personnel & Admin, Internal Audit and a representative of the Organization / Division / Department where the breach has occurred, as he/she deems necessary or as per the process defined under the relevant policy. If the alleged malpractice is required by law to be dealt with under any other mechanism, the Whistle Officer shall refer the disclosure to the appropriate authority under such mandated mechanism and seek a report on the findings from such authority.

(d) Alleged wrongdoers will normally be informed of the allegations at the outset of a formal investigation and have opportunities for providing their inputs during the investigation.

(e) The investigation may involve study of documents and interviews with various individuals. Any person required to provide documents, access to systems and other information by the Whistle Officer or Whistle Committee for the purpose of such investigation shall do so. Individuals with whom the Whistle Officer or Whistle Committee requests an interview for the purposes of such investigation shall make themselves available for such interview at reasonable times and shall provide the necessary cooperation for such purpose.

(f) If the malpractice constitutes a criminal offence, the Whistle Officer will bring it to the notice of the Executive Director & Chairperson of the Trust Board and take appropriate action including reporting the matter to the police.

(g) The Executive Director of the Organization may, at their discretion, participate in the investigations of any disclosure.

(h) The Whistle Committee / vigilance unit shall conduct such investigations in a timely manner and shall submit a written report containing the findings and recommendations to the Whistle Officer as soon as practically possible and in any case, not later than 90 days from the date of receipt of the disclosure. The Whistle Officer may allow additional time for submission of the report based on the circumstances of the case.

(i) Whilst it may be difficult for the Whistle Officer to keep the Whistle blower regularly updated on the progress of the investigations, the whistle blower will be kept informed of the result of the investigations and its recommendations subject to any obligations of confidentiality.

(j) The Whistle Officer, along with the Executive Director of the Organization shall jointly take decision on the action to be taken on the recommendations of the Whistle Committee and keep the Whistle blower informed of the same. Though no timeframe is being specified for such action, the Organization will endeavour to act as quickly as possible in cases of proved malpractice.

#### **4. What should one do when faced with any retaliatory action or threats of retaliatory action as a result of making a Disclosure?**

If an associate faces any retaliatory action or threats of retaliatory action as a result of making a disclosure, they will be encouraged to inform the Whistle Officer in writing immediately. The Whistle Officer will take cognizance of each and every such complaint/feedback

received and pass it on to the Director and the Chairperson of the Trust. S/he may also recommend appropriate steps to protect the associate from exposure to such retaliatory action and ensure implementation of such steps for their protection.

#### **5. While the Organization accepts anonymous disclosures under the policy, why does it strongly encourage to reveal identity when making disclosures?**

An associate can make an anonymous disclosure. However, if the identity of the whistleblower is revealed, the Organization will be able to follow up with them and provide feedback. The identity and information will only be shared on a “need-to-know” basis. When the identity of the whistleblower is revealed, the Organization will be able to protect them from any form of retaliation — whether direct or indirect.

The Board of Trustees resolve to adapt this Whistleblower policy and is effective from 25<sup>th</sup> December 2018.