

Policy Sponsor: CLO and Legal

Summary: Sets out how complaints of illegal or unethical conduct relating to Directors, OMERS employees and senior executives of the Investment Entities are received, investigated, addressed, and reported to the Board.
This policy must be approved by the Audit Committee.

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1. PURPOSE AND APPLICATION

This policy affirms OMERS commitment to ensure that complaints of illegal or unethical conduct are fully investigated and addressed in a timely manner and that “whistleblowers” are protected against reprisals for complaints made in good faith. This policy supports and follows from the reporting provisions in two other OMERS policies.

- The *Code of Conduct* requires all employees and Directors to report violations of the Code to their manager or Senior Management. A matter involving a Director must be reported to the Board Chair or, if it involves the Board Chair, it is to be reported to the Audit Committee Chair. The Code also permits complaints to be made anonymously through the Ethics Hotline administered by an external service provider (currently Clearview Strategic Partners Inc. or “Clearview”). All reported complaints are referred to the Oversight Committee described below.
- The *Harassment, Discrimination & Violence Policy* permits complaints of misconduct under that policy to be reported to the head of HR either directly or through any manager or corporate counsel.

This policy applies to complaints relating to Directors and OMERS employees, as well as the heads of the Investment Entities and employees of the Investment Entities reporting directly to them (Entity Senior Executives) as listed in Appendix A.

2. INDEPENDENCE AND FAIRNESS OF INVESTIGATIONS

It is fundamental to the effectiveness of this policy that every alleged offender is presumed innocent until proven guilty and that investigations are independent. Persons involved in conducting or overseeing an investigation must be free from actual or perceived conflicts. In particular:

- a person who makes or is the subject of a complaint must not conduct or oversee any aspect of the investigation of that complaint; and
- employees must not be involved in an investigation where the alleged offender or the complainant is in a position senior to, or is a peer of, the employee.

As soon as possible, but without compromising the effectiveness of the investigation or any anonymity requested by the complainant, the alleged offender must be notified of the complaint and be given an opportunity to respond.

3. CONFIDENTIALITY

The complaint investigation and reporting process must be conducted in a manner that protects the interests of OMERS, the legitimate expectations of complainants and the rights and obligations of alleged offenders. All information relating to the receipt and investigation of complaints is confidential.

- Legal privilege is to be maintained to the extent possible throughout the process.
- Disclosure is only permitted on a “need-to-know” basis¹ and must be limited to the information necessary to make use of the recipient’s knowledge or expertise, or as required by law.
- If a complaint is unable to be substantiated, all information relating to it will remain confidential on completion.
- If misconduct is substantiated, those responsible for decision-making (as set out in Appendix B) must determine whether some internal or public disclosure should be made of the misconduct or the sanction imposed.

Complaint and investigation files must be kept separate from employee files and stored in a secure location with access limited to those responsible for conducting the investigation. No record of a complaint will be kept in any employee file unless improper conduct is found that results in disciplinary action. In that case, the outcome of the investigation will only be reflected in the file of the disciplined employee.

Any employee involved in an investigation, whether as a complainant, alleged offender or person interviewed, may wish to use the confidential counseling service that is available to all employees through the OMERS Employee Assistance Program.

4. OVERSIGHT ACCOUNTABILITY

The Oversight Committee (OC), consisting of the CFO (Chair of the OC), the Chief Auditor and the General Counsel of OMERS, is accountable for ensuring that complaints of violations are appropriately investigated, resolved and reported under this policy. Managers must forward any complaints they receive to a member of the OC. Complaints relating to the Investment Entities must be forwarded to the OC only if they involve an Entity Senior Executive. The OC must evaluate the nature of the complaint to determine the appropriate level of response.

The role of the OC in investigations of complaints relating to Directors is only to facilitate the retention of appropriate external counsel and to provide resources and access to information requested by external counsel to properly fulfill the engagement. If the Board Chair or the Audit Committee Chair receive a complaint regarding a Director, they must coordinate any investigation with the OC. External investigations are required for complaints involving Directors, Senior Management, or Senior Entity Executives to avoid potential conflicts from peers investigating peers or individuals investigating persons with whom they have a direct or indirect reporting relationship.

Complaints relating to the Investment Entities are to be handled by Entity Senior Executives in accordance with their internal policies unless the alleged offender is an Entity Senior Executive. In that case the complaint must be forwarded to a member of the OC.

The OC may delegate responsibility for overseeing or investigating specific matters to external counsel or other staff, including the CHRO or VP, Compliance, as the OC deems appropriate. Where a member of the OC has an actual or perceived conflict, the complaint must be referred to

¹ An individual “needs to know” information about a complaint if disclosure of the information is necessary to conduct the investigation properly (e.g. interviewing potential witnesses), to perform the individual’s business function (e.g. running reports for an investigation) or for the individual to make a decision or provide requested advice regarding the investigation, and must be limited to only the information specifically needed to do so.

another member of the OC, who must refer the complaint to external counsel who will report to the CEO, Board Chair or Audit Committee Chair, as set out in Appendix B.

The member(s) of the OC or external counsel overseeing the investigation must also ensure that:

- the CEO is kept informed of complaints against employees (including Senior Management other than the CEO) and external vendors or consultants;
- the Board Chair is kept informed of complaints against other Directors or the CEO; and
- the Audit Committee Chair is kept informed of complaints against the Board Chair.

In order to protect the confidentiality of the investigation process and the legitimate privacy rights of the individuals involved, neither the Board Chair nor the Audit Committee Chair is required to report complaints or investigations to the Board or any other Director except as expressly contemplated by the processes set out in this policy.

5. INVESTIGATION RESOURCES

The individual appointed or retained to conduct an investigation of a complaint (the Investigator) must have full access to all enterprise records and people who may have relevant information. All employees, Directors and Investment Entity employees must cooperate with investigations (e.g. by providing records or being interviewed).

In addition, external resources must be available to assist in investigations where needed. Appendix C is a suggested list of external counsel and consultants who may be retained to provide expertise for investigating different types of complaints. A complaint involving alleged criminal conduct should be referred to the police.

All external consultants retained must enter into a confidentiality agreement that has been reviewed by the General Counsel or external counsel, as appropriate.

6. REPORTING

The Investigator must produce a report of the investigation as expeditiously as possible and provide it to one of the CEO, Board Chair or the Audit Committee Chair for resolution by either the CEO or Audit Committee, all as set out in Appendix B.

The actions that may be taken to address a violation will depend on the particular circumstances including, without limitation,

- if the violation involves an employee, including Senior Management, or an Entity Senior Executive: disciplinary action up to and including dismissal; and
- if the violation involves a Director, including the Board Chair: a reprimand; the suspension or removal from the position of Board Chair, Committee Chair or Committee Vice Chair; a request for resignation; or disclosure of the sanction to the Director's nominating or sponsoring organization.

The CFO must provide a quarterly report to the Board outlining the number of complaints received, the type of complaint, the number substantiated, the number resolved and a general description of how they were resolved. These reports must not contain information that could identify the individuals involved unless required as a matter of law. If necessary, based on the nature of the complaint, the CFO may provide a report to the Board at its next meeting.

HISTORY

Effective Date:	January 1, 2012
Approval Dates:	December 14, 2007, April 10, 2008, November 17, 2011
Next Scheduled Date for Review:	February, 2012

APPENDIX A – ENTITY SENIOR EXECUTIVES

The following positions, including their successors in these positions or their replacements in like positions, are considered Entity Senior Executives for the purpose of this policy.

Borealis Infrastructure Management Inc.
President and Chief Executive Officer
Executive Vice President
General Counsel
Senior Vice President
Chief Financial Officer
Vice President
OMERS Private Equity
President and Chief Executive Officer
Senior Managing Director
Managing Director
Controller
General Counsel
Oxford Properties
President and Chief Executive Officer
Executive Vice President
Senior Vice President
Chief Financial Officer, Primaris REIT
Chief Financial Officer
Chief Legal Counsel

APPENDIX B – SUMMARY OF PROCESS FOR INVESTIGATING COMPLAINTS

Individual involved in complaint	Board Chair	Other Director	CEO	Other Senior Management or Entity Senior Executives	Other OMERS Employee	Vendor or Consultant
Written complaint is referred to:	Oversight Committee (as facilitator) → External Counsel				Oversight Committee	
Individual to be kept advised of complaint:	Audit Chair	Board Chair	CEO			
Investigation and report are completed by:	External Counsel + External consultants as needed				Oversight Committee + External consultants or employees as needed	
Final investigation report is provided to:	Audit Chair	Board Chair	CEO			
Decision is made by:	Audit Committee	Audit Committee				
If the decision involves a public sanction, approval is required by:	Board	Board				
Summary (non-identifying) reporting on complaints is given to:	Board - Quarterly					

APPENDIX C – EXTERNAL COUNSEL AND CONSULTANTS LIST

This list is available from the VP, Compliance or any member of the Oversight Committee, who will coordinate contact with the external party. The list is also provided to the Board Chair, the Audit Committee Chair, and the CEO.