

## HR-PO-022 Whistleblower Policy



### 1. Purpose

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

This policy and associated procedure is to provide an avenue for any person to raise concerns regarding situations where they believe that MWCLA or anybody connected with MWCLA has acted in a way that does not meet our expectations for ethical, legal and moral behaviour. People making disclosures under this policy should be able to do so, without fear of retribution.

### 2. Scope

This policy applies to past and current:

- MWCLA staff
- MWCLA board members
- MWCLA contractors, consultants and suppliers

Within this policy all of these people are represented by the term 'workers.'

Although under no obligation to do so, any customer, or associate, family member of dependant of any person in the above groups of people may also speak up. If they do choose to speak up in line with this policy, MWCLA will extend to them the relevant rights and protections under this policy.

We have established a number of ways to communicate about concerns, including:

- direct communication with managers/supervisors;
- through our quality systems and safety systems that provide for non-conformances and incidents to be recorded and investigated;
- through the internal processes set out in this policy;
- through the external processes:
  - a. for customers through dedicated reporting service.
  - b. set out in this policy for everyone else, through the dedicated whistleblowing service.

### 3. Policy Statement

#### 3.1 General Principles

This policy is designed to:

- foster our culture of ethical, legal and moral behaviour;
- support are existing systems and controls;
- meet our legal obligations.

If anything in this policy is inconsistent with a MWCLA legal obligation, those legal obligations or the "higher standard" will prevail over this policy.

We encourage workers at MWCLA to disclose any concerns in line with our policies and procedures.

MWCLA expects workers to act honestly and ethically, and to make any disclosure on reasonable grounds.

Our obligations to workers are spelled out in this policy, but in particular in section 3.3 Protections.

MWCLA will maintain confidentiality of all disclosures and protect the identity of disclosers to the fullest extent possible. While MWCLA encourages whistleblowers to identify yourself to a Whistleblowing Protection Officer (CEO / Board Chair), you may make your disclosure anonymously.

### **3.2 Reporting about Conduct**

Where MWCLA receives a disclosure there are a range of issues that might arise. Depending on the issue(s) identified by MWCLA, MWCLA may choose to:

- undertake a preliminary assessment, to determine what needs to be investigated. This includes seeking more information from the person making the disclosure;
- review our systems, processes or controls, to determine where these need to be improved;
- review the conduct of individual(s);
- deal with the matter as a customer complaint under our Feedback and Complaints Policy SG-PO-004;
- refer the matter to external authorities as required under other laws, such as child safety, including under Child Safety & Wellbeing Policy SG-PO-001;
- not investigate, where the matter is a grievance and deal with the matter under Employee Grievance Policy HR-PO-007.

MWCLA recognises the value of transparency and accountability in its administrative and management practices, and supports disclosures under this policy. The organisation aims to:

- ensure business practices are legally compliant with all relevant legislation and regulations;
- ensure business practices are completed in an ethical manner which poses no danger to the public or financial system;
- ensure transparency and accountability in all administrative and management practices;
- ensure workers operate in an ethical, legally compliant and proper manner;
- ensure the whistleblower is protected from retaliation against reporting wrongdoing;
- ensure the principle of Natural Justice is upheld for whoever is the subject of the report.

The organisation will not tolerate:

- conduct that breaches this policy;
- retaliation against a whistleblower.

### **3.3 Reportable Conduct**

#### **a) Who can make a disclosure?**

A whistleblower is a person who, whether anonymously or not, makes a disclosure under this policy.

#### **b) What is Reportable Conduct?**

A person may disclose any information that the person has reasonable grounds to suspect conduct does not meet MWCLA expectations for ethical, legal and moral behaviour.

Examples include:

- not working to our policies and procedures;
- where our customer may be at risk as a result of:
  - a. our policies and procedures;

- b. how our policies and procedures are being implemented.
- infringements on the rights of a person;
- conduct issues, such as:
  - a. where the conduct might cause financial or non-financial damage to the organisation, or the reputation of the organisation;
  - b. is a breach of the organisation's Code of Ethics and Conduct (Staff) HR-POL-017;
  - c. is potentially maladministration (an act or omission of a serious nature that is negligent, unjust, oppressive, discriminatory or is based on improper motives);
  - d. endangers the health and safety of others;
  - e. is a misuse of organisational, public or other funds;
  - f. improper conduct relating to accounting, internal controls, compliance, actuarial, audit or other matters of concern to the whistleblower;
  - g. a serious impropriety or an improper state of affairs or circumstances;
  - h. a serious mismanagement of MWCLA's resources;
  - i. detrimental to MWCLA's financial position or reputation;
  - j. concealing reportable conduct.
- unlawful, improper or unethical conduct, such as:
  - a. is in breach of legislation or regulations, or which is otherwise illegal;
  - b. is fraudulent or dishonest;
  - c. corruption (including soliciting, accepting or offering a bribe, or facilitating payments or other such benefits);
  - d. illegal (including theft, drug sale or use, violence or threatened violence, or property damage).

Reportable conduct usually relates to the conduct of employees or Board members, but it can also relate to the actions of a third party, such as a funder, customer/client, supplier or service provider.

**c) What is *not* Reportable Conduct?**

This policy does not apply to personal work-related grievances, unless the grievance includes victimisation due to whistleblowing. This is consistent with the Corporations Act 2001 (Cth). Personal work-related grievances are dealt with under MWCLA's Employee Grievance Policy HR-PO-007. However, they may be dealt with under this policy where they include information about misconduct.

**d) What information do I need to make a disclosure?**

To make a protected disclosure you must know of or have reasonable grounds to suspect the wrongdoing.

It is important that the person making the disclosure provides as much information as possible. This includes any known details about the events underlying the disclosure such as the:

- date
- time
- location
- name of person(s) involved
- possible witness to the events
- evidence of the events (e.g. documents, emails)

In your disclosure, you may want to include:

- any steps you may have already taken to report the matter elsewhere;
- any steps you may have taken to resolve the concern;
- any examples of how this might impact on MWCLA.

**e) How can I make a disclosure?**

A disclosure must be made to:

- an Internal Representative
- MWCLA's auditor, or a member of the audit team
- an independent whistleblower service. To make an online disclosure to a person independent of the organisation:

**a. Online**

1. Click on the link <https://www.whistleblowingservice.com.au/midwest/>
2. Click on the "Make a Report" button on the website
3. On the next page, enter in the field "Unique Key" MID2021. Click on 'next'
4. Enter the field "Client Reference Number" wp75h2021. Click on 'next'
5. Provide the information requested and complete the form based on the prompts

**b. Telephone**

Call 1300 687 927 between 8.00 am to 5 pm AEST. You will be guided through a series of questions. You will be guided through the process. Please provide your information in response to the questions asked.

MWCLA will protect individuals who have made a disclosure in connection with MWCLA:

- under this policy, where the disclosure is reasonable and where the disclosure is not motivated by malice or ill will;
- required as a matter of law, where there is a direct obligation to notify a regulator or police;
- to the Australian Securities and Investments Commission (ASIC) or the Australian Prudential Regulation Authority (APRA) or another Commonwealth regulatory body prescribed in legislation;
- to a legal practitioner for the purposes of obtaining legal advice or legal representation about whistleblower protections;
- that qualifies as an emergency or public interest disclosure under the Corporations Act 2001 (Cth). It is important that you understand the criteria for making a public interest or emergency disclosure and you may wish to consult an independent legal adviser before making a public interest or emergency disclosure;
- matters related to our quality systems.

While MWCLA encourages you to identify, you may make your disclosure anonymously such as by adopting a pseudonym or using the independent whistleblower service.

Where a disclosure is made and relates to the MWCLA policies or procedures or systems and controls, MWCLA may choose to use the policies and procedures, or systems and controls, to undertake the investigation.

This MWCLA policy aims to:

- encourage people to make a disclosure;
- provide mechanisms to disclose;
- enable MWCLA to deal with disclosures in a way that will protect the identity of the whistleblower and provide for secure storage of the information;
- ensure that any issues that are identified are dealt with appropriately;
- ensure that individuals who disclose wrongdoing can do so safely, securely and with confidence that they will be protected and supported;
- help to ensure that MWCLA maintains the highest standards of ethical behaviour and integrity.

### 3.4 Whistleblower Protections

MWCLA protects whistleblowers from retaliatory action of any kind including:

- dismissal;
- demotion;
- harassment or discrimination;
- victimisation of any kind;
- current or future bias;
- threats of any of the above.

The whistleblower (and those related to the whistleblower) will be protected from detriment by any person internal or external to the organisation, as set out in the Workplace Bullying, Harassment and Discrimination Policy WH-PO-004.

Measures to protect a whistleblower from detrimental acts include:

- the confidentiality of a whistleblower's identity will be protected as far as the law allows;
- the Whistleblower Protection Officer (WPO) will be responsible for ensuring that the whistleblower receives any necessary support and referrals, and that they are not subject to any form of negative employment-related consequence as a result of a disclosure;
- the whistleblower will have the right to request positive action for the purposes of protection, such as relocation or a leave of absence while the matter is under investigation;
- the organisation can make modifications to the whistleblowers workplace or the way they perform their work duties;
- management will be reminded of their responsibilities when managing the performance or taking other action relating to a whistleblower;
- should the whistleblower feel that they have suffered detriment, they may lodge a complaint to the responsible person which will then be investigated by the investigating officer. Interventions will be implemented upon the detriment being proven true;
- support from external whistleblower support services.

Actions that are not detrimental, include:

- administrative action that is reasonable for the purpose of protecting a discloser from detriment.
- managing a discloser's unsatisfactory work performance, if the action is in line with the organisation's performance management framework.

### 4. Related Documents

Child Safety and Wellbeing Policy SG-PO-001

Code of Ethics and Conduct (Board) GV-PO-002

Code of Ethics and Conduct (Staff) HR-PO-017

*Corporation Act 2001 (Cth)*

*Fair Work Act 2009 (Cth)*

Feedback and Complaints Management Policy SG-PO-004

Feedback and Complaints Management Policy (Easy Read) SG-PO-011

Freedom from Abuse and Neglect Policy SG-PO-005

NDIS Practice Standard

NDIS Code of Conduct

NDIS Quality and Safeguarding Commission

Workplace Bullying, Harassment and Discrimination Policy WH-PO-004

## 5. Definitions / Glossary of Terms

Confidentiality	When one's identity is protected to prevent harm. In the case of a whistleblower, their identity may be known to those receiving and investigating the report, but is protected from the broader organisation and public.
Detriment	<p>The <i>Corporation Act 2001</i> (Cth) makes it illegal for someone to retaliate because of an act of whistleblowing. This includes but is not limited to:</p> <ul style="list-style-type: none"><li>▪ being victimised, disadvantaged or penalised;</li><li>▪ being subjected to retaliatory action, retribution, reprisal, harassment or other similar outcome.</li></ul> <p>It includes, but is not limited to:</p> <ul style="list-style-type: none"><li>▪ real acts</li><li>▪ implied acts</li><li>▪ conditional acts</li><li>▪ unconditional acts</li></ul> <p>Further information on specific acts of detriment can be found on the ASIC website – <a href="http://www.asic.gov.au">www.asic.gov.au</a></p>
Internal Representative	<p>The internal representatives are:</p> <ul style="list-style-type: none"><li>▪ the CEO;</li><li>▪ the Chair of the Board (in the event the disclosure is about the CEO).</li></ul>
Investigating Officer	The responsible person or their delegate (usually a senior manager) in charge of investigating the disclosure or any breach of whistleblower protections. If required, this officer can be from an external investigation firm.
Natural Justice	<p>The rules of procedural fairness, which are:</p> <ul style="list-style-type: none"><li>▪ the hearing rule – allowing a person time to prepare and present a defence against allegations of misconduct</li><li>▪ the no bias rule – the decision maker must make an unbiased decision against the worker the allegations have been placed against</li><li>▪ the evidence rule – a decision must be made with supporting evidence. It is not permissible for a decision to be made on conjecture or speculation. The decision maker must also explain the reason for their decision</li></ul>
Whistleblower	A person making a disclosure under this policy. The person will be afforded the protections set out in this policy and under any relevant law.

## **6. Policy Authorisation**

Document Custodian: CEO  
Approved by: Board  
Date of approval: 17 February 2021

MWCLA staff may provide feedback about this document by emailing [feedback@mwcla.org.au](mailto:feedback@mwcla.org.au)