



GV 015 Whistleblower Reporting and Protection Policy

1. Policy statement

MCCC GP Training Limited (MCCC) requires Board Directors, employees and volunteers to observe high standards of business and personal ethics to work honestly and with integrity in performing their duties and responsibilities and in complying with relevant legal, legislative and regulatory requirements.

MCCC is committed to establishing an environment that, as far as is possible, encourages and enables the reporting of any actual, or where there are objectively reasonable grounds to suspect, misconduct or improper state of affairs such as wrongdoings, violations, breaches, incidents or acts (including breach of tax law or taxation avoidance) that are illegal, unethical or inappropriate or conduct that represents a danger to the public or financial system or contravenes the legislative or regulative requirements without fear of retribution.

MCCC will not tolerate any acts of retribution or detrimental conduct against any person who makes a legitimate and genuine Whistleblower disclosure.

2. Purpose

This policy aims to:

- Encourage Whistleblowers to report issues or acts if they reasonably believe someone has committed serious misconduct.
- Enable people to know the process and avenues for making a disclosure.
- Establish a process for how disclosures will be addressed and investigated.
- Give Whistleblowers confidence that they will be protected against any retribution or detrimental behaviour.

3. Scope

This policy applies to current or former Board Directors, staff, volunteers, contractors or suppliers plus their associates and their family members and provides the basis for reporting and the protection provided to the Whistleblower for making a disclosure about corporate, financial or taxation misconduct. Protection will also be afforded to any legal representative that the Whistleblower seeks legal advice from.

4. Policy parameters

- 4.1 Personal related work grievances will, apart from where it relates to a systemic issue or if it involves detrimental conduct to the Whistleblower, be excluded from this policy. Personal grievances should be directed to the line manager and will be addressed in accordance with MCCC's Grievance policy.
- 4.2 Disclosures may be made verbally or in writing and may be made anonymously.
- 4.3 MCCC will appoint a Whistleblower Protection Officer (WPO) and a Whistleblower Investigation Co-ordinator (WIC) and ensure they receive training appropriate for their roles. The roles will act independently of each other and the responsibility of these roles do not reside in one person.



- 4.4 The WIC will be provided with resources to co-ordinate any required investigation.
- 4.5 A Whistleblower may have access to cost protection once they have pointed to evidence suggesting a reasonable possibility that a defendant has engaged in conduct that caused (or threatened to cause) detriment.
- 4.6 Courts may make orders in favour of a person who has suffered loss, damage, or injury as a result of detrimental conduct, including against a body corporate that breaches an existing duty to prevent third parties from causing detriment to the Whistleblower.
- 4.7 The application of this policy will be incorporated into all induction/onboarding programs for Board Directors, employees and volunteers and MCCC will periodically conduct education sessions on the operation of this policy.
- 4.8 The Act provides:
 - For substantial financial penalties and potential jail sentences for individuals and corporations for disclosing a Whistleblower's identity.
 - An avenue for public interest and emergency disclosures of misconduct to parliament and/or journalists in some circumstances, including where a company has not acted on a qualifying disclosure within 90 days.

5. Procedures

5.1 Manager's responsibility

All managers are to ensure their staff and volunteers are aware of and can access a copy of this policy.

5.2 How and to whom to disclosure is to be made

- 5.2.1 A Whistleblower should promptly report the suspected or actual event to MCCC's designated Whistleblower Protection Officer (WPO) (or may disclose to an external body - refer Clause 5.3).
- 5.2.2 Where a Whistleblower is reluctant and is not comfortable in making the report to the WPO they may report the event to the Community Director, the external auditors responsible for auditing MCCC's financial affairs, a Board Director or one of the regulators listed in Clause 5.3.
- 5.2.3 A Whistleblower may make the disclosure verbally or in writing and the disclosure may be made anonymously if they so choose.
- 5.2.4 A Whistleblower is to keep confidential the fact they have made a disclosure to avoid jeopardising an investigation.
- 5.2.5 The WPO is to advise the Whistleblower where the Whistleblower has a legal obligation to also make the disclosure to a statutory body, government department or to the police.

5.3 Alternate disclosure options available to the Whistleblower

- 5.3.1 The Whistleblower may choose not to use MCCC's internal process but to make a disclosure to ASIC, APRA, the Ombudsman or other prescribed Commonwealth authority.

- 5.3.2 A Whistleblower may make an emergency disclosure to a parliamentarian or journalist where they have reasonable grounds to believe the information disclosed concerns a substantial and imminent danger to the health and safety of one or more persons.
- 5.3.3 A Whistleblower may make an emergency disclosure to a parliamentarian or journalist where:
- They have not made a previously protected disclosure.
 - It is at least 90 days since the protected disclosure was made.
 - They do not have reasonable grounds to believe that appropriate action is being taken to address the matter.
 - They have reasonable grounds to believe that such a disclosure would be in the public interest.
 - They have given written notice to the authority of their intention.
 - The extent of disclosure is no greater than necessary to inform the nature of the initial disclosure.
- 5.3.4 If the outcome of an investigation conducted by an internal process into a report, is not to the Whistleblower's satisfaction, then he/she has the right to report the event to the appropriate legal or government agency.

5.4 Whistleblower protection

- 5.4.1 The identity of the Whistleblower, where not made anonymously, is to remain confidential to those persons directly involved in the investigation unless the matter requires investigation by law enforcement, in which case those involved may be subject to subpoena.
- 5.4.2 A Whistleblower is protected by law from breach of a Whistleblower's anonymity or engaging in, or threatening to engage in, any detrimental conduct towards the Whistleblower (for example any retaliation or retribution) for a disclosure report that was provided where there is evidence suggesting a reasonable possibility of conduct that caused or threatened to cause detriment and was not done primarily with malice to damage another person or to the organisation.
- 5.4.3 Any person who retaliates against the Whistleblower (who properly and in good faith reported an event) will be subject to disciplinary action, up to and including termination of employment or their Board Director position.
- 5.4.4 The WPO is responsible for safeguarding the interests of the Whistleblower and will ensure the integrity of the reporting process.
- 5.4.5 A Whistleblower who makes a report that is **not** done in good faith or where there **was no** evidence suggesting a reasonable possibility of conduct that caused or threatened to cause detriment will be subject to disciplinary action, including termination of employment or their Director position and /or other legal action to protect MCCC's reputation and/or the reputation of its employees or Board Directors.

5.5 Investigation process

- 5.5.1 The Whistleblower Investigation Co-ordinator (WIC) is responsible:
- To determine if the disclosure is a public interest disclosure and if so to refer it to the Ombudsman.

- To advise the Whistleblower of the investigation process and the anticipated timeframe.
 - To objectively investigate (or to co-ordinate an outsourced investigation) the disclosure.
 - For ensuring the anonymity of the Whistleblower is protected.
 - For respecting the rights of all involved.
 - To prepare a report with recommendations in relation to resolving the disclosure.
 - To inform the Whistleblower of the progress and the outcome of the investigation.
 - Follow up to ensure any approved actions resulting from the investigation are instigated.
- 5.5.2 The WIC may also decide to appoint another trained employee to carry out the investigation or to outsource the investigation where appropriate. In either situation, the WIC is to ensure the investigator is fully aware of their responsibilities and obligations under this policy.
- 5.5.3 The WIC is to assess if the disclosure is a public interest disclosure and if so to refer it to the Ombudsman.
- 5.5.4 An investigation plan is to be prepared that will list the issues that require substantiation and will outline the investigation process.
- 5.5.5 All investigations are to be conducted fairly, objectively and independently and all efforts will be made to preserve the confidentiality of the investigation.
- 5.5.6 The WIC is to provide the status of their investigation, and a final report with recommendations, to the CEO, or in the event that the investigation is against the CEO, to the Board Chair and is to provide an annual report of disclosures to the Board.
- 5.5.7 The Finance, Audit and Risk Management (FARM) Committee is also to be advised of disclosures that create a risk to the organisation.
- 5.5.8 Where the allegation is against the CEO the person receiving the report must promptly advise the Board Chair who will similarly be required to take prompt action.
- 5.5.9 Crimes against person or property, such as assault, rape, burglary, etc, should immediately be reported to the police.
- 5.6 Investigation feedback
- 5.6.1 The Whistleblower is to be provided advice within five business days of the initial disclosure outlining the action to be taken and the likely timeframe.
- 5.6.2 The Whistleblower is to be kept informed of the progress and outcome of the investigation subject to privacy and confidentiality considerations.
- 5.7 Support and protection to the Whistleblower
- 5.7.1 A Whistleblower will not be subject to any civil, criminal or disciplinary action as a result of any protected disclosure or non-protected disclosure made with genuine intent made in accordance with this policy or for participating in any subsequent investigation.
- 5.7.2 All reasonable steps will be taken by MCCC to ensure that the Whistleblower is not subjected to any form of victimisation, harassment, discrimination or retribution because they have made a disclosure. However, they will not be afforded protection under the policy if they are also involved in or connected to improper conduct or illegal activities that are the subject of the report.

- 5.7.3 The Whistleblower is to report any concerns they have with victimisation or retribution to the WPO. The WPO may choose to consult with the CEO to deal with any ongoing concerns the Whistleblower may have.
- 5.7.4 Whistleblowers are encouraged to seek support from MCCC's Employee Assistance Program (EAP Assist Helpline 0407 086 000) or if necessary, from organisations such as Beyond Blue (1300 22 4636) or Lifeline (13 11 14).
- 5.8 Rights of persons implicated by the disclosure
- 5.8.1 Any person implicated by the disclosure has the right to natural justice.
- 5.8.2 No action will be initiated against any employee or Board Director implicated by disclosure under this policy until the allegations have been substantiated on the balance of probability.
- 5.8.3 The person subject to the investigation may be suspended on full pay or transferred to another role where there is a risk of that person impeding or compromising the investigation. Where the allegation has not substantiated the person subject to the allegation is to return to their normal role without any negative or detrimental effect on them or their career.
- 5.8.4 Any disclosure that implicates an employee or Director must be kept confidential and only disclosed to those people who have a legitimate need to know or who are involved in the investigation.
- 5.8.5 The person subject to the allegation also has the right to access support services listed in Clause 5.7.4.

6. Definitions

"Detrimental conduct" or "Reprisal" includes actions that intimidate, harass or discriminate against or adverse treatment that affects the Whistleblower's job or career. It is an action against the Whistleblower that may cause injury, loss or damage.

"Disclosure" is a report made by the Whistleblower of any misconduct or an improper state of affairs.

"Protected Disclosure" is a disclosure that affords protection under the Act where:

- It is made by an individual that relates to the conduct of MCCC or one of its employees acting in an official capacity.
- The Whistleblower has reasonable grounds for making the allegation.
- The alleged conduct is either improper conduct or detrimental reprisal action taken against the Whistleblower for making the report.

"Public Interest Disclosure" is an assessment made by the WIO, that has to be made within 45 days of the disclosure, on whether it is a public interest disclosure and needs to be referred to the Ombudsman. The assessment needs to consider if the disclosure shows or tends to show whether the employee or Director that the disclosure relates to has:

- Engaged in or is engaging in or intends to engage in improper conduct in his/her role.
- Has taken or intends to take detrimental reprisal action against the Whistleblower.

"Reportable matters" include, but are not limited to, any conduct that involves:

- Unlawful activity including but not limited to theft, dealing in or using illicit drugs, violence and criminal damage.

- Dishonesty.
- Fraudulent action.
- Corruption or irregular use of MCCC funds or resources.
- Unethical behaviour.
- Improper or misleading accounting practices or financial reporting.
- Discriminatory behaviour.
- Gross negligence.
- Unsafe work practices that pose a serious risk to work health and safety.
- Serious risk to public health, safety or the environment.
- Conduct that may cause loss or damage to MCCC.

“Whistleblower” is a person who makes a disclosure.

“Whistleblower Protection Officer (WPO)” is an employee or Board Director appointed by MCCC to whom a disclosure may be made by a Whistleblower. The WPO will assess and determine if it is a protected disclosure and is responsible for safeguarding the identity of the Whistleblower, protecting their interests and for ensuring the integrity of the reporting process. The WPO will refer disclosures for investigation by the WIO.

“Whistleblower Investigation Co-ordinator (WIC)” is an employee or Director appointed by MCCC who is provided training to conduct or co-ordinate an objective investigation into any Whistleblower reports and to ensure proper resolution. They also have a responsibility to assess if the disclosure is a public interest disclosure and if so to report it to the Ombudsman.

7. Legislation

From 1 July 2019, the Whistleblower protections in the Corporations Act have been expanded to provide greater protections for Whistleblowers. This includes requiring public companies, large proprietary companies, and corporate trustees of superannuation funds to have a Whistleblower policy from 1st January 2020.

As a public company MCCC GP Training Limited meets these requirements and this policy, and the supporting procedures, are framed to comply with the following legislation:

- Treasury Laws Amendment (Enhancing Whistleblowers Protections) Bill 2018.
- Taxation Administration Act (TAA).
- Corporations Act.

8. Related policies

HR 015 Performance Management and Discipline Procedure
HR 016 Grievance Procedure