



## WHISTLEBLOWER POLICY AND PROCEDURE

<b>Policy Category</b>	Risk Management
<b>Authorised by</b>	The Board of Directors
<b>Date Adopted</b>	June 2020
<b>Version</b>	1.0
<b>Reviewed Date</b>	April 2020
<b>Review Date</b>	April 2021

### Purpose

Murray Mallee Aged Care Group (MMACG) is guided by our company values. These values are the foundation of how we conduct ourselves and interact with each other, our clients, and other stakeholders. MMACG is committed to ensuring corporate and service compliance and promoting ethical workplace culture by observing the highest standards of transparency, honesty, and integrity in our business activities.

### Policy Statement

MMACG encourages the reporting of any instances of suspected unethical, illegal, corrupt, fraudulent, or undesirable conduct involving MMACG's business and provides protections and measures to individuals who make a disclosure in relation to such conduct without fear of victimisation or reprisal.

This Policy will be made available on the MMACG website, and during staff induction processes, to ensure availability to persons to whom this Policy applies.

### Who this Policy applies to:

This Policy applies to any person who is, or has been, any of the following with respect to MMACG:

- Employee
- Officer
- Director
- Contractor (including volunteers, sub-contractors and employees of contractors)
- Supplier (including employees of suppliers)
- Consultant
- Auditor
- Associate
- Relative, dependent, spouse, or dependent of a spouse of any of the above.

# WHISTLEBLOWER POLICY AND PROCEDURE

## Definitions:

**REPORTABLE CONDUCT:** For the purpose of this Policy, 'reportable conduct' includes behaviour that is:

- Dishonest, fraudulent, or corrupt
- Illegal (such as theft, dealing in or use of illicit drugs, violence or threatened violence and criminal damage to property)
- Unethical including any breach of MMACG's policies such as the Code of Conduct
- Oppressive or grossly negligent
- Potentially damaging to MMACG, its employees or a third party
- Misconduct or an improper state of affairs
- A danger, or represents a danger to the public or financial system
- Harassment, discrimination, victimisation or bullying

**Reportable Conduct does not include staff personal work-related grievances.** These must be raised with a manager and will be addressed in accordance with the MMACG Workplace Behaviour Policy.

Examples of personal work-related grievances, that should be raised in accordance with the Workplace Behaviour Policy, are:

- An interpersonal conflict between the staff member and another employee
- A decision relating to the engagement, transfer or promotion of the staff member
- A decision relating to the terms and conditions of engagement of the staff member
- A decision to suspend or terminate the engagement of the staff member, or otherwise to discipline the staff member.

## Requirements:

MMACG relies on its employees to support and maintain a culture of honest and ethical behaviour. Accordingly, if you become aware of any '**Reportable Conduct**', it is expected that you will make a disclosure under this policy.

There are several ways in which you may report or disclose any issue or behaviour which you consider to be Reportable Conduct.

Persons looking to make a disclosure **must** have reasonable grounds to suspect that the information they are disclosing about MMACG concerns misconduct, or an improper state of affairs or circumstances.

MMACG discourages deliberate, false reporting and legal action may result as a consequence of false allegations.

MMACG recommends that independent legal advice is sought prior to making a disclosure of reportable conduct.



# WHISTLEBLOWER POLICY AND PROCEDURE

---

## Procedure

---

### Reporting Process

There are several ways in which you may report or disclose any issue or behaviour which you consider to be Reportable Conduct.

### Internal Reporting:

In the first instance MMACG encourages internal disclosure processes. Internal reports can be made to the CEO, a MMACG board member or a senior manager (Whistleblower Protection Officer's).

The recipient of your disclosure will safeguard your interests and will ensure privacy, confidentiality, and the integrity of the reporting mechanism.

Disclosures can be made anonymously, confidentially, securely, and outside of business hours.

#### Anonymity:

When making a disclosure, you may do so anonymously. It may be difficult for MMACG to properly investigate the matters disclosed if a report is submitted anonymously and therefore MMACG encourages you to share your identity when making a disclosure, however you are not required to do so. Anonymous disclosures can still be protected under the Corporations Act.

***All disclosures will be handled in accordance with the MMACG Employee Confidentiality Policy.***

### Internal Reporting Process:

1. Using the contact details in Appendix A, contact the desired Whistleblower Protection Officer via phone, email, or post (anonymously).
2. Advise the Whistleblower Protection Officer that you would like to make a disclosure of reportable conduct, in line with the MMACG Whistleblower Policy. In the case of an anonymous report, disclosures will be investigated as per the investigation process below. You may choose to reveal your identity if you would like to contribute further to the process.
3. The Whistleblower Protection Officer will ask to meet in person/set a time to speak to you confidentially. Disclosures can be made anonymously, confidentially, securely and outside of business hours.
4. At the agreed time, the Whistleblower Protection Officer will ensure your disclosure is heard and documented. You will be given opportunity to revise documented disclosure and ensure details are accurate/make any required amendments. You will be provided with a copy of all documentation for your records.
5. See Investigation Process.



# WHISTLEBLOWER POLICY AND PROCEDURE

## External Reporting:

If you would like to make your disclosure to an external party, you can report your disclosure to:

- Australian Securities and Investments Commission (ASIC) or the Australian Prudential Regulation Authority (APRA)
- Your lawyer
- Journalists and members of Commonwealth, state or territory parliaments (parliamentarians), under certain circumstances. *Please be aware that there are conditions regarding eligibility for protection.*

Where a disclosure has been made externally and you provide your contact details, those contact details will only be provided to an approved Whistleblower Protection Officer with your consent.

***Please see Appendix A for internal and external contact details. Reporting procedures are available from the external source you wish to contact.***

## Investigation Process

MMACG will investigate all disclosures reported under this policy as soon as practicable after the matter has been reported.

- The Whistleblower Protection Officer will investigate the matter and where necessary, appoint an external investigator to assist in conducting the investigation.
- All investigations will be conducted in a fair, independent, and timely manner and all reasonable efforts will be made to preserve confidentiality during the investigation.
- If the report is not anonymous, the Whistleblower Protection Officer or external investigator will contact you to discuss the investigation process and any other matters that are relevant to the investigation.
- Where you have chosen to remain anonymous, your identity will not be disclosed to the investigator or to any other person and MMACG will conduct the investigation based on the information provided.
- Where possible, the Whistleblower Protection Officer will provide you with feedback on the progress and expected timeframes of the investigation. The person against whom any allegations have been made will also be informed of the concerns and will be provided with an opportunity to respond (unless there are any restrictions or other reasonable bases for not doing so).
- To the extent permitted by law, the Whistleblower Protection Officer may inform you and/or a person against whom allegations have been made of the findings. Any report will remain the property of the Company and will not be shared with you or any person against whom the allegations have been made.

## Protections for Whistleblowers

### Protections under the Corporations Act 2001

The *Corporations Act 2001* requires that MMACG provides protections for eligible Whistleblowers in relation to their



## WHISTLEBLOWER POLICY AND PROCEDURE

disclosure. These include:

- Identity protection (confidentiality)
- Protection from detrimental acts or omissions including but not limited to:
  - dismissal
  - injury of an employee in his or her employment
  - alteration of an employee's position or duties to his or her disadvantage
  - discrimination between an employee and other employees of the same employer
  - harassment or intimidation of a person
  - harm or injury to a person, including psychological harm
  - damage to a person's property
  - damage to a person's reputation
  - damage to a person's business or financial position
  - any other damage to a person.
- Compensation and remedies if:
  - you suffer loss, damage, or injury because of a disclosure; and
  - MMACG failed to take reasonable precautions and exercise due diligence to prevent the detrimental conduct.
- Civil, criminal and administrative liability protection.
  - Please note that protections do not grant immunity for any misconduct a discloser has engaged in that is revealed in their disclosure.

Please note, actions that are not considered detrimental conduct are:

- administrative action that is reasonable for the purpose of protecting a discloser from detriment (e.g. moving a discloser who has made a disclosure about their immediate work area to another office to prevent them from detriment)
- managing a discloser's unsatisfactory work performance, if the action is in line with the entity's performance management framework.

### Protections under the Taxation Administration Act 1953

Persons that make a disclosure regarding tax avoidance behaviour, and other tax issues, are protected under the *Taxation Administration Act 1953*.

To qualify for protection as a tax whistleblower, certain conditions must be satisfied.

You must:

## WHISTLEBLOWER POLICY AND PROCEDURE

- be, or have been, in a specific relationship with the entity you are reporting about, for example you are
  - an employee
  - a former employee
  - a dependent
  - a spouse
- report MMAG to the Australian Tax Office (ATO) or to an eligible recipient who is in a position to take appropriate action – this includes someone appointed by MMACG, for example, The CEO, a MMACG board member or a senior manager (Whistleblower Protection Officer's).
- consider that the information will help the ATO or the recipient perform their duties under taxation law.
- have reasonable grounds to suspect that the information you intend to provide indicates misconduct, or an improper state of affairs or circumstances, in relation to the tax affairs of MMACG or an associate of MMACG.
- consider the information may assist the eligible recipient to perform their duties under a taxation law in relation to MMACG.

## MMACG Support and Protection from Detriment in Practice

MMCG is committed to ensuring that any person who makes a disclosure under this Policy is treated fairly and does not suffer detriment and that confidentiality is preserved in respect of all matters raised under this policy.

- MMACG will take all reasonable steps to protect you from detrimental conduct and will take necessary action where such conduct is identified.
- MMACG strictly prohibits all forms of detrimental conduct against any person who is involved in an investigation of a matter disclosed under the policy in response to their involvement in that investigation.

Employees who are mentioned in, or the subject of, disclosures made under the Whistleblower Policy:

- Will not be subject to any civil, criminal, or administrative legal action (including disciplinary action) for making a disclosure under this policy or participating in any investigation.
- Are protected in such a way that any information provided will not be admissible in any criminal or civil proceedings other than for proceedings in respect of the falsity of the information.

If you are subjected to detrimental conduct as a result of making a disclosure under this policy or participating in an investigation, you should inform a Whistleblower Protection Officer or eligible participant in accordance with the reporting guidelines outlined above. You may also seek remedies including compensation, civil penalties or reinstatement where you have been subject to any detrimental conduct.

## Protection of Confidentiality

All information received from you will be treated confidentially and sensitively.

- All MMACG employees are bound by the MMACG Employee Confidentiality Policy.



## WHISTLEBLOWER POLICY AND PROCEDURE

- The Whistleblower Protection Officer, that receives the disclosure is bound by the MMACG Employee Confidentiality Policy and will ensure all disclosures remain confidential and that legal advice is sought to ensure the whistleblower is protected against all detrimental acts and omissions.

If you make a disclosure under this policy, your identity (or any information which would likely to identify you) will only be shared if:

- You give your consent to share that information; or
- The disclosure is allowed or required by law (for example where the concern is raised with a lawyer for the purposes of obtaining legal advice);
- The concern is reported to the Australian Securities and Investments Commission (ASIC), the Australian Prudential Regulation Authority (APRA), the Australian Taxation Office (ATO) or the Australian Federal Police (AFP);
- Where it is necessary to disclose information for the effective investigation of the matter, and this is likely to lead to your identification, all reasonable steps will be taken to reduce the risk that you will be identified.

### Support Available

Any person who makes a disclosure under this policy or is implicated as a result of a disclosure that is made, may access the Company's Employee Assistance Program (EAP) which is a free and confidential counselling service.

You may also access third party support providers such as Lifeline (13 11 14) and Beyond Blue (1300 22 4636) for support.

### Consequences of a breach of this Policy

If you breach this policy, you will be subject to disciplinary action which may include:

- counselling
- a verbal or written warning
- transfer
- demotion
- termination of employment, either with or without notice

You should be aware that you can be held legally responsible for your conduct as well as being subject to disciplinary action. This also applies if you aid, abet or encourage other persons in inappropriate behaviour such as harassment or victimization.

# WHISTLEBLOWER POLICY AND PROCEDURE

## Appendix A - Internal and External Contact Details

Internal	External
<p><b>Anonymous (Australia Post)</b> Address to one of the below Whistleblower Protection Officers and send to: PO Box 1315 Murray Bridge South Australia 5253</p>	<p>Australian Securities and Investments Commission (ASIC) Phone: 1300 300 630 Online reporting link: <a href="https://asic.gov.au/">https://asic.gov.au/</a></p>
<p><b>Chairperson of the Board of Directors</b> Morris Terrell Phone: 0403 118 005 Email: <a href="mailto:mterrell@murraymallee.org.au">mterrell@murraymallee.org.au</a></p>	<p><b>Australian Prudential Regulation Authority (APRA)</b> Phone: 1300 558 849 Email: <a href="mailto:whistleblower@apra.gov.au">whistleblower@apra.gov.au</a></p>
<p><b>Chief Executive Officer</b> Anna Howard Phone: 0450 399 184 Email: <a href="mailto:ahoward@murraymallee.org.au">ahoward@murraymallee.org.au</a></p>	
<p><b>Deputy CEO &amp; Marketing Manager</b> Foster Davis Phone: 0448 079 701 Email: <a href="mailto:marketing@murraymallee.org.au">marketing@murraymallee.org.au</a></p>	
<p><b>WH&amp;S, Quality and Risk Manager</b> Melissa Taylor Phone: 0423 002 598 Email: <a href="mailto:quality@murraymallee.org.au">quality@murraymallee.org.au</a></p>	

**Policy Owner**

MMACG Board of Directors

**Related Policies**

Workplace Behaviour Policy  
NDIS Code of Conduct  
Employee Confidentiality Policy  
Charter of Aged Care Rights  
Risk Management Policy  
Employee Assistance Program  
Code of Conduct

**Related Forms:**

Incident Reporting Form





# WHISTLEBLOWER POLICY AND PROCEDURE

**Related Standards:**

Standard 8 of the Aged Care Quality Standards

Outcome 12 of the NDIS Practice Standards and Quality Indicators

**Legislative Reference:**

- *Corporations Act 2001* (Corporations Act)
- *Treasury Laws Amendment (Enhancing Whistleblower Protections) Bill 2018* (Whistleblower Protections Bill)
- *Taxation Administration Act 1953* (Taxation Administration Act)
- Fair Work Commission (Ombudsman)
- *National Disability Insurance Scheme Act 2013*
- *Aged Care Act 1997*

**Version:**

1.0

**Current as at:**

May 2020

**Review Date:**

May 2021

**Date Endorsed by the Board of Directors:**

19/6/2020

**Signed (Chairperson):**

