

## **Whistleblower Protection Policy of Marcoola Surf Club**

### **1. Purpose**

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- 1.1 Marcoola Surf Club 'the club' is committed to the highest standards of conduct and promoting a culture of honest and ethical behaviour, compliance and good corporate governance.
- 1.2 This Policy reflects the club's commitment to address concerns of wrongdoing within the organisation and aims to ensure all employees are aware of their rights in relation to disclosing any malpractice or misconduct of which they become aware; and provide protection for employees who disclose any such allegations.

### **2. Scope**

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- 2.1 This Policy applies to the following persons:
  - (a) Employees;
  - (b) Directors;
  - (c) Officers;
  - (d) Relatives or Dependents of Officers or Employees; and
  - (e) Contractors.
- 2.2 This policy will be made available via <https://www.marcoolasurfclub.com.au/staff-portal/>

### **3. Definitions**

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#### **3.1 Detriment**

- (a) Detriment includes, but is not limited to:
  - Dismissal of an employee;
  - 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; and
  - Damage to a person's financial position or business,

### 3.2 **Whistleblower**

- (a) A Whistleblower is a current officer, employee or contractor within an organisation, who reports misconduct or dishonest or illegal activity that has occurred within that same organisation.

### 3.3 **Reportable conduct**

- (a) Reportable conduct is information that concerns misconduct or an improper state of affairs that is genuinely believed to constitute an offence or a contravention of a law or policy, or conduct that represents a danger to the public or financial system.
- (b) Reportable conduct include conduct that involves:
  - i. Breaches of legislation, regulations or local government by-laws or is otherwise illegal (including theft, drug sale or use, violence, threatened violence or criminal damage against the Club's assets or property);
  - ii. Dishonest or fraudulent behaviour;
  - iii. Unlawful, corrupt or irregular use of the club's funds or practices;
  - iv. Perverting the course of justice;
  - v. Unreasonably endangers health and safety or the environment;
  - vi. Discrimination, vilification, sexual harassment, bullying, harassment and victimisation;
  - vii. Financial or non-financial loss or otherwise detrimental to the interests of the club;
  - viii. An unethical breach of the Code of Conduct;
  - ix. Other serious improper conduct (including gross mismanagement, serious and substantial waste of Club resources or repeated breaches of administrative procedures); or
  - x. The deliberate concealment of information tending to show any of the matters listed above.

## **4. Responsibilities of Employees and Officers of the Club**

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- 4.1 The club relies on its employees and officers to help maintain and grow its culture of honest and ethical behaviour. Any issue of reportable conduct will not be tolerated by the club. It is therefore expected that any employee or officer who becomes aware of such conduct will make a report.
- 4.2 It is against the law to disclose the identity of the Whistleblower or information that is likely to lead to the identification of the Whistleblower, unless:
  - (a) the Whistleblower provides consent;
  - (b) disclosure is made to the Australian Securities and Investments Commission ('ASIC'), the Australian Prudential Regulation Authority ('APRA') or a member of the Australian Federal Police;
  - (c) disclosure is made to a legal practitioner for the purpose of obtaining legal advice or representation; or

(d) disclosure is made to another body prescribed by the regulations.

4.3 All persons involved in a disclosure of reportable conduct must maintain confidentiality of the Whistleblower's identity and the identity of other employees or officers mentioned in the disclosure. All reasonable steps will be taken to reduce the risk that the Whistleblower will be identified by the information that is disclosed or that the persons named in the report and Whistleblowers will not suffer any unfair treatment as a result of the disclosure.

#### 4.4 **Employees/Officers**

(a) It is expected that employees and officers of the club who become aware of actual or suspect on reasonable grounds, potential cases of reportable conduct will make a report under this policy.

#### 4.5 **Whistleblower Officer**

(a) A Whistleblower Officer is an officer, senior manager or employee appointed to receive whistleblower disclosures of reportable conduct and overseeing the resolution of the disclosure.

(b) A Whistleblower Officer must:

- i. Obtain the Whistleblowers consent to arrange for each disclosure of reportable conduct received to be appropriately inquired into or investigated;
- ii. Notify appropriate agencies and persons where required;
- iii. Be satisfied that action taken in response to the inquiry/investigation is appropriate in the circumstances; and
- iv. Take all reasonable steps to ensure that any Whistleblower does not suffer any detrimental conduct as a result of making a disclosure.

#### 4.6 **Investigator**

(a) The Investigator is appointed by the Whistleblower Officer and may be internal or external to the club.

(b) The Investigator must:

- i. Have independence of the reportable conduct disclosure;
- ii. Conduct sufficient inquiry to be able to determine conclusions about the disclosures made including whether or not investigation is warranted;
- iii. Provide a report of every inquiry/investigation to the Whistleblower Officer;
- iv. Ensure the proper conduct of the investigation and keeping the Whistleblower Officer informed of the process.

#### 4.7 **Managers/Directors**

(a) All Managers or Directors who receive a disclosure about reportable conduct must notify the Whistleblower Officer, provide particulars of the disclosure and maintain confidentiality.

## 5. Protections Available to Whistleblowers

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- 5.1 The club is committed to protecting and respecting the rights of Whistleblowers who disclose reportable conduct.
- 5.2 Subject to this policy and the relevant legislation, a whistleblower may be protected, even if the disclosed allegations or information prove to be incorrect (although a person who maliciously or vexatiously makes disclosures or makes false disclosures may be subject to disciplinary action).
- 5.3 The Corporations Act 2001 (Cth) (Part 9.4AAA) gives special protection to Whistleblowers relating to disclosures about misconduct or improper state of affairs relating to the club provided that the following conditions are satisfied:
- (a) The Whistleblower is or has been:
    - i. An officer or employee of the Club;
    - ii. An individual who supplies goods or services to the Club or an employee of a person;
    - iii. An individual who is an associate of the Club;
    - iv. A relative, dependent or dependent of the spouse of an individual referred to as (i) to (iii).
  - (b) The report is made to:
    - i. The people designated within this policy;
    - ii. An officer or senior manager of the Club;
    - iii. The Club's external auditor;
    - iv. a prescribed body such as ASIC or APRA; or
    - v. a legal practitioner for the purpose of obtaining legal advice or legal representation in relation to the operation of the whistleblower provisions in the *Corporations Act*.
  - (c) The Whistleblower has reasonable grounds to suspect that the information being disclosed concerns misconduct, or an improper state of affairs or circumstances in relation to the Club. This may include a breach of legislation including the *Corporations Act*, an offence against the Commonwealth punishable by imprisonment for 12 months or more, or conduct that represents a danger to the public or financial system.

- 5.4 A person who makes a disclosure will be protected against detrimental conduct, including but not limited to reprisal, discrimination, harassment or victimization for making the disclosure unless the whistleblower is a participant in the prohibited activities with respect to which the complaint is made.
- 5.5 If a Whistleblower experiences any detrimental conduct or threat of any detrimental treatment they should report such conduct or threat to a Whistleblower Officer.
- 5.6 Any detrimental conduct or threat of detrimental conduct by a person against a Whistleblower for having made a disclosure will be treated by the club as serious misconduct under this Policy.
- 5.7 Subject to compliance with legal requirements, upon receiving a report under this policy, the club will only share the Whistleblower's identity if the Whistleblower consents or the concern is reported to the ASIC, APRA, the Tax Commissioner, the Australian Federal Police ('AFP') or if the concern is raised with a lawyer for the purpose of obtaining legal advice or representation.

## **6. Procedure for Disclosing Information**

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- 6.1 For the purposes of this policy to ensure appropriate escalation and timely investigation, we request that any person who has reasonable grounds to suspect that a breach of law or other standard of behaviour has occurred is encouraged to report that suspicion to any of the club's appointed Whistleblower Officer/s:

Finance/ HR Manager

Phone: 07 5448 8605

Email: [accounts@marcoolasurfclub.com.au](mailto:accounts@marcoolasurfclub.com.au)

Club Manager

Phone: 07 5448 8605

Email: [manager@marcoolasurfclub.com.au](mailto:manager@marcoolasurfclub.com.au)

General Manager

Phone: 07 5448 8605

Email: [gm@marcoolasurfclub.com.au](mailto:gm@marcoolasurfclub.com.au)

- 6.2 If this is considered inappropriate, you may also raise the matter with an "officer" or "senior manager" of the Club. This includes a director, or a senior manager in the Club who makes, or participates in making, decisions that affect the whole, or a substantial part, of the business of the company, or who has the capacity to affect significantly the Club's financial standing

- 6.3 If neither of these channels are deemed appropriate, disclosures may be made to the Club's auditor SPS Audit via:

(a) Email: [stephen@spsaudit.com.au](mailto:stephen@spsaudit.com.au)

(b) Postal Address: PO Box 881, Coolum Beach QLD 4573

(c) Telephone: 07 5446 2746

- 6.4 Where an allegation of wrongdoing relates to the Club's tax affairs, a person may qualify for protection by disclosing the allegation to additional recipients; the Commissioner of Taxation or a registered tax agent or BAS agent (this may be the Club's accountant).

### **6.5 Anonymous Reporting**

- (a) Although a report can be made anonymously, anonymous reports have significant limitations that inhibit a proper and appropriate inquiry or investigation. These

limitations include the inability to provide feedback on the outcome and/or to gather additional particulars to assist the inquiry/investigation.

- (b) All disclosures received will be dealt with on a confidential basis and whistleblowers are encouraged to disclose their identities, to obtain the protection afforded to them at law.

## **7. Confidentiality**

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- 7.1 The Club recognises that maintaining appropriate confidentiality is crucial in ensuring that potential whistleblowers come forward and make disclosures in an open and timely manner and without fear of reprisals being made against them.
- 7.2 The Club will take all reasonable steps to protect the identity of the whistleblower and will adhere to any statutory requirements in respect of the confidentiality of disclosures made. In appropriate cases, disclosure of the identity of the whistleblower, or the allegation made by them, may be unavoidable, such as if court proceedings result from a disclosure pursuant to this policy.

## **8. Investigation**

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- 8.1 Once a disclosure has been received from a whistleblower, the Club will consider the most appropriate action. This might include an investigation of the alleged conduct.
- 8.2 Any investigation in relation to a disclosure will be conducted promptly and fairly, with due regard for the nature of the allegation and the rights of the persons involved in the investigation. A report will not be investigated by a person who is implicated in the concern.
- 8.3 The Club will ensure that, provided the disclosure was not made anonymously, the whistleblower is kept informed of the outcomes of the investigation of his or her allegations, subject to the considerations of privacy of those against whom allegations are made.

## **9. Breach of Policy**

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- 9.1 Any reprisals against a whistleblower are a serious breach of this policy and may result in disciplinary action, including dismissal.
- 9.2 Where the Club becomes aware of any reprisals against a whistleblower for complying with this policy or the legislation, the Club will take steps to either overturn, or deem void, the decision or action. This protection applies to anyone providing information related to an investigation pursuant to this policy.

**Policy Date:** Jun 2022