



## YMCA Geelong – WHISTLEBLOWER POLICY

OFFICE USE ONLY

Policy Number	Date Approved	Date Last Amended	Status
YG 186-G	28/06/2016	30/05/2016	APPROVED

### INTRODUCTION

Whistleblower legislation has been enacted in the majority of Australian States and Territories in order to provide legal protections to persons making disclosures of improper conduct or detrimental action by Public Officers and Public Bodies. While legislation may differ slightly across jurisdictions, all provide for the protection of the identity of the person making the disclosure and make any action against that individual a criminal act.

While non-government, not-for-profit organisations fall outside scope of current legislation, it is becoming common practice for organisations in the non-government and not-for-profit sectors to voluntarily implement whistleblower policies.

YMCA Geelong acknowledges that members of the public, clients of YMCA services, staff or volunteers may, on occasion, be aggrieved over the actions of the YMCA, a staff member or volunteer and the YMCA is committed to a process of complaint which is transparent, legally defensible and protects the person(s) making a disclosure.

As a values based organisation the YMCA is committed to ethical practices and an ethical workplace. It is the purpose of this policy to:

- Ensure the protection of any person(s) making a complaint or disclosure of misconduct of the YMCA or a YMCA staff member.
- Deliver an environment where staff/volunteers have the right and capacity to question ethics without fear of retribution or repercussion

With our continued commitment to good governance practices, YMCA Geelong has voluntarily developed and adopted the following Whistleblower Policy.

### 2. Scope:

This policy applies to all YMCA Geelong Staff, Volunteers, Board Members and Contractors in their interactions with other Staff, Volunteers and Contractors, clients, partners and members of the public whilst in YMCA-related work and interactions. YMCA has a number of internal policies in place that address issues of grievance and dispute resolution, sexual misconduct and other forms of harassment or discrimination and the following policy is not intended to override or replace these policies.



This policy applies if a person elects to make a disclosure of suspected alleged corruption, unethical behaviour or improper conduct and seeks protection.

### 3. Definitions:

**Contractor** - any person engaged by the YMCA in a contractor or sub-contractor capacity.

**Corrupt Conduct** - conduct of a YMCA staff member that:

- adversely affects the honest performance of a staff member or the functions of the YMCA; or
- involves performance of official YMCA functions conducted dishonestly or with inappropriate partiality; or
- amounts to the misuse of information or material acquired in the course of the performance of official YMCA functions; or
- amounts to a conspiracy or attempt to engage in the above conduct.

**Detrimental Action** - is a reprisal against a person(s) for making a protected disclosure and includes:

- action causing injury, loss or damage;
- intimidation or harassment;
- discrimination, disadvantage or adverse treatment in relation to a person's employment, career, profession, trade or business.

**Improper Conduct** - There is a two stage process in determining if a particular action is improper conduct:

(a) The conduct must be:

- corrupt conduct; or
- substantial mismanagement of YMCA resources; or
- conduct involving substantial risk to public health and safety; or
- conduct involving substantial risk to the environment;

and;

(b) The conduct must be serious enough to be a criminal offence, or reasonable grounds for dismissal.

**Staff** - any person employed by YMCA Geelong by either regular paid employment or contract

**Unethical Behaviour** - Unethical behaviour of a YMCA staff member or volunteer is when a staff member is :

- Involved in unfair behaviours which adversely affect others or the organisation
- Involved in behaviour that is morally wrong



- Involved in behaviour that is in breach of the YMCA values of honesty, caring, respect and responsibility

**Volunteer** - any person engaged by YMCA Geelong in a voluntary capacity.

## 4. Policy:

### 4.1 General

- Disclosures may be made orally, in writing, electronically, and may be anonymous.
- The individual who seeks to make a disclosure should describe the alleged corrupt or improper conduct in accordance with the above definitions.
- The disclosure must be made to the Site Manager if the Site Manager is subject of the disclosure then the Chief Executive Officer should be notified. If the CEO is the subject of a disclosure, the matter may be taken directly to the President of the Board.
- A suitably capable director who does not hold an office position will be required to be the Whistleblower (Ethics) advisor for the Association. If in the event that there is a reason that the CEO and Board President are not the appropriate contacts then this person can be contacted directly- YMCA Geelong's nominated Whistleblower Contact Officer is David Hanson (Health and Safety Change Agent [ohs.geelong@ymca.org.au](mailto:ohs.geelong@ymca.org.au))
- The CEO/Board President/Advisor will impartially assess the allegation to determine if it is a protected disclosure.
- All protected disclosures and supporting evidence and documentation will be referred to the Board.
- Following an investigation, the CEO/Board President/Advisor will determine within 45 days of receiving the disclosure whether improper conduct or detrimental action has occurred.
- The CEO/Board President/Advisor must notify the whistleblower of the findings of the investigation.
- Throughout this process, the CEO/Board President/Advisor must oversee the investigation, maintain confidential records and ensure support for the whistleblower and the person or persons who are the subject of the disclosure.
- If the CEO/Board President/Advisor determines that improper conduct has occurred, YMCA Geelong will take all reasonable steps to prevent the conduct from continuing or occurring in the future.

### 4.2 Protected Disclosure

An individual will receive the protection of this policy if their allegation satisfies the definition of a protected disclosure. A protected disclosure occurs where an individual believes, on reasonable grounds, that a YMCA employee:

- has engaged, is engaging or proposes to engage in improper conduct in their capacity as a YMCA employee; or
- has taken, is taking or proposing to take detrimental action as a YMCA employee.



It is important that there is evidence to support a belief which can include witnesses, documents or other direct evidence.

## 4.3 Protections Provided

### 4.3.1 Welfare of the Whistleblower

The CEO/Board President/Advisor is responsible for ensuring the welfare of the whistleblower throughout the process of making a disclosure. In particular, the CEO/Board President/Advisor will:

- examine the immediate welfare and protection needs of the whistleblower and foster a supportive work environment;
- advise the whistleblower of the administrative protections available to him or her and provide general advice about the operation of the policy;
- appoint a third party or welfare manager to support the whistleblower, if necessary;
- advise the whistleblower of the progress of the investigation;
- create and manage a confidential filing system;
- take all steps to ensure that the identity of the whistleblower remains confidential; and
- listen and respond to any concerns of harassment, intimidation or victimisation which may occur subsequent to making a disclosure.

### 4.3.2 Person against whom the Disclosure is Made

YMCA Geelong will ensure that natural justice is afforded to the person who is the subject of the disclosure. Where an investigation does not establish that improper conduct has occurred, the fact that the investigation has been carried out, the results of the investigation and the identity of the person who is the subject of the disclosure will remain confidential.

YMCA Geelong will ensure that the subject of the disclosure has the right to:

- be informed as to the substance of the allegations;
- be given the opportunity to answer the allegations before a final decision is made;
- be informed as to the substance of any adverse comment that may be included in any report arising from the investigation; and
- have his or her defence set out fairly in any report.

## 4.4 Reporting

Disclosure should be made directly to the CEO/Board President/Advisor as the first point of contact.

## 4.5 Staff members receiving disclosures

If a staff member receives a disclosure of improper conduct or detrimental action from an internal or external whistleblower, he or she should advise the whistleblower to go directly to



the CEO or forward the disclosure and all supporting documentation to the CEO/Board President/Advisor, maintaining strictest confidentiality.

## 4.6 Confidentiality

The CEO/Board President/Advisor, welfare manager and investigators of protected disclosures will take all necessary steps to ensure the identity of the whistleblower and the person who is the subject of the disclosure remains confidential. Where a staff member is contemplating making a disclosure and is concerned about approaching the CEO/Board President/Advisor in the workplace, he or she can request a confidential meeting in a discreet location away from the workplace.

All record keeping is to be maintained in a confidential manner and must be separate from YMCA paper and electronic record keeping systems. Email communication must not be used in matters relating to a whistleblower, a protected disclosure or any subsequent investigation.

## 5. Consequences of Breaching this Policy

All elements of this policy must be adhered to, and any breaches of this policy can lead to disciplinary action, including termination of employment, as per the YMCA Geelong Disciplinary Policy. Independent contractors and other non-Staff who are found to have breached this policy may result in the termination of their contract with the YMCA Geelong. If an individual's conduct results in a breach under law they may also be personally liable.



## 6. ROLES AND RESPONSIBILITIES

Department/Area	Role/Responsibility
Management	Health & Safety Change Agent and Senior Management Team are responsible for the development, monitoring and review of the Policy and related systems.
CEO	Is responsible for ensuring suitable resources and support systems to enable compliance with this policy. <ul style="list-style-type: none"> <li>Investigate and review any disclosures</li> <li>Report matters to the Board</li> </ul>
Site Management- Camp Wyuna, Newton/North Geelong, Bannockburn, Community Programs	Responsible for: <ul style="list-style-type: none"> <li>the promotion of the Whistleblower Policy within their workforce</li> <li>Recording an matters of disclosure</li> <li>Reporting matters to the CEO</li> </ul>
All employees (including Managers, Directors, Coordinators, Team Leaders) and staff	Responsible for adhering to the requirements of the Whistleblower Policy

## 7. MONITORING, EVALUATION AND REVIEW

The Policy will be reviewed every two years in consultation with the Board and other stakeholders. A monthly report will be prepared by the Health and Safety Change Agent (Whistleblower Contact Officer) and provided to the CEO for presentation to the Board and Senior Management Team.

## 8. SUPPORTING DOCUMENTS

There are a range of YMCA policies that outline internal complaints and grievance processes for YMCA staff and volunteers. These should be referred to prior to making a protected disclosure to ensure that the issue of concern or complaint is not already covered by one of the policies outlines below.

YMCA Geelong Grievance and Dispute Resolution Policy  
 YMCA Geelong Disciplinary Policy  
 YMCA Geelong Safeguarding Children and Young People Policy  
 YMCA Geelong Privacy Policy

Relevant State and Federal legislation includes:

- Public Service Act 1999 (Section 16: Protection for Whistleblowers (C'wealth)
- Public Interest Disclosure Bill 2001 [2002] (note: this is not an Act) (C'wealth)
- Whistleblowers Protection Act 2001 (VIC)
- Occupational Health and Safety Act 2004 (VIC) \*

\*Victoria has not adopted the national model workplace health and safety laws.



- YMCA Risk Management Policy
- Occupational Health and Safety Act 2004 and Regulations 2007
- YMCA OHS Management Review Procedure

As adopted by the YMCA of Geelong on 28/06/2016

**Shona Eland**  
Chief Executive Officer YMCA Geelong Inc.

## 10. POLICY INFORMATION

Approved by:	YMCA Geelong Board
Meeting number and date:	Board Meeting 28/06/2016
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Effective date:	30/06/2016
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Policy Owner:	Health and Safety Change Agent
Contact Details policy owner:	5221 8344 <a href="mailto:ohs.geelong@ymca.org.au">ohs.geelong@ymca.org.au</a>
Amendment history:	

Version	Date	Author	Change Description
V1	31/05/2016	Shona Eland	Policy developed in consultation with YMCA Australia Whistleblower Template