

# SSGAC Whistleblower Policy

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**Note:** This policy does not displace, override or supplement the legislative protections afforded to Whistleblowers. Parts of this policy **summarise** the relevant legislation applying to Whistleblowers, which means that some legislative information may be absent. Therefore, a person considering a Whistleblower disclosure should not rely on this policy alone to assess whether the disclosure would qualify for protection.

# SSGAC Whistleblower Policy

## 1. Definitions

**Club** refers to the South Sydney Graphic Arts Club Mascot (SSGAC).

**Misconduct** means poor or unacceptable practice and breaches of internal rules or policy relating to the Club and its community including its officeholders, its employees, suppliers, members or guests.

**Disclosure** means providing information about actual or suspected Misconduct.

**Whistleblower** means a person who discloses actual or suspected Misconduct.

## 2. Objective

The South Sydney Graphic Arts Club Mascot (SSGAC) is committed to developing a culture where all staff are encouraged to raise concerns about Misconduct and can do so safely.

The objective of this policy is to make all employees and directors aware of their lawful rights to disclose any Misconduct; and provide protection for employees who disclose any such information.

It promotes responsible Whistleblowing about issues where the interests of the Club and its community are at risk.

The Club aims to encourage Disclosure of Misconduct by providing convenient and safe Disclosure mechanisms and protection for Whistleblowers. All members of the Club and its community share a responsibility to:

- speak up and disclose Misconduct by others involved in the Club; and
- ensure that those who do speak with good intentions and for a proper purpose can do so without being personally disadvantaged as a result.

The Whistleblower Policy is not intended to obstruct any person from reporting possible violations of law or regulation to any appropriate law enforcement, governmental agency or regulatory body.

## 3. Qualifying for Protection

The Corporations Act 2001 and other legislation provides special protections to people that disclose Misconduct related to an organisation. These protections prevent the organisation from subjecting the Whistleblower to detriment, such as by dismissing, harassing or damaging the reputation of the Whistleblower.

These legislative protections will apply to a person disclosing Misconduct if:

1. the person making the Disclosure is an eligible Whistleblower; and
2. the Whistleblower suspects that the information being disclosed concerns Misconduct in relation to the Club; and
3. the information is disclosed to a prescribed person or body.

Satisfying the three criteria above is one avenue for a prospective Whistleblower to qualify for protection. There are two other avenues to qualify:

1. the Disclosure is made to a legal practitioner for the purpose of obtaining legal advice or legal representation in relation to the Whistleblower matter;

2. the Disclosure is an emergency Disclosure, because it satisfies each of the below criteria (and is not a tax-related matter):
  - the person has previously made a Disclosure qualifying for protection;
  - a reasonable period of time has since passed;
  - there is a risk to public health or safety if the information is not acted on immediately;
  - the person notifies the Club in writing that they intend to make an emergency Disclosure; and
  - the Disclosure is made to a State, Territory or Commonwealth member of Parliament or a journalist.

Please see the Club's Grievance Procedure on how personal workplace or other matters that are not covered by this policy may be dealt with.

### **3.1 Eligible Whistleblowers**

A person is an eligible Whistleblower if they are:

- A current or former employee or director of the Club.
- A current or former volunteer staff member.
- A supplier to the Club, as well as the supplier's staff (including volunteer staff).
- A relative or dependent of a current or former director, employee, volunteer staff member or supplier (including a dependent of the supplier's staff).

### **3.2 Disclosable Matters**

This policy applies to the Disclosure of information when a person has reasonable grounds to suspect Misconduct, or an improper state of affairs or circumstances in relation to the Club. This may include:

- breaching Commonwealth, State or Territory legislation, or local authority by-laws;
- financial impropriety, fraud or corruption;
- illegal activities or conduct (including theft, illicit drug sale/use, violence, threatened violence, or criminal damage against the Club's assets or property);
- discrimination, vilification, sexual harassment, harassment, bullying and victimisation;
- misuse of resources
- unsafe work-practices posing a danger to the health or safety of any individual
- damage to the environment
- deliberate covering up of information tending to show circumstances of this kind.

If a person discloses information about a possible Misconduct, and the allegation is ultimately found to be incorrect, the Disclosure may still qualify for protection if they had 'reasonable grounds to suspect' Misconduct. However, a person who maliciously or vexatiously makes Disclosures or makes Disclosures which they know are false is unlikely to qualify for protection.

Note that Disclosures about tax are treated differently. Please refer point 7. *Disclosures regarding Tax*.

### **3.3 Prescribed Recipients**

The following bodies and people are prescribed recipients for non-tax matters. Disclosing information about Misconduct will qualify the person for Whistleblower protections, as long as the

other two criteria are met (the person is an eligible Whistleblower and the information is a disclosable matter):

- an employee's direct manager or supervisor;
- a director or senior manager of the Club;
- The Club's internal or external auditor (or a member of the external audit team) and actuary;
- the Australian Securities and Investments Commission (ASIC); or
- the Australian Prudential Regulation Authority (APRA).

Note that prescribed recipients for Disclosures about tax are different. Please refer point 7. *Disclosures regarding Tax.*

### **3.4 Disclosures regarding Tax**

Tax Disclosures refer to Misconduct in relation to federal tax matters, such as tax avoidance or other breaches of tax legislation including income tax (also known as corporate tax), capital gains tax (CGT), Goods and Services Tax (GST) and Fringe Benefits Tax (FBT).

Federal tax-related Disclosures must satisfy an additional ground to be a disclosable matter ie. That the person considers that the information may assist the recipient to perform their duties in relation to taxation.

The following bodies and people are prescribed recipients for Disclosures related to federal taxes:

- Commissioner of Taxation;
- an employee's direct manager or supervisor;
- the Club's internal or external auditor (or a member of the external audit team);
- a registered tax agent or BAS agent who provides services to the Club;
- a director or senior manager of the Club; or
- any employee or director with tax-related responsibilities

Taxes that are regulated by state legislation including gaming tax, payroll tax and land tax are treated as a non-tax matter for the purposes of Whistleblower rules.

## **4. Protections Available to Whistleblowers**

If a person discloses information which qualifies for Whistleblower protection, the Club is legally obligated to ensure the following protections:

- identity protection (confidentiality);
- protection from detriment;
- compensation and other remedies; and
- protection from legal liability.

### **4.1 Confidentiality**

It is illegal for the Club or any other person to identify a discloser or distribute information likely to lead to the discloser being identified. The Club recognises that maintaining appropriate confidentiality is crucial in ensuring that prospective Whistleblowers come forward and make Disclosures in an open and timely manner and without fear of reprisals being made against them.

The Club may lawfully disclose the identity of the Whistleblower in the following instances:

- to ASIC, APRA or the Australian Federal Police;
- to a legal practitioner (to obtain legal assistance);
- if the prospective Whistleblower consents.

The Club or a person investigating the Whistleblower complaint may also disclose information about the complaint, which could lead to the person's identity being deciphered, if the person's name is redacted and the investigator has taken all reasonable steps to prevent the Whistleblower's identification.

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.

Whistleblowers may complain to ASIC if their confidentiality has been breached.

Where necessary, the Club will take the following actions to protect a Whistleblower's confidentiality:

- redact the Whistleblower's name, personal information and information which could lead to the identification of the Whistleblower, in any written material which describes the Disclosure;
- refer to the Whistleblower in a gender-neutral context;
- where possible, the Club will contact the Whistleblower to ascertain certain information which could cause another person to identify the Whistleblower (for example, there may be unique characteristics about how and when the Whistleblower discovered information about the Misconduct, and if these characteristics are disclosed, it may cause another person to identify the Whistleblower);
- documents or information relating to the investigation will not be sent to a printer or email address that can be accessed by other staff.

#### **4.2 Protection from detriment**

The following types of detriment to a Whistleblower are unlawful:

- terminating the Whistleblower's employment;
- altering characteristics of the Whistleblower's employment, such as their position or duties;
- harassing or intimidating the Whistleblower;
- damaging the Whistleblower's reputation, property or financial position;
- injuring or harming the Whistleblower (including psychological harm).

The Club may take adverse action against a Whistleblower if the Disclosure reveals that the Whistleblower engaged in misconduct. If the Whistleblower was involved in the conduct which was the subject of the Disclosure, the fact that the Whistleblower has made the Disclosure may be taken into account in determining the severity of the disciplinary measures, if any, that may eventually be taken.

If a Disclosure qualifies for protection under the applicable legislation, the protection afforded to the discloser overrides any provision of their employment contract, including any confidentiality clause.

The Club will also take steps to prevent the Whistleblower from experiencing any detriment, including:

- moving the Whistleblower to another team or position (with the Whistleblower's consent);

- after a Whistleblower complaint is made, senior managers and directors privy to the complaint, may meet to assess the risk of detriment to the Whistleblower and actions to mitigate that risk;
- if detriment has already occurred, intervening to protect the Whistleblower such as taking disciplinary action against a person responsible for the detriment.

Any reprisals against a Whistleblower are a serious breach of this policy and may result in disciplinary action, including dismissal. 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.

#### **4.3 Compensation and other remedies**

A Whistleblower is entitled to seek compensation and other relief through the courts if:

- they suffer detriment due to making the Disclosure; and
- the Club failed to prevent the detriment.

#### **4.4 Protection from legal liability**

A Whistleblower is protected from the following outcomes:

- legal action being commenced against the Whistleblower, such as for breach of confidentiality or any other obligations in their employment contract or elsewhere;
- criminal prosecution, such as for unlawfully releasing information; and
- administrative action, for example, a BAS agent cannot be sanctioned or disciplined under the accounting profession's code of conduct due to making a Whistleblower Disclosure.

## **5. Handling and Investigating a Disclosure**

### **5.1 Reporting**

The Club has several channels for reporting Misconduct. In the first instance, any person who has reasonable grounds to suspect Misconduct has occurred, is encouraged to report that suspicion to his or her manager.

If this is considered inappropriate, the person should raise the concern with any senior manager or director of the Club.

If these channels are considered appropriate, Disclosures may be made to the Club's auditor Dominic Strati via:

- Domenic Strati [domenic@dastrati.com.au](mailto:domenic@dastrati.com.au)
- Postal address: 376 Bay St, Brighton-Le-Sands, NSW 2216
- Telephone: 9567 1418

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

All Disclosures should provide specific, adequate and pertinent information with respect to, among other things, dates, places, persons, witnesses, amounts, and other relevant information, in order to allow a reasonable investigation to be conducted.

If the Whistleblower discloses his or her name, the person receiving the Disclosure will acknowledge receipt of the Disclosure and may initiate a follow-up meeting. However, if the Disclosure is submitted on an anonymous basis, there will be no follow-up meeting regarding the Disclosure and the Club will be unable to communicate with the Whistleblower if more information is required, or if the matter is to be referred to external parties for further investigation.

All Disclosures received will be dealt with on a confidential basis.

## **5.2 Handling a Disclosure**

A person who receives a Disclosure cannot circulate the Whistleblower's identity to other staff without the Whistleblower's consent. For instance, if a Whistleblower complaint is lodged with a direct manager, the manager will not circulate the Whistleblower's identity to the secretary manager or any senior manager without consent. However, the manager may circulate the complaint to the secretary manager or other senior managers in such a way that maintains confidentiality.

After receiving a Disclosure, the Club will assess whether:

- the Disclosure qualifies for protection; and
- a formal investigation is required.

In conducting this assessment, the Club may seek professional legal advice.

If a person makes a Disclosure in good faith, and the Club subsequently concludes that the Disclosure does not qualify for protection, the Club may choose to protect the discloser's confidentiality, and protect the discloser from detriment, despite the absence of legislative protections.

## **5.3 Investigating a Disclosure**

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 Disclosure will not be investigated by persons implicated in the Misconduct.

The purpose of investigating the Disclosure is to determine whether there is enough evidence to substantiate or refute the allegation. Accordingly, during the investigation, the Club may request additional information from a Whistleblower, to attain sufficient evidence to make this assessment.

Investigating a Disclosure may also require the Club to seek outside assistance of a technical, financial or legal nature.

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.

The findings resulting from an investigation will be documented and circulated to the board and senior managers, in accordance with the Club's obligation to maintain the Whistleblower's confidentiality.

In addition to protecting the Whistleblower's confidentiality, the Club may also choose not to circulate the findings of the investigation to persons implicated in the Misconduct.

## **6. Individuals Mentioned in a Disclosure**

The Club will take steps to ensure the fair treatment of individuals mentioned in a Disclosure, including where those individuals are implicated in Misconduct.

The Club will adhere to the principles of natural justice in taking any disciplinary action against persons implicated by a Whistleblower Disclosure. This means that the implicated person will be advised about the substance of the Disclosure prior to any actions being taken.

The Club will also take reasonable steps to protect the confidentiality of persons implicated in a Whistleblower Disclosure.

## **7. How The Policy Will Be Made Available**

This policy will be given to all employees and directors of the Club when their employment or tenure commences. It will also be made available via the website and noticeboard.