

WHISTLEBLOWER PROCEDURE

REVISIONS:

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1.0 INTRODUCTION

Cape York Partnership (CYP) is committed to operating legally (in accordance with applicable legislation and regulation), properly (in accordance with organisational policy and procedures), and ethically (in accordance with recognised ethical principles). Employees are expected to cooperate with the organisation in maintaining legal, proper, and ethical operations, if necessary by reporting non-compliant actions by other people. Correspondingly, employees who do assist in maintaining legal, proper, and ethical operations should not be penalised in any way.

An important aspect of accountability and transparency is a mechanism to enable staff and other members of the organisation to voice concerns in a responsible and effective manner. It is a fundamental term of every contract of employment that an employee will faithfully serve CYP and not disclose confidential information about CYP affairs. Nevertheless, where an individual discovers information which they believe shows serious malpractice or wrongdoing within the organisation then this information should be disclosed internally without fear of reprisal, and there should be arrangements to enable this to be done independently of line management.

CYP has endorsed the Whistleblower Policy and the Procedure set out below ensure that no members of staff should feel at a disadvantage in raising legitimate concerns in line with the Policy and Procedure.

It should be emphasised that this procedure is intended to assist individuals who believe they have discovered malpractice or impropriety. It is not designed to question financial or business decisions taken by CYP nor should it be used to reconsider any matters which have already been addressed under harassment, complaint, disciplinary or other procedures. Once the "whistleblowing" procedures are in place, it is reasonable to expect staff to use them rather than air their complaints outside CYP.

In cases where people feel they need to be protected in relation to raising a matter, this Procedure outlines the protections that will apply.

2.0 PURPOSE

The purpose of the Whistleblower Policy and this Procedure is to:

- provide an understanding of what can be reported under the Whistleblower Policy and this Procedure;
- demonstrate the importance CYP places on ensuring a safe and supportive environment where our people feel confident to raise breaches of internal rules or Disclosable Conduct relating to the organisation, its Directors, employees and other stakeholders;
- assist to create a culture within CYP that encourages our people to speak up and raise breaches of internal rules or policy, or Disclosable Conduct relating to the organisation, its Directors, employees and other stakeholders;
- explain the processes for reporting breaches of internal rules or policy, or Disclosable Conduct, including what happens when a report is made;
- outline how whistleblowers will be protected if when they make a report; and
- help to ensure CYP maintains the highest standard of ethical behaviour and integrity.

3.0 SCOPE

3.1 People

The following people can make a disclosure within the organisation:

1. an employee or former employee CYP, or one of its entities;

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2. a director or former director of CYP, or one of its entities; or
3. a person who is (or was) a supplier to, or has (or had) a transaction with, CYP or one of its entities;
4. a person who is (or was) a supplier to, or has (or had) a transaction with, an employee of CYP or one of its branches;
5. an employee (or former employee) of a supplier or person who had such a transaction; or
6. a lawyer or appointed representative on behalf of a discloser in one of the above categories:

3.2 Conduct

The scope of this Policy relates to conduct which:

- breaches the organisation’s internal rules and policies; and/or
- is Disclosable Conduct as defined in Part 3 of this Procedure

3.3 Out of scope – Complaints and grievances

From time to time there may be a complaint in relation to service levels, policy decisions, or an employment-related grievance with another person within the organisation, which is not Disclosable Conduct or a breach of the organisation’s rules or policies.

Complaints about a service issue or policy decision or raising of a grievance issue, should be done so by referring to the CYP Workplace Grievance Resolution Policy and Procedure or by speaking to your supervisor

4.0 DEFINITIONS AND ABBREVIATIONS

Word Abbreviation	Definition
Adverse Action	Means any actual, or threatened, dismissal, demotion, harassment, discrimination or victimisation of, or any other action or conduct that causes detriment or threatens to cause detriment to, a CYP employee as a result of that CYP employee making a protected Disclosure.
Disclosable/Improper Conduct	<p>Defined as:</p> <ul style="list-style-type: none"> • corrupt, fraudulent or other illegal conduct or activity; • conduct that is contrary to, or a breach of, CYPs policies; • a substantial mismanagement of CYP resources; • conduct involving substantial risk to public health or safety; or • conduct involving substantial risk to the environment. <p>• That would if proven, constituted by CYP or its employee/s:</p> <ul style="list-style-type: none"> • a criminal offence; <p>reasonable grounds for dismissing or dispensing with, or otherwise terminating, the services of a CYP employee/s who was, or is, engaged in that conduct; or reasonable grounds for disciplinary action.</p>

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Protected Disclosure	Any good faith communication based on reasonable ground that discloses or demonstrates an intention to disclose information that may evidence improper conduct.
Whistleblower	Any person whether an employee, director, related officer or contractor, who whether anonymously or not makes or attempts to make a disclosure of Improper Conduct.
Whistleblowing	The deliberate, voluntary disclosure of individual or organisational malpractice by a person who has or had privileged access to data, events or information about an actual, suspected or anticipated wrongdoing within or by the organisation that is within its ability to control.

5.0 RESPONSIBILITIES

CYP Directors and employees are encouraged to have the responsibility, to report any known or suspected instances of improper conduct by making a protected disclosure in accordance with the Whistleblower Policy and this procedure.

6.0 REFERENCES

Corporations Act 2001

Australian Securities & Investments Commission (ASIC).

7.0 PROCEDURE

The Whistleblower Policy and this Procedure are designed to enable employees of CYP to raise concerns with the Line Manager, Chief Executive Officer (CEO), Chief Operating Officer (COO) or the Board Chairman to disclose information which the individual believes is in violation of law, or a rule, or regulation mandated pursuant to law or in violation of a clear mandate of public policy concerning health, safety, welfare or protection of the environment. This procedure is intended to cover concerns which are in the public interest and may at least initially be investigated separately but might then lead to the invocation of other procedures e.g. disciplinary.

- Examples of things which would be Disclosable Conduct include:
- Financial malpractice or impropriety or fraud;
- Failure to comply with a legal obligation or Statutes;
- Dangers to Health & Safety or the environment;
- Criminal activity;
- Improper conduct or unethical behaviour; and/or
- Attempts to conceal any of these.

7.1 Reporting a wrongdoing

Every person in the organisation has a role and responsibility in ensuring CYP is run ethically and in accordance with its internal rules and policies. It is not acceptable to 'walk past' or 'turn a blind eye' to reportable matters.

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Where matter related to breaches of internal rules or policies or Disclosable Conduct are identified they should be raised as soon as possible. In instances where a person has concerns about making a report, reports can be made anonymously.

If employees become aware of a matter they should report it as soon as practical, and in the first instance, consider whether to report the matter to their immediate manager. The manager must then report the allegation of improper conduct to the CEO, COO or one of the internal Whistleblower Protection Officers listed below.

Reports are to be made in writing. If you wish to raise an anonymous concern, you can do so via our website.

If the allegation of wrongdoing involves the employees immediate Manager then the matter should be reported directly to the CEO, COO or one of the Whistleblower Protection Officers.

If an employee has fears for their wellbeing, safety, or fear of reprisal as a result of raising a matter, they should mention these at the time of reporting the matter. You will be noted by the organisation as a Discloser, and afforded the protections outlined under this Procedure.

If it is inappropriate to do so, or the employee does not wish to report the improper conduct to their manager, they can report it directly to any of the internal Whistleblower Protection Officers:

- Ms Fiona Jose, Chief Executive Officer, email fjose@cyp.org.au
- Mr Simon Wild, Chief Operating Officer, email swild@cyp.org.au
- Mr Matthew Turner, Company Secretary, email mturner@cyp.org.au
- You can also contact the Group HR Manager, Ms Joanna Cray email jcray@cyp.org.au

If the alleged or suspected wrongdoing involves CYP senior management, the matter can be reported to the internal Whistleblower Protection Officers above or one of the Board appointed Whistleblower Protection Officers:

- Board Chairperson, Mr Danny Gilbert, email dgilbert@gtlaw.com.au

The Whistleblower Protection Officers may appoint an external Whistleblower Protection Officer if it is deemed necessary due to the nature of the issue.

The Whistleblower (discloser) may choose to remain anonymous. However, it should be noted that it may be more difficult for the alleged wrongdoing to be fully investigated if further information cannot be sought from the whistleblower.

If a person makes a report of alleged or suspected wrongdoing, CYP will endeavour to protect that person's identity from disclosure.

When a report is made about a matter of a breach of internal rules, policy or Disclosable Conduct under this Procedure, the Discloser should provide as much information as possible. Information such as dates, times, location, individuals involved, other witnesses, physical evidence (e.g. documents, images) and any other general information that may be helpful to assist CYP to determine how to take appropriate action.

Any information provided to CYP may be used by CYP in assessment of an investigation or other appropriate action. Examples of actions could include:

- a satisfactory explanation can be provided in relation to the matter;
- the matter is resolved by speaking to one or more parties;
- the matter is recorded and monitored going forward;

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- a decision is made to investigate (internally or via independent, external investigators);
- the matter is referred to another agency; or
- a combination of the above.

Where practicable, the Discloser will be contacted and advised of what action will be undertaken.

If the organisation determines that the matter should be investigated, the investigation may be conducted by the Whistleblower Investigation Officer (WIO), an appropriately capable officer or employee of the organisation nominated by the WIO, or by an external investigator appointed by the organisation. All investigations will be conducted in a manner that is procedurally fair, confidential, conducted without bias and in a timely manner.

7.2 Reasonable grounds to make the disclosure

You must have reasonable grounds for suspecting that the information you are disclosing concerns misconduct or an improper state of affairs or circumstances in relation to CYP to qualify for protection under this policy. Provided you have reasonable grounds, you will qualify for this protection even if your disclosure is found to be incorrect.

7.3 Communication and Follow Up

CYP aims to ensure all employees are continuously aware of whom the Whistleblower Protection Officers are, and the alternative ways in which employees can contact them.

The relevant Whistleblower Protection Officer is to ensure that the Whistleblower is kept informed of the outcomes of the inquiry or investigation, subject to the considerations of privacy of those against whom the allegations are made

At the end of an investigation, the Discloser may be informed of the outcome of the investigation by the organisation.

7.4 Confidentiality of Whistleblowers identity and Whistleblowing reports

The Discloser of a breach of internal rules or policies, or a concern relating to Disclosable Conduct to the organisation under this procedure, will have their details, and the information they provide, treated in strictest confidence.

Generally, CYP will not disclose the person's identity unless:

- the person making the report consents to the disclosure;
- the disclosure is required or authorised by law; and/or
- the disclosure is necessary to further the investigation.

It may also become necessary to disclose the fact and the substance of a report to the person who is the subject of the report.

CYP will store any records relating to a report of wrongdoing securely and permit access by authorised persons only.

Unauthorised disclosure of information relating to a report, the identity of a CYP employee/volunteer/contractor who has made a report of wrongdoing or information from which the identity of that person could be inferred will be regarded seriously and may result in disciplinary action, which may include dismissal.

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7.5 Protection of Whistleblowers

CYP is committed to ensuring that those who raise a matter under this procedure are provided support and protection from reprisal or personal or financial disadvantage because of making that report.

CYP will not tolerate any adverse action or threats of retaliatory action against any person who has made or who is believed to have made a report of wrongdoing, or against that person's colleagues, employer (if a contractor) or relatives. For example, the person must not be disadvantaged or victimised by having made the report by:

- dismissal
- demotion
- any form of harassment
- discrimination
- current or future bias; or
- threats of any of the above.

Any such adverse action or victimisation in reprisal for a report being made under this policy will be treated as serious misconduct and will result in disciplinary action, in accordance with the Managing Serious Misconduct Procedure, which may include dismissal. If a person who has made a report believes adverse action or victimisation has occurred or been threatened, the person who has made the report has the right to make a submission to the Internal or Board Whistleblower Protection Officers to report this conduct.

It should be noted, however, that if the person making a report has been involved in the wrongdoing that they are reporting, making a report will not necessarily shield them from the consequences of their actions. A person's liability for their own conduct is not affected by their reporting of that conduct under this policy. In some circumstances an admission may be a mitigating factor when considering disciplinary or other action.

7.6 False reporting

A person must have reasonable grounds for making the claim. Claims which are shown to be frivolous or vexatious will not be accepted.

Where it is shown that a person purporting to be a whistleblower has knowingly made a false report of wrongdoing, then that conduct itself will be considered a serious matter and that person may be subject to disciplinary action which may include dismissal, in accordance with the Managing Serious Misconduct Procedure.

It should also be noted that this procedure is not intended to replace the Grievance Resolution Procedure, which is there for all employees to raise any matter they may have in relation to their work, their work environment, another person, or a decision affecting their employment.

7.7 Management of a person against whom a Whistleblowing report is made

Individuals against whom a whistleblowing report is made will be treated fairly and in accordance with the principles of natural justice and a presumption of innocence. They will be supported through the assessment and investigation process. This will involve the investigation being handled as confidentially as possible and ensuring that the individual has the opportunity to answer the allegations during the investigation.

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7.8 Support and practical protections

We have in place processes for protecting and monitoring the welfare of anyone making a disclosure under this policy. This includes risk assessment of any potential detriment, work adjustment considerations and support services such as stress management strategies.

We will also provide you with access to the CYP Employee Assistance Program and counselling services.

7.9 Whistleblowing Protection Officers

The role of a Whistleblower Protection Officer is to safeguard the interests of the whistleblower. The Whistleblower Protection Officer has direct, unfettered access to independent financial, legal and operational advisers as required, and a direct line of reporting to the CEO or any senior management team member or Director of the Company, as may be required.

The Whistleblower Protection Officer is responsible for appointing an investigator to inquire into the substance of reports. On the basis of sufficient evidence in support of matters raised in a report, the Whistleblower Protection Officer determines whether to refer reports for further action, or refute these where necessary. Investigations must be conducted in a fair and independent manner.

The investigation will not be conducted by a person who may be the subject of the investigation or has inappropriate links or connections (actual or perceived) to the person(s) or practice(s) under investigation.

The Whistleblower Protection Officer is to ensure that the Whistleblower is kept informed of the outcomes of the inquiry or investigation, subject to the considerations of privacy of those against whom the allegations are made.

7.10 Failure to comply with the whistleblower policy and procedure

Any breach of the Whistleblower Policy and this Procedure may result in disciplinary action, including dismissal.

8.0 ASSOCIATED PROCEDURES

- Managing Serious Misconduct Procedure
- Grievance Resolution Procedure

9.0 SAFE WORK INSTRUCTIONS, FLOWCHARTS, FORMS, REGISTERS, AND RECORDS

SAFE WORK INSTRUCTIONS	NA
FLOWCHARTS	NA
FORMS	NA
REFERENCES	NA
REGISTERS	NA
RECORDS	Whistleblower Reports Investigation Reports