



WHISTLEBLOWER POLICY

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

SCOPE

This Policy applies to all persons listed under “who is an eligible Whistleblower” outlined in this Policy.

OBJECTIVE

The objective of this policy is to make all employees of the Kiama Golf Club (the **Club**) and directors aware of their lawful rights to disclose any wrongdoing; and provide protection for persons who disclose any such information.

QUALIFYING FOR PROTECTION AS A WHISTLEBLOWER

The *Corporations Act 2001* (Cth) and other legislation provides special protections to people who disclose wrongdoing related to an organisation such as a Club (whistleblowers). Under these protections, an organisation cannot subject a whistleblower to detriment, such as by dismissing or harassing them, or damaging their reputation.

A person who discloses wrongdoing is protected by the whistleblower laws if three conditions are satisfied:

- the person making the disclosure is an **eligible whistleblower**; and
- the person suspects that the information being disclosed concerns wrongdoing in relation to the Kiama Golf Club and of the (a **disclosable matter**); and
- the information is disclosed to a prescribed person or body (a **prescribed recipient**).

Who is an eligible whistleblower?

A person is an eligible whistleblower if they are a current or former employee or director of the Kiama Golf Club.

A current or former volunteer staff member is also an eligible whistleblower.

The following people are also eligible whistleblowers:

- a supplier to as well as the supplier’s staff (including volunteer staff); and
- a relative or dependant of a current or former director, employee, volunteer staff member or supplier (including a dependant of the supplier’s staff). A relative or dependant includes a spouse, parent, brother, sister, grandparent, child or grandchild.

Personal work-related grievances

Personal work-related grievances do not generally qualify for protection under the Corporations Act. A disclosure concerning a personal work-related grievance that is made to a legal practitioner may qualify for protection under the Corporations Act.

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

Disclosable matters

A person is only protected by whistleblower laws if they have reasonable grounds to suspect that the information, they are disclosing concerns misconduct or an improper state of affair regarding the Kiama Golf Club. For instance, information may be a *disclosable matter* if it concerns:

- breaching Commonwealth or NSW legislation.
- 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;
- unsafe work practices.

If a person discloses information about possible wrongdoing, and the allegation is ultimately found to be incorrect (i.e. the Kiama Golf Club did not in fact engage in wrongdoing), the disclosure may still qualify for protection if the person had "reasonable grounds to suspect" that the information concerned wrongdoing. However, a person is unlikely to qualify for protection if they maliciously or vexatiously make a disclosure which they know is false, or where there are no grounds to substantiate an allegation.

Is your disclosure about tax?

Disclosures about tax wrongdoing are treated differently to other matters.

Tax wrongdoing may include tax avoidance or other breaches of Federal tax legislation. Federal tax includes income tax (also known as corporate tax), Capital Gains Tax (CGT), Goods and Services Tax (GST) and Fringe Benefits Tax (FBT).

Disclosures about a tax administered by the NSW Government must be treated as a non-tax matter for the purposes of whistleblower laws. NSW Government taxes include gaming machine tax, payroll tax and land tax.

For example, if an employee wishes to disclose that the Kiama Golf Club is deliberately underpaying payroll tax or gaming tax (a NSW tax), the employee may disclose the information to a *prescribed recipient for non-tax matters* (described below) .

Alternatively, if an employee wishes to disclose that the Kiama Golf Club is deliberately underpaying corporate tax (a Federal tax), the employee may disclose the information to a *prescribed recipient for tax matters*.

Federal tax-related disclosures must satisfy an additional ground to be a *disclosable matter* (in addition to the description above), being that:

the person considers that the information may assist the recipient (e.g. The person receiving the information such as the ATO) to perform their duties in relation to taxation.

Eligible recipients for non-tax matters

The following bodies and people are eligible recipients. You will qualify for protection regardless of which of the eligible recipients you choose. Therefore, disclosing information about wrongdoing will qualify the person for whistleblower protections, as long as the other two criteria are met (the person making the disclosure is an eligible whistleblower and the information is a disclosable matter):

- a director or senior manager of the Kiama Golf Club;
- Kiama Golf Club's internal or external auditor (or a member of the external audit team or an actuary);
- the Australian Securities and Investments Commission (ASIC);
- the Australian Prudential Regulation Authority (APRA) or
- independent legal practitioners.

Eligible recipients for tax matters

The following bodies and people are eligible recipients for disclosures about federal tax:

- Federal Commissioner of Taxation;
- Kiama Golf 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;
- any employee or director with tax-related responsibilities.

Other avenues to qualify for protection

Satisfying the three criteria above is one avenue for a prospective whistleblower to qualify for protection. There are two other avenues to qualify, as they may relate to the Kiama Golf Club;

1. The disclosure is made to a legal practitioner to obtain legal advice or legal representation regarding the whistleblower matter;
2. The disclosure is an *emergency disclosure*, because it satisfies **each** of the below criteria (this avenue does not apply to a tax-related matter):
 - the person has already made a disclosure qualifying for whistleblower protection;
 - 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.

PROTECTIONS AVAILABLE TO WHISTLEBLOWERS

If a person discloses information which qualifies for whistleblower protection, the below legal protections will apply. These protections will apply to internal whistleblowers (such as employees, volunteer staff and directors) as well as external whistleblowers (such as suppliers or relatives of Kiama Golf Club staff). It is an offence to breach confidentiality or cause detriment to a whistleblower. Given these legislative protections, the Kiama Golf Club is legally obligated to ensure these protections:

- identity protection (confidentiality);

- protection from detriment;
- compensation and other remedies; and
- protection from legal liability.

The Club offers support and protection for eligible whistleblowers. The Club has appointed the Club's General Manager to provide protection and support to eligible whistleblowers. If the eligible whistleblower consents, the Club may also appoint a support person.

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 Kiama Golf Club may take action against a whistleblower if the disclosure reveals that the whistleblower engaged in misconduct.

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

Confidentiality

The Kiama Golf Club whistleblowers come forward and make disclosures in an open and timely manner and without fear of reprisals against them.

It is illegal for the Kiama Golf Club or any other person to identify a whistleblower or distribute information likely to lead to the whistleblower being identified.

However, the Kiama Golf Club may lawfully disclose the identity of the whistleblower:

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

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

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

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.

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 Kiama Golf Club failed to prevent the detriment.

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.

How the Kiama Golf Club will support confidentiality

As noted earlier in this Policy, the Kiama Golf Club is legally obligated to take steps to maintain a whistleblower's confidentiality. Where necessary, the Kiama Golf 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 only in a gender-neutral context; and
- documents or information relating to the investigation will not be sent to a printer or email address that can be accessed by other staff.

How Kiama Golf Club will prevent detriment

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

- referring the whistleblower to Kiama Golf Club's Employee Assistance Program to receive support;
- move 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 by 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 may aim to take steps to either reverse, or deem void, the decision or action. This protection applies to anyone providing information related to an investigation pursuant to this policy.

HANDLING AND INVESTIGATING A DISCLOSURE

Reporting

If this is considered appropriate, the whistleblower should raise the concern with the General Manager, by phone or email, or in writing. The whistleblower can also raise the matter with any director or senior manager of the Kiama Golf Club.

If neither of these channels are considered appropriate, disclosures may be made to the Kiama Golf Club's auditor Michael Waldie, via Email

- Email: mail@waldieco.com.au
- Telephone: (02) 4232 1766

Where an allegation of wrongdoing relates to Kiama Golf Club's tax affairs, a whistleblower 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 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 Kiama Golf 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 to protect the identity of the whistleblower.

Anonymity of reporters

A disclosure which is made to the Kiama Golf Club anonymously still qualifies for the same protections as other whistleblower complaints and are protected under the Corporations Act.

Anonymous whistleblower's will be able to make a disclosure to eligible recipients by email and the whistleblower will be able to maintain their anonymity throughout this process. The anonymous whistleblower is entitled to maintain ongoing communication with the eligible recipient through their preferred means of communication.

Handling a disclosure

A person who receives a disclosure cannot circulate whistleblower's identity to other staff without their consent.

After receiving a disclosure, the Kiama Golf Club will assess whether:

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

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

Investigating a disclosure

The Kiama Golf Club will investigate disclosures promptly and fairly, with due regard for the nature of the allegation and the rights of the persons involved. A disclosure will not be investigated by persons implicated in the wrongdoing.

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 Kiama Golf Club may request additional information from a whistleblower (if possible), to attain sufficient evidence to make this assessment.

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

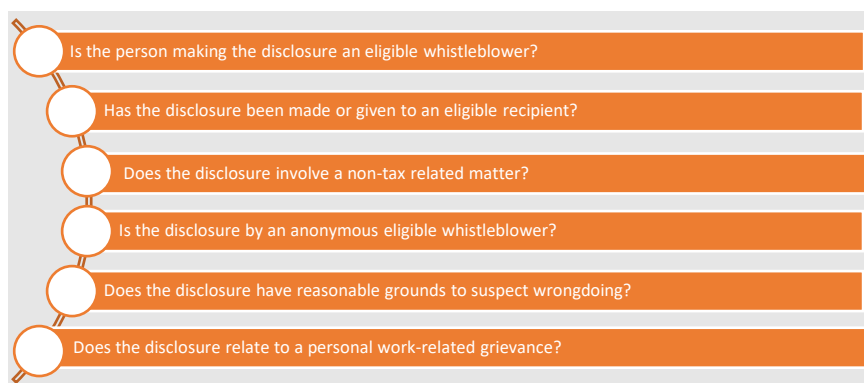
The Kiama Golf aims to ensure that, provided the disclosure was not made anonymously, the whistleblower is kept informed of the outcomes of the investigation of his or her allegations, subject to the considerations of privacy of those against whom allegations are made.

The findings resulting from an investigation will be documented and circulated to persons the Kiama Golf Club considers 'needs to know' such as the Board or senior managers, in accordance with the Kiama Golf Club's obligation to maintain the whistleblower's confidentiality.

In addition to protecting the whistleblower's confidentiality, the Kiama Golf Club may also choose not to circulate the findings of the investigation to persons implicated in the wrongdoing.

How the Club investigates a disclosure

In investigating whistleblower disclosures, the Kiama Golf Club will seek to resolve the matters outlined in the diagram below.



ENSURE FAIR TREATMENT OF EMPLOYEES

The Kiama Golf Club will ensure the fair treatment of its employees and/or directors who are mentioned in a disclosure that qualifies for protection, including those who are the subject of a disclosure.

The measures that the Kiama Golf Club will aim to take are the following:

- disclosures will be handled confidentially when it is practical and appropriate in the circumstances;
- each disclosure will be assessed and may be the subject of an investigation;
- the objective of an investigation is to determine whether there is enough evidence to substantiate or refute the matters reported;
- when an investigation needs to be undertaken, the process will aim to be objective, fair and independent;
- an employee or director who is the subject of a disclosure will be advised about the subject matter of the disclosure as and when required by principles of natural justice and procedural fairness and prior to any actions being taken—for example, if being given the opportunity to respond to the disclosure; and
- an employee who is the subject of a disclosure may contact the entity's employee support services on 0437784821 Club Safe, Employee Assistance program.

The Kiama Golf Club may determine the most appropriate time to inform the individual who is the subject of a disclosure about the investigation, provided that they inform the individual before making any adverse finding against them.

INDIVIDUALS MENTIONED IN A DISCLOSURE

The Kiama Golf Club will aim to take steps to ensure the fair treatment of individuals mentioned in a disclosure, including where those individuals are implicated in wrongdoing.

The Kiama Golf Club will aim to adhere to the principles of procedural fairness in taking any disciplinary action against persons implicated by a whistleblower disclosure. This means that usually the implicated person will be advised about the substance of the disclosure and have an opportunity to respond prior to any actions being taken.

The Kiama Golf Club will aim to also take reasonable steps to protect the confidentiality of persons implicated in a whistleblower disclosure.

HOW THE POLICY WILL BE MADE AVAILABLE

This policy will be given to all employees and directors of the Kiama Golf Club when their employment or tenure commences.

This policy will also be made available on via the intranet and the Kiama Golf Clubs policy handbook.

For further information about this policy please contact Human Resource Manager.

FURTHER INFORMATION

For further information about any type of leave please contact Tracee Magrath, Human Resources via email hr@kiamagolfclub.com.au.

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DISCLAIMER

This Policy does not form part of an employee's contract of employment. The Club may amend this Policy at any time.

