

Y Canberra Region – Whistleblower Policy

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1. INTRODUCTION

- 1.1. YMCA of Canberra (Y Canberra Region) is committed to establishing and maintaining a culture of good governance and corporate compliance with ethical behaviour generally. This includes the ability for people within and outside of the organisation being able to come forward with complaints of misconduct and not fear victimisation or reprisal.
- 1.2. This Whistleblower Policy (Policy) sets out how Y Canberra Region and its directors, officers, employees, committee members, associates and certain external stakeholders are to address the whistleblower provisions of the Corporations Act 2001 (Cth) (Corporations Act), and similar legislation.
- 1.3. At Y Canberra Region we are guided by our company values. These values are the foundation of how we conduct ourselves and interact with each other, our members and stakeholders. Y Canberra Region is committed to ensuring corporate governance compliance and promoting an ethical culture by observing the highest standards of fair dealings, honesty, and integrity in our activities.

2. PURPOSE OF THIS POLICY

- 2.1. Y Canberra Region encourages the report of any instances of actual or suspected unethical, illegal, corrupt, fraudulent or dishonest conduct involving Y Canberra Region's operations. Y Canberra Region will support and protect individuals who make disclosure in accordance with this Policy.
- 2.2. This Policy has been implemented consistent with the requirements in section 1317AI(5) of the Corporations Act to encourage disclosures of wrong doing in a protected and supported manner. This Policy is an important tool for helping Y Canberra Region to identify wrongdoing that may not be uncovered unless there is a safe and secure means for disclosing wrongdoing.
- 2.3. Individuals being able to disclose wrongdoing without fear or of victimisation or reprisal, not only deters wrongdoing, but ultimately protects the values and reputation of Y Canberra Region.

3. OVERVIEW OF ELIGIBILITY FOR PROTECTION

- 3.1. You may be protected as a whistleblower where you:
 - a) have a connection with Y Canberra Region as set out in section 5 of this Policy;
 - b) disclose information about an eligible matter as set out in section 5 of this Policy; and
 - c) the disclosure is made to an eligible recipient or regulator as set out in section 7 of this Policy.
- 3.2. You may also be protected as a whistleblower where you make a disclosure:
 - a) to a legal practitioner for the purpose of obtaining legal advice or legal representation about the operation of the whistleblower laws; or
 - b) that is an "emergency disclosure" or "public interest disclosure", see section 7.4 of this Policy.
- 3.3. You may not be protected as a whistleblower unless the circumstances meet the above. If you are unsure, we encourage you to:
 - a) seek appropriate legal advice before making a disclosure; or
 - b) contact Y Canberra Region's whistleblower channels:

Report On-line:	https://ymca.grapevineonline.com.au/
Postal Address:	PO Box 119 CARLTON SOUTH VIC 3053
Phone Hotline:	1300 933 977
- 3.4. The Nominated Officer has the responsibility of protecting the whistleblower within the meaning of AS8004-2003, being the Australian Standard Whistleblower Protection Programs for Entities.

- 3.5. The Nominated Officer will safeguard your interests and will ensure the integrity of the reporting mechanism.
- 3.6. The Nominated Officer is also responsible for investigating and resolving all disclosures and allegations concerning misconduct and must advise the Governance Sub-Committee of outcomes. The Governance Sub-Committee will oversee disclosures excepting those, relating to a member of the Governance Sub-Committee or CEO. The Nominated Officer has direct access to the Governance Sub-Committee and the Board of directors and is required to report to the Governance Sub-Committee at least annually.

Department/Area	Role/Responsibility
Nominated Officer	Investigating and resolving all reported disclosures <ul style="list-style-type: none"> • People & Culture Manager • Governance and Nominations board member • Board member
Governance Sub-Committee	Oversight of disclosures
Board of Directors	Receives annual report from Governance Sub-Committee and any reported disclosures regarding the Chief Executive Officer.

- 3.7. When making a disclosure, you may do so anonymously, however this may make it difficult or adversely impact on the proper investigation of the matter.

4. WHO CAN BE A WHISTLEBLOWER

- 4.1. To qualify for protection as a whistleblower under the Corporations Act and this Policy, you must be, or have been, any of the following with respect to Y Canberra Region:
- a) employee (including current and former employees who are or were permanent, part-time, fixed-term or temporary, interns, seconds, managers and directors);
 - b) officer, such as Chief Executive Officer;
 - c) director or company secretary;
 - d) committee member;
 - e) contractor (including sub-contractor and employees of contractors);
 - f) supplier of goods or services to Y Canberra Region (whether paid or unpaid), including business partners;
 - g) consultant;
 - h) auditor;
 - i) an associate of Y Canberra Region;
 - j) a volunteer for Y Canberra Region; or
 - k) relative, dependent or spouse, of any of the above.

5. MATTERS THIS POLICY APPLIES TO

5.1. Disclosable matters that may be protected

- 5.1.1. You may only be protected as a whistleblower under the Corporations Act and this Policy if you make a disclosure where you have actual knowledge of, or have reasonable grounds to believe that, a director, officer, employee, contractor, supplier, consultant, board member, or other person who has dealings with Y Canberra Region has engaged in misconduct, or that there is an improper state of affairs.
- 5.1.2. Misconduct that you may be able to disclose involves some type of fraud, negligence, or breach of trust or duties. Examples of relevant misconduct includes activity that is:
- a) dishonest, fraudulent or corrupt;
 - b) illegal (such as theft, dealing in or use of illicit drugs, violence or threatened violence and criminal damage to property);
 - c) unethical including any breach of Y Canberra Region's policies or Code of Conduct;
 - d) negligent or any attempt cover up wrongdoing;
 - e) harassment, discrimination, victimisation or bullying; and
 - f) a serious risk of impacting Y Canberra Region's reputation or financial position.
- 5.1.3. Matters that may be disclosed do not necessarily need to be against the law.
- 5.1.4. You may also be protected as a whistleblower under the Corporations Act and this Policy if you make a disclosure where you have actual knowledge of, or have reasonable grounds to believe there has been conduct that:
- a) represents a danger to the public or the financial system, even if it is not illegal;
 - b) breaches various legislation, such as the Corporations Act; or
 - c) breaches a Commonwealth law where the offence is punishable by at least 12 months' imprisonment.
- 5.1.5. Further information on disclosable matters which qualify for protection is available on the Australian Securities and Investments Commission (ASIC) website at: <https://asic.gov.au/about-asic/asic-investigations-and-enforcement/whistleblowing/>
- 5.1.6. You may also be protected for disclosing certain taxation matters under the Tax Administration Act 1953 (Cth). Further information of tax related whistleblower protections, including who can receive the disclosures, is available at the following website:
- 5.1.7. <https://www.ato.gov.au/General/Gen/Whistleblowers/>.
- 5.1.8. A whistleblower who has followed the correct procedure will not be personally disadvantaged by having made a report on reasonable grounds. This includes not being disadvantaged by way of dismissal, demotion, any form of harassment, discrimination or unfavourable bias.
- 5.1.9. If reprisals are taken or are claimed to have been taken against a whistleblower, the Nominated Officer will investigate the matter and recommend appropriate action be taken.
- 5.1.10. If you are wrong about the matter you disclose, provided you have followed the correct procedure and relied on reasonable grounds in deciding to make the disclosure, you may still qualify for protection under the Corporations Act and this Policy.

- 5.1.11. However, Y Canberra Region strongly discourages anyone from making a disclosure that is not based on reasonable grounds, or that is known to be untrue. Any allegations that are proven to have been made maliciously, knowingly false or in bad faith will be viewed as serious disciplinary matter.
- 5.1.12. Whistleblowers will receive feedback on the progress of investigations commenced as a result of their report, where it is possible and appropriate to do so.
- 5.2. Disclosable matters that may not be protected
 - 5.2.1. Disclosures that relate to matters outside those listed in this Policy may not qualify for protection under the Corporations Act or this Policy. Y Canberra Region encourages individuals or entities who are considering making a disclosure to contact the Nominated Officer for more information.
 - 5.2.2. A personal work-related grievance generally will not qualify for protection under the Corporations Act or this Policy. Personal work-related grievances should be reported to your manager in accordance with the Y Canberra Region's Grievance Policy.
 - 5.2.3. Generally, a personal work-related grievance is a grievance regarding an individual's current or former employment and tends to have implications only for the individual affected.
 - 5.2.4. Examples of work-related grievances which are not protected include interpersonal conflicts between an individual and another employee, or Y Canberra Region decisions regarding terms and conditions of employment or termination of employment.
 - 5.2.5. In some specific cases a personal work-related grievance may qualify for whistleblower protection under the Corporations Act and this Policy or may be protected under other legislation such as the Fair Work Act 2009 (Cth)
 - 5.2.6. If you are unsure, we encourage you to contact the Nominated Officer as set out in in section 4 of this Policy.

6. WHO CAN RECEIVE A DISCLOSURE?

- 6.1. If you disclose information to someone who is not an eligible recipient, you may not qualify for protection as a whistleblower.
- 6.2. Eligible recipients include:
 - a) the Nominated Officer;
 - b) an officer of Y Canberra Region;
 - c) a senior member of management of Y Canberra Region such as the Chief Executive Officer;
 - d) an auditor, or a member of an audit team conducting an audit, of Y Canberra Region or a related entity;
 - e) ASIC, the Australian Prudential Regulation Authority (APRA), or other Commonwealth regulator prescribed by the Corporations Act; and
 - f) other people Y Canberra Region has authorised to receive disclosures.
- 6.3. Information on how to make protected disclosures to ASIC or APRA is available on their webpages, including ASIC Information Sheet 238 (INFO 238): <https://asic.gov.au/about-asic/asic-investigations-and-enforcement/whistleblowing/whistleblower-rights-and-protections/>
- 6.4. Public Interest and Emergency Disclosures
 - 6.4.1. In some circumstances public interest or emergency disclosures can also be made to journalists or parliamentarians and still qualify for protection under this Policy.

However, you need to have already made a written disclosure to another eligible recipient first, and 90 days previously in the case of a public interest disclosure.

- 6.4.2. Before making a public interest or emergency disclosure it is critically important that you understand the criteria for protection. We strongly encourage you to seek independent legal advice before making a public interest or emergency disclosure to ensure you understand your rights and obligations.

7. HOW TO MAKE A DISCLOSURE

- 7.1. Y Canberra Region encourages you to make any disclosures through the available channels in the first instance, as this will assist Y Canberra Region in addressing wrongdoing as early as possible.
- 7.2. You may also disclose information to Y Canberra Region an eligible recipient as set out in section 7.2 above, by emailing or calling them. The contact details of the Conduct Office and Chief Executive Officer are listed above.
- 7.3. You can choose to remain anonymous while making a disclosure, over the course of the investigation and after the investigation is finalised. You can refuse to answer questions that you feel could reveal your identify at any time, including during follow-up conversations.
- 7.4. If you wish to remain anonymous, you should maintain ongoing two-way communication so that you can be asked follow-up questions or provide feedback. Options including setting up a generic email address or use of physical mail.

8. LEGAL PROTECTION FOR WHISTLEBLOWERS

- 8.1. Y Canberra Region is committed to ensuring that any person or entity who makes a disclosure is treated fairly and does not suffer detriment and that confidentiality is preserved in respect of all matters raised under this Policy.
- 8.2. Identity Protection
 - 8.2.1. Under the Corporations Act, Y Canberra Region is legally required to protect the confidentiality of a protected whistleblower's identity.
 - 8.2.2. It is illegal for any person to disclose confidential information identifying the protected whistleblower (directly or indirectly by disclosing information that is likely to lead to their identification) except:
 - a) to ASIC, APRA, or a member of the Australia Federal Police, or another regulator prescribed by the Corporations Act;
 - b) to a legal practitioner for the purpose of obtaining advice about whistleblower laws;
 - c) to a legal practitioner for the purpose of obtaining legal advice or legal representation in the relation to the operation of this part;
 - d) with the consent of the discloser;
 - e) where the disclosure is authorised by law.
- 8.3. Protection against Detrimental Conduct
 - 8.3.1. No person can engage in or threaten conduct that causes detriment to a protected whistleblower, potential protected whistleblower, or another person, in relation to a protected disclosure. Such prohibited conduct may include:
 - a) termination of employment, suspension, demotion or other disciplinary action;
 - b) alternation of employment position or duties;
 - c) discrimination, harassment or intimidation;
 - d) harm or injury, reputation, business or financial positions; and

- e) damage or harm to any other person.
- 8.3.2. In some cases, actions that may be detrimental to a protected whistleblower may be permitted where they are reasonable or administration actions such, as:
- a) moving the whistleblower to another business unit or location to protect them from detrimental conduct; and
 - b) managing a whistleblower's unsatisfactory work performance in line with Y Canberra Region's performance management framework.
- 8.4. Protection from Civil, Criminal, and Administrative Liability
- 8.4.1. A protected whistleblower, in relation to the disclosure of information, is not liable for:
- a) civil legal action against them, for example for breach of employment contract, duty of confidentiality, or any other contractual obligation;
 - b) criminal legal action, for example attempted prosecution for unlawfully releasing information, except for making a false disclosure; or
 - c) administrative action, for example disciplinary action for making the disclosure, except for making a false disclosure.
- 8.4.2. However, a protected whistleblower may still be liable for civil, criminal, or administrative action for misconduct of the whistleblower that is revealed in the disclosure. You do not get immunity for your own misconduct that you disclose, however self-disclosure may be a mitigating factor in any action which is taken.
- 8.5. Compensation and Other Remedies
- 8.5.1. You may seek remedies including compensation or civil penalties through a court or tribunal of competent jurisdiction if you have been mistreated or harmed as a protected whistleblower and Y Canberra Region failed to take reasonable precautions and exercise due diligence to prevent the detrimental conduct. You may seek independent legal advice if this is the case.

9. SUPPORT AND PRACTICAL PROTECTION FOR WHISTLEBLOWERS

9.1. Confidentiality

- 9.1.1. Y Canberra Region will take all reasonable steps to protect the identity of a protected whistleblower where applicable, including by:
- a) redacting all personal information of, or references that would identify a whistleblower;
 - b) referring to the whistleblower in a gender neutral context; and
 - c) where appropriate consulting with the whistleblower on what information may identify them.

9.2. Protection from Detrimental Conduct

- 9.2.1. Y Canberra Region will take reasonable steps to ensure protected whistleblowers are not subjected to conduct that causes detriment, including by:
- a) establishing processes for assessing the risk of detriment against whistleblowers;
 - b) offering support services;
 - c) developing strategies to help whistleblowers minimize and manage stress, including time and performance impacts;
 - d) considering appropriate workplace changes and flexibility; and

- e) ensuring managers are aware of their responsibilities to maintain confidentiality and ensure fairness.

9.2.2. If you are a protected whistleblower and are experiencing mistreatment or detriment, you should inform the Nominated Officer. You may also seek independent legal advice and contact a government regulatory body such as ASIC, APRA or the Australian Tax Office (ATO).

9.3. Support Available

9.3.1. Any person who makes a disclosure under this Policy or is implicated as a result of a disclosure that is made may access Y Canberra Region's Employee Assistance Program (EAP) which is a free and confidential counselling service.

9.3.2. Where appropriate, Y Canberra Region may also appoint an independent support person from the Human Resources team to deal with any going concerns you may have.

9.3.3. You may also access third party providers such as Lifeline (13 14 14) and Beyond Blue (1300 22 4636) for support.

10. HANDLING AND INVESTIGATING A DISCLOSURE

10.1. Y Canberra Region will investigate all matters reported under this Policy as soon as practicable after the matter has been disclosed.

10.2. The Nominated Officer will investigate the matter and, where reasonably necessary, may appoint an external investigator to assist in conducting the investigation.

10.3. Where the Nominated Officer cannot be contacted, the disclosure may not be investigated where further information is required.

10.4. All investigations will be conducted in a fair, independent and time manner and all reasonable efforts will be made to preserve confidentiality during an investigation under this Policy.

10.5. The process for investigation may depend on the circumstances, however generally it will be as follows:

- a) the disclosure will be acknowledged within 5 business days, provided the whistleblower can be contacted;
- b) an initial assessment will be conducted to determine if the disclosure qualifies for protection and whether a formal investigation is required;
- c) the nature, scope, and timeframe of the investigation will be determined to the extent reasonably practicable with the information available;
- d) investigations will focus on evidence gathering to support or refute the allegations with appropriate records maintained;
- e) investigations will be conducted confidentially, fairly and without bias;
- f) a report will be made available to Y Canberra Region's Governance Sub-Committee, where necessary preserving confidentiality.

10.6. Where reasonably possible, the Nominated Officer will provide the whistleblower with feedback on progress and expected timeframes of the investigation and may provide a summary of the findings of the investigation with the written consent of the Governance Sub-Committee.

10.7. The person against whom any allegations have been made will also be informed of the concerns, will be given an opportunity to be heard and respond, and to the extent permitted by law be provided with the finding of the investigation.

11. ENSURING FAIR TREATMENT OF INDIVIDUALS MENTIONED

- 11.1. Y Canberra Region will take reasonable steps to ensure the fair treatment of the people mentioned in the disclosure, or that are subject to any allegation, by:
- a) applying the legal principles of natural justice and procedural fairness;
 - b) handling disclosures confidentiality;
 - c) not pursuing obviously vexatious, frivolous or trivial allegations; and
 - d) conducting fair, objective, and independent investigations where required.

12. ENSURING THE POLICY IS EASILY ACCESSIBLE

- 12.1. Y Canberra Region will take all reasonable steps to ensure this Policy is made available to persons to whom this Policy applies, both internally and externally by:
- a) making it available on the Y Canberra Region website; and
 - b) circulating it to employees and officers; or
 - c) ensuring it is brought to the attention of employees including new employees during induction.
- 12.2. Y Canberra Region will consider conducting staff training as appropriate and will ensure updates to this Policy are notified accordingly.
- 12.3. To the extent this Policy imposes obligations on Y Canberra Region, those obligations are not contractual and do not give rise to any contractual rights. To the extent this Policy describes benefits and entitlements which may be available to employees, they are discretionary in nature and also not intended to be contractual. The terms and conditions of employment that are intended to be contractual are set out in the employee's employment contract and may include conditions requiring compliance with Y Canberra Region policies including this Policy.
- 12.4. Y Canberra Region may unilaterally introduce, vary, remove or replace this Policy at any time.
- 12.5. Employees are encouraged to read this Policy in conjunction with their employment contract and other relevant Y Canberra Region Policies, including:
- a) Code of Conduct; and
 - b) Grievance Policy.

13. DEFINITIONS

- 13.1. In this Policy, the following words have the following meanings, unless the context requires otherwise:
- a) **APRA:** Australian Prudential Regulation Authority;
 - b) **ASIC:** Australian Securities and Investments Commission;
 - c) **ATO:** Australian Tax Office;
 - d) **AS8004-2003:** Australian Standard Whistleblower protection programs for entities;
 - e) **Corporations Act:** Corporations Act 2001 (Cth);
 - f) **Corruption:** Dishonest activity in which a director, executive, manager, employee or contractor of an entity acts contrary to the interests of the entity and abuses his/her position of trust in order to achieve some personal gain or advantage for him or herself or for another person or entity;
 - g) **EAP:** Employee Assistance Program;
 - h) **Fraud:** Any illegal act characterized by deceit, concealment, or violation of trust (Internal Auditors Association);

- i) **INFO 238:** ASIC Information Sheet 238;
- j) Policy: This Whistleblower Policy;
- k) Y Canberra Region: YMCA of Canberra.

14. SUPPORTING DOCUMENTS (PROCEDURES, LEGISLATION, FORMS, WORK PRACTICES)

- a) AS8004-2003, https://infostore.saiglobal.com/en-au/standards/AS-8004-2003-121075_SAIG_AS_AS_254073/ [OR 'available from Y Canberra Region on request.']
- b) Y Canberra Region Code of Conduct
- c) Corporations Act, Part 9.4AAA, https://www.legislation.gov.au/Details/C2018C00031/Html/Volume_5#_Toc504984598
- d) EAP (Employee Assistance Program)
- e) Y Canberra Region Grievance Policy
- f) INFO 238, ASIC, <https://asic.gov.au/about-asic/asic-investigations-and-enforcement/whistleblowing/whistleblower-rights-and-protections/>,
- g) Tax whistleblowers, ATO, <https://www.ato.gov.au/General/Gen/Whistleblowers/>
- h) Whistleblowing, ASIC, <https://asic.gov.au/about-asic/asic-investigations-and-enforcement/whistleblowing/>

15. MONITORING, EVALUATION AND REVIEW

This procedure will be reviewed by the Board of Directors every 2 years, or if there are major changes to Australian Whistleblower legislation or principles.

Version	Owner	Last Amended	Approved	Change Description
Draft	Chief Risk Officer	12/Sep/2019		Draft policy reviewed
V1	Chief Risk Officer	24/Sep/2020	16/Dec/2020	Amended in accordance with Treasury Laws Amendment (Enhancing Whistleblower Protections) Act 2019
V2	Chief Risk Officer	6/May/2021	23/Feb/2022	Updated to include 3 rd party provider