



WHISTLEBLOWER POLICY & PROCEDURES

Adopted or Amended	By Whom	Date
Adopted	Board of Directors	25 th July 2020
Amended	Board of Directors	6 th December 2022

WHISTLEBLOWER POLICY

Introduction

At Swimming NSW we are guided by our company values of Lead, Believe, Integrity, Collaborate, & Encourage. These values are the foundation of how we conduct ourselves and interact with each other, our Members, our Clubs and Areas and our Stakeholders. Swimming NSW is committed to ensuring corporate compliance and promoting ethical corporate culture by observing the highest standards of fair dealing, honesty and integrity in our business operations.

Purpose

The Policy has been put in place to ensure any concerns raised regarding any misconduct or improper state of affairs or circumstances in relation to the Company's business are dealt with effectively, securely, appropriately, and in accordance with the Corporations Act 2001 (Cth) (the Act).

Swimming NSW encourages the reporting of any instances of suspected unethical, illegal, corrupt, fraudulent or undesirable conduct involving the Company's business and provides protections and measures to individuals who make a disclosure in relation to such conduct without fear of victimisation or reprisal.

The Policy helps to ensure Swimming NSW maintains the highest standards of ethical behaviour and integrity.

This Policy will be provided to all employees and officers of Swimming NSW upon commencement of their employment or engagement.

The Policy is also available to persons outside the organisation and can be accessed on the Company website.

Policy

Concerns regarding illegal or corrupt behaviour

Where an employee or volunteer of Swimming NSW believes in good faith on reasonable grounds that any other employee, volunteer or contractor has acted illegally or corruptly or has failed to act and such failure is illegal or corrupt, that person must report their concern to –

- the Chief Executive Officer or, if they feel that the Chief Executive Officer; may be complicit in the issue,
- the President of Swimming NSW, or
- the duly constituted authorities responsible for the enforcement of law in the relevant area.

The person making their concerns known shall not suffer any sanction from the organisation on account of their actions in this regard provided that their actions –

- are in good faith, and
- are based on reasonable grounds, and
- conform to the designated procedures.

Any person within the organisation to whom such a disclosure is made shall –

- if they believe the behaviour complained of to be unquestionably trivial or fanciful, dismiss the allegation and notify the person making the allegation of their decision;

- if they believe the behaviour complained of to be neither trivial nor fanciful, ensure that the allegation is investigated, a finding is made, and the person making the allegation is informed of the finding.

Any such investigation shall observe the rules of natural justice and the provisions of procedural fairness.

Disclosures may be made anonymously, and this anonymity shall be preserved as far as possible by the organisation. For example, if the person investigating the report believes it necessary to report the matter to any duly constituted authority, anonymity may be lost.

Concerns regarding improper or unethical behaviour

Where an employee or volunteer of Swimming NSW believes in good faith on reasonable grounds that any other employee, volunteer, or contractor has breached any provision of the organisation's constitution, or its policies, or its code of conduct, or generally recognised principles of ethics, that person may report their concern to –

- the Chief Executive Officer or if they feel that the Chief Executive Officer may be complicit in the breach,
- the President of Swimming NSW

The person making their concern known shall not suffer any sanction from the organisation on account of their actions in this regard provided that their actions –

- are in good faith, and
- are based on reasonable grounds, and
- conform to the designated procedures.

Any person within the organisation to whom such a disclosure is made shall –

- if they believe the behaviour complained of to be unquestionably trivial or fanciful, dismiss the allegation and notify the person making the allegation of their decision.
- if they believe the behaviour complained of to be neither trivial nor fanciful, ensure that the allegation is investigated, a finding is made, and the person is informed of the finding.

Any such investigation shall observe the rules of natural justice and the provisions of procedural fairness.

Disclosures may be made anonymously, and this anonymity shall as far as possible be preserved by the organisation. For example, if the person investigating the report believes it necessary to report the matter to any duly constituted authority, anonymity may be lost.

WHISTLEBLOWER PROCEDURES

Responsibilities

The Board of Swimming NSW (SNSW) is responsible for adopting the Whistleblower Policy and will appoint the organisation's Whistleblower Protection Officer ("WPO"). The WPO may be a standing position, or may be appointed by the person to whom a report is made for that particular report and may be an internal person, an external person or an agency as noted below.

The WPO is responsible for –

- (a) preparing the terms of investigation into any report received from a whistleblower, and
- (b) coordinating the investigation, and
- (c) documenting and handling all matters in relation to the report and investigation, and
- (d) finalising all investigations.

The Chief Executive Officer of Swimming NSW is responsible for the implementation of the Whistleblower Policy.

All employees and volunteers of SNSW are responsible for reporting breaches of any law, organisational policy, or generally recognised principles of ethics to a person authorised to take action on such breaches.

Definitions

A whistleblower is a person (being a director, manager, employee, volunteer, or contractor of SNSW) who, whether anonymously or not, makes, attempts to make or wishes to make a report in connection with reportable conduct and wishes to avail themselves of protection against reprisal for having made the report.

Breaches of any law, organisational policy, or generally recognised principles of ethics include for example –

- corrupt conduct
- fraud or theft
- official misconduct
- maladministration
- harassment or unlawful discrimination
- serious and substantial waste of public resources
- practices endangering the health or safety of staff, volunteers, or the general public
- practices endangering the environment
- any other act or omission which, if it were to become public, it may damage the reputation of SNSW

Processes

Reporting

Where an employee or volunteer of SNSW believes in good faith on reasonable grounds that any other employee, volunteer or contractor has breached any law, organisational policy or generally recognised principles of ethics, and wishes to report their concern, that employee or volunteer must report their concern to-

- the Chief Executive Officer; or if they feel the Chief Executive Officer may be complicit in the breach,
- the President of Swimming NSW, or
- (where a breach of general law is alleged),
- the duly constituted legal authorities responsible for the enforcement of the law in the relevant area.

These procedures do not authorise any employee or volunteer to inform commercial media or social media of their concern, and do not offer protection to any employee or volunteer who does so, unless—

- it is not feasible for employees or volunteers to report internally, or
- existing reporting channels have failed to deal with issues effectively.

Any person reporting such a breach should be informed that –

- as far as it lies in the organisation’s power, the employee or volunteer will not be disadvantaged for the act of making such a report, and
- if the complainant wishes to make their complaint anonymously, their wish shall be honoured except in so far as it may be overridden by due process of law; however,
- reporting such a breach does not necessarily absolve the complainant from the consequences of any involvement on their own part in the misconduct complained of.

Any such report should where possible be in writing and should contain, as appropriate, details of –

- the nature of alleged breach, and
- the person or persons responsible for the breach, and
- the facts on which the complainant’s belief that a breach has occurred, and has been committed by the person named, are founded, and
- the nature and whereabouts of any further evidence that would substantiate the complainant’s allegations, if known.

Evidence to support such concerns should be brought forward at this time if it exists. The absence of such evidence will be taken into account in consequent consideration of whether to open an investigation into the matter. However, absence of such evidence is not an absolute bar to the activation of the organisation’s investigative procedures. The existence of such a concern is sufficient to trigger reporting responsibilities.

Anonymity

If the complainant wishes to make their complaint anonymously, their wish will be honoured except in so far as it may be overridden by due process of law.

The complainant should, however, be informed that the maintenance of such anonymity may make it less likely that the alleged breach can be substantiated in any subsequent investigation.

Where anonymity has been requested the complainant is required to maintain confidentiality regarding the issue on their own account and to refrain from discussing the matter with any unauthorised persons. The complainant may discuss the issue with a person providing support in relation to the making of the complaint provided that such person maintains confidentiality regarding the issue.

Investigation

On receiving a report of a breach, the person to whom the disclosure is made shall –

- if they believe the behaviour complained of to be unquestionably trivial or fanciful, dismiss the allegation and notify the person making the allegation of their decision
- If they believe the behaviour complained of to be neither trivial nor fanciful, put in motion the investigation process described below.

The Chief Executive Officer shall be responsible for ensuring that an investigation of the charges is established and adequately resourced. Terms of reference for the investigation will be prepared by the WPO, in consultation with the Chief Executive Officer, to clarify the key issues to be investigated.

If, however, the President is the person to whom the disclosure is made because the complainant feels that the Chief Executive Officer may be complicit in the breach, the President shall be responsible for ensuring that an investigation of the charges is established and will ensure the investigation is adequately resourced. Terms of reference for the investigation will be prepared by the WPO, in consultation with the President, to clarify the key issues to be investigated.

An investigation plan will be developed to ensure all relevant questions are addressed, the scale of the investigation is in proportion to the seriousness of the allegation(s) and sufficient resources are allocated.

All information obtained will be properly secured to prevent unauthorised access.

All relevant witnesses will be interviewed and documents examined.

Contemporaneous notes of all discussions, phone calls and interviews will be made.

The principles of procedural fairness (natural justice) will be observed. In particular, where adverse comment about a person is likely to be included in a report, the person affected will be given the opportunity to comment beforehand and any comments will be considered before the report is finalised.

The person or persons conducting the investigation shall be (as far as possible) unbiased.

The Chief Executive Officer or President may seek external legal or other advice if appropriate and may discuss the process of the investigation with the board, but otherwise must take all reasonable steps to keep the investigation confidential.

Findings

A report will be prepared when an investigation is complete. This report will include –

- the allegations, and
- a statement of all relevant findings of fact and the evidence relied upon in reaching any conclusions, and
- the conclusions reached (including the damage caused, if any, and the impact of the organisation and other affected parties) and their basis, and
- recommendations based on those conclusions to address any wrongdoing identified and any other matters arising during the investigation.

The report may be made available to the Board or any appropriate duly constituted authority as appropriate.

Information to informant

Subject to considerations of the privacy of those against whom the allegations are made and customary practices of confidentiality, the whistleblower will be kept informed of –

- the relevant progress of an investigation
- the relevant outcomes of an investigation.

Protection of informant

Where the investigation has found that the person making the allegation acted in good faith on reasonable grounds, the Chief Executive Officer or President as appropriate shall designate an officer to be responsible for ensuring that the person suffers no employment-related disadvantage on account of their actions in the matter and to provide additional support for the person where necessary.