



# WHISTLEBLOWER POLICY

RESPONSIBILITY:		General Manager Corporate		
NEXT REVIEW DATE:		August 2025		
DOCUMENT REVISION HISTORY:				
Version no.	Approved	Date	By FAC	By Board
1	Draft	16/5/2019	N/A	N/A
2	Final	29/5/2019 (Thomson Geer)	6/6/2019	21/6/2019
3	Update	01/7/2021 (Thomson Geer)	N/A	9/7/2021
4	Update	19/07/2023 (Thomson Geer)	15/8/2023	1 September 2023

### 1. Introduction

Commonwealth Games Australia Limited (CGA) is committed to a culture of high integrity and ethical behaviour in fulfilling its responsibilities to its members and stakeholders and to comply with the *Corporations Act 2001* (Cth) in all its operations and interactions.

This important policy complements CGA's Ethical Behaviour By-Law and Grievance & Discipline By-Law.

### 2. Purpose

The purpose of this policy is to encourage the reporting of any actual or suspected instances of serious, illegal, unethical, fraudulent or undesirable conduct or wrongdoing that is of legitimate concern to CGA (**Reportable Conduct**), by providing a convenient and safe reporting mechanism that ensures protection for anyone who makes a disclosure.

This policy defines who can make a protected disclosure (**Whistleblower**), identifies who can receive a protected disclosure (**Eligible Recipient**) and establishes a process for Whistleblowers to make a protected disclosure (**Report**) and a corresponding process for CGA to address reports from Whistleblowers.

Any person who raises a concern and makes a disclosure of Reportable Conduct should not be subject to victimisation, harassment or discriminatory treatment. This policy sets out the avenues available to Whistleblowers to report serious wrongdoing to CGA and how CGA will deal with any such reports.

### 3. Scope

This policy applies to the following types of people and Whistleblowers:

- CGA employees;
- CGA Directors;
- CGA Members;
- CGA volunteers;
- CGA contractors (including employees of contractors);
- consultants to CGA; and
- suppliers to CGA.

For the avoidance of doubt, dependents, spouses and relatives of current and former employees, contractors, consultants, service providers, suppliers and business partners of CGA are each considered 'eligible whistleblowers' under the *Corporations Act 2001* (Cth) and may be eligible for statutory whistleblower protections.

Any Reportable Conduct or Whistleblowing relating to an Australian Team member will fall under a separate policy and the Team Agreement which sets out the applicable procedures for Games-time circumstances.

CGA must make this policy available in an accessible format to all CGA employees and CGA Directors at <https://commonwealthgames.com.au/about-commonwealth-games-australia/policies/>.

### 4. Reportable Conduct

Any Reportable Conduct including conduct that is genuinely and reasonably believed to be in breach of the law or CGA's By-Laws should be reported in accordance with this policy.

While this policy covers a broad range of Reportable Conduct, the *Corporations Act 2001* (Cth) only provides protection to a Whistleblower for disclosures of information where a Whistleblower has had reasonable grounds to suspect that the information reported concerns misconduct or an improper state of affairs or circumstances in relation to CGA or CGA's related bodies corporate.

Examples of Reportable Conduct includes, but is not limited to, any conduct that involves:

- any matter believed to be in breach of CGA's By-Laws or Policies;
- illegal activities (including but not limited to theft, dealing in or use of illicit drugs, violence, harassment, intimidation or threatened violence and criminal damage against property);
- dishonest behaviour;
- fraudulent or corrupt activity, including financial fraud, money laundering, misappropriation of funds or bribery;
- perverting the course of justice;
- unlawful, corrupt or irregular use of company funds or practices;
- unethical behaviour, including anything that would breach CGA's Ethical Behaviour By-Law which includes any form of discrimination, harassment or bullying;
- improper or misleading accounting or financial reporting practices;
- a breach of any legislation relating to CGA's operations or activities;
- behaviour that is oppressive, unjust, discriminatory or grossly negligent (including gross mismanagement, serious or substantial waste of CGA's resources or repeated breaches of administrative procedures);
- any behaviour that poses a serious risk to the health and safety of any person at the workplace;
- a serious risk to public health, public safety or the environment;
- an improper state of affairs in relation to CGA;
- failure to comply with, or breach of, legal or regulatory requirements;
- any other conduct which may cause loss to CGA or be otherwise detrimental to the interests of CGA or any of its employees; and
- the deliberate concealment of information tending to show any of the conduct listed above.

Reportable Conduct generally does not include personal work-related grievances. Personal work-related grievances include but are not limited to interpersonal conflicts between the Whistleblower and another employee, or a decision relating to the engagement, transfer or promotion of the Whistleblower. In limited cases, a personal work-related grievance may be covered by this policy, such as where the grievance relates to a systemic issue or involves detrimental conduct to the whistleblower or arises from knowledge of unethical, illegal or fraudulent conduct. Where the conduct relates to a personal-work related grievance, the grievance should be reported to and addressed by the Manager People & Culture or the CGA CEO in accordance with the provisions of the relevant Employment Agreement and the *Fair Work Act 2009* (Cth).

### 5. Responsibility to Report

It is expected that any person who becomes aware of any Reportable Conduct, or suspects on reasonable grounds, potential cases of Reportable Conduct, will notify the appropriate personnel as per this policy in order to maintain CGA's integrity and ethical behaviour. Reports can be made anonymously and/or confidentially, securely and both inside and outside of business hours.

A Whistleblower must provide information to assist in any inquiry or investigation of the conduct disclosed.

### 6. Protection of Whistleblowers

CGA will take all reasonable steps to ensure that a legitimate Whistleblower will not be subject to any form of victimisation, discrimination, harassment, demotion, dismissal, threats or prejudice (**Detriment**) because they have made a Report, even if the disclosure is subsequently determined to be incorrect or is not substantiated. This also applies to anyone providing information related to an investigation pursuant to this policy.

CGA will also take all reasonable steps to protect the identity of a Whistleblower and will adhere to statutory requirements in respect of the confidentiality of Reports made. All paper and electronic documents and other materials relating to Reports will be stored securely by CGA.

In order to reduce the risk that a Whistleblower will be identified from the information contained in the Report:

- all personal information or other references to the Whistleblower will be redacted;
- the Whistleblower will be referred to in a gender-neutral context; and
- where possible, the Whistleblower will be contacted to help identify certain aspects of their Report that could inadvertently identify them.

In appropriate cases, disclosure of the identity of a Whistleblower or the allegation made may be unavoidable, such as if court proceedings result from a Report pursuant to this policy.

A Whistleblower will be protected from any of the following in relation to the Report:

- civil liability (e.g. any legal action against the Whistleblower for breach of an employment contract, duty of confidentiality or another contractual obligation);
- criminal liability (e.g. attempted prosecution of the Whistleblower for unlawfully releasing information, or other use of the Report against the Whistleblower in a prosecution (other than for making a false Report)); and
- administrative liability (e.g. disciplinary action for making the Report),

however, this policy will not protect a Whistleblower if they are also involved in, or connected with, the misconduct or wrongdoing reported.

Whistleblowers subjected to Detriment as a result of making a Report under this policy should inform an Eligible Recipient or their direct line manager immediately.

A Whistleblower can seek compensation or other remedies through the courts if:

- they suffer loss, damage or injury as a result of making a Report; and
- CGA failed to take reasonable precautions and exercise due diligence to prevent the Detriment.

CGA encourages Whistleblowers to seek independent legal advice in connection with their rights to compensation and other remedies that may be available to them. In addition, a Whistleblower may seek independent legal advice or contact regulatory bodies, such as ASIC, APRA or the ATO, if they believe they have suffered detriment.

### 6.1 Reporting on Reasonable Grounds

A Report may have serious consequences, including potential damage to the career prospects and reputation of people who are the subject of allegations of misconduct or wrongdoing. Therefore, it is very important that those who make a report under this policy do so with reasonable grounds for believing that the information is correct or likely to be correct.

The term 'reasonable grounds to suspect' is based on the objective reasonableness of the reasons for the Whistleblower's suspicion. It ensures that a Whistleblower's motive for making a disclosure, or their personal opinion of the person(s) involved, does not prevent them from qualifying for protection. In practice, a mere allegation with no supporting information is not likely to be considered as having 'reasonable grounds to suspect'. However, a Whistleblower does not need to prove their allegations.

CGA takes very seriously any Reports made under this policy and will look particularly unfavourably on any false reports or claims. Disciplinary action may be taken against anyone who makes a report that is not on reasonable grounds.

A Report will not be considered to be made on reasonable grounds if it is frivolous, vexatious, raised for a malicious reason, for personal gain or an ulterior motive, or if it is not based on facts and/or circumstances that provide a reasonable basis for the report. Repeated reports about trivial matters may also be considered not to be made on reasonable grounds and if so will not be investigated under this policy.

CGA will focus on the substance of a Report, rather than what CGA believes to be the Whistleblower's motive for making the Report. CGA will not assume that Reports about

conduct or behaviour that appear to have had a personal impact on a Whistleblower are less serious. CGA understands that the Whistleblower's experience may indicate a larger or systemic issue.

## 6.2 Anonymous Reporting

A Whistleblower can choose to remain anonymous while making a Report, over the course of investigation and after the investigation is finalised. A Whistleblower may adopt a pseudonym for the purpose of their Report.

A Whistleblower can refuse to answer questions that they feel could reveal their identity at any time, including during follow-up conversations. Where a Whistleblower wishes to remain anonymous, the Whistleblower should maintain ongoing two-way communication with CGA, so CGA can ask follow-up questions or provide feedback.

A Whistleblower can also make a Report anonymously to the Australian Securities and Investment Commission (**ASIC**) or to another Commonwealth body prescribed by regulation and qualify for protection under the *Corporations Act 2001* (Cth). A Whistleblower can lodge a Report with ASIC through its online misconduct reporting form ([here](#)) or by writing to ASIC at GPO Box 9827, Brisbane QLD 4001.

A Whistleblower will still benefit from statutory protections provided under the *Corporations Act 2001* (Cth) if they wish to remain anonymous. However it may be difficult for the matter to be properly investigated without the Whistleblower's identity. Consequently, CGA encourages Whistleblowers to provide their identity to enable a robust investigation to be undertaken. If further legal action is taken on the reported matter, it may become necessary for a Whistleblower to identify themselves. In these instances, CGA will continue to take all reasonable steps to protect the Whistleblower from any possible reprisal.

## 7. Procedures

### 7.1 Making a Report to an Eligible Recipient

Any person who has reasonable grounds to suspect that Reportable Conduct has occurred is encouraged to first discuss the matter informally with the Manager People & Culture in order to determine if serious misconduct or wrongdoing has occurred. This provides an opportunity to clarify the conduct in question, ask questions and obtain additional information to determine if the conduct is Reportable Conduct under this policy. At all times, these discussions must remain confidential.

If this is not considered appropriate, or the conduct has already been confirmed as Reportable Conduct, a Report should be made to an Eligible Recipient.

For the purposes of this policy and to ensure appropriate escalation and timely investigation, CGA requests that Reports be made to any one of the Eligible Recipients listed in the table below:

CGA CEO	0419 712 003 Craig.phillips@commonwealthgames.com.au
CGA President	0407 947 853 president@commonwealthgames.com.au
Chair of CGA's Finance & Audit Committee	0419 330 781 davidm@chastain.com.au

Reports may also be posted to PO Box 586 (marked "Confidential" to the attention of one of the Eligible Recipients).

Reports should be made to the CGA CEO. If the Report involves the CEO or a CGA Director, then the matter should be reported to the CGA President. If the Report involves the President, it should be reported to the Chair of the Finance & Audit Committee.

Where possible, a Report of Reportable Conduct should be in writing and should contain, as appropriate, details of:

- (a) the nature of the alleged breach;
- (b) the persons or persons believed to be responsible for the breach;
- (c) the facts on which the Whistleblower's belief that a breach has occurred are based; and
- (d) the nature and whereabouts of any further evidence that may substantiate the Whistleblower's allegations, if applicable.

Reports should provide specific, adequate and pertinent information regarding the conduct with respect to, among other things, dates, places, specific activities, persons/witnesses, amounts and other relevant information, in order to allow for a reasonable investigation to be conducted.

When contacted by a Whistleblower, the Eligible Recipient must ensure that the location and time are appropriate for the Whistleblower to make their Report comfortably and that the Whistleblower is protected.

Taking into consideration that some Whistleblowers may wish to seek additional information before formally making their Report, a Whistleblower can obtain additional information by contacting CGA's Manager People & Culture, contacting an independent legal adviser or selecting an adviser from a list of advisers provided by CGA.

Any disclosure by a Whistleblower to a legal practitioner for the purpose of obtaining legal advice or representation in relation to the operation of the Whistleblower provisions of the *Corporations Act 2001* (Cth) are protected, even where a legal practitioner concludes that a disclosure does not relate to a disclosable matter.

## 7.2 Investigation

Any Reports of alleged or suspected misconduct or wrongdoing made under this policy will be promptly and properly assessed, and if appropriate, inquired into or independently investigated. The CGA CEO (or CGA President or CGA Chair of the Finance & Audit Committee as appropriate) will determine the appropriate method and personnel for an investigation. In appropriate cases, assistance may be sought from internal or external specialists as deemed necessary. Depending upon the nature of the misconduct or wrongdoing, a professional services firm may be engaged to assist with the investigation, such as KPMG, Ernst & Young, Deloitte, PwC or a law firm with relevant expertise.

During an investigation, an investigator must conduct sufficient inquiry to be able to determine conclusions and any recommendations regarding the Report. In order to investigate a Report, CGA will need to determine:

- the nature and scope of the investigation;
- the person(s) within and/or outside CGA that should lead the investigation;
- the nature of any technical, financial or legal advice that may be required to support the investigation; and
- the timeframe for the investigation.

The investigator and any specialists involved in the investigation shall be allowed access to all relevant materials, documents, and records and all personnel must co-operate fully with the investigator.

Any investigations will be conducted in a fair, objective and independent manner and all reasonable efforts will be made to preserve the confidentiality of an investigation. Information contained in reports and provided by Whistleblowers in the course of an investigation will be kept confidential, except as required by law or where disclosure is necessary to regulatory authorities, law enforcement agencies or professional advisors to CGA.

A Whistleblower must keep confidential the fact that a report has been made (subject to any legal requirements) to avoid jeopardising an investigation.

During an investigation, CGA will also take reasonable steps to fairly treat any person who is the subject of a Report.

### **7.3 Investigation Findings**

On conclusion of the investigation, the investigator must prepare a report of the findings for the CGA CEO, CGA President or CGA Chair of the Finance & Audit Committee (as the case may be) which should include recommendations for steps to be taken to prevent the misconduct from occurring in the future, as well as any action that should be taken to remedy any harm or loss arising from the misconduct, including disciplinary proceedings against the person responsible for the conduct, and the referral of the matter to appropriate authorities, as is deemed necessary.

The Whistleblower will be kept informed of the progress, findings and conclusion of an investigation by the investigator, subject to privacy and confidentiality considerations.

Where a person is identified as being suspected of possible wrongdoing or misconduct, but preliminary enquiries determine that the suspicion is baseless or unfounded and that no formal investigation is warranted, then the Whistleblower will be informed of this outcome and the matter concluded with no further action.

The CGA CEO, CGA President or CGA Chair of the Finance & Audit Committee (as the case may be) will decide whether the person named in the Report should be informed that a Report was lodged and found to be baseless upon preliminary review. This decision will be based on a desire to preserve the integrity of a person so named and to protect the Whistleblower.

Where an investigation is conducted and the investigator believes there may be a case for an individual to respond to, the investigator must ensure that a person who is the subject of a Report:

- is informed of the substance of the allegations;
- is given a fair and reasonable opportunity to answer the allegations before the investigation is finalised;
- has their response set out fairly in the investigator's report; and
- is informed about the substance of any adverse conclusions in the investigator's report that affects them.

Where adverse conclusions are made in an investigator's report about an individual, that individual has a right to respond to those conclusions prior to any action being taken by CGA against them.

All relevant parties must adhere to the determination and any recommendations of an investigation or inquiry held under this policy.

### **7.4 Reporting to a Member of Parliament or journalist**

Protection will only be offered by CGA to any Whistleblower who informs a Member of Parliament (MP) or journalist of concerns about Reportable Conduct if:

- (a) the Whistleblower has previously made a Report regarding the matter to an Eligible Recipient and either:

- i. at least 90 days have passed since the Report was made; and
  - ii. the Whistleblower does not have reasonable grounds to believe that action is being, or has been taken to address the Report; and
  - iii. the Whistleblower has reasonable grounds to believe that making a further Report would be in the public interest; or
  - iv. the Whistleblower has reasonable grounds to believe that the information concerns a substantial and imminent danger to the health and safety of a person, persons, or the environment; and
- (b) The Whistleblower provides prior written notification to CGA that:
- i. includes sufficient information to identify the previously made Report;
  - ii. clearly states that the Whistleblower intends to make a public interest disclosure or an emergency disclosure pursuant to this section of the policy; and
  - iii. the information disclosed is no greater than necessary to inform the MP or journalist of the misconduct or the otherwise improper state of affairs.

### 8. Breach of this policy

CGA is committed to protecting and respecting the rights of a Whistleblower who reports wrongdoing or misconduct on reasonable grounds under this policy. CGA will not tolerate any reprisals or threats of reprisals against a Whistleblower, or against a Whistleblower's colleagues, employer or relatives.

Any such retaliatory action or victimisation in reprisal for a Report made under this policy will be treated as serious misconduct and will result in disciplinary action, which may include dismissal. In some circumstances, it may be illegal in which case CGA may notify the ASIC or the appropriate state or federal police.

### 9. Periodic Reporting

CGA will notify the CGA Board of any Reports made under this policy. These reports will be made on a 'no names' basis, maintaining the confidentiality of matters raised under this policy. Once the CGA Board has been notified of any Reports, CGA will prepare periodic reports on the ongoing status of those Reports and provide these to the CGA Board.

### 10. Reviews

CGA reserves the right to amend this policy from time to time subject to organisational needs or changes in the law. The Policy will be reviewed at least every two years and any amendments will be approved by the CGA Board, updated in the CGA Policy register and updated on the CGA website if appropriate.