



# **Australian Afghan Hassanian Youth Association Inc Whistleblowing Policy**

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## 1. Purpose

The Australian Afghan Hassanian Youth Association Inc (**AAHYA**) is committed to achieving and maintaining high standards of behaviour and conduct. Everyone who works with AAHYA is expected to conduct themselves with honesty and integrity and in a manner that is consistent with the values and objectives of AAHYA.

Any staff, volunteers, contractors and partners of AAHYA who are aware of possible wrongdoing involving AAHYA have a responsibility to disclose that information in accordance with this whistleblowing policy. AAHYA is committed to protecting any person who, in good faith, discloses any actual or suspected wrongdoing from any adverse employment consequences.

This whistleblowing policy is designed to:

- (a) deter wrongdoing and misconduct;
- (b) encourage disclosure of wrongdoing and misconduct;
- (c) set out how wrongdoing or misconduct by AAHYA and its personnel may be disclosed; and
- (d) set out the protections that are available to those individuals who make disclosures of any actual or suspected wrongdoing in the manner set out in this whistleblowing policy.

## 2. Who does this whistleblowing policy apply to?

This whistleblowing policy applies to the following individuals, and such individuals may make a disclosure of Disclosable Misconduct (as defined in paragraph 5) in accordance with this whistleblowing policy:

- (a) all members of AAHYA's Committee of Management (**Committee**), all current and former AAHYA employees, volunteers, contractors and consultants (**Personnel**);
- (b) AAHYA's partners, which means any organisation that receives AAHYA funding in Australia or overseas to deliver AAHYA's services or implement development activities;
- (c) suppliers of services or goods to AAHYA; or
- (d) a spouse, relative or dependant of an individual referred to above.

A person who makes a disclosure under this whistleblowing policy is referred to as a **whistleblower**.

## 3. Review

This whistleblowing policy will be reviewed every three years by the Committee.

## 4. Roles and responsibilities

### 4.1 Committee's responsibilities

The Committee has responsibility for:

- (a) this whistleblowing policy, including approving this whistleblowing policy and any amendments;
- (b) determining whether a disclosure made under this whistleblowing policy will be investigated, and the scope and conduct of that investigation; and

- (c) where relevant, determining how a matter reported under this whistleblowing policy will be managed, including seeking legal advice on legal obligations arising from a disclosure made under this whistleblowing policy and potentially taking other action.

#### **4.2 Whistleblowing Officer's responsibilities**

AAHYA's President will act as AAHYA's Whistleblowing Officer (**Whistleblowing Officer**). The Whistleblowing Officer has primary and day-to-day responsibility for:

- (a) implementing this whistleblowing policy;
- (b) receiving disclosures under this whistleblowing policy;
- (c) ensuring all persons to whom this whistleblowing policy applies have access to it;
- (d) assessing disclosures made under this whistleblowing policy;
- (e) subject to any permissions from the whistleblower, ensuring a whistleblower's identity is kept confidential;
- (f) notifying the Committee of the disclosure;
- (g) assessing whether legal advice on AAHYA's legal obligations arising from a disclosure made under this whistleblowing policy should be sought;
- (h) assessing the risk of any detrimental conduct to a whistleblower, or other person, due to a disclosure made under this whistleblowing policy, and ensuring implementation of appropriate safeguards;
- (i) notifying the Executive Secretary and Human Resources Manager in circumstances where, if the disclosure was proven, there could be disciplinary consequences for an employee of AAHYA; and
- (j) assisting the Committee in taking any other actions that the Committee determines are required in connection with any disclosure.

#### **4.3 External legal counsel's responsibilities**

External legal counsel is, where required by the Committee in accordance with paragraph 8.3(f), to be engaged to provide legal advice to AAHYA in respect of a disclosure under this whistleblowing policy, or the application of this whistleblowing policy.

#### **4.4 Investigator's responsibilities**

An investigator appointed by the Committee in accordance with paragraph 8.3(b) will have responsibility for:

- (a) subject to any permissions from the whistleblower, ensuring a whistleblower's identity is kept confidential; and
- (b) conducting:
  - (i) where the investigator is a solicitor or barrister, a confidential and privileged factual investigation of the disclosure for the purpose of providing AAHYA with legal advice; or
  - (ii) a confidential factual investigation of the disclosure.

In each case, an investigation will include gathering evidence, interviewing witnesses, communicating with the whistleblower (if consented to by the whistleblower), seeking assistance from internal and external consultants (if appropriate), and providing an investigation report with the investigator's findings to the Committee and, if determined by the Committee, Whistleblowing Officer.

#### **4.5 Executive Secretary and Human Resources Manager responsibilities**

The Executive Secretary and Human Resources Manager has overall responsibility for any disciplinary process that is triggered by a disclosure under this whistleblowing policy that, if established, would lead to an allegation of misconduct or serious misconduct against any Personnel of AAHYA, or where a report involves a personal work-related grievance (as defined in paragraph 6(a)).

#### **4.6 Personnel, partners and suppliers responsibilities**

- (a) All current Personnel, partners and suppliers of AAHYA are required to, and have a responsibility to, make disclosures under this whistleblowing policy if they reasonably suspect that conduct, or a state of affairs exists, in relation to AAHYA that is Disclosable Misconduct, as defined in paragraph 5, whether engaged in by themselves or others. All other individuals eligible to make disclosures under this whistleblowing policy as listed in paragraph 2 are strongly encouraged to disclose under this whistleblowing policy if they reasonably suspect that conduct, or a state of affairs exists, in relation to AAHYA that is Disclosable Misconduct, as defined in paragraph 5.
- (b) All Personnel of AAHYA are required to:
  - (i) subject to a claim of privilege or self-incrimination, cooperate with an investigator appointed by the Committee, including by providing relevant documents and information, or answering questions during the conduct of any investigation under this whistleblowing policy;
  - (ii) strictly maintain the confidentiality of a whistleblower's identity, whether they obtain that information directly or indirectly; and
  - (iii) refrain from committing, or threatening to commit, any act of detrimental conduct to a whistleblower or any other person, because they believe or suspect that a whistleblower, or another person, has made, may have made, proposes to make or could make a disclosure under this whistleblowing policy.

### **5. What can be reported under this whistleblowing policy?**

An individual to whom this whistleblowing policy applies should make a disclosure under this whistleblowing policy if they reasonably suspect that conduct, or a state of affairs exists, in relation to AAHYA that is any of the following:

- (a) misconduct, or an improper state of affairs or circumstances in relation to AAHYA, including but not limited to any fraud, misuse of resources, corruption, bribery, money laundering, financial impropriety, neglect of duty, any conduct causing risk to health and safety and other unethical conduct;
- (b) conduct that is in contravention of any applicable law;
- (c) conduct that represents a danger to the public or the financial system (even if this conduct does not involve a breach of a particular law),

(collectively referred to as **Disclosable Misconduct**).

## **6. What should not be reported under this whistleblowing policy?**

- (a) Subject to some exceptions (see paragraph 6(c)), Disclosable Misconduct does not include a personal work-related grievance, that is, a complaint in relation to a potential whistleblower's employment. AAHYA has separate processes for such employment related complaints.
- (b) Examples of a personal work-related grievance include complaints an employee, or former employee, may hold concerning:
  - (i) the terms and conditions of their employment;
  - (ii) an interpersonal conflict with another employee;
  - (iii) any disciplinary or performance management process; or
  - (iv) the termination of their employment.
- (c) A personal work-related grievance will be Disclosable Misconduct if it:
  - (i) has significant implications for AAHYA, and wider ramifications than for the whistleblower personally; or
  - (ii) relates to detrimental conduct suffered by, or threatened to, the whistleblower because of making a previous whistleblower disclosure.
- (d) Further information about AAHYA's workplace policies can be obtained from the President. If a person is unsure about whether a grievance is Disclosable Misconduct under this whistleblowing policy, or a personal work-related grievance that is more appropriately managed through a relevant workplace policy of AAHYA, that person should seek guidance from the Whistleblowing Officer.

## **7. To whom, and how should, disclosures under this whistleblowing policy be made?**

- (a) Disclosures under this whistleblowing policy should be made to the Whistleblowing Officer or to any member of the Committee. The Whistleblowing Officer may be contacted by email at [aahya.org@gmail.com](mailto:aahya.org@gmail.com).
- (b) Wherever possible, to assist AAHYA handle a disclosure appropriately, the following information about the Disclosable Misconduct should be made to the Whistleblowing Officer, or the relevant Committee member, in a clear and factual way:
  - (i) the whistleblower's full name and preferred contact details, noting that there is no requirement for a whistleblower to provide these details as disclosures may be made anonymously;
  - (ii) the nature of the alleged wrongdoing including, where relevant, the details of each person believed to have committed the wrongdoing, or who is aware of or involved in the wrongdoing;
  - (iii) when and where the wrongdoing occurred;
  - (iv) anyone else who may verify the claim, or possible witnesses;

- (v) if the whistleblower is concerned about any possible victimisation or acts of reprisal for disclosing the matter, or have been subject to detrimental conduct for a previous report of Disclosable Misconduct, and any assistance or support sought from AAHYA; and
  - (vi) any supporting information (for example, emails, documents, text messages, file notes and photos).
- (c) Disclosures of Disclosable Misconduct can be made anonymously, and a whistleblower may choose to remain anonymous, including during any investigation into the disclosure. If the disclosure is not made anonymously, or an anonymous whistleblower consents to limited disclosure of their identity, AAHYA will take reasonable steps to ensure that the whistleblower's identity remains confidential.
- (d) To avoid jeopardising any investigation, a whistleblower is required to keep confidential the fact that they have made a disclosure and the information contained in any such disclosure until any investigation is completed. If the investigation is complete, or the whistleblower is advised that no investigation will be undertaken, no such obligation of confidentiality applies.

## **8. Handling and investigating a disclosure**

### **8.1 Whistleblower's identity**

- (a) Where a whistleblower does not give their permission to share their identity, or to share their identity with particular persons involved in managing or investigating the disclosure, a person receiving a disclosure under this whistleblowing policy will disclose the information contained in the disclosure only if:
- (i) the information does not disclose the whistleblower's identity;
  - (ii) they have taken all reasonable steps to reduce the risk that the whistleblower will be identified from the information; or
  - (iii) it is reasonably necessary for investigating the issues raised in the disclosure.
- (b) AAHYA will take reasonable precautions to ensure that information relating to the disclosure will be stored confidentially and securely and is accessible only by authorised persons who have a need to know the information.
- (c) All persons receiving, handling and investigating a disclosure under this whistleblowing policy will receive appropriate training in their obligations in respect of the confidentiality of a whistleblower's identity, and how to ensure the security of information and communications in respect of a disclosure.
- (d) Whistleblowers should be aware that people may be able to guess their identity where they:
- (i) have mentioned to other people that they are considering making a disclosure;
  - (ii) have complained or raised concerns with other people about the subject matter of the disclosure; or
  - (iii) are one of a very small number of people with access to the information the subject of the disclosure.

## **8.2 Receipt of disclosure**

- (a) The Whistleblowing Officer or, if a member of the Committee has received a disclosure, that member will, as soon as practicable after he or she has received a disclosure made in accordance with this whistleblowing policy, assess:
  - (i) the disclosure and determine whether, in that person's reasonable opinion, it falls within the scope of this whistleblowing policy, or whether it is more appropriately managed under another workplace policy of AAHYA (which may include AAHYA's Complaints Handling Policy);
  - (ii) if it is determined that the disclosure falls within the scope of this whistleblowing policy, whether, in that person's reasonable opinion:
    - (A) AAHYA should seek legal advice in respect of its legal obligations, including in relation to a determination of whether the conduct of a factual investigation into the disclosure is appropriate; and
    - (B) the disclosure should be investigated, and by whom.
- (b) On completion of an assessment in accordance with paragraph 8.2(a), if it has been determined that the disclosure falls within the scope of this whistleblowing policy, the Whistleblowing Officer or, if a member of the Committee has received a disclosure, that member will, as soon as practicable, notify the Committee that they have received a disclosure made in accordance with this whistleblowing policy and will provide the Committee with the assessment of the disclosure.

## **8.3 Investigation of Disclosure**

- (a) Once a notification is provided to the Committee in accordance with paragraph 8.2(b), the Committee will consider:
  - (i) the risk of detriment to the whistleblower, or another person arising from the disclosure, and where appropriate develop and implement strategies to eliminate, or where that is not reasonably practicable, minimise the risk of detriment to the whistleblower, or another person, arising from the disclosure;
  - (ii) whether the disclosure is to be investigated, and if so, by whom, and whether to seek legal advice; and
  - (iii) any other action to be taken in relation to the disclosure.
- (b) Where it is determined by the Committee that a disclosure should be investigated the Committee will appoint an investigator. The investigator appointed may be either:
  - (i) a qualified internal investigator who is independent of the area of AAHYA where the wrongdoing is alleged to have occurred; or
  - (ii) a qualified external investigator who is independent of AAHYA, who may be (but does not need to be) a solicitor or barrister.
- (c) Where it is determined by the Committee that a disclosure should be investigated, the Committee will put in place processes to ensure that the investigation will be thorough, objective, fair, preserve the confidentiality of the whistleblower's identity (if the whistleblower wishes to keep their identity confidential).



- (d) The investigator will document the nature and scope of the investigation and findings in a report that will be provided to the Whistleblowing Officer and the Committee (**Investigator Report**).
- (e) Unless the disclosure was made anonymously, the Whistleblowing Officer will provide feedback, where appropriate, to the whistleblower regarding the progress and outcome of, and actions arising from, the investigation.
- (f) Where it is determined by the Committee that legal advice should be sought in relation to a disclosure, the Committee will engage external legal counsel to provide that legal advice and will take such advice into consideration when investigating the relevant disclosure.
- (g) If a disclosure was made anonymously, this will not impact on the manner in which the disclosure is dealt with in accordance with this whistleblowing policy.

## **9. Outcome of the investigation**

- (a) The Committee will, having regard to the Investigator Report and any legal advice obtained, determine if there is a case to answer, and what action is to be taken in respect of the disclosure. Action may include initiating a disciplinary process or informing external authorities (such as the police) of the relevant misconduct, if necessary.
- (b) Unless the disclosure was made anonymously, the whistleblower will be informed of the outcome of the investigation within 14 days of the Committee receiving the Investigator Report. The exact nature of any disciplinary action taken against any person will not be disclosed to the whistleblower and will be confidential.
- (c) Subject to paragraph 9(d), only where it is established that a whistleblower's allegations were false and made maliciously may disciplinary action be taken against that person.
- (d) If as a result of an investigation a whistleblower is implicated in some way in any wrongdoing, disciplinary action may be taken against that person. Making a disclosure will not necessarily shield the whistleblower from the consequences of that person's involvement in the wrongdoing but may, in some circumstances, be a mitigating factor when considering disciplinary or other action.

## **10. Breaches of the Whistleblowing Policy**

- (a) Any Personnel who breaches this whistleblowing policy, including breaching an obligation to keep a whistleblower's identity confidential, refusing to participate or cooperate with an investigation into a disclosure, or engaging in detrimental conduct against a whistleblower or another person because a disclosure has been made under this whistleblowing policy, will face a disciplinary process which could result in the termination of their employment.
- (b) AAHYA may terminate its relationship with other individuals and entities providing goods or services to AAHYA if they breach this whistleblowing policy.

## **11. Protection from detriment**

- (a) Without limiting paragraphs 9(c) and 9(d), AAHYA will put in place processes to ensure that any Personnel who, in good faith, makes a disclosure in accordance with this whistleblowing policy, will be protected from adverse employment consequences as a result of making such a disclosure.

- (b) Without limiting paragraphs 9(c) and 9(d), AAHYA will also put in place processes to ensure that no whistleblowers will be subjected to any victimisation, acts or reprisal or detriment as a result of making a disclosure in accordance with this whistleblowing policy. Detrimental treatment includes, but is not limited to dismissal, injury, demotion or alteration of duties to that person's disadvantage, discrimination, harassment, intimidation, threats or other unfavourable treatment.

**12. Support for whistleblowers**

Support will be offered to whistleblowers as necessary. Depending on the nature of the Disclosable Misconduct and the personal circumstances of the whistleblower, this may include medical, social, legal and financial assistance, or referrals to such services.

**13. Training and awareness**

This whistleblowing policy will be used in AAHYA's training and induction programs for Personnel and will be made available on AAHYA's website.

**14. Updates to this whistleblowing policy**

Version	Date approved by Committee	Summary of changes
Version 1.0	March 2021	Original publication.