



# WHISTLEBLOWER POLICY

<b>RELATED POLICIES:</b>	Nil
<b>RESPONSIBLE OFFICERS:</b>	Risk, Integrity and Policy Committee
<b>AUTHORITY:</b>	The Bowls Australia Board
<b>APPLICABLE FORMS:</b>	Nil
<b>APPROVED:</b>	27 April 2023
<b>NEXT REVIEW DATE:</b>	27 April 2025

## CONSTITUTION

BOWLS AUSTRALIA LIMITED ACN: 076 229 699

20. Board Policies  
20.1 Policies

- 20.1.1 *The Board may from time to time as circumstances dictate, formulate, interpret, adopt, make, alter and amend Policies for the proper advancement, management and administration of Bowls Australia, the advancement of the Objects and bowls as it thinks necessary or desirable. Policies must (as far as practicable) be in conformity with the rules and regulations of WBL and must be consistent with this Constitution. Policies are binding on all Members.*
- 20.1.2 *The CEO shall bring to the notice of the Board and Members all Policies and any formulation, interpretation, amendment, alteration and repeal of them. Member States are obliged to draw such notices to the attention of Members in their States. Notices are binding upon all Members.*
- 20.1.3 *All Policies and regulations of the Company in force at the date of the approval of this Constitution insofar as such policies and regulations are not inconsistent with, or have been replaced by this Constitution, shall continue in force under this Constitution.*

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## 1. INTRODUCTION

Bowls Australia (**BA**) 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.

## 2. PURPOSE

The purpose of this policy is to encourage the reporting of serious conduct or wrongdoing that is of legitimate concern to BA (**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 (**Whistle-blower**), identifies who can receive a protected disclosure (**Eligible Recipient**) and establishes a process for Whistle-blowers to make a protected disclosure (**Report**) and a corresponding process for BA to address reports from Whistle-blowers. Any person who raises a concern and makes a disclosure of a serious nature (for example unethical, illegal, corrupt or other inappropriate conduct) should not be subject to victimisation, harassment or discriminatory treatment. This policy sets out the avenues available to Whistle-blowers to report serious wrongdoing to BA and how BA will deal with any such reports.

## 3. SCOPE

This policy is intended to be a workplace policy and applies to the following types of people and Whistle-blowers:

- (a) BA employees;
- (b) BA Directors;
- (c) BA contractors (including employees of contractors);
- (d) consultants to BA;
- (e) contracted high performance athletes; and
- (f) suppliers to BA.

BA must make this policy available in an accessible format to all BA employees, contracted high performance athletes and BA Directors. The policy can be found on the BA employee system, Employment Hero.

This policy does not apply to members of BA. Any Reportable Conduct or Whistleblowing relating to or by a Member should be managed under BA's Member Protection Policy and Complaints Handling Policy.

## 4. REPORTABLE CONDUCT

Any conduct or wrongdoing that is genuinely believed to be in breach of the law or BA's Regulations or Policies should be reported in accordance with this policy.

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

- (a) 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);
- (b) dishonest behaviour;
- (c) fraudulent or corrupt activity, including financial fraud or bribery;
- (d) perverting the course of justice;
- (e) unlawful, corrupt or irregular use of company funds or practices;
- (f) unethical behaviour, including any form of discrimination, harassment or bullying;
- (g) improper or misleading accounting or financial reporting practices;
- (h) a breach of any legislation relating to BA's operations or activities;
- (i) behaviour that is oppressive, unjust, discriminatory or grossly negligent (including gross mismanagement, serious or substantial waste of BA's resources or repeated breaches of administrative procedures);
- (j) any behaviour that poses a serious risk to the health and safety of any person at the workplace;
- (k) a serious risk to public health, public safety or the environment;
- (l) an improper state of affairs in relation to BA;
- (m) any other conduct which may cause loss to BA or be otherwise detrimental to the interests of BA or any of its employees; and
- (n) the deliberate concealment of information tending to show any of the conduct listed above.

Reportable Conduct does **NOT** include personal work-related grievances. Personal work-related grievances include but are not limited to interpersonal conflicts between the Whistle-blower and another employee, or a decision relating to the engagement, transfer or promotion of the whistle-blower. Such grievances should be addressed by the appropriate BA General Manager or the BACEO under the provisions of the relevant Employment Agreement and the *Fair Work Act 2009 (Cth)*.

A personal work-related grievance may still qualify for protection if:

- (o) it includes information about misconduct, or information about misconduct includes or is accompanied by a personal work-related grievance (mixed report);
- (p) the entity has breached employment or other laws punishable by imprisonment for a period of 12 months or more, engaged in conduct that represents a danger to the public, or the disclosure relates to information that suggests misconduct beyond the discloser's personal circumstances;
- (q) the whistle-blower suffers from or is threatened with detriment for making a

disclosure; or

- (r) the discloser seeks legal advice or legal representation about the operation of the whistle-blower protections under the Corporations Act.

## **5. RESPONSIBILITY TO REPORT**

It is expected that any person becoming aware of any Reportable Conduct will notify the appropriate personnel as per this policy in order to maintain BA's integrity and ethical behaviour.

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

## **6. PROTECTION OF WHISTLEBLOWERS**

BA will take all reasonable steps to ensure that a Whistle-blower will not be subject to any form of victimisation, discrimination, harassment, demotion, dismissal, threats or prejudice 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.

The protections available for Whistle-blowers who make a Report include:

- (a) identity protection (confidentiality);
- (b) protection from detriment;
- (c) compensation and other remedies; and
- (d) civil, criminal and administrative liability protection.

Protections such as confidentiality and protection from detriment are available under the law and it is an offence to breach confidentiality or cause detriment.

BA will take all reasonable steps to protect the identity of a Whistle-blower and will adhere to statutory requirements in respect of the confidentiality of Reports made. In appropriate cases, disclosure of the identity of a Whistle-blower or the allegation made may be unavoidable, such as if court proceedings result from a Report pursuant to this policy.

This policy will not protect a Whistle-blower if they are also involved in, or connected with, the misconduct or wrongdoing reported.

### **6.2 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. In practice, a mere allegation with no supporting information is not likely to be considered as having 'reasonable grounds to suspect'. A whistle-blower does not however need to prove their allegations.

BA takes very seriously any Reports made under this policy. Disciplinary action may be taken however, against anyone who makes a false report or claim, or a report or claim 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.

### **6.3 *Anonymous Reporting***

Whistle-blowers can disclose anonymously and still qualify for protections under the *Corporations Act 2001 (Cth)* may be difficult however for the matter to be properly investigated without the Whistle-blower's identity. Whistle-blowers may make anonymous disclosures by emailing a Report to an Eligible Recipient. Anonymous Whistle-blowers are encouraged to maintain ongoing communication using their preferred reporting channel, which allows BA to ask follow-up questions and better understand and investigate their concerns. A whistle-blower can refuse to answer questions that they feel could reveal their identity at any time, including during follow-up conversations.

If further legal action is taken on the reported matter, it may become necessary for a whistle-blower to identify themselves. In these instances, BA will continue to take all reasonable steps to protect the whistle-blower from any possible reprisal, however Whistle-blowers are encouraged to provide their identity to enable a robust process to be undertaken.

## **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 speak to the Whistle-blower Protection Officer, from whom the Whistle-blower can confidentially seek further information before making a disclosure. The primary function of the Whistle-blower Protection Officer is to ensure the protection and fair treatment of the Whistle-blower. Independent legal practitioners can also provide a whistle-blower with advice.

The Whistle-blower Protection Officer shall be:

- a) BA General Manager – Business Operations; or
- b) BA HR Manager; or
- c) Any equivalent position created for this purpose.

If engaging with the Whistle-blower Protection Officer is not considered appropriate, or the conduct has already been confirmed as Reportable Conduct, a Report should be made to an Eligible Recipient.

An Eligible Recipient is the:

- (d) BA CEO; or
- (e) BA President; or

- (f) the Chair of BA's Risk, Integrity & Policy Committee.

Eligible Recipients shall receive training in the BA's processes and procedures for receiving and handling disclosures, including training relating to confidentiality and the prohibitions against detrimental conduct.

Reports should be made to the BA CEO. If the Report involves the CEO or a BA Director, then the matter should be reported to the BA President. If the Report involves the President, it should be reported to the Chair of the Risk, Integrity and Policy Committee.

Reports may be made by in person, by telephone, or by email. BA's preferred internal reporting mechanism for Reports is via email. Whistle-blowers can however, qualify for protection regardless of which of the channels they choose to report through. The relevant email addresses are as follows:

- (g) BA CEO: mkennedy@bowls.com.au;
- (h) BA President: mburgess@bowls.com.au;
- (i) the Chair of BA's Risk, Integrity and Policy Committee: whistleblower@bowls.com.au

Whistle-blowers are encouraged to use one of the available reporting channels to make a Report if they are unsure whether the matter would be considered Reportable Conduct. This preserves the Whistle-blower's ability to rely on the protections if the matter disclosed relates to Reportable Conduct. All Reports made under this policy will be treated the same way, regardless of if the matter qualifies for protection under Australia's whistle-blower laws. BA is willing to support and encourage a culture of speaking up.

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

- (j) nature of the alleged breach;
- (k) persons or persons believed to be responsible for the breach;
- (l) facts on which the Whistle-blower's belief that a breach has occurred are based; and
- (m) nature and whereabouts of any further evidence that may substantiate the Whistle-blower'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.

## **7.2 Support and Practical Protection for Whistle-blowers**

BA will support Whistle-blowers through the provision of employee support services or making case-by-case changes to an employee's working arrangements. BA has a designated 'whistle-blower protection officer' to support and protect Whistle-blowers. When appropriate and with the Whistle-blowers' consent, such persons would be appointed to support individual Whistle-blowers and protect them from detriment.

BA has the following processes in place to assess and control the risk of detriment to Whistle-blowers (delete those which do not apply):

- (d) processes for assessing the risk of detriment against a Whistle-blower and other persons (e.g. other staff who might be suspected to have made a Report), which will commence as soon as possible after receiving a Report;
- (e) support services (including counselling or other professional or legal services) that are available to Whistle-blowers;
- (f) strategies to help a Whistle-blower minimise and manage stress, time or performance impacts, or other challenges resulting from the Report or its investigation;
- (g) actions for protecting a Whistle-blower from risk of detriment
  - (i) BA may allow the Whistle-blower to perform their duties from another location, reassign the Whistle-blower to another role at the same level, make other modifications to the Whistle-blower's workplace or the way they perform their work duties, or reassign or relocate other staff involved in the Reportable Conduct;
- (h) processes for ensuring that management are aware of their responsibilities to maintain the confidentiality of a Report, address the risks of isolation or harassment, manage conflicts, and ensure fairness when managing the performance of, or taking other management action relating to, a Whistle-blower;
- (i) procedures on how a Whistle-blower can lodge a complaint if they have suffered detriment, and the actions BA may take in response to such complaints
  - (i) e.g. the complaint could be investigated as a separate matter by an officer who is not involved in dealing with Whistle-blower Reports and the investigation findings will be provided to the board or audit or risk committee); and
- (j) interventions for protecting a Whistle-blower if detriment has already occurred;
- (k) For example, BA may investigate and address the detrimental conduct, such as by taking disciplinary action, or allowing the Whistle-blower to take extended leave, develop a career development plan for the Whistle-blower that includes new training and career opportunities, or offer compensation or other remedies.

### **7.3 Investigation**

Any Reports of alleged or suspected misconduct or wrongdoing made under this policy will be properly assessed, and if appropriate, inquired into or independently investigated. The CEO (or President or Chair of the Risk, Integrity and Policy 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.

During an investigation, an investigator must conduct sufficient inquiry to be able to determine conclusions and any recommendations regarding the Report.



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 and independent manner and all reasonable efforts will be made to preserve the confidentiality of an investigation. To ensure fairness and independence, investigations will be independent of the Whistle-blower, the individuals who are the subject of the Report, and the department or business unit involved.

Information contained in reports and provided by Whistle-blowers 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 BA.

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

#### **7.4 *Ensuring fair treatment of individuals mentioned in a Report***

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

Measures and/or mechanisms for ensuring fair treatment of individuals mentioned in a Report include (where applicable):

- (d) Reports will be handled confidentially, when it is practical and appropriate in the circumstances;
- (e) each Report will be assessed and may be the subject of an investigation;
- (f) the objective of an investigation is to determine whether there is enough evidence to substantiate or refute the matters reported;
- (g) when an investigation needs to be undertaken, the process will be objective, fair and independent;
- (h) an employee who is the subject of a Report 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 the Report will be the subject of an investigation; and
- (i) an employee who is the subject of a Report may contact the Bowls Australia's support services (e.g. counselling).

#### **7.5 *Investigation Findings***

On conclusion of the investigation, the investigator must prepare a report of the findings for the CEO, President or Chair of the Risk, Integrity and Policy 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 Whistle-blower 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 Whistle-blower will be informed of this outcome and the matter concluded with no further action.

The CEO, President or Chair of the Risk, Integrity and Policy 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 Whistle-blower.

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:

- (d) is informed of the substance of the allegations;
- (e) is given a fair and reasonable opportunity to answer the allegations before the investigation is finalised;
- (f) has their response set out fairly in the investigator's report; and
- (g) 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 BA against them.

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

## **7.6 Reporting to an external 3<sup>rd</sup> party**

Protection will only be offered by BA to any Whistle-blower who informs an external 3<sup>rd</sup> party of concerns about Reportable Conduct if:

- (d) the Whistle-blower 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 Whistle-blower does not have reasonable grounds to believe that action is being, or has been taken to address the Report; and
  - (iii) the Whistle-blower has reasonable grounds to believe that making a further Report would be in the public interest; or
  - (iv) the Whistle-blower 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

- (e) the Whistle-blower provides prior written notification to BA that:
  - (i) includes sufficient information to identify the previously made Report;
  - (ii) clearly states that the Whistle-blower intends to make a public interest disclosure or an emergency disclosure under this section of the policy; and
  - (iii) the information disclosed is no greater than necessary to inform the external 3<sup>rd</sup> party of the misconduct or the otherwise improper state of affairs.

## **8. BREACH OF THIS POLICY**

BA is committed to protecting and respecting the rights of a Whistle-blower who reports wrongdoing or misconduct on reasonable grounds under this policy. BA will not tolerate any reprisals or threats of reprisals against a Whistle-blower, or against a Whistle-blower'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 BA may notify the Australian Securities and Investments Commission or the appropriate state or federal police.

## **9. REVIEWS**

BA 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 BA Board, updated in the BA Policy register and updated on the BA website if appropriate.