

POLICY

Whistleblower

1. Policy Statement:

Breakaway Toowoomba Inc. is committed to creating and maintaining an open working environment in which all employees, (full-time, part-time or casual), volunteers, suppliers and consultants can raise concerns regarding actual or suspected unethical, unlawful or undesirable conduct.

2. Objectives:

The objectives of this policy is to:

- encourage a person to report improper conduct in good faith if they know or have reasonable grounds to suspect such conduct
- provide a mechanism to report misconduct or dishonest or illegal activity that has occurred or is suspected within the Organisation
- enable Breakaway Toowoomba Inc. to deal with reports from Whistleblowers in a way that will protect the identity of the Whistleblower and provide for secure storage of the information
- ensure that any Reportable Conduct is identified and dealt with appropriately
- ensure that individuals who disclose wrongdoing can do so safely, securely and with confidence that they will be protected and supported; and
- help to ensure that Breakaway Toowoomba Inc. maintains the highest standards of ethical behaviour and integrity.

3. Definitions:

Whistleblower: is a person where anonymously or not, attempts to report misconduct or dishonest or illegal activity that has occurred in connection with Breakaway Toowoomba Inc. and wishes to avail themselves of protection against reprisal for having made a report.

4. Principles:

The guiding principles of this policy are:

- **Higher Standard:** This Policy is designed to comply with Breakaway Toowoomba Inc. legal obligations. If anything in this Policy is inconsistent with any law imposed on Breakaway Toowoomba Inc., that legal obligation or the “higher standard” will prevail over this policy.
- **Speak up and Report:** We encourage all workers to report any concerns in line with Breakaway Toowoomba Inc. policies and procedures.
- **Expectations of Workers:** Breakaway Toowoomba Inc. expects workers to act honestly and ethically, and to make any report on reasonable grounds.

- **Responsibility of Whistleblowers:** Breakaway Toowoomba Inc. obligations to workers are detailed in this policy (*refer to section 8 Protection*).
- **Confidentiality and Consent:** Breakaway Toowoomba Inc. will maintain confidentiality of all reports and protect the identity of reporters to the fullest extent possible. While Breakaway Toowoomba Inc. encourages Whistleblowers to identify themselves to the Whistleblower Protection Officer (Chief Executive Officer), they can opt to report their concerns anonymously.

5. Scope:

This policy applies to all employees, board members, contractors including employees of contractors, volunteers, suppliers and consultants. A Whistleblower may be a current or a former worker of any of the mentioned groups.

Although they are under no obligations to do so, any associate, family member or dependant of any person in the above mentioned group may also speak up. If they do choose to speak up in line with this Policy, the relevant rights and protections under this policy will be extended to them.

6. Reportable Conduct:

What is Reportable Conduct?

A person may disclose any information that the person has reasonable grounds to suspect concerns, misconduct, or an improper state of affairs in relation to:

- Breakaway Toowoomba Inc.

Reportable conduct is any past, present or likely future activity, behaviour or state of affairs considered to be:

- dishonest
- corrupt (including soliciting, accepting or offering a bribe, or facilitating payments or other such benefits)
- fraudulent
- illegal (including theft, drug sale or use, violence or threatened violence or property damage)
- in breach of regulation, internal policy or code e.g. Code of Conduct
- improper conduct relating to accounting, internal controls, compliance, actuarial, audit or other matters of concern to the Whistleblower
- a serious impropriety or an improper state of affairs or circumstances
- endangering health and safety
- damaging or substantially risking damage to the environment
- a serious mismanagement of Breakaway Toowoomba Inc. resources
- detrimental to Breakaway Toowoomba Inc.'s financial position or reputation
- maladministration (an act of omission of a serious nature that is negligent, unjust, oppressive, discriminatory or is based on improper motives); and
- concealing reportable conduct.

Reportable Conduct usually relates to the conduct of employees or board members, but can also relate to the actions of a third party, such as a funder, client, supplier or service provider.

What is not Reportable Conduct?

While everybody is encouraged to speak up and report any concerns to Breakaway Toowoomba Inc., not all types of conduct are intended to be covered by this Policy or by the protections under the *Corporations Act 2001 (Cth)*. This policy does not apply to complaints by other services or clients about a service or personal worked related grievances, unless the grievance includes victimisation due to whistleblowing. Those matters are dealt with under those policies.

Personal worked related grievances are those that relate to the discloser's current or former employment with Breakaway Toowoomba Inc. that might have implications for the discloser personally but do not:

- have any other significant implications for Breakaway Toowoomba Inc.; or
- relate to any conduct or alleged conduct about a disclosable matter.

Personal work related grievances include grievances such as interpersonal conflicts, decisions about promotions, decisions that do not involve a breach of workplace laws, or terms and conditions of employment.

However, personal work related grievances may be covered by this policy where they include information about misconduct, an allegation that the entity has breached employment or other laws punishable by imprisonment by a period of 12 months or more, or the grievance includes victimisation due to whistleblowing.

7. What information is needed to make a Report?

To make a protected report you must know of or have reasonable grounds to suspect the reportable conduct.

For a report to be investigated, it must contain enough information to form a reasonable basis for investigation. It is important therefore that you provide as much information as possible. This includes any known details about the events underlying the report such as the:

- date
- time
- location
- name of person (s) involved
- possible witnesses to the events; and
- evidence of the events (e.g. documents, emails).

The report must include any steps the person has already taken to report the matter elsewhere or to resolve the concern.

8. How to make a Report:

Breakaway Toowoomba Inc. will also protect individuals who have made a report in connection with Breakaway Toowoomba Inc.:

- to the Australian Securities and Investments Commission (ASIC) or the Australian Prudential Regulation Authority (APRA) or another commonwealth regulatory body prescribed in legislation

- to a legal practitioner for the purposes of obtaining legal advice or legal representation about whistleblower protection; or
- that qualifies as an emergency or public interest disclosure under the *Corporations Act 2001 (Cth)*. It is important to understand the criteria for making a public interest or emergency disclosure and that it is advisable to consult an independent legal adviser before making a public interest or emergency disclosure.

While Breakaway Toowoomba Inc. encourages the person to identify themselves to the Chief Executive Officer, the person can opt to report any concerns anonymously such as by adopting a pseudonym.

9. Protection:

How will the Person be Protected if they Speak Up about Reportable Conduct

If the person has reasonable grounds to suspect reportable conduct, even if it turns out the concerns are mistaken, Breakaway Toowoomba Inc. will support and protect the person and anyone else assisting in the investigation.

Breakaway Toowoomba Inc. will not tolerate any detriment inflicted on the person because they or somebody else has made or might make a report of Reportable Conduct. Examples of a detriment include:

- retaliation, dismissal, suspension, demotion or termination of their roles
- bullying, harassment, threats or intimidation
- discrimination, subject to current or future bias or derogatory treatment
- harm or injury
- damage or threats to property, business, financial position or reputation
- revealing the person identity as a whistleblower without their consent or contrary to law; or
- threatening to carry out any of the above.

This protection applies regardless of whether any concerns raised in a report are found to be true, provided that the person is acting honestly and ethically and made the report on reasonable grounds.

This protection also applies to individuals conducting, assisting or participating in an investigation. The person will be entitled to the protection if they make a report of Reportable Conduct to an external body under this Policy.

Anyone found to be victimising or disadvantaging another individual for making a disclosure under this Policy will be disciplined and may be dismissed or subject to criminal or civil penalties.

If a person believes that they have suffered a detriment in violation of this Policy, we encourage the person to report this immediately to the Chief Executive Officer or an external body under this Policy. The persons concerns of being disadvantaged will be treated as a report of Reportable Conduct in line with this Policy.

Anyone engaging in detrimental conduct may be subject to serious consequences, including disciplinary actions and/or termination of engagements or contracts, as applicable. They may also be subject to civil and other legal remedy.

The person may also be entitled to the following legal protections for making a report:

- protection from civil, criminal or administrative legal actions
- protection from having to give evidence in legal proceedings; and/or
- compensation or other legal remedy.

10. Confidentiality:

Breakaway Toowoomba Inc. will ensure confidentiality by:

- A discloser can choose to remain anonymous while making a disclosure, over the course of the investigation and after the investigation is finalised. Breakaway Toowoomba Inc. will do all it can to protect confidentiality.

However, Breakaway Toowoomba Inc. encourages all individuals to disclose their identity when raising a concern. This will assist Breakaway Toowoomba Inc. to gather further information. If the person chooses to disclose their identity, their details will be treated confidentially to the fullest extent possible in connection with the investigation. Breakaway Toowoomba Inc. will take measures to protect the person's identity such as by redacting their personal information, storing their information and disclosure securely, referring to them in a gender-neutral context and only allowing qualified staff to investigate their disclosure.

The person may choose to report their concerns anonymously. However, if they choose to disclose their identity, their details will be treated confidentially to the fullest extent possible in connection with the investigation, and their identity will not be disclosed unless:

- they consent in writing to the disclosure
- the disclosure is made to ASIC, APRA or the Australian Federal Police (AFP)
- the disclosure is made to a Legal Practitioner for the purpose of obtaining advice
- the disclosure is authorised under the *Corporations Act 2001 (Cth)*; and/or
- disclosure is necessary to prevent or lessen a threat to a person's health, safety or welfare.

Breakaway Toowoomba Inc. encourages all individuals to disclose their identity when raising a concern. This will assist in the gathering of information. All information relating to a report of Reportable Conduct will be stored securely and access will be limited to authorised staff.

It is illegal for a person to identify a discloser, or disclose information that is likely to lead to the identification of the discloser unless an exception above applies. If the person feels that their confidentiality has been breached, they can lodge a complaint with a regulator, such as ASIC, APRI or the ATO, for investigation. Breakaway Toowoomba Inc. may also take disciplinary action against individuals that break the confidentiality of a discloser, including summary dismissal.

11. False Reports or Disclosures:

Protected disclosures must be made on reasonable grounds. Anyone who knowingly makes a false report/disclosure of Reportable Conduct may be subject to disciplinary action, including dismissal.

The disciplinary action will depend on the severity, nature and circumstances of the false disclosure.

13. Handling and Investigating a Disclosure:

Upon receiving a Protected Disclosure, within ten (10) business days, Breakaway Toowoomba Inc. will endeavour to assess the disclosure to determine whether:

- it qualifies for protection; and
- a formal in-depth investigation is required.

Breakaway Toowoomba Inc. will endeavour to provide the disclosure with regular updates.

Breakaway Toowoomba Inc. may not be able to investigate a disclosure if is unable to contact the discloser.

Breakaway Toowoomba Inc. will handle and investigate Protected Disclosures in accordance with the Whistleblowing Procedure.

14. Monitoring and Assurance:

This Policy will be available to all workers via the Employees Handbook.

To ensure effective protection under the Policy, the Board and the Chief Executive Officer will monitor and review this Policy.

15. Roles and Responsibilities:

Board Members are responsible for:

- monitoring and reviewing the effective implementation of this Policy and related Procedure.

Chief Executive Officer is responsible for:

- receiving whistleblower reports and protecting the interest of reporters
- determining whether the report falls within the scope of the Policy
- determining whether or how a report should be investigated
- appointing an investigator where an investigation is deemed appropriate
- ensuring investigations are conducted in accordance with this Policy
- ensuring any reports/disclosures received are reported to the Board
- updating the report on progress and details of outcomes to the fullest extent possible
- maintaining to the fullest extent possible confidentiality of the identity of and reports received by reporters
- determining the appropriate course of action to remediate or act on the investigation
- reporting matter to relevant authorities
- making recommendation to prevent future instances of Reportable Conduct
- monitoring and reviewing the effective implementation of this Policy and related Procedure
- encouraging workers to speak up about concerns of Reportable Conduct; and
- ensuring all staff and volunteers are aware of this Policy.

All Staff are responsible for:

- reporting misconduct or dishonest or illegal activity that has occurred or is suspected within Breakaway Toowoomba Inc. as quickly as possible, whether anonymously or otherwise.

16. Authority:

Corporations Act 2001 (Cth)
 Fair Work Act 2009 (Cth)
 Fair Work Regulations 2009 (Cth)
 Insurance Act 1973
 Life Insurance Act 1995
 Public Interest Disclosures Act 2013
 Superannuation Industry (Supervision) Act 1993
 Taxation Administration Act 1953

This Policy and Procedure is not intended to override any industrial instrument, contract, award or legislation.

17. Related Legislation, Procedures and Guidelines:

Whistleblower Procedure
 Workplace Bullying and Harassment Policy
 Prevention of Workplace Harassment Code of Practice (Qld) 1994
 Code of Conduct

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