

WHISTLEBLOWER POLICY

1. INTRODUCTION

- 1.1 Binthi Land Holding Group Aboriginal Corporation [BLHGAC] is committed to fostering a culture of ethical, legal, and moral behaviour and exemplary corporate governance.
- 1.2 [BLHGAC] recognises the value of accountability and transparency in its administrative and management practices, and supports the reporting of improper conduct.
- 1.3 This Whistleblower Policy and Procedure has been developed so that people can raise concerns regarding situations where they believe that [BLHGAC] or anybody connected with [BLHGAC] has acted in a way that constitutes serious wrongdoing, including corrupt, illegal, or other inappropriate conduct, as set out below.

2. PURPOSE

- 2.1 This Policy aims to:
- a) enable [BLHGAC] 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
 - b) encourage a person to report improper conduct in good faith if they know or have reasonable grounds to suspect such conduct
 - c) ensure that any Reportable Conduct is identified and dealt with appropriately
 - d) ensure that individuals who disclose wrongdoing can do so safely, securely and with confidence that they will be protected and supported
 - e) help to ensure that [BLHGAC] maintains the highest standards of ethical behaviour and integrity, and
 - f) provide a mechanism to report dishonest, or illegal, or misconduct activity that has occurred or is suspected within the organisation.

3. SCOPE

- 3.1 This policy applies to:

Consultants	Contractors (including employees of contractors)	Directors	Employees	Officers	Suppliers	Volunteers
✓	✓	✓	✓	✓	✓	✓

Within this policy all of these people are represented by the term “**Workers**”.

- 3.2 Although they are under no obligation to do so, any associate, dependant of any person family member or in the above groups of people may also speak up. If they do choose to speak up in line with this Policy, we will extend to them the relevant protections and rights under this Policy.

4. DEFINITIONS

- 4.1 **Whistleblowing** - is the disclosure by organisation members (current or former) of illegal, illegitimate or immoral practices under the control of their employers to persons that may be able to effect action.
- 4.2 **Whistleblower** an individual as stated under the scope of this policy, making a report (disclosure).
- 4.3 **Wrongdoing** may include (but is not limited) the following conduct:
- Accepting or offering a bribe
 - Conduct that is materially damaging to [BLHGAC] or any Director, Workers, Contractor or Volunteer (for example, engaging in materially unsafe or dangerous work practices, creating material health risks or material misuse of [BLHGAC's] property or resources)
 - Dishonestly altering and/or falsifying company records, engaging in suspect accounting practices
 - Engaging in or threatening to engage in detrimental conduct against a person who has made a disclosure or is believed or suspected to have made, or be planning to make, a wrongdoing disclosure
 - Failure to comply with, or breach of, legal or regulatory requirements
 - Fraud, misappropriation of funds or money laundering
 - Dealing in or use of illicit drugs, Illegal conduct, theft, threatened violence or violence, and criminal damage against property or breaches of Federal, State or Territory legislation.

POLICY STATEMENT

[BLHGAC] is committed to upholding a culture of ‘*no degrees of honesty*’ where legitimate concerns of wrongdoing can be reported without fear of retribution. When anyone makes an allegation under this policy, they can expect that:

- [BLHGAC] will treat seriously any retaliation occurring for having made a wrongdoing disclosure under this policy;
- Their allegations will be investigated independently, seriously and in a timely manner;

- Their identity remains confidential to the extent permitted by law or is practical in the circumstances;
- They will be protected from harassment, reprisal, or victimisation for making the report; and
- Those involved in the investigation will maintain confidentiality.

This policy must not be used to make false or vexatious allegations. Further, if the matter does not relate to a wrongdoing (as defined in the policy) then Workers should contact their Team Leader member and report the matter in accordance with the [BLHGAC] Code of Conduct and/or Anti-discrimination, Bullying, Child Protection, Equal Employment Opportunity, General Grievances, and Harassment Policies and Procedures.

5. REPORTING AND INVESTIGATION OF SUSPECTED WRONGDOING

Any suspected wrongdoing (**disclosure**) can be reported to the [BLHGAC] Board or Chairperson (refer *Whistleblowing Reporting Procedure* (Appendix 1)).

Disclosures should be made as soon as reasonably possible, however there is no time limit on disclosures. The report can be made by email or phone and should detail: What occurred, how the misconduct was executed, when and where it occurred and who was involved.

A whistleblower may make an anonymous disclosure or adopt a pseudonym and still be entitled to the protections set out in this policy. They can do so by calling from a phone where caller id is withheld or reporting via an anonymous email address. However, it should be noted this might impact [BLHGAC's] ability to progress its investigations, make contact, provide updates and/or protect the whistleblower from detriment.

The course of investigation will consider:

- The nature and scope of the investigation;
- The nature of any financial, legal, technical advice that may be required to support the investigation; and
- The timeframe for the investigation.

In the course of the investigation [BLHGAC] may proceed to speak to anyone who may be affected or involved in the disclosure, providing an opportunity to respond to the allegations. Responses will be considered, and witnesses questioned where facts are disputed. Investigations will be conducted in a comprehensive and fair manner including ensuring procedural fairness and due process to any person accused of wrongdoing. [BLHGAC] will also afford the presumption of innocence to any person accused of wrongdoing.

A final investigation report will be provided to the [BLHGAC] Board. Where necessary, the whistleblower's name may be redacted to protect their identity. [BLHGAC] will provide feedback, where appropriate, to the whistleblower regarding the progress and outcome of any investigation.

6. EXCEPTION TO POLICY

Any exception to this policy or guidance on matters not expressly stated will be taken to the [BLHGAC] Board for a decision.

7. FAILURE TO COMPLY WITH THE WHISTLEBLOWER POLICY

Where it is established that a Workers has breached the Whistleblower Policy, they may be subject to disciplinary action, up to and including termination of employment.

8. CHAIRMAN'S CONTACT DETAILS

Where required under this Policy the Chairman can be contacted at binthi@blhgac.org.au or on 0488 177 978.

9. MONITORING AND ASSURANCE

9.1 This Policy will be [available and distributed] to all Workers via the intranet, and on the [BLHGAC] website.

9.2 To ensure effective protection under the Policy, [BLHGAC] Board will monitor and review this Policy bi-annually.

10. NOTES

10.1 From 1 January 2020, some entities in Australia, including companies limited by guarantee, will be required to have a whistleblowing policy that complies with the new section 1317A1 of the *Corporations Act 2001*.

10.2 ASIC has announced that public companies that are small not-for-profits or registered charities with annual revenue of less than \$1 million will be exempt from the new requirement.

10.3 Even if organisations are exempt from the Corporations Act requirement to adopt a whistleblower policy:

10.3.1 all companies limited by guarantee must still comply with the whistleblower protections in the *Corporations Act 2001* from 1 July 2019. ASIC Regulatory Guide

270 includes guidance on managing whistleblowing that may be helpful even for entities that are not required to have a policy.

10.3.2 it may still be appropriate to adopt a whistleblower policy:

- a) for registered charities - as part of their implementation of the Australian Charities and Not-for-Profits Commission (ACNC) External Conduct Standards in respect of their overseas operations; and
- b) for all registered charities and not-for-profit organisations - as part of steps taken to protect vulnerable persons and ensure accountability in their general operations.

11. RELATED DOCUMENTS

11.1 Whistleblowing Procedure

11.2 Code of Conduct and/or Anti-discrimination, Bullying, Child Protection, Equal Employment Opportunity, General Grievances, and Harassment Policies and Procedures.

12. LEGISLATION & INDUSTRIAL INSTRUMENTS

- *Corporations (Aboriginal and Torres Strait Islander) Act 2006*
- *Corporations Act 2001 (Cth)*
- *Fair Work Act 2009 (Cth)*
- *Fair Work Regulations 2009 (Cth)*
- *Insurance Act 1973*
- *Life Insurance Act 1995*
- *Public Interest Disclosure Act 2013*
- *Superannuation Industry (Supervision) Act 1993*
- *Taxation Administration Act 1953.*

This policy is not intended to override any industrial instrument, contract, award or legislation.

AUTHORISATION

R. McIvor

07/03/2022

Binthi Land Holding Group Aboriginal Corporation

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WHISTLEBLOWER PROCEDURE

Appendix 1: Whistleblower Reporting Procedure

The Whistleblowing Reporting Procedure is available for whistleblowers to report conduct or wrongdoing that is illegal, illegitimate or immoral, improper or unethical, as defined in this policy.

Whistleblowing assessment and referral	
Action	Responsibilities
Whistleblowing assessment and referral Whistleblower identifies wrongdoing and notifies Chairman.	Whistleblower
Allegation is received, reviewed and initially assessed for validity as a wrongdoing under the policy. If not a wrongdoing as defined under the policy the report is closed and the whistleblower informed.	Chairman
Chairman engaged to support the investigation.	Chairman
Investigation and determination	
[BLHGAC] Board assesses the allegation, conducts interviews with the alleged, witnesses and other parties as required.	[BLHGAC] Board
[BLHGAC] Board provides ongoing communication and outcome to whistleblower throughout the investigation.	[BLHGAC] Board
If the whistleblower is not satisfied with the outcome of an investigation, they may refer the matter to the attention of the Chairman of the Board as the final reviewer.	Whistleblower
Appropriate action is taken by [BLHGAC].	Chairman
Reporting & Review	
BLHGAC] Board discusses the status of any whistleblowing investigations at each Board Meeting.	Chairman

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