

# BHP Whistleblower Policy – Legal Protections for Reporters in Australia

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## 1. Purpose

- 1.1 BHP's Whistleblower Policy is designed to comply with the Australian *Corporations Act 2001* (Cth) and *Taxation Administration Act 1953* (Cth), which provide for protection for certain individuals referred to in this Policy as 'Eligible Reporters' who make a qualifying disclosure in Australia or regarding our Australian operations in accordance with section 4 below ('Whistleblower Protection Scheme').
- 1.2 This Policy sets out how disclosures under the Whistleblower Protection Scheme can be made and the protections that are available to Eligible Reporters under these Australian laws.

## 2. Key Principles

- 2.1 BHP encourages individuals to report anything they reasonably believe may be misconduct or an improper state of affairs or circumstances (a 'Disclosable Matter') and to feel safe to come forward without fear of retaliation. Speaking up helps BHP to identify and address issues and improve how we do business.
- 2.2 When individuals speak up under this Policy, the information they provide will be dealt with confidentially.
- 2.3 BHP does not allow any form of punishment, disciplinary or retaliatory action to be taken against anyone who could or does bring a Disclosable Matter to our attention, or cooperating with an investigation. We consider all forms of retaliation to be misconduct and grounds for disciplinary action, up to and including termination of employment.
- 2.4 BHP expects individuals make reports under this Policy honestly and ethically, and to make their report on reasonable grounds.
- 2.5 Nothing in this Policy prevents any individual from, or requires approval for, reporting what is reasonably believed to be a breach of the law to an appropriate government authority or from seeking legal advice in relation to the protections available for making a report.

## 3. Applicability

### **Raising a concern relating to conduct, people or operations outside of Australia**

- 3.1 Individuals can make a report regardless of where they are or where the conduct is occurring.
- 3.2 This Policy must be considered in conjunction with laws of any country in which BHP operates. If this Policy and the local laws are inconsistent, the legal obligations will prevail over this Policy.

## 4. Requirements for a Qualifying Disclosure

### **Qualifying Disclosures**

- 4.1 A qualifying disclosure means a disclosure that meets each of the following criteria:
  - a) the report relates to our Australian operations or conduct occurring in Australia;
  - b) the report is made by an Eligible Reporter listed in section 4.3 below;
  - c) the report is made directly to:
    - i. EthicsPoint;
    - ii. an Eligible Recipient listed in sections 4.6 and 4.7 below; or
    - iii. a regulator listed in section 4.8 below; and
  - d) the Eligible Reporter has reasonable grounds to suspect the information concerns a Disclosable Matter in relation to BHP.
- 4.2 A qualifying disclosure also includes:
  - a) a disclosure made to a legal practitioner for the purpose of obtaining legal advice or legal representation about the operation of the whistleblower laws (whether or not the report relates to a Disclosable Matter); or
  - b) a disclosure made by an Eligible Reporter as a Public Interest Disclosure or an Emergency Disclosure as described in section 4.9 below.
- 4.3 If the above criteria is met, legal protections will be available to the Eligible Reporter even if:

- a) the report is made anonymously; or
- b) the report turns out to be incorrect.

### **Eligible Reporters**

- 4.4 Individuals can make a report under this Policy if they are current or past:
- a) employees of BHP (e.g. permanent, part-time, fixed-term or temporary, interns, secondees, managers, graduates);
  - b) officers or associates of BHP (e.g. a director or secretary of BHP or a related company of BHP);
  - c) suppliers of BHP whether paid or unpaid (e.g. volunteering), including contingent workforce and any of the supplier's employees (e.g. current and former contractors, consultants, service providers and business partners); and
  - d) any relatives, dependants or spouses (or that spouse's dependants) of any individuals identified at (a) to (c) above.

### **EthicsPoint**

- 4.5 We encourage all reports to be made to EthicsPoint. Reports made to EthicsPoint are received by our Ethics Team. Using EthicsPoint is the best way for us to ensure your report is dealt with promptly, securely and in accordance with this Policy. While BHP encourages Eligible Reporters to identify themselves, Eligible Reporters may make a report on an anonymous or named basis through EthicsPoint.

### **Eligible Recipients**

- 4.6 Reports can also be made directly to:
- a) our Asset Presidents;
  - b) our Group General Counsel;
  - c) a member of our Executive Leadership Team;
  - d) a member of our Boards;
  - e) our Company Secretaries;
  - f) an internal or external auditor of BHP, or a member of an audit team conducting an audit of BHP;
- 4.7 If the concern relates to BHP's tax affairs, it may also be reported to the following additional persons:
- a) a registered tax agent or BAS agent (within the meaning of the Tax Agent Services Act 2009) engaged by BHP; or
  - b) our Group Tax Officer (who is our authorised person appointed by BHP as an Eligible Recipient to receive tax related qualifying disclosures).

### **Regulators**

- 4.8 Reports may also be reported to specified regulators, including:
- a) the Australian Securities and Investments Commission ('ASIC');
  - b) the Australian Prudential Regulation Authority ('APRA'); or
  - c) if the concern relates to BHP's tax affairs, the Commissioner of Taxation.

### **Emergency and public interest disclosures**

- 4.9 In certain circumstances Eligible Reporters may also be protected if they report a Disclosable Matter that they consider is in the 'public interest' (a 'Public Interest Disclosure') or that relates to a substantial or imminent danger to health, safety or the environment to a professional journalist or parliamentarian. The requirements that must be met in order to receive protection are set out in the table below.

	Public Interest Disclosure	Emergency Disclosure
1.	A previous report has been made to ASIC or APRA	
2.	90 days has passed since making the report	(No wait period)
3.	The Eligible Reporter has reasonable grounds to believe that making a further disclosure of the information would be in the public interest	The Eligible Reporter has reasonable grounds to believe that the information concerns a substantial and imminent danger to the health or safety of one or more persons or to the natural environment
4.	The Eligible Reporter has provided written notification to ASIC/APRA that they intend to make a Public Interest or Emergency Disclosure and they provide enough information to identify the previous disclosure	
5.	The Eligible Reporter makes a disclosure to a member of Commonwealth, State Parliament or the legislature of a Territory, or to a professional journalist	
6.	The information disclosed provides no more detail than necessary to inform the recipient of the misconduct or improper state of affairs or circumstances	The information disclosed provides no more detail than necessary to inform the recipient of the substantial and imminent danger

4.10 We recommend that individuals seek independent legal advice before making a Public Interest Disclosure or Emergency Disclosure.

**Disclosable Matters**

4.11 A Disclosable Matter includes any information concerning misconduct, or an improper state of affairs or circumstances, in relation to BHP.

4.12 This includes (but is not limited to) information about conduct that:

- a) constitutes an offence against, or a contravention of, the Corporations Act or the *Australian Securities and Investments Commission Act 2001* (Cth);
- b) constitutes an offence against any other Australian Commonwealth law that is punishable by imprisonment for a period of 12 months or more; or
- c) represents a danger to the public or the financial system.

4.13 Examples of Disclosable Matters include a breach of any legal or regulatory requirement including, for example:

- a) fraud;
- b) negligence;
- c) breach of duty or trust;
- d) criminal offences;
- e) failure to comply with any legal obligation;
- f) failure to comply with any other obligation of BHP as a company listed on the ASX;
- g) unfair or unethical dealing with a customer, supplier or agent of BHP;
- h) corrupt conduct;
- i) human rights abuses;
- j) unethical conduct; or
- k) any deliberate concealment relating to the above.

4.14 Generally, reports that concern personal work-related grievances do not qualify for protection under the Whistleblower Protection Scheme. A report will concern a personal work-related grievance of the discloser if the information:

- a) concerns a grievance about any matter in relation to the discloser’s employment, or former employment, having or tending to have implications for the discloser personally; and

b) does not have significant implications for BHP (or another entity) or relate to breaches of specific laws.

4.15 Examples of reports regarding personal work-related grievances that may not qualify for protection include:

- a) an interpersonal conflict between the discloser and another employee;
- b) a decision relating to the engagement, transfer or promotion of the discloser;
- c) a decision relating to the terms and conditions of engagement of the discloser; or
- d) a decision to suspend or terminate the engagement of the discloser, or otherwise discipline the discloser.

4.16 A personal work-related grievance may qualify for legal protection if it concerns alleged detriment caused to the discloser or any other person (or a threat of detriment) due to making (or being able to make) a qualifying disclosure.

4.17 Disclosures about personal-work related grievances that do not qualify for protection under the Whistleblower Protection Scheme will generally be dealt with under BHP’s grievance guidelines and procedures and not as Disclosable Matters.

**Investigation of a Disclosable Matter**

4.18 Upon receipt of a report made under this Policy, the matter will be investigated as appropriate. This includes:

- a) assessing the disclosure and deciding on the need for an investigation;
- b) appointing an investigator; and
- c) receiving timely updates as to the progress and completion of investigations.

4.19 The investigator may need to contact the Eligible Reporter for further information for the investigation. Where practicable, the investigator will provide the Eligible Reporter with updates on the progress and outcome of the investigation, subject to any confidentiality constraints. These updates may be written or verbal, depending on what is appropriate in the circumstances.

4.20 Records of the report and investigation will be securely retained.

4.21 Any individuals who are accused of misconduct in a report (a Respondent) will have an opportunity to respond to allegations before any adverse findings of fact in any investigation are made and before any disciplinary action (if appropriate) is taken.

**Reporting Disclosable Matters**

4.22 Subject to the confidentiality protections set out at section 5 below, disclosures made to an Eligible Recipient (including to EthicsPoint), may be used for limited reporting purposes, including to the Board’s Risk and Audit Committee.

**5. Protections**

5.1 Under the Whistleblower Protection Scheme the following protections are available to Eligible Reporters who makes a qualifying disclosure:

	<b>Protection</b>	<b>Consequences</b>
1.	<b>Protection of confidentiality</b>	<p>It is illegal to disclose an Eligible Reporter's identity or any information likely to lead to their identification, except when:</p> <ul style="list-style-type: none"> <li>• the Eligible Reporter consents;</li> <li>• disclosure is made to ASIC, APRA or a member of the Australian Federal Police, or if the report relates to a tax matter, the Commissioner of Taxation;</li> <li>• disclosure is made to a lawyer in order to obtain legal advice or representation in relation to the operation of these protections; or</li> </ul>

		<ul style="list-style-type: none"> <li>information likely to lead to the identification of the Eligible Reporter (but not the Eligible Reporter's identity) is disclosed because it is reasonably necessary for the purpose of investigating the matter, and all reasonable steps are taken to reduce the risk that the Eligible Reporter will be identified.</li> </ul>
2.	<b>Protection from detriment</b>	<p>It is illegal to engage in, or threaten to engage in, detrimental conduct because an Eligible Reporter (or any other person) has raised, may have raised, proposes to raise or could raise a concern.</p> <p>If an Eligible Reporter is subject to detrimental conduct, they may be entitled to compensation or another remedy. Compensation is also available for breach of a duty to prevent a third party engaging in retaliation.</p> <p>Detrimental conduct is discussed further below at paragraphs 5.5 to 5.6.</p>
3.	<b>Immunity from some types of liability</b>	<p>An Eligible Reporter may also be entitled to other legal protections in certain circumstances, including:</p> <ul style="list-style-type: none"> <li>protection from civil, criminal or administrative legal action for making a report;</li> <li>protection from contractual or other remedies being sought against them on the basis that they made a report;</li> <li>the information they provide may not be admissible in evidence against them in legal proceedings; and (unless they have provided false information).</li> </ul>

### Confidentiality

- 5.2 When a report is made or shortly after, BHP will seek the Eligible Reporter's consent to disclose their identity and any information that is likely to lead to their identification. The Eligible Reporter can select one of two options:
- Make a confidential disclosure - this means the Eligible Reporter consents for their identity to be disclosed for the purposes of investigating the concern, and for reporting to relevant stakeholders. This is the preferred option because BHP will be best placed to fully investigate the matter, and provide the Eligible Reporter with ongoing protection and support.
  - Remain anonymous - this means the Eligible Reporter does not tell BHP who they are. This is the least preferred option because BHP has limited ability to seek further information from the Eligible Reporter and in some circumstances, it could be difficult to investigate the matter fully or even at all. Knowing the Eligible Reporter's identity may help BHP better protect the Eligible Reporter from detrimental conduct and improve the effectiveness of the investigation.
- 5.3 Note that for legal and regulatory reasons, BHP may need to disclose the Eligible Reporter's identity to lawyers, regulators and or law enforcement authorities, regardless of the level of consent that has been provided.
- 5.4 To help BHP protect the Eligible Reporter and their identity, the Eligible Reporter should not share details of the matter, their report, or communications with BHP with others outside of the relevant investigation team. Of course, Eligible Reporters have the right to communicate with lawyers, regulators and law enforcement authorities at any time (see 2.5 Key Principles above).

### Detrimental Conduct

- 5.5 BHP will not tolerate any detriment that is inflicted or threatened to be inflicted on an individual because they or someone else has made a report, or because someone suspects that the individual

or someone else might or could make a report, regardless of whether they have or are intending to do so. Examples of what may be considered detriment include:

- a) retaliation, dismissal, suspension, demotion, or terminating a person's engagement with BHP;
- b) harassment, threats or intimidation;
- c) discrimination, subject to current or future bias, or derogatory treatment;
- d) injury in employment, and harm including psychological harm; or
- e) damage or threats to the property, business, financial position or reputation.

This protection also applies to individuals conducting, assisting or participating in an investigation.

5.6 If anyone engages in detrimental conduct against an individual, please immediately contact EthicsPoint or one of the Eligible Recipients (as outlined under section 4.6 above). This includes where an individual feels they:

- a) are disadvantaged or have suffered detriment after making a report;
- b) are disadvantaged or have suffered detriment for participating in or assisting an investigation; or
- c) have any concerns regarding their safety for having made a report or considering making a report.

It is very important that reports of detriment are made immediately, as it will help BHP better protect its people to the greatest extent possible. Reports of detrimental conduct will be treated confidentially. Anyone engaging in detrimental conduct may be subject to serious consequences, including disciplinary action and/or termination of their engagement with BHP, as applicable. They may also be subject to legal consequences in the form of civil and criminal penalties.

#### **Other support**

5.7 For BHP staff members, the Employee Assistance Program (EAP) also provides free, confidential, short term support services by qualified professionals to employees and their immediate family members either face to face, over the phone or over the internet to employees.

## **6. Roles and Responsibilities**

### **Employees of BHP and Eligible Reporters**

6.1 If an Eligible Reporter becomes aware of or concerned about a Disclosable Matter, it is critical that they take steps to advise BHP through this Whistleblower Policy.

### **Ethics and Investigations Team**

6.2 The Ethics and Investigations Team comprises of the Head of Ethics & Investigations, the Ethics Team and the Central Investigations Team.

### **The Ethics Team**

6.3 The Ethics Team comprises of the Manager of Ethics and Ethics Team members.

6.4 Their responsibilities include:

- i. assessment, triaging and oversight of reports;
- ii. administration of this Policy;
- iii. ensuring records of reports made under this Policy are stored securely and their access is restricted;
- iv. reporting to BHP's Risk and Audit Committee twice annually, and to the Chief Compliance Officer on reports made in the preceding period, including providing de-identified details of reports made and actions taken;
- v. reporting to any boards and committees of the BHP Group in a manner agreed between the Whistleblower Program and the relevant board from time to time;
- vi. arranging role-specific training as and when required; and
- vii. conducting an annual review of this Policy so that it remains effective.



### **Central Investigation Team (CIT)**

- 6.5 The Central Investigation Team comprises of the Manager of Investigations and Central Investigation Team members. Their responsibilities include:
- a) ensuring records of reports made under this Policy are stored securely and their access is restricted;
  - b) maintaining confidentiality of the Eligible Reporter's identity and of the report being investigated in line with this Policy;
  - c) planning the investigation of matters relating to the report and taking steps to protect or preserve evidence such as documents, materials and equipment;
  - d) investigating the matter by gathering documents, information and evidence (including interviewing witnesses) relating to the report; and
  - e) drawing objective conclusions based on a fair assessment of the evidence gathered during the investigation and keeping records of the investigation process.

### **7. Breach of this Policy**

- 7.1 A breach of this Policy must be immediately escalated to the Policy Owner, the BHP Chief Compliance Officer, and is considered a breach of the BHP Code of Conduct, and may have serious consequences including termination of employment, engagement or services, where appropriate.

### **8. Administration**

#### **Further information**

- 8.1 If you would like further information on how to make a report under this Policy we encourage you to contact the Ethics Team.

#### **Legal Obligations**

- 8.2 If, in performing duties under or otherwise complying with this Policy, you identify a legal obligation that was inconsistent with this Policy, you must report this inconsistency to the Policy Owner.

#### **Administration Review and Updates**

- 8.3 The Policy owner will review and update this Policy document as required and at a minimum every two years to maintain relevance.

#### **Related Policy Documents**

- 8.4 [BHP Code of Conduct](#)

#### **Availability of this Policy**

- 8.5 This policy is published on BHP website.  
8.6 BHP's Eligible Recipients receive training on their obligations under this Policy.

#### **Exemptions to this Policy**

- 8.7 There are no exemptions to this Policy.

**Annexure A: EthicsPoint contact details**

<b>Australia and Asia</b>		<b>Americas and Caribbean</b>	
Australia	Free call <b>1800 423 473</b>	Brazil	Free call <b>0800 892 3110</b>
China	Free call <b>1080 0610 0462</b> Free call <b>1080 0261 1385</b>	Canada	Free call <b>1 844 297 4027</b>
India	Free call <b>000 800 610 1130</b>	Chile	Free call <b>123 0020 1359</b>
Japan	Free call <b>0034 800 40 1212</b>	Colombia	Free call <b>01 800 915 5860</b>
Malaysia	Free call <b>1800 817 565</b>	Ecuador	1. From an outside line dial the direct access number for your location:  Ecuador: <b>1-800-225-528</b>  Ecuador (Spanish Operator): <b>1-999-119</b>  2. At the English prompt dial: <b>877 281 5508</b>
Philippines	Free call <b>1800 1852 0032</b>  <i>Accessible on Mobile Smart and SUN Cellular devices, PLDT fixed lines and payphones</i>  Free call <b>1800 8798 9937</b>  <i>Accessible via Globe devices</i>	Mexico	Free call <b>001844 763 3254</b>
Singapore	Free call <b>800 616 7080</b>	Peru*	(country exit code) <b>1 503 906 8492</b>
		Trinidad/Tobago*	Direct <b>011 61 3 9639 1234</b>
		United States	Free call <b>1 844 801 7783</b>
<b>Europe</b>		<b>Africa</b>	
Switzerland	Free call <b>0800 562 876</b>	Algeria*	(country exit code) <b>1 502 906 8492</b>
United Kingdom	Free call <b>0800 0015 314</b>	South Africa	Free call <b>0800 998 230</b>
		Guinea*	Direct <b>00 61 3 9639 1234</b>