



# Whistleblower Policy

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Viva Leisure Limited

Adopted by the Board on 29 June 2021

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## 1. Introduction

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- (a) Viva Leisure Limited ACN 607 079 792 and its subsidiaries and controlled entities (**Company**) is committed to the important role that whistleblowers play in the identification of wrongdoing and for this reason, they are key players in the Company's governance framework, particularly in the area of risk management.
- (b) The Company recognise that individuals who are considering reporting wrongdoing may fear that their identity will be disclosed and that they will suffer retribution or other detriment by reason of having reported wrongdoing.
- (c) The Company encourages a culture of reporting actual or suspected conduct which is illegal, unacceptable or undesirable and any person who reports conduct as a whistleblower who is acting honestly, reasonably and with a genuine believe about the conduct will be supported and protected.

## 2. Purpose

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- (a) The purpose of this Policy is to:
  - i. support the Company's values and Code of Conduct;
  - ii. ensure that individuals who disclose wrongdoing can do so safely, securely and with confidence that they will be protected and supported by the Company;
  - iii. ensure that whistleblower disclosures are dealt with appropriately and on a timely basis;
  - iv. provide transparency regarding the Company's processes for receiving, handling and investigating whistleblower disclosures;
  - v. encourage employees and business partners of the Company to have the confidence to speak up and report wrongdoing; and
  - vi. help deter wrongdoing.

## 3. Policy Application

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This policy covers all **Eligible Persons**.

Any person in the Company can make a disclosure of **Reportable Conduct** under this Policy and is encouraged to do so.

## 4. Making a Disclosure of Reportable Conduct

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- (a) Disclosure of Reportable Conduct may be made by contacting a designated **Whistleblower Protection Officer**.

Disclosures may be made anonymously, confidentially, securely and outside of business hours.

The Company's Whistleblower Protection Officers are:

Whistleblower Protection Officer	Contact details
Chief Risk Officer	Sean Hodges
Head of People & Culture	Margot Allan-Georgas
Company Secretary	Kym Gallagher
Chair of the Audit Committee	Andrew Burns

- (b) Disclosure of Reportable Conduct must be based on information that is directly known to the person making the disclosure. That person must have reasonable grounds to suspect the alleged Reportable Conduct has occurred or is likely to occur. This does not include rumours of Reportable Conduct or hearsay.
- (c) When making a disclosure of Reportable Conduct, whistleblowers are encouraged to clearly communicate that they are making a disclosure of Reportable Conduct and to provide as much information as possible, including any known details related to the Reportable Conduct and any steps that have been taken to disclose the matter elsewhere in an attempt to resolve the concern.

Whistleblowers are not expected to investigate their concerns or to provide their validity prior to making a disclosure of Reportable Conduct.

- (d) Persons making a disclosure may advise that they wish to remain anonymous or place restrictions on who knows their identity. The Company will comply with these requests and will still make best endeavours to investigate an anonymous disclosure. However, there may be limitations in investigating a disclosure where a whistleblower does not consent to disclosure of their identity.

If a discloser wishes to remain anonymous, if possible, they should maintain ongoing two-way communication with the Company so the Company can ask follow-up questions or provide updates and feedback.

- (e) If an Eligible Person discloses Reportable Conduct to an **Eligible Recipient**, the Eligible Recipient must as soon as reasonably possible and with the whistleblower's consent, notify a Whistleblower Protection Officer to ensure that the Company's mechanisms for protecting and safeguarding disclosers can commence as soon as possible.

## 5. Confidentiality

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- (a) Wherever possible, your calls, notes, emails and other communications will be dealt with confidentially. You have the Company's commitment that, wherever possible, your privacy will be protected where you make a report under this Code.
- (b) The Company will take disciplinary action, which may include dismissal, against any person who makes an unauthorised disclosure of the identity of a person who makes a disclosure of Reportable Conduct under this Policy or of information that is likely to lead to the identification of that person.
- (c) It is an offence under Australian law for a person who has directly or indirectly obtained information about the identity of a person who has made a protected disclosure, to disclose the

identity of that person or information that is likely to lead to the identification of that person, without authorisation or in accordance with applicable laws.

## 6. Reporting Anonymously

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An Eligible Person may make a report about Reportable Conduct anonymously if they would prefer.

However, the Company encourages Eligible Persons to share their identity wherever possible as this will make it easier for the Company to fully investigate the report and to provide the person with the support and protections described in this Policy.

If an Eligible Person wishes to remain anonymous, they are encouraged to remain in contact with the Company and maintain ongoing two-way communication with the Company so that follow-up questions may be asked and the Company can provide feedback.

An Eligible Person who wishes to remain anonymous may wish to adopt a pseudonym for the purpose of the disclosure.

Reports may be made anonymously and still be protected under the applicable law.

## 7. Addressing a Disclosure of Reportable Conduct

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- (a) The Whistleblower Protection Officer is responsible for receiving, forwarding and acting upon disclosures made under this Policy.
- (b) A disclosure will be acknowledged by the Whistleblower Protection Officer within a reasonable period after the disclosure is received, if the discloser can be contacted.
- (c) Disclosures of Reportable Conduct will be assessed by the Whistleblower Protection Officer as to whether further investigation is appropriate. The matters will then be referred to a designated **Whistleblower Investigation Officer** for investigation.
- (d) The whistleblower will be informed of the Whistleblower Investigation Officer's appointment and the Whistleblower Investigation Officer will contact the whistleblower as soon as practicable to acknowledge receipt of the disclosure and to establish a process, including expected timeframes, for reporting to the whistleblower on the progress of dealing with the disclosure (except where the disclosure has been made on an anonymous basis).

The whistleblower will be contacted by the Whistleblower Investigation Officer, as soon as practicable, to discuss the whistleblower's welfare and to discuss a communication process, if required (except where the disclosure has been made on an anonymous basis).

- (e) If it is determined that there is insufficient information or evidence to warrant further investigation, the whistleblower will be informed at the earliest possible opportunity. No further action will be taken (except where the disclosure has been made on an anonymous basis).
- (f) Where a formal investigation is initiated, this will be an objective fair, independent, thorough and confidential process, without bias, conducted by the Whistleblower Investigation Officer.
- (g) Investigations will be independent of the business unit in respect of which allegations have been made, the whistleblower, or any person who is the subject of the Reportable Conduct.
- (h) The whistleblower will be informed by the Whistleblower Investigation Officer of the final outcome of the investigation, where appropriate and possible.

- (i) Where investigations substantiate an allegation arising from the disclosure of Reportable Conduct, the matter will be dealt with in accordance with established administrative or disciplinary procedures, which may result in disciplinary action, including termination of employment or engagement and matters may be referred to external parties where appropriate (e.g. in matters that may involve criminal behaviour).
- (j) All information relating to a disclosure and its investigation will be retained under strict security and confidentiality.
- (k) Unauthorised release of information to someone not involved in the investigation without the consent of a whistleblower will be a breach of this Policy except where the disclosure is required by law or it is appropriate to make the disclosure to a regulator. Only a restricted number of people who are directly involved in handling and investigating a disclosure are made aware of a discloser's identity or information that is likely to lead to the identification of the discloser.

## **8. Fair treatment of employees mentioned in a disclosure**

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- (a) Any Company employee who is the subject of, or mentioned in, a **Protected Report** will be:
  - i. informed about the matter in accordance with the principles of natural justice and procedural fairness;
  - ii. given a reasonable opportunity to put their case to the Whistleblower Investigation Officer if any investigation is conducted; and
  - iii. informed of the outcome of the investigation (but will not be given a copy of the investigation report).
- (b) Where an investigation does not substantiate a disclosure made in a Protected Report, the fact that an investigation has been carried out, the results of the investigation, and the identity of any person the subject of the report will remain confidential, unless the subject of the report requests otherwise.

## **9. Protection from detrimental acts or omissions**

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- (a) A person cannot engage in conduct that victimises or causes detriment to a discloser (or another person) in relation to a discloser if:
  - i. that person believes or suspects that the discloser made, may have made, proposes to make or could make a disclosure that qualifies for protection; and
  - ii. the belief or suspicion is the reason, or part of the reason, for the conduct.
- (b) All persons must abstain from any activity that is or could be perceived to be victimisation or harassment of persons who make disclosures under this Policy.
- (c) It is a breach of this Policy for any employee to cause disadvantage or to discriminate against an employee who makes a report under the Code. Examples of disadvantage and discrimination include:
  - i. reprisals, harassment or victimisation;
  - ii. demotion or dismissal or loss of opportunity for promotion; and

- iii. current or future bias.
- (d) The Company will take disciplinary action, which may include dismissal, against any person who causes detriment or threatens to cause detriment to a person because they believe or suspect that the person has made, proposes to make or could make a disclosure under this Policy.

Australian law provides that a court may order a person who causes detriment to a whistleblower to pay the whistleblower compensation (or other remedies) in respect of any loss, damage or injury suffered because of a disclosure and if an entity failed to take reasonable precautions and exercise due diligence to prevent the detrimental conduct.

- (e) A person who makes a disclosure in accordance with applicable laws is protected from civil, criminal and administrative liability in relation to their disclosure. However, these protections do not grant immunity for any misconduct the discloser has engaged in that is revealed in their disclosure.

## 10. Reporting, monitoring and reviews of investigations

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- (a) The Whistleblower Investigation Officer is to report to the **Board** with respect to the disclosure of and investigation of Reportable Conduct.
- (b) If a person who makes a disclosure of Reportable Conduct considers that their disclosure has not been dealt with in accordance with this Policy, or that they have been subject to retribution or other detriment as a result of making the disclosure, the matter should be escalated to the Whistleblower Investigation Officer in the first instance or otherwise to the Chair of the **Board**.
- (c) The Whistleblower Investigation Officer, in consultation with the Chair of the **Board**, will determine the most appropriate course for handling the matter, which may include informal resolution options or a formal investigation. Any material breaches of this Policy will also be reported to the Board.
- (d) Any matters of a criminal nature will be reported by the Whistleblower Investigation Officer, in consultation with the Chair of the **Board**, to the police and, if appropriate, other appropriate regulatory authorities.

## 11. Other persons and organisations who may be reported to

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- (a) Under the **Corporations Act**, a person may also make a report about Reportable Conduct to:
  - i. any director of Viva Leisure Limited;
  - ii. Viva Leisure Limited's auditor, or a member of the audit team conducting an audit of the Company; and
  - iii. **ASIC** or **APRA**.

Such reports will also qualify as Protected Reports.

- (b) A person is entitled to make such a report without making a prior report to their manager or to an Authorised Recipient as described in this Policy.

However, the Company encourages concerns to be reported to a person's manager or to an Authorised Recipient in the first instance.

- (c) Similar protection exists for disclosures related to the tax affairs of an entity under the **Taxation Administration Act**. The Tax Administration Act provides protection for disclosures of information that indicates misconduct or an improper state of affairs in relation to the tax affairs of an entity or

an associate of an entity where the person considers the information may assist in the recipient of that information to perform functions or duties in relation to the tax affairs of the entity or an associate.

- (d) Aside from making a disclosure under this Policy, individuals are free to make a protected disclosure at any time directly to an external party, such as ASIC, APRA and the Australian Federal Police, as provided for in the Corporations Act or under any other law.

## **12. Legal advice**

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- (a) The Corporations Act also permits a person to disclose information about Reportable Conduct to a legal practitioner for the purpose of obtaining legal advice or representation about the operation or application of the whistleblower protections in the Corporations Act. Any such disclosure will also qualify as a Protected Report.
- (b) A disclosure to a legal practitioner for the purposes of obtaining legal advice or legal representation in relation to the operation of the whistleblower provisions in the Corporations Act are protected, even in the event that the legal practitioner concludes that a disclosure does not relate to a discloseable matter.

## **13. Public interest and emergency disclosures**

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- (a) In limited circumstances, the Corporations Act permits a person to make a report about Reportable Conduct to a member of the Federal Parliament or a State Parliament or to a journalist and for that report to qualify as a Protected Report.

It is important for the person making the disclosure to understand the criteria for making a public interest or emergency disclosure.

For example, a disclosure must have previously been made to ASIC, APRA or other certain bodies as set out in the Corporations Act and in the case of a public interest disclosure, certain time periods must have passed since the previous disclosure.

- (b) The Company recommends a person considering making such a disclosure obtain independent legal advice to ensure that they understand these conditions if they are considering making a public interest disclosure or emergency disclosure.

## **14. Advice on whether a matter is Reportable Conduct**

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If a person is unsure whether something they are concerned about is Reportable Conduct, they may seek confidential guidance from the Whistleblower Protection Officer or an independent legal practitioner.

## **15. False reporting**

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- (a) The Company will treat all reports of Reportable Conduct seriously and will ensure that Eligible Persons who raise concerns in accordance with this Policy will have the benefit of the protections afforded by this Policy.

However, deliberate false reporting will not be tolerated.

False reports could have significant effects on the reputation of the Company and the personal reputations of other people and may also lead to a significant waste of time and effort.

- (b) Any person found to have made a deliberate false report will be subject to disciplinary action.

## **16. Protection against legal actions**

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- (a) Unless a report is deliberately false, a person who makes a disclosure which qualifies for protection under this Policy will not be subject to any civil, criminal or administrative liability for making the report and no action, claim or demand may be taken or made of or against the person for making the disclosure.
- (b) A person who has made a report is taken not to have committed any offence against any legislation which imposes a duty to maintain confidentiality with respect to any information disclosed.

## **17. Disclosure that are not covered by this Policy**

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- (a) Disclosures of information that is not about Reportable Conduct are not covered by this Policy and do not qualify for protection under the Corporations Act.

In particular, disclosures that relate solely to personal work-related grievances are not covered by this Policy and information relating to these matters may not be disclosed under this Policy.

A matter is a personal work-related grievance if it relates to a person's employment or former employment with the Company and has implications for them personally but:

- i. does not have significant broader implications for the Company; and
- ii. does not relate to anything done or alleged to be done by the person in relation to Reportable Conduct.

Matters that might constitute personal work-related grievances include:

- i. a decision relating to a person's engagement or the terms and conditions of engagement, including a decision regarding any transfer or promotion applied for;
  - ii. raising with the person matters relating to their performance in their role, or any other matters arising in the ordinary course of their engagement;
  - iii. any investigation of alleged misconduct by the person, or a decision to take disciplinary action, suspend or terminate their engagement; or
  - iv. an interpersonal conflict between the person and another employee.
- (b) Sometimes a disclosure about one of these matters may also constitute a report about Reportable Conduct, for example if the disclosure relates to information that suggests misconduct beyond a person's own circumstances or a larger or more systemic issue about the culture or environment of the Company.

If a person believe that this describes their situation then it is recommended that they seek advice from the Whistleblower Protection Officer.



If a person does have a personal work-related grievance that does not involve any Reportable Conduct, but they would like internal assistance to resolve that grievance then please contact **your direct manager or Human Resources** in the first instance.

## 18. Access to this Policy

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This Policy will be made available in the Corporate Governance section of the Company's website and the Company's intranet.

A copy may also be obtained from a Whistleblower Protection Officer.

## 19. Training

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The Company will provide training to employees in respect of their rights and obligations under this Policy and will provide training to managers and others who may receive disclosures made under this Policy on how to handle those disclosures.

## 20. Review of Policy

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This Policy and related procedures will be reviewed periodically by the **Board** to ensure that whistleblower reports are being appropriately recorded, investigated and responded to and to consider whether any changes are required to the Policy or procedures.

## 21. Definitions

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<b>APRA</b>	Australian Prudential Regulation Authority.
<b>ASIC</b>	Australian Securities and Investments Commission.
<b>Corporations Act</b>	Corporations Act 2001 (Cth).
<b>Eligible Person</b>	Directors, officers, employees (including permanent, part-time, fixed term or temporary), contractors, consultants, suppliers of services or goods (whether paid or unpaid) and employees of those suppliers, third party providers, interns, secondees, auditors, advisers and former employees of the Company, individuals who are associates of any entity within the Company and includes relatives, dependents and spouses of any of those persons.
<b>Eligible Recipient</b>	An officer or senior manager of the Company, the internal or external auditor (including a member of an audit team conducting an audit) or actuary or a person authorised by the Company to receive disclosure that may qualify for protection.
<b>Protected Report</b>	In broad terms, the protections available under this policy and the Corporations Act are available when an Eligible Person (defined above) makes a report about Reportable Conduct (defined below) to certain people or categories of people (e.g. an Eligible Recipient as defined above).  A report made in these circumstances is referred to in this policy as a Protected Report.

<b>Reportable Conduct</b>	<p>Actual or suspected illegal, unacceptable or undesirable conduct.</p> <p>This may include conduct or behaviour (actual, suspected or attempted) that is:</p> <ul style="list-style-type: none"> <li>• criminal; dishonest; unethical; fraudulent; misleading; deceptive; corrupt; non-compliant with, or may give rise to questionable, accounting or auditing practices;</li> <li>• in breach of regulations, legislation or inappropriate workplace behaviour, or other failure to comply with any legal or regulatory obligation;</li> <li>• a serious risk to public health, public safety or the environment;</li> <li>• deliberate conduct or otherwise, that may cause material financial, non-financial or reputational risk to the Company; or</li> <li>• inconsistent with the [Code of Conduct] or other Company policies.</li> </ul> <p>Reportable Conduct can include the conduct of a third party such as a supplier or service provider.</p> <p>Some examples include:</p> <ul style="list-style-type: none"> <li>• illegal conduct, such as theft, dealing in, or use of illicit drugs, violence or threatened violence, and criminal damage against property;</li> <li>• fraud, money laundering or misappropriation of funds;</li> <li>• offering or accepting a bribe;</li> <li>• financial irregularities;</li> <li>• failure to comply with, or breach of, legal or regulatory requirements; and</li> <li>• 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 disclosure.</li> </ul>
<b>Tax Administration Act</b>	Taxation Administration Act 1953 (Cth).
<b>Whistleblower Investigation Officer</b>	Means the person(s) who are responsible for leading investigations into disclosures made in accordance with this Policy. The Whistleblower Investigation Officer will be a different person to the Whistleblower Protection Officer.
<b>Whistleblower Protection Officer</b>	<p>Means the persons set out in section 2 of this Policy.</p> <p>The role of the Whistleblower Protection Officer is to:</p> <ul style="list-style-type: none"> <li>• provide advice to persons if they are considering making a report under this Policy;</li> <li>• support Eligible Persons to maintain confidentiality and anonymity, where relevant, in accordance with this Policy;</li> <li>• assist Eligible Persons with developing strategies for minimising and managing the impact that making the report and its investigation have on the Eligible Person;</li> <li>• seek to protect Eligible Persons from detriment (as described in this Policy) if they make a report under this Policy, including, where possible, by making a detailed assessment of the risk of detriment to them once their report has been made; and</li> <li>• investigate any concern that an Eligible Person may have suffered detriment as a result of making the report, or that the report has not been dealt with in accordance with this Policy.</li> </ul>