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Thoracic Oncology Group Australasia

## WHISTLE BLOWER POLICY

### PURPOSE

The purpose of this policy is to:

- Outline the reporting procedures for suspected misconduct and reportable offences
- Ensure disclosures are dealt with appropriately and on a timely basis
- Provide transparency around the entity's framework for receiving, handling and investigating disclosures
- Outline protections that apply and TOGA obligations to those that make disclosures
- Describe common situations that are not within the scope of this policy
- Meet the entity's legal and regulatory obligations, and;
- Align with the ASX Corporate Governance Principles and Recommendations

### GUIDING PRINCIPLES

TOGA encourages all involved in the organisation to uphold high standards of personal ethics and to bring honesty and integrity to all their dealings with the Company. TOGA is committed to providing a safe environment that exemplifies these standards and encourages and enables reporting of matters of concern.

### RESPONSIBILITIES

#### TOGA Board of Directors

- Responsible for whistleblower policy approval and review
- If a disclosure is made to the Board, follow the procedures outlined in this policy
- Uphold the obligations of TOGA outlined in this policy, and take appropriate remedial or disciplinary action when they are not upheld

#### Executive Officer

- Ensure procedures outlined in this policy are followed when a disclosure is made directly to the Executive Officer, or when the Executive Officer is charged with responsibility for following this policy following a disclosure to the Board
- Ensure dissemination of this policy to appropriate audiences
- Uphold the obligations of TOGA outlined in this policy, and take appropriate remedial or disciplinary action when they are not upheld

### POLICY

#### Overview

#### Scope

TOGA encourages any person who has knowledge of any suspected wrongdoing or unethical behaviour concerning the Company's business affairs or its workers to make a disclosure, however, certain criteria must be met to access legal protections and rights for whistleblowers under the Corporations Act.

Whistleblowers can provide their name and contact details when they report. They can also report anonymously.

A **Discloser** is any of the following individuals who make a report in accordance with this Policy:

- Employees (including current, former, permanent, part-time, casual, fixed term or temporary employees, interns and secondees);
- Directors;
- Officers;
- Contractors (including employees of contractors);
- Suppliers (including employees of suppliers);
- Associates;
- Consultants;
- Relatives, dependents, spouses or dependents of a spouse of any of the above

**Reportable Conduct** refers to any matter that a Discloser has reasonable grounds to suspect is misconduct or an improper state of affairs or circumstances in relation to TOGA including:

- A contravention of legislation, or other unlawful behaviour (including theft, drug sale/use, violence or threatened violence and criminal damage against property) that is punishable by imprisonment for a period of 12 months or more;
- Fraudulent activity;
- Dishonest behaviour;
- Corrupt conduct, such as bribery;
- Accounting irregularities;
- Malpractice;
- Undeclared conflict of interest (i.e. no proper disclosure of the conflict);
- Unethical behaviour;
- Unsafe work practices;
- Any behaviour that poses a serious risk to the health and safety of any person at the workplace or any member of the public;
- Conduct which represents gross mismanagement, serious and substantial waste and/or a repeated breach of administrative procedures;
- Any other conduct which may cause financial or non-financial loss to the Company or be otherwise detrimental to the Company's interests or reputation;
- Any other conduct that risks bringing the Company into disrepute or that the Discloser reasonably believes should be reported to management.

### Who to report a disclosure to

A Discloser may report any Reportable Conduct to:

- TOGA Executive Officer
- TOGA Chair, Board of Directors
- TOGA Deputy Chair, Board of Directors
- TOGA Company Secretary
- TOGA Governance Chair, Board of Directors
- TOGA Auditor



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Names of individuals holding these positions can be found at

<https://www.acnc.gov.au/charity/7b179b2167228cdcf5ab965c413282ae#people>

Reports can be sent to [info@thoraciconcology.org.au](mailto:info@thoraciconcology.org.au) or PO Box 1107, Thornbury, Vic, 3071.

Disclosures can be made confidentially and outside of business hours.

A Discloser is encouraged to make a report to TOGA in the first instance so that the wrongdoing can be identified and addressed as early as possible. However, you can also make a disclosure to the following:

- A legal practitioner if the Disclosure is made for the purposes of obtaining legal advice or legal representation about the operations of the Whistleblower provisions under the Corporations Act 2001
- Australian Securities and Investments Commission (ASIC);
- Australian Prudential Regulation Authority (APRA)

If you have made a previous report to ASIC or APRA, certain criteria may entail an emergency disclosure or a disclosure in the public interest <https://asic.gov.au/about-asic/asic-investigations-and-enforcement/whistleblowing/whistleblower-rights-and-protections/>

If these criteria are fulfilled, it may be appropriate to make a disclosure to a journalist or parliamentarian. If these criteria are not fulfilled and you make a public disclosure, protections afforded to whistleblowers under the Corporations Act will not apply.

### Reporting procedure

- Reportable Conduct is best reported to the Company as soon as practicable
- Any nominated individual that receives a disclosure about reportable conduct should immediately refer it to the Company comprising the TOGA Chair, Board of Directors, TOGA Company Secretary or TOGA Auditor
- On receipt of a complaint, the Company will contact the Discloser (if their identity is disclosed) to notify the Discloser that the Disclosure has been received and to confirm details of the concern.
- The Company will then promptly review the Disclosure and commence an investigation where the Disclosure contains allegations of Reportable Conduct.
- Depending on the nature and severity of the allegations, the Company may commence an investigation into the reported conduct themselves or, where considered appropriate, appoint a suitable third party to investigate the matter.
- A person named in the Disclosure will be given the opportunity to respond to the allegations.
- All individuals must co-operate fully with any investigation conducted under this policy.
- The Company will keep the Discloser informed regarding the progress of the investigation as far as is reasonably possible, and subject to privacy and confidentiality considerations. A Discloser will be informed when the investigation is concluded.
- In certain cases, for example suspected fraud, it may be necessary to keep details of the complaint confidential until evidence has been gathered or the investigation is finalised.
- For confidentiality reasons, it may not be appropriate to include details of the precise nature of any formal action that the Company has taken in response to the complaint.
- All findings of the investigation will be documented, with care taken to remove identifiers as appropriate, and confidentiality of records maintained.

### Protection

The Corporations Act provides for a number of protections for whistleblowers. These protections are:

- identity protection (confidentiality);
- protection from detrimental acts or omissions;
- compensation and remedies; and
- civil, criminal and administrative liability protection

More information can be found at: <https://asic.gov.au/about-asic/asic-investigations-and-enforcement/whistleblowing/whistleblower-rights-and-protections/>

Criteria for protection after disclosing information to the Australian Taxation Office on tax avoidance behaviour and other tax issues are slightly different. Please refer to Tax whistleblowers <https://www.ato.gov.au/general/gen/whistleblowers/>

Eligible whistleblowers are protected from victimisation, regarded as suffering any detriment by reason of the qualifying disclosure. It is unlawful for a person to engage in conduct against or threaten another person that causes, or will cause detriment, where the person believes or suspects that the other person or a third person made, may have made, proposes to make or could make a qualifying disclosure.

An Eligible Person will still qualify for protection for a disclosure even if their disclosure turns out to be incorrect.

### TOGA obligations

TOGA is committed to ensuring that whistleblowers receive the benefit of these protections under the Corporations Act.

In order to carry out obligations to protect whistleblowers, ensure fair treatment of anyone who is the subject of a disclosure, and uphold TOGA's standards of honesty and integrity, TOGA will:

- Be supportive and protective of any Discloser who, acting in good faith, reports a breach or wrongdoing to the Company under this Policy;
- Treat the identity, if disclosed, of the Discloser as confidential unless the Discloser indicates (or the law requires) otherwise;
- Treat all Disclosures seriously;
- Assess each disclosure to determine if it should be the subject of an investigation;, with the objective of any investigation to determine whether there is enough evidence to substantiate or refute the matters reported
- when an investigation needs to be undertaken, the process will be objective, fair and independent
- Keep investigations confidential so far as is practicable;
- Investigate Disclosures promptly, thoroughly and consistently with applicable law;
- Advise any subject of a disclosure about the subject matter of the disclosure and provide an opportunity to respond to any allegations as and when required by principles of natural justice and procedural fairness;
- Not tolerate any act of reprisal, repercussion, victimisation or other detriment against anyone who makes a Disclosure, or who participates in an investigation relating to possible wrongdoing.



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If a discloser, or subject of a disclosure, is subject to any detriment in relation to the disclosure, they should report this detriment to:

- TOGA Executive Officer
- TOGA Chair, Board of Directors
- TOGA Deputy Chair, Board of Directors
- TOGA Company Secretary
- TOGA Governance Chair, Board of Directors
- TOGA Auditor

For the discloser or any individual that is the subject of a disclosure, TOGA will seek to

- adjust the working environment as required
- assist with stress management, time management or performance challenges arising from the disclosure or investigation
- provide referral to appropriate support services as required

### **Confidentiality**

After receiving a report under this Policy, TOGA will only share the identity of a whistleblower or information likely to reveal the identity of the whistleblower if:

- (i) consent is obtained; or
- (ii) TOGA reports the matter to ASIC, APRA, the Tax Commissioner (ATO) or the Australian Federal Police (AFP); or
- (iii) TOGA discloses your identity to a lawyer for the purpose of obtaining legal advice or representation about the whistleblower provisions in the Corporations Act.

Unless one of these exceptions applies, disclosure of your identity, or information that could lead to your being identified, is an offence under the Corporations Act which carries serious penalties.

Similarly any person who is the subject of a disclosure can expect that the disclosure will be handled confidentially.

### **Non-reportable conduct**

If an individual has a concern about conduct involving an employee, volunteer, contractor, or on- hire worker engaged by the Company that is not Reportable Conduct, it should still be reported through the relevant channels. If the concern does not amount to Reportable Conduct, the Company will review the complaint and decide on any next steps.

### Reasonable grounds

Anyone who knowingly makes a false report of a Disclosable Matter, or who otherwise fails to act honestly, with a reasonable belief in the truth of the report of the Disclosable Matter, may be subject to disciplinary action.



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### Personal and employment-related grievances

Personal work-related grievance are not covered under this policy and should be reported to the EO or in accordance with any grievance procedure outlined in Committee ToRs. A personal work-related grievance means 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.

Personal work-related grievances may include, but are not limited to:

- an interpersonal conflict between the discloser and another employee;
- a decision that does not involve a breach of workplace laws;
- a decision about the engagement, transfer or promotion of the discloser;
- a decision about the terms and conditions of engagement of the discloser; or
- a decision to suspend or terminate the engagement of the discloser, or otherwise to discipline the discloser

### **Accessibility of the Policy**

This Policy will be made available to Personnel upon the start of their employment or engagement with TOGA, and will be placed on the TOGA website.