



Wycliffe Christian School Whistleblower Policy

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1. Introduction

1.1 Purpose and scope

This policy applies to the Wycliffe Christian School and the John Wycliffe Christian Education Association, to ensure individuals who make a report of wrongdoing in relation to the school can do so safely, securely and with confidence that they will be protected from detriment and supported.

This policy will be published on the Wycliffe Christian School website and made available to Board members and employees.

1.2 Legislative requirements

From 1 July 2019 schools which are bodies corporate (companies limited by guarantee, incorporated associations or body corporates under any law) are required to observe the provisions of the *Corporations Act* which relate to whistleblowing. For companies limited by guarantee, there is also a requirement to have a whistleblowing policy, which applies from 1 January 2020.

1.3 Registration requirements

For school registration, NSW Education Standards Authority (NESA) requires that schools publish their policies and procedures that set out the guidelines and expectations regarding complaints or allegations of staff misconduct or reportable conduct (requirement 3.6.1). These requirements are set out in NESA's [Registered and Accredited Individual Non-government Schools \(NSW\) Manual](#), January 2019.

1.4 Related policies

- Complaints or allegations of staff misconduct that do not meet the criteria of a whistleblowing disclosure will be addressed in accordance with the school's Complaints Handling Policy and Procedures.
- Disclosures about reportable conduct will be addressed in accordance with the school's Child Protection Policy.
- Disclosures regarding a grievance between staff members about work matters, including work relationships and decision made by other staff members which impact on their work, may be addressed in accordance with the school's Grievance Policy.
- Unlawful discrimination, harassment or bullying complaints may be addressed in accordance with the school's Discrimination, Harassment and Bullying Statement.

2. Christian Rationale

The core business of the School, educating children and young people in a safe and supportive environment, is conducted through relationships. Therefore, a high value is placed on maintaining and protecting relationships within the School community. Genuine Christian love for one another will direct people to resolve differences swiftly; and to protect others from harm as a result of their own actions or the actions of others.

The school's policies and procedures guide decisions and actions which will promote and safeguard the school's vision and mission through sound practice. The staff employment agreement requires all staff to maintain compliance with the school's policies; and also to exemplify godly living to students and other stakeholders.

The school recognises that we live in a fallen world, and that people make mistakes, or exercise wrong choices, which impact others, sometimes seriously. The school's processes aim to assist management and individuals to address and rectify issues: also with the goal of humble restoration and support of the person who erred. Christians are called to live in the light. Where current safeguards of compliance have failed, or have not identified wrongdoing within the school, the school recognises that whistleblowers are important in bringing such actions into the light.

The whistleblower provisions support the school's commitment to honour God in every part of its governance and operations; and to work towards continual improvement. The school shall investigate all reports of misconduct or wrongdoing and take necessary action. Where misconduct results in regulatory or legislative breaches, the school complies with the requirements of the law.

The school seeks the wellbeing and integrity of all its employees, stakeholders and students as people made in the image of God, and for His glory; and to supporting them in their faith and Christian walk.

(Source: CEN HUB Complaints Framework 2021)

3. What is a qualifying disclosure?

A qualifying disclosure is when an eligible whistleblower makes a disclosure to an eligible recipient, and the eligible whistleblower has reasonable grounds to suspect that the information concerns a disclosable matter.

4. Who can make a qualifying disclosure?

4.1 Eligible whistleblowers

An eligible whistleblower is an individual who is or has been any of the following, in relation to the school:

- a Board member;
- an employee;
- a person who supplies goods or services (paid or unpaid);
- an employee of a person who supplies goods or services (paid or unpaid);
- an individual who is an associate of the School (as defined in the Corporations Act); and
- a relative or dependent (or dependents of a spouse) of any individual described above.

4.2 Anonymous disclosures

A disclosure can be made anonymously and still be protected under the Corporations Act. A discloser can choose to remain anonymous while making a disclosure, over the course of the investigation and after the investigation is finalised.

However, this may make it difficult to investigate the reported matter. The school therefore encourages disclosers to provide their names.

If a discloser wishes to disclose anonymously, the discloser should provide sufficient information to allow the matter to be properly investigated. The school encourages the discloser to provide an anonymous email address through which additional questions can be asked and information provided. It will also allow the school to report the progress of the investigation to the discloser, as appropriate.

5. Disclosable matters that qualify for protection

5.1 Disclosable matters

A disclosable matter is a disclosure of information where the eligible whistleblower has reasonable grounds to suspect that the information relating to the School or a related company concerns:

- misconduct;
- an improper state of affairs or circumstances;
- illegal activity (including conduct of officers and employees) – meaning activity in breach of the Corporations Act or specified financial services legislation, or an offence against any law of the Commonwealth punishable by imprisonment of 12 months or more; or
- conduct (including conduct of officers and employees) that represents a danger to the public or financial system.

This may include any conduct in relation to the operation of the school that involves:

- fraudulent activity;
- negligence;
- unlawful or corrupt use of school funds;
- breach of duty;
- improper accounting or financial reporting practices;
- systemic practices that pose a serious risk to the health and safety of any person on school premises or during school activities.

If a disclosure is not about a disclosable matter, it will not qualify for whistleblower protection under the *Corporations Act*.

5.2 Reasonable grounds to suspect

Whether a discloser would have 'reasonable grounds to suspect' is based on the reasonableness of the reasons for the discloser's suspicion, having regard to all the circumstances when considered objectively.

If a disclosure is made without 'reasonable grounds to suspect', the disclosure will not be a qualifying disclosure and the discloser will not have the protections provided for under this policy and the Corporations Act. Any deliberate false reporting will be regarded very seriously.

A discloser can still qualify for protection even if their disclosure turns out to be incorrect.

5.3 Personal work-related grievances

Generally, disclosures that concern personal work-related grievances do not qualify for protection. A disclosure will concern a personal work-related grievance of the discloser if the information:

- 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
- does not have significant implications for the school that do not relate the discloser; and
- does not concern conduct that is:
 - an alleged contravention of the Corporations Act and specified financial services laws; or
 - an offence against another law of the Commonwealth, which is punishable by imprisonment of 12 months or more; or
 - a danger to the public or financial system.

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

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

These matters will be addressed in accordance with the school's Staff Grievance Policy.

A personal work-related grievance may still qualify for protection if:

- it includes information about misconduct, or information about misconduct includes or is accompanied by a personal work-related grievance (mixed report);
- the entity has breached employment or other laws punishable by imprisonment for a period of 12 months or more, engaged in conduct that represents a danger to the public, or the disclosure relates to information that suggests misconduct beyond the discloser's personal circumstances;
- the discloser suffers from or is threatened with detriment for making a disclosure; or
- the discloser seeks legal advice or legal representation about the operation of the whistleblower protections under the Corporations Act

6. Who can receive a qualifying disclosure?

6.1 Eligible recipients

An eligible recipient is an individual who occupies any of the following roles, in relation to the school or a related company:

- a Board member or the Principal or Assistant Principal
- an auditor, or member of an audit team of the school or a related company;
- an actuary of the school or a related company; and

6.2 Making a qualifying disclosure

While an eligible whistleblower can make a disclosure directly to any eligible recipient, the School encourages them to make a disclosure in writing to the Principal, via email at djohnston@wycliffe.nsw.edu.au.

If it is not appropriate for the disclosure to be made to the Principal, the eligible whistleblower is encouraged to make the disclosure, in writing, to the Board Chairman, via email at boardchairman@wycliffe.nsw.edu.au.

Where a disclosure is made to an eligible recipient who is not the Principal, then subject to the confidentiality protections set out at Section 7 below, it will generally be passed onto the Principal and dealt with in accordance with Section 7 below.

If an eligible whistleblower wishes to obtain additional information about whistleblowing procedures and protections before formally making their disclosure, they can contact the Principal or an independent legal advisor.

6.3 External disclosures

Disclosures may also qualify for protection if they are made to ASIC, APRA or a prescribed Commonwealth authority, or if an eligible whistleblower makes a disclosure to a legal practitioner to obtain advice about the operation of the whistleblower provisions.

Eligible whistleblowers who make a 'public interest disclosure' or an 'emergency disclosure' also qualify for protection.

6.4 Public interest disclosures

An eligible whistleblower can disclose to a member of Parliament or a journalist only if the information has been previously disclosed to ASIC, APRA or a prescribed Commonwealth authority, and:

- at least 90 days has passed since the eligible whistleblower made the first disclosure to ASIC, APRA or a prescribed Commonwealth authority; and
- the eligible whistleblower does not have reasonable grounds to believe action is being, or has been, taken to address the information in the disclosure; and
- the eligible whistleblower has reasonable grounds to believe that making a further disclosure of the information would be in the public interest; and
- before making the disclosure, the eligible whistleblower gives written notice to the original recipient that includes sufficient information to identify the previous disclosure and states that they intend to make a public interest disclosure; and

- the extent of information disclosed is no greater than necessary to inform the recipient of the disclosable matter.

An eligible whistleblower may wish to consider obtaining independent legal advice before making a public interest disclosure.

6.5 Emergency disclosures

An eligible whistleblower can disclose to a member of Parliament or a journalist only if the information has been previously disclosed to ASIC, APRA or a prescribed Commonwealth authority, and :

- the eligible whistleblower 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; and
- before making the disclosure, the eligible whistleblower gives written notice to the original recipient that includes sufficient information to identify the previous disclosure and states that they intend to make an emergency disclosure; and
- the disclosure of information is no greater than necessary to inform the recipient of the substantial and imminent danger.

An eligible whistleblower may wish to consider obtaining independent legal advice before making an emergency disclosure.

7. Investigating a qualifying disclosure

7.1 Receiving a disclosure

Upon receiving a disclosure, the recipient (generally the Principal or Chair of the Board) will assess the disclosure to determine whether it qualifies for protection under the *Corporations Act* and is to be managed in accordance with this policy (qualifying disclosure) or the disclosure concerns matters that should be managed in accordance with related policies (see section 1.2).

7.2 Investigating a qualifying disclosure

The School will acknowledge receipt of a disclosure within a reasonable period, assuming the 'eligible whistleblower' can be contacted (including through anonymous channels). The School will assess disclosures to determine whether:

- they fall within the Whistleblower Protection Scheme; and
- an investigation is required – and if so, how that investigation should be carried out.

Generally, if an investigation is required, the School will determine:

- the nature and scope of the investigation;
- who should lead the investigation – including whether an external investigation is appropriate;
- the nature of any technical, financial or legal advice that may be required to support the investigation; and
- the anticipated timeframe for the investigation. Each investigation will be different which will impact the applicable timeframe. However, the School's intent is to complete an investigation as soon as practicable.

Where practicable, the School will keep the eligible whistleblower informed of the steps taken or to be taken (or if no action is to be taken, the reason for this), and provide appropriate updates, including about the completion of any investigation. However, the extent of the information provided, or whether it will be provided at all, will be subject to applicable confidentiality considerations, legal obligations and any other factors the School considers relevant in the particular situation.

The School may not be able to undertake an investigation, or provide information about the process etc., if it is not able to contact the eligible whistleblower, for example, if a disclosure is made anonymously and has not provided a means of contact.

Where practicable, whistleblowers will receive updates about when the investigation has begun, while the investigation is in progress and after the investigation has been finalised. The frequency and timeframe of any updates may vary depending on the nature of the disclosure. The School will also have regard to confidentiality considerations when providing updates.

7.3 Fair treatment of employees mentioned in disclosures

The School will take steps to ensure the fair treatment of employees who are mentioned in a disclosure that qualifies for protection:

- disclosures will be handled confidentially, when it is practical and appropriate in the circumstances;
- when an investigation needs to be undertaken, the process will be objective and fair;
- employees about whom disclosures are made will generally be given an opportunity to respond to the relevant allegations made in the qualifying disclosure.

The School's employee assistance program (EAP) services will be available to employees affected by the disclosure, should they require that support.

The school will document the steps of the investigation and the findings from the investigation and report those findings to those responsible in the school. The method for documenting and reporting the findings will depend on the nature of the disclosure. There may be circumstances where it may not be appropriate to provide details of the outcome to the discloser.

8. Confidentiality and records

Under the Corporations Act, the identity of the discloser of a qualifying disclosure and information that is likely to lead to the identification of the discloser must be kept confidential.

Exceptions to this are disclosures to ASIC, the Australian Federal Police, a legal practitioner for the purpose of obtaining advice about the application of the whistleblower protections or made with the consent of the discloser.

If a disclosure involves an issue which the school is required to report, the school may not be able to maintain the confidentiality of the identity of the disclosure. This disclosure could include NSW Police, the NSW Office of the Children's Guardian, NSW Education Standards Authority or the NSW Department of Education.

It is also permissible to disclose information which could lead to the identification of the discloser if the disclosure is reasonably necessary for the purpose of investigating the matter, if all reasonable steps are taken to reduce the risk that the discloser will be identified as a result of the information being disclosed.

Breach of these confidentiality protections regarding the discloser's identity and information likely to lead to the identification of the discloser is a criminal offence and may be the subject of criminal, civil and disciplinary proceedings.

Confidentiality will be observed in relation to handling and storing records.

9. Whistleblower protections and support

- a. The school shall maintain a Whistleblower Program to protect eligible whistleblowers who wish to make a qualifying disclosure.
- b. The school shall not bring any detrimental action against a person who makes a report under this policy.
- c. The school shall treat any retaliatory action or victimisation as reprisal for a report being made as serious misconduct by a staff member, which will result in disciplinary action, which may lead to dismissal.
- d. The school shall protect the identity of whistleblowers through access to files limited to authorised personnel only.
- e. Unauthorised disclosure of information relating to a report, the identity of the reporter, or from which the identity of a reporter may be inferred will be regarded as a serious breach, which may lead to disciplinary action.
- f. The school shall offer support to persons making, or named in, a whistleblower report.
- g. Eligible whistleblowers making a qualifying disclosure cannot be subject to any civil, criminal or administrative liability (including disciplinary action) for making the disclosure. No contractual or other remedy or right may be enforced or exercised against the person on the basis of the disclosure.
- h. The school shall make this policy available to stakeholders on its website, on the school's Google drive, and upon request by stakeholders.

The School may also consider a range of other matters to protect an eligible whistleblower from the risk of suffering detriment and to ensure fair treatment of individuals mentioned in a disclosure. Steps it will take to help achieve this may include:

1. assessing whether anyone may have a motive to cause detriment—information could be gathered from an eligible whistleblower about:
 - the risk of their identity becoming known;
 - who they fear might cause detriment to them;
 - whether there are any existing conflicts or problems in the workplace; and
 - whether there have already been threats to cause detriment.
2. analysing and evaluating the likelihood of each risk and evaluating the severity of the consequences;
3. developing and implementing strategies to prevent or contain the risks—for anonymous disclosures, and assessing whether the discloser's identity can be readily identified or may become apparent during an investigation;
4. monitoring and reassessing the risk of detriment where required—the risk of detriment may increase or change as an investigation progresses, and even after an investigation is finalised;
5. taking steps to ensure that:

- disclosures will be handled confidentially, when it is practical and appropriate in the circumstances;
- each disclosure will be assessed and may be the subject of an investigation;
- the objective of an investigation is to determine whether there is enough evidence to substantiate or refute the matters disclosed.

The School's employee assistance program (EAP) services will be available to eligible whistleblowers who are employees, should they require that support. If a whistleblower who is not an employee wishes to obtain support, such as counselling or other professional support, they should contact the Principal or Board Chair.

Remedies available to an eligible whistleblower for being subjected to detriment could include:

- compensation
- injunctions and apologies
- reinstatement of a person whose employment is terminated
- exemplary damages

Schools and individuals may face significant civil and criminal penalties for failing to comply with confidentiality and detrimental conduct provisions.

10. Response to a Disclosure

- a. The Principal, or another 'Eligible Recipient' of the report, shall examine the information to assess if it meets the requirements of a qualifying disclosure under the Act.
- b. The school should seek appropriate legal advice; including notification to the school's insurer.
- c. The determination may be that:
 - The concern is unquestionably trivial or fanciful; and they may dismiss the allegation and notify the person making the allegation of their decision.
 - The matter is neither trivial nor fanciful; and the Principal ensures that the allegation is investigated, a finding is made and the person making the allegation is informed of the finding.
 - The matter is neither trivial nor fanciful; and the Principal refers it to an external agency or regulators for investigation.
 - The concern does not fit into the matters covered by the 'Whistleblower Act'; but may be dealt with under the school's complaints procedures.
- d. The Principal (or Board Chair, if the matter involves the Principal), shall be responsible for ensuring that an investigation is established and adequately resourced – whether an external or internal investigation.

11. Internal Investigation

11.1 Notes about investigations:

- Principles of procedural fairness (natural justice) will be observed in any investigation.
- The identity of the person making the report shall remain confidential.
- The person or persons conducting the investigation shall, as far as possible, be independent and unbiased.

- The absence of supporting evidence will be considered in deciding whether to investigate the matter. Absence of evidence is not an absolute bar to investigation, depending on the matter of concern.
- Persons named as a subject of a report shall be treated fairly throughout the investigation.

11.2. Investigation Process

If an internal investigation is being conducted by the school:

- Terms of reference for the investigation will be set to clarify key issues to be investigated.
- An investigation plan will be developed to ensure all relevant questions are addressed (in proportion to the seriousness of the allegation); and sufficient resources allocated.
- The investigation shall be conducted as quickly and as thoroughly as possible.
- Strict confidence will be maintained during the investigative process.
- Any person implicated in the subject matter of the report shall be given an opportunity to respond to any allegations against them (but do not have to respond).
- All information obtained will be properly secured to prevent unauthorised access.
- All relevant witnesses will be interviewed; and documents examined.
- Contemporaneous notes of all discussions, phone calls and interviews will be made.
- Interviews may be taped if appropriate; and with the full consent of all parties.

11.3. Findings of an Investigation

A report will be prepared when an investigation is complete.

This report will include:

- The allegations
- A statement of all relevant findings of fact, plus evidence relied upon in conclusions
- Conclusions reached as a result of the investigation (including damage caused/ impact on the organisation or other affected parties) and their basis
- All supporting material annexed
- Recommendations based on those conclusions to address any wrongdoing identified and any other matters arising during the investigation.

11.4 Following an Investigation

- i. The report will be provided to the person making the allegation (with, if necessary, any applicable confidentiality stipulations).
- ii. The report shall be provided to the Board, which may make further recommendations.
- iii. Regulators shall be notified as necessary.
- iv. The school shall take such action/s to rectify the situation as soon as possible.
- v. Disciplinary action may be taken in respect of other staff implicated in the matter reported.
- vi. Review the effectiveness of policy and procedures.
- vii. A Register shall be maintained of Whistleblower Disclosures which shall include appropriate action taken in a reasonable timeframe.
- viii. If the allegations are determined to be not substantiated, documents relating to the investigation will be securely stored; and the outcome logged in the Register.

12. Staff Training

The school seeks to promote a culture of compliance with the requirements of:

- legislation and regulators;
- professional and ethical standards; and
- Christian witness and lifestyle,

as set out in the school's policies, procedures, codes of conduct, Statement of Faith and other guidelines for practice.

The school expects all staff members, volunteers and contractors who have reasonable grounds to suspect wrongdoing, or non-compliance, to report such matters to their immediate coordinator, or a member of the school executive, through the complaints processes.

- a. Staff training, including induction of new staff, includes:
 - A clear understanding of professional behaviour expected by the school e.g. Staff Code of Conduct
 - Professionalism – competency, integrity, care, ethics, conscientiousness
 - Complaints handling procedures
- b. Staff shall be trained in complaints handling procedures, including the provisions of the Whistleblower Policy.
- c. Staff identified as Eligible Recipients of disclosures shall be trained in the requirements and responsibilities of their position.

13. Contact

If you have any queries about this policy, you should contact the Principal, David Johnston, for advice.