

## Whistleblower Policy

### Audience: School Community

#### Introduction

St Paul's Anglican Grammar School is committed to sound governance and ethical behaviour that is aligned with our values and complies with all relevant laws.

A whistleblower is a person who makes a disclosure, outside existing internal reporting procedures, whether anonymously or not, with respect to serious misconduct such as corruption, fraud or some other illegal or undesirable activity.

We recognise that people who have a work, service or customer relationship with the School are often best placed to identify illegal or other undesirable conduct, but may remain silent for various reasons, including that:

- there is not a clear mechanism for them to speak up
- they are concerned that they may not have sufficient evidence to support their disclosure
- they believe action will not be taken
- they believe they may suffer detriment if they report the matter.

We are committed to providing a supportive environment for any person making a whistleblower disclosure and we will always strive to ensure that every whistleblower is protected from detriment as a result of blowing the whistle. This includes protection from dismissal or demotion, any form of reprisal including retaliation, harassment or victimisation.

The School has documented and implemented a detailed Whistleblower Program, that is available to the School Board, Executive Team and all staff (teaching and support staff). Our Whistleblower Program sets out key roles and responsibilities and outlines processes with respect to ensuring transparency and accessibility for all key stakeholders including School Board members, staff, parents, carers, volunteers, contractors, students and suppliers. It also sets out internal management reporting requirements and responsibilities with respect to the ongoing maintenance and review of the Whistleblower Program and this Whistleblower Policy.

All School Board members and School staff members are required to be aware of this policy with respect to the objectives and practical application of our program.

## Policy Objectives

The objectives of this Policy are to:

- encourage the reporting of actual and suspected wrongdoing that may materially damage our reputation and/or cause material financial or non-financial loss to the School
- describe clearly the process for making a whistleblower disclosure and the types of matters that should be reported
- describe clearly the process for investigating a whistleblower disclosure
- outline how the School manages whistleblower disclosures in a way that supports and protects the whistleblower (including protecting their identity and protecting them from reprisals), provides fair treatment to persons named in whistleblower disclosures, facilitates appropriate investigation of whistleblower disclosures and provides for the secure storage of the information provided and gathered.

## Policy Scope

Our Whistleblower Program, including this Policy, has been designed to be available to all current or former:

- directors and officers of St Paul’s Anglican Grammar School
- members of the Executive Team
- permanent, part-time and casual staff (teaching and support staff)
- volunteers
- contractors
- suppliers
- parents and carers
- students
- other key stakeholders.

It is important to note that the protections available to whistleblowers under the Corporations Act only apply to “eligible whistleblowers”. For more information with respect to who are eligible whistleblowers refer to section 5 of this Policy, Whistleblower Support and Protection.

## Types of Conduct to be Reported

Our Whistleblower Program is designed to capture actual or suspected wrongdoing, that a person providing the disclosure considers, can not reasonably be managed through our existing internal reporting procedures. Examples of wrongdoing that may be reportable include:

- fraud, forgery, misappropriation, misuse, misdirection, misapplication, maladministration or waste of funds

- gross mismanagement
- grooming and/or child abuse
- conflicts of interest, nepotism, favouritism
- theft, embezzlement, tax evasion
- corruption, dishonesty involving influence
- coercion, harassment or discrimination by, or affecting, any of our staff, volunteers or contractors
- assault, blackmail, taking or offering bribes
- abuse of public trust
- misleading or deceptive conduct of any kind, including conduct or representations that amount to improper or misleading accounting or financial reporting practices by or affecting the School
- other criminally prosecutable offences
- failure to report, or concealment of, an indictable offence
- unreasonable danger to health or safety of others
- failure to act in accordance with applicable professional and ethical standards
- blatant disregard for organisational policies
- a significant threat to the environment
- significant breach of the terms of any contract that binds the School
- other serious acts such as refusing to carry out lawful and/or reasonable actions under a contract
- other serious misconduct that may materially damage the School's reputation, or may otherwise be detrimental to the School
- any other act that would otherwise be considered, by a reasonable person, to be serious improper conduct, or an improper state of affairs, or circumstances.

Wrongdoing would also include a deliberate attempt to conceal any of the actions described above.

A person making a whistleblower disclosure is expected to act in good faith and have reasonable grounds for believing that wrongdoing has occurred.

A whistleblower should not use the whistleblower service to report a personal work-related grievance, a third party complaint or a child protection incident that could be effectively managed through our existing internal reporting procedures.

It is important to note that the protections available to whistleblowers under the Corporations Act only apply to "eligible whistleblowers" who report "disclosable matters" to "eligible recipients" or to the Australian Securities and Investments Commission (ASIC), the Australian Prudential Regulation Authority (APRA) or a prescribed Commonwealth authority.

For more information with respect to "eligible whistleblowers" and "disclosable matters" refer to Whistleblower Support and Protection below.

### **Whistleblower Support and Protection**

St Paul's Anglican Grammar School is committed to providing a supportive environment for any person making a whistleblower disclosure and we will always strive to ensure that every whistleblower is

protected from detriment as a result of blowing the whistle. This includes protection from dismissal or demotion, any form of reprisal including retaliation, harassment or victimisation.

In addition, the Corporations Act provides certain protections for whistleblowers in certain circumstances. These protections are designed to encourage people within companies, or with special connections to companies, to make disclosures of actual or suspected wrongdoing.

### **Eligibility for Protections Under the Corporations Act**

In order to be eligible for the protections available under the Corporations Act the whistleblower disclosure must be:

- made by an **eligible whistleblower**; and
- a **disclosable matter**; and
- made to an **eligible recipient** or to the Australian Securities and Investments Commission (ASIC), the Australian Prudential Regulation Authority (APRA) or a prescribed Commonwealth authority.

The Corporations Act also specifically protects “**public interest disclosures**” and “**emergency disclosures**” in certain circumstances.

In simple terms, all directors and officers, staff members, and suppliers of services and goods (whether paid or unpaid) (as well as their relatives and dependants, and the dependants of their spouses) are eligible whistleblowers. Students, parents, carers and other key stakeholders are not eligible whistleblowers, unless they fit into one of the categories noted above. This doesn't preclude students, parents and carers from making a whistleblower disclosure, but they will not be afforded the protections under the Corporations Act.

Additionally, to qualify for protection under the Corporations Act the whistleblower must have reasonable grounds to suspect that the information reported concerns serious misconduct, or an improper state of affairs or circumstances, in relation to the School. This includes circumstances where the conduct concerned constitutes an offence under the Corporations Act or circumstances that constitute an offence that is punishable by imprisonment for a period of 12 months or more, or represents a danger to the public or the financial system.

Should you have any doubt as to whether your disclosure qualifies for protection under the Corporations Act you should seek independent legal advice before making the disclosure. A disclosure of information that is made to a legal practitioner for the purpose of obtaining legal advice or legal representation in relation to the operation of the whistleblower provisions in Part 9.4AAA of the Corporations Act qualifies for protection.

### **Anonymity and Confidentiality**

St Paul's Anglican Grammar School will, as far as reasonably possible, provide to whistleblowers the ability to make a report anonymously and will take all reasonable steps to reduce the risk that the whistleblower will be identified as a result of the investigation.

It is a contravention of the Corporations Act if, a whistleblower disclosure that qualifies for protection (qualifying disclosure) is made and a person other than the whistleblower discloses:

- the identity of the whistleblower, or information that is likely to lead to the identification of the whistleblower (“the confidential information”)
- the confidential information is information that the person obtained directly or indirectly because of the qualifying disclosure
- the disclosure of the identifying information is **not authorised**.

Disclosure of the confidential information is authorised if:

- the whistleblower consents to its disclosure;
- the disclosure is made to ASIC, APRA or the Australian Federal Police;
- the disclosure is made by ASIC, APRA or the Australian Federal Police to a Commonwealth authority, or a State or Territory authority, for the purpose of assisting the authority in the performance of its functions or duties or
- the disclosure is made to a legal practitioner for the purpose of obtaining legal advice or legal representation in relation to the operation of whistleblower laws contained in the Corporations Act.

It is important to note that it is not a contravention of the Corporations Act if, whilst the receiver does not disclose the identity of the whistleblower directly, information that is likely to lead to the whistleblower being identified is disclosed in the course of investigating the whistleblower disclosure, in circumstances where all reasonable steps have been taken to reduce the risk that the whistleblower will be identified.

### **Whistleblower Not Subject to Liability for Making the Disclosure**

The Corporations Act provides that where a whistleblower disclosure qualifies for protection:

- a whistleblower is not subject to any civil, criminal or administrative liability for making the disclosure
- no contractual or other remedy may be enforced, and no contractual or other right may be exercised, against the discloser on the basis of the whistleblower disclosure
- if the disclosure was made to ASIC, APRA or a prescribed Commonwealth authority, the information contained in the disclosure is not admissible in evidence against the whistleblower in criminal proceedings, or in proceedings for the imposition of a penalty, other than proceedings in respect of the falsity of the information.

It is important to note that, except for the third set of circumstances set out above, the Corporations Act does not prevent the whistleblower being subject to any civil, criminal or administrative liability for conduct of the whistleblower that is disclosed in the whistleblower disclosure.

In other words, if a whistleblower has been involved in the wrongdoing they have reported, no action will be taken against them for reporting the wrongdoing. However once the report has been investigated, appropriate action may be formulated in response to all aspects of the wrongdoing that have been substantiated. This action may include civil, criminal or administrative action against the whistleblower if they were involved in the wrongdoing.

## **Protection from Retaliation, Harassment or Victimisation**

Our commitment to ensuring the highest standards of ethical conduct within the School includes creating and maintaining a “speak-up culture”, where all staff are encouraged to identify issues in the workplace and participate in resolving them. This includes “speaking up” through our existing internal reporting procedures including our Internal Grievance Policy, Complaints Handling Program and Child Protection Program.

We do not tolerate reprisals or adverse action being taken against whistleblowers for reporting actual or suspected wrongdoing, including when suspicions are not substantiated following a thorough investigation.

We take steps to promote awareness to all staff of their responsibilities to treat their colleagues and stakeholders with respect, and never to engage in behaviour that is discriminatory or that characterises bullying or harassment. These responsibilities encompass acknowledging that reporting actual or suspected wrongdoing is integral to an ethical culture, and nobody who reports actual or suspected wrongdoing should experience detriment as a result.

If a whistleblower provides their identity when they make a whistleblower disclosure the Whistleblower Officer assigned to the case, will proactively monitor the workplace for signs of retaliation, harassment or victimisation and intervene when necessary.

A whistleblower who experiences retaliation, harassment or victimisation should immediately report it to their Whistleblower Officer. Any such conduct will be treated as serious misconduct and the perpetrator of the retaliation will be subject to disciplinary action.

It is a criminal offence if a person engages in conduct that causes detriment to another person in circumstances where the first person believes or suspects that the second person, or any other person made, may have made, proposes to make, or could make, a whistleblower disclosure that qualifies for protection under the Corporations Act and the belief or suspicion of the first person is the reason, or part of the reason, for the conduct.

## **Protection from Detriment (including Internal Disciplinary Action)**

To promote a culture that encourages whistleblower disclosures it is the School’s policy that where a whistleblower has acted in good faith, and the individual involved has not engaged in serious misconduct or illegal activity, the whistleblower will not be subject to internal disciplinary proceedings that may have otherwise arisen from the matters that are the subject of the whistleblower disclosure.

Detriment is a defined term under the Corporations Act and includes:

- dismissal of an employee
- injury of an employee in their employment
- alteration of an employee’s position or duties to their disadvantage;
- discrimination between an employee and other employees of the same employer
- harassment or intimidation of a person
- harm or injury to a person, including psychological harm
- damage to a person’s property

- damage to a person's reputation
- damage to a person's business or financial position
- any other damage to a person.

A court may make an order for compensation to be paid by a person or company (including St Paul's Anglican Grammar School) (the first person) who engages in detrimental conduct, relating to a qualifying disclosure, that causes any detriment to another person (the second person), or constitutes the making of a threat to cause any such detriment to the second person. In these circumstances a court may also order other remedies including:

- the granting of an injunction to prevent, stop or remedy the effects of the detrimental conduct;
- requiring the first person to apologise to the second person, or any other person, for engaging in the detrimental conduct;
- re-instatement of employment;
- exemplary damages, being damages assessed in order to punish the defendant for serious and intentional or reckless conduct and/or to reform or deter the defendant and others from engaging in similar conduct.

### **Investigating a Whistleblower Disclosure**

All disclosures, other than those that are not [qualifying disclosures](#), will be investigated by a Whistleblower Investigator.

Whistleblower Investigators are appointed by the Whistleblower Manager on a case-by-case basis depending on the particular circumstances of the whistleblower disclosure.

The Whistleblower Officer will act independently of the Whistleblower Investigator and focus on the protection of the whistleblower during the investigation.

Whistleblower Investigators will be provided reasonable access to independent specialist advice if required and all School Board members, staff members, volunteers and contractors at the School will be required to assist the Whistleblower Investigator in carrying out their investigations to the maximum possible extent.

The Whistleblower Investigator will, as far as reasonably possible, follow best practice in investigations including ensuring that all reports of suspected wrongdoing that amount to non-qualifying disclosures are investigated in a way that adheres to the principles of objectivity, procedural fairness, confidentiality and natural justice. This includes providing fair treatment to people who have been mentioned in a report of actual or suspected wrongdoing, by informing of the substance of statements that have been made about them and giving them a reasonable opportunity to respond.

### **Provision of Feedback**

If the whistleblower's identity is known to the Whistleblower Investigator then, where possible the School will provide feedback to the whistleblower during the course of the investigation and will ensure that the whistleblower will be informed of the outcome of an investigation and in particular:

- if the whistleblower's concern was substantiated, the action that has been taken or will be taken to address the issues
- if the whistleblower's concern was not substantiated, then that no further action will be taken unless further information becomes available.

## **How to Make a Whistleblower Disclosure**

To provide effective protection of whistleblowers, including allowing continuous discussion with anonymous whistleblowers, St Paul's Anglican Grammar School has chosen to use the external, secure, online service Integrity Line.

Integrity Line is an independent service provider with staff who are specifically trained to deal with the types of sensitive issues that are reported through whistleblower systems.

A whistleblower disclosure to Integrity Line may be provided on an anonymous basis or on the basis that the whistleblower's identity is disclosed to Integrity Line only and kept confidential from the School. The provision of whistleblowers' identities to Integrity Line can assist in any subsequent investigation and allow Integrity Line to follow up to seek any clarification or feedback.

You can raise your concerns or submit a whistleblower disclosure directly to Integrity Line through any of the following methods:

### **Integrity Line Online**

Integrity Line Telephone: 1800 468 456

Integrity Line Online Report: <https://integrityline.com.au/make-an-online-report/>

A whistleblower should not use the whistleblower service to report a personal work-related grievance or a third party complaint about a matter that does not amount to misconduct that could be effectively managed through our existing internal reporting procedures.

If a whistleblower disclosure is made through the whistleblower service that does not meet the threshold of reportable wrongdoing such as that listed above in section four of this Policy it may be referred by the Whistleblower Officer to the appropriate department or staff member to manage (for example our HR Manager) and will be recorded as not being a disclosable matter. Protection of anonymity does not apply in the same strictness to disclosures that are not disclosable matters, however confidentiality will be maintained as appropriate.

### **Policy History and Schedule**

Version: 2.0

Approved by: YGL

Date Approved: 24 February 2023

Author: Business Manager

Next Review: 3 Years