CAMPBELLTOWN
ANGLICAN SCHOOLS

Whistleblower Policy

CPo103

CASC
Broughton Anglican College
St Peter's Anglican Grammar
St Peter's Heart
Central Services

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1. Introduction

The Council develops and reviews policies necessary for the proper functioning of The Schools' Council and the governing and operation of both The Council and The Schools in order to satisfy its legal obligations, manage risk, provide strategic guidance and monitor strategic progress and operational performance.

2. Policy Statement

This policy applies to The Council and The Schools to ensure individuals (**Whistleblower**) who disclose wrongdoing (a **Qualifying Disclosure**) in relation to the organisation can do so safely, securely and with confidence that they will be protected and supported, and so that staff and eligible Whistleblowers have clarity as to the handling of Qualifying Disclosures.

3. Biblical Basis

The core business of The Schools, of 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 Schools' 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 Schools' policies and procedures guide decisions and actions which will promote and safeguard The Schools' vision and mission through sound practice. The staff employment policy agreement requires all staff to maintain compliance with The Schools' policies; and also to exemplify godly living to students and other stakeholders. The Schools recognise that we live in a fallen world; and that people make mistakes, or exercise wrong choices, which impact others, sometimes seriously. The Schools' 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. *"Brothers and sisters, if someone is caught in a sin, you who live by the Spirit should restore that person gently. But watch yourselves, or you also may be tempted"*. (Galatians 6:1) Christians are called to live in the light.

Where current safeguards of compliance have failed or have not identified wrong-doing within The Schools, The Schools recognise that Whistleblowers are important in bringing such actions into the light, Ephesians 5:8-11; 15-17. The Whistleblower provisions support The Schools' commitment to honour God in every part of its governance and operations; and to work towards continual improvement. The Schools shall investigate all reports of misconduct or wrong-doing and take necessary action. Where misconduct results in regulatory or legislative breaches, The Schools comply with the requirements of the law, Romans 13:1. In this respect, this Policy also complies with the provisions of the Corporations Act (2001), which applies to a wide range of entities include non-profit entities such as The Council.

The Schools seek the wellbeing and integrity of all its employees, stakeholders and students. As people made in the image of God, and for His glory, they are supported in their faith and Christian walk.

4. Expanded Policy Statement

4.1 Who can make a Qualifying Disclosure?

4.1.1 Eligible Whistleblowers

An eligible Whistleblower is an individual who is or has been any of the following, in relation to The Council and The Schools:

- a member of The Council;
- an employee (whether paid or volunteer);
- 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 Council (as defined in the Corporations Act); and
- a relative or dependent (or dependents of a spouse) of any individual described above.

4.1.2 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 Council 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. Council encourages the discloser to provide an anonymous email address through which additional questions can be asked and information provided. It will also allow The Council / The Schools to report the progress of the investigation to the discloser, as appropriate.

4.2 Disclosable matters that qualify for protection

4.2.1 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 Council, The Schools 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 The Schools' 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 The Council or The Schools premises or during The Schools activities.

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

4.2.2 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.

4.2.3 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 Council / The Schools 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 Council's / The Schools' Staff Grievance Policy. (See also Section 10.)

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.

4.3 Who can receive a Qualifying Disclosure?

4.3.1 Eligible recipients

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

1. Where a Qualifying Disclosure relates to an individual school, the eligible recipient is the Head of School (unless the disclosure relates to the Heads of School, in which case point 3 applies);
2. Where a Qualifying Disclosure relates to shared services (e.g., IT, Finance, Project based building or capital works services), the eligible recipient is the COO/CFO (unless the disclosure relates to the COO/CFO, in which case point 3 applies);
3. Where a Qualifying Disclosure relates to the Heads of School or the COO/CFO, the eligible recipient is the CEO of The Schools (unless the disclosure relates to the CEO of The Schools, in which case point 4 applies);

4. The Chair is an eligible recipient at any time, unless the Qualifying Disclosure relates to the Chair (see point 5 below where the disclosure relates to the Chair of Council);
5. Where the Qualifying Disclosure affects the Chair of Council, the Qualifying Disclosure is to be made to the Bishop of South Western Region, Diocese of Sydney, Anglican Church of Australia via email at plin@sydney.anglican.asn.au.
6. an auditor, or member of an audit team of The Council or The Schools or a related company; and
7. an actuary of The Schools or a related company.

4.3.2 Making a Qualifying Disclosure

While an eligible Whistleblower can make a disclosure directly to any eligible recipient, The Council / The Schools encourages them to make a disclosure in writing to the CEO of The Schools, via email executivehead@casc.nsw.edu.au.

If it is not appropriate for the disclosure to be made to the CEO of The Schools, the eligible Whistleblower is encouraged to make the disclosure, in writing, to the Chair of The Council, via email at chair@casc.org.au.

If it is not appropriate for the disclosure to be made to either the CEO of The Schools or Chair of The Council, the eligible Whistleblower is encouraged to make the disclosure, in writing, to the Bishop of South Western Region, Diocese of Sydney, Anglican Church of Australia, via email at plin@sydney.anglican.asn.au.

Where a disclosure is made to an eligible recipient who is not the CEO of The Schools, then subject to the confidentiality protections set out at Section 4.5 below, it will generally be passed onto the CEO of The Schools and dealt with in accordance with Section 4.6 below.

In the normal course, the fact that a Qualifying Disclosure has been received (without passing on any additional detail outside of the investigation process), will be reported to The Council at its normal monthly meeting until the issue is resolved.

If an eligible Whistleblower wishes to obtain additional information about whistleblowing procedures and protections before formally making their disclosure, they can contact the CEO of The Schools via email at executivehead@casc.nsw.edu.au or an independent legal advisor.

4.3.3 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.

4.3.4 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.

4.3.5 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.

4.4 Investigating a Qualifying Disclosure

4.4.1 Receiving a disclosure

Upon receiving a disclosure, the recipient (generally the CEO of The Schools or Chair of The Council) 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 managed in accordance with related policies (see section 10).

4.4.2 Investigating a Qualifying Disclosure

The ASIC Regulatory Guide requires that the policy must provide transparency about how it will handle and investigate disclosures, including key steps and timeframes for handling and investigating disclosures.

Therefore, the summary below has been adapted to reflect the procedures that The Schools will adopt.

The School / Council will acknowledge receipt of a disclosure within a reasonable period, assuming the 'eligible Whistleblower' can be contacted (including through anonymous channels). The School / Council 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 Schools / The Council 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 Council's intent is to complete an investigation as soon as practicable.

Where practicable, The Schools / The Council 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 / The Council considers relevant in the particular situation.

The School / The Council 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 (e.g. 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 Council / The Schools will also have regard to confidentiality considerations when providing updates.

4.4.3 Fair treatment of employees mentioned in disclosures

The Council / The Schools will take steps to ensure the fair treatment of employees who are mentioned in a disclosure that qualifies for protection. For example:

- 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;
- disclosures will be handled confidentially, when it is practical and appropriate in the circumstances.

The Council's / Schools' Employee Assistance Program (EAP) services will be available to employees affected by the disclosure, should they require that support.

The Council / The Schools will document the steps of the investigation and the findings from the investigation and report those findings to those responsible in The Council / The Schools. 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.

4.5 Confidentiality and records

Under the Corporations Act, the identity of the discloser of a Qualifying Disclosure and information which 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 Council / The Schools are required to report, The Council / The Schools may not be able to maintain the confidentiality of the identity of the discloser. This disclosure could include NSW Police, the NSW Office of the Children's Guardian, NSW Education Standards Authority or the NSW Department of Education (or any of their successors).

It is also permissible to disclose information which could lead to the identification of the discloser, if the information is reasonably necessary for the purpose of investigating the matter, and 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.

4.6 Whistleblower protections and support

Confidentiality

Eligible Whistleblowers making a Qualifying Disclosure are protected by the requirement that their identity, and information that may lead to their identification, should be kept confidential, subject to relevant exceptions as set out in section 4.5 above.

The Council / The Schools will protect an eligible Whistleblower's identity by appropriately redacting documents and referring to the Whistleblower in gender-neutral terms. It will also secure all documents and communicate with them in a way that will maintain confidentiality.

Immunity

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.

Whistleblowers who make some types of Qualifying Disclosures (generally external to The Council / The Schools) are also provided immunities to ensure that information they disclose is not admissible in evidence against them in criminal proceedings or in proceedings for the imposition of a penalty, other than proceedings in respect of the falsity of the information.

These immunities do not prevent an eligible Whistleblower being subject to criminal, civil or other liability for conduct that is revealed by the Whistleblower, only that the information the person has disclosed is not admissible in certain proceedings against them.

Detriment

Eligible Whistleblowers are also protected from victimisation - suffering any detriment by reason of the Qualifying Disclosure. It is unlawful for a person to engage in conduct against 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.

Threats of detriment are also unlawful.

Detriment has a very broad meaning and includes dismissal of an employee, injuring an employee in their employment, alteration of an employee's position or duties to their disadvantage, discrimination between an employee and other employees, victimisation of a dependent of the discloser, harassment or intimidation of a person (including psychologically), harm or injury to a person, and damage to a person's property, reputation or business or financial position.

If an eligible Whistleblower believes they are being subjected to a detriment or a threat of detriment, this should immediately be reported in writing to the CEO of The Schools, via email executivehead@casc.nsw.edu.au.

If it is not appropriate for the report to be made to the CEO of The Schools, the eligible Whistleblower should report the matter, in writing, to the Chair of The Council, via email at chair@casc.org.au.

The Council / The Schools 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 Council's / 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 COO/CFO.

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

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

4.7 Contact

If you have any queries about this policy, you should contact CEO of The Schools, via email executivehead@casc.nsw.edu.au or at PO Box 6, Macarthur Square NSW 2560 for advice.

5. Stakeholders

Key stakeholders include:

- Bishop of South West Sydney
- The Council
- all staff employed by The Council
- contracted staff
- students
- parents and carers
- visitors

6. Communication Plan and Visibility

This policy will be visible and accessed through The Schools' document management system. Upon request, this policy will be made available to parents and carers.

7. Ownership and Approval of Policy

This policy is the property of The Council and is to be approved by The Council members.

8. Evaluation and Review

The policy will be reviewed annually by the CEO of The Schools in partnership with The Council.

9. Definitions

Whistleblower	Any individual who may become aware of and reports misconduct or dishonest or illegal activity that may have occurred within that organisation. Whistleblower protections are the protections provided to Whistleblowers to enable them to come forward to report misconduct without fear of retribution or personal detriment.
Qualifying Disclosure	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.
Reasonable Grounds	The basis of Qualifying Disclosure, meaning "*that a reasonable person in your position would also suspect the information indicates misconduct or a breach of law*." (Source ASIC website).

10. Related Documents

- Policy Definitions
- Complaints or allegations of staff misconduct that do not meet the criteria of a whistleblowing disclosure will be addressed in accordance with The Schools' *Complaints Handling Policy and Procedures*.
- Disclosures about reportable conduct (under Child Protection legislation, etc.) will be addressed in accordance with The Schools' *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 Schools' *Staff Grievance Policy*.
- Unlawful discrimination, harassment or bullying complaints may be addressed in accordance with The Schools' *Discrimination, Harassment and Bullying Statement*.

11. Appendices

12. Sources used to develop this Policy

- ASIC Website (accessed 2021)
- Corporations Act (2001)
- Sample Whistleblower Policy: AIS (Provided 2021)
- Previous Whistleblower Policy 0.4 adopted by The Council November 2021