



The
Anglican
Schools
Corporation

Whistleblower Policy 2020

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1. Introduction

1.1 Purpose and scope

This policy applies to all schools and controlled entities of the Anglican Schools Corporation (collectively referred to as the Corporation) to ensure individuals who disclose wrongdoing in relation to the Corporation can do so safely, securely and with confidence that they will be protected and supported.

This policy will be published on the Anglican Schools Corporation website, the websites of the Corporation's schools, and made available to Directors, School Council Members and employees.

1.2 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 *Complaints Handling Policy and Procedures*.
- Disclosures about reportable conduct will be addressed in accordance with the *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 *Internal Grievance Resolution Policy*.
- Unlawful discrimination, harassment or bullying complaints may be addressed in accordance with the *Code of Conduct* and policies related to bullying, harassment and equal employment.

2. 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**.

3. Who can make a qualifying disclosure?

3.1 Eligible whistleblowers

An eligible whistleblower is an individual who is or has been any of the following, in relation to the Corporation, its schools or its controlled entities:

- a Board or School Council 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 Corporation (being a director or secretary of the Corporation or any of its related bodies corporate as defined in the Corporations Act); and
- a relative or dependent (or dependents of a spouse) of any individual described above.

3.2 Anonymous disclosures

A disclosure can be made anonymously and still be protected under the *Corporations Act*. A whistleblower 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 Corporation therefore encourages whistleblowers to provide their names given the protections under the Whistleblower Policy and Corporations Act.

If a whistleblower wishes to disclose anonymously, the Corporation's Your Call whistleblowing service enables this. Refer to Appendix 1 for information on using the Your Call service.

A whistleblower should provide sufficient information to allow the matter to be properly investigated. If a whistleblower does not use Your Call, and still wishes to remain anonymous, the Corporation encourages the whistleblower to provide an anonymous email address through which additional questions can be asked and information provided. It will also allow the Corporation to report the progress of the investigation to the whistleblower, as appropriate.

4. Disclosable matters that qualify for protection

4.1 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 Corporation 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.

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

4.2 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.

4.3 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 Corporation 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; or

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 Corporation's (or relevant school's) Staff Grievance Policy.

5. Who can receive a qualifying disclosure

5.1 Eligible recipients

An eligible recipient is an individual who occupies any of the following roles, in relation to the Corporation:

- a Corporation Board member;
- in respect of each Corporation school, the Principal and the Chair of Council;
- an auditor, or member of an audit team of the Corporation, Corporation school or a related company;
- an actuary of the Corporation, Corporation school or a related company; and
- any member of the Corporation's Whistleblower Committee, comprising the Corporation's Chief Executive Officer, Chief Risk Officer and the Corporate Secretary.

5.2 Making a qualifying disclosure

While an eligible whistleblower can make a disclosure directly to any eligible recipient, the Corporation encourages them to make a disclosure:

- through the Your Call whistleblowing service (refer Appendix A); or

- to the Whistleblower Committee,

Disclosures received through the Your Call service will be directed to the Whistleblower Committee. Membership of the Whistleblower Committee is set out in Section 9 of this policy.

If it is not appropriate for the disclosure to be made to the [Whistleblower Committee](#), the eligible whistleblower is encouraged to make the disclosure, in writing, to the [Chair of the Board of the Corporation](#), via email at chairman@sasc.nsw.edu.au.

5.3 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.

5.4 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.

5.5 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.

6. Investigating a qualifying disclosure

6.1 Receiving a disclosure

Upon receiving a disclosure, the eligible recipient 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).

6.2 Investigating a qualifying disclosure

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

The Corporation 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.

6.3 Employees mentioned in disclosures

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

7. 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 Corporation is required to report, the Corporation 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 whistleblower 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 whistleblower will be identified as a result of the information being disclosed.

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

8. 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 7 above.

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 Corporation) 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 whistleblower, harassment or intimidation of a

person or harm or injury to a person, including psychological harassment; 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 through the Your Call service (refer Appendix A) or in writing to the Chief Risk Officer, via email.

If it is not appropriate for the report to be made to the Chief Risk Officer, the eligible whistleblower should report the matter, in writing, to the Corporation's Chief Executive Officer, or Chair of the Board.

The Corporation'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 Director People Advisory.

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 Corporation and individuals, including volunteers such as Council members, may face significant civil and criminal penalties for failing to comply with confidentiality and detrimental conduct provisions.

9. Contact

If you have any queries about this policy, you should contact the Chief Risk Officer for advice.

The contact details for the members of the Whistleblower Committee are:

Chief Executive Officer	E ceo@tasc.nsw.edu.au P (02) 8567 4040
Chief Risk Officer	E cro@tasc.nsw.edu.au P (02) 8567 4067
Company Secretary	E Corpsec@tasc.nsw.edu.au P (02) 8567 4043

10. Legislative Requirements

Corporations Act 2001, Part 9.4AAA.

11. Policy Review

This Policy shall be reviewed every three years or in the event of any legislative change, organisational change or other information that would warrant a review.

Appendix A – Your Call Whistleblower Service

We have contracted Your Call Whistleblowing Solutions (“Your Call”) as the whistleblower service for the Corporation, its schools and controlled entities.

The Your Call whistleblowing service reporting options include:

- *Website* <https://www.yourcall.com.au/report>
24/7

- *Telephone* 1300 790 228
9am and 12am, recognised business days, AEST

Online reports can be made via the website address listed above. You will be required to enter the Corporation’s unique identifier code: **ASC**

The Corporation Whistleblower Committee members who will have access to your report include:

1. Chief Executive Officer
2. Chief Risk Officer
3. Company Secretary

Your Call can circumvent any of the above Officers upon your request.

After making a disclosure, you will be provided with a unique Disclosure Identification Number (DIN) and access to a secure online Message Board.

The Message Board allows you to:

- communicate with the whistleblowing service and/or the Corporation without revealing your identity
- securely upload any relevant documentation and/or material that you wish to provide
- request support or report victimisation.

You may continue using the Message Board for as long as you wish.

If you cannot access the Message Board, you may contact the whistleblowing service via phone (above).

National relay service

If you are deaf, or have a hearing or speech impairment, you can contact the whistleblowing service online or through the National Relay Service. Simply choose your contact method at www.relayservice.gov.au and request the whistleblowing service s hotline.

Supporting evidence of misconduct

We do not expect a disclosure to include absolute proof of misconduct. If possible, it should include:

- Names, dates, times, locations
- A description of the misconduct

- Names of anyone who may substantiate the disclosure
- Anything that supports the disclosure such as email, documents, CCTV.

These details will assist us in deciding how best to deal with and resolve the disclosure.