



WESLEY COLLEGE

By daring & by doing

POLICY NAME:	WHISTLEBLOWER POLICY
POLICY AREA:	Risk Management
DATE APPROVED:	February 2022
AUTHOR:	Director of Finance
NEXT REVIEW:	February 2024

1. Objective

The objective of the Whistleblower Policy is to allow Wesley College current staff, parents, students, volunteers, former staff and other parties to report serious concerns about improper conduct or practices within the College's operations through appropriate and confidential channels without risk of retaliation, victimisation or harassment in any form.

2. Rationale

The College is committed to ensuring that all College operations are conducted ethically and with integrity.

The Corporations Act 2001 (the Act) provides protection for whistleblowers under the **Whistleblower Protection Scheme**.

Whilst the College is not bound by the Act, the Australian Securities and Investment Commission (ASIC) states that not-for-profit incorporated organisations that meet the definition of a trading or financial corporation must comply with the **whistle-blower protection regime** in Part 9.4AAA of the Act.

Based on the above ASIC information, AISWA advises that all independent Colleges are required to apply the whistle-blower protections in the event of the receipt of a **disclosable matter** from an **eligible whistle-blower**.

This policy demonstrates the College's compliance with the requirement to extend protections to a whistle-blower.

The purpose of this Policy is to set out information relating to:

- The types of disclosures that qualify for protection.
- The protections available to whistle-blowers.
- Who disclosures can be made to and how they can be made.
- How the College will support whistle-blowers and protect them from detriment.
- How the College will investigate disclosures.
- How the College will ensure fair treatment of employees who are the subject of or are mentioned in disclosures.

3. Definitions

Whistle-blower

ASIC defines a whistle-blower as an ‘insider within an organisation who reports misconduct or dishonest or illegal activity that has occurred with the same organisation.’”

Eligible whistle-blower

In a Wesley College context the following are eligible whistle-blowers.

- a member of the governing body of the College and members of Committees of Council;
- an employee of the College;
- a person who supplies goods or services (paid or unpaid) to the College,
- an employee of a person who supplies goods or services (paid or unpaid) to the College;
- an individual who is an associate of the College, eg OWCA Committee or the WCEF.
- a relative or dependent (or dependents of a spouse) of any individual described above;
- parents who volunteer or have volunteered for such activities as camps, or sporting activities etc ; and
- the relatives and dependents of the volunteer and of the volunteer’s spouse.

There is no requirement that the disclosure be related to information obtained while the person was providing the particular service they were at the College to deliver.

Eligible recipient

An eligible recipient is:

- a member of College Council, the Head of College, other members of College Executive, Heads of Learning areas, Directors, Deans and Managers.
- an auditor or member of the College’s auditors or related company;
- the Moderator and the General Secretary of the Uniting Church in Western Australia
- an actuary of the College or a related company; and
- a person authorised by the College to receive disclosures.

Disclosures may also qualify for protection if they are made to ASIC, the Australian Prudential Regulation Authority (APRA) or a prescribed Commonwealth authority, or if an eligible whistle-blower makes a disclosure to a legal practitioner to obtain advice.

Disclosable matters

A **disclosable matter** is a disclosure of information where the eligible discloser has “reasonable grounds to suspect” that information relating to the College or a related company is:

- misconduct;
- an improper state of affairs or circumstances;
- an illegal activity (including conduct of Council and Council Committee members, Executive and other employees) – meaning possible breaches of 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 Council and Council Committee members, Executive and other employees) that represents a danger to the public or financial system.

Disclosable matters do not necessarily involve a contravention of a law, for example, misconduct could involve conduct that whilst not unlawful indicates a systemic issue of concern. It may also relate to unethical behaviours and practices or conduct prohibited by the *College’s policies or codes of conduct*.

Reasonable Grounds

An eligible whistleblower who makes a disclosure must have ‘reasonable grounds to suspect’ the information to qualify for protection. This means that even if a disclosure turns out to be incorrect,

the protections will still apply provided the eligible whistle-blower had “reasonable grounds to suspect”.

4. Scope

This Policy applies and to and is binding upon all current staff, students, parents, volunteers, former staff, suppliers and other service providers.

5. Policy Statement

Wesley College recognises the value of transparency and accountability in its administrative and management practices, and supports the making of disclosures of serious concerns about improper conduct or practices within the College's operations, including about corrupt conduct, conduct involving a substantial mismanagement of resources, or conduct involving a substantial risk to health and safety or the environment.

It is the policy of Wesley College that all current staff, students, parents, volunteers of the College, and former staff and other parties shall be free to report, without fear of retaliation, activity occurring in the College's operations that the reporting person believes in good faith to be improper, including because it is believed in good faith to be illegal, corrupt, dishonest, unsafe, unethical, fraudulent, or otherwise significantly not in compliance with College policy.

This Whistle-blower Policy is designed to complement normal communication channels between Wesley College Executive, managers, supervisors, staff, students, parents, volunteers, former staff and other parties. Current staff, students, parents, volunteers, former staff and other parties are encouraged to continue to raise appropriate matters at any time with the relevant managers and or College heads. As an alternative, Wesley College' current staff, students, parents, volunteers, former staff and other parties may make disclosures of serious concerns about improper conduct or practices within the College's operations, including mismanagement or corruption, in accordance with this Whistle-blower Policy.

5.1 Whistle-blower Protections

Important protections apply to **eligible whistleblowers** who report **disclosable matters**.

Eligible Whistle-blowers are protected in two ways; confidentiality and detriment. These protections apply if an **eligible whistle-blower** makes a **qualifying disclosure** to an **eligible recipient**.

Confidentiality

The **eligible recipient** must not disclose the identity of the **eligible whistleblower** or information which is likely to lead to the identification of the **eligible whistleblower**.

There are several exceptions, such as disclosures to

- ASIC or APRA
- The Federal Police
- A legal practitioner (for particular reasons)
- Certain State or Commonwealth authorities (for particular reasons)
- With the consent of the whistle-blower
- When reasonably necessary to investigate the matter (steps must be taken to reduce the risk of identifying the whistle-blower).

Wesley College will take the following steps to protect **eligible whistleblowers** who make **disclosable matters** under this policy, by ensuring:

- all personal information or reference to the **eligible whistleblower** witnessing an event will be redacted;
- the **eligible whistleblower** will be referred to in a gender-neutral context;
- where possible, the **eligible whistleblower** will be contacted to help identify certain aspects of their disclosure that could inadvertently identify them;
- disclosures will be handled and investigated by qualified staff.

- all paper and electronic documents and other materials relating to disclosures will be stored securely;
- access to all information relating to a disclosure will be limited to those directly involved in managing and investigating the disclosure;
- only a restricted number of people who are directly involved in handling and investigating a disclosure will be made aware of an **eligible whistleblower's** identity (subject to the **eligible whistleblower's** consent) or information that is likely to lead to the identification of the **eligible whistleblower**;
- communications and documents relating to the investigation of a disclosure will not to be sent to an email address or to a printer that can be accessed by other staff; and
- each person who is involved in handling and investigating a disclosure will be reminded about the confidentiality requirements, including that an unauthorised disclosure of an **eligible whistleblower's** identity may be a criminal offence.

Detriment

Eligible Whistleblowers *will not* 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 based on the disclosure.

This protection does not prevent an **eligible whistleblower** being subject to criminal, civil or other liability for conduct that is revealed by the disclosure.

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 or harm or injury to a person, including psychological harassment; damage to a person's property, reputation or business or financial position.

The College will ensure

- processes for assessing the risk of detriment against an **eligible whistleblower** and other persons (e.g. other staff who might be suspected to have made a disclosure), will commence as soon as possible after receiving a disclosure;
- support services (including counselling or other professional or legal services) will be available to **eligible whistleblowers**;
- strategies will be provided to help an **eligible whistleblower** minimise and manage stress, time or performance impacts, or other challenges resulting from the disclosure or its investigation;
- actions for protecting a discloser from risk of detriment—for example, where practicable the College will allow an **eligible whistleblower** to perform their duties from another location, will reassign the **eligible whistleblower** to another role at the same level or will make other modifications to the **eligible whistleblower's** workplace or the way they perform their work duties, or reassign or relocate other staff involved in the **disclosable matter**;
- the College will ensure that management are aware of their responsibilities to maintain the confidentiality of an **eligible whistleblower**, address the risks of isolation or harassment, manage conflicts, and ensure fairness when managing the performance of, or taking other management action relating to, an **eligible whistleblower**;
- procedures are in place (section 5.8) as to how an **eligible whistleblower** can lodge a complaint if they have suffered detriment, and the actions the College may take in response to such complaints (e.g. the complaint could be investigated as a separate matter).

Employees who are mentioned in a disclosure or who are the subject of a disclosure will be treated fairly.

An **eligible whistleblower** can seek compensation or other remedies through the Courts.

5.2 Penalties

There are very substantial penalties that can be applied to the College for breaching an **eligible whistleblower's** confidentiality and causing (or threatening to cause) detriment to the **eligible whistleblower**.

5.3 Anonymous Disclosures

Anonymous allegations or disclosures are the right of any **eligible whistleblower** and will be considered. However, maintaining anonymity restricts the College's ability to fully understand, explore, manage and resolve the situation.

In relation to determining whether an anonymous allegation will be taken forward, the College will take the following factors into account:

- The seriousness of the issue raised
- The credibility of the concern
- The likelihood of confirming the allegation from attributable sources, and obtaining information provided.

A report will be provided to the Executive Committee of the College Council where any anonymous allegation is *not* taken forward, including the reasons for not investigating or otherwise inquiring into the allegation, having regard to each of the three factors specified above.

5.4 Untrue and malicious/vexatious allegations

If a current member of staff, student, parent, volunteer, former staff or other parties makes an allegation under this Whistleblower Policy in good faith but it is not confirmed by further inquiry, the matter will be closed and no further action taken. If, however, the inquiry shows that untrue allegations were malicious and/or vexatious or made for personal gain then the College will consider taking appropriate disciplinary or legal action.

The protections of the Whistleblower Protection Scheme will not extend to vexatious complaints.

5.5 Other complaints and allegations concerning student protection issues

This Whistleblower Policy is separate from the College's *Complaints and Grievances Resolution Policy* and related procedures, and other statutory reporting procedures. Student Protection issues should be reported according to the specific guidelines laid out in the College's *Student Protection Policy*.

5.6 Work related grievances

Generally any disclosure that is related to the **eligible whistleblower's** employment or former employment or having implications for the **eligible whistleblower** personally does not qualify for protection.

Examples of personal work-related grievance include;

- An interpersonal conflict between the **eligible whistleblower** and another staff member
- A decision relating to the employment, transfer or promotion of the **eligible whistleblower**.
- A decision relating to the terms and conditions of employment of the **eligible whistleblower**.
- A decision to suspend or terminate the employment of the **eligible whistleblower** or otherwise to discipline the **eligible whistleblower**.

Disclosures about personal work-related grievances should be raised under the College's *Staff Grievance Resolution Policy*.

5.5 Reporting Process

Eligible whistleblowers who wish to raise a serious concern about improper conduct or practices within the College's operations, including about mismanagement, illegal activities, corruption or misconduct in College operations, should report the concern in writing to a member of the College Executive or the Head of College. If the concern involves any allegation of misconduct by or with the knowledge of the Chaplain or a member of the College Executive, the report should be made in writing to the Head of College, who will then raise the matter with the Chair of College Council.

If the concern involves any allegation of misconduct by or with the knowledge of the Head of College, the report should be made in writing to the Chair of College Council, whose address will be supplied on request. If the **eligible whistleblower** desires anonymity, the report should be in writing and delivered via regular mail or College mail, marked 'Chair of Wesley College Council - Private and Confidential'.

If the Chair of Council is the subject of the concern, the concern should be reported to the Head of College. The Executive Committee of College Council, excluding the Chair of Council, will be advised of the concern by the Head of College. The Executive Committee of Council will appoint another Council member to substitute for the Chair of Council when and if considered to be required by the Executive Committee of Council.

If an **eligible whistleblower** considers that none of the avenues above are acceptable for the reporting of a concern, the **eligible whistleblower** should report the concern in writing to The Moderator of the Uniting Church in Western Australia, who can be contacted via the Uniting Church offices in Edwards St Perth.

Any person who, having made a report, believes that they have been personally disadvantaged has an automatic right of appeal to the Executive Committee of Council whose decision will be final.

The processes detailed in the College's Complaints and Grievance Resolution Policy should **not** be followed in making a whistleblower report.

5.6 Delegation of responsibility for reviewing allegations

The Head of College will delegate the responsibility for the review of allegations made under this Whistleblower Policy where such allegations have been reported to the Head of College or a member/s of the College Executive. In the case of allegations about conduct by or with the knowledge of the Head of College, the Chair of Council will either delegate the responsibility for the review or undertake the review themselves. In the case of allegations about conduct by or with the knowledge of the Chair of Council, the Executive Committee of Council, excluding the Chair of Council, will either delegate the responsibility for the review or undertake the review themselves.

Where the Head of College or the Chair of Council decides that the allegations are of a very serious nature, external investigators may be engaged.

5.7 Timescale for initial response

The person responsible for reviewing an allegation made under this Whistleblower Policy will normally provide an initial written response to the **eligible whistleblower** within 5 working days (except in cases of anonymous allegations) acknowledging that the concern has been received. The person will then provide the **eligible whistleblower** with further information as appropriate, in as timely a manner as is possible, regarding the person's review, including regarding the following:

- How the person proposes to deal with the matter;
- An estimate of how long the person will take to provide a final response;
- Any enquiries that may be made by the person;
- The support available to the **eligible whistleblower** while the matter is dealt with.

5.8 Addressing reports or concerns

Persons reporting concerns under this Whistleblower Policy should not attempt to investigate the matter independently, as doing so may compromise the integrity of an official investigation and adversely impact both the reporting person and the College.

A member of the College Executive, the Head of College, Council Chair or their delegates will promptly and discreetly investigate any report under this Whistleblower Policy, with the assistance of other College personnel as appropriate.

The member of the College Executive, Head of College or Council Chair will report the results of their investigation and any recommendations for appropriate corrective and/or disciplinary action to the Chair of Council. The Chair of Council will consult with other Council members, the Head of College and, if considered appropriate, members of the College Executive to decide on any action to be taken by the College in relation to the concern, and before implementing any corrective and/or disciplinary action. The imposition of discipline, if any, will be made in accordance with the College's Codes of Conduct and any other applicable College policies. In the case of particularly serious matters the concern (and any action taken by the College) these may be required to be reported under legislative requirements.

Following the Chair of Council's decision on the action to be taken by the College in relation to the concern, the **eligible whistleblower** will be notified of the decision, normally within 5 working days (except in relation to anonymous allegations), setting out whether any action will be taken by the College in relation to the concern and, if so, the action to be taken, and a summary of the reasons for the decision.

If the disclosure concerns the Chair of Council, the Executive Committee of Council will undertake the above process without the involvement of the Chair.

If an **eligible whistleblower** believes they have suffered detriment as a consequence of their making a disclosure against another staff member or the College in general, they should provide information to the Head of College and/or Director of Finance and/or Director of Human Resources. The Head of College and/or Director of Finance and/or Director of Human Resources will decide whether such a belief is reasonable and move to act accordingly.

The identity or any information that could lead to the identity of the person who has made a report will not be released to any person who is not involved in the investigation/resolution of the matter.

Approval / Endorsement Body:	Director of Finance
Policy Portal Access Level:	Public
Communication Process:	Website and Policy Portal
Author / Contact Person:	Director of Finance
Related Policies:	Complaints and Grievances Resolution Policy
Relevant Legislation:	Corporations Act 2001 - Part 9.4AAA
Further Reference:	https://asic.gov.au/about-asic/asic-investigations-and-enforcement/whistleblowing/whistleblower-protections-for-not-for-profit-organisations/