

Whistleblower Policy

1. INTRODUCTION

The purpose of this policy is to establish a procedure to report Disclosable Conduct and provide whistleblowers with protection, allowing past and present staff, students, parents and others to come forward confidentially and anonymously, to the extent possible under existing laws, and ensuring that they are not victimised or subjected to any form of detrimental action.

2. SCOPE

This policy applies to all Kingswood College Limited (College) community who are eligible Whistleblowers.

3. KEY RESPONSIBILITIES

Position/Roles	Responsibilities
Council	Ensure the College meets the regulatory requirements in relation to the <i>Corporations Act 2001 (Cth)</i> and provides protection to whistleblowers.
Eligible Recipient	Receiving disclosures of Disclosable Conduct and referring such disclosures to the Whistleblower Protection Officer.
Whistleblower Protection Officer	Ensure the process to report Disclosable Conduct is clear and reviews to determine whether reports are Disclosable Conduct are conducted in accordance with this Policy and the Corporations Act.
Whistleblower Investigation Officer	Ensure investigations of Disclosable Conduct are conducted in accordance with this Policy and the Corporations Act.

4. DEFINITIONS

Corporations Act means Corporations Act 2001 (Cth).

Detrimental Treatment includes:

- dismissal as 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;
- 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; or
- any other damage to a person

Disclosable Conduct means any of the following conduct.

- any matter/information that the Whistleblower has reasonable grounds to suspect concerns misconduct, or an improper state of affairs or circumstances, in relation to the College;
- any matter/information that the Whistleblower has reasonable grounds to suspect indicates that the College, or any of its officers or employees, has engaged in conduct that:
 - constitutes an offence against, or a contravention of, a provisions of the *Corporations Act 2001* (Cth), the *Australian Securities and Investments Commission Act 2001* (Cth), the *Banking Act 1959* (Cth), the *Privacy and Data Protection Act 2014* (Cth), the *Insurance Act 1973* (Cth), the *Life Insurance Act 1995* (Cth), the *National Consumer Credit Protection Act 2009* (Cth), or the *Superannuation Industry (Supervision) Act 1993* (Cth), or regulations made under those laws;
 - constitutes an offence against any other law of the Commonwealth that is punishable by imprisonment for a period of 12 months or more;
 - represents a danger to the public or the financial system; or
 - is otherwise prescribed by regulation.

Eligible Recipient means:

- the Whistleblower Protection Officer – see below;
- an ‘officer’ of the College (including a director or secretary of the College);
- the College Principal;
- a member of the college executive;
- an auditor of the College (or a member of an audit team conducting an audit of the College); or
- a body prescribed to receive reports under the Corporations Act.

False Claim means a report of false Disclosable Conduct which is knowingly or intentionally made, or a report without reasonable grounds as to truth or accuracy.

Whistleblower means a person who has reasonable grounds to suspect Disclosable Conduct and is eligible under clause.

5. KEY ELEMENTS OF THE POLICY

5.1 What is a whistleblower and how is it different from a complaint?

A Whistleblower is a person who reports Disclosable Conduct. This is broadly misconduct or dishonest or illegal activity that has occurred with an organisation.

This differs from a concern or complaint about the delivery of the College’s services, which should be raised using the process contained in the **College’s Complaints Handling Policy** (see website).

Staff or personal work-related complaints or grievances about employment conditions, unfair dismissal or industrial relations related concerns should be made using the process contained in the College’s **Enterprise Agreement**.

5.2 Who is an eligible whistle blower?

An eligible Whistleblower is an individual who is an officer of the College; an employee of the College; supplies services or goods to the College; an employee of a person who supplies services or goods to the College; is an associate of the College in accordance with the Corporations Act; or is a relative or dependent of such persons referred to in this paragraph.

5.3 Reporting Disclosable Conduct

A report made under this policy may have serious consequences, including the potential to damage personal reputations of the person(s) who are the subject of the alleged wrongdoing. Therefore, in reporting any type of Disclosable Conduct, a Whistleblower must have reasonable grounds to suspect that the alleged Disclosable Conduct falls within the relevant definition of Disclosable Conduct.

A Whistleblower who wishes to report Disclosable Conduct should contact the Whistleblower Protection Officer or other Eligible Recipient. The Whistleblower Protection Officer's details can be found at the end of this policy.

The College is committed to ensuring the Whistleblower Protection Officer is appropriately trained and qualified for this role and readily accessible.

A report made under this policy can be made either verbally or in writing. The Whistleblower should describe the grounds for the report and provide supporting documentation or evidence where possible.

If the Whistleblower Protection Officer reviews the report and concludes that Disclosable Conduct has not occurred, the person who made the report will be notified

5.4 Whistleblower Protection

If the review concludes that Disclosable Conduct has occurred, the Whistleblower Protection Officer will refer the matter to the Whistleblower Investigations Officer for investigation.

Anonymity

A report made by a Whistleblower can be made anonymously.

Confidentiality

All reports will be kept confidential and secure. The identity or any information that could reveal the identity of the Whistleblower will not be released to any person who is not involved in the investigation/resolution of the matter.

The person making the report will be kept informed of the progress of the investigation.

Detrimental treatment

All persons making a report are assured that in making a report they will not be personally disadvantaged by dismissal, demotion, disciplinary action, any form of harassment, discrimination or current or future bias against them or their colleagues, associates or family. This is called Detrimental Treatment.

Any person who, having made a report, believes that they have been subject to Detrimental Treatment should immediately report this to the Whistleblower Protection Officer.

Whistleblowers are protected from civil, criminal or administrative liability (including disciplinary action) for making reports of Disclosable Conduct which are protected under whistleblower legislation. No contractual right (including under an employment contract) can be exercised against a Whistleblower to prevent or hinder disclosure of Disclosable Conduct.

Whistleblowers may be entitled to seek compensation (including from the College) for loss, damage or injury suffered as a result of the report of Disclosable Conduct.

Please refer to ASIC website for the 'Guidance for whistleblowers' information sheet (Info 52).

5.5 Investigation procedures

All reports of Disclosable Conduct will be referred to the Whistleblower Investigations Officer and subject to thorough investigation. Depending on the nature of the Disclosable Conduct, the Whistleblower Investigations Officer may appoint an independent organisation or person to complete the investigation on their behalf.

Where a report of Disclosable Conduct is made during term break, it may not be investigated until the school term resumes. Steps will be taken to ensure an investigation is commenced as soon as practicable.

The Whistleblower Investigations Officer will be fair and independent of the person who made the report and the person who is the subject of the Disclosable Conduct.

The investigation will include the following steps:

1. Obtaining full details of the allegations obtained, subject to the right of the Whistleblower to anonymity and confidentiality;
2. Informing the person against whom allegations are made and ensuring they receive procedural fairness in the investigation;
3. Considering involvement of external parties such as the police as appropriate, subject to the right to anonymity and confidentiality;
4. Recommending action to the Principal or Council Chair (as appropriate) to decide on action to be taken; and
5. Keeping the Whistleblower informed of the progress of the investigation.

Where the Principal or the Council Chair decides that the allegations are of a very serious nature, external investigators are likely to be engaged.

5.6 False Claims

All reports made under the confidential reporting process must be made in good faith. Where it is shown that a person has made a False Claim, they will not be protected under the Corporations Act. Making a False Claim is considered a serious breach of College policy and the person making the False Claim may be subject to appropriate action, including disciplinary action.

5.7 Public Interest Disclosures

The College strongly recommends that a Whistleblower obtain independent legal advice before making a public interest disclosure to ensure that:

- the disclosure will attract protection under the relevant legislation and this policy; and
- in making the disclosure, the Whistleblower will not breach any other laws, regulations, codes of conduct or be otherwise subject to disciplinary action where such disclosure does not attract protection

5.8 Monitoring and training

The College will monitor and review this policy regularly to assess its effectiveness in encouraging the reporting of reportable conduct, protection of persons making reports, and investigation of reports.

Education and training about the procedures involved under this Whistleblower Policy will be provided to those involved in managing or investigating disclosures. The College community will also be educated and kept informed in relation to the Policy and the protections and procedures contained therein.

6. RELATED COLLEGE POLICIES

- Code of Conduct
- Complaints Handling Policy
- Privacy Policy
- Staff Handbook

7. LEGISLATION & REFERENCES

Relevant Legislation

- Corporations Act 2001 (Cth)

References

- Guidance for whistleblowers' information sheet (Info 238)

8. WHISTLEBLOWER PROTECTION OFFICER

Tina Flyger (Whistleblower Protection Officer) on (03) 9896 1719 or 0422 806 018 or in writing sent to 355 Station Street Box Hill or flyger.t@kingswoodcollege.vic.edu