



Our Lady of the Way Catholic Primary School Whistle-blower Policy

Purpose

This Whistle-blower Policy is underpinned by a strong commitment to building a culture in Our Lady of the Way that reflects sound governance and ethical behaviour. In accordance with that commitment, the Policy provides a foundation for investigation and response where there are reasonable grounds to suspect misconduct, or an improper state of affairs or circumstances, in relation to Our Lady of the Way.

The Policy provides protection to Whistle-blowers by establishing a mechanism for concerns to be raised on a confidential basis without fear of reprisal.

Scope

The Policy applies in respect of relevant Disclosures made under the Policy by individuals who are, or have been, officers, associates, employees or contractors performing work of Our Lady of the Way (including individuals, whether paid or unpaid, who supply goods or services to [Our Lady of the Way] and their employees), and their relatives and dependants.

It is recognised that there are forms of alleged employee conduct committed against, with or in the presence of a child, such as relevant sexual offences, sexual misconduct, physical violence, behaviour that causes significant emotional or psychological harm and significant neglect that constitute 'reportable allegations'. The required management of these forms of conduct is dealt with under the Reportable Conduct Scheme. Other obligations may also be relevant, such as reporting of alleged criminal behaviour to police and mandatory reporting to DHHS.

Definitions

Detriment means:

- dismissal of an employee
- injury of an employee in his or her employment
- alteration of an employee's position or duties to his or her 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
- any other damage to a person

Disclosure means information provided by a Whistle-blower who has reasonable grounds to suspect misconduct, or an improper state of affairs or circumstances, in relation to the Our Lady of the Way, not including disclosures about a personal work-related grievance.

Personal work-related grievance means a grievance about any matter in relation to a person's employment, or former employment, having personal implications, and the information does not have significant implications, beyond the personal implications, for the Our Lady of the Way.

Misconduct means conduct by a person or persons connected with Our Lady of the Way, which the Whistle-blower has reasonable grounds to suspect, is (among other things):

- dishonest;
- fraudulent;
- corrupt;
- negligent;
- illegal (including theft, drug sale/use, criminal damage etc);
- in breach of Commonwealth or state legislation or local authority by-laws;
- unethical (representing a breach of the Our Lady of the Way code of conduct or generally);
- other serious improper conduct;
- an unsafe work practice;
- representative of gross mismanagement, serious and substantial waste and/or a repeated breach of administrative procedures; and
- other conduct which may cause financial or non-financial loss to Our Lady of the Way or be otherwise detrimental to the interests of the Our Lady of the Way.

Reasonable grounds to suspect means more than mere conjecture and would usually require some factual basis.

Senior Management means, as relevant, the employer, the principal and assistant principal and employees of Our Lady of the Way who have authority over the direction or management of Our Lady of the Way.

Whistle-blower means an officer, employee or a contractor performing work or providing goods for the Our Lady of the Way, or an associate, relative or dependant of such an officer, employee or contractor, who makes a Disclosure.

Whistle-blower Investigations Officer is the person who may be appointed, either internally or externally, by the Whistle- blower Protection Officer to conduct an investigation into Disclosures.

Whistle-blower Protection Officer is the member of Senior Management appointed at Our Lady of the Way to receive Disclosures and protect the interests of Whistle-blowers in accordance with this Policy.

Protections and support

Our Lady of the Way encourages all persons covered by this Policy to report Misconduct or an improper state of affairs or circumstances, in relation to the Our Lady of the Way, and is committed to protecting and supporting those persons who do so.

The protections provided to a Whistle- blower under this Policy apply to the disclosure of information where the Whistle- blower has reasonable grounds to suspect misconduct or an improper state of affairs or circumstances in relation to the Our Lady of the Way and do not apply in circumstances where a person discloses information that they know to be untrue. Information that is disclosed regarding matters that do not relate to misconduct or an improper state of affairs or circumstances in relation to the Our Lady of the Way do not qualify for protection under legislation.

A Whistle- blower under this Policy will not be subjected to any Detriment or threat of Detriment for making a Disclosure and will be covered by all of the protections provided under Commonwealth legislation providing for Whistle- blower protections. Any alleged Detriment should be reported to the Whistle- blower Protection Officer, and may be dealt with under the Our Lady of the Way disciplinary policy. A court may make orders including orders for compensation where a Whistle-blower is subjected to detriment for making a Disclosure.

Our Lady of the Way will maintain the confidentiality of a Whistle-blower and any information that would be likely to lead to the identification of the Whistle-blower, subject to law and any authorisation by the Whistle-blower allowing for identification in the context of an investigation of a Disclosure.

A person who is considering making a Disclosure may contact the Whistle-blower Protection Officer to obtain additional information before making a Disclosure.

(Note: There are also specific protections provided in the tax whistle-blower regime under the Taxation Administration Act.)

How Disclosures may be made

Disclosures may be made, either verbally or in writing, to any member of Senior Management or the Whistle-blower Protection Officer if preferred. Disclosures may be made anonymously and still be protected.

A Whistle-blower will also qualify for protection in relation to Disclosures made to:

- ASIC, APRA or another prescribed Commonwealth body
- A legal practitioner for the purpose of obtaining legal advice or legal representation about the provisions of the Whistle-blower legislation
- A member of Federal or State Parliaments
- A journalist

1. How investigations are to be conducted

Investigation

All Disclosures that qualify for protection will be subject to thorough investigation.

The Whistle-blower Protection Officer will investigate the Disclosure, or may elect to appoint a Whistle-blower Investigations Officer to investigate. This will be a decision of the Whistle-blower Protection Officer and will depend on the nature and extent of the allegation(s) contained in the Disclosure.

The Whistle-blower will be kept informed of the progress and outcome of the investigation by the Whistle-blower Protection Officer, subject to privacy considerations of individuals involved in the investigation.

All reports and investigation procedures will be dealt with promptly.

Investigation report

The person conducting the investigation, whether that be the Whistle-blower Protection Officer or a Whistle-blower Investigations Officer, will prepare an investigation report. The investigation report will provide a summary of the facts of the Disclosure and of the investigation. It will also provide recommendations as to findings of whether any allegation is substantiated or unsubstantiated and may also provide recommendations on actions, if any, that may be taken accordingly.

Decision-making

The investigation report will be provided by the Whistle-blower Protection Officer to the relevant decision-maker at Our Lady of the Way who will make a final decision in relation to the recommended findings and actions to be taken, if any. In circumstances where the investigation is conducted by a Whistle-blower Investigations Officer, the investigation report will also be provided to the Whistle-blower Protection Officer.

The Whistle-blower Protection Officer will inform the Whistle-blower of the outcome of any investigation and retain a coordinating role in monitoring the implementation of any decided actions.

2. Ensuring fair treatment for employees mentioned in disclosures

Procedural fairness

The principles of procedural fairness will apply to the conduct of investigations regarding Disclosures. The person against whom any relevant allegations are made will be informed accordingly and will be provided an opportunity to respond. Any decision regarding outcomes of an investigation will be made by an unbiased decision-maker.

Whistle-blowers can rely on the protection afforded by this Policy and the relevant legislation, providing that the person making any Disclosure has reasonable grounds to suspect misconduct. If a Whistle-blower has any concerns regarding any Detriment as a result of a report made under this Policy, they should immediately contact the Whistle-blower Protection Officer.

3. How the policy is to be made available to employees

This Policy is to be made available to all officers, employees and contractors at Our Lady of the Way by way of the intranet and policy resource documents. The Policy will be the subject of induction and subsequent in-service training.

4. Examples of Disclosures

Inappropriate Electronic Material

An employee brings to work a personal DVD containing image files of adults that are sexually explicit. They download the images to their work computer and then decide to circulate some of the images to colleagues. A colleague who receives the images uses the provisions of the Whistle-blower Protection Policy to report the matter confidentially, as the actions are in breach of acceptable ICT Usage policies.

Suspicious Behaviour involving School Funds

An employee is relieving a colleague who is on annual leave and is asked by a parent why they have not received a receipt for the last cash payment they made to the school. The replacement employee advises that they will follow up the parent's inquiry. The replacement employee is suspicious that fraudulent misconduct may be occurring. They decide to report the matter confidentially and in line with the Whistle-blower Protection Policy.

Who to Contact

Whistle-blower Protection Officer contact details

Relevant Legislation

Commonwealth

Corporations Act 2001

Treasury Laws Amendment (Enhancing Whistleblower Protections) Act 2019 (Cth)

Corporations Amendments (Proprietary Company Thresholds)

Regulations 2019