

20. Protected Disclosures

Purpose

The Protected Disclosures (Protection of Whistleblowers) Act 2022 (“the Act”), and this policy, provide protections for employees who follow the approach set out in this policy to disclose information about serious wrongdoing within the school. The Act provides an employee immunity from civil and criminal proceedings where the employee has made a protected disclosure, or referred concerns about serious wrongdoing to an appropriate authority for investigation. Employees are also protected from retaliation (eg disciplinary proceedings) or victimization in their employment.

Definitions

Protected Disclosure

This means a declaration made by an employee where they believe serious wrong doing has taken place by another employee. Employees making disclosures will be protected against retaliatory or disciplinary action and will not be liable for civil or criminal proceedings related to the disclosure if they act on reasonable grounds and in good faith. (The protection is therefore available even if they are found to be mistaken).

Serious Wrong Doing

Serious wrong doing for the purposes of this policy includes any of the following:

- a) an offence:
- b) a serious risk to—
 - i. public health; or
 - ii. public safety; or
 - iii. the health or safety of any individual; or
 - iv. the environment:
- c) a serious risk to the maintenance of law, including—
 - i. the prevention, investigation, and detection of offences; or
 - ii. the right to a fair trial:
- d) an unlawful, a corrupt, or an irregular use of public funds or public resources:
- e) oppressive, unlawfully discriminatory, or grossly negligent, or that is gross mismanagement, and is done (or is an omission) by—
 - i. an employee (if the organisation is a public sector organisation):
 - ii. a person performing (or purporting to perform) a function or duty or exercising (or purporting to exercise) a power on behalf of a public sector organisation or the Government.

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Personnel

Any employee of the school can make a disclosure. For the purposes of this policy an employee includes:

- current employees and Principal
- former employees and Principals
- contractors supplying services to the school

Procedure

- Disclosure should be submitted in writing
- Disclosure should contain detailed information including the following:
 - the nature of the serious wrong doing
 - the name/names of the person/people involved
 - surrounding facts including details relating to the time and/or place of the wrong doing (if known or relevant)
- Disclosure should be sent in writing to the principal who has been nominated by the Board of James Hargest College under section 11 of the Act for this purpose, or if you believe that the principal is involved in the wrong doing or has an association with the person committing the wrong doing that would make it inappropriate to disclose to them, then you can make the disclosure to the Presiding Member.
- Within 20 working days of receiving a protected disclosure, the Principal or Presiding Member will acknowledge the receipt of the disclosure, consider whether it warrants investigation, and deal with the matter by doing one or more of:
 - investigating the disclosure
 - addressing any serious wrongdoing by acting or recommending action
 - referring the disclosure to an (or another) appropriate authority
 - deciding that no action is required. The Principal or Presiding Member will then inform the discloser about what they have done or are doing to deal with the matter. If the Principal or Presiding Member is unable to complete these actions within 20 working days, they will begin the process and inform the discloser how long it may take.
- If the Principal or Presiding Member decide a full investigation is warranted, a full investigation will be undertaken by a Disclosure Committee, arranged by him/her as quickly as practicably possible comprising:
 - Principal
 - Presiding Member
 - Senior Manager chosen by the Presiding Member

Protection of Confidentiality

- All disclosures will be treated with the utmost confidence. The Disclosure Committee will not reveal information that could identify the disclosing person unless the person consents in writing, or if the person receiving the protected disclosure reasonably believes that disclosure is essential to:
 - Ensure an effective investigation
 - Prevent serious risk to public health or the environment
 - Have regard to the principles of natural justice

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- An investigation by a law enforcement or regulatory agency for the purpose of law enforcement.

Natural Justice

- Normal principles of natural justice apply to any investigation. This includes the subject of the disclosure being given adequate opportunity to provide their own explanation and perspective.

Investigation Report

- At the conclusion of the investigation the Disclosure Committee will prepare a report of the investigation with recommendations for action if appropriate which will be sent to the Board of Trustees and the employee making the disclosure.

Disclosure to Outside Authorities

- A disclosure may be made to an appropriate authority (including those listed below) at any time and in addition to, or instead of, making it to the Principal or Presiding Member

List of Authorities

Commissioner of Police
 Controller and Auditor General
 Director of the Serious Fraud Office
 Inspector General of Intelligence and Security
 Ombudsman
 Parliamentary Commissioner for the Environment
 Police Complaints Authority
 Solicitor General
 State Services Commissioner
 Health and Disability Commissioner
 Secretary for Education or Chief Review Officer of the Education Review Office

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