



Whistleblower Policy

1. Introduction

St Scholastica's College (the College) is committed to ethical behaviour that is aligned with our values and complies with all relevant laws. The disclosure of actual or reasonably suspected wrongdoing is a key element in maintaining our ethical culture.

We are committed to ensuring that individuals who disclose wrongdoing in relation to the College can do so safely, securely and with confidence that they will be protected and supported.

The objectives of this Policy are to:

- deter wrongdoing;
- encourage and enable individuals to disclose actual and suspected wrongdoing knowing that their concerns will be taken seriously and investigated;
- describe clearly the process for making a whistleblower disclosure, the types of matters that should be reported and the support and protections available to whistleblowers;
- describe clearly the processes the College follows for receiving, managing and appropriately investigating whistleblower disclosures in a timely and effective way that supports and protects the whistleblower (including protecting their identity and protecting them from detriment); and
- meet the requirements of and give effect to the whistleblower legislation protection provisions in the *Corporations Act 2001* (Cth) (Corporations Act).

This policy will be available to Staff through the Staff Intranet, and to the College community and the public through the College website.

2. Eligibility for Protections Under the Corporations Act

In order to be eligible for the protections available under the Corporations Act the whistleblower disclosure must:

- be made by an **Eligible Whistleblower**;
- contain information about a **disclosable matter**; and
- be made directly to an **Eligible Recipient**, or to a designated authority such as ASIC, the Australian Prudential Regulation Authority (APRA), or a prescribed Commonwealth authority, or to a legal practitioner for the purpose of obtaining legal advice or legal representation in relation to the whistleblower protection provisions in the Corporations Act. The Corporations Act also specifically protects “public interest disclosures” and “emergency disclosures”.

3. Who is an Eligible Whistleblower?

An **Eligible Whistleblower** is an individual who is or has been any of the following, in relation to the College:

- a Board 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 College (as defined in the Corporations Act), and
- a relative or dependent (or dependents of a spouse) of any individual described above.

Students, parents, carers and other key stakeholders are not Eligible Whistleblowers, unless they fit into one of the categories noted above (for example parents who are volunteer employees).

4. What is a Disclosable Matter?

A **disclosable matter** is a disclosure of information where the eligible whistleblower has **reasonable grounds** to suspect that the information relating to the School or a related company 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.

Disclosable matters may include any conduct in relation to the operation of the College that involves:

- dishonest and/or unethical conduct;
- fraud, forgery, misappropriation, misuse, misdirection, misapplication, maladministration or waste of funds;
- gross mismanagement;
- grooming and/or child abuse that is not reported or not managed appropriately;
- conflicts of interest that are not declared or managed appropriately;
- theft, embezzlement, tax evasion;
- corruption, taking or offering bribes or secret commissions;
- dishonesty involving influence, such as blackmail;
- misleading or deceptive conduct of any kind, including conduct or representations that amount to improper or misleading accounting or financial reporting practices by or affecting the College;
- other criminally prosecutable offences;
- failure to report, or concealment of, an indictable offence;
- conduct that poses an unreasonable danger to health or safety of others;
- significant breach of the terms of any contract that binds the College;
- other serious acts such as refusing to carry out lawful and/or reasonable actions under a contract;
- other misconduct that may materially damage the College's reputation, or may otherwise be detrimental to the College;
- any other act that would otherwise be considered, by a reasonable person, to be serious improper conduct, or an improper state of affairs, or circumstances.

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. 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.

A disclosure can still qualify for protection even if their disclosure turns out to be incorrect.

Generally, disclosures that relate to the whistleblower's employment or former employment and have implications for them personally but that do not have significant implications for the College, do not qualify for protection. Examples of personal work-related grievances that would not usually constitute a disclosable matter are:

- an interpersonal conflict between the whistleblower and another employee;
- a decision relating to the engagement, transfer or promotion of the whistleblower;
- a decision to suspend or terminate the whistleblower's engagement, or otherwise discipline the whistleblower.

A disclosure could however qualify for protection if it concerns a personal work-related grievance and also concerns alleged detriment (or a threat of detriment) to the discloser.

If a disclosure does not meet the threshold of a disclosable matter, it will not qualify for protections under the Corporations Act, but it may be referred to the Principal or relevant member of the College Leadership Team to be managed appropriately.

5. Who can receive a Qualifying Disclosure?

Eligible Recipients

The Corporations Act provides that eligible recipients who can receive a qualifying disclosure include:

- A Board Director, Principal, Company Secretary or member of the College Leadership Team;
- An auditor of the College; and
- A person or company authorised by the College to receive disclosures that may qualify for protection.

The College has retained the company Stoplevel Pty Ltd (Stoplevel) as an external, secure and independent service provider to receive disclosures impartially and confidentially as an authorised eligible recipient. While disclosures may be made directly to any eligible recipient, the College encourages eligible whistleblowers to make the disclosure directly to Stoplevel.

Where a disclosure is made to an eligible recipient other than Stoplevel, it will generally be referred to Stoplevel to be dealt with in accordance with the procedure set out below.

External Disclosures

Disclosures may also qualify for protection if they are made to the Australian Securities and Investments Commission (ASIC), the Australian Prudential Regulation Authority (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.

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 time of 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.

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 a public interest disclosure or an emergency disclosure.

6. How to make an Eligible Disclosure

StopLine is an independent service provider with staff who are specifically trained to deal with the types of sensitive issues that are reported through whistleblower systems.

A whistleblower disclosure may be submitted directly to StopLine through any of the following methods:

Online: stopline.com.au
Telephone: +61 3 9882 4550
Email: disclosures@stopline.com.au
Mail: 345 Riversdale Road
Hawthorn East VIC 3123

A whistleblower disclosure may be provided to Stopline anonymously or on the basis that the whistleblower's identity is disclosed to StopLine only and kept confidential from the College. If the whistleblower wishes to be contacted in relation to the outcome of the disclosure, sufficient contact details (including through anonymous channels if required) will need to be provided.

For a whistleblower disclosure to be investigated it must contain enough information to form a reasonable basis for investigation. This includes any known details about the events underlying the actual or suspected wrongdoing, and may include:

- a description of the events or activities, including locations;
- the names of the people involved and their roles;
- relevant dates and times;
- possible witnesses to the events; and
- supporting documentary evidence of the events.

Details of any steps already taken to report the matter elsewhere or to resolve the concerns may be of assistance in any investigation.

7. Receiving and Investigating a Whistleblower Disclosure

When a disclosure of wrongdoing is received, StopLine will assess the disclosure to determine whether it qualifies for protection under the Corporations Act. If the disclosure qualifies for protection, Stopline will then assess the nature and extent of any investigation that may be required, including timeframes that will allow the investigation to be conducted both thoroughly and with expediency.

Where a whistleblower's contact details have been provided, StopLine will discuss or correspond with the whistleblower about the issue of confidentiality, and risks associated with the disclosure. StopLine will also discuss support services which may be available and strategies for minimising and managing stress and other challenges resulting from the disclosure.

If the disclosure results in an investigation, it will be conducted according to the particular circumstances of the disclosure and having regard to any risks to the whistleblower associated with the disclosure.

The Whistleblower Investigator will be provided reasonable access to independent specialist advice if required and all College Board members, staff members, volunteers and contractors at the College will be required to provide any assistance required to the Whistleblower Investigator.

The Whistleblower Investigator will, as far as reasonably possible, follow best practice in investigations including adhering to the principles of confidentiality, objectivity and procedural fairness. This includes providing fair treatment to people who have been mentioned in a report of actual or suspected wrongdoing, by informing them of the substance of statements that have been made about them and giving them a reasonable opportunity to respond. It also includes informing them of the substance of any adverse findings by the Whistleblower Investigator and providing the opportunity to have their response to any allegations set out fairly in the Whistleblower Investigator's report.

8. Provision of Feedback

If the whistleblower's identity is known, or they can be contacted through anonymous channels, where possible, Stopleveline or the College will provide feedback to the whistleblower during the course of the investigation in a way that does not compromise the confidentiality of their identity. The frequency and timeframes for providing feedback will vary according to the nature of the disclosure and the investigation.

The whistleblower will be informed of the outcome of an investigation, where appropriate, and in particular:

- if the whistleblower's concern was substantiated, the action that has been taken or will be taken to address the issue(s);
- if the whistleblower's concern was not substantiated, the whistleblower will be informed that no further action will be taken unless further information becomes available.

There may be circumstances where it is not appropriate or practically possible to provide details of the outcome to the whistleblower.

9. 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.

The discloser's identity and information which is likely to lead to the identification of the discloser can also be provided to any Commonwealth or State authority for the purpose of assisting the authority in the performance of its functions or duties. This could include NSW Police, NSW Ombudsman, NSW Education Standards Authority, or NSW Department of Education.

It is also permissible to disclose information which could lead to the identification of the discloser 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 discloser will be identified as a result of the information being disclosed.

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

Confidentiality must be observed in relation to handling and storing records.

10. Whistleblower Support and Protection

Anonymity and 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 9 above.

The College will protect an eligible whistleblower's identity by appropriately redacting documents. It will also secure all documents and communicate them in a way that will maintain confidentiality.

Protection from Detriment

The College's commitment to ensuring the highest standards of ethical conduct includes creating and maintaining a "speak-up culture", where all staff are encouraged to identify issues in the workplace and participate in resolving them. This includes "speaking up" through our existing internal reporting procedures including our *Internal Grievance Policy*, *Complaints Handling Program* and *Child Protection Program*.

We do not tolerate reprisals or adverse action being taken against whistleblowers for reporting actual or suspected wrongdoing, including when suspicions are not substantiated following a thorough investigation.

We take steps to promote awareness to all staff of their responsibilities to treat their colleagues and stakeholders with respect, and never to engage in behaviour that is discriminatory or that characterises bullying or harassment. These responsibilities encompass acknowledging that reporting actual or suspected wrongdoing is integral to an ethical culture, and nobody who reports actual or suspected wrongdoing should experience detriment as a result.

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 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.

Detrimental conduct does not include taking reasonable administrative action to protect a whistleblower from detriment.

If an eligible whistleblower believes they are being subjected to a detriment or a threat of detriment as a result of the disclosure, this should immediately be reported in writing to the Principal. If the eligible whistleblower believes it is not appropriate for the report to be made to the Principal, the eligible whistleblower should report the matter to Stopline.

The College's EAP services will be available to all eligible whistleblowers and other employees affected by the disclosure, should they require that support.

Failing to comply with confidentiality and detrimental conduct provisions may result in civil and criminal penalties for both the College and individuals.

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 College) 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.