



Presbyterian Ladies' College

MELBOURNE

PLC WHISTLEBLOWER POLICY

1. Rationale

- 1.1. The *Treasury Laws Amendment (Enhancing Whistleblower Protections) Act 2019* amended the *Corporations Act 2001* (The Act), which now provides a consolidated whistleblower protection regime for Australia's private sector. The amendments broaden protections for whistleblowers (also known as 'disclosers'). PLC is an entity subject to the whistleblower provisions under The Act.
- 1.2. PLC is committed to operating legally (in accordance with applicable legislation and regulation), properly (in accordance with organisational policy and procedures), and ethically (in accordance with recognised ethical principles). A whistleblower who assists in maintaining legal, proper, and ethical operations should not be penalised in any way. The College encourages those who are aware of wrongdoing to speak up.

2. Aims

- 2.1. The key aims of the College's whistleblower policy and program are to:
 - (a) encourage more disclosures of wrongdoing
 - (b) help deter wrongdoing, in line with the College's risk management and governance framework
 - (c) ensure individuals who disclose wrongdoing can do so safely, securely and with confidence that they will be protected and supported
 - (d) ensure disclosures are dealt with appropriately and on a timely basis
 - (e) provide transparency around the College's framework for receiving, handling and investigating disclosures
 - (f) support the College's values and Code of Conduct
 - (g) support the College's long-term sustainability and reputation
 - (h) meet the College's legal and regulatory obligations.

3. Scope

- 3.1. Whistleblowing within the meaning of The Act is for reporting 'disclosable matters'. There are specific requirements that must be fulfilled for a report or complaint to be classified as a protected disclosure, and for an eligible whistleblower to receive the legal protections of making a protected disclosure.

- 3.2. An individual is an eligible whistleblower in relation to PLC if the individual is, or has been, any of the following:
- (a) an officer of PLC
 - (b) an employee of PLC
 - (c) an individual who supplies services or goods to PLC (whether paid or unpaid)
 - (d) an employee of a person that supplies services or goods to PLC (whether paid or unpaid)
 - (e) an individual who is an associate of PLC
 - (f) a relative of an individual referred to in any of paragraphs (a) to (e)
 - (g) a dependant of an individual referred to in any of paragraphs (a) to (e), or of such an individual's spouse.
- 3.3. Concerns and complaints that do not meet the definition of a protected disclosure must be managed with reference to the related policies as outlined in section 10 of this policy.
- 3.4. Child Safety related issues must be dealt with immediately in line with the College's Child Protection Program.
- 3.5. This policy should be read in conjunction with The Act. Specific sections of The Act are referenced throughout this policy.

4. How and to whom disclosures may be made

- 4.1. An eligible whistleblower is encouraged to file an internal report at any time utilising the College's publicly available online reporting mechanism: <https://whistleblower.plc.vic.edu.au/>. Online reports are routed to appropriately trained College representatives ("eligible recipients" in accordance with The Act). Confidentiality and security of information reported is assured.
- 4.2. A face-to-face report may be made to College-nominated eligible recipients - the College Principal or Business Manager. A face-to-face report may also be made to an auditor or actuary of the College.
- 4.3. A disclosure of information by an individual qualifies for protection if the disclosure is made to a legal practitioner for the purpose of obtaining legal advice or legal representation in relation to the operation of The Act.
- 4.4. A discloser wishing to discuss the reporting mechanism or obtain additional information prior to making a report may contact the College's Business Manager or Policy, Risk & Compliance Officers.
- 4.5. An eligible whistleblower must make a disclosure internally (face-to-face or via the online reporting mechanism) before reporting to a regulatory authority. Disclosures of information relating to disclosable matters can be made to the Australian Securities & Investments Commission (ASIC), the Australian Prudential Regulation Authority (APRA) or another

Commonwealth body prescribed by regulation, and qualify for protection under The Act – see s1317AA(1)

4.6. 'Public interest disclosures' can be made to a journalist or parliamentarian, and qualify for protection (s1317AAD) where:

- (a) at least 90 days have passed since the discloser made the disclosure to ASIC, APRA or another Commonwealth body prescribed by regulation
- (b) the discloser does not have reasonable grounds to believe that action is being, or has been taken, in relation to their disclosure
- (c) the discloser has reasonable grounds to believe that making a further disclosure of the information is in the public interest
- (d) before making the public interest disclosure, the discloser has given written notice to the body to which the previous disclosure was made that:
 - (i) includes sufficient information to identify the previous disclosure; and
 - (ii) states that the discloser intends to make a public interest disclosure.

4.7. Emergency disclosures can be made to a journalist or parliamentarian, and qualify for protection (s1317AAD) where all of the following criteria are met:

- (a) The discloser has previously made a disclosure that qualifies for protection to ASIC, APRA or another Commonwealth body prescribed by regulation
- (b) The discloser 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
- (c) The discloser gives the body to which the previous disclosure was made a written notification that:
 - (i) includes sufficient information to identify the previous disclosure; and
 - (ii) states that the discloser intends to make an emergency disclosure
- (d) the extent of the information disclosed in the emergency disclosure is no greater than is necessary to inform the recipient (journalist or parliamentarian) of the substantial and imminent danger.

4.8. A whistleblower is advised to carefully read and understand the criteria set out in the Act before making a public interest disclosure or emergency disclosure, and contact an independent legal adviser before making a public interest disclosure or emergency disclosure.

4.9. Disclosures can be made anonymously and still be protected under The Act.

5. What disclosures are protected?

5.1. A disclosure of information will be considered a protected disclosure if the discloser has reasonable grounds to suspect that the information indicates that PLC, or an officer or employee of PLC, or a related body corporate of PLC, or an officer or employee of a related body corporate of PLC, has engaged in conduct that:

- (e) constitutes an offence against, or a contravention of, a provision of any of the following:
 - (i) the *Treasury Laws Amendment (Enhancing Whistleblower Protections) Act 2019*
 - (ii) the *ASIC Act 2001*
 - (iii) the *Banking Act 1959*
 - (iv) the *Financial Sector (Collection of Data) Act 2001*
 - (v) the *Insurance Act 1973*
 - (vi) the *Life Insurance Act 1995*
 - (vii) the *National Consumer Credit Protection Act 2009*
 - (viii) the *Superannuation Industry (Supervision) Act 1993*
 - (ix) an instrument made under an Act referred to in any of subparagraphs (i) to (viii)
 - (f) constitutes an offence against any other law of the Commonwealth that is punishable by imprisonment for a period of 12 months or more; or
 - (g) represents a danger to the public or the financial system.
- 5.2. A 'disclosable matter' is the disclosure of information where the discloser has reasonable grounds to suspect that the information concerns misconduct, or an improper state of affairs or circumstances. Based on the operations and practices of the College, a 'disclosable matter' may include:
- (a) illegal conduct, such as theft, dealing in, or use of illicit drugs, violence or threatened violence, and criminal damage against property
 - (b) fraud, money laundering or misappropriation of funds
 - (c) offering or accepting a bribe
 - (d) financial irregularities
 - (e) failure to comply with, or breach of, legal or regulatory requirements
 - (f) engaging in or threatening to engage in detrimental conduct against a person who has made a disclosure or is believed or suspected to have made, or be planning to make, a disclosure.
- 5.3. Disclosable matters include conduct that may not involve a contravention of a particular law, but may indicate a systemic issue that the relevant regulator should know about to properly perform its functions.
- 5.4. Information that indicates a significant risk to public safety or the stability of, or confidence in, the financial system is also a disclosable matter, even if it does not involve a breach of a particular law.
- 5.5. A discloser can still qualify for protection even if the disclosure turns out to be incorrect.

- 5.6. A discloser qualifies for protection as a whistleblower under The Act if they are an eligible whistleblower in relation to the entity and they have made a disclosure in line with Section 4 of this policy and The Act.

Personal work-related grievances

- 5.7. Disclosures that relate solely to personal work-related grievances, and that do not relate to detriment or threat of detriment to the discloser, do not qualify for protection under The Act (ss1317AADA(1) and 1317AC). Personal work-related grievances are those that relate to the discloser's current or former employment and have, or tend to have, implications for the discloser personally, but do not have any other significant implications for the College or relate to any conduct, or alleged conduct, about a disclosable matter. Examples may include:

- (a) an interpersonal conflict between the discloser and another employee
- (b) a decision that does not involve a breach of workplace laws
- (c) a decision about the engagement, transfer or promotion of the discloser
- (d) a decision about the terms and conditions of engagement of the discloser
- (e) a decision to suspend or terminate the engagement of the discloser, or otherwise to discipline the discloser.

- 5.8. A personal work-related grievance may still qualify for protection if:

- (a) it includes information about misconduct, or information about misconduct includes or is accompanied by a personal work-related grievance (mixed report)
- (b) the entity has breached employment or other laws punishable by imprisonment for a period of 12 months or more, engaged in conduct that represents a danger to the public, or the disclosure relates to information that suggests misconduct beyond the discloser's personal circumstances
- (c) the discloser suffers from or is threatened with detriment for making a disclosure
- (d) the discloser seeks legal advice or legal representation about the operation of the whistleblower protections under The Act.

6. Protections and support available to a whistleblower

Identity protection

- 6.1. To reduce the risk that the discloser will be identified from the information contained in a disclosure:

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

Secure record-keeping and information-sharing processes

6.2. To maintain secure records and limit information sharing:

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

Protection from detrimental acts or omissions

6.3. In sections 1317AC and 1317AD, 'detriment' includes (without limitation) any of the following:

- (a) dismissal of an employee
- (b) injury of an employee in his or her employment
- (c) alteration of an employee's position or duties to his or her disadvantage
- (d) discrimination between an employee and other employees of the same employer
- (e) harassment or intimidation of a person
- (f) harm or injury to a person, including psychological harm
- (g) damage to a person's property
- (h) damage to a person's reputation
- (i) damage to a person's business or financial position
- (j) any other damage to a person.

6.4. Examples of actions that are not detrimental conduct include:

- (a) administrative action that is reasonable for the purpose of protecting a discloser from detriment (e.g. moving a discloser who has made a disclosure about their immediate work area to another office to prevent them from detriment)
- (b) managing a discloser's unsatisfactory work performance, if the action is in line with the entity's performance management framework.

6.5. The following measures and mechanisms for protecting disclosers from detrimental acts or omissions will be enacted where a disclosure eligible for protection has been made:

- (a) processes for assessing the risk of detriment against a discloser and other persons (e.g. other staff who might be suspected to have made a disclosure), which will commence as soon as possible after receiving a disclosure
- (b) support services (including counselling or other professional or legal services) that are available to disclosers
- (c) strategies to help a discloser minimise and manage stress, time or performance impacts, or other challenges resulting from the disclosure or its investigation
- (d) actions for protecting a discloser from risk of detriment will be considered—for example, allowing the discloser to perform their duties from another location, reassigning the discloser to another role at the same level, making other modifications to the discloser's workplace or the way they perform their work duties, or reassigning or relocating other staff involved in the disclosable matter
- (e) processes for ensuring that management are aware of their responsibilities to maintain the confidentiality of a disclosure, address the risks of isolation or harassment, manage conflicts, and ensure fairness when managing the performance of, or taking other management action relating to, a discloser
- (f) procedures on how a discloser can lodge a complaint if they have suffered detriment, and the actions the entity may take in response to such complaints (e.g. the complaint may be investigated as a separate matter by an officer who is not involved in dealing with disclosures and the investigation findings provided to the Council or Risk Management, Audit and Compliance Committee)
- (g) interventions for protecting a discloser if detriment has already occurred—for example, the College may investigate and address the detrimental conduct, such as by taking disciplinary action, or allow the discloser to take extended leave, develop a career development plan for the discloser that includes new training and career opportunities, or offer compensation or other remedies.

Compensation and remedies

- 6.6. A discloser (or any other employee or person) can seek compensation and other remedies through the courts if:
- (a) they suffer loss, damage or injury because of a disclosure
 - (b) The College failed to take reasonable precautions and exercise due diligence to prevent the detrimental conduct.
- 6.7. A discloser is encouraged to seek independent legal advice with regards to seeking compensation and other remedies.

Civil, criminal and administrative liability protection.

- 6.8. If a person makes a disclosure that qualifies for protection under the Act:
- (a) the person is not subject to any civil, criminal or administrative liability (including disciplinary action) for making the disclosure
 - (b) no contractual or other remedy may be enforced, and no contractual or other right may be exercised, against the person on the basis of the disclosure

- (c) if the disclosure qualifies for protection as a disclosure to ASIC, APRA, or another Commonwealth body prescribed by regulation, or as a public interest or emergency disclosure, the information is not admissible in evidence against the person in criminal proceedings or in proceedings for the imposition of a penalty, other than proceedings in respect of the falsity of the information.

7. Investigation of disclosures

- 7.1. The College will assess a disclosure to determine whether:
 - (a) it qualifies for protection
 - (b) a formal, in-depth investigation is required.
- 7.2. The College may not be able to undertake an investigation if it is not able to contact the discloser (e.g. if a disclosure is made anonymously and the discloser has refused to provide, or has not provided, a means of contacting them).
- 7.3. Where an investigation is commenced, the process and timelines will vary depending on the nature of the disclosure. The following overarching principles will apply:
 - (a) If the discloser has revealed their identity or an anonymous channel enabling contact with the discloser is available, the discloser will be advised that an investigation has commenced and will be provided with regular updates, with frequency and timeframe dependent on the nature of the disclosure
 - (b) Maintaining confidentiality and protecting the anonymity of the discloser will be at the forefront of the principles of the investigation at all times
 - (c) An investigation team will be established as required, utilising the minimum number of investigating officers feasible
 - (d) The College will endeavour to conduct a thorough investigation under all circumstances. For example:
 - (i) investigate a disclosure by conducting a broad review on the subject matter or the work area disclosed
 - (ii) investigate an anonymous disclosure, even if it cannot get in contact with the discloser, if the discloser has provided sufficient information to the entity and the entity removes information that is likely to lead to the identification of the discloser.
 - (e) All findings throughout the investigation process will be thoroughly minuted / recorded in writing and stored securely, with access restricted to appropriate personnel
 - (f) The outcome of an investigation will under most circumstances be communicated to the discloser through the most appropriate means possible based on contact information available for the discloser. However, there may be circumstances where it may not be appropriate to provide details of the outcome to the discloser
 - (g) Reporting (within the bounds of identify protection) on the status of open investigations and the outcome of closed investigations will be provided to the College Council.

8. Ensuring fair treatment of employees mentioned in the disclosure

- 8.1. The following measures and/or mechanisms for ensuring fair treatment of individuals mentioned in a disclosure will be enacted when a disclosure eligible for protection is made:
- (a) disclosures will be handled confidentially, when it is practical and appropriate in the circumstances
 - (b) each disclosure will be assessed and may be the subject of an investigation
 - (c) the objective of an investigation is to determine whether there is enough evidence to substantiate or refute the matters reported
 - (d) when an investigation needs to be undertaken, the process will be objective, fair and independent
 - (e) an employee who is the subject of a disclosure will be advised about the subject matter of the disclosure as and when required by principles of natural justice and procedural fairness and prior to any actions being taken - for example, if the disclosure will be the subject of an investigation
 - (f) an employee who is the subject of a disclosure may contact the entity's support services (e.g. counselling).

9. Availability of policy to employees and officers

- 9.1. This policy is made available via the following mechanisms:
- (a) The policy is published on the College website
 - (b) The College community is reminded of the policy annually via the fortnightly newsletter
 - (c) The policy is accessible by Staff and Council members on Wyse
 - (d) Training on the content of the policy is provided to employees at induction and as part of the College's ongoing Training Program
 - (e) Staff are briefed on the policy annually during Staff Days.

10. Related policies and documents

- [PLC Complaints & Grievances Policy \(Parent, Student, Community\)](#)

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