



Presbyterian Ladies' College

MELBOURNE

PLC WHISTLEBLOWER POLICY

Rationale

Presbyterian Ladies College (PLC or College) is committed to educating students while maintaining the highest standard of conduct and ethical behaviour in all areas of operation.

The College strives for a culture of openness and feedback, in which concerns and complaints are addressed appropriately, handled respectfully and fairly and dealt with in alignment with PLC's core values of Integrity, Empathy, Courage, Delight and Service.

To encourage disclosure of wrongdoing, the *Corporations Act 2001* (The Act) and the *Tax Administration Act* mandates a statutory whistleblower regime that provides legally enforceable protections for people who make Protected Disclosures. This regime recognises the critical role whistleblowing can play in the early detection and prosecution of misconduct in businesses and how it can improve compliance with the law and promote an ethical culture because of the higher likelihood of misconduct being reported. PLC is an entity subject to the whistleblower provisions under The Act.

This policy provides a framework in which individuals can report certain types of misconduct or suspected misconduct (disclosures) and addresses the protection of individuals making those reports under the applicable legislation.

Scope

1. The Policy applies to those who are eligible to make disclosures (Eligible Whistleblowers outlined in clause 8) that qualify for protection and those who are eligible to receive disclosures (Eligible Recipients outlined in clauses 22- 24).
2. This Policy should be read and understood by, and made available to all Council members, employees, contractors, volunteers and service providers of PLC.
3. Concerns and complaints that do not meet the definition of a protected disclosure must be managed with reference to the policies as outlined in section 'Related policies and documents' of this policy.
4. Child safety related issues must be dealt with immediately in line with the College's Child Protection, Safety and Wellbeing Program.
5. Disclosures that relate solely to a personal work-related grievance and do not also involve a type of disclosure protected under the whistleblower protection legislation, cannot be dealt with under this policy. Staff who have a concern about a personal work-related grievance, should raise the matter with their manager, the PLC People and Culture Team or follow the PLC complaints and grievances (staff) policy in the first instance. Examples of a personal work-related grievance are set out at in clause 19 below.
6. This policy should be read in conjunction with the *Corporations Act 2001 (Cth)*, *Treasury Laws Amendment (Enhancing Whistleblower Protections) Act 2019 (Cth)* and *Taxation Administration Act*.

Policy Statement

Guiding Principles

7. The guiding principles 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 (referred to as disclosers or whistleblowers) 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.

Who the Policy applies to

8. To qualify for protection as a whistleblower an individual must firstly be an Eligible Whistleblower. An individual is an Eligible Whistleblower in relation to PLC if the individual is, or has been, any of the following:
 - a) A council member or employee of PLC
 - b) a volunteer 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) an officer of a related body corporate
 - g) a relative, dependant, spouse or child of an individual referred to in any of paragraphs (a) to (f).
9. A disclosure of information by an Eligible Whistleblower qualifies for protection if the disclosure is made to:
 - a) an Eligible Recipient (the disclosure is then referred to as a Protected Disclosure)
 - b) a legal practitioner for the purposes of obtaining legal advice or legal representation about the operation of the whistleblower provisions in the Corporations Act or the Tax Administration Act; or
 - c) the disclosure is an Emergency Disclosure or Public Interest Disclosure.
10. There is no requirement for individuals to identify themselves in order for a disclosure to qualify for protection under the whistleblower laws. Further, individuals can still qualify for protection even if the disclosure turns out to be incorrect.

Matters the policy applies to

11. Individuals will be entitled to the protections as a whistleblower if they make a Protected Disclosure to an Eligible Recipient.

Disclosable Matters

12. A disclosure of information will be a Protected Disclosure if it involves a Disclosable Matter.
13. 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, in relation to PLC, a related body corporate or in relation to PLC's tax affairs.
14. A Disclosable Matter also involves information about PLC where there are reasonable grounds to suspect that the information indicates that PLC or a related body corporate (including their employees or officers) have engaged in conduct that:
 - a) constitutes an offence against, or a contravention of, a provision of any of the following:
 - (i) *the Corporations Act 2001*
 - (ii) *the Treasury Laws Amendment (Enhancing Whistleblower Protections) Act 2019*



- (iii) the *ASIC Act 2001*
- (iv) the *Banking Act 1959*
- (v) the *Financial Sector (Collection of Data) Act 2001*
- (vi) the *Insurance Act 1973*
- (vii) the *Life Insurance Act 1995*
- (viii) the *National Consumer Credit Protection Act 2009*
- (ix) the *Superannuation Industry (Supervision) Act 1993*
- (x) the *Taxation Administration Act 1953*
- (xi) an instrument made under an Act referred to in any of subparagraphs (i) to (x)

- b) constitutes an offence against any other law of the Commonwealth that is punishable by imprisonment for a period of 12 months or more; or
- c) represents a danger to the public or the financial system.

15. Based on the operations and practices of the College, examples of 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 or misappropriation of funds
- c) unethical or dishonest conduct, such as dishonestly altering organisational records, engaging in questionable accounting practices or receiving money or gifts in return for favourable treatment
- d) offering or accepting a bribe
- e) financial irregularities or significant misuse or mismanagement of resources
- f) failure to comply with, or breach of, legal or regulatory or legislative requirements
- g) conduct that may cause financial loss to the College or damage to its reputation, or that is otherwise detrimental to the College's interests
- h) conduct that is potentially damaging to the College, its personnel or the public, such as unsafe work practices or information that indicates a significant risk to public safety
- i) 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.

16. Disclosable matters include conduct that may not involve a breach of a particular law.

Personal work-related grievances

17. 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 whistleblower protection under The Act.

18. 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:

- a) have any other significant implications for the College or related body corporate; or
- b) relate to any conduct or alleged conduct, about a disclosable matter.

19. Examples of personal work-related grievances that prima facie would not be a Protected Disclosure 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.

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

- a) it includes information about a disclosable matter, or information about a disclosable matter includes or is accompanied by a personal work-related grievance (mixed report)
- b) PLC 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.

Who can receive a disclosure

21. To be able to qualify for whistleblower protection, the discloser needs to make the disclosure to an Eligible Recipient.

22. An Eligible Recipient in relation to PLC, to whom a disclosure can be made, is any of the following:

- The PLC Principal
- The PLC Business Manager
- Other members of the College Executive Team
- A senior manager of PLC
- The PLC auditor or member of an audit team conducting an audit of PLC
- Members of the PLC Council.

23. Eligible Recipients also include the Australian Securities & Investments Commission (ASIC), the Australian Prudential Regulation Authority (APRA) or another Commonwealth body prescribed by regulation, under The Act.

24. Protection is also available when a disclosure is made to a legal practitioner for the purposes of obtaining legal advice or legal representation in relation to the operation of the whistleblower provisions in the Corporations Act or the Tax Administration Act (even in the event that the legal practitioner concludes that a disclosure does not relate to a Disclosable Matter).

25. If a disclosure concerns an Eligible Recipient, the disclosure should not be made directly to that person.

How to make a disclosure

26. 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 simultaneously routed to the PLC Principal, PLC Business Manager and Chair of the PLC Council. Confidentiality and security of information reported is assured.

27. A disclosure may also be made to any Eligible Recipient by any of the following means and marking or noting that the disclosure is made under this policy.

- by post in an envelope marked – "private and confidential"
- by email sent directly to the Eligible Recipient
- by telephone
- in person.

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

29. Contact details for the Eligible Recipients in relation to PLC are:



Eligible Recipient	Email address	Telephone	Postal address
PLC Principal	principal@plc.vic.edu.au	+ 613 9805 7802	141 Burwood Highway, Burwood VIC, 3125, Australia
PLC Business Manager	business@plc.vic.edu.au	+ 613 9805 7550	
Other members of the College Executive Team or Senior member of PLC		+ 613 9805 7802	
Chair of the PLC Council	chair@plc.vic.edu.au	+ 613 9805 7550	
Other members of the PLC Council		+ 613 9805 7550	
PLC auditor Accru Melbourne	gwinnett@accrumelb.com.au	+61 3 9835 8200	50 Camberwell Road Hawthorn East, VIC, 3123 Australia

30. A disclosure can also be made to the regulatory authorities outlined in clause 23. An Eligible Whistleblower is encouraged to make a disclosure internally (via the online reporting mechanism or via post, an email, telephone or in person) before reporting to a regulatory authority.
31. 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 PLC Policy, Risk & Compliance Officers.

Public Interest Disclosures and Emergency Disclosures

32. A disclosure can be made to a journalist or parliamentarian under certain circumstances and qualify for protection. A whistleblower is advised to contact an independent legal adviser before making a public interest disclosure or emergency disclosure.

Public interest disclosures

33. Public interest disclosures can be made to a journalist or parliamentarian, and qualify for protection where:
- at least 90 days have passed since the discloser made the Protected Disclosure to an Eligible Recipient
 - the discloser does not have reasonable grounds to believe that action is being, or has been taken, in relation to their disclosure
 - the discloser has reasonable grounds to believe that making a further disclosure of the information is in the public interest
 - before making the public interest disclosure, the discloser has given written notice to the person or organisation (which may have been PLC) to which the previous disclosure was made that:
 - includes sufficient information to identify the previous disclosure; and
 - states that the discloser intends to make a public interest disclosure.

34. The extent of the information disclosed in a public interest disclosure must be no greater than the concerns in the previous disclosure.

Emergency disclosures

35. Emergency disclosures can be made to a journalist or parliamentarian, and qualify for protection where all of the following criteria are met:
- The discloser has previously made a disclosure that qualifies for protection to an Eligible Recipient



- 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 person or organisation (which may have been PLC) 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.

36. The extent of the information disclosed in the emergency disclosure must be no greater than the concerns in the previous disclosure.

Legal Protections available to a whistleblower

37. Under the whistleblower laws, if a discloser makes a Protected Disclosure to an Eligible Recipient they will receive certain protections in relation to their identity and victimisation for making the disclosure. In particular, the discloser will be protected from any of the following in relation to the disclosure:
- a) civil liability (e.g. any legal action against the discloser for breach of an employment contract, duty of confidentiality or another contractual obligation)
 - b) criminal liability (e.g. attempted prosecution of the discloser for unlawfully releasing information)
 - c) administrative liability (e.g. disciplinary action for making the disclosure).
38. However, these protections will not grant the discloser immunity from being subject to any civil, criminal or administrative liability for their own misconduct that is revealed by the disclosure.

Confidentiality

39. PLC has a legal obligation to protect the confidentiality of a Protected Disclosures identity.
40. PLC cannot disclose a disclosers identity or information that is likely to lead to their identification (which has been obtained directly or indirectly because a Protected Disclosure was made). There are limited exceptions to this prohibition which relate to disclosures of a disclosers identity to ASIC, APRA, a legal practitioner (for the purposes of obtaining legal advice or legal representation about the whistleblower provisions in the Corporations Act), to a member of the Australian Federal Police or when the disclosure of the whistleblowers identity is made with their consent.
41. PLC can also disclose the information contained in a disclosure with or without a disclosers consent if:
- a) the information does not include the disclosers identity;
 - b) PLC has taken all reasonable steps to reduce the risk that the discloser will be identified from the information; and
 - c) it is reasonably necessary for investigating the issues raised in the disclosure.
42. Outside these exceptions, it is illegal for a person to identify the discloser or to disclose information that is likely to lead to their identification.
43. Any breaches or suspected breaches of confidentiality in relation to a Protected Disclosure should be brought to the attention of the PLC Principal. Alternatively a complaint may also be lodged for investigation with ASIC, APRA or the another Commonwealth body prescribed by regulation under The Act.

Victimisation

44. PLC has a legal obligation to protect a Protected Discloser, or any other person, from detriment in relation to a disclosure.
45. It is an offence for a person, including PLC, to cause detriment or threaten to cause detriment to a discloser because they made, or are believed to have made, a Protected Disclosure to an Eligible Recipient.
46. Detriment conduct 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 PLC
- e) harassment or intimidation
- f) harm or injury, including psychological harm
- g) damage to a person's property, reputation, business or financial position
- h) any other damage to a person.

47. 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 unsatisfactory work performance, in line with PLC's performance management framework.

48. The courts are empowered to make such orders as they think appropriate to correct any detrimental conduct towards a discloser, including awarding compensation for any loss, damage or injury that the discloser may have suffered.

Compensation and remedies

49. 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.

50. A discloser is encouraged to seek independent legal advice with regards to seeking compensation and other remedies.

Support and Protection available to whistleblowers

51. PLC will provide support and protection for any Eligible Whistleblower by:

- a) implementing training across the College to ensure that whistleblower disclosures are recognised and dealt with confidentially and in accordance with the whistleblower laws
- b) ensuring that disclosers are not subjected to any detrimental conduct
- c) having a review process to ensure that any whistleblower process has been properly and effectively managed in accordance with this policy
- d) providing all reasonable support services that may be necessary for the discloser that may assist them to deal with the disclosure that has been made.

Identity protection and Confidentiality

52. PLC will ensure that measures and/or mechanisms are in place to protect the confidentiality of a disclosers identity. To reduce the risk that the discloser will be identified from the information contained in a disclosure:

- a) the discloser is not required to disclose their name and can remain anonymous during the course of any investigation and after it is finalised
- b) all personal information or reference to the discloser witnessing an event will be redacted
- c) the discloser will be referred to in a gender-neutral context
- d) where possible, the discloser will be contacted to help identify certain aspects of their disclosure that could inadvertently identify them
- e) disclosures will be handled and investigated by qualified senior staff who are subject to strict confidentiality obligations.



53. In addition PLC will ensure that it maintains secure record-keeping and information-sharing processes, including:

- 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

54. PLC will ensure measures and mechanisms for protecting disclosers from detrimental acts or omissions will be enacted by the College, including:

- 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, PLC Employee Assistance Plan 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 (e.g. 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 PLC 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 or detriment is threatened against the discloser, and the actions PLC 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)
- g) interventions for protecting a discloser if detriment has already occurred (e.g. 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).

55. Further, a discloser may seek independent legal advice or contact regulatory bodies, such as ASIC or APRA, if they believe they have suffered detriment.

Handling and Investigation of disclosures

Handling of disclosures

56. In the first instance, PLC will assess a disclosure, within a reasonable period of time following receipt, to determine whether:

- a) it qualifies for protection



- b) a formal, in-depth investigation is required.

57. The Eligible Recipient of the disclosure will determine an appropriate location and time for the discloser to make their disclosure comfortably and for ensuring that the discloser is protected.

Investigation of disclosures

58. The College will take all reasonable steps to ensure that a discloser is treated fairly during and after the investigation.

59. The College may not be able to undertake an investigation, or the investigation may not be comprehensive, 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).

60. 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) An investigation team will be established by the Eligible Recipient and/or College Principal
- b) 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
- c) Maintaining confidentiality and protecting the anonymity of the discloser will be at the forefront of the principles of the investigation at all times
- 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) The investigation must be conducted fairly and independently, utilising an investigation method which is flexible and fit for purpose taking into account the claims and information available.
- f) All findings throughout the investigation process will be thoroughly minuted / recorded in writing and stored securely, with access restricted to appropriate personnel
- g) The outcome of an investigation will under most circumstances be communicated to the discloser and the persons being investigated 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.
- h) 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.

61. The College will treat all disclosures confidentially as required and information about the disclosure will not be shared unless:

- a) the discloser has provided the College with prior consent to do so
- b) the College is legally obliged to do so
- c) it is reasonably necessary to investigate the allegations made in the disclosure (for example, to prevent a serious threat to an individual's health or safety)
- d) the College considers it appropriate to make a disclosure to a regulator in accordance with applicable legislation.

62. It is illegal for the College or a recipient of information to disclose information that may lead to the identification of a discloser, outside of the exceptions listed above.



Ensuring fair treatment of individuals mentioned in the disclosure

63. To ensure the fair treatment of individuals mentioned in a disclosure, PLC will undertake the following measures and/or mechanisms:

- 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
- f) an employee who is the subject of a disclosure may contact the PLC's support services (e.g. Employee Assistance Plan).

Availability of policy

64. This policy is made available via the following mechanisms:

- a) The policy is published and is available for the public to view on the College website
- b) Employees have access to the policy on the College intranet
- c) Training on the content of the policy is provided to employees at induction and as part of the College's ongoing Training Program.

Consequences of a breach of this policy

65. The College emphasises the need to comply with the requirements of this policy. Breaches of this policy and its procedures may result in suspension of access to the College's information resources.

66. Any person found to be in breach of the requirements of this policy may be subject to disciplinary action.

Related policies and documents

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

PLC Complaints & Grievances Policy (Staff)- available on PLC Intranet

[PLC Child Protection, Safety and Wellbeing Program](#)

[Reportable Conduct](#)

Mandatory Reporting policy - available on PLC Intranet

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