



Whistleblower Policy

1 INTRODUCTION

Protections for whistleblowers under the Corporations Act 2001 are effective from 1 July 2019; however the disclosures may be about matters that occurred prior to that date.

The protections relate only to reports made in specific circumstances by 'eligible whistleblowers'. It is very important that people wishing to make a report understand the criteria which attract the protections under the Act. These are set out in this document. Potential whistleblowers are advised to also seek independent legal advice.

Where the provisions of the Act are met, a whistleblower cannot be subjected to any criminal, civil or administrative liability for making the disclosure, even if it constitutes a breach of contract.

Southern Highlands Christian School expects a high level of compliance with the professional and ethical requirements upon all staff. Its continuing professional learning (CPL) processes aim to equip staff to understand their duties and responsibilities; and to support staff to carry out their duties with integrity.

The school seeks to be transparent and accountable in its activities. Therefore, it aims to foster a culture of compliance where staff are encouraged to report matters of non-compliance without fear of victimisation or other retribution. All staff and all volunteers are expected to report breaches of general law, school policy, Codes of Conduct or other generally recognised principles of ethics.

Personal staff grievances do not fall within this policy. The Complaints and Grievances policy sets out how staff may address personal matters.

Eligible whistleblowers, in reporting non-compliances under the provisions of this policy, i.e. that may cause harm to individuals, or financial or other loss to the School, or damage to its reputation, assist in maintaining the school's standards and in protecting its reputation.

ASIC considers a strong and effective whistleblower policy to be an important feature of open and transparent governance.

2 BIBLICAL BASIS

The core business of the School, of educating children and young people in a safe and supportive environment, is conducted through relationships. Therefore, a high value is placed on maintaining and protecting relationships within the School community. Genuine Christian love for one another will direct people to resolve differences swiftly; and to protect others from harm as a result of their own actions or the actions of others.

The school's policies and procedures guide decisions and actions which will promote and safeguard the school's vision and mission through sound practice. The staff employment

policy agreement requires all staff to maintain compliance with the school's policies; and also to exemplify godly living to students and other stakeholders.

The school recognises that we live in a fallen world; and that people make mistakes, or exercise wrong choices, which impact others, sometimes seriously. The school's processes aim to assist management and individuals to address and rectify issues: also with the goal of humble restoration and support of the person who erred. *Brothers and sisters, if someone is caught in a sin, you who live by the Spirit should restore that person gently. But watch yourselves, or you also may be tempted.* (Galatians 6:1)

Christians are called to live in the light. Where current safeguards of compliance have failed, or have not identified wrong-doing within the school, the school recognises that whistleblowers are important in bringing such actions into the light.

For you were once darkness, but now you are light in the Lord. Live as children of light (for the fruit of the light consists in all goodness, righteousness and truth) and find out what pleases the Lord. Have nothing to do with the fruitless deeds of darkness, but rather expose them. Be very careful, then, how you live—not as unwise but as wise, making the most of every opportunity, because the days are evil. Therefore do not be foolish, but understand what the Lord's will is. (Ephesians 5:8-11; 15-17)

The whistleblower provisions support the school's commitment to honour God in every part of its governance and operations; and to work towards continual improvement. The school shall investigate all reports of misconduct or wrong-doing and take necessary action. Where misconduct results in regulatory or legislative breaches, the school complies with the requirements of the law. *Let everyone be subject to the governing authorities, for there is no authority except that which God has established.* (Romans 13:1)

The school seeks the wellbeing and integrity of all its employees, stakeholders and students as people made in the image of God, and for His glory; and to supporting them in their faith and Christian walk. *Do your best to present yourself to God as one approved, a worker who does not need to be ashamed and who correctly handles the word of truth.* (2 Timothy 2:15)

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3 PURPOSE OF THIS DOCUMENT

This document sets out how a whistleblower can be protected from detriment if they make a report of wrongdoing by the school or a related body corporate of the school, or an employee or an officer of one of these entities.

Protections under the Act apply ONLY when:

- An ‘Eligible Whistleblower’ makes
- A ‘Disclosure’ of wrongdoing by the school or a related body corporate of the school, an employee or officer of the school to
- An ‘Eligible Recipient’

See: Definitions for explanation of these terms.

All other matters are handled through:

- the Complaints Framework, including Staff Grievances;
- the Child Protection Framework;
- WHS policies and procedures;
- Other school policies & procedures.

This document sets out the policy and procedures of Southern Highlands Christian School in meeting the provisions for the protection of whistleblowers. It is not to be used for trivial, vexatious or knowingly false reports.

4 POLICY

4.1 General

- (a) The school is committed to a responsive and effective complaints management process; and to addressing issues as they arise.
- (b) The school is committed to continual improvement of its services and systems; and therefore values the feedback of its stakeholders.
- (c) The school seeks to promote a culture of compliance with the requirements of:
 - legislation and regulators;
 - professional and ethical standards; and
 - Christian witness and lifestyle,as set out in the school's policies, procedures, codes of conduct, Statement of Faith and other guidelines for practice.
- (d) The school expects all staff members, volunteers and contractors who have reasonable grounds to suspect wrong-doing, or non-compliance, to report such matters to their immediate coordinator, or a member of the school executive, through the complaints processes.

See: SHCS Complaints and Grievance Policy and Procedure.

4.2 Whistleblower Policy

- (a) The school shall maintain a Whistleblower Program to protect eligible whistleblowers who wish to make a qualifying disclosure.
- (b) The school shall not bring any detrimental action against a person who makes a report under this policy.
- (c) The school shall treat any retaliatory action or victimisation as reprisal for a report being made as serious misconduct by a staff member, which will result in disciplinary action which may lead to dismissal.
- (d) The school shall protect the identity of whistleblowers through access to files limited to authorised personnel only.
- (e) Unauthorised disclosure of information relating to a report, the identity of the reporter, or from which the identity of a reporter may be inferred will be regarded as a serious breach which may lead to disciplinary action.
- (f) The school shall offer support to persons making, or named in, a whistleblower report.
- (g) The school shall make this policy available to stakeholders on its website, on the school's computer system, and upon request by stakeholders.

4.3 Staff Training

- (a) Staff training, including induction of new staff, includes:
 - A clear understanding of professional behaviour expected by the school e.g. Staff Code of Conduct
 - Professionalism – competency, integrity, care, ethics, conscientiousness
 - Complaints handling procedures
- (b) Staff shall be trained in complaints handling procedures, including the provisions of the Whistleblower Policy.
- (c) Staff identified as Eligible Recipients of disclosures shall be trained in the requirements and responsibilities of their position.

5 WHISTLEBLOWER PROGRAM

Note: It is important for potential reporters to understand the conditions under which whistleblower protections apply. These are set out in this document and should be followed carefully.

Whistleblowers are advised to seek legal counsel about their personal circumstances and the protections applying to them: especially if they are considering making a **public interest** or **emergency disclosure**.

5.1 Purpose of the Whistleblower Program

The purpose of this program is to:

- (a) Enable current, or former, staff, officers, volunteers and contractors to report non-compliances without fear of detriment.
- (b) Enable the school to handle reports from whistleblowers in a way that will protect the identity of the whistleblower; and to provide for the secure storage of the information provided.
- (c) Establish protection of whistleblowers against reprisal by any person internal or external to the school.
- (d) Help to ensure that the school maintains the highest standards of ethical behaviour and professional practice.

5.2 Who may make a Whistleblower Report

'Eligible Whistleblowers' under the Corporations Act include the following persons only:

- A current officer, employee, volunteer or contractor (or their employees) working for Southern Highlands Christian School
- A former officer, employee, volunteer or contractor (or their employees) who has worked for Southern Highlands Christian School
- Current or former directors or secretaries of a related body corporate to the school, if applicable
- The spouse, dependent or other relative of a current or former officer, employee, volunteer or contractor of the school

(Other persons should report any issues or concerns through the school's Complaints procedures. See website or inquire through the school.)

5.3 What may be reported under the 'Whistleblower Act'

Note: The whistleblower **MUST** have **reasonable grounds** to suspect that their disclosure concerns misconduct or an improper state of affairs or circumstances, where an officer, employee, volunteer, or contractor of the school has:

- Breached any provision of the particular legislation in corporate, financial and credit sections or relating to tax affairs;
- Breached any provision of Commonwealth legislation which may be punishable by imprisonment of 12 months or more; or
- Acted in a way which represents danger to the public; or to the financial system.

Examples may include:

- Corrupt conduct
- Fraud or theft
- Official misconduct
- Maladministration
- Harassment or unlawful discrimination
- Serious and substantial waste of public resources
- Practices endangering the health or safety of the staff, volunteers, or general public
- Practices endangering the environment.

N.B. Whistleblower provisions do not include a complaint or grievance where the complainant is personally treated poorly. (See: Complaints and Grievance Policy)

5.4 Who can receive a Whistleblower Report

Under the protections of the Act, 'qualifying disclosures' must be reported to an 'Eligible Recipient' only. For Southern Highlands Christian School 'eligible recipients' are: (unless you believe this person to be implicated in the subject of your disclosure)

Eligible Recipients for Whistleblower Disclosures	Person or Agent Authorised by School Highlands Christian School Board
The Principal	
Head Of Junior School	
The Business Manager	
The Board Chair	
The auditor of the school	<i>HLB Mann Judd</i>
Duly constituted legal authorities responsible for the enforcement of the law in the relevant area - Corporations law	ASIC

- Tax related disclosures	Australian Tax Office A tax agent; or BAS agent
Current:	November 2019

Note: the Australian Charities and Not-for-Profits Commission (ACNC) is NOT an eligible recipient and therefore whistleblower protections do not apply.

5.5 How to make a Whistleblower Report

- (a) Reports may **only** be made, or directed, to an 'Eligible Recipient'.
- (b) Reports may be made in person, by phone or in writing. The person to whom you disclose can help you to make a written statement.
- (c) Reports can be made anonymously if preferred. The written report should be sent in a sealed envelope marked 'Confidential', and addressed to the Principal, or to the Business Manager.
- (d) Reports to ASIC (or the ATO) can be made through their online forms.
- (e) The report should contain as much detail as possible of:
 - The alleged breach – what happened
 - The person, or persons, responsible for the breach
 - Information for believing that a breach has occurred, and has been committed by the person named
 - The nature and whereabouts of any further evidence to substantiate the allegations, if known

5.6 Reporting Anonymously

Disclosures may be made anonymously. Reporters should be aware that:

- Maintenance of anonymity may reduce the likelihood that the alleged breach can be substantiated in subsequent investigation.
- Where anonymity has been requested the whistleblower is also required to maintain confidentiality regarding the issue; and to refrain from discussing the matter with any unauthorized persons.
- Anonymity may be overridden by legal processes, if required.

5.7 Emergency and public interest disclosures

Eligible whistleblowers are also protected when making an emergency, or public interest disclosure, if:

- (i) They have previously made a report consistent with this policy
- (ii) At least 90 days has passed since they made that report; AND they have no reasonable ground to believe that action has been taken to address the concern
- (iii) Further information has come to light
- (iv) They reasonably believe that:
 - the information concerns either "a substantial and imminent danger to the health and safety" of people or the 'natural environment'; or

- it would be in the 'public interest to do so'
- (v) They have given written notice to the recipient of the report of their intention to make a public interest or emergency disclosure; and
- (vi) The public interest or emergency disclosure is made to a Member of Parliament or to a journalist.

5.8 Protections for Whistleblowers under the law

If a reporter meets the requirements for protection under the Act in disclosing information about wrongdoing in the school:

- The whistleblower is entitled to protections commence from when they report their concerns to an eligible recipient
- They are provided with immunity from civil, criminal, or administrative liability for protected disclosures; and
- No contractual or other rights or remedies may be enforced against them because of the report.

N.B. This protection does not grant immunity to the reporter for any misconduct they were involved in that is revealed in the disclosure. If a reporter voluntarily self-reports their involvement in corporate misconduct this will be taken into account.

It is important for whistleblowers to understand that failure to meet all the criteria may leave them open to being sued or sacked.

Note: Whistleblower protections **DO NOT APPLY** to reports solely about a personal workplace grievance.

- (a) Protections under the Act relate to: 'eligible whistleblowers' reporting 'qualifying disclosures' relating to a 'regulated entity, or a related party to the regulated entity', and made to an 'eligible recipient'.
- (b) Protections apply to certain public interest or emergency disclosures if a whistleblower goes public with concerns.
- (c) It is an offence for another person to reveal the identity of the whistleblower, or information likely to lead to their identification, without their consent.
- (d) It is an offence for another person to victimise the whistleblower for their disclosure.
- (e) Whistleblowers have access to compensation & remedies if they suffer detriment.
Remedies may include: court ordered injunctions, reinstatement and apologies, as well as compensation.
Whistleblowers will not be liable for the costs of legal proceedings for compensation or any other remedy, unless the whistleblower sues vexatiously or without reasonable cause.

5.9 Protection in the school

- (a) The school shall maintain the confidentiality of the identity of the whistleblower.

- (b) The whistleblower's identity shall only be revealed:
 - With the consent of the whistleblower;
 - Subject to legal requirements – e.g. reported to ASIC, or the Australian Federal Police;
 - If the concern is raised with a lawyer for the purpose of legal advice or representation.
- (c) Information provided to the school shall be kept confidential. Records shall be securely filed; with access limited to authorised persons only.
- (d) The school shall not take disciplinary action, or engage any other employment-related disadvantage, toward a whistleblower for the act of making such a report, where the requirements of the Act are met.
- (e) The school shall provide additional support for the person where necessary.
- (f) Any eligible whistleblower who believes they have been subjected to detrimental treatment as a result of making a report under this policy should inform the person to whom they made the disclosure, or the Principal or the Board Chair, immediately.
- (g) The school shall take disciplinary measures against another person who reveals the identity of a whistleblower, or who victimises them for the disclosure. These actions are also offences under the Act.

5.10 Offences Under the Act

Significant penalties apply for corporations and/ or individuals for contraventions of whistleblower legislation.

It is an offence to:

- (a) Reveal the identity of a whistleblower, including information that is likely to lead to their identification, to anyone other than regulators and the school's lawyer, without the whistleblower's consent.
- (b) Victimize or threaten or cause "detriment" (See Definitions) to a whistleblower because of their disclosure; or because of an assumed disclosure.
- (c) Fail to prevent an employee from victimising or threatening or causing detriment to the whistleblower.
- (d) Discipline or dismiss an employee who is a whistleblower even if the protected disclosure constitutes a breach of contract.

Companies can also be liable to compensate the whistleblower for the losses they have suffered as a result of the detrimental behaviour.

5.11 Response to a Disclosure

- (a) The Principal, or another 'Eligible Recipient' of the report, shall examine the information to assess if it meets the requirements of a qualifying disclosure under the Act.
- (b) The school should seek appropriate legal advice; including notification to the school's insurer.

- (c) The determination may be that:
- The concern is unquestionably trivial or fanciful; and they may dismiss the allegation and notify the person making the allegation of their decision.
 - The matter is neither trivial nor fanciful; and the Principal ensures that the allegation is investigated, a finding is made and the person making the allegation is informed of the finding.
 - The matter is neither trivial nor fanciful; and the Principal refers it to an external agency or regulators for investigation.
 - The concern does not fit into the matters covered by the 'Whistleblower Act'; but may be dealt with under the school's complaints procedures.
- (d) The Principal (or Board Chair, if the matter involves the Principal), shall be responsible for ensuring that an investigation is established and adequately resourced – whether an external or internal investigation.

5.12 Internal Investigation

See also: procedures of the Meetings & Investigations Handbook

- (a) Notes about investigations:
- Principles of procedural fairness (natural justice) will be observed in any investigation.
 - The identity of the person making the report shall remain confidential.
 - The person or persons conducting the investigation shall, as far as possible, be independent and unbiased.
 - The absence of supporting evidence will be considered in deciding whether to investigate the matter. Absence of evidence is not an absolute bar to investigation, depending on the matter of concern.
 - Persons named as a subject of a report shall be treated fairly throughout the investigation.
- (b) Investigation Process
- If an internal investigation is being conducted by the school:
- Terms of reference for the investigation will be set to clarify key issues to be investigated.
 - An investigation plan will be developed to ensure all relevant questions are addressed (in proportion to the seriousness of the allegation); and sufficient resources allocated.
 - The investigation shall be conducted as quickly and thoroughly as possible.
 - Strict confidence will be maintained during the investigative process.
 - Any person implicated in the subject matter of the report shall be given an opportunity to respond to any allegations against them (but do not have to respond).
 - All information obtained will be properly secured to prevent unauthorised access.

- All relevant witnesses will be interviewed; and documents examined.
- Contemporaneous notes of all discussions, phone calls and interviews will be made.
- Interviews may be taped if appropriate; and with the full consent of all parties.

(c) Findings of an Investigation

A report will be prepared when an investigation is complete.

This report will include:

- The allegations
- A statement of all relevant findings of fact, plus evidence relied upon in conclusions
- Conclusions reached as a result of the investigation (including damage caused/ impact on the organisation or other affected parties) and their basis
- All supporting material annexed
- Recommendations based on those conclusions to address any wrongdoing identified and any other matters arising during the investigation.

(d) Following an Investigation

- (i) The report will be provided to the person making the allegation (with, if necessary, any applicable confidentiality stipulations).
- (ii) The report shall be provided to the Board, which may make further recommendations.
- (iii) Regulators shall be notified as necessary.
- (iv) The school shall take such action/s to rectify the situation as soon as possible.
- (v) Disciplinary action may be taken in respect of other staff implicated in the matter reported.
- (vi) Review the effectiveness of policy and procedures.
- (vii) A Register shall be maintained of Whistleblower Disclosures which shall include appropriate action taken in a reasonable timeframe.
- (viii) If the allegations are determined to be not substantiated, documents relating to the investigation will be securely stored; and the outcome logged in the Register.

6 EVIDENCE OF COMPLIANCE

EVIDENCE of COMPLIANCE
Staff training – PD week; new staff Induction programs
Eligible Recipients – requirements & responsibilities
Assurance that the disclosure meets requirements for protections under the Act
Report or evidence of disclosure
Arrangements to ensure protections
Additional support arranged for whistleblower/ others involved in disclosure
Legal/ other advice sought by school
Notifications/ reports to Board/ ASIC etc
Investigation Plan
Witness statements
Evidence/ records supporting or refuting disclosure
Confidential file notes and files
Report from Investigation
Actions recommended + pursued
Correspondence/ findings of investigation to whistleblower
Final report to regulators, as required
Feedback from regulators/ response
Confidential files; Register of Whistleblower reports (secure server site)

Important related documents:

See Complaints Framework 1 Complaint Management

Legislation:

Corporations Act 2001 (Cth) (Part 9.4A.A.A.)
 Taxation Administration Act 1953 (Cth) (Part IVD)

Reference: Complaints Framework

7 TABLE OF RESPONSIBILITIES

<i>Responsibilities</i>	<i>Evidence of Compliance</i>
School Board	
Oversight of delegations; and corporate responsibility	Board Delegation Authority
May appoint an external agent to receive whistleblower reports	Board Delegation Authority
Board Chair may receive complaints about the Principal	Confidential files; Complaint Register
Review complaints, reports and trends	Board reports & minutes
Principal	
Implementation of Whistleblower Program	Confidential records; Investigation reports
Maintain effective complaints procedures	Complaints Framework & procedures
Promote a school culture of continuous improvement	Policies; Strategic Plan; Board reports
Ensure no employment reprisals to eligible whistleblowers	Human Resources procedures; Confidential file notes
Consultation, investigation, mediation, review	Complaint file; Complaints Register
Report to the school Board	Board reports
Ensure records retained	Confidential records; Complaints Register
'Eligible Recipients'	
Follow processes of this document	Secure reports
Maintain confidentiality	Secure files
All Staff	
Report breaches of general law, school policy, Codes of Conduct or other generally recognised principles of ethics	Complaint/ report of non-compliance files, plus Registers
Use Complaints Framework processes to address complaints and/ or staff grievances.	Complaints files; Complaints Registers
Refer and report complaints from other stakeholders of the school	Files; Registers
Maintain confidentiality & respect for people making a complaint	Secure files
Report any evidence of victimization, harassment etc of any staff member or any other stakeholder of the school	Files; Registers
Eligible Whistleblowers	
Follow reporting requirements of this document to ensure protections under the Act	Whistleblower report; Investigation notes
Maintain confidentiality	Secure files

8 DEFINITIONS

See also: Definitions in Complaints Framework

NOTE: Whistleblower protections only apply when all the conditions prescribed by legislation are met. These are explained in this document.

Whistleblower – a person with insider knowledge of an organisation who reports misconduct or dishonest or illegal activity that may have occurred within the school

Whistleblower protections – provisions under the Act which enable a whistleblower to come forward to report misconduct without fear of retribution or personal detriment

To qualify for protections, the whistleblower **must have reasonable grounds** to suspect the information they disclose is indicative of misconduct, an improper state of affairs or circumstances, or a breach of law.

Eligible whistleblower – protections only apply to:

- A current or former officer or employee of the school
- A current or former contractor or supplier to the school, and their employees
- A current or former volunteer at the school, and associates of the school
- A relative or dependent of any of the above categories of persons;

AND

who, whether anonymously or not, makes, attempts to make or wishes to make a qualifying disclosure. (See below)

A qualifying 'disclosure' (in the context of this policy) – wrongdoing by the school or a related body corporate of the school, or an officer or employee of the school; such as an improper state of affairs or circumstances relating to:

-Breaches of particular legislation in corporate, financial and credit sections

-Breaches of Commonwealth legislation which may be punishable by imprisonment of 12 months or more

-Behaviour which represents danger to the public or to the financial system;

Such as:

- corrupt conduct
- fraud or theft
- official misconduct
- maladministration
- harassment or unlawful discrimination
- serious and substantial waste of public resources
- practices endangering the health or safety of the staff, students, volunteers, or general public
- practices endangering the environment.

N.B. This does not include a complaint or grievance where the complainant is personally treated poorly. (See: Complaints; Staff Grievances)

Regulated Entity – includes public companies; Southern Highlands Christian School Ltd is an incorporated association. It is also required to meet the provisions of the Act.

Eligible Recipient – disclosures can only be made to certain persons according to the Act

Detriment – as a result of actual or suspected whistleblower disclosure (not some other reason): includes dismissal, disciplinary action, harassment, discrimination and disadvantage in employment; as well as discrimination or threats, physical and psychological harm; damage to property, reputation, business or financial position; or any other unfavourable treatment connected with making a report