



WHISTLEBLOWER POLICY AND PROCEDURES

POLICY CATEGORY: GOVERNANCE

August 2023

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15. POLICY APPROVAL STATUS	ERROR! BOOKMARK NOT DEFINED.

Policy control information

POLICY RISK RATING	POLICY REFERENCE	OWNER	ENDORSED
High	WB062022	Chair of Board	Principal
DATE FIRST CREATED	VERSION	APPLICABLE TO	DATE APPROVED
June 2022	1.0	Members of the Board	Aug 2023
APPROVER(S)	NEXT REVIEW DATE	LOCATION	PORTAL RELEASE
SKC BOARD	March 2024	O:\Governance\Policies	CompliSpace – Policy module Parent portal Student portal Website

1. INTRODUCTION

St Kevin's College is committed to a culture of respect and ethical conduct in the way we work and relate to each other. We recognise the value of keeping the laws and standards that apply to us in our work and encourage everyone to report wrongdoing.

The College will not tolerate corrupt, illegal or other undesirable conduct nor condone detrimental acts of anyone who intends to disclose or has disclosed wrongdoing.

2. PURPOSE

Whistleblower Protection is a process in which members of the St Kevin's College community may confidentially raise serious concerns about conduct they suspect may be illegal, fraudulent, corrupt, damaging or improper, without fear of reprisal, dismissal or discriminatory treatment.

This College is committed to providing whistleblowers with protection, allowing students, parents, staff and others to come forward confidentially and anonymously, to the extent possible under existing laws, and ensuring that they are not victimised or subjected to any form of detrimental action.

3. SCOPE

This policy applies to all members of the College community (past or present) including students, parents, employees, volunteers, contractors, suppliers or others involved with the College.

Implementing the procedural aspects of this Policy applies to St Kevin's College employees, contractors and volunteers including St Kevin's College (SKC) Board and Committee members.

This policy applies to all College activities during and outside of school hours. This includes College activities that are occurring on school campus, offsite, online, extracurricular, sport activities and programs, excursions, camps, interstate and overseas travel.

4. DEFINITIONS

A whistleblower is a person who makes a disclosure, outside normal operational channels, whether anonymously or not, with respect to serious conduct such as corruption, fraud or some other illegal or undesirable activity observed within St Kevin's College.

5. ROLES & RESPONSIBILITIES

There are a number of key roles supporting the College's Whistleblower Protection program. Key roles and their main responsibilities are outlined below:

i) **Discloser ('Whistleblower')**

- A person who reports a wrongdoing (ie 'disclosure') according to the law or the College's Whistleblower Protection Policy and Procedures. (may be referred to as a 'whistleblower')

ii) **Disclosure Officers:**

- A senior manager of the College who is appointed by the Principal
- Manages reports that have been made directly to the College and Your Call when consent provided by the discloser
- Makes decisions as part of the Disclosure Officers Committee

iii) Disclosure Officers Committee:

- A quorum of 2 Disclosure Officers are required to constitute the Committee to make the following decisions:
 - whether an investigation is required, and appointment of investigator
 - appointment of a WPO to support and protect the whistleblower

iv) Whistleblower Protection Officer (WPO):

- Appointed by the Disclosure Officers Committee to support, protect and advocate for the whistleblower

v) Whistleblower Investigation Officer:

- Appointed by the Disclosure Officers Committee
- Must conduct a thorough and fair investigation

vi) Eligible Recipients: (SKC Board Members, Principal, College Leadership Team Members, Your Call, External Regulators)

- Can be contacted directly by a whistleblower to receive a whistleblower report
- When the whistleblower has provided consent to do so must then pass on the report information to the Disclosure Officers & Committee
- External Regulators can be contacted directly

vii) External Service Provider (Your Call)

- Independent, external firm appointed by the College to administer the online disclosure management system which captures disclosures from emails, phone calls and other means.
- Ensures the anonymity of anyone making a disclosure is maintained independently of the College's IT Systems.

6. RATIONALE

St Kevin's College is required to comply with the whistleblower protections under the Corporations Act (2011) and ASIC's Regulatory Guidance 270.

The College's Whistleblower Protection Policy has been established to:

- Support the values of the College;
- Embody the principles outlined in the College's Codes of Conduct;
- Support the College's commitment to the safety of all in the College Community;
- Comply with the College's legal and regulatory obligations; and
- Align with best practice governance principles and standards.

7. PRINCIPLES

A Whistleblower function is an important tool for assisting the College to identify wrongdoing that may not be uncovered unless there is a safe and secure means for disclosure.

The services of an external service provider are utilised to allay concerns regarding the perception that internal methods may be compromised. The core functions of the external provider are to:

- Objectively and independently receive and assess disclosures;
- Protect the person's anonymity;
- Conduct investigations where required, either legislatively or at the request of the College; and
- Appropriately escalate a qualifying disclosure to the designated delegation within the College for further action or investigation.

8. WHAT SORT OF CONCERNS SHOULD BE REPORTED?

The College's Whistleblower Protection policy and procedures are designed to capture actual or suspected wrongdoing that a person providing the disclosure considers cannot reasonably be managed through existing internal reporting procedures.

Examples of wrongdoing that may be reportable include:

- fraud, forgery, misappropriation, misuse, misdirection, misapplication, maladministration or waste of funds
- gross mismanagement
- grooming and/or child abuse
- conflicts of interest, nepotism, favouritism
- theft, embezzlement, tax evasion
- corruption, dishonesty involving influence
- coercion, harassment or discrimination by, or affecting any staff, volunteers or contractors
- assault, blackmail, taking or offering bribes
- abuse of public trust
- 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 St Kevin's College
- other criminally prosecutable offences
- failure to report, or concealment of, an indictable offence
- unreasonable danger to health or safety of others
- failure to act in accordance with applicable professional and ethical standards
- blatant disregard for organisational policies
- a significant threat to the environment
- significant breach of the terms of any contract that binds St Kevin's College
- other serious acts such as refusing to carry out lawful and/or reasonable actions under a contract
- other serious misconduct that may materially damage St Kevin's 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.

Wrongdoing would also include a deliberate attempt to conceal any of the actions described above.

A person making a whistleblower disclosure is expected to have reasonable grounds for believing that wrongdoing has occurred.

This policy does not displace any Mandatory Reporting or Commission for Children and Young People (CCYP) Reportable Conduct requirements. (Refer to Child Safeguarding (Responding and Reporting) Policy).

9. INTERNAL COMPLAINTS AND GRIEVANCES

A whistleblower should not use the whistleblower service to report a personal work or school related grievance, a third-party complaint or an incident that could be effectively managed through existing internal complaints and grievances procedures.

If a disclosure is made through the whistleblower service that does not meet the threshold of reportable wrongdoing such as that listed above, it may be referred by the SKC Board to the appropriately delegated authority to manage and will be recorded as not being a disclosable matter for the purposes of whistleblower protection.

Protection of anonymity does not apply in the same strictness to disclosures that are not disclosable matters, however confidentiality will be maintained as appropriate.

10. REPORTING PROCEDURE

10.1. Anonymity and Confidentiality

St Kevin's College will, as far as reasonably possible, provide to whistleblowers the ability to make a report anonymously and will take all reasonable steps to reduce the risk that the discloser will be identified as a result of the investigation.

The College engages Your Call as our external eligible recipient of disclosures. One of the primary purposes of retaining Your Call is to allow whistleblowers to disclose their identity to Your Call only and to keep their identity confidential from the College.

If a whistleblower provides their identity to Your Call it can assist in any subsequent investigation, and will also allow Your Call to follow up and seek any clarification or provide feedback.

If the whistleblower's identity is disclosed to Your Call, they will at the first opportunity discuss with the whistleblower the issues of anonymity and confidentiality and the degree of risk that their identity may become known during an investigation.

Information received from a whistleblower will be held in the strictest confidence and will only be disclosed to a person not connected with the investigation if:

- the whistleblower has been consulted and consents in writing to the disclosure; or
- Your Call is compelled by law to do so.

Your Call will advise the whistleblower if matters change in a way that affects their ability to protect the whistleblower's identity and will give the whistleblower as much warning as reasonably possible if it appears likely that their identity will become known.

10.2. Supportive Environment

St Kevin's College is committed to providing a supportive environment for any person making a whistleblower disclosure. In particular, a whistleblower can expect that:

- any request for anonymity is respected and if their identity is revealed it will, as far as possible, remain confidential and only be disclosed on an "as needed basis"
- the details of their disclosure will remain confidential to the extent that is practical in the circumstances and will only be released on an "as needed basis" during the investigation phase, or as required by law
- they will be protected from retaliation, harassment or victimisation
- should retaliation occur, it will be treated as serious misconduct and the perpetrator of the retaliation will be subject to disciplinary action.

Where a whistleblower provides their identity to Your Call but not to the College, it is the role of Your Call to ensure that they are supported throughout the investigation process.

Where a whistleblower provides their identity directly to the College of the SKC Board, it is the role of the College's Whistleblower Protection Officer who received the disclosure to ensure that they are supported throughout the investigation process.

Your Call and/or the College's Whistleblower Protection Officer will also advise the whistleblower of professional support services, such as confidential professional counselling services, that may be available.

10.3. Protection from Retaliation, Harassment or Victimisation

St Kevin's is committed to ensuring the highest standards of ethical conduct across the organisation and is supportive in creating and maintaining a "speak-up culture", where all members of the College community are encouraged to identify issues in the College and participate in resolving them. This includes "speaking up" through existing internal reporting procedures contained in our Internal Grievance, Complaints Handling, and Child Protection Policies.

The College does not tolerate retaliation, harassment or victimisation being taken against whistleblowers for reporting actual or suspected wrongdoing, including when suspicions are not substantiated following a thorough investigation.

The College takes steps to promote awareness to the broader College Community of their responsibilities to treat students, staff, parents and other 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 retaliation, harassment or victimisation as a result.

If a whistleblower provides their identity when making a whistleblower disclosure, the College's Whistleblower Protection Officer will proactively monitor the workplace for signs of retaliation, harassment or victimisation and intervene when necessary. A whistleblower who experiences retaliation, harassment or victimisation should immediately report it to the College's Whistleblower Protection Officer. Any such conduct may be treated as serious misconduct and the perpetrator of the retaliation may be subject to disciplinary action.

10.4. False or Misleading Disclosures

Anyone who makes a disclosure knowing it to be false or misleading may be subject to disciplinary action. The disciplinary action will depend on the severity, nature and circumstance of the false disclosure. The College, however, does not wish to deter disclosures. In cases where disclosers have some information leading to a suspicion, but not all the details, persons are encouraged to speak up and report the misconduct and will not face disciplinary action in those circumstances.

10.5. Civil, Criminal and Administrative Liability Protection

A person making a qualifying whistleblower disclosure is protected from the following in relation to that disclosure:

- Civil liability such as any legal action against the discloser for breach of an employment contract, duty of confidentiality or another contractual obligation;
- Criminal liability such as the attempted prosecution of the discloser for unlawfully releasing information, or other use of the disclosure against the discloser in a prosecution (other than for making a false disclosure); and
- Administrative liability such as any disciplinary action for making the disclosure.

These protections do not grant immunity for any misconduct a whistleblower discloser has engaged in that is revealed in their disclosure.

10.6. Legal Advice, Compensation & Other Remedies

A person who intends to, or actually makes a whistleblower disclosure is entitled to seek independent legal advice in relation to the matter, at their own expense.

Whistleblower disclosers can seek compensation and other remedies through the courts if:

- They suffer loss, damage or injury because of a whistleblower disclosure; and
- It is alleged that St Kevin's College failed to take reasonable precautions and exercise due diligence to prevent the detrimental conduct identified.

A whistleblower discloser may also contact relevant regulatory bodies (such as Commonwealth and State Government agencies) if they believe they have suffered detriment.

10.7. Public Interest Disclosures and Emergency Disclosures

A 'public interest disclosure' is the disclosure of information to a journalist or a parliamentarian, where:

- At least 90 days have passed since the whistleblower disclosure was lodged
- The whistleblower discloser does not have reasonable grounds to believe that action is being, or has been taken, in relation to their disclosure
- The whistleblower 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 whistleblower discloser has given written notice to the College's external Whistleblower Service Provider stating that:
 - the public interest disclosure includes sufficient information to identify the whistleblower disclosure
 - the whistleblower discloser intends to make a public interest disclosure

An 'emergency disclosure' is the disclosure of information to a journalist or parliamentarian, where:

- The whistleblower discloser has previously made the disclosure as per the College's Whistleblower Protection Policy and Guidelines, as prescribed
- The whistleblower 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
- Before making the emergency disclosure, the whistleblower discloser has given written notice to the College's external Whistleblower Service Provider that:
 - The emergency disclosure includes sufficient information to identify the whistleblower disclosure
 - The whistleblower discloser intends to make an emergency disclosure

The extent of the information disclosed in the emergency disclosure is no greater than is necessary to inform the journalist or parliamentarian of the substantial and imminent danger.

10.8. Investigating a Whistleblower Disclosure

All reports, other than those that are not disclosable matters, will be investigated by a Whistleblower Investigator.

Whistleblower Investigators must be independent of the whistleblower, or any person being the subject of the reported conduct.

Whistleblower Investigators will have reasonable access to independent specialist advice if required and will as far as reasonably possible, follow best practice in investigations including ensuring that all reports of actual or suspected wrongdoing will be investigated in a way that adheres to the principles of objectivity, procedural fairness, confidentiality and natural justice. 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 is acknowledged that an investigation may not be able to be undertaken if the discloser is not able to be contacted (eg if a disclosure is made anonymously and the discloser has refused or omitted to provide a means of contacting them).

10.9. Provision of Feedback

If the whistleblower's identity is known to the Whistleblower Investigator then, where possible the College will provide feedback to the whistleblower during the course of the investigation and will ensure that the whistleblower will be informed of the outcome of an investigation and in particular:

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

10.10. How to Make a Whistleblower Disclosure

To provide effective protection of whistleblowers, including allowing continuous discussion with anonymous whistleblowers, the College has appointed Your Call to act as an eligible recipient of disclosures.

A whistleblower disclosure to Your Call may be provided on an anonymous basis or on the basis that the whistleblower's identity is disclosed to Your Call only and kept confidential from the College. The provision of the whistleblower's identity to Your Call can assist in any subsequent investigation and allow Your Call to follow up and seek any clarification or feedback.

Concerns can be raised by submitting a whistleblower disclosure directly to Your Call through the following methods:

Website <https://www.yourcall.com.au/report>
24/7
Telephone 1800 316 519 relevant number
9am and 12am, recognised business days, AEST

11. POLICY BREACH

A breach of this policy or procedure may lead to disciplinary action.

All breaches, near misses and risks related to this policy should be reported to incidents@stkevins.vic.edu.au

Compliance with this policy will be monitored by the Principal and Governance Advisor and this may include independent audits and reviews.

12. RESPONSIBILITIES

St Kevin's College (SKC) Board

The SKC Board is the College's governing authority. The SKC Board is responsible for endorsing this policy, ensuring this policy is reviewed and updated as needed and reviewing the College's compliance with this policy and child safety obligations.

The Principal

The Principal is responsible for the College's compliance with this policy.

13. RELEVANT POLICY AND REFERENCES

Key policies and references to support our Whistleblower program include:

- Parent and Students Complaints Policy
- Internal Grievances and Complaint Policy
- Child Safety Code of Conduct
- Child Safeguarding (Responding and Reporting) Policy & Procedures

14. RELATED LEGISLATIVE INSTRUMENTS

The following legislation, standards and regulations apply and this policy aligns with these mandated requirements:

- Corporations Act (2011)
- ASIC's Regulatory Guidance 270
- Ministerial Order 1359