



DISCLOSURE PROTECTION PLAN 2023 (Whistleblower)

Version History

Version	Date	Notes
1.0	30/01/2023	Initial Document

Licence Agreement

Original document © 2019 Christian Schools Australia Limited A.C.N. 092 580 124

This publication is protected by Australian and international copyright law. Any member school may use this document in accordance with the *CSA Shared Resources Licence*, a full copy of which can be obtained from the National Office. In brief this licence allows a school to freely copy, modify and adapt this publication solely for its own use provided that it:

- provides CSA with a copy of any modifications or adaptations;
- licences CSA to incorporate those changes in any revision that CSA may publish;
- licences CSA to distribute the revised document to any other member school;
- undertakes not to make this publication or any modifications available to any non-member school.

All other rights are reserved. No part of this publication may be reproduced, stored in a retrieval system, or transmitted, in any form or by any means, electronic, mechanical, photocopying, recording or otherwise, without the prior written permission of Christian Schools Australia Limited. Without limiting the generality of the above the use of this information for commercial purposes is expressly prohibited.

The moral rights of the author/s listed below are acknowledged.

Prepared by:

Mark Spencer FCA, GAICD, FGIA, B.Bus., M.Lab.Rel. & Law, Grad. Dip. Leg. Stud.
Executive Officer Policy, Governance & Staff Relations
Christian Schools Australia Limited
E-mail: mspencer@csa.edu.au

A number of resources have been consulted in preparing this document including materials prepared by the Governance Institute of Australia, the Australian Institute of Company Directors and ASIC Regulatory Guide RG270: *Whistleblower Policies*.

1 PURPOSE

As a Christian school, Summerland Christian College and Hinterland Christian College are committed to honouring the name of Christ in all it does. Our Christian faith underpins our ongoing commitment to promoting and maintaining an open working environment in which our Board, employees and contractors are able to report instances of unacceptable, undesirable, unlawful or unethical conduct without fear of intimidation or reprisal

2 OBJECTIVE

The Summerland Christian College and Hinterland Christian College Board is committed to maintaining sound corporate governance through providing a framework for reporting and investigating unacceptable conduct, and ensuring the person raising the report can do so without fear of intimidation or reprisal. In doing so the College will ensure compliance with the requirements of the *Corporations Act 2001* (Cth) (Corporations Act).

3 SCOPE

This Plan applies to all current and former Summerland Christian College and Hinterland Christian College:

- Board members,
- Employees,
- Contractors, suppliers and their employees
- Associates
- Spouses, relatives and dependants of any of the above.

These persons are described as ‘**Eligible Whistleblowers**’ in the Corporations Act.

4 DEFINITIONS

In this Plan:

“**Associates**” means an Associate as defined in the Corporations Act, including a related body corporate; and a director or secretary of a related body corporate.

“**Eligible Disclosure Matter**” means information concerning misconduct, or an improper state of affairs or circumstances as defined in the Corporations Act, including:

- An offence under the Corporations Act or other Act listed in the Corporations Act,
- An offence against other Commonwealth law punishable by imprisonment for 12 months or more,
- A danger to the public or financial system.

Examples of such matters include:

- illegal conduct, such as theft, dealing in, or use of illicit drugs, violence or threatened violence, and criminal damage against property;
- fraud, money laundering or misappropriation of funds

- offering or accepting a bribe;
- financial irregularities;
- failure to comply with, or breach of, legal or regulatory requirements; and
- 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.

“Eligible Disclosure Recipient” means ASIC, Australian Prudential Regulation Authority (APRA), other prescribed body under the Corporations Act, a legal practitioner, the College’s auditor and staff, the Business Manager and Principal, and the College Board.

“Emergency Disclosure” means the disclosure by an Eligible Whistleblower made where there are reasonable grounds to believe that there is a substantial and imminent danger to health and safety or the environment to a Member of Parliament or Journalist in accordance with the requirements of the Corporations Act.

“Protected Disclosure” means the disclosure by an Eligible Whistleblower to an Eligible Disclosure Recipient of:

- an Eligible Disclosure Matter, or
- a Public Interest Disclosure, or
- an Emergency Disclosure.

“Public Interest Disclosure” means the disclosure by an Eligible Whistleblower made where there are reasonable grounds to believe that further disclosure is in the public interest to a Member of Parliament or Journalist in accordance with the requirements of the Corporations Act.

5 WHAT IS UNACCEPTABLE CONDUCT

Summerland Christian College and Hinterland Christian College considers any conduct unacceptable which:

- is dishonest, fraudulent or corrupt such as falsification of records, contracts or data, adopting questionable or improper accounting practices or bribery
- is illegal, such as theft, violence (actual or threatened), harassment or intimidation, criminal damage to property or other breaches of any law or regulatory requirements in Australia or any other jurisdictions in which the College operates
- is unethical or dishonours the name of Christ, such as unlawful discrimination, oppression, actions causing substantial damage to God’s creation or acts in breach of any applicable College Code of Conduct
- is potentially damaging to an employee or person, such as unsafe work practices or substantial wasting of College resources
- may cause financial loss to the College or damage its reputation or be otherwise detrimental to the School’s interests, or
- involves any other kind of serious malpractice or impropriety.

A personal work-related grievance as defined in the Corporation Act is not unacceptable conduct for the purposes of this Policy. A personal work-related grievance may still qualify for protection if:

- it includes information about misconduct, or information about misconduct includes or is accompanied by a personal work-related grievance (mixed report);
- 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;
- the discloser suffers from or is threatened with detriment for making a disclosure; or
- the discloser seeks legal advice or legal representation about the operation of the whistleblower protections under the Corporations Act.

Concerns on matters outside the scope of unacceptable conduct as outlined above are dealt with under other policies of the School.

6 POLICY

The College will establish appropriate systems for the reporting and management of complaints of unacceptable conduct. Appropriate support will be made available to anybody making a disclosure.

A person wanting to report unacceptable conduct should do their best to ensure that the report is:

- factually accurate
- complete from first-hand knowledge, and
- made in good faith.

It is not the reporting person's role to investigate or prove a case of unacceptable conduct. A report can still be protected if it is subsequently determined to be incorrect.

A report can be made anonymously.

A person who has committed or been involved in unacceptable conduct themselves, will not be immune from disciplinary action merely because they have reported the unacceptable conduct in accordance with this Plan. However, the person's conduct in making the report is likely to be taken into account in determining what disciplinary action is appropriate.

6.1 Making Disclosures Internally

Unacceptable conduct concerns or queries can be discussed or raised by a person directly with one of the following people:

- (a) a member of the College Executive
- (b) the Business Manager
- (c) the Principal, or
- (d) a member of the College's Audit Committee.

Contact information for all these people are available within the School's Policy Document Drive or from the School Administration.

6.2 Making Disclosures Externally

For issues of such sensitivity that a person does not feel able to use the internal options, or they feel the concern they have raised has been inadequately addressed or the parties involved may not be impartial, an external service Christian Schools Australia will be available to report or receive guidance in respect of actual or suspected unacceptable conduct.

Disclosures can be made to Christian Schools Australia by telephone, mail, facsimile or email from any location worldwide. The contact details are as follows:

Christian Schools Australia, NSW/ACT
5 Byfield St, Macquarie Park NSW 2113
Phone: (02) 9887 1699
Email: nswacteo@csa.edu.au

Where a person contacts Christian Schools Australia to discuss actual or suspected unacceptable conduct, the person who receives the call will make a record of all of the relevant data provided by the person. The person will have the option of either identifying themselves or remaining anonymous.

Other than in limited circumstances relating to Protected Disclosures, Christian Schools Australia will send the report record to the Audit Committee Chairperson or their delegate for confidential investigation.

Where English is a second language and a person is not confident in making a disclosure in English, they can contact Christian Schools Australia in their native language.

Christian Schools Australia will be operated by an independent external company.

7 ACTION REQUIRED TO RESPOND TO UNACCEPTABLE CONDUCT

7.1 Unacceptable Conduct Report Investigation

All reports of suspected or actual unacceptable conduct referred to the Audit Committee Chairperson, a senior manager or appropriately qualified person will be asked to conduct a thorough investigation of the report.

In appropriate circumstances, the Audit Committee Chairperson may decide to appoint external investigators.

Managers will only be asked to investigate a matter if they can do so in an impartial manner (eg, a manager will not be asked to investigate any matter which relates to their own area of responsibility).

Where a report of suspected or actual unacceptable conduct relates to a significant matter involving the Principal, CSA will refer the matter directly to the Board.

¹ Note: The engagement of an external service is not necessarily recommended or required. It is provided as an option for school that do not feel confident about managing these situations internally or their context may mean that an external provider is necessary (e.g. a small remote community).

The person appointed to investigate the report will be required to follow normal College procedures for handling a complaint or disciplinary issue. This will include updates to the person who made the report.

At the end of the investigation, the investigating person must report their findings to the Audit Committee Chairperson who will determine the appropriate response.

Responses to investigations will include rectifying any unacceptable conduct and taking any action required to prevent any future occurrences of the same or similar conduct.

Where allegations of unacceptable conduct made against another person cannot be substantiated, that person will be advised accordingly and will be entitled to continue in their role as if the allegations had not been made.

Once the investigation is completed, a verbal report will be made to the person who reported the unacceptable conduct. This report will explain the findings and actions taken to the fullest extent possible within commercial, legal and confidentiality constraints. If the report made was anonymous, alternative arrangements, if possible, will be made for providing a verbal report of the outcome of the investigation to that person.

7.2 Protection of Identity

If a person makes a report of unacceptable conduct under this Plan, the College will endeavour to ensure that person's identity is protected from disclosure.

The person's identity will not be disclosed unless the:

- person making the report consents to the disclosure
- disclosure is required by law
- disclosure is necessary to prevent or lessen a serious threat to a person's health or safety, or
- disclosure is necessary to protect or enforce the Colleges' legal rights or interests, or to defend itself against any claims.

The College will also ensure that any records relating to a report of unacceptable conduct are stored securely and are able to be accessed only by authorised employees with a direct involvement in dealing with the report. In addition:

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

The following unauthorised disclosures will be regarded as a disciplinary matter and unacceptable conduct under this Plan, and will be dealt with in accordance with the College's disciplinary procedures:

- unauthorised disclosure of the identity of a person who has made a report of unacceptable conduct, or
- unauthorised disclosure of information from which the identity of the reporting person could be inferred.

A person who has made a disclosure can lodge a complaint with the School about a breach of confidentiality. Such a complaint should be made to the Business Manager. A complaint may also be lodged with a regulator, such as ASIC, APRA or the ATO, for investigation.

A person who intends to make a report under this Plan may make a request via CSA for special protection measures if their identity is likely to be readily inferred from the nature of the information in the report.

7.3 Protected Disclosures

Under the Corporations Act, the disclosure of information relating to unacceptable conduct qualifies for certain protection where the disclosure is a Protected Disclosure. Disclosures that are not a Protected Disclosure do not qualify for protection under the Act.

Deliberate false reporting is not acceptable and may not be protected under this Plan.

Where the Corporations Act applies and information is disclosed by a person in accordance with these criteria, the person receiving the information may not tell anyone other than ASIC, APRA or the Australian Federal Police, or a legal practitioner to obtain advice on these obligations, of any of:

- the information disclosed
- the identity of the person making the disclosure, or
- any information which will enable the identification of the person making the disclosure,

unless the person consents to that disclosure.

The School can disclose the information contained in a disclosure with or without the discloser's consent if:

- the information does not include the discloser's identity;
- the College has taken all reasonable steps to reduce the risk that the discloser will be identified from the information; and
- it is reasonably necessary for investigating the issues raised in the disclosure.

7.4 Protection from victimization and harassment

The School will not cause you any detriment because you made a report of unacceptable conduct or as a result of the investigating your report.

The College will not tolerate any reprisals, discrimination, harassment, intimidation or victimisation against any person suspected of making a report of unacceptable conduct, or against that person's colleagues, employer (if a contractor) or relatives. Any such retaliatory action will be treated as serious misconduct and will be dealt with in accordance with the College's disciplinary procedures.

The School, on receipt of a report will:

- assess the risk of detriment against a discloser and other persons (e.g. other staff who might be suspected to have made a disclosure),
- consider necessary support services (including counselling or other professional or legal services) that may be required;
- investigate strategies to help a discloser minimise and manage stress, time or performance impacts, or other challenges resulting from the disclosure or its investigation;
- ensure that the College leadership is 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.

7.5 Compensation and other remedies

A person who makes a report (or any other employee or person) can seek compensation and other remedies through the courts if:

- they suffer loss, damage or injury because of a disclosure; and
- the College failed to take reasonable precautions and exercise due diligence to prevent the detrimental conduct.

7.6 Protection from liability

If you make a report you are protected from any of the following in relation to your disclosure:

- civil liability (e.g. any legal action against the discloser for breach of an employment contract, duty of confidentiality or another contractual obligation);
- criminal liability (e.g. 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 (e.g. disciplinary action for making the disclosure).

8 DISCLOSURE REPORTING

Reports will be prepared which contain a general summary of the number and type of incidents identified or complaints received through the College's internal reporting processes, together with a description of the nature and results of any investigation conducted as a result of a reported incident or complaint.

All summary reports will be provided to the Principal or a delegate on a regular basis as determined by the Principal and to the Audit Committee.

A consolidated report will be provided to the Audit Committee annually.

9 VISIBILITY OF THE PLAN

9.1 Publicity of Plan

The College believes that the existence of its Disclosure Protection Plan must be publicised in such a way that members of the Board and wider College community are reasonably aware of its contents and obligations.

A copy of the Plan will be available with other School policies and procedures and it will be included in regular communication of School requirements.

9.2 Training

The School ensures that its procedures are familiar to all Board members, employees and contractors in the following manner:

- all new Board members and staff are trained in the existence of the Plan,
- the Plan and any update are distributed to Board members and staff;
- an overview of the Plan is available to all contractors and their staff and is included in site induction processes, and
- periodic on-going training in the Plan are undertaken by the School.

10 UPDATING OF THIS DOCUMENT

From time to time, this document may be revised to:

- improve existing procedures; or
- reflect changes in any applicable legislation.

The Business Manager is responsible for ensuring that:

- this document, and any related documents, are updated when necessary to reflect changes in the law or when otherwise appropriate; and
- the current updated version of this document is given to all relevant people.