



# KINROSS WOLAROI SCHOOL

## WHISTLEBLOWER POLICY

### 1 PURPOSE AND SCOPE

This policy applies to ensure individuals who disclose wrongdoing in relation to the School can do so safely, securely and with confidence that they will be protected and supported.

The policy will be published on the Kinross Wolaroi School (**School**) website and is available to Staff and Council Members.

### 2 RELATED POLICIES

Complaints or allegations of staff misconduct that do not meet the criteria of a whistleblowing disclosure will be addressed in accordance with the School's *Complaints Handling Policy and Procedures*.

Disclosures about reportable conduct will be addressed in accordance with the School's *Child Protection Policy*.

Disclosures regarding a grievance between staff members about work matters, including work relationships and decisions made by other staff members which impact on their work, may be addressed in accordance with the School's *Staff Grievance Policy*.

Unlawful discrimination, harassment or bullying complaints may be addressed in accordance with the School's *Discrimination, Harassment and Bullying Statement*.

### 3 OUR COMMITMENT

Kinross Wolaroi School is committed to maintaining a high level of legal, ethical, and moral behaviour in governance and operational standards. The School encourages individuals to disclose suspected misconduct, without fear of detriment, where concerns about serious instances of misconduct are supported by reasonable grounds. The School observes the requirements of all State and Commonwealth legislation regarding the reporting of disclosure and the protection of Whistleblowers.

As a school of the Uniting Church in Australia, we exist to provide a challenging and holistic education that equips our students to live meaningful lives and make a positive contribution to society. To achieve this Vision, it is crucial that our employees and Community understand, follow, and adhere to our values of Courage, Respect, Inclusiveness, Resilience and Commitment.

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Together with our values, we want to foster a culture where individuals are encouraged to speak up when they see activity or behaviour that they feel is inappropriate or does not match our values. The goal of this policy is to provide clear guidelines on how we as a School approach and manage these disclosures, ensuring:

Where this policy interacts with other School policies, such as the *Child Protection Policy* or the *Complaints Handling Policy and Procedures*; or where a staff member has a legislative obligation to report, for example under the *NSW Children and Young Persons (Care and Protection) Act 1998 (NSW)*, *Work Health and Safety Act 2011 (NSW)*, *Children's Guardian Act 2019 (NSW)*, the processes outlined in those policies or under that specific legislation take precedence over this policy and must be followed. The provision for reporting matters such as those remains, in the first instance, unchanged.

## 4 WHAT IS A QUALIFYING DISCLOSURE?

A qualifying disclosure is when:

- an eligible Whistleblower makes a disclosure to an eligible recipient (part 7), and
- the eligible Whistleblower has reasonable grounds to suspect that the information concerns a disclosable matter (part 5).

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## 5 WHO CAN MAKE A QUALIFYING DISCLOSURE?

### 5.1 Eligible Whistleblower

An eligible Whistleblower is an individual who is, or has been, any of the following in relation to the School:

- A Council member
- A staff member
- A person who supplies goods or services (paid or unpaid)
- A relative or dependent of any of the above individuals

### 5.2 Anonymous Disclosure

A disclosure can be made anonymously and still be protected under the *Corporations Act 2001* (Cth) (**Corps Act**). A discloser can choose to remain anonymous while making a disclosure, over the course of the investigation and after the investigation is finalised. However, this may make it difficult to investigate the reported matter. The School therefore encourages disclosers to provide their names.

If a discloser wishes to disclose anonymously, the discloser should provide sufficient information to allow the matter to be properly investigated. The School encourages the discloser to provide an anonymous email address through which additional questions can be asked and information provided. It will also allow the school to report the progress of the investigation to the discloser, as appropriate.

## 6 DISCLOSABLE MATTERS THAT QUALIFY FOR PROTECTION

A disclosable matter is a disclosure of information where the eligible Whistleblower has reasonable grounds to suspect that the information relating to the School concerns:

- misconduct
- an improper state of affairs or circumstances
- illegal activity (including conduct of officers and employees) – meaning activity in breach of the Corps Act or specified financial services legislation, or an offence against any law of the Commonwealth punishable by imprisonment of 12 months or more
- conduct (including conduct of officers or employees) that represents a danger to the public or financial system.

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This may include any conduct in relation to the operation of the School that involves:

- fraudulent activity
- negligence
- unlawful or corrupt use of school funds
- breach of duty
- improper accounting or financial reporting practices
- systemic practices that pose a serious risk to the health and safety of any person on school premises or during school activities

If a disclosure is not about a disclosable matter, it will not qualify for Whistleblower protection under the Corps Act.

### 6.1 Reasonable grounds to suspect

Whether a discloser would have 'reasonable grounds to suspect' is based on the reasonableness of the reasons for the discloser's suspicion, having regard to all the circumstances when considered objectively.

If a disclosure is made without 'reasonable grounds to suspect', the disclosure will not be a qualifying disclosure and the discloser will not have the protections provided for under this policy and the Corps Act.

A discloser can still qualify for protection even if their disclosure turns out to be incorrect.

Any deliberate false reporting will be regarded very seriously.

### 6.2 Personal work-related grievances

Generally, disclosures that concern personal work-related grievances do not qualify for protection. A disclosure is considered a personal work-related grievance for the discloser if the information:

- concerns a grievance about any matter in relation to the discloser's employment, or former employment, having or tending to have implications for the discloser personally; and
- does not have significant implications for the School that do not relate to the discloser; and

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- does not concern conduct that is:
  - an alleged contravention of the Corps Act and specified financial services laws; or
  - an offence against another law of the Commonwealth, which is punishable by imprisonment of 12 months or more; or
  - a danger to the public or financial system.

Examples of disclosures regarding personal work-related grievances that may not qualify for protection include:

- an interpersonal conflict between the discloser and another staff member
- a decision relating to the engagement, transfer or promotion of the discloser
- a decision relating to the terms and conditions of engagement of the discloser
- a decision to suspend or terminate the engagement of the discloser, or otherwise discipline the discloser.

A disclosure could qualify for protection if it concerns a personal work-related grievance and also concerns alleged detriment (or a threat of detriment) to the discloser.

## 7 MAKING A QUALIFYING DISCLOSURE

An eligible Whistleblower can:

- make a disclosure to any eligible recipient – the School encourages them to make a disclosure in writing to the Principal
- make the disclosure to the Chair of the School Council – if it is not appropriate for the disclosure to be made to the Principal
- make the disclosure by contacting the School’s third-party Whistleblower services provider via these reporting channels: dependant company Core Integrity via their five reporting channels:
  - Confidential Help Line
  - Confidential email address
  - Confidential URL

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- Confidential mail
- Confidential QR Code:

Where a disclosure is made to an eligible recipient who is not the Principal, then subject to the confidentiality protections set out in this policy, it will generally be passed onto the Principal and dealt with in accordance with investigative framework of this policy.

If an eligible Whistleblower wishes to obtain additional information about whistleblowing procedures and protections before formally making their disclosure, they can contact Paul Dominello (Human Resources & Compliance Manager) or an independent legal advisor.

### 7.1 External disclosures

Disclosures may also qualify for protection if they are made to ASIC, APRA or a prescribed Commonwealth authority, or if an eligible Whistleblower makes a disclosure to a legal practitioner to obtain advice about the operation of the Whistleblower provisions.

Eligible Whistleblowers who make a 'public interest disclosure' or an 'emergency disclosure' also qualify for protection.

### 7.2 Public Interest Disclosures

An eligible Whistleblower can disclose to a member of Parliament or a journalist only if the information has been previously disclosed to ASIC, APRA or a prescribed Commonwealth authority, and:

- at least 90 days has passed since the eligible Whistleblower made the first disclosure to ASIC, APRA or a prescribed Commonwealth authority; and
- the eligible Whistleblower does not have reasonable grounds to believe action is being, or has been, taken to address the information in the disclosure; and
- the eligible Whistleblower has reasonable grounds to believe that making a further disclosure of the information would be in the public interest; and
- before making the disclosure, the eligible Whistleblower gives written notice to the original recipient that includes sufficient information to identify the previous disclosure and states that they intend to make a public interest disclosure; and
- the extent of information disclosed is no greater than necessary to inform the recipient of the disclosable matter.

An eligible Whistleblower may wish to consider obtaining independent legal advice before making a public interest disclosure.

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## 8 WHO CAN RECEIVE A QUALIFYING DISCLOSURE?

An eligible recipient is an individual who occupies any of the following roles, in relation to the School or a related company:

- a member of the KWS Council
- a member of the Senior Management Team
- an auditor, or member of an audit team of the School
- the School's third-party Whistleblower services provider

## 9 INVESTIGATING A QUALIFYING DISCLOSURE

### 9.1 Receiving a disclosure

Upon receiving a disclosure, the recipient will:

- acknowledge receipt of a disclosure within a reasonable period (ie 14 days) assuming the 'eligible Whistleblower' can be contacted (including through anonymous channels)
- assess the disclosure to determine whether it qualifies for protection
- assess if the disclosure requires further reporting to a statutory authority
- assess if it is to be managed in accordance with this policy (qualifying disclosure)

### 9.2 Investigating a Qualifying Disclosure

Generally, the School will determine:

- the nature and scope of the investigation
- who should lead the investigation – including whether an external investigation is appropriate
- the nature of any technical, financial or legal advice that may be required to support the investigation
- the anticipated timeframe for the investigation. Each investigation will be different which will impact the applicable timeframe. However, the School's intent is to complete an investigation as soon as practical.

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- The School will document the steps of the investigation and the findings from the investigation and report those findings to the Principal or Chair of Council as applicable.

Where practical, the School will keep the eligible Whistleblower informed of the steps taken or to be taken (or if no action is to be taken, the reason for this), and provide appropriate updates, including about the completion of any investigation. However, the extent of the information provided, or whether it will be provided at all, will be subject to applicable confidentiality considerations, legal obligations and any other factors the School considers relevant in the particular situation.

Where practicable, Whistleblowers will receive updates about when the investigation has begun, while the investigation is in progress and after the investigation has been finalised. The frequency and timeframe of any updates may vary depending on the nature of the disclosure. The School will also have regard to confidentiality considerations when providing updates.

The School may not be able to undertake an investigation, or provide information about the process etc, if it is not able to contact the eligible Whistleblower, for example, if a disclosure is made anonymously and has not provided a means of contact.

## 10 FAIR TREATMENT OF EMPLOYEES MENTIONED IN DISCLOSURES

The School will take steps to ensure the fair treatment of employees who are mentioned in a disclosure that qualifies for protection:

- disclosures will be handled confidentially, when it is practical and appropriate in the circumstances
- when an investigation needs to be undertaken, the process will be objective and fair
- employees about whom disclosures are made will generally be given an opportunity to respond to the relevant allegations made in the qualifying disclosure
- employees will generally have access to an appropriate support person.

The School's Employee Assistance Program (EAP) services (1300 360 364) is available to employees affected by the disclosure, should they require that support.

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## 11 CONFIDENTIALITY AND RECORDS

Under the Corps Act, the identity of the discloser of a qualifying disclosure and information which is likely to lead to the identification of the discloser must be kept confidential. The School ensures that confidentiality is observed in relation to handling and storing records.

Exceptions to this are disclosures to ASIC, the Australian Federal Police, a legal practitioner for the purpose of obtaining advice about the application of the Whistleblower protections or made with the consent of the discloser, or otherwise required by the law

The discloser's identity and information which is likely to lead to the identification of the discloser can also be provided to any Commonwealth or State authority for the purpose of assisting the authority in the performance of its functions or duties. It may be permissible to disclose information, which could lead to the identification of the discloser, if the disclosure is reasonably necessary for the purpose of investigating the matter. When this happens, all reasonable steps are taken to reduce the risk that the discloser will be identified.

Breach of these confidentiality protections regarding the discloser's identity and information likely to lead to the identification of the discloser is a criminal offence and may result in prosecution and disciplinary proceedings.

## 12 WHISTLEBLOWER PROTECTION

Eligible Whistleblowers making a qualifying disclosure are protected by the requirement that their identity, and information that may lead to their identification, should be kept confidential, subject to relevant exceptions as set out in this policy.

Eligible Whistleblowers making a qualifying disclosure cannot be subject to any civil, criminal, or administrative liability (including disciplinary action) for making the disclosure. No contractual or other remedy or right may be enforced or exercised against the person based on the disclosure.

Whistleblowers who make some types of qualifying disclosures (generally external to the school) are also provided immunities to ensure that information they disclose is not admissible in evidence against them in criminal proceedings or in proceedings for the imposition of a penalty, other than proceedings in respect of the falsity of the information.

These immunities do not prevent an eligible Whistleblower being subject to criminal, civil or other liability for conduct that is revealed by the Whistleblower, only that the information the person has disclosed is not admissible in certain proceedings against them.

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## 12.1 Victimisation

Eligible Whistleblowers are also protected from victimisation, meaning they are protected from suffering any detriment as a result of the qualifying disclosure. It is unlawful for a person to engage in conduct against another person that causes, or will cause detriment, where the person believes or suspects that the other person or a third person made, may have made, proposes to make, or could make a qualifying disclosure. Threats of detriment are also unlawful.

## 12.2 Detriment

Detriment has a very broad meaning and includes dismissal of a staff member, injuring a staff member in their employment, alteration of a staff member's position or duties to their disadvantage; discrimination between a staff member and other staff members; victimisation of a dependent of the discloser, harassment or intimidation of a person or harm or injury to a person, including psychological harassment; damage to a person's property, reputation or business or financial position.

Remedies for being subjected to detriment could include:

- compensation
- injunctions and apologies
- reinstatement of a person whose employment is terminated, and
- exemplary damages.

If an eligible Whistleblower believes they are being subjected to a detriment or a threat of detriment, this should immediately be reported in writing to the Principal. If it is not appropriate for the report to be made to the Principal, the eligible Whistleblower should report the matter, in writing, to the Chair of Council.

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### 12.3 Steps to be taken by the School

The School may also consider a range of other matters to protect an eligible Whistleblower from the risk of suffering detriment and to ensure fair treatment of individuals mentioned in a disclosure. Steps the School will take to help achieve this may include:

- assessing whether anyone may have a motive to cause detriment—information could be gathered from an eligible Whistleblower about:
  - the risk of their identity becoming known
  - who they fear might cause detriment to them
  - whether there are any existing conflicts or problems in the workplace
  - whether there have already been threats to cause detriment
- analysing and evaluating the likelihood of each risk and evaluating the severity of the consequences;
- developing and implementing strategies to prevent or contain the risks—for anonymous disclosures, and assessing whether the discloser’s identity can be readily identified or may become apparent during an investigation;
- monitoring and reassessing the risk of detriment where required—the risk of detriment may increase or change as an investigation progresses, and even after an investigation is finalised;
- taking steps to ensure that:
  - disclosures will be handled confidentially, when it is practical and appropriate in the circumstances
  - each disclosure will be assessed and may be the subject of an investigation
  - the objective of an investigation is to determine whether there is enough evidence to substantiate or refute the matters disclosed.

The School and individuals may face significant civil and criminal penalties for failing to comply with confidentiality and detrimental conduct provisions.

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### **13 ADDITIONAL SUPPORT FOR ELIGIBLE WHISTLEBLOWERS AND OTHER STAFF MEMBERS**

The School's EAP (1300 360 364) will be available to all eligible Whistleblowers and staff members affected by the disclosure, should they require additional support.

If you have any queries about this policy, you should contact Paul Dominello (HR & Compliance Manager) on phone (02 6392 ) or email [pdominello@kws.nsw.edu.au](mailto:pdominello@kws.nsw.edu.au) for advice.

### **14 LEGISLATION**

*Corporations Act 2001 (Cth)*

### **15 POLICY HISTORY**

Original policy adopted by SMT on 21 July 2022. Approved by School Council on 27 April 2023.

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