



WHISTLE-BLOWER POLICY

1. RELATED POLICIES, PROCEDURES, FORMS AND FRAMEWORKS

- Child Protection Policy
- Parent Guide Handling Complaints and Grievances Policy
- Complaints Handling Form
- Student Management
- Complaints and Disputes Resolution Policy and Procedures
- Prevention of Discrimination Procedures
- Prevention of Discrimination, Bullying and Harassment Guidelines

2. DEFINITIONS

“ASIC” means the Australian Investment and Securities Commission

“APRA” means the Australian Prudential Regulation Authority

“Associate” means any individual within the meaning of the Corporations Act

“Corporations Act” means the *Corporations Act 2001* (Cth)

“Detriment” has the meaning described in Section 1317ADA and Section 9.2

“Disclosable Matters” has the meaning described in Sections 5.4 and 5.5

“Emergency Disclosure” has the meaning described in Section 6.2

“Personal Work-Related Grievance” is as defined in section 1317AADA of the Corporations Act and may include the following grievances:

- an interpersonal conflict between the discloser and another employee;
- 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 to discipline the discloser.

“Relative” has the same meaning as in the Corporations Act

“Spouse” has the same meaning as in the Corporations Act

3. PURPOSE

Holy Saviour Primary School is committed to protecting individuals who disclose information about illegal or improper conduct occurring within the premises of Holy Saviour Primary School. This policy has been adopted to provide a safe and confidential environment where whistle-blowers can raise such concerns without fear of reprisal or detrimental treatment.

This policy sets out:

Who is entitled to protection as a *whistle-blower* under this policy and the Corporations Act; and the protections whistle-blowers are entitled to under this policy and the Corporations Act; and

How Holy Saviour Primary School will handle disclosures made by whistle-blowers by this policy and under the Corporations Act.

All officers, employees, and contractors of Holy Saviour Primary School must comply with this policy.

This policy will be published on the School website and available to Board members and employees.

Who is Entitled to Protection

3.1 To be treated as a whistle-blower under this policy, the person must:

- be one of the individuals set out in section 4.2;
- disclose information regarding the type of matters set out in section 5; and
- disclose that information to one of the persons or bodies set out in section 6.

3.2 Disclosures can be made by a current or former:

- officer or employee of Holy Saviour Primary School;
- contractor or supplier of goods and services to Holy Saviour Primary School or their current and former employees;
- Associate of Holy Saviour School; or
- a Relative, Spouse or a dependant of an individual mentioned above.

4. PROTECTED DISCLOSURES

- 4.1 Disclosures can be made about unlawful conduct or conduct that endangers the public or financial system, which is suspected of having occurred Based on reasonable grounds or is occurring within Holy Saviour Primary School, including conduct by an officer or an employee of Holy Saviour Primary School.
- 4.2 Disclosures that are solely about a Personal Work-Related Grievance are not protected under this policy. Such matters may be appropriately dealt with by Holy Saviour Primary School's Complaints Policy.
- 4.3 Deliberate false reporting under this policy may result in disciplinary action taken against the person, up to and including termination of employment.
- 4.4 Disclosable Matters include where the whistle-blower has reasonable grounds to suspect misconduct, or an improper situation or circumstances about Holy Saviour Primary School, or a related entity, including:
 - a) Fraud or Default.
 - b) Negligence,
 - c) Breach of trust.
 - d) Breach of duty.
 - e) Misconduct.
 - f) Illegal activity (including the conduct of officers and staff) – meaning activity in breach of the Corporations Act or specified financial services legislation or an offence against any law of the Commonwealth punishable by imprisonment of 12 months or more.
 - g) Conduct (including the conduct of officers and staff) that represents a danger to the public or financial system.
- 4.5 Disclosable Matters relating specifically to Holy Saviour Primary School business activities include:
 - a) Illegal conduct: theft, dealing in or use of illicit drugs, violence or threatened violence, or criminal damage against property;
 - b) Fraud, money laundering or misappropriation of funds;
 - c) Offering or accepting bribes;
 - d) Financial irregularities;
 - e) Failure to comply with, or breach of, legal or regulatory requirements; and
 - f) Engaging in or threatening to engage in detrimental conduct against a person who has made a disclosure, may have made a disclosure or is planning to make a disclosure.

5. WHERE CAN DISCLOSURES BE MADE?

- 5.1 A whistle-blower may disclose to the following people or bodies as described by section 1317AA of the Corporations Act:
 - a) The Eparch of the Melkite Catholic Church in Australia and New Zealand.
 - b) A Board member.
 - c) Principal of Holy Saviour Primary School.
 - d) An Executive Officer of Holy Saviour Primary School.
 - e) An auditor or member of an audit team of the School
- 5.2 While an eligible whistleblower can disclose to any eligible recipient, the School encourages them to write to the Principal via email at principal@holysaviour.nsw.edu.au.
- 5.3 If it is not appropriate for the disclosure to be made to the School Principal, the eligible whistleblower is encouraged to make the disclosure, in writing, to the Chair of the Board via email at eparchy.melkite.org.au marked 'Attention to the Chair'.
- 5.4 Emergency Disclosures may be made to a member of parliament or a journalist if:
 - a) the whistle-blower had previously disclosed to ASIC, APRA or another Commonwealth body (as prescribed);

- b) the whistle-blower has reasonable grounds to suspect that there is a “substantial and imminent danger” to the health and safety of a person(s) or the natural environment,
- c) for this protection to apply, the whistle-blower must notify the body in which they originally disclosed, in writing, with information that identifies the previous disclosure and that they need to make an emergency disclosure,
- d) the whistle-blower must only disclose information that is necessary to inform the member of parliament or the journalist,
- e) and in the case of a public interest disclosure, an emergency disclosure may only be made if 90 days have passed since the previous disclosure.

5.5 Persons wishing to make an emergency disclosure must comply with section 6.2 and seek legal advice before disclosing a public interest or emergency nature.

6. MAKING A DISCLOSURE

- A disclosure can be made in person, by telephone or in writing to one of the people or bodies identified in 4 a)-h) above. Disclosures can be made anonymously and, as far as practicable, will be kept with the strictest confidentiality. Any disclosure based on anonymity will still be protected under the Corporations Act.
- A discloser may remain anonymous during any process stage after finalising the investigation. A discloser can refuse to answer any question that may reveal their identity; however, the disclosure must remain in contact with the entity for any follow-up questions or provision of feedback.
- The external persons and bodies in sections 4 d)-h) above, may have other means by which you may make a disclosure. It is important to note that a whistle-blower does not have to reveal their identity when disclosing.
- Employees wishing to disclose this policy are encouraged to disclose to Holy Saviour Primary School in the first instance.

7. HOW HOLY SAVIOUR PRIMARY SCHOOL INVESTIGATES DISCLOSURES?

- 7.1 The person who receives the disclosure will promptly forward it to the School Principal, who will determine whether it requires formal investigation.
- 7.2 An impartial senior person or an external investigator will undertake any formal investigation of the disclosure. Depending on the type of disclosure and the people named in the disclosure, Holy Saviour Primary School prefers to engage an external investigator.
- 7.3 Holy Saviour Primary School who will ensure that the investigation:
 - a) is conducted promptly;
 - b) is sufficiently resourced;
 - c) is conducted fairly and objectively;
 - d) is conducted in strict confidence;
 - e) protects the identity of the person who made the disclosure; and
 - f) allows any person adversely mentioned in the disclosure an opportunity to respond before any findings are made.
- 7.4 After the investigation, the investigator will provide the School Principal with a report summarising how the investigation was conducted, and the evidence collected, and contain findings about the allegations in the disclosure and recommend any action required.
- 7.5 Following receipt of the investigation report, the Principal will take appropriate action, which may include:
 - a) informing Holy Saviour Primary School;
 - b) notifying regulatory or law enforcement bodies.
 - c) recommending disciplinary action; and
 - d) implementing the recommendations of the investigator; or
 - e) requesting further investigation.

7.6 The whistle-blower will be informed of the investigation results following the Principal taking the steps in 6.5 above. However, some circumstances, such as confidentiality or other legal constraints, may limit the information provided to the person.

7.7 If the whistle-blower is not satisfied with the outcome of the investigation, they may request a review:

- If the investigation is conducted internally, Holy Saviour Primary School will refer the matter to an external investigating firm,
- If the matter has already been referred to an external investigator, the request for review will follow the policies and procedures of the external investigator.
- Holy Saviour Primary School will ensure that any firm engaged has comprehensive policies for review requests before engaging the firm.
- The whistle-blower may approach ASIC for a further review if unsatisfied.

8. PROTECTION FOR WHISTLE-BLOWERS

8.1 A whistle-blower is entitled to protect their identity or information likely to lead to their identity becoming known. The whistle-blower's identity or information that is likely to lead to their identity becoming known can only be disclosed where it is made to:

- an in-house or external lawyer for the purposes of obtaining legal advice or legal representation;
- ASIC;
- APRA;
- A Commonwealth, State or Territory Authority for the purposes of assisting them in the performance of their duties;
- The Australian Federal Police; or
- A Court or Tribunal, in circumstances where it is considered necessary in the interests of justice; or
- is otherwise made with the consent of the whistle-blower.

8.2 Unless prescribed above, it is an offence for a person to disclose the identity of the whistle-blower. A person who knowingly discloses a whistle-blower's identity may be referred to the Police or be subject to disciplinary action under Holy Saviour Primary School's Code of Conduct.

8.3 A whistle-blower may lodge a complaint about the disclosure of their identity to ASIC, APRA or the ATO, who will investigate the issue.

- Other protections provided to whistle-blowers are:
- Holy Saviour Primary School will not cause any detriment to the whistle-blower because of the disclosure;
- anyone who causes or threatens to cause detriment to a whistle-blower or another person in the belief or suspicion that a report has been made, or may have been made, proposes to or could be made, may be guilty of an offence under the Corporations Act and may be liable for damages;
- the whistle-blower has immunity from any civil, criminal or administrative legal action (including disciplinary action) as a result of making the disclosure;
- the whistle-blower is protected from any claim for compensation or remedies that may be claimed against them, and
- no contractual or other remedies may be enforced, and no contractual or other right may be exercised against the whistle-blower for making the disclosure.

8.4 Section 1317ADA of the Corporations Act defines "detrimental conduct" and includes:

- dismissing the whistle-blower,
- adversely affecting or injuring the whistle-blower in their employment,
- altering the whistle-blower's position or duties that disadvantages them,
- discriminating the whistle-blower,
- harassing or intimidating the whistle-blower
- injuring, including psychological and physical, the whistle-blower
- damaging the whistle-blower's reputation, property, business or financial position.

8.5 For the purposes of this policy, administrative action that is reasonable to protect the discloser is not detrimental conduct, including standing the whistle-blower down (with pay), moving them to a different office or managing the whistle-blower's unsatisfactory work performance.

9. SUPPORT FOR WHISTLE-BLOWERS

9.1 In addition to the legal protections afforded to whistle-blowers, Holy Saviour Primary School will:

- a) Protect the confidentiality of the whistle-blower's identity, as far as reasonably practicable to do so, by:
- b) By adopting an alias for anonymous disclosures,
- c) Limiting the number of people who become involved with the investigation and notification process,
- d) Limiting the people involved to senior management.
- e) Provide free, confidential counselling access to the whistle-blower through Holy Saviour Primary School's EAP program.
- f) Prompting commencing an investigation after a disclosure is made
- g) Regularly providing communication to the whistle-blower about the progress of the investigation and managing the whistle-blower's stress.
- h) Providing a flexible working environment that allows the whistle-blower to work away from their regular place of work.
- i) Allowing the whistle-blower extended leave while the investigation is progressing.
- j) Any employee who takes action against the whistle-blower will be subject to disciplinary action in accordance with Holy Saviour Primary School's Code of Conduct.
- k) A whistle-blower who makes a protected disclosure may seek compensation or other remedies from a Court with competent jurisdiction for any loss or damage that they suffer as a result of making the disclosure or if Holy Saviour Primary School fails to take reasonable steps or exercise diligence to prevent detrimental conduct.

10. PROTECTION AND SUPPORT FOR NAMED INDIVIDUALS

Holy Saviour Primary School is committed to providing fair treatment to all individuals involved in a whistle-blowing disclosure, including those persons who were named in the disclosure.

10.1 As far as reasonably practicable, Holy Saviour Primary School will:

- a) Keep the identity of the named person(s) confidential,
- b) Provide them with procedural fairness, including the right to respond at all junctures,
- c) Providing them access to Holy Saviour Primary School's free and confidential counselling service,
- d) Keeping them informed of the progress of the investigation, including advising them whether the disclosure is protected by this policy and providing a copy of this policy.

11. ACCOUNTABILITY

The Principal is responsible for this policy. The Principal is responsible for the oversight of the final investigation report of any matter raised in this policy.

The Principal is the owner of this policy and is responsible for:

- a) Managing the avenues that a whistle-blower may make a disclosure,
- b) Providing an annual report to the Board or at any time at the request of the Board,
- c) Monitoring and updating this policy, if required to maintain compliance with the applicable laws
- d) Publishing this policy
- e) Delivering training on the policy to employees and relevant personnel.

POLICY DATES			
Implementation	22 nd June 2023	Reviewed	July, 2015, Feb, 2017, Oct 2018, 9 th Aug, 2023
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This Policy and its procedures supersede all previous policies and procedures relating to the matters contained herein.