



# WHISTLEBLOWER POLICY

## 1. SCOPE

This policy applies to any member of the Pioneer Village School (PVS) community.

In the school context, the following are eligible whistleblowers:

- Members of the governing body
- employees
- officers and managers
- Council and sub-committee members
- Parents/guardians
- students
- volunteers
- individuals who supply goods and services to us, and their employees
- an individual who is an associate of the school
- work experience students
- commissioned agents and consultants
- a relative or dependent of an individual referred to above
- a dependent of an individual referred to above or of such an individual's spouse

## 2. POLICY

PVS is committed to maintaining a culture of ethical behavioural standards, compliance and good corporate governance. The PVS governing body recognises any genuine commitment to detecting and preventing illegal, unethical and unsatisfactory conduct or misconduct must include an appropriate mechanism whereby members of the school community can report their concerns freely and without fear of repercussion. A whistleblowing program promotes a 'speak up' culture within the school and this policy provides such a mechanism, by:

- Encouraging the reporting of such conduct
- Providing protection to the member of the school community making a report, allowing the person 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
- Acting as a preventative measure to actively discourage misconduct

This policy should be read in conjunction with the policies outlined in section 13 *Related Policies*.

## 3. DEFINITIONS

Whistleblower- ASIC defines whistleblower as 'an insider within an organisation who reports misconduct or dishonest or illegal activity that has occurred within the same organisation'.

Act means Corporations Act 2001 (Commonwealth)

#### **4. WHO MAY MAKE A DISCLOSURE?**

Any person defined as a 'whistleblower' in Section 1 above may make a disclosure under this policy.

#### **5. REPORTABLE CONDUCT**

If you have seen or have reasonable grounds to suspect misconduct, or an improper state of affairs or circumstances, concerning PVS you should report ('disclose') it.

Misconduct includes but is not limited to:

- Dishonest, corrupt or illegal activities
- Unethical conduct that represents a danger to the public or financial systems
- Acts of bullying, discrimination, harassment or intimidation
- Child abuse
- Theft, fraud or misappropriation
- Breaches of the School's internal policies and procedures and external relevant laws, regulations and by-laws
- Unsafe work practices
- Concealment of misconduct
- Any other conduct which may cause loss to the school or be otherwise detrimental to the school

(Collectively referred to as 'Misconduct')

Members of the school community who become aware of known, suspected or potential cases of misconduct are expected to make a report as soon as possible.

Misconduct under Section 1317AA (5) of the Act should also be disclosed. Refer to Appendix A for further details.

#### **6. PERSONAL WORK-RELATED GRIEVANCES**

##### **May I make a disclosure about a personal work-related grievance?**

Section 1317AADA of the Act states the protections under the Act do not apply to a disclosure to the extent the disclosure:

- concerns a personal work-related grievance of the whistleblower; and
- does not concern a contravention, or an alleged contravention, of section 1317AC that involves detriment caused to the whistleblower or a threat made to the whistleblower.

The Act gives these examples of grievances that may be personal work-related grievances:

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

#### **7. REPORTING PROCEDURES**

A disclosure may be made:

1. internally through the school
2. anonymously through the school website
3. to external authorities and entities

##### **1. Internally through the school.**

Any eligible 'whistleblower' may raise an issue with an eligible recipient (Principal, chair of the governing body). We support openness and teamwork. This policy is not intended to replace our first obligation to resolve issues quickly and internally where appropriate. All reasonable attempts to resolve an issue should first be tried.

A person considering raising an issue should first consider whether the issue may be more appropriately addressed through the school's existing internal reporting procedures (refer to *Related Policies* outlined in section 13).

If you do not feel safe or able to raise misconduct with the persons mentioned in the related policies you may make a disclosure directly to the principal or governing body Chair.

To whom you may make a disclosure and their contact details are set out below.

Name	Position	Contact details
Mrs Louise Lont	Principal	9399 6999 prncipal@pvs.wa.edu.au
Mrs Sharon Arena	Board Chair	9399 6999 board@pvs.wa.edu.au

Please note- The recipient is not required to believe the suspicion.

## 2. Anonymously through the school website

PVS has a 'feedback' tab on the website that is able to manage your report with impartiality and confidentiality. This option allows you to:

- Remain completely anonymous; or
- Identify yourself only if you wish to; or

Your identity can not be disclosed through unless:

- You provide your details

When making a report we encourage the discloser to provide enough information to allow the matter to be properly investigated, and consider providing the school with an anonymous email address to allow questions to be asked.

## Supporting Documentation

PVS does not expect a report to include absolute proof or evidence of misconduct. Despite this, a report should show reasonable grounds for concerns and include all relevant details (dates, times, location, names of person(s)) and supporting documents available or known. Steps already taken by the member of the school community to report the matter internally, if relevant, should also be included.

Including all relevant details assists the School to operate a thorough review, and if reasonable basis, a sufficient investigation.

## 3. To external authorities and entities

Misconduct relating to Section 1317AA (1) of the Act can also be disclosed to various external authorities and entities. Refer to Appendix B for further details.

## 8. DO I HAVE TO DISCLOSE MY IDENTITY?

There is no requirement for a whistleblower to identify themselves in order for a disclosure to qualify for protection under the Act or under this policy.

Members of the school community can choose to remain anonymous when making a report. The School will respect the member of the school community's right to not provide their identity. It should be noted, if a member of the school community chooses to make a report anonymously, this may hinder the School's ability to fully review and investigate the matter. Further, it may prevent members of the school community from accessing additional protection at law.

## **Will my identity be treated confidentially?**

Your identity will not be disclosed unless:

- you consent to disclosing your identity
- the disclosure is required by law
- it is necessary to prevent a serious threat to a person's health or safety

An unauthorised disclosure of:

- the identity of a whistleblower
- information that is likely to lead to the identification of the whistleblower where the information was obtained because of the disclosure will be regarded as a disciplinary matter and will be dealt with accordingly.

Note: It is also an offence/contravention under the Act which carries serious penalties for individuals and companies.

## **Protection against victimisation**

We will do everything reasonably possible to support and protect anyone who:

- intends to or actually makes a disclosure
- is mentioned in the disclosure
- acts as a witness
- otherwise assists with the investigation and resolution of the disclosure from victimisation.

We will thoroughly investigate reports of victimisation. If proven, those who have victimised another will be subject to action by the Principal or School Board, including disciplinary action up to dismissal.

Nothing in this policy is intended to change or take away any other protections which may be available at law.

Note: Victimisation is also an offence under the Act which carries serious penalties for individuals and companies.

## **What immunities are available to a whistleblower?**

If you make a disclosure that qualifies for protection under the Act:

- you are not subject to any civil, criminal or administrative liability (including disciplinary action) for making the disclosure; and
- no contractual or other remedy may be enforced, and no contractual or other right may be exercised, against you on the basis of the disclosure; and
- the information is not admissible in evidence against the whistleblower in criminal proceedings or in proceedings for the imposition of a penalty, other than proceedings in respect of the falsity of the information.

Note: Except as provided for by the Act it does not prevent a whistleblower being subject to any civil, criminal or administrative liability for conduct of the whistleblower that is revealed by the disclosure.

## **Where can I get information and advice?**

If you need information and advice about making a disclosure or the support and protection available you may discuss the matter in confidence with your immediate supervisor, manager or Human Resources.

Note: In the event you do not formally make a disclosure we may nevertheless be compelled to act on the information provided during the discussion if the information reasonably suggests misconduct has occurred or may occur.

## **9. WHAT HAPPENS AFTER I MAKE A DISCLOSURE?**

### **What will PVS do with the disclosure?**

Once we receive the disclosure we will:

- carefully assess the information provided to decide the best action to take, including whether an investigation is required, to determine whether the misconduct is proven or not proven
- keep the information provided in a confidential and secure system
- coordinate and oversee the investigation where an investigator has been appointed
- assess the immediate welfare and protection needs of a whistleblower
- appoint a person to support and protect the whistleblower, if necessary, from victimisation
- advise the whistleblower (if contact details have been provided) of the progress of the matter to the extent it is legally permissible and appropriate to do so
- take all reasonable steps to ensure the identity of the whistleblower and the person/s who is the subject of the disclosure are kept confidential
- safeguard the interests of a whistleblower in accordance with this policy and the law
- address any issues or concerns of victimisation/detrimental treatment

### **Reporting with Reasonable Grounds**

Anyone who makes a disclosure knowing it to be false or misleading may be subject to disciplinary action, including dismissal. Similarly, any action taken in retribution against a person who has made a disclosure may give rise to disciplinary / further action. The disciplinary action will depend on the severity, nature and circumstances of the false disclosure.

### **Protection**

Disclosures made under this policy will be managed confidentially and kept confidential to the extent possible to meet legal and regulatory requirements.

No person who makes a disclosure under this policy will be subject to any detrimental action including (but not limited to) adverse discrimination or disadvantage in their employment, or connection, with PVS in response to making a disclosure.

PVS will not tolerate any detrimental action against anyone who has made a disclosure in accordance with this policy. If you believe detrimental action has been or is being taken against you or someone else involved in or as a result of the disclosure you should inform the School Principal.

### **Support**

PVS can initiate or coordinate support for anyone who has made a disclosure under this policy. The appropriate support person and/or other support services will be chosen based on the circumstances of each case and nature of the request.

## **10. INVESTIGATION OF THE DISCLOSURE**

The School will carefully assess and use the information provided in the disclosure to decide the best action to take, including whether an investigation is required and, if so, determine the appropriate investigation process, including:

- the nature and scope of the investigation
- who will conduct the investigation and whether that person should be internal or external
- the nature of any technical, financial or legal advice that may be required
- a timeframe for the investigation (having regard to the level of risk)

### **How will the investigation be conducted?**

The investigation must be conducted in a constructive, impartial and lawful way according to the principles of natural justice and procedural fairness.

The investigator will:

- gather information, material and documentation concerning the disclosure as quickly as possible. (This may involve taking steps to protect or preserve documents, materials and equipment.)

- take a statement or record of interview and/or tape formal interviews with witnesses as required (Where the whistleblower wishes to remain anonymous and does not wish to make a statement they will not be asked to do so.)
- keep information gathered in the investigation securely
- take all reasonable steps to protect the identity of the whistleblower. (Where disclosure of the identity of the whistleblower cannot be avoided due to the nature of the allegations, the investigator will warn the whistleblower of this probability)
- complete the investigation and provide a report of their findings as soon as is reasonably practical

### **Investigator's Report**

At the conclusion of the investigation, the investigator will provide a written report to the Principal including:

- a finding of all relevant facts
- whether the disclosure is proven, not proven or otherwise
- recommendation/s, when requested to do so, as to any action that may be taken in respect of the findings

The School will use the report to determine the action (if any) to be taken including disciplinary action.

The findings will be communicated to the relevant parties involved to the extent that it is legally permissible and appropriate to do so.

### **What happens if the misconduct is proven?**

If the misconduct is proven, the School will decide what action to take including disciplinary action up to dismissal.

The disciplinary action will depend on the severity, nature and circumstance of the misconduct.

### **Reporting the matter to external authorities**

PVS will refer:

- the information in the disclosure
- the findings of an investigation which revealed conduct that may constitute a legal or criminal offence or when required to do so by law to the relevant external agency, such as the police, ASIC or APRA.

### **Will the whistleblower be kept informed?**

Subject to privacy and confidentiality requirements the whistleblower will be kept informed of:

- relevant progress of the disclosure
- the outcome of the disclosure to the extent that it is legally permissible and appropriate to do so.

## **11. MONITORING AND TRAINING**

The School will monitor and review this policy regularly to assess its effectiveness in encouraging the reporting of misconduct, protection of persons making reports, and the investigation of reports. Education and training about the procedures involved under this policy will be provided to those involved in managing or investigating disclosures. The PVS school community will also be educated and kept informed in relation to the policy and the protections and procedures contained in it.

### **How will this policy be made available to members of the school community?**

This policy is available to employees of our organisation on the *Sentrient* Portal and all other members of the school community on the School's website.

## 12. RELATED POLICIES

- Concerns and Complaints policy
- Code of Conduct- Parents
- Code of Conduct- Volunteering and Practicum Students
- Code of Conduct- Staff
- Duty of Care and Supervision policy
- Anti-Bullying policy
- Mandatory Reporting Policy
- Child Protection and Child Safety Policy
- Child Safe Code of Conduct

## 13. LEGISLATION

- Treasury Laws Amendment (Enhancing Whistleblower Protections) Act 2019
- Public Interest Disclosure Act 2013
- Corporations Act 2001
- Australian Securities and Investments Commission Act 2001
- Banking Act 1959
- Insurance Act 1973
- Life Insurance Act 1995
- Superannuation Industry (Supervision) Act 1993
- Taxation Administration Act 1953
- Equal Opportunity Act 2010 (Vic)
- Equal Opportunity Act 1984 (WA)
- Fair Work Act 2009 (Commonwealth)
- Occupational Health and Safety Act (2004)
- Western Australian Occupation Safety and Health Act (1984)

## Appendix A

Misconduct under Section 1317AA (5) of the Act should also be disclosed. It includes conduct that constitutes an offence against, or a contravention of, a provision of any of the following:

1. the Act;
2. the ASIC Act;
3. the Banking Act 1959;
4. the Financial Sector (Collection of Data) Act 2001;
5. the Insurance Act 1973;
6. the Life Insurance Act 1995;
7. the National Consumer Credit Protection Act 2009;
8. the Superannuation Industry (Supervision) Act 1993;
9. an instrument made under an Act referred to in any of subparagraphs 1. to 8.; or
  - constitutes an offence against any other law of the Commonwealth that is punishable by imprisonment for a period of 12 months or more; or
  - represents a danger to the public or the financial system; or
  - is prescribed by the regulations for the purposes of this paragraph.

## Appendix B

Misconduct can also be disclosed to various external authorities and entities.

### Concerning misconduct under the Act

If the misconduct relates to the Corporations Act 2001 Section 1317AA (1) you may make a disclosure to:

- ASIC
- APRA
- a Commonwealth authority prescribed for the purposes of Section 1317AA (1)

### Concerning disclosures relating to superannuation entities

If the misconduct concerns a regulated entity that is a superannuation entity you may make a disclosure to:

- an officer of the superannuation entity
- an auditor, or a member of an audit team conducting an audit, of the superannuation entity
- an actuary of the superannuation entity
- an individual who is a trustee (within the meaning of the Superannuation Industry (Supervision) Act 1993) of the superannuation entity
- a director of a company that is the trustee (within the meaning of the Superannuation Industry (Supervision) Act 1993) of the superannuation entity
- a person authorised by the trustee or trustees (within the meaning of the Superannuation Industry (Supervision) Act 1993) of the superannuation entity to receive disclosures

### Concerning disclosures made to legal practitioner

If you make a disclosure to a legal practitioner for the purpose of obtaining legal advice or legal representation in relation to the operation of Part 9.4 of the Act (which includes the whistleblower protections and confidentiality of a whistleblower's identity) the disclosure will be protected under the Act.

### Concerning public interest disclosures

You may make a disclosure in the public interest to a member of the Parliament of the Commonwealth, the Parliament of a State or the legislature of a Territory or a journalist if:

1. you have previously made a disclosure of that misconduct, and
2. at least 90 days have passed since the previous disclosure was made; and
3. you do not have reasonable grounds to believe that action is being, or has been, taken to address the misconduct to which the previous disclosure related; and
4. you have reasonable grounds to believe that making a further disclosure of the misconduct would be in the public interest; and
5. after the end of the 90-day period you give the person to whom you made the previous disclosure a written notification that:
  - includes sufficient information to identify the previous disclosure; and
  - state that you intend to make a public interest disclosure; and
6. the public interest disclosure is made to:
  - a member of the Parliament of the Commonwealth, the Parliament of a State or the legislature of a Territory; or
  - a journalist; and
7. the extent of the information disclosed in the public interest disclosure is no greater than is necessary to inform the recipient referred to in paragraph (6) of the misconduct or the improper state of affairs or circumstances referred to in subsection 1317AA(4) or the conduct referred to in subsection 1317AA(5), as the case may be.

### Concerning emergency disclosures

You may also make an emergency disclosure to a member of the Parliament of the Commonwealth, the Parliament of a State or the legislature of a Territory or a journalist if:



1. you previously made a disclosure that qualifies for protection under the Act (Part 9.4 under subsection 1317AA(1); and
2. you have 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; and
3. you give the body to which the previous disclosure was made a written notification that:
  - includes sufficient information to identify the previous disclosure; and
  - state that you intend to make an emergency disclosure; and
4. the emergency disclosure is made to:
  - a member of the Parliament of the Commonwealth, the Parliament of a State or the legislature of a Territory; or
  - a journalist; and
5. the extent of the information disclosed in the emergency disclosure is no greater than is necessary to inform the recipient referred to in paragraph (4) of the substantial and imminent danger.

Note: Journalist means a person who is working in a professional capacity as a journalist for any of the following:

1. a newspaper or magazine;
2. a radio or television broadcasting service;
3. an electronic service (including a service provided through the internet) that:
  - is operated on a commercial basis, or operated by a body that provides a national broadcasting service (within the meaning of the Broadcasting Services Act 1992); and
  - is similar to a newspaper, magazine or radio or television broadcast.

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