



Glenaeon Whistleblower Policy and Procedures

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Contents

1. INTRODUCTION.....	3
1.1.Purpose and scope.....	3
1.2.Matters excluded from this Policy.....	3
1.3.Related policies.....	4
2. DEFINITIONS.....	4
2.1.Whistleblowing.....	4
2.2.Whistleblower.....	4
2.3.Matters.....	5
2.4.Disclosure.....	5
2.5.Anonymous Disclosure.....	5
2.6.Recipients.....	5
2.7.Reasonable grounds to suspect.....	6
3. MAKING A DISCLOSURE.....	6
4. INVESTIGATING A DISCLOSURE.....	6
5. FAIR TREATMENT OF EMPLOYEES MENTIONED IN DISCLOSURES.....	6
6. WHISTLEBLOWER PROTECTIONS AND SUPPORT.....	6
7. STAFF AWARENESS AND TRAINING.....	7
8. CONTACTS.....	7
9. PROCEDURES.....	7
9.1.Making a Disclosure.....	7
9.2.Responding to the disclosure.....	8
9.3.Investigation of a Disclosure.....	9
9.4.Fair treatment of employees mentioned in disclosures.....	10
9.5.Whistleblower Protections.....	10
9.6.Support Services.....	12

1. INTRODUCTION

Glenaeon Rudolf Steiner School (the “School”) is an independent, co-educational school catering for children from Preschool through to Year 12.

Within Glenaeon, recognising the expectations of the School staff (all employees), students, regulators and the community, the Board is committed to best practice in corporate governance, compliance and ethical behaviour generally. One of the principal responsibilities of the Board includes monitoring compliance with regulatory, ethical and prudential requirements.

A key test of the corporate governance health in Glenaeon Rudolf Steiner School is whether there are both formal and informal structures in place to enable communication to the appropriate destination. This policy is an important mechanism in being able to satisfy that key test.

1.1. Purpose and scope

The purpose of the Whistleblower Policy is to allow staff, parents, students, and volunteers of Glenaeon Rudolf Steiner School to report serious concerns about school operations through appropriate and confidential channels without risk of retaliation, victimisation or harassment in any form. The policy is to ensure that all school operations are conducted ethically and with integrity.

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

1.2. Matters excluded from this Policy

Generally, disclosures that concern personal work-related grievances do not qualify for protection. This includes disclosures that:

- concern 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
- do not have significant implications for the school that do not relate to the discloser; and
- do not concern conduct that is:
 - an alleged contravention of the *Corporations Act 2001* 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 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 discipline the discloser.

These matters will be addressed in accordance with the School’s complaints handling policy and procedures.

However, 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 2001*.

1.3. 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 *Complaint Handling Policy and Procedures*.
- Disclosures about reportable conduct will be addressed in accordance with the School's *Child Safe Policies*.
- Disclosures regarding a grievance between staff members about work matters, including work relationships and decision made by other staff members which impact on their work, may be addressed in accordance with the School's complaints handling policy and procedures.
- Unlawful discrimination, harassment or bullying complaints may be addressed in accordance with the School's statement on *What To Do If You Feel You Have Been Discriminated Against, Harassed or Bullied*.

2. DEFINITIONS

2.1. Whistleblowing

For the purpose of this policy, whistleblowing is defined as:

"The deliberate, voluntary disclosure of individual or organisational malpractice by a person who has had access to data, events or information (whether privileged, confidential or otherwise) about an actual, suspected or anticipated wrongdoing within or by an organisation that is within its ability to control."

2.2. Whistleblower

For the purposes of this policy a whistleblower is an individual who is or has been any of the following:

- a School Board member;
 - an employee;
 - a person who supplies goods or services (paid or unpaid);
 - an employee of a person who supplies goods or services (paid or unpaid);
 - an individual who is an associate of the School (as defined in the *Corporations Act 2001*);
- and

- a relative or dependent (or dependents of a spouse) of any individual described above.

2.3. Matters

A disclosable matter (“matter”) is one where the whistleblower has reasonable grounds to suspect that the information relating to the School concerns the following:

- misconduct;
- an improper state of affairs or circumstances;
- illegal activity (including conduct of officers and employees) – meaning activity in breach of the *Corporations Act 2001* or specified financial services legislation, or an offence against any law of the Commonwealth punishable by imprisonment of 12 months or more; or
- conduct (including the conduct of officers and employees) that represents a danger to the public or financial system.

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 *Corporations Act 2001*.

2.4. Disclosure

A qualifying disclosure (“disclosure”) is when a whistleblower makes a disclosure to an eligible recipient, and the whistleblower has reasonable grounds to suspect that the information concerns a disclosable matter.

2.5. Anonymous Disclosure

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.

2.6. Recipients

Under this policy the eligible recipient (“recipient”) will be the following:

Integroe Partners, the external Whistleblower Service (WBS). The contact details for the external WBS are:

- Ph: (02) 9181 5001 and quote Glenaeon Whistleblower
- Emailing glenaeonwhistleblower@integroe.com.au

The Whistleblower Service (WBS)

The WBS is an independent legal and multidisciplinary practice, Integroe Partners. Arrangements have been made by the School for the WBS to assess, investigate and manage all disclosures for the School. The WBS reports directly to the Chair of the School Board. If a disclosure relates to the Chair, then the WBS will engage with the Chair of the School Board's Risk Sub Committee.

The WBS responds and manages all disclosures and maintains the collection of data on all reported disclosures and the outcome for the School.

2.7. Reasonable grounds to suspect

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

If a disclosure is made without 'reasonable grounds to suspect', the disclosure will not qualify for the whistleblower protections under the *Corporations Act 2001*. Any deliberate false reporting will be regarded very seriously. A discloser can still qualify for protection even if their disclosure turns out to be incorrect.

3. MAKING A DISCLOSURE

Whistleblowers can make disclosures to an external dedicated service set up by the School for this purpose. Disclosures may also be made as external, public interest or emergency disclosures as outlined in Section 9.1.

4. INVESTIGATING A DISCLOSURE

Disclosures will be investigated according to the Procedures as outlined in Section 9.2.

5. 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 as outlined in Section 9.3 of the Procedures.

6. WHISTLEBLOWER PROTECTIONS AND SUPPORT

Whistleblowers are able to access a number of protections to ensure that their identity remains confidential, that they are not subject to civil, criminal or administrative liability and that they do not suffer a detriment as a result of their disclosure. Specifics in relation to these protections are outlined in Section 9.4 and 9.5 of the Procedures.

7. STAFF AWARENESS AND TRAINING

The School will ensure all staff and the School community are informed about the *Glenaeon Whistleblower Policy and Procedures*. Senior leadership will be provided with appropriate training in the management of such matters.

8. CONTACTS

If you have any queries about this policy, you should contact the Human Resources Manager at hrmanager@glenaeon.nsw.edu.au for advice.

9. PROCEDURES

9.1. Making a Disclosure

Eligible Recipient

Glenaeon Rudolf Steiner School has engaged an independent third party, to operate an independent hotline to receive and manage whistleblower disclosures for the School. This is referred to as an external Whistleblower Service (WBS). The WBS has an External Hotline that is secure and confidential and can be accessed at Ph: (02) 9181 5001 and quote Glenaeon Whistleblower Service or by emailing glenaeonwhistleblower@integroe.com.au

A whistleblower may also make a disclosure to the Chair of the School Board. In this situation, the Chair will refer the matter to the external WBS.

If a whistleblower wishes to obtain additional information about whistleblowing procedures and protections before formally making their disclosure, they can contact the Human Resources Manager (hrmanager@glenaeon.nsw.edu.au) or an independent legal advisor.

Upon receiving a disclosure, the recipient will assess the matter to determine if it qualifies for protection under the *Corporations Act 2001* and is to be managed in accordance with this policy or the disclosure concerns matters that should be managed in accordance with other policies and procedures of the School.

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.

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 have 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.

Emergency 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:

- the eligible whistleblower has reasonable grounds to believe that the information concerns a substantial and imminent danger to the health or safety of one or more people or to the natural environment; 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 an emergency disclosure; and
- the disclosure of information is no greater than necessary to inform the recipient of the substantial and imminent danger.

An eligible whistleblower may wish to consider obtaining independent legal advice before making an emergency disclosure.

9.2. Responding to the disclosure

- i. The WBS will acknowledge receipt of a disclosure within two business days, assuming the whistleblower can be contacted (including through anonymous channels). The WBS will assess disclosures to determine whether:
 - they fall within the protections offered by this policy, and if it does then: -
 - make arrangements for an investigation.

If the disclosure does not fall under the whistleblower policy, the WBS will inform the whistleblower of this and refer them to the relevant School policy.

- ii. The WBS will inform the Chair of the School Board that a disclosure has been received, and how the WBS will manage the disclosure.
- iii. The WBS will undertake a risk assessment and put in place any support services needed for the whistleblower. This will involve liaison with the Head of School and/or Chair of the School Board, as appropriate, to ensure any protections and supports that are needed are in place during the investigation process and may include adjustments to work arrangements or similar at the School.

9.3. Investigation of a Disclosure

- i. Generally, if an investigation is required, the WBS will determine:
 - the nature and scope of the investigation;
 - a suitable investigator;
 - the nature of any technical, financial or legal advice that may be required to support the investigation; and
 - the anticipated timeframe for the investigation. Each investigation will be different, which will impact on the applicable timeframe. However, the School's intent is to complete an investigation as soon as practicable.
- ii. Where practicable, the WBS will keep the 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 WBS considers relevant in the particular situation.
- iii. The WBS may not be able to undertake an investigation, or provide information about the process etc., if it is not able to contact the whistleblower, for example, if a disclosure is made anonymously and has not provided a means of contact.
- iv. At the appropriate time, and/or when all reasonable inquiries are completed, the person subject of the alleged conduct that makes up the disclosure will be presented with the allegations and given an opportunity to respond. This information will be included in the final assessment for the investigation.

The person subject of the disclosure will be provided professional support services throughout the process and the principles of procedural fairness will be afforded to them within the investigation process.
- v. Where practicable, whistleblowers and the person subject of the disclosure will receive updates on the progress of the investigation and when 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.
- vi. The WBS will document the steps of the investigation and recommend findings from the investigation and report those findings to the Chair of the School Board.
- vii. The Chair of the School Board will determine the final findings and suitable outcomes.
- viii. The whistleblower and person subject of the disclosure will be informed of the findings, and any outcomes relevant to them. There may be circumstances where it may not be appropriate to provide details of the outcome to those people.
- ix. All documentation and records involving the matter are retained securely and confidentially by the School in accordance with the School's data management protocols.

9.4. 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.

The School's employee assistance program (EAP) services will be available to employees affected by the disclosure, should they require that support.

9.5. Whistleblower Protections

Confidentiality and Records

Under the *Corporations Act 2001*, 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.

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.

If a disclosure involves an issue which the School is required to report, the School may not be able to maintain the confidentiality of the identity of the disclosure. This disclosure could include NSW Police, the NSW Office of the Children's Guardian, NSW Education Standards Authority or the NSW Department of Education.

It is also 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, if all reasonable steps are taken to reduce the risk that the discloser will be identified as a result of the information being disclosed.

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 be the subject of criminal, civil and disciplinary proceedings.

Confidentiality will be observed in relation to handling and storing records.

Confidentiality

Whistleblowers making a 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 section 9.5 above.

The School will protect a whistleblower's identity by appropriately redacting documents and referring to the whistleblower in gender-neutral terms. It will also secure all documents and communicate them in a way that will maintain confidentiality.

Immunity

Whistleblowers making a 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 on the basis of the disclosure.

Whistleblowers who make some types of disclosures (generally external to the School) are also provided with 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.

Detriment

Whistleblowers are also protected from victimisation - suffering any detriment by reason 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.

Detriment has a very broad meaning and includes dismissal of an employee, injuring an employee in their employment, alteration of an employee's position or duties to their disadvantage; discrimination between an employee and other employees; 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.

If a whistleblower believes they are being subjected to a detriment or a threat of detriment, this should immediately be reported in writing to the Head of School, via email.

If it is not appropriate for the report to be made to the Head of School, the eligible whistleblower should report the matter, in writing, to the Chair of the School Board, via email at board@glenaeon.nsw.edu.au.

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 it will take to help achieve this may include:

1. 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; and
 - whether there have already been threats to cause detriment.
2. Analysing and evaluating the likelihood of each risk and evaluating the severity of the consequences;
 3. 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;
 4. 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;
 5. Taking steps to ensure that:
 6. 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.

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

9.6. Support Services

The School's employee assistance program, EAP Assist (0407 086 000) will be available to whistleblowers, and the subject of the disclosure, who are employees should they require that support.

If a whistleblower who is not an employee wishes to obtain support, such as counselling or other professional support, they should contact the Human Resources Manager at hrmanager@glenaeon.nsw.edu.au.