



WHISTLEBLOWER POLICY

(Interim)

Policy No: WP00:01

Date Issued: **January 2020**

Contact: Human Services Consultant

Related Documentation: *Corporations Act 2001 (Cth)*

Discrimination, Harassment and Bullying in the
Workplace Standard Operating Procedure

Addressing Employee Performance and Disciplinary Matters
Standard Operating Procedure

Code of Conduct Standard Operating Procedure

1. RATIONALE

Diocese of Lismore Catholic Schools Limited (DLCSL) is committed to the protection of individuals who disclose information about illegal or improper conduct occurring within DLCSL. This policy has been adopted to provide a safe and confidential environment where such concerns can be raised by whistleblowers without fear of reprisal or detrimental treatment.

2. SCOPE

This policy sets out:

- who is entitled to protection as a whistleblower under this policy and the Corporations Act;
- the protections whistleblowers are entitled to under this policy and under the Corporations Act; and
- how disclosures made by whistleblowers in accordance with this policy and under the Corporations Act will be handled by DLCSL.

All officers, employees and contractors of DLCSL must comply with this policy.

This policy is available to all officers and employees of DLCSL in the Corporate section of our website, under 'Policies' (www.lism.catholic.edu.au).

3. 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)

"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

4. WHO IS ENTITLED TO PROTECTION

4.1 To be treated as a whistleblower 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 4.3; and
- disclose that information to one of the persons or bodies set out in section 4.4.

- 4.2** Disclosures can be made by a current or former
- a) officer or employee of DLCSL;
 - b) contractor or supplier of goods and services to DLCSL, or their current and former employees;
 - c) Associate of DLCSL; or
 - d) a Relative, Spouse or a dependant of an individual mentioned above.

4.3 Disclosures can be made about unlawful conduct or conduct that endangers the public or financial system which you suspect on reasonable grounds has occurred or is occurring within DLCSL, including conduct by an officer or an employee of DLCSL. However, disclosures which are solely about a Personal Work-Related Grievance (as defined in the relevant documents) will not be protected under this policy. Such matters may be appropriately dealt with in accordance with DLCSL's, Code of Conduct, Addressing Employee Performance and Disciplinary Matters or Discrimination, Bullying and Harassment Standard Operating Procedures.

4.4 A whistleblower may make a disclosure to the following people or bodies:

- a) your supervisor or manager (if you are an employee of DLCSL;
- b) an Officer of DLCSL;
- c) an auditor of DLCSL;
- d) ASIC;
- e) APRA; or
- f) a lawyer in order to obtain advice or representation about the Corporations Act.

If the circumstances described in section 1317AAD of the Corporations Act exist, then a whistleblower may make a public interest or emergency disclosure to the following persons:

- g) a member of a Commonwealth or State parliament or Territory legislature; or
- h) a journalist.

5. MAKING A DISCLOSURE

A disclosure can be made in person, by telephone or in writing to one of the people or bodies identified in 4.4 a)-h) above. The external persons and bodies in sections 4.4 d)-h) above, may have other means by which you may make a disclosure. It is important to note that a whistleblower does not have to reveal their identity when making a disclosure.

6. HOW DIOCESE OF LISMORE CATHOLIC SCHOOLS LIMITED INVESTIGATES DISCLOSURES

6.1 The person who receives the disclosure will promptly forward it to the Human Services Consultant who will determine, in conjunction with the Director of Catholic Schools, whether it requires formal investigation.

- 6.2** Any formal investigation of a disclosure will be undertaken by an impartial senior person, or an external investigator.
- 6.3** DLCSL will ensure that the investigation:
- a) is conducted promptly;
 - b) is sufficiently resourced;
 - c) is conducted in a fair and objective manner;
 - d) is conducted in strict confidence;
 - e) protects the identity of the person who made the disclosure; and
 - f) gives the opportunity to any person who is adversely mentioned in the disclosure an opportunity to respond prior to any findings being made.
- 6.4** At the conclusion of the investigation, the investigator will provide the Director of Catholic Schools with a report that will summarise how the investigation was conducted, the evidence collected and contain findings in relation to the allegations in the disclosure and recommend any action required.
- 6.5** Following receipt of the investigation report, the Director of Catholic Schools will take appropriate action, which may include:
- a) implementing the recommendations of the investigator;
 - b) requesting further investigation;
 - c) recommending disciplinary action; and/or
 - d) notifying regulatory or law enforcement bodies.
- 6.6** The whistleblower will be informed of the results of the investigation following the Director of Catholic Schools taking the steps in 6.5 above. However, some circumstances may limit the information provided to the person, such as confidentiality or other legal constraints.

7. PROTECTION FOR WHISTLEBLOWERS

- 7.1** A whistleblower is entitled to protection of their identity, or information that is likely to lead to their identity becoming known. The whistleblower's identity or information that is likely to lead to their identity becoming known, can only be disclosed where it is made to:
- a) An in-house or external lawyer for the purposes of obtaining legal advice or legal representation;
 - b) ASIC;
 - c) APRA;
 - d) A Commonwealth, State or Territory Authority for the purposes of assisting them in the performance of their duties;
 - e) The Australian Federal Police; or
 - f) 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 whistleblower.

A whistleblower's identity may be disclosed to others as part of the investigation process, but only if necessary and DLCSL will take all reasonable steps to avoid the identification of the whistleblower.

7.2 Other protections provided to whistleblowers are:

- a) DLCSL will not cause any detriment to the whistleblower because of the disclosure;
- b) anyone who causes or threatens to cause detriment to a whistleblower 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;
- c) the whistleblower has immunity from any civil, criminal or administrative legal action (including disciplinary action) as a result of making the disclosure; and
- d) no contractual or other remedies may be enforced and no contractual or other right may be exercised, against the whistleblower for making the disclosure.

8. LEGISLATION

This policy is governed by:

The Corporations Act 2001 (Cth)

Approved by: Director of Catholic Schools	Date: 20 January 2020