

**Policy No. 41**

**Protected Disclosure Policy**

*So in everything do to others what you would have them do to you.*

*Matthew 7: 12*

**Introduction**

The purpose of this policy is to provide information and guidance to employees of the school who wish to report serious wrongdoing within the school.

This policy is issued in compliance with the Protected Disclosures Act 2000 and will apply from 1 January 2001.

The policy consists of:

1. A definition of a protected disclosure.
2. A definition of serious wrongdoing that can be the basis for a protected disclosure by an employee.
3. Conditions for disclosure.
4. Information on who can make a disclosure.
5. Protections for employees making disclosures.
6. A procedure by which an employee can make a disclosure.

**What is a Protected Disclosure**

A protected disclosure is a declaration made by an employee where they believe serious wrongdoing has occurred. Employees making disclosures will be protected against retaliatory or disciplinary action and will not be liable for civil or criminal proceedings related to the disclosure.

**Definition of Serious Wrongdoing**

Serious wrongdoing for the purposes of this policy includes any of the following:

* Unlawful, corrupt, or irregular use of public funds or resources
* An act or omission or course of conduct:
  + Which seriously risks public health or safety or the environment; or
  + That constitutes an offence; or
  + That is oppressive, improperly discriminatory, grossly negligent or constitutes gross mismanagement; or
  + Constitutes serious risk to the maintenance of law.

-2-

**Conditions for Disclosure**

* Before making a disclosure the employee should be sure the following conditions are met:
* the information is about serious wrongdoing in or by the school; and
* the employee believes on reasonable grounds the information to be true or is likely to be true; and
* the employee wishes the wrongdoing to be investigated; and
* the employee wishes the disclosure to be protected.

**Who Can Make A Disclosure**

Any employee of the school can make a disclosure. For the purposes of this policy an employee includes:

* Current employees and principal.
* Former employees and principals.
* Contractors supplying services to the school.

**Protection Of Employees Making Disclosure**

An employee who makes a disclosure and who has acted in accordance with the procedure outlined in this policy:

* May bring a personal grievance in respect of retaliatory action from their employers;
* May access the anti-discrimination provisions of the Human Rights Act in respect of retaliatory action from their employers;
* Are not liable for any civil or criminal proceedings, or to a disciplinary hearing by reason of having made or referred to a disclosure;
* Will, subject to Clause 5 of the Procedure, have their disclosure treated with the utmost confidentiality.

The protections provided in this section will not be available to employees making allegations they know to be false or where they have acted in bad faith.

**Procedure**

Any employee of Westminster Christian School who wishes to make a protected disclosure should do so using the following procedure.

**1. How to submit a disclosure**

The employee should submit the disclosure in written form.

-3-

**2. Information to be contained**

The disclosure should contain detailed information including the following:

* The nature of the serious wrong doing
* The name or names of the people involved
* Surrounding facts including details to the time and/or place of the wrong doing if known or relevant.

**3. Where to send disclosures**

(eg. A disclosure must be sent in writing to the Principal who has been nominated by the Board of Westminster Christian School under the provision of Section 11 of the Protected Disclosures Act 200 for this *purpose.)*

OR

(If you believe that the Principal is involved in the wrongdoing or has an association with the person committing the wrongdoing that would make it inappropriate to disclose to them, then you can make the disclosure to the Board Chair).

**4. Decision to investigate**

On receipt of a disclosure, Westminster Christian School must within 20 working days examine seriously the allegations of wrongdoing made and decide whether a full investigation is warranted. If warranted a full investigation will be undertaken by an appropriate authority as quickly as practically possible.

**5. Protection Of Disclosing Employees Name**

(All disclosures will be treated with the utmost confidence. When undertaking an investigation, and when writing the report, the Principal or Board Chair, will make every endeavour possible not to reveal information that can identify the disclosing person, unless the person consents in writing or if the person receiving the protected disclosure reasonably believes that disclosure of identifying information is essential:

* To ensure an effective investigation.
* To prevent serious risk to public health or public safety or the environment.
* To have regard to the principles of natural justice.

-4-

1. **Internal Procedures**

If a disclosure is being investigated the Principal or Board Chair will take the following action:

* A meeting of the Personnel Committee of the Board of Trustees will be called or if urgent a full special Board of Trustees meeting will be called.
* STA industrial relations may need to be referred to.
* Board insurer notified
* Matter is referred to police if urgent action is needed.

1. **Report Investigation**

At the conclusion of the investigation the Principal or Board Chair will prepare a report of the investigation with recommendations for action if appropriate, which will be sent to an appropriate authority as guided by the Board

1. **Guidelines For Protected Disclosure Recipients**

There are no guidelines in the Act as to what the Board needs to do when receiving a protected disclosure; therefore this advice is based on good practice in other employment scenarios, such as sexual harassment prevention.

1. **Disclosure To An Appropriate Authority in Certain Circumstances**

A disclosure may be made to an appropriate authority (including those listed below) if the employee making the disclosure has reasonable grounds to believe:

* The last resort person (i.e. Board Chair) in the school responsible for handling the complaint is or may be involved in the wrongdoing; or
* Immediate reference to another authority is justified by urgency or exceptional circumstances; or
* There has been no action or recommended action within 20 working days of the date of disclosure.

Appropriate Authorities include (but are not limited to)

* Commissioner of Police
* Controller and Auditor General
* Director of the Serious Fraud Office
* Inspector General of Intelligence and Security
* Ombudsman
* Parliamentary Commissioner for the Environment
* Police Complaints Authority

-5-

* Solicitor General
* State Service Commissioner
* Health and Disability Commissioner
* The head of every public sector organisation.

**10. Disclosure to Ministers and Ombudsman**

A disclosure may be made to a Minister or an Ombudsman if the employee making the disclosure

* Has made the same disclosure according to the internal procedures and clauses of this policy
* Reasonably believes that the person or authority to whom the disclosure was made:
  + Has decided not to investigate; or
  + Has decided to investigate but not made progress with the investigation within reasonable time; or
  + Has investigated but has not taken or recommended any action; and
  + Continues to believe on reasonable grounds that the information disclosed is true or is likely to be true.

**Chairman: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Date Adopted:** 20 March 2001

**Review Date:** 20 March 2004

23 November 2004 – reviewed again for New Board Members

20 November 2007

20 September 2010

26 June 2013

**Protected Disclosures Act 2000**

**Information for Staff**

**Introduction**

The Protected Disclosures Act 2000 came into effect on 1 January 2001. The Act requires that public sector organisations such as schools have an internal process that staff can use if they wish to make a protected disclosure. The following information details this process and provides you with information about the protections given in the Act.

**Who Can Make A Protected Disclosure?**

Are you:

* A staff member (either temporary or permanent)
* A contractor supplying services to the school
* A former staff member (either temporary or permanent)

If you fit into any of these categories you are able to make a disclosure under the provisions of this Act.

Note:The Act does not apply to parents or board of trustees members **unless** they are staff members of the school. It is for the protection of **employees.** For the purposes of this Act the board of trustees is the employer.

As a public sector organisation boards are required to have an internal procedure for staff, contractors, or former employees to make protected disclosures within the school.

**What Is A "Protected Disclosure"?**

Protected means that as long as you have reasonable grounds to believe that a serious wrongdoing is being done by or in the organisation by the above people you can report in good faith asking that the wrongdoing be investigated without worrying about negative consequences.

It is important to remember that this is an Act to protect employees and the disclosure will be about the employer or another employee/s **not a student or parent.**

-2-

**What Is A Serious Wrongdoing?**

The Act defines a serious wrongdoing as being any of the following:

"(a) an unlawful, corrupt, or irregular use of public funds or public resources; or

(b) an act, omission, or course of conduct that constitutes a serious risk to public health or public safety or the environment; or

(c) an act, omission, or course of conduct that constitutes a serious risk to the maintenance of law, including the prevention, investigation, and detection of offences and the right to a fair trial; or

(d) an act, omission, or course of conduct that constitutes an offence; or

(e) an act, omission, or course of conduct by a public official that is oppressive, improperly discriminatory, or grossly negligent, or that constitutes gross mismanagement, …”

**How Am I Protected?**

You are "protected" when making a disclosure in the following ways:

* your identity will be confidential unless you give permission to be identified\*
* you cannot be victimised by your employer for having disclosed the information
* you are not liable for civil or criminal proceedings for disclosing the information
* if you believe that you have been unfairly treated in your job or unreasonably dismissed following a disclosure you can take a personal grievance against your employer.

\*There are some limitations to this described in the Act. These are:

"(1) Every person to whom a protected disclosure is made or referred must use his or her best endeavours not to disclose information that might identify the person who made the protected disclosure unless …

(a) that person consents in writing to the disclosure of that information; or

(b) the person who has acquired knowledge of the protected disclosure reasonably believes that disclosure of identifying information---

(i) is essential to the effective investigation of the allegations in the protected disclosure; or

(ii) is essential to prevent serious risk to public health or public safety or the environment; or

(iii) is essential having regard to the principles of natural justice.

(2) A request for information under the Official Information Act 1982 [other than one made by a member of the police for the purpose of investigating an offence] may be refused, as contrary to this Act, if it might identify a person who has made a protected disclosure."

This protection depends on you making the disclosure in accordance with the internal procedure.