



PENLEIGH AND ESSENDON GRAMMAR SCHOOL

If you require access to this policy in a language other than English, please contact the Principal's office on 9016 2000

Whistleblower Policy for Staff and Other Eligible Persons

INTRODUCTION AND PURPOSE

Penleigh and Essendon Grammar School (**the School**) is committed to sound governance and lawful and ethical behaviour. It is desirable that employees, officers and other Eligible Whistleblowers will cooperate with the School in maintaining proper legal and ethical standards, including by reporting genuine concerns of unlawful or improper conduct affecting the School.

The purpose of this policy is to:

- encourage Eligible Whistleblowers to report genuine concerns about misconduct, impropriety or unlawful activities concerning the School, and outline how this can be done;
- provide information about the whistleblower protections available under the Corporations Act 2001 (Cth) and Taxation Administration Act 1953 (Cth), and when these apply;
- outline how the School will support and protect people who are entitled to whistleblower protections;
- outline how the School will respond to and investigate disclosures of information that qualify for whistleblower protections.

SCOPE OF POLICY AND ACCESS TO INFORMATION

This policy applies to disclosures of information that qualify for whistleblower protections under the Corporations Act or the Taxation Administration Act.

Eligible Whistleblowers can be past or present employees, officers, associates and individual suppliers of goods and services of the School and their employees, (and relatives, dependents and spouses of any individual referred to above),

Whistleblower protections generally apply where an Eligible Whistleblower discloses information about reasonably suspected unlawful or improper conduct affecting the School (referred to as Disclosable Information), or about the tax affairs of the School, to senior representatives of the School known as Eligible Recipients or to certain regulatory authorities, or where individuals seek legal advice about whistleblower protections.

Personal Work-Related Grievances are not generally subject to whistleblower protection and may be addressed in accordance with the School's constitutional grievance procedures or disputes resolution procedures.

Students or their parents seeking to register a grievance are directed to the Complaints and Appeals Policies for students, parents and others.

Note: The meaning of capitalised terms used throughout this policy, including Eligible Whistleblower, Eligible Recipient, Disclosable Information and Personal Work-Related Grievances is set out at the end of this policy. More detailed information about when whistleblower protections apply is included in this policy. Further information about whistleblower protections is also published online by ASIC and the ATO

A copy of this policy will be published on the School's website and on PEGSpace.

WHISTLEBLOWER PROTECTIONS

When do whistleblower protections apply?

A person qualifies for whistleblower protection under the Corporations Act if they are an Eligible Whistleblower and:

- provide Disclosable Information, directly to an Eligible Recipient, or to a nominated external and independent whistleblowing service provider, or to ASIC, APRA, or another Commonwealth authority prescribed by regulations;
- disclose information to a legal practitioner, for the purpose of obtaining legal advice or legal representation about the whistleblower provisions in the Corporations Act;
- make a Public Interest Disclosure, or an Emergency Disclosure to a member of Parliament or a journalist.

Note: Public Interest Disclosures and Emergency Disclosures can only be made in limited circumstances. It is recommended that legal advice is obtained before making this type of disclosure. Refer to the definitions at the end of this policy for further information.

A person qualifies for whistleblower protection under the Taxation Administration Act if they are an Eligible Whistleblower and:

- disclose information to the Commissioner of Taxation, which they consider may assist the Commissioner to perform their functions under a tax law in relation to the School, or an "associate" of the School; or
- disclose to an Eligible Recipient or to a nominated external and independent whistleblowing service provider, information which they have reasonable grounds to suspect indicates misconduct, or an improper state of affairs or circumstances in relation to the tax affairs of the School or an "associate" of the School, and consider this information may assist the Eligible Recipient to perform duties or functions in relation to those tax affairs.

Note: For the purpose of the Taxation Administration Act, "associate" is defined in section 318 of the Income Tax Administration Act 1936 (Cth).

To whom should a whistleblowing report be made?

In accordance with the Corporations Act, an Eligible Recipient of a whistleblowing report includes the following:

- The Principal
- The Vice Principal
- The Director of Human Resources

Alternatively a disclosure may be made to:

- any other officer or senior manager of the School or a related body corporate of the School;
- an auditor or member of an audit team conducting an audit of the School; or
- an actuary of the school or a related body corporate of the School.

A report under the Taxation Administration Act may also be made to:

- A registered tax agent or BAS agent who provides tax agent services to the School; or
- An auditor or member of the audit team conducting an audit of the School.

Note: The Corporations Act defines 'officer' to include a director or company secretary of an entity. A 'senior manager' is generally a senior executive within an entity other than a director or company secretary who:

- (a) makes or participates in making decisions that affect the whole or a substantial part of the business entity, or
- (b) has the capacity to significantly affect the entity's financial standing.

What protections apply to whistleblowers?

1. Confidentiality of whistleblower's identity

Generally, an Eligible Whistleblower is entitled to have their identity kept confidential.

(a) It is illegal for a person to divulge the identity of a whistleblower or information that is likely to lead to their identification, unless:

- (i) the whistleblower gives their consent;
- (ii) the disclosure is required by law; or
- (iii) the disclosure is made to:
 - a professional legal advisor (including the School's legal team) for the purpose of obtaining legal advice or representation; or
 - authorised regulatory bodies, such as ASIC, APRA or a member of the Australian Federal Police.

(b) However, a person who is dealing with a Protected Report may disclose information that is reasonably necessary for the purposes of investigating the report, provided that the information does not include the whistleblower's identity. If this happens, reasonable steps will be taken to reduce the risk that the discloser will be identified as a result of the report (for example by removing their personal information or other details that are likely to identify them).

2. Protection against detrimental action and threats

Eligible Whistleblowers are entitled not to have detrimental action taken, or threats of detrimental action made.

A person must not:

- cause detriment to an Eligible Whistleblower or any other person because the first person believes or suspects that the Eligible Whistleblower or any other person made, may have made, proposes to make, or could make, a disclosure qualifying for whistleblower protection; or
- threaten to cause any detriment to another person, because that person or any other person makes, or may make, a disclosure qualifying for whistleblower protection.

Note: Examples of detriment may include harassment or intimidation, causing harm or injury, damaging property, or dismissing an employee.

3. Action that must not be taken against the discloser

A person who makes a disclosure qualifying for whistleblower protection:

- must not be subject to any civil, criminal or administrative liability (including disciplinary action) for making that disclosure; and
- must not have any contractual or other remedy enforced against them on the basis of that disclosure.

Additionally, information disclosed by that person when making a disclosure that qualifies for whistleblower protection generally cannot be used against that person as evidence in criminal or penalty proceedings. The protections do not prevent action being taken against the person for any wrongdoing in which they are involved as revealed in the disclosure.

School's Support for Whistleblowers

The School expects all of its employees, officers and other representatives to comply with the whistleblower protections provided by law, and supports the rights of Eligible Whistleblowers.

It is unlawful to breach whistleblower protections. Disciplinary action can be taken, and financial compensation and other remedies can be ordered, against a person who breaches these protections.

Anyone who is entitled to whistleblower protections in connection with the School may seek assistance or support from a Whistleblower Protection Officer. This may include seeking the assistance of the Whistleblower Protection Officer to minimise risks of detrimental action, disclosure of identity, or other unlawful conduct in breach of protections as described.

If anyone believes that they have been or are being subjected to any detrimental action or unlawful conduct, or that their identity has been disclosed in breach of whistleblower protections, the suspected breach should immediately be reported to either a Whistleblower Protection Officer, or the Whistleblower Investigation Officer, who may take any necessary and reasonable actions to address that concern.

Whistleblower Investigation Officer	The Vice Principal
Whistleblower Protection Officer	Head of Larkin Centre Head of Gottliebsen House Head of McNab House Head of Junior School (boys) Head of Junior School (girls) Director of Kindergartens Director of Music Coordinators of OHS and Human Resources

REPORTING AND INVESTIGATION

Reporting of Disclosable Information or concerns about tax affairs

An Eligible Whistleblower may report any Disclosable Information, or information that they believe indicates misconduct, or an improper state of affairs or circumstances in relation to the tax affairs of the School to the Principal, Vice Principal or Director of Human Resources in the first instance, or other Eligible Recipient as listed previously.

Note: If the Disclosable Information relates to the Principal, Vice Principal and Director of Human Resources, it is recommended that the disclosure be taken to the Chair of the Board of Management.

Disclosures should ideally be made in writing, setting out the information which has given the Eligible Whistleblower reasonable grounds to suspect any unlawful or improper conduct.

Disclosure may be made anonymously, however whistleblowers are encouraged to identify themselves, as this may assist the School to investigate and address the concern being raised. Maintaining anonymity may make it less likely that the issue being raised can be properly investigated or substantiated.

An Eligible Whistleblower who identifies themselves when making a disclosure qualifying for whistleblower protection remains entitled to have their identity kept confidential as outlined above.

If a person is not comfortable or able to report misconduct internally, they may report it to PEGS external and independent whistleblowing service provider as explained below. See External Reporting Process.

Note: An Eligible Whistleblower who makes their disclosure to an Eligible Recipient as listed or to an external authority in accordance with the Corporations Act or Taxation Administration Act will be entitled to the whistleblower protections provided for by those Acts.

Preliminary assessment

When Disclosable Information is given to an Eligible Recipient, the information will be reported to the Whistleblower Investigation Officer, or if the information relates to alleged unlawful or improper conduct of the Whistleblower Investigation Officer, to the Principal, or a member of the Board of Management. Note that the identity of the whistleblower can only be shared to those people with the whistleblower's consent.

The Whistleblower Investigation Officer, Principal or member of the Board of Management will undertake a **preliminary assessment** of the information to assess what action the School should take in response to that information, and if investigation of the matter by the School is considered appropriate in the circumstances they will, within two business days, refer the matter for investigation as set out below.

Note: A decision not to refer a matter for investigation by the School may be made if action has already been taken to address the matter, if alternative action is more appropriate to address the matter, if the complaint is trivial or fanciful, or if the matter is not capable of proper investigation by the School.
A decision may be made to report the matter to the School's Board of Management or to an external authority, or to deal with the matter under an alternative process in appropriate cases. For example, disclosure of a reportable allegation of child abuse within the meaning of the Children, Youth and Families Act 2005 (Vic) should be referred for reporting and investigation in accordance with the requirements of the Reportable Conduct Scheme established under the Act, and the relevant School policies.

The Eligible Whistleblower who made the disclosure will be informed of the outcome of the preliminary assessment, if the Eligible Whistleblower's identity and contact details are known.

Investigation process

If a decision is made to investigate the disclosure under this policy, the Whistleblower Investigation Officer (or the Principal, or member of the Board of Management if applicable) will:

- prepare terms of reference for the investigation, summarising the key issues to be investigated;

- consult with the Principal or a member of the Board of Management if necessary, to ensure that reasonable resources are allocated for the investigation having regard to the circumstances, including the nature and seriousness of the matter; and
- either conduct an investigation personally, or appoint an alternative investigator to conduct an investigation into the matter.

Note: The investigator will be able to conduct the investigation in a fair, objective and independent manner. Whether a representative of the School or an external investigator, they must not be a person alleged to have been involved in the alleged misconduct, unlawful activity or improper state of affairs which is the subject of the disclosure.

The investigator may:

- interview any person who is alleged to have been involved in the matter under investigation;
- interview such other relevant witnesses as are identified in relation to the matter, who the investigator considers appropriate and necessary in order to properly investigate the matter;
- make such other relevant inquiries, and take into account such relevant documents as are appropriate and necessary to investigate the matter.

The investigator will make a record of each interview conducted for the purpose of the investigation.

Unless there are compelling reasons not to do so, any employee of the School who is alleged to have engaged in misconduct, or improper or unlawful conduct under this policy will be informed of, and given the opportunity to respond to, the allegations made against them.

Employees, officers and other representatives of the School are expected to act honestly, and cooperate fully with the School and any investigator appointed by the School, in relation to matters disclosed or investigated under this policy. The making of false or misleading disclosures, statements or representations may result in disciplinary action.

Confidentiality of investigations

Information obtained by the investigator, and records created by the investigator in the course of an investigation under this policy will be secured by the investigator so far as reasonably practicable, to prevent unauthorised access to confidential or sensitive information.

Participants in an investigation conducted under this policy are expected to maintain confidentiality in relation to the investigation, and the matter under investigation, and should not discuss their involvement in an investigation, or any matter under investigation with others during the investigation process unless required or specifically authorised by law.

Investigation report

A report will be prepared by the investigator, which will include:

- a summary of the allegations that have been investigated;
- a statement of all relevant findings of fact made by the investigator and a summary of the evidence relied upon in making those findings.

The investigation report will be considered by representatives of the School who have authority to determine the outcome of the matter (not being individuals involved in the subject matter of the investigation).

As an investigation report may include confidential, personal or sensitive information, including information identifying participants in the investigation, individuals involved in the matter, including participants in the investigation and the person who made the initial disclosure, will not have the right to receive a copy of the report.

If the School intends to consider taking disciplinary action against an employee of the School as a result of an investigation under this policy, that employee will not be entitled to a copy of the report, but will be provided with a summary of the relevant findings, and the opportunity to respond to those findings, wherever practicable.

The School may also provide a summary of the findings and/or outcome of an investigation into information disclosed by an Eligible Whistleblower to the whistleblower, and/or to other individuals involved in the matter if the School decides this is appropriate in the circumstances.

The Board will be provided on a quarterly basis with confidential reports on the number and type of whistleblowing incidents to enable it to address any issues at a group level. Reports will be on a “no names” basis to maintain the confidentiality of matters raised under this policy.

EXTERNAL REPORTING PROCESS

If a person is not comfortable or able to report misconduct internally, they may report it to PEGS external and independent whistleblowing service provider.

PEGS has contracted Your Call Whistleblowing Solutions (“Your Call”) to receive and manage the report with impartiality and confidentially.

This option allows a person to:

- remain completely anonymous
- identify themselves to Your Call only
- identify themselves to both Your Call and PEGS

The Your Call reporting options include:

- *Website* <https://www.yourcall.com.au/report>
24/7
- *Telephone* 1300 790 228
9am and 12am, recognised business days, AEST

Online reports can be made via the website address listed above. The reporter will be required to enter PEGS unique identifier code - PEGS

Your Call remains the intermediary at all times, receiving and forwarding communication between all parties. PEGS Officers who will have access to these reports include:

1. Principal
2. Vice Principal
3. Director of Human Resources

Your Call can circumvent any of the above Officers upon the reporter's request.

The reporter will be able to securely upload any relevant documentation and/or material relevant to their disclosure.

After making a disclosure, the reporter will be provided with a unique Disclosure Identification Number (DIN) and access to a secure online Message Board.

The Message Board allows ongoing anonymous communication with Your Call and/or PEGS. Your Call remains the intermediary at all times, receiving and forwarding communication between all parties. The Message Board can be used to receive updates, share further information/evidence and request support or report retaliation. If the reporter cannot access the Message Board, they can contact Your Call via phone (above) for verbal updates.

National Relay Service

If the reporter is deaf, or has a hearing or speech impairment, they can contact Your Call online or through the National Relay Service. Simply choose their contact method at <http://www.relayservice.gov.au/> and request Your Call's hotline 1300 790 228.

If the reporter has difficulty speaking or understanding English, contact us through the [Translating and Interpreting Service](#) (TIS) and ask for Your Call on 1300 790 228.

Definitions

<p>Disclosable Information</p>	<p>Includes:</p> <ul style="list-style-type: none"> • Information which the discloser has reasonable grounds to suspect concerns misconduct, or an improper state of affairs or circumstances in relation to the School or a related body corporate of the School; or • Information which the discloser has reasonable grounds to suspect indicates that the School, a related body corporate of the School, an officer or employee of the School, or an officer or employee of a related body corporate of the School has engaged in conduct that: <ul style="list-style-type: none"> • constitutes an offence against, or contravention of, the Corporations Act, the ASIC Act, or any other law or instrument prescribed by section 1317AA(5)(c) of the Corporations Act; • constitutes an offence against a law of the Commonwealth that is punishable by imprisonment for a period of 12 months or more; • represents a danger to the public or the financial system; or • is prescribed by regulations for the purposes of section 1317AAA((5)(c)(f) of the Corporations Act. <p>Examples of “Disclosable Information” may include reasonable suspicions of theft, fraud, bribery, misappropriation of funds, criminal property damage, or breach of legal or regulatory requirements. Information about improper conduct which is not unlawful may still be Disclosable Information.</p> <p>‘Disclosable Information’ does not include a Personal Work-Related Grievance unless detrimental action or threats of detrimental action are made to that person in breach of whistleblower protections.</p>
<p>Eligible Recipient</p>	<p>Includes:</p> <ul style="list-style-type: none"> • The Principal • The Vice Principal • The Director of Human Resources • any other officer or senior manager of the School or a related body corporate of the School (within the meaning of the Corporations Act); <p>The Corporations Act defines ‘officer’ to include a director or company secretary of an entity. A ‘senior manager’ is generally a senior executive within an entity other than a director or company secretary who:</p> <p>(a) makes or participates in making decisions that affect the whole or a substantial part of the business entity, or</p> <p>(b) has the capacity to significantly affect the entity’s financial standing.</p> <ul style="list-style-type: none"> • an auditor, or member of an audit team conducting an audit of the School or a related body corporate of the School; • an actuary of the School or a related body corporate or the School. <p>Additionally, for disclosures concerning tax affairs of the School, this includes:</p> <ul style="list-style-type: none"> • a director, secretary or senior manager of the School; • an employee or officer of the School who has functions or duties that relate to the tax affairs of the School; or • an auditor, or member of an audit team conducting an audit of the School or a related body corporate of the School; • a registered tax agent or BAS agent who provides tax agent or BAS services to the School.
<p>Eligible Whistleblower</p>	<p>Includes an individual who is, or has been:</p> <ul style="list-style-type: none"> • an officer of the School;

	<ul style="list-style-type: none"> • an employee of the School; • a supplier of goods or services to the School; • an employee of a person that supplies goods or services to the School; • an associate of the School (within the meaning of the Corporations Act for the purpose of disclosures protected under that Act, or within the meaning of the Income Tax Assessment Act 1936, for disclosures protected under the Taxation Administration Act); or • a relative, dependent, or spouse, of an individual referred to above.
Personal Work-Related Grievances	<p>Personal Work-Related Grievances generally do not enjoy whistleblower protections. Such information:</p> <ul style="list-style-type: none"> • concerns 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 • does not have significant implications for the School (other than implications relating to the discloser), and does not concern conduct or alleged conduct that: <ul style="list-style-type: none"> • constitutes an offence against, or contravention of, the Corporations Act, the ASIC Act, or any other law or instrument prescribed by section 1317AA(5)(c) of the Corporations Act; • constitutes an offence against a law of the Commonwealth that is punishable by imprisonment for a period of 12 months or more; • represents a danger to the public or the financial system; or • is prescribed by regulations for the purposes of section 1317AAA((5)(c)(f) of the Corporations Act. <p>Example of Personal Work-Related Grievances may include grievances about interpersonal conflict between employees, decisions relating to engagement, transfer or promotion; decisions relating to terms and conditions of employment; or decisions to suspend, discipline, or terminate the employment of an employee.</p>
Public Interest Disclosure and Emergency Disclosure	<p>The circumstance in which these disclosures can be made are set out in the Corporations Act. Without limiting those requirements:</p> <ul style="list-style-type: none"> • the individual making the disclosure must first have made a previous disclosure that qualifies for protection under the Corporations Act; and • in the case of a Public Interest Disclosure, at least 90 days must have passed since the previous qualifying disclosure was made, the discloser must not have reasonable grounds to believe that action is being taken to address the matter, and the discloser must have reasonable grounds to believe that further disclosure would be in the public interest; or • in the case of an Emergency Disclosure, the discloser must have reasonable grounds to believe that the information concerns a substantial and imminent danger to health or safety, or to the natural environment; and • the discloser must provide written notification to the person or body to whom the previous qualifying disclosure was made, that includes sufficient information to identify the previous disclosure and states that the discloser intends to make a Public Interest Disclosure or Emergency Disclosure; and • the extent of the disclosure must be no greater than is necessary to inform the member of Parliament or journalist to whom the disclosure is made, of the misconduct, improper state of affairs, unlawful conduct, or serious and imminent danger to which the Disclosable Information relates.

Whistleblower Investigation Officer	The Vice Principal
Whistleblower Protection Officers	Head of Larkin Centre Head of Gottliebsen House Head of McNab House Head of Junior School (boys) Head of Junior School (girls) Coordinators of OHS and Human Resources Director of Kindergarten Director of Music

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