

## Purpose

This Whistleblower Policy is underpinned by a strong commitment across Melbourne Archdiocese Catholic Schools Ltd (MACS), MACS schools and MACSEYE services that reflects sound governance and promotion of honest and ethical behaviour. An effective whistleblowing process provides a foundation for investigation and response where there are reasonable grounds to suspect misconduct, or an improper state of affairs or circumstances.

This policy provides protection and measures so that people can raise concerns on a confidential basis without fear of reprisal. The policy complies with the Australian Securities and Investment Commission (ASIC) Corporations (Whistleblower Policies) Instrument 2019/1146, and sound governance requirements as detailed by the Australian Charities and Not-for-profits Commission (ACNC) and the *Corporations Act 2001* (Cth) (Corporations Act).

## Scope

This policy applies to current and former directors and employees of MACS (including its subsidiaries), MACS schools and MACSEYE services who make a 'qualifying disclosure' to a person at MACS authorised to receive such disclosures. It also applies to other people who engage with MACS, MACS schools and MACSEYE services and have reasonable grounds to believe that misconduct has or will occur, where that disclosure is made in accordance with the relevant requirements. The scope of this policy includes the following:

- eligible whistleblowers reporting qualified disclosures to eligible recipients (as defined in this policy) in reference to MACS or any MACS school or MACSEYE service
- MACS as a body corporate (including its volunteers, contractors, consultants and suppliers)
- MACS directors, MACS board committees and MACS committee working group members
- MACS Executive Director and staff
- MACS primary, secondary, special and special assistance schools
- MACS primary, secondary, special and special assistance school principals and staff
- MACSEYE service and staff
- MACS school suppliers, contractors and consultants
- MACS school volunteers
- spouses, relatives or dependents of the people referred to above

It is recognised that there are forms of alleged employee conduct committed against, with, or in, the presence of a child, such as relevant sexual offences, sexual misconduct, physical violence, behaviour that causes significant emotional or psychological harm and significant neglect that constitute 'reportable allegations'. The required management of these forms of conduct is dealt with under the Reportable Conduct Scheme. Other obligations may also be relevant, such as the reporting of alleged criminal behaviour to police and mandatory reporting to the Department of Families, Fairness and Housing.

## Definitions

### **ACNC**

The Australian Charities and Not-for-profits Commission

### **Board or MACS Board**

The board of Directors of MACS, including in its capacity as the board of its subsidiaries *ex officio* (as the context requires).

### **Detriment**

The dismissal of an employee, injury of an employee in their employment, alteration of an employee's position or duties to their disadvantage, discrimination between an employee and other employees of the same employer, harassment or intimidation of a person, harm or injury to a person, including psychological harm and any other damage to a person.

### **Disclosure(s)/Disclosable matters**

Refers to information provided by a whistleblower who has reasonable grounds to suspect misconduct, an improper state of affairs or circumstances, or breach of the law. It can include conduct that contravenes the Corporations Act, the *Australian Securities and Investments Commission Act 2001* (Cth), constitutes an offence against another Commonwealth law that is punishable by imprisonment for 12 months or more, represents a danger to the public or the financial system, or is prescribed by the Corporations Regulations 2001 (Cth). To qualify for protection, the whistleblower must have reasonable grounds to suspect that the information they will disclose indicates misconduct. It does not include personal work-related grievances (as defined in this policy).

### **Eligible recipient**

Refers to the person an eligible whistleblower must make their qualifying disclosure to, to qualify for protection. These include the MACS Whistleblower Protection Officer, specific directors, the Company Secretary or the auditor or a member of the audit team of MACS or MACS schools or MACSEYE services, ASIC, the Australian Prudential Regulatory Authority (APRA), a Commonwealth body nominated for this purpose in the Regulations (not including the ACNC) or a legal practitioner if someone is seeking legal advice about whether the protections will apply to them.

### **Eligible whistleblower or whistleblower**

A person eligible to make a qualifying disclosure to an eligible recipient, including an officer, employee, volunteer or an individual or an employee of a person who supplies services or goods to MACS, MACS schools or MACSEYE services, or a relative or dependant of such an officer, employee or supplier, or a dependant of the officer, employee or supplier's spouse.

### **MACS**

MACS is a reference to Melbourne Archdiocese Catholic Schools Ltd and/or any of its subsidiaries, MACSS and MACSEYE.

### **MACSEYE**

Melbourne Archdiocese Catholic Schools Early Years Education Ltd.

### **MACSEYE service**

An early childhood education and care service operated by Melbourne Archdiocese Catholic Schools Early Years Education Ltd.

### **MACSS**

A wholly owned subsidiary of MACS established to conduct and operate specialist schools.

## **Misconduct**

Conduct by a person or persons connected with MACS, including schools and early childhood education and care services operated by MACS, which the whistleblower has reasonable grounds to suspect:

- is a systemic, wilful or serious breach of the law as it relates to MACS, or its internal policies
- poses a significant or serious threat to the health and safety of workers
- involves a serious mismanagement of MACS' resources
- involves victimisation of someone for reporting a disclosable matter
- involves an instruction to cover up or attempt to cover up serious wrongdoing
- interferes with an impending internal or external audit process
- is unethical, and a breach of a MACS Code of Conduct or generally a serious risk to the reputation or financial wellbeing of MACS
- is dishonest, fraudulent, corrupt, negligent or illegal (including theft, drug sale/use, criminal damage etc.)
- is in breach of Commonwealth or state legislation or local authority by-laws
- is conduct that may cause financial or non-financial loss to a MACS workplace or otherwise detrimental to the interests of MACS

## **Personal work-related grievance**

A grievance about any matter in relation to a person's employment, or former employment, having personal implications, and where the information does not have significant implications, beyond the personal implications, for MACS, MACS schools or MACSEYE services.

## **Reasonable grounds**

More than suspicion and would usually require some factual basis that indicates misconduct.

## **School(s) or MACS school(s)**

A school which operates with the consent of the Catholic Archbishop of Melbourne and is owned, operated and governed by MACS, directly or through MACSS. **References to MACS schools include boarding premises of schools operated by MACS and specialist schools operated by MACSS.**

## **School staff and employees**

References to school staff and employees, unless the context requires otherwise, means an individual working in a MACS school /MACSEYE service who is:

- directly engaged or employed by MACS
- a volunteer or a contracted service provider (whether or not a body corporate or any other person as an intermediary).

## **Whistleblower Investigation Officer**

The person who may be appointed, either internally or externally, by the Whistleblower Protection Officer to conduct an investigation into qualifying disclosures made by whistleblowers.

## **Whistleblower Protection Officer**

The General Manager, Legal and Professional Standards who, by their role, is appointed by MACS to receive whistleblower qualifying disclosures and protect the interests of whistleblowers in accordance with this policy.

## **Whistleblower protections**

The protections provided to whistleblowers to enable them to come forward to report misconduct without fear of retribution or personal detriment.

## Principles

MACS is committed to ensuring there is a culture of coming forward if a person has reasonable grounds for suspecting misconduct. This policy helps people connected with MACS, MACS schools and MACSEYE services to identify instances of wrongdoing and provides guidance on how to raise a concern about suspected or actual misconduct in relation to MACS and/or its schools/services.

Coming forward can be difficult so it is important that people to whom this policy applies feel supported to speak up when they see wrongdoing and that they are confident that MACS has arrangements in place for handling disclosures with confidentiality. This includes having confidence that people authorised by MACS to receive disclosures understand their obligations and will ensure they are handled appropriately.

## Policy

MACS will protect and support those who come forward in good faith to report a suspected improper state of affairs based on a reasonable belief. MACS will maintain confidentiality by determining an appropriate time and place for the disclosure to be made and by treating with confidentiality any information that would be likely to lead to the identification of the whistleblower, subject to law, and any authorisation by the whistleblower allowing identification in the context of an investigation of a disclosure.

Additionally, MACS will protect anyone who makes a disclosure in good faith from any form of detrimental act or omission as a result of a disclosure. MACS will also ensure that there are consequences for anyone who treats a whistleblower detrimentally in accordance with relevant policies or codes of conduct.

Any allegation of detrimental treatment should be reported to the Whistleblower Protection Officer, and may be dealt with under the relevant MACS policy.

### Types of misconduct that may be a qualifying disclosure

The following types of misconduct may be a qualifying disclosure:

- suspicious behaviour involving payroll
- work practices that are unsafe
- deliberate, inaccurate reporting of student enrolment numbers in a government census
- inappropriate electronic material or use of computers to circulate inappropriate material
- suspicious behaviour involving school/services funds.

### Inappropriate electronic material

An employee brings to work a personal DVD containing image files of adults that are sexually explicit. They download the images to their work computer and then decide to circulate some of the images to colleagues. A colleague who receives the images uses the provisions of the Whistleblower Protection Policy to report the matter confidentially, as the actions are in breach of acceptable ICT usage policies.

### Suspicious behaviour involving school/service funds

An employee is relieving a colleague who is on annual leave and is asked by a parent why they have not received a receipt for the last cash payment they made to the school/service. The replacement employee advises that they will follow up the parent's inquiry. The replacement employee is suspicious that fraudulent misconduct may be occurring. They decide to report the matter confidentially and in line with the Whistleblower Protection Policy.

### What misconduct is *not* disclosable?

A report of misconduct solely about a personal work-related grievance such as bullying, harassment or discrimination is not generally covered by whistleblower protections. A personal work-related

grievance includes:

- an interpersonal conflict with another employee
- a decision about your employment, transfer or promotion
- a decision about the terms and conditions of your employment
- a decision to suspend or terminate your employment or otherwise discipline you.

Disclosures that are not about 'disclosable matters' do not qualify for protection under the Corporations Act.

### How do I make a disclosure?

A disclosure can be made either verbally or in writing, noting that disclosures can be made confidentially, securely and outside business hours. They can also be made anonymously and still be protected under the Corporations Act.

### Who can receive a disclosure?

Disclosures of misconduct must only be made to a person authorised by MACS to receive whistleblower information. This is to ensure that any disclosure is handled in accordance with the requirements and the whistleblower is covered by the protections outlined in this policy. At MACS, the role of Whistleblower Protection Officer is held by the General Manager, Legal and Professional Standards.

For the purposes of MACS, disclosures can be made to:

- MACS Whistleblower Protection Officer – General Manager, Legal and Professional Standards, Kate Roberts on 03 9267 0228 or [kroberts@macs.vic.edu.au](mailto:kroberts@macs.vic.edu.au)
- MACS Company Secretary, Susan Miller on [CompanySecretary@macs.vic.edu.au](mailto:CompanySecretary@macs.vic.edu.au) or [smiller@macs.vic.edu.au](mailto:smiller@macs.vic.edu.au)
- MACS Human Resources Manager
- ASIC, APRA or another prescribed Commonwealth body, a legal practitioner for the purpose of obtaining legal advice or legal representation about the provisions of the whistleblower legislation, a member of federal or state parliaments or a journalist.

The ACNC is not an eligible recipient of disclosures.

### Legal protections

To qualify for whistleblower protections, the person making a disclosure must have reasonable grounds to suspect that the information they will disclose indicates misconduct.

Disclosures that are not about 'disclosable matters' do not qualify for protection under the Corporations Act.

### Support and practical protection

Whistleblowers can rely on the protection of this policy for disclosures of misconduct that meet the definition provided in this policy. Any concerns about unfavourable treatment as a result of making such a disclosure should immediately be made to the Whistleblower Protection Officer, or to the MACS Company Secretary if the matter relates to the Whistleblower Protection Officer.

No action will be taken against a whistleblower who makes a report in good faith that is not subsequently substantiated in an investigation. However, it is important to have reasonable grounds to suspect that the information to be disclosed about MACS, a MACS school or MACSEYE service concerns misconduct or an improper state of affairs which will usually include some factual information.

A court may make orders, including orders for compensation, where a whistleblower is subjected to detriment for making a disclosure.

MACS, MACS schools and MACSEYE services will maintain the confidentiality of a Whistleblower and any information that would be likely to lead to the identification of the whistleblower, subject to law and any authorisation by the whistleblower allowing for identification in the context of an investigation of a disclosure. It is illegal to identify a whistleblower without consent outside these reasons.

A person who is considering making a disclosure may contact the Whistleblower Protection Officer to obtain additional information before making a disclosure.

It should be noted that the *Taxation Administration Act 1953* (Cth) also contains protections for whistleblowers reporting misconduct related specifically to tax, however, as registered charities, MACS, its subsidiaries, MACS schools and MACSEYE services receive tax concessions.

## Handling and investigating a disclosure of misconduct

Following receipt of a qualifying disclosure, the Whistleblower Protection Officer, or another person authorised by MACS to receive such disclosures, will take steps to ensure the time and place for receiving the disclosure is appropriate.

- MACS will consider any disclosure made in good faith.
- All qualifying disclosures will be investigated promptly with objectivity and procedural fairness.
- All reports and investigation procedures will be dealt with promptly.
- The Whistleblower Protection Officer may appoint a Whistleblower Investigation Officer to conduct the investigation. This will be a decision of the Whistleblower Protection Officer and will depend on the nature and extent of the allegation(s) contained in the disclosure. The whistleblower will be kept informed of the progress and outcome of the investigation by the Whistleblower Protection Officer, subject to privacy considerations of the individuals involved in the investigation.
- The person conducting the investigation will prepare a report for the Whistleblower Protection Officer.
- The Whistleblower Protection Officer will provide the report to the relevant decision-maker at MACS, or the school/service where relevant, who will make a final decision in relation to the recommended findings and actions to be taken, if any.
- The Whistleblower Protection Officer will inform the whistleblower of the outcome of the investigation.

## Investigation report

The investigation report will provide a summary of the facts of the disclosure and of the investigation. It will also provide recommendations as to findings of whether any allegation is substantiated or unsubstantiated and may also provide recommendations on actions, if any, that may be taken accordingly.

## Decision-making

The investigation report will be provided by the Whistleblower Protection Officer to the relevant decision-maker at MACS or the school/service where relevant, who will make a final decision in relation to the recommended findings and actions to be taken, if any. In circumstances where the investigation is conducted by a Whistleblower Investigation Officer, the investigation report will also be provided to the Whistleblower Protection Officer. The Whistleblower Protection Officer will inform the whistleblower of the outcome of any investigation and retain a coordinating role in monitoring the implementation of any decided actions.

## Ensuring fair treatment of a person mentioned in a disclosure

Any person named in a disclosure that qualifies for protection will be treated with procedural fairness, including those who are the subject of a disclosure.

If a whistleblower has concerns regarding detrimental treatment as a result of making a disclosure

under this policy, the concerns should be reported to the Whistleblower Protection Officer who will ensure they are investigated.

### Ensuring the policy is accessible

The Whistleblower Policy is accessible to all people connected with MACS, MACS schools and MACSEYE services. This includes being available on the following:

- the MACS website
- the MACS intranet site gabriel
- Catholic Education Victoria Network (CEVN)
- the MACS induction program and subsequent in-service training
- website belonging to the school or service.

### External references

[ACNC Whistleblower Fact Sheet](#)

[ASIC Whistleblower Instrument](#)

[Reportable Conduct Scheme](#)

<b>Responsible director</b>	MACS Director, Governance and Strategy
<b>Policy owner</b>	MACS General Manager, Legal and Professional Standards
<b>Approving authority</b>	MACS Board
<b>Assigned board committee</b>	Governance
<b>Approval date</b>	April 2022
<b>Risk Rating</b>	Extreme
<b>Date of next review</b>	April 2024

POLICY DATABASE INFORMATION	
<b>Assigned Framework</b>	Governance
<b>Related documents</b>	CECV Whistleblower Policy Template Whistleblower Procedure
<b>Superseded documents</b>	Whistleblower Policy – v1.0 - 2021
<b>New policy</b>	