

WHISTLEBLOWER PROTECTION

Scope: This policy applies to all operations of Catholic Education - Diocese of Rockhampton (referred to as CEDR in the document).

1. POLICY STATEMENT

Catholic Education – Diocese of Rockhampton (CEDR) operates within a culture of ethical and appropriate corporate behaviour in all our activities. This includes ensuring that CEDR acts with integrity, honesty and in accordance with good governance principles.

2. DESCRIPTION

This purpose is supported by:

- ensuring that CEDR has procedures in place to allow all employees and their families to identify and report genuine concerns about illegal conduct or any improper state of affairs pertaining to CEDR, without fear of reprisals, and
- ensuring all employees of CEDR are aware of the protections available under this policy and Whistleblower Laws.

Definitions

Term	Definition
Discloser(s)	Refers to the persons eligible to make a disclosure protected by Whistleblower Laws. A Whistleblower is an eligible person who reports misconduct or dishonest or illegal activity that has occurred within CEDR.
Officer	Diocesan Director Catholic Education or Delegate.
Protected Matters	Refers to the types of matters outlined below, which are protected by Whistleblower Laws and the terms of this policy.
Whistleblower Laws	Refers to the protections contained in Part 9.4AAA of the <i>Corporations Act 2001</i> .
Whistleblowing Officer	Employee Support Services Manager.

3. IMPLEMENTATION ISSUES

1. TYPES OF DISCLOSURES PROTECTED BY WHISTLEBLOWER LAWS

A disclosure is protected by Whistleblower Laws if:

- (a) the disclosure relates to Protected Matters
- (b) the information is disclosed by an eligible whistleblower as outlined in this Policy, and
- (c) the disclosure is made to an eligible recipient as outlined in this Policy.

All of the above 3 conditions must be satisfied for a disclosure to be protected by Whistleblower Laws.

2. PROTECTED MATTERS

The types of disclosures which are protected are those where the Discloser has reasonable grounds to suspect that the information disclosed concerns misconduct, or an improper state of affairs or circumstances, in relation to CEDR.

These types of Protected Matters would include concerns that CEDR or its employees, have engaged in conduct that:

- (a) constitutes a contravention of the Corporations Act 2001, the ASIC Act, the Superannuation Industry (Supervision) Act 1993, the Banking Act 1959 or any insurance or life insurance statutes
- (b) constitutes an offence against a law of the Commonwealth which is punishable by imprisonment for 12 months or more, and/or
- (c) represents a danger to the public or the financial system.

The disclosure of information related to a personal work-related grievance is not generally protected by Whistleblower Laws. A personal work-related grievance relates to information where:

- (a) the information concerns a grievance in relation to the Discloser's employment or former employment which has implications for the Discloser personally, and
- (b) the information does not have significant implications for CEDR that do not relate to the Discloser, and
- (c) the information does not concern conduct or alleged conduct referred to in the three examples cited at sections (a) to (c) earlier above.

Examples of personal work-related grievances include interpersonal conflicts between the Discloser and other employees, decisions regarding engaging, transferring or promoting a Discloser and decisions to discipline a Discloser or suspend or terminate the engagement of a Discloser.

3. WHO MAY MAKE DISCLOSURES ABOUT PROTECTED MATTERS?

Each of the following persons may make a protected disclosure:

- (a) CEDR employees and officers as well as their relatives and dependants
- (b) suppliers of goods or services to CEDR
- (c) employees of suppliers of goods or services to CEDR, and
- (d) CEDR related bodies corporate (and their Directors/Secretaries).

There is no requirement for a Discloser to identify themselves to be protected by Whistleblower Laws. That is, protected disclosures may be made anonymously.

4. WHO CAN A PROTECTED MATTER BE DISCLOSED TO?

In order to be protected by Whistleblower Laws, the disclosure of a Protected Matter must be made to:



- (a) The Australian Securities and Investments Commission ("ASIC") or the Australian Prudential Regulation Authority ("APRA")
- (b) a legal practitioner for the purposes of obtaining legal advice or representation in relation to Whistleblower Laws
- (c) an officer or senior manager of CEDR or its related bodies corporate
- (d) an auditor or member of an audit team conducting an audit on CEDR or its related bodies corporate
- (e) an actuary of CEDR, and/or
- (f) the Whistleblowing Officer.

A "senior manager" is a person who:

- makes, or participates in making, decisions that affect the whole, or a substantial part, of the business of CEDR, or
- has the capacity to significantly affect CEDR financial standing.

5. DISCLOSURES TO POLITICIANS AND JOURNALISTS

A disclosure of a Protected Matter to a journalist or member of State or Federal Parliament will be protected by Whistleblower Laws only if it qualifies for the public interest requirements or emergency requirements outlined below.

5.1 Public Interest Disclosures

A disclosure of Protected Matters to a member of State or Federal Parliament or journalist will be protected by Whistleblower Laws if all of the following requirements are satisfied:

- (a) the Discloser has previously made a disclosure of the information pursuant to this policy
- (b) at least 90 days have passed since the previous disclosure was made
- (c) the Discloser does not have reasonable grounds to believe that action is being or has been taken to address the previous disclosure
- (d) the Discloser has reasonable grounds to believe that making a further disclosure of the information to a member of Parliament or journalist would be in the public interest
- (e) the Discloser has given CEDR written notification that identifies the previous disclosure and states that the Discloser intends to make a public interest disclosure, and
- (f) the extent of information disclosed is no greater than is necessary to inform the journalist or member of Parliament of the relevant misconduct or improper state of affairs.

5.2 Emergency Disclosures

A disclosure of Protected Matters to a journalist or member of State or Federal Parliament will be protected by Whistleblower Laws if all of the following requirements are satisfied:

- (a) the Discloser has previously made a disclosure of the information pursuant to this policy
- (b) the Discloser has reasonable grounds to believe that the information concerns a substantial and imminent danger to the health or safety of one or more persons or to the natural environment
- (c) the Discloser has given CEDR written notification that identifies the previous disclosure and states that the Discloser intends to make an emergency disclosure, and
- (d) the extent of information disclosed is no greater than is necessary to inform the journalist or member of Parliament of the substantial and imminent danger.



6. CONFIDENTIALITY

Where a disclosure is protected by Whistleblower Laws, the Laws prohibit persons from disclosing the identity of a Discloser or disclosing information that is likely to lead to the identification of the Discloser.

Persons may only disclose the identity of a Discloser with the Discloser's consent or to ASIC, APRA, the AFP or a legal practitioner for the purposes of obtaining legal advice about the Whistleblower Laws.

Persons may also disclose the existence of the Protected Matters (without disclosing the identity of the Discloser) to the extent necessary for the matters to be investigated, provided all reasonable steps are taken to reduce the risk that the Discloser's identity can be discovered. These disclosures may include disclosures to:

- the Diocesan Director Catholic Education or the Chair of the Audit and Risk Committee
- delegates to HR or other managers to make inquiries or to conduct investigations or order external investigations as is deemed appropriate, and
- disclosures to respondents to complaints to ensure that the person/s against whom allegations are made are given the opportunity to respond to any allegations.

Disclosers are advised to maintain confidentiality, so that the matters raised can be properly investigated and their own interests protected.

Any breach of these confidentiality protections attract significant fines for both individuals and companies.

7. IMMUNITY FOR DISCLOSER

If a Discloser makes a disclosure protected by Whistleblower Laws, the Discloser cannot be subject to any civil or criminal liability for making the disclosure and cannot be subject to any contractual breach or other civil claim on the basis of the disclosure.

No contract of employment or contract for services can be terminated on the basis that a protected disclosure constitutes a breach of contract.

8. VICTIMISATION PROHIBITED

Whistleblower Laws prohibit any person or company from:

- (a) engaging in any conduct that causes detriment to any person because that person (or another person) made a disclosure about a Protected Matter pursuant to Whistleblower Laws, or
- (b) carrying out any threats to cause detriment to any person (whether express or implied threats) because that person (or another person) made a disclosure about a Protected Matter pursuant to Whistleblower Laws.



Where a person or company engages in breaches of these protections, significant fines apply and persons who are adversely affected may obtain compensation orders from a Court in relation to any detriment caused.

Persons who have their contracts terminated in contravention of these protections may also have their contracts reinstated by a Court.

9. REPORTING AND INVESTIGATING PROTECTED MATTERS

Persons may disclose Protected Matters by either of the following steps:

1. Submit a written complaint or report and any relevant documentation on any Protected Matters to their relevant manager or CEDR contact. The manager or contact will report the concerns to the Whistleblowing Officer.
2. If a Discloser has a concern with Step 1 (for example the Discloser reasonably believes that the manager is involved in the Protected Matters or the Discloser does not feel comfortable reporting it to their manager for any other reason) then the Discloser may submit a report directly to the Whistleblowing Officer.

Investigations

CEDR will refer Protected Matters to its Whistleblowing Officer for investigation to determine whether misconduct or some other improper state of affairs exists.

The Whistleblowing Officer will investigate the relevant matters in a manner compliant with the confidentiality obligations outlined in this policy.

The Whistleblowing Officer may alternatively:

- appoint an appropriately qualified and impartial person or entity to investigate the relevant matters, or
- refer Protected Matters directly to ASIC, APRA or the Australian Federal Police.

Whilst every investigation process will differ according to the relevant circumstances, the Whistleblowing Officer will ordinarily ensure that appropriate enquiries are made to determine whether:

- (a) the allegations are substantiated, and
- (b) responsive action needs to be taken in order to address any established misconduct or other improper state of affairs.

A report prepared by the investigating officer on the outcome of an investigation and the management of the disclosure will be made to the Diocesan Director Catholic Education.

If, as a result of investigation, the information about wrongdoing is substantiated, appropriate action will be taken.

CEDR will also provide the discloser with reasonable information about the action taken as a result of making a disclosure. This includes information about the action proposed and, if action is taken, the results of that action.

Where the investigation does not substantiate wrongdoing, CEDR will review systems, policies and procedures to identify whether there are improvements that can be made and consider if further employee training is required.

Declining to take action on a public interest disclosure

Under the Public Interest Disclosure Act, CEDR may decide not to investigate or deal with a disclosure in various circumstances, including:

- the information disclosed has already been investigated or dealt with by another process
- the information disclosed should be dealt with by another process
- the age of the information makes it impractical to investigate
- the information disclosed is too trivial and dealing with it would substantially and unreasonably divert CEDR from the performance of its functions
- another agency with jurisdiction to investigate the information has informed CEDR that an investigation is not warranted.

If a decision is made not to investigate, CEDR will give the discloser written reasons for that decision. If the discloser is dissatisfied with the decision, they can request a review by writing to the Diocesan Director Catholic Education within 28 calendar days of receiving the written reasons for decision.

10. SUPPORTING WHISTLEBLOWERS, PROVIDING FAIR TREATMENT AND PROTECTION FROM DETRIMENT

CEDR will support Disclosers making disclosures about Protected Matters and to put in place procedures to promote fair treatment of Disclosers and protect them from detriment. This can be achieved by:

- providing access to counselling services to all Disclosers. These services may be accessed by contacting CatholicCare Central Queensland
- investigating all complaints in accordance with the procedures outlined in this policy
- implementing investigation processes which are procedurally fair to both Disclosers and respondents to allegations
- in circumstances where a Discloser consents, having an appropriate senior manager or Human Resources representative monitor the Discloser's treatment in the workplace for relevant periods to ensure no victimisation takes place
- communicating this policy to CEDR employees and officers and to the wider community via the CEDR website and staff portal
- providing ongoing education and training for CEDR employees and officers
- taking appropriate disciplinary action against any employees or contractors that breach the victimisation or confidentiality provisions of the Whistleblower Laws.

10.1 Rights of subject officers

CEDR acknowledges that for officers who are the subject of a disclosure, the experience may be stressful. CEDR will protect their rights by:

- assuring them that the matter will be dealt with impartially, fairly and reasonably in accordance with the principles of natural justice

- confirming that the disclosure is an allegation only until information or evidence obtained through an investigation substantiates the allegation
- providing them with information about their rights and the progress and outcome of any investigation, and
- referring them to the Employee Assistance Program for support.

Information and support will be provided to the subject officer until the matter is finalised.

10.2 Records management

All records of disclosure and their investigation will be kept strictly confidential in the official, central records system. Information will not be disclosed except for:

- the purposes of investigation and to remedy the matters disclosed
- to afford procedural fairness to a person whose rights may be detrimentally affected
- in discharge of other functions of the Public Interest Disclosure Act or for the purposes of court or other legal proceedings
- on request, to the discloser on any information or action taken, except where to do so would jeopardise a person's safety or an investigation or if it is impractical to do so.

11. BREACHES OF THIS POLICY

All employees and contractors of CEDR are required to comply with this policy at all times as well as with Whistleblower Laws.

Non-compliance with this policy or Whistleblower Laws may result in disciplinary action up to and including termination of employment or termination of a contractor's services.

12. VARIATIONS

This policy may be varied, amended, replaced or terminated from time to time and at any time at the absolute discretion of CEDR.

4. REFLECTION MATERIAL

CATHOLIC EDUCATION POLICIES AND DOCUMENTS

- [Student Protection](#) 2023/01
- [Student Protection Reporting Processes and Student Protection Guidelines](#) v11 2022
- [Code of Conduct](#) v4 2022
- *Procedure for Managing Staff Misconduct – Code of Conduct* v4 2023
- *Procedures for Managing Staff Complaints – Code of Conduct* v4 2023
- *Procedure for Responding to Workplace Bullying and Sexual Harassment (Code of Conduct)* v4 2023
- [Information Technology and Communication](#) 2019/06
- *ICT Code of Practice - Child Student Early Learning and Care to Year 2* v7 2022
- *ICT Code of Practice - Student Primary Years 3-6* v7 2022
- *ICT Code of Practice - Student Secondary Years 7-12* v7 2022
- *ICT Code of Practice - Staff* v7 2022



- [Prevention and Elimination of Abuse, Racism, Bullying and Harassment](#) 2021/08
- *Student Anti-Bullying* 2023/09
- [Risk Management](#) 2020/08
- *Fraud and Corruption Prevention* (Draft)
- [Student Protection](#) 2019 (Brochure)
- [Integrity in Relationships](#) 2019 (Brochure)

LEGISLATION

- [Crime and Corruption Act 2001](#) (Qld)
- [Public Interest Disclosure Act 2010](#) (Qld)
- [Corporations Act 2001](#)
- [Public Records Act 2002](#) (Qld)
- [Privacy Act 1988 \(Cth\)](#)

*These links will take you to the Office of Qld Parliamentary Council website. Here you will find the current legislation.