



POLICY

NAME:	Whistleblower Protection Policy December 2019
UPDATE DUE:	December 2020, or more often as circumstances require

COMMITMENT TO CHILD SAFETY

All students who attend Camberwell Girls Grammar School (CGGS) have a right to feel and to be safe. The wellbeing and safety of all students in our care is our first priority and we have zero tolerance to child abuse. The protection of students is the responsibility of everyone who is employed at, or is engaged by CGGS in child connected work. To ensure the safety and best interests of all students, we take into account the needs of those with an Aboriginal or Torres Strait Islander heritage, those from culturally and/or linguistically diverse backgrounds and those with a disability.

POLICY STATEMENT

CGGS is committed to a culture of good corporate governance and compliance and maintaining a high standard of integrity to promote school community confidence. The school upholds this commitment through its whistleblowing program by providing a mechanism to support the reporting of serious misconduct, corruption, danger and illegal practices within the school.

The school recognises that people who have a work, service or client relationship with the school are often the first to realise there may be something seriously wrong. However, they may choose not to speak up due to fear of victimisation. The purpose of this policy is to set the framework to provide the protection for these individuals (both past and present) to come forward and report wrong doing confidentially and anonymously.

GUIDING PRINCIPLES

The school's whistleblowing policies and procedures are built upon the following guiding principles:

- All 'eligible whistleblowers' (refer to definitions section) are encouraged to voice or act on any concerns of serious misconduct
- Information about how and where to 'whistleblow' as well as how a disclosure will be handled is clearly documented and publicly available on the school's website
- The school acknowledges, investigates and responds to disclosures within an appropriate and timely manner
- There is no cost to the whistleblower to access the Whistleblower Protection Program
- Whistleblowers will not be victimised or discriminated against
- The School ensures fair treatment of all individuals mentioned in a disclosure that qualifies for protection
- The Whistleblower Protection Program is objective and confidential
- The Whistleblower Protection Program is regularly reviewed for improvement

POLICY REVIEW

CGGS is committed to the continuous improvement of its whistleblowing program. All whistleblowing incidences are handled in accordance with this policy and reviewed upon completion for opportunities for improvement.

This policy will be reviewed annually or more often as circumstances require.

Next scheduled review date is December 2020.

Unless otherwise stated, this version of the policy remains in force up to the point when it is superseded by a revised version.

COMMUNICATION

The school community will be informed about this policy. It will be publicly available. It will be available on the school's website and communicated during the induction process.

Further questions regarding this policy should be addressed to the Whistleblower Protection Officers.

DEFINITIONS

Whistleblowing	The disclosure of actual or suspected wrongdoing in the school that reveals fraud, corruption, illegal activities, gross mismanagement, malpractice or any other serious wrong doing.
Regulated entity	All companies registered under the Corporations Act
Eligible Whistleblower	A current or former: <ul style="list-style-type: none">• director / officer• employee• supplier of goods or services (whether paid / unpaid) - includes school volunteers• relative of any of the above individuals• dependent(s) of any of the above individuals or of such an individual's spouse Excludes: Students and parents
Disclosable Matter	Disclosure information that concerns: <ul style="list-style-type: none">• misconduct (fraud, negligence, default, breach of trust and breach of duty);• an 'improper state of affairs or circumstances' Excludes: personal work related grievances of the whistleblower that is not about victimisation for whistleblowing.
Eligible Recipient	<ul style="list-style-type: none">• Officer (including director or company secretary)• Senior manager• Auditor or member of an audit team conducting an audit• A person authorised by the school to receive disclosures
Designated Commonwealth Authority	<ul style="list-style-type: none">• ASIC• APRA• Other Commonwealth authority

LEGAL CONTEXT

A 'whistleblower' is a person within the school who makes a disclosure, whether anonymously or not, with respect to serious misconduct or illegal activity that has occurred within the school. It may also be in relation to information on tax avoidance behaviour and other tax related issues (refer to Tax Whistleblower section for further details).

In order to be eligible for protections under the Corporations Act ('Act'), the disclosure must be:

- in relation to a **regulated entity** (companies registered under the Corporations Act); and
- made by an **eligible whistleblower**; and
- of a **disclosable matter**; and
- made to an **eligible recipient** or a **designated Commonwealth authority**

The whistleblower must have 'reasonable grounds to suspect' wrong doing. Reasonable ground is an objective test and relates to whether a reasonable person in possession of the information would form the belief that conduct of a disclosable nature has occurred.

SCOPE

This policy applies to 'eligible whistleblowers' as defined within the Corporations Act (sec 1317AAA).

An eligible whistleblower is a current or former:

- Director / officer
- Employee
- Supplier of goods or services (whether paid / unpaid) - includes school volunteers
- Relative of any of the above individuals
- Dependent(s) of any of the above individuals or of such an individual's spouse

Disclosures that are not from an 'eligible whistleblower' do not qualify for protection under the Corporations Act.

Students and parents are not recognised as eligible whistleblowers under the Act and are therefore not afforded the same level of protection under the law, unless they fall within the above eligibility criteria (e.g. a parent volunteer to the School). However, the school recognises the importance of these individuals and takes all reasonable steps to provide these individuals with the highest possible level of protection while treating all matters raised seriously and investigating them appropriately.

Unlike a complaint where an individual expresses a personal dissatisfaction or mistreatment, the person blowing the whistle is usually not directly or personally affected by the matter of concern. They are raising the concern as they believe it has far reaching implications on the wider school community.

For the school's complaints handling protocol and procedures refer to the Complaints Management Policy on SEQTA.

KEY RESPONSIBILITIES

- The School Council is responsible for governing the Whistleblower Protection Program and ensuring that an appropriate framework is in place to protect and support whistleblowers within the school
- The Principal holds overall accountability for ensuring that the system for managing disclosures within the school is effective and communicated throughout the school
- The Principal is responsible for authorising the Whistleblower Protection Officers (WPO) to receive disclosures. WPO's may be internal, external or a combination of both.
- The Whistleblower Protection Officer is an eligible recipient responsible for safeguarding the interests of the whistleblower and appointing the Whistleblower Investigation Officer (WIO).
- The Whistleblower Investigation Officer is responsible for investigating the disclosure and reporting back to the WPO. The WIO may be internal or external depending on the nature of the disclosure and the parties involved.

DISCLOSABLE MATTERS

This policy covers information of 'disclosable matters' where the discloser has reasonable grounds to suspect concerns of misconduct, or an improper state of affairs or circumstances, which may include the following wrongdoings as reference:

- Fraud, money laundering or misappropriation of funds
- Illegal conduct such as theft, dealing in or use of illicit drugs and other criminal activities
- Negligence
- Default
- Breach of trust
- Breach of duty
- Offering or accepting a bribe
- Financial irregularities
- Failure to comply / breach of legal or regulatory requirements (including unreported child safety concerns)
- Engaging in or threatening to engage in detrimental conduct against a person who has made a disclosure or is believed or suspected to have made, or be planning to make, a disclosure.

Disclosable matters may also include conduct that does not involve a contravention of a particular law. Information that indicates a significant risk to public safety or the stability of, or confidence in, the financial system is also a disclosable matter, even if it does not involve a breach of a particular law.

A discloser may still qualify for protection even if their disclosure turns out to be incorrect.

Disclosures that are not about 'disclosable matters' do not qualify for protection under the Corporations Act (or the Taxation Administration Act, where relevant).

Personal work-related grievances

Disclosures that relate solely to personal work-related grievances, and that do not relate to victimisation, detriment or threat of detriment to the discloser, does not qualify for protection under the Corporations Act. Examples of personal work-related grievances that do not qualify may include (but is not limited to the following):

- An interpersonal conflict between the discloser and another employee;
- A decision that does not involve a breach of workplace laws;
- A decision about the engagement, transfer or promotion of the discloser;
- A decision about the terms and conditions of engagement of the discloser; or
- A decision to suspend or terminate the engagement of the discloser, or otherwise to discipline the discloser.

For personal work-related grievances, refer to the School's Complaints Management Policy on SEQTA.

A personal work-related grievance may still qualify for protection if:

- It includes information about misconduct, or information about misconduct includes or is accompanied by a personal work-related grievance (mixed report)
- The School has breached employment or other laws punishable by imprisonment for a period of 12 months or more, engaged in conduct that represents a danger to the public, or the disclosure relates to information that suggests misconduct beyond the discloser's personal circumstances
- The discloser suffers from or is threatened with detriment for making a disclosure
- The discloser seeks legal advice or legal representation about the operation of the whistleblower protections under the Corporations Act

Tax whistleblowers

Eligible whistleblowers may disclose information to the ATO on tax avoidance behaviour and other breaches of the tax law and be provided with the same level of protection that is consistent with the Corporations Act.

Public Interest Disclosure

The disclosure of information to a journalist or a parliamentarian, where the discloser has reasonable grounds to believe that making a further disclosure of the information is in the public interest. To qualify for protection under public interest disclosure, the following conditions must be met:

1. At least 90 days have passed since the discloser made the disclosure to ASIC, APRA or another Commonwealth body prescribed by regulation;
2. The discloser does not have reasonable grounds to believe that action is being, or has been taken, in relation to their disclosure;
3. The discloser has reasonable grounds to believe that making a further disclosure of the information is in the public interest; and
4. Before making the public interest disclosure, the discloser has given written notice to the body to which the previous disclosure was made that:
 - i. Includes sufficient information to identify the previous disclosure; and
 - ii. States that the discloser intends to make a public interest disclosure.

A discloser should seek independent legal advice before making a public interest disclosure.

Emergency Disclosure

The disclosure of information to a journalist or parliamentarian, where 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. To qualify for protection under emergency disclosure, the following conditions must be met:

1. The discloser has previously made a disclosure of the information to ASIC, APRA or another Commonwealth body prescribed by regulation;
2. 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;
3. Before making the emergency disclosure, the discloser has given written notice to the body to which the previous disclosure was made) that:
 - i. Includes sufficient information to identify the previous disclosure; and
 - ii. States that the discloser intends to make an emergency disclosure; and
4. The extent of the information disclosed in the emergency disclosure is no greater than is necessary to inform the journalist or parliamentarian of the substantial and imminent danger.

A discloser should seek independent legal advice before making an emergency disclosure.

ELIGIBLE RECIPIENT

The following person(s) are authorised by the School as 'eligible recipients' to receive disclosures that qualify for protection:

- Whistleblower Protection Officers (refer to nominated list below)
- Auditor or member of an audit team conducting an audit
- Legal practitioners
- Regulatory bodies (including ASIC, APRA or another Commonwealth body prescribed by regulation)
- ATO (for tax related disclosures)
- Journalist or parliamentarian (for public interest disclosures)
- Journalist or parliamentarian (for emergency disclosures)

For public interest disclosures and emergency disclosures, the discloser must be mindful of the additional requirements to qualify for protection.

Any disclosures to a legal practitioner for the purposes of obtaining legal advice or legal representation in relation to the operation of the whistleblower provisions in the Corporations Act are protected (even in the event that the legal practitioner concludes that a disclosure does not relate to a 'disclosable matter').

Additional information about whistleblowing and protection may be obtained by contacting the School's Whistleblower Protection Officer or through an independent legal adviser.

A discloser must make a disclosure directly to one of the School's eligible recipients to qualify for protection as a whistleblower under the Corporations Act.

MAKING A DISCLOSURE

In the first instance, prior to action under this policy, the discloser is encouraged to follow normal reporting channels and discussing the matter with their immediate manager. If the nature of the matter or the parties involved are deemed to be inappropriate to report to their immediate manager, or if the discloser has reasonable concerns about doing so, the discloser should contact the WPO in person, via phone or in writing (refer to contact details below). Alternatively, the discloser may opt to bypass the School's internal reporting channels and disclose directly to an external or regulatory body in the first instance and still qualify for protection under the Corporations Act.

Internal disclosure options

Below are the names and contact details of the School's Whistleblower Protection Officers (WPO):

Name	School Position	Contact no.	Email
Debbie Dunwoody	Principal	9813 1166	principal@cggs.vic.edu.au
Stephen Cuddon	Chief Financial & Operating Officer	9813 1166	financeops@cggs.vic.edu.au
Cathy Poyser	Deputy Principal / Head of Senior School	9813 1166	poyserc@cggs.vic.edu.au
Paul Donohue	Head of Junior School	9813 1965	donohuep@cggs.vic.edu.au

Where a disclosable matter involves one or more of the above individuals, the discloser should proceed to report to the alternative, available WPO that is independent to the matter.

External disclosure options

Below are links to whistleblowing information provided by some external and regulatory bodies:

External / Regulatory Body	Link
ASIC	https://www.asic.gov.au/about-asic/asic-investigations-and-enforcement/whistleblowing/
APRA	https://www.apra.gov.au/become-a-whistleblower-and-make-a-public-interest-disclosure
ATO	https://www.ato.gov.au/General/Gen/Whistleblowers/

Anonymous disclosures

Disclosures can be made anonymously and still be protected under the Corporations Act. factually accurate, complete, based on first-hand knowledge and without material omission. It should be as detailed as practicable and include (but not be limited to):

- the exact nature of the alleged disclosable matter
- when the alleged disclosable matter took place
- where the alleged disclosable matter took place
- parties involved
- the names of witnesses who may know information that is relevant to the investigation

Refer to SEQTA for a copy of the latest Whistleblower Disclosure Form.

The WPO is responsible for ensuring that all reports and supporting documents are kept confidential and secure and that the protection, safety and wellbeing of the discloser is maintained at all times. The WPO must maintain their independence at all times.

WHISTLEBLOWER PROTECTION

Protection afforded to whistleblowers under the Act include:

- Identity protection (confidentiality)
- Protection from detrimental acts or omissions
- Compensation and other remedies
- Civil, criminal and administrative liability protection

These protections apply not only to internal disclosures, but to disclosures to legal practitioners, regulatory and other external bodies, and public interest and emergency disclosures that are made in accordance with the Corporations Act.

If a discloser makes a disclosure under this policy in good faith, provided they are not involved in the conduct reported, the discloser will not be penalised or disadvantaged by the School. Where it is established by the WIO that the discloser has not acted in good faith or they have intentionally made a false, malicious or vexatious report of alleged misconduct, then this will be reported to the WPO and may result in the discloser being the subject of disciplinary action.

Identity protection (confidentiality)

Where a discloser has made a qualifying disclosure, they may request for their identity to remain confidential. In this instance, the School will take all reasonable steps to protect information about the identity of the discloser or information that is likely to lead to the identification of the discloser.

The exception to this is when the School discloses the identity of the discloser:

- to ASIC, APRA, or a member of the Australian Federal Police;
- to a legal practitioner for the purposes of obtaining legal advice or legal representation;

- to a person or body prescribed by regulations; or
- with the consent of the discloser.

The School may disclose the information contained in a disclosure with or without the discloser's consent if:

- The information does not include the discloser's identity;
- The School has taken all reasonable steps to reduce the risk that the discloser will be identified from the information; and
- It is reasonably necessary for investigating the issues raised in the disclosure.

Any staff member who breaches confidentiality is subjected to disciplinary proceedings by the School and may be liable for penalties and fines as well as up to 6 months' imprisonment. Refer to the penalties table for further details.

A discloser may lodge a complaint with the School or regulator, such as ASIC, APRA or the ATO, about a breach of confidentiality.

Protection from detrimental acts or omissions

It is an offence under the Act to victimise, threaten, harass, discriminate or cause detriment to any person who makes a qualifying disclosure. Any staff member found to be in breach is subjected to disciplinary proceedings by the School and may be liable for penalties and fines as well as up to 2 years' imprisonment. The School may also be vicariously liable as an organization if it does not take reasonable precautions and exercise due diligence to avoid the detriment conduct. Refer to the penalties table for further details.

Some examples of detrimental conduct may include but is not limited to the following:

- Dismissal of an employee;
- Injury of an employee in his or her employment;
- Alteration of an employee's position or duties to his or her 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;
- Damage to a person's property;
- Damage to a person's reputation;
- Damage to a person's business or financial position; or
- Any other damage to a person.

On the other hand, examples of actions that are not detrimental conduct may include (where relevant):

- Administrative action that is reasonable for the purpose of protecting a discloser from detriment (e.g. moving a discloser who has made a disclosure about their immediate work area to another department to prevent them from detriment)
- Managing a discloser's unsatisfactory work performance, which is independent from the disclosable matter

Compensation and other remedies

A discloser (or any other employee or person) may seek compensation and other remedies through the courts if:

- They suffer loss, damage or injury because of a disclosure; and
- The School failed to take reasonable precautions and exercise due diligence to prevent the detrimental conduct.

Civil, criminal and administrative liability protection

A discloser is protected from any of the following in relation to their disclosure:

- Civil liability (e.g. any legal action against the discloser for breach of an employment contract, duty of confidentiality or another contractual obligation);
- Criminal liability (e.g. attempted prosecution of the discloser for unlawfully releasing information); and
- Administrative liability (e.g. disciplinary action for making the disclosure).

The above protection applies so long as the discloser is not a party to the conduct revealed by the disclosure.

Penalties

Breach	Individual			School	
	Fine	Civil Penalty	Imprisonment	Fine	Civil Penalty
Confidentiality	\$12,600	\$200,000 *	6 months	\$126,000	\$1,000,000 *
Detriment	\$50,400	\$200,000 *	2 years	\$504,000	\$1,000,000 *

* To increase to \$1,050,000 (individuals) and \$10,500,000 (School) under amendments made by the Strengthening Corporate and Financial Sector Penalties Act.

SUPPORT AND PRACTICAL PROTECTION FOR DISCLOSERS

The School, where reasonably practicable to do so, will protect the identity of disclosers and protect them from detriment by:

- Referring to the discloser in a gender-neutral context or by pseudonym
- Redacting all personal information or references to the discloser
- Securely storing and filing all paper records and supporting documents in a locked space or device
- Securely storing all electronic documents in a private server
- Limiting access to information relating to a disclosure to those directly involved in handling the disclosure
- Providing counselling and support services to disclosers
- Modifying the discloser's work duties, schedule or environment
- Providing disclosers with the opportunity to take extended leave
- Ensuring that each person who is involved in handling and investigating a disclosure are reminded about the confidentiality and detriment requirements, including that an unauthorised disclosure of a discloser's identity or detrimental treatment towards the discloser may be a criminal offence
- Providing a channel for disclosers to lodge a complaint if they feel that they have suffered detriment or their identity has been disclosed without their consent

HANDLING AND INVESTIGATING A DISCLOSURE

The School will provide written correspondence to the discloser (provided contact details are available) acknowledging receipt of the Whistleblower Disclosure Form.

The WPO will appoint a Whistleblower Investigation Officer (WIO) whose role is to obtain factual evidence that either substantiates or refutes the claims made by the discloser on the Whistleblower Discloser Form. Where the WPO decides that the allegations are of a very serious nature or involve members of the School where a conflict of interest may arise, external investigators may be engaged.

The WIO must maintain their independence at all times, provide timely updates to the discloser during the key stages of the investigation and allow all parties the opportunity to respond. The frequency and timeframe of the updates may vary depending on the nature of the disclosure.

The effectiveness of the investigation is dependent on the quality of information provided by the discloser. Therefore, anonymity may hamper the investigation process and impact on the ability of the School to provide the protection afforded to the discloser.

In certain instances, where there is a potential risk to the parties involved or a risk to the reputation of the School, the person alleged to have engaged in misconduct may be stood down from duty pending investigation. Where a person is stood down while the investigation takes place, no inference of wrongdoing or assumed guilt will apply.

As soon as practicable, after the investigation is concluded, the WIO will prepare a report providing a summary of the facts of the suspected misconduct and of the findings of the investigation (i.e. whether the misconduct was substantiated or unsubstantiated). There may be circumstances where it may not be appropriate to provide full details of the outcome to the discloser. The report shall be provided to the WPO who shall in consultation with the Principal, ensure that appropriate measures are taken in light of the findings in the report, which may include notification to regulatory and/or enforcement agencies.

DETERMINATION / OUTCOME

The WIO will provide a written report to the nominated WPO and Principal detailing all the evidence and a finding as to whether the disclosable matter is substantiated or not.

The Principal will make a determination on the report, following which both parties will be provided with the Principal's conclusion in writing.

If the determination substantiates the disclosable matter, the Principal may decide outcomes that may include the following:

- Counselling;
- Support for the parties involved, as deemed appropriate;
- Staff professional learning and development;
- Warning – oral/written;
- Suspension; and
- Dismissal/Expulsion

If the decision concludes that the disclosable matter is not substantiated, all parties will be advised accordingly. Each party has the right to appeal and request an independent arbiter to review the decision.

If an appeal is lodged, the Principal will outsource to an independent arbiter to examine all of the evidence and advise accordingly. The independent arbiter's review will be final with CGGS.

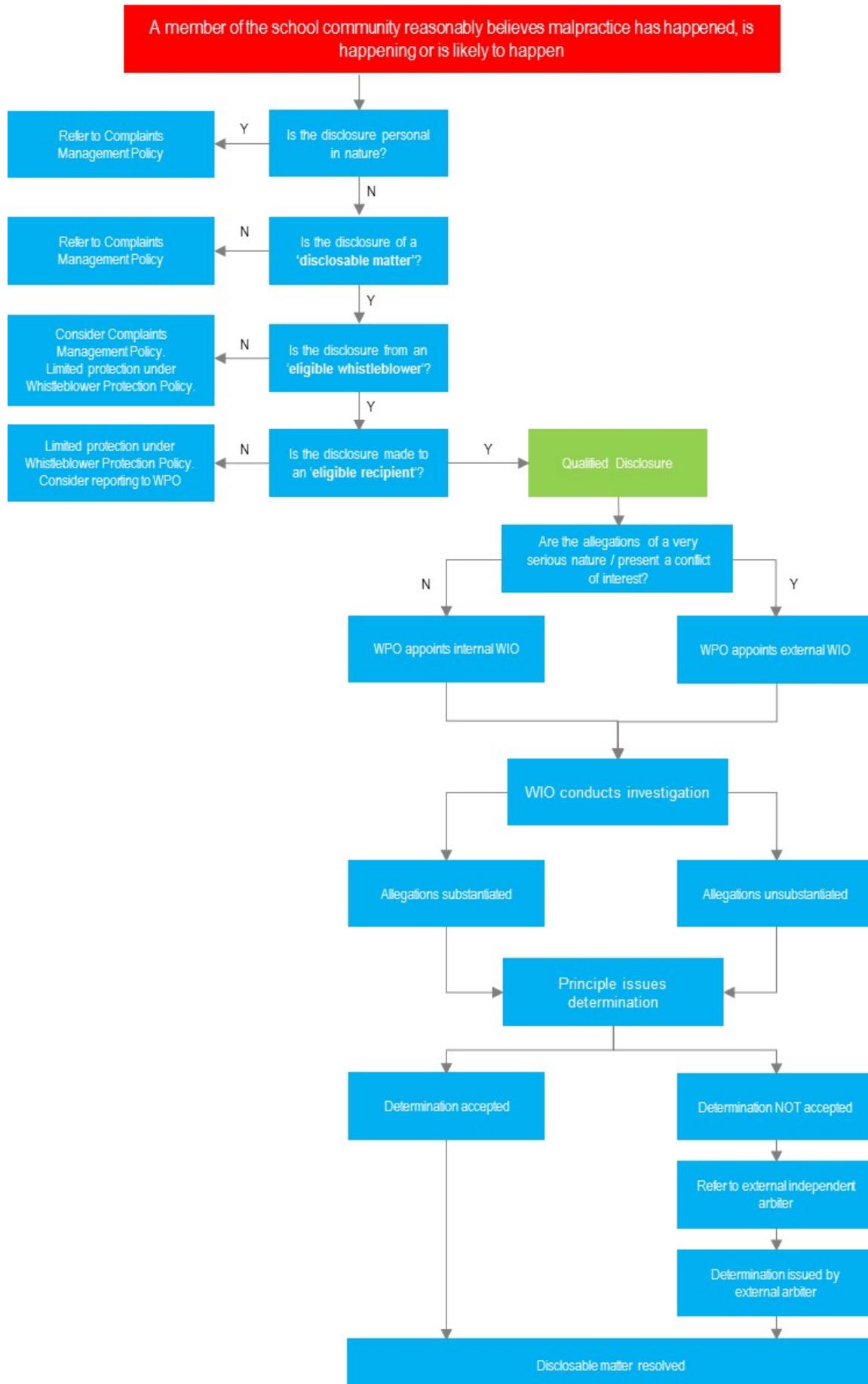
If the Principal believes that there is a risk of litigation, the school's insurers and Chair of School Council will be notified.

FAIR TREATMENT

All employees who are mentioned in a disclosure that qualifies for protection, including those who are the subject of a disclosure, have the right to fair treatment. The School, where reasonably practicable to do so, will ensure fair treatment of individuals mentioned in a disclosure by:

- Handling disclosures confidentially
- Assessing and investigating all disclosures reported in the Whistleblower Disclosure Form
- Substantiating or refuting the matters reported in the Whistleblower Disclosure Form
- Focusing on the substance and facts of the disclosures rather than the motive of the discloser
- Investigating matters objectively and independently
- Providing counselling services to all employees who are the subject of a disclosure, including the discloser
- Advising employees who are the subject of a disclosure, the subject matter of the disclosure as and when required by principles of natural justice and procedural fairness and prior to any actions being taken

WHISTLEBLOWER PROCESS MAP



VERSION CONTROL

Version No.	Date Approved	Author	Comments
1.0	25.07.2016	Debbie Dunwoody	Initial version.
2.0	13.08.2019	Phong Pham	<p>Renamed 'Whistleblower Policy' to 'Whistleblower Protection Policy'</p> <p>Expanded policy to coincide with amendments to the Corporations Act 2001</p> <p>Added 'Guiding Principle' section</p> <p>Added 'Legal Context' section</p> <p>Added 'Key Responsibilities' section</p> <p>Added 'Making a Report' section</p> <p>Added 'Whistleblower Protection' section</p> <p>Added 'Penalties' table</p> <p>Added 'Conducting an Investigation' section</p> <p>Added 'Determination Outcome' section</p> <p>Added 'Whistleblower Process Map'</p>
3.0	17.12.2019	Phong Pham	<p>Redrafted to align with ASIC Regulatory Guide 270</p> <p>Added fair treatment clause in 'Guiding Principles' section</p> <p>Expanded 'Policy Review Cycle' section</p> <p>Amended 'eligible whistleblower' definition</p> <p>Amended 'eligible recipient' definition</p> <p>Added reference to whistleblowing on tax related matters in 'Legal Context' section</p> <p>Expanded on 'Scope' section</p> <p>Added 'Disclosable Matters' section</p> <p>Added 'Eligible Recipients' section</p> <p>Renamed 'Making a Report' section to 'Making a Disclosure'</p> <p>Expanded on 'Making a Disclosure'</p> <p>Expanded on 'Whistleblower Protection' section</p> <p>Added 'Support and Practical Protection for Disclosers' section</p> <p>Renamed 'Conducting an Investigation' section to 'Handling and Investigating a Disclosure'</p> <p>Expanded on 'Handling and Investigating a Disclosure' section</p> <p>Added 'Fair Treatment' section</p>