

# Whistleblower Policy

## Preamble

The purpose of the College's Whistleblower Policy is to encourage persons to raise any concerns and report instances of unacceptable behaviour without the fear of reprisal or intimidation.

Where a complaint raised through standard communications channels is serious and could result in reprisals against a student or staff member, the College recommends the matter may be reported as a protected disclosure under the College's Whistleblower Policy.

The College is committed to ensuring that whistleblowers will not suffer detriment for reporting unacceptable behaviour in good faith.

## Scope

This Policy applies to students, clients or members of staff seeking an avenue for reporting unacceptable behaviour in good faith when there is a fear held of reprisal or undesirable repercussions for doing so. This Policy is otherwise not intended to replace or supersede College policies and procedures for reporting under the:

- Student and Client Complaints and Appeals (Consumer Protection) Policy
- Staff Complaint Resolution and Appeal Policy
- Fraud and Corruption Policy
- Discrimination, Bullying and Harassment Policy or
- Conflict of Interest Policy.

## The College's Commitment

The College is committed to fostering a culture of ethical behaviour, legal compliance and good governance in which members of the College community are able to raise concerns about unacceptable conduct in good faith without fear of reprisal or undesirable repercussions.

## Definitions

**External independent resource:** may be one or more individuals not associated with the College who is/are independent to the complaint and capable of investigating the matter according to procedural fairness and without conflict of interest.

**Independent investigator:** is a member of the College community who is independent to the complaint, who is capable of investigating the matter according to procedural fairness and without conflict of interest.

**Protected disclosure:** is a disclosure made in good faith by a student, client or worker relating to unacceptable behaviour and entitles the person making the disclosure to support and protection in accordance with this Policy.

**Protected Disclosure Officer:** is an officer nominated under this Policy who may receive a protected disclosure

**Unacceptable behaviour:** is any behaviour that is deemed to be, but not limited to, unethical, unlawful or undesirable, including:

- Illegal conduct, such as theft, drug sale or use, violence, harassment or intimidation, or criminal damage to property

- Unethical conduct, such as dishonestly altering College records or data, adopting questionable accounting practices or wilfully breaching College codes
- Conduct potentially damaging to the College or a member of the College community, such as unsafe work practices or substantial wasting of College resources
- Conduct that may cause financial loss to the College or damage to its reputation or otherwise be detrimental to the College's interests and
- Conduct that involves an attempt to conceal unacceptable behaviour.

**Whistleblower:** is a person who reports unacceptable behaviour to people or authorities that have the power or perceived willingness to initiate and investigate a complaint and take any necessary corrective action.

## Reporting Unacceptable Behaviour

### Duty to Report

It is expected that students and staff will report unacceptable behaviour. A failure to do so could result in disciplinary action.

### Standard Communication Channels

It is expected that most concerns may be initially discussed with the worker's immediate manager, or if necessary, the manager's manager. In the case of a student, this would be their teacher, trainer, assessor or tutor (as applicable) or their training manager.

### How to Make a Disclosure to one of the College's Protected Disclosure Officers

If a student or staff member does not feel comfortable discussing a concern about Unacceptable Behaviour through standard communication channels, or where it is not appropriate to do so, they may report the concern as a Protected Disclosure in writing to one of the College's Protected Disclosure Officers nominated below. The written notification should clearly state that the concern is being reported as a Protected Disclosure under the College's Whistleblower Policy.

The College's Protected Disclosure Officers		
The CEO, or	The Secretary, Tuggerah Lakes Community College Limited Board, or	The Chair, Tuggerah Lakes Community College Limited Board
<p>Postal Address:</p> <p>Tuggerah Lakes Community College Limited</p> <p><b>Private and Confidential – To Be Opened By Addressee Only</b></p> <p>PO Box 5013</p> <p>Chittaway Bay NSW 2261</p>		

A person making a protected disclosure under this Policy should generally make the protected disclosure to a Protected Disclosure Officer who is more senior than the person who is the subject of the protected disclosure. In this, the following table provides a guide, but is not compulsory:

Subject of Protected Disclosure	Protected Disclosure Officer
Student, Clients, Staff including Managers, Teachers, Teacher, trainers, Assessors and Administration Personnel	CEO
CEO	Chair, Tuggerah Lakes Community College Limited Board
Chair	The Secretary, Tuggerah Lakes Community College Limited Board

### Obligations of Whistleblowers

A person who makes a Protected Disclosure must act in good faith and have reasonable grounds for believing that the information disclosed represents unacceptable behaviour. Unsubstantiated allegations that are made maliciously will be viewed seriously and may result in disciplinary action.

### Anonymity

A student or staff member may report a concern anonymously. This may hinder the investigation of the concern and in some circumstances, may prevent the student or staff member from having access to the protection provided to whistleblowers as their identity is unknown.

## Handling Protected Disclosures

### Acknowledgment

A Protected Disclosure Officer may acknowledge receipt of a Protected Disclosure in writing, except where it has been made anonymously.

### Investigation

Upon the receipt of a report, the Protected Disclosure Officer may determine whether the conduct is unacceptable behaviour under the College's Whistleblower Policy, or whether the matter is a general complaint matter. If a determination is made that the conduct is a general complaint matter and not unacceptable behaviour, the matter may be referred to and dealt with in accordance with complaint resolution under either the *Student and Client Complaints and Appeals (Consumer Protection) Policy*, or the *Staff Complaint Resolution and Appeal Policy*, whichever is applicable.

If the matter relates to unacceptable behaviour, the Protected Disclosure Officer may appoint a person to investigate the matter. That person may be either:

- An independent investigator
- An external independent resource, or
- Another suitably qualified person depending on the matter to be investigated.

All reasonable measures will be taken to investigate Protected Disclosures in a timely, objective and fair manner. Normal investigative processes may follow those applied within the College's Fraud and Corruption Policy. Corrective action may also be considered on a timely basis where warranted by the results of the investigation.

The whistleblower may be kept appropriately informed of the progress and outcome of the investigation and any corrective actions taken. The extent to which the whistleblower is kept informed may vary according to the circumstances of each case, including privacy requirements.

### **Confidentiality**

If a whistleblower makes a report of unacceptable behaviour under this Policy, the disclosure of the whistleblower's identity will be limited to the Protected Disclosure Officer, the Investigation Officer and when necessary others required for the purpose of conducting the investigation. The whistleblower's identity will be protected from further disclosure unless the whistleblower consents to the disclosure or disclosure is required by law.

All files and records created from an investigation will be retained under strict security. The unauthorised release of the whistleblower's identity without the whistleblower's consent to any person not involved in the investigation, is a breach of this Policy subject to disciplinary action; which could involve severance from the College if deemed to be an incident of misconduct, wrongdoing or an abuse of power or authority.

### **Protection for Whistleblowers**

The College will ensure that all reasonable measures are taken to protect whistleblowers from reprisals as a result of making a Protected Disclosure under this Policy, even if the disclosure is found to be incorrect or unsubstantiated. It is unacceptable for a whistleblower to be dismissed, demoted, suspended, threatened, excluded, harassed or in any other way discriminated against as a result of making a Protected Disclosure under this Policy.

The College will ensure that reasonable measures are taken to protect from reprisals any person requested to participate in the investigation of a Protected Disclosure.

Any worker or member of the College community who retaliates against a whistleblower or against a person who participates in an investigation of a Protected Disclosure will be subject to disciplinary action, which could involve severance from the College if deemed to be an incident of misconduct, wrongdoing or an abuse of power or authority.

### **Protection for Persons Subject of a Protected Disclosure**

Persons who are the subject of a complaint are to be considered innocent until proven guilty and are entitled to be treated in accordance with the principles of independence, objectivity and procedural fairness.

This requires an investigator to:

- Ensure, to the best of their ability, that any statements made are true and fair
- Act fairly and in good faith without bias, malice, ill will or improper motives
- Take legal advice where appropriate
- Maintain and conduct the investigation under strict confidentiality as far as practicable, recognising that circumstances may necessitate others knowing about the matters being investigated by virtue of their position and/or their exposure to the alleged unacceptable behaviour.

The person accused of unacceptable behaviour has a right to:

- The opportunity to respond to present their view of any incident
- Be informed on procedural aspects of the investigation, the direction of any action proposed to be taken under these guidelines as well as any possible future consequences

- Have their chosen representative or support person accompany them during any interview if that is their choice, unless that person is also involved in the investigation, for which an opportunity to have an alternative support person will be given
- Consistent and fair decision-making.

The timing of when to disclose information to the person of interest and when to afford them the opportunity to respond will vary with each investigation. The person of interest should not be advised of any enquiries where this may prejudice investigations.

The investigating officer will seek appropriate guidance from the Protected Disclosure Officer and legal advice where necessary, prior to disclosing information to the person of interest.

### **Whistleblower's Involvement**

Making a Protected Disclosure will not protect the whistleblower from civil or criminal liability if also involved in the unacceptable behaviour that is the subject of the protected disclosure. However, their disclosure and cooperation in investigation of the unacceptable behaviour may be taken into account as mitigating factors when determining any actions to be taken against them.

### **Vexatious Complaints**

Any person who has been found to have made a report that is vexatious or based on facts that the person would be reasonably expected to know or believe were untrue, will also be subject to disciplinary sanction according to the circumstances of the matter.

### **College Accountability**

A summary of Protected Disclosures received will be provided to the College's Board. Confidentiality and anonymity requirements will be maintained.

### **Staff Training**

This Policy will be included in induction as applicable to members of the College Community.

### **Related College Policies**

Harassment, Bullying and Discrimination Policy

Staff Code of Conduct

Student Rights, Responsibilities and Code of Behaviour Policy

Student and Client Complaints and Appeals (Consumer Protection) Policy.

Staff Complaint Resolution and Appeal Policy

### **Review**

This Policy will be subject to periodic review and may be amended or updated when required.