

Whistleblower Policy

Purpose:

The purpose of this policy is to set out the principles and procedures governing the school's approach to the protection of whistleblowers and the management of relevant disclosures.

To comply with the requirements of the Associations Incorporation Reform Act 2021 (Vic); the Corporations Act 2001 (Cth) and other relevant legislation.

Scope:

All KVS Staff, volunteers, suppliers and contractors including those no longer working within the school.

Implemented by:

School Principal, Board Chairperson

Approved by:

KVS Board

Reviewed:

Every three years or as legislative changes arise or improvements are identified

Communicated via:

KVS Website, Staff Meetings

Overview

Koonwarra Village School is committed to ensuring a robust culture of openness and feedback in which concerns and complaints are addressed appropriately and are handled respectfully and fairly.

This policy falls within the school's governance policy framework and forms part of the school's risk management system. The school is committed to implementing procedures that comply with the school's legal obligations in relation to the protection of eligible whistleblowers and to the management of any eligible disclosure they make.

Definitions

Whistleblowing is the disclosure of information by an individual (the **Whistleblower**) to an 'eligible recipient' when the discloser has 'reasonable grounds to suspect that the information concerns misconduct, or an improper state of affairs or circumstances in relation to the regulated entity'. The disclosure may not involve unlawful conduct but may indicate a 'systemic issue that the relevant regulator should know about'. Such disclosures are covered by legislation which outlines certain protections and support to which the whistleblower is entitled.

A **whistleblower** is a current or former insider within the school and can be a current or former employee, School Board member, suppliers or contactors or volunteer, or a relative or dependent of any of those.

The definition of an eligible whistleblower does not extend to parents or students. Concerns and allegations of misconduct or improper behaviour raised by parents or students should be dealt with using the Concerns & Complaints Policy.

Personal or professional grievances made by employees are not included in the definition of whistleblowing. These should be dealt with using the processes outlined in employee documentation. The only exceptions to this are:

- if the school breached employment or other laws punishable by 12 months or more imprisonment, 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 representation about the Protections

Concerns or Complaints are not included in the definition of whistleblowing. These should be dealt with using the processes outlined in the Concerns & Complaints Policy

For the purpose of this policy an **eligible recipient** is limited to a member of the School Board, the School Principal, Chair of the Board or the auditor of the school.

Eligibility

The following three conditions must be met in order for a disclosure to qualify as a protected disclosure under the Act:

1. the whistleblower must have 'reasonable grounds to suspect misconduct or an improper state of affairs' relating to the school:
 - the whistleblower will have reasonable grounds if his or her suspicion is founded on facts and information available to the whistleblower and it is a suspicion that other people in a similar position might reasonably draw. The whistleblower does not need to prove their suspicions.

2. the subject of a protected disclosure must concern the school and its operation and could include:
 - misconduct
 - dishonest activity
 - illegal activity
 - fraudulent activity
 - behaviour that is a danger to the public or the natural environment
 - behaviour that is contrary to Child Safe Standards
 - behaviour that is a danger to the financial system, such as corruption, bribery, fraud or money laundering
 - improper accounting or financial reporting practices.
 - engaging in, or threatening to engage in, detrimental conduct against a person who has made a disclosure or who is planning to make a disclosure.
3. the disclosure must be made to an eligible recipient.

If the whistleblower's disclosure is not based on reasonable grounds (e.g. conjecture or malicious) it does not qualify for protection under the legislation.

Deliberately false disclosures in which the whistleblower seeks to report information that they know to be untrue will not qualify as a protected disclosure.

Eligible disclosures qualify for protection under the Act even if the disclosure turns out to be incorrect.

Concerns that arise in relation to Child Safe Standards are included under the terms of this policy but should be raised under the terms of the Child Safety & Wellbeing Policy, Protecting Children Policy, or the Concerns & Complaints Policy in the first instance, and subsequently according to this policy if a systemic issue is suspected.

Protections and Support

A whistleblower making an eligible disclosure is protected under the terms of the legislation.

The key whistleblower protections are:

- the identity of the whistleblower (and information that could identify the whistleblower) will remain confidential unless the whistleblower consents to their identity being disclosed
- the whistleblower is protected from criminal, civil and administrative liability in relation to their disclosure
- the whistleblower will not be subject to disciplinary action (for example, an official warning, termination of contract, change of contract to the detriment of the whistleblower) in response to a whistleblowing action
- the whistleblower will be protected from retaliation, harassment, victimisation or the threat of such behaviour (for example, discrimination in how the whistleblower is treated by the school, reputational damage)
- the protections offered to the whistleblower extend to the threat of the above detriments

The school will provide support for whistleblowers and recognises that in some situations, the effect of an eligible disclosure may impact on others in addition to the whistleblower. The support provided by the school to the whistleblower extends to them as well.

Roles and Responsibilities

The School Board is responsible for:

- responding to an eligible disclosure when called upon to do so
- appointing a member of the School Board to oversee and manage a 'whistleblowing event', including the appointment of an impartial independent investigator
- monitoring the number, nature and outcome of whistleblowing events.

The School Principal is responsible for overseeing a school culture in which:

- concerns and complaints are addressed appropriately and are handled respectfully and fairly
- eligible recipients are aware of their roles and responsibilities
- the Policy is communicated to staff, contractors and the wider school community
- appropriate processes are set up to manage and investigate a disclosure brought under this policy
- a confidential register of protected disclosures (listing the date, subject and resolution) is retained for reporting to the School Board on an annual basis and to be available to the authorities if required.

Eligible recipients are responsible for understanding their role as an eligible recipient, knowing and understanding the school's Whistleblower Policy and being ready to receive and respond to a disclosure, if and when that happens.

Process for Making a Disclosure

To make a protected disclosure under the terms of the Whistleblower Policy:

- Ensure the disclosure is made to an eligible recipient.
- Set out concern(s) in writing, stating the information and facts relevant to the concern
- Only disclose the names and contact details of other people connected to the disclosure to the extent that it is necessary for the recipient to understand the concern

Once the eligible recipient receives the disclosure:

- The eligible recipient will decide or seek advice as to whether the disclosure qualifies as a protected disclosure and, if so, will be managed under the terms of the Whistleblower Policy.
- The eligible recipient will advise the outcome of this decision. By law, KVS is required to keep the Whistleblower's name and details, and the details of any other person who may be connected to the disclosure confidential unless the Whistleblower gives permission for their confidentiality to be waived.
- The recipient should stay neutral. They do not need to take a position as to whether the suspicion or allegation is true or not; all they need to make a judgment on is as to whether they have 'reasonable grounds to suspect that the information concerns misconduct, or an improper state of affairs or circumstances in relation to the regulated entity'.

Investigating a disclosure

The school will investigate all eligible disclosures as soon as is practicable. The nature and timing of the investigation will depend on the concern or allegation that has been made.

The School Board will appoint an independent investigator or an investigation team, which may be internal or external to the school depending on the nature of the allegation, but who must have no conflict of interest or involvement in the disclosure. The investigator will seek further information and evidence from the Whistleblower either in writing or in person, seek information and evidence from other sources as appropriate, seek advice from external professionals, refer the matter to regulators or other authorities, if necessary, draft a report to summarise their findings and make recommendations for action.

The investigation report and recommendations will be tabled for the School Principal and the School Board unless they are the subject of the allegations.

The investigator will make recommendations to the School Board as to whether and how the findings should be communicated back to the Whistleblower, to the school community, and/or to the authorities.

If a Whistleblower is not satisfied with the outcome of an investigation, then they may request that the school review the investigation into the disclosure. The request must be made in writing to the Principal or Chair of the Board. The school is not obliged to reopen an investigation and can conclude a review if it finds that the investigation was conducted properly in accordance with this policy, or new information is either not available or would not change the findings of the investigation.

Related Documentation and Policies

- Concerns and Complaints Policy
- Child Safety & Wellbeing Policy
- Protecting Children Policy
- Privacy Policy
- Complaints Process & Guide for misconduct, harassment, bullying, discrimination & grievances