



Anglican Grammar
Hume

Whistleblower Policy

APPROVED BY: Board of Directors

RATIFICATION DATE: January 2020

REVIEW DATE: January 2022

1. Purpose

- 1.1 Hume Anglican Grammar 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.
- 1.2 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.
- 1.3 This policy falls within Hume Anglican Grammar'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.
- 1.4 The purpose of this policy is to set out the principles, guidelines and procedures governing the school's approach to the protection of whistleblowers and the management of relevant disclosures. The policy, together with the procedural documents listed in section 8, should be read and understood by all staff, by those wishing to make a disclosure and by those in positions to receive disclosures.

2. Principles

- 2.1 Hume Anglican Grammar believes that complaints are an important way in which the school community can provide the school with feedback and so form the basis for future improvements. Hume Anglican Grammar will undertake to respond to both the specific and (where applicable) the systemic issues raised by the complaint.
- 2.2 Where possible Hume Anglican Grammar encourages concerns and complaints to be identified and resolved speedily and informally; the Parental Communication Policy is designed to apply when that proves more difficult and a formal process is required.
- 2.3 The person raising the concern or complaint may not be satisfied that the issue has been addressed or resolved. In this case, whether or not the issue has been the subject of the Parental Communication Policy, he or she may decide to make a protected disclosure. Such action will be dealt with under the terms of the school's Whistleblower Policy.
- 2.4 Personal or professional grievances made by employees are not included within the definition of a protected disclosure. These should be dealt with using the school's grievance procedures.
- 2.5 Matters related to employment conditions of staff are addressed in the Hume Anglican Grammar Enterprise Agreement 2019 and/or the Staff Work Policy.
- 2.6 Hume Anglican Grammar is committed to child safety and has a zero tolerance of child abuse. In the context of this policy the response to a complaint relating to child safety, particularly any in relation to Indigenous children, children from linguistically and culturally diverse backgrounds, children who are vulnerable and children with disabilities, will be given the highest priority and attention.¹

¹ Concerns raised in relation to the Child Safe Standards will be dealt with in accordance with the school's Child Safe Standards Policy in the first instance.

3. Aims of the policy

- 3.1 To comply with the requirements of the Treasury Laws Amendment (Enhancing Whistleblowers Protections) Act 2019 (Cth) (the Act) and other relevant legislation.
- 3.2 To ensure eligible whistleblowers are protected as set out in the legislation.
- 3.3 To ensure eligible disclosures are managed appropriately and in compliance with legislation.

4. Scope

- 4.1 The Whistleblower Policy does not apply:
 - a. to concerns that staff may have in relation to their employment. Those concerns are addressed through grievance procedures
 - b. to concerns that parents or students may have in relation to the operation of the school. Those concerns are covered in the Parental Communication Policy
- 4.2 Concerns that arise in relation to Child Safe Standards may be included under the terms of this policy but should be raised under the terms of the Child Safe Standards Policy in the first instance.

5. Alignment to the strategic plan

Values: Christian, Excellence, Resilience, Respect and Integrity.

Goal:

1. Student wellbeing - a supportive, caring and inspiring environment where all can thrive

3. Staff - professional and dedicated staff committed to the success of the School.

4. Parents - engaging families and forging strong relationships

6. Leading - enhancing leadership capability, creating an effective model of governance at all levels

Pathway:

b. Maintain and promote a safe and secure environment with a zero tolerance towards child abuse, with an emphasis on pastoral care that nurtures each individual.

b. Establish a supportive and collegial workplace culture based upon optimism, respect and professionalism.

a. Foster a fruitful partnership between home and school.
b. Establish a model of home communications based upon the principles of timeliness, openness and trust.

a. Continue building an effective structure and culture of governance to underpin improvement throughout the organisation.

6. Definitions

- 6.1 The legal status of the school is as [a company limited by guarantee regulated by the *Corporations Act 2001* (Cth)] [an incorporated association regulated by the *Associations Incorporation Reform Act 2012* (Vic)]. As such, the school is required to comply with the Act, which came into force on 1 July 2019.
- 6.2 Whistleblowing is the disclosure of information by an individual (the 'discloser') 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'². The disclosure may not involve unlawful conduct but may indicate a 'systemic issue that the relevant regulator should know about.'³
- 6.3 A whistleblower is a current or former insider within the school.
- 6.4 The conditions under which a whistleblower becomes eligible for protection are set out in the Act. An eligible whistleblower includes someone who is or has been⁴:
- a current or former officer of the school as the regulated entity. This will include board members as directors of the school and the Company Secretary even if the secretary is not a board member
 - a current or former employee of the school
 - an individual who currently supplies or has previously supplied services or goods to the school (whether paid or unpaid). This includes contractors, suppliers and volunteers and any employees of those who supply services or goods
 - a relative or dependant of any of the above
- 6.5 The definition of an eligible whistleblower does not extend to a consumer or customer of the company, that is, the whistleblowing protections do 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 school's Parental Communication Policy.
- 6.6 A whistleblower can make a disclosure anonymously and/or outside business hours.
- 6.7 Eligible (or protected) disclosures qualify for protection under the Act. Disclosures can qualify for protection even if the disclosure turns out to be incorrect.
- 6.8 The following conditions must be met in order for a disclosure to qualify as a protected disclosure:
- the whistleblower must have 'reasonable grounds to suspect misconduct or an improper state of affairs'⁵ 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 is a suspicion that other people in a similar position might reasonably draw. The whistleblower does not need to prove their suspicions
 - if the whistleblower's disclosure is not based on reasonable grounds, the disclosure is unfounded (e.g. could be conjecture or malicious) and does not qualify for protection under the legislation

² The *Whistleblower Act*, Section 1317AA (4).

³ Whistleblower Policy: Draft regulatory guidance <https://download.asic.gov.au/media/5226945/attachment-to-cp321-published-7-august-2019.pdf>.

⁴ The *Whistleblower Act*, Section 1317AAA.

⁵ The *Whistleblower Act*, Section 1317AA (4).

- d. deliberately false disclosures in which the whistleblower seeks to report information that they know to be untrue will not qualify as a protected disclosure
- 6.9 The subject of a protected disclosure must concern the school and its operation and could include:
- a. misconduct
 - b. dishonest activity
 - c. illegal activity
 - d. behaviour that is a danger to the public or the natural environment
 - e. behaviour that is contrary to Child Safe Standards
 - f. behaviour that is a danger to the financial system, such as corruption, bribery, fraud or money laundering
 - g. improper accounting or financial reporting practices
 - h. 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
- 6.10 The disclosure must be made to an eligible recipient.
- 6.11 In order to qualify for protection, the disclosure must be made to an 'eligible recipient' who could be:
- a. The Principal or Deputy Principal; or
 - b. Company Secretary
 - c. An auditor of the school or of a related company
- 6.12 Hume Anglican Grammar has created a confidential email address to receive disclosures: disclosures@humegrammar.vic.edu.au.
- 6.13 The school will provide support for potential whistleblowers:
- a. the person designated as an eligible recipient is also charged with providing support for the whistleblower
 - b. the school recognises that in some situations, the effect of an eligible disclosure may impact on employees other than the whistleblower. The support provided by the school to the whistleblower extends to them as well
- 6.14 External disclosures:
- a. a disclosure may qualify for protection if it is made to ASIC
 - b. a disclosure may qualify for protection if an eligible whistleblower seeks legal advice about the issue in which case the legal practitioner could become the eligible recipient

6.15 Public Interest Disclosures⁶. A whistleblower may make a public interest disclosure to a journalist or a member of parliament under conditions prescribed in the Act. These conditions⁷ include:

- a. the disclosure concerns information that the whistleblower has reasonable grounds to believe is in the public interest
- b. the discloser has already made a protected disclosure to ASIC or APRA or other relevant Commonwealth regulator at least 90 days prior and the discloser has reasonable grounds to believe no action has been or is being taken
- c. the discloser has given the regulator written notice of his or her intention to make a public interest disclosure]

6.16 Emergency Disclosures⁸: A whistleblower may make an emergency disclosure to a journalist or a member of parliament under conditions prescribed in the Act. These conditions⁹ include:

- a. the disclosure concerns information that the whistleblower has 'reasonable grounds to believe concerns' a matter of 'substantial and imminent danger to the health' and safety of a person (or persons including, in the context of a school, children) or to the environment¹⁰ and
- b. the discloser has already made a disclosure to ASIC or APRA or other relevant Commonwealth regulator and
- c. the discloser has given the regulator written notice of his or her intention to make an emergency disclosure]

6.17 Whistleblower Protections: A whistleblower making an eligible disclosure is protected under the terms of the legislation. The key whistleblower protections are:

- a. the identity of the whistleblower (and information that could identify the whistleblower) will remain confidential unless the whistleblower consents to their identity being disclosed
- b. the whistleblower is protected from criminal, civil and administrative liability in relation to their disclosure
- c. 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
- d. 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)
- e. the protections offered to the whistleblower extend to the threat of the above detriments
- f. the whistleblower will be provided with support

⁶ The Act is silent as to whether information regarding information regarding Public Interest Disclosures must be included within the Whistleblower Policy.

⁷ The *Whistleblower Act*, Section 1317AAD (1). This section sets out the conditions in more detail.

⁸ The Act is silent as to whether information regarding information regarding Emergency Disclosures must be included within the Whistleblower Policy.

⁹ The *Whistleblower Act*, Section 1317AAD (2). This section sets out the conditions in more detail.

¹⁰ The *Whistleblower Act*, Section 1317AAD (2)(b).

7. Roles and responsibilities

7.1 The School Board is responsible for:

- a. determining this policy and reviewing it on a biennial basis
- b. responding to an eligible disclosure when called upon to do so
- c. **[appointing a member of the board to oversee and manage a 'whistleblowing event' if and when that happens]**
- d. monitoring the number, nature and outcome of whistleblowing events, bearing in mind the need for strict confidentiality

7.2 The Principal is Responsible for:

- a. overseeing a school culture in which concerns and complaints are addressed appropriately and are handled respectfully and fairly
- b. determining the whistleblowing procedures and ensuring they are up-to-date ensuring that eligible recipients are aware of their roles and responsibilities
- c. ensuring the Whistle-blower Policy is communicated to staff, contractors and the wider school community via the website, with copies also available from the school office and as part of the school's employee orientation process
- d. setting up an appropriate process to manage and investigate a disclosure brought under this policy
- e. retaining a confidential register of protected disclosures (listing the date, subject and resolution) for reporting to the governing board on an annual basis and to be available to the authorities if required
- f. providing training for all staff including specifically eligible recipients; retaining a record of the training

7.3 Eligible recipients are responsible for:

- a. understanding their role as an eligible recipient
- b. participating in relevant training
- c. knowing and understanding the school's whistleblower policies and procedures
- d. being ready to receive and respond to a disclosure if and when that happens

7.4 Staff are responsible for:

- a. participating in relevant training
- b. knowing and understanding the school's whistleblower policies and procedures

8. ASSOCIATED DOCUMENTS

- 9.2 *Treasury Laws Amendment (Enhancing Whistleblowers Protections) Act 2019 (Cth) (the Act)*
- 9.3 *Corporations Act 2001 (Cth)*
- 9.4 *Associations Incorporation Reform Act 2012 (Vic)*
- 9.1 Staff Work Policy
- 9.5 Parental Communication Policy
- 9.6 OHS Policy
- 9.7 Sexual Harassment Policy
- 9.8 Child Safe Policy
- 8.9 Keeping Children Safe at Home
- 9.10 Equal Opportunity Policy
- 9.11 Anti-Bullying Policy
- 9.12 Duty of Care Policy

9. COMMUNICATION

- 9.1 The school will ensure that the Whistleblower Policy is communicated to all board members, staff, contractors and the wider school community via such publications as the staff handbook and via the website.

Appendix A - Making a protected disclosure

- 1.1 If possible, and as a first step, you should seek to raise your concern informally or through the complaints procedures with the Principal or the Company Secretary. This could be done verbally or in writing.
 - 1.2 If you don't feel this is possible or if you are concerned about how the issue will be handled, you may find it helpful to seek advice from someone you trust. You could, for example, speak to a senior manager or board member within the school or seek legal advice from a legal practitioner external to the school.
 - 1.3 Once you have decided that you wish to make a protected disclosure under the terms of the Whistleblower Policy, you are able to do so to any eligible recipient as listed in 6.10. You are encouraged, however, to make the disclosure to the eligible person via email.
 - 1.4 If you sought advice from a legal practitioner, you could make the disclosure to that person mentioned in 6.14.
 - 1.5 To help the recipient decide whether the disclosure is eligible for protection under the terms of this policy, you should set out your concern(s) in writing stating the information and facts on which you have based your concern.
 - 1.6 You should 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 you are raising.
 - 1.7 When the eligible recipient receives your disclosure, the first thing they will do is to decide or seek advice as to whether the disclosure qualifies as a protected disclosure and so is to be managed under the terms of the Whistleblower Policy.
 - 1.8 The eligible recipient will let you know the outcome of this decision. If you have lodged the disclosure using the designated confidential email address, the recipient will be able to reply to you even if you have made an anonymous disclosure (see Appendix B).
 - 1.9 The advantage of using the designated confidential email address is that the recipient will be able to continue to communicate with you in this way even if you have made an anonymous disclosure (see Appendix B).
 - 1.10 By law, the school is required to keep your name and details, and the details of any other person who may be connected to the disclosure confidential unless you give permission for your confidentiality to be waived.
 - 1.11 If you are not satisfied with the way the school has handled the disclosure process you could lodge a complaint with ASIC.
2. Resources to assist you:
 - 2.1 ASIC has an information sheet for whistleblowers (INFO 238) <https://asic.gov.au/about-asic/asic-investigations-and-enforcement/whistleblowing/whistleblower-rights-and-protections/> (accessed 17 July 2019)

Appendix B - Making an anonymous disclosure

- 1.1 If you feel it likely that you may decide to make an anonymous disclosure, you may still find it helpful to seek advice from someone you trust. It could be that person will be outside the school, for example, a legal practitioner external to the school.
 - 1.2 Once you have decided that you wish to make an anonymous protected disclosure under the terms of the Whistleblower Policy, you are able to do so to any eligible recipient as listed (section 6.10). You are encouraged, however, to make the disclosure to via email.
 - 1.3 If you sought advice from a legal practitioner, you could make the disclosure to that person (section 6.14).
 - 1.4 If you make a disclosure using an email address from which your identity can't be determined, the disclosure will be treated as anonymous.
 - 1.5 In order to enable the recipient to decide whether the disclosure is eligible for protection under the terms of this policy, you should set out your concern(s) in writing stating the information and facts on which you have based your concern.
 - 1.6 You should 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 you are raising.
 - 1.7 When the eligible recipient receives your disclosure, the first thing they will do is to decide or seek advice as to whether the disclosure qualifies as a protected disclosure and so is to be managed under the terms of the Whistleblower Policy.
 - 1.8 The eligible recipient will wish to let you know the outcome of this decision. If you have lodged the disclosure using the designated confidential email address, the recipient may be able to reply to you even if you have made an anonymous disclosure.
 - 1.9 The advantage of using the designated confidential email address is that the recipient may be able to continue to communicate with you in this way even if you have made an anonymous disclosure.
 - 1.10 By law, the school is required to keep your details (although, if anonymous those won't be known) and the details of any other person who may be connected to the disclosure confidential unless they give permission for their confidentiality to be waived.
 - 1.11 If you are not satisfied with the way the school has handled the disclosure process you could lodge a complaint with ASIC.
2. Resources to assist you:
 - 2.1 ASIC has an information sheet for whistleblowers (INFO 238) <https://asic.gov.au/about-asic/asic-investigations-and-enforcement/whistleblowing/whistleblower-rights-and-protections/> (accessed 17 July 2019)

Appendix C - Making a protected interest disclosure

- 1.1 In order to make a protected public interest disclosure, you must first decide that it is reasonable to consider making a further disclosure of this information is in the public interest.
- 1.2 Secondly and in addition, you are only able to make a protected public interest disclosure if you have already made a disclosure to ASIC or APRA or other relevant Commonwealth regulator at least 90 days before and you have reasonable grounds to believe no action has been taken or is being taken.
- 1.3 Thirdly and in addition, following the conclusion of the 90 days, you must give the regulator written notice, including sufficient information to enable the regulator to identify the previous disclosure that you intend to make a public interest disclosure.
- 1.4 If all of these conditions have been met, you may make a disclosure to a journalist or to a Commonwealth or State Member of Parliament.
- 1.5 The information you disclose to the journalist or Member of Parliament must only be enough to inform them of the misconduct or improper state of affairs.
- 1.6 If you disclose your concerns to a journalist or Member of Parliament or in public in another way (e.g. using social media) and the above conditions do not apply, the protections provided by the Whistleblower Policy may not apply.

Appendix D - Making an emergency disclosure

- 1.1 In order to make a protected emergency disclosure, you must first have 'reasonable grounds to believe' the disclosure concerns a matter of 'substantial and imminent danger to the health' and safety of a person (or persons including, in the context of a school, children) or to the environment.
- 1.2 Secondly and in addition, you are only able to make a protected emergency disclosure if you have already made a disclosure to ASIC or APRA or other relevant Commonwealth regulator and you have reasonable grounds to believe no action has been taken or is being taken.
- 1.3 Thirdly and in addition, you must give the regulator written notice, including sufficient information to enable the regulator to identify the previous disclosure that you intend to make an emergency disclosure.
- 1.4 If all of these conditions have been met, you may make a disclosure to a journalist or to a Commonwealth or state Member of Parliament.
- 1.5 The information you disclose to the journalist or Member of Parliament must only be enough to inform them of the misconduct or improper state of affairs.
- 1.6 If you disclose your concerns to a journalist or Member of Parliament or in public in another way (e.g. using social media) and the above conditions do not apply, the protections provided by the Whistleblower Policy may not apply.

Appendix E - Receiving a disclosure

- 1.1 The recipient will be listed as an eligible recipient (section 6.10) and will have participated in training in relation to this function.
- 1.2 When the eligible recipient receives the disclosure, the first thing he or she must do is to form an opinion or take advice as to whether the disclosure qualifies as a protected disclosure and so is to be managed under the terms of the Whistleblower Policy.
- 1.3 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'.
- 1.4 This may well be a complex decision and could well be made more complicated by the need for strict confidentiality. It is, therefore, wise for the recipient to seek legal advice. To this end, it is recommended that the school provides all eligible recipients, and specifically the person whom the board has designated to receive disclosures, with an avenue for direct contact with the school's appropriate legal advisers or an equivalent.
- 1.5 The recipient will wish to let you know the outcome of this decision. If you have lodged the disclosure using the designated confidential email address, the recipient will be able to reply to you even if you have made an anonymous disclosure.
- 1.6 The use of the designated confidential email address will enable the recipient to continue to communicate with you in this way even if you have made an anonymous disclosure.
- 1.7 By law, the recipient is required to keep your details and the details of any other person who may be connected to the disclosure confidential unless those concerned give permission for their confidentiality to be waived.
- 1.8 Having established whether or not the disclosure is a protected disclosure under the terms of this policy, the recipient will then, with your permission, take steps to refer the matter to someone who is in a position to investigate or to oversee an investigation into the information. That may involve the recipient taking the following steps:
 - a. the recipient seeking further legal advice
 - b. the recipient communicating with you in order to gather further information about the allegation

In seeking additional information, the recipient should make it clear to you that information that you give:

- should continue to protect your own identity and that of anyone else potentially implicated in the matter
- should only be as much information as is necessary to guide the setting up of an investigation

If the disclosure has been made anonymously, this communication will only be possible if the disclosure has been made using the designated confidential email address.

- 1.9 The recipient referring the matter to the Principal or the Company Secretary or Deputy Principal for investigation, taking care to protect confidentiality and to ensure the referral is to someone who isn't directly or indirectly involved in the allegation of misconduct or improper activity.

1.10 Once the matter has been referred to an appropriate person, the recipient would normally not take any further part in the matter.

Appendix F - Investigating a disclosure

- 1.1 Hume Anglican Grammar will investigate all eligible disclosures as soon as is practicable.
- 1.2 The nature and timing of the investigation will depend on the concern or allegation that has been made.
- 1.3 Hume Anglican Grammar 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.
- 1.4 The investigator will undertake some or all of the following tasks:
 - a. seek further information and evidence from you either in writing or in person
 - b. seek information and evidence from other sources as appropriate, e.g. interviews, reviewing documentation, etc.
 - c. seek advice from external professionals
 - d. refer the matter to regulators or other authorities if necessary
 - e. draft a report to summarise their findings
 - f. make recommendations for action
- 1.5 The investigation report and recommendations will be tabled for the Principal and the board unless they are the subject of the allegations.
- 1.6 The investigator will make recommendations to the board as to whether and how the findings should be communicated back to you, to the school community, and/or to the authorities.
- 1.7 The investigator will also make recommendations to the board as to the archiving of the report, bearing in mind the need for strict confidentiality.
- 1.8 If the disclosure is made to regulators or other authorities, their investigation process will normally take precedence of that of the school.

Appendix G - Support for whistleblowers and others involved in the investigation

- 1.1 Support may be sought from Hume Anglican Grammar's employee assistance program (EAP).
- 1.2 Hume Anglican Grammar will appoint the Principal, Deputy Principal or Company Secretary as a point of contact for a potential whistleblower to approach in order to seek advice.
- 1.3 You may choose to have a support person present in any meetings with the investigator or other authorities.
- 1.4 Hume Anglican Grammar recognises that in some situations, the effect of an eligible disclosure may impact on employees other than you. The above support provided by the school extends to them as well.
- 1.5 The effect of an eligible disclosure may also impact on some against whom allegations have been made. They are also entitled to support from the school and will be given an opportunity to respond.

Appendix H - How to handle victimisation or the threat of victimisation

1. What to do if you believe you are or have been victimised or threatened with some form of retaliation:
 - 1.1 The policy sets out the legal protections that apply to an eligible disclosure under this policy.
 - 1.2 If you believe you have suffered a detriment or a threat of detriment as a result of the disclosure, you are advised to report that to the Principal, Deputy Principal or to the Company Secretary immediately.
 - 1.3 If you believe it is not appropriate to report the detriment or threat of detriment to the Principal, Deputy Principal or to the Company Secretary, you are advised to report the matter to the eligible recipient or to a legal practitioner immediately.
 - 1.4 If you believe you have suffered a detriment or a threat of detriment as a result of the disclosure, you may be able to seek compensation or other remedy through the courts.