

Whistleblower Policy

Version 1.0

Approved: 25/08/2021

Introduction

1. The Queensland Catholic Education Commission (QCEC) is committed to ensuring a working environment where openness, integrity and accountability are respected and concerns in this regard can be raised safely and securely.
2. This Policy outlines how whistleblower disclosures will be managed and protected by the QCEC.

Purpose

3. While QCEC is not an entity subject to the requirements of the *Corporations Act 2001* with respect to whistleblower policies, QCEC management have decided to establish this Policy as part of broader governance, risk management and compliance measures within QCEC.
4. The purpose of this Policy is to:
 - a) ensure individuals who disclose alleged wrongdoing can do so safely, securely and with confidence that they will be protected and supported;
 - b) ensure disclosures are dealt with appropriately and on a timely basis;
 - c) provide transparency around QCEC's framework for receiving, handling and investigating disclosures;
 - d) encourage disclosures of wrongdoing; and
 - e) help deter wrongdoing.
5. The rationale for the Policy:
 - a) to support QCEC's values, Code of Conduct and/or approach to compliance and risk management;
 - b) to support QCEC's long-term sustainability and reputation; and
 - c) to align with best practice governance principles and standards.

Who can make a disclosure ('eligible whistleblowers')?

6. An eligible whistleblower is an individual who is, or has been, any of the following in relation to QCEC:
 - a) a current or former employee, associate or Director (i.e., Commission Member) of QCEC;
 - b) a supplier of services or goods to QCEC (whether paid or unpaid), including their employees; and
 - c) a relative, dependant or spouse of any of the above.

How are eligible whistleblowers protected?

7. Someone who makes a disclosure (i.e. a report) under this Policy qualifies for protection as a whistleblower if they are an 'eligible whistleblower' in relation to QCEC, acts honestly with

genuine or reasonable belief that the information in the disclosure is true or likely to be true, makes the disclosure in accordance with this Policy and not themselves have engaged in serious misconduct or illegal conduct in relation to the conduct reported and:

- a) they have made a disclosure of information relating to a 'disclosable matter' directly to an 'eligible recipient' or to the Australian Charities and Not-for-profits Commission (ACNC) or another Commonwealth body prescribed by regulation;
- b) they have made a disclosure to a legal practitioner for the purposes of obtaining legal advice or legal representation about the operation of this Policy; and
- c) they have made an 'emergency disclosure' or 'public interest disclosure'.

What can be reported ('disclosable matters')?

- 8. Disclosable matters involve information that the discloser has reasonable grounds to suspect concerns misconduct, or an improper situation or circumstances¹, in relation to QCEC.
- 9. Disclosable matters also involve information about QCEC if the discloser has reasonable grounds to suspect that the information indicates QCEC (including its employees or officers) have engaged in conduct that:
 - a) constitutes an offence against, or a contravention of, a provision of a State or Commonwealth law that imposes legal or regulatory obligations on QCEC;
 - b) constitutes an offence against any other law of the Commonwealth or State that is punishable by imprisonment for a period of 12 months or more; and
 - c) represents a danger to the public.
- 10. Examples of disclosable matters include:
 - a) illegal conduct, such as theft, dealing in, or use of illicit drugs, violence or threatened violence, and criminal damage against property;
 - b) fraud, money laundering or misappropriation of funds;
 - c) offering or accepting a bribe;
 - d) financial irregularities;
 - e) failure to comply with, or breach of, legal or regulatory requirements; and
 - f) 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.
- 11. Disclosures that relate solely to personal work-related grievances, and that do not relate to detriment or threat of detriment to the discloser, do not qualify for protection under this Policy.
- 12. Personal work-related grievances are those that relate to the discloser's current or former employment and have, or tend to have, implications for the discloser personally, but do not:
 - a) have any other significant implications for QCEC (or another entity); and
 - b) relate to any conduct, or alleged conduct, about a disclosable matter as set out above.
- 13. Examples of grievances that may be personal work-related grievances include:

¹ The term 'misconduct' is defined in section 9 of the *Corporations Act 2001* to include 'fraud, negligence, default, breach of trust and breach of duty'. The phrase 'improper situation or circumstances' is not defined and is intentionally broad.

- a) an interpersonal conflict between the discloser and another employee
 - b) decisions that do not involve a breach of workplace laws:
 - (i) about the engagement, transfer or promotion of the discloser;
 - (ii) about the terms and conditions of engagement of the discloser; and
 - (iii) to suspend or terminate the engagement of the discloser, or otherwise to discipline the discloser.
14. Personal work-related grievances can be disclosed and managed under QCEC's Grievance Procedure.

Who can receive a disclosure ('eligible recipients')?

15. A disclosure may be made to any of the following eligible recipients:
- a) a member of the Leadership Team (LT) of QCEC;
 - b) the independent Chair of QCEC;
 - c) the independent Chair of the QCEC Audit and Risk Management Committee (ARMC); or
 - d) an internal auditor (QCEC Senior Business Assurance Officer) or external auditor (including a member of an audit team conducting an audit) of QCEC.
16. Disclosures to a legal practitioner for the purposes of obtaining legal advice or legal representation in relation to the operation of this Policy are protected (even in the event the legal practitioner concludes that a disclosure does not relate to a 'disclosable matter').

Public interest disclosures and emergency disclosures

17. An individual to whom this Policy applies may be entitled to additional protections under the law where they make a public interest or an emergency disclosure to a member of parliament or a journalist.
18. A 'public interest disclosure' is the disclosure of information to a journalist or a parliamentarian, where:
- a) the discloser has already made a disclosure and 90 days have passed since the original disclosure;
 - b) the discloser does not have reasonable grounds to believe that action is being, or has been taken, in relation to their disclosure;
 - c) the discloser has reasonable grounds to believe that making a further disclosure of the information is in the public interest; and
 - d) 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.
19. An 'emergency disclosure' is the disclosure of information to a journalist or parliamentarian, where:
- a) 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; and

- b) 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.

Roles and responsibilities of QCEC

20. The following are responsible for:

- a) acting as a contact point where employees can seek accurate and confidential advice or information about the operation of this Policy;
- b) receiving disclosures from disclosers;
- c) protecting or safeguarding disclosers and ensuring the integrity of the reporting mechanism;
- d) investigating disclosures:
- The independent Chair of QCEC;
 - The independent Chair of ARMC;
 - a member of the QCEC LT;
 - Senior Business Assurance Officer (QCEC internal audit); or
 - an external provider (including external auditors) .
- e) Unless they are connected to the substance of a disclosure, the Chief Operating Officer is responsible for providing professional support to eligible recipients to ensure appropriate resources are made available to manage a disclosure made under this Policy.

How can a whistleblower make a disclosure?

21. Anyone wishing to make a disclosure under this Policy may make the disclosure anonymously and/or confidentially, securely and outside of business hours using phone or email correspondence or via the QCEC complaints portal (see [QCEC Complaints](#)).
22. The contact details for those responsible for receiving disclosures are:

Title	Contact details
QCEC Chair	mwhite@qcec.catholic.edu.au
ARMC Chair	pmalner@bigpond.com
Senior Business Assurance Officer (internal audit)	willemb@qcec.catholic.edu.au / 07 3316 5855
Executive Director (ED)	lee-annep@qcec.catholic.edu.au / 07 3316 5815
Chief Finance Officer (CFO)	stevenj@qcec.catholic.edu.au / 07 3316 5829
Chief Operating Officer (COO)	chrisw@qcec.catholic.edu.au / 073316 5827
Director - Education	yvonner@qcec.catholic.edu.au / 07 3316 5810

23. Additionally, a disclosure can be made to an external auditor including a member of an audit team conducting an audit of QCEC at any time during and in the context of the annual audit process.
24. A discloser can choose to remain anonymous while making a disclosure, over the course of the

investigation and after the investigation is finalised. A discloser can refuse to answer questions that they feel could reveal their identity during follow-up conversations.

25. A discloser may choose to adopt a pseudonym or use a de-identified email address for the purposes of their disclosure, and not use their true name. This may be appropriate in circumstances where the discloser's identity is known to their supervisor and staff member receiving the disclosure, but the discloser prefers not to disclose their identity to others.
26. If a disclosure comes from an email address from which the person's identity cannot be determined, and the discloser does not identify themselves in the email, it will be treated as an anonymous disclosure.

What protections exist for whistleblowers?

27. A person cannot disclose the identity of a discloser or information that is likely to lead to the identification of the discloser (which they have obtained directly or indirectly because the discloser made a disclosure that qualifies for protection).
28. The exception to this is if a person discloses the identity of the discloser:
 - a) to a member of a State or Commonwealth law enforcement agency (e.g. police);
 - b) to a legal practitioner (for the purposes of obtaining legal advice or legal representation about the provisions of this Policy; or
 - c) with the consent of the discloser.
29. A person can disclose the information contained in a disclosure without the discloser's consent if:
 - a) the information does not include the discloser's identity;
 - b) the entity has taken all reasonable steps to reduce the risk that the discloser will be identified from the information; and
 - c) it is reasonably necessary for investigating the issues raised in the disclosure.
30. A person must not identify a discloser, or disclose information that is likely to lead to the identification of the discloser, outside the exceptions listed above.
31. To ensure confidentiality:
 - a) all paper and electronic documents and other materials relating to disclosures are stored securely;
 - b) all information relating to a disclosure can only be accessed by those directly involved in managing and investigating the disclosure;
 - c) only a restricted number of people who are directly involved in handling and investigating a disclosure are made aware of a discloser's identity or information that is likely to lead to the identification of the discloser;
 - d) communications and documents relating to the investigation of a disclosure are not sent to an email address or to a printer that can be accessed by other staff; and
 - e) each person who is involved in handling and investigating a disclosure is reminded that they should keep the identity of the discloser and the disclosure confidential and that an unauthorised disclosure of a discloser's identity may be a criminal offence.
32. A person cannot engage in conduct that causes detriment to a discloser (or another person), in

relation to a disclosure, if:

- a) the person believes or suspects that the discloser (or another person) made, may have made, proposes to make, or could make a disclosure that qualifies for protection; and
 - b) the belief or suspicion is the reason, or part of the reason, for the conduct.
33. In addition, a person cannot make a threat to cause detriment to a discloser (or another person) in relation to a disclosure. A threat may be express or implied, or conditional or unconditional. A discloser (or another person) who has been threatened in relation to a disclosure does not have to actually fear that the threat will be carried out.
34. Examples of detrimental conduct include:
- a) dismissal of an employee;
 - b) injury of an employee in their employment;
 - c) alteration of an employee's position or duties to their disadvantage;
 - d) discrimination between an employee and other employees of the same employer;
 - e) harassment or intimidation of a person;
 - f) harm or injury to a person, including psychological harm;
 - g) damage to a person's property;
 - h) damage to a person's reputation;
 - i) damage to a person's business or financial position; or
 - j) any other damage to a person.
35. A discloser (or any other employee or person) can seek compensation and other remedies through the courts if:
- a) they suffer loss, damage or injury because of a disclosure; and
 - b) the entity failed to prevent a person from causing the detriment.
36. A discloser is protected from any of the following in relation to their disclosure:
- a) civil liability (e.g. any legal action against the discloser for breach of an employment contract, duty of confidentiality or another contractual obligation); and
 - b) administrative liability (e.g. disciplinary action for making the disclosure).
37. The protections do not grant immunity for any misconduct a discloser has engaged in that is revealed in their disclosure.

What support and practical protection is provided to whistleblowers?

38. It is the responsibility of QCEC to provide support and protection to those who make disclosures so they do not suffer detriment, including by QCEC implementing:
- a) processes for assessing the risk of detriment against a discloser and other persons (e.g. other staff who might be suspected to have made a disclosure) as soon as possible after receiving a disclosure;
 - b) support services (including EAP, counselling or other professional services); and
 - c) strategies to help a discloser minimise and manage stress, time or performance impacts, or

other challenges resulting from the disclosure or its investigation.

How are disclosures handled and investigated by QCEC?

39. If a disclosure is made under this Policy, it will need to be assessed to determine whether:
 - a) it falls within the scope of the Policy; and (if so)
 - b) an investigation is required.
40. A determination may need to be made by eligible recipients as to:
 - a) the nature and scope of the investigation;
 - b) the person(s) within and/or outside QCEC who should lead the investigation;
 - c) the nature of any technical, financial or legal advice that may be required to support the investigation; and
 - d) the timeframe for the investigation.
41. It is acknowledged that in some cases an investigation may not be possible if the discloser is not able to be contacted (e.g. if they make a disclosure anonymously and have refused or omitted to provide a means of contacting them).
42. If someone makes a disclosure but does not provide consent for that information to be disclosed to others, the information that is contained in the disclosure will not be disclosed as part of the investigation process—unless:
 - a) the information does not include the discloser's identity;
 - b) QCEC removes information relating to the discloser's identity or other information that is likely to lead to their identification (e.g. their name, position title and other identifying details); and
 - c) it is reasonably necessary for investigating the issues raised in the disclosure.
43. After a disclosure is received it will be acknowledged within a reasonable time period , provided the discloser can be contacted (including through anonymous channels).
44. After a disclosure is made the discloser will be provided with updates at various stages of an investigation process (where one is carried out).
45. The findings from any investigation will be documented and communicated to those responsible for oversight of the Policy, to the person who made the disclosure and, where appropriate, to the Chair of the Commission.

How does QCEC ensure fair treatment for other individuals mentioned in a disclosure?

46. Other QCEC employees mentioned in a disclosure which qualifies for protection, including those who are the subject of a disclosure, will receive fair treatment by QCEC ensuring that:
 - a) disclosures are handled confidentially, when it is practical and appropriate in the circumstances;
 - b) each disclosure is assessed and where relevant investigated;
 - c) the objective of any investigation is to determine whether there is enough evidence to substantiate or refute the matters reported; and
 - d) an employee who is the subject of a disclosure is advised about:

- I. 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—for example, if the disclosure is to be the subject of an investigation or if the disclosure is serious and needs to be referred to ACNC or a law enforcement agency (e.g. police); and
- II. the outcome of the investigation is communicated to the employee the subject of the disclosure (but they will not be provided with a copy of the investigation report).

How is this Policy made accessible?

47. The Whistleblower Policy will be disseminated and made easily accessible to employees, officers and anyone associated with QCEC by it being placed on the QCEC intranet and QCEC public website.
48. QCEC will raise awareness of the Policy by providing professional development to staff about the nature of the policy and its operation.

Monitoring and review of the Policy

49. The effectiveness of this Policy will be monitored by QCEC and reviewed no less than every 3 years.

This Policy is based on the Australian Securities & Investments Commission Regulatory Guide 270 – Whistleblower policies.

Related policies:

[QCEC Grievance Procedure](#)

[QCEC Code of Conduct](#)

Document Control

Date	Version	Description	Author	Review Date	Reviewed By
01.06.2021	1.0	Policy	Chris Woolley	01.06.2024	ARMC