

WHISTLEBLOWER

QUALITY AREA 7 | ELAA version 1.1



PURPOSE

This policy is a vital tool help Somerville Kindergarten identify wrongdoing that may not be uncovered unless there is a safe and secure way to disclose it.

The purpose of this policy is to:

- encourage genuine concerns about possible wrongdoing (*refer to Definitions*) in relation to Somerville Kindergarten to be raised as soon as possible
- provide guidance on how to raise those concerns, how they will be investigated and the support available to individuals raising concerns under this policy
- ensure that any wrongdoing (*refer to Definitions*) is identified and dealt with appropriately
- ensure that individuals who disclose wrongdoing can do so safely, securely and with confidence that they will be protected and supported, and
- comply with the legislative requirements under the Corporations Act and the Taxation Administration Act to ensure statutory protection is afforded to anyone who makes a Protected Report (*refer to Definitions*).

Nothing in this policy is intended to change or take away any other protections which may be available under law. If there is inconsistency between this policy and the provision of relevant legislation, the provisions of the relevant legislation will apply to the extent of the inconsistency.



POLICY STATEMENT

VALUES

Somerville Kindergarten is committed to a culture of respect and ethical conduct in the way we work and relate to each other. We recognise the value of keeping the laws and standards that apply to us in our work and encourage everyone to 'speak up' and report improper, unethical, or illegal conduct.

SCOPE

This policy applies to the approved provider, persons with management or control, nominated supervisor, persons in day-to-day charge, early childhood teachers, educators, staff, students, volunteers, parents/guardians and children.

RESPONSIBILITIES

Contractors, parents, volunteers and students	Staff	Whistleblower Investigators	Whistleblower Protection Officer(s)	Approved provider and persons with management or
R indicates legislation requirement, and should not be deleted				

1. Ensuring whistleblower procedures align with obligations under the Education and Care Services National Law and Regulations, including mandatory reporting, child safety, and the Reportable Conduct Scheme	R	√			
2. Nominating a staff member/s as Whistleblower Protection Officer(s)	√				
3. Assisting the Whistleblower Protection Officer(s) in the assessment and oversight of whistleblower reports (refer to Attachment 1)	√				
4. Providing advice and support to reporters (refer to Attachment 1)	√				
5. Maintaining a secure and restricted record of all reports made under this Policy	√	√	√		
6. Arranging role-specific training as and when required	√				
7. Ensuring staff are made aware of their rights and responsibilities in relation to whistleblowing at induction	√				
8. Ensuring staff are regularly encouraged to speak up about concerns of wrongdoing (refer to Definitions)	√	√			
9. Receiving whistleblower reports and protecting the interests of reporters (refer to Attachment 1)		√			
10. Determining whether the report falls within the scope of the Policy (refer to Attachment 1)		√			
11. Appointing a Whistleblowing Investigator where an investigation is deemed appropriate	√				
12. Ensuring investigations are conducted in accordance with this Policy (refer to Attachment 1)	√	√			
13. Ensuring any reports involving the approved provider are reported to the Australian Securities and Investments Commission (refer to Sources)		√			
14. Updating the reporter/s on progress and details of outcomes to the fullest extent possible		√			
15. Maintaining confidentiality of the identity of and reports received by reporters to the fullest extent possible		√			
16. Immediately reporting concerns in relation to any detrimental conduct to the approved provider (provided that the concerns do not relate to them)		√			
17. Determining the appropriate courses of action to remediate or act on the investigation (refer to Attachment 1)		√			
18. Reporting matters to relevant authorities e.g. ASIC or APRA (refer to Attachment 1)		√			
19. Making recommendations to prevent future instances of reportable misconduct		√			

20. Completing any training mandated by approved provider		√			
21. Seeking to ensure the integrity of the Whistleblower Program is maintained		√			
22. Investigating reports in accordance with this Policy (refer to Attachment 1)			√		
23. Gathering evidence and taking steps to protect or preserve evidence			√		
24. Making findings based on a fair and objective assessment of the evidence gathered during the investigation, and formalising this in a report			√		
25. Reporting back to the Whistleblower Protection Officer on the progress of their investigation 7 days after the report and every 14 days thereafter			√		
26. Complying with the directions of the Whistleblower Protection Officer in relation to any further follow up, and reporting action and requirements, including the implementation of any recommendations			√		
27. Reporting misconduct or dishonest or illegal activity that has occurred or is suspected within Somerville Kindergarten as quickly as possible, whether anonymously or otherwise				√	√



BACKGROUND AND LEGISLATION

BACKGROUND

Whistleblowers play an important role in identifying and calling out misconduct and harm to consumers and the community. To encourage whistleblowers to come forward with their concerns and protect them when they do, the Corporations Act 2001 gives certain people legal rights and protections as whistleblowers.

From 1 January 2020, some entities in Australia, including companies limited by guarantee, will be required to have a whistleblowing policy that complies with the new section 1317AI of the Corporations Act 2001.

ASIC has announced that public companies that are small not-for-profits or registered charities with annual revenue of less than \$1 million will be exempt from the new requirement.

Even if your service is not required to have a whistleblower policy under the law, we encourage you to put in place arrangements for handling whistleblower disclosures. This can help your service comply with the obligation to preserve whistleblowers' confidentiality and protect whistleblowers from detrimental conduct. These arrangements may form part of the governance arrangements.

LEGISLATION AND STANDARDS

Relevant legislation and standards include but are not limited to:

- Child Safe Standards
- Corporations Act 2001 (Cth)
- Fair Work Act 2009 (Cth)
- Fair Work Regulations 2009 (Cth)
- Insurance Act 1973
- Life Insurance Act 1995

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- Public Interest Disclosure Act 2013
- Reportable Conduct Scheme
- Superannuation Industry (Supervision) Act 1993
- Taxation Administration Act 1953

The most current amendments to listed legislation can be found at:

- Victorian Legislation – Victorian Law Today: www.legislation.vic.gov.au
- Commonwealth Legislation – Federal Register of Legislation: www.legislation.gov.au



DEFINITIONS

The terms defined in this section relate specifically to this policy. For regularly used terms e.g. Approved provider, Nominated supervisor, Notifiable complaints, Serious incidents, Duty of care, etc. refer to the Definitions file of the PolicyWorks catalogue.

Protected Report: To be eligible for the legal protections outlined in this policy, you must:

- be an eligible whistleblower (*see Definitions*)
- report your concerns to an eligible recipient or certain other persons (*see Definitions*), and
- have reasonable grounds to suspect wrongdoing (*see Definitions*) in relation to the service.

If your report meets all three of the above these criteria, it is a Protected Report.

Whistleblower: You are an eligible whistleblower if you are currently, or previously have been, either:

- An approved provider of the service
- an employee of the service, including any volunteers and work experience students
- a person who supplies goods or services to the service, whether paid or unpaid, or an employee of such a person, or
- a spouse, relative or dependent of a person referred to above.

Wrongdoing: Generally includes any conduct which an eligible whistleblower has reasonable grounds to suspect:

- is about misconduct or an improper state of affairs or circumstances concerning the service
- indicates that service or any of its approved provider or employees has engaged in conduct that:
 - involves a breach of or is an offence against any of the following Commonwealth laws: the Corporations Act, the ASIC Act, the Banking Act 1959, the Financial Sector (Collection of Data) Act 2001, the Insurance Act 1973, the Life Insurance Act 1995, the National Consumer Credit Protection Act 2009, or the Superannuation Industry (Supervision) Act 1993, or regulations made under those laws
 - is an offence against any other Commonwealth law that is punishable by imprisonment of 12 months or more
 - indicates a significant risk to public safety or the stability of, or confidence in, the financial system, even if it does not involve breach of a particular law
- is indicative of systemic issues, dishonest or unethical behaviour or practices
- is about misconduct or an improper state of affairs or circumstances in relation to the tax affairs of the service which the whistleblower considers may assist to perform the functions or duties in relation to the tax affairs of the service, or
- involves the deliberate concealment of information tending to show any of the matters listed above.

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Examples of the types of matters that may be reportable as Wrongdoing as part of a Protected Report include, but are not limited to:

- Dishonesty, corruption, bribery, fraud, money laundering or misappropriation of funds
- Offering or accepting a bribe
- Covering up fraud in financial reports
- Unsafe work practices
- Serious concerns about child safety, reportable conduct, or breaches of Child Safe Standards under Victorian law
- Not properly responding to a serious safety issue
- Insider trading
- Serious inappropriate or unethical conduct such as gross mismanagement or serious and substantial waste of company resources or repeated breaches of administrative procedures
- Taking or threatening to take detrimental action against a person who has made a disclosure or is suspected to have made, or planning to make a disclosure, and
- Deliberate concealment of information tending to show any of the matters listed above.

Generally, Wrongdoing does not include personal work-related grievances. Personal work-related grievances are generally managed under the Fair Work Act 2009 (Cth). However, they may still qualify for whistleblower protection if they reveal systemic misconduct, breaches of workplace law, or matters of significant organisational impact.



SOURCES AND RELATED POLICIES

SOURCES

- Australian Prudential Regulation Authority (APRA): www.apra.gov.au
- Australian Securities and Investments Commission (ASIC): www.asic.gov.au
- Your Call: <https://whistleblowing.com.au/>
- Not For Profit Law: <https://www.nfplaw.org.au/free-resources/how-to-run-the-organisation/whistleblower-protection-laws>

RELATED POLICIES

- Code of Conduct
- Compliments and Complaints
- Governance and Management of a Service



EVALUATION

In order to assess whether the values and purposes of the policy have been achieved, the approved provider will:

- regularly seek feedback from everyone affected by the policy regarding its effectiveness, particularly in relation to identifying and responding to child safety concerns
- monitor the implementation, compliance, complaints and incidents in relation to this policy
- keep the policy up to date with current legislation, research, policy and best practice
- revise the policy and procedures as part of the service's policy review cycle, or as required
- notifying all stakeholders affected by this policy at least 14 days before making any significant changes to this policy or its procedures, unless a lesser period is necessary due to risk (*Regulation 172 (2)*).



ATTACHMENTS

- Attachment 1. Making a whistleblower report



AUTHORISATION

This policy was adopted by the approved provider of Somerville Kindergarten on September 2025

REVIEW DATE: September 202