



MARIST CATHOLIC SCHOOL

PROCEDURE: **Protected Disclosure**

At Marist Catholic School we recognise and respect the sacred dignity of each person as made in the image of God. We therefore undertake to provide students, staff and visitors with a safe physical and emotional learning environment. In compliance with the Protected Disclosures Act 2000 and the Education Act 1989, the school accepts that it has a responsibility to have in operation internal procedures for receiving and dealing with information about serious wrongdoing in or by the school.

What is a Protected Disclosure?

A protected disclosure is a declaration made by an employee where they believe serious wrongdoing has occurred. Employees making disclosures will be protected against retaliatory or disciplinary action and will not be liable for civil or criminal proceedings related to the disclosure.

Definition of a Serious Wrongdoing

Serious wrongdoing includes any serious wrongdoing of any of the following type:

- An unlawful, corrupt or irregular use of funds or resources of a public sector organisation; or
- An act, omission or course of conduct that constitutes a serious risk to public health or public safety or the environment; or
- An act, omission or course of conduct that constitutes a serious risk to the maintenance of law, including the prevention, investigation and detection of offences and the right to fair trial; or
- An act, omission or course of conduct that constitutes an offence; or
- An act, omission or course of conduct by a public official that is oppressive, improperly discriminatory or grossly negligent, or that constitutes gross mismanagement;
- Whether the wrongdoing occurs before or after the commencement of this act.

Conditions for Disclosure

Before making a disclosure the employee should be sure the following conditions are met:

- The information is about serious wrongdoing in or by the school; and
- The employee believes on reasonable grounds the information to be true or is likely to be true; and
- The employee wishes the wrongdoing to be investigated; and
- The employee wishes the disclosure to be protected.

Who Can Make a Disclosure?

Any employee of the school can make a disclosure. For the purposes of this policy, an employee includes:

- Current employees and principal
- Former employees and principals
- Contractors supplying services to the school.

Protection of Employees Making Disclosures

An employee who makes a disclosure and who has acted in accordance with the procedure outlined in this policy:

- May bring a personal grievance in respect of retaliatory action from their employers;
- May access the anti-discrimination provisions of the Human Rights Act in respect of retaliatory action from their employers;
- Are not liable for any civil or criminal proceedings, or to a disciplinary hearing by reason of having made or referred to a disclosure;
- Will, subject to Clause 5 of the Procedure, have their disclosure treated with the utmost confidentiality.

The protections provided in this section will not be available to employees making allegations they know to be false or where they have acted in bad faith.

Procedure

Any employee of Marist Catholic School who wishes to make a Protected Disclosure should do so using the following procedure:

1. How to submit a disclosure

The employee should submit the Disclosure in writing.

2. Information to be contained

The Disclosure should contain detailed information including the following:

The nature of the serious wrongdoing

The name or names of the people involved

Surrounding facts including details relating to the time and/or place of the wrongdoing if known or relevant.

3. Where to send disclosures

A disclosure must be sent in writing to the principal who has been nominated by the board of Marist Catholic School under the provision of Section 11 of the Protected Disclosures Act 2000 for this purpose.

OR

If it is believed that the principal is involved in the wrongdoing or has an association with the person committing the wrongdoing that would make it inappropriate to disclose to them, then the disclosure can be made to the chairperson of the board of trustees.

4. Decision to investigate

On receipt of a disclosure, the principal must within 20 working days examine seriously the allegations of wrongdoing made and decide whether a full investigation is warranted. If warranted, a full investigation will be undertaken by the principal or arranged by him/her as quickly as practically possible, through an appropriate authority.

5. Protection of disclosing employee's name

All disclosures will be treated with the utmost confidence. When undertaking an investigation and when writing the report, the principal will make every endeavour possible not to reveal information that can

identify the disclosing person, unless the person consents in writing or if the person receiving the protected disclosure reasonably believes that disclosure of identifying information is essential:

- *To ensure an effective investigation*
- *To prevent serious risk to public health or public safety or the environment*

- *To have regard to the principles of natural justice.*

6. Report of investigation

At the conclusion of the investigation the principal will prepare a report of the investigation with recommendations for action if appropriate, which will be sent to one of the appropriate authorities listed below

7. Disclosure to an appropriate authority in certain circumstances

A Disclosure may be made to an appropriate authority (including those listed below) if the employee making the Disclosure has reasonable grounds to believe

- *The last resort person in the school, responsible for handling the complaint is or may be involved in the wrongdoing; or*
- *Immediate reference to another authority is justified by urgency or exceptional circumstances; or*
- *There has been no action or recommended action within 20 working days of the date of disclosure.*

Appropriate authorities include (but are not limited to):

- *Commissioner of Police*
- *Controller and Auditor General*
- *Director of the Serious Fraud Office*
- *Inspector General of Intelligence and Security*
- *Ombudsman*
- *Parliamentary Commission for the Environment*
- *Policy Complaints Authority*
- *Solicitor General*
- *State Service Commissioner*
- *Health and Disability Commissioner*
- *The head of every public sector organisation.*

8. Disclosure to Ministers and Ombudsman

A Disclosure may be made to a Minister or Ombudsman if the employee making the Disclosure:

- *Has made the same Disclosure according to the internal procedures and clauses of this policy.*
- *Reasonably believes that the person or authority to whom the disclosure was made:*
 - *has decided not to investigate; or*
 - *has decided to investigate but not made progress with the investigation within reasonable time; or*
 - *has investigated but has not taken or recommended any action; and*
 - *continues to believe on reasonable grounds that the information disclosed is true or is likely to be true.*