

Mazenod College is committed to observing the highest standards of ethical behaviour, integrity and accountability in delivering its services. It is committed to developing a culture and systems that support transparency in decision making, and maintaining a high standard of corporate governance.

This Whistleblower Policy forms part of the College's risk management framework, which includes Mazenod's Risk Management Policy, and other associated risk and compliance processes and policies. Whistleblowers play a vital role in helping the College identify wrongdoing that may not be uncovered unless there is a safe and secure means for disclosing wrongdoing.

## 1. Purpose

1.1 This Whistleblower Policy:

- outlines the College's obligations and processes for dealing with disclosures by individuals of serious concerns about 'misconduct' or 'improper state of affairs or circumstance' within the College so that appropriate action can be taken
- encourages and facilitates the disclosure (either openly or anonymously) by staff, suppliers, contractors, students, parents, volunteers, and other key stakeholders within the Mazenod community without fear of intimidation or retaliation
- addresses the protections of individuals making the disclosure.

## 2. Rationale

2.1. Protections for whistleblowers is required by law and is a way of encouraging people to speak up about serious concerns about College operations by ensuring that they are protected from retaliation, victimisation or harassment in any form. Various legislation, including the *Taxation Administration Act 1953* and the *Corporations Act 2001 - Treasury Laws Amendment (Enhancing Whistleblower Protections) Act 2019*, (Corps Act) makes it a criminal offence to disclose the individual's identity (where the disclosure of their identity is not authorised) and victimise a whistleblower who has made a qualifying disclosure. Whistleblowing occurs outside of other internal reporting channels.

2.2. This policy is designed to complement other internal resolution, communication and reporting channels at the College. To assist with determining which policy is best suited to your concern, refer to the following:

- **Child Protection Policy and Child Protection Framework** which is designed to develop a strong culture of child protection within the College and sets out the legislative requirements for select groups of people to report all reasonable beliefs of child sexual abuse to appropriate authorities. Any concerns that fall within the scope of the Child Protection Policy must be dealt with in accordance with that policy.
- **Code of Conduct** which describes the minimum standards of conduct in all behaviour and decision making to ensure the safety and well-being of students. Breaches of the code must be notified to the Principal and it is a breach of the code not to do so.
- **Community - Disputes and Complaints Resolution Policy** which is designed to deal with disputes or complaints that may arise which, in general terms, deal with less serious concerns and do not rise to the level of illegality, fraud, or other serious misconduct.
- **Harassment, Discrimination, Bullying and Victimisation Policy** which is designed to deal with instances where a staff member feels they have been subjected to bullying, discrimination, victimisation or harassment. Resolution procedures include both informal and formal complaint procedures.

Personal work-related grievances (such as interpersonal conflict between discloser and another employee, standards of behaviour, a decision about the engagement or promotion of the discloser, or concerns that relate to individual working arrangements) are expressly excluded from the Corps Act and therefore do not fall under the remit of this Whistleblower Policy. Concerns of this nature should be raised with line managers, Deputy Principals or Principal.

### 3. Principles

- 3.1. Mazenod College is committed to operating with the highest ethical and legal standards and will not tolerate wrongdoing within the College.
- 3.2. The College encourages the early identification and reporting of misconduct that may cause financial or non-financial loss to the College, cause substantial risk to the environment or public health and safety, or damage its reputation.
- 3.3. The College is committed to supporting and protecting persons who have reasonable grounds to suspect that information in their disclosure concerns misconduct or an improper state of affairs or circumstance. This includes 'eligible whistleblowers' as defined by the Corps Act and other key stakeholders such as parents, students, staff from other schools and other key stakeholders.
- 3.4. The College will not tolerate harassment, intimidation, retaliation or victimisation of individuals making a disclosure in relation to this Whistleblower Policy.
- 3.5. Reported allegations will be treated confidentially to the greatest extent possible, will be promptly investigated, and information provided will be stored securely.

### 4. Definitions

- 4.1. **Whistleblower** is a discloser who has made a disclosure that qualifies for protection under the Corporation Act and Taxation Administration Act.
- 4.2. **Disclosures qualifying for protection under the Act** (Corps Act s 1317AAA)  
A disclosure of information by an individual qualifies for protection under the Corps Act if:
  - 4.2.1. the disclosure is made by an '**eligible whistleblower**' in the relation to the College; and
  - 4.2.2. they have made a disclosure of information relating to a '**disclosable matter**' directly to an '**eligible recipient**'.
- 4.3. **Eligible whistleblower** (Corps Act s 1317AAA) is an individual who is, or has been, any of the following in relation to the College:
  - 4.3.1. an officer or employee (e.g. current and former employees who are permanent, part-time, fixed-term or temporary, interns, secondees, managers, and directors)
  - 4.3.2. a supplier of services or goods to the College (whether paid or unpaid), including their employees (e.g. current and former contractors, consultants, service providers and business partners)
  - 4.3.3. an individual who is an associate of the College
  - 4.3.4. a relative, dependant or spouse of an individual referred to in any dot point above.

For the purposes of this policy, the College extends its procedures and protections to parents, students, and other key stakeholders within the College community.
- 4.4. **Disclosable matters** involve information that the discloser has reasonable grounds to suspect concerns **misconduct** or an **improper state of affairs or circumstance**. Examples could potentially include:<sup>1</sup>
  - 4.4.1. fraud, negligence, misappropriation of funds, financial irregularities
  - 4.4.2. offering or accepting a bribe
  - 4.4.3. breach of trust or breach of duty

<sup>1</sup> Australian Securities and Investment Commission, Regulatory Guide 270, RG 270.55

- 4.4.4. illegal conduct, such as theft, criminal damage to property, dealing in, or use of illicit drugs, violence or threatened violence
- 4.4.5. gross mismanagement or waste of resources
- 4.4.6. failure to comply with, or breach of, legal or regulatory requirements, causes substantial risk to the environment or public health and safety
- 4.4.7. unethical or dishonest behaviour including (for example) altering College records or data, or disclosing personal or confidential information
- 4.4.8. causes financial loss to the College
- 4.4.9. may damage the College reputation or interests
- 4.4.10. 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.

- 4.5. **Detrimental conduct** (Corps Act s 14ZZZAA) may include any of the following: dismissal of an employee; injury of an employee in his or her employment; alteration of an employee's position or duties to their disadvantage; current or future bias; discrimination; harassment or intimidation; harm or injury to a person (including psychological harm); damage to a person's property; damage to a person's reputation; damage to a person's business or financial position; any other damage to a person.

It is not considered detrimental conduct where a discloser's unsatisfactory work performance is managed in line with the College's performance management framework.

- 4.6. **Eligible recipient** A disclosure of information by an individual qualifies for protection under the Corps Act if it is made to an eligible recipient, including: (a) an officer or senior manager of the body corporate or a related body corporate; (b) an auditor, or a member of an audit team conducting an audit, of the body corporate or a related body corporate; (c) an actuary of the body corporate or a related body corporate; (d) a person authorised by the body corporate to receive disclosures that may qualify for protection.

## 5. Procedures

### 5.1. Seeking advice

Prior to a disclosure, it is beneficial to seek independent, confidential and objective advice on the matter to help determine whether the Whistleblowing process is the most appropriate avenue to report the issues. The Protection Officer (identified below) can initially provide general advice confined to explanation of the College policies and help the whistleblower understand their rights and responsibilities. The College cannot provide the whistleblower with legal advice.

### 5.2. Deliberate and false disclosure accusations

A whistleblower must have reasonable grounds to suspect that reportable conduct has occurred. In circumstances where a person makes a baseless report or deliberately discloses false information, or the investigation shows that the allegation was reckless or malicious, the whistleblower is not afforded any protections under the Corps Act. The College will also consider taking appropriate disciplinary or legal action.

If a whistleblower makes a disclosure in good faith but following investigation it is not confirmed, the matter will be closed and no further action taken.

### 5.3. Anonymous allegation

A discloser can choose to remain anonymous while making a disclosure, over the course of the investigation and after the investigation is finalised. It is important to note, however, that anonymous disclosures are more difficult to investigate as they generally fail to disclose sufficient information to start or adequately complete an investigation. Informants are encouraged to put their name to allegations whenever possible so a more thorough investigation can occur.

The College is committed to protecting a whistleblower from victimisation or detrimental conduct. If an anonymous allegation is made, it is preferable that the report be made in writing, including date(s) and sufficient information relevant to the allegation to allow for a comprehensive investigation. The discloser is also encouraged to establish and maintain two-way communication with the College, so the College can ask follow up questions or provide feedback.

*Learn what you are in the eyes of God.*

#### 5.4. How to make a whistleblower report

A person who has reasonable grounds to suspect that information in their disclosure concerns misconduct or improper state of affairs or circumstance in regard to the College's operations should report the concern to one of the following *eligible recipients*:

*Principal (Protection Officer)*: If the concern involves any allegation of misconduct by or with the knowledge of the College Board, member of the College Leadership Team, or College Oblates the report should be made to the Principal.

*Chair of the College Board*: If the concern involves any allegation of misconduct by or with the knowledge of the Principal, then the report should be made to the Chair of the College Board.

#### 5.5. Reporting process

Options for individuals in making a report of suspected serious misconduct include face to face meeting or correspondence:

Contact: **Protection Officer** - Andrew Watson, Principal  
Phone: (08) 9291 1500  
Email: [watson.andrew@mazenod.wa.edu.au](mailto:watson.andrew@mazenod.wa.edu.au)  
Regular post: Protection Officer - Andrew Watson, Principal  
Private and Confidential  
55 Gladys Road, LESMURDIE WA 6076

Reports to the **Chair of the College Board** can be made as follows:

Regular mail: Chair of the Mazenod College Board  
Private and Confidential  
55 Gladys Road, LESMURDIE WA 6076

#### 5.6. Obligation of the Protection Officer (Principal / Chair of the College Board)

The Protection Officer will, where appropriate:

- 5.6.1. acknowledge receipt of the allegation and make a comprehensive record of the disclosure
- 5.6.2. discuss the rights, responsibilities and support available to the whistleblower
- 5.6.3. take reasonable steps to protect the identity of the whistleblower
- 5.6.4. outline the timeframes and process that will be followed in dealing with the allegation
- 5.6.5. advise whether further enquiries will be made under the Whistleblower Policy or whether the concern may be best dealt with under another process
- 5.6.6. advise how the whistleblower will be kept updated through the key stages, including when the investigation has begun, during the process and when the investigation has been finalised. Noting, for confidentiality reasons, minimal information will be provided during the course of the review or investigation.
- 5.6.7. refer to an external authority for advice or immediate action
- 5.6.8. inform the Chair of College Board of the disclosure.

#### 5.7. Investigation of disclosures

The College is committed to investigating all eligible whistleblower reports. The Protection Officer may delegate the investigation depending on the circumstance and type of investigation required.

##### 5.7.1. Timeframe for initial response

The Protection Officer will respond to the whistleblower within five working days, where appropriate and possible.

##### 5.7.2. Investigation type

All eligible disclosures will be subject to investigation by a suitable Investigation Officer. The type (nature and scope) of investigation will be determined by the Protection Officer and will be identified subject to circumstance to ensure the investigation is prompt and impartial. Where appropriate, the investigation may be conducted by a person within and/or outside the College. The investigator may seek assistance with regard to relevant expertise, either internal or external to the College.

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### 5.7.3. Appropriate manner

Investigations will be objective, fair and independent, while preserving the confidentiality of the investigation. To ensure fairness and independence, the investigation will be independent of the discloser, the individuals who are subject of the disclosure and the department or business unit involved.

The College will ensure fair treatment of individuals mentioned in the disclosure (where applicable). The subject matter will be made known to the person who is responsible for and/or the subject of the disclosure, prior to any action taken, so that they are given opportunity to respond to the matter.

### 5.7.4. Record keeping

A record of steps taken in the investigation, including correspondence and critical decisions made will be maintained in a confidential and secure manner in line with College Records Management processes.

## 5.8. Protections for whistleblowers (RG 270.87 – 270.105)

A whistleblower who has not engaged in misconduct or illegal activity will be safeguarded from disciplinary proceedings, detrimental conduct and victimisation. Protections apply not only to internal disclosures, but to disclosures to legal practitioners, regulatory and other external bodies, and public interest and emergency disclosures that are made in accordance with the Corps Act.

### 5.8.1. Identity protection (confidentiality)

The College is committed to preserving the confidentiality of the identity of the whistleblower, the identity of the person who is subject to the disclosure and the investigation of the disclosure.

Mechanisms for protecting the confidentiality of a discloser's identity include: all personal information or references to the discloser witnessing an event will be redacted; the discloser will be referred to in a gender-neutral context; all communication, documents and records will be managed in a secure manner; access to information relating to a disclosure will be limited to those directly involved in the managing and investigating the disclosure; and each person involved in handling and investigating the disclosure will be reminded about confidentiality requirements.

However, the need to conduct a thorough investigation into the disclosure, take consequential disciplinary action or corrective procedures, could reveal the source of the information. In situations where the identity of the whistleblower is likely to be revealed, the whistleblower will be consulted prior to proceeding. In circumstances where the serious nature of the disclosure requires the investigation to continue, or is required by law, consideration will be given to what steps can be implemented to limit disclosure and protect relevant parties.

### 5.8.2. Protection from detrimental acts or omissions

Processes for assessing the risk of detriment against a discloser will commence as soon as possible after receiving a disclosure. Where applicable, the College will implement strategies and take actions to protect the discloser from risk of detriment.

The College will not tolerate harassment or victimisation of a whistleblower raising concerns in accordance with this policy and will take all reasonable steps to protect the whistleblower from any detrimental action. A staff member who is found to have subjected a whistleblower to detrimental action will be subject to disciplinary action.

A *whistleblower* who reports a *disclosable matter* is entitled to protections under the Corps Act and must not be subject to detrimental conduct or victimisation. Where a court is satisfied that a person who engages in detrimental conduct does so in connection with their position as an employee, the court may order that the employee or employer or both pay compensation, or other remedies such as substantial fines or jail time.

### 5.8.3. Compensation and other remedies

A discloser can seek compensation through the courts and other remedies through the courts if:

- (a) they suffer loss, damage or injury because of a disclosure; and
- (b) the College failed to take reasonable precautions and exercise due diligence to prevent the detrimental conduct.

It is recommended that independent legal advice is sought in regard to compensation and other remedies.

### 5.8.4. Civil, Criminal and administrative liability protection

A discloser is protected from civil liability, criminal liability and administrative liability in relation to their disclosure.

Protections do not grant immunity for any misconduct a discloser has engaged in that is revealed in their disclosure.

## 6. Legislation and Regulations

*Amendment of the Corporations Act 2001 - Treasury Laws Amendment (Enhancing Whistleblower Protections) Act 2019, No. 10, 2019*

*Taxation Administration Act 1953, Part IVD Protections for Whistleblowers*

*Australian Securities and Investments Commission Regulatory Guide 270 Whistleblowers policies, November 2019*

## 7. Acknowledgment and References

Mazenod acknowledges that the following source was reviewed in preparation of this Policy and that this policy draws on sections of the following:

*Australian Securities and Investments Commission Regulatory Guide 270 Whistleblowers policies, November 2019, RG 270.1 – RG 270.160*

### Mazenod College Policies

Code of Conduct  
Child Protection Policy  
Community - Disputes and Complaints Resolution Policy  
Harassment, Discrimination, Bullying and Victimization Policy  
Privacy Policy  
Risk Management Policy

## 8. Maintenance, Review and Improvement

This policy will be made available to staff via the Staff Handbook, Policy Plus portal and through staff training.

Following an eligible disclosure and investigation, a delegate will review whether the College policy, procedures and processes were adhered to.

Mazenod may amend this policy at any time to ensure continuous improvement. The policy will be subject to review every three years by the College Board, or earlier if there has been a change in legislation.

Year	Reviewed by:	Amendments / Review
NOV 2019	College Board	Initial policy approval