

# Whistleblower Protection Policy



## POLICY STATEMENT

Manly Warringah Montessori Society T/A Farmhouse Montessori School is committed to the aims and objectives of the Whistleblowers Protection Act 2001 and recognises the value in developing and fostering a culture of corporate compliance, ethical behaviour and good corporate governance following the release of the Regulatory Guide 270 issued by ASIC in November 2019.

The School also recognises the value of transparency and accountability in its administrative management practices and supports the making of disclosures that reveal improper conduct, fraudulent activity, or mismanagement of the school's resources. This policy is applicable to all Manly Warringah Montessori Society-T/A Farmhouse Montessori School employees, Directors and Officers and related parties.

Manly Warringah Montessori Society T/A Farmhouse Montessori School also requires its directors, officers and employees to comply with all applicable laws and regulations as well as internal policies, including those relating to corporate reporting and disclosure, accounting and auditing controls and procedures, securities compliance and other matters pertaining to any government required information. Every employee has a responsibility to assist the school in meeting these requirements. The school does not report to ASIC we report to ACNC.

## NATIONAL QUALITY STANDARD (NQS)

QUALITY AREA 2: CHILDREN'S HEALTH AND SAFETY		
2.2.3	Child Protection  Child Safety and Protection	Management, educators and staff are aware of their roles and responsibilities to identify and respond to every child at risk of abuse or neglect.  Management, educators and staff are aware of their roles and responsibilities regarding child safety, including the need to identify and respond to every child at risk of abuse or neglect.
QUALITY AREA 4: STAFFING ARRANGEMENTS		
4.2.1	Professional collaboration	Management, educators and staff work with mutual respect and collaboratively, and challenge and learn from each other, recognising each other's strengths and skills.
4.2.2	Professional standards	Professional standards guide practice, interactions and relationships.
QUALITY AREA 7: GOVERNANCE AND LEADERSHIP		
7.1	Governance	Governance supports the operation of a quality service that is child safe.
7.1.2	Management systems	Systems are in place to manage risk and enable the effective management and operation of a quality service that is child safe.
7.2	Leadership	Effective leadership builds and promotes a positive organisational culture and professional learning community.

EDUCATION AND CARE SERVICES NATIONAL LAW AND NATIONAL REGULATIONS	
S. 3A	Paramount consideration [NSW]
S.5AA	Meaning of inappropriate conduct
S. 162A	Offence relating to child protection training [NSW]
S. 166A	Offence to subject child to inappropriate conduct [NSW]
S. 174AA	Educators and other staff members of education and care service to notify certain information [NSW]
Division 7	Serious detrimental action
S. 300E	Requirement for policy about protected disclosures [NSW]
84	Awareness of child protection law
168	Education and care services must have policies and procedures
170	Policies and procedures to be followed
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## PURPOSE

The purpose of this policy is to:

- Create awareness of the Whistleblower Policy and Whistleblower Protection.
- Help detect and address unacceptable behaviour or improper conduct.
- Provide employees of Manly Warringah Montessori Society T/A Farmhouse Montessori School with a supportive work environment in which they feel able to raise issues of legitimate concern.
- Provide employees with an avenue for reporting unacceptable or improper conduct.
- Protect individuals who report unacceptable or improper conduct in good faith.
- Improve the communication and transparency in the processes associated with whistleblowing and its consequences, namely reprisals and detrimental action
- Enhance perception and the reality that The Farmhouse Montessori is taking its governance obligations seriously.
- This policy applies to the farmhouse Montessori School to ensure individuals who disclose wrongdoing in relation to the school can do so safely, securely and with confidence that they will be protected and supported.
- This policy will be published on the school website and made available to all Board Members and employees.

## SCOPE

This policy does not replace existing School policies and procedures. This policy is to be followed only if an employee elects to make a disclosure of suspected or alleged corrupt or improper conduct and seeks protection under the Act.

Employees are reminded that the terms of their employment include an obligation to ensure that they act in accordance with the Farmhouse Montessori Philosophy, the School's Code of Conduct and the School's policies and procedures.

Farmhouse Montessori School will not tolerate the following behaviour by employees:

- Conduct or practices which are illegal or breach any law, regulation or code of conduct applicable to Farmhouse Montessori.
- Dishonest, Fraudulent, or Corrupt practices.
- Misleading and/or deceptive conduct of any kind including, but not limited to, conduct or representations which amount to improper or misleading accounting or financial reporting practices either by or affecting the school.
- Situations within the School's control, or outside the School's control, which pose a danger to the health and safety of any person or child.
- Situations that are a significant danger to public health and safety or to the environment.
- Situations that may cause financial loss to clients and/or Manly Warringah Montessori Society T/A Farmhouse Montessori School or damage to their name or reputation or be otherwise detrimental to clients' and/or Farmhouse Montessori's interests.
- Acts that involve any other kind of serious impropriety.

Manly Warringah Montessori Society T/A Farmhouse Montessori School will take all reasonable steps and do all things necessary to protect those who make protected disclosures from any detrimental action in reprisal for the making of the disclosure. The school will also deal fairly with employee(s) who are the subject of the disclosure.

Manly Warringah Montessori Society T/A Farmhouse Montessori School is committed to implementing 'best practice' policies and procedures for dealing with allegations of suspected improper activity and the management (and protection) of the individual(s) making the allegation. This policy is therefore subject to review and change from time to time, at the discretion of the Manly Warringah Montessori Society T/A Farmhouse Montessori School Board.

## IMPLEMENTATION

### Management/Nominated Supervisor will ensure:

#### School Board will ensure:

An entity's board is ultimately responsible, for the entity's whistleblower policy, as part of the entity's broader risk management and corporate governance framework. It is important for an entity's board (either directly or through its audit or risk committee) to ensure that the broader trends, themes and/or emerging risks highlighted by the disclosures made under its policy are addressed and mitigated by the entity as part of its risk management and corporate governance work plans

#### Good Faith

If an employee raises a genuine concern under this policy, he or she will not be at risk of losing their job, nor will they suffer any form of detrimental action as a result. As long as the employee is acting in good faith. That means under this policy, a disclosure must be honest and genuine, and motivated by wanting to disclose misconduct. It does not matter if they are mistaken. The disclosure will not be 'in good faith' if employees have any other secret or unrelated reason for making the disclosure.

#### How The Whistleblowing Policy Differs From The Grievance Procedure

This policy does not apply to raising grievances about an employee's personal situation. These types of concern are covered by Manly Warringah Montessori Society-T/A Farmhouse Montessori Schools grievance procedure.

The whistleblowing policy is primarily concerned with where the interests of others or of this organisation itself are at risk. It may be difficult to decide whether a particular concern should be raised under the whistleblowing policy or under the grievance procedure or under both.

If an employee has any doubt as to the correct route to follow, the school encourages the concern to be raised under this policy and the Principal will decide how the concern should be dealt with. If the concern is about the Principal, this concern is to be directed to the School Board Chairman

### Related Policies

- Disclosures about reportable conduct will be addressed in accordance with the school's *Child Protection Policy*.
- Disclosures regarding a grievance between staff members about work matters, including work relationships and decision made by other staff members which impact on their work, or complaints or allegations of staff misconduct that do not meet the criteria of a whistleblowing disclosure may be addressed in accordance with the school's *Grievance Complaint Policy-Staff*.
- Unlawful discrimination, harassment or bullying complaints may be addressed in accordance with the school's *Bullying, Discrimination, and Harassment Policy*.

### DEFINITIONS

#### Whistleblowing

For the purpose of this policy, whistleblowing is defined as:

“the deliberate, voluntary disclosure of individual or organisational malpractice by a person who has or had privileged access to data, events or information about an actual suspected or anticipated wrongdoing within or by an organisation that is within its ability to control”.

The term whistleblowing encompasses any disclosure or attempted disclosure of improper conduct by any employee, director or related officer of Manly Warringah Montessori Society T/A Farmhouse Montessori School regarding any other employee, director or related officer within the organisation.

#### Whistleblower

For the purpose of this policy, a whistleblower is defined as:

“any employee, director or related officer of Manly Warringah Montessori Society T/A Farmhouse Montessori School, who makes or attempts to make a disclosure”.

#### Criteria for protection as a whistleblower under the law

You can access the legal rights and protections for whistleblowers in the Corporations Act if you meet the definition of an ‘eligible whistleblower’.

These criteria seek to include most people with a connection to a company or organisation who may be in a position to observe or be affected by misconduct and may face reprisals for reporting it. These people can access the rights and protections in the law from when they report misconduct. The protections also extend to the spouses and relatives of these people.

Whistleblowers can provide their name and contact details when they report. They can also report anonymously.

There is no formal registration process for whistleblowers; the protections apply to anyone who meets the criteria.

Please check the ASIC website for more information about the criteria.

#### Employee

For the purpose of this Policy, “employee” means a director, officer or employee of, or a consultant to, Manly Warringah Montessori Society T/A Farmhouse Montessori School. It should be noted that this policy is meant to be read in tandem with, and to compliment, other existing internal policies of the School. It is in no way meant to supersede or replace any other such policies or the provisions contained in them, including Manly Warringah Montessori Society T/A Farmhouse Montessori School's Code of Conduct. In addition, this Policy is in no way meant to remove or limit any recourse which is available to an employee of the School, or the Company, under any applicable laws.

## Improper Conduct

For the purpose of this policy, improper conduct is defined as:

- corrupt conduct;
- fraudulent activity;
- a substantial mismanagement of Farmhouse Montessori resources;
- conduct involving substantial risk to public health or safety; or
- conduct involving substantial risk to the company and / or environment, that would, if proven, constitute:
  - a criminal offence;
  - reasonable grounds for dismissing or dispensing with, or otherwise terminating the services of a Farmhouse Montessori employee who was, or is, engaged in that conduct; or
  - reasonable grounds for disciplinary action.

## Fraud

For the purpose of this policy, fraud is defined as:

“the unlawful and intentional making of a misrepresentation or inducement of a course of action by deceit or other dishonest conduct, involving acts or omissions or the making of false statements, orally or in writing, with the object of obtaining money or other benefits from or evading a liability to The Farmhouse Montessori”.

Dishonest or fraudulent activities include, but are not limited to, the following:

- Forgery or alteration of documents (cheques, promissory notes, time sheets, agreements, purchase orders, budgets, etc).
- Misrepresentation of information on documents.
- Misappropriations of funds, securities, supplies or any other asset.
- Theft, disappearance, or destruction of any asset.
- Improprieties in the handling or reporting of money transactions.
- Authorising or receiving payments for goods not received or services not performed.
- Authorising or receiving payment for hours not worked.
- Any violation of Federal, State, or local laws related to dishonest activities or fraud.
- Any similar or related activity.

## Corruption

For the purpose of this policy, corruption is defined as:

“the intentional promise, offer, or gift by any person, directly or indirectly, of an advantage of any kind whatsoever to a person, as undue consideration for themselves, or for anyone else, to act or refrain from acting in the exercise of their functions, or the intentional request or receipt by a person, directly or indirectly, of an undue advantage of any kind whatsoever, for themselves or for anyone else, or the acceptance of offers or promises of such advantages to act or refrain from acting in the exercise of their functions”.

All acts are to be regarded as corruption which involve a person in a position to make decisions using his/her power in that field not in the interest of the organisation he/she represents but to promote his/her personal goals.

## Protected/Qualifying Disclosure

For the purpose of this policy, protected disclosure is defined as:

“any good faith communication that discloses or demonstrates an intention to disclose information that may evidence (1) an improper activity or (2) any condition that may significantly threaten the health or safety of employees or the public if the disclosure or intention to disclose was made for the purpose of remedying that condition”.

A qualifying disclosure is when an eligible whistleblower makes a disclosure to an eligible recipient, and the eligible whistleblower has reasonable grounds to suspect that the information concerns a disclosable matter

### Detrimental Action

For the purpose of this policy, detrimental action is defined as:

- action causing injury, loss or damage.
- intimidation or harassment; and
- discrimination, disadvantage or adverse treatment in relation to a person's employment, career, profession, trade or business, including the taking of disciplinary action.

### Employee

For the purpose of this policy, employee is defined as:

“any staff member who receives compensation, either full or part time, from Manly Warringah Montessori Society T/A Farmhouse Montessori School”.

### Protected Disclosure -All Farmhouse Montessori Employees

All Farmhouse Montessori employees are encouraged, and have the responsibility to, report any known or suspected incidences of improper activity or detrimental action in accordance with this policy.

All employees of Manly Warringah Montessori Society T/A Farmhouse Montessori School also have an important responsibility concerning the welfare of the whistleblower within the organisation. All employees must refrain from any activity that is, or could be perceived to be, victimization or harassment of a person who makes a disclosure. All employees must not, under any circumstance, engage in any activity that would constitute detrimental action

**(as defined by this policy).**

### WHO CAN MAKE A QUALIFYING DISCLOSURE?

#### Eligible whistleblowers-or Discloser

An eligible whistleblower is an individual who is or has been any of the following, in relation to the school:

- a Board member;
- an employee;
- a person who supplies goods or services (paid or unpaid);
- an employee of a person who supplies goods or services (paid or unpaid);
- an individual who is an associate of the School (as defined in the Corporations Act); and
- a relative or dependent (or dependents of a spouse) of any individual described above.

#### Anonymous disclosures

A disclosure can be made anonymously and still be protected under the *Corporations Act*. A discloser can choose to remain anonymous while making a disclosure, over the course of the investigation and after the investigation is finalised.

However, this may make it difficult to investigate the reported matter. The school therefore encourages disclosers to provide their names.

If a discloser wishes to disclose anonymously, the discloser should provide sufficient information to allow the matter to be properly investigated. The school encourages the discloser to provide an anonymous email address through which additional questions can be asked and information provided. It will also allow the school to report the progress of the investigation to the discloser, as appropriate.

### WHO CAN RECEIVE A QUALIFYING DISCLOSURE

#### Eligible recipients

An eligible recipient is an individual who occupies any of the following roles, in relation to the school:

- a Current Board member.
- School Principal
- Authorised Supervisor of Nth Balgowlah campus

### Making a qualifying disclosure

While an eligible whistleblower can make a disclosure directly to any eligible recipient, the School encourages them to make a disclosure in writing to the Principal, via email at [principal@farmhousemontessori.nsw.edu.au](mailto:principal@farmhousemontessori.nsw.edu.au).

If it is not appropriate for the disclosure to be made to the Principal, the eligible whistleblower is encouraged to make the disclosure, in writing, to the Chair of the Board.

Where a disclosure is made to an eligible recipient who is not the Principal, then subject to the confidentiality protections set out below, it will generally be passed onto the Principal and dealt with in accordance with the section Investigating a qualifying disclosure below.

- in person
- in writing (letter or email)
- by telephone
- anonymously
- through a legal practitioner

When making a disclosure, the whistleblower should provide:

- description of the conduct or issue
- names of persons involved
- dates, times and locations
- any witnesses
- supporting documentation or evidence
- contact details (unless anonymous)

### FALSE OR MALICIOUS DISCLOSURES

While protection extends to incorrect disclosures made within reasonable grounds, deliberately false or malicious reports will be treated seriously and may result in:

- disciplinary action
- termination of employment
- legal action
- referral to authorities

### EXTERNAL DISCLOSURES

Disclosures may also qualify for protection if they are made to ASIC, APRA or a prescribed Commonwealth authority, or if an eligible whistleblower makes a disclosure to a legal practitioner to obtain advice about the operation of the whistleblower provisions.

Eligible whistleblowers who make a 'public interest disclosure' or an 'emergency disclosure' also qualify for protection.

## NSW ECEC Regulatory Authority

o 1800 619 113

email: [ececd@det.nsw.edu.au](mailto:ececd@det.nsw.edu.au)

## Independent Commission Against Corruption (ICAC)

o 1800 463 909

[www.icac.nsw.gov.au](http://www.icac.nsw.gov.au)

## NSW Ombudsman

o 1800 451 524

[www.ombo.nsw.gov.au](http://www.ombo.nsw.gov.au)**Public interest disclosures**

An eligible whistleblower can disclose to a member of Parliament or a journalist only if the information has been previously disclosed to ASIC, APRA or a prescribed Commonwealth authority, and:

- at least 90 days has passed since the eligible whistleblower made the first disclosure to ASIC, APRA or a prescribed Commonwealth authority; and
- the eligible whistleblower does not have reasonable grounds to believe action is being, or has been, taken to address the information in the disclosure; and
- before making the disclosure, the eligible whistleblower gives written notice to the original recipient that includes sufficient information to identify the previous disclosure and states that they intend to make a public interest disclosure; and
- the extent of information disclosed is no greater than necessary to inform the recipient of the disclosable matter.

An eligible whistleblower may wish to consider obtaining independent legal advice before making a public interest disclosure.

**Emergency disclosures**

An eligible whistleblower can disclose to a member of Parliament or a journalist only if the information has been previously disclosed to ASIC, APRA or a prescribed Commonwealth authority, and :

- the eligible whistleblower 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
- before making the disclosure, the eligible whistleblower gives written notice to the original recipient that includes sufficient information to identify the previous disclosure and states that they intend to make an emergency disclosure; and
- the disclosure of information is no greater than necessary to inform the recipient of the substantial and imminent danger.

An eligible whistleblower may wish to consider obtaining independent legal advice before making an emergency disclosure.

**INVESTIGATING A QUALIFYING DISCLOSURE****Receiving a disclosure**

Upon receiving a disclosure, the recipient (generally the Principal or Chair of the Board) will assess the disclosure to determine whether it qualifies for protection under the *Corporations Act* and is to be managed in accordance with this policy (qualifying disclosure).

- acknowledge receipt of a disclosure within 5 business days (where the discloser can be contacted)
- assess whether the disclosure qualifies for protection under relevant legislation
- determine appropriate investigation procedures while maintain confidentiality
- take all reasonable steps to protect the discloser from detrimental action
- ensure procedural fairness for any person mentioned in a disclosure
- document all disclosures, investigations and outcomes securely and confidentiality

### Investigating a qualifying disclosure

The School will acknowledge receipt of a disclosure within a reasonable period, assuming the 'eligible whistleblower' can be contacted (including through anonymous channels). The School will assess disclosures to determine whether:

- they fall within the Whistleblower Protection Scheme; and
- an investigation is required – and if so, how that investigation should be carried out.

Generally, if an investigation is required, the School will determine:

- the nature and scope of the investigation;
- who should lead the investigation – including whether an external investigation is appropriate;
- the nature of any technical, financial or legal advice that may be required to support the investigation; and
- the anticipated timeframe for the investigation. Each investigation will be different which will impact the applicable timeframe. However, the School's intent is to complete an investigation as soon as practicable.

Where practicable, the School will keep the eligible whistleblower informed of the steps taken or to be taken (or if no action is to be taken, the reason for this), and provide appropriate updates, including about the completion of any investigation. However, the extent of the information provided, or whether it will be provided at all, will be subject to applicable confidentiality considerations, legal obligations and any other factors the School considers relevant in the particular situation.

The School may not be able to undertake an investigation, or provide information about the process etc, if it is not able to contact the eligible whistleblower, for example, if a disclosure is made anonymously and has not provided a means of contact.

Where practicable, whistleblowers will receive updates about when the investigation has begun, while the investigation is in progress and after the investigation has been finalised. The frequency and timeframe of any updates may vary depending on the nature of the disclosure. The School will also have regard to confidentiality considerations when providing updates.

### DISCLOSABLE MATTERS THAT QUALIFY FOR PROTECTION

#### Disclosable matters

- A disclosable matter is a disclosure of information where the eligible whistleblower has reasonable grounds to suspect that the information relating to the School or a related company concerns:
  - misconduct;
  - an improper state of affairs or circumstances;
  - illegal activity (including conduct of officers and employees) – meaning activity in breach of the Corporations Act or specified financial services legislation, or an offence against any law of the Commonwealth punishable by imprisonment of 12 months or more; or
  - conduct (including conduct of officers and employees) that represents a danger to the public or financial system.

This may include any conduct in relation to the operation of the school that involves:

- fraudulent activity;
- negligence;
- unlawful or corrupt use of school funds;
- breach of duty;
- improper accounting or financial reporting practices;
- systemic practices that pose a serious risk to the health and safety of any person on school premises or during school activities.

If a disclosure is not about a disclosable matter, it will not qualify for whistleblower protection under the *Corporations Act*.

#### Reasonable grounds to suspect

Whether a discloser would have 'reasonable grounds to suspect' is based on the reasonableness of the reasons for the discloser's suspicion, having regard to all the circumstances when considered objectively.

If a disclosure is made without 'reasonable grounds to suspect', the disclosure will not be a qualifying disclosure and the discloser will not have the protections provided for under this policy and the Corporations Act. Any deliberate false reporting will be regarded very seriously.

A discloser can still qualify for protection even if their disclosure turns out to be incorrect.

### WHISTLEBLOWER PROTECTION PROCEDURES

#### Protection of information provided by whistleblowers -

You can ask the school or organisation that receives your whistleblower report to keep your identity, or information that is likely to lead to your identification, confidential. Generally, companies and organisations that receive your report cannot disclose this information without your consent. However, they may report the information to ASIC, APRA, or the Australian Federal Police, or to a lawyer for advice about the whistleblower protections.

It is illegal for a person to reveal the identity of a whistleblower, or information likely to lead to the identification of whistleblower, outside of these circumstances. ASIC can investigate allegations from a whistleblower that their confidentiality has been breached following their report.

In a company's or organisation's investigation of the concerns raised in your report, the company or organisation must take reasonable steps to ensure that information likely to lead to your identification is not disclosed without your consent. However, the company or organisation may face difficulties investigating or internally addressing or correcting the misconduct unless you provide some approval for the company or organisation to use your information. Further information about whistleblower policies is available from Regulatory Guide 270 *Whistleblower policies* ([RG 270](#)).

#### Confidentiality & Records

Manly Warringah Montessori Society and its employees must take all reasonable steps to protect the identity of the whistleblower.

Maintaining confidentiality of a person known or suspected of having made a disclosure is crucial in ensuring reprisals are not made against a whistleblower. These records will be kept in a locked draw in the office of the Principal at the North Head campus.

Under the Corporations Act, the identity of the discloser of a qualifying disclosure and information which is likely to lead to the identification of the discloser must be kept confidential.

Exceptions to this are disclosures to ASIC, the Australian Federal Police, a legal practitioner for the purpose of obtaining advice about the application of the whistleblower protections or made with the consent of the discloser.

If a disclosure involves an issue which the school is required to report, the school may not be able to maintain the confidentiality of the identity of the disclosure. This disclosure could include NSW Police, the NSW Office of the Children's Guardian, NSW Education Standards Authority or the NSW Department of Education.

It is also permissible to disclose information which could lead to the identification of the discloser if the disclosure is reasonably necessary for the purpose of investigating the matter, if all reasonable steps are taken to reduce the risk that the discloser will be identified as a result of the information being disclosed.

Breach of these confidentiality protections regarding the discloser's identity and information likely to lead to the identification of the discloser is a criminal offence and may be the subject of criminal, civil and disciplinary proceedings.

Confidentiality will be observed in relation to handling and storing records.

#### Immunity

Eligible whistleblowers making a qualifying disclosure cannot be subject to any civil, criminal or administrative liability (including disciplinary action) for making the disclosure. No contractual or other remedy or right may be enforced or exercised against the person on the basis of the disclosure.

Whistleblowers who make some types of qualifying disclosures (generally external to the school) are also provided immunities to ensure that information they disclose is not admissible in evidence against them in criminal proceedings or in proceedings for the imposition of a penalty, other than proceedings in respect of the falsity of the information.

These immunities do not prevent an eligible whistleblower being subject to criminal, civil or other liability for conduct that is revealed by the whistleblower, only that the information the person has disclosed is not admissible in certain proceedings against them.

### Detriment

Eligible whistleblowers are also protected from victimisation - suffering any detriment by reason of the qualifying disclosure. It is unlawful for a person to engage in conduct against another person that causes, or will cause detriment, where the person believes or suspects that the other person or a third person made, may have made, proposes to make or could make a qualifying disclosure.

### Threats of detriment are also unlawful.

Detriment has a very broad meaning and includes dismissal of an employee, injuring an employee in their employment, alteration of an employee's position or duties to their disadvantage; discrimination between an employee and other employees; victimisation of a dependent of the discloser, harassment or intimidation of a person or harm or injury to a person, including psychological harassment; damage to a person's property, reputation or business or financial position.

If an eligible whistleblower believes they are being subjected to a detriment or a threat of detriment, this should immediately be reported in writing to the Principal, via email.

If it is not appropriate for the report to be made to the Principal, the eligible whistleblower should report the matter, in writing, to the Chair of the Board.

The School may also consider a range of other matters to protect an eligible whistleblower from the risk of suffering detriment and to ensure fair treatment of individuals mentioned in a disclosure. Steps it will take to help achieve this may include:

1. assessing whether anyone may have a motive to cause detriment—information could be gathered from an eligible whistleblower about:
  - the risk of their identity becoming known;
  - who they fear might cause detriment to them;
  - whether there are any existing conflicts or problems in the workplace; and
  - whether there have already been threats to cause detriment.
2. analysing and evaluating the likelihood of each risk and evaluating the severity of the consequences;
3. developing and implementing strategies to prevent or contain the risks—for anonymous disclosures, and assessing whether the discloser's identity can be readily identified or may become apparent during an investigation;
4. monitoring and reassessing the risk of detriment where required—the risk of detriment may increase or change as an investigation progresses, and even after an investigation is finalised;
5. taking steps to ensure that:
  - disclosures will be handled confidentially, when it is practical and appropriate in the circumstances;
  - each disclosure will be assessed and may be the subject of an investigation;
  - the objective of an investigation is to determine whether there is enough evidence to substantiate or refute the matters disclosed.

### Remedies available to an eligible whistleblower for being subjected to detriment could include:

- compensation
- injunctions and apologies

- reinstatement of a person whose employment is terminated
- exemplary damages

Schools and individuals may face significant civil and criminal penalties for failing to comply with confidentiality and detrimental conduct provisions.

### Managing the Welfare of the Whistleblower

#### Protections for whistleblowers against legal action

The Corporations Act protects a whistleblower against certain legal actions related to making the whistleblower disclosure, including:

- criminal prosecution (and the disclosure cannot be used against the whistleblower in a prosecution, unless the disclosure is false)
- civil litigation (such as for breach of an employment contract, duty of confidentiality, or other contractual obligation), or
- administrative action (including disciplinary action).

If you are the subject of an action for making a whistleblower disclosure, you may rely on this protection in your defence.

This protection does not grant immunity to you for any misconduct that you were involved in that is revealed in the disclosure.

However, if you voluntarily self report your involvement in corporate misconduct, we will often take into account your cooperation when we consider the action we will take to pursue any wrongdoing and what remedies we will seek. For more information, see Information Sheet 172 *Cooperating with ASIC* ([INFO 172](#)).

- Protections for whistleblowers from detriment
- Taking action against people who cause or threaten detriment

The Corporations Act makes it illegal (through a criminal offence and civil penalty) for someone to cause or threaten detriment to you because they believe or suspect that you have made, may have made, or could make a whistleblower disclosure.

The criminal offence and civil penalty apply even if you have not made a whistleblower report, but the offender causes or threatens detriment to you because they believe or suspect you have or might make a report.

A person may be causing you detriment if they:

- dismiss you from your employment
- injure you in your employment
- alter your position or duties to your disadvantage
- discriminate between you and other employees of the same employer
- harass or intimidate you
- harm or injure you, including causing you psychological harm
- damage your property
- damage your reputation
- damage your business or financial position
- cause you any other damage.

The offence and penalty require that the detriment be the result of an actual or suspected whistleblower disclosure. In many cases, particularly in the context of private employment, there may be arguments about whether the conduct involved was victimisation as a result of the whistleblower disclosure or for some other reason.

We can investigate allegations that a person caused or threatened detriment to you, but we would need your assistance to investigate the claim. Any action we take may result in a penalty to the person but not necessarily any compensation.

#### Commitment to protecting whistleblowers-Confidentially and records

Manly Warringah Montessori Society T/A Farmhouse Montessori School is committed to the protection of genuine whistleblowers against action taken in reprisal for the making of protected disclosures.

Under the Corporations Act, the identity of the discloser of a qualifying disclosure and information which is likely to lead to the identification of the discloser must be kept confidential.

Exceptions to this are disclosures to ASIC, the Australian Federal Police, a legal practitioner for the purpose of obtaining advice about the application of the whistleblower protections or made with the consent of the discloser.

If a disclosure involves an issue which the Company is required by legislation to report, it may not be able to maintain the confidentiality of the identity of the disclosure. This disclosure could include NSW Police, the NSW Ombudsman, NSW Education Standards Authority or the NSW Department of Education.

It is also permissible to disclose information which could lead to the identification of the discloser if the disclosure is reasonably necessary for the purpose of investigating the matter, if all reasonable steps are taken to reduce the risk that the discloser will be identified as a result of the information being disclosed.

Breach of these confidentiality protections regarding the discloser's identity and information likely to lead to the identification of the discloser is a criminal offence and may be the subject of criminal, civil and disciplinary proceedings. Confidentiality will be observed in relation to handling and storing records

### Whistleblower protections and support

#### Confidentiality

Eligible whistleblowers making a qualifying disclosure are protected by the requirement that their identity, and information that may lead to their identification, should be kept confidential, subject to relevant exceptions noted above.

The Company will protect an eligible whistleblower's identity by appropriately redacting documents and referring to the whistleblower in gender-neutral terms. It will also secure all documents and communicate with them in a way that will maintain confidentiality.

#### Immunity

Eligible whistleblowers making a qualifying disclosure cannot be subject to any civil, criminal or administrative liability (including disciplinary action) for making the disclosure. No contractual or other remedy or right may be enforced or exercised against the person on the basis of the disclosure. Whistleblowers who make some types of qualifying disclosures (generally external to the organisation) are also provided immunities to ensure that information they disclose is not admissible in evidence against them in criminal proceedings or in proceedings for the imposition of a penalty, other than proceedings in respect of the falsity of the information. These immunities do not prevent an eligible whistleblower being subject to criminal, civil or other liability for conduct that is revealed by the whistleblower, only that the information the person has disclosed is not admissible in certain proceedings against them.

#### Detriment

Eligible whistleblowers are also protected from victimisation - suffering any detriment by reason of the qualifying disclosure. It is unlawful for a person to engage in conduct against another person that causes, or will cause detriment, where the person believes or suspects that the other person or a third person made, may have made, proposes to make or could make a qualifying disclosure. Threats of detriment are also unlawful. Detriment has a very broad meaning and includes dismissal of an employee, injuring an employee in their employment, alteration of an employee's position or duties to their disadvantage; discrimination between an employee and other employees; victimisation of a dependent of the discloser, harassment or intimidation of a person or harm or injury to a person, including psychological harassment; damage to a person's property, reputation or business or financial position. If an eligible whistleblower believes they are being subjected to a detriment or a threat of detriment, this should immediately be reported in writing to the Associate Chief Executive: School Operations and Governance, via email. If it is not appropriate for the report to be made to the Associate Chief Executive: School Operations and Governance, the eligible whistleblower should report the matter, in writing, to the Chief Executive, via email. The Company may also consider a range of other matters to protect an eligible whistleblower from the risk of suffering detriment and to ensure fair treatment of individuals mentioned in a disclosure. Steps taken to help achieve this may include:

1. Assessing whether anyone may have a motive to cause detriment—information could be gathered from an eligible whistleblower about:

- the risk of their identity becoming known;
  - who they fear might cause detriment to them;
  - whether there are any existing conflicts or problems in the workplace; and Whistleblower
  - whether there have already been threats to cause detriment;
2. Analysing and evaluating the likelihood of each risk and evaluating the severity of the consequences;
  3. Developing and implementing strategies to prevent or contain the risks – for anonymous disclosures, and assessing whether the discloser’s identity can be readily identified or may become apparent during an investigation;
  4. Monitoring and reassessing the risk of detriment where required – the risk of detriment may increase or change as an investigation progresses, and even after an investigation is finalised;
  5. Taking steps to ensure that:
    - disclosures will be handled confidentially, when it is practical and appropriate in the circumstances;
    - each disclosure will be assessed and may be the subject of an investigation;
    - the objective of an investigation is to determine whether there is enough evidence to substantiate or refute the matters disclosed

#### Keeping the whistleblower informed

The Whistleblower Protection Procedures will ensure the whistleblower is kept informed of action taken in relation to his or her disclosure. This will be the Principal’s responsibility to keep the whistleblower informed of all progress as to any reports and follow up from his/her disclosure.

#### Whistleblowers implicated in improper conduct

Manly Warringah Montessori Society T/A Farmhouse Montessori School acknowledges that the act of whistle blowing should not shield whistleblowers from the reasonable consequences flowing from any involvement in improper conduct. A person’s liability for his or her own conduct is not affected by the person’s disclosure of that conduct. However, in some circumstances, an admission may be a mitigating factor when considering disciplinary or other action.

#### Review of Policy and Procedure

This policy and the Whistleblower Protection procedures will be reviewed annually to ensure they comply with and meet the objectives of the relevant legislation and remain effective for Manly Warringah Montessori Society-T/A Farmhouse Montessori School. This policy and the Whistleblower Protection Procedures may be changed at any time, at the discretion of the Manly Warringah Montessori Society-T/A Farmhouse Montessori School Board.

#### Compliance with this policy

All employees must follow the process outlined in this policy and cooperate with any investigations initiated pursuant to this policy. Adhering to this policy is a condition of employment. Manly Warringah Montessori Society-T/A Farmhouse Montessori School must have the opportunity to investigate and remedy any alleged violations or employee concerns, and each employee must ensure that the Manly Warringah Montessori Society T/A Farmhouse Montessori School has the opportunity to undertake such an investigation.

This policy in no way alters an employee’s at-will employment status with Manly Warringah Montessori Society T/A Farmhouse Montessori School.

#### Important notice

*Please note that this policy is a summary giving you basic information about a particular topic. It does not cover the whole of the relevant law regarding that topic, and it is not a substitute for professional advice. Omission of any matter in this policy will not relieve a company or its officers from any penalty incurred by failing to comply with the statutory obligations of the Corporations Act.*

*You should also note that because this policy avoids legal language wherever possible, it might include some generalisations about the application of the law. Some provisions of the law referred to have exceptions or important qualifications. In most cases our particular circumstances must be taken into account when determining how the law applies to our school.*

#### Source

Whistleblower Policy – Farmhouse Montessori Farmhouse Montessori School/ QA Policies / QA2

- ASIC
- Corporations Act 2001
- AIS

Policy Review Date		
Reviewed/Created	Modification	Review Date
<b>Created-13/5/2020</b>		2022
<b>21/04/2026</b>	<ul style="list-style-type: none"> <li>● Whistleblower Protection and support section added</li> <li>● Updated the Confidentiality and records section</li> <li>● NQS Table added</li> <li>● Commitment to protecting whistleblowers-Confidentially and records</li> <li>● Making a qualifying disclosure</li> <li>● External Disclosures-Table added</li> <li>● Receiving a disclosure</li> <li>● False or malicious disclosures</li> </ul>	2028