

# WHISTLEBLOWER POLICY AND PROCEDURE

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## 1. Policy statement

Employees and others working at the College will often be the best source of information when things are not quite right. This Whistleblower Policy is an important element in detecting corrupt, illegal or other undesirable conduct at Sholem Aleichem College (SAC).

### Statement of commitment to Child Safety

Sholem Aleichem College is committed to ensuring a child safe environment exists throughout our College. The safety, wellbeing and rights of all children attending the College are paramount. Sholem Aleichem College's commitment to creating a safe environment for all students who attend the College is endorsed at the highest level by the College Council and the Principal. For more information please refer to our Child Protection Policy.

## 2. Aim

The purpose of this policy is to:

- (a) Explain how to speak up by reporting concerns about wrongdoing;
- (b) Outline what protections a person who reports wrongdoing will receive; and
- (c) Outline SAC processes for dealing with reports of wrongdoing.

Creating a supportive environment where people feel safe to speak up underpins SAC culture. When people do not speak up, this undermines the culture and exposes SAC to risks. Sholem Aleichem College encourages speaking up about concerns of wrongdoing. There are various measures in place to ensure no one is discouraged from speaking up or disadvantaged or victimised for doing so.

This policy covers the processes for dealing with disclosures, made by employees and stakeholders, of suspected improper conduct within SAC in a confidential and secure manner. Sholem Aleichem College has established a procedure to provide whistleblowers with protection, allowing students, parents, staff and others to come forward confidentially and anonymously, to the extent possible under existing laws, and ensuring that they are not victimised or subjected to any form of detrimental action.

## 3. Scope

Anyone with information about potential wrongdoing relating to Sholem Aleichem College is encouraged to report their concerns. This includes students, parents, staff members, volunteers, members of the community and Council members. It also includes individuals who are or have been in relation to SAC:

- (a) An employee, officer or contractor;
- (b) A supplier of services or goods to SAC (whether paid or unpaid) including their employees; and
- (c) A relative, dependant or spouse of any of the above individuals.

## 4. Policy detail

### CONDUCT THAT CAN BE REPORTED

Any concerns of wrongdoing should be reported. This means any misconduct or improper state of affairs or circumstances in relation to SAC. Examples may include:

- Breach of laws or regulations
- Criminal activity including child abuse, theft, drug sale or use, violence or threatened violence
- Serious breach of SAC's Code of Conduct or Policies

- Offering or accepting a bribe
- Dishonest or unethical behaviour
- Conflicts of interest
- Financial fraud or mismanagement, including in relation to SAC's tax affairs
- Falsifying financial or corporate reporting
- Unauthorised use of SAC's confidential information
- Improper use of personal information as described in the SAC Privacy Policy
- Improper use of SAC's physical or intellectual property
- Conduct endangering health and safety or causing damage to the environment
- Any other conduct which may cause loss to the College or be otherwise detrimental to the College
- Deliberate concealment of any of the above.

**Personal work-related grievances (for example interpersonal conflict between employees or decisions relating to employee performance) are not within the scope of this Policy and will be addressed through the applicable grievance resolution processes.** If a grievance may have significant wider implications for SAC this can be reported through the applicable whistleblower channel (see "other avenues" at the end of this document). There is an expectation that anyone reporting a wrongdoing has reasonable grounds to suspect the information they are disclosing is true, but there will be no penalty if the information turns out to be incorrect. Those reporting are expected to provide the information upon which their suspicion is based, but are not required to have all the details or have conducted their own investigation.

## REPORTING PROCEDURE

### Employees

Where an employee of Sholem Aleichem College believes in good faith on reasonable grounds that any other employee, volunteer, or contractor has breached any provision of the general law or engaged in reportable conduct, that employee must report their concern to any of the following:

- their supervisor who will advise the WPO and Principal or College Council:President, or, if they feel that their supervisor may be complicit in the breach,
- the Principal, or, if they feel that the Principal may be complicit in the breach, to the President of the College Council who has statutory responsibility for the conduct of the College business
- the Whistleblower Protection Officer (the Human Resources Manager acts in the capacity as the WPO) advises the Principal, or in the absence of the Principal, the College Council President of any whistleblower report made.  
or, if they feel this to be necessary,
- the duly constituted authorities responsible for the enforcement of the law in the relevant area.

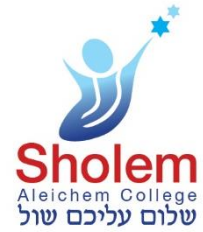
A whistleblower can contact a Whistleblower Protection Officer ([sachr@sholem.vic.edu.au](mailto:sachr@sholem.vic.edu.au)) to make a disclosure or obtain additional information before making a disclosure. In the event that the WPO is complicit in the breach, the report is to be made directly to the Principal. In the unlikely circumstance that the whistleblower report implicates the Principal, the College Council President must immediately be informed and should assume the role of the Principal in overseeing the conduct of the investigation, and all activities of the WPO.

### Other members of the College community

A student, parent, or other person of the College who wishes to make a report in connection with conduct under this policy should contact the Human Resources Manager, who acts in the capacity as the Whistleblower Protection Officer at [sachr@sholem.vic.edu.au](mailto:sachr@sholem.vic.edu.au) If this is inappropriate, then they should contact the Chief Operating Officer at [AdminC@sholem.vic.edu.au](mailto:AdminC@sholem.vic.edu.au). The WPO will report the matter to the Principal, unless they may be complicit in the matter in which case the College Council President will be advised.

The person making the report will be kept informed (to the level appropriate given the circumstances) of the progress of the investigation.

Disclosures may be made anonymously, and this anonymity shall as far as possible be preserved by the College. Where no name is provided, Sholem Aleichem College will assess the disclosure in the same way as if identity has been revealed and any investigation will be conducted as best as possible in the circumstances. However, an investigation might not be possible unless sufficient information is provided.



### **Whistleblower Protection Officer**

The College is committed to ensuring the Whistleblower Protection Officer (WPO) is appropriately qualified for this role and readily accessible.

The Whistleblower Protection Officer for SAC is responsible for:

- (a) The overall administration of this Policy;
- (b) Monitoring the implementation of this Policy and reviewing it on an ongoing basis to ensure suitability and effectiveness;
- (c) Seeking to protect the whistleblower from detrimental conduct;
- (d) Assisting the whistleblower in maintaining wellbeing as can be reasonably expected;
- (e) Maintaining whistleblower confidentiality, where relevant, including as required by law; and
- (f) Reviewing and considering any complaints of detrimental conduct or any concern that disclosure has not been dealt with in accordance with this policy.

### **Protecting a whistleblower's identity**

When reporting wrongdoing, the whistleblower's identity and any information that SAC has as a result of the report is likely to lead to identification, will only be disclosed if:

- (a) The person reporting gives consent for SAC to disclose that information;
- (b) SAC considers such disclosure should be made to:
  - i. Australian Securities & Investments Commission (ASIC), the Australian Federal Police or (for tax-related reports) the Commissioner of Taxation;
  - ii. A Commonwealth authority or a State authority for the purpose of assisting the authority perform its functions or duties;
  - iii. A lawyer for legal advice or representation in relation to whistleblower laws; or
- (c) In the case of information likely to identify the person reporting, it is reasonably necessary to disclose the information for the purposes of an investigation, and all reasonable steps are taken to prevent someone from discovering the reporter's identity.

To reduce the risk that the whistleblower will be identified the WPO will:

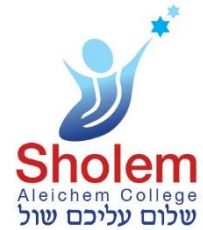
- obscure all personal information/references to the whistleblower including name and title
- refer to the whistleblower in a gender-neutral way
- ask the whistleblower if any of the information could identify them
- ensure only a very small number of people directly involved in the investigation know the whistleblower's identity (if they consent) or information which could identify them
- securely store all paper and electronic disclosure documents and materials
- limit access to all information to those directly involved in the investigation
- only send communications and documents to an email address or a printer that cannot be accessed by other staff.

Note it may be impossible to protect identity if the whistleblower has told others about their intentions, or they're one of a handful of people with access to the information, or they received information privately and in confidence.

### **Detrimental conduct prohibited**

All reports will be kept confidential and secure. The person making their concern known shall not suffer any sanctions from the organization on account of their actions in this regard provided that their actions:

- are in good faith, and
- are based on reasonable grounds, and
- conform to the designated procedures.



Sholem Aleichem College strictly prohibits all forms of Detrimental Conduct against whistleblowers. Detrimental Conduct means any actual or threatened conduct that could cause a detriment to the whistleblower as a result of the whistleblower making a disclosure, including termination of employment, harassment, bullying or intimidation, personal or financial disadvantage, unlawful discrimination, harm or injury including psychological harm, damage to reputation, or any other conduct that constitutes retaliation.

Sholem Aleichem College also strictly prohibits all forms of Detrimental Conduct against people who are involved in an investigation of a disclosure in response to their involvement in that investigation.

All reasonable steps will be taken to protect the whistleblower from Detrimental Conduct. To protect whistleblowers from detriment the WPO will:

- assess risk of detriment as soon as possible after receiving disclosure, and implement actions if required to protect the whistleblower e.g. transfer to another location, transfer to another role at same level, change way role is performed, reassign or relocate other staff involved
- provide advice about available support services e.g. counselling, professional or legal services
- provide advice about strategies to help manage stress, time or performance impacts
- provide advice about how to lodge a complaint if detriment has already occurred and what actions the business Who or what is being referred to as “the business” in this context? may take. Any person who, having made a report, believes that they have been personally disadvantaged has an automatic right of appeal to the College Council President whose decision will be complied with.

Where detriment has already occurred, the person receiving the disclosure will implement measures to protect the whistleblower. Is this stating that the WPO will implement measures such as taking disciplinary action? On what basis is the WPO entitled to take disciplinary action on behalf of the College? The decisions about disciplinary action, detailed in the next sentence, would need to be taken by the Principal, or in the absence of the Principal, by the President of the College Council. These may include taking disciplinary action against those who have caused the detriment, allowing the whistleblower to take extended leave, offering new training and career opportunities, and offering compensation or other remedies.

### **Specific protections and remedies**

Australian law provides protections if a ‘protected disclosure’ is made, including that:

- (a) The discloser is not subject to any civil, criminal or administrative liability for making the disclosure (other than for making a false disclosure);
- (b) No contractual or other remedy may be enforced or exercised against the discloser on the basis of the disclosure; and
- (c) In some limited circumstances (e.g. if disclosure has been made to a What is meant here? “Regulatory authority” perhaps? such as ASIC) the information provided may not be admissible in evidence against a discloser in criminal proceedings or in proceedings for the imposition of a penalty, other than proceedings in respect to the falsity of the information.

### **INVESTIGATION PROCEDURES**

All whistleblower disclosures made under this Policy will be documented and investigated promptly. Sholem Aleichem College takes all reports of potential wrongdoing seriously. All reports will be assessed and, based on the nature and circumstances of the disclosure, a decision made by the Principal or College Council President, advised by the WPO as to whether a full investigation is required. For example, reports of potential wrongdoing of a minor nature that can be resolved informally will not require the same level of response as disclosures involving a large-scale and complex investigation.

Investigations will generally be overseen by the WPO. Best practices will be followed by the Whistleblower Protection Officer What is the mechanism for ensuring that the WPO is “fair and

independent” when there is concern that the Principal may not be, or may be the subject of the whistleblower report? There has not been any consideration of the circumstance in which the whistleblower report is against the WPO. Other people, including employees or external advisers, may also be asked to assist or run the investigation. Where possible, the person reporting the wrong doing will be informed how SAC is responding to the report, including whether an investigation will be conducted. The investigation will be conducted with consideration of the rules of natural justice and the provision of procedural fairness.

Where the Principal or the College Council President determines that the allegations requires it,, external investigators will be engaged.

The investigation will include the following steps:

1. Obtaining full details of the allegations;
2. Providing the Principal and/or Council President with details of the allegations This is hugely problematic. It gives unlimited discretion/power to the WEPO. The information **must** be made available to either the Principal or the President of the College Council.
3. Informing the person/s against whom allegations have been made;
4. Investigating the allegations fully;
5. Principal and/or Council President deciding on actions to be taken; and
6. The person who made the report will be kept informed of the progress of the investigation.

Unless there are confidentiality or other reasons not to do so, employees who are the subject of a report of wrongdoing will be informed of the matters raised in the report at an appropriate time, and will be given a chance to respond to any allegations made against them. They will also be advised of the outcome of any investigation.

The identity or any information that could lead to the identity of a person who has made a report will not be released to any person who is not involved in the investigation/resolution of the matter.

### **Other avenues**

The whistleblower can also lodge a report with ASIC through their online misconduct reporting report (<https://asic.gov.au/about-asic/contact-us/how-to-complain/report-misconduct-to-asic/>). Employees and external disclosers are encouraged to make a disclosure to the WPO in the first instance so that the College can address any wrong doing as soon as possible.

### **Documenting, reporting and communicating investigation findings**

SAC takes any disclosure very seriously, and will regularly inform a whistleblower about the progress of the investigation ( Why would the College inform a whistleblower through anaonymous channels???) and its outcome (unless it would be inappropriate to report the outcome). The frequency of the updates will be agreed with the whistleblower at the start of the investigation.

The method for documenting and reporting findings will depend on the nature of the disclosure. However, the outcome of the investigation will be provided to the Principal and/or College Council President in a secure format which preserves the confidentiality of the whistleblower for consideration and further action.

If a whistleblower is unhappy with the outcome of the investigation, SAC will implement a review process to ensure that the College policy, processes and procedures were correctly followed. The whistleblower will also be advised that they may lodge a complaint with an appropriate regulator like ASIC or the ATO.

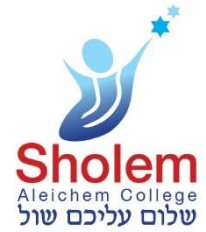
## **5. Related policies**

SAC Complaints and Grievances Policy  
SAC Governance Policy  
SAC Privacy Policy

SAC Child Protection Policy

SAC Code of Conduct

**Are all the above policies in existence? Have they been presented to Council for ratification?**



## **6. Sources**

'Tax Whistleblowers' ATO <https://www.ato.gov.au>

Corporations Act 2001 (Cth)

Education and Care Services National Law and Regulations

(see <https://www.acecga.gov.au/nqf/national-law-regulations/national-law>)

Regulatory Guide 270: Whistleblower Policies, ASIC Nov 2019

Taxation Administration Act 1953 (Cth)

## **7. Review**

Policy endorsed by Council: May 2022

Next review: May 2023