



# SHORE

## Whistleblower Policy

### Introduction

Under the *Corporations Act 2001* (Cth) (the Act), corporations that are regulated entities (including those operating as Not-for-Profit) must comply with the Whistleblower protection scheme, including within their governance and compliance programs. Independent schools that are body corporates such as Shore (and their related entities) generally operate under this Act. There are also whistleblower protections under the *Taxation Administration Act 1953* (Cth) (the Tax Act).

### Policy Scope

Shore prides itself on setting high standards in integrity and ethical behaviour in all areas of operation. Shore's Whistleblower Policy is in place to assist Shore to meet its obligations to protect individuals who make disclosures as to potential wrongdoing within the school, and to encourage those aware of wrongdoing to come forward. Shore is committed to ensuring whistleblowers may make disclosures safely and with confidence they will have support and protection during disclosure, investigation and outcome.

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## **1. What is Whistleblowing in the context of an independent school?**

Whistleblowing, in this context, means the reporting of suspected misconduct, or an improper state of affairs or circumstances, in relation to Shore or a related body corporate of Shore. The disclosure must also be made with 'reasonable grounds to suspect' such wrongdoing for it to be a qualifying disclosure. The qualifying disclosure must also be made by an eligible whistleblower, and to an eligible recipient (see section 6).

Expressions that are used in this Policy but are not defined have the same meaning they are given in Part 9.4AAA of the Act. This policy should be read in conjunction with Act, the Tax Act and *Australian Securities & Investments Commission Act 2001* (Cth).

## **2. Who is an eligible whistleblower?**

Anyone who is an eligible whistleblower under the Act can access Whistleblower protections under this Policy. Eligible whistleblowers will include an individual who is, or has been, one of the following:.

- a Shore Council Member;
- an employee (full time, part time or casual) or a contractor of Shore;
- an individual, or an employee of a person, who supplies goods and/or services (paid or unpaid) to Shore;
- Shore Volunteers;
- an associate of Shore (most likely to be a director or secretary of a related body corporate (example being the Shore Foundation); and/or
- a spouse, relative (a parent or remoter lineal ancestor, child or remoter issue, or brother or sister), dependant (or dependants of a spouse) of any of the above individuals.



There is an option for qualifying disclosures to be made anonymously by eligible whistleblowers and still gain protection from the Act. Anonymity can be maintained during disclosure, investigation and conclusion of a matter. Anonymous disclosers are encouraged to maintain ongoing communication with Shore so that follow-up questions can be asked or feedback given.

### **3. What types of activities are disclosable matters?**

When an eligible whistleblower has reasonable grounds to suspect wrongdoing based on information and events witnessed, the following types of matters are likely to be qualifying disclosures: –

- Misconduct, or matters that may constitute an improper state of affairs or circumstances, which may include: dishonesty; money laundering; misappropriation of funds; offering or accepting a bribe; financial irregularities; misleading and deceptive conduct, in particular around accounting or financial reporting practices; corruption; 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; gross mismanagement; and/or breaches of administrative procedures; unethical business behaviour and practices that may cause consumer harm; and unethical behaviour, bullying and harassment (including sexual harassment).
- Illegal activity, inclusive of conduct of Shore officers and employees, which can mean an offence against, or a contravention of: the *Corporations Act 2001* (Cth); financial services legislation (*Australian Securities and Investments Commission Act 2001*, *Banking Act 1959*, *Financial Sector (Collection of Data) Act 2001*, *Insurance Act 1973*, *Life Insurance Act 1995*, the *National Consumer Credit Protection Act 2009*); the *Superannuation Industry (Supervision) Act 1993*; an instrument made under any of these Acts; or an offence against any law of the Commonwealth punishable by imprisonment of 12 months or more.

- Other conduct (including of officers or employees) that represents a danger to the public or financial system, or that may be prescribed by the *Corporations Regulations 2001*. Examples in this context could include improper accounting or financial reporting practices, misuse of school or foundation funds, or systemic practices which pose WHS risks to staff, student or community safety.

#### **4. What is not covered via this policy?**

This policy does not cover disclosure around Child Safeguarding, general complaints about school operations, duty of care or child protection matters, where these do not meet the criteria for whistleblower protection and/or are better addressed by another of Shore's policies. If your concerns involve these matters, please refer to the Shore Child Safeguarding Protection suite of policies (or the Complaints Handling Policy) or speak with the Child Protection Officer on (02) 9923 2277.

Whistleblower protection does not extend to *personal* employment concerns or grievances unless they are directly tied to any of the qualifying disclosures mentioned above. Issues or complaints around employment matters are managed via the Shore Grievance Handling policy and procedure.

#### **5. Who are eligible recipients of disclosure?**

To ensure protection under the Act, an eligible whistleblower must make a qualifying disclosure under this policy to an eligible recipient. Eligible recipients include School Council members, senior managers of Shore or related entities, internal and external auditors, actuaries of Shore or related entities, and prescribed commonwealth authorities. Shore's Whistleblower procedure, accessible alongside this policy, outlines who are the preferred contacts for a disclosure made under this policy. Please review the procedure and follow the guidelines as you proceed in disclosure.

Eligible whistleblowers are encouraged to first make a disclosure to an internal eligible recipient in accordance with the Whistleblower procedure. However, under some circumstances, it may appear internal processes and



disclosures are not considered appropriate nor effective. The Act and the Tax Act (where a matter relates to Shore's tax affairs) can cover some external or public interest disclosures. It is advised if this is considered for an eligible whistleblower to seek independent legal advice around your protection and situation.

What are these types of disclosure –

- External Disclosure – these are made to regulatory bodies such as ASIC, APRA, ATO (where it relates to Shore's tax affairs) or other appropriate commonwealth appointed authorities. An eligible whistleblower who reports to the ACNC will only be protected under the Act from when they also make a disclosure under this policy to an eligible recipient.
- Public Interest or Emergency Disclosures – those made to a member of parliament or a journalist. (These will only receive Whistleblower protection considerations if previously disclosed to the above-mentioned regulatory authorities and meet the other relevant requirements in section 1317AAD of the Act.)

The Whistleblower procedure explains the process of making a disclosure, and the options around where you do so (and what support may be provided). The procedure outlines how and investigation is conducted and the approximate timelines around this process.

If you wish to make a disclosure, your options are :

1. Internal disclosure either in writing or by phone to
  - a) Whistleblower Protection Officer – 02 9968 7213 or [privacy@shore.nsw.edu.au](mailto:privacy@shore.nsw.edu.au)
  - b) Headmaster - 02 9956 1101 or [headmaster@shore.nsw.edu.au](mailto:headmaster@shore.nsw.edu.au)
  - c) Shore Council Chair – 02 9923 2277 or [councilchair@shore.nsw.edu.au](mailto:councilchair@shore.nsw.edu.au)

2. To report externally, please use either to our external confidential provider “My Call” or direct to the appropriate regulator. Contact details are attached in the Whistleblower Disclosure Procedure which is an appendix to this policy.

**6. Please review this procedure before making any disclosure.**

**How are Whistleblowers protected via this policy?**

For protection to be afforded to a Whistleblower under this policy and the Act, the following must be applicable –

- You must be an eligible whistleblower as defined in this policy (section 2)
- The matter must be a disclosable matter as defined in this policy (section 3)
- There must be reasonable grounds to suspect the information concerns misconduct, or an improper state of affairs or circumstances for this matter to have been raised (section 1)
- The qualifying disclosure must be made to an eligible recipient (section 5).

However, the Whistleblower protections under the Act do not grant immunity to a whistleblower for their own misconduct, or their unlawful acts or omissions that are revealed in the disclosure (including misconduct when gathering information declared in the disclosure).

The protections available to eligible whistleblowers include –

- **Confidentiality: Protection of identity** (section 1317AAE of the Act)

A person (the recipient of your report/complaint) cannot disclose your identity, or information that is likely to lead to your identification, except to: ASIC; APRA; a person or body prescribed by the *Corporations Regulations 2001*, a member of the Australian Federal Police; a legal practitioner; or, to someone else with your consent. Otherwise, it is an offence for a person to



identify you or disclose information that may lead to your identification if you have made a qualifying disclosure under this policy.

Please note, information contained in your complaint may be disclosed without your consent if the disclosure of this information is reasonably necessary to investigate the issues raised. This will be done excluding your identity / identifying information and Shore must ensure all reasonable measures are taken to reduce the risk of disclosing your identity as a result of the disclosure, and in the process of investigations proceeding.

- **Protection from Victimisation/ Detriment** (section 1317AC of the Act)

A person must not engage, or threaten to engage, in detrimental conduct towards an eligible whistleblower who has made or proposes to make a disclosure that warrants protection.

In the process of receiving and investigating a qualifying disclosure made under this policy all reasonable steps are taken by Shore to shield an eligible whistleblower from the effects of victimisation or detrimental conduct. Detrimental conduct can include: dismissal; discrimination; harassment; intimidation; unfairly altering a person's position in employment; physical or psychological harm; or damage to a person's property, reputation, business or financial position, or other damage to a person.

It is criminal offence and civil penalties apply if a person causes or threatens detriment because they believe or suspect someone to have made a disclosure. Within our procedures a series of risk assessments are done around the impact of disclosure and methods of investigation with regard to impact on the eligible whistleblower. This outcome of these assessments indicates a best way to proceed.

- **Legal Immunity / disclosures not actionable** (section 1317AB of the Act)

Under the Whistleblower protection scheme, eligible whistleblowers who make a qualifying disclosure are protected from:

- a) administrative liability (e.g., disciplinary action for making the disclosure);
  - b) civil liability (e.g., legal action against you for breach of an employment contract, duty of confidentiality or another contractual obligation); and
  - c) criminal liability (e.g., attempted prosecution of you for unlawfully releasing information, or other use of the disclosure against you in a prosecution (other than for making a false disclosure).
- **Compensation and other remedies** (section 1317AD of the Act)

An eligible whistleblower may seek compensation and other remedies through the courts if:

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

It is recommended that an individual consult an independent legal specialist to discuss your situation in the process of preparing a disclosure.

## **7. What are Shore's expectations?**

Shore is committed to ensuring the fair treatment of employees who are mentioned in or subject of a disclosure made under this policy, as well as protecting eligible whistle blowers who make qualifying disclosures.

Detriment by a Shore employee or officer against an eligible whistleblower who makes a qualifying disclosure (and who has not engaged in misconduct) is a breach of this policy and may result in disciplinary action, including dismissal.

This policy is to be made available to internal eligible whistleblowers (through staff intranet or other communication platforms), as well as to the public, including by posting the policy on Shore's website.





Shore aims to create an environment of trust and corporate excellence within the staff and community at large. Having a healthy and transparent corporate environment is key to this being achieved. This Whistleblowing Policy and procedures have been designed with this desired culture at its heart.

## **Appendix**

### **Whistleblowing Disclosure Procedures**

#### **1. How do I make a disclosure?**

- Confidential disclosure to the Whistleblower Protection Officer, Shore's Headmaster or the Chair of the Shore Council.

- to independent whistleblower service provider – “Your Call”

- to external authorities and entities such as ASIC, APRA, ACNC and the Commissioner of Taxation in the ATO. Disclosure instructions appear on all these regulators websites.

\* A reminder: if your disclosure relates to a Child Safeguarding concern, please refer to the Procedures for Reporting Reportable Conduct and Staff Misconduct, also published on the Shore website. Staff are also encouraged to review the current Grievance Handling Policy and Procedures available in Lampada for issues that may be covered in the context of employment.

#### **1.1 Making a Disclosure to Shore**

If you wish to make an internal disclosure either in writing or by phone these are the relevant contact details.

- d) Whistleblower Protection Officer – 02 9968 7213 or [privacy@shore.nsw.edu.au](mailto:privacy@shore.nsw.edu.au)

- e) Headmaster - 02 9956 1101 or [headmaster@shore.nsw.edu.au](mailto:headmaster@shore.nsw.edu.au)
- f) Shore Council Chair – 02 9923 2277 or  
[councilchair@shore.nsw.edu.au](mailto:councilchair@shore.nsw.edu.au)

## 1.2 Making a disclosure to independent service provider - **Your Call**

If you do not feel safe or able to make a disclosure internally, you may do so to our independent whistleblower service provider, **Your Call**.

**Your Call** operates under a Service Agreement with Shore and acts as the intermediary, providing the means for a discloser to retain anonymity. Disclosures received by **Your Call** are reported to us in accordance with our Whistleblower Policy. **Your Call** also enables us to obtain further information if required and enables the discloser to receive updates from us.

This is done through an online anonymous Message Board,.

The Message Board allows you to:

- communicate with **Your Call** and/or (Organisation) without revealing your identity
- securely upload any relevant documentation and/or material that you wish to provide
- receive updates
- request support or report victimisation

This option allows you to:

- remain completely anonymous if you wish
- identify yourself to **Your Call** only
- identify yourself to both **Your Call** and Shore



***Your Call*** enables disclosures to be made anonymously and confidentially.

***Your Call*** reporting options include:

- Website: <https://www.yourcall.com.au/report>

Available 24/7

- Telephone: 1300 790 298

Available 9am and 12am on recognised Australian national business days (AEST)

Online reports can be made via the website address listed above. Our organisation's unique identifier

code is: SHORE1889.

***Your Call*** remains an independent intermediary at all times and will only communicate with those.

authorised within our organisation.

### **National Relay Service**

If you are deaf, or have a hearing or speech impairment, you can contact ***Your Call*** online or through the

National Relay Service. Simply choose your contact method at [www.relayservice.gov.au](http://www.relayservice.gov.au) and request

Your Call's hotline 1300 790 298.

### 1.3. Making a disclosure to external authorities and entities

In a School context there are many external authorities which may be appropriate for Whistleblowing disclosures. Examples of authorities which may be relevant -

NESA <https://www.nsw.gov.au/education-and-training/nesa/contact-us>

Office of the Children's Guardian <https://ocg.nsw.gov.au/contact-us>

Safework NSW <https://www.safework.nsw.gov.au/contact-us>

Anglican Diocese of Sydney <https://sydneyanglicans.net/contact>

Australian Charities and Not for Profit Commission

<https://www.acnc.gov.au/about>

Australian Securities and Investments Commission (ASIC) –

<http://asic.gov.au>

Australian Taxation Department (ATO) - <https://www.ato.gov.au/about-ato/whistleblowers>

Each authority or entity will have a Whistleblower procedure to follow within their organisation and access to this will be provided by contacting these bodies. These are confidential services and we will manage their information exchanges and your protection in accordance with the law.

If the misconduct relates to the Corporations Act 2001 Section 1317AA (1) you may make a disclosure to:

- ASIC
- APRA
- ATO



- a Commonwealth authority prescribed for the purposes of Section 1317AA (1)

Concerning disclosures made to legal practitioner.

If you make a disclosure to a legal practitioner for the purpose of obtaining legal advice or legal

representation in relation to the operation of Part 9.4 of the Act (which includes the whistleblower

protections and confidentiality of a whistleblower's identity) the disclosure will be protected under the

Act.

## **2. What Happens after I make a Whistleblower Disclosure?**

If you agree to disclose your identity and allow a Whistleblower Protection Officer to be informed, one will be appointed to safeguard your interests.

If you don't consent to a Whistleblower Protection Officer being appointed, the person who receives your disclosure will be your only point of contact.

If you make an anonymous disclosure, Shore won't be able to communicate with you to protect you unless you reveal your identity or consent to its disclosure.

Once a protected disclosure is made, the investigation committee will carefully assess the information to decide the best course of action, including whether an investigation is necessary to determine if misconduct has occurred. You will be provided with:

- Acknowledgement of receipt of the disclosure
- The timeframe within which you will be advised of action to be taken

- The name and contact details of a person who will be able to advise you of what is happening during the preliminary enquiries and investigation
- Likely timeframes for any investigation
- The outcome of the investigation where appropriate and legally permissible to do so.

### **2.1. Investigation of the disclosure**

The investigation committee will carefully review the disclosed information to determine the best course of action, which may include deciding if an investigation is necessary. If so, they will decide on:

- The extent and focus of the investigation
- Who will conduct it, considering whether they should be external to our organization
- Any need for technical, financial, or legal advice
- A timeline for the investigation, considering the level of risk involved

Once the investigation is complete and decisions are made on how to resolve the matter, a final report will be provided to the whistleblower. The method of relaying this report may depend on the level of anonymity the whistleblower has maintained. Any feedback on outcomes can be provided through the channels that have supported the whistleblower during the process.

