



Integrity Assurance (Whistleblower) Policy

October 2020

1 Purpose

The purpose of this Integrity Assurance (Whistleblower) Policy is to support the highest standards of ethical behaviour within the Diocese, the NAC and their Related Bodies Corporate. As part of that support, there must be a framework to:

- effectively report and investigate a potential misconduct, an improper state of affairs or circumstances, or breach of law by clergy, employees, Board members, suppliers, contractors and volunteers;
- ensure that whistleblowers feel confident that in disclosing such matters, they are protected from reprisals; and
- provide avenues for whistleblowers to disclose matters that may cause loss or reputational damage to the Diocese, the NAC or Related Bodies Corporate.

Disclosures under this policy can relate to wrongdoing that is not illegal, however may be unethical or unsafe, and indicates systemic issues that need to be addressed.

Whilst the NAC and the Related Bodies Corporate are not incorporated under the Corporations Act 2001 (Cth) (**the Act**), it is the intention of the Diocese to ensure that this policy aligns with Part 9.4AAA of the Act and Regulatory Guide 270.

This policy reflects the values of the Diocese.

2 Scope

This policy applies to all disclosures from or in relation to:

- current and former clergy of the Diocese;
- current and former members of the Diocesan Council;
- current or former Board members of the NAC or Related Bodies Corporate;
- current and former employees of the Diocese, the NAC and their Related Bodies Corporate;
- suppliers;
- contractors; and
- volunteers.

The policy shall also apply to relatives and spouses of the persons outlined above.

This Policy will be communicated and displayed via various mediums to NAC Board members, clergy, employees, staff and volunteers.

3 Policy Statement

The Anglican Diocese of Newcastle (**the Diocese**), the Newcastle Anglican Corporation (**NAC**) and their Related Bodies Corporate promote a culture of ethical behaviour and encourage the reporting of wrongdoing through a range of policies and procedures that ensure integrity and the effective management and resolution of issues or concerns that arise for clergy, employees, Board members, suppliers, contractors and volunteers.

The Bishop and leadership of the Diocese and the NAC encourage all clergy, staff and other people associated with the Diocese, NAC and their Related Bodies Corporate to disclose wrongdoing.

Everyone should feel confident about reporting wrongdoing without fear of reprisal. The Bishop and leadership of the Diocese and NAC are committed to protecting and supporting whistleblowers where they have reasonable grounds to suspect that disclosed information concerns wrongdoing.

The Bishop and leadership of the Diocese and the NAC provide an undertaking to all whistleblowers disclosing wrongdoing under this policy that there will be no intention to take adverse action against them and the right to anonymity will be protected.

All whistleblower reports will be kept confidential and secure.

It is illegal for the person to reveal the identity of a whistleblower, or information likely to lead to the identification of whistle-blower. Such breaches will be investigated and may result in disciplinary action or other legal consequences.

This policy will be published on the Diocesan website and provided for sharing with each Related Body Corporate.

4 Application of Policy

This policy applies to Qualifying Disclosures made by Eligible Whistleblowers to an Eligible Recipient

Terms used in this policy:

Term	Meaning
Eligible Recipient	an individual who occupies any of the following roles: <ul style="list-style-type: none"> (a) the Bishop or an Assistant Bishop; (b) the Diocesan Chief Executive; (c) the Chairperson of the NAC Board; (d) the Deputy Chairperson of the NAC Board; (e) the Diocesan Director of Professional Standards; (f) the Chair of the Professional Standards Committee; and (g) the Diocesan Auditor
Eligible Whistleblower	an individual who is or has been any of the following, in relation to the NAC: <ul style="list-style-type: none"> (a) a Diocesan Council member; (b) a Board member, a Board Committee member or a School Council member; (c) an employee, member of the clergy or volunteer; (d) a person who supplies goods or services (paid or unpaid); (e) an employee of a person who supplies goods or services (paid or unpaid); (f) an individual who is an associate of the NAC (as defined in the Corporations Act); and (g) a relative or dependent (or dependents of a spouse) of any individual described above.
Qualifying Disclosure	a disclosure about which the Eligible Whistleblower has reasonable grounds to suspect that the information concerns a disclosable matter
Related Bodies Corporate	an entity or organisation that is connected to the Diocese or NAC including Samaritans Foundation, Samaritans Housing, Anglican Care, the Anglican Schools Corporation (and all schools it oversees) and the Trustees of Church Property

Qualifying Disclosures

A Qualifying Disclosure contains Disclosable Matters.

Disclosable Matters

Disclosable Matters contain a disclosure of information where the Eligible Whistleblower has reasonable grounds to suspect that the information relating to the Diocese, the NAC or a Related Entity concerns:

- (a) misconduct;
- (b) an improper state of affairs or circumstances;
- (c) 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
- (d) conduct (including conduct of officers and employees) that represents a danger to the public or financial system.
- (e) This may include any conduct in relation to the operation of the NAC that involves:
 - fraudulent activity;
 - unlawful or corrupt use of NAC funds;
 - improper accounting or financial reporting practices;
 - systemic practices that pose a serious risk to the health and safety of any person involved with NAC activities.

Eligible Whistleblowers who make a “Public Interest Disclosure” or an “Emergency Disclosure” also qualify for protection. These types of disclosures are defined below.

Disclosable Matters must be made on Reasonable Grounds

To be a Disclosable Matter, the Eligible Whistleblower must have reasonable grounds to suspect the Disclosable Matter.

That means the discloser has a suspicion that could reasonably be formed based on the facts and information available to them.

If a disclosure is made without reasonable grounds to suspect (eg where the disclosure is unfounded), it will not be a Disclosable Matter and the discloser will not have the protections provided under this policy.

Personal work-related grievances not Qualifying Disclosures

Generally, disclosures that concern personal work-related grievances do not qualify for protection.

A disclosure will concern a personal work-related grievance of the discloser if the Information:

- (a) concerns a grievance about any matter in relation to the discloser's employment, or former employment, having or tending to have implications for the discloser personally; and
- (b) does not have significant implications for the NAC that do not relate the discloser; and
- (c) does not concern conduct that is:
 - an alleged contravention of the Corporations Act and specified financial services laws; or
 - an offence against another law of the Commonwealth, which is punishable by imprisonment of 12 months or more; or
 - a danger to the public or financial system.

Examples of disclosures regarding personal work-related grievances that may not qualify for protection include:

- (d) an interpersonal conflict between the discloser and another employee;
- (e) a decision relating to the engagement, transfer or promotion of the discloser;
- (f) a decision relating to the terms and conditions of engagement of the discloser;
- (g) a decision to suspend or terminate the engagement of the discloser, or otherwise discipline the discloser.

Personal work related grievance should be addressed in accordance with the Staff Grievance Policy or Diocesan Grievance Protocol

A disclosure could qualify for protection if it concerns a personal work-related grievance and also concerns alleged detriment (or a threat of detriment) to the discloser.

Public Interest Disclosure

An Eligible Whistleblower can disclose a Disclosable Matter 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:

- (a) 90 days has passed since the time of the first disclosure; and
- (b) 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
- (c) the Eligible Whistleblower has reasonable grounds to believe that making a further disclosure of the information would be in the public interest; and
- (d) the Eligible Whistleblower informs the original recipient they intend to make a public interest disclosure; and
- (e) the extent of information disclosed is no greater than necessary to inform the recipient of the Disclosable Matter.

Emergency disclosures

An Eligible Whistleblower can make an Emergency Disclosure 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:

- (a) 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
- (b) the Eligible Whistleblower informs the original recipient they intend to make an emergency disclosure; and
- (c) the disclosure of information is no greater than necessary to inform the recipient of the substantial and imminent danger.

How to make a Qualifying Disclosure

An Eligible Whistleblower may make an Eligible Disclosure by email or by phone to any Eligible Recipient.

Contact Details

An Eligible Whistleblower can contact any Eligible Recipient personally to disclose an Eligible Disclosure or:

- telephone 1800 774 945
- email: dps@newcastleanglican.com.au
- Post to the Director of Professional Standards, Anglican Diocese of Newcastle, PO Box 494 NEWCASTLE NSW 2300

Any communication made by any of these means shall be received by the Director of Professional Standards. If the Qualifying Disclosure relates to the Director of Professional Standards, it should be directed to the Bishop and marked “confidential”.

Anonymous disclosures

A disclosure can be made anonymously. However, an anonymous disclosure may make it difficult to investigate the reported matter.

The Diocese 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 and the Diocese encourages the discloser to provide an anonymous email address through which additional questions can be asked and information provided.

External disclosures

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

Receiving and Investigating a Qualifying Disclosure

Receiving a disclosure

Upon receiving a disclosure, the Eligible Recipient will inform the Director of Professional Standards (unless the matter relates to the Director of Professional Standards) when the Eligible Recipient will inform the Bishop.

The Director of Professional Standards or the Bishop will assess the disclosure to determine whether it qualifies for protection in accordance with this policy (to be considered a Qualifying Disclosure) or the disclosure concerns matters that should be managed in accordance with related policies.

Investigating a qualifying disclosure

The Director of Professional Standards will arrange an investigation using the Professional Standards Protocol of the Diocese as a guide to the investigation process.

As part of the Diocesan accountability processes, the Director of Professional Standards may advise the Chair of the Professional Standards Committee and the Bishop about investigations under this policy unless there is a conflict of interest created by providing that advice.

Confidentiality and records

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.

Confidentiality must be observed in relation to handling and storing records relating to a Qualifying Disclosure.

Exceptions to confidentiality of Qualifying Disclosures are limited to:

- (a) disclosures to ASIC or the Australian Federal Police;
- (b) where a legal practitioner is engaged for the purpose of obtaining advice about the application of the whistleblower protections;
- (c) where the law requires the disclosure of the identity of the whistleblower; and
- (d) where the discloser consents.

The discloser's identity and information which is likely to lead to the identification of the discloser can also be provided to any Commonwealth or State authority for the purpose of assisting the authority in the performance of its functions or duties.

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, provided that 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/or disciplinary proceedings.

All whistleblower reports will be kept confidential and secure" add the words "It is illegal for the person to reveal the identity of a whistleblower, or information likely to lead to the identification of whistle-blower. Such breaches will be investigated and may result in disciplinary action or other legal consequences

What are Whistleblower protections under this policy?

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 as set out above under the heading "Confidentiality".

Eligible Whistleblowers making a Qualifying Disclosure cannot be subject to any civil or criminal liability or disciplinary action for making the Qualifying Disclosure. No contractual or other remedy or right may be enforced or exercised against the person on the basis of such disclosure.

Immunities

Eligible Whistleblowers who make some types of Qualifying Disclosures 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 Eligible Whistleblower has disclosed is not admissible in certain proceedings against them.

No victimisation or detriment for Eligible Whistleblowers

Eligible Whistleblowers are protected from victimisation and shall not suffer any detriment by reason of the making of a 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, business or financial position.

Remedies for being subjected to detriment could include:

- compensation
- injunctions and apologies
- reinstatement of a person whose employment is terminated
- exemplary damages

There are significant civil and criminal penalties for failing to comply with confidentiality and these victimisation provisions, which shall include disciplinary action.

If an Eligible Whistleblower believes they are being subjected to a detriment or a threat of detriment, this should immediately be reported in writing or via email to the Diocesan Chief Executive or, if the threat has been made by the Diocesan Chief Executive, to the Bishop.

Unsubstantiated Allegations

Should any person purporting to be an Eligible Whistleblower make a false disclosure, or if a disclosure is unsubstantiated, made maliciously or is knowingly false, such a matter will be taken seriously and may be considered serious and wilful misconduct.

The making of unsubstantiated allegations shall be dealt with under the Diocese's disciplinary processes (insert reference)

Additional support for Eligible Whistleblowers and other employees

The employee assistance program (EAP) services will be available to all Eligible Whistleblowers and the persons affected by the disclosure, should they require that support.

5 Policy Administration

The procedures for this Policy will be approved by the Diocesan Chief Executive.

Effective from	1 October 2020
Approved by	The Diocesan Council
Policy Owner	The Diocesan Council
Policy Administrator	The Director of Professional Standards
Application	
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