



Policy: **Whistleblower Policy**

Sub-Committee: **Audit and Risk Sub-Committee**

Originally released: **2020**

Date for review: **2023**

1. Introduction

Catholic Education Western Australia Limited (CEWA Ltd) is committed to fostering a culture that reflects transparency and integrity and promotes Catholic values and ethical behaviour. The Catholic Education Commission of Western Australia (CECWA) Whistleblower Policy and associated procedures are designed to uphold CEWA Ltd's shared values arising from the Catholic Social Teaching Principles of the dignity of the human person, the common good, subsidiarity, co-responsibility and participation.

This policy and associated procedures have been developed in accordance with the requirements of the *Corporations Act 2001* (Cth) (the Act) and the *Treasury Laws Amendment (Enhancing Whistleblower Protections) Act 2019* (Cth). This document should be read in conjunction with all other CECWA policies and processes.

The purpose of the CECWA Whistleblower Policy is to:

- Encourage the disclosure of wrongdoing (see Disclosable Matters)
- Help deter wrongdoing and promote a more ethical culture, in line with CEWA Ltd's risk management and governance framework
- Provide a process for individuals to report Disclosable Matters in the knowledge that they may do so anonymously, and can act without disadvantage, intimidation or reprisal, and with appropriate protection.
- Improve CEWA Ltd's whistleblowing culture and increase transparency in the process to handle disclosures of wrongdoing, and
- Meet CEWA Ltd's legal and regulatory obligations.

CEWA Ltd has extensive existing internal policies and procedures to address matters including:

- i) Child Protection
- ii) Health and Safety
- iii) Disputes and Complaints
- iv) Internal Grievances (including, but not limited to Code of Conduct, Harassment, Discrimination, Victimization and Bullying).

The existing CEWA Ltd policies and procedures should always be used to address an issue or concern, unless an individual wishes to report a Disclosable Matter anonymously and/or with appropriate protections in place, in which case this Whistleblower Policy and the associated procedures should be used.

2. Definitions and Roles

Definitions:

Detrimental Conduct is conduct that would personally disadvantage a whistleblower. Such action may include but not be limited to one or more of the following:

- termination of employment
- reduction in the terms or conditions of employment
- harassment or intimidation of a person
- harm or injury to a person, including psychological harm
- damage to a person's reputation
- demotion, or
- unfair or unequal treatment in the workplace.

CEWA Ltd Person (or People) is any person (or people) employed by or associated with CEWA Ltd.

Legal Protections for a whistleblower, under the *Corporations Act 2001* (Cth), include:

- identity protection (confidentiality)
- protection from detrimental acts or omissions
- compensation and remedies, and
- civil, criminal and administrative liability protection.

Personal Work-Related Grievance includes, but is not limited to one or more of the following:

- an interpersonal conflict between the whistleblower and another employee
- a decision relating to the engagement, transfer or promotion of the whistleblower
- a decision relating to the terms and conditions of engagement of the whistleblower
- a decision to suspend or terminate the engagement of the whistleblower, or otherwise to discipline the whistleblower.

An Eligible Recipient is one eligible under the *Corporations Act 2001* (Cth) and includes:

- Nominated Officers of CEWA Ltd as detailed in the policy
- the Alternative Officer as appointed by CECWA, and
- any person authorised by CEWA Ltd to receive disclosures that may qualify for protection under this Part.

Disclosable Matters that qualify for protection under the *Corporations Act 2001* (Cth) may or may not involve a contravention of a particular law, and may include but not be limited to:

- illegal conduct, such as theft, dealing in, or use of illicit drugs, violence or threatened violence, and criminal damage against property
- fraud, money laundering or misappropriation of funds
- offering or accepting a bribe
- financial irregularities
- failure to comply with, or breach of, legal or regulatory requirements
- issues that are reasonably considered a significant risk to public safety
- issues that risk the stability of the CEWA financial system
- alert to an emergency situation
- 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.

A Discloser is a person who qualifies for protection as a whistleblower under the *Corporations Act 2001* (Cth) and may be a current or former:

- employee
- officer
- contractor
- supplier or employee of a contractor or supplier
- associate of CEWA Ltd
- or a spouse or relative of any of the aforementioned.

A Discloser may also be referred to as a whistleblower in the CECWA Whistleblower Policy.

Roles & Responsibilities:

Catholic Education Commission of Western Australia (CECWA)	The Board of Directors for CEWA Ltd. The CECWA approves this policy and ensures that appropriate procedures are in place to assist all to comply with it.
Executive Director	Responsible for the implementation of this policy and appoints the Nominated Officers for CEWA Ltd.
Principals	Responsible for the implementation of this policy and the development of local school procedures in accordance with the CECWA Policy.
Nominated Officer	<ul style="list-style-type: none"> • Must be a senior CEWA Ltd manager appointed by the Executive Director. • Mange reports that have been made directly to CEWA Ltd and Your Call when consent has been provided by the Discloser. • Make decisions as part of the Nominated Officers Committee.
Nominated Officers Committee	<p>A quorum of two Nominated Officers is required to constitute the Committee to make the following decisions:</p> <ul style="list-style-type: none"> • whether an investigation is required, and appointment of a WIO and • appointment of a WPO to support and protect the whistleblower.
Whistleblower Protection Officer (WPO)	<ul style="list-style-type: none"> • Appointed by the Nominated Officers Committee to support, protect and advocate for the whistleblower. • The WPO may be one of the Nominated Officers or the role may be undertaken by an independent, external service.

<p>Whistleblower Investigation Officer (WIO)</p>	<ul style="list-style-type: none"> • Appointed by the Nominated Officers Committee. • The WIO may be one of the Nominated Officers or the investigation may be conducted by an independent, external service. • Must conduct a thorough and fair investigation following the CEWA Dispute and Complaint Resolution Policy.
<p>Eligible Recipients (Nominated Officers, CECWA, CEWA Executive, CEWA Senior Leaders, Principals, Your Call, Regulators)</p>	<ul style="list-style-type: none"> • Can be contacted directly by a whistleblower to receive a whistleblower report. • When the whistleblower has provided consent to do so, the Eligible Recipient must then pass on the report information to a Nominated Officer.

3. Scope

The CEWA Whistleblower Policy applies to eligible Disclosers from the CEWA Ltd community. References within this policy to CEWA Ltd include references to all CEWA Ltd schools, early years and learning centres, outside school hours care programs and offices.

Although there are legislative differences in how the employees of organisations captured under the Act must be protected, and how students and parents must be treated under state and federal legislation when reporting a wrongdoing, CEWA Ltd commits to treating all whistleblowers fairly and equitably. Students from the CEWA Ltd school community and parents of students should use the *CECWA Child Protection Policy*, the *CECWA Dispute and Complaint Resolution Policy*, the *CECWA Dealing with Bullying, Harassment, Aggression and Violence (Students) Policy*, the *CECWA Management of Confidential Information Policy*, the *CECWA Privacy Policy*, and the *CECWA Unsatisfactory Performance and Misconduct Policy* to raise concerns about wrongdoing.

4. Principles

- 4.1 CEWA Ltd does not tolerate wrongdoing by members of the CECWA, CECWA Committee Members, CEWA Ltd employees, contractors, volunteers, officers or members of school-based boards and committees.
- 4.2 CEWA Ltd upholds the Catholic Social Teaching Principles alongside values of transparency and accountability in all management and governance practices.
- 4.3 CEWA Ltd supports the making of reports of Disclosable Matters by whistleblowers to any Eligible Recipient authorised to receive a whistleblower disclosure.

- 4.4 A whistleblower is entitled to legal protection under the *Corporations Act 2001* (Cth) and *Treasury Laws Amendment (Enhancing Whistleblower Protections) Act 2019* (Cth).
- 4.5 A whistleblower has the right to make an anonymous disclosure, in confidence, securely and inside or outside of business hours.
- 4.6 A whistleblower must provide information that may assist any inquiry or investigation into the matter.
- 4.7 CEWA Ltd will ensure whistleblower protection from any actual or threatened detrimental conduct including retaliatory action, victimisation, reprisal, discrimination or harassment for making a report of Disclosable Matter. Any retaliation will be considered to be misconduct.
- 4.8 CEWA Ltd will ensure fair treatment of employees who are mentioned in or the subject of disclosures that qualify for protection. All reasonable steps will be taken to support and protect persons who make such disclosures.
- 4.9 Whistleblower protection may also apply if a whistleblower report is made to a journalist or parliamentarian, where matters are in the public interest, or in an emergency situation. CEWA Ltd strongly encourages the use of existing processes and procedures, including this policy and all other relevant processes.
- 4.10 CEWA Ltd will fairly and objectively investigate each disclosure as soon as is practically possible. Such investigation will be conducted by either a Nominated Officer, the Alternative Officer or an external investigator, who is independent and suitably qualified to conduct such an investigation.
- 4.11 A whistleblower must have reasonable grounds for their concern. Disclosure that is motivated by malicious intent or dishonest behaviour may be considered a breach of the CEWA Code of Conduct and subject to appropriate disciplinary action.
- 4.12 If a whistleblower was complicit in the wrongdoing, the whistleblower is not protected from the consequences of involvement. A person remains responsible for their own conduct and any liability is unaffected by their reporting of the misconduct.
- 4.13 If the disclosure turns out to be incorrect, the whistleblower can still qualify for protection.

4.14 A whistleblower must be informed of the outcome of any investigation relating to their disclosure.

5. Procedures

5.1 *Determining Disclosable Matters*

Any wrongdoing covered by this policy includes any Disclosable Matter or other conduct which:

- is dishonest, fraudulent or corrupt
- is illegal, such as theft, drug sale or use, violence, harassment or intimidation, criminal damage to property or other breaches of state or federal law
- is unethical, such as dishonestly altering company records or data, or adopting questionable accounting practices
- is potentially damaging to CEWA Ltd or a CEWA Ltd person, such as unsafe work practices or substantial wasting of CEWA Ltd resources
- may cause financial loss to CEWA Ltd, damage its reputation or otherwise be detrimental to CEWA Ltd's interests
- poses a significant risk to public safety or the stability of, or confidence in, the financial system (whether or not it involves a breach of the law)
- involves engaging in or threatening to engage in detrimental conduct against a person who has made a report of wrongdoing, or is believed or suspected to have made, or be planning to make, a report of wrongdoing;
- relates to potential wrongdoing or an improper state of affairs or circumstances related to CEWA Ltd's tax affairs, or
- involves any other kind of wrongdoing or an improper state of affairs or circumstances in relation to CEWA Ltd.

Disclosable Matters do not include:

- breaches of *CEWA's Code of Conduct* that do not relate to the definition of Disclosable Matters or
- Personal Work-Related Grievances that are excluded from the whistleblower protections under the Act.

These matters may be raised and reported in accordance with other CEWA Ltd policies and procedures, depending on the nature of the grievance.

5.2 *Reporting Disclosable Matters*

CEWA Ltd encourages all CEWA Ltd people to speak to their line manager, principal or director in the first instance. All reasonable attempts to resolve an issue informally and internally should first be tried, where appropriate. If, however, an individual does not feel safe or able to raise wrongdoing with their line manager, principal or director they may make a disclosure using this policy, where the issue concerns a Disclosable Matter:

- a) internally to our organisation
- b) to independent whistleblower service provider – Your Call, or
- c) to external authorities and entities.

5.2.1 *Internal Disclosures*

If a Discloser would like to make a report internally under Australian whistleblower laws (and receive protection under those laws), they can make a confidential report of wrongdoing to any Eligible Recipient. Alternately, the Discloser can contact one of CEWA Ltd's Nominated Officers, set out below:

ROLE	CONTACT DETAILS
Deputy Executive Director	Wayne.Bull@cewa.edu.au
Director – Leadership and Employee Services	Tony.Curry@cewa.edu.au
Manager – Strategy, Governance, Policy and Risk	Ainslie.Perrigo@cewa.edu.au

These reports can be made by telephone, email or in person.

5.2.2 *Disclosures to External Hotline – Your Call*

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

Your Call is an independent and external service that is authorised to receive whistleblowing reports in relation to CEWA Ltd.

All reports received by Your Call are reported to the Nominated Officers Committee, or where the allegation pertains to a Commissioner, the Executive Director, a member of the Executive Team or any of the Nominated Officers, then to the Alternative Officer, in accordance with this policy.

Your Call enables reports to be made anonymously and confidentially.

Your Call reporting options include:

- Website available 24/7:
<https://www.yourcall.com.au/report>
You will be required to enter CEWA Ltd's unique identifier code: (CEWA)
- Telephone: 1300 790 228, available between 9am and 12am, recognised business days, AEST
- 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 and request Your Call's hotline 1300 790 228
- If you have difficulty speaking or understanding English, contact Your Call through the Translating and Interpreting Service (TIS) 131 450 and ask for Your Call on 1300 790 228.

5.2.3 *Disclosures to external authorities and entities*

Reports may also be made under the Australian whistleblower laws to the following external Eligible Recipients:

- A lawyer, but not a lawyer employed by CEWA Ltd, for the purposes of obtaining legal advice or representation
- The Australian Securities and Investment Commission (ASIC), the Australian Prudential Regulation Authority (APRA), the Commissioner of Taxation, or another Commonwealth body prescribed by regulation, as appropriate
- Under certain circumstances, to a journalist or member of Commonwealth, state or territory parliaments in accordance with the requirements set out in the Act for making an "emergency disclosure" or a "public interest disclosure"
- If the report relates to CEWA Ltd's tax affairs, a registered tax agent or BAS agent of CEWA Ltd

5.3 *Reporting Disclosable Matters Anonymously*

If the whistleblower wishes to remain anonymous, then he or she may do so. An anonymous report of wrongdoing can be made to an Eligible Recipient and will be protected under Australian whistleblower laws. A whistleblower who makes an anonymous report of wrongdoing may refuse to answer questions they feel could reveal their identity at any time.

5.4 *Protecting Whistleblowers' Confidentiality and Privacy*

It is illegal for a person to disclose the identity of a whistleblower who has made a report of wrongdoing to an Eligible Recipient, as set out in section 5.1 of this document, or to disclose information that is likely to lead to their identification, outside of the above circumstances. Such unauthorised disclosure will be an offence under Australian law. It will also be regarded as a CEWA disciplinary matter and will be dealt with in accordance with CEWA Ltd's disciplinary procedures.

Accordingly, Eligible Recipients or any other person with knowledge of the report must not disclose the CEWA Ltd person's identity unless:

- The CEWA Ltd person making the report consents to the disclosure.
- The disclosure is required by law.
- The disclosure is made to ASIC, APRA, the Commissioner of Taxation (if the report relates to CEWA Ltd's tax affairs) or the Australian Federal Police.
- It is disclosed to a lawyer for the purpose of receiving advice in relation to legal obligations of protection and confidentiality.

CEWA Ltd will take all reasonable steps to protect a whistleblower's identity and will ensure that any records relating to a report of wrongdoing are stored securely and confidentially, in accordance with the *CECWA Privacy Policy* and the *CECWA Management of Confidential Information Policy*. Such records will be accessed only by CEWA Ltd staff and employees of the appointed independent external investigation service, who are authorised to access the information for the purposes of assessing or investigating the report.

A Discloser who intends to make a report under this policy may make a request for special protection measures if their identity is likely to be readily inferred from the nature of the information in the report.

If a Discloser believes there has been an unauthorised disclosure of their identity or information that is likely to lead to their identity being disclosed, they should report this to Your Call or a Nominated Officer. Reports of unauthorised disclosure may also be made to ASIC, APRA or the Commissioner of Taxation (if the original report related to CEWA Ltd's tax matters for investigation).

To the extent that any of the information recorded by CEWA Ltd, or Your Call on CEWA Ltd's behalf, constitutes personal information about the caller under applicable privacy law, it should be noted that:

- The purpose of the collection of that information is to assist Your Call and CEWA Ltd to respond to issues raised by the whistleblower and to protect or enforce CEWA Ltd's legal rights or interests or to defend any claims
- Personal information may be used for the primary purpose for which it was collected or for any related secondary purpose that could reasonably be expected
- Personal information may be disclosed or described under section 7.1.

CEWA Ltd only collects, uses or discloses personal information, including sensitive information, as allowed by law. Further details are available in *CECWA's Privacy Policy*.

5.5 **Protecting Whistleblowers from Detrimental Conduct**

CEWA Ltd is committed to protecting and respecting the rights of any CEWA Ltd person who reports wrongdoing in accordance with this policy.

CEWA Ltd will not tolerate any actual or threatened (whether expressed or implied, whether or not there is any intention to carry out the threat and whether or not the Discloser who receives the threat fears that the threat will be carried out), reprisals (including dismissal or demotion), discrimination, bias, harassment, intimidation, victimisation or any other injury or damage to any person suspected of making a report of wrongdoing, or against that person's colleagues, employer (if a contractor), relatives, or any other person where the reason for the detrimental conduct relates to the suspicion that a person has made, may make, or could make a report of wrongdoing. This commitment is supported by the *CECWA Harassment, Unlawful Discrimination, Victimisation and Bullying (Staff) Policy*.

Any such retaliatory action may be an offence under Australian law, will be treated as serious misconduct and will be dealt with in accordance with CECWA policies.

Performance management of a whistleblower, where such action is in line with CEWA Ltd's performance management approach, is not

detrimental conduct. If such actions are undertaken, CEWA Ltd will explain to the whistleblower the reason for the action.

CEWA Ltd will take all reasonable steps to protect a whistleblower from suffering detriment due to making a disclosure, including providing support services (counselling, EAP) and assessing the risk of detriment.

If a Discloser believes that they have been subject to detrimental conduct they should report this to Your Call or a Nominated Officer. Reports of detrimental conduct may also be made to ASIC, APRA, or the Commissioner of Taxation (if the original report related to CEWA Ltd's tax affairs).

5.6 **Further Protection to Whistleblowers**

In addition to the above, under Australian law a Discloser who has reasonable grounds for suspecting that wrongdoing has taken place, and who reports the matter to an Eligible Recipient, may be entitled to additional legal protections in certain circumstances, including:

- They may be protected from civil, criminal or administrative legal action for making the report.
- They may be protected from contractual or other remedies being sought against them on the basis of the report.
- The information they provide may not be admissible in evidence against them in legal proceedings (unless they have provided false information).
- In some circumstances they may be entitled to compensation or another remedy through the courts if:
 - They suffer loss, damage or injury because of a report of wrongdoing, and
 - CEWA Ltd failed to take reasonable precautions and exercise due diligence to prevent the detrimental conduct.

Under Australian law, these protections may not apply to reports made to Eligible Recipients that concern a Personal Work-Related grievance of the person making the report or breaches of the *CEWA Code of Conduct* that do not fall into the definition of Disclosable Matters.

5.7 **Investigating a Disclosure**

Where it is appropriate and practicable to investigate a report, an appropriate investigator (or investigators) will be appointed by the Nominated Officers Committee to assess and

investigate the report. A person will only be asked to investigate a matter if they can do so in an impartial manner. In certain circumstances, CEWA Ltd may decide to appoint external investigators.

Where a report of suspected wrongdoing relates to a significant matter involving a Commissioner, Executive Director, a member of the Executive Team or one of the Nominated Officers, the matter will be referred directly to the Alternative Officer when the whistleblower has provided consent.

The person (or external organisation) appointed to investigate the report will be required to follow the *CECWA Dispute and Complaint Resolution Policy*.

Reports may not be able to be investigated if CEWA Ltd is not able to contact the person who has made the report and insufficient information has not been provided to warrant an investigation.

Whenever a report of suspected wrongdoing mentions or relates to any CEWA Ltd employees, CEWA Ltd is committed to treating those employees fairly, as appropriate in the circumstances.

Subject to privacy and confidentiality requirements, the whistleblower will be kept informed of:

- when the investigation process has begun
- relevant progress of the investigation, and
- the outcome of the investigation

to the extent that it is legally permissible and appropriate to do so.

5.8 **Concluding the Investigation**

5.8.1 At the end of the investigation, the investigator(s) will prepare an investigation report which includes all relevant findings of the investigation. The investigation findings will be reviewed independently of the investigator(s), to determine an appropriate response, which may include rectifying any wrongdoing and taking any action required to prevent any future occurrences of the same or similar conduct.

5.8.2 The identity of the CEWA Ltd person who reported the wrongdoing will be redacted from any written investigation reports unless they have consented to the disclosure of their identity.

5.8.3 Where issues of discipline arise, the disciplinary process will also be in line with *CECWA's*

Unsatisfactory Performance or Misconduct Policy. Where allegations of wrongdoing made against a person cannot be substantiated, that person will be advised accordingly and will be entitled to continue in their role as if the allegations had not been made.

5.8.4 A person who has committed or been involved in wrongdoing will not be immune from disciplinary action merely because they have reported the wrongdoing in accordance with this policy. However, the person's conduct in making the report is likely to be taken into account in determining what disciplinary action is appropriate.

5.8.5 Once the matter is finalised, a report will be made to the whistleblower. This report will explain the findings and actions taken to the fullest extent possible within commercial, legal and confidentiality constraints. Where the whistleblower chose to remain anonymous, alternative arrangements may be made for providing a verbal report of the outcome of the investigation to that person, where possible.

5.8.6 An eligible Discloser may request a review of the investigation findings if the outcome is not to their satisfaction. The review will be conducted by an officer who is not involved in handling and investigating disclosures and the review findings will be shared with CECWA and the Audit and Risk Committee.

5.8.7 CECWA is not obliged to reopen an investigation if it finds that the investigation was conducted properly, or new information is either not available or would not change the findings of the investigation.

5.9 **Availability of this Policy**

The CECWA Whistleblower Policy is available on CEWA Ltd's intranet and external website. All Catholic schools must include a link to this policy on their school website.

5.10 **Training in this Policy**

Eligible Recipients, potential investigators and all relevant CEWA Ltd personnel will receive regular training in relation to their rights and obligations under this policy and under applicable whistleblower laws.

5.11 **Questions about this Policy**

If you need information and advice about making a disclosure or the support and protection available, you may discuss the matter in confidence with a Nominated Officer.

6. References

CEWA's Code of Conduct

CECWA Dealing with Bullying, Harassment, Aggression and Violence (Students) Policy

CECWA Dispute and Complaint Resolution Policy

CECWA Harassment, Unlawful Discrimination, Victimisation and Bullying (Staff) Policy

CECWA Management of Confidential Information Policy

CECWA Privacy Policy

CECWA Unsatisfactory Performance or Misconduct Policy

Corporations Act 2001 (Cth)

Treasury Laws Amendment (Enhancing Whistleblower Protections) Act 2019 (Cth)

7. Related Documents

ASIC Whistleblower Regulations 270

8. Review History

This policy was developed in 2020.

9. Next Review

This policy will be next reviewed in 2023, or earlier as required by legislative or regulatory changes.

Acknowledgment and consent to disclosure for investigation and reporting purposes

CONFIDENTIAL

1. I, _____ (name of Discloser), have made a disclosure of information to the following person:

NAME OF PERSON	
POSITION TITLE	

2. I have reasonable grounds to suspect that the information concerns a Disclosable Matter/s.
3. I have received a copy of the CECWA Whistleblower Policy.
4. I understand that information about my report that is unlikely to reveal my identity can be disclosed without my consent.
5. I understand that if my report is captured under whistleblower protections set out in the *Corporations Act 2001 (Part 9.4AAA-Protection for whistleblowers)*, my identity and information that is likely to lead to my identity cannot be disclosed unless authorised by law in the following circumstances:
 - (i) my consent has been given; or
 - (ii) is disclosed to a legal practitioner for the purpose of obtaining advice and representation in relation to whistleblower laws; or
 - (iii) is reasonably necessary for the purpose of investigation of the matter and all reasonable steps to reduce the risk that I will be identified have been taken; or
 - (iv) is disclosed to Australian Securities Investment Commission (ASIC), the Tax Commissioner (if a tax matter) or the Australian Federal Police (AFP).
6. I hereby give my consent to the disclosure of my identity, under conditions of confidentiality, and for the purpose of investigation and reporting as set out in the policy and procedure to the following persons:

NAME OF PERSON	POSITION TITLE OR ROLE

Signed by:

Name of Discloser:	
Signature of Discloser:	
Date:	