

KU WHISTLEBLOWER POLICY AND PROCEDURES

POLICIES AND PROCEDURES

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COMMITMENT STATEMENT

KU Children's Services is committed to ensuring best practice in responding to all forms of complaints in respect of its services. KU Children's Services has a *KU Complaints Management Framework* which contains policies relevant to the management of general grievances and complaints. As part of the *KU Complaints Management Framework*, there is a dedicated commitment to providing the protections, as required by law, for the most serious complaints of wrongdoing that are whistleblower complaints. For this purpose, the following *KU Whistleblower Policy and Procedures* have been incorporated into the framework.

1. POLICY OVERVIEW

This policy applies to KU Children's Services (KU).

The following values underpin the work of KU:

- ▶ Childhood
- ▶ Integrity and Relationships
- ▶ Leadership
- ▶ Innovation
- ▶ Sustainability
- ▶ Diversity and Inclusion

KU will not tolerate serious wrongdoing by personnel engaged to deliver its services. KU recognises that to detect and prevent serious wrongdoing, there must be a mechanism whereby employees can report their concerns freely and without fear of reprisal, victimisation or intimidation, dismissal, demotion, suspension, and other forms of discrimination for raising allegations, even if the allegations prove to be incorrect or unsubstantiated. Such mechanisms are established within this document.

The relevant definitions are contained at section 11 of this document.

2. PURPOSE

The purpose of the policy is to ensure individuals who disclose serious wrongdoing under this policy in relation to the conduct of staff and others, who are engaged by KU Children's Services (KU) to deliver services, can do so safely and with confidence that they will be protected and supported to the best of KU's capacity.

The policy:

1. Establishes a reporting system to receive reports of serious wrongdoing as defined under this policy.
2. Clarifies what constitutes a matter that may be reported under this policy.
3. Sets out the protections of persons making a report under this policy so they may do so without fear of reprisal, dismissal or discriminatory treatment.
4. Clarifies how the *KU Whistleblower Policy and Procedures* intersects with other organisational policies and procedures.
5. Establishes procedures that enable a process for independent assessment and investigation of relevant whistleblower disclosures, and effective resolution of the issue identified.

The policy is designed to complement standard communication channels between managers/supervisors and staff about managing ordinary internal complaints. Staff are encouraged to raise workplace matters of concern at any time with their supervisors in accordance with the *KU Complaints Management Framework*. This policy is only to be used for what constitutes an "eligible disclosure" by an "eligible whistleblower".

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3. SCOPE

This policy has been drafted to comply with Australian laws¹ and the following Australian standards.²

A whistleblower complaint can be made against all KU employees, including the CEO, Executive, Senior Managers, staff and contractors, as well as volunteers, including Board members.

Nothing in this policy impacts on the ability of KU to engage with staff and others in relation to matters arising from the ordinary course of its relationship with, and contractual duties to, KU such as general performance or misconduct concerns.

Further, in the ordinary course of duties, individuals are to refer to the relevant policy and procedure of KU to resolve a concern before escalating a matter into the scope of this policy. Disclosures or allegations of misconduct that do not meet the criteria of a disclosure by a whistleblower will be addressed in accordance with the relevant KU policy.

Some examples are:

- ▶ Disclosures regarding a grievance between staff members about work matters, including work relationships and decisions made by other staff members which impact on their work, will be addressed in accordance with the *KU Staff Grievance Policy*.
- ▶ Unlawful discrimination, harassment or bullying complaints will be addressed in accordance with the *KU Anti Bullying, Harassment and Discrimination Policy*.
- ▶ A disclosure of bullying will be addressed under the *KU Anti Bullying, Harassment and Discrimination Policy*.
- ▶ Disclosures about “reportable conduct” will be addressed in accordance with the relevant *KU Child Safe Policy*.

Who does this policy apply to?

This policy applies to an “eligible whistleblower”, who reports an “eligible disclosure” to an “eligible recipient”. Such matters will be assessed and managed in accordance with this policy.

What matters may be reported under this policy?

Any ‘serious wrongdoing’, which meets the definition of an “eligible disclosure” (disclosure), including:

- ▶ Serious misconduct, corrupt conduct, maladministration, serious and substantial waste of KU money or government funding;
- ▶ Serious breaches of KU’s *Code of Conduct* or policies;
- ▶ Relevant criminal conduct, for example theft, drug sale or use, violence, stalking, criminal damage to property, and including offences involving telecommunications or abuse of children as per State/Territory or Commonwealth Laws;
- ▶ Conduct that is seriously detrimental to KU’s reputation;
- ▶ Fraudulent conduct;
- ▶ Conduct that indicates systematic issues relating to financial management matters;
- ▶ Improper behaviour relating to accounting, internal accounting controls or audit matters;
- ▶ Mismanagement of KU’s resources;
- ▶ Activity that poses a substantial risk to the environment;
- ▶ Conduct endangering the health and safety of any person or persons;
 - Coercion, harassment, or discrimination by, or affecting, any person who is a member of the KU community;

¹ Part 9.4AAA of the *Corporations Act 2001* (Corporations Act).

² AS 8004 (Whistleblower Protection Programs for Entities); AS 8001 (Fraud and Corruption Control); AS 8002 (Organisational Codes of Conduct)

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- Any other kind of serious impropriety including retaliatory action against a complainant or whistleblower for having made a wrongdoing disclosure;
- Concealment of information tending to show, or concealment of wrongdoing; and
- Any other conduct or act that may cause significant loss to KU or may otherwise be detrimental to its interests

Public interest disclosures and emergency disclosures to journalists or parliamentarians

An “eligible whistleblower”, (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 certain conditions are satisfied.

Matters that cannot be brought under this policy

To remove any uncertainty, the following matters are not managed under this policy:

- ▶ Interpersonal conflicts with other employees
- ▶ Decisions relating to reasonable performance management action, transfer, or promotions

However, a personal work-related grievance may still qualify for protection under this policy if it also forms a “serious wrongdoing” as defined in Section 3 or forms a threat or retribution against a whistleblower for having made a disclosure.

Complaints and grievances that are assessed as not disclosable matters as defined by this policy are to be managed by KU in accordance with the relevant KU policy.

4. PROCESS

KU is committed to having fair and proper procedures accessible for those involved in a matter under this policy. The process to receive, assess and manage whistleblower complaints, provides the complainant with two options for how

their disclosure is managed, that is, it may be managed internally by a nominated KU staff member, or it may be managed externally by an external legal-consultancy firm. The procedures are set out below at section 7.

5. SUPPORT AND PROTECTIONS

The process relating to a disclosure under this policy is afforded a high degree of confidentiality for any person involved. KU will take all reasonable steps to protect the confidentiality, including the identity, of a whistleblower.

KU considers any reprisals against a whistleblower to be a serious breach of this policy and one likely to result in disciplinary measures, including dismissal.

The making of a false report under this policy, knowing it is false or without basis and intended to cause harm, will not be tolerated.

KU manages all information arising under this policy in accordance with the principles of confidentiality and privacy laws. Documentation is retained in accordance with relevant State, Territory, Commonwealth Legislation at any point in time. All records under this policy are stored confidentially and securely in line with KU’s data security practices.

6. STAFF AWARENESS AND TRAINING

KU will ensure all staff and the KU community are informed about the *KU Whistleblower Policy and Procedures*. Staff involved in receiving a disclosure under this policy will be provided appropriate training in the management of such matters.

7. PROCEDURES

Making a disclosure

Who to make a disclosure to:

A disclosure may be made to any of the following “eligible recipients”:

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- ▶ **CEO**
P 02) 9268 3901
E chris.legg@ku.com.au
- ▶ **KU Whistleblower Protection Officer (WPO)**
P (02) 9268 3928
E jane.robinson@ku.com.au
- ▶ **External Whistleblower Service (WBS)**
P (02) 9181 5001 and quote KU Children's Service or by emailing
E kuwhistleblower@integroe.com.au

How to make a disclosure:

A disclosure may first be made in the first instance:

1. Verbally, or in writing, to one of the above persons listed above or
2. To the external WBS listed above by phone, email or using the online KU whistleblower online form on the KU website.

Complainant's choice of internal or external pathway

There are two pathways by which a complainant may have their disclosure managed. The complainant may choose their preferred option to lodge their initial complaint.

The two options are:

1. One pathway is managed internally by an internal KU staff member (that is the KU CEO or WPO).
2. The other pathway is managed by an external consultancy and legal firm that has established a whistleblower service for KU, (that is the WBS).

Anonymous disclosures will be received. However, there may be limits on the depth of inquiries, and other challenges, in investigating such a disclosure.

On receipt of a complaint under this policy, a whistleblower disclosure form is completed which documents the pathway the complainant has chosen.

General process steps

1. The disclosure is assessed to determine if it is an "eligible disclosure" by the CEO or WPO as defined under this policy.
2. If the complaint does not form a whistleblower "eligible disclosure", the complainant is referred to the *KU Complaints Management Framework* to take their complaint forward under the applicable KU policy.
3. If the complaint is assessed to be a whistleblower "eligible disclosure", then the following occurs:
 - i. The CEO will notify the Chair of the Board of the complaint within 48 hours;
 - ii. A response plan is developed. This includes a risk assessment, arrangements for support services for the whistleblower and the person subject of the complaint as appropriate, and any protections if required during the process. Protections may include interim adjustments to work arrangements or service delivery;
 - iii. Reports are made to any external authorities if required by law;
 - iv. KU will always appoint an external investigator to examine the whistleblower complaint.

KU's Employee Assistance program is called Access. Access is a free and completely confidential service which can be contacted 24/7 on 1800 818 728 to arrange an appointment (face to face or electronic) or immediate telephone.

4. The investigation is undertaken by an external investigator. This includes
 - i. Making reasonable inquiries to test the veracity of the disclosure;
 - ii. Informing the person subject of the disclosure about the allegation, providing

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- them with reasonable details and an opportunity to respond;
 - iii. Assessment of all evidence obtained to make a finding on the civil standards of proof (that is: the balance of probabilities); and
 - iv. Writing an Investigation Report with recommended finding/s.
5. The Investigation Report is provided to the CEO.
 6. The CEO in consultation with the Chair of the KU Board, if appropriate, determine suitable outcomes to the finding/s. This may include, but not limited to, disciplinary action, system review, further external reporting, and ongoing supports.
 7. The CEO or WPO communicates the finding/s to the whistleblower and to the person subject of the complaint. The finding/s are also provided in writing to both parties.
 8. The CEO or WPO communicates with the whistleblower and the person subject of the complaint, any outcomes that are directly relevant to them. Such outcomes will be also placed in writing to those respective persons.
 9. All documentation and records involving the matter are retained securely and confidentially by KU in accordance with KU data management protocols.
- i. If the alleged conduct involves the Chair of the Board, then the Deputy Chair of the Board undertakes the responsibilities of the Chair of the Board.
 - ii. If the alleged conduct involves the CEO, then the Chair of the Board will not involve the CEO in the process. The Chair may rely upon the Deputy Chair to assist in such a situation.
 - iii. If the alleged conduct involves the WPO, the CEO will retain responsibilities of the WPO under this policy unless they delegate to another senior member of KU staff.

9. FURTHER INFORMATION

Further information about this policy and the procedures may be obtained from the KU CEO, KU WPO or the external WBS (see contacts above at Section 7).

10. REVIEW OF POLICY AND PROCEDURES

Unless required by legislative amendments, this policy, procedures, and related Information Sheets will be reviewed in April 2024.

Note: In addition to this document, the following information sheets are available:

- ▶ Information for the whistleblower
- ▶ Information for a person subject to a whistleblower allegation
- ▶ Information regarding whistleblower investigation process

8. CONFLICTS OF INTEREST

If the whistleblower complaint relates to the Chair of the KU Board, CEO or WPO, or it compromises the responsibility of those persons under this policy, the alternative arrangements are:

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11. DEFINITIONS

TERM	DEFINITION FOR THIS POLICY
Australian Securities and Investments Commission	Set up to administer the Australian Securities and Investments Corporation Act 2001. They are a recipient of certain whistleblower disclosures.
Australian Prudential Regulation Authority (APRA)	An independent statutory authority that supervises institutions across banking, insurance and superannuation. They are a recipient of certain whistleblower disclosures.
CEO of KU Children's Services (CEO)	The CEO is an "eligible recipient" under this policy. The CEO may be involved in communicating a finding, or outcomes, at the conclusion of an investigation. The CEO receives appropriate training in managing whistleblowing matters.
Complainant	A person who seeks to bring a complaint under the whistleblower policy (prior to an assessment of whether it is an "eligible disclosure").
Eligible Whistleblower (Whistleblower)	An individual who is, or has been, any of the following: <ul style="list-style-type: none"> ▶ An employee (current or former, part-time, fixed-term or temporary, interns), volunteers, managers, officers and directors; ▶ A Board member; ▶ A supplier of services or goods to the entity, including their employees; ▶ An associate of the entity; and ▶ Relatives, dependents or spouses of such individuals above
Eligible Disclosure (Disclosure)	A disclosure by an eligible whistleblower about serious wrongdoing that constitutes a disclosable matter as defined in this policy.
Eligible Recipient	The CEO, WPO and WBS are 'eligible recipients' able to receive and manage 'eligible disclosures' under this policy
External Whistleblower Service (WBS)	An external legal consultancy service engaged by KU Children's Services to receive and manage complaints under this policy and "eligible disclosures". This service is an "eligible recipient" under this policy. It provides the external pathway for management of such matters under this policy. The WBS may also provide advice to KU on a whistleblower disclosure being managed internally by the WPO.
Serious Wrongdoing	As defined at section 3 of the policy.

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TERM	DEFINITION FOR THIS POLICY
Whistleblower Protection Officer (WPO)	An employee of KU Children’s Services appointed by the CEO to hold this position, who is an ‘eligible recipient’, and receives appropriate training to manage ‘eligible disclosures’ under this policy.