

Date: August 2007

Updated: October 2013

TOPIC: 5.3 Protected Disclosures Policy

Rationale

Staff members have a duty of care towards the College business, to not take any action or engage in any activity which is detrimental to the College and at the same time to generally look after the interests of the College and staff. These guidelines provide information to staff members who believe serious wrongdoing has occurred, which has or may have a negative impact on the College or community, and who wish to draw it to the attention of the appropriate person or persons.

Purpose

The purpose of this policy is to provide information and guidance to staff members of the College who wish to report serious wrongdoing within the College.

This policy is issued in compliance with the Protected Disclosures Act 2000.

Definitions:

1. A protected disclosure is a declaration made by a staff member where they believe serious wrongdoing has occurred. Staff members making disclosures will be protected against retaliatory or disciplinary action and will not be liable for civil or criminal proceedings related to the disclosure
2. Serious wrong doing for the purposes of this policy includes any of the following:
 - i. An unlawful, corrupt or irregular use of funds or resources of the College or
 - ii. An act or omission or course of conduct that constitutes a serious risk to public health or public safety or the environment; or
 - iii. An act or omission, or course of conduct that constitutes a serious risk to the maintenance of law, including the prevention, investigation and detection of offences and the right to fair trial; or
 - iv. An act, omission, or course of conduct that constitutes an offence; or
 - v. An act, omission, or course of conduct by a staff member that is oppressive, improperly discriminatory, or grossly negligent, or that constitutes gross mismanagement;
 - vi. Whether the wrongdoing occurs before or after the commencement of the Act

Guidelines

1. **Conditions for Disclosure**
Before making a disclosure the staff member should ensure the following conditions are met:
 - i. The information is about serious wrongdoing in or by the College;
 - ii. The staff member believes on reasonable grounds the information to be true or is likely to be true
 - iii. The staff member wishes the wrongdoing to be investigated; and
 - iv. The staff member wishes the disclosure to be protected
2. **Who can make a disclosure**
Any staff member of the College can make a disclosure. For the purpose of this policy a staff member includes:
 - i. Current staff members and Headmaster;
 - ii. Former staff members and Headmasters; and
 - iii. Contractors supplying services to the College.
3. **Protection of staff members making disclosures**
A staff member who makes a disclosure and who has acted in accordance with the procedures outlined in this policy:
 - i. May bring a personal grievance in respect of retaliatory action from the College;
 - ii. May access the anti-discrimination provisions of the Human Rights Act in respect of retaliatory action from their Colleges;
 - iii. Are not liable for any civil or criminal proceedings, or to a disciplinary hearing by reason of having made or referred to a disclosure; and
 - iv. Will, subject to Clause 5 or the procedure, have their disclosure treated with the utmost confidentiality.

The protections provided in this section will not be available to staff members making allegations they know to be false or they have acted in bad faith.

Procedures:

Any staff member of King's College who wishes to make a protected disclosure should do so using the following procedure.

1. The staff member should submit the disclosure in writing using the Disclosure of Information Form (Appendix One)
2. The disclosure should contain detailed information including the following:

- i. The nature of the serious wrongdoing
 - ii. The name or names of the people involved; and
 - iii. The place, date and time.
3. A disclosure must be sent in writing to the Deputy Headmaster who has been nominated by the Board of King's College under the provision of Section 11 of the Protected Disclosures Act 2000 for this purpose.

OR

If the staff member believes that the Deputy Headmaster is involved in the wrongdoing or has an association with the person committing the wrongdoing that would make it inappropriate to disclose to them, then the staff member may make the disclosure to the Headmaster.

4. On receipt of a disclosure, the Deputy Headmaster must within 20 working days examine seriously the allegations of wrongdoing made and decide whether a full investigation is warranted. If warranted a full investigation will be undertaken by the Deputy Headmaster and the Headmaster or arranged by him/her as quickly as practically possible through an appropriate authority.
5. All disclosures will be treated with the utmost confidence. When undertaking an investigation and when writing the report, the Deputy Headmaster will make every endeavour possible not to reveal information that can identify the disclosing person, unless the person consents in writing or if the person receiving the protected disclosure reasonably believes that disclosure of identifying information is essential:
- i. To ensure an effective investigation
 - ii. To prevent serious risk to public health or public safety or the environment
 - iii. To have regard to the principles of natural justice
6. At the conclusion of the investigation the Deputy Headmaster will prepare a report of the investigation with recommendation for action if appropriate, which will be sent to the Headmaster and the staff member making the disclosure (if appropriate).
7. A disclosure may be made to an appropriate authority (including those listed below) if the staff member making the disclosure has reasonable grounds to believe:
- i. the Deputy Headmaster, or the Headmaster or any other designated person within the College responsible for handling the complaint is, or may be involved in the wrongdoing; or
 - ii. immediate reference to another authority is justified by urgency or exceptional circumstances; or
 - iii. there has been no action or recommended action within 20 days of the date of disclosure.

Appropriate authorities include but are not limited to:

- i. Commissioner of Police
 - ii. Controller and Auditor General
 - iii. Director of the Serious Fraud Office
 - iv. Inspector General of Intelligence and Security
 - v. Ombudsman
 - vi. Parliamentary Commissioner for the Environment
 - vii. Police Complaints Authority
 - viii. Solicitor General
 - ix. State Service Commissioner
 - x. Health and Disability Commissioner
8. A disclosure may be made to a Minister or Ombudsman if the staff member making the disclosure:
- 8.1 has made the same disclosure according to the internal procedures and clauses of this policy
 - 8.2 reasonably believes that the person or authority to whom the disclosure was made
 - i. has decided not to investigate; or
 - ii. has decided to investigate but not made progress with the investigation within reasonable time; or
 - iii. has investigated but has not taken or recommended any action; and continues to believe on reasonable grounds that the information disclosed is true or is likely to be true.
 - iv. Continues to believe on reasonable grounds that the information disclosed is true or is likely to be true