

WHISTLE BLOWER

QUALITY AREA 7 | ELAA version 1.0



PURPOSE

This policy is a vital tool help Ferguson Park Pre-School identify wrongdoing that may not be uncovered unless there is a safe and secure way to disclose it.

The purpose of this policy is to:

- encourage genuine concerns about possible wrongdoing (*refer to Definitions*) in relation to Ferguson Park Pre-School to be raised as soon as possible
- provide guidance on how to raise those concerns, how they will be investigated and the support available to individuals raising concerns under this policy
- ensure that any wrongdoing (*refer to Definitions*) is identified and dealt with appropriately
- ensure that individuals who disclose wrongdoing can do so safely, securely and with confidence that they will be protected and supported, and
- comply with the legislative requirements under the Corporations Act and the Taxation Administration Act to ensure statutory protection is afforded to anyone who makes a Protected Report (*refer to Definitions*).

Nothing in this policy is intended to change or take away any other protections which may be available under law. If there is inconsistency between this policy and the provision of relevant legislation, the provisions of the relevant legislation will apply to the extent of the inconsistency.



POLICY STATEMENT

VALUES

Ferguson Park Pre-School is committed to a culture of respect and ethical conduct in the way we work and relate to each other. We recognise the value of keeping the laws and standards that apply to us in our work and encourage everyone to 'speak up' and report improper, unethical, or illegal conduct.

SCOPE

This policy applies to the approved provider, persons with management or control, nominated supervisor, persons in day-to-day charge, early childhood teachers, educators, staff, students, volunteers, parents/guardians and children.



RESPONSIBILITIES	Approved provider and persons with management or control	Whistleblower Protection Officer(s)	Whistleblower Investigators	Staff	Contractors, parents, volunteers and students
R indicates legislation requirement, and should not be deleted					
Nominating a staff member/s as Whistleblower Protection Officer(s)	√				
Assisting the Whistleblower Protection Officer(s) in the assessment and oversight of whistleblower reports (<i>refer to Attachment 1</i>)	√				
Providing advice and support to reporters (<i>refer to Attachment 1</i>)	√				
Maintaining a secure and restricted record of all reports made under this Policy	√	√	√		
Arranging role-specific training as and when required	√				
Ensuring staff are made aware of their rights and responsibilities in relation to whistleblowing at induction	√				
Ensuring staff are regularly encouraged to speak up about concerns of wrongdoing (<i>refer to Definitions</i>)	√	√			
Receiving whistleblower reports and protecting the interests of reporters (<i>refer to Attachment 1 & 2</i>)		√			
Determining whether the report falls within the scope of the Policy (<i>refer to Attachment 1</i>)		√			
Appointing a Whistleblowing Investigator where an investigation is deemed appropriate	√				
Ensuring investigations are conducted in accordance with this Policy (<i>refer to Attachment 1</i>)	√	√			
Ensuring any reports involving the approved provider are reported to the Australian Securities and Investments Commission (<i>refer to Sources</i>)		√			
Updating the reporter/s on progress and details of outcomes to the fullest extent possible		√			
Maintaining confidentiality of the identity of and reports received by reporters to the fullest extent possible		√			



Immediately reporting concerns in relation to any detrimental conduct to the approved provider (provided that the concerns do not relate to them)		√			
Determining the appropriate courses of action to remediate or act on the investigation (<i>refer to Attachment 1</i>)		√			
Reporting matters to relevant authorities e.g. ASIC or APRA (<i>refer to Attachment 1</i>)		√			
Making recommendations to prevent future instances of reportable misconduct		√			
Completing any training mandated by approved provider		√			
Seeking to ensure the integrity of the Whistleblower Program is maintained		√			
Investigating reports in accordance with this Policy (<i>refer to Attachment 1</i>)			√		
Gathering evidence and taking steps to protect or preserve evidence			√		
Making findings based on a fair and objective assessment of the evidence gathered during the investigation, and formalising this in a report (<i>refer to Attachment 3</i>)			√		
Reporting back to the Whistleblower Protection Officer on the progress of their investigation 7 days after the report and every 14 days thereafter			√		
Complying with the directions of the Whistleblower Protection Officer in relation to any further follow up, and reporting action and requirements, including the implementation of any recommendations			√		
Reporting misconduct or dishonest or illegal activity that has occurred or is suspected within Ferguson Park Pre-School as quickly as possible, whether anonymously or otherwise				√	√



BACKGROUND AND LEGISLATION

BACKGROUND

Whistleblowers play an important role in identifying and calling out misconduct and harm to consumers and the community. To encourage whistleblowers to come forward with their concerns and protect them when they do, the Corporations Act 2001 gives certain people legal rights and protections as whistleblowers.

From 1 January 2020, some entities in Australia, including companies limited by guarantee, will be required to have a whistleblowing policy that complies with the new section 1317AI of the Corporations Act 2001.

ASIC has announced that public companies that are small not-for-profits or registered charities with annual revenue of less than \$1 million will be exempt from the new requirement.

Even if your service is not required to have a whistleblower policy under the law, we encourage you to put in place arrangements for handling whistleblower disclosures. This can help your service comply

with the obligation to preserve whistleblowers' confidentiality and protect whistleblowers from detrimental conduct. These arrangements may form part of the governance arrangements.

LEGISLATION AND STANDARDS

Relevant legislation and standards include but are not limited to:

- Corporations Act 2001 (Cth)
- Fair Work Act 2009 (Cth)
- Fair Work Regulations 2009 (Cth)
- Insurance Act 1973
- Life Insurance Act 1995
- Public Interest Disclosure Act 2013
- Superannuation Industry (Supervision) Act 1993
- Taxation Administration Act 1953

The most current amendments to listed legislation can be found at:

- Victorian Legislation – Victorian Law Today: www.legislation.vic.gov.au
- Commonwealth Legislation – Federal Register of Legislation: www.legislation.gov.au



DEFINITIONS

The terms defined in this section relate specifically to this policy. For regularly used terms e.g. Approved provider, Nominated supervisor, Notifiable complaints, Serious incidents, Duty of care, etc. refer to the Definitions file of the PolicyWorks catalogue.

Protected Report: To be eligible for the legal protections outlined in this policy, you must:

- be an eligible whistleblower (*see Definitions*)
- report your concerns to an eligible recipient or certain other persons (*see Definitions*), and
- have reasonable grounds to suspect wrongdoing (*see Definitions*) in relation to the service.

If your report meets all three of the above these criteria, it is a Protected Report.

Whistleblower: You are an eligible Whistleblower (also known as eligible discloser) if you are currently, or previously have been, either:

- An approved provider of the service
- an employee of the service, including any volunteers and work experience students
- a person who supplies goods or services to the service, whether paid or unpaid, or an employee of such a person, or
- a spouse, relative or dependent of a person referred to above.

A person who makes a protected disclosure is referred to as the 'discloser'. Often, the discloser may also be referred to as a 'whistleblower'.

Whistleblower Protection Officer (WPO): A senior officer of the organisation who is responsible, as far as is reasonably practicable, to protect any discloser who makes a complaint to the organisation and is accountable for the provisions of the Whistleblower Policy.

Wrongdoing: Generally includes any conduct which an eligible whistleblower has reasonable grounds to suspect:

- is about misconduct or an improper state of affairs or circumstances concerning the service
- indicates that service or any of its approved provider or employees has engaged in conduct that:



- involves a breach of or is an offence against any of the following Commonwealth laws: the Corporations Act, the ASIC Act, the Banking Act 1959, the Financial Sector (Collection of Data) Act 2001, the Insurance Act 1973, the Life Insurance Act 1995, the National Consumer Credit Protection Act 1973, or the Superannuation Industry (Supervision) Act 1993, or regulations made under those laws
- is an offence against any other Commonwealth law that is punishable by imprisonment of 12 months or more
- indicates a significant risk to public safety or the stability of, or confidence in, the financial system, even if it does not involve breach of a particular law
- is indicative of systemic issues, dishonest or unethical behaviour or practices
- is about misconduct or an improper state of affairs or circumstances in relation to the tax affairs of the service which the whistleblower considers may assist to perform the functions or duties in relation to the tax affairs of the service, or
- involves the deliberate concealment of information tending to show any of the matters listed above.

Examples of the types of matters that may be reportable as Wrongdoing as part of a Protected Report include, but are not limited to:

- Dishonesty, corruption, bribery, fraud, money laundering or misappropriation of funds
- Offering or accepting a bribe
- Covering up fraud in financial reports
- Unsafe work practices
- Not properly responding to a serious safety issue
- Insider trading
- Serious inappropriate or unethical conduct such as gross mismanagement or serious and substantial waste of company resources or repeated breaches of administrative procedures
- Taking or threatening to take detrimental action against a person who has made a disclosure or is suspected to have made, or planning to make a disclosure, and
- Deliberate concealment of information tending to show any of the matters listed above.

Generally, Wrongdoing does not include personal work-related grievances.

SOURCES AND RELATED POLICIES



SOURCES

- Australian Prudential Regulation Authority (APRA): www.apra.gov.au
- Australian Securities and Investments Commission (ASIC): www.asic.gov.au
- Fair Work Commission – Whistleblowers: <https://regorgs.fwc.gov.au/whistleblowers>
- Your Call: <https://whistleblowing.com.au/>
- Not For Profit Law: <https://www.nfplaw.org.au/free-resources/how-to-run-the-organisation/whistleblower-protection-laws>

RELATED POLICIES

- Code of Conduct
 - Compliments and Complaints
 - Governance and Management of a Service
-



EVALUATION

In order to assess whether the values and purposes of the policy have been achieved, the approved provider will:

- regularly seek feedback from everyone affected by the policy regarding its effectiveness, particularly in relation to identifying and responding to child safety concerns
- monitor the implementation, compliance, complaints and incidents in relation to this policy
- keep the policy up to date with current legislation, research, policy and best practice
- revise the policy and procedures as part of the service's policy review cycle, or as required
- notifying all stakeholders affected by this policy at least 14 days before making any significant changes to this policy or its procedures, unless a lesser period is necessary due to risk (*Regulation 172 (2)*).



ATTACHMENTS

- Attachment 1. Making a whistleblower report
- Attachment 2. Reporting a protected disclosure
- Attachment 3. Whistleblower Investigation Checklist



AUTHORISATION

This policy was adopted by the approved provider of Ferguson Park Pre-School on 31/07/2023.

REVIEW DATE: 31/07/2026.

ATTACHMENT 1. MAKING A WHISTLEBLOWER REPORT

1. What reports are protected under this policy?

To be eligible for the legal protections outlined in this policy, you must:

- (a) be an eligible whistleblower (see section 2)
- (b) report your concerns to an eligible recipient or certain other persons (see section 5), and
- (c) have reasonable grounds to suspect Wrongdoing in relation to Ferguson Park Pre-School (see section 3).

If your report meets all three of the above these criteria, it is a **Protected Report**.

If your report doesn't meet the above criteria, we still encourage you to raise your concerns with us. However, only Protected Reports receive the legal protections outlined in this policy.

2. Who is an eligible whistleblower?

You are an eligible whistleblower if you are currently, or previously have been, either:

- (a) an officer of Ferguson Park Pre-School
- (b) an employee of Ferguson Park Pre-School, including any volunteers and work experience students
- (c) a person who supplies goods or services to Ferguson Park Pre-School, whether paid or unpaid, or an employee of such a person, or
- (d) a spouse, relative or dependent of a person referred to above.

3. What must a Whistleblower report be about?

3.1 What is Wrongdoing?

For the report to be a Protected Report, one of the requirements is that the person making the report has reasonable grounds to suspect Wrongdoing is occurring or has occurred. It is not possible to provide an exhaustive list of the activities which should be reported for the purpose of this policy. Generally, Wrongdoing includes any conduct which an eligible whistleblower has reasonable grounds to suspect:

- (a) is about misconduct or an improper state of affairs or circumstances concerning Ferguson Park Pre-School;
- (b) indicates that Ferguson Park Pre-School or any of its officers or employees has engaged in conduct that:
 - (i) involves a breach of or is an offence against any of the following Commonwealth laws: the Corporations Act, the ASIC Act, the Banking Act 1959, the Financial Sector (Collection of Data) Act 2001, the Insurance Act 1973, the Life Insurance Act 1995, the National Consumer Credit Protection Act 1973, or the Superannuation Industry (Supervision) Act 1993, or regulations made under those laws,
 - (ii) is an offence against any other Commonwealth law that is punishable by imprisonment of 12 months or more,
 - (iii) indicates a significant risk to public safety or the stability of, or confidence in, the financial system, even if it does not involve breach of a particular law, or
 - (iv) is indicative of systemic issues, dishonest or unethical behaviour or practices;
- (c) is about misconduct or an improper state of affairs or circumstances in relation to the tax affairs of Ferguson Park Pre-School or an associated company which the whistleblower considers may assist to perform the functions or duties in relation to the tax affairs of Ferguson Park Pre-School; or



- (d) involves the deliberate concealment of information tending to show any of the matters listed above.

These matters are referred to as “**Wrongdoing**” in this policy.

3.2 Examples of conduct that may be reported as Wrongdoing

Examples of the types of matters that may be reportable as Wrongdoing as part of a Protected Report include, but are not limited to:

- (a) Dishonesty, corruption, bribery, fraud, money laundering or misappropriation of funds
- (b) Offering or accepting a bribe
- (c) Covering up fraud in financial reports
- (d) Unsafe work practices
- (e) Not properly responding to a serious safety issue
- (f) Insider trading
- (g) Serious inappropriate or unethical conduct such as gross mismanagement or serious and substantial waste of company resources or repeated breaches of administrative procedures
- (h) Taking or threatening to take detrimental action against a person who has made a disclosure or is suspected to have made, or planning to make a disclosure
- (i) Deliberate concealment of information tending to show any of the matters listed above.

Generally, Wrongdoing does not include personal work-related grievances. See section 4.

4. What should I do if I have a personal work-related grievance?

- (a) We encourage everyone to speak up about concerns. However, reports that relate solely to personal work-related grievances are not generally considered to be Wrongdoing and are therefore not covered by this policy.
- (b) Personal work-related grievances typically relate to an individual’s current or former employment arrangements, performance, remuneration outcomes or personal circumstances that do not have significant implications for the organisation (for example an interpersonal conflict between you and another employee).
- (c) Personal work-related grievances should be internally raised using the *Compliments and Complaints Policy*.
- (d) There may be some instances where a personal work-related grievance also has significant implications for Ferguson Park Pre-School, and in these circumstances the grievance will be treated as Wrongdoing in accordance with this policy. For example, a personal work-related grievance may still qualify for protection if it is bundled with a report of illegal activity or if it includes information about Wrongdoing beyond an individual’s personal circumstances, demonstrates a systemic issue within Ferguson Park Pre-School or has significant implications for the organisation. Any report of causing detriment to a person in breach of this policy is also Wrongdoing and will be addressed in accordance with this policy. Section 6.2 provides more information about detriment.

5. Making a Whistleblower report

5.1 How can a Whistleblower report be made?

Option 1 – Internal Report (preferred option)

- (a) We encourage you to report actual or suspected Wrongdoing to us as soon as you become aware of it.



- (b) You are encouraged to make a report (*see Attachment 2*) to one of our Whistleblower Protection Officer. Our Whistleblower Protection Officer/s are:

Name	Role	Email	Telephone
Marg Rickard	Staff representative	margfergusonpark@gmail.com	0421 364 589

Option 2 – Report Externally

Reports or complaints about disclosable conduct can be raised directly with Ferguson Park Pre-School. In most cases, the organisation will be capable of addressing the matter and taking appropriate action. Otherwise, disclosable conduct can also be reported to a relevant agency:

- The General Manager or the staff of the Fair Work Commission (FWC)
- An FWC tribunal member
- The Australian Building and Construction Commissioner (ABCC), their deputy or an inspector of the ABCC
- The staff of the Fair Work Ombudsman (FWO)

5.2 Can I remain anonymous when making a report?

- (a) You can remain anonymous when making a Protected Report. There is no requirement to provide your name or identify yourself at any stage during the reporting or investigation process. You can also decide not to answer questions that you feel may reveal your identity. You can also choose to provide your identity to the person that you are making the report to but not consent to them sharing your identity with anyone else.
- (b) We will respect your right not to identify yourself. However, if you choose to remain anonymous, this may affect the ability of Ferguson Park Pre-School to investigate and properly communicate with you about the report.
- (c) Ferguson Park Pre-School encourages disclosers who would prefer to remain anonymous to maintain ongoing two-way communication with Ferguson Park Pre-School so that Ferguson Park Pre-School can ask follow-up questions and provide feedback.

5.3 Disclosure to be made with reasonable grounds

- (a) To obtain whistleblower protection under the legislation, the report must be made with reasonable grounds. An eligible whistleblower will have 'reasonable grounds' to suspect that something constitutes or potentially constitutes Wrongdoing if they have some factual basis for their suspicion which, in light of the circumstances and context, provides reasonable grounds for that suspicion. Motive is not relevant to determining whether the disclosure is eligible for protection.
- (b) You do not need to prove the allegations, but you are encouraged to provide evidence in support of your disclosure if it is safely available. An eligible whistleblower can still qualify for protection even if their Protected Report turns out to be incorrect or unsubstantiated provided they have a reasonable basis for making the report.

5.4 False reporting

False reporting will be treated seriously. If we find that you have intentionally made a false report (for example, if you know a report is untrue and you report it to harm, annoy, or cause distress to someone), we may take disciplinary action against you, which may include termination of your employment or engagement with us.



6. Protection and support available to Whistleblowers

If you make a Protected Report, you are entitled to the benefit of certain protections in accordance with the Corporations Act or the Taxation Administration Act. These protections do not prevent Whistleblowers from being liable for any involvement in the Wrongdoing that is the subject of the Protected Report.

6.1 Protecting the Whistleblower's identity

- (a) If you make a Protected Report, your disclosure will be treated as confidential in accordance with legal requirements.
- (b) If you make a Protected Report, it is illegal for a person to disclose your identity or information that is likely to lead to identification of your identity, unless:
 - (i) you give your consent
 - (ii) the disclosure is required by law, or
 - (iii) the disclosure is made to:
 - (A) a professional legal advisor (including Ferguson Park Pre-School's legal team) for the purpose of obtaining legal advice or representation, or
 - (B) authorised regulatory bodies, such as ASIC, APRA or a member of the Australian Federal Police.
- (c) However, a person who is dealing with a Protected Report may disclose information that is reasonably necessary for the purposes of investigating the report. If this happens, reasonable steps will be taken to reduce the risk that you will be identified as a result of the report (for example by removing your personal information or other details that are likely to identify you).
- (d) To maintain confidentiality of a Whistleblower's identity, Ferguson Park Pre-School will:
 - (i) ensure personal information or references to the Whistleblower's identity is redacted in all investigation and reporting documents
 - (ii) refer to the Whistleblower in gender-neutral terms
 - (iii) ensure that the information a Whistleblower provide and all materials relevant to a Protected Report are held securely with access limited only to the individuals necessary to investigate your Protected Report, and to support and protect the Whistleblower, and
 - (iv) take reasonable steps to ensure its personnel understand the requirements of this policy.
- (e) You should also be aware that during an investigation, it may be necessary for us to tell the people who are believed to be involved in the Wrongdoing about the alleged Wrongdoing. This is to ensure a fair investigation and provide those people with an opportunity to respond to the allegations. Although we will not tell these people your identity unless you give consent, it is possible that the details of the report may lead them to believe that they know the identity of the Whistleblower.
- (f) Any breach of confidentiality will be treated as a serious matter and may be the subject of disciplinary action up to and including dismissal or termination of engagement with Ferguson Park Pre-School. Breaches of Whistleblower confidentiality are also an offence under the Corporations Act and the Taxation Administration Act and serious penalties apply for both individuals and corporations.
- (g) If you believe your confidentiality as a Whistleblower has been breached, you can make a complaint to one of the Disclosure Officers listed in section 5.1. You can also lodge a complaint with ASIC, APRA or the ATO.



6.2 Protection against detrimental conduct

- (a) Ferguson Park Pre-School is committed to protecting the rights of Whistleblowers who have made Protected Reports and will not tolerate any detriment or threats of detriment against them or any other person (e.g. suspected whistleblowers or people who participate in investigations).
- (b) It is an offence under the Corporations Act and the Taxation Administration Act to cause, or threaten to cause, detriment to a person because they or someone else has made, may have made, proposes to make or could make a Protected Report and serious penalties apply for both individuals and corporations. A person who is subject to such detriment may also seek compensation or other remedies from a Court if they have suffered loss, damage or injury because of a Protected Report or because we failed to take reasonable precautions and exercise due diligence to prevent the detriment.
- (c) "Detriment" includes dismissal, suspension, demotion, or termination of your employment or engagement with us; changes to your employment, position, or duties to your disadvantage; discrimination; harassment or intimidation; harm or injury (including psychological harm); damage to property, reputation, business or financial position; or any other damage.
- (d) The following actions are not considered to be detriment:
 - (i) reasonable administrative action taken to protect a Whistleblower from detriment (e.g. relocating them to another office to prevent victimisation)
 - (ii) managing unsatisfactory work performance of a Whistleblower, in line with Ferguson Park Pre-School usual performance management framework.
- (e) Ferguson Park Pre-School will protect Whistleblowers from detriment arising from making a Protected Report by:
 - (i) conducting a risk assessment of the disclosure to manage the risk of detriment to the Whistleblower
 - (ii) where applicable, making such reasonable adjustments as required to allow the Whistleblower to perform their duties at work without being potentially exposed to detriment (eg by changing reporting lines or location).
- (f) If you believe you have suffered detriment, you can make a complaint to one of the Disclosure Officers listed in section 5.1. You can also lodge a complaint with ASIC, APRA or the ATO.

6.3 Protection for Whistleblowers against litigation

If you make a Protected Report, you are protected from any of the following legal actions for doing so:

- (a) Civil liability (e.g. any legal action against you for breaching an employment contract, a duty of confidentiality or another contractual obligation)
- (b) Criminal liability (e.g. legal action against you for unlawfully releasing information, or other use of the Protected Report against you in a criminal proceeding (other than for making a false disclosure)
- (c) Administrative liability (e.g. disciplinary action for making the Protected Report).

You are still responsible for your own actions. These protections do not prevent action being taken against you for any Wrongdoing that you are involved in that is revealed in your report.

6.4 Other support available for Whistleblowers

- (a) We will support you while your Protected Report is being handled by Ferguson Park Pre-School.
- (b) If necessary, Ferguson Park Pre-School will appoint a Protection Officer to arrange or coordinate support and protection for Whistleblowers who have made or are in the process of making a Protected Report. A



Whistleblower can contact a Discloser Officer to discuss how a Protection Officer may be able to provide support and protection.

- (c) The role of the Protection Officer is to:
 - (i) assess the immediate welfare and protection needs of a Whistleblower
 - (ii) safeguard the interests of a Whistleblower in accordance with this policy and the law, and
 - (iii) address any issues or concerns of detriment.
- (d) Employees may also contact DE or ACECQA.

7. How we handle Protected Reports

Any person who receives a Whistleblower report made under this policy must ensure that the report is managed in compliance with this policy and any relevant procedures. This is to ensure that the protections available for the Whistleblower are not compromised and that Ferguson Park Pre-School meets its legal obligations.

7.1 How do we investigate reports of Wrongdoing?

- (a) Reports of alleged Wrongdoing made in accordance with this policy will be treated seriously and where appropriate will be thoroughly investigated by Ferguson Park Pre-School in accordance with this policy.
- (b) After receiving a report about Wrongdoing we will assess the information provided to determine whether it is a Protected Report, how it will be handled and whether an investigation is required. The precise steps to be taken to investigate a report will differ in individual cases but may include:
 - (i) appointment of an internal or external investigator (if it has been determined that an investigation is required)
 - (ii) the investigator or other person asking the Whistleblower whether they consent to their identity being disclosed to investigate the report
 - (iii) interviewing the Whistleblower and any other relevant person to obtain information about the report
 - (iv) review of relevant documents and other information in relation to the report
 - (v) the investigator making findings regarding the conduct reported.
- (c) Generally, if the Whistleblower can be contacted, we will confirm receipt of their disclosure within 2 Business Days. The investigation of a Protected Report will commence as soon as reasonably possible from the date we receive it. However, there may be reasons why an investigation may take longer. If we think there might be a delay with the investigation, we will tell the person who made the Protected Report (where possible).
- (d) Where possible and assuming that the identity of the Whistleblower is known, the Whistleblower will be kept informed of when the investigation process has begun, while the investigation is in progress and after the investigation has been finalised, subject to confidentiality and privacy considerations.
- (e) Ferguson Park Pre-School may decide to take action in response to any findings which may include, but is not limited to, disciplinary action, reporting the matter to an appropriate regulator, conducting training or addressing procedural and policy deficiencies.

7.2 Treatment of employees who are the subject of a Whistleblower report

Ferguson Park Pre-School will take all reasonable steps to ensure that any employee who is the subject of a Protected Report is afforded fair treatment and an impartial investigation in accordance with this policy. Generally,



when an investigation is conducted, employees who are the subject of a Protected Report may be, within the constraints of confidentiality:

- (a) told about the substance of the allegations
- (b) given a fair and reasonable opportunity to respond to the allegations before the investigation is finalised, and
- (c) informed about the findings of the investigation and given an opportunity to respond to those conclusions before any action is taken against them (subject to legal, privacy and confidentiality requirements).

8. Reporting to the Board

The Committee of Management may be provided with details of the Whistleblower report and any findings made to ensure appropriate oversight of reports and investigation of matters reported under this policy.

If the Whistleblower does not provide consent for their identity to be disclosed, those persons within Ferguson Park Pre-School who are handling the report may disclose information to the Board that is reasonably necessary for the purposes of investigating the report, provided that all reasonable steps are taken to reduce the risk that the Whistleblower will be identified as a result of the report.

The Board will monitor the whistleblower management system to ensure that the broader trends, themes and/or emerging risks highlighted by the disclosures made under this policy are addressed and mitigated as part of Ferguson Park Pre-School's risk management and corporate governance.

9. Review, Access, Training and Further Information in relation to this policy

- (a) This policy will be available to officers and employees of Ferguson Park Pre-School on the desktop computer at the Wattle Campus, and in the Policy Manual at the Wattle and Banksia campuses. A copy will also be available on our website to ensure it is accessible for all eligible whistleblowers.
- (b) This policy may be reviewed and amended from time to time and will be reviewed by Ferguson Park Pre-School at least every three years.
- (c) The Committee of Management and WPO will be responsible for conducting upfront and ongoing education and training on the whistleblower policy, processes and procedures to all officers and employees. The WPO is to update all staff.
- (d) If you require further information in relation to this policy, or how to make a Protected Report, you can contact the WPO, Staff or Committee representative.

SIMPLIFIED VERSION OF ATTACHMENT 1

What is a protected disclosure?

A protected disclosure is a report or complaint about disclosable conduct.

A person who makes a protected disclosure is referred to as the 'discloser'. Often, the discloser may also be referred to as a 'whistleblower'.



Reports or complaints about disclosable conduct can be raised directly with the registered organisation. In most cases, the organisation will be capable of addressing the matter and taking appropriate action. Otherwise, disclosable conduct can also be reported to a relevant agency.

Importantly, the Fair Work (Registered Organisations) Act 2009 (RO Act) protects eligible disclosers who make a report of disclosable conduct by the organisation, its officers or employees. This protection is also afforded to eligible disclosers who report disclosable conduct to the registered organisation.



A PERSON	MAKES A DISCLOSURE	ABOUT FERGUSON PARK PRE-SCHOOL	TO THE RIGHT PERSON
<ul style="list-style-type: none"> • A member or former member of Ferguson Park Pre-School • An officer or former officer of Ferguson Park Pre-School • A person who had/had contract for supply of goods or services or had/had any other transaction with Ferguson Park Pre-School, or its employees or officers, or of a branch of an organisation who is or was acting on behalf of Ferguson Park Pre-School • An officer, former officer, employee or former employee of the person in the above point 	<p>About disclosable conduct which includes an act of omission that:</p> <ul style="list-style-type: none"> • contravenes, or may contravene, a provision of the RO Act, Fair Work Act 2009, or the Competition and Consumer Act 2010, or • constitutes, or may constitute, an offence against a law of the Commonwealth. 	<p>The discloser must have reasonable grounds to suspect that the information disclosed relates to conduct by Ferguson Park Pre-School, its branch or its officers or employees.</p>	<p>INTERNAL</p> <ul style="list-style-type: none"> • Whistleblower Protection Officer (WPO) of Ferguson Park Pre-School <p>OR</p> <p>EXTERNAL</p> <ul style="list-style-type: none"> • The General Manager or the staff of the Fair Work Commission (FWC) • An FWC tribunal member • The Australian Building and Construction Commissioner (ABCC), their deputy or an inspector of the ABCC • The staff of the Fair Work Ombudsman (FWO)



ATTACHMENT 2: REPORTING A PROTECTED DISCLOSURE

This document is designed to help you lodge a protected disclosure within Ferguson Park Pre-School in writing. It may assist you to identify what information is relevant and provide it to the Whistleblower Protection Officer.

(This form is adapted from the Fair Work Commission -Reporting a Protected Disclosure)

ABOUT YOU

1. Your contact details:

Your name		
Contact details	Email	Telephone
Date		

You can remain anonymous, but this may limit any investigation of the disclosure if we are unable to contact you to obtain more information as we progress our investigation. We will also not be able to notify you of the outcome of the investigation. Alternatively, you could provide us with your name and contact details and ask that we don't reveal them to others. This will help us investigate your concerns and also protect your identity.

ARE YOU AN ELIGIBLE DISCLOSER?

2. To be an eligible discloser, you must fall within at least one of the categories below.

- Identify the category relevant to you.

Officer / former officer of Ferguson Park Pre-School	<input type="checkbox"/>
Employee / former employee of Ferguson Park Pre-School	<input type="checkbox"/>
Member / former member of Ferguson Park Pre-School	<input type="checkbox"/>
A person (or their employer) who has / had a contract for supply of goods or services to (or any other transaction with) Ferguson Park Pre-School	<input type="checkbox"/>
A person (or their employer) who has / had a contract for supply of goods or services to (or any other transaction with) an officer of Ferguson Park Pre-School	<input type="checkbox"/>
A lawyer on behalf of any of the above	<input type="checkbox"/>

WHO IS YOUR COMPLAINT ABOUT?

3. Identify the registered organisation that your complaint relates to.

A list of federally registered organisations can be found on our [website](#).

Specify the branch if your complaint is about a branch of a registered organisation.

Name of the registered organisation	Ferguson Park Pre-School
Name of the branch (if relevant)	
Name of the officer (if relevant)	

WHAT IS YOUR COMPLAINT ABOUT?

4. Tell us what your complaint is about. Only certain disclosures are protected under the RO Act.



Below are common **examples of disclosable conduct** that are reported to the Commission.

If the nature of your complaint is not listed, please describe it as 'other'.

Examples of disclosable conduct	
Refusing membership of Ferguson Park Pre-School to a person eligible to join	<input type="checkbox"/>
Using Ferguson Park Pre-School's resources to favour one candidate over another in an election(s)	<input type="checkbox"/>
Other election-related conduct, e.g. interference in the election process, not conducting elections or other irregularities	<input type="checkbox"/>
Failure to keep an accurate register of members	<input type="checkbox"/>
Providing false or misleading information about the records of Ferguson Park Pre-School	<input type="checkbox"/>
Not declaring loans, grants and donations over \$1000	<input type="checkbox"/>
Not providing financial reports to members	<input type="checkbox"/>
Officer not acting with due care and diligence or in good faith in financial matters, including unauthorised expenditure	<input type="checkbox"/>
Officer / employee using their position or information to benefit themselves / others, or to cause detriment to Ferguson Park Pre-School	<input type="checkbox"/>
Other (please specify):	<input type="checkbox"/>

DESCRIBE THE DISCLOSABLE CONDUCT

5. Tell us more about what you know about the disclosable conduct?

When filling in this box, please consider the following questions and provide as much information as possible:

- Who was involved in the conduct?
- What was the conduct?
- When did the conduct occur?
- Where did the conduct occur?
- Why do you think the conduct breaches the RO Act or the organisation's rule/s or relevant policies?



- How do you know about the conduct?

WHAT EVIDENCE DO YOU HAVE?

6. Identify the evidence you have to support your complaint. Please tell us if you don't have evidence in your possession, but you know where it can be found.

If you are lodging this form by email, you can attach any evidence you have with this form.

ARE THERE ANY WITNESSES?

7. Please provide the name(s) and contact details (if possible) of anyone else the Commission may contact to get further information about the conduct.

OTHER INFORMATION

8. Please let us know if you have any other information you consider relevant to your complaint. You can describe it below or attach it to this form if you are lodging by email.



Send this form and any attachments to the Whistleblower Protection Officer (WPO) at margfergusonpark@gmail.com.

WHAT HAPPENS AFTER YOU MAKE AN ELIGIBLE DISCLOSURE WITH THE WPO?

See Attachment 1, bullet point 7.1, for how we investigate reports of wrongdoing.



ATTACHMENT 3: WHISTLEBLOWER INVESTIGATION CHECKLIST

Whistleblower Protection Officer's Guide to Handling Matters within Registered Organisations

(Fair Work Commission Investigation Checklist)

Name: _____ Date: _____

Role: _____

1. Information to gather from the person reporting the matter		Comment (if any)
<input type="checkbox"/>	Are there any fears for any person's wellbeing or safety? <ul style="list-style-type: none"> Has a risk assessment been completed? 	
<input type="checkbox"/>	Does the person who has reported the matter require any wellbeing assistance? For example: <ul style="list-style-type: none"> Does the person require contact details for any employee assistance program? Are they aware that they may have a support person present in any meetings? 	
<input type="checkbox"/>	Does the person who has reported the matter wish to remain anonymous? <ul style="list-style-type: none"> If so, do you know why? Have you explained any significant limitations that might impact on an investigation of this matter? 	
<input type="checkbox"/>	Are you clear on the allegation/s? <ul style="list-style-type: none"> For example, do you have the particulars of the complaint (who, what, where and why)? Do you require more information? 	
<input type="checkbox"/>	Have you registered the complaint on the organisation's Protected Disclosure Register?	
<input type="checkbox"/>	Have you provided the discloser with a copy of the organisation's Whistleblower Policy and informed them of any protection they may have?	

2. Preliminary considerations		Comment (if any)
<input type="checkbox"/>	Are you a Senior Nominated Official or have you been authorised to handle investigations by your organisation?	
<input type="checkbox"/>	Do you have any potential conflicts of interest in relation to this matter?	
<input type="checkbox"/>	Are you personally satisfied that you will be able to bring an independent and unbiased mind to this inquiry and that a reasonable bystander would agree?	
<input type="checkbox"/>	Have you read and identified which of your organisation's internal rules, policies and/or guidance materials are applicable to this disclosure?	
<input type="checkbox"/>	Have you conducted a preliminary assessment of the protected disclosure? For example: <ul style="list-style-type: none"> Is the complainant someone who can raise a complaint of disclosable conduct? 	



	<ul style="list-style-type: none"> • Does the complaint meet the definition of disclosable conduct? • Does the complaint include the necessary particulars and/or evidence to support the complaint? • Is the alleged conduct in contravention of the <i>Fair Work (Registered Organisations) Act 2009</i>, the <i>Fair Work Act 2009</i>, <i>Competition and Consumer Act 2010</i> or an offence against a law of the Commonwealth? • Is the alleged conduct in breach of the organisation's internal policies, procedures or Rules? • Should the matter be referred to an external agency? 	
<input type="checkbox"/>	<p>Have you decided how the matter is to be managed? For example:</p> <ul style="list-style-type: none"> • Recorded but no further action • Internal investigation • External investigation • Referred to external agency 	

3. Investigation Plan		Comment (if any)
<input type="checkbox"/>	Is the scope of the inquiry/investigation clearly defined and signed off by the Senior Nominated Official or an accountable person in the organisation?	
<input type="checkbox"/>	<p>Are the allegation/s clearly defined and understood?</p> <ul style="list-style-type: none"> • Have you confirmed your understanding of the complaint with the discloser? 	
<input type="checkbox"/>	<p>Are there any time pressures or urgency that need to be addressed? For example:</p> <ul style="list-style-type: none"> • Need to obtain evidence before it is lost; • Absence of witnesses; • Need to address any work health and safety concerns. 	
<input type="checkbox"/>	Have you agreed on a secure place where records, documents, notes and other evidence will be kept?	
<input type="checkbox"/>	<p>Have roles and responsibilities been clearly defined and are they in line with your organisation's rules?</p> <ul style="list-style-type: none"> • Nominated Senior Official • Investigation officer • Whistleblower Protection Officer (If a protected disclosure). 	
<input type="checkbox"/>	If the complaint is to be investigated by an external investigator, have you provided the investigator with the particulars of the complaint and copies of any relevant documentation such as the organisation's rules, policies and/or procedures?	
<input type="checkbox"/>	Have you developed an investigation plan and received any approvals necessary to commence this investigation?	



<input type="checkbox"/>	Have all relevant stakeholders been identified and a communication plan agreed to keep stakeholders informed?	
<input type="checkbox"/>	Have all relevant stakeholders, such as the respondent and any witnesses, been notified of: <ul style="list-style-type: none"> • The commencement of an investigation; • That they may bring a support person to any interview or meeting; and • The need to maintain confidentiality. 	

4. Gathering the evidence and evaluating the facts		Comment (if any)
<input type="checkbox"/>	Have you only taken into account evidence that is relevant, credible and probative in relation to each material finding of fact?	
<input type="checkbox"/>	Have you ensured that appropriate witnesses have been questioned and any conflicting witness statements or conflicting evidence verified or otherwise checked?	
<input type="checkbox"/>	Have you offered the respondent the opportunity to comment on any contradictory evidence obtained in the investigation?	
<input type="checkbox"/>	Have you ensured that any explanations, or evidence, provided by the person suspected of misconduct or by witnesses have been appropriately tested and given proper weight?	
<input type="checkbox"/>	Are you satisfied there is no relevant evidence that has not been taken into account and there is enough reliable evidence to be able to draw a reasonable conclusion on the balance of probabilities?	
<input type="checkbox"/>	Before making your final determination, have you ensured that the person suspected of misconduct has been provided with a reasonable opportunity to make a statement in relation to the matter and that other internal rules relating to procedural fairness have been followed?	
<input type="checkbox"/>	In particular, has the person suspected of misconduct been given adequate notice of all material of which you are aware and which is credible, relevant and significant to the proposed breach decision? <ul style="list-style-type: none"> • This includes adhering to any internal rules and providing any such material which could assist the person in answering the case against them, even though you may not propose to rely on the material in making particular findings or decisions adverse to the person? 	

5. Reviewing the evidence and writing the investigation report		Comment (if any)
<input type="checkbox"/>	Does the investigation report: <ul style="list-style-type: none"> • Outline the nature of the suspected misconduct. • Identify relevant legislation, policy material, rules, guidelines or other organisational practices you have relied upon. • Set out the steps taken to collect evidence and information. • Outline the evidence and present it in a balanced way that is, including evidence both for and against the person, including 	



	<p>the accused person's response to the allegations and the person's response to any new or conflicting evidence that was uncovered in the course of the investigation.</p> <ul style="list-style-type: none"> Outline the conclusions or findings on material questions of fact made on the available evidence including any inconsistencies in the evidence or issues that remain unclear. These conclusions need to flow logically from the evidence that has been collected and considered. Include in attachment to the report, any evidence which the investigator seeks to rely upon. 	
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6. Preparing a decision record		Comment (if any)
<input type="checkbox"/>	<p>Have you provided the full investigation report of your findings to the decision maker including:</p> <ul style="list-style-type: none"> A summary of the evidence you took into account in making your decision and any evidence or established facts that were not taken into account and reasons why you did not consider that evidence relevant. Your findings of fact on the balance of probabilities about what happened, that is the act or acts suspected of being misconduct. Your decision as to whether those acts amount to misconduct, and, if so, which elements of policy, regulation or legislation have been breached and why. Copies of the relevant evidence which the investigator seeks to rely upon. 	

7. Preliminary considerations for decision-maker		Comment (if any)
<input type="checkbox"/>	Do you have the power to make the disciplinary action/decision?	
<input type="checkbox"/>	Have you declared any potential conflicts of interest that might arise from or in making a disciplinary action/decision?	
<input type="checkbox"/>	Are you satisfied that you will be able to bring an independent and unbiased mind to this inquiry and that a reasonable bystander would agree?	
<input type="checkbox"/>	If you have any concerns that the determination was not made in accordance with legal requirements, such as your organisation's rules or procedures, have you raised this with the relevant person within your organisation?	
<input type="checkbox"/>	<p>Have you requested legal advice or assistance before making your decision?</p> <ul style="list-style-type: none"> If not, why not? 	
<input type="checkbox"/>	Having considered the investigation report and any relevant evidence in it, are you satisfied that the respondent has breached the internal rule, policy, regulation or legislation?	

8. Provision to the member/elected officer/employee who has breached, before making a decision		Comment (if any)



<input type="checkbox"/>	Has the member/elected officer/employee who has breached the internal rule, policy, regulation or legislation been provided with a reasonable opportunity to make any final submissions in relation to the investigation and its findings before a decision is issued?	
<input type="checkbox"/>	Has the member/elected officer/employee who has breached the internal rule, policy, regulation or legislation been provided with a reasonable opportunity to make a statement in relation to the sanction(s) under consideration and the factors relating to it?	

9. Matters for consideration in determining the disciplinary action		Comment (if any)
<input type="checkbox"/>	Have you considered the nature and seriousness of the breach?	
<input type="checkbox"/>	Have you considered the likely impact on the organisation, its members and the reputation of the organisation and its members if the misconduct were a matter of public knowledge?	
<input type="checkbox"/>	Have you considered whether the misconduct was uncharacteristic of the member/elected officer/employee or whether there have been other similar findings of a breach of an internal rule, policy, regulation or legislation?	
<input type="checkbox"/>	Have you considered what other action has been taken to try to improve the behaviour of the member/elected officer/employee? For example, training or performance management or if the individual was the subject of a performance improvement plan within the last two years.	
<input type="checkbox"/>	Have you taken into account any remorse or willingness to take responsibility for the breach, or understanding of the seriousness of the breach, by the member/elected officer/employee? If so, why and what impact does this have?	
<input type="checkbox"/>	Have you taken into account other action that may have already been taken such as suspension from duty with or without remuneration?	
<input type="checkbox"/>	Are there any mitigating or extenuating factors?	

10. Preparing a decision record		Comment (if any)
<input type="checkbox"/>	If you have decided to impose disciplinary action, have you made a written record of your decision?	
<input type="checkbox"/>	Does your decision set out clearly your reasoning for your decision so that the member/elected officer/employee can understand why you have imposed the relevant disciplinary action(s) and so that your decision may be properly understood in any subsequent review?	

11. Next steps		Comment (if any)
<input type="checkbox"/>	Where it has been determined that the suspected person has breached internal rules, policy, regulation or legislation, the next stage is to refer the case to the decision-maker to determine if disciplinary action is to be imposed and/or if other administrative action is to be taken. It may be the responsibility of designated officials/line managers or the relevant committee or Human Resources (if a HR	



	<p>department exists) to determine whether administrative action is to be taken.</p> <ul style="list-style-type: none"> It is appropriate for the member/elected officer found to have breached the rule, policy, regulation or legislation to be informed of the name of the person who has been given the authority to determine any disciplinary actions(s) and what the next steps will involve. 	
<input type="checkbox"/>	Where it has been determined that the suspected person has not breached internal rules, policy, regulation or legislation, have you provided them with an outcome letter closing the investigation?	
<input type="checkbox"/>	Where the misconduct came to light through an allegation made by, for example, another member/elected officer, that member/elected officer can be informed of the outcome of the investigation taking into account the requirements of any internal rules or policies, the <i>Privacy Act 1988</i> and other relevant legislation.	

12. Advising the member/elected officer/employee of your decision		Comment (if any)
<input type="checkbox"/>	<p>Have you taken reasonable steps to inform the member/elected officer/employee:</p> <ul style="list-style-type: none"> Of your decision on the disciplinary action(s) to be imposed, if any, consistent with relevant requirements in your organisation's procedures, and When the disciplinary action(s) will take effect; or That no findings were found against them and no such disciplinary action will be taken; Will the outcome of the decision be recorded on the elected official/employee's personnel file or member's member file? How will this be recorded, if not available? Has the complainant been notified of the outcome, so far as is appropriate, that appropriate action has been taken in response to their complaint? Does the organisation need to notify, where appropriate, any relevant authorities? Has the matter been closed on the protected disclosure register? 	

13. Advising stakeholders of the outcome		Comment (if any)
<input type="checkbox"/>	<p>Have you provided a finalised report to stakeholders?</p> <ul style="list-style-type: none"> Containing the finalisation of the matter and any issues of note that are relevant to the matter? 	

Version	Date published	Changes
2	March 2023	Changes made in accordance with Fair Work Legislation Amendment (Secure Jobs, Better Pay) Act 2022

