
	Title: <b>Whistle-blower Policy</b>	
	Version: 1.3 Date: 9.12.2016	Approved: Board Date: 9.12.2016
	Author: T O'Brien	Next Review: 9.12.2018
	Administered: Business Manager	Signed 

## 1. Purpose:

The Board of Hunter Trade College Limited (“the College”) is committed to ensuring the College, and all its officers and employees, act at all times in compliance with all laws, and in compliance with the College’s ethical standards, as set out in the College’s Employee Code of Conduct and Vision and Values Statement.

The Board recognises in its commitment to detecting and preventing illegal and other undesirable conduct that the inclusion of a mechanism whereby employees and others can report their concerns freely and without fear of repercussion should be utilised. This policy provides such a mechanism, and encourages the reporting of such conduct.

This policy aims to achieve the following benefits for the College:

- a) effective compliance with laws;
- b) efficient fiscal management;
- c) a healthy and safe work environment;
- d) effective management;
- e) improved morale; and
- f) a living record of the fact that the College takes its governance obligations seriously.

## 2. Scope:

This policy may be used by all directors, employees, officers and contractors of the College.

## 3. Definition and Acronyms:

**Whistleblowing** for the purpose of this policy is defined as:

“The deliberate, voluntary disclosure of individual or organisational malpractice by a person who has or had privileged access to data, events or information about an actual, suspected or anticipated wrongdoing within or by an organisation that is within its ability to control.”

**Whistleblower** means an officer, employee or contractor of the College, who attempts to make or wishes to make a report, whether anonymously or not, in connection with reportable conduct under this policy and avail themselves of the protections offered by this policy.

**Misconduct** means any conduct by any person, employed by, who holds an office in, or is otherwise connected with the College, which in the view of the whistleblower, acting in good faith, is:

- Corrupt
- Dishonest
- Fraudulent

- Illegal (including theft, drug sale or use, violence, threatened violence, other criminal activity)
- Unlawful or contrary to any state or federal legislation
- Unethical
- Serious improper conduct
- Conduct which is a significant danger to the environment.
- Conduct endangering the health and safety of any person or persons which has been reported to management but not acted upon.
- Any action taken against, or harm suffered by a person as a result of making a report under this Policy.
- An unsafe work practice which has been reported but not acted upon
- Any other conduct which may cause loss to the College, or otherwise which may be detrimental to its interests.

**Whistleblower Investigations Officer – Internal (WIOI)** The College representative to act in this role will be the Business Manager who is appointed by the CEO. The role of the WIOI is to investigate the substance of the complaint to determine whether there is evidence in support of the matters raised or, alternatively, to refute the report made.

The WIOI may be varied, depending on the nature of the report, to ensure the WIOI is not associated with the area under investigation. In such circumstances the CEO will determine if an alternate staff member is appropriate or refer the matter to the Whistleblower Investigations Officer – External.

**Whistleblower Investigations Officer – External** means the College’s external auditor, Mr. Martin Matthews. His duties will be as per the Whistleblower Investigation Officer – Internal.

**ACNC** Australian Charities and Not for Profit Commission

**ASIC** Australian Securities and Investments Commission

#### 4. Responsibilities

College Board – to ensure that a whistleblower policy is in place and all employees, and where possible contractors, are informed of its existence and operation

CEO to take appropriate action on the findings of the whistleblower investigation

Business Manager to act as the Whistleblower Investigation Officer – Internal. Not to disclose any information without the whistleblower’s permission to any other person with the exception of Australian Securities and Investment Commission, Australian Prudential Regulation Authority or the Australian Federal Police.

PKF Audit & Assurance to act as the Whistleblower Investigation Officer – External (Martin Matthews)

Human Resources/WHS Officer To deal with issues under the Grievance Policy and Procedure

## 5. Procedure

### 5.1 Matters that may be reported under this policy

Any conduct by any person, employed by, who holds an office in, or is otherwise connected with, the College, which in the view of the whistleblower is acting in a manner that would be considered 'misconduct' in the terms of the definition provided in this policy.

### 5.2 Reporting the matter

- Whistleblowers are encouraged to report matters in the first instance to their **Manager**. Where this is not appropriate, where the whistleblower does not feel comfortable in doing so, where the whistleblower has previously done so and believes no action has been taken, or where the whistleblower wishes to remain anonymous, matters may be reported internally to the Business Manager who will act as the **Whistleblower Investigations Officer - Internal**.

- Alternatively, the whistleblower may report the matter, (again anonymously if he or she wishes), to the College's External Auditor, Mr. Martin Matthews of PKF Audit & Assurance, who will act on behalf of the College as **Whistleblower Investigations Officer – External** on (02) 4962 2688 or Mobile 0414 470 180.

Mr Matthews has access to independent resources capable of undertaking a full investigation. Mr Matthews is experienced in dealing with whistleblowers and their concerns.

- To make an anonymous report please provide where possible the following information:
  - Details of the matter
  - When the matter occurred, actual date/s is preferable
  - Where the matter occurred
  - All parties involved that you are aware of
  - Actions you believe should be taken
- In addition to the Whistleblower Policy the College Grievance Policy and Procedure can be used to assist with the resolution of issues that you are comfortable discussing with the Human Resources / WHS Officer.
- Matters raised via the Grievance Policy & Procedure are not anonymous. Details of this Policy & Procedure are located on the College Intranet. It is envisaged that the majority of issues that our officers and employees come across can be managed via a communication with their manager or via the Grievance Policy & Procedure.

### 5.3 Process

- All reports of reportable conduct will be the subject of a thorough investigation with the objective of locating evidence that either substantiates or refutes the claims made by the whistleblower. Such investigations will be conducted by the Whistleblower Investigations Officer, who will follow best practice in investigations and be fair and independent.
- The rules of natural justice will be observed in that the investigation will be conducted without bias and a person against whom an allegation is made will be given the opportunity to respond at an appropriate time which will be before any conclusion is made. The timing of the opportunity for response will depend on the circumstances of the matter reported.
- The Whistleblower Investigations Officer may engage external professionals to assist in any investigation process.
- The College is committed to implementing the findings and recommendations of any investigation with a view to rectifying any wrongdoing as far as is practicable in the circumstances.

#### **5.4 Anonymity**

- If requested, the identity of the whistleblower will be kept confidential by the College's Whistleblower Investigations Officer Internal or External.
- Any commitment of confidentiality is subject to the requirements of the law which may require disclosure of the identity of the whistleblower in legal proceedings. Information obtained from a whistleblower will only be disclosed to the extent necessary to conduct an investigation into the matter, and to the extent set out in the reporting paragraph 12 below, or if the whistleblower consents to the disclosure, or as may be required by law.
- Unauthorised disclosure of information other than in accordance with this policy may be the subject of disciplinary proceedings, including summary dismissal.

#### **5.5 Communication with the whistleblower**

- Where possible and assuming the identity of the whistleblower is known, the whistleblower will be kept informed of the outcome of the investigation of his or her report, subject to privacy and confidentiality considerations. All whistleblowers must maintain confidentiality of all such reports, and not disclose the same to any person.

#### **5.6 Protection for Whistleblowers**

- Whistleblowers who report matters in good faith, and provided he or she has not been involved in the conduct reported, will not be penalised or personally disadvantaged because they have reported a matter, by any of the following:
  - a) dismissal;
  - b) demotion;
  - c) harassment;
  - d) discrimination;
  - e) bias.
- A whistleblower who believes he or she, or his or her family, has been the victim of any of the above by reason of their status as a whistleblower, should immediately report the same to the Whistleblower Investigation Officer.
- Any employee or manager who is found to have dismissed, demoted, harassed, or discriminated against a whistleblower by reason of their status as a whistleblower, may be subjected to disciplinary measures, including summary dismissal.
- A whistleblower who has been involved in the reported conduct may still be provided with immunity from College initiated disciplinary proceedings, by agreement with the College. The College however has no power to provide immunity from criminal prosecution.

#### **5.7 Whistleblower Protection**

Where it is not possible to maintain the anonymity of the whistleblower, the whistleblower may request of the Whistleblower Investigation Officer that an alternative means of protection such as a relocation or leave of absence be provided. Any such requests will be considered in good faith by the College and will be actioned.

#### **5.8 False Misconduct Reports**

- Where it is established by the Whistleblower Investigations Officer that the whistleblower is not acting in good faith, or he or she has made a false report of reportable conduct, then he or she may be subjected to disciplinary proceedings, including summary dismissal.
- Whilst not intending to at all discourage whistleblowers from reporting matters of genuine concern, it is strongly suggested whistleblowers ensure as far as possible that reports are factually accurate, complete, from firsthand knowledge, presented in an unbiased fashion (and any possible perception of bias of the whistleblower is disclosed), and without material omission.

## 5.9 Reporting

- The Whistleblower Investigations Officer will report their findings and actions directly to the CEO and to the College's Audit, Finance & Risk Committee who will determine the appropriate response. This response will include addressing any unacceptable conduct and taking remedial action required to prevent any future occurrences of the same Misconduct.
- In the event of the CEO being the subject of an investigation or allegation, the Chairman of the Audit, Finance & Risk Committee will determine the report and corrective measures. All investigation outcomes will be reported to the Chairman of the Board.
- In cases where the CEO, Whistleblower Investigations Officer or a member of the Committee has been accused of reportable conduct, or where he or she has a close personal relationship with the person against whom the accusation is made, he or she will be excluded from the reporting process.
- Where issues of discipline arise these will be dealt with in accordance with the Hunter Trade College Enterprise Agreement in place at the time.
- Where allegations of unacceptable conduct made against another 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.

## 5.10 Record Keeping

- All documents in connection to whistleblower investigations shall be confidentially stored in an appropriate and secure manner
- All discussions will be minuted
- Records will be kept in line with College record keeping requirements

## 5.11 Variation

This policy will be reviewed at least annually by the Audit, Finance & Risk Committee to ensure its effectiveness. The Hunter Trade College reserves the right to review, vary or revoke this policy.

## 6. Metrics

The College will, where practicable:

- acknowledge whistleblower report within 3 working days of receipt if the Whistleblower's identity is known
- commence investigation within 10 working days of report being received
- will provide feedback on progress of investigation to the whistleblower quarterly
- if it is considered legal proceedings need to take place, contact the relevant authority within 1 working day of that determination being made

## 7. Reference Documents

This code should not be read in isolation, and any consideration of a breach of this code should take into account the following:

- Fair Work Act 2009
- Work Health and Safety Act 2011
- Corporations Act 2001
- ACNC Guidelines
- ASIC Act
- Grievance Policy
- Hunter Trade College Enterprise Agreement
- Code of Conduct
- Vision and Values Statement

## 8. Document History and Version Control Record

Version Number	Version Date	Authorised Officer	Amendment Details
1.0	12 April 2011	Terry O'Brien	New Policy
1.1	28 June 2011	Carol Swanson	Removed reference to Industrial Relations Act 1996 Inserted reference to Fair Work Act 2009
1.2	26 May 2014	Terry O'Brien	Reviewed Policy and updated External Auditors details
1.3	9 December 2016	Terry O'Brien	Updated External Auditors details, Acronyms, definition WIOI