

Public Interests and Other Disclosures Policy

Section 1 - Purpose

(1) This Policy promotes integrity, accountability and good management within Charles Sturt University (the University). The Policy provides the University community with the information and procedures to assist the appropriate reporting, subsequent investigation and resolution of suspected wrongdoing that falls under the Public Interest Disclosures Act .

(2) The Policy highlights the University:

- a. intolerance of corruption and maladministration;
- b. commitment to legal compliance, procedural fairness and due process;
- c. reporting, investigation and referral requirements;
- d. responsibilities relating to the Public Interest Disclosures (PID) Act ; and
- e. linkages to relevant legislation and University policies and guidance materials.

Scope

(3) This Policy applies to all members of the University community, including contractors and employees of contractors.

Section 2 - Glossary

(4) For the purpose of this Policy:

- a. Corrupt Conduct:
 - i. is defined as 'any conduct that adversely affects either directly or indirectly the honest or impartial exercise of public official functions' (ICAC Act 1988);
 - ii. can involve:
 - dishonest exercise of public functions;
 - breach of public trust;
 - misuse of information or material acquired in the course of official functions; and/or
 - conflicts of interest.
- b. Maladministration:
 - i. the definition of corrupt conduct is extended within the ICAC Act to include maladministration. Maladministration may include gross mismanagement of risk leading to death, injury or the culpable wastage of University resources.
- c. Conflict of Interest:
 - i. as defined by the ICAC Act 1988 is 'a conflict between the public duty and private interests of an individual where the private interests could improperly influence their [sic] official duties and responsibilities'. The presence of an undisclosed conflict of interest may, in some circumstances

constitute corrupt conduct.

d. Government Information Contravention:

- i. public interest disclosures are able to be made internally about a failure to properly fulfil functions under the Government Information (Public Access) Act 2009 , as well as to the Information Commissioner.

Section 3 - Policy

Part A - Protections Under the Public Interest Disclosures Act 1994 (PID)

(5) Disclosures corrupt conduct or maladministration received from University members of staff, contractors, and contractor's employees receive specific protections against reprisal under the Public Interest Disclosures (PID) Act .

(6) In some circumstances, the PID Act may provide protection to voluntary workers. The PID Act does not provide legislative protection for either students or members of the public unless the disclosure is reported, in the first instance through an external review agency. These agencies are listed in Annexure 2.

(7) Protection is also not available for disclosures which:

- a. are made frivolously or vexatiously;
- b. primarily question the merits of government policy; or
- c. are made solely or substantially with the motive of avoiding dismissal or other disciplinary action.

(8) It is an offence to wilfully make a false or misleading statement when making a disclosure.

Part B - Disclosures by Students and the Wider Community

(9) The University will handle disclosures by students and other members of the University or wider community in the same manner as disclosures made by members of staff. Information received will in all cases be handled in confidence. Disclosures by students and by members of the wider community may not be entitled to legislated (PID) protections against reprisal unless they are initially reported, by the informant, to an external investigatory agency listed at Annexure 2 .

Part C - Nominated Disclosure Officers

(10) The positions to which disclosures can be made in accordance with this policy are:

- a. Internal Auditor (Disclosure Coordinator);
- b. Internal Audit staff members and contractors to Internal Audit;
- c. University Ombudsman;
- d. Provost and Deputy Vice-Chancellor (Academic);
- e. Deputy Vice-Chancellor (Students);
- f. Deputy Vice-Chancellor (Research and Engagement);
- g. Vice-Chancellor; or
- h. Chancellor.

Part D - Natural Justice and Procedural Fairness

(11) All parties will be afforded natural justice and procedural fairness in the handling of disclosure by the University including:

- a. ensuring that all parties know what to expect of the disclosure handling process;
- b. carrying out the disclosure handling process in an efficient and transparent manner;
- c. treating all parties in a respectful manner;
- d. providing reasons for decisions made;
- e. protecting the discloser from reprisal; and
- f. complying with the provisions of the University's enterprise agreement and surrounding policy framework.

(12) In the event of a finding of no case to answer, the supervisor of the subject of the investigation will also be advised of the outcome.

Part E - Records

(13) Accurate written records must be kept of all communications that form part of the disclosure process. This includes notes taken of conversations between the parties which relate to management of the PID Act and all decisions made in relation to the PID Act. All records must be marked "Confidential".

(14) Only the people who are directly involved in the disclosure, or in helping to resolve it, are to have access to information about the disclosure.

(15) All documentation of disclosures managed under this Policy will be held by the Internal Auditor. Documentation of disclosures is to be kept separate from personnel files.

Part F - Confidentiality

(16) The privacy and confidentiality of parties will be respected to the extent practicable and appropriate; with acknowledgment that matters may be subject to production under the Government Information (Public Access) Act or may be subject to subpoena. Accurate records will be kept by each staff member dealing with a disclosure, including recording of reasons for all significant decisions.

Part G - University Responsibilities and Requirements

(17) The Vice-Chancellor is responsible for:

- a. providing leadership in promoting ethical and honest conduct within the University community;
- b. establishing effective systems of internal control and legal compliance within the University;
- c. ensuring protection against reprisal for disclosers consistent with the requirements of the PID Act ;
- d. establishing a timely and effective mechanism for staff and other members of the University community to express their concerns relating to suspected corruption or maladministration in a confidential manner;
- e. ensuring that members of the University community, who are the subject of a disclosure are accorded the principle of natural justice. Within this context, the Vice-Chancellor will act to ensure compliance with the provisions of the enterprise agreement;
- f. reporting to ICAC in a timely manner any matter, which might be considered on reasonable grounds to constitute corruption or serious maladministration; and
- g. dismissing or otherwise disciplining a member of staff in the event that corrupt conduct or serious maladministration, if demonstrated to the satisfaction of the University. The Vice-Chancellor is the only member

of staff with a delegation to dismiss or otherwise discipline other members of staff.

(18) The Internal Auditor as disclosures co-ordinator is responsible for:

- a. overall management and monitoring of disclosures of corruption and maladministration within the University;
- b. undertaking the role of primary Public Interest Disclosures officer for the University;
- c. reporting as required under the PID Act;
- d. conducting preliminary reviews of complaints involving alleged corruption and maladministration;
- e. referring prima facie cases of probable corrupt conduct to a certified fraud examiner for further investigation;
and
- f. identifying systemic issues arising from disclosures and formulating corresponding recommendations for improvement.

(19) Nominated disclosures officers are responsible for:

- a. ensuring that information received is handled in a sensitive and confidential manner;
- b. ensuring that information disclosed is documented, and where possible agreed with the person making the disclosure; and
- c. referring the disclosure to the Internal Auditor or to the Vice-Chancellor.

(20) Disclosers are required to:

- a. provide a clear and honest account of their concerns, including providing all relevant information and documents to assist in the investigation and/or resolution of the matter;
- b. engage openly in the Public Interest Disclosures handling process, including participating in discussion with other parties to resolve the concerns;
- c. respond to University requests for information in a timely manner; and
- d. respect those individuals involved in the Public Interest Disclosures handling process.

(21) Budget Centre Managers are required to:

- a. advise people of their right to make a disclosure where appropriate;
- b. ensure that staff members who make a disclosure are not subjected to retaliatory action;
- c. ensure that staff members who may be the subject of a disclosure are offered the support afforded to them by under the Enterprise Agreement;
- d. co-operate with staff and external investigators who are responsible for following up a disclosure; and
- e. maintain confidentiality on matters pertaining to disclosures.

(22) All Charles Sturt University staff should:

- a. be familiar with and act in accordance with the University's [Code of Conduct - Staff](#).

Part H - Reporting Fraud and Corruption

(23) Members of the University community are strongly encouraged to report known and suspected corrupt conduct at the University to a Nominated Disclosures Officer or directly to the ICAC .

(24) In the case of an internal disclosure, the University must:

- a. maintain confidentiality;

- b. assess the disclosure to determine action;
- c. apply principles of natural justice to the conduct of preliminary appraisals and investigations;
- d. provide feedback to the complainant and to the person who is the subject of the disclosure; and
- e. ensure the complainant is protected against reprisals.

Part I - Investigations

(25) Following the receipt of a disclosure, the responsible nominated disclosures officer may, in consultation with the Internal Auditor, gather preliminary facts to determine whether or not there may be a case to answer. The Internal Auditor will refer the findings of the preliminary appraisal to the Vice-Chancellor.

(26) All formal investigations relating to corrupt conduct within the University must be assigned, by the Internal Auditor, to a certified fraud examiner. This process is subject to the direction of the ICAC . The Vice-Chancellor will refer investigation reports to the ICAC .

(27) The conduct of unauthorised investigations by line managers or by any member of staff is prohibited.

Part J - Limitations

(28) This Policy does not relate to:

- a. general complaints and grievances; which should be reported in accordance with the University's [Complaints Management Policy](#). Outstanding complaints and grievances which are unable to be resolved through normal University channels may be reported in the first instance to the University Ombudsman or to the Vice-Chancellor;
- b. academic misconduct by staff or students; which should be reported in accordance with the University's academic misconduct policy and procedures for staff and students as published in the [CSU Policy Library](#); and
- c. performance management matters that do not also constitute corrupt conduct or maladministration as defined.

Section 4 - Procedures

(29) Nil.

Section 5 - Guidelines

(30) Nil.

Status and Details

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