28 St Martins Lane
South Yarra VIC 3141
03 9867 2477
info@stmartinsyouth.com.au
stmartinsyouth.com.au

Whistleblower policy

Policy number:	20260004	**Version:**	1.1
Approved by:	St Martins Board of Directors	**Scheduled review date:**	20 October 2028

Introduction

St Martins Youth Arts Centre (the Organisation) is committed to adhering to its statutory obligations, and the Organisation's rules and values. We are committed to providing those involved with our Organisation a safe environment to raise breaches of internal rules or policy, or Disclosable Conduct relating to the Organisation, its branches, officers, employees or members.

In cases where people feel they need to be protected in relation to raising a matter, this Policy outlines the protections that will apply.

Purpose

The purpose of this Policy is to:

- provide you with an understanding of what can be reported under this Policy;
- demonstrate the importance St Martins Youth Arts Centre places on ensuring a safe and supportive environment where our people feel confident to raise breaches of internal rules or Disclosable Conduct relating to the organisation, its branches, officers, employees or members;
- assist to create a culture within St Martins Youth Arts Centre that encourages our people to speak up and raise breaches of internal rules or policy, or Disclosable Conduct relating to the Organisation, its branches, officers, employees or members;
- explain the processes for reporting breaches of internal rules or policy, or Disclosable Conduct, including what happens when you make a report; and to
- outline how you will be protected if you make a report.

Scope

The scope of this Policy – People

The following people can make a disclosure within the Organisation:

1. an officer or former officer of the Organisation;
2. an employee or former employee of the Organisation;
3. a member or former member of the Organisation; or
4. a person who is (or was) a supplier to, or has (or had) a transaction with, the Organisation;
5. a person who is (or was) a supplier to, or has (or had) a transaction with, an officer or employee of the Organisation;
6. an employee (or former employee) of a supplier or person who had such a transaction; or
7. a lawyer on behalf of a discloser in one of the above categories.

The scope of this Policy – Conduct

The scope of this Policy relates to conduct which:

- breaches the Organisation's internal rules and policies; and/or
- is Disclosable Conduct under the Fair Work (Registered Organisations) Act 2009 (RO Act) (including alleged reprisals for making a disclosure) as defined in this Policy (as well as in section 6 of the RO Act).

Out of scope – Complaints and grievances

From time to time, you may have a Complaint in relation to service levels, policy decisions, or an employment-related grievance with another person within the organisation, which is not Disclosable Conduct or a breach of the Organisation's rules or policies.

If you have a Complaint about a service issue or policy decision or you wish to raise a grievance issue, speak to your supervisor, or the relevant committee or the Executive Director.

Defining Disclosable Conduct

Disclosable Conduct is conduct, as defined in the RO Act, that may be reported to the Fair Work Commission (the Commission) or other responsible external agencies, which amounts to a suspected contravention of the law.

Disclosable Conduct is defined in section 6 of the RO Act as follows:

Disclosable conduct means an act or omission that:

a) contravenes, or may contravene, a provision of this Act, the *Fair Work Act* (FW Act) or the *Competition and Consumer Act 2010*; or
b) constitutes, or may constitute, an offence against a law of the Commonwealth.

Although Disclosable Conduct can be reported to external agencies, such as the Commission, in many cases, if it is dealt with promptly and effectively, the organisation will be capable of dealing with the matter internally to reach an appropriate resolution.

Some examples include:

- refusing membership of an organisation when eligible (section 166, RO Act);
- using organisation's resources to favour one candidate over another in an organisation's elections (section 190, RO Act);
- breach of duties as an officer or employee in relation to financial matters (sections 285 to 288, RO Act);
- coercion to exercise or not exercise a workplace right (section 343, FW Act);
- adverse action due to membership / non-membership of an industrial association (section 346, FW Act);
- breach of right of entry notice requirements (section 487, FW Act);
- hindering or obstructing an entry permit holder (section 502, FW Act);
- dishonest conduct by an employee or officer of an organisation or branch.

What is (and isn't) 'Disclosable Conduct'

Not everything that can be complained about amounts to Disclosable Conduct.

As defined above (and in the RO Act) Disclosable Conduct must be a suspected breach of the RO Act, the *Fair Work Act* or the *Competition and Consumer Act 2010*, or criminal offence.

Examples of things which **would** be Disclosable Conduct include:

- A breach of an officer's duties to the organisation in relation to financial management;
- providing false or misleading information in a document;
- misuse of the organisation's resources;
- unauthorised payments being made;
- election-related offences;
- coercion to exercise or not exercise a workplace right;
- refusing membership to a person entitled to be a member;

- failing to lodge required documents.

However, things that (on their own) would usually not be Disclosable Conduct include:

- complaints about the level of service received from the organisation or a particular official;
- a difference of opinion about a policy adopted by the organisation;
- not being elected as a workplace representative;
- employment disputes with your employer (where your employer is not the registered organisation);
- disagreeing with the decision of the organisation to donate to a particular cause.

Reporting Disclosable Conduct

Every person in the Organisation has a role and responsibility in ensuring the Organisation is run ethically and in accordance with its internal rules and policies. Where matters related to breaches of internal rules or policies or Disclosable Conduct are identified they should be raised as soon as possible. In instances where a person has concerns about making a report, reports can be made anonymously.

Who can report a matter?

Officers, employees, members, suppliers

All officers, employees, members and suppliers are an essential part of reporting matters to the Organisation. It is not acceptable to 'walk past' or 'turn a blind eye' to reportable Matters.

If you become aware of a matter you should raise it as soon as practical with the people responsible for handling matters, outlined below. Raising your matter early allows it to be addressed in the right way by an appropriate person. You should not attempt to conduct any investigation yourself before raising the matter as this could interfere with any future actions or, in rare cases, could put your safety at risk.

If you have fears for your wellbeing, safety, or fear of reprisal as a result of raising your matter, you should mention these at the time you report the matter. You will be noted by the Organisation as a Discloser, and afforded the protections outlined under this Policy, and where eligible legislative disclosure requirements are met, protected under the provisions of the RO Act.

Who should I report my matter to?

Your manager, Chief Executive Officer or Executive Director

Sometimes, a suspicion of wrongdoing may arise from a misunderstanding and is not in fact wrongdoing. Accordingly, you are encouraged to check with your designated official/manager, the Chief Executive Officer or Executive Director to seek an immediate response as internal channels of reporting are favoured. Remember, in some instances, communication is restrained by confidentiality requirements or other legitimate reasons. However, where you believe the response to your matter raised is not appropriate, then alternative reporting mechanisms are available.

To find out who are the current managers and executives you can refer to https://stmartinsyouth.com.au/our-team/

Board of Directors

If you do not feel safe, or it is not practical to raise the matter with your manager or responsible official, you may consider raising the matter with a member of the Board of Directors so they can provide the assistance you need in relation to your matter.

To find out who are the current members of the board you can refer to https://stmartinsyouth.com.au/board/

What happens when you report Disclosable Conduct to your Organisation

When you report a matter of a breach of internal rules, policy or Disclosable Conduct under this Policy, you should provide as much information as possible. Information such as dates, times, location, individuals involved, other witnesses, physical evidence (e.g. documents, images) and any other general information may be helpful to assist the Organisation to determine how to take appropriate action.

Any information you provide to the Organisation may be used by the Organisation in assessment of an investigation or other appropriate action. Examples of actions could include:

- a satisfactory explanation can be provided in relation to the matter;
- the matter is resolved by speaking to one or more parties;
- the matter is recorded and monitored going forward;
- a decision is made to investigate (internally or via independent, external investigators);
- the matter is referred to another agency; or

- a combination of the above.

Where practicable, you will be contacted and advised of what action will be undertaken. If the Organisation determines that your matter should be investigated, the investigation may be conducted by an appropriately capable officer or employee of the Organisation or by an external investigator appointed by the Organisation. All investigations will be conducted in a manner that is procedurally fair, confidential, conducted without bias and in a timely manner.

At the end of an investigation, you may be informed of the outcome of the investigation by the Organisation. The Organisation may in certain circumstances, whether required by law or in its discretion, inform the Fair Work Commission or the relevant authority of any contents of the investigation.

Additional information and resources can be found at the Commission's website at https://www.fwc.gov.au/

How you are protected

Confidentiality

If you report a breach of internal rules or policies, or a concern relating to Disclosable Conduct to the Organisation under this Policy, you will have your details, and the information you provide, treated in strictest confidence. The Organisation will only share your details on a need-to-know basis with those within the Organisation who have a role to play in looking into your matter. In addition, there may be certain times under applicable law where the Organisation is required to share your details as part of its legal obligations.

Protection

St Martins Youth Arts Centre is committed to ensuring that if you raise a matter under this Policy, you are provided support and protection from reprisal or personal or financial disadvantage because of making that report.

You will be protected under the RO Act when you raise a matter relating to Disclosable Conduct within your Organisation, just the same as you would have been if you had raised the Disclosable Conduct with the Commission. This extended protection, is another reason raising matters within your Organisation in the first instance is usually the quickest and most effective option.

Protection under the RO Act

The RO Act provides protection to a person who makes a 'protected disclosure'. A protected disclosure is defined in the RO Act. To qualify as a protected disclosure, the disclosure must:

- be made by a discloser listed in this Policy (see the scope of this Policy – People);
- be about suspected Disclosable Conduct (see Defining Disclosable Conduct);
- be capable of being reported to an authorised recipient in a relevant government agency.

Importantly, the RO Act protects an eligible disclosure even if it is reported internally to the registered organisation. This is because section 337BA of the RO Act stipulates that a disclosure is protected under the RO Act if the person made, or could have made, the disclosure to the Commission or other authorised recipient.

Section 337BA provides protection where:

1. A person (the first person) takes a reprisal against another person (the second person) if:
   a) The first person causes (by act or omission) any detriment to the second person; and
   b) When the act or omission occurs, the first person:
      i) believes or suspects that the second person or any other person made, may have made, proposes to make **or could make a disclosure that qualifies for protection under this Part**; or
      ii) should have known that the second person or any other person made, may have made, proposes to make or could make a disclosure that qualifies for protection under this Part.

This confirms that under the RO Act, if you raise Disclosable Conduct within the Organisation, you will be afforded the same protection from reprisal as if you had reported the eligible disclosure to the Commission or another authorised recipient in an external agency.

Reprisals

A discloser is protected from reprisal being taken against them, to their detriment (whether by act or omission), as a result of making that disclosure.

Detriment is defined in Section 337BA of the RO Act as follows:

> *"Detriment includes (without limitation) any of the following:*
>
> *a) dismissal of an employee;*
>
> *b) injury of an employee in his or her employment;*
>
> *c) alteration of an employee's position to his or her detriment;*

d) *discrimination between an employee and other employees of the same employer;*
e) *harassment or intimidation of a person;*
f) *harm or injury to a person, including psychological harm;*
g) *damage to a person's property;*
h) *damage to a person's reputation."*

Reprisals may be the subject of criminal penalties, civil penalties or other civil remedies (such as reinstatement, injunctions, etc) if the disclosure is the reason (or part of the reason) for the reprisal action being taken.

A discloser who makes a protected disclosure will not be subject to:

- Any criminal or civil liability for making the disclosure (s 377B(1)(a)), or
- The enforcement of any contractual or other right or remedy against them on the basis of their disclosure (s 377B(1)(b)).

However, it is important to understand that if a person makes a protected disclosure, they are not exempt from the consequences of their own misconduct.

The Commission's Fact Sheet Protection for Whistleblowers (FS003) – available on the Commission website – provides comprehensive information on the protections available.

Anonymity

Anonymous reports of wrongdoing are accepted under this Policy. Anonymous reports may have significant limitations that inhibit a proper and appropriate inquiry or investigation. These limitations may include the inability to provide feedback on the outcome and/or to gather additional particulars to assist the inquiry/investigation.

Failure to comply with this Policy

Any breach of this Policy may result in disciplinary action, including dismissal from the Organisation.

Reporting Disclosable Conduct to an external agency

If your matter relates to Disclosable Conduct and it is not practical to report your matter within your Organisation in the first instance, you can report Disclosable Conduct to the relevant external agency. You must make the disclosure to one of the following:

- the General Manager or the staff of the Fair Work Commission (the Commission);

- the Australian Building and Construction Commission (the ABCC) Commissioner, their Deputy or an inspector of the ABCC;
- the staff of the Fair Work Ombudsman.

Any of these people are able to receive a disclosure from a whistleblower and using it will trigger the whistleblower process. A whistleblower is also able to give the information to their lawyer and have their lawyer contact one of the people in the above list with the information.

A person does not need to use the word 'whistleblower' to be protected however using it may help the agency receiving the information quickly to recognise the importance of the disclosure. The person also has no obligation to give the agency their name or contact details; however, this can have implications as to whether a disclosure is able to be properly investigated.

For further details as to what constitutes Disclosable Conduct, visit the Commission's website: www.fwc.gov.au and read the information on "What is Disclosable Conduct".

Appendix – Glossary of terms

Authorised Recipient	An Authorised Recipient means: • the General Manager of the Fair Work Commission • a Fair Work Commission or an employee of the Fair Work Commission; • the Australian Building and Construction Commissioner • a Deputy Australian Building and Construction Commissioner • an Australian Building and Construction Inspector; or • an employee of the Office of the Fair Work Ombudsman.
Disclosable Conduct	Disclosable Conduct is defined in section 6 of the Fair Work (Registered Organisations) Act 2009 as follows: *'**Disclosable Conduct** means an act or omission that:* • *contravenes, or may contravene, a provision of this Act, the Fair Work Act or the Competition and Consumer Act 2010; or* • *constitutes, or may constitute, an offence against a law of the Commonwealth.'*

Protected Disclosure (under the RO Act)	To qualify as a protected disclosure under the RO Act, the disclosure must:
	• be made by a discloser as defined in section 337A(1)(a) of the RO Act;
	• be made to an official; and
	• be made by a discloser who has reasonable grounds to suspect that the information indicates one or more instances of Disclosable Conduct by:
	  o the organisation or a branch of the organisation, or
	  o an officer or employee of the organisation or of a branch of the organisation.

Registered Organisations	Registered Organisations are membership groups of employers or employees that have been registered under the RO Act. A Registered Organisation may also be referred to as a union or an employer association.
The RO Act	Means the *Fair Work (Registered Organisations) Act 2009*, as amended.
Complaint about service	An officer, employee or member of our Organisation believes the Organisation:

	• supplied them with a level of service that the member believes to be unreasonable; or • failed to fulfil their consumer contractual obligations; or • has made a policy decision that they do not agree with.
Discloser (May also be called Whistleblower)	A Discloser is a person who makes a disclosure relating to Disclosable Conduct under this Policy. A Discloser attracts protections detailed in the RO Act and this Policy.
Internal rules and policy	Refers to the powers and duties of offices in the Organisation which are provided in the Organisation's rule book. The RO Act requires the rules of Organisations to provide for the powers and duties of committees and the officers (s 141(1)(b)(i)).
Matters	Refers to alleged contraventions of the internal rules, policies and Disclosable Conduct which are in scope of this Policy.
Organisation	Mean St Martins Youth Arts Centre and its branches and other structures that fall under the control of the St Martins Youth Arts Centre.
this Policy	Means this Whistleblower Policy.
Whistleblower (May also be called Discloser)	A Whistleblower is a person who makes a disclosure relating to a breach of internal rules or Disclosable Conduct under this Policy. A Whistleblower may request protection either in terms of this Policy or in terms of the RO Act.
Whistleblower Investigation Officer (WIO)	A senior officer of the Organisation who is responsible for leading, co-ordinating or overseeing the investigation of matters in a fair, confidential, objective (without bias) and timely manner.
Whistleblower Protection Officer (WPO)	A senior officer of the Organisation who is responsible, as far is reasonably practicable, to protect any discloser who makes a report to the organisation and is accountable for the provisions of this Policy.