

Whistleblower

Policy

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1. PURPOSE

JMC Academy ('JMC') is committed to detecting and addressing misconduct and ensuring that those who become aware of such behaviours can report it without being concerned of potentially negative impacts for them or their position.

This policy relates to the protection of those 'speaking-up' about misconduct, and who are typically known as 'Whistleblowers'. It also addresses how JMC will respond to reports of misconduct relating to its operations.

2. SCOPE

This policy applies to both a specific group of people and a specific type of conduct. For this policy to apply, the circumstances must meet the criteria in both.

This policy applies to individuals who are, or who have been any of the following in relation to JMC. The individuals listed below can make a report which may qualify for protection under the Act (these are collectively refer to as 'Eligible Whistleblower').

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| An Officer or employee | Including permanent, full-time, part-time, fixed term or temporary (casuals), interns, managers and/or directors |
| A supplier of services (or their employees) | Including contractors, consultants, service providers or business partners. |
| A relative, dependent or spouse of an individual listed above. | |
| Any other person in accordance with the relevant legislation | |

What conduct is covered?

This policy applies to conduct that is referred to as a 'Disclosable Matter'. An eligible whistleblower needs to have reasonable grounds to suspect that the conduct has occurred, and it relates to JMC or a related body corporate. A disclosable matter is defined as:

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| Misconduct | This includes negligence, breach of trust or breach of duty |
| Illegal in Nature | This includes theft, dealing in or use of illicit drugs, or violence or threats of violence, fraud, money laundering, offering or accepting bribes, financial irregularities, failure to comply with, or a breach of legal or regulatory requirements. |
| Retaliation or threats of against an eligible whistleblower | This includes engaging in, or threatening to engage in detrimental conduct against an eligible whistleblower who has made a disclosure or is believed or suspected to make or planned to make a disclosure. |
| Conduct that is an offence against or a breach of; <i>Corporations Act 2001 (Cth)</i> or <i>Banking Act 1959 (Cth)</i> . | |
| Conduct that is an offence against the Australian Commonwealth law (law which is not state governed by law) which is punishable by imprisonment for 12 months or more | |
| Business behaviour and practices that may cause consumer harm | |
| Improper state of affairs or circumstances | |
| Represents a danger to the public or financial system | |
| Anything that is prescribed by the regulation. | |

Out of scope – What is NOT covered

Personal Work Grievances

From time to time, you may have a personal workplace grievance, and/or employment related complaint and while they are not covered by this policy you may still have an avenue to address your concerns through the JMC Grievance Policy or other JMC Policy.

A personal work grievance includes:

- Conflicts between Workers;
- A decision that doesn't involve a breach of workplace law;
- A decision about a Worker's employment status, transfer or promotion;
- A decision about the terms of a Worker's engagement or contract; or
- A decision to suspend, terminate or discipline a Worker.

Please refer to the *JMC Grievance Policy* for more information.

False Reports

JMC discourages the reporting of deliberate false reporting, which may delay the investigation of valid disclosures. Any false reporting will be treated seriously and may be subject to reporting to appropriate authorities or disciplinary action.

3. DEFINITIONS

All definitions are located the *JMC Academy Glossary*.

4. POLICY

4.1. Making a disclosure

An eligible whistleblower who makes a disclosure (a 'discloser') can disclose their report by internal and external sources. To qualify for Whistleblower protections an eligible whistleblower must disclose a disclosable matter to an authorised receiver.

4.1.1. Who can receive a disclosure?

JMC encourages Eligible Whistleblowers to make a disclosure to JMC as the first point of call so that any wrongdoings can be identified and addressed in a timely manner.

- Who can receive a disclosure within JMC?

The following people can receive a disclosure within JMC:

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| Disclosure Officers (WPO) | CEO |
| | CFO |
| | Campus Directors |
| | Head of People and Culture |
| A person authorised by JMC to receive disclosures | |

- Who can receive a disclosure external to JMC?

An eligible whistleblower can make a disclosure to any of the following external individuals and qualify for Whistleblower protections.

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| An internal or external auditor | Disclosures can be made to an internal or external auditor of JMC. |
| Lawyer | A lawyer you have engaged to provide advice on the disclosure or to represent you. In the event that your lawyer concludes |

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| | that a disclosure does not fulfil the criteria of a disclosable matter, protections may still apply. |
| Regulatory Bodies | Disclosures can be made to ASIC, or another Commonwealth body (body prescribed by regulation) and still qualify for protections grant under the Act. |
| Public Interests Disclosure | <p>Disclosure can be made to a journalist, or parliamentarian under certain circumstances and still qualify for protection, this is called a 'Public Interest Disclosure'. A Public Interests Disclosure can be made where <u>ALL</u> of the below criteria are met:</p> <ul style="list-style-type: none"> • At least 90 days have passed since the eligible whistleblower has made the disclosure to ASIC or another Commonwealth body (prescribed by regulation); • The eligible Whistleblower doesn't have reasonable grounds to believe that action is being, or has been taken; • The eligible Whistleblower has reasonable grounds to believe making another disclosure is in the public interest; AND • Before making a public interest disclosure, the eligible Whistleblower has given written notice to ASIC, or another Commonwealth body (prescribed by regulation) that identifies their original disclosure, and outlines that they intend to make a public interest disclosure. |
| Emergency Disclosure | <p>Disclosures can be made to a journalist or parliamentarian under certain circumstances and still qualify for protections, this is called an 'Emergency Disclosure'. An emergency disclosure can be made where <u>ALL</u> of the below criteria are met:</p> <ul style="list-style-type: none"> • An eligible Whistleblower has made the disclosure to ASIC or another Commonwealth body (prescribed by regulation); • The Eligible Whistleblower has reasonable grounds to believe that the information concerns a substantial and imminent danger to the health and safety of one or more person or the natural environment; • Before making an emergency/public interest disclosure, the eligible Whistleblower has given written notice to ASIC or another Commonwealth body (prescribed by regulation) that identifies their original disclosure, and outlines that they intend to make an emergency disclosure; AND • The extent of the information disclosure is no greater than necessary to inform the journalist or parliamentarian of the substantial and imminent danger. |

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| | An individual may wish to seek external legal advice from a lawyer prior to making this type of disclosure. |
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4.2. Legal protections for disclosures

If disclosers meet the criteria detailed above in who can disclose, what can be disclosed and who they disclose to they will have the following legal protections available to them for both internal and external disclosures.

4.2.1. Protection of Disclosers Identity

JMC has a legal obligation to protect the confidentiality of a discloser's identity.

4.2.1.1. A person cannot disclose the identity of a discloser or information that is likely to lead to the identification of the discloser unless a person discloses the identity of the discloser to:

- ASIC, or a member of the Australian Federal Police;
- A lawyer (to obtain legal advice or legal representation);
- A person or body prescribed by regulation; OR
- With the consent of the discloser.

4.2.1.2. A person can disclose the information contained in the disclosure with or without the disclosers consent if:

- The information doesn't include the disclosers identity;
- JMC has taken all reasonable steps to reduce the risk that the discloser will be identified from the information; AND
- It is reasonably necessary for investigating issues mentioned in the disclosure.

4.2.1.3. It is illegal for a person to identify a discloser or disclose information that is likely to lead to the identification of the discloser.

- If this has occurred, you can lodge a complaint for breach of confidentiality with JMC or with the regulator such as ASIC for investigation.

4.2.1.4. Anonymity

Disclosures by a discloser who fulfils the criteria in terms of who can disclose, what can be disclosed and to whom can it be disclosed to can make a disclosure anonymously and still be protected by the Act.

- A discloser who makes a disclosure can choose to remain anonymous:
 - Whilst making a disclosure
 - Over the course of the investigation
 - After the investigation has been completed.
- A discloser can refuse to answer any questions which could reveal their identity at any time.

If a disclosure is received from an email address where a person's identity cannot be determined, it will be treated as an anonymous disclosure. Other mechanisms for protecting anonymity include adopting a pseudonym.

4.2.2. Protection from detrimental acts or omissions

4.2.2.1. A person cannot engage in conduct that causes detriment to a discloser (or another person) in relation to a disclosure if:

- The person believes or suspects that this discloser made, may have made proposes to make or could make a valid disclosure; and

- Belief or suspicion is the reason (whole or in part) for the conduct.
- 4.2.2.2. Threats, (whether expressed or implied) to cause detriment to a discloser (or another person) are not permitted.
- 4.2.2.3. Detrimental conduct, which is prohibited under the law includes:
 - Dismissal, injury to employment, alteration of position or duties
 - Discrimination between workers and other workers
 - Harassment or intimidation
 - Harm or injury to a person, property or reputation
 - Damage to a person's business or financial position
 - Any other damage
- 4.2.2.4. Detrimental conduct does NOT include:
 - Administrative action which is reasonable to protect the discloser from detriment
 - Management action to manage a discloser's unsatisfactory work performance
- 4.2.2.5. If a discloser is subject to administrative or management action, they will be informed of the reasons for taking this action.

4.2.3. Compensation and other remedies

A discloser (or any other worker or person) can seek compensation and other remedies through the courts if:

- They suffer loss, damage or injury because of disclosure;
- JMC failed to take reasonable precautions and exercise due diligence to prevent detrimental conduct.

If a person wishes to proceed with seeking compensation and/or other remedies from the courts independent legal advice should be sought.

4.2.4. Civil, criminal and administrative liability protection

A discloser is protected from the below in regard to their disclosure:

- Civil Liability
 - Such as legal action against a discloser for breach of an employment contract or duty of confidentiality.
- Criminal Liability
 - Such as attempted prosecution of the discloser for unlawfully release information
 - This does not include protections for making a false disclosure

These protections do not grant immunity for misconduct by the discloser which is revealed throughout the disclosure procedure.

4.3. Support and practical protection for disclosers

JMC is committed to supporting disclosers and protecting disclosers from detriment throughout the disclosure process.

4.3.1. Protection of a discloser's Identity

Receiving a discloser

- All personal information or reference to the discloser witnessing an event will be redacted.
- The discloser will be referred to with a pseudonym.

- Where possible, the discloser will be contacted to help identify certain aspects of their disclosure that could inadvertently identify them.
- Disclosures will be handled and investigated by qualified staff.

Record Keeping

- All paper and electronic documents and other materials relating to disclosures will be stored securely.
- Access to all information relating to a disclosure will be limited to those directly involved in managing and investigating the disclosure
- Only a restricted number of people who are directly involved in handling and investigating a disclosure will be made aware of a discloser's identity (subject to the discloser's consent) or information that is likely to lead to the identification of the discloser.
- Communication and documents relating to the investigation of a disclosure will not be sent to an email address or printer that can be accessed by other staff
- Each person who is involved in handling and investigating a disclosure will be reminded about the confidentiality requirements.

4.3.2. Protection from detrimental acts or omissions

Detriment in the workplace

- Assessing the risks of detriment against a discloser and other persons once a disclosure is received
- Actions to protect a discloser from potential detriment
 - Such as allowing a discloser to perform their duties at a different location or reassigning a discloser to a different role at the same level
- Ensure that Disclosure Officers are aware of the need to manage conflicts, ensure fairness and assess the risk of harm to the discloser
- A discloser can lodge a grievance if they have suffered detriment.

4.3.3. Personal Wellbeing

In some instances, personal wellbeing services may be offered to a discloser, or those subject to detriment including:

- Support services: Such as counselling or psychologist services
- Strategies to help a discloser minimize and manage stress, time, performance impacts and other challenges resulting from a disclosure and subsequent investigation
- If personal detriment has occurred JMC may take disciplinary action to individuals who contributed to the detriment.

4.4. Handling and investigating a disclosure

4.4.1. Receiving a disclosure

Once JMC, received a disclosure it will assess each disclosure to determine whether:

- The discloser qualified for protection; and
- A formal, in-depth investigation is required.

4.4.2. When and why a disclosure will be investigated

Disclosures raised will be received and treated seriously and with the utmost sensitivity. Whilst making a disclosure doesn't guarantee a matter will be formally investigated, all disclosure will be reviewed and based on the disclosure's nature and evidence provided.

From here a decision will be made as to whether the disclosure warrants an investigation.

The following will be considered to determine whether to investigate the disclosure:

- The objective seriousness of the disclosure
- The quality of information or evidence provided
- Whether the disclosure concerns serious systemic conduct
- Whether similar disclosures have been received
- Whether the conduct involves Disclosure Officer, significant financial matter or non-compliance.

JMC may not be able to undertake an investigation if it is unable to contact the discloser and/or if the discloser has refused to provide or has not provided a means of contacting them. If this is the case, JMC may opt to conduct a broad review of the subject matter disclosed.

4.4.3. Investigation Process

JMC is committed to conducting objective, fair and independent investigations where this cannot be fulfilled by JMC in part, JMC will opt for a completely external investigation. Throughout the investigation process, confidentiality requirements outlined above will continue to be applied.

For disclosures that qualify for protection, JMC will follow the below investigation process.

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| 1. | Receive the disclosure | Disclosures will be received by a Disclosure Officer. |
| 2. | Acknowledge the disclosure | A Disclosure Officer will acknowledge receipt of the disclosure within a reasonable timeframe. |
| 3. | Assess the disclosure and address immediate risks | <p>A Disclosure Officer will assess the disclosure determining:</p> <ul style="list-style-type: none"> (a) Whether the disclosure fulfils the criteria of a Disclosable matter by Eligible Whistleblower. (b) The objective seriousness of the disclosure (c) The quality of information or evidence provided (d) Whether the disclosure concerns serious systemic conduct whether similar disclosures have been received (e) Whether the conduct involves Disclosure Officers, significant financial matters or non-compliance (f) Whether the disclosure warrants an investigation. |
| 4. | Resolve the disclosure | For disclosures that do not meet the criteria of a Disclosable matter by an eligible whistleblower or do not warrant an investigation the Disclosure Officer will seek to resolve the disclosure directly with the discloser or redirect their disclosure to the appropriate Personal Grievance Policy. |

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| 5. | Investigate or review the discloser | A Disclosure Officer of JMC or organisation appointed by JMC will investigate. All workers of JMC must cooperate fully with any investigators. |
| 6. | Provide regular updates throughout the process | Regular updates will be provided to the disclosers regarding the process of the investigation. |
| 7. | Provide the outcome | The disclosers and all involved parties will be provided (as appropriate) the findings of the investigation. |
| 8. | Close the investigation and record the outcome | The investigation will be closed and JMC and/or the investigation organization will maintain appropriate records. |
| 9. | Facilitate ongoing support for those involved | JMC will provide referrals to professional services to disclosers and other employees as appropriate. |
| 10. | Continuous Improvement | JMC will review the investigation process and document any improvements for future investigation. |

4.4.4. Closing the loop on investigations

A discloser will be provided with regular updates so long as the discloser can be contacted, the main updates will be when the investigation:

- Has begun;
- Is in the process; and
- Has been finalised.

Pending the nature of the disclosure, timelines when a discloser will be provided an update will vary. The discloser may be informed of the outcomes of an investigation, there may be circumstances where it may not be appropriate to provide details of the outcome of the investigation to the discloser.

A person subject of an allegation will be provided the:

- Information regarding the allegation and the nature of the allegation to the extent lawful;
- Opportunity to respond to the allegation; and
- Outcomes of the investigation or report.

4.4.5. Review

If a discloser is dissatisfied with the outcomes of the investigation the discloser may:

- Request a review be conducted by an officer who is not involved in the handling and investigation of the disclosure and provide the review findings to the Audit and Risk Committee; or
- Lodge a complaint with ASIC.

JMC is not obligated to reopen an investigation where it can confirm:

- The investigation was conducted properly
- New information is not available
- New information would not change the findings of the investigation

4.5. Fair treatment of individuals mentioned in a disclosure

JMC is committed to fair treatment of its workers who are mentioned in a disclosure that qualifies for protections under the Act, including those who are subject to a disclosure.

To ensure fair treatment of individuals mentioned in a disclosure:

- Disclosures will be handled confidentially in accordance with this policy.

- Each disclosure will be assessed as to whether the conduct warrants an investigation. The investigation is conducted to determine whether there is sufficient evidence to substantiate the claims made in the disclosure.
- Investigations will be objective, fair and independent.
- A worker will have the content of the disclosure put to them as required by principles of procedural fairness and prior to any action being taken.
- A worker who is the subject of a disclosure may access personal wellbeing services as outlined in this policy.

4.6. Accessibility

This policy will be made public via the JMC website, and the staff portal in Employment Hero.

JMC will conduct staff training sessions on this policy to ensure that workers are aware of this Policy. Training for all level of management will occur to ensure that they are equipped on how to deal with disclosures.

4.7. Accountability and Continuous Improvement

This policy will be reviewed periodically, and as appropriate training be recommended by Disclosure Officer, the Governing Council and/or the Audit and Risk committee as appropriate.

Key themes of disclosures may be provided to the Governing Council to show patterns of behaviours and systemic issues.

5. RELATED DOCUMENTS

- 5.1. JMC Academy Glossary
- 5.2. JMC Academy Governance Charter
- 5.3. Non-Academic Delegations Schedule
- 5.4. Conflict of Interest Policy
- 5.5. Risk Management Framework
- 5.6. Grievance Handling Policy
- 5.7. Code of Practice
- 5.8. Staff Code of Conduct
- 5.9. Audit and Assurance Framework
- 5.10. Personal Information and Privacy Policy

6. RELEVANT LEGISLATION

- 6.1. Higher Education Support Act 2003 (Cth)
- 6.2. Higher Education Standards Framework (Threshold Standards) 2021

7. POSITIONS RESPONSIBLE

- 7.1. Governing Council
- 7.2. Risk & Audit Committee
- 7.3. Academic Board
- 7.4. Senior Management
- 7.5. JMC Academy Staff (academic and non-academic)

8. APPROVAL INFORMATION

| | |
|---------------------------------|-------------------|
| Approval Authority | Governing Council |
| Health Check approval authority | JMC Academy CEO |
| Review date | 26/04/2027 |

| Version | Approved by | Approval date | Effective date | Modifications | Status |
|---------|-------------------|---------------|----------------|---------------|---------|
| 1.0 | Governing Council | 26/07/2024 | 10/06/2020 | First Issue | Current |
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Version control tables from previous Policies and Procedures reside in the original documents.