

From: [James Meem](#)
To: [Whistleblower Policy](#)
Subject: Feedback on Whistleblower provisions
Date: Thursday, 22 August 2019 2:22:28 PM
Attachments: [image002.png](#)

Dear Andivina Uy, Senior Adviser, Strategic Policy and Greg Hackett, Senior Manager, Office of the Whistleblower, I am writing to provide feedback on proposed changes to the updated whistleblower requirements that are about to be incorporated into the Corporations Act.

I am a compliance investigator in the Dept of Education, we investigate compliance with the funding provisions of the *Education Act* with regard to private schools.

Initially, I should say we welcome this change. We work with whistleblowers regularly and have observed:

1. Anxiety around adverse actions taken by the employer has prevented whistleblowers coming forward and/or delayed their decision to come forward. On multiple occasions we have had information disclosed to us anonymously or by whistleblowers who are unwilling to give evidence publicly for fear of recrimination.
2. We have observed adverse actions taken against whistleblowers including loss of employment, threats of violence and/or vexatious legal action and have observed that current legal protections are inadequate to provide protection.

Unfortunately ours is one of the areas where the changes may not have the desired effect. This is due to its limited application on corporate forms.

The majority of private schools are public companies limited by guarantee, with the remainder being mainly associations, statutory corporations and trusts. All are NFPs. Viewing the advice that is being provided by compliance firms that operate in the sector, we expect to see a noticeable shift from school proprietors being companies to associations to avoid the provisions. However, we also expect that some schools will simply produce a whistleblower policy and continue trading as per usual, which we certainly welcome.

Specific feedback:

C1Q1 – For small not-for-profits, yes, I think there is a reasonable concern around excessive compliance requirements. From our perspective, a private school is unlikely to be classified as small and at this very early stage we would be looking to support growth, compliance concerns are low as government funding is very low at this stage.

C1Q2 – (a)&(b) I would think the easiest and most logical thing would be to use the “small” definition used by ACNC, revenue >\$250,000

(c) Perhaps an employee threshold also such that a charity that has a very large number of volunteers is captured.

If I can be of help to you in any other way please let me know. The Dept is happy to cooperate with ASIC in any way we can.

Kind Regards,

James Meem

Senior Compliance Officer | Non-Government Schools Unit | Education Futures and Governance

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I acknowledge the homelands of all Aboriginal people and pay my respect to Country.

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