



# LUTHERAN SCHOOL WAGGA WAGGA

## POLICY AND PROCEDURES

### WHISTLEBLOWER POLICY

---

#### 1. Introduction

Lutheran School Wagga Wagga (School) is committed to operating legally (in accordance with applicable legislation and regulation), properly (in accordance with organisational policy and procedures), and ethically (in accordance with recognised ethical principles).

Eligible whistleblowers are expected to cooperate with the School in maintaining legal, proper, and ethical operations, if necessary by reporting non-compliant actions by other people. Correspondingly, eligible whistleblowers who do assist in maintaining legal, proper, and ethical operations should not be penalised in any way.

#### 2. Purpose

The purpose of this policy is to:

- a) Encourage the reporting of matters that may cause harm to individuals or financial or non-financial loss to the School or damage to its reputation.
- b) Enable the School to deal with reports from whistleblowers in a way that will protect the identity of the whistleblower and provide for the secure storage of the information provided.
- c) Establish the policies for protecting whistleblowers against reprisal by any person internal or external to the entity.
- d) Provide for the appropriate infrastructure; and
- e) Help to ensure the School maintains the highest standards of ethical behaviour and integrity.

#### 3. POLICY

##### 3.1. Eligible Whistle Blower

An eligible whistle blower is an individual who is or has been any of the following, in relation to the School:

- a) A Board member;
- b) An employee;
- c) A person who supplies goods or services (paid or unpaid);
- d) An employee of a person who supplies goods or services (paid or unpaid);
- e) An individual who is an associate of the School (as defined in the Corporations Act); or
- f) A relative or dependent (or dependents of a spouse) of any individual described above.

##### 3.2. Concerns Regarding Illegal or Corrupt Behaviour

Where an eligible whistleblower of the School believes in good faith on reasonable grounds that any other director, employee, volunteer, contractor, or relative of these, has breached any provision of the general law, that eligible whistleblower must report their concern to:

- a) Their supervisor: or, if they feel that their supervisor may be complicit in the breach,
- b) the Principal: or, if they feel that the Principal may be complicit in the breach,
- c) the School's nominated Whistleblower Protection Officer, or
- d) The School's auditor, or a member of the audit team, or

- e) A person or office independent of the organisation nominated by the School to receive such information; eg. the Executive Director, Lutheran Education Victoria, New South Wales, Tasmania, or;
- f) The duly constituted authorities responsible for the enforcement of the law in the relevant area.

The person making their concern known shall not suffer any sanctions from the School on account of their actions in this regard provided that their actions:

- a) are in good faith;
- b) are based on reasonable grounds;
- c) conform to the designated procedures; and
- d) may be anonymous.

Any person within the School to whom such a disclosure is made shall:

- a) if they believe the behaviour complained of to be unquestionably trivial or fanciful, dismiss the allegation and notify the person making the allegation of their decision;
- b) if they believe the behaviour complained of to be neither trivial nor fanciful, ensure that the allegation is investigated, a finding is made, and the person making the allegation is informed of the finding.

Any such investigation shall observe the rules of natural justice and the provisions of procedural fairness.

Disclosures may be made anonymously, and this anonymity shall as far as possible be preserved by the organisation. In the case of an anonymous disclosure the School is likely to be unable to provide feedback on investigation decisions.

### **3.3. Concerns Regarding Improper or Unethical Behaviour**

Where an eligible whistleblower of the School believes in good faith on reasonable grounds that any other eligible whistleblower, volunteer, or contractor has breached any provision of the School's constitution, or its bylaws, or its policies, or its code of conduct, or generally recognised principles of ethics, that eligible whistleblower may report their concern to:

- a) their supervisor: or, if they feel that their supervisor may be complicit in the breach,
- b) the Principal: or, if they feel that the Principal may be complicit in the breach, or
- c) a person or office independent of the organisation nominated by the School to receive such information; Executive Director, Lutheran Education Victoria, New South Wales, Tasmania.

The person making their concern known shall not suffer any sanctions from the organisation on account of their actions in this regard provided that their actions:

- a) are in good faith, and
- b) are based on reasonable grounds, and
- c) conform to the designated procedures.

Generally, disclosures that concern personal work-related grievances do not qualify for protection.

Any person within the School to whom such a disclosure is made shall:

- a) if they believe the behaviour complained of to be unquestionably trivial or fanciful, dismiss the allegation and notify the person making the allegation of their decision; and

- b) if they believe the behaviour complained of to be neither trivial nor fanciful, ensure that the allegation is investigated, a finding is made, and the person making the allegation is informed of the finding.

Any such investigation shall observe the rules of natural justice and the provisions of procedural fairness.

Disclosures may be made anonymously, and this anonymity shall as far as possible be preserved by the organisation. In the case of an anonymous disclosure the School is likely to be unable to provide feedback on investigation decisions.

## **4. PROCEDURE**

### **4.1. Responsibilities**

Lutheran School Wagga Wagga (School) Board is responsible for adopting this policy, and for nominating the School's Whistleblower Protection Officer.

The Principal is responsible for the implementation of this policy.

All employees and all volunteers are responsible for reporting breaches of general law, organisational policy, or generally recognised principles of ethics to a person authorised to take action on such breaches.

### **4.2. Definitions**

A whistleblower is a person (being a director, manager, eligible whistleblower or contractor of the School) who, whether anonymously or not, makes, attempts to make or wishes to make a report in connection with misconduct or dishonest or illegal activity and wishes to avail themselves of protection against reprisal for having made the report.

Breaches of general law, organisational policy, or generally recognised principles of ethics include:

- a) corrupt conduct;
- b) fraud or theft;
- c) official misconduct;
- d) maladministration;
- e) harassment or unlawful discrimination;
- f) serious and substantial waste of public resources;
- g) practices endangering the health or safety of the staff, volunteers, or the general public; or
- h) practices endangering the environment.

Complaints regarding occupational health and safety should, where possible, be made through the organisation's occupational health and safety procedures.

## **5. Processes**

### **5.1. External Reporting Entities**

The Board may nominate external persons to whom, or agencies to which, disclosures may be made under the protections offered under this policy. This external person or agency will be nominated in the policy. Where such a nomination is made, staff and volunteers should be informed by any appropriate method.

### **5.2. Reporting**

Where an eligible whistleblower of the School believes in good faith on reasonable grounds that any other eligible whistleblower, volunteer, or contractor has breached general law, organisational policy, or generally recognised principles of ethics, that eligible whistleblower must report their concern to:

- a) their supervisor: or, if they feel that their supervisor may be complicit in the breach,

- b) the Principal: or, if they feel that the Principal may be complicit in the breach,
- c) the School's nominated Whistleblower Protection Officer Mr Adrian Whiting (phone 0448810753) or
- d) the School's auditor, or a member of the audit team, or
- e) the Executive Director of Lutheran Education Victoria, New South Wales and Tasmania (LEVNT) ([director@levnt.edu.au](mailto:director@levnt.edu.au)), or
- f) the Australian Securities and Investments Commission (**ASIC**) or the Australian Prudential Regulation Authority (**APRA**) or another Commonwealth regulatory body prescribed in legislation.

These procedures do not authorise any eligible whistleblower to inform commercial media or social media of their concern, and do not offer protection to any eligible whistleblower who does so, unless:

- a) it is not feasible for eligible whistleblowers to report internally, or
- b) existing reporting channels have failed to deal with issues effectively.

Any person reporting such a breach should be informed that

- a) as far as lies in the School's power, the eligible whistleblower will not be disadvantaged for the act of making such a report; and
- b) if the complainant wishes to make their complaint anonymously, their wish shall be honoured except insofar as it may be overridden by due process of law; however,
- c) reporting such a breach does not necessarily absolve the complainant from the consequences of any involvement on their own part in the misconduct complained of.

Any such report should, where possible, be in writing and should contain, as appropriate, details of:

- a) the nature of the alleged breach;
- b) the person or persons responsible for the breach;
- c) the facts on which the complainant's belief that a breach has occurred, and has been committed by the person named, are founded; and
- d) the nature and whereabouts of any further evidence that would substantiate the complainant's allegations, if known.

Evidence to support such concerns should be brought forward at this time if it exists. The absence of such evidence will be taken into account in subsequent consideration of whether to open an investigation into the matter. However, absence of such evidence is not an absolute bar to the activation of the organisation's investigative procedures. The existence of such a concern is sufficient to trigger reporting responsibilities.

In contemplating the use of this policy, a person should consider whether the matter of concern may be more appropriately raised under the organisation's Staff Grievance Policy.

### **5.3. Confidentiality**

A complainant can choose to remain anonymous while making a disclosure, over the course of the investigation, and after the investigation is finalised. The complainant should, however, be informed that the maintenance of such anonymity may make it less likely that the alleged breach can be substantiated in any subsequent investigation.

Where anonymity has been requested the complainant is required to maintain confidentiality regarding the issue on their own account and to refrain from discussing the matter with any unauthorised persons.

The School will do all it reasonably can to protect confidentiality. If you choose to disclose your identity, your details will be treated confidentially to the fullest extent possible in connection with the

investigation. The School will take measures to protect your identity such as by redacting your personal information, storing your information and disclosure securely, referring to you in a gender-neutral context and only allowing qualified staff to investigate your disclosures.

You may choose to report your concerns anonymously. However, if you choose to disclose your identity, your details will be treated confidentially to the fullest extent possible in connection with the investigation, and your identity will not be disclosed unless:

- a) you consent in writing to the disclosure;
- b) the disclosure is made to ASIC, APRA or the Australian Federal Police (AFP);
- c) the disclosure is made to a legal practitioner for the purpose of obtaining advice;
- d) the disclosure is authorised under the Corporations Act 2001 (Cth); and/or
- e) disclosure is necessary to prevent or lessen a threat to a person's health, safety or welfare.

We encourage all individuals to disclose their identity when raising a concern. This will assist us to gather further information on your report. All information relating to a report under this policy will be stored securely and access will be limited to authorised staff.

It is illegal for a person to identify a discloser, or disclose information that is likely to lead to the identification of the discloser, unless an exception above applies. If you feel that your confidentiality has been breached, you can lodge a complaint with a regulator, such as ASIC, APRA or the ATO, for investigation. The School may also take disciplinary action against individuals that breach the confidentiality of a discloser, including summary dismissal.

#### **5.4. Investigation**

On receiving a report of a breach, the person to whom the disclosure is made shall:

- a) if they believe the behaviour complained of to be unquestionably trivial or fanciful, dismiss the allegation and notify the person making the allegation of their decision;
- b) if they believe the behaviour complained of to be neither trivial nor fanciful, put in motion the investigation process described below.

The person to whom the disclosure was made shall notify the Principal, who shall be responsible for ensuring that an investigation of the charges is established and adequately resourced.

Terms of Reference for the investigation will be drawn up, in consultation with the Principal, to clarify the key issues to be investigated.

An investigation plan will be developed to ensure all relevant questions are addressed, the scale of the investigation is in proportion to the seriousness of the allegation(s) and sufficient resources are allocated.

- a) Strict security will be maintained during the investigative process.
- b) All information obtained will be properly secured to prevent unauthorised access.
- c) All relevant witnesses will be interviewed and documents examined.
- d) Contemporaneous notes of all discussions, phone calls and interviews will be made.
- e) Where possible, interviews will be audio recorded.

The principles of procedural fairness (natural justice) will be observed<sup>1</sup>. In particular, where adverse comment about a person is likely to be included in a report, the person affected will be given an opportunity to comment beforehand and any comments will be considered before the report is finalised.

The person or persons conducting the investigation shall be as far as possible unbiased.

### **5.5. Findings**

A report will be prepared when an investigation is complete. This report will include

- a) the allegations
- b) a statement of all relevant findings of fact and the evidence relied upon in reaching any conclusions
- c) the conclusions reached (including the damage caused, if any, and the impact on the organisation and other affected parties) and their basis
- d) recommendations based on those conclusions to address any wrongdoing identified and any other matters arising during the investigation.

### **5.6. Actions**

The report will be provided to the person making the allegation (with, if necessary, any applicable confidentiality stipulations). Also,

- a) an outcome letter will be issued to the person(s) subject to the allegation/findings, and
- b) appropriate disciplinary action, that could include counselling, official warning, work performance management or dismissal, will be considered and applied to the person(s) subject to the allegation/findings.

### **5.7. False Reports or Disclosures**

Protected Disclosures must be made on reasonable grounds. Anyone who knowingly makes a false report/disclosure may be subject to disciplinary action, including dismissal.

The disciplinary action will depend on the severity, nature and circumstance of the false disclosure.

### **5.8. Protection of Informant**

Where the investigation has found that the person making the allegation made it in good faith on reasonable grounds, the Principal shall designate an officer to be responsible for ensuring that the person suffers no employment-related disadvantage on account of their actions in this matter and to provide additional support for the person where necessary.

### **Related Documents**

Staff Grievance Policy

Employee Code of Conduct

Employee Position Descriptions

### **Relevant Legislation**

[Public Interest Disclosures Act 1994](#)

[Corporations Act 2001 \(Cth\)](#)

---

<sup>1</sup> Natural justice and procedural fairness do not require that the person affected be informed of the identity of the person making the initial disclosure, unless that communication constitutes part of the evidence relied upon in making the eventual finding.