Luther College

Whistleblower Policy

Whistleblower Policy

Introduction

Luther College is committed to ensuring a high standard of conduct and ethical behaviour in its business and of promoting and supporting a culture of honest and ethical behaviour and good corporate governance.

To encourage disclosure of wrongdoing, the Corporations Act and the Tax Administration Act mandates a statutory whistleblower regime that provides legally enforceable protections for people who make protected disclosures.

The regime recognises the critical role whistleblowing can play in the early detection and prosecution of misconduct in businesses and how it can improve compliance with the law and promote an ethical culture because of the higher likelihood of misconduct being reported.

Purpose of this policy

This policy is an important tool for helping Luther College to identify wrongdoing that may not be uncovered unless there is a safe and secure means for disclosing wrongdoing. Luther College encourages its employees (and non-employees) who are aware of possible wrongdoing to have the confidence to speak up.

The purpose of this policy includes:

- to encourage more disclosures of wrongdoing
- to help deter wrongdoing
- to ensure individuals who disclose wrongdoing can do so safely, securely and with confidence that they will be protected and supported
- to ensure disclosures are dealt with appropriately and on a timely basis
- to provide transparency around the College's framework for receiving, handling and investigating disclosures
- to support the College's long-term sustainability and reputation
- to meet the College's legal and regulatory obligations.

Who the policy applies to

To qualify for protection as a whistleblower you must first be an Eligible Whistleblower. You will be an Eligible Whistleblower if you are, or have been, any of the following in relation to Luther College:

- an officer or employee (eg. current and former employees who are permanent, part-time, fixed term or temporary, interns, secondees, manager, and directors)
- a supplier of services or goods to the College (whether paid or unpaid), including their employees (eg. current and former contractors' consultants, service providers and business partners)
- an officer of a related body corporate

- a relative, dependant or spouse of any of the above individuals (eg. relatives, dependants or spouse of current and former employees, contractors, consultants, service providers, suppliers and business partners).

You will then have protection as a whistleblower if you are an Eligible Whistleblower and:

(a) you have made a disclosure of information relating to a Disclosable Matter directly to an Eligible Recipient (referred to as a Protected Disclosure);

(b) you have made a disclosure to a legal practitioner for the purposes of obtaining legal advice or legal representation about the operation of the whistleblower provisions in the *Corporations Act* or the *Tax Administration Act*; or

(c) you have made an Emergency Disclosure or Public Interest Disclosure.

There is no requirement for you to identify yourself in order for a disclosure to qualify for protection under the whistleblower laws. Further, you can still qualify for protection even if your disclosure turns out to be incorrect.

Matters the policy applies to

You will be entitled to the protections as a whistleblower if you make a Protected Disclosure to an Eligible Recipient.

Disclosable matters

A disclosure of information will be a Protected Disclosure if it involves a Disclosable Matter.

A Disclosable Matter involves information that you have reasonable grounds to suspect concerns misconduct, or an improper state of affairs or circumstances, in relation to the College or a related body corporate or in relation to their tax affairs.

A Disclosable Matter also involves information about the College if you have reasonable grounds to suspect that the information indicates that the College or a related body corporate (including their employees or officers) have engaged in conduct that:

(a) constitutes an offence against, or a contravention of, a provision of any of the following:

Corporations Act 2001 (Cth)
Australian Securities and Investment Commissions Act 2001 (Cth)
Banking Act 1959 (Cth)
Financial Sector (Collection of Data) Act 2001 (Cth)
Insurance Act 1973 (Cth)
Life Insurance Act 1995 (Cth)
National Consumer Credit Protection Act 2009 (Cth)
Superannuation Industry (Supervision) Act 1993 (Cth);

(b) which constitutes an offence against any other law of the Commonwealth that is punishable by imprisonment for a period of 12 months or more; or

(c) which represents a danger to the public or the financial system.

The following are examples of Disclosable Matters that might relate specifically to the College's business operations and practices:

- illegal conduct, such as theft, dealing in, or use of illicit drugs, violence or threatened violence, and criminal damage against property
- fraud or misappropriation of funds

- offering or accepting a bribe
- financial irregularities
- failure to comply with, or breach of, legal or regulatory requirements; and
- engaging in or threatening to engage in detrimental conduct against a person who has made a disclosure or is believed or suspected to have made, or be planning to make, a disclosure.

A Protected Disclosure may include a Disclosable Matter that does not involve a contravention of a particular law.

A Protected Disclosure will also qualify for protection if it is a Public Interest Disclosure or an Emergency Disclosure, as described below.

Personal work-related grievances

A disclosure that relates solely to a personal work-related grievance, and that does not relate to detriment or threat of detriment to you, **does not** qualify for whistleblower protection.

Personal work-related grievances are those that relate to your current or former employment and have, or tend to have, implications for you personally, but do not:

(a) have any other significant implications for the College or a related body corporate; or

(b) relates to any conduct, or alleged conduct about a Disclosable Matter.

For instance, examples of personal work-related grievances that **would not** be a Protected Disclosure include:

- an interpersonal conflict between you and another employee
- a decision relating to your engagement, transfer or promotion
- a decision relating to your terms and conditions of engagement
- a decision to suspend or terminate your engagement, or otherwise to discipline you.

However, a personal work-related grievance may still qualify for whistleblower protection if:

- it includes information about misconduct, or information about misconduct includes or is accompanied by a personal work-related grievance (mixed report)
- Luther College has breached employment or other laws punishable by imprisonment for a period of 12 months or more, engaged in conduct that represents a danger to the public, or the disclosure relates to information that suggests misconduct beyond your personal circumstances
- you suffer from or are threatened with detriment for making a disclosure
- you seek legal advice or legal representation about the operation of the whistleblower protections under the *Corporations Act*.

WHO CAN RECEIVE A DISCLOSURE

To be able to qualify for whistleblower protection, you need to make your disclosure directly to one of our Eligible Recipients.

An Eligible Recipient in relation to Luther College, to whom a disclosure may be made, is any of the following:

Eligible recipient:	Persons in this category include:
An officer or senior manager of Luther College or a related body corporate	Jacqui Layfield, Principal Tatum Mitchell, Business Manager Board Directors of Luther College
An auditor, or a member of an audit team conducting an audit, of Luther College or a related body corporate	The current auditor of Luther College is: Nexia Australia, Melbourne
In relation to a disclosure concerning the tax affairs of Luther College – its registered tax agent or BAS agent	The current tax agent or BAS agent of Luther College is: Nexia Australia, Melbourne

If your disclosure concerns an officer or senior manager of Luther College, your disclosure should not be made directly to that person.

An Eligible Recipient also includes ASIC, APRA , the AFP and the ATO.

A disclosure to a legal practitioner for the purposes of obtaining legal advice or legal representation in relation to the operation of the whistleblower provisions in the *Corporations Act* or the *Tax Administration Act* is protected (even in the event that the legal practitioner concludes that a disclosure does not relate to a Disclosable Matter).

If you wish to seek additional information before formally making a disclosure, you can obtain additional information by contacting our Whistleblower Protection Officer.

PUBLIC INTEREST DISCLOSURES AND EMERGENCY DISCLOSURES

A disclosure can be made to a journalist or parliamentarian under certain circumstances and qualify for protection.

You should contact an independent legal adviser before making a public interest disclosure or an emergency disclosure.

Public interest disclosure

If at least 90 days have passed since you made a Protected Disclosure to an Eligible Recipient, and you do not reasonably believe that action is being, or has been, taken to address your concerns, you may consider making a further disclosure if you have reasonable grounds to believe that making a further disclosure of the information would be in the public interest.

A public interest disclosure may only then be made if you give the person or organisation (which may have been Luther College) to whom you made the initial Protected Disclosure a written notification that identifies your initial disclosure and states that you intend to make a public interest disclosure.

A public interest disclosure may then be made to either:

(a) a member of the State or Federal parliaments;

(b) a journalist.

The extent of the information disclosed in a public interest disclosure must be no greater than is necessary to inform the recipient of the concerns in your Protected Disclosure.

Emergency disclosure

If you made a Protected Disclosure to an Eligible Recipient, and you reasonably believe that the information concerns a substantial and imminent danger to the health or safety of one or more persons or to the natural environment, you may consider making an emergency disclosure.

An emergency disclosure may only then be made if you give the person or organisation (which may have been Luther College) to whom you made the initial Protected Disclosure a written notification that identifies your initial disclosure and states that you intend to make an emergency disclosure.

An emergency disclosure may then be made to either:

(a) a member of the State or Federal parliaments;

(b) a journalist.

The extent of the information disclosed in an emergency disclosure must be no greater than is necessary to inform the recipient of the concerns in your Protected Disclosure.

HOW TO MAKE A DISCLOSURE

You may make your disclosure to any Eligible Recipient by any of the following means and marking or noting that your disclosure is made under this policy:

(a) by post in an envelope marked – “private and confidential”;

(b) by email sent directly to the Eligible Recipient;

(c) in person.

The disclosure may be made by any option that allows for your disclosure to be made anonymously and/or confidentiality, securely and outside business hours.

A disclosure of information in respect of which you do not have reasonable grounds to suspect that the information concerns or relates to a Protected Disclosure will not attract the whistleblower protections. This may include a disclosure not made in good faith or is vexatious or malicious.

Further, disclosures not made in good faith or which are made vexatiously or maliciously may result in disciplinary action being taken against you.

Anonymous disclosures

A disclosure can be made anonymously and still be protected.

You can choose to remain anonymous while making a disclosure, over the course of the investigation and after the investigation is finalised. You can also refuse to answer questions if you feel they could reveal your identity at any time, including during follow-up conversations.

If you wish to remain anonymous, it is suggested that you should maintain ongoing two-way communication with the College, so that we can ask follow-up questions or provide feedback.

The following measures and/or mechanisms for protecting anonymity can be adopted by the College to provide anonymity:

- communication with you can be through anonymous telephones and/or anonymised email addresses
- you may adopt a pseudonym for the purpose of your disclosure.

However, to enable the matters you raise to be properly and thoroughly considered and investigated, you should ensure that all information relevant to your concerns are disclosed. In some circumstances, if you are not identified it may limit or restrict the ability of the College to fully investigate your disclosure.

LEGAL PROTECTION FOR DISCLOSURES

Under the whistleblower laws, if you make a Protected Disclosure to an Eligible Recipient you will receive certain protections in relation to your identity and victimisation for making the disclosure. In particular, you will be protected from any of the following in relation to your disclosure:

(a) civil liability (eg. any legal action against you for breach of an employment contract, duty of confidentiality or another contractual obligation)

(b) criminal liability (eg. attempted prosecution of you for unlawfully releasing information, or other use of the disclosure against you in a prosecution – other than for making a false disclosure)

(c) administrative liability (eg. disciplinary action for making the disclosure).

However, these protections will not grant you immunity from being subject to any civil, criminal or administrative liability for your own misconduct that is revealed by your disclosure.

Confidentiality

Luther College has a legal obligation to protect the confidentiality of a protected discloser's identity.

A person cannot disclose your identity or information that is likely to lead to your identification (which they have obtained directly or indirectly because you made a Protected Disclosure).

There are limited exceptions to this prohibition which relate to disclosures of your identity to ASIC, APRA, a legal practitioner (for the purposes of obtaining legal advice or legal representation about the whistleblower provisions in the Corporations Act), to a member of the Australian Federal Police or when the disclosure of your identity is made with your consent.

A person can also disclose the information contained in your disclosure with or without your consent if:

(a) the information does not include your identity

(b) Luther College has taken all reasonable steps to reduce the risk that you will be identified from the information; and

(c) it is reasonably necessary for investigating the issues raised in the disclosure.

Outside these exceptions, it is illegal for a person to identify you or to disclose information that is likely to lead to your identification.

If you become aware of a breach of confidentiality, you can lodge a complaint directly with <insert name/details of Luther College person>. You may also lodge a complaint with ASIC, APRA or the ATO for investigation.

Victimisation

Luther College has a legal obligation to protect a protected discloser, or any other person, from detriment in relation to a disclosure.

It is an offence for a person, including Luther College, to cause detriment or threaten to cause detriment to you because you made, or are believed to have made, a Protected Disclosure to an Eligible Recipient.

Detriment conduct includes the following:

- dismissal as an employee
- injury in your employment
- alteration of your position or duties as an employee to your disadvantage
- discrimination between you as an employee and other employees of the College
- being harassed or intimidated
- harm or injury to you, including psychological harm
- damage to your property, reputation or to your business or financial position.

A threat to cause you detriment may be express or implied, or conditional or unconditional. If you have been threatened in relation to a disclosure you do not have to actually fear that the threat will be carried out.

However, examples of actions that are **not** detrimental conduct include:

- administrative action that is reasonable for the purpose of protecting you from detriment (eg. moving you away from your immediate work area to another office to prevent any detriment)
- managing any unsatisfactory work performance.

The courts are also empowered to make such orders as they think appropriate to correct any detrimental conduct towards you, including awarding you compensation for any loss, damage or injury that you may have suffered.

Compensation and other remedies

A person who has made a Protected Disclosure or any other employee or person can seek compensation and other remedies through the courts if:

(a) they suffer loss, damage or injury because of a disclosure; and

(b) Luther College has failed to take reasonable precautions and exercise due diligence to prevent the detrimental conduct.

You are encouraged to seek independent legal advice in relation to any rights you may have to compensation or other remedies.

SUPPORT AND PROTECTION FOR DISCLOSERS

Luther College will provide support and protection for any eligible whistleblower by:

- implementing training across our organisation to ensure that whistleblower disclosures are recognised and dealt with confidentially and in accordance with the whistleblower laws
- ensuring that whistleblowers are not subjected to any detrimental conduct
- having a review process to ensure that any whistleblower process has been properly and effectively managed in accordance with this policy
- providing all reasonable support services that may be necessary for the whistleblower that may assist him or her to deal with the disclosure that has been made.

Identity protection – confidentiality

Luther College will ensure that measures and/or mechanisms are in place to protect the confidentiality of your identity as a discloser.

To reduce the risk that a discloser will be identified from information contained in a disclosure, the College will ensure that:

- all personal information or reference to the discloser witnessing an event will be redacted
- the discloser will be referred to in a gender-neutral context
- 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 senior staff or by external advisors who are subject to strict confidentiality obligations.

Luther College will also ensure that it maintains secure record-keeping and information-sharing processes, including:

- all paper and electronic documents and other materials relating to a disclosure will be stored securely
- access to any information relating to a disclosure will be restricted 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 the discloser's identity (subject to the discloser's consent) or information that is likely to lead to the identification of the discloser
- communications and documents relating to a disclosure will not be sent to an email address or to a printer that can be access by other staff
- each person who is involved in handling and investigating a disclosure will be reminded about their confidentiality obligations, including that an unauthorised disclosure of a discloser's identity may be a criminal offence.

Protection from detrimental acts or omissions

Luther College will ensure that measures and/or mechanisms are in place to protect you as a discloser from detriment.

To protect you from detrimental acts or omissions, the College will:

- as soon as possible after receiving a disclosure, assess the risk of detriment against you and other persons (eg. other staff who might be suspected to have made a disclosure)
- provide such support services as are considered necessary to support you, including counselling or other professional or legal services
- assist you with strategies to minimise and manage stress, time or performance impacts, or other challenges resulting from the disclosure or its investigation
- consider what actions will assist to protect you from risk of detriment (eg. allow you to perform your duties from another location, reassign you to another role at the same level, make other modifications to your workplace or the way you perform your work duties, or reassign or relocate other staff involved in the disclosure)
- ensure that there are processes in place to ensure that management are aware of their responsibilities to maintain the confidentiality of a disclosure

- inform you that you may lodge a complaint if you have suffered detriment, and the actions Luther College may take in response to such complaints
- ensure that there are interventions for protecting you if detriment has already occurred.

Further, a discloser may seek independent legal advice or contact regulatory bodies, such as ASIC, APRA or the ATO, if they believe they have suffered detriment.

HANDLING AND INVESTIGATING A DISCLOSURE

Handling a disclosure

In the first instance, the College will need to assess each disclosure to determine whether:

(a) it qualifies for protection; and

(b) a formal, in-depth investigation is required.

The Eligible Recipient of the disclosure will determine an appropriate location and time for the discloser to make their disclosure comfortably and for ensuring that the discloser is protected.

Investigating a disclosure

As soon as practicable after becoming aware of a Protected Disclosure, the College will need to determine:

(a) the nature and scope of the investigation

(b) the person(s) within and/or outside Luther College that should lead the investigation (which may include appointing an independent external investigator)

(c) the nature of any technical, financial or legal advice that may be required to support the investigation

(d) the timeframe for the investigation.

Depending on the nature of the concerns raised in a Protected Disclosure, the College may follow the processes set out in its other polices, including those relating to grievances and complaints.

Generally, the person appointed to conduct the investigation will decide on the appropriate process to undertake the investigation, taking into account the principles of natural justice and fairness. In undertaking any investigation or engaging any external investigator, the College will take into account the protections afforded to you as a whistleblower under the whistleblower laws and this policy, including those relating to confidentiality of your identity.

Without your consent, the College cannot disclose information that is likely to lead to you being identified as part of its investigation process unless:

- the information does not include your identity;
- Luther College removes information relating to your identity or other information that is likely to lead to you being identified (eg. your, position title and other identifying details); and
- it is reasonably necessary for investigating the issues raised in the disclosure.

There may be limitations of the investigation process. For instance, the College may not be able to undertake an investigation if it is not able to contact you as the discloser (eg. if a disclosure is made anonymously and you have refused to provide, or have not provided, a means of contacting you).

The Investigator will, as soon as practicable:

(a) conduct an investigation into the concerns and allegations raised in the Protected Disclosure;

(b) conduct interviews of relevant persons and seek any further information the Investigator considers necessary;

(c) provide to Luther College a confidential report of his or her findings in relation to the concerns and allegations; and

(d) take such other action as may be requested by the College (if any).

Luther College will consider the findings, and recommendations if any, and determine what further action, if any, to take in relation to your concerns and allegations.

If your concerns and allegations involve a possible criminal offence, the College will refer the matter to the police before beginning its own investigation, if appropriate.

Keeping a discloser informed

As a discloser you will be provided with regular updates, if you can be contacted, which may include through anonymous channels. The frequency and timeframe for updates may vary depending on the nature of the disclosure.

Documenting and reporting investigation findings

The findings of the investigation will be documented by the investigator in a confidential report addressed to Eligible Recipient or to such other person who the College may nominate and who is responsible for the oversight of this policy. However, the method for documenting and reporting the findings may depend on the nature of the disclosure.

Subject to the nature of the findings and consideration of obligations of confidentiality, you may receive a summary of the findings at the end of the investigation. However, there may be circumstances where it may not be appropriate to provide details of the outcome to you.

Ensuring fair treatment of individuals mentioned in a disclosure

To ensure the fair treatment of individuals mentioned in a disclosure, the College will undertake the following measures and/or mechanisms:

- disclosures will be handled confidentially, when it is practical and appropriate in the circumstances
- each disclosure will be assessed and may be the subject of an investigation
- the objective of an investigation will be to determine whether there is enough evidence to substantiate or refute the matters reported
- when an investigation needs to be undertaken, the process will be objective, fair and independent
- an employee who is the subject of a disclosure will be advised about the subject matters of the disclosure as and when required by principles of natural justice and procedural fairness and prior to any actions being taken
- an employee who is the subject of a disclosure may contact the College's support services (eg. Employee Assistance Plan).

Luther College will ensure procedural fairness in relation to employees mentioned in qualifying disclosures and/or to whom such disclosures relate, by conducting interviews with relevant persons and providing employees the subject of disclosures with an opportunity to respond to the allegations while maintaining confidentiality of the whistleblower's identity.

The College has in place the following mechanisms to ensure the independence of those assessing disclosures and investigating allegations:

- specific staff members who are Eligible Recipients and assigned with the responsibility of receiving disclosures directly from disclosers
- a Whistleblower Protection Officer role who acts as a contact point for employees to: (a) seek accurate and confidential advice or information about this policy without making a disclosure; and (b) lodge any complaints regarding a breach of confidentiality under this policy
- third-party service providers such as investigation firms and legal advisers that Luther College may engage to with investigating disclosures
- third party legal advisers responsible for periodically reviewing and updating this policy, and its processes and procedures
- a board responsible for approving updates to this policy, and its processes and procedures.

COMMUNICATION

This policy will be made available for officers and employees of Luther College by being published on its Intranet and being made available in its induction programs and during recruitment and enrolment processes for employees. It will also be made available publicly on the Luther College website.

DEFINITIONS

AFP is the Australian Federal Police.

APRA is the Australian Prudential Regulation Authority.

ASIC is the Australian Securities and Investment Commission.

ATO is the Australian Tax Office.

Journalist means, for the purposes of a public interest disclosure or an emergency disclosure, a person who works in a professional capacity as a journalist for a newspaper, magazine, radio or television broadcast or an electronic service (such as through the internet) that is operated on a commercial basis and is similar to a newspaper, magazine or radio or television broadcast.

Reasonable grounds to suspect is having an objective reasonableness of the reasons for the discloser's suspicion. The discloser's motive for making a disclosure, or their personal opinion of the person(s) involved, are not relevant.

Relevant legislation:

Corporations Act 2001 (Cth)

Treasury Laws amendment (Enhancing Whistleblower Protections) Act 2019 (Cth)

DOCUMENT CONTROL

Policy Category	Governing	Review Frequency	1 year, or as required
Document Owner	Principal	First Approved	June 2025
Responsible Executive	Business Manager	Last Amended	June 2026
Approval Authority	College Board	Next Review Date	June 2027
Document Availability		Policy Socialisation	
☒ELT Policy Drive ☒Diligent Policy Library ☒Staff Policy Library – Omnia ☒Student and Parent Policy Library – Omnia ☒Website		☒Staff policy receipt and acknowledgement ☒ Staff Briefing and/or Meeting ☐Student Assembly ☒Principal's Page	