



Whistleblower Policy

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1. Purpose of this policy

- 1.1 Life Ministry Centre Limited (LMC), incorporating its operating divisions; Life Ministry Church, Oxley Christian College (OCC), Oxley Kids Early Learning Centre (OK), and Oxley Stadium (OS), is committed to ensuring a robust culture of openness and feedback in which concerns and complaints are addressed appropriately and are handled respectfully and fairly.
- 1.2 LMC is committed to implementing procedures that comply with the company's legal obligations in relation to the protection of eligible whistleblowers and to the management of any eligible disclosure they make.
- 1.3 The purpose of this policy is to set out the principles, guidelines and procedures governing LMC's approach to the protection of whistleblowers and the management of relevant disclosures. The policy, together with the procedural documents listed in section 10, should be read and understood by any person wishing to make a disclosure, and by those in positions to receive disclosures.

2. Principles

- 2.1 LMC believes that complaints are an important way in which the LMC community can provide LMC with feedback and so form the basis for future improvements. LMC will undertake to respond to both the specific and (where applicable) the systemic issues raised by the complaint.

- 2.2 Where possible, LMC encourages concerns and complaints to be identified and resolved speedily and informally; LMC's complaints and grievance policies are designed to apply when that proves more difficult and a formal process is required.
- 2.3 The person raising the concern or complaint may not be satisfied that the issue has been addressed or resolved. In this case, whether or not the issue has been the subject of LMC's complaints policies, he or she may decide to make a protected disclosure. Such action will be dealt with under the terms of LMC's Whistleblower Policy.
- 2.4 Personal or professional grievances made by employees are not included within the definition of a protected disclosure. These should be dealt with using LMC's grievance policies and procedures.

3. Aims of the policy

- 3.1 To comply with the requirements of the *Treasury Laws Amendment (Enhancing Whistleblowers Protections) Act 2019* (Cth) (the Act) and other relevant legislation.
- 3.2 To ensure eligible whistleblowers are protected as set out in the legislation.
- 3.3 To ensure eligible disclosures are managed appropriately and in compliance with legislation.

4. Legal and regulatory basis for compliance

- 4.1 *Treasury Laws Amendment (Enhancing Whistleblowers Protections) Act 2019* (Cth) (the Act)
- 4.2 *Corporations Act 2001* (Cth)

5. Key definitions

- 5.1 The legal status of LMC is as a company limited by guarantee regulated by the *Corporations Act 2001* (Cth). As such, LMC is required to comply with the Act, which came into force on 1 July 2019.
- 5.2 Whistleblowing is the disclosure of information by an individual (the 'discloser') to an 'eligible recipient' when the discloser has 'reasonable grounds to suspect that the information concerns misconduct, or an improper state of affairs or circumstances in relation to the regulated entity'¹.
- 5.3 A whistleblower is a current or former insider within LMC.
- 5.4 The conditions under which a whistleblower becomes eligible for protection are set out in the Act. An eligible whistleblower includes someone who is or has been²:
 - a. a current or former officer of LMC as the regulated entity. This will include board members as directors of LMC and the secretary even if the secretary is not a board member
 - b. a current or former employee of LMC
 - c. an individual who currently supplies or has previously supplied services or goods to LMC (whether paid or unpaid). This includes contractors, suppliers and volunteers and any employees of those who supply services or goods
 - d. a relative or dependant of any of the above.
- 5.5 The definition of an eligible whistleblower does not extend to a consumer or customer of the company, that is, the whistleblowing protections do not extend to parents or students of OCC or OK. Concerns and allegations of misconduct or improper behaviour raised by parents or students should be dealt with using LMC's complaints policies and procedures.
- 5.6 A whistleblower can make a disclosure anonymously.
- 5.7 Eligible (or protected) disclosures qualify for protection under the Act.

¹ The *Whistleblower Act*, Section 1317AA (4).

² The *Whistleblower Act*, Section 1317AAA.

5.8 The following three conditions must be met in order for a disclosure to qualify as a protected disclosure:

- a. the whistleblower must have 'reasonable grounds to suspect misconduct or an improper state of affairs'³ relating to LMC:
 - the whistleblower will have reasonable grounds if his or her suspicion is founded on facts and information available to the whistleblower and is a suspicion that other people in a similar position might reasonably draw
 - if the whistleblower's disclosure is not based on reasonable grounds, the disclosure is unfounded (e.g. could be conjecture or malicious) and does not qualify for protection under the legislation.
- b. the subject of a protected disclosure must concern LMC and its operation and could include:
 - misconduct
 - dishonest activity
 - illegal activity
 - behaviour that is a danger to the public or the natural environment
 - behaviour that is contrary to Child Safe Standards
 - behaviour that is a danger to the financial system, such as corruption, bribery, fraud or money laundering
 - improper accounting or financial reporting practices
- c. the disclosure must be made to an eligible recipient.

Personal or professional grievances made by employees are not included in the definition of whistleblowing. These should be dealt with using LMC's grievance policies and procedures.

5.9 In order to qualify for protection, the disclosure must be made to an 'eligible recipient' who should be:

- a. a member of the board of Elders and Directors of LMC
- b. a senior manager (e.g. Principal of OCC, Director of OK, Manager of OS)
- c. an auditor of LMC or of a related company

5.10 LMC will provide support for potential whistleblowers:

- a. Any person designated as an eligible recipient is also charged with providing support for the whistleblower.
- b. A potential whistleblower may approach any of the eligible recipients in order to seek advice.
- c. LMC recognises that in some situations, the effect of an eligible disclosure may impact on employees other than the whistleblower. The support provided by LMC to the whistleblower extends to them as well.

5.11 External disclosures:

- a. A disclosure may qualify for protection if it is made to ASIC
- b. A disclosure may qualify for protection if an eligible whistleblower seeks legal advice about the issue, in which case the legal practitioner could become the eligible recipient.

³ The *Whistleblower Act*, Section 1317AA (4).

- 5.12 Whistleblower Protections: A whistleblower making an eligible disclosure is protected under the terms of the legislation. The key whistleblower protections are:
- a. the identity of the whistleblower (and information that could identify the whistleblower) will remain confidential unless the whistleblower consents to their identity being disclosed
 - b. the whistleblower will not be subject to disciplinary action (for example, an official warning, termination of contract, change of contract to the detriment of the whistleblower) in response to a whistleblowing action
 - c. the whistleblower will be protected from retaliation, harassment, victimisation or the threat of such behaviour (for example, discrimination in how the whistleblower is treated by LMC, reputational damage)
 - d. the protections offered to the whistleblower extend to the threat of the above detriments
 - e. the whistleblower will be provided with support.

6. Scope

- 6.1 The Whistleblower Policy does not apply:
- a. to concerns that staff may have in relation to their employment. Those concerns are covered in LMC's grievance policies
 - b. to concerns that parents or students may have in relation to the operation of LMC including OCC and OK. Those concerns are covered in the OCC Resolution of Complaints and Appeals Policy and the OK Complaints and Grievances Policy.
- 6.2 Concerns that arise in relation to Child Safe Standards may be included under the terms of this policy but should be raised under the terms of the LMC / OCC / OK / OS Child Safe Policy in the first instance.

7. Roles and responsibilities

- 7.1 The governing board is responsible for:
- a. determining this policy and reviewing it on a four-yearly basis
 - b. responding to an eligible disclosure when called upon to do so
 - c. appointing a member of the board or another person to oversee and manage a 'whistleblowing event' if and when that happens
 - d. monitoring the number, nature and outcome of whistleblowing events, bearing in mind the need for strict confidentiality.
- 7.2 The board and each head of LMC's operating divisions are responsible for:
- a. overseeing an organisational culture in which concerns and complaints are addressed appropriately and are handled respectfully and fairly
 - b. determining the whistleblowing procedures and ensuring they are up-to-date
 - c. ensuring that eligible recipients are aware of their roles and responsibilities
 - d. ensuring the Whistleblower Policy is communicated to staff, contractors and the wider school community via the website, as required, with copies also available from the LMC office
 - e. setting up an appropriate process to manage and investigate a disclosure brought under this policy
 - f. retaining a confidential register of protected disclosures (listing the date, subject and resolution) for reporting to the governing board on an annual basis and to be available to the authorities if required
 - g. providing training for eligible recipients; retaining a record of the training.

- 7.3 Eligible recipients are responsible for:
- a. understanding their role as an eligible recipient
 - b. participating in relevant training
 - c. knowing and understanding LMC's whistleblower policies and procedures
 - d. being ready to receive and respond to a disclosure if and when that happens.
- 7.4 Staff are responsible for:
- a. knowing and understanding LMC's whistleblower policies and procedures, when required.

8. Links to other policies, procedures and guidelines

- a. Child Safe Policy
- b. Child Safety Reporting Process Guideline
- c. Mandatory Reporting Guideline
- d. Allegation of Child Abuse Guideline
- e. Reportable Conduct Policy
- f. Resolution of Complaints and Appeals Policy
- g. Complaints and Grievances Policy
- h. Privacy Policy
- i. Anti-Bullying Policy
- j. Staff Harassment Policy
- k. International Student Handbook

9. Communication

- 9.1 LMC will ensure that the Whistleblower Policy is available to all board members, staff, contractors and the wider school community via the website, with copies also available from LMC office.
- 9.2 LMC will provide a designated confidential email address for use by a whistleblower to make a disclosure to an eligible recipient. The email address is: confidential@lmc.org.au.

10. Procedural documents

- 10.1 Making a protected disclosure:
- a. making a protected disclosure (Appendix A)
 - b. making an anonymous disclosure (Appendix B)
- 10.2 Responding to a disclosure:
- a. receiving a disclosure (Appendix C)
 - b. investigating a disclosure (Appendix D)
- 10.3 Support for those involved:
- a. support for whistleblowers and others involved in the investigation (Appendix E)
 - b. how to handle victimisation or the threat of victimisation (Appendix F)

11. Policy review

- 11.1 The governing board will review this policy and monitor its implementation as new legislation and regulations come into force and, in any event, on a four-yearly basis.

Appendix A Making a protected disclosure

1. Making a protected disclosure

- 1.1 If possible, and as a first step, you should seek to raise your concern informally or through the complaints policy with the Managing Director of the board or the Principal of OCC or the Director of OK or the Manager of OS. This could be done verbally or in writing.
- 1.2 If you don't feel this is possible, or if you are concerned about how the issue will be handled, you may find it helpful to seek advice from someone you trust. You could, for example, speak to a board member of LMC or a senior manager (within OCC, OK, or OS), or seek legal advice from a legal practitioner external to LMC.
- 1.3 Once you have decided that you wish to make a protected disclosure under the terms of the Whistleblower Policy, you are able to do so to any eligible recipient as listed in section 5.9.
- 1.4 If you sought advice from a legal practitioner, you could make the disclosure to that person (section 5.11)
- 1.5 To help the recipient decide whether the disclosure is eligible for protection under the terms of this policy, you should set out your concern(s) in writing stating the information and facts on which you have based your concern.
- 1.6 You should only disclose the names and contact details of other people connected to the disclosure to the extent that it is necessary for the recipient to understand the concern you are raising.
- 1.7 When the eligible recipient receives your disclosure, the first thing they will do is to decide or seek advice as to whether the disclosure qualifies as a protected disclosure and so is to be managed under the terms of the Whistleblower Policy.
- 1.8 The eligible recipient will let you know the outcome of this decision. If you have lodged the disclosure using the designated confidential email address, the recipient will be able to reply to you even if you have made an anonymous disclosure (see Appendix B).
- 1.9 By law, LMC is required to keep your name and details, and the details of any other person who may be connected to the disclosure, confidential unless you give permission for your confidentiality to be waived.

2. Resources to assist you

- 2.1 ASIC has an information sheet for whistleblowers (INFO 238) <https://asic.gov.au/about-asic/asic-investigations-and-enforcement/whistleblowing/whistleblower-rights-and-protections/>

Appendix B Making an anonymous disclosure

1. Making an anonymous protected disclosure

- 1.1 If you feel it likely that you may decide to make an anonymous disclosure, you may still find it helpful to seek advice from someone you trust. It could be that person will be outside LMC, for example, a legal practitioner external to LMC.
- 1.2 Once you have decided that you wish to make an anonymous protected disclosure under the terms of the Whistleblower Policy, you are able to do so to any eligible recipient as listed in section 5.9.
- 1.3 If you sought advice from a legal practitioner, you could make the disclosure to that person (section 5.11).
- 1.4 In order to enable the recipient to decide whether the disclosure is eligible for protection under the terms of this policy, you should set out your concern(s) in writing stating the information and facts on which you have based your concern.
- 1.5 You should only disclose the names and contact details of other people connected to the disclosure to the extent that it is necessary for the recipient to understand the concern you are raising.
- 1.6 When the eligible recipient receives your disclosure, the first thing they will do is to decide or seek advice as to whether the disclosure qualifies as a protected disclosure and so is to be managed under the terms of the Whistleblower Policy.
- 1.7 The eligible recipient will wish to let you know the outcome of this decision. If you have lodged the disclosure using the designated confidential email address, the recipient may be able to reply to you even if you have made an anonymous disclosure.
- 1.8 The advantage of using the designated confidential email address is that the recipient may be able to continue to communicate with you in this way even if you have made an anonymous disclosure.
- 1.9 By law, LMC is required to keep your details (although, if anonymous those won't be known) and the details of any other person who may be connected to the disclosure confidential unless they give permission for their confidentiality to be waived.

2. Resources to assist you

- 2.1 ASIC has an information sheet for whistleblowers (INFO 238) <https://asic.gov.au/about-asic/asic-investigations-and-enforcement/whistleblowing/whistleblower-rights-and-protections/>

Appendix C Receiving a disclosure

1. Receiving a Disclosure

1.1 The recipient will be listed as an eligible recipient in section 5.9 and will have participated in training in relation to this function.

1.2 When the eligible recipient receives the disclosure, the first thing he or she must do is to form an opinion or take advice as to whether the disclosure qualifies as a protected disclosure and so is to be managed under the terms of the Whistleblower Policy (section 5.4 and section 5.8).

The recipient should stay neutral. They do not need to take a position as to whether the suspicion or allegation is true or not; all they need to make a judgment on is as to whether they have 'reasonable grounds to suspect that the information concerns misconduct, or an improper state of affairs or circumstances in relation to the regulated entity'⁴ (section 5.2).

This may well be a complex decision and could well be made more complicated by the need for strict confidentiality. It is, therefore, wise for the recipient to seek legal advice. To this end, it is recommended that LMC provides all eligible recipients with an avenue for direct contact with LMC's appropriate legal advisers or an equivalent.

1.3 The recipient will wish to let you know the outcome of this decision. If you have lodged the disclosure using the designated confidential email address, the recipient will be able to reply to you even if you have made an anonymous disclosure.

The use of the designated confidential email address will enable the recipient to continue to communicate with you in this way even if you have made an anonymous disclosure.

1.4 By law, the recipient is required to keep your details and the details of any other person who may be connected to the disclosure confidential, unless those concerned give permission for their confidentiality to be waived.

1.5 Having established whether or not the disclosure is a protected disclosure under the terms of this policy, the recipient will then, with your permission, take steps to refer the matter to someone who is in a position to investigate or to oversee an investigation into the information. That may involve the recipient taking the following steps:

- a. the recipient seeking further legal advice
- b. the recipient communicating with you in order to gather further information about the allegation.

In seeking additional information, the recipient should make it clear to you that information that you give:

- should continue to protect your own identity and that of anyone else potentially implicated in the matter
- should only be as much information as is necessary to guide the setting up of an investigation.

If the disclosure has been made anonymously, this communication will only be possible if the disclosure has been made using the designated confidential email address.

- c. The recipient referring the matter to the Managing Director of the board or another appropriate person for investigation, taking care to protect confidentiality and to ensure the referral is to someone who isn't directly or indirectly involved in the allegation of misconduct or improper activity.

1.6 Once the matter has been referred to an appropriate person, the recipient would normally not take any further part in the matter.

⁴ The *Whistleblower Act*, Section 1317AA(4).

Appendix D Investigating a disclosure

1. Investigating a disclosure

- 1.1 LMC will investigate all eligible disclosures as soon as is practicable.
- 1.2 The nature and timing of the investigation will depend on the concern or allegation that has been made.
- 1.3 LMC will appoint an independent investigator or an investigation team, which may be internal or external to LMC depending on the nature of the allegation.
- 1.4 The investigator will undertake some or all of the following tasks:
 - a. seek further information and evidence from you either in writing or in person
 - b. seek information and evidence from other sources as appropriate, e.g. interviews, reviewing documentation, etc.
 - c. seek advice from external professionals
 - d. refer the matter to regulators or other authorities if necessary
 - e. draft a report to summarise their findings
 - f. make recommendations for action.
- 1.5 The investigation report and recommendations will be tabled for the board unless they are the subject of the allegations.
- 1.6 The investigator will make recommendations to the board as to whether and how the findings should be communicated back to you, to LMC community, and/or to the authorities.
- 1.7 The investigator will also make recommendations to the board as to the archiving of the report, bearing in mind the need for strict confidentiality.
- 1.8 If the disclosure is made to regulators or other authorities, their investigation process will normally take precedence of that of LMC.

Appendix E Support for whistleblowers

1. Support for Whistleblowers and others involved in the process

- 1.1 LMC will appoint an appropriate person as a point of contact for a potential whistleblower to approach in order to seek advice.
- 1.2 You may choose to have a support person present in any meetings with the investigator or other authorities.
- 1.3 LMC recognises that in some situations, the effect of an eligible disclosure may impact on employees other than you. The above support provided by LMC extends to them as well.
- 1.4 The effect of an eligible disclosure may also impact on some against whom allegations have been made. They are also entitled to support from LMC and will be given an opportunity to respond.

Appendix F How to handle victimisation or the threat of victimisation

- 1. What to do if you believe you are or have been victimised or threatened with some form of retaliation**
- 1.1 Section 5.12 of the policy sets out the legal protections that apply to an eligible disclosure under this policy.
- 1.2 If you believe you have suffered a detriment or a threat of detriment as a result of the disclosure, you are advised to report that to the Managing Director of the board immediately.
- 1.3 If you believe it is not appropriate to report the detriment or threat of detriment to the Managing Director of the board, you are advised to report the matter to the eligible recipient or to a legal practitioner immediately.