

Lowther Hall

ANGLICAN GRAMMAR SCHOOL

All about the girl

Whistleblower Policy

*Educating the whole person
for the whole of life*

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Kindergarten
to Year 12



1. PURPOSE

- 1.1 Lowther Hall Anglican Grammar School (“the School”) is committed to ensuring a culture of openness and feedback in which concerns and complaints are addressed appropriately and handled respectfully and fairly.
- 1.2 The purpose of this policy is to provide members of the School community with an avenue to communicate relevant concerns of wrongdoing confidentially without fear of prejudice or retribution.
- 1.3 This policy falls within the School’s governance policy framework and forms part of the School’s risk management system.

2. AIMS

- 2.1 The aims of this policy are:
 - (a) To encourage the reporting of actual or suspected wrongdoing consistent with the School’s values.
 - (b) To comply with the requirements of the Treasury Laws Amendment (Enhancing *Whistleblowers Protections*) Act 2019 (Cth) (the Act)¹ and other relevant legislation (“the Whistleblowers Act”).
 - (c) To ensure eligible whistleblowers are protected as set out in the legislation.
 - (d) To ensure eligible disclosures are managed appropriately and in compliance with legislation.

3. DEFINITIONS

3.1 Whistleblowing

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 School. The disclosure may not involve unlawful conduct but may indicate a ‘systemic issue that the relevant regulator should know about.’²

3.2 Whistleblower

For the purpose of this policy, a whistleblower is:

- (a) a current or former officer of the School;
- (b) a current or former employee of the School;
- (c) an individual who currently supplies or has previously supplied services or goods to the School (whether paid or unpaid) including contractors, suppliers and volunteers and any employees of those who supply services or goods
- (d) a relative or dependant of any of the above.

The definition does extend to current or former parents, guardians or students (who do not otherwise fall into categories a. to d.). Concerns and allegations of misconduct or improper behaviour raised by current or former parents, guardians or students should be dealt with using the School’s Complaints Resolution Policy and procedures.

3.3 Disclosable Matters

For the purpose of this policy, Disclosable Matters must relate to the School and its operation and includes:

- Misconduct
- Dishonest activity
- Behaviour that is against Child Safe Standards
- Behaviour that is a danger to the financial system such as corruption, bribery, fraud or money laundering

¹ <https://www.legislation.gov.au/Details/C2019A00010> (accessed 17 July 2019) The *Treasury Laws Amendment (Enhancing Whistleblower Protections) Act 2019* (Cth) making changes to the *Corporations Act 2001* (Cth) and *Taxation Administration Act 1953* (Cth)

² Whistleblower Policy: Draft regulatory guidance <https://download.asic.gov.au/media/5226945/attachment-to-cp321-published-7-august-2019.pdf>.

- Illegal activity (including theft, drug sale/use, violence or threatened violence, criminal damage against property)
- In breach of Commonwealth or Victorian legislation or local authority by-laws
- Unethical (representing a breach of the School's Staff Code of Conduct or generally)
- Other serious improper conduct which if proven would constitute reasonable grounds for dismissing or taking disciplinary action against an employee or otherwise terminating the services of the person or entity
- A substantial risk to health and safety
- Substantial mismanagement of the School's resources
- Substantial risk to the environment
- Any other conduct which may cause financial or non-financial loss to the School or be otherwise detrimental to the interests of the School.

Personal work related grievances (unless they relate to a category of improper conduct mentioned above) are excluded from this policy but may be dealt with in accordance with the Equal Opportunity and Respectful Workplace Policy. Disclosures that are not about Disclosable Matters do not qualify for protection under this policy.

3.4 Eligible Recipients

Eligible recipients are identified and listed in paragraph 4.1 below.

4. IMPLEMENTATION

4.1. Making a Report Eligible for Protection

In order to obtain the protection afforded, the whistleblower must have reasonable grounds to suspect there exists Disclosable Matter and the disclosure must be made to an Eligible Recipient. The disclosure may be made anonymously (see Appendix B) or otherwise (see Appendix A). The following people are authorised by the School as Eligible Recipients to receive disclosures that qualify for protection:

Internal Recipients

- a member of the School Council; or
- a member of the Executive Team, namely the Principal, the Business Manager, the Heads of School; or the Director of Human Resources and Strategic Operations.

External Recipients

- an auditor of the school or of a related company; or
- a legal practitioner for the purposes of seeking legal advice; or
- the Australian Securities and Investment Commission ("ASIC") or other Commonwealth body prescribed by The Whistleblower Act.

For details of how to contact such people, see Appendix A (without anonymity) or Appendix B (with anonymity).

A whistleblower should consider whether he or she can first discuss the matter with the Principal or the Chair.

4.2 Process Following a Disclosure

- Once a disclosure is received by the Eligible Recipient, he or she will consider and act in accordance with Appendix C.
- If the disclosure is found by the Eligible Recipient to be made in accordance with section 4.1, he or she will instigate an investigation in accordance with Appendix D. The School is committed to investigating all whistleblower reports. The type of investigation will be determined by the circumstances of the report at the time.

4.3 Whistleblower Protections

A whistleblower making a disclosure under paragraph 4.1 is entitled to the following protections:

- the identity of the whistleblower (and information that could identify the whistleblower) will remain confidential unless the whistleblower consents to their identity being disclosed or disclosure is permitted by clause 1317AAE of The Whistleblower Act;

- (b) the whistleblower is protected from criminal, civil and administrative liability for their disclosure;
- (c) 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;
- (d) the whistleblower will be protected from retaliation, harassment, victimisation or the threat of such behaviour
- (e) the School will provide support for the whistleblower outlined in section 4.4 and Appendix E.

4.4 Managing the Welfare of the Whistleblower

4.4.1 Commitment to Protecting Whistleblowers

The School is committed to the protection of genuine whistleblowers against action taken in reprisal for the making of protected disclosures. The School is prepared to take the necessary measures to protect the whistleblower while an investigation is in progress, when a member of staff may be particularly vulnerable. Measures that may be considered include moving a member of staff out of a particular section while the investigation is ongoing, granting leave, or working from home.

All staff must refrain from any activity that is, or could be perceived to be, victimisation or harassment of a whistleblower.

The School and all staff must take all reasonable steps to attempt to maintain the confidentiality of a person they know or suspect to have made a disclosure.

4.4.2 Keeping the Whistleblower Informed

The person to whom a protected disclosure has been made will ensure the whistleblower is kept informed of action taken in relation to their disclosure.

4.4.3 Whistleblowers Implicated in Improper Conduct

The School acknowledges that the act of whistleblowing should not shield whistleblowers from the reasonable consequences flowing from any involvement in improper conduct. A person's liability for their own conduct is not affected by the person's disclosure of that conduct. However, in some circumstances, an admission may be a mitigating factor when considering disciplinary or other action.

5. SCOPE

This Whistleblower Policy does not apply:

- (a) to concerns that staff may have in relation to their employment. Those concerns are covered in the Equal Opportunity and Respectful Workplace Policy.
- (b) to concerns that parents or students may have in relation to the operation of the School. Those concerns are covered in the Complaints Resolution Policy.

Concerns that arise in relation to Child Safe Standards may be included under the terms of this policy but may be more appropriately raised under the terms of the School's Keeping Children Safe and Mandatory Reporting of Child Abuse Policy.

6. BREACHES OF THE POLICY

The School may take disciplinary action, that may include dismissal where:

- (a) a staff member/whistleblower breaches this policy in making an allegation in bad faith;
- (b) a staff member breaches this policy by victimising a person who made, or may have made a whistleblower report.

7. ROLES AND RESPONSIBILITIES

7.1 The School Council is responsible for:

- (a) determining this policy and reviewing it on a biennial basis via the Policy and Planning Committee.
- (b) responding to an eligible disclosure when called upon to do so.
- (c) appointing a member of the Board to oversee and manage a 'whistleblowing event' if and when that happens if the Chair is unable to do so.
- (d) monitoring the number, nature and outcome of whistleblowing events, bearing in mind the need for strict confidentiality.

7.2 The Principal is responsible for:

- (a) overseeing a school 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, with copies also available from the staff portal, HR office and as part of the School's employment information.
- (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 School Council on an annual basis and to be available to the authorities if required.
- (g) providing training for all staff including specifically 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 the School's Whistleblower Policy and associated procedures
- (d) being ready to receive and respond to a disclosure if and when that happens.

8. LINKS TO OTHER POLICIES

This policy should be read in relation to:

- (a) Governance Policies
- (b) Risk Management Overview Policy
- (c) Keeping Children Safe and Mandatory Reporting of Child Abuse Policy
- (d) Equal Opportunity and Respectful Workplace Policy
- (e) Complaints Resolution Policy
- (f) Privacy Policy
- (g) Bullying Intervention and Prevention Policy.

9. COMMUNICATION

The School will ensure that this Whistleblower Policy is communicated to all members of School Council, staff, contractors, volunteers and the wider school community via the staff portal, school website and such publications as initial employment information, the staff handbook, with copies also available from the School office.

APPENDIX A

1. MAKING A PROTECTED DISCLOSURE

1.1 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 the details for which are as follows:

- Principal
- Heads of School
- Business Manager
- Director of Human Resources and Strategic Operations
- Chair of Council
- Any other member of Council

You are encouraged, however, to make the disclosure via email using whistleblower@lowtherhall.vic.edu.au. This email is forwarded confidentially to the Chair of Council.

1.2 If you sought advice from a legal practitioner, you could make the disclosure to that person.

1.3 To help the eligible 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.

1.4 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.

1.5 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 this Whistleblower Policy.

1.6 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).

The advantage of using the designated confidential email address is that the eligible recipient will be able to continue to communicate with you in this way even if you have made an anonymous disclosure (see Appendix B).

1.7 By law, the School 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.

1.8 If you are not satisfied with the way the School has handled the disclosure process you may lodge a complaint with ASIC.

2. RESOURCES TO ASSIST YOU

ASIC has an information sheet for whistleblowers (INFO 238) <https://asic.gov.au/about-asic/asic-investigations-and-enforcement/whistleblowing/whistleblower-rights-and-protections/> (accessed 17 July 2019)

APPENDIX B

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 the School, for example, a legal practitioner external to the School.
- 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 Appendix A marking your email anonymous disclosure or via email using whistleblower@lowtherhall.vic.edu.au.
- 1.3 If you sought advice from a legal practitioner, you could make the disclosure to that person.
- 1.4 If you make a disclosure using an email address from which your identity can't be determined, the disclosure will be treated as anonymous.
- 1.5 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.
- 1.6 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 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.

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, the School is required to keep your details (although, if anonymous those may not 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.
- 1.10 If you are not satisfied with the way the School has handled the disclosure process you could lodge a complaint with ASIC.

APPENDIX C

1. RECEIVING A DISCLOSURE

- 1.1 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.

The recipient shall remain neutral. They do not need to take a position as to whether the suspicion or allegation is true or not; they need only make a judgment on whether there are 'reasonable grounds to suspect that the information concerns misconduct, or an improper state of affairs or circumstances in relation to the regulated entity'³.

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, all Eligible Recipients will be provided with details for direct contact with the School's appropriate legal advisers.

- 1.2 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 Eligible 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 Eligible Recipient to continue to communicate with you in this way even if you have made an anonymous disclosure.

- 1.3 By law, the Eligible 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 or the disclosure is permitted by the Whistleblower legislation.

- 1.4 Having established whether or not the disclosure is a protected disclosure under the terms of this policy, the Eligible 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 Eligible Recipient taking the following steps:

- (a) The Eligible Recipient seeking further legal advice.
- (b) The Eligible Recipient communicating with you in order to gather further information about the allegation.

In seeking additional information, the Eligible 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 Eligible Recipient referring the matter to the Principal or the Chair of School Council 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.
- 1.5 Once the matter has been referred to an appropriate person, the Eligible Recipient would normally not take any further part in the matter.

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

APPENDIX D

1. INVESTIGATING A DISCLOSURE

- 1.1 The School 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 The School will appoint an independent investigator or an investigation team, which may be internal or external to the School depending on the nature of the allegation.
- 1.4 The investigator will undertake some or all of the following tasks:
 - seek further information and evidence from you either in writing or in person
 - seek information and evidence from other sources as appropriate, e.g. interviews, reviewing documentation, etc.
 - seek advice from external professionals
 - refer the matter to regulators or other authorities if necessary
 - draft a report to summarise their findings
 - make recommendations for action.
- 1.5 The investigation report and recommendations will be tabled for the Principal and the School Council unless they are the subject of the allegations.
- 1.6 The investigator will make recommendations to the School Council as to whether and how the findings should be communicated back to you, to the school community, and/or to the authorities.
- 1.7 The investigator will also make recommendations to the School Council 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 to that of the School.

APPENDIX E

1. ADDITIONAL SUPPORT FOR WHISTLEBLOWERS

- 1.1 The Eligible Recipient to whom disclosure has been made is also charged with providing support for the whistleblower.
- 1.2 If you are an employee, you may seek support from the School's employee assistance program (EAP).
- 1.3 You may choose to have a support person present in any meetings with the investigator or other authorities.
- 1.4 The School recognises that in some situations, the effect of an eligible disclosure may impact on employees other than you. The above support provided by the School extends to them as well.
- 1.5 The effect of an eligible disclosure may also impact on some against whom allegations have been made. They are also entitled to support from the School and will be given an opportunity to respond.