



Geelong Lutheran College is committed to providing a safe environment for all students when in the care of the College.

### Definitions

**The College:** Geelong Lutheran College St John's Newtown and Armstrong Creek

**Corporations Act:** Means the Corporations Act 2001

**Whistleblower:** An individual who, in relation to the College, is or has been a Board member, Staff member or person (including Staff or a person) who supplies goods or services (paid or unpaid), an associate of the College (as defined in the Corporations Act), and a relative or dependent of any individual described above.

**Recipient:** An individual, in relation to the College or a related company, who occupies the role of Executive Principal or delegate, Chair of the College Board, an auditor or member of an audit team or an actuary.

**ASIC:** Australian Securities and Investments Commission

**APRA:** Australian Prudential Regulation Authority

**ATO:** Australian Taxation Office

### Rationale

This Policy applies to Geelong Lutheran College Ltd in protecting eligible whistleblowers and managing qualifying disclosures made regarding misconduct in relation to the College.

This Policy applies to all persons who interact with the College (including its Staff and their delegates, Students, Parents, eligible Whistleblowers, and any other Members of the College community involved in College activities), who disclose wrongdoing in relation to the College, to ensure such persons can do so safely, securely and with confidence that they will be protected and supported.

### Related Policies

- Complaints or allegations of staff misconduct that do not meet the criteria of a whistleblowing disclosure will be addressed in accordance with the College's complaints Policy and Procedure
- Disclosures about reportable conduct will be addressed in accordance with the College's Child Safe and Wellbeing Policy
- Disclosures regarding a grievance between staff members about work matters, including work relationships and decisions made by other staff members which impact on their work, may be addressed in accordance with the College's Grievance Policy and Procedure
- Unlawful discrimination, harassment, or bullying complaints may be addressed in accordance with the College's Equal Opportunity and Discrimination Policy and Anti-Bullying Policy

### 1. Disclosure

A qualifying disclosure occurs when an eligible whistleblower makes a disclosure to an eligible recipient and the eligible whistleblower has reasonable grounds to suspect that the information concerns a disclosable matter.

### 2. Who can make a qualifying disclosure?

#### 2.1 Eligible Whistleblower

An eligible whistleblower is an individual who is or has been any of the following in relation to the College:

- A Board member
- An employee
- A person who supplies goods or services (paid or unpaid)
- An employee of a person who supplies goods or services (paid or unpaid)



- An individual who is an associate of the College (as defined in the Corporations Act)
- A relative or dependent (or dependents of a spouse) of any individual described above

## 2.2 Anonymous disclosures

A disclosure can be made anonymously.

However, this may make it difficult to investigate the reported matter. Geelong Lutheran College encourages disclosers to provide their names. If a discloser wishes to disclose anonymously, the discloser should provide sufficient information to allow the matter to be thoroughly investigated, and disclosers are asked to provide an anonymous email address through which additional questions can be asked and information provided.

## 3. Disclosable matters that qualify for protection

### 3.1 Disclosable matters

A disclosable matter is a disclosure of information where the eligible whistleblower has reasonable grounds to suspect that the information relating to the College or a related company concerns:

- Misconduct
- An improper state of affairs or circumstances
- Illegal activity (including conduct of officers and employees) – meaning activity in breach of the Corporations Act or specified financial services legislation, or an offence against any law of the Commonwealth punishable by imprisonment of 12 months or more; or
- Conduct (including conduct of officers and employees) that represents a danger to the public or financial system

This may include any conduct in relation to the operation of the College that involves:

- Fraudulent activity
- Unlawful or corrupt use of school funds
- Improper accounting or financial reporting practices
- Systemic practices that pose a serious risk to the health and safety of any person on College premises or during College activities

### 3.2 Reasonable grounds to suspect

A discloser would have 'reasonable grounds to suspect' if the discloser has a suspicion that could reasonably be formed based on the facts and information available to them.

If a disclosure is made without 'reasonable grounds to suspect' (e.g., where the disclosure is unfounded), the disclosure will not be a qualifying disclosure, and the discloser will not have the protections provided under this policy and the Corporations Act.

### 3.3 Personal work-related grievances

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



A disclosure will concern a personal work-related grievance of the discloser if the information:

- Concerns a grievance about any matter in relation to the discloser's employment, or former employment, having or tending to have implications for the discloser personally; and
- Does not have significant implications for the College that do not relate to the discloser; and
- Does not concern conduct that is:
  - An alleged contravention of the Corporations Act and specified financial services laws; or
  - An offence against another law of the Commonwealth, which is punishable by imprisonment of 12 months or more; or
  - A danger to the public or financial system

Examples of disclosures regarding personal work-related grievances that may not qualify for protection include:

- An interpersonal conflict between the discloser and another employee;
- A decision relating to the engagement, transfer, or promotion of the discloser;
- A decision relating to the terms and conditions of engagement of the discloser;
- A decision to suspend or terminate the engagement of the discloser, or otherwise discipline the discloser

These matters will be addressed in accordance with the College's Grievance and Complaints Policies and Procedures.

A disclosure **could** qualify for protection if it concerns a personal work-related grievance and also concerns alleged detriment (or a threat of detriment) to the discloser.

#### 4. Who can receive a qualifying disclosure?

##### 4.1 Eligible Recipients

An eligible recipient is an individual who occupies any of the following roles, in relation to the College or a related company:

- A College Board member, Executive Principal or delegate;
- An auditor, or member of an audit team of the College or a related company;
- An actuary of the College or a related company

##### 4.2 Making a qualifying disclosure

While an eligible whistleblower can make a disclosure to any eligible recipient, the College encourages them to make a disclosure in writing to the Executive Principal.

If it is not appropriate for the disclosure to be made to the Executive Principal, the eligible whistleblower is encouraged to make the disclosure, in writing, to the Chair of the College Board.

Where a disclosure is made to an eligible recipient who is not the Executive Principal, then subject to the confidentiality protections set out in Section 6 below, it will generally be passed onto the Executive Principal and dealt with in accordance with Section 5 below.



#### **4.3 External disclosures**

Disclosures may also qualify for protection if they are made to ASIC, APRA, or a prescribed Commonwealth authority, or if an eligible whistleblower makes a disclosure to a legal practitioner to obtain advice about the operation of the whistleblower provisions.

##### *Public interest disclosures*

An eligible whistleblower can disclose to a member of Parliament or a journalist where:

- At least 90 days have passed since the whistleblower made the disclosure to ASIC, APRA or another Commonwealth body prescribed by regulation;
- The whistleblower does not have reasonable grounds to believe that action is being, or has been taken, in relation to their disclosure;
- The whistleblower has reasonable grounds to believe that making a further disclosure of the information is in the public interest; and
- Before making the public interest disclosure the whistleblower has given written notice to the College that includes sufficient information to identify the previous disclosure and states that the whistleblower intends to make a public interest disclosure.

##### *Emergency disclosures*

An eligible whistleblower can disclose to a Member of Parliament or a journalist only if:

- The whistleblower has previously disclosed the information to ASIC, APRA, or a prescribed Commonwealth authority, and;
- The whistleblower has reasonable grounds to believe that there is an imminent risk of serious harm or danger to public health or safety, or to the financial system, if the information is not acted on immediately; and
- A reasonable period has passed since the disclosure was made; and
- After the end of the reasonable period, the whistleblower gives the body to which the disclosure was made a written notification that includes sufficient information to identify the previous disclosure and states that he or she intends to make an emergency disclosure.

Eligible whistleblowers who make a 'public interest disclosure' or an 'emergency disclosure' also qualify for protection.

#### **5. Investigating a qualifying disclosure**

##### **5.1 Receiving a disclosure**

Upon receiving a disclosure, the recipient (generally the Executive Principal or Delegate or Chair of the College Board) will assess the disclosure to determine whether it qualifies for protection under the *Corporations Act* and is to be managed in accordance with this policy (qualifying disclosure) or the disclosure concerns matters that should be managed in accordance with related policies (see page 1).

##### **5.2 Investigating a qualifying disclosure**

How Geelong Lutheran College investigates a qualifying disclosure will depend on the nature of the disclosure.



An investigation will generally involve the making of inquiries or collection of evidence for the purpose of assessing the disclosure made by the whistleblower.

External professionals may be engaged to assist or conduct the investigation process.

In instances where the College reports the allegations within the disclosure to a third party, such as Victorian Police, Australian Federal Police or Australian Securities and Investments Commission (ASIC), the investigation procedures of the relevant third party will generally take precedence.

The timing of an investigation will depend on the circumstances of the matter and whether the College is the primary investigator of the disclosure.

Employees about whom disclosures are made will generally be given an opportunity to respond to the relevant allegations made in the qualifying disclosure.

An eligible whistleblower and the relevant parties that the disclosure is about may choose to have an appropriate support person present at any meeting with representatives of the College.

The College may not be able to undertake an investigation if it is not able to contact the whistleblower (e.g., if the disclosure is made anonymously and the whistleblower has not provided contact details).

### **5.3 Investigation of findings**

The findings from an investigation will be documented and reported to those responsible for oversight of this Policy.

A determination will then be made as to provide those findings in written format to the whistleblower. There may however be instances where it may not be appropriate to provide details of the outcome to the whistleblower.

### **5.4 Review of findings**

A whistleblower may lodge a complaint with a regulator, such as ASIC, APRA, or the ATO, if they are not satisfied with the outcome of the College's investigation.

## **6. Confidentiality and records**

Under the Corporations Act, the identity of the discloser of a qualifying disclosure and information which is likely to lead to the identification of the discloser must be kept confidential.

Exceptions to this are disclosures to ASIC, The Australian Federal Police, a legal practitioner for the purpose of obtaining advice about the application of the whistleblower protections or made with the consent of the discloser.

The discloser's identity and information which is likely to lead to the identification of the discloser can also be provided to any Commonwealth or State authority for the purpose of assisting the authority in the performance of its functions or duties. This could include Victorian Police, the Victorian Ombudsman or Department of Education.



It is also permissible to disclose information which could lead to the identification of the discloser if the disclosure is reasonably necessary for the purpose of investigating the matter, if all reasonable steps are taken to reduce the risk that the discloser will be identified as a result of the information being disclosed.

Breach of these confidentiality protections regarding the discloser's identity and information likely to lead to the identification of the discloser is a criminal offence and may be the subject of criminal, civil and disciplinary proceedings.

Confidentiality must be observed in relation to handling and storing records.

## **7. Whistleblower protections**

Eligible whistleblowers making a qualifying disclosure are protected by the requirement that their identity, and information that may lead to their identification, should be kept confidential, subject to relevant exceptions as set out in Section 6 above.

Eligible whistleblowers making a qualifying disclosure cannot be subject to any civil, criminal, or administrative liability (including disciplinary action) for making the disclosure. No contractual or other remedy or right will be enforced or exercised against the person on the basis of the disclosure.

Whistleblowers who make some types of qualifying disclosures (generally external to the College) are also provided immunities to ensure that information they disclose is not admissible in evidence against them in criminal proceedings or in proceedings for the imposition of a penalty, other than proceedings in respect of the falsity of the information.

These immunities do not prevent an eligible whistleblower being subject to criminal, civil or other liability for conduct that is revealed by the whistleblower, only that the information that person has disclosed is not admissible in certain proceedings against them.

Eligible whistleblowers are also protected from victimisation – suffering any detriment by reason of the qualifying disclosure. It is unlawful for a person to engage in conduct against another person that causes, or will cause detriment, where the person believes or suspects that the other person or a third person made, may have made, proposes to make or could make a qualifying disclosure.

Threats of detriment are also unlawful.

Detriment has a very broad meaning and includes dismissal of an employee, injuring an employee in their employment, alteration of an employee's position or duties to their disadvantage; discrimination between an employee and other employees; victimization of a dependent of the discloser, harassment or intimidation of a person or harm or injury to a person, including psychological harassment; damage to a person's property, reputation or business or financial position.

Remedies for being subjected to detriment could include:

- Compensation
- Injunctions and apologies
- Reinstatement of a person whose employment is terminated
- Exemplary damages



Schools and individuals may face significant civil and criminal penalties for failing to comply with confidentiality and detrimental conduct provisions.

If an eligible whistleblower believes they are being subjected to a detriment or a threat of detriment, this should immediately be reported in writing to the Executive Principal or delegate.

If it is not appropriate for the report to be made to the Executive Principal the eligible whistleblower should report the matter, in writing, to the Chair of the College Board.

#### **8. Additional support for eligible whistleblowers and other employees**

The College's employee assistance program (EAP) or equivalent will be available to all eligible whistleblowers and other employees affected by the disclosure, should they require support.

#### **9. Contact**

If you have any queries about this Policy, you should contact the Executive Principal for advice.

#### **Implementation**

This Policy is implemented through a combination of:

- staff training and awareness
- Communication to community

#### **Evaluation**

This Policy will be reviewed as part of the College's two-year review cycle.

#### **Policy Administration**

Responsible Person/s	Approver	Date Approved	Next Review
Executive Principal	College Board	June 2025	June 2027