

Policy Name:	<b>Whistle blower</b>	
Prepared By: Karen Todd	Policy Number: 2.5	
Authorised By: Board of Governance	Policy Group: Management	
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## 1. PURPOSE

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Living Learning Pakenham is committed to fostering a culture of legal, ethical and moral behaviour and exemplary corporate governance. The organisation recognises the value of transparency and accountability in its administrative and management practices and supports the reporting of improper conduct.

This policy has been developed so that people can raise concerns regarding situations where they believe that Living Learning Pakenham, or anybody connected with Living Learning Pakenham, has acted in a way that constitutes serious wrongdoing, including unethical, illegal, corrupt or other inappropriate conduct as set out below.

This policy aims to:

- Encourage a person to report improper conduct in good faith if they know or have reasonable grounds to suspect such conduct.
- Provide a mechanism to report misconduct or dishonest or illegal activity that has occurred or is suspected within the organisation.
- Enable Living Learning Pakenham to deal with reports from whistle blowers in a way that will protect the identity of the whistle blower and provide for secure storage of the information.
- Ensure that any reportable conduct is identified and dealt with appropriately.
- Ensure that individuals who disclose wrongdoing can do so safely, securely and with confidence that they will be protected and supported.
- Help to ensure that Living Learning Pakenham maintains the highest standards of ethical behaviour and integrity.

## 2. SCOPE

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This policy applies to all staff, the Board of Governance, volunteers, contractors, room hirers, students and all centre users. Additionally, while they are under no obligation to do so, any associate, family member or dependent of any person in the above groups of people may also speak up. If they do choose to speak up in line with this policy, Living Learning Pakenham will extend to them the relevant rights and protections under this policy.

## 3. POLICY

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### Overarching Principles:

This policy is developed with consideration to the following critical principles:

- Confidentiality and consent
  - Living Learning Pakenham will maintain confidentiality of all reports and protect the identity of those individuals making a report, to the fullest extent possible. While the organisation encourages whistle blowers to identify themselves to either the CEO or the Chairperson of the Board, they may opt to report their concerns anonymously to, Southern Community House Network by email to [network@chn.net.au](mailto:network@chn.net.au).
- “Speak up and report it!”
  - Living Learning Pakenham encourages all staff, Board members, volunteers, contractors, room hirers, students and centre users to report any concerns in line with this policy.
- Living Learning Pakenham expectations
  - Living Learning Pakenham expects all staff, Board members, volunteers, contractors, room hirers and centre users to act honestly and ethically and to make any report on reasonable grounds
- Living Learning Pakenham’s responsibility to whistle blowers
  - The organisation’s obligations are spelled out in this policy, particularly in the section “Protection for Whistle Blowers ”
- Higher standard
  - This policy is designed to comply with Living learning Pakenham’s legal obligations. If anything in this policy is inconsistent with any law imposed on the organisation, that legal obligation will prevail over this policy.

### Reportable Conduct

#### What is reportable conduct?

- Reportable conduct usually relates to the conduct of employees or directors, but it can also relate to actions of a third party, such as a funder, a student, a contractor, service provider or other centre user.
- Reportable conduct is any past, present or likely future activity, behaviour or situation considered to be:
  - Dishonest
  - Corrupt (including soliciting, accepting, or offering a bribe or facilitating payments of other such benefits)
  - Fraudulent
  - Illegal (including theft, sale or use of drugs, violence or threatened violence, or property damage)

- In breach of regulation, an internal policy or the organisation’s Code of Conduct
- Improper conduct relating to accounting, internal controls, compliance, actuarial, audit or other matters of concern to the whistle blower
- Serious impropriety or an improper situation or circumstances
- Endangering health or safety
- Damaging or substantially risking damage to the environment
- A serious mismanagement of Living Learning Pakenham’s resources
- Detrimental to Living Learning Pakenham’s financial position or reputation
- Maladministration (an act of omission of a serious nature that is negligent, unjust, oppressive, discriminatory is based on improper motives)
- Concealing reportable conduct.
- A personal work-related grievance which includes information about misconduct, an allegation that the entity has breached employment or other law or the grievance includes victimisation as a result of whistleblowing
- A person may disclose any information that the person has reasonable grounds to suspect concerns misconduct, or an improper situation or circumstances in relation to Living Learning Pakenham, or associated auspiced organisations (for example The Men’s Shed or The Community Garden).

#### Who can make a report?

- A whistle blower is a person who, whether anonymously or not, attempts to report misconduct or dishonest or illegal activity that has occurred in connection with Living Learning Pakenham and wishes to avail themselves of protection against reprisal for having made the report.
- A whistle blower may be a current or former employee, Board member, volunteer, contractor, room hirer or student of Living Learning Pakenham associate. In addition any family member or dependent of any person in the aforementioned groups of people may also make a report.

#### What is not reportable conduct?

Not all types of conduct are intended to be covered by this policy or by the protections under the *Corporations Act 2001* (Cth). This policy does not apply to:

- Grievances and complaints regarding the provision of training programs to students.
- Grievances and complaints arising from room hirers or other services provided by Living Learning Pakenham to centre users.
- Personal work-related grievances including interpersonal conflicts (unless the grievance includes victimisation due to whistle blowing), decisions about promotions or other decisions that do not involve a breach of workplace laws or terms and conditions of employment that relate to the discloser’s current or former employment with Living Learning Pakenham. While these issues may have implications for the discloser personally, they do not:
  - Have any other significant implications for Living Learning Pakenham, or
  - Relate to any conduct or alleged conduct about a disclosable matter as set out in this policy.

### Information required to make a report

For a report to be investigated, it must contain sufficient information to form a reasonable basis for an investigation. It is important, therefore, to provide as much information as possible. This may include known details about the event/s, such as:

- Date and time
- Location
- Name of the person/s involved
- Possible witnesses to the event
- Evidence of the event/s (e.g. documents, emails, photos, etc.)
- Any steps which may have already been taken to report the matter elsewhere or to resolve the concern

### How to make the report:

A report must be made to:

- The CEO, or;
- The President of the Board, or;
- The Southern Community Network, an independent third party, by emailing [network@chn.net.au](mailto:network@chn.net.au)

Living Learning Pakenham will also protect individuals who have made a report in connection with the organisation to:

- To the Australian Securities and Investments Commission (ASIC) or the Australian Prudential Regulation Authority (APRA) or another Commonwealth regulatory body prescribed in legislation
- To a legal practitioner for the purposes of obtaining legal advice or legal representation about Whistle Blower protections
- That qualifies as an emergency or public interest disclosure under the Corporations Act 2001 (Cth). It is important, however, to understand the criteria for making a public interest or emergency disclosure and independent legal advice may be advised prior to doing so.

### False Reports

Protected disclosures must be made on reasonable grounds. Anyone who knowingly makes a false report / disclosure of reportable conduct may be subject to disciplinary action, including dismissal. The disciplinary action will depend on the severity, nature and circumstance of the false disclosure.

### Protection for Whistle Blowers

If you have reasonable grounds to suspect reportable conduct and make a disclosure in good faith, even if an investigation shows that no misconduct has occurred, Living Learning Pakenham will support and protect the individual/s and anyone else assisting in the investigation.

Living Learning Pakenham will not tolerate any detriment inflicted on an individual/s because of a report of misconduct made in good faith, regardless of the outcome and extend to individuals assisting or participating in an investigation. Examples of detriment include:

- Retaliation, dismissal, suspension, demotion, or termination of your role
- Bullying, harassment, threats, or intimidation
- Discrimination, subject to current or future bias, or derogatory treatment
- Harm or injury
- Damage or threats to property, business, financial position, or reputation
- Revealing the identity of the Whistle Blower without consent or contrary to law
- Threatening to carry out any of the above actions

These protections apply provided that the individual/s are acting honestly, ethically and the report has been made based on reasonable grounds.

Any individual reporting misconduct may also be entitled to the following legal protections for making a report:

- Protection from civil, criminal, or administrative legal action
- Protection from having to give evidence in legal proceedings
- Compensation or other legal remedy

Anyone engaging in detrimental conduct as set out in this policy will be disciplined and may be dismissed or subject to criminal or civil penalties.

## Confidentiality

A Whistle Blower can choose to remain anonymous while making a disclosure, over the course of the investigation and after an investigation is finalised. Living Learning Pakenham will do all it can to protect confidentiality.

Individuals are encouraged to disclose their identity when raising a concern, to assist with further information gathering. If a Whistle Blower's identity is disclosed, Living Learning Pakenham will treat these details confidentially, to the fullest extent possible. The organisation will also take measures to protect identity, storing information securely and disclosing securely, referring to the individual/s in a gender/neutral context and only allowing qualified staff to investigate the disclosures.

If an individual/s does choose to disclose their identity, this information will not be disclosed unless:

- Consent in writing for disclosure is given by each individual
- The disclosure is made to ASIC, APRA, or the Australian Federal Police (AFP)
- The disclosure is made to a Legal Practitioner for the purpose of obtaining advice
- The disclosure is authorised under the Corporations Act 2001 (Cth)
- Disclosure is necessary to prevent or lessen a threat to a person's health, safety, or welfare

It is illegal for a person to identify a discloser, or disclose information that is likely to lead to the identification of the discloser unless an exception applies (as listed above).

Where a Whistle Blower feels that confidentiality has been breached, a complaint can be lodged with a regulator, such as ASIC, APRA or the ATO for investigation. Living Learning Pakenham may also take action against individuals who breach the confidentiality of a discloser.

### Investigation of a disclosure

Upon receiving a reportable disclosure, Living Learning Pakenham will endeavour to assess the disclosure within 14 days and determine whether:

- It qualifies for protection
- A formal, in depth investigation is required

Living Learning Pakenham:

- Will endeavour to provide the discloser with regular updates
- Will handle and investigate a disclosure in accordance with this policy
- May not be able to investigate a disclosure if it is unable to contact the discloser.

### Responsibilities:

The Board:

- To abide by, monitor and review this policy
- Establish an investigation team for any reportable conduct incidents, excluding any persons who may be subject of the reportable conduct
- Maintain appropriate anonymity and effective protection of a Whistle Blower

The CEO:

- To participate in any investigation of reportable conduct as required by the Board
- To distribute this policy to all persons as described in the Scope.

## 4. REFERENCE

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- Section 1317AI of the Corporations Act 2001 (Cth)
- Fair Work Act 2009 (Cth)
- Fair Work Regulations 2009 (Cth)
- Insurance Act 1973
- Life Insurance Act 1995
- Public Interest Disclosure Act 2013
- Superannuation Industry (Supervision) Act 1993
- Taxation Administration Act 1953

## 5. RELATED POLICIES:

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### 4.1 Risk Management