



Whistleblower Policy

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1. APPROVAL & REVIEW OF THIS POLICY

1.1 Board approval

This policy was approved by the Board on 19 February 2020 and takes effect from that date.

1.2 Review of policy

- (a) This policy is to be reviewed by the General Manager [GM]:
 - (i) Promptly, whenever necessary to rectify a material issue which arises in the operation of the policy; or
 - (ii) Every two years.

The policy was last reviewed on the date specified in Section 11 Review Table.

- (b) When conducting the review, the GM should have regard to the matters mentioned at paragraph 159 of *Regulatory Guide 270* (RG 270) and consult with employees as contemplated by RG 270.160.
- (c) Proposed changes to this policy must be approved by the Board.

1.3 Delegation to the GM

- (a) The GM is responsible to the Board for overseeing compliance with this policy and ensuring that this policy:
 - (i) Remains appropriate to the circumstances of LCU; and
 - (ii) Is being implemented in accordance with its terms.
- (b) The GM is also responsible to the Board for ensuring that no person suffers **detriment** arising from a **whistleblower** reporting suspected **improper conduct**.

2. PURPOSE OF THIS POLICY

2.1 Statement of purpose

- (a) LCU is committed to ensuring compliance with the law and the highest ethical standards in the conduct of its business so as to support LCU's long-term sustainability and reputation.
- (b) The purpose of this policy is to support that commitment by:
 - (i) Discouraging **improper conduct**;
 - (ii) Encouraging and enabling **whistleblowers** to report suspected **improper conduct** safely, securely and with confidence that they will be protected and supported without risk of **detriment** to them or others; and
 - (iii) Facilitating the appropriate and timely investigation of such reports.

2.2 Relationship to other policies

Refer to the Fit & Proper Policy for details of LCU's compliance with the **whistleblower** requirements under: *Fit & Proper* (CPS 520).

3. DEFINITIONS

Detriment in relation to a person includes acts or omissions resulting in:

-) dismissal;
-) injury;
-) alteration of position or duties to create a disadvantage;
-) discrimination;
-) harassment or intimidation;
-) harm or injury, including psychologically;
-) damage to property;
-) damage to reputation;
-) damage to business or financial position; and
-) any other damage.

and does not include:

-) administrative action that is reasonable for the purpose of protecting a **whistleblower**;
-) managing a **whistleblower's** unsatisfactory work performance, if the action is in accordance with LCU's performance management framework.

Eligible recipient means the following persons who may receive information about suspected **improper conduct** from a **whistleblower**:

-) a director or other officer of LCU or a related body corporate;
-) a senior manager of LCU or a related body corporate;
-) an auditor (or a member of an audit team conducting an audit) of LCU or a related body corporate; and
-) the **Whistleblower Investigations Officer**.

Eligible whistleblower means:

-) an officer of LCU;
-) an employee of LCU;
-) an individual who supplies goods or services to LCU (either paid or unpaid);
-) an employee of a person who supplies goods or services to LCU (either paid or unpaid);
-) an individual who is an associate of LCU; or
-) the spouse, a relative or a dependent of any of the persons listed above.

Improper conduct means **misconduct**, or an improper state of affairs or circumstances, in relation to the affairs of LCU (or a related body corporate). It includes conduct by LCU, or an officer or employee of LCU, which:

-) breaches a **regulatory law**;
-) may constitute a Commonwealth offence with a penalty of at least 12 months imprisonment; or
-) poses a danger to the public or to the financial system,

and excludes a **personal work-related grievance**.

Examples of **improper conduct** include:

-) illegal conduct, such as theft, dealing in, or use of illicit drugs, violence or threatened violence, and criminal damage against property;
-) fraud, money laundering or misappropriation of funds;
-) offering or accepting a bribe; and

) financial irregularities.

Misconduct includes fraud, negligence, default, breach of trust and breach of duty.

Personal work-related grievance means information about a grievance in relation to the discloser's employment, or former employment, having (or tending to have) implications for the discloser personally provided that the information does not also:

-) have significant implications for LCU, or another regulated entity, that do not relate to the discloser;
-) breach a **regulatory law**;
-) constitute a Commonwealth offence with a penalty of at least 12 months imprisonment; or
-) pose a danger to the public or to the financial system.

Examples of grievances which may be a **personal work-related grievance** 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; and
-) a decision to suspend or terminate the engagement of the discloser, or otherwise discipline the discloser.

Regulatory law means:

-) ASIC Act;
-) Banking Act;
-) Corporations Act;
-) Financial Sector (Collection of Data) Act;
-) National Consumer Credit Protection Act;
-) Income Tax Assessment Act; and
-) Tax Administration Act.

Whistleblower means an **eligible whistleblower** who discloses information about suspected **improper conduct** to an **eligible recipient**.

Whistleblower Investigations Officer means the person designated by LCU to receive, handle, investigate and resolve matters relating to suspected **improper conduct** disclosed by a **whistleblower**.

4. WHISTLEBLOWER PROTECTIONS

4.1 Strict compliance with the law

- (a) A **whistleblower** is protected at law if the person is an **eligible whistleblower** and a disclosure of suspected **improper conduct** is made to an **eligible recipient** provided that:
- (i) The **whistleblower** has reasonable grounds for suspecting the **improper conduct**; and
 - (ii) The disclosure does not concern a **personal work-related grievance**.
- (b) It is LCU's policy to strictly comply with the law.
- (c) In case of doubt about whether a disclosure is protected under the law or this policy, advice is to be obtained from LCU's lawyers. Disclosure of information to lawyers for the purpose of obtaining legal advice is permitted by law. Pending receipt of legal advice, a **whistleblower's** confidentiality is to be preserved.

4.2 Protection of anonymity

- (a) A **whistleblower** may choose to make an anonymous disclosure relating to suspected **improper conduct** and may choose to remain anonymous both during the investigation and after the investigation is completed.
- (b) A **whistleblower** will be afforded the same rights and protections under the law and under this policy if the **whistleblower** chooses to make an anonymous disclosure.
- (c) Notwithstanding that a **whistleblower** elects to remain anonymous, LCU will offer the opportunity of two-way communications which seek to preserve anonymity. In particular, LCU will:
 - (i) Make available email addresses for the Whistleblowing Officer (R&CO) or alternately the Board Chairman;
 - (ii) Permit the **whistleblower** to adopt a pseudonym.

4.3 Protection of confidentiality – identity

- (a) This clause applies where a **whistleblower** is not anonymous.
- (b) The identity of such a **whistleblower** must remain confidential, unless disclosing this information is authorised or required by law.
- (c) A person who receives information from a **whistleblower** relating to suspected **improper conduct**, either directly or indirectly, may only disclose the identity of the **whistleblower**, or information likely to lead to the **whistleblower's** identity being revealed, if it is:
 - (i) To the Australian Securities and Investments Commission (ASIC), the Australian Prudential Regulation Authority (APRA), the Australian Federal Police (AFP) or a Commonwealth or State/Territory authority to assist that authority in the performance of its functions or duties;
 - (ii) To a legal practitioner for the purpose of obtaining legal advice or legal representation;
 - (iii) If the suspected **improper conduct** relates to tax law, to the Taxation Commissioner; or
 - (iv) With the **whistleblower's** consent.
- (d) If a **whistleblower** believes that their confidentiality has been breached, they may seek legal advice or contact a regulatory body such as ASIC, APRA or the Australian Taxation Office (ATO), as appropriate.

4.4 Protection of confidentiality – content of disclosures

- (a) Information provided by a **whistleblower** may be disclosed if:
 - (i) The information does not include the **whistleblower's** identity;
 - (ii) LCU has taken all reasonable steps to reduce the risk that the **whistleblower** will be identified from the information; and
 - (iii) Such disclosure is reasonably necessary for the investigation of the issues raised by the **whistleblower's** disclosure.

- (b) In case of doubt, legal advice must be obtained before such information is disclosed.

4.5 Protection of confidentiality – protective measures to be taken

- (a) LCU will reduce the risk of a **whistleblower** being identified from information in the disclosure by:
 - (i) Redacting all personal information about the **whistleblower** including any reference to the **whistleblower** witnessing an event;
 - (ii) Referring to the **whistleblower** as gender neutral;
 - (iii) Where possible, seeking the assistance from the **whistleblower** to identify matters that could inadvertently lead to identification of the **whistleblower**;
 - (iv) Ensuring that the **Whistleblower Investigations Officer** is qualified for the role; and
 - (v) Maintaining secure record keeping and information-sharing processes.
- (b) A **whistleblower** should be warned about the risk of being identified if:
 - (i) The **whistleblower** has previously mentioned to others that they were considering a disclosure;
 - (ii) The **whistleblower** is one of only a few people with access to the information; or
 - (iii) The information was disclosed to the **whistleblower** privately or in confidence.

4.6 Protection against civil, criminal and/or administrative liability

- (a) A **whistleblower** is protected against any civil, criminal and/or administrative liability (including discipline or termination) for disclosing suspected **improper conduct**.
- (b) A **whistleblower** is not immune from the normal consequences of their own **improper conduct**.
- (c) No contractual or other remedy may be enforced, and no contractual or other right may be exercised, against the **whistleblower** solely on the basis of disclosing suspected **improper conduct**.
- (d) If a disclosure of suspected **improper conduct** qualifies for protection, the information is not admissible in evidence against the **whistleblower** in criminal proceedings or in proceedings for the imposition of a penalty, other than proceedings in respect of the falsity of the information.
- (e) If a **whistleblower** suffers a **detriment** from disclosing suspected **improper conduct**, then the **whistleblower** can claim compensation for damage suffered.
- (f) It is LCU's policy to respect the law and these protections in particular. In case of doubt, legal advice must be obtained.

4.7 Protection from victimisation and detriment

- (a) Subjecting, or threatening to subject, any person to a **detriment** as a consequence of a disclosure of suspected **improper conduct** by a **whistleblower** is both a civil and criminal offence under the *Corporations Act*.

- (b) Any person subjected to a **detriment** as a consequence of a disclosure of suspected **improper conduct** by a **whistleblower** may be entitled to compensation or other remedy.
- (c) LCU's policy is to ensure that no **detriment** is suffered by a **whistleblower** (or other person as a consequence of a disclosure of suspected **improper conduct** by a **whistleblower**). LCU seeks to achieve this through the following measures and mechanisms:
 - (i) Rearrange the staff member's workplace or the way that they perform their work duties; or alternately reallocate other staff involved in the disclosable matter;
 - (ii) Allow the whistleblower to work from an alternate location i.e. home or Lindfield if their duties allows for a relocation;
 - (iii) Ensure that support service with a professional counsellor is made available;
 - (iv) Consideration to be taken into account for performance impacts resulting from the stress and time taken due to making the complaint;
 - (v) Management will be made aware of their responsibilities to maintain the confidentiality of a disclosure, address the risk of isolation or harassment, manage conflicts and ensure fairness when managing the performance; or taking other management action relating to a discloser.
- (d) If a **whistleblower** believes that they have suffered **detriment**, they may seek legal advice or contact a regulatory body such as ASIC, APRA or the ATO.

4.8 Further protection and support

- (a) LCU will offer support to a **whistleblower** during and after the disclosure of suspected **improper conduct** through:
 - (i) Providing updates throughout the investigation process;
 - (ii) Providing a final conclusion when the matter has been resolved; and
 - (iii) Reasonably answering any questions asked by the **whistleblower** throughout and after the investigation process.
- (b) It may not be possible to honour this commitment where the **whistleblower** has made an anonymous disclosure and has not agreed to a two-way communication channel.
- (c) A decision by a **whistleblower** to keep their identity confidential must be respected. This may require communication with the **whistleblower** through the **eligible recipient** who originally received the disclosure of suspected **improper conduct**.
- (d) A **whistleblower** (or any employee) may have a right to compensation or other remedy if they suffer as a result of disclosure by a **whistleblower** or suffer **detriment**. Any such person should seek independent legal advice.

4.9 Contractors

- (a) LCU must not include in agreements with independent contractors any terms or conditions that impede or punish disclosure of suspected **improper conduct** by a **whistleblower**.
- (b) Where an existing agreement contains such a term or condition:
 - (i) LCU must not seek to enforce the term or condition; and

- (ii) The term or condition must, at the next review date for the agreement, either be amended so that it no longer breaches this policy or removed from the agreement.

5. MAKING DISCLOSURES

5.1 To whom disclosures may be made

- (a) **Whistleblowers** are encouraged to make disclosures of suspected **improper conduct** to the **Whistleblower Investigations Officer**. This will enable LCU to respond promptly.
- (b) A **whistleblower** may make a disclosure of suspected **improper conduct** to any **eligible recipient** or directly to a regulatory body such as ASIC, APRA or the ATO.
- (c) A **whistleblower** may be able to make a public interest or emergency disclosure of suspected **improper conduct** to a journalist or parliamentarian which is protected and a **whistleblower** contemplating this should obtain independent legal advice so as to ensure that any preconditions to the disclosure being protected are met.¹

Due to the size & complexity of LCU, the RCO will act as the Whistleblower Investigations Officer, unless there is a Conflict of Interest preventing the RCO acting in this role.

5.2 How disclosures may be made

- (a) Making disclosures will vary depending on whether the **whistleblower** chooses to reveal their identity or remain anonymous.
- (b) Identifiable disclosures:
 - (i) In person – request in person, via email, over-the-phone or via letter to the **Whistleblower Investigations Officer** (or another **eligible recipient**) that the **whistleblower** wishes to speak with them regarding suspected **improper conduct** and request a time and date for the disclosure to take place
 - (ii) Email – send an email to joanne@lcu.com.au providing details of the suspected **improper conduct**
 - (iii) Over-the-phone – call 02 9859 0591 and speak with the **Whistleblower Investigations Officer** (or another **eligible recipient**) providing details of the suspected **improper conduct**
 - (iv) Post – write a letter and send it to Joanne O'Donnell c/- LCU P.O. Box 1967, Macquarie Centre NSW 2113 marked "Do not open - Private and confidential providing details of the suspected **improper conduct**"
 - (v) Post - write a letter to Grant Thornton Auditors, Level 17 383 Kent Street, Sydney NSW 2000 Australia
- (c) Anonymous disclosures:
 - (i) Over-the-phone - call 02 9859 0591 and speak with the **Whistleblower Investigations Officer** (or another **eligible recipient**) providing details of the suspected **improper conduct**

¹ See RG 270.75-76 for further information on public interest disclosures and emergency disclosures.

- (ii) Post – write a letter and send it to c/o the Whistleblower Officer, Unit 1, 3 Julius Avenue, North Ryde, NSW 2113 providing details of the suspected **improper conduct**
- (iii) Or contact LCU's auditors Grant Thornton Auditors, Level 17 383 Kent Street, Sydney NSW 2000 Australia

5.3 Deliberately false disclosures

- (a) Deliberately false disclosures are not protected and making such a disclosure may result in disciplinary action.
- (b) A disclosure based on incomplete information is not the same as one which is deliberately false and LCU encourages the disclosure of information about suspected **improper conduct**, even if that information is incomplete.

6. INVESTIGATION OF REPORTS

6.1 Role of the Whistleblower Investigations Officer

- (a) Except as provided below, the **Whistleblower Investigations Officer** is responsible to the GM for assessing and investigating disclosures by a **whistleblower** about suspected **improper conduct**.
- (b) The GM must appoint another person (who may be an external consultant) to undertake an investigation if that is more appropriate: for example, to ensure an independent investigation or if the suspected **improper conduct** is particularly serious.
- (c) If the information of suspected **improper conduct** concerns the GM, details of the suspected **improper conduct** must be promptly provided to the Board Chair and/or the Audit Committee Chair who must then appoint an external consultant to independently investigate the suspected **improper conduct**.

6.2 Referral of disclosures

- (a) Except as provided in (b), **eligible recipients** must refer disclosures by a **whistleblower** to the **Whistleblower Investigations Officer** for investigation.
- (b) If the circumstances are such that it is inappropriate to refer the disclosure to the **Whistleblower Investigations Officer**, the **eligible recipient** must refer the matter either to the GM or, if the disclosure concerns the GM, to the Board Chair and/or the Audit Committee Chair for a determination of who is to undertake the investigation.
- (c) When referring a disclosure of suspected **improper conduct**, the **eligible recipient** must comply with any request by the **whistleblower** for anonymity or confidentiality. Unless the **whistleblower** has consented, the **eligible recipient** must not identify the **whistleblower** or provide information tending to identify the **whistleblower**.

6.3 Conduct of the investigation

- (a) All reports of suspected **improper conduct** must be assessed and then appropriately investigated. The objective of the investigation is to locate evidence that either substantiates or refutes the suspected **improper conduct**.
- (b) Investigations must follow the rules of natural justice, that is:
 - (i) They must be free from actual or apparent bias; and

- (ii) The person against whom the allegation is made must be given a reasonable opportunity to respond.
- (c) As a practical matter, the investigation may be impeded if the **whistleblower** remains anonymous and/or refuses to provide information.
- (d) With the approval of the GM, the **Whistleblower Investigations Officer** may seek legal or other external advice and assistance in completing an investigation.

6.4 Ensuring fair treatment of employees and contractors

- (a) An employee or contractor mentioned in a **whistleblower** disclosure, or an employee or contractor to whom such a disclosure relates, must be treated fairly by LCU throughout the whole investigation process.
- (b) LCU must not deliberately cause, attempt to cause, or threaten to cause a **detriment** to any such employee or contractor.

6.5 Keeping a whistleblower informed

- (a) LCU's policy is to keep a **whistleblower** informed of progress following disclosure of suspected **improper conduct**. Generally, this includes acknowledging receipt of the disclosure, providing updates during the investigation and advising the outcome of the investigation.
- (b) As a practical matter, LCU ability to keep a **whistleblower** informed may be impeded if the **whistleblower** remains anonymous and does not agree to two-way communication.

6.6 Timeframes for the investigation

- (a) Investigations must be conducted in a timely fashion consistently with also being thorough.
- (b) As appropriate, progress reports should be provided to the GM and/or the Board.

6.7 Documenting and reporting the outcomes of the investigation

- (a) The **Whistleblower Investigations Officer** (or another investigator, if one is appointed) must document and report the findings of the investigation to the GM and/or Board as appropriate.
- (b) Whilst the form and content of any such report will depend on the particular circumstances, all reports should comply with the requirements of confidentiality in section 4.
- (c) If there are any special circumstances such that the outcomes of the investigation should not be communicated to the **whistleblower**, the report should include that recommendation with reasons.

6.8 Reviewing the outcome of an investigation

- (a) A **whistleblower** may request a review of an investigation or a decision to withhold information about the conduct of the investigation or the outcomes thereof. Such a request may be made to any **eligible recipient**, but, in the first instance should generally be made to the **Whistleblower Investigations Officer**.

- (b) Such a request for a review will be assessed by the GM or the Board as appropriate and, if the request is agreed to, an independent person will be appointed to conduct the review.
- (c) A **whistleblower** may disclose suspected **improper conduct** to ASIC, APRA or the ATO at any time and is not bound to accept the outcome of LCU investigation, including any review.

7. MONITORING COMPLIANCE WITH THE POLICY

- (a) The **Whistleblower Investigations Officer** must prepare a general summary of the number and type of reports of suspected **improper conduct** received and the outcomes.
- (b) This summary must be provided quarterly to the:
 - (i) GM and the Compliance Manager (or more frequently at the request of the GM); and
 - (ii) Board Audit & Risk Committees.
- (c) A consolidated summary must be provided to the Board Audit & Risk Committees at the end of each year.

8. ENCOURAGING AN ETHICAL CULTURE

8.1 Education and training

- (a) The induction program for all new directors and employees must include:
 - (i) LCU's commitment to ensuring compliance with the law and the highest ethical standards in the conduct of its business;
 - (ii) The existence of this policy to facilitate reports of suspected **improper conduct** without risk of personal **detriment**;
 - (iii) LCU's Human Resources Management Policy, section 3 Code of Conduct and Ethics Policy; and
 - (iv) Information about the sort of **improper conduct** to be particularly aware of.
- (b) Refresher training must be provided on a regular basis as appropriate.

8.2 Publicising this policy

LCU publicises this policy by:

- (a) Giving a copy to each director, employee and contractor;
- (b) Making the policy available on our web page; and
- (c) Making the policy available on our intranet.

8.3 Additional information

Additional information about this policy or how LCU deals with disclosures of suspected **improper conduct** can be obtained from the Risk and Compliance Officer.

9. BREACH OF THIS POLICY

9.1 Disciplinary action

Breach of this policy by an employee or contractor may result in disciplinary action including, where appropriate, suspension or termination.

9.2 Fit & proper reassessment

Breach of this policy by a director or senior manager may result in a reassessment of fitness and propriety under CPS 520.

10. ADOPTION

This policy was adopted by the board on 19th February 2020.

11. REVIEW HISTORY

18.9.19	Revised policy reviewed by the GM and RCO and adopted by the Board. The Board agreed to maintain this policy as a stand-alone policy and remove the previous Whistleblowers Policy from the HR Manual and the Corporate Governance Manual
19.2.20	An updated template which included changes to the Whistleblowing Legislation was prepared by DB Legal, this template has been adapted for LCU and has been reviewed by the RCO and GM. As a complete new rewrite to comply with the legislation, the policy to be tabled at the next Board meeting for Board approval, subsequent reviews to be delegated to the GM.
7.1.22	Reviewed by the GM
17/2/22	Reviewed all © copyright of DBLegal in the footnotes and included suggested wording at clause 5.1. Identifying the officer as per the IA's recommendation. Reviewed by the RCO, Adopted by the GM.