



# Lucan Educate Together N.S.

## Protected Disclosure Policy

### 1. Introduction, Scope & Aims

Lucan ETNS is committed to maintaining the highest standards of openness, honesty and accountability. Fundamental to this commitment is the provision of a mechanism whereby workers can make disclosures regarding a relevant wrongdoing that has come to their attention in the course of their work.

A core aim of this policy is to encourage and enable a worker in disclosing information, which comes to the worker's attention in a work related context and which the worker reasonably believes tends to show one or more relevant wrongdoings. This policy will allow workers to make disclosures without fear of penalisation or threat of less favourable treatment, discrimination or disadvantage. This policy also aims to provide clear channels within Lucan ETNS to deal with concerns or disclosures in regard to wrongdoing.

The Board of Management of Lucan ETNS takes the issue of wrongdoing seriously and is committed to ensuring that procedures are in place which are in accordance with the Protected Disclosures (Amendment) Act 2022. The Board of Management has drafted this policy to ensure compliance with the aforementioned Act.

### 2. Protected Disclosure (Amendment) Act 2022

The Protected Disclosures (Amendment) Act 2022, hereinafter referred to as the '2022 Act' introduced substantial changes to the Protected Disclosures Act 2014, hereinafter referred to as

the '2014 Act'. The 2022 Act significantly expands the scope of the protection for those who make protected disclosures. The legislation places new and enhanced obligations on schools as public bodies to have processes in place to facilitate workers in making protected disclosures.

### 3. Definitions

#### A Protected Disclosure:

“A protected disclosure means disclosure of relevant information, which in the reasonable belief of the worker, tends to show one or more relevant wrongdoings and which came to the attention of the worker in connection with their employment”.

In making a disclosure a worker must reasonably believe the information disclosed to be substantially true. No worker will be penalised simply by getting it wrong so long as the worker had a reasonable belief that the information disclosed shows, or tends to show, wrongdoing.

For the purpose of this policy:

#### A “worker” means:

- i. all current and former employees (including permanent, temporary, fixed- term, casual and substitute);
- ii. contractors and consultants engaged to carry out work or services for the School;
- iii. individuals who are introduced or supplied to do work for the School by a third person where the terms on which the individual is engaged to do the work are or were in practice substantially determined by the School, by the third person or by both of them e.g. agency workers;
- iv. individuals on work experience pursuant to a training course and trainees of/with the School; and
- v. volunteers;
- vi. board members;
- vii. job applicants.

A “**relevant wrongdoing**” may have already taken place, be happening or be likely to happen and include but are not limited to the following:

- i. commission of an offence
- ii. failure by a person to comply with any legal obligation (other than workers contract of employment)
- iii. a miscarriage of justice
- iv. health or safety of any individual has been, is being or likely to be endangered
- v. damage to the environment
- vi. unlawful or improper use of public money
- vii. gross mismanagement by a public body (a public body includes the school), and oppressive, discriminatory or grossly negligent action
- viii. breaches of EU Law
- ix. concealing or destroying evidence of wrongdoing.

**“Relevant wrongdoings”** do not include:

- i. a failure to comply with obligations arising under the worker’s contract of employment, e.g., a failure to pay an employee overtime where provided for in the employee’s contract of employment
- ii. grievances concerning the worker’s contract of employment and/or duties in employment or concerning work relations with another individual or that fall within the scope of a grievance procedure applicable to the worker
- iii. matters falling within the scope of the school’s complaints, disciplinary procedures, and/or other internal employment policies and procedures
- iv. personal grievances between a reporting person and their employer or a co-worker that solely affect the reporting person are not protected by the Act. Such matters may be protected under general employment law however

## **4. Protection from Penalisation**

In the 2014 Act protections were put in place to prevent a discloser/‘whistleblower’ from being penalised for having made a protected disclosure. Penalisation as defined in the 2014 Act included actions such as: suspension, lay-off, dismissal, demotion, intimidation, harassment, discrimination or threat of reprisal.

The 2022 Act includes an expanded definition of penalisation so that it would include actions such as:

- Withholding of training
- A negative performance assessment or employee reference
- Harm, including to the worker's reputation, particularly in social media, or financial loss, including loss of business and loss of income
- Blacklisting on the basis of a sector or industry-wide informal or formal agreement, which may entail that the person will not in the future, find employment in the sector or industry
- Early termination or cancellation of a contract for goods or services
- Cancellation of a licence or permit, and
- Psychiatric or medical referrals

The 2022 Act provides that if an employee makes a claim of penalisation to the Workplace Relations Commission (WRC), any of the above actions will be deemed to have been a result of them having made a protected disclosure, unless the employer proves that the act or omission was based on duly justified grounds.

## **5. Protection of the Respondent**

Where an allegation is made against an individual (the "Respondent"), the principles of natural justice and fair procedures will be invoked. This may include a right to challenge the evidence against him/her. While an investigation is on-going, all reasonable steps should be taken to protect the confidentiality of those who are the subject of allegations in a disclosure pending the outcome of the investigation. Where it is necessary to interview the respondent during the course of the investigation, he/she should be advised that they are entitled to be accompanied by a colleague or staff representative etc., should they so wish.

The Respondent should be included in the investigation process and made aware of the details of any allegation against him/her in so far as is possible having regard to the requirements of confidentiality contained in the Act and will be given the opportunity, as part of a full investigation, to put forward their case in response to the allegation(s)

## **6. Confidentiality & Anonymous Reporting**

Lucan ETNS is committed to protecting the identity of the worker, making a protected disclosure and ensuring that protected disclosures are treated in confidence. However, there are circumstances as outlined in the 2014 Act where confidentiality cannot be maintained eg. where the discloser makes it clear that they have no objection to their identity being disclosed and/or the identity of the disclosure is critical to an investigation of the matter raised. If it is determined that confidentiality cannot be maintained in the context of an investigation, the school will inform the discloser in advance that their identity will be disclosed. The discloser may request a review of this decision and a review will be carried out where practicable.

Under the 2022 Act there is no obligation on schools to accept and follow up on anonymous reports. However, where a school does accept an anonymous report and where a worker's identity subsequently becomes known, the protection against penalisation will extend to them. Where the anonymous report contains enough information to allow an initial assessment that there is prima facie evidence that a relevant wrongdoing has occurred, follow-up action will be taken by the Receiver (Principal/Chairperson) to the extent that is possible from the information provided. An anonymous discloser cannot obtain redress under the 2022 Act without identifying themselves as part of the process of seeking redress.

## **7. Reporting Procedures**

The 2022 Act introduced the requirement that public bodies, which include recognised schools, maintain and operate internal reporting channels and procedures for the making of protected disclosures.

The designated receivers of protected disclosures in Lucan ETNS include:

- The Principal
- The Chairperson, Board of Management
- Secretary General of the Department of Education (Prescribed Person)

Lucan ETNS is committed to ensuring that workers have access to internal reporting channels and these channels are promoted within the organisation. The receiver of a protected disclosure

will have sufficient independence and authority to support carrying out their function as specified in the 2022 Act. The receiver will always operate in a secure, GDPR compliant manner that assures confidentiality of the reporting person and any other person/s named in the report.

If a worker has a genuine or reasonable concern that there is wrongdoing in the school it should be reported. It is anticipated that the majority of protected disclosures would be made to the school Principal. In the event that the disclosure pertains to the Principal and/or if a worker does not wish to use this route they can communicate their concerns to the Chairperson of the Board of Management. The worker is also entitled to direct their concerns outside of the school's Board of Management and report to the Secretary General of the Department of Education and Skills.

These reports can be made verbally or in writing. Should a worker raise a concern verbally, a discussion will take place between the worker and the receiver. The worker can choose whether he/she wants to be accompanied by a colleague or a trade union representative.

The worker may be advised to put the concern in writing, if it is decided between both parties that there is merit to the concern/disclosure. It will need to be clarified at this point if the concern is appropriate to this procedure or is a matter more appropriate to other procedures, for example the Grievance, Adult Bullying or Child Protection procedures. The written disclosure should give the background and the history, providing relevant details, insofar as possible, such as dates, sequence of events and description of circumstances.

Acknowledgment of all reports received will be issued to the discloser within seven days.

Designated receivers will diligently follow-up, by firstly making an preliminary assessment to determine if there are grounds for concern that warrant investigation and then to conduct this investigation, where appropriate. They will maintain communication and provide feedback to the discloser within a reasonable period, being not more than three months from the date the acknowledgement of receipt of the report. Provision of further feedback to the disclosure at three month intervals, on request. The designated receiver will maintain accurate records at all times.

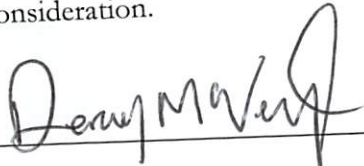
If the worker/discloser would prefer not to communicate the concern to the Principal and/or Chairperson of the Board of Management, or if a concern has not been addressed to their satisfaction, the worker/discloser is entitled to report to a regulator/prescribed person. The

prescribed person in relation to schools is the Minister for Education. A list of prescribed persons can be found at: [www.gov.ie/prescribed-persons](http://www.gov.ie/prescribed-persons).

## 8. Communication, Monitoring & Review

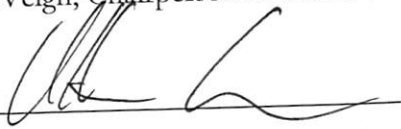
This policy will be in operation from the date of ratification, having been reviewed and ratified by staff and the Board of Management. Every member of staff has access to a copy of this policy for their consideration.

Signed: \_\_\_\_\_



(Derry McVeigh, Chairperson of Board of Management)

Signed: \_\_\_\_\_



(Ultan Casey, Principal)

Date: 20-3-2024

Date of next review: March 2027