

Operating Rules of the Dedicated team for the implementation of the Whistleblowers' Protection Act of 29 January 2021

I. General provisions

Art. 1 Principle

These Regulations are adopted in relation to the implementation of the Law on the Protection of Whistleblowers within the State of 29 January 2021 (rsGE B 5 07; **LPLA**) and its implementing regulation (rsGE B 5 07.01; **RPLA**) within the University of Geneva (hereinafter: **the Employer**) by the Dedicated team within the framework of the mandate conferred on the law firm MLL Legal Ltd, Geneva branch (hereinafter: **MLL Legal**).

Art. 2 Scope of application

These Operating Regulations apply to any report made by a whistleblower under Article 3 and to any request for protection under the LPLA and the RPLA made to the Dedicated team.

Art. 3 Definition

A whistleblower within the meaning of the LPLA and the RPLA is a member of the Employer's staff who, in good faith and in the public interest, on the basis of reasonable suspicions, has reported to his or her superiors or to any other competent body breaches lawfully discovered in the performance of his or her duties in relation to the Employer's activities or staff.

II. Dedicated team

Art. 4 Mission

¹ The Dedicated team processes the reports of the persons who call upon it and investigates the facts of the case. It helps the Employer to put an end to breaches.

² The Dedicated team ensures the protection of whistleblowers and witnesses of breaches.

Art. 5 Composition

¹ The Dedicated team consists of five members. All members of the Dedicated team are licensed as lawyers and work at MLL Legal.

² Each member shall be qualified by his or her skills and professional experience to perform the duties assigned to him or her by the LPLA, the RPLA and these Rules.

³ The Dedicated team appoints a Chairperson from among its members.

⁴ The Dedicated team appoints four alternates.

⁵ The Dedicated team may, if necessary, call upon other MLL Legal staff to assist in the handling of reports and requests for protection received.

⁶ If a member of the Dedicated team is to be replaced, his or her successor is elected by majority vote. The successor must be a licensed lawyer employed by MLL Legal.

Art. 6 Organisation

¹ Upon receipt of a report or a request for protection, the Dedicated team shall designate the members responsible for the preliminary assessment within the meaning of Articles 13, 21 and 22 of these Rules.

² The Dedicated team appoints a leader from within the team, who will be responsible for the coordination and supervision of the file.

Art. 7 Decision making

¹ Unless otherwise provided, decisions under this Regulation shall be taken by majority vote.

² In the event of a tie, the President as defined in Article 5 paragraph 3 shall have the casting vote.

III. Procedural safeguards

Art. 8 Confidentiality and data protection

¹ The procedures carried out by the Dedicated team and the documents and information of which the members of the Dedicated team are aware in the context of these procedures are treated in complete confidentiality.

² The Dedicated team is based in a location that allows for a confidential meeting.

³ The Dedicated team shall protect the personal data of whistleblowers and witnesses from unlawful processing by appropriate organisational and technical measures, taking into account the sensitivity of the data.

⁴ It shall ensure that it takes the necessary measures within the meaning of the Law on public information, access to documents and the protection of personal data of 5 October 2001 (rsGE A 2 08; **LIPAD**) to guarantee the security, availability, integrity and confidentiality of the personal data that it collects, communicates, destroys or otherwise processes.

Art. 9 Anonymity

¹ Reporting a breach can be made anonymously.

² The Dedicated team is directly accessible through the secure external platform, which guarantees anonymity when desired.

Art. 10 Independence

The Dedicated team carries out its tasks independently.

Art. 11 Challenge

¹ Members of the Dedicated team called upon to deal with a report or a request for protection must recuse themselves if they have a personal interest in the case, if they are related to the whistleblower or a witness in the direct line or up to and including the third degree in the collateral line, or if they are married, engaged, in a registered partnership, or in a de facto relationship, or if there are circumstances likely to give rise to a suspicion of bias.

² Whistleblowers who wish to have one of the members of the Dedicated team challenged must submit a reasoned request to the Dedicated team without delay.

IV. Report

Art. 12 Call to the Dedicated team

¹ Any whistleblower within the meaning of Article 3 may freely approach the Dedicated team.

² Reporting to the Dedicated team shall be made in writing. It may be made by any means allowing dialogue with the whistleblowers, in particular by means of the secure external platform guaranteeing anonymity within the meaning of Article 9 paragraph 2.

Art. 13 Screening

¹ The legal conditions for reporting a breach are examined beforehand by two members of the Dedicated team.

² The Dedicated team asks whistleblowers if another entity is handling or has already handled the same report.

³ Whistleblowers are heard, where possible, in a confidential meeting with the Dedicated team.

Art. 14 Priority and transfer to another entity

¹ If both the Employer and the Dedicated team receive the same report, the Employer shall have priority to dealing with it.

² If the handling of the report falls outside the competence of the Dedicated team, the latter shall propose to the whistleblowers to pass it on to an entity better suited to handle it. If no agreement is reached, the report is closed.

³ When whistleblowers announce that they have referred the same report to more than one entity, the Dedicated team communicates with the other entities referred to determine which one is best suited to deal with the report. When the report is forwarded to another entity, the Dedicated team closes the report.

⁴ If the whistleblowers do not agree to the exchange between entities seized of the same report, the Dedicated team may close the report.

Art. 15 Transmission of the report to the Public Prosecutor

¹ When the report concerns facts likely to constitute a crime or an offence prosecuted ex officio, the Dedicated team transmits it to the Public Prosecutor's Office.

² The decision to refer the case to the Public Prosecutor's Office is taken by the full members of the Dedicated team.

³ In case of referral to the Public Prosecutor's Office, the Dedicated team shall inform the whistleblowers and prepare a short report to be forwarded to the Employer.

Art. 16 Closing of the report

¹ Where the Dedicated team concludes that the legal conditions for reporting a breach have not been met, the Dedicated team closes the report.

² The report may also be closed if it is impossible to obtain the requested information from the whistleblowers.

³ The report may also be closed in the other cases mentioned in Article 14 paragraph 2, 3 and 4.

⁴ The decision to closing the report is taken by the full members of the Dedicated team.

⁵ In the event of a closure, the Dedicated team shall inform the whistleblowers and prepare a brief report to be forwarded to the Employer.

Art. 17 Information, cooperation and intelligence

¹ When the Dedicated team concludes that the legal conditions for reporting a breach have been met, it will inform the Employer and the whistleblowers of the start of the report's processing.

² The Employer and the whistleblowers shall collaborate with the Dedicated team in order for the latter to process the report.

³ The Dedicated team shall have access to all information and documents relevant to the processing of a report. If necessary, it may request the assistance of an external provider whose mission and cost must be validated in advance by the Employer.

⁵ Official secrecy is not enforceable against the Dedicated team, tax secrecy and other secrets established by cantonal or federal law being however reserved.

Art. 18 Confidential interviews

¹ Whistleblowers may, if they so wish, be interviewed by two members of the Dedicated Team in confidential hearings.

² The Dedicated team may also hear any person who can provide information concerning the report, including witnesses.

³ A written record of the hearings shall be submitted to the person heard for approval.

Art. 19 End of treatment

¹ Upon completion of the processing of the report, the Dedicated team will report its findings and recommendations to the Employer in writing.

³ Whistleblowers are informed of the disclosure of findings, but not of their content.

⁴ The Employer shall inform the Dedicated team of the type of measures taken.

⁵ Additional recommendations may be issued by the Dedicated team as part of the follow-up of the case.

V. Protection by the Dedicated team

Art. 20 Principle

Whistleblowers or witnesses shall not suffer any harm as a result of their action or testimony, unless they act improperly or with malicious intent.

Art. 21 Application for protection

¹ Whistleblowers or witnesses who feel that they are subject to professional disadvantages as a result of reporting or giving evidence in relation to a report may inform the Dedicated team and request protection.

² They are heard by two members of the Dedicated team in a confidential meeting.

³ Whistleblowers who wish to remain anonymous cannot be protected.

Art. 22 Evaluation

¹ Upon receipt of the application for protection, two members of the Dedicated team review the plausibility of:

- a) the alleged occupational disadvantages;
- b) the link between the alleged disadvantages and the report or testimony.

Art. 23 Result of the evaluation

¹ If the professional disadvantages are likely and appear to be related to the report or testimony, the Dedicated team will consult the whistleblowers' or witnesses' Employer – with the latter's written consent – on his or her perception of the situation and the protective measures contemplated.

² If the professional disadvantages are not plausible or if there is no link between the disadvantages and the report or testimony, the Dedicated team shall not proceed with the request for protection and shall inform the whistleblowers or witnesses accordingly.

Art. 24 Recommendation of protective measures

¹ Upon written agreement of the whistleblowers or witnesses, the Dedicated team shall provide the Employer with a written recommendation for protective measures.

² Whistleblowers or witnesses shall receive a copy of the recommendation.

Art. 25 Information to the Dedicated team

¹ The Employer shall inform the Dedicated team of the measures taken.

² Additional recommendations may be issued by the Dedicated team as part of the follow-up of the case.

VI. General

Art. 26 Annual report

At the end of each calendar year, the Dedicated team sends its activity report to the Employer.

Art. 27 Amendment of the Regulation

These rules may be amended by the Dedicated team, in particular to ensure their compliance with current law.

Art. 28 End of the mandate

Unless otherwise agreed with the Employer, in the event of the termination of the mandate conferred on MLL Legal, the Dedicated team shall transmit the reports and requests for protection being processed to the new entity designated by the Employer and shall inform the whistleblowers.

Art. 29 Special provisions

If a report or request for protection concerns a violation that is subject to specific provisions in the law, in a regulation or in the Employer's internal regulations, these shall apply.

VII. Final provisions

Art. 31 Approval by the Council of State

In accordance with Article 6 of the RPLA, Articles 20 to 25 of these regulations shall be submitted to the State Council for approval upon prior notice from the Cantonal Office of Labour Inspection and Relations (hereinafter: **OCIRT**).

Art. 32 Entry into force

This Regulation shall enter into force on 26 September 2022, except for articles 20 to 25, which will come into force upon approval by the State Council.