Whistleblower Protection

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Purpose

Our organisation is committed to upholding the highest standard of integrity, consistent with our purpose and values.

This Policy outlines how the organisation supports and protects whistleblowers in accordance with the Corporations Act 2001 (Cth) and the Aged Care Act 2024.

Definitions

Whistleblower - Any person who discloses or reports actual or suspected misconduct, wrongdoing or breaches of the Aged Care Act.

Disclosable matters - Any concern or reasonable suspicion that someone has breached, is breaching, or about to breach a provision of the Aged Care Act. Such concerns or suspicions need to be in relation to “misconduct” or an “improper state of affairs”.

Disclosures qualifying for protection - A disclosure of information by an individual qualifies for protection if:

- the disclosure is made to one of the following:
  - an Appointed Commissioner or a member of the staff of the Commission
  - the System Governor, or an official of the Department
  - a registered provider of funded aged care services
  - a responsible person of the registered provider
  - an aged care worker of a registered provider
  - police officer
  - an independent aged care advocate
- the disclosure is made either verbally or in writing and is submitted anonymously or not
- the individual has reasonable grounds to suspect that the information concerns conduct that may breach a provision of the Aged Care Act.

Misconduct - Illegal, unacceptable or undesirable conduct or behaviour (actual or attempted) that is: dishonest, unethical, fraudulent, corrupt, non-compliant or may give rise to questionable accounting or auditing practices, may cause financial loss, or acts inconsistent with the organisation’s purpose, values and code of conduct.

Workers - refers to all staff, employees, associated providers (i.e. agency staff, contractors, etc), students and volunteers of the organisation.

Applicability

This policy applies to providers of aged care services:

- All workers
- Governing body
- All volunteers and students on placement
- Associated providers (i.e. agency staff, contractors and consultants)
- All other service providers

Standard 2 expectation statement for older people:

The organisation is well run. I can contribute to improvements to care and services. My provider and aged care workers listen and respond to my feedback and concerns. I receive funded aged care services from aged care workers who are knowledgeable, competent, capable and caring.

Outcome 2.6a Complaints and feedback management for aged care workers
The provider must encourage and support aged care workers to make complaints and give feedback about the provider's delivery of funded aged care services without reprisal.

The provider must acknowledge and transparently manage all complaints and feedback and use complaints and feedback to contribute to the continuous improvement of funded aged care services.
Governing regulations for this policy

- Aged Care Act 2024
- Corporations Act 2001 (Cth)
- Corporations Regulations 2001
- Outcome 2.2a - Quality, safety and inclusion culture to support aged care worker to deliver quality care
- Outcome 2.3 - Accountability, quality system and policies and procedures
- Outcome 2.6a - Complaints and feedback management for aged care workers
- Outcome 2.6b - Complaints and feedback management for individuals
- Privacy Act 1988 (Cth)

Applicable processes for this policy

- Whistleblower

Whistleblower Protection Commitment

Our organisation is committed to supporting whistleblowers to report any misconduct or wrongdoing and protecting them from any adverse consequences following disclosure by:

- ensuring workers, older people and all stakeholders feel safe and supported to raise concerns by actively promoting a "speak up" culture, emphasising protections and the organisations commitment to addressing concerns without reprisal
- promoting at least monthly that whistleblower disclosers are welcomed and encouraged using various communication channels such as newsletters, posters, internal statements and other appropriate communication platforms
- maintaining a structured and transparent system that enables individuals to make disclosures safely and appropriately by:
    - clearly defined policies and procedures
    - providing multiple secure and accessible reporting channels that enable individuals to make disclosures including:
        - internally and externally
        - face to face
        - over the phone
        - in writing (e.g. feedback boxes, emails etc.)
    - assessing disclosures to ensure it qualifies for whistleblower protections
    - providing up to date information about how disclosures can be made, what disclosures qualify for protection and eligible recipients' disclosures can be made to
- informing the individual against whom a matter has been raised as soon as practicable, to ensure they are given a fair opportunity to respond
- reporting to external bodies as required (i.e. Aged Care Quality Safety Commission)

- ensuring all disclosures will be investigated in a fair, objective, confidential and transparent manner in line with the principles of natural justice including:
    - acknowledging and responding to disclosures in a timely manner
    - adopting a positive, blame-free approach that focuses on the process and avoids any negative repercussions for the individual providing disclosure
    - ensuring investigations are conducted by appropriate and impartial person (e.g. a relevant manager or delegated investigator)
    - evaluating each disclosure thoroughly, with outcomes documented and communicated to relevant parties where appropriate and permissible
    - collecting evidence to substantiate or refute claims
    - taking appropriate corrective action as warranted by the investigation
- investigating all disclosures, including those made anonymously noting that where a disclosure was made anonymously, that there may be limitations to being able to respond to the discloser
- providing regular feedback to those involved in the disclosure, including throughout and after the investigation
- preparing a comprehensive report outlining the findings, evidence and outcomes of the investigation
- supporting potential whistleblowers to access appropriate information through the Human Resources or Legal department or seeking independent legal advice
- taking all reasonable steps to support whistleblowers and any other person or entity that is associated with them following disclosure, during and after the investigation by:
    - facilitating access to counselling services or other appropriate supports
    - offering temporary or permanent relocation or reassignment of duties, where necessary, to protect the well-being and safety of the individual (if agreed to and as long as this does not include victimisation)
    - ensuring no disciplinary action is taken against a whistleblower when the disclosure was made with a genuine or reasonable belief regarding the misconduct, even when that allegation is incorrect
    - facilitating access to legal remedy or compensation where they have experienced detriment as a result of disclosure
    - allowing whistleblowers to make a disclosure to a regulator or legal practitioner. Whistleblowers may also make an emergency or public interest disclosure to a journalist or parliamentarian
    - protecting their identity or identifying information, to the fullest extent possible (with some exceptions such as where it is necessary to share information with the Aged Care Quality and Safety Commission or a lawyer to prevent a serious threat to a person or people)
    - not tolerating any threats, acts or omissions designed to cause detriment to a whistleblower (or another person) in relation to a disclosure. This includes dismissal or termination, demotion, reputational damage or injury or damage to person or property
- ensuring fair treatment of any individuals mentioned in the disclosure informed by the principles of natural justice.
- ensuring the whistleblower policy is easily accessible to all workers, made available to older people, their supporters and other stakeholders on request in a format that the individual can understand.
- providing education and training to workers on:
    - the whistleblower policy and process
    - how to report misconduct and any personal work-related grievances
    - how to handle personal information and data (within their scope)
    - how to recognise and respond to disclosers that qualify for protection
    - when and how to escalate disclosures
    - their roles and responsibilities in the system
    - supporting individuals with specific needs and diverse backgrounds to make disclosures
- providing training regularly, at least annually and when:
    - the person becomes an aged care worker or responsible person for our organisation
    - there is a change to the person's role that affects the person's roles and responsibilities in the system
    - there is a change to how the system works that affects the person's roles and responsibilities in the system
- ensuring all instances of known or suspected misconduct or wrongdoing are reported to a Senior Manager and to the Board for oversight and monitoring.

- keeping confidential and secure records that protect the anonymity or confidentiality of all people involved in the disclosure by:
    - storing all paper and electronic documents and other materials of disclosures safely and securely
    - limiting access to information related to disclosers to those directly involved in managing and investigating disclosures
- keeping all documentation and records for 7 years
- reviewing our organisation's system at least annually and implementing improvements as required.

Roles and Responsibilities

Governing Body

The Governing Body has ultimate responsibility for the organisation's accountability and management of disclosures under its risk management and compliance responsibilities including ensuring matters contained in this policy are endorsed and clearly communicated. The Governing Body ensures systems and processes for effectively managing disclosures are maintained and effective in driving continuous quality improvement. The Governing Body is responsible for building an open and transparent culture where older people, their supporters, workers and visitors are encouraged, supported and feel safe to make disclosures.

Management

Management is responsible ensuring all workers and stakeholders are aware of this policy and understand how to reports concerns. Management are responsible for fostering a culture where disclosures are encouraged, reported and investigated. This includes ensuring workers have the required skills to recognise and response to disclosers that qualify for protection and when and how to escalate disclosures. They are also responsible for monitoring compliance of this policy and related processes and identifying opportunities for improvement such as by reviewing and auditing records, training records and older people's documentation.

Management is responsible for reporting disclosures to the Executive Team/Senior Management and Governing Body and where required, to external agencies.

All Workers, including associated providers, volunteers and students

All Workers, including associated providers (i.e. contractors and agency staff), volunteers and students are required to comply with this Policy and act within their delegated level of authority.

Suggested Evidence

- Records of communications to workers and others about whistleblowing
- Incident register
- Feedback register
- Records of investigations conducted in relation to whistleblower disclosures
- Worker training records and schedules

References

Name	Source

Protections for Referrers, Whistleblowers and Witnesses	National Ani-Corruption Commission
Whistleblowing Information	Australian Securities and Investment Commission
Whistleblower Protections	Fair Work Commission