

# Aged Care Services

## Whistleblower Policy



### Purpose

The purpose of this Policy is to:

- Encourage and support Whistleblowers to raise concerns if they have reasonable grounds to suspect Misconduct.
- Provide details about our system to receive, acknowledge, assess, manage and respond to matters raised in Whistleblower disclosures in a fair, transparent, accessible, safe, culturally safe and timely manner.
- Explain the Whistleblower protections available to Whistleblowers and how we will facilitate Whistleblower disclosures without fear of victimisation, persecution, retribution or personal detriment.
- Ensure all responsible staff are aware of their role in the Whistleblower system to ensure there is a systematic approach to recording, reporting, resolving and following up Whistleblower disclosures.
- Ensure that Whistleblower disclosures contribute to the continuous improvement of our services.
- Fulfil our obligations under the Whistleblower Laws.

### Policy

#### Policy Statement

- As a registered provider for the delivery of funded aged care services, we are committed to high quality care and services, with an emphasis on continuous improvement.
- We acknowledge that Whistleblower disclosures provide valuable insight into the care and services we provide and should be used to promote continuous improvement.
- We encourage and support all Participants, their representatives, registered supporters, staff and other individuals to disclose information relating to wrongdoing. We foster a “blame-free” approach where the objective is to improve and not shift blame where things have gone wrong.
- All Participants (including those that have barriers such as cognitive impairment or language or cultural barriers), their representatives, registered supporters, staff, volunteers and contractors must have access to, and be made aware of, the Whistleblower system.
- Participants and staff have the right to feel safe and are encouraged and supported to make Whistleblower disclosures without fear of victimisation, persecution, retribution or personal detriment. Whistleblower disclosures can be provided anonymously if preferred. Staff will treat all Participants and other staff with respect, including those who make Whistleblower disclosures. Whistleblowers have the right to confidentiality when making Disclosures.
- We ensure that all Whistleblower disclosures are received, acknowledged, assessed, managed, investigated, recorded and resolved in a fair, transparent, accessible, safe, culturally safe and timely manner.

#### Application of this Policy

- A Whistleblower is able to make a Whistleblower disclosure under this Policy if they have reasonable grounds to suspect Misconduct that is conveyed to an Eligible recipient in a manner that qualifies for Whistleblower protections under the Act.
- Whistleblower disclosures can be made orally or in writing and must be made directly to any of the Eligible recipients in order to qualify for the Whistleblower protections.
- A person who is not a Whistleblower will not qualify for the Whistleblower protections under the Whistleblower Laws. This Policy does not apply to matters where the individual making the

Whistleblower disclosure does not have reasonable grounds to suspect a breach of the Act. If a Whistleblower disclosure is made without reasonable grounds, such as a deliberately false, malicious or unfounded Disclosure, disciplinary action may be taken against the individual, including by terminating employment.

- We, our Aged care workers, Responsible persons and Associated providers must comply with this Policy.
- Where we are also a regulated entity under the Corporations Act, this Policy is intended to satisfy the Corporations Act whistleblower policy obligation as well as our Aged Care Act obligations. The Corporations Act obligation applies to public companies, to proprietary companies that have been a large proprietary company for any financial year, and to corporate trustees of registrable superannuation entities; relief from the obligation is available under the ASIC Corporations (Whistleblower Policies) Instrument 2019/1146 to a small not-for-profit public company limited by guarantee whose consolidated revenue is less than \$1 million per financial year. The application of this Policy to our structure under the Corporations Act should be confirmed before issue.

### **Interaction between this Policy and other policies or laws**

- A Whistleblower disclosure may contain information that interacts with other policies and statutory obligations. While the Whistleblower protections are paramount we should seek to comply with this Policy and the other policies and statutory obligations. Where a Whistleblower disclosure includes other matters we will adapt the system set out in this Policy to ensure compliance with our statutory obligations (while also avoiding duplication or time-wasting).
- The nature of the Misconduct does not affect the application of the Whistleblower protections although it may be relevant in determining whether the response to the Misconduct is managed in accordance with this Policy or another policy and/or the nature of the investigation.
- For Aged care workers and Responsible persons, the Aged Care Code of Conduct creates a positive obligation to promptly take steps to raise and act on concerns about the quality and safety of funded aged care services. Where that obligation is discharged through this Whistleblower system, the Whistleblower protections apply.

### **Whistleblower Protections**

#### ***We must:***

- Not take action contrary to the Protections.
- Take such steps as are reasonable to preserve Anonymity.
- Not disclose Confidential information unless it is authorised.
- Not engage in Victimisation.
- Take reasonable steps to ensure our Aged care workers, Responsible persons and Associated providers comply with the Whistleblower protections.
- Take reasonable measures to ensure that, where any of our Aged care workers or Responsible persons receives a Whistleblower disclosure, the recipient does not disclose the fact that the individual was the maker of the disclosure to anyone else, beyond the prompt forwarding to the Whistleblower officer required by the Internal Reporting clause.

#### ***Protections***

- Whistleblowers are protected from certain legal actions which may flow from making the Whistleblower disclosure. The Whistleblower can still however be subject to civil or criminal liability for the conduct of the Whistleblower which may be revealed by the Whistleblower disclosure.

#### ***Anonymity***

- Whistleblowers can elect to make an anonymous report. Anonymous reports remain protected by Whistleblower Laws. Reasonable steps must be taken to preserve the anonymity of the individuals named in the request for Anonymity.
- The Eligible recipients may disclose the name of individuals in certain circumstances, such as where disclosing the name would prevent a serious threat to the health, safety or well-being of another individual. The Eligible recipients should consider other ways of lessening or preventing this risk before deciding to disclose a name.

### **Confidentiality**

- Confidential information cannot be disclosed if it was obtained directly or indirectly because of the Whistleblower disclosure unless it is an Authorised disclosure.
- Confidential information may also be disclosed if:
  - it is not the identity of the Whistleblower;
  - it is reasonably necessary for dealing with the subject-matter of the Whistleblower disclosure (for example, to investigate); and
  - all reasonable steps are taken to reduce the risk that the Whistleblower will be identified by revealing the Confidential information.

### **Victimisation**

- We do not tolerate Victimisation, and such conduct will be treated as serious misconduct that may result in disciplinary action.
- Victimisation does not include administrative action that is reasonable to protect the Whistleblower from detriment. For example, moving a Whistleblower who has made a report about their immediate work area to another office, to prevent them from detriment or reasonably managing a Whistleblower's unsatisfactory conduct or work performance.

### **Compensation and Penalties**

- Individuals the subject of Victimisation may be entitled to compensation for any loss, damage or injury as a result of the Victimisation. In some circumstances, we may also be required to compensate the individual for failing to take reasonable precautions and exercise due diligence to prevent the Victimisation. The individual may also have other legal rights to prevent, stop or remedy the effects of Victimisation.
- Civil penalties may be imposed for disclosing Confidential information or engaging in Victimisation.
- Under the Aged Care Act, the maximum civil penalty for a breach of the confidentiality of identity of a Whistleblower is 30 penalty units, and the maximum civil penalty for Victimisation is 500 penalty units.
- Under the Corporations Act, a breach of the confidentiality of identity of a Whistleblower is both a criminal offence and a civil penalty contravention.
- Penalty units are valued under the Crimes Act 1914 (Cth) and may change over time.

### **Complaints or Feedback**

- This Policy does not cover Complaints or Feedback which do not relate to Misconduct, such as disagreements between colleagues or Personal work-related grievances. These matters may be dealt with under our [Complaints and Feedback Policy](#) or [Resolving Workplace Grievances Policy](#)
- If a Complaint or Feedback qualifies for Whistleblower protections, it must be managed as a Whistleblower disclosure unless, if the Misconduct is a breach of the Aged Care Act, the Whistleblower elects to have it managed as a Complaint or Feedback in accordance with the Complaints and feedback system.

- The disclosure of Confidential information is authorised if the Whistleblower disclosure is managed as a Complaint or Feedback. Without limiting the Complaints and feedback system, management of the disclosure includes using a resolution approach to, in the case of a Complaint, resolve the issues and, in either case, contribute to continuous improvement. We must still take action to ensure that the Discloser is not subject to any detriment, victimisation or reprisal and is involved in the resolution process. The election authorises the disclosure of the Whistleblower's identifying information for the purposes of managing the matter as a Complaint or Feedback. It does not affect the operation of the Whistleblower protections under the Whistleblower Laws, which continue to apply to the Whistleblower.

#### **Dual-status triage at intake.**

- When we receive a Complaint or Feedback we assess at first contact whether the matter is, or may be, a Whistleblower disclosure under this Policy.
- Where the matter is, or may be, a Whistleblower disclosure, we will explain to the Discloser that the matter may be managed as a Whistleblower disclosure under this Policy or as a Complaint or Feedback under our *Complaints and Feedback Policy*, and that the choice belongs to the Discloser.
- We will discuss with the Discloser their preferences as to identity protection and involvement in the resolution process, applying the framework in the next sub-clause.
- We will offer the Discloser the election to have a Whistleblower disclosure managed as a Complaint or Feedback under our *Complaints and Feedback Policy*, and we will record the election (or no election).
- We will manage the matter consistently with the Discloser's choice, applying the protections that the Whistleblower Laws provide where the matter is a Whistleblower disclosure.

#### **Factors that may inform the Discloser's choice between the routes.**

- The definitions of Complaint, Feedback (including Compliments and Comments) and Whistleblower disclosure under this Policy and our *Complaints and Feedback Policy* are the primary determinant of what a matter is. The factors below typically inform the Discloser's choice between routes and are useful in the discussion at the dual-status triage step above, particularly where the matter is, or may be, a Whistleblower disclosure and the Discloser is considering whether to elect to have it managed as a Complaint or Feedback under our *Complaints and Feedback Policy*.
- A Discloser who does not require identity protection and wants to be involved in the resolution will often prefer the matter to be dealt with as a Complaint under our Complaints and Feedback Policy.
- A Discloser who does not require identity protection and does not want to be involved in the resolution will often prefer the matter to be dealt with as Feedback under our *Complaints and Feedback Policy*.
- A Discloser who is, or may be, a Whistleblower and who requires identity protection and wants to be involved in the resolution will often prefer the matter to be managed as a Whistleblower disclosure under this Policy with confidentiality of identity preserved.
- A Discloser who is, or may be, a Whistleblower and who requires identity protection and does not want to be involved in the resolution will often prefer the matter to be managed as a Whistleblower disclosure under this Policy with anonymity of identity preserved. Whichever route is chosen, on election a Whistleblower disclosure may be managed as a Complaint or Feedback under our *Complaints and Feedback Policy*, and the Whistleblower protections continue to apply to the Whistleblower regardless of which Policy is governing the management of the matter.

## **System**

### **Our Whistleblower system:**

- Supports the operation of the Whistleblower protections under the Act.

- Ensures that the identity of Whistleblowers is kept confidential and that they are protected from victimisation, persecution, retribution or personal detriment for making a Whistleblower disclosure.
- Enables individuals to disclose information to us, our Responsible persons or our Aged care workers.
- Enables Disclosures to be made orally and in writing, and anonymously.
- Will be reviewed at least annually and more frequently if required to ensure it meets all of the mandatory requirements of the Act and this Policy.

### **Form of Report**

- A Whistleblower disclosure under this Policy can be made at any time (including out of normal business hours) either verbally or in writing. Should a Whistleblower wish to seek additional information before formally making their disclosure, they may contact the Whistleblower officer or an independent legal adviser.
- The Disclosure should include supporting documentation, the grounds for making the Disclosure and details of all relevant facts.

### **Reasonable grounds and false claims**

- A Whistleblower must have reasonable grounds to suspect that the information indicates that an entity such as us, a Responsible person, an Aged care worker, an Associated provider, or another entity may have contravened a provision of the Act. A Whistleblower disclosure may have serious consequences for the person(s) who are the subject of allegations of Misconduct. A Whistleblower may still qualify for protection even if their Whistleblower disclosure turns out to be incorrect.
- Knowingly making a false report or making a report without reasonable grounds as to truth or accuracy, is considered a serious breach of policy. If the Whistleblower disclosure is under the Corporations Act, knowingly making a false report may lead to criminal liability.

### **Anonymity and Confidentiality**

- When making a Whistleblower disclosure, individuals can request that their name, or any other individual named in the disclosure, remains anonymous.
- A Whistleblower who wishes to remain anonymous should maintain ongoing two-way communication with the Whistleblower officer or other internal Eligible recipient, so we can ask any follow-up questions or provide Feedback.
- A Whistleblower may also consent to the disclosure or partial disclosure of Confidential information. This may be clear from the Whistleblower disclosure or after discussion with them. Discuss with the Whistleblower the disclosure of Confidential information if it is needed to effectively investigate and address the Misconduct.

### **Who to make a Whistleblower disclosure to**

- Whistleblower disclosures must be made directly to any of the Eligible recipients in order to qualify for the Whistleblower protections.
- The Whistleblower officer can be contacted in relation to any queries about the reporting process under this Policy.
- Information about how to contact the Eligible recipients is set out in the Schedule. The contact details in the Schedule are current as at the date of issue and the most up-to-date pathway should be confirmed before disclosure.

## Internal Reporting

- We encourage all Whistleblowers to consider making an internal Whistleblower disclosure in the first instance, as this will enable us to identify and address any Misconduct as early as possible.
- In order to make an internal Whistleblower disclosure, the Whistleblower should contact one of the following Eligible recipients: Us, the Whistleblower officer, a Responsible person or an Aged care worker of the provider. Contact details are available in our published information or upon request from the Whistleblower officer.
- Any Whistleblower disclosure received by one of our Responsible persons or an Aged care workers must be promptly forwarded to the Whistleblower officer and Eligible recipients will only provide the Whistleblower's identity to the Whistleblower officer where the Whistleblower has consented.

## External Reporting

Although our preference is that a Whistleblower first contact an internal Eligible recipient, alternatively, the Whistleblower may also choose to make a Whistleblower disclosure directly to an external Eligible recipient.

## Assessment of a Whistleblower disclosure

- The Whistleblower officer (in conjunction with other relevant persons on our behalf, where applicable/required) will as soon as practicable after the Whistleblower disclosure is made review the Whistleblower disclosure to assess whether it qualifies for Whistleblower protections and falls within this Policy. Non-qualifying disclosures requiring no investigation in line with this Policy will be notified to the Discloser, who can elect to raise it as a Complaint or Feedback instead. Such disclosures may be protected under other legislation, such as the Fair Work Act 2009.
- If the Misconduct in a Whistleblower disclosure that qualifies for protection is a breach of the Aged Care Act, the Whistleblower officer should ask the Whistleblower whether they elect to have their Whistleblower disclosure managed as a Complaint or Feedback instead in which case the Disclosure will be managed under our *Complaints and Feedback Policy*.
- The Whistleblower officer will assess how the Whistleblower disclosure that is to be managed in accordance with this Policy is to be investigated and the form of it having regard to the nature of the Misconduct. The Whistleblower officer should consider whether:
  - The Misconduct warrants an investigation in accordance with this Policy or a different policy or in a different form, or some other review having regard to the nature and extent of the non-compliance. Factors that may be taken into account include those which may guide the approach of the Aged Care Quality and Safety Commissioner to compliance and enforcement (see Compliance and Enforcement Policy). For example, serious, high risk and/or recurrent non-compliance may warrant a more formal, in-depth investigation. Minor, low risk and/or isolated non-compliance may warrant a review of the facts.
  - The investigation procedures may be adapted to meet or comply with other policies as appropriate ensuring that at all times compliance with our statutory obligations.
  - The Whistleblower disclosure concerns an incident that must be managed according to another policy or statutory obligations, for example, the incident management system and/or serious incident reporting requirements.
- The Whistleblower officer will provide the CEOs with an update on the outcome of all assessments made.

## **Investigation of a Whistleblower disclosure**

- The Whistleblower officer will carry out (or supervise) the investigation under this Policy. Where necessary, the Whistleblower officer may use an external investigator or expert to conduct or assist with an investigation.
- When an investigation relates to our CEO/s, the Whistleblower officer or a member of the governing body, it will be directed to the chair of the governing body who will determine who the investigator will be. If it relates to the chair of the governing body, the other members of the governing body will determine who the investigator will be.
- All reasonable steps will be taken to ensure that the investigation is conducted fairly, independently, without bias, in a timely manner having regard to the subject-matter and in accordance with procedural fairness. The Whistleblower officer may request further information from the Whistleblower in the course of the investigation.
- All reasonable efforts will be made to preserve the confidentiality of the investigation, and the identity of the parties involved, including the anonymity of the Whistleblower where this has been requested. All personal information or reference to the Whistleblower witnessing an event will be redacted, and the Whistleblower will be referred to in a gender-neutral context.
- Where possible, the Whistleblower will be contacted to help identify certain aspects of their disclosure that could inadvertently identify them, and Whistleblower disclosures will be handled and investigated by qualified staff.
- However, we may not be able to undertake an investigation (or an investigation may be limited) if we are not able to contact the Whistleblower or if the Whistleblower disclosure is made anonymously.
- Eligible recipients will need to forward the Whistleblower disclosure to the Whistleblower officer for the purposes of conducting their investigation. Eligible recipients will not be breaching confidentiality by forwarding the Disclosure to the Whistleblower officer.
- Individuals against whom an allegation is made must also be supported during the investigation process. Accordingly, we and the Whistleblower officer will take all reasonable steps to treat any person who is the subject of Whistleblower disclosure fairly, including by:
  - Informing that person of the substance of the allegations that are the subject of the investigation.
  - Offering that person a right to submit a response.
  - Informing that person about the substance of any adverse conclusion at the end of the investigation process.

## **Reporting**

- At the end of an investigation, findings will be made about whether or not there has been Misconduct. Findings may be that an allegation of Misconduct is fully substantiated; partially substantiated, not able to be substantiated, or disproven.
- The findings will be communicated (subject to any conflicts of interest) to the CEO/s and any person the subject of the alleged Misconduct and may be communicated to the Whistleblower and any other person concerned or mentioned in the Whistleblower disclosure, as determined by the CEO or the Chair of the governing body, in the case of a conflict of interest.
- The findings will be documented and reported in a manner that preserves confidentiality. The method for documenting and reporting the findings will depend on the nature of the Whistleblower disclosure.
- The CEO/s (or their delegate) will take appropriate action in relation to the findings, which may include requiring further investigations, recommending disciplinary action, referring the matter to the Board for determination and/or notifying regulatory bodies. Any findings that relate to criminal activity will be reported to the police and/or regulators.

## **Updates**

- The Whistleblower will be provided with periodic updates in relation to the status of any investigation (including that one has commenced), at such intervals and in such form to be determined by the Whistleblower officer (including, if necessary, through anonymous channels).
- The frequency and/or timeframe of updates on the investigation may vary depending on the nature of the Disclosure.

## **Review of investigation findings**

- If a Whistleblower is not satisfied with the outcome of an investigation, they may make a request to the Whistleblower officer that a review be conducted (or lodge a Complaint with the Aged Care Quality and Safety Commissioner, the Complaints Commissioner or a member of the staff of the Aged Care Quality and Safety Commission).
  - If the Whistleblower officer determines that a review should be conducted, it will be conducted by an investigator who was not involved in the handling and investigation of the original Disclosure.
  - The Whistleblower officer may determine that the review should not be conducted including having regard to the nature of the Whistleblower disclosure, whether new information is either not available or would not change the findings of the original investigation or does not support a finding that the original investigation was not conducted properly.
  - On review the findings of the investigation will be reconsidered and the reviewer will decide whether to affirm the findings, vary them or set them aside and make new findings. A review does not require an investigation be reopened.

## **Continuous Improvement**

- The Whistleblower officer and/or the CEO/s, as the case may be, will ensure that:
  - Improvements are made taking into account Whistleblower disclosures.
  - The effectiveness of actions taken in response to Whistleblower disclosures and related outcomes are evaluated.
  - The time taken for the resolution of each Whistleblower disclosures are recorded.
  - Staff receive education and training in relation to the learnings from each Whistleblower disclosure if appropriate.

## **Protection of Whistleblowers**

- The Whistleblower officer will safeguard the interests of Whistleblowers and will ensure the integrity of the reporting system. The Whistleblower officer is responsible for taking steps to safeguard the interests of the Whistleblower, including:
  - Maintaining the privacy and confidentiality of the Whistleblower, including ensuring that communications and documentation are appropriately secured.
  - Ensuring that all valid Whistleblower disclosures are taken seriously and investigated fairly.
  - Keeping the Whistleblower informed of developments, including progress and outcome of the investigation.
  - Upon receiving a Whistleblower disclosure, making an assessment of the risk to the Whistleblower of any detrimental treatment occurring and implementing any necessary procedures to appropriately address this risk. This may include:
    - Permitting the Whistleblower to perform their duties from another location.
    - Reassigning the Whistleblower to another role at the same level.

- Making modifications to the Whistleblower's workplace or the way they perform their work duties.
  - Reassigning or relocating other staff involved in the Disclosure.
  - Allowing the Whistleblower to take extended leave.
  - Working with the Whistleblower to develop a career development plan including new training and career opportunities.
- Monitoring the effectiveness of Whistleblower protections offered under this Policy.
- A Whistleblower disclosure can be made anonymously. A Whistleblower:
  - Can choose to remain anonymous while making a Whistleblower disclosure, over the course of the investigation and after the investigation is finalised.
  - Can refuse to answer questions that they feel could reveal their identity during follow-up conversations.
  - May choose to adopt a pseudonym for the purposes of their Whistleblower disclosure, and not use their true name.
- We will not disclose the Whistleblower's identity or information that is likely to lead to identification unless the disclosure is authorised. It is illegal for a person to identify a Whistleblower or disclose information that is likely to lead to the identification of the Whistleblower, unless the disclosure is authorised.
- If there has been a breach of anonymity, confidentiality or victimisation, a Whistleblower may bring their concern to the attention of the Whistleblower officer, seek independent legal advice, contact regulatory bodies, or apply to the court for an order. Examples of regulatory bodies to which a complaint may be lodged include the Aged Care Quality and Safety Commission and the Complaints Commissioner. The orders the court may make include an injunction, compensation, reinstatement, or exemplary damages.
- All Whistleblower disclosures will be confidential. However, when a report is investigated, it may be necessary to disclose the details of the allegations to certain members of our Responsible persons, external persons involved in the investigation process, to relevant law enforcement agencies and/or as otherwise required or authorised by law. For example, under the 'open disclosure requirements', we may also be required to inform Participants, in some circumstances, of the relevant Misconduct that has been reported. In these contexts, we will ensure that all reasonable steps are taken to reduce the risk of the Whistleblower being identified without consent – for example, de-identifying names, locations and personal information.
- All files and records created from an investigation will be handled confidentially and retained in secure files and any unauthorised release of information will be regarded as a breach of this Policy. Access to information in relation to Whistleblower disclosures will be limited only to those persons requiring access for the purposes of this Policy.
- We are committed to protecting and respecting the rights of a Whistleblower and will ensure that the identity of Whistleblowers is kept confidential and that they are protected from victimisation, persecution, retribution or personal detriment for making a Whistleblower disclosure. We will not tolerate any victimisation, detrimental treatment or retaliatory action against a Whistleblower or against their colleagues, associates, or family. Any such treatment will be treated as serious Misconduct by us and may result in disciplinary action.

## **System Requirements**

- We will prepare and keep up to date documents detailing the system and the roles and responsibilities of our Aged care workers and Responsible persons in relation to the system, which must be given to them.

- We will require our Aged care workers and Responsible persons to comply with the Whistleblower system, ensure they are aware of, and understand, their roles and responsibilities and train them about how the system works including about:
  - How to handle personal information and data.
  - How to recognise and respond to Whistleblower disclosures.
  - Managing relationships and clearly communicating with Whistleblowers.
  - When and how to escalate Whistleblower disclosures.
  - Their roles and responsibilities.
  - The roles of: Staff in receiving and managing Complaints or Feedback; Eligible recipients in receiving Whistleblower disclosures; and Whistleblower officer in managing and resolving Whistleblower disclosures.
  - The penalties for contravening Whistleblower Laws.
- We will conduct training about how the system works must be at least annually and when:
  - When the person becomes an Aged care worker or Responsible person.
  - When there is a change to how the system works that affects the person's roles and responsibilities in the system.
  - When there is a change to the person's role that affects the person's roles and responsibilities in the system.
- We will communicate regularly, and at least monthly, to our Aged care workers and Responsible persons that Whistleblower disclosures are welcome.

## **The Support we will provide**

- When we receive a Whistleblower disclosure, we will manage it in accordance with the Whistleblower system and take appropriate action as soon as is reasonably practicable after the Whistleblower disclosure is made.
- We will support the individual who makes the Whistleblower disclosure and any other individual or entity that employs or is associated with the individual.
- We will ensure the fair treatment of any Responsible person or Aged care worker of the provider who is mentioned in the Whistleblower disclosure or to whom the Disclosure relates.
- We will ensure that the identity of Whistleblowers is kept confidential and that they are protected from victimisation, persecution, retribution or personal detriment for making a Whistleblower disclosure.

## **Policy Communication and Review**

- We will publish this Policy in an accessible form that:
  - Describes the Whistleblower protections, how a Whistleblower disclosure can be made to us and/or to other persons, and how we will manage and investigate the Whistleblower disclosure.
  - Explains the supports that we will provide and how we will ensure that the identity of Whistleblowers kept confidential and protected from victimisation, persecution, retribution or personal detriment for making a Whistleblower disclosure.
  - Sets out what the Whistleblower can do if they suspect there has been a breach of the Whistleblower protections.
- We will give the policy published in an accessible form to our Participants, Aged care workers and Responsible persons and any person who requests the policy including a supporter of a Participant.
- Where we are also a regulated entity under the Corporations Act, we will make this Policy available to our officers and employees (within the meaning of the Corporations Act) by the same channels used for our Aged care workers and Responsible persons, and on request.

- We will help Participants to understand how the Whistleblower system works and, if a Participant needs it to understand the policy published in an accessible form, translate it or present it in an alternative format.
- We will communicate regularly, and at least monthly, to our Aged care workers, Responsible persons and Participants and their supporters that Whistleblower disclosures are welcome.

## Definitions

- **Act** means Aged Care Act and/or Corporations Act
- **Aged Care Act** means Aged Care Act 2024 (Cth) and Aged Care Rules 2025 (Cth).
- **Aged care worker** has the same meaning as in the Aged Care Act.
- **Anonymity** means:
  - Aged Care Act: If a Whistleblower requests that their name, or any other individual named in the Whistleblower disclosure remain anonymous, the Eligible recipients must take such steps as are reasonable in the circumstances to preserve the anonymity of the individuals named in the request.
  - Corporations Act: Not applicable.
- **Associated provider** has the same meaning as in the Aged Care Act.
- **Authorised disclosure** means:
  - Aged Care Act:
    - It is made to the Aged Care Quality and Safety Commissioner, the Complaints Commissioner or a member of the staff of the Aged Care Quality and Safety Commission, the System Governor or an official of the Department of Health, Disability and Ageing, the Inspector-General of Aged Care, a police officer or a court, tribunal or Royal Commission.
    - It is made to a legal practitioner for the purpose of obtaining legal advice or legal representation in relation to the operation of the Whistleblower Laws.
    - The Whistleblower consents.
    - It is necessary to lessen or prevent a serious threat to the safety, health or wellbeing of one or more individuals.
    - The Whistleblower elects to have the Whistleblower disclosure managed or dealt with as a Complaint or Feedback, or as a complaint to the Complaints Commissioner.
    - The confidential information was in the public domain before the Whistleblower disclosure was made.
  - Corporations Act:
    - To ASIC, APRA, Australian Federal Police officer, an authority prescribed by the Corporations Act, court, tribunal or Royal Commission
    - It is made to a legal practitioner for the purpose of obtaining legal advice or legal representation in relation to the operation of the Whistleblower Laws.
    - The Whistleblower consents.
- **Comment** means Feedback that is neither positive nor negative - an observation, an idea or a suggestion - where a response or resolution is not expected or required.
- **Complaint** means an expression of dissatisfaction made to or about us related to our accommodation, care, services, staff or management where a response or resolution is expected or required. It may include wrongdoing or a Whistleblower disclosure that the Whistleblower elects to have treated as a Complaint or Feedback. It does not include a request for services, updates, information or review of a decision (if there is a review mechanism).
- **Complaints and feedback officer** means the nominated individual who acts on behalf of us in receiving Complaints or Feedback.

- **Complaints and feedback system** means the system for the management and resolution of Complaints and Feedback.
- **Compliment** means positive Feedback about our care, services or workforce.
- **Confidential information** means:
  - The identity of the Whistleblower.
  - Information that is likely to lead to the identification of the Whistleblower.
- **Corporations Act** means the Corporations Act 2001 (Cth).
- **Discloser** means an individual who conveys a Complaint or Feedback or who has elected to have their Whistleblower disclosure under the Aged Care Act treated as a Complaint or Feedback.
- **Disclosure** means a Complaint, Feedback or a Whistleblower disclosure under the Aged Care Act that is to be treated as a Complaint or Feedback.
- **Eligible recipient** means an individual or entity to whom a Whistleblower disclosure can be made to qualify for Whistleblower protection.
  - Aged Care Act:
    - Internal Eligible recipients include: us, the Whistleblower officer, a Responsible person, Aged care worker; and
    - External Eligible recipients include the Aged Care Quality and Safety Commissioner, the Complaints Commissioner or a member of the staff of the Aged Care Quality and Safety Commission, the System Governor, or an official of the Department of Health, Disability and Ageing, a police officer, an independent aged care advocate.
    - Note: a disclosure to the Inspector-General of Aged Care is not itself a qualifying Whistleblower disclosure under the Aged Care Act, but is an authorised onward disclosure for the purposes of the confidentiality of identity provisions (see the Authorised disclosure definition).
  - Corporations Act:
    - Internal Eligible recipients include us, the Whistleblower officer (as a person authorised by us to receive disclosures), an officer, a senior manager, an auditor or member of an audit team conducting an audit, and an actuary (where we have one); and
    - External Eligible recipients include ASIC, APRA, the Australian Taxation Office, or any other Commonwealth authority prescribed by the Corporations Act. External Eligible recipients may also include journalists or Parliamentarians, but only where the disclosure is a Public interest or emergency disclosure.
- **Feedback** means an expression made to or about us related to our accommodation, care, services, staff or management that is either a Compliment or a Comment. A Complaint is not Feedback.
- **Misconduct** means in relation to us, a related entity, a Responsible person, an Aged care worker, an officer or employee of ours:
  - Aged Care Act:
    - A breach of the Aged Care Act.
    - A breach of rules and standards made under the Aged Care Act including the Aged Care Rules 2025, the Aged Care Quality Standards and the Aged Care Financial and Prudential Standards 2025.
  - Corporations Act:
    - Misconduct as defined in the Corporations Act including fraud, money laundering or misappropriation of funds, negligence, offering or accepting a bribe, default, breach of trust and breach of duty.
    - Improper state of affairs or circumstances.

- Conduct that breaches the Corporations Act, Australian Securities and Investments Commission Act 2001 (Cth), Banking Act 1959 (Cth), Financial Accountability Regime Act 2023 (Cth), Financial Sector (Collection of Data) Act 2001 (Cth), Insurance Act 1973 (Cth), Life Insurance Act 1995 (Cth), National Consumer Credit Protection Act 2009 (Cth) or Superannuation Industry (Supervision) Act 1993 (Cth) (or regulations made under those laws).
- Conduct that constitutes an offence against any other law of the Commonwealth that is punishable by imprisonment for a period of 12 months or more.
- Conduct that represents a danger to the public or the financial system. or
- Conduct that is otherwise prescribed by the Act,
- but does not include a Personal work-related grievance unless it concerns Victimisation, the disclosure includes information about Misconduct, the disclosure is made in seeking legal advice or legal representation about the operation of the whistleblower protections or has significant implications for us beyond the discloser's personal circumstances.
- Misconduct may include conduct that does not necessarily involve a contravention of a particular law, but only conduct that meets the qualifying threshold under one of the Acts will attract Whistleblower protections.
- **Participant** means an individual accessing funded aged care services from us.
- **Personal work-related grievance** means:
  - Aged Care Act: Not applicable.
  - Corporations Act: A grievance that relates to the discloser's own employment (or former employment), and which:
    - may have implications for the discloser personally;
    - does not have any other significant implications for us; and
    - does not relate to any conduct, or alleged conduct, about Misconduct.
- **Protections** means the following protections against legal action:
  - The Whistleblower is not subject to any civil, criminal or administrative liability for making the Whistleblower disclosure, including disciplinary action. and
  - No contractual or other remedy may be enforced, and no contractual or other right may be exercised, against the Whistleblower on the basis of the disclosure, including termination of a contract with the Whistleblower on the basis the disclosure is a breach of contract.
- **Public interest and emergency disclosures** has the same meaning as in the Corporations Act and refers to when a Whistleblower may be permitted to make a public interest or emergency disclosure to a Member of Parliament or a journalist (see ASIC Fact Sheet).
- **Responsible person** has the same meaning as in the Aged Care Act.
- **Victimisation** means conduct or threatened conduct that causes or threatens to cause detriment to an individual (or an individual or entity associated with the individual) where:
  - The perpetrator believes or suspects that the first individual or another individual has, may have, or intends to make, a Whistleblower disclosure; and
  - The belief or suspicion is the reason, or part of the reason, for the conduct,
  - but does not include administrative action that is reasonable to protect the Whistleblower from detriment.
  - The Corporations Act further defines Victimisation to include (noting this conduct may also fall with the Aged Care Act prohibition):
  - Dismissal or alteration of an employee's position or duties to their disadvantage.
  - Harm, injury (including psychological harm), or damage to a person or a person's property, reputation, business, or financial position.

- Discrimination.
- Harassment or intimidation.
- **We/us** means the registered provider.
- **Whistleblower** means an individual who has reasonable grounds to suspect Misconduct and conveys that information to an Eligible recipient; and the disclosure of the information qualifies for Whistleblower protections under the Act.
  - Aged Care Act: The individual may be any person including an Aged care worker or Responsible person.
  - Corporations Act: The individual must be a person who is, or has been, an officer, employee, a supplier to or associate of us (associate includes a related body corporate, a director or secretary, and certain other connected persons as defined under the Corporations Act), or a relative or dependant of such a person, or a dependant of such a person's spouse.
- **Whistleblower disclosure** means a disclosure of information by an individual who has reasonable grounds to suspect Misconduct made orally or in writing to an Eligible recipient that qualifies for Whistleblower protections under the Act.
- **Whistleblower Laws** means the laws in the Aged Care Act and the Corporations Act.
- **Whistleblower officer** means the nominated individual who acts on behalf of us receiving, managing, investigating, resolving and responding to Whistleblower disclosures in line with this Policy.
- **Whistleblower protection** means the Protections, the preservation of Anonymity, the confidentiality of the identity of Whistleblowers and prohibited Victimisation.
- **Whistleblower system** means the system for ensuring compliance with the Whistleblower protections.

## Document control

| Version | Date approved | Approved by                                                  | Next review date | Comment                                                                                                     |
|---------|---------------|--------------------------------------------------------------|------------------|-------------------------------------------------------------------------------------------------------------|
| 1.0     | 3/7/2026      | S. Mathews - General Manager Operations - Aged Care Services | 3/7/2029         | New policy specific to Aged Care Services. Previously incorporated into the Intereach Whistleblower Policy. |

## **Schedule - External Eligible recipient contact details**

These contact details are current as at the date of issue of this Policy. They should be confirmed before any disclosure. The list reflects the External Eligible recipients to whom a qualifying Whistleblower disclosure may be made under each of the Whistleblower Laws applicable to us.

### **Aged Care Act 2024 (Cth) - section 547(a) external recipients**

#### ***Aged Care Quality and Safety Commission - Commissioner, Complaints Commissioner and members of the staff***

Telephone: 1800 951 822

Online: [agedcarequality.gov.au/making-complaint/lodge-complaint](https://agedcarequality.gov.au/making-complaint/lodge-complaint)

Email: [info@agedcarequality.gov.au](mailto:info@agedcarequality.gov.au)

Postal: Aged Care Quality and Safety Commission, GPO Box 9819, in your capital city

#### ***System Governor (Secretary of the Department of Health, Disability and Ageing) and officials of the Department***

Telephone: My Aged Care 1800 200 422

Online: [health.gov.au/contact-us](https://health.gov.au/contact-us)

Postal: MDP 545, GPO Box 9848, Canberra ACT 2601

#### ***Police officer***

Telephone: Emergency 000; non-emergency 131 444 or the relevant State or Territory police service

#### ***Independent aged care advocate - Older Persons Advocacy Network (OPAN)***

Telephone: 1800 700 600

Online: [opan.org.au](https://opan.org.au)

Email: [contact@opan.org.au](mailto:contact@opan.org.au)

### **Inspector-General of Aged Care - authorised disclosure under section 550(2)(c)**

A disclosure to the Inspector-General is not itself a section 547 qualifying disclosure but is an authorised disclosure for the purposes of section 550(2)(c).

#### ***Office of the Inspector-General of Aged Care***

Telephone: 1800 854 977

Online: [igac.gov.au](https://igac.gov.au)

Email: [enquiries@igac.gov.au](mailto:enquiries@igac.gov.au)

### **Corporations Act 2001 (Cth) - section 1317AA(1) external recipients**

#### ***Australian Securities and Investments Commission (ASIC)***

Telephone: 1300 300 630

Online: [asic.gov.au/about-asic/asic-investigations-and-enforcement/whistleblowing](https://asic.gov.au/about-asic/asic-investigations-and-enforcement/whistleblowing)

Postal: Australian Securities and Investments Commission, GPO Box 9827 in your capital city

***Australian Prudential Regulation Authority (APRA)***

Telephone: 1300 558 849

Online: [apra.gov.au/contact-us](http://apra.gov.au/contact-us)

Postal: Australian Prudential Regulation Authority, GPO Box 9836, Sydney NSW 2001

***Australian Taxation Office (where the disclosure is also a tax whistleblower disclosure under Part IVD of the Taxation Administration Act 1953 (Cth))***

Telephone: 1800 060 062 (Tax Integrity Centre)

Online: [ato.gov.au/about-ato/whistleblowers](http://ato.gov.au/about-ato/whistleblowers)