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## WHISTLEBLOWER POLICY AND PROCEDURE

### 1. Policy Statement

This policy is designed for to meet the whistleblower and complaints requirements of the **Aged Care Act 2024** (*the Act*) and **Aged Care Rules 2025** (*the Rules*).

Multicultural Care is committed to the principles of transparency and accountability and views whistleblowing as an opportunity to reflect upon organisational procedures and promote an ethical culture.

Where an employee, contractor, consultant, supplier, volunteer, governing body member or service user (including their family, supporters and carers) believes, on reasonable grounds, that another person or persons associated with the organisation has been involved in illegal, improper or unethical conduct, they are encouraged and supported to report the conduct without reprisal or consequence.

Multicultural Care protects Whistleblowers from retaliatory action of any kind including:

- Dismissal;
- Demotion;
- Harassment or discrimination;
- Victimisation of any kind;
- Current or future bias; or
- Threats of any of the above.

MC encourages and supports the reporting of any conduct which may be considered illegal, unethical or an act of serious wrongdoing. MC provides protections so that people can feel safe that they can report concerns confidentially and without fear of reprisal, disadvantage, or intimidation.

The purpose of this Policy is to provide guidance on how to raise concerns about suspected or actual unethical or illegal behaviour in good faith.

### 2. Who does this policy apply to?

Multicultural Care is committed to the highest standards of integrity, transparency and accountability in the delivery of aged care services. This policy provides for a safe, confidential process for any person to raise concerns about suspected or actual misconduct and reflects the mandatory whistleblower protections in the *Aged Care Act 2024* and the *Aged Care Rules 2025*.

Individuals who make disclosures about Reportable Conduct as defined in this Policy and are eligible for whistleblower protections under the law whether the disclosure is made under this Policy are whistleblowers.

#### Who this policy applies to

This policy covers all people who interact with Multicultural Care, including:

- employees (permanent, part-time, casual, fixed term and agency staff):
- contractors, consultants and suppliers of goods and services;

- volunteers, students and governing body members; and
- service users, their supporters, representatives, family members, carers and independent advocates.

### 3. Definitions

- **Anonymity:** is when one's identity is unknown. In the case of an anonymous Whistleblower, their identity is not known by anyone, including those who receive and investigate the Qualifying Disclosure.
- **Confidentiality:** is when one's identity is protected to prevent harm. In the case of a Whistleblower, their identity may be known to those receiving and investigating the Qualifying Disclosure, but their identity is protected from the broader organisation and public.
- **Discloser (or Whistleblower):** Any person who makes a Qualifying Disclosure about a suspected contravention or misconduct in the provision of aged care.
- **Detriment:** Any disadvantage, harm or adverse treatment including dismissal, demotion, discrimination, harassment, intimidation, injury, property damage, reputational harm, or threats of these.
- **Qualifying Disclosure:** A disclosure of information by a person which:
  - is made to one of the people or entities set out in Section 547 of the Act;
  - is made either orally or in writing, and either anonymously or not; and
  - the Discloser has reasonable grounds to suspect indicates that an entity may have contravened the Act.
- **Responsible person:** Member of the governing body or any person in a role designated as a responsible person by the organisation.
- **Whistleblower Protection Officer (WPO):** A designated senior role responsible for implementing this Policy, receiving and triaging disclosures, safeguarding disclosers, coordinating investigations and system improvements.
- **Reportable Conduct includes any past, present, or likely future activity which**
  - a) Is in breach of legislation or regulations, or which is otherwise illegal (eg violence or threatened violence against another person and property damage);
  - b) Is fraudulent or dishonest;
  - c) Could cause financial or non-financial damage to the organisation, or the reputation of the organisation;
  - d) Is a systemic, wilful, or serious breach of the organisation's Code of Conduct, policies, and procedures;
  - e) Constitutes maladministration (that is conduct that is in breach of the law, is unreasonable or improperly discriminatory or based wholly or partly on improper motives);
  - f) Infringes on the rights of any person;
  - g) Endangers the health and safety of others;
  - h) Is a misuse of organisational, public, or other funds;

- i) Is any sexual offence or sexual misconduct or sexual harassment;
- j) Is dishonest or corrupt behaviour such as theft or misappropriation of funds or property or bribery;
- k) Amounts to interfering or impeding internal or external audit processes or investigations;
- l) Involves victimisation of someone for reporting a Reportable Conduct; or
- m) Involves any instructions to cover up serious wrongdoing.

- **Non-Reportable Conduct**

For the purposes of this Policy, Reportable Conduct does not include:

- Personal employment or work-related grievances that have implications for the employee personally but do not have significant implications for Multicultural Care or do not concern Reportable Conduct.
  - Examples of personal work-related grievances include any interpersonal conflict between the whistleblower and another employee and a decision relating to their employment such as not being hired, promoted, being suspended or fired.
- **Report means:** a report made on an alleged misconduct in relation to the organisation.
  - **Whistleblower:** is a person associated with the organisation, whether it be a Board Member, Chief Executive Officer, employee, contractor or volunteer, spouse or family members, who discloses information regarding organisational wrongdoing/misconduct.

#### 4. Procedures

##### Development and review of this policy

This policy is established in consultation with management, employees, volunteers and, where appropriate, service users and their representatives, including consideration of their views on reporting mechanisms and protections.

The governing body is responsible for implementing this policy, fostering a culture of 'speaking up', and evaluating and improving its effectiveness.

This policy will be formally reviewed at least every 12 months, and immediately following any regulatory changes to whistleblower requirements.

Any amendments will be approved by the governing body and communicated to all staff, volunteers, contractors and where relevant, service users, their families and advocates.

##### Awareness and education

Multicultural Care will ensure that all people associated with the organisation, including employees, contractors, volunteers, governing body members, service users, their supporters, representatives and advocates, are informed of their rights and responsibilities under this Whistleblower Protection Policy.

Multicultural Care will:

- provide mandatory training for all staff, contractors and volunteers on how to recognise and report misconduct or breaches, how to access internal and external reporting channels, and the protections and support available to whistleblowers;
- include policy information in onboarding materials for new staff and volunteers and provide refreshers at least annually;
- make this policy accessible; and
- train managers and designated Whistleblower Protection Officers (WPOs) in handling disclosures, maintaining confidentiality and supporting both whistleblowers and individuals named in Qualifying Disclosure.

Multicultural Care will review training content and delivery methods as part of its annual policy review to ensure ongoing compliance.

### **Designation and responsibilities of Whistleblower Protection Officer/s (WPO)**

The governing body will nominate from time to time an appropriately qualified/experienced WPO.

The CEO is the organisation's WPO. Their responsibilities include:

- Implementing and overseeing Multicultural Care's this Whistleblower Protection Policy;
- Providing an initial response to an accusation of wrongdoing;
- Ensuring the protection and/or anonymity/confidentiality of the Whistleblower, where possible;
- Conducting or assisting in investigations into alleged wrongdoings;
- Assessing and managing risk of detriment;
- Monitoring for retaliation during and after any investigation;
- Informing the Whistleblower of the progress and outcomes of investigations;
- Ensuring that Whistleblowers do not suffer any retaliation or negative consequences; and
- Providing support and referrals for both Whistleblowers and those accused of wrongdoing.

Multicultural Care will ensure that all people associated with the organisation know who the designated WPO is and their contact details.

## **5. Reporting framework**

### **Qualifying Disclosures**

A disclosure qualifies for protection if the Discloser has reasonable grounds to suspect a contravention of the *Aged Care Act 2024*, and the disclosure is made orally or in writing, including anonymously – to any of the following:

- an Appointed Commissioner or member of the Department of Health and Aged Care Quality and Safety Commission;
- the System Governor or an official of the Department of Health and Aged Care;

- a registered provider, a reasonable person of a registered provider, or an aged-care worker of a registered provider;
- a police officer; or
- an independent aged-care advocate.

### Internal reporting

To report internally, the recipient of the Disclosure should report the breach to the WPO.

If they believe that the WPO is involved in the breach, they may report to the following responsible person:

- The Chairperson of the Board

### External reporting

If the Whistleblower believes that:

- all of the above internal persons are involved in the breach; or
- all internal measures have been taken to try to get the issue addressed; or
- the issue is significant and poses dangers to health or safety;

they may report the complaint to an external agency such as the **Aged Care Quality and Safety Commission, Department of Health and Aged Care**, an independent aged care advocate or in cases of serious illegal conduct, **the police** should be contacted.

### Anonymous reporting

The WPO will receive and seriously consider anonymous Qualifying Disclosures and ensure the anonymity of the Whistleblower as far as is possible. Anonymous Whistleblowers should be made aware that anonymous reporting may affect the outcome of the investigation, as evidence may be more difficult to substantiate.

Where a Discloser requests anonymity, the recipient of the Qualifying Disclosure must take all reasonable steps to protect the identity of the Discloser and any other person named in the request. It is a contravention of the Act to disclose the identity of a Discloser, or information likely to lead to the identification of a Discloser, if that information was obtained directly or indirectly because of a Qualifying Disclosure, unless an authorised exception applies.

Authorised exceptions occur when the Discloser consents in writing, or the Qualifying Disclosure is made to one of the persons listed above (Commissioner, System Governor, registered provider, police officer or an independent aged-care advocate).

Where disclosure of non-identifying information is reasonably necessary to investigate the matter, Multicultural Care will take all reasonable steps to minimise the risk of identifying the Discloser.

### External Whistleblowers

Persons external to the organisation who wish to make a Qualifying Disclosure regarding organisational wrongdoing will be afforded the same protections as personnel of the organisation.

External persons may report wrongdoing to the organisation's WPOs/Responsible Persons:

- The CEO (ceo@mc.org.au)

Alternatively, external persons may report wrongdoing to an external agency such as the Aged Care Quality and Safety Commission, Department of Health and Aged Care, an independent aged-care advocate or in cases of serious illegal conduct, the police should be contacted.

### **Investigation procedures**

All Qualifying Disclosures received will be considered seriously, and an internal investigation of the facts of each one will be conducted by the WPO to verify the allegations made and take further action if necessary. An internal investigation will be undertaken if the matter does not necessitate a police investigation.

When a Qualifying Disclosure is received, the WPO will use their discretion to decide whether legal advice is required.

If the WPO is implicated, the matter will be referred to a responsible person of the organisation or an independent investigator.

### **Notification procedures**

The WPO will first notify the Board/Governing Body Chair or managing director of any alleged misconduct. The person/s accused will then be notified, so that they may present their case.

### **Investigation planning**

In consultation with the WPO and other relevant managers, terms of reference and an investigation plan will be prepared, which will include:

- The key issues to be investigated;
- The scale of the investigation, in proportion to the alleged wrongdoing; and
- Allocation of resources.

### **Principles of conducting investigations**

Investigations will be undertaken applying fair and ethical principles, and as such:

- Any person accused of wrongdoing will have the presumption of innocence;
- All investigations will be conducted without bias;
- Persons accused of wrongdoing will be supported throughout the process and referred to external support services if necessary;
- Investigations will follow the procedures of natural justice;
- In circumstances where the Whistleblower is unable to remain anonymous, they must remain free from any retaliatory action;
- During and after the investigation the WPO should monitor for any detriment or threats towards the Whistleblower from any member of the organisation; and

- All disciplinary action will be proportionate to the seriousness of the breach.

### **Investigating Reportable Conduct**

- All Reports received will be reviewed and the WPO will in consultation with the CEO determine whether the Report falls within the Policy and whether an investigation is appropriate.
- The WPO will determine whether the investigation should be conducted internally or with external assistance and whether legal advice is required.
- In consultation with the CEO, the WPO will prepare an investigation plan which includes:
  - The key issues to be investigated
  - The scope of the investigation, in proportion to the alleged wrongdoing
  - Allocation of resources
- If the WPO believes they may have a conflict of interest by acting as WPO in the matter, the CEO will appoint an alternative WPO who must ensure that the matter is addressed without conflict of interest.
- The Investigator will conduct the investigation promptly and in an objective and fair manner ensuring that every individual to whom the Report relates will be treated in a manner that is fair and objective; will be informed about the subject matter of the Report and is granted sufficient opportunity to reply to any claims raised before any adverse findings are made.

### **Documentation**

Throughout the course of the investigation conversations, interviews, communications and relevant documents will be recorded and stored. Upon completion, an investigation report will be prepared and filed. The investigation report will include:

- The allegations;
- A statement of facts and the corroborating evidence;
- Conclusions reached by the investigation; and
- Recommended amendments to organisational policies and procedures to avoid future wrongdoings of a similar nature.

All documents relating to Whistleblowing reports and investigations must be kept securely and confidentially, and access to documents granted only when necessary.

The Whistleblower will be kept informed of the progress and outcomes of the investigation.

### **Support and protection for Whistleblowers**

Multicultural Care is committed to protecting anyone who makes a Qualifying Disclosure under this Whistleblower Protection Policy. Whistleblowers found to have made Qualifying Disclosures in good faith, according to organisational procedures and based on reasonable grounds will receive support and protection as below:

- The confidentiality of a Whistleblower's identity will be kept confidential as required, unless disclosure of their identity is:
  - Consented to by the whistleblower, or;
  - Required by law (for example, to a regulatory authority to protect health and safety);
- The Whistleblower can elect for their Qualifying Disclosure to be handled as a complaint or feedback and can withdraw their Qualifying Disclosure at any time;
- The Whistleblower will have the right to request positive action for the purposes of protection, such as relocation or a leave of absence while the matter is under investigation;
- The WPO will be responsible for ensuring that the Whistleblower receives any necessary support and referrals, and that they are not subject to any form of negative employment-related consequence as a result of reporting;
- The Whistleblower will be able to request an interpreter or other translation aids for reporting their Qualifying Disclosure and obtaining appropriate support;
- If an act of reprisal is alleged, the Whistleblower will have the automatic right of appeal to an independent appeal body;
- The Whistleblower will not be subject to any civil, criminal or administrative liability for making the disclosure;
- No contractual or other remedy or right can be exercised against the Whistleblower for their Qualifying Disclosure;
- If the Whistleblower believes that they have been subjected to reprisal, they may lodge an internal complaint with the WPO or escalate directly to the Aged Care Quality and Safety Commission; and
- A contract to which the Whistleblower is a party may not be terminated on the basis that the disclosure constitutes a breach of the contract.

### **Protection from Victimisation**

Multicultural Care strictly prohibits any conduct that causes or threatens detriment, including dismissal, demotion, harassment, discrimination, disadvantage or harm, because a person has made, may make or intends to make a Qualifying Disclosure.

A 'threat' may be express or implied, conditional or unconditional and liability does not require proof that the person feared the threat would be carried out.

Note: reasonable administrative action taken to protect a person from detriment is not victimisation.

Protections are not offered to staff of MC who report internal wrongdoing to a journalist unless it can be established that the disclosures meet the relevant requirements of Public Interest Disclosures or Emergency Disclosures.

## **6. Review**

Based on the recommendations made by the investigation report, the Board will review, evaluate and amend relevant organisational policy every 12 months in order to avoid future wrongdoing and

increase organisational transparency.

## **7. False reporting**

If it is discovered that the Whistleblower knowingly and intentionally fabricated an accusation against an employee or associate of the organisation, for their own personal gain or with malicious intent, they may be subject to disciplinary action which may include dismissal, termination of services or cancellation of client relationship.

## **8. Awareness and Education**

- MC informs and educates its staff, contractors, and volunteers of the Whistleblower policy, procedures for reporting, and the protections available to them to facilitate a safe environment in which concerns of misconduct may be voiced without reprisal.
- Whistleblowers must ensure as far as they are able that their report is factually accurate, complete, based on first-hand knowledge, without material omission and presented in an unbiased fashion.
- The report must be as detailed as practicable and include (but not be limited to):
  - the exact nature of the alleged misconduct believed to have occurred
  - when the alleged misconduct took place if known
  - where the alleged misconduct took place if known
  - who was involved in the alleged misconduct
  - the names of witnesses who may know information that is relevant to investigating the alleged misconduct.
- Staff involved in the management of Whistleblower reports will receive appropriate training in dealing with reports, investigation, and supporting Whistleblowers and staff who are the subject of allegations.
- The whistleblower policy is readily accessible to all staff, consumers/participants, and their families, through MC's intranet and public website.

### **Relevant Documents and Legislation**

- Tax Administration Act 1953
- Fair Work Act 2009
- Corporations Act 2001
- Aged Care Act 2024

### **MC Documents**

- Privacy Policy
- Staff Grievances

**Standards and Legislation References**

- Aged Care Quality Standards (2024) – Standard 2, 4
- The Aged Care Act 2024 Sections 547-554
- The Aged Care Rules 2025 Sections 165-40, 165-45, 165-50, 165-55 and 165-60

Version	Date Commenced	Policy Owner	Change Description	Review Date	Authorised By
V. 1.0	2018	PC Manager	New policy	2021	CEO
V. 1.1	2020	PC Advisor	Update	2023	Board
V.1.2	2022	PC Advisor	Update	2025	Board
v.2.0	2025	P&C	Update	2028	Board
v.3.0	2025	COO	Update	2028	Board