

# YALLAMBEE Traralgon Village for the Aged Inc.

(including Margery Cole Residential Aged Care Services)

## STANDARD 8: ORGANISATIONAL GOVERNANCE

### 8.7.7: Whistleblower Protection – Policy and Procedure

#### CONSUMER OUTCOME

*I am confident the organisation is well run. I am a partner in improving the delivery of care and services.*

#### ORGANISATIONAL STATEMENT

*The organisation's governing body is accountable for the delivery of safe and quality care and services.*

#### POLICY

Whistleblowing can be an effective way of uncovering fraud and other misconduct which may not be identified by internal or external controls within an organisation. Yallambee 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 a governing body member, director, employee, contractor or associate, volunteer of the organisation 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.

Yallambee 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.

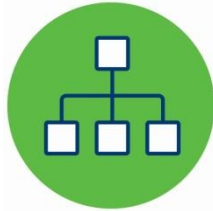
#### DEFINITIONS

**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 report.

**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 report but is protected from the broader organisation and public.

**Reportable conduct:** (this may include, but is not limited, to the following)

- Any criminal offence;
- Behaviour involving danger to the health or safety of any individual (resident, relative, staff or visitor);
- Damage or potential damage to the environment;
- Unlawful discrimination;
- Substance abuse;
- Harassment or bullying;
- Workers' compensation fraud;
- Corruption, involving bribery, kickbacks, etc. and blackmail;
- Theft of cash or goods from the facility including resident or staff areas; and



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- Fraudulent activity related to the fiduciary and asset management of the facility.

Whistleblower: is a person associated with the organisation, whether it be a governing body member, CEO, employee, contractor or volunteer, who discloses information regarding organisational wrongdoing/misconduct, and wishes to be protected against reprisal for reporting.

Whistleblowing: is the deliberate, voluntary disclosure of individual or organisation wrongdoing by a person with access to data, events or information about misconduct by the organisation.

Wrongdoing: is illegal, improper or unethical conduct that:

- Is in breach of legislation or regulations, or which is otherwise illegal;
- Is fraudulent or dishonest;
- Could cause financial or non-financial damage to the organisation, or the reputation of the organisation;
- Is a breach of the organisation's Code of Conduct;
- Constitutes maladministration;
- Infringes on the rights of any person;
- Endangers the health and safety of others; or
- Is a misuse of organisational, public or other funds.

## PROCEDURES

Development and review of this policy

This Whistleblower protection policy will be established in consultation with management and employees, including consideration of their views on reporting mechanisms.

The governing body is responsible for implementing the policy, encouraging a culture of "speaking up", and evaluating and making improvements to the effectiveness of the policy. This policy will be reviewed and evaluated for effectiveness every 3 years, ensuring that it reflects the most up-to-date legal and corporate governance requirements. Any changes made to the policy will be communicated to all staff and volunteers.

Awareness and education

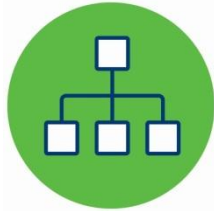
The organisation will inform and educate its staff, contractors, and volunteers of the Whistleblower policy, procedures for reporting, and the protections available to them in order to facilitate a safe environment in which concerns of misconduct may be voiced without reprisal.

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 protection policy will be accessible to all staff and can be accessed from Acredia.

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

The governing body will nominate an appropriately qualified/experienced WPO in accordance with Yallambee policy and procedures for selecting the WPO.



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The Executive Business Services Manager, Executive Clinical Operations Manager and Human Resources Manager are the organisation's WPO. Their responsibilities include:

- Implementing Yallambee's Whistleblower protection policy;
- Initial response to an accusation of wrongdoing;
- Ensuring the protection and/or anonymity of the Whistleblower, where possible;
- Conducting or assisting in investigations into alleged wrongdoings;
- Informing the Whistleblower of the progress and outcomes of investigations;
- Ensuring that Whistleblowers do not suffer any retaliation or negative consequences;
- Providing support and referrals for both Whistleblowers and those accused of wrongdoing.

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

#### Support and protection for Whistleblowers

Whistleblowers found to have made reports 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 protected as far as the law allows;
- 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;

If an act of reprisal is alleged, the Whistleblower will have the automatic right of appeal to an independent appeal body;

#### Reporting framework

If a person becomes aware of misconduct, internal reporting to the WPO must be the first step. However, if this has proven to be ineffective, externally reporting the misconduct may be used as a last resort.

##### Internal reporting

- To report internally, personnel should report the breach to the WPO.
- If they believe that the WPO is involved in the breach they may report to the Board of Directors

##### 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;

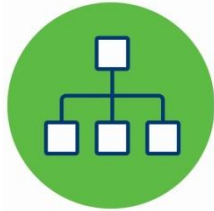
they may report the complaint to an external agency such as the Victorian Ombudsman –

##### Victorian Ombudsman

Level 2 570 Bourke Street Melbourne VIC 3000 (DX 210174 Melbourne)

Website: [www.ombudsman.vic.gov.au](http://www.ombudsman.vic.gov.au) (Complaints can also be made online through website)

Email: [ombudvic@ombudsman.vic.gov.au](mailto:ombudvic@ombudsman.vic.gov.au)



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Tel: (03) 9613 6222 Regional: 1800 806 314

#### Anonymous reporting

The WPO will receive and consider seriously anonymous reports and ensure the anonymity of the Whistleblower as far as is possible. Anonymous Whistleblowers must be aware that anonymous reporting may affect the outcome of the investigation, as evidence may be more difficult to substantiate. The confidential CEO mailbox is located outside the Executive Suite.

#### Whistleblowing to media

Protections will not be offered to personnel of the organisation who report internal wrongdoing to a journalist unless it can be established that the disclosure was made as a public interest disclosure or an emergency disclosure, in accordance with the terms of the *Corporations Act*.

#### External Whistleblowers

Persons external to the organisation who wish to make a 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/CEO.

#### Investigation procedures

All reports received will be considered seriously, and an internal investigation of the facts of the case will be conducted by WPO/CEO/COM 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 report is received, the WPO will use their discretion to decide whether legal advice is required.

#### Notification procedures

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

#### Investigation planning

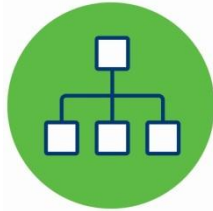
In consultation with the WPO, CEO and other relevant managers, terms of reference and an investigation plan will be prepared, which will include:

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



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- In circumstances where the Whistleblower is unable to remain anonymous, they must remain free from any retaliatory action;
- All disciplinary action will be proportionate to the seriousness of the breach.

#### 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;
- Recommended amendments to organisational policy to avoid future wrongdoing.

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.

#### Review

Based on the recommendations made by the investigation report, as well as input from the CEO or managing director, HRM will review, evaluate and amend relevant organisational policy in order to avoid future wrongdoing and increase organisational transparency.

#### 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.

#### REFERENCES & RESOURCES

[Whistleblowers Protection Act 2001 \(legislation.vic.gov.au\)](https://legislation.vic.gov.au)

[Whistleblower rights and protections | ASIC](#)

[Whistleblower laws in Australia | Gibbs Wright Litigation Lawyers \(gibbswrightlawyers.com.au\)](https://gibbswrightlawyers.com.au)