HUMAN RESOURCES POLICY AND PROCEDURE

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Purpose and Scope

The purpose of this policy and procedure is to:

- set out Bilingual Care's recruitment and selection, staff management and exit procedures
- demonstrate Bilingual Care's commitment to effective, transparent, and fair human resources practices
- support and value Bilingual Care's workforce by providing a safe work environment, ongoing training, and professional development opportunities to promote capability, wellbeing and enable staff to perform their roles effectively, and
- ensure Bilingual Care consumers receive the best possible care and services via a workforce that is respectful, flexible, and responsive.

It applies to all staff (including employees, associated providers, contractors, suppliers and volunteers) and meets relevant legislation, regulations, and Standards.

Applicable Strengthened Aged Care Quality Standards

- *Standard 2. The Organisation*

Definitions

Aged Care Worker - a person:

- who is employed or otherwise engaged by Bilingual Care (who is a registered aged care provider), including volunteers, or
- a person who is employed or otherwise engaged by an associated provider of Bilingual Care and is performing aged care work for Bilingual Care.

For clarity, the following are <u>not</u> considered Aged Care Workers:

- visiting medical practitioners, pharmacists and other allied health professionals who are not contracted by/associated providers of Bilingual Care
- trades people who perform work on an ad-hoc basis and are not contracted by/associated providers of Bilingual Care
- workers at Bilingual Care who are performing other work (i.e. not involved with aged care service delivery).

Associated Provider - a third-party organisation or worker engaged to deliver Support at Home services on behalf of Bilingual Care.

Any organisations that supply corporate services such as training, accounting, labour hire or if they provide services that are not funded aged care services are <u>not</u> associated providers.

Bankruptcy Check – the use of the Bankruptcy Register Search (BRS) via the Australian Financial Security Authority to access personal insolvency information about individuals directly from the National Personal Insolvency Index (NPII).

Casual Employee - a person who accepts a job offer from an employer knowing there is 'no firm advance commitment' (see definition below) to ongoing work, and the employee is entitled to a casual loading or casual pay rate under the relevant Award, registered agreement or employment contract.[1]

Close Relative - a member of a staff member's immediate family or someone related to a staff member according to Aboriginal or Torres Strait Islander kinship rules. This includes a staff member's:

- spouse or former spouse
- de facto partner or former de facto partner
- child
- parent
- grandparent
- grandchild
- sibling or
- a child, parent, grandparent, grandchild, or sibling of a staff member's current or former spouse or de fact partner.[2]

Family and Domestic Violence - violent, threatening, or other abusive behaviour by a staff member's close relative that:

- seeks to coerce and control them and
- causes them harm or fear.[3]

Indictable Offence – more serious criminal offences such as murder, rape, threatening or endangering life, theft, deception, assault, stalking, and gross indecency.

National Police Record Check - a full-disclosure, Australia-wide criminal history record check issued by a police force or other authority of a state or territory, or the Commonwealth. It may also be referred to as a *National Police Certificate, Police Check, Police Clearance,* or *Police Records Check.*

NDIS Worker Screening Check - an assessment of whether a person who works, or seeks to work, with people with disability poses a risk to them. The assessment determines whether a person is cleared or excluded from working in certain roles with people with disability. The NDIS Worker Screening Check is conducted by the Worker Screening Unit in the state or territory where a person applies for it. A NDIS Worker Screening Check may be recognised by aged care providers as part of their workforce screening arrangements, where it meets current legislative and regulatory requirements.

NDIS Worker Screening Outcomes – outcomes of NDIS Worker Screening Checks. These are contained in the NDIS Worker Screening Database, managed by the NDIS Commission through its online Portal. They are:

- ***Clearance*** - allows a person to work with people with disability in roles that require a NDIS Worker Screening Check
- ***Exclusion*** - means an applicant has been refused a clearance. Bilingual Care must not employ people in roles that require a check if they are excluded. However, they may still be able to work in other roles that do not require a check.
- ***Revocation*** - the cancellation of a clearance following reassessment, meaning the person is no longer permitted to work in roles requiring a clearance

[1] *Fair Work Act 2009 (Cth)*
[2] *Fair Work Act 2009 (Cth)*
[3] *Fair Work Act 2009 (Cth)*

- ***Interim Bar*** – a temporary decision to bar a person from working with people with a disability while the person's application for a NDIS Worker Screening Check is being processed. An interim bar is used where records indicate an applicant may pose a risk to people with disability and
- ***Suspension*** - a decision to suspend a clearance, meaning the person cannot work in a role requiring a clearance, for the suspension period. A worker's clearance can be suspended if monitoring or reassessment reveals they may present a risk to people with disability.

No firm advance commitment – determined by the real substance, practical reality and true nature of the employment relationship, and circumstances that constitute the following:

- whether the employer can offer the employee hours of work or not (and whether this is happening)
- can the employee accept or reject the work (and whether this is happening)
- it's reasonably likely the same kind of work the employee usually performs will be available in future, based on the nature of the business
- there are other full-time or part-time employees performing the same kind of work the employee usually performs, and/or
- the employee has a regular pattern of work, even if it changes over time, for example, reasonable absences because of illness, injury or other leave.[4]

Note that in determining whether there is 'no firm advance commitment', other factors may apply, not all factors need to be satisfied, and a single factor won't determine whether the person can be considered a casual.

PPE – personal protective equipment.

Responsible Person – under the *Aged Care Act 2024 (Cth)*, someone that is:

- a member of the governing body who are responsible for the executive decisions of the entity at that time
- any other person who has authority or responsibility for (or significant influence over) planning, directing, or controlling the activities of the entity at that time
- if, at that time, the entity conducts an aged care service:
    - any person who is responsible for the nursing services provided by the service (must hold a recognised qualification in nursing) and
    - any person who is responsible for the day-to-day operations of the service
    - whether or not the person is employed by the entity
- if, at that time, the entity proposes to conduct an aged care service:
    - any person who has responsibility for overall management of the nursing services provided by the service, and who is a Registered Nurse and
    - any person who is likely to be responsible for the day-to-day operations of the service

Suitability Matters - the mandatory criteria that providers (and the Commission) must consider when determining whether a person is suitable to be involved in aged care roles (e.g. responsible persons). Each of the following is a suitability matter in relation to an individual:

- the individual's **experience in providing aged care** or other relevant care
- whether a **banning order** under the NDIS Act 2013 is, or has ever been, in force in relation to the individual
- whether the individual has ever been **convicted of an indictable offence**
- whether a **civil penalty order** has ever been made against the individual

[4] *Fair Work Act 2009 (Cth)*

- whether the individual is, or has ever been, an **insolvent under administration**
- whether the individual is, or has ever been, the **subject of adverse findings or enforcement action by a regulatory body** (including a government Department or authority)
- whether the individual is, or has ever been, the **subject of findings or a judgment in relation to fraud, misrepresentation or dishonesty** in any proceedings, or is currently a party to proceedings that may result in such findings or a judgment
- whether the individual is, or has at any time been, **disqualified from managing corporations** under Part 2D.6 of the Corporations Act 2001
- **any other matters** specified in the Aged Care Rules.[5]

Work on Application – in jurisdictions where permitted (NSW, WA, TAS, ACT and NT), if certain conditions are met, people who have submitted a complete NDIS Worker Screening Check application can 'work on application' while they are awaiting the outcome of their clearance check and there is no information indicating that the person poses an unacceptable risk (such as an exclusion or interim bar). This is only permitted where the worker is formally recognised as being "in the process of obtaining a clearance", and the provider has implemented appropriate safeguards, including supervision by a cleared worker and documented risk management processes proportionate to the role and level of risk.

Workplace Delegate – a staff member appointed or elected by a union to represent existing and potential union members in the workplace.[6]

Policy

Bilingual Care is committed to building and promoting a diverse, caring, and talented workforce that has the support and capacity to deliver high quality care and services to its consumers.

Bilingual Care employs sufficient staff across all areas of operation, taking into consideration not only qualifications and experience required to meet legislative, policy, and service standards, but also the person's values and personal and professional desire to support aged care consumers. In accordance with the *Aged Care Act 2024 (Cth)*, Bilingual Care will assess and monitor the suitability of all relevant personnel by considering legislated suitability matters.

Bilingual Care takes a zero-tolerance approach to conduct that places older people at risk, including abuse, neglect, exploitation or breaches of the *Aged Care Code of Conduct* or *Statement of Rights*. Staff working with Bilingual Care are expected to uphold Bilingual Care's values, respect and support each consumer as an individual and contribute to a positive workplace culture.

Each consumer's support needs are met by staff who are kind, knowledgeable, and competent in their role, hold appropriate qualifications, and have relevant expertise and experience to provide person-centred support.

All workers are expected to act with integrity, honesty, respect and professionalism, and to prioritise the rights, safety and wellbeing of older people at all times.

[5] *Aged Care Act 2024 (Cth)*
[6] *Fair Work Act 2009*

Procedures

Roles and Responsibilities

The Leadership Team is responsible for:

- establishing, implementing and maintaining workforce policies and procedures that support safe, high-quality care and services
- maintaining a workforce that is sufficient in number, skill mix and capability to meet the needs, preferences and rights of individual consumers receiving care
- ensuring staff competence is assessed, monitored and maintained, including through supervision, performance reviews and ongoing professional development
- implementing robust recruitment, screening and onboarding processes to ensure only suitable individuals are engaged
- maintaining systems to monitor and ensure compliance with worker screening, registration, compliance requirements and vaccination (if applicable)
- supporting workforce wellbeing, safety and retention through appropriate systems, including access to support, debriefing and safe working conditions
- ensuring roles and responsibilities are clearly defined, documented and understood by all staff
- ensuring that contractors, volunteers and third-party workers meet the same workforce standards as directly employed staff
- monitoring workforce performance and taking appropriate action where performance, conduct or capability does not meet required standards
- identifying and managing workforce risks, including training needs, staffing shortages and staff well-being, and
- promoting a culture of continuous learning, quality improvement and accountability across the workforce.

Additionally, the Leadership Team has overall responsibility for ensuring Bilingual Care's staff:

- have the appropriate qualifications, skills, and experience to provide the care and services that Bilingual Care delivers
- hold current and valid worker screening clearances, police checks, registrations and any other certifications required relevant to their role
- are given opportunities to develop and maintain their capability to provide safe, effective trauma-informed and healing aware, and culturally appropriate care and services.

The Managing Director is responsible for:

- overseeing and managing the recruitment of suitably qualified and experienced staff
- ensuring relevant worker screening checks are obtained and monitored
- coordinating staff induction and onboarding processes
- ensuring that accurate workforce records (qualifications, clearances, training, performance records) are maintained and monitored for expiry
- coordinating mandatory training and maintaining training records
- helping to identify workforce capability gaps and organising development opportunities that support staff to maintain required skills and competence
- supporting performance review and supervision processes and assisting with performance management and conduct matters
- advising staff on HR requirements and obligations
- supporting workplace health and safety processes, promoting staff wellbeing and safe work practices, and
- providing regular workforce reports to the Leadership Team to help identify trends, risks and opportunities for improvement.

All staff (including employees, associated providers, contractors, suppliers and volunteers) are responsible for:

- complying with the *Aged Care Code of Conduct* and upholding the *Statement of Rights*
- maintaining professional behaviour and appropriate boundaries at all times
- acting in the best interests of consumers and declaring any known or potential conflicts of interest
- maintaining current worker screening, registrations and certifications and notifying Bilingual Care of any changes affecting their suitability to work
- completing mandatory training and participating in ongoing learning to maintain the necessary skill and knowledge required for their role
- working within their role, responsibilities and scope of practice
- identifying and reporting risks, hazards and incidents and following incident management and reporting procedures, including SIRS reporting
- taking reasonable care of their own health and safety and the safety of others, as well as creating a safe environment for consumers receiving care
- reporting suspected or actual abuse, neglect or inappropriate conduct
- communicating regularly and clearly with consumers, families, their supporters and/or representatives, in ways that they prefer and understand
- working collaboratively with other team members and supervisors and escalating concerns or issues appropriately
- handling personal information respectfully and sensitively, maintaining privacy and confidentiality as required
- contributing to a culture of safety, respect and growth by being open to learning and embracing the principles of open disclosure and continuous improvement.

Planning

Bilingual Care's Leadership Team is responsible for monitoring prospective consumer care enquiries and engagement with new consumers to determine the current and future staff recruitment need. This includes not only the approximate number of staff required for specific positions, but also the preferences of consumers and need to meet any cultural, social, or other specific requirements.

The Managing Director is responsible for meeting regularly with care and service management staff to review consumer needs and preferences, care planning and reviews and emerging service delivery themes, and reporting these to the Leadership Team. This allows Bilingual Care to identify continued areas of need, and opportunities to employ specialised staff to address these areas.

The Managing Director is responsible for monitoring current staff numbers and ensuring any staff exits are immediately planned for, to prevent rostering gaps or shortages and ensure continuous services are provided to consumers with as little disruption as possible.

Bilingual Care encourages staff to provide feedback, both informally and through formal supervision, to support the identification and continuous improvement of any gap in skills, knowledge, or organisational capability. This ensures Bilingual Care leverages the valuable insight direct care staff have into consumers' needs and how the workforce can best support them.

The Managing Director is also responsible for supporting service planning and scheduling staff to access additional resources, including associated providers, in the event Bilingual Care cannot meet scheduled care and service needs. See also Bilingual Care's *Staffing Policy and Procedure*.

Position Requirements

All responsible persons of Bilingual Care, including members of the The Leadership Team, must be assessed as meeting the 'suitability matters' requirements as defined in the *Aged Care Act 2024 (Cth)* – see *Definitions* section for the requirements of suitability.

All Bilingual Care staff regardless of their position and responsibilities must obtain and hold a current clear National Police Records Check (or an equivalent – see *NDIS Worker Screening Check* section).

Bilingual Care staff must meet a set of minimum qualifications depending on their roles and responsibilities. Bilingual Care has set these minimums requirements based on best practice, and aged care legislation and Standards.

Those relevant to Bilingual Care include but are not limited to:

- Support Workers - Certificate III in Home and Community Care, Certificate III in Individual Support (Aged Care or Disability, however Aged Care preferred), Certificate IV in Ageing Support, or Diploma of Community Services
- Allied Health staff - Bachelor's degree in a relevant Allied Health, Social Science, Human Services, or other community sector degree, registration with the relevant professional body, and experience in professional and clinical supervision and development as defined by the professional registration requirements of the relevant profession and
- Nursing staff - current AHPRA registration.

In addition to the above requirements, all staff must have, where relevant:

- medication credentialing/re-credentialing
- a current First Aid and CPR Certificate, including Anaphylaxis and Asthma
- manual handling training
- their own car covered by Third Party vehicle insurance
- a Provisional Drivers' License free from any drink driving, excess speeding fines or similar infringements and
- a minimum 2 years' experience in supporting older/vulnerable consumers with care and services.

Staff who are not directly involved in care and/or service provision tasks with consumers may be required to also meet some or all the above requirements depending on their roles and as requested by the Managing Director.

The Managing Director will develop and update *Position Descriptions* for all positions within the business. *Position Descriptions* must set out the minimum qualifications, experience, skills, and knowledge required, as well as the responsibilities, scope, and limitations of each position.

All *Position Descriptions* will stipulate that all staff must comply with Bilingual Care's policies and procedures as well as their Work Health and Safety obligations.

Recruitment and Selection

Bilingual Care's Managing Director is responsible for recruiting staff and will:

- develop selection criteria for each position
- advertise positions, respond to enquiries, and email application forms if requested
- contact applicants and arrange interviews (including interview panels)
- speak with nominated referees and seek opinion about the applicant's qualities, skills, and capacity to fulfil the role
- support selected applicants through the appointment process, including mandatory checks and contract negotiations and
- notify unsuccessful applicants in writing or verbally, offering feedback on application.

Job advertisements must not include pay rates that would breach:

- the *Fair Work Act 2009 (Cth)* or
- a fair work instrument (such as an Award or enterprise agreement).

Ads that advertise positions where staff would be entitled to a periodic rate of pay (e.g., an hourly or weekly rate of pay) must:

- specify the periodic pay rate that applies or
- state in the ad that a periodic pay rate will apply.

During the interview and selection process, applicants will be selected based on:

- merit - the extent to which a candidate's skills, knowledge, qualifications, experience, and personal attributes align with the requirements of a role, and their demonstrated ability to perform the duties effectively and in accordance with Bilingual Care's values and standards
- their right to work in Australia (see *Right to Work* below for more information)
- having (or able to obtain) a current, valid and clear worker screening clearance (see *Mandatory Checks* section)
- their ability to articulate and demonstrate their genuine desire to support older Australians, in a way that recognises their value in the community
- their warm, caring, and compassionate approach towards interactions with others, and
- feedback from referees in relation to their demeanour, respectful and kind nature.

The selection process will also take into consideration Bilingual Care's *Disputes and Grievances* and *Workplace Bullying, Discrimination and Sexual Harassment* policies and procedures to ensure that it is fair, equitable and provides equal opportunity to both internal and external applicants.

Careful consideration will be taken to ensure each potential staff member aligns with Bilingual Care's Vision, Values, and ethos.

Right to Work

Any person employed by Bilingual Care must hold valid identification and be able to demonstrate their right to work in Australia. If their right to work cannot be verified, they cannot be employed by Bilingual Care.

To evidence their right to work, applicants must be able to confirm their Australian Citizenship, or hold an appropriate and valid work visa. This can include[7]:

[7] Department of Home Affairs (2025) *Confirming Australian citizenship*, Australian Government, accessed 3 May 2026, https://immi.homeaffairs.gov.au/citizenship/confirming-australian-citizenship

- an Australian citizenship certificate
- an Australian citizenship by descent or adoption extract
- a current Australian passport.
- Australian birth certificate (only if born before 20 August 1986)

If the person was born in Australia on or after 20 August 1986, and they do not have an Australian citizenship certificate or current Australian passport, they can provide one of the following documents instead:

- a full Australian birth certificate, and
- documents that show at least one parent (named on the birth certificate) was an Australian citizen at the time of the person's birth.

Evidence of the parent's citizenship can be confirmed by providing:

- their parent's Australian citizenship certificate that shows they acquired citizenship before the person was born or
- their parent's Australian birth certificate that shows their parent was born in Australia before 20 August 1986 or
- if the person's parent was also born in Australia on or after 20 August 1986, documents to show the person's grandparent was an Australian citizen at the time of the person's birth, such as their grandparent's Australian citizenship certificate or Australian birth certificate.

Work Visas

If the person is not an Australian citizen, they may be a permanent resident or hold a valid work visa that permits them to work in Australia.

The Managing Director will check if they are an Australian permanent resident or hold a working visa via sighting:

- their overseas passport and
- evidence of their Australian permanent visa, or
- evidence of their visa with rights to work[8].

Validity of visas can be checked using the Visa Entitlement Verification Online (VEVO) system[9]. VEVO can confirm the type of visa and expiry date, and whether the person can work in Australia. If there are no work restrictions and the visa has not been cancelled or is expired, then the person can be employed by Bilingual Care (provided they also do not have a criminal history and meet all other employment requirements). The Managing Director must note any conditions on the visa, such as hours of work restrictions, so that the person is not rostered or engaged beyond what is permitted.

Recruitment Appeals

Unsuccessful applicants have the right to appeal recruitment decisions. Appeals should be directed in writing to the Managing Director and a final decision will be made by Bilingual Care's Leadership Team. Applicants who successfully appeal will be provided the opportunity for a second interview. Applicants who are not successful in their appeal will be provided advice in writing to this effect.

[8] Department of Home Affairs (2024) *Hiring Someone in Australia*, accessed 3 May, https://immi.homeaffairs.gov.au/visas/employing-and-sponsoring-someone/hire-someone-in-australia

[9] https://immi.homeaffairs.gov.au/visas/already-have-a-visa/check-visa-details-and-conditions/check-conditions-online

Employment Contracts

Employment conditions and work hours are specified in employment contracts. Staff will be paid as per the Social, Community, Home Care and Disability Services Industry Award 2010 [MA000100] and the Health Professionals and Support Services Award 2010 [MA000027]

Refer to Bilingual Care's *Staffing Policy and Procedure* for further details regarding working hours and entitlements.

Employment contracts must not include any clauses relating to pay secrecy, such as preventing staff from discussing their pay or employment terms and conditions with other staff. Staff should also be made aware that they can discuss these things with other staff, although are not obligated to disclose this information.

Labour Hire Arrangements

In some circumstances, Bilingual Care may need to source staff from an external recruitment or labour hire agency. This may be the result of an emergency, or a way of managing ongoing resourcing or staff shortages.

Where a labour hire agency undertakes part of the recruitment process, the Managing Director must be satisfied with and agree to the labour hire agency's role in that process. This includes the roles and responsibilities of Bilingual Care and the labour hire agency with respect to conducting worker screening checks and ensuring staff hired through labour hire agreements have the necessary checks in place before working with Bilingual Care's consumers.

Bilingual Care has the same responsibilities and obligations towards all employees, including contractors sourced from a labour hire agency, whether they are engaged for one shift or in an ongoing capacity. This includes supervising care provided and investigating any complaints or reportable incidents. These roles and responsibilities must be clearly set out in *Service Agreements* between Bilingual Care and any labour hire agency it sources staff from. Labour hire agencies are not considered Associated Providers.

Note: Employees, unions, and Bilingual Care can apply to the Fair Work Commission for orders that labour hire employees be paid at least what they would receive under Bilingual Care's employment conditions for directly engaged staff. However, this does not apply to:

- staff engaged in training arrangements under NSW law, such as traineeships
- certain short-term employment arrangements (usually 3 months or less) and
- small businesses (who employ less than 15 staff).

Associated Providers (Subcontracting) and Independent Contractors

Associated Provider arrangements are typically used when Bilingual Care enters into a contract with another third party to deliver aged care services or activities that it would usually provide directly to consumers. For information about associated provider agreements and arrangements, see the *Associated Providers Policy and Procedure*.

Independent contractors (also called contractors or subcontractors), work for themselves by providing services to another business or person. They are not employees, and do not have the same rights and obligations as employees. Determining whether a worker is an employee or contractor depends on a range of factors, including:

- the amount of control Bilingual Care has over how work is performed
- whether Bilingual Care or the worker holds financial responsibility and risk
- whether Bilingual Care or the worker supplies the tools and equipment

- the worker's ability to delegate or subcontract work to others
- how hours of work are set
- any expectation of work continuing indefinitely.

If engaging an individual through subcontracting arrangements, the Managing Director must ensure:

- subcontracting is the most appropriate arrangement for the circumstances (compared to casual or part-time employment) and
- all tax and superannuation obligations as they apply to the specific circumstances are met.

The Managing Director will use the *Start of Relationship Test*[10], or *Whole of Relationship Test*[11] (whichever is appropriate to the circumstances) to determine if the worker should be a contractor or employee.

For more information, see the Australian Business website[12] and the Australian Tax Office's website.[13]

An individual who is a subcontractor and is delivering aged care services for Bilingual Care will need to be classified as an Associated Provider and must meet all associated provider requirements as per Bilingual Care's *Associated Providers Policy and Procedure*.

Note: Employers who allegedly misrepresent employment as an independent contractor arrangement must show they reasonably believed they were correct in classifying a worker as an independent contractor. If they cannot do this, they can be found liable for sham contracting under the *Fair Work Act 2009 (Cth)*.

Supporting Continuity of Supports

When recruiting and engaging staff, the Managing Director must identify and record the details of any staff who have training, skills or experience that could support Bilingual Care to respond to an emergency, disaster, or infectious disease outbreak (for instance, experience in contingency planning, or the ability to train staff in infection prevention and control).

With their consent, the details of identified staff must be included in Bilingual Care's *Emergency and Disaster Management Plan* (see the *Emergency and Disaster Management Policy and Procedure*).

The Managing Director must also ensure Bilingual Care's *Emergency and Disaster Management Plan* includes strategies to identify, source and induct replacement staff should workforce disruptions occur in an emergency, disaster, or infectious disease outbreak.

Further, to support emergency responses and infectious disease contact tracing, the Managing Director must ensure the following details are recorded and kept up to date for all staff:

[10] Fair Work Ombudsman, 2024, *Start of relationship test*, FWO, Australian Government, accessed 03 October 2024, https://www.fairwork.gov.au/find-help-for/independent-contractors/start-of-relationship-test
[11] Fair Work Ombudsman, 2024, *Whole of relationship test*, FWO, Australian Government, accessed 03 October 2024, https://www.fairwork.gov.au/find-help-for/independent-contractors/whole-of-relationship-test
[12] business.gov.au, 2024, *Employee or Contractor?*, business.gov.au, Australian Government, accessed 28 March 2024, https://business.gov.au/people/contractors/employee-or-contractor.
[13] Australian Tax Office, 2024, *Difference Between Employees and Contractors*, ATO, Australian Government, accessed 28 March 2024, https://www.ato.gov.au/businesses-and-organisations/hiring-and-paying-your-workers/employee-or-contractor/difference-between-employees-and-contractors.

- contact details and
- details of any secondary employment they have.

Record Keeping

Recruitment and selection records must be kept for seven years from the date the record was made, as per Bilingual Care's *Records and Information Management Policy and Procedure*.

Mandatory Checks [14]

As an approved Aged Care Provider, Bilingual Care must screen new and existing staff, volunteers, students, and contractors who work directly with any Bilingual Care consumers, before they are employed or appointed.

The mandatory checks applicable to all Bilingual Care staff are:

- qualification and professional registration checks
- a National Police Records Check **or** NDIS Worker Screening Check
- Right to Work evidence (see *Right to Work* section above)
- reference checks
- drivers' licence check (or photo identification)
- immunisation check
- vehicle insurance and registration check (for staff transporting consumers)

All Responsible Persons must also undergo a 'Suitability Assessment' as per Bilingual Care's *Governance Policy and Procedure*.

The Managing Director must take a copy of all mandatory check documents, including copies of the original Right to Work evidence (or a certified copy), which will be kept on the staff member's employment record in Ezihealth. All records will be managed and kept securely in accordance with the *Privacy and Confidentiality Policy and Procedure*.

The Managing Director is responsible for:

- assessing whether a staff member or Responsible Person needs a check
- determining who will cover the costs of checks
- maintaining a record for all Bilingual Care staff including their qualifications, registrations, training, and mandatory check status. These must have been sighted and recorded in each staff record and
- maintaining a *Risk Assessed Roles and Worker Screening Register* that contains
    - Application Reference Numbers
    - Check/Clearance Numbers
    - Expiry Dates
    - Conditions Attached to Checks/Clearances
    - the Currency Status for all staff
    - the name of the Bilingual Care representative who checked the person's police certificate or NDIS Worker Screening Clearance, and if applicable the person's statutory declaration
    - start and end dates for each worker who is in a risk assessed role, which must be kept for 7 years.

Prior to checks being undertaken, the person being checked must:

[14] Department of Health, Disability and Ageing (2026), *Aged care worker screening guidance material (Version 2.0, March 2026)*, Australian Government, https://www.health.gov.au/sites/default/files/2026-03/aged-care-worker-screening-guidance-material_0.pdf

- consent to Bilingual Care undertaking checks and
- sign a statutory declaration stating they have fully disclosed all relevant information regarding their criminal record and employment history to Bilingual Care.

Bilingual Care must provide an opportunity for prospective staff and volunteers to disclose any criminal record or disciplinary actions as part of the recruitment process.

Employment contracts will stipulate that all staff are obligated to:

- advise the Managing Director if they are charged with a criminal offence which is punishable by imprisonment or, if found guilty, could reasonably affect their ability to meet the inherent requirements of their job and
- disclose formal disciplinary action taken against them by any current or former employer, including findings of improper or unprofessional conduct by a Court, Tribunal or professional registering body and investigations the staff member has been the subject of.

National Police Record Checks

Bilingual Care must ensure that National Police Records Checks issued for prospective and current staff include the:

- full name and date of birth of the applicant
- date of issuing the certificate and
- reference number or a substitute.

A National Police Records Check is valid for 3 years and must be renewed before its expiry, or if there is a concern there may be a new risk.

Results of the National Police Record Check

The results of the Police Check will show if a person:

- has been convicted of an offence
- was found guilty but discharged without conviction and/or
- has pending criminal charges.

Information released as part of a Nation Police Record Check is restricted according to the relevant legislation or release policies operating in specific police jurisdictions.

Where the Nation Police Record Check reveals no disclosable court outcomes, outstanding charges, or other matters, the applicant's appointment may be confirmed.

Precluding Offences

An applicant should not automatically be precluded from a job or placement based on having a police record, except where they have been convicted of murder or sexual assault, or have been convicted of, and sentenced to, imprisonment for any other form of assault. If this applies, the Managing Director must ensure that the person is not engaged or allowed to continue if those convictions exist.

Where a person currently engaged by Bilingual Care is convicted of murder or sexual assault; or has been convicted of, and sentenced to, imprisonment for any other form of assault during the period in which they work or volunteer for Bilingual Care, the person must not be engaged or allowed to continue working with Bilingual Care.

Other matters that can be considered when assessing a worker's suitability for employment based on the outcomes of the National Police Record may include:

- the type of offence and if it is relevant to the person's role and duties
- the degree of access to individuals receiving aged care and/or their personal information
- how long ago the conviction occurred
- the nature of post-conviction employment and references
- any assessment reports and the person's current attitude towards offending
- whether the offence represents an isolated incident or a pattern of criminality
- the probability of future incidents, and impact of potential incidents in relation to their job role and Bilingual Care's reputation
- any previous working with vulnerable persons' or worker screening application decisions that may have resulted in exclusion.

If there is any uncertainty about the current status or results of a National Police Record Check, the Managing Director will seek further legal advice to check whether the person can or cannot perform their designated role and ensure that employment procedures do not breach anti-discrimination or Fair Work laws.

The Managing Director must document decisions made in relation to employing (or not employing/ceasing their employment) any person who has an outcome on their National Police Record Check with a date, reason, and the involved parties (e.g. Bilingual Care's representative/s, the worker, and legal representatives, if applicable).

International Police Checks

Prospective staff must be informed at the beginning of recruitment processes that if they have resided continuously in an overseas country for 12 months or more in the last ten years, they should contact the relevant overseas police force to obtain a criminal or police record check. If they were a minor (under 16 years of age) when they were overseas, they do not require an international police check.

Some countries will not release information regarding an individual for personal or third-party purposes. In these extenuating cases, where an international police records check cannot be obtained, a statutory declaration and character reference checks must be conducted with at least two individuals who personally knew the individual while they were residing in the other country. This should be undertaken as a very last resort if the international police check is actually unavailable and cannot be obtained.

The applicant must be informed that referees will be asked whether they have knowledge or information concerning the applicant, which would adversely affect the applicant from performing the job, including any relevant criminal offences.

The credentials of people acting as referees must be verified and can include previous employers, government officials and family members.

In the case of asylum seekers and refugees who may be unable to provide character references to accompany a statutory declaration, the statutory declaration will suffice with proof of status. However, eligibility to work should be confirmed as part of the recruitment process using the Department of Immigration & Border Protection's Visa Entitlement Verification Online (VEVO) checking system.[15]

Student Placements

For students aged 17 years or younger, a National Police Records Check or Worker Screening Check are not required provided the student:

- is on a formal work experience placement, and
- is directly supervised by someone who holds a current and valid police certificate or an NDIS Worker Screening Clearance.

It is recommended that referee checks (character reference) with teachers, parents or other adults who personally know the student are undertaken before the student commences.

A National Police Records Check is required for students aged 18 years and older.

For international students or students who have resided in an overseas country for 12 months or more in the last ten years, as they are only here for a short period, the usual requirement for obtaining an international police check is waived. However, they must complete a *Statutory Declaration* declaring that they do not have:

- any charges laid against them by police concerning any offence committed in Australia or in another country in the past or
- any offence of which they have been found guilty, committed in Australia or in another country in the past.

NDIS Worker Screening Checks

Given Bilingual Care is also a registered NDIS Provider with shared staff across aged care consumers and NDIS consumers, Bilingual Care accepts NDIS Worker Screening Checks less than 5 years old (or current National Police Record Checks) as per the *Aged Care Act 2024 (Cth)* and *Aged Care Rules 2025*.

NSW Worker Screening Check Procedures

In NSW, NDIS Worker Screening Checks (known as NDIS Worker Checks, or NDISWCs) are conducted by Service NSW.[16]

Staff or prospective staff must make an application online, then visit a Service NSW centre within 28 days to verify their identity, pay for their application, and have their photo taken. Service NSW will then send relevant applications to Bilingual Care for verification. The Managing Director must verify applications within 30 days, or they will be cancelled without a refund.

For prospective staff, once an application is verified, Bilingual Care can choose to allow them to start work. This decision should be based on a risk assessment, and agreement from the Leadership Team, and communicated by the Managing Director.

[15] Department of Home Affairs, 2024, *Check Visa Details and Conditions*, DHA, Australian Government, accessed 28 March 2024, https://immi.homeaffairs.gov.au/visas/already-have-a-visa/check-visa-details-and-conditions.
[16] Service NSW, 2024, *NDIS Worker Check (NDISWC)*, Service NSW, NSW Government, accessed 22 March 2024, https://www.service.nsw.gov.au/ndiswc.

Once applications are verified the assessment process begins. Applicants and Bilingual Care will be advised of assessment outcomes by email.

The Managing Director can verify the status of staff and volunteer worker screening checks through the NDIS Worker Screening Database.

If the person's clearance expires before their renewal is processed, they can continue to work provided there is a risk management plan in place and the person is supervised by another worker who holds a current worker screening check.

Engaging Someone Before they have a NDIS Worker Screening Check (ACT/NSW/NT/TAS/WA)

If Bilingual Care chooses to engage someone before a final decision has been made about a clearance, it must have appropriate safeguards in place, including:

- developing a written risk management plan for safeguarding people with disability while someone is in the process of obtaining a clearance
- checking that there are no circumstances that would prevent the person from working with people with disability, such as being subject to an interim bar, or that they've had their application closed or withdrawn
- checking that the person was not excluded on the most recent occasion that they were assessed for a NDIS Worker Screening Check
- arranging for the person to be supervised by someone else who has a NDIS Worker Screening Check and
- sighting evidence that an application has been made and keeping a record of the application number.

Responsibilities

The Managing Director must:

- ensure the appointment of any person who has undergone a National Police Check that has returned disclosable court outcomes is carefully risk assessed in accordance with the requirements above and
- ensure staff or volunteers issued with a NDIS Worker Screening Exclusion, Revocation, Interim Bar, or Suspension do not undertake work with people with disability or aged care consumers and
- monthly check the screening status of all staff and volunteers and ensure all required checks are current.

Associated Providers

Where Bilingual Care engages another organisation via subcontracting (called an Associated Provider) to perform work that is part of its aged care service delivery, it has additional obligations to meet. This is because Bilingual Care and the associated provider need to work together to ensure staff of the associated provider are appropriately screened and meet all compliance requirements. In these instances, Bilingual Care must follow all requirements outlined in Bilingual Care's *Associated Providers Policy and Procedure*.

Record Keeping and Confidentiality

Information obtained as part of screening processes must be treated with the highest level of confidentiality and privacy in accordance with the relevant legislation and standards. Records must be kept for a minimum of seven years. See also Bilingual Care's *Privacy and Confidentiality* and *Records and Information Management* policies and procedures.

Other Checks

In addition to the mandatory checks, the Managing Director will also confirm the identity (through photo identification), qualifications and professional registrations (through sighting a copy - where relevant) of all prospective staff prior to their appointment.

If qualifications and professional registrations are a mandatory requirement of the role, original qualifications and registration certificates must be copied, certified as being a true copy of the original, and returned to the applicant.

If there are doubts about a qualification, the Managing Director should undertake an online check to verify that the qualification was awarded to the applicant. If an online check is not possible, the applicant should provide a letter from the registrar of the relevant institution confirming that the qualification was in fact awarded to the applicant. If there are any concerns about the authenticity of the qualification as presented, the issuing institution must be contacted directly to verify that the qualification was completed and issued to the relevant applicant on the date specified.

Training and Development

Records of induction, training and organisational and professional development provided to all staff will be kept on each staff record as well as in Bilingual Care *Training and Development Register*.

Induction

All new staff must be provided a *Staff Handbook*, incorporating their job description, staff *Code of Conduct*, an organisation chart highlighting their direct supervisor and other relevant information to orientate them to Bilingual Care.

Prior to engaging with consumers, all staff must undergo a comprehensive induction. This includes (but is not limited to) the provision of information and training in the areas listed in Bilingual Care's *Induction Checklist* and all relevant policies and procedures.

Where possible, cultural awareness training will be delivered by local Aboriginal and Torres Strait Islander and culturally and linguistically diverse (CALD) groups to ensure it is tailored to the organisation's service areas.

Consumer-specific inductions will be provided to individual staff as they are matched with consumers to provide support and care services.

All staff will be asked to provide feedback on the induction process to contribute to Bilingual Care's continuous improvement.

Ongoing training will be provided in these areas where required.

Ongoing Training and Development

Bilingual Care is committed to ensuring all staff have the necessary skills and knowledge to competently undertake their duties. Bilingual Care will identify, plan, facilitate, record, and evaluate the effectiveness of training and development for staff to ensure they meet the needs of each consumer.

The following mandatory training and refresher training will be provided to all relevant staff each year:

- staff obligations under the *Aged Care Act 2024 (Cth)* and other applicable State and Federal legislation and Rules, and the Strengthened Aged Care Quality Standards
- consumer rights and the *Statement of Rights*
- understanding person-centred care and the nature of culturally safe, trauma-aware and healing informed service delivery
- infection prevention and control standard precautions, including hand hygiene practices, respiratory hygiene, cough etiquette, and the use of PPE
- risk management
- work health and safety
- Bilingual Care's *Emergency and Disaster Management Plan*
- Bilingual Care's *Waste Management Plan*
- Bilingual Care's Feedback and Complaints procedures, Whistleblower procedures, how to raise and respond to complaints or feedback, and supporting consumers to raise feedback and complaints – covering the *Feedback and Complaints Policy and Procedure*, the *Whistleblower Policy and Procedure* and *Open Disclosure Policy and Procedure*.
- Bilingual Care's Incident Management policies and procedures in relation to reporting incidents involving themselves, consumers and/or others and Serious Incident Report Scheme (SIRS) requirements.
- recognising and reporting signs of suspected or actual abuse, neglect or harm and the related procedures - *Protecting Consumers from Harm Policy and Procedure* and *Elder Abuse Policy and Procedure*
- role-specific training, such as:
  - first aid and CPR
  - manual handling
  - medication management
  - food handling and preparation
  - personal care procedures including safe use of equipment
  - escalating deterioration or emergencies
  - understanding dementia and cognitive decline
  - de-escalation strategies and use of restrictive practices and
- any other relevant training requiring update in Bilingual Care's *Induction Checklist*.

Training will also be provided at various times throughout the year as additional areas of concern are raised, such as through incident reporting, feedback and complaints, risk assessments or trend monitoring. Depending on the nature of the training required, this may be undertaken as part of annual refreshers or coordinated as ad-hoc training throughout the year or could include information updates as part of team meetings. The Managing Director will coordinate the type and nature of training required relevant to the skills or knowledge gap and potential risks. The Managing Director will maintain records of all training completed on staff files in Ezihealth.

In addition to mandatory training, all Leadership Team members and staff will have the opportunity to participate in training and development activities each year.

Training and development methods available include on-the-job training, internal or external courses, support for undertaking research or project work, attendance at conferences or seminars, and networking, coaching and mentoring programs.

All training and professional development completed by staff will include competency checklists to ensure staff understand the content delivered and how to incorporate it into their roles and responsibilities. These records will be held on staff files and revisited during formal supervisions, performance reviews, or performance management processes (including complaints management processes).

Staff will be offered advanced skill training for high care services, including operating hoists and other machines, transferring consumers, bowel care, and PEG feeding, depending on their role and supports being provided.

Staff will be encouraged to share insights and wisdom from training and professional development undertaken, so other staff can benefit and implement their positive learnings.

Annual staff Performance Reviews will encourage staff to take an active role in their ongoing development by identifying their training and development needs in consultation with their Manager/Supervisor or the Managing Director. Performance Reviews are also an opportunity to assess the effectiveness of training provided, identifying any further skills gaps or additional training required.

The Managing Director is responsible for overseeing training and development needs. They will track training undertaken and future needs in Bilingual Care's *Staff Training and Development Register*. Upcoming training and development opportunities will be set out in a *Staff Training and Development Calendar*, distributed regularly to all staff.

All training delivered to staff will be evaluated for effectiveness using Bilingual Care's *Training Evaluation Form*. Feedback obtained from evaluations will be used to inform future training provided to staff and improvements identified will be tracked in Bilingual Care's *Continuous Improvement Plan*.

Where the Managing Director decides, in consultation with the Leadership Team, that it is necessary for a staff member to acquire a particular skill or qualification to carry out their duties, Bilingual Care will consider being fully responsible for all costs incurred for the staff member to attend the training. Where Bilingual Care has capacity and resources allow, staff will be supported to pursue further education or training that will contribute to their professional development but is not directly relevant to their current position.

Bilingual Care will support access to professional development opportunities for all staff equitably, considering the organisation's needs and the needs and skills of staff. Where a staff member wishes to pursue further education or professional development that is not a requirement for their current position or directly relevant to Bilingual Care needs, Bilingual Care will not pay for the cost of the staff member's training.

At the Managing Director's discretion, and considering any impact on service delivery or other staff, the staff member may be:

- permitted to take annual leave or unpaid leave that would assist them to participate in the training and
- granted up to two days' study leave as necessary to attend examinations.

Staff must provide Bilingual Care with one month's notice (where possible) of their intentions to participate in training or professional development.

Staff Identification

All Bilingual Care staff members will be issued with an identification card upon commencement of their employment with Bilingual Care. Each identification card will include the following information:

- staff member's name
- staff member's photo
- staff position within Bilingual Care and
- Bilingual Care's logo.

If a staff member does not wish to have their full name displayed on their identification card, Bilingual Care will ensure only their first name is displayed.

The Managing Director will arrange for staff members photos to be updated at least every 2 years (or earlier if requested by a staff member) to ensure the photo identification remains current. The staff member's identification card will be updated with the new photo identification and any older versions will be securely destroyed.

The Managing Director will ensure that all forms of staff identification are returned to Bilingual Care when a staff member ceases employment with Bilingual Care. The Managing Director will facilitate this process with the staff member and ensure their identification card is securely destroyed when it is no longer required.

Uniforms

Bilingual Care requires that all staff dress in a way that meets the organisation's requirements, and consumers' needs, in accordance with Bilingual Care's *Staff Code of Conduct*.

Where applicable, uniforms will be supplied by Bilingual Care and must be worn at all times while at work. Uniforms are only to be worn during working hours and may not be used for personal activities. The following uniform items will be issued by Bilingual Care:

- company shirts
- trousers and skirts (optional) and
- jumpers and jackets (optional).

If a staff member's clothing (other than a uniform) is soiled or damaged (excluding normal wear and tear) while performing their duties, the staff member must notify their supervisor of the incident in writing, either through email or by completing an *Incident Report.* The staff member should describe how the clothing became damaged or soiled and provide a photo if possible.

If the clothing is soiled, the staff member will be paid a laundry allowance in accordance with their *employment contract*.

If the clothing is damaged and requires repair or replacement, Bilingual Care will reimburse the staff member for the reasonable costs incurred for repair or replacement of the item.

Staff Management and Retention

Bilingual Care's Leadership Team is responsible for ensuring the structure and environment of the organisation promotes cooperative work practices and encourages staff and volunteers to take responsibility and initiative. Staff performance and retention are supported by the following organisational policies and procedures:

- *Performance Management*
- *Staffing*
- *Financial Management*
- *Continuous Improvement*
- *Staff Code of Conduct*
- *Disputes and Grievances*
- *Workplace Bullying, Discrimination and Sexual Harassment*
- *Work Health and Safety* and
- *Workplace Incident Management*.

Staff are expected to attend regular team meetings, where they will have access to information sharing, training, development, and debrief opportunities.

All staff will be provided with an Induction and ongoing training and development opportunities, team building activities and mentoring.

Supervision

Bilingual Care recognises the importance of supervision as part of its commitment to quality improvement, best practice and allowing staff the opportunity to evaluate their practice. Supervision is also an activity that demonstrates Bilingual Care's commitment to valuing its staff and wanting to retain a team of capable, respectful, reliable employees.

Supervision can include individual face-to-face or telephone sessions, groups sessions (such as staff meetings) and peer supervision.

Bilingual Care's supervision approach aims to discuss any needs, challenges, or feedback staff have in relation to consumer care, administrative tasks, training, and professional practices.

All staff are given opportunities for formal supervision with their direct manager or supervisor. The frequency and other details will be dependent on their role and responsibilities.

Direct care workers will be advised at Induction that although it is expected that they remain in regular contact with Bilingual Care staff and provide ongoing feedback in relation to consumers daily. Should they require formal supervision to debrief or work through challenges, it is available with the Managing Director as required.

Other staff with oversight of consumer care, decision making responsibilities, and members of management have formal supervision (debrief and mentoring) sessions regularly and undergo annual Performance Reviews with their manager or supervisor.

All Bilingual Care staff providing clinical and allied health services must receive formal supervision weekly with their direct manager.

The Managing Director may be invited to participate in a staff member's supervision provided agreement is obtained from both staff member and supervisor.

All supervision provided formally will be documented in staff members' files.

Workplace Delegates

Staff, or prospective staff, acting as workplace delegates have the right to:

- represent the work-related interests of union members and people who are eligible to be union members, in their workplace (including in disputes with Bilingual Care)
- reasonable communication with current union members and people who are eligible to be union members, about their work-related interests and
- reasonable access to the workplace and workplace facilities, as well as paid time during normal working hours to undertake workplace delegate training

Bilingual Care must not:

- unreasonably fail or refuse to deal with any workplace delegates representing its staff
- knowingly or recklessly make a false or misleading representation to workplace delegates
- unreasonably hinder, obstruct, or prevent the exercise of the above workplace delegate rights.

Union officials supporting workplace delegates or other staff must have a Right of Entry Permit issued by the Fair Work Commission to enter Bilingual Care's workplaces. They must also give written notice of their intended visit to Bilingual Care at least 24 hours, but not more than 14 days, before their visit (known as an Entry Notice).

Casual Employment

Under the *Fair Work Act 2009* and *National Employment Standards*, casual staff have the option to request to convert to full-time or part-time permanent employment when certain conditions are met.

See 'Definitions' for a description of what constitutes a casual employment arrangement.

A casual staff member will remain casual unless their employment status changes. This can occur by:

- accepting an alternative employment offer from Bilingual Care and starting work on that basis, or
- changing to permanent employment under the Employee Choice Pathway, the staff member's relevant award or agreement, or
- a Fair Work Commission order.

Casual Staff Employed From 26 August 2024

Under the *Fair Work Act 2009* and *National Employment Standards*, casual staff who have worked for Bilingual Care for 12 months and believe they no longer meet the requirements of the casual employee definition, have the option to request to convert to full-time or part-time permanent employment under the Employee Choice Pathway.

Casual Employment Information Statements

Bilingual Care must provide all existing and new casual staff with a copy of the Fair Work Ombudsman's *Casual Employment Information Statement* (CEIS).[17] The CEIS provides information about:

- the definition of a casual employee
- how casual employment can be changed, including when a casual employee can request casual conversion
- the reasons why an employer may not accept an employee's notice, and
- the role of the Fair Work Commission in dealing with disputes.

The CEIS must be provided to casual staff:

- before, or as soon as possible after, employment starts
- after 12 months of employment

Bilingual Care can give casual staff the CEIS in person, by mail, by email, by emailing a link to the CEIS, by fax or by another method.

Bilingual Care must ensure the CEIS given to casual staff is current at the time it is provided. The Managing Director must regularly check the Fair Work Ombudsman's website to ensure the correct version is provided.

Employee Choice Pathway

Bilingual Care and a casual staff member may agree to change to permanent employment (full-time or part-time) at any time.

Should Bilingual Care be classed as a small business (i.e., it employs less than 15 staff at any one time), casual staff can also request a casual conversion at any time, upon or after being employed with Bilingual Care for 12 months.

Should Bilingual Care be a larger business (i.e., it employs 15 or more staff at any one time), casual staff can also request a casual conversion at any time, upon or after being employed with Bilingual Care for 6 months.

To be eligible to request casual conversion, casual staff:

- must have been employed by Bilingual Care for at least 12 months, and
- believe they no longer meet the casual employee definition requirements.

Casual staff are not eligible to request casual conversion if:

- they are currently engaged in an ongoing dispute with Bilingual Care about changing to permanent employment under the employee choice pathway, or
- in the last 6 months, Bilingual Care refused a previous notice, or a dispute with Bilingual Care has been resolved about employee choice under a relevant dispute resolution process.

Casual staff who are eligible to become a permanent employee can make a request for conversion every 6 months.

[17] Fair Work Ombudsman, 2022, *Casual Employment Information Statement*, FWO, Australian Government, accessed 03 October 2024, https://www.fairwork.gov.au/employment-conditions/information-statements/casual-employment-information-statement.

To request casual conversion, the casual staff member must make the request in writing, addressed to the Managing Director.

Responding to a Request for Casual Conversion

The Managing Director must respond in writing to requests for casual conversion within 21 days. The response must advise whether the request has or has not been accepted. If Bilingual Care refuses the request, the response must include the reasons why.

Bilingual Care cannot formally respond to a casual conversion request until the request has been discussed with the casual staff member. This includes consulting with the staff member about what will change for them if Bilingual Care accepts the notice, whether they would be full-time or part-time, any changes to hours of work, and when the change would take effect.

Accepting a Request for Casual Conversion

Before a casual staff member can convert to permanent employment, the Managing Director must discuss the following with them:

- the type of employment the staff member will convert to (full-time or part-time)
- the hours of work the staff member will work as a permanent employee and
- the staff member's start date as a permanent employee.

If Bilingual Care accepts a casual staff member's request to convert, the Managing Director must confirm the above information in writing within 21 days after the request for casual conversion is received. This can be in the same notice that advises the casual staff member's request has been accepted.

Once a casual conversion request has been formally accepted, the start date for the permanent hours must be on the first day of the first full pay period after the Managing Director has written to the staff member, unless the Managing Director and staff member agree to another date.

Reasonable Grounds for Refusing a Request

Refusing a request for casual conversion can only occur for the following reasons:

- the staff member still meets the definition of casual employee
- there are fair and reasonable operational grounds to refuse, such as:
    - Bilingual Care would have to make substantial changes to the way the business is organised to accommodate the staff member's request
    - there would be significant impacts on Bilingual Care's operations, or
    - substantial changes to the staff member's employment conditions would be required so that Bilingual Care does not breach any Award or Agreement applicable to the staff member
- if accepting the request would not comply with a recruitment or selection process required by or under a Commonwealth, State or Territory law

Reasonable grounds must be based on facts that are known or reasonably foreseeable by Bilingual Care.

Casual Conversion Protections

Bilingual Care must not reduce or change a staff member's hours or pattern of work, or terminate their employment, to avoid having to accept a request for casual conversion.

See the Fair Work Ombudsman's website for more information on broader workplace protections for staff.

Part-time Employee Requests for Increased Hours

Part-time staff who have consistently worked more than their guaranteed hours for more than 12 months can request an increase to their guaranteed hours. Bilingual Care will respond to the request in writing within 21 days of receiving the request.

Before formally responding to a request, the Managing Director must discuss it with the staff member and try to reach an agreement with the staff member. If after discussion, Bilingual Care agrees to the request, a new employment agreement will be provided to the staff member.

If Bilingual Care refuses the request, reasons for the refusal will be provided in writing to the staff member.

Staff can only submit a further request to increase their guaranteed hours 6 months after a request to increase their guaranteed hours has been refused.

Requests for Flexible Working Arrangements

Staff who have been employed part-time or full-time for at least 12 months have the legal right to request flexible working arrangements if they:

- have parenting or caring responsibilities
- have a disability
- are aged over 55
- are experiencing domestic and family violence
- have an immediate family member experiencing domestic and family violence or
- are pregnant.

Casual staff can make a request if they have been working consistently for Bilingual Care for at least 12 months and they and Bilingual Care expect they will continue to do so.

Staff can request to change their:

- hours of work
- pattern of work (for instance, working split shifts or job sharing) and
- work location (such as working from home).

Examples of flexible working arrangements include changes to:

- hours of work, including compressed hours (working more hours over fewer days) and gradually increasing or decreasing work hours (e.g., after parental leave, or as a transition to retirement)
- patterns of work (for instance, working split shifts or job sharing)
- work location (such as working from home)
- start and finish times and
- the use of leave and time off, for instance, purchasing extra paid leave, using unpaid leave, taking rostered days off as two half days, taking time off in lieu, and using flexitime (allowing staff to 'bank' extra hours which are then exchanged for time off).

Staff can use the example templates provided on the Fair Work Ombudsman's website for guidance.

Responding to Requests

Before formally responding to a request, the Managing Director must:

- discuss the request with the staff member
- make a genuine effort to find alternative arrangements to accommodate the staff member's circumstances and
- consider:
    - the needs of the staff member
    - the consequences for the staff member if the request is refused and
    - any reasonable business grounds for refusing the request (if applicable).

The Managing Director must then provide a written response, within 21 days of the request, that includes:

- an explanation of the reasonable business grounds for refusing the request and how these grounds apply to the request
- other changes the employer is willing to make that would accommodate the staff member's circumstances or that says there aren't any changes and
- information about referring a dispute to the Fair Work Commission.

Relevant Awards include specific detail on what needs to be included in written responses.

Alternative Arrangements

Further, if the Managing Director and staff member discuss a request and agreed to make changes to working arrangements that are different to what the staff member requested, the Managing Director must confirm these agreed changes in their written response to the staff member's request.

Recording the Arrangement

Once an agreement is reached, it must be recorded, either in a formal document or a simple email. Key things to record include:

- how the new arrangement is different from the staff member's previous arrangements
- how long it's intended to go for (ongoing, or a fixed period)
- when it will be reviewed and
- the process for dealing with any future changes.

Monitoring and Reviewing Arrangements

The Managing Director must regularly monitor and review changes to ensure new arrangements are working for everyone, and to allow both parties to raise any concerns and make any necessary adjustments.

Refusal

If a request is refused, the Managing Director's written response must provide the reasons for refusal, as well as any alternative working arrangements that Bilingual Care can accommodate. Requests for flexible working arrangements can only be refused on reasonable business grounds.

Examples of reasonable business grounds are:

- the arrangements requested would be too costly to implement

- there is no capacity to change the working arrangements of other staff to accommodate the request
- it would be impractical to change the working arrangements of other staff, or recruit new staff, to accommodate the request
- the arrangements would likely result in significant loss of efficiency or productivity and
- the arrangements would likely have a significant negative impact on customer service.

Appeal

Should a staff member disagree with the Managing Director's decision, they can lodge an appeal. Appeals should be directed in writing to the Managing Director and a final decision will be made by Bilingual Care's Leadership Team.

Staff members who successfully appeal the original decision (in full or in part) will have agreed working arrangements implemented as soon as possible. Staff who are not successful in their appeal will be provided advice in writing to this effect by the Managing Director.

It is a breach of the *Fair Work Act 2009* (Cth) if the requirements outlined above are not fulfilled. Staff may also be able to take legal action under state and federal discrimination legislation, including the discrimination provisions of the *Fair Work Act 2009*, if they feel that the handling of their request for flexible working arrangements constitutes discrimination.

Any staff member who has an enquiry regarding requests for flexible working arrangements can contact the Fair Work Ombudsman by:

- making an enquiry online[18] or
- phoning 13 13 94.

The Fair Work Commission can hear and make orders about disputes about flexible working arrangement requests if Bilingual Care and staff can't resolve a dispute at the workplace level. It also has the power to start court proceedings for alleged breaches of the above provisions.

Leave

Leave entitlements are set out in E*mployment Contracts*.

The National Employment Standards (NES) set out the minimum leave entitlements that staff are entitled to. These include:

- paid and unpaid parental leave
- four weeks paid annual leave (potentially up to five weeks for shift workers), prorated based on ordinary hours of work (does not apply to casual staff)
- 10 days paid sick and carer's leave, prorated based on ordinary hours of work (does not apply to casual staff)
- unpaid sick and carer's leave
- paid (full- and part-time staff) and unpaid (casual staff) compassionate leave of up to two days per event
- family and domestic violence leave (see below)
- unpaid community service leave (except for jury duty, which is paid for full- and part-time staff, and sometimes casual staff)
- long service leave and
- public holidays (different pay and entitlements apply for staff who work public holidays).

[18] Fair Work Ombudsman, 2024, *Online Enquiries*, FWO, Australian Government, accessed 28 March 2024, https://www.fairwork.gov.au/about-us/contact-us/online-enquiries.

More information about leave entitlements under the NES is provided on the Fair Work Ombudsman's website.[19]

Family and Domestic Violence Leave

Bilingual Care is committed to supporting staff affected by family and domestic violence. In addition to being able to request flexible working arrangements (see above), a flexible and supportive approach will be taken to managing leave for staff affected by family and domestic violence.

Staff affected by family or domestic violence may apply for family and domestic violence leave for reasons including, but not limited to:

- making arrangements for their safety, or the safety of a close relative (including relocation)
- attending court hearings
- accessing police services
- attending counselling
- attending appointments with medical, financial, or legal professionals
- organising alternative care or education arrangements for children and
- recovery.

Full-time, part-time, and casual staff can access 10 days of paid family and domestic violence leave every 12-month period. This is not pro-rated for part-time or casual employees (that is, part-time and casual employees are also entitled to a full 10 days).

The full 10-day leave entitlement is available upfront for all staff, and upon each new staff member's engagement. The leave renews every year on each staff member's work anniversary. It does not accumulate from year to year if it is not used.

To protect staff members' privacy, confidentiality, and safety, family and domestic violence leave will not be itemised on pay slips. Bilingual Care will keep a record of leave balances and any leave taken by staff in its payroll system.

Staff affected by family and domestic violence may also be granted access to sick or carer's leave, or other leave, in line with their employment contract. This leave may be used for instances where, for example, the staff member or a close relative is injured or ill, as a result of family and domestic violence.

<u>Request and Evidence Requirements</u>

Staff must inform the Managing Director if they are taking paid family and domestic violence leave as soon as possible. Bilingual Care acknowledges that this may need to happen after the leave has started. Staff must also tell the Managing Director how long they expect the leave to last.

Bilingual Care may request evidence that shows leave was taken to deal with family and domestic violence. If the staff member does not provide the requested evidence, they may not get paid the leave. Bilingual Care can only use this information to satisfy itself that the staff member is entitled to the family and domestic violence leave taken. The evidence provided can only be used for other purposes for the following reasons:

- if the staff member consents

[19] Fair Work Ombudsman 2023, *Leave*, Fair Work Ombudsman, Australian Government, accessed 28 March 2024, https://www.fairwork.gov.au/leave.

- if Bilingual Care is required by law or
- it is necessary to protect the life, health or safety of the staff member or another person.

Types of evidence can include:
- a statutory declaration
- documents issued by police
- court documents or
- family violence support service documents.

Bilingual Care can ask staff to provide evidence for as little as one day or less off work.

All evidence provided will be handled in accordance with Bilingual Care's *Privacy and Confidentiality* and *Records and Information Management* policies and procedures.

Privacy, Confidentiality, Sensitivity and Safety

All request for family and domestic violence leave, or associated support, will be handled by Bilingual Care with sensitivity, with a priority on staff members' safety, and in accordance with Bilingual Care's *Privacy and Confidentiality* and *Records and Information Management* policies and procedures.

Discussions with managers and other staff will be on a strictly need-to-know basis and will not include personal information without prior consent from the staff member. However, it is important to note that the *Privacy Act 1988 (Cth)* permits the use and disclosure of personal information in limited circumstances, including to prevent a serious threat to life, health, or safety.

Other Support

Staff impacted by family and domestic violence may require a range of support. Staff can contact the Managing Director in the first instance to discuss other support options. Examples of other support include:
- flexible work arrangements (see above)
- implementation or adjustment of security measures, with respect to, for example, the physical workplace environment, phone and ICT arrangements, and travel or parking arrangements
- referral to and supporting contact with police or other support services and
- flexible approaches to performance management.

Confidential information, counselling and support for people impacted by family and domestic violence and their colleagues is available at the 1800 RESPECT website.[20] 1800 RESPECT can also be contacted by phone on 1800 737 732.

Performance Reviews

Performance Reviews will be conducted for all staff on a yearly basis. The purpose of Performance Reviews is to ensure staff are capable and confident in performing their role and understand Bilingual Care's policies and procedures. This is also an opportunity to discuss with staff their future professional goals and how Bilingual Care can support their development.

[20] 1800RESPECT, 2024, *Home Page*, 1800RESPECT, Telstra Health, accessed 28 March 2024, https://www.1800respect.org.au/.

The performance review period can also be used to confirm with the staff member that their employment details are correct and up to date, including any changes to their criminal history screening or suitability matters as well as personal details and emergency contact details.

Managers and supervisors must notify their staff in writing at least one week in advance of the date and time of their Performance Review. Staff must complete a *Staff Training Needs Self-Assessment* before the date of the review and take this with them to the interview.

Before the interview, the manager or supervisor will review the performance of their staff over the past year and make preparatory notes. This can include:

- information gathered from regular supervision
- any feedback (including complaints and compliments) from consumers over the review period and
- general observations of the staff member's interactions with peers and other stakeholders, and their commitment to upholding Bilingual Care's Vision, Mission, and goals in addition to providing safe and quality care and services to consumers.

Either party can request that a support person be present during the meeting.

Performance Reviews will seek to:

- clarify any issues relevant to the staff member's job description and performance
- check that the staff member's contact details are correct and there have been no changes in their criminal history screening or suitability
- identify the staff member's strengths
- identify areas where the staff member needs to improve
- discuss the *Staff Training Needs Self-Assessment* completed by the staff member and any training that will help the staff member improve their skills
- make changes to the staff member's *Staff Training Needs Self-Assessment*, where necessary. Both parties must sign this document as agreement on the staff member's training needs
- identify and confirm the actions to be taken to maintain, enhance or improve performance and
- set future professional goals.

At the conclusion of the meeting, the manager or supervisor must complete a *Staff Performance Review Feedback Form*. This must be signed by them and the staff member. Where strategies for performance improvement are required due to a significant issue, a *Staff Performance Improvement Plan* must be completed and signed by the staff member, their manager or supervisor, and the Managing Director.

After the Performance Review, any agreed training must be entered into a *Staff Training Plan* for the staff member and signed by both the staff member and their manager or supervisor. A copy of the completed *Staff Training Plan* must be placed on the staff member's file and a copy given to them.

If a staff member believes that they have been directly or indirectly discriminated against in the performance review, they should take action in accordance with Bilingual Care's *Disputes and Grievances Policy and Procedure*.

A copy of all documentation relating to Performance Reviews must be retained in the staff member's file.

Performance Management

Staff who are not performing satisfactorily, engage in misconduct, or do not comply with Bilingual Care's *Staff Code of Conduct*, Policies and Procedures, or *employment contract* may face disciplinary action.

Managers and supervisors are responsible for identifying problems as soon as they arise and taking action, with support from the Managing Director. They must maintain records of all performance-related discussions and counselling sessions, and these must be kept on staff records.

In all processes the principles of natural justice must be followed. This means the staff member must have an opportunity to state their point of view before action is taken and that the decision maker must not be biased.

Unsatisfactory Performance

If a manager or supervisor identifies unsatisfactory performance of a staff member, they must advise the staff member. An opportunity must be provided for the staff member to improve their performance within a reasonable timeframe. This could also include the staff member attending training to improve the standard of their performance.

If the staff member's performance does not improve to the required standard after assistance and training has been provided within the specified time, the Managing Director must complete a *Non-Performance Report* outlining specific performance problems.

The Managing Director will meet with the staff member and inform them that a report will be written, and they will be provided with a copy.

Misconduct

If a staff member engages in serious misconduct so that it is unreasonable for Bilingual Care to continue their employment, they may be dismissed instantly. Examples of such misconduct include theft, assault, and fraud. Such action must be supported by a high level of evidence.

Other misconduct that may result in disciplinary action includes:

- not complying with Bilingual Care's *Staff Code of Conduct*
- intentionally causing harm or disregarding the safety and wellbeing of themselves or others and
- preventing other staff from carrying out their duties.

If misconduct occurs, the Managing Director must complete a *Non-Performance Report* detailing relevant incidents and behaviours.

Performance Management Actions

Based on the seriousness of the misconduct or poor performance, the following may occur:

1. Discussion/Counselling – between the relevant manager or supervisor, and/or the Managing Director and the staff member. The problem will be explained, and the staff member asked to respond. The staff member is entitled to have a support person present. If misconduct or non-performance is proved, the manager, supervisor, or Managing Director will advise the staff member of the corrective action they need to take and record details of the discussion in a *Non-Performance Report*. All parties present must sign the report.

2. Written warning - if the incident of misconduct is repeated or performance does not improve, the Managing Director will issue a written warning. If the case is considered severe enough, the first written warning can also be regarded as the final warning.

3. Final warning - if the problem persists, or the nature of the misconduct or poor performance is very serious, the Managing Director will issue a final written warning to the staff member. If the issue is not resolved, the Managing Director may proceed to dismiss the staff member.

Managers, supervisors, and the Managing Director must maintain formal records (*Non-Performance Report*) of each counselling or disciplinary meeting and keep them confidential. All records must be sighted and signed by the relevant staff member as true and correct. Such records will provide important evidence if the matter proceeds to the Fair Work Commission.

If the staff member refuses to sign the record, details of when they have been provided a copy and their reason for refusal (if given) must be noted on the record.

Dismissal

Bilingual Care must comply with all State and Federal legislation and the staff member's employment contract in relation to disciplinary action and employment termination. Bilingual Care must ensure:

- dismissal is not for an unfair reason
- the staff member knows the reason for dismissal and has an opportunity to respond in relation to that reason and
- it gives the staff member appropriate notice or compensation in lieu of notice.

Staff may be dismissed based on:

- their conduct, capacity, or performance
- operational requirements, e.g., the position is no longer required or
- other reasons sufficient to justify termination.

Termination / Resignation

If a staff member decides to leave their employment with Bilingual Care, they must provide the minimum notice as stated in their employment contract, based on the relevant industrial Award or instrument. This notice must be provided in writing.

Bilingual Care has the discretion to pay the staff member their notice period in lieu of having them attend work for the notice period (in part or in full). Bilingual Care will ensure all wages and entitlements are paid to the staff member within seven days of the end of their employment and will provide a final payslip.

Exit Interviews

The Managing Director will ensure all staff leaving Bilingual Care can complete an Exit Interview. Exit interviews are voluntary and allow departing staff to offer feedback and suggestions that Bilingual Care may use to improve its workplace practices, culture and working environment.

Staff who are leaving will be provided with an *Exit Interview Questionnaire* to complete their Exit Interview, which can be returned to the Managing Director.

Supporting Documents

Documents relevant to this policy and procedure include:

- *Disputes and Grievances Policy and Procedure*
- *Workplace Bullying, Discrimination and Sexual Harassment Policy and Procedure*
- *Right to Disconnect Policy and Procedure*
- *Performance Management Policy and Procedure*
- *Staffing Policy and Procedure*
- *Work Health and Safety Policy and Procedure*
- *Privacy and Confidentiality Policy and Procedure*
- *Records and Information Management Policy and Procedure*
- *Emergency and Disaster Management Policy and Procedure*
- *Infection Control Policy and Procedure*
- *Associated Providers Policy and Procedure*
- *Employment Contracts*
- *Position Descriptions*
- *Statutory Declarations*
- *Staff Handbook*
- *Risk Assessed Roles and Worker Screening Register*
- *Staff Code of Conduct*
- *Induction Checklist*
- *Organisation Chart*
- *Staff Training Needs Self-Assessment Form*
- *Staff Performance Review Feedback Form*
- *Staff Performance Improvement Plan Form*
- *Non-Performance Report*
- *Staff Training Plan*
- *Staff Training and Development Calendar*
- *Staff Training and Development Register*
- *Training Evaluation Form*
- *Continuous Improvement Plan*
- *Exit Interview Questionnaire*
- *Staff Records*

Monitoring and Review

This Policy and Procedure will be reviewed at least every two years by the Leadership Team. Reviews will incorporate staff, consumer, and other stakeholder feedback.

Bilingual Care's feedback collection mechanisms, such as staff and consumer satisfaction surveys, will assess:

- staff access to and understanding of Bilingual Care human resources processes and policies and procedures relating to the provision of high quality and safe services
- staff access to and understanding of how criminal history checks are undertaken and the management of these
- staff confidence in their ability to do their job based on their qualifications and experience
- staff satisfaction with training and development opportunities provided by Bilingual Care
- consumer satisfaction that their specific needs, including cultural needs, are understood, and supported by staff and
- consumer satisfaction that they are actively involved in the improvement of Bilingual Care services.

Bilingual Care will review its human resources practices in accordance with its *Internal Review and External Audit Schedule*. This schedule includes service planning and delivery activities that incorporate staff and stakeholder participation, assess feedback provided to and by staff, consumers and stakeholders and review files for alignment of practice with processes (staff file audits).

Bilingual Care's *Continuous Improvement Plan* will be used to record identified improvements and monitor the progress of their implementation. Where relevant, this information will be considered as part of Bilingual Care's service planning and delivery processes.

DOCUMENT CONTROL

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