WHISTLEBLOWER POLICY AND PROCEDURE

Purpose and Scope

The purpose of this policy and procedure is to provide a clear, accessible, and confidential process for reporting disclosable conduct, including unethical behaviour, or breaches of laws or regulations within the organisation. It aims to foster a culture of transparency, integrity, and accountability while protecting individuals who speak up.

Disclosable conduct raised by Bilingual Care staff, volunteers and contractors would generally be dealt with under this policy and procedure, however, from time to time, staff may raise issues or provide feedback that is best dealt with under Bilingual Care's *Disputes and Grievances Policy and Procedure*.

This policy applies to all consumers, employees, contractors, volunteers, and other persons connected with Bilingual Care who wish to report:

- breaches of the *Aged Care Act 2024 (Cth)* and/or *Corporations Act 2001 (Cth)*
- disclosable Conduct under the *Fair Work (Registered Organisations) Act 2009 (RO Act)* (including alleged reprisals for making a disclosure) as defined within section 6 of the RO Act[1] and/or
- serious breaches of Bilingual Care's internal rules and policies.

This policy and procedure is aligned with the Australian Competition and Consumer Commission's (ACCC) whistleblower protection guidelines and meets relevant legislation, regulations, and Standards.

Applicable Strengthened Aged Care Quality Standards

- *Standard 2: The Organisation*

Definitions

Detriment - a discloser is protected from reprisal being taken against them, to their detriment (whether by act or omission), because of making that disclosure. Detriment is defined in Section 337BA of the RO Act as follows:

"Detriment includes (without limitation) any of the following:

a) dismissal of an employee;
b) injury of an employee in his or her employment;
c) alteration of an employee's position to his or her detriment;
d) discrimination between an employee and other employees of the same employer
e) harassment or intimidation of a person;
f) harm or injury to a person, including psychological harm;
g) damage to a person's property;

[1] *Australian Government,* Fair Work Act 2009 (Cth), s 70, Accessed June 2025, Fair Work (Registered Organisations) Act 2009

h) damage to a person's reputation."[5]

Disclosable conduct (may also be called a ***Whistleblower Report***) – when there are reasonable grounds to believe that a person or entity has breached the *Aged Care Act 2024 (Cth)*, which can include breaching their obligations, the strengthened *Aged Care Quality Standards*, or requirements set out in the Act.[2]

Disclosable conduct is also defined in Section 6 of the Registered Organisations (RO) Act as conduct that means an act or omission that:

a. contravenes, or may contravene, a provision of this Act, the *Fair Work Act 2009 (Cth)* or the *Competition and Consumer Act 2010 (Cth)*; or
b. constitutes, or may constitute, an offence against a law of the Commonwealth.[3]

Examples of disclosable conduct can include:

- abuse, neglect, or exploitation of consumers
- fraud or misuse of aged care funding
- breaches of the strengthened Aged Care Quality Standards
- failure to meet provider obligations under the Act and/or
- unsafe or unlawful practices

Discloser – A discloser is a person who makes a disclosure (report) relating to Disclosable Conduct under this policy. A discloser has protections detailed in the *Aged Care Act 2024 (Cth)*, and this policy. A discloser is known as a *Whistleblower* in the Corporations Act 2001 (Cth) and other general legislation.

Reasonable Grounds - means that a reasonable person in the same position would also suspect the information indicates misconduct or a breach of the law.[4]

Reprisal - when someone causes detriment to another person because they believe the other person (or someone else) has made a Whistleblower Report. Examples can include:

- restricting, reducing or cancelling access to services without valid justification
- delaying access to care, assessments or referrals
- excluding family members or the consumer's supporters from decision making and care planning discussions or refusing to communicate with them
- intimidating, rude or dismissive behaviour toward the whistleblower or the consumer
- discouraging or blocking access to independent advocacy services, such as OPAN, following a complaint or disclosure
- lodging unjustified complaints about the consumer's behaviour to try and discredit or isolate them
- breaching confidentiality or disclosing the whistleblower's identity without their consent in order to cause embarrassment, distress or further retaliation
- socially isolating the consumer, such as excluding them from group activities or community engagement opportunities as a form of indirect punishment and
- actions to their detriment - see definition for 'Detriment'

Whistleblower – see definition for *Discloser*.

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[2] Aged Care Act 2024 (Cth)
[3] *Fair Work Ombudsman*. Whistleblower Policy Template for Registered Organisations. Accessed June 2025. Fair Work Commission, Whistleblower Policy Template for Registered Organisations.
[4] Australian Securities and Investments Commission (ASIC). 2023. *Whistleblower rights and protections*. Accessed 18 September 2025. Available from https://asic.gov.au/about-asic/asic-investigations-and-enforcement/whistleblowing/whistleblower-rights-and-protections

Whistleblower Investigation Officer (WIO) - A senior officer of the organisation who is responsible for leading, co-ordinating or overseeing the investigation of matters in a fair, confidential, objective (without bias) and timely manner.

Whistleblower Protection Officer (WPO) - A senior officer of the organisation who is responsible, as far is reasonably practicable, to protect any discloser who makes a report to the organisation and is accountable for the provisions of this Policy.

Policy

Bilingual Care is committed to adhering to its statutory obligations, industry standards, and values, and fostering a culture of integrity, transparency and accountability in all aspects of its services.

This *Whistleblower Policy and Procedure* establishes a framework that enables individuals to safely and confidentially report suspected breaches of the law, misconduct, or unethical behaviour. We are committed to providing a safe environment that is free from discrimination, harassment or victimisation for those who raise breaches of internal rules or policy, or Disclosable Conduct relating to Bilingual Care, its branches, officers, employees or other stakeholders. This policy and procedure aims to effectively and efficiently respond to reports of disclosable conduct in a way that protects the confidentiality of the discloser (whistleblower) and the person who is subject to disclosure.

We recognise that whistleblowers play a vital role in identifying and addressing risks to the safety, wellbeing, and rights of older people receiving care. This policy ensures that all disclosures of disclosable conduct, including abuse, neglect, fraud, or non-compliance with provider obligations, are taken seriously, investigated appropriately, and managed in accordance with legal protections.

We are committed to providing regular training, promoting awareness, and maintaining robust systems to support whistleblower protections and upholding the rights of all individuals within our community.

Procedures

General

Sometimes situations can arise where consumers, their families, staff, volunteers, associated providers or other stakeholders connected with Bilingual Care feel Disclosable Conduct has occurred and the organisation is in breach of its policies and/or legal obligations. Where a person, on reasonable grounds, feels Disclosable Conduct has occurred, they can raise this concern in accordance with this procedure. Bilingual Care will respond to the matter confidentially and without negatively affecting the discloser.

From time to time, you may have a complaint in relation to Bilingual Care's service levels, policy decisions, or an employment-related grievance with another person within the organisation, which is not Disclosable Conduct or a breach of Bilingual Care's legal obligations or policies. Some examples include:

- complaints about the level of service received from Bilingual Care or a particular Bilingual Care representative (e.g. key personnel, manager, worker or an associated provider/subcontractor)

- a difference of opinion about a policy adopted by Bilingual Care
- not being elected as a workplace representative
- employment disputes with Bilingual Care and/or
- disagreeing with a workplace decision

These matters should be raised and addressed as per Bilingual Care's *Feedback and Complaints Policy and Procedure*, or for employment-related matters, refer to Bilingual Care's *Disputes and Grievances Policy and Procedure*. If you are unsure about whether your matter is Disclosable Conduct or you are unsure how to report your concerns, you can contact the Managing Director or speak to a Leadership Team member at any time.

Responsibilities

The Leadership Team is responsible for:

- maintaining a whistleblower system that complies with the *Aged Care Act 2024 (Cth)* and other legal requirements
- having in place a whistleblower policy that is current, accessible and regularly promoted
- providing regular training to staff and volunteers on whistleblower reporting pathways and protections for whistleblowers
- supporting a culture of honesty, transparency and learning, by providing safe reporting channels and assisting disclosers to make a report (internally or externally)
- taking all reasonable steps to prevent retaliation, harassment, or discrimination against individuals who make a disclosure
- ensuring the identity of the discloser is protected unless consent is given or it is required by law and
- maintaining accurate records of disclosures, investigations, and outcomes in accordance with Bilingual Care's *Records and Information Management Policy and Procedure*.

The Managing Director is responsible for:

- managing disclosures in a fair, timely, and confidential manner
- receiving and assessing disclosures, and determining whether the report qualifies as Disclosable Conduct
- leading or coordinating investigations into the reported conduct, ensuring procedural fairness and impartiality
- maintaining confidentiality, including protecting the identity of the discloser and any other involved parties throughout the process
- providing findings to relevant internal decision-makers and, where appropriate, external authorities such as the Aged Care Quality and Safety Commission
- keeping the discloser informed of the process (where the discloser is known), supported throughout, and protected from any adverse consequences and
- keeping detailed records of the disclosure, investigation steps, findings, and actions taken.

The Discloser is responsible for:

- acting in good faith by providing information honestly and with reasonable grounds to suspect Disclosable Conduct
- providing sufficient detail and sharing relevant facts and context to help with the assessment and investigation of the matter (without limiting their ability to remain anonymous if they choose)
- cooperating in the investigation process where appropriate, including providing further

information if reasonably requested
- accessing available support services, such as advocacy services, the Employee Assistance Program or seeking legal advice and
- not discussing the disclosure with others unless necessary or legally permitted.

Who Can Report Disclosable Conduct

Any person connected with Bilingual Care can make a report of Disclosable Conduct under this policy. This can include:

- older people receiving care, their families and supporters
- independent advocates
- an officer or former officer of Bilingual Care
- a worker or former worker of Bilingual Care
- a member or former member of Bilingual Care
- a person who is (or was) a supplier to, or has (or had) a transaction with, Bilingual Care
- a lawyer on behalf of a discloser in one of the above categories.[5]

Bilingual Care encourages any person to make their report honestly, and as soon as possible so that the matter can be addressed promptly. Any person making a report will have protections under the law and this policy, and can make reports without fear of being penalised for raising their concerns. Reports can also be made anonymously.

Although Disclosable Conduct can be reported to external agencies at any time, such as the Aged Care Quality and Safety Commission, in many cases, if it is dealt with promptly and effectively, the organisation will be capable of dealing with the matter internally to reach an appropriate resolution.

Reporting Disclosable Conduct

Every person connected with Bilingual Care has a role and responsibility in ensuring that Bilingual Care is run ethically and in accordance with legal obligations, and its policies and procedures. Where matters related to breaches of internal rules or policies or Disclosable Conduct are identified, they should be raised as soon as possible. If a person has concerns about making a report, the report can be made anonymously.

Disclosable Conduct includes any information that gives a person reasonable grounds to suspect a breach of the *Aged Care Act 2024 (Cth)*[6]. This may include:

- abuse, neglect, or exploitation of older persons
- fraud, theft, or misuse of aged care funding
- breaches of provider obligations or care standards
- unsafe practices or serious risks to health and safety
- retaliation against a person for making a disclosure

Other examples of Disclosable Conduct as they relate to breaches of the *Fair Work Act 2009 (Cth)*[7] may include:

- using the organisation's resources to favour one candidate over another in an organisation's elections

[5] *Fair Work Ombudsman*. Whistleblower Policy Template for Registered Organisations. Accessed June 2025. Fair Work Commission, Whistleblower Policy Template for Registered Organisations.
[6] Australian Government, Aged Care Act 2024 (Cth), s165, accessed 18 September 2025, https://classic.austlii.edu.au/au/legis/cth/num_act/aca202457/
[7] *Australian Government,* Fair Work Act 2009 (Cth), s70, Accessed 18 September 2025, Fair Work (Registered Organisations) Act 2009

- breach of duties as an officer or employee in relation to financial matters
- coercion to exercise or not exercise a workplace right
- refusing membership of an organisation when eligible
- adverse action due to membership / non-membership of an industrial association
- hindering or obstructing an entry permit holder
- dishonest conduct by an employee or officer of an organisation or branch.

If you become aware of a matter, you should raise it as soon as practical with the people responsible for handling matters, outlined below. Raising your matter early allows it to be addressed in the right way by an appropriate person. You should not attempt to conduct any investigation yourself before raising the matter as this could interfere with any future actions or, in rare cases, could put your safety at risk.

If you have fears for your well-being, safety, or fear of reprisal (e.g. unfair treatment, threats or victimisation) as a result of raising your matter, you should mention these at the time you report the matter. The person taking your report will identify you as a Discloser, and you will be given the protections outlined under this Policy, and relevant legislation.

Who Should I Report My Matter To?

A person can make a Whistleblower Report in writing via letter or email (preferred) or verbally, either in person or over the phone. It should include as much detail as possible, including:

- description of the decision/s or behaviour/s that are the subject of the breach of duties
- the manner in which the decision/s or behaviour/s has adversely affected others
- the time and date of the breach/s or behaviour/s
- names of any witnesses

Internal Reporting

Sometimes, a suspicion of wrongdoing may arise from a misunderstanding and is not in fact wrongdoing. Accordingly, you are encouraged to check with the Managing Director to seek an immediate response, as internal processes can support an investigation and help to identify a suitable and timely resolution.

If you do not wish to raise the matter with the Managing Director you can consider raising the matter with another senior manager or member of the Leadership Team.

Reporting Outside of the Organisation

If your matter relates to Disclosable Conduct and it is not practical to report your matter internally in the first instance, you can report Disclosable Conduct to the relevant external agency.

To make a report about Disclosable Conduct that relates to the *Aged Care Act 2024 (Cth)*, you can contact:

- the Aged Care Quality and Safety Commission
- the Department of Health, Disability and Ageing, or an official of the Department
- a registered Aged Care provider
- a responsible person of a registered Aged Care provider
- another aged care worker of a registered provider
- a police officer or
- an independent aged care advocate

If your matter relates to Disclosable Conduct about employment, you should disclose to one

of the following:

- the General Manager or the staff of the Fair Work Commission (the Commission)
- the Australian Building and Construction Commission (the ABCC) Commissioner, their Deputy, or an inspector of the ABCC.
- the staff of the Fair Work Ombudsman.

Any of these people can receive a disclosure from a whistleblower and using it will trigger the whistleblower process. A whistleblower is also able to give the information to their lawyer and have their lawyer contact one of the people in the above list with the information.

Investigating Disclosable Conduct

All disclosures made to Bilingual Care will be:

1. Acknowledged promptly
2. Assessed to determine whether they fall within the scope of Disclosable Conduct
3. Managed by a trained investigator, who will engage with external experts for any financial, technical or legal advice that may be required.
4. Investigated fairly, confidentially, and without bias in a timely manner.

Bilingual Care must take immediate action and undertake an investigation or other appropriate action, such as:

- providing a satisfactory explanation about why the disclosure is not in breach of any obligations or duties
- recording the incident and arranging ongoing monitoring of the situation
- referring the matter to another agency
- making a decision to formally investigate (internally or via independent, external investigators) or
- a combination of the above.

If it is determined that the matter should be investigated, the investigation may be conducted by the Managing Director, an appropriately capable officer or employee of Bilingual Care, nominated by the Managing Director, or by an external investigator appointed by Bilingual Care. All investigations will be conducted in a timely manner that is procedurally fair, confidential, and conducted without bias.

External Investigations

If the disclosure has been made to an external party, such as the Aged Care Quality and Safety Commission, Bilingual Care will work collaboratively with external investigators and provide requested information in a timely manner to support a quick resolution.

Outcome of the Investigation

Where practicable, Bilingual Care will keep the whistleblower informed of the steps taken or to be taken (or if no action is to be taken, the reason for this), and provide appropriate updates, including about the timing for completion of any investigation.

However, the extent of the information provided, or whether it will be provided at all, will be subject to applicable confidentiality considerations, legal obligations and any other factors Bilingual Care considers relevant in the particular situation. Bilingual Care may not be able to undertake an investigation, or provide information about the process etc., if it is not able to contact the discloser (e.g. if a disclosure is made anonymously and the discloser has not provided a means of contact).

Whistleblower (Discloser) Protections

Bilingual Care is committed to ensuring that any person who raises a matter under this Policy is provided support and protection from reprisal or personal or financial disadvantage because of making that report. This includes situations where the investigation finds that no disclosable conduct has in fact occurred.

If someone makes a disclosure, they will be protected from:

- any negative results that come from making the report and
- having their identities or identifying information known, with some exceptions (e.g. where it is necessary to share information with the Aged Care Quality and Safety Commission or a lawyer, or to prevent a serious threat to a person or people.)

Protecting the discloser's identify means that the investigating officer will not release any personal details about the discloser, or other information that can easily identify the discloser, including referring to the discloser in gender neutral terms. Bilingual Care acknowledges that due to the discloser making comments or having conversations with others, or due to the nature of the disclosure it may be possible for others to conclude who may have reasonably made the disclosure. In these cases, the investigating officer will consider additional protections that may be required based on a risk assessment to protect the safety and wellbeing of the discloser.

A discloser who makes a protected disclosure will not be subject to:

- any criminal or civil liability for making the disclosure, or
- the enforcement of any contractual or other right or remedy against them based on their disclosure

However, it is important to understand that if a person makes a protected disclosure, they are not exempt from the consequences of their own misconduct.

Protection under the RO Act

The RO Act protects a person who makes a 'protected disclosure'. A protected disclosure is defined in the RO Act. To qualify as a protected disclosure, the disclosure must:

- be made by a discloser
- be about suspected Disclosable Conduct and
- be capable of being reported to an authorised recipient in a relevant government agency.

Importantly, the RO Act protects an eligible disclosure even if it is reported internally to Bilingual Care. This means that if you raise Disclosable Conduct within Bilingual Care, you will be afforded the same protection from reprisal as if you had reported the eligible disclosure to the Fair Work Commission or another authorised recipient in an external agency.[8]

Support Available for Consumers and Staff

The National Aged Care Advocacy Program (NACAP) is free, independent and confidential support that can be used by all older persons receiving or seeking government-funded aged care services, their families and carers. The Older Persons Advocacy Network (OPAN)

[5] *Australian Government,* Fair Work Act 2009 (Cth), Accessed June 2025, Fair Work (Registered Organisations) Act 2009

provides NACAP services across Australia.

If you're an older person or a staff member and you need support to raise your concerns, an aged care advocate can help. You can contact OPAN for further advice or support on:

- Website: https://opan.org.au/contact-us/get-advocacy-support/
- Phone: 1800 700 600
    - Aged Care Advocacy Line is available 8am – 8pm Monday - Friday, and 10am - 4pm Saturday

Anonymous Reports

Anonymous reports of wrongdoing are accepted under this Policy. Note that anonymous reports may have significant limitations that mean a proper and appropriate inquiry or investigation can't be undertaken. These limitations may include the inability to provide feedback on the outcome and/or to gather additional particulars to assist the inquiry/investigation.

Bilingual Care will undertake an investigation as best possible following this Policy, based on the information available.

Training and Communication

All staff, including volunteers, associate providers/subcontractors and key personnel, must receive regular training on Bilingual Care's *Whistleblower Policy and Procedure*. The training will include and ensure that staff understand:

- what constitutes disclosable conduct
- how to identify and respond to disclosures
- the protections available to individuals who make a report
- the requirement to maintain confidentiality and
- that victimisation as a result of a disclosure is prohibited.

Training will be delivered as part of Inductions and refreshed at least annually as per Bilingual Care's *Training and Development Policy and Procedure*. This approach ensures that all staff are equipped to uphold a culture of transparency, safety, and accountability in service delivery.

Bilingual Care will regularly communicate that whistleblower disclosures are welcomed and encouraged, and that individuals can report concerns without fear of reprisal. This will be achieved through:

- including information in the consumer Handbook and staff Handbook
- including information about this Policy and Procedure in *Service Agreements*
- displaying posters on noticeboards or digital screens
- including whistleblowing as part of team meeting agendas and encouraging questions to clarify misconceptions or providing examples
- including a recurring section on whistleblowing reporting in Bilingual Care's Newsletter

Failure to Comply

Any breach of this Policy may result in disciplinary action, including dismissal, as per Bilingual Care's *Performance Management Policy and Procedure*.

Supporting Documents

Documents relevant to this policy and procedure include:

- *Feedback and Complaints Policy and Procedure*
- *Consumer Incident Management Policy and Procedure*
- *Performance Management Policy and Procedure*
- *Training and Development Policy and Procedure*
- *Work Health and Safety Policy and Procedure*
- *Workplace Incident Management Policy and Procedure*
- *Workplace Bullying, Discrimination, and Sexual Harassment Policy and Procedure*
- *Staff Code of Conduct*
- *Aged Care Code of Conduct*
- *Statement of Rights*

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 *Continuous Improvement Plan* will be used to record improvements identified 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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