

Twilight Aged Care - Whistleblower Policy



Policy statement

Twilight Aged Care is committed to creating an open work environment and culture, consistent with our values. We are committed to maintaining a culture of compliance and ethical behaviour. This Policy outlines how the organisation supports and protects whistleblowers to report legitimate concerns safely, in accordance with the Corporations Act 2001 (Cth) and the Aged Care Act 2024.

The purpose of this Policy is to provide clarity on the process for reporting or disclosing of actual or suspected wrongdoing. We want our employees, residents and families to understand how to express concerns in a safe way and, understand what happens when they report.

The following matters do not fall within the scope of this Policy and should follow the relevant Twilight Aged Care policies and procedures:

- Serious Incident Response Scheme (SIRS) – please refer to Mandatory Reporting and the [Serious Incident Response Scheme Reporting Policy](#)
- Employment Grievances – please refer to the [Internal Grievance Resolution Procedure](#)

A copy of this Policy will be posted on the staff intranet and will be available on the Twilight Aged Care website.

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Definitions

Term	Definition
Whistleblower	Any person who discloses or reports actual or suspected misconduct, wrongdoing or breaches of the Aged Care Act and/or Corporations Act.
Wrongdoing	Also referred to as misconduct , means any action or behaviour that is improper, unlawful, unsafe, or contrary to Twilight Aged Care's policies, values, or legal obligations. This includes conduct that: <ul style="list-style-type: none">breaches any law, regulation, or local government requirement, including the <i>Corporations Act 2001 (Cth)</i>.is illegal, such as theft, drug use or sale, violence or threats, or deliberate damage to property.is unlawful, corrupt, or an improper use of company funds, or an abuse of public trust.is dishonest or fraudulent.interferes with, obstructs, or perverts the course of justice.unreasonably endangers health, safety, or the environment.reflects gross mismanagement or repeated breaches of administrative procedures.causes financial or non-financial loss that is harmful to Twilight Aged Care's interests.is unethical behaviour, including breaches of the Code of Conduct.is serious improper conduct that may lead to disciplinary action.represents any danger to the public.
Disclosable matters	Any concern or reasonable suspicion that someone has breached, is breaching, or about to breach a provision of the Aged Care Act and or Corporations Act. Such concerns or suspicions need to be in relation to misconduct or an improper situation.
Disclosures qualifying for protection	A disclosure of information by an individual qualifies for protection if: <ul style="list-style-type: none">the disclosure is made to one of the following:<ul style="list-style-type: none">an Appointed Commissioner or a member of the staff of the Commissionthe System Governor, or an official of the Departmenta registered provider of funded aged care services

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Term	Definition
	<ul style="list-style-type: none">○ a responsible person of the registered provider○ an aged care worker of a registered provider○ police officer○ an independent aged care advocate● the disclosure is made either verbally or in writing and is submitted anonymously or not● the individual has reasonable grounds to suspect that the information concerns conduct that may breach a provision of the Aged Care Act and/or Corporations Act.
Employees	refers to all current or former employees, associated providers (i.e. agency employees, contractors, etc), students on placement, and volunteers of the organisation.

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Purpose

The objective of this Policy is to encourage the reporting of wrongdoing that is of legitimate concern, by providing a convenient and safe reporting mechanism, and protection for people who make disclosures, hereafter called "Discloser," of serious wrongdoing.

Who does the Policy and Procedure apply to

This policy and procedure applies to:

- all employees;
- the Governing body;
- other service providers;
- suppliers;
- associates or business partners (paid or unpaid); and
- relatives, dependants or spouses of any of those listed (for example, a relative, dependant or spouse of a current or former employee, contractor or supplier).

Accountability

It is the responsibility of Twilight Aged Care people leaders to ensure all employees have access to and are made aware of this Policy.

It is the responsibility of all Twilight Aged Care employees to understand this Policy, and the importance of reporting wrongdoing.

Roles and Responsibilities

Governing Body	<p>The Governing Body has ultimate responsibility for Twilight Aged Care's accountability and management of disclosures under its risk management and compliance responsibilities, including disclosures under the whistleblowing policy.</p> <p>The Governing body is responsible for:</p> <ul style="list-style-type: none">• maintaining effective systems and processes for managing disclosures and driving continuous quality improvement.• building an open, transparent culture where older people, their supporters, workers and visitors are encouraged, supported and feel safe to make disclosures.
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CEO and Executive team	<p>The CEO and the Executive Team are responsible for:</p> <ul style="list-style-type: none">• review of this policy and procedure in accordance with the review schedule.• appointing an independent investigating Officer.• ensuring sufficient resources are allocated to the investigating officer.• ensuring all reports by whistleblowers are investigated to the necessary degree.• providing regular education and training on the policy and procedure.
Managers	<p>Managers are responsible for:</p> <ul style="list-style-type: none">• ensuring all employees and relevant stakeholders are aware of this policy and understand how to apply it.• fostering a culture where disclosures are encouraged, reported and investigated. This includes ensuring workers have the required skills to recognise and respond to disclosers that qualify for protection and when and how to escalate disclosures.• monitoring compliance of this policy and related processes and identifying opportunities for improvement.• reporting disclosures to the Executive Team and Governing Body, and where required, to external agencies.
Employees	<p>All former and current employees, including associated providers (i.e. contractors and agency staff), volunteers and students are required to comply with this Policy and act within their delegated level of authority. This includes:</p> <ul style="list-style-type: none">• reporting any disclosable matters,• maintaining disclosable matters private and confidential.
Investigating Officer	<p>The Investigating Officer is responsible for:</p> <ul style="list-style-type: none">• remaining unbiased throughout the investigation.• ensuring the scale of the investigation is proportionate to the seriousness of the wrongdoing.• ensuring the investigation is completed in a fast and efficient manner.• examining relevant documents and evidence.• maintaining strict confidentiality throughout the investigation.• conducting interviews with relevant witnesses.• keeping accurate and clear records.

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Procedure

1. Is whistleblowing the right option?

Before making a whistleblower disclosure, consider:

- does the disclosure qualify as a whistleblower disclosure?
- is blowing the whistle the best option or is it another channel more appropriate, for example raising a concern as feedback or a complaint?

A whistleblower should not use the whistleblower service to report a personal work-related grievance or a complaint about a matter, not amounting to misconduct, that could be effectively managed through our Internal Grievance Resolution Procedure.

If you wish to obtain additional information before making a whistleblower disclosure, you may contact the Human Resource Manager, Organisational Development Manager, Chief Executive Officer, or an independent legal adviser.

2. Who to contact

If you have reasonable grounds to suspect misconduct or an improper situation relating to Twilight Aged Care, you can submit a whistleblower disclosure directly to one of the below **Executive personnel**:

- Niamh Mannion (Chief Executive Officer)
- Madelyn Dupriez (Acting Human Resource Manager)
- Emily Hams (Engagement Manager)
- Fiona Wallace (Organisational Development Manager)

To ensure complete coverage of this Policy and to encourage the disclosure of information at all levels of the organisation, if the wrongdoing involves the CEO of Twilight Aged Care or a member of the Board of Directors, this should be referred directly to the Chairperson of the Board of Twilight Aged Care using the email address: Lorraine.Lovitt@twilight.org.au.

3. How to report

- People can report concerns:
 - internally or externally
 - in person
 - by phone
 - in writing (e.g., feedback boxes or email)
- Anonymous disclosures are accepted and will be investigated where possible. However, some procedure limitations may apply if we cannot contact the whistleblower, including investigating the disclosure if there is not enough information.

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4. Information to Provide in a Whistleblower Disclosure

Your disclosure should provide enough information for a reasonable investigation:

- Description of events or activities, including locations.
- Names and roles of people involved.
- Relevant dates and times.
- Possible witnesses.
- Supporting documents.
- Steps you've already taken to report or resolve the matter.

5. Confidentiality and Discloser protections

All parties involved in a disclosure will be treated fairly and with respect for natural justice. Twilight Aged Care is committed to protecting and respecting the rights of Disclosers who report wrongdoing in good faith. Twilight Aged Care will not tolerate any retaliatory action or threats of retaliatory action against a Discloser, or against a Discloser's colleagues, employer (if a contractor, consultant or supplier) or their relatives. For example, a Discloser must not be disadvantaged or victimised for having made the report by:

- dismissal or termination of services or supply
- demotion
- discrimination, victimisation, harassment or bullying
- personal or financial disadvantage.
- current or future bias
- threats of any of the above or any other conduct that constitutes retaliation.

The Discloser may advise they wish to remain anonymous, or place restrictions on who is informed of their disclosure. Twilight Aged Care will aim to support these requests (subject to the below).

Whilst Twilight Aged Care will still make best endeavours to investigate the wrongdoing, there may be some practical limitations in doing so if the Discloser does not agree to share their disclosure or identity.

Information received from the Discloser (or that could lead to their identification) will be treated with strict confidentiality and will not be shared by Twilight Aged Care unless:

- the Discloser consents to the disclosure; and/or
- the disclosure is required or authorised by law.

When a report is investigated it may be necessary to reveal its substance to people such as other Twilight Aged Care personnel, external persons involved in the investigation process and, in appropriate circumstances relevant law enforcement agencies. It may be necessary to disclose the

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facts and substance of a report to a person who may be the subject of the report as it is essential for natural justice to prevail.

Although it is aimed to maintain confidentiality, in some circumstances, the source of the reported wrongdoing may be obvious to a person who is the subject of a report. Twilight Aged Care will take reasonable precautions to store any records relating to a report of Disclosable Conduct securely and to restrict access to authorised persons only.

Unauthorised disclosure of information relating to wrongdoing under this Policy by an employee of Twilight Aged Care that could prejudice confidentiality and identify a Discloser will be regarded seriously and may result in disciplinary action, which may include dismissal.

Serious penalties apply for breaching whistleblower protections. Courts may order relief if a whistleblower is not properly protected.

6. False reporting

In making a disclosure under this policy, the Discloser must act in good faith on a genuine belief that there has been wrongdoing, and not for malicious purposes. Where it is determined a disclosure has been made in good-faith and the allegations are not substantiated, the Disclosers rights as a whistleblower continue to be protected, and they will not be disadvantaged. Where it is determined that a disclosure is made by an employee falsely or for a malicious purpose, Twilight Aged Care reserves the right to take disciplinary action against the Discloser.

7. Communication

Where possible and assuming the identity of the Discloser is known, the Discloser will be kept informed of the progress and outcome of the investigation of their disclosure, subject to privacy and confidentiality considerations. A final report will be prepared, outlining findings, evidence and outcomes.

All Disclosers must maintain confidentiality of any information provided to them by Twilight Aged Care in relation to their disclosure.

The person a complaint is made about will be informed as soon as practical and given a chance to respond.

8. Investigation process

1. Initial Assessment

Executive personnel (or the Chairperson of the Board, if the wrongdoing involves the CEO of Twilight Aged Care or a member of the Board of Directors) will promptly assess the disclosure to determine:

- If it qualifies as a whistleblower disclosure.
- The scope and timeframe for investigation.

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2. Assigning a Whistleblower Investigator

Executive personnel will assign a Whistleblower Investigator based on the circumstances of each case. The Whistleblower Investigator will be an external party with the appropriate skills and independence to conduct the investigation.

3. Conducting the Investigation

The Investigator will collect objective evidence related to the disclosure. All disclosures are investigated fairly, objectively and confidentially. This includes:

- acknowledging disclosures promptly;
- keeping an open, blame-free approach;
- using an independent and appropriate investigation;
- gathering and assessing relevant evidence;
- documenting outcomes and sharing them with appropriate parties; and
- taking corrective action when needed.

4. Reporting of Investigation Outcome

At the conclusion of the investigation, the Investigator reports their findings through a final report, which is provided to the responsible person.

Findings may be:

- Fully substantiated;
- Partially substantiated;
- Not substantiated; or
- Disproven.

The responsible person will take or delegate action if the report is substantiated. Whistleblowers will be informed of the outcome (not provided a copy of the full report). If a whistleblower is not satisfied, they may escalate the matter in writing to the Twilight Aged Care Board for review. The organisation may decline if it believes the investigation was sound.

The report will be provided to external regulators when required. Any criminal activity will be reported to Police or relevant authorities.

9. **Reporting and record keeping**

- The CEO provides the Board with a summary of all whistleblower disclosures, including non-qualifying ones. If the wrongdoing involves the CEO of Twilight Aged Care or a member of the Board of Directors, the Board Chairperson will manage this process.

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- Reports specify which disclosures relate to Serious Incident Response Scheme (SIRS) and/or reportable incidents.
- Misconduct and wrongdoing must be reported to a Senior Manager and to the Board.
- Records are kept secure and confidential, with access limited to those involved.
- All records are kept for seven years.

10. Support for Whistleblowers

Twilight Aged Care will:

- support whistleblowers with information and access to human resources advice, legal advice or other supports;
- take reasonable steps to protect whistleblowers during and after the investigation, including:
 - access to counselling
 - temporary or permanent adjustments to duties if needed
 - no disciplinary action where a disclosure was made honestly, even if incorrect
 - access to legal remedies if harm has occurred
- protect their identity wherever possible, except where disclosure is required by law; and/or
- not tolerate any form of victimisation.

Twilight Aged Care is committed to providing a supportive environment for any person making a whistleblower disclosure and will strive to ensure that every whistleblower is protected from detriment because of blowing the whistle. This includes protection from dismissal or demotion, and any form of reprisal including retaliation, harassment or victimisation.

Professional support services are available to whistleblowers, including confidential counselling through **Employee Assistance Program (02) 9262 6156**.

References

- [Aged Care Act 2024](#)
- [Corporation Act 2021 \(Cth\)](#)
- [Corporation Regulations 2001](#)
- [Privacy Act 1988 \(Cth\)](#)
- [ASIC](#)
- [Fair work Act 2009 \(Cth\)](#)

Related policies and procedures

- [Internal Grievance Resolution Procedure](#)
- [Reporting Incidents to the Aged Care Quality and Safety Commission \(SIRs\)](#)
- [Incident Management](#)

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