

30. Protected Disclosure



Statement

Our service is committed to ensuring best practice in responding to all forms of complaints in respect of the service and care and education provided in accordance with the Education and Care Regulations and National Law. Our service is committed to the highest standard of conduct and supports a culture of honesty, ethical behaviour, compliance and governance.

Rationale

This policy ensures that individuals who disclose service wrongdoing relating to the conduct of staff, contractors, or others engaged by our service can do so safely and with confidence that they will be supported and protected from detriment.

It is designed to comply with:

- The Education and Care Services National Law and Regulations
- The Corporations Act 2001 (Cth), Part 9.4AAA – Protection for Whistleblowers
- The Fair Work Act 2009 (Cth) (in relation to adverse action)
- The service's Complaints and Grievances Policy, Code of Conduct, and Child Safe Standards.

This policy operates in conjunction with our service's Complaints policy and Grievances procedures to ensure transparency, accountability, and a safe environment for all.

Implementation

This policy:

1. Establishes a reporting system to receive reports of serious wrongdoing.
2. Clarifies what constitutes a matter that may be reported under this policy.
3. Sets out the protections for persons making a report so that disclosures are made without fear of dismissal, victimisation, or other detriment.
4. Establishes procedures for independent assessment and investigation of relevant whistleblower disclosures.
5. Promotes a culture of integrity, openness, and accountability within the service.

Definitions

Whistleblower

An *eligible whistleblower* is any person who makes a disclosure of information under this policy in good faith and with reasonable grounds to suspect wrongdoing. This includes:

- Employees (full-time, part-time, casual)
- Volunteers and students
- Contractors and suppliers (and their employees)
- Committee members or directors
- Parents or guardians (in certain circumstances)
- Former employees or contractors of the service

Eligible Disclosure

A disclosure of information that the whistleblower has reasonable grounds to suspect indicates misconduct or an improper state of affairs or circumstances in relation to:

- A breach of the **Education and Care Services National Law or Regulations**
- A breach of **Australian laws** (e.g., Corporations Act, Fair Work Act)
- A **serious wrongdoing**, such as fraud, corruption, endangerment of children or staff, or systemic non-compliance
- Behaviour that is **dishonest, unethical, or unsafe**

Personal grievances that relate solely to interpersonal conflicts or employment terms are **not** covered by this policy unless they involve reprisal for whistleblowing or a broader systemic issue.

Victimisation

Victimisation refers to any act that causes harm, disadvantage, or adverse treatment to a person because they have made, or intend to make, a whistleblower disclosure.

This policy applies to all staff, contractors, volunteers, management, and stakeholders associated with the service.

It applies to disclosures regarding:

- Misconduct, breach of policy, or unethical behaviour by staff or management
- Financial malpractice, theft, or fraud
- Breach of child safety or duty of care
- Serious breaches of legal or regulatory obligations
- Cover-ups of any of the above

Reporting Serious Wrongdoing

How to Report

Reports can be made confidentially to:

- **Approved Provider / Director / Nominated Supervisor**
- **Regulatory Authority** (if relevant to National Law breaches)
- **External authorities**, such as:
 - Australian Securities and Investments Commission (ASIC)
 - Australian Charities and Not-for-profits Commission (ACNC)
 - Fair Work Ombudsman
 - Department of Education – Early Childhood Education Directorate

Reports may be made:

- In writing (email or letter)
- Verbally (meeting or phone call)
- Anonymously (if preferred)

All disclosures will be treated **confidentially** and **sensitively**.

Whistleblower Process

1. Receipt of Disclosure

The Nominated Supervisor or other designated officer will:

- Record the disclosure
- Acknowledge receipt (where possible)
- Explain next steps, protections, and confidentiality provisions

2. Preliminary Assessment

An initial review will determine whether:

- The matter qualifies as a whistleblower disclosure
- The issue falls within the scope of another policy (e.g., grievance, child protection)
- Immediate protective action is required

3. Investigation

If the matter qualifies, an independent investigation will be undertaken.

The investigation may:

- Be conducted internally or by an external investigator
- Include interviews, document reviews, and fact-finding steps
- Be completed in a timely and fair manner

The investigator will maintain confidentiality and ensure procedural fairness.

4. Findings and Outcome

The service will:

- Determine corrective or disciplinary action if wrongdoing is substantiated
- Inform the whistleblower of the outcome (within confidentiality limits)
- Implement systemic improvements if necessary

5. Recordkeeping

All whistleblower reports and investigations will be securely stored and accessible only to authorised personnel.

Protections for Whistleblowers

Under the **Corporations Act 2001**, a person making an eligible disclosure is protected by law. The service will ensure:

- **Confidentiality** of identity and information
- **Protection from detrimental conduct**, including dismissal, demotion, or harassment
- **Immunity from civil, criminal, or administrative liability** for making a protected disclosure
- **Support and welfare**, including access to counselling or EAP (if applicable)

Breaches of confidentiality or victimisation will be treated as serious misconduct and may result in disciplinary or legal action.

Roles and Responsibilities

Approved Provider	Maintain policy compliance, ensure independence and integrity of investigations
Nominated Supervisor	Receive and manage disclosures, ensure confidentiality, support whistleblowers
Employees and Contractors	Report serious wrongdoing in good faith, cooperate with investigations
Investigators (internal or external)	Conduct impartial investigations and provide factual findings

Policy Review

- The Service will review this policy and guidelines every 12 months.
- Families are encouraged to collaborate with the service to review policies and procedures.
- Educators are essential stakeholders in the policy review process and are encouraged to be actively involved.

Related Legislation

Education and Care Services National Regulations.
NSW Government. Children and Young Persons Act. NSW Government. (2023). [Office of the Children’s Guardian](#)
Privacy Act 1988
Fair Work Act 2009 (Cth)
Corporations Act 2001 (Cth), Part 9.4AAA
Public Interest Disclosure Act 2013 (Cth) (for applicable entities)

Links to other policies and documents

- Child Protection
- Providing a child safe environment
- Code of Conduct for Staff Members
- Commitment to child safety standards
- Safe a responsible use of digital devices
- Complaints Policy
- Grievance Procedure

Links to Education and Care Services National Regulations: 168
Links to National Quality Standards: 4.2, 7.1, 7.2

Sources

Australian Children’s Education & Care Quality Authority. (2024). [Guide to the National Quality Framework](#)
Australian Children’s Education & Care Quality Authority. (2024). [Taking Images or Videos of Children While Providing Early Childhood Education and Care. Guidelines for the National Model Code.](#)
Byrnes, J., & Wasik, B. (2009). Picture this: Using photography as a learning tool in early childhood classrooms.
Education and Care Services National Regulations. (Amended 2023).
NSW Government. Children and Young Persons Act. NSW Government. (2023). [Office of the Children’s Guardian](#)
Privacy Act 1988
Code of Ethics
Work Health and Safety
Fair Work Act 2009 (Cth)
Corporations Act 2001 (Cth), Part 9.4AAA
Public Interest Disclosure Act 2013 (Cth) (for applicable entities)