



<b>Policy Category</b>	Risk Management
<b>Authorised by</b>	The Board of Directors
<b>Date Adopted</b>	June 2020
<b>Version</b>	1.3
<b>Reviewed Date</b>	September 2023
<b>Review Date</b>	September 2025

## Purpose

Murray Mallee Aged Care Group (MMACG) is guided by its values. These values are the foundation of how we conduct ourselves and interact with each other, our clients, and other stakeholders. MMACG is committed to ensuring corporate and service compliance, provision of safe and quality service, safety of the clients, and promoting ethical workplace culture, by observing the highest standards of transparency, honesty, and integrity in our business activities.

## Policy Statement

MMACG encourages the reporting of any instances of suspected unethical, illegal, corrupt, fraudulent, or undesirable conduct involving MMACG's business and provides protections and measures to individuals who make a disclosure in relation to such conduct without fear of victimisation or reprisal. Likewise, MMACG encourages the disclosure of reportable incidents and provides protections for those who make a disclosure - in accordance with the Aged Care Act 1997.

This Policy will be made available on the MMACG website, and during staff induction processes, to ensure availability to persons to whom this Policy applies.

This Policy applies to any person who is, or has been, any of the following with respect to MMACG:

- Employee
- Director
- Contractor (including volunteers, sub-contractors and employees of contractors)
- Supplier (including employees of suppliers)
- Consultant
- Auditor
- Relative, dependent, spouse, or dependent of a spouse of any of the above.

The scope of this policy and protections for disclosures in relation to disclosing reportable incidents are discussed in a separate section of this policy, *Serious Incident Response Scheme*.



## Definitions

**REPORTABLE CONDUCT:** For the purpose of this Policy, 'reportable conduct' includes behaviour that is:

- Dishonest, fraudulent, or corrupt
- Illegal (such as theft, dealing in or use of illicit drugs, violence or threatened violence and criminal damage to property)
- Unethical including any breach of MMACG's policies such as the Code of Conduct
- Oppressive or grossly negligent
- Potentially damaging to MMACG, its employees, clients or a third party
- Misconduct or an improper state of affairs
- A danger, or represents a danger to the public or financial system
- Involves any instruction to cover up or attempt to cover up serious wrongdoing
- Involves victimization of someone for reporting a Reportable Conduct

**'Reportable Conduct' does not include staff personal work-related grievances.** These must be raised with a manager and will be addressed in accordance with the Employee Investigations and Disciplinary Management Policy.

Examples of personal work-related grievances, that should be raised in accordance with the Employee Investigations and Disciplinary Management Policy, are:

- An interpersonal conflict between the staff member and another employee
- A decision relating to the engagement, transfer, or promotion of the staff member
- A decision relating to the terms and conditions of engagement of the staff member
- A decision to suspend or terminate the engagement of the staff member, or otherwise to discipline the staff member.
- alleged workplace discrimination, harassment or bullying. It will be reported and investigated as per MMACG Bullying and Harassment Policy.

## Reportable Incident

Reportable incidents are the incidents that have occurred, or are alleged or suspected to have occurred, to a client in connection with the provision of care:

- i. unreasonable use of force
- ii. unlawful sexual contact or inappropriate sexual conduct
- iii. psychological or emotional abuse
- iv. unexpected death
- v. stealing from, or financial coercion of, a client by a staff member

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- vi. neglect
- vii. inappropriate use of a restrictive practices
- viii. missing consumers (unexplained absence)

## **Staff member**

An individual who is employed, hired, retained or contracted by MMACG (whether directly or through an employment or recruiting agency) to provide care or other services.

## **Discloser**

A person who discloses a reportable incident or a reportable conduct.

## **Requirements**

MMACG relies on its employees to support and maintain a culture of honest and ethical behaviour. Accordingly, if you become aware of any '**Reportable Conduct**', it is expected that you will make a disclosure under this Policy.

There are several ways in which you may report or disclose any issue or behaviour which you consider to be Reportable Conduct.

Disclosers **must** have reasonable grounds to suspect that the information they are disclosing about MMACG concerns misconduct, or an improper state of affairs or circumstances.

MMACG discourages deliberate, false reporting and legal action may result as a consequence of false allegations.

MMACG recommends that independent legal advice is sought prior to making a disclosure of reportable conduct.

## **PROCEDURE**

There are several ways in which you may report or disclose any issue or behaviour which you consider to be Reportable Conduct.

## **Internal Reporting**

In the first instance MMACG encourages internal disclosure processes. Internal reports can be made to the CEO, a director or any member of the Executive Management Team (Whistle-blower Protection Officers).

The recipient of your disclosure will safeguard your interests and will ensure privacy, confidentiality, and the integrity of the reporting mechanism.

Disclosures can be made anonymously, confidentially, securely, and outside of business hours.

### **Anonymity:**

When making a disclosure, you may do so anonymously. It may be difficult for MMACG to properly investigate the matters disclosed if a report is submitted anonymously and therefore MMACG encourages you to share your identity when making a disclosure, however you are not required to do so. Anonymous disclosures can still be protected under the Corporations Act 2001.

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**All disclosures will be handled in accordance with the MMACG Employee Confidentiality Policy.**

## Internal Reporting Process:

1. Using the contact details in Appendix A, contact the desired Whistle-blower Protection Officer via phone, email, or post (anonymously).
2. Advise the Whistle-blower Protection Officer that you would like to make a disclosure of reportable conduct, in line with the MMACG Whistle-blower Policy. In the case of an anonymous report, disclosures will be investigated as per the investigation process below. You may choose to reveal your identity if you would like to contribute further to the process.
3. The Whistle-blower Protection Officer will ask to meet in person/set a time to speak to you confidentially. Disclosures can be made anonymously, confidentially, securely and outside of business hours.
4. At the agreed time, the Whistle-blower Protection Officer will ensure your disclosure is heard and documented. You will be given opportunity to revise documented disclosure and ensure details are accurate/make any required amendments. You will be provided with a copy of all documentation for your records.
5. If the Whistleblower Protection Officer determines a report does not fall under or relate to Reportable Conduct, they will advise the person making the report and advise them of how the report will be handled under a separate policy.
6. See Investigation Process.

## External Reporting

If you would like to make your disclosure to an external party, you can report your disclosure to:

- Australian Securities and Investments Commission (ASIC) or the Australian Prudential Regulation Authority (APRA)
- Your lawyer
- Journalists and members of Commonwealth, state or territory parliaments (parliamentarians), under certain circumstances. *Please be aware that there are conditions regarding eligibility for protection.*

Where a disclosure has been made externally and you provide your contact details, those contact details will only be provided to an approved Whistle-blower Protection Officer with your consent.

***Please see Appendix A for internal and external contact details. Reporting procedures are available from the external source you wish to contact.***

## Investigation Process

MMACG will investigate all disclosures reported under this policy as soon as practicable after the matter has been reported.

- The Whistle-blower Protection Officer will investigate the matter and where necessary, appoint an external investigator to assist in conducting the investigation.
- All investigations will be conducted in a fair, independent, and timely manner and all reasonable efforts will be made to preserve confidentiality during the investigation.
- If the report is not anonymous, the Whistle-blower Protection Officer or external investigator will contact you to discuss the investigation process and any other matters that are relevant to the investigation.
- Where you have chosen to remain anonymous, your identity will not be disclosed to the investigator or to any other person and MMACG will conduct the investigation based on the information provided.
- Where possible, the Whistle-blower Protection Officer will provide you with feedback on the progress and expected timeframes of the investigation. The person against whom any allegations have been made will also be informed of the concerns and will be provided with an opportunity to respond (unless there are any restrictions or other reasonable bases for not doing so).
- To the extent permitted by law, the Whistle-blower Protection Officer may inform you and/or a person against whom allegations have been made of the findings. Any report will remain the property of MMACG and will not be shared with you or any person against whom the allegations have been made.

## Protections for Whistle-blowers

### Protections under the *Corporations Act 2001*

The *Corporations Act 2001* requires that MMACG provides protections for eligible Whistle-blowers in relation to their disclosure. These include:

- Identity protection (confidentiality)
- Protection from detrimental acts or omissions including but not limited to:
  - dismissal
  - injury of an employee in his or her employment
  - alteration of an employee's position or duties to his or her disadvantage
  - discrimination between an employee and other employees of the same employer
  - harassment or intimidation of a person
  - harm or injury to a person, including psychological harm
  - damage to a person's property
  - damage to a person's reputation
  - damage to a person's business or financial position
  - any other damage to a person.
- Compensation and remedies if:

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- you suffer loss, damage, or injury because of a disclosure; and
- MMACG failed to take reasonable precautions and exercise due diligence to prevent the detrimental conduct.
- Civil, criminal and administrative liability protection.
  - Please note that protections do not grant immunity for any misconduct a discloser has engaged in that is revealed in their disclosure.

Please note, actions that are not considered detrimental conduct are:

- Administrative action that is reasonable for the purpose of protecting a discloser from detriment (e.g., moving a discloser who has made a disclosure about their immediate work area to another office to prevent them from detriment)
- Managing a discloser's unsatisfactory work performance, if the action is in line with the entity's performance management framework.

## Protections under the *Taxation Administration Act 1953*

Persons that make a disclosure regarding tax avoidance behaviour, and other tax issues, are protected under the *Taxation Administration Act 1953*.

To qualify for protection as a tax whistle-blower, certain conditions must be satisfied.

You must:

- Be, or have been, in a specific relationship with the entity you are reporting about, for example you are
  - an employee
  - a former employee
  - a dependent
  - a spouse
- Report MMACG to the Australian Tax Office (ATO) or to an eligible recipient who is in a position to take appropriate action – this includes someone appointed by MMACG, for example, The CEO, a MMACG board member or a member of the Executive Management Team (Whistle-blower Protection Officer).
- Consider that the information will help the ATO, or the recipient perform their duties under taxation law.
- Have reasonable grounds to suspect that the information you intend to provide indicates misconduct, or an improper state of affairs or circumstances, in relation to the tax affairs of MMACG or an associate of MMACG.
- Consider the information may assist the eligible recipient to perform their duties under a taxation law in relation to MMACG.

## MMACG Support and Protection from Detriment in Practice

MMACG is committed to ensuring that any person who makes a disclosure under this Policy is treated fairly, does not

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suffer detriment, and that confidentiality is preserved in respect of all matters raised under this Policy.

- MMACG will take all reasonable steps to protect you from detrimental conduct and will take necessary action where such conduct is identified.
- MMACG strictly prohibits all forms of detrimental conduct against any person who is involved in an investigation of a matter disclosed under the policy in response to their involvement in that investigation.

Employees who are mentioned in, or the subject of, disclosures made under the Whistle-blower Policy:

- Will not be subject to any civil, criminal, or administrative legal action (including disciplinary action) for making a disclosure under this Policy or participating in any investigation.
- Are protected in such a way that any information provided will not be admissible in any criminal or civil proceedings other than for proceedings in respect of the falsity of the information.

If you are subjected to detrimental conduct as a result of making a disclosure under this Policy or participating in an investigation, you should inform a Whistle-blower Protection Officer or eligible participant in accordance with the reporting guidelines outlined above. You may also seek remedies including compensation, civil penalties or reinstatement where you have been subject to any detrimental conduct.

## Protection of Confidentiality

All information received from you will be treated confidentially and sensitively.

- All MMACG employees are bound by the MMACG Employee Confidentiality Policy.
- The Whistle-blower Protection Officer, that receives the disclosure is bound by the MMACG Employee Confidentiality Policy and will ensure all disclosures remain confidential and that legal advice is sought to ensure the whistle-blower is protected against all detrimental acts and omissions.

If you make a disclosure under this policy, your identity (or any information which would likely to identify you) will only be shared if:

- You give your consent to share that information; or
- The disclosure is allowed or required by law (for example where the concern is raised with a lawyer for the purposes of obtaining legal advice);
- The concern is reported to the Australian Securities and Investments Commission (ASIC), the Australian Prudential Regulation Authority (APRA), the Australian Taxation Office (ATO) or the Australian Federal Police (AFP);
- Where it is necessary to disclose information for the effective investigation of the matter, and this is likely to lead to your identification, all reasonable steps will be taken to reduce the risk that you will be identified.

## Serious Incident Response Scheme

Under this scheme, approved home care providers are required to notify the Aged Care Quality and Safety Commission



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(the Commission) of all reportable incidents. MMACG reports reportable incidents in accordance with Quality of Care Principle 2014, following the procedure laid out in MMACG Incident Management Policy and Procedure.

The Aged Care Act 1997 provides greater protection to disclosers who make disclosures about reportable incidents.

## Who is protected?

The following persons are eligible for protection under the new regime:

- a current or former key personnel, staff member or volunteer of MMACG; or
- a current or former client or family member of the client, a current or former carer, representative or advocate of the client or another person who is significant to the current or former client.

## Requirements for the disclosure to be protected

In order for the discloser to be protected, the disclosure needs to be made to one of the following:

- the Commission
- MMACG or a key personnel or staff member of MMACG or any person authorized by MMACG to receive reports of reportable incidents
- a police officer; or
- a person prescribed by the Quality of Care Principles 2014.

Additional requirements are:

- the discloser needs to provide their name to the person they make the disclosure to, before making the disclosure;
- the discloser needs to have reasonable grounds to suspect that the information indicates a reportable incident has occurred; and
- the discloser needs to make the disclosure in good faith.

## Protections

If the discloser satisfies the requirements for protection discussed above, there are a number of protections available to the discloser.

### **No civil or criminal liability**

The discloser is protected from any civil or criminal liability for making the disclosure. However, the discloser may still be civilly or criminally liable for his or her conduct that may be revealed by the disclosure.

### **Termination of contract**

No contractual or other remedy may be enforced or exercised against the person on the basis of the disclosure. For example, a contract the person is a party to cannot be terminated on the basis that the disclosure breaches the contract.



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In the case of an employment contract, if MMACG sought to terminate a staff member on this basis, a court may order the discloser to be re-employed or compensated.

## Victimisation

The discloser also has protection from victimisation.

Victimisation is where a person either:

- causes the discloser detriment intentionally because of the disclosure made; or
- threatens (expressly or implicitly, conditionally or unconditionally) to cause the discloser detriment with the intention to cause fear that the threat will be carried out (including where the person is reckless as to causing that fear) because the discloser has, or may, make a disclosure. If a discloser is victimised they are able to claim compensation for any damage they suffered because of the victimisation.

## Support Available

Any person who makes a disclosure under this policy or is implicated as a result of a disclosure that is made, may access the Company's Employee Assistance Program (EAP) which is a free and confidential counselling service.

You may also access third party support providers such as Lifeline (**13 11 14**) and Beyond Blue (**1300 22 4636**) for support.

## Consequences of a breach of this Policy

If you breach this policy, you will be subject to disciplinary action which may include:

- Counselling
- Verbal or written warning
- Transfer
- Demotion
- Termination of employment, either with or without notice

You should be aware that you can be held legally responsible for your conduct as well as being subject to disciplinary action. This also applies if you aid, abet or encourage other persons in inappropriate behaviour such as harassment or victimization.

## Appendix A - Internal and External Contact Details

Internal	External
<b>Anonymous (Australia Post)</b> Address to one of the below Whistle-blower Protection Officers and send to: PO Box 1315	<b>Australian Securities and Investments Commission (ASIC)</b> Phone: 1300 300 630 Online reporting link:

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Murray Bridge South Australia 5253	<a href="https://asic.gov.au/">https://asic.gov.au/</a>
<b>Chairperson of the Board of Directors</b> Trevor Kerley Phone: 0429 993 401 Email: <a href="mailto:tkerley@murraymallee.org.au">tkerley@murraymallee.org.au</a>	<b>Australian Prudential Regulation Authority (APRA)</b> Phone: 1300 558 849 Email: <a href="mailto:whistleblower@apra.gov.au">whistleblower@apra.gov.au</a>
<b>Chief Executive Officer</b> Anna Howard Phone: 0450 399 184 Email: <a href="mailto:ahoward@murraymallee.org.au">ahoward@murraymallee.org.au</a>	
<b>Deputy CEO &amp; Operations Manager</b> Foster Davis Phone: 0448 079 701 Email: <a href="mailto:fdavis@murraymallee.org.au">fdavis@murraymallee.org.au</a>	
<b>In-Home Care Manager</b> <b>Amy Joinbee</b> Phone: 0417 865 887 Email: <a href="mailto:ajoinbee@murraymallee.org.au">ajoinbee@murraymallee.org.au</a>	
<b>Clinical Manager</b> <b>Heide Callery</b> Phone: 0427 711 307 Email: <a href="mailto:hcallery@murraymallee.org.au">hcallery@murraymallee.org.au</a>	
<b>Finance Manager</b> <b>Wendy Bartlett</b> Phone: 0417 081 607 Email: <a href="mailto:wbartlett@murraymallee.org.au">wbartlett@murraymallee.org.au</a>	
<b>Executive Assistant and Office Coordinator</b> <b>Wendy Wybrow</b> Phone: 0438 771 223 Email: <a href="mailto:wwybrow@murraymallee.org.au">wwybrow@murraymallee.org.au</a>	

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<b>Policy Owner</b>	MMACG Board of Directors
<b>Related Policies</b>	Employee Investigations and Disciplinary Management Policy Employee Confidentiality Policy Charter of Aged Care Rights Risk Management Policy Employee Assistance Program Code of Conduct Incident Management Policy and Procedure
<b>Related Forms:</b>	Incident and Hazard Reporting Form Bullying and Harassment Form Feedback, Compliments and Complaints Form
<b>Related Standards:</b>	Standard 8: Organisational Governance
<b>Legislative Reference:</b>	<i>Corporations Act 2001</i> (Corporations Act) <i>Treasury Laws Amendment (Enhancing Whistle-blower Protections) Bill 2018</i> (Whistle-blower Protections Bill) <i>Taxation Administration Act 1953</i> (Taxation Administration Act) Fair Work Commission (Ombudsman) <i>Aged Care Act 1997</i>
<b>Version:</b>	1.3
<b>Current as at:</b>	September 2023
<b>Review Date:</b>	September 2025
<b>Date Endorsed by the Board of Directors:</b>	10/10/23
<b>Signed (Chairperson):</b>	

