Access Sydney Community Transport
Whistleblower Policy

Policy Statement

Access Sydney is committed to delivering services in an ethical, legal and culturally appropriate manner and we:

- recognise the importance of transparency and accountability in our activities;
- seek to promote an environment where appropriate concerns can be addressed through usual communication channels (eg raised by employees to their supervisors or by way of our complaints and feedback management system);
- recognise that there may be instances where an individual does not feel comfortable using these channels, in which case disclosure may be made under this policy;
- recognise that Whistleblowers play an important role in identifying and calling out:
  - misconduct such as unlawful or unethical behaviour that contravenes the Aged Care Act 2024 (Cth), including poor care that leads to client harm;
  - misconduct such as fraud or illegal conduct within a company that contravenes the Corporations Act 2001(Cth) and
- will take all necessary steps to ensure that the required protections are afforded to individuals who make disclosures.

Scope

This policy applies to:

- all individuals who may make, or receive, a disclosure, under the Aged Care Act 2024 (Cth), including employees, directors, officers of the company, clients and their Supporters and representatives;
- all Eligible Whistleblowers and Eligible Recipients under the Corporations Act 2001(Cth);
- all employees responsible for the management of the processes and systems set out in this policy.

Purpose

The Aged Care Act 2024 (Cth) and Corporations Act 2001(Cth) both set out obligations on entities relating to Whistleblowers.

This policy has been implemented to ensure that:

- the appropriate systems and processes relating to Whistleblowers are:
  - in place to comply with the Aged Care Act 2024 (Cth) and Corporations Act 2001(Cth); and
  - communicated to Eligible Whistleblowers, Eligible Recipients, employees, clients and their Supporters and all other relevant individuals,
- individuals are aware of (in relation to both the Aged Care Act 2024 (Cth) and Corporations Act 2001(Cth):
  - the definition of a disclosure;
  - what disclosures may be protected disclosures and how such disclosures may be made;
  - the protections afforded to Whistleblowers;
  - how we will investigate disclosures;
  - how we will ensure fair treatment of individuals mentioned in disclosures and support individuals who make disclosures;
  - how we will comply with our obligations to Whistleblowers

1. Regulatory obligations and guidance material

This policy has been developed with reference to the following regulatory obligations and guidance material:

- the Aged Care Act 2024(Cth)
- the Aged Care Rules 2025 (Cth)
- the Corporations Act 2001(Cth)
- Information Sheet 238 released by ASIC.

2. What is a disclosure and what disclosures are protected?

2.1 Aged Care Act 2024 (Cth)

- A Whistleblower disclosure is the reporting of misconduct such as unlawful or unethical behaviour where the reporting individual has reasonable grounds to suspect that the behaviour being disclosed contravenes the Aged Care Act 2024 (Cth), including poor care that leads to client harm.
- A Whistleblower disclosure is protected under the Aged Care Act 2024(Cth) when it is disclosed orally or in writing to a person described in paragraph 3.1. and the discloser has reasonable grounds to suspect that the information included in the disclosure indicates that an entity may have contravened a provision of the Aged Care Act 2024(Cth).
- A disclosure may be made anonymously.
- A Whistleblower may elect to have a disclosure managed as a complaint or feedback under the Aged Care Act2024 (Cth). If a Whistleblower makes this election, they will not be afforded the protections set out in this policy.

2.2 Corporations Act 2001 (Cth)

- A Whistleblower disclosure is the reporting of misconduct, such as fraud or illegal conduct, within a company (including a Company limited by guarantee) where the reporting individual has reasonable grounds to suspect that the behaviour being disclosed is a contravention of the Corporations Act 2001(Cth).
- A Whistleblower disclosure is protected under the Corporations Act 2001(Cth) where it is made by an Eligible Whistleblower to an Eligible Recipient and the Eligible Whistleblower has reasonable grounds to suspect that the information included in the disclosure:
  - concerns misconduct, or an improper state of affairs or circumstances;
  - constitutes an offence against or contravention of a provision of the Corporations Act 2001(Cth) or:
    - *the Australian Securities and Investments Commission Act 2001 (Cth);*
    - *the Banking Act 1959 (Cth);*
    - *the Financial Sector (Collection of Data) Act 2001 (Cth);*
    - *the Insurance Act 1973 (Cth);*
    - *the Life Insurance Act 1995 (Cth);*
    - *the National Consumer Credit Protection Act 2009 (Cth);*
    - *the Superannuation Industry (Supervision) Act 1993 (Cth);*
  - constitutes an offence against any other law of the Commonwealth which is punishable by imprisonment for a period of 12 months or more; or

- represents a danger to the public or the financial system.

2.3 Personal Work-Related Grievances – Corporations Act 2001(Cth):

This policy does not apply to a disclosure relating to a Personal Work-Related Grievance unless that Personal Work-Related Grievance:

- has significant implications for Access Sydney which do not relate to the discloser; and
- does not concern conduct, or alleged conduct referred to in paragraph 2.2 or any Victimisation or Threats of Victimisation.

3. Who can receive a disclosure?

A disclosure can be received by an individual listed in paragraph 3.1 or 3.2.

3.1 Aged Care Act 2024(Cth)

A disclosure qualifies for protection if it is made to:

- an Appointed Commissioner or a member of the staff of the Commission;
- the System Governor, or an official of the Department;
- a Registered Provider;
- a Responsible Person of the Registered Provider which includes the Whistleblower Reporting Manager;
- an employee of a Registered Provider;
- a police officer;
- an Independent Aged Care Advocate.

3.2 Corporations Act 2001 (Cth)

A disclosure qualifies for protection if it is made to:

- an officer or senior manager of the Registered Provider;
- an auditor, or a member of an audit team conducting an audit, of the Registered Provider;
- an actuary of the Registered Provider;
- an individual authorised by the Registered Provider to receive disclosures that may qualify for protection;
- a legal practitioner for the purpose of obtaining legal advice or legal representation;
- ASIC;
- APRA;
- a Commonwealth authority otherwise prescribed to receive disclosures (collectively, **Eligible Recipients**).

4. Who can make a disclosure?

4.1 Aged Care Act 2024(Cth)

Individuals can make disclosures under the Aged Care Act 2024 (Cth). This includes:

- all employees and volunteers;
- clients and their Supporters;
- any other individual who becomes aware of information a disclosure of which would

be protected under the Aged Care Act 2024 (Cth).

4.2 Corporations Act 2001 (Cth)

An individual who is or has been:

- an officer, being a director or company secretary;
- an employee;
- an individual who supplies services or goods, or any employee of such an individual;
- an associate;
- a relative of any individual referred to above;
- a dependent of an individual referred to above, (collectively, **Eligible Whistleblowers**).

5. Internal and External Disclosures

5.1 Internal Disclosures

Whistleblowers may make disclosures to any of the individuals described in paragraph 3 depending on the nature of the disclosure.

Disclosures can be made:

- via the Whistleblower disclosure form on the Access Sydney website
- by e-mailing: disclosures@accesssydney.org.au
- by calling: 8241 8000 and asking to speak with the CEO
- by writing to:the Access Sydney CEO or Access Sydney Chairperson at 48/378 Parramatta Road Homebush West NSW 2140

5.2 External Disclosures

Whistleblowers may elect to make disclosures to external bodies as described in paragraphs 3.1 and 3.2.

These disclosures may be made securely in accordance with the whistleblowing policies in respect of each entity to whom the external disclosure is made.

6. What protections are available to Whistleblowers?

6.1Victimisation

- Under both the Aged Care Act 2024 (Cth) and Corporations Act 2001(Cth), Victimisation of any Whistleblower, or Threats of Victimisation directed towards Whistleblowers, are prohibited.
- We will not engage in, or tolerate, any Victimisation, or Threats of Victimisation, where such behaviour is due to the belief or suspicion that an individual has, may have or intends to make, a disclosure.
- Where an individual is victimised because of a disclosure (or the belief or suspicion of a disclosure) this must be reported to the Whistleblower Reporting Manager by the Whistleblower or any other individual who becomes aware of the Victimisation.
- Individuals who engage in Victimisation may be subject to disciplinary action. Victimisation may also be deemed a contravention of the Aged Care Act 2024 (Cth) or Corporations Act 2001(Cth) resulting in penalties.

- Under the whistleblowing provisions of the Aged Care Act 2024 (Cth), we may engage in reasonable administrative action that is reasonable to protect a Whistleblower.

6.2 Confidentiality

- We will not reveal the identity of any Whistleblower where we obtain information relating to the identity of a Whistleblower by way of a disclosure.
- There are a number of exceptions under which we may reveal the identity of a Whistleblower, including where we notify:
  - (i) under the Aged Care Act 2024 (Cth):
    - a. an Appointed Commissioner or a member of the staff of the Commission;
    - b. the System Governor, or an official of the Department;
    - c. a police officer;
    - d. a legal practitioner for the purpose of obtaining legal advice or legal representation;
    - e. any other individual, with the consent of the discloser.
  - (ii) under the Corporations Act 2001(Cth):
    - a. ASIC;
    - b. APRA;
    - c. a member of the Australian Federal Police;
    - d. a legal practitioner for the purpose of obtaining legal advice or legal representation in relation to the disclosure; or
    - e. any other individual, with the consent of the discloser.
- We may otherwise use any information disclosed by a Whistleblower (but not the identity of the discloser) which is reasonably necessary to deal with the allegations or claims made under the disclosure provided that we take all reasonable steps to reduce the risk that the Whistleblower will be identified.

6.3 Anonymity – Aged Care Act 2024(Cth)

- Under the Aged Care Act 2024 (Cth), a Whistleblower may request that they, or any individual named in the disclosure, remain anonymous. If so, we must take such steps as reasonable to preserve the anonymity of such individuals.
- Where a Whistleblower chooses to remain anonymous, this may affect our ability to investigate and properly communicate with the Whistleblower about the disclosure.
- Where disclosure of the name of the discloser or an individual is necessary to lessen or prevent a serious threat to the health, safety or well-being of another individual, disclosing the identity of Whistleblowers or other individuals named in the disclosure may be reasonable but not where the threat can be lessened without naming them.

6.4 Protection from Liability

- Under both the Aged Care Act 2024 (Cth) and Corporations Act 2001(Cth), Whistleblowers are protected from:
    - any civil, criminal or administrative liability (including disciplinary action) for making a disclosure;
    - any contractual or other kind of remedy being enforced or exercised against the Whistleblower on the basis of the disclosure, including termination on the basis that disclosure constitutes breach of the contract.
- The Whistleblower may still be subject to civil or criminal liability for any conduct revealed by the disclosure.
- The Corporations Act 2001(Cth) contains an additional protection so that information in a disclosure is not admissible as evidence against the Whistleblower in criminal proceedings or in proceedings for the imposition of a penalty (other than where the proceedings relate to the falsity of the information).

7. How will we investigate following a whistleblowing disclosure?

- Any individual receiving a disclosure under this policy must ensure that the disclosure is managed in accordance with this policy. This is to ensure that the protections available for Whistleblowers are not compromised and that we can meet our obligations under the Aged Care Act 2024 (Cth) and Corporations Act 2001(Cth).
- All disclosures will be treated seriously and, where appropriate, will be thoroughly investigated in accordance with this policy. Investigations will be conducted in accordance with the Whistleblower procedure, PRO 2.11.
- All disclosures made to us will be treated seriously and appropriate action will be taken as soon as practicable after the disclosure is made. Where appropriate, this will include an investigation by the Whistleblower Reporting Manager.
- The objective of such an investigation will be to locate evidence in relation to the claims and allegations in any disclosure and to determine the veracity of such claims.

7.1 Steps to protect confidentiality

In conducting all investigations, we will take steps to reduce the risk of the Whistleblower being identified, including:

- redacting, as appropriate, personal information or references to the Whistleblower witnessing an event;
- referring to a Whistleblower in a gender-neutral context;
- where possible, contacting the Whistleblower (if known) to help identify certain aspects of their disclosure that could inadvertently identify them; and
- having investigations and handling of disclosures being handled by qualified and appropriate staff.

7.2 Secure record-keeping

We will take steps to ensure secure record-keeping and information sharing processes, including:

- storing all paper and electronic documents and other materials relating to disclosures securely;
- limiting access to information relating to a disclosure to those directly involved in managing and investigating the disclosure;
- limiting knowledge of the Whistleblower's identity, or information likely to lead to the identification of the Whistleblower, to those involved in handling the investigation;
- communications and documents relating to the investigation of a disclosure will not be sent to an email address or a printer that can be accessed by other staff; and
- employees involved in investigating a disclosure will be have knowledge of our requirements in dealing with Whistleblowers and disclosures.

7.3 Steps to support Whistleblowers and ensure fair treatment of Whistleblowers and individuals the subject of disclosures

- We will support all Whistleblowers while a disclosure is being investigated, including by:
  - assessing the immediate welfare and protection needs of any Whistleblower;
  - safeguarding the interests of a Whistleblower in accordance with this policy and our obligations under the Aged Care Act 2024 (Cth) and Corporations Act 2001 (Cth);
  - addressing any issues or concerns of Victimisation, Threats of Victimisation or Detriment.
- In accordance with paragraph 6.1, Victimisation and Threats of Victimisation will not be tolerated and any Whistleblowers who have a reasonable belief that they are being Victimised as a result of any disclosure (or the belief or suspicion of a disclosure) must report this behaviour to the Whistleblower Reporting Manager.
- Recipients of disclosures will receive education and training to ensure that they can identify Victimisation and so that they do not engage in Victimisation. Individuals the subject of disclosures will not be subject to Victimisation.
- Where, as a result of investigating a disclosure, evidence is found which confirms any claims or allegations of misconduct or contravention of the Aged Care Act 2024(Cth) or Corporations Act 2001(Cth) on the part of an individual identified in a disclosure, action may then be taken against that individual.

8. Public Interest Disclosures – Corporations Act 2001 (Cth)

- In certain public interest or emergency circumstances a disclosure may be made to a member of Parliament or journalist. This may only be done for disclosures under the Corporations Act 2001(Cth) (paragraph 2.2).
- A discloser may wish to contact a legal practitioner to obtain assistance in understanding the criteria for making a public interest or emergency disclosure.

8.1 Public Interest

Public interest disclosures may only be made where:

- the Whistleblower has already made a disclosure to us that qualifies for protection under the Corporations Act 2001 (Cth);
- at least 90 days have passed since the disclosure;
- the Whistleblower does not have reasonable grounds to believe that action is being, or has been, taken to address the matters in the disclosure;
- the Whistleblower has reasonable grounds to believe that making a further disclosure of the information would be in the public interest;
- after the 90 day period elapses, the Whistleblower provides written notice to us that includes information to identify the previous disclosure and states their intention to make a public interest disclosure.

8.2 Emergency Disclosure

Emergency disclosures may only be made where:

- the Whistleblower has already made a disclosure that qualifies for protection under the Corporations Act 2001(Cth);
- the Whistleblower has reasonable grounds to believe that the information concerns a substantial and imminent danger to the health or safety of one or more individuals or to the natural environment;
- the Whistleblower provides written notice to us that includes information to identify the previous disclosure and states their intention to make a public interest disclosure.

9. Definitions

Aged Care Act	means the Aged Care Act 2024 (Cth).
Aged Care Rules	means the Aged Care Rules 2025 (Cth).
Appointed Commissioner	means the Commissioner or Complaints Commissioner of the Commission.
APRA	means the Australian Prudential Regulation Authority.
ASIC	means the Australian Securities and Investments Commission.
CEO	means the Chief Executive Officer.
Commission (ACQSC)	means the Aged Care Quality and Safety Commission
Corporations Act	means the *Corporations Act 2001* (Cth).
Detriment	includes (without limitation): a. dismissal of an employee; b. injury of an employee in his or her employment; c. alteration of an employee's position or duties to his or her disadvantage; d. discrimination; e. harassment or intimidation of an individual; f. harm or injury to an individual, including psychological harm; g. damage to an individual's property;

	h. damage to a individual's reputation; i. damage to an individual's business or financial position; threats of reprisal.
Eligible Whistleblower	has the meaning in paragraph 4.2.
Eligible Recipient	has the meaning in paragraph 3.2.

Independent Aged Care Advocate	means a person who:
	• is independent of the System Governor, the Commission and any registered providers; and
	• is employed or otherwise engaged by a person or body that receives financial assistance under the Aged Care Act 2024 (Cth); and
	• provides either or both of the following to clients accessing, or seeking to access, services:
	  ○ free, independent and confidential support, information and advocacy;
	  ○ education about the rights of individuals under the Statement of Rights; and
	• where providing free, independent and confidential support, information or advocacy, acts at the direction of
	• the individual, reflecting the individual's expressed wishes,
	• will, preferences, interests and rights.

Personal Work-Related Grievance	means: • information which concerns a grievance about any matter in relation to the discloser's employment, or former employment, having (or tending to have) implications for the discloser personally; • information which: ▪ does not have significant implications for the entity to which it relates, or another entity, that do not relate to the discloser; and • does not concern conduct, or alleged conduct, referred to in paragraph 2.2.
Registered Provider	means: • for the purposes of the Aged Care Act 2024 (Cth), a registered provider as defined under section 11(2) of the Aged Care Act 2024 (Cth); and • for the purposes of the Corporations Act 2001(Cth), a body corporate or related body corporate under sections 15 and 50 of the Corporations Act.

Responsible Person	means: • any person who is responsible for executive decisions (including members of the governing body); • any other person who has authority or responsibility for (or significant influence over) planning, directing or controlling our activities; • any person who has responsibility for overall management of the nursing services delivered by us, or overall management of the nursing services delivered at one of our approved residential care homes, and who is a registered nurse; • any person who is responsible for the day-to-day operations of an approved residential care home or service delivery branch.
Supporter	of an individual, means an individual registered as a supporter of the individual under section 37 of the Aged Care Act 2024 (Cth).
System Governor	means the Secretary of the Department of Health and Aged Care.
Threat of Victimisation	means a threat of Victimisation which intends the individual to fear that the threat will be carried out or is reckless as to causing the individual to fear that the threat will be carried out. A threat may be express or implied and/or conditional or unconditional.
Victimisation	means conduct which causes any Detriment to an individual or to another entity which employs or is otherwise associated with the individual and the conduct is undertaken solely or partly because the entity believes or suspects that the individual or another individual has, may have, or intends to make, a disclosure that qualifies for protection.
Whistleblower	For the purposes of a disclosure under the Aged Care Act 2024 (Cth), means an individual who: • is a person described in paragraph 4.1, POL 2.11 who makes a disclosure as described in paragraph 2.1 POL 2.11 For the purposes of a disclosure under the Corporations Act 2001(Cth), means an individual who: • is an Eligible Whistleblower (paragraph 4.2. POL 2.11) who makes a disclosure as described in paragraph 2.2, POL 2.11
Whistleblower Disclosure	means: *Aged Care Act 2024 (Cth)* • the reporting of misconduct such as unlawful or unethical behaviour where the reporting individual has reasonable grounds to suspect that the behaviour being disclosed contravenes the Aged Care Act 2024 (Cth), including poor care that leads to client harm.

	Corporations act 2001 (Cth) • the reporting of misconduct, such as fraud or illegal conduct, within a company (including a Company limited by guarantee) where the reporting individual has reasonable grounds to suspect that the behaviour being disclosed is a contravention of the Corporations Act 2001(Cth).
Whistleblower Reporting Manager	means: Access Sydney person responsible for managing disclosures

Related Documents and Procedures

This policy should be read in conjunction with the following Access Sydney policies and procedures:

- PRO 2.11 Whistleblower
- Access Sydney Code of Conduct
- Access Sydney Employee Handbook

Related Policies

- POL 2.06 Disciplinary and Misconduct