ROBE CHILD CARE ON WHEELS SERVICE

PROTECTED DISCLOSURES (WHISTLEBLOWER) POLICY

Responsible Officer:	*Manager Childcare Services*
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Relevant Regulations:	EDUCATION AND CARE SERVICES NATIONAL LAW AND NATIONAL REGULATIONS S. 2A Paramount consideration — safety, rights and best interests of children S. 162A Child protection training S. 166A Offences relating to inappropriate conduct Division 7 Serious detrimental action 84 Awareness of child protection law 168 Education and care service must have policies and procedures 170 Policies and procedures must be followed 171 Policies and procedures to be kept available 172 Notification of change to policies or procedures 175 Prescribed information to be notified to regulatory authority 181 Confidentiality of records kept by approved provider
National Quality Standards (NQS):	QUALITY AREA 2: CHILDREN'S HEALTH AND SAFETY 2.2.3 Child Safety and Protection- Management, educators and staff are aware of their roles and responsibilities regarding child safety, including the need to identify and respond to every child at risk of abuse or neglect

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	QUALITY AREA 4: STAFFING ARRANGEMENTS 4.2.1 Professional collaboration- Management, educators and staff work with mutual respect and collaboratively, and challenge and learn from each other, recognising each other's strengths and skills 4.2.2 Professional standards- Professional standards guide practice, interactions and relationships QUALITY AREA 7: GOVERNANCE AND LEADERSHIP 7.1 Governance- Governance supports the operation of a quality service that is child safe 7.1.2 Management Systems- Systems are in place to manage risk and enable the effective management and operation of a quality service that is child safe. 7.2 Leadership- Effective leadership builds and promotes a positive organisational culture and professional learning community.

RELATED POLICIES

Bullying, Discrimination and Harassment Policy Child Protection Policy Child Safe Environment Policy Code of Conduct Policy Dealing with Complaints Policy (Staff) Governance Policy	Interactions with Children, Family and Staff Policy Privacy and Confidentiality Policy Staffing Arrangements Policy Supervision Policy Work Health and Safety Policy

PURPOSE

This policy supports a culture of integrity and accountability by providing a safe and confidential process for reporting wrongdoing, misconduct, or any matter that may pose a risk to the safety, welfare, or wellbeing of children within our Service. We believe that children's safety, rights and best interests are the paramount consideration for all Service operations, decisions and functions. Our Service ensures that child safety, wellbeing and best interests take priority over all other considerations, including financial interests or other obligations of management, and are embedded in our daily practices, policies and procedures.

This policy outlines how Robe Child Care on Wheels Service manages protected disclosures, identifies reporting contacts, explains the reporting process and details the safeguards available to individuals who make such disclosures.

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SCOPE

This policy applies to all current and former staff, educators, management personnel, the approved provider, nominated supervisor, students, families, contractors, subcontractors, volunteers and visitors of the Service.

DEFINITIONS

For additional definitions and key terms used within this policy, refer to *Key Terms – Policies and Procedures.*

Protected Disclosure/Qualifying Disclosure: A disclosure of information where the reporter (whistleblower) has reasonable grounds to suspect the information concerns:

- conduct that endangers or may endanger the safety, health or wellbeing of children
- misconduct or an improper state of affairs
- illegal activity or breach of law
- inappropriate conduct toward children
- fraudulent activity or corruption
- negligence
- systemic practices posing serious risk to health and safety
- breach of child protection requirements
- failure to comply with the National Law or Regulations
- taking or threatening to take detrimental action against a person who has made a disclosure, is suspected to have made or is planning to make a disclosure.

Not all concerns or complaints are protected disclosures. A disclosure will only be protected where the person making the report does so honestly and has reasonable grounds for doing so, and the information tends to show wrongdoing, an offence under the National Law, or a risk to the safety, health or wellbeing of a child or children. Personal work-related grievances that do not involve broader wrongdoing or risks to children are not protected disclosures.

Reasonable grounds to suspect: The discloser's reasons for suspicion must be reasonable, when considered objectively. Even if the disclosure proves incorrect, protection applies if reasonable grounds existed.

Detrimental Action: Any disadvantage to a person including:

- dismissal, demotion or suspension
- harassment, intimidation or victimisation
- discrimination or adverse treatment
- damage to reputation, property or financial position
- injury or harm including psychological
- threats of any of the above

Personal work-related grievances: Generally, these do not qualify for whistleblower protection unless they:

- include information about misconduct beyond personal circumstances
- involve breach of employment laws punishable by 12 or more months' imprisonment
- relate to detrimental action for making a protected disclosure
- represent a danger to public safety

Serious Detrimental Action: any act or omission that causes, involves or encourages detriment to the person, or the threat of detriment (whether express or implied). However, the following are not considered serious detrimental action:

- prosecuting a person for a criminal offence
- referring a matter about a person to the independent arbiter
- making a disciplinary agreement or disciplinary order in relation to a person
- giving a disciplinary notice to a person

Whistleblowing: a whistleblower, also known as a reporter, is a person who provides information and exposes serious wrongdoing within an organisation in the hope of stopping it. Whistleblowing plays a crucial role in managing risk and cultivating an ethical culture and is an effective way of uncovering potential serious wrongdoing including misconduct, fraud and corruption.

IMPLEMENTATION

Our Service promotes a culture of transparency and will provide safe, confidential channels for disclosures, investigate fairly, and protect disclosers from detrimental action. Our Service encourages anyone who suspects illegal, unethical or corrupt behaviour, fraudulent activity, wrongdoing, inappropriate conduct or inappropriate discipline to report those concerns.

THE APPROVED PROVIDER, NOMINATED SUPERVISOR AND MANAGEMENT WILL ENSURE:

- that obligations under the Education and Care Services National Law and Education and Care Services National Regulations are met
- educators, staff, students, visitors and volunteers understand and adhere to this policy and associated procedure and are advised on how and where the policy can be accessed
- copies of this policy are readily accessible and available for inspection
- families are aware of this *Protected Disclosure (Whistleblower) Policy* and are advised on how and where the policy can be accessed
- a safe environment is created where employees and volunteers feel supported to report any wrongdoing
- a culture of transparency and integrity is promoted within the Service
- regular training and awareness sessions about whistleblower protections and processes are provided to all staff, educators and volunteers and that records of training are maintained. Regular training will occur every 12 - 24 months
- multiple reporting channels including internal and external options
- appoint eligible recipients to receive disclosures
- any whistleblower reports are promptly investigated
- feedback is provided to whistleblowers on the progress and outcomes of their reports, where appropriate.

EDUCATORS/VOLUNTEERS/STUDENTS WILL:

- immediately report all incidents, allegations and complaints relating to child safety to the approved provider (see: *Child Protection Policy*)
- be encouraged to report any concerns, even if they are unsure whether the concerns meet the definition of a protected disclosure. All reports will be assessed by the Service in accordance with this policy and relevant legislation.
- cooperate with investigations into disclosures
- maintain confidentiality about disclosures and investigations
- support colleagues who make protected disclosures
- not engage in or tolerate detrimental action against whistleblowers
- complete required training on whistleblower protections and procedures, including during induction and at regular intervals

FAMILIES WILL:

- be informed of their right to make protected disclosures about serious wrongdoing
- have access to information about how to make a disclosure
- be protected if they make a qualifying disclosure
- have confidence that disclosures will be taken seriously and investigated appropriately.

HOW TO MAKE A DISCLOSURE

Disclosures can be made by current and former employees and educators, volunteers, students, contractors, families, persons with management or control at the Service. Disclosures may be made:

- in person
- in writing (letter or email)
- by telephone
- through a discussion (face-to-face, via telephone or virtually)
- through a legal practitioner

Anonymous disclosures will be accepted; however, this may limit the Service's ability to investigate the matter fully or provide feedback.

When making a disclosure, the whistleblower should provide:

- description of the conduct or issue
- names of persons involved in suspected wrongdoing, their role, title and involvement
- dates, times and locations of key events
- any witnesses
- supporting documentation or evidence
- contact details (unless anonymous)

PROTECTION AND REMEDIES FOR REPORTERS

Individuals making qualifying disclosures are protected from:

- civil, criminal or administrative liability
- enforcement of contractual remedies or rights
- admissibility of disclosed information in proceedings against them
- detrimental actions or threats of detrimental action

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Individuals who make a protected disclosure in accordance with legislation are entitled to significant protections. These protections include:

Protection from detrimental action: the Service will take all reasonable steps to ensure that no person suffers detriment for making, or intending to make, a protected disclosure. Detrimental action includes dismissal, injury, damage, intimidation, harassment, discrimination or adverse treatment. Taking serious detrimental action against a person because of a protected disclosure is a criminal offence.

Preventing harmful actions: the Service will undertake a risk assessment upon receiving a disclosure and implement strategies to minimise the risk of detrimental action.

Recovery of damages: a person who suffers loss, damage or injury as a result of serious detrimental action may seek compensation through legal proceedings.

Ability to seek an injunction: a person may apply to a court to prevent or stop detrimental action. This may include orders to:

- stop harmful behaviour
- reinstate employment
- require corrective action

Immunity from liability: a person making a protected disclosure is protected from civil, criminal or administrative liability for making the disclosure. This includes protection from breach of confidentiality obligations. This protection does not extend to any wrongdoing by the person making the disclosure.

Immunity from costs: a person who brings proceedings in relation to a protected disclosure is generally not liable for legal costs, unless the claim is made without reasonable cause.

REPORTING DETRIMENTAL ACTION

If an individual has experienced or is at risk of detrimental action as a result of making a disclosure, they should report this immediately.

Reports can be made to:

- the approved provider
- the nominated supervisor
- or an external authority

The Service will take all reasonable steps to:

- investigate the concern

- prevent further detrimental action
- support the affected person
- take appropriate disciplinary action where required

FALSE OR MALICIOUS DISCLOSURES

While protection extends to incorrect disclosures made within reasonable grounds, deliberately false or malicious discosures will be treated seriously and may result in:

- disciplinary action
- termination of employment
- legal action
- referral to authorities

INTERNAL RECIPIENTS OF A DISCLOSURE

Approved provider: Nat Traeger Ph: 87682003

Nominated supervisor: Chelsea Betheras Ph: 0428682002

Designated whistleblower protection officer: Molly Murdoch Ph: 87682003

EXTERNAL RECIPIENTS OF A DISCLOSURE

If a staff member, volunteer or other person would prefer to make a protected disclosure externally, they may contact the regulatory authority, Ombudsman or the statutory child protection authority.

SOUTH AUSTRALIA
Regulatory Authority - Education Standards Board o 1800 882 413 email: Esb.earlychildhoodservices@sa.gov.au Independent Commission Against Corruption (ICAC SA) o 1800 182 368 website www.icac.sa.gov.au Ombudsman South Australia o 1800 182 150 website: www.ombudsman.sa.gov.au

RECEIVING AND MANAGING DISCLOSURES

Our Service is committed to ensuring that all protected disclosures are handled appropriately, fairly, and confidentially. The person responsible for managing the disclosure will, on behalf of the Service:

- acknowledge receipt of a disclosure within 5 business days (where the discloser can be contacted)
- assess whether the disclosure qualifies for protection under relevant legislation
- determine appropriate investigation procedures while maintaining confidentiality
- take all reasonable steps to protect the discloser from detrimental action
- ensure procedural fairness for any person mentioned in a disclosure
- provide a summary of the outcome, where appropriate and lawful
- document all disclosures, investigations and outcomes securely and confidentially

RISK ASSESSMENT AND MANAGEMENT

Upon receiving a disclosure, the Service will conduct a risk assessment to identify any risk of detrimental action. This assessment will consider risks to:

- the person making the disclosure
- the person who is the subject of the disclosure
- witnesses
- individuals involved in the investigation

The Service will implement strategies to minimise identified risks, which may include:

- adjusting reporting lines
- providing support services
- ensuring secure communication channels
- ongoing monitoring throughout the process

INVESTIGATING DISCLOSURES

Before commencing an investigation, the Service will assess whether the disclosure qualifies as a protected disclosure under relevant legislation and determine the appropriate response, including whether the matter should be referred to an external authority.

The person managing the disclosure will:

- conduct thorough, fair and impartial investigations into qualifying disclosures
- determine the nature, scope and appropriate investigator (internal or external)
- complete the investigation as soon as practicable
- keep the discloser informed of progress where appropriate and lawful
- take corrective action when wrongdoing is substantiated

- report to relevant authorities as required – including the regulatory authority, Police or Department of Child Protection

MANAGING DISCLOSURES CONFIDENTIALLY

Following a disclosure, the Service will ensure that the discloser is protected from detriment. The person managing the disclosure will:

- maintain strict confidentiality of the discloser's identity (subject to legal exceptions)
- limit the number of people who are aware of the discloser's identity or information that could identify them
- ensure that any person who becomes aware of the discloser's identity is reminded of their obligation to maintain confidentiality
- restrict access to records and information to authorised personnel only
- ensure secure storage of all documentation, including electronic and hard copy files
- protect disclosers from victimisation, harassment or detrimental action
- provide access to support services including Employee Assistance Programs where available
- monitor and assess risks of detriment to disclosers throughout the process
- take disciplinary action against anyone who takes detrimental action against a whistleblower
- maintain confidentiality of the discloser's identity except where disclosure is required by law or necessary to prevent a serious risk to a child or another person

In some circumstances, it may be necessary to disclose certain information during an investigation to ensure procedural fairness. In these cases, all reasonable steps will be taken to minimise the risk of the discloser being identified. If it becomes likely that the discloser's identity may be revealed, the Service will, where practicable:

- inform the discloser in advance
- review and update the risk assessment
- implement additional strategies to minimise the risk of detrimental action
- provide appropriate support to the discloser.

CONTINUOUS IMPROVEMENT/REFLECTION

The *Protected Disclosures (Whistleblower) Policy* will be reviewed annually, or earlier if there are changes to legislation, ACECQA guidance or any incident related to our policy. Feedback will be requested from children, families, staff, educators and management, and notification of any changes to the policy will be made to families within 14 days.