



E.27 Whistleblowing Policy

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Exceptional care

E.27 Whistleblowing Policy

PURPOSE

The purpose of the Whistleblowing Policy (the Policy) is to encourage and support reporting of actual and suspected unethical, illegal or an act of serious wrongdoing ('Reportable Conduct').

At Mercy Services we are committed to providing a safe and supportive culture where individuals feel safe to speak up and make reports about matters of 'Reportable Conduct' so that the organisation can not only meet its legislative requirements but more importantly, maintains the highest standards of ethical behaviour and conduct possible at all times.

The Policy is part of the Organisation's broader risk management and corporate governance framework.

This Policy has been developed having regard to the relevant legal requirements and current best practices relating to the protection of whistleblowers within current legislation and including the Australian Securities and Investments Commission (ASIC).

POLICY OBJECTIVES

This Policy aims to:

- Provide guidance on the appropriate use of the Whistleblowing Policy;
- Ensure that Mercy Services complies with current legal and professional regulations and standards; and
- Upholds the reputation of Mercy Services.

WHO DOES THIS POLICY APPLY TO

This Policy relates to Mercy Services and its subsidiaries and applies to all current and former board members, senior executives, management, supervisors, employees, secondees, contractors, suppliers (or their employee or subcontractor) and volunteers. It also applies to relatives, dependants or spouses of any of these people.

A person who makes a report of wrongdoing or misconduct under this Policy is known as an 'eligible whistleblower'. An 'eligible whistleblower' has legal rights under the Corporations Act and other legislation (for exemption, taxation legislation). This Policy does not override those rights.

Further guidance on the application of this Policy can be obtained from People and Culture.

Whistleblowing

Mercy Services encourage individuals who are eligible whistleblowers to speak up and report any actual or suspected unethical, illegal or act(s) of serious wrongdoing ('Reportable Conduct'). Mercy Services are committed to fostering a culture where it is safe to speak up and be a whistleblower. When individuals speak up about matters of 'Reportable Conduct' under this Policy, Mercy Services will protect them in accordance with their legal responsibilities to do so.

1. WHAT CAN BE REPORTED?

Matters considered to be '**Reportable Conduct**' may be reported under this Policy. This includes any past, present or likely future activity which:

- Is dishonest, corrupt or unethical
- Involves theft, fraud, money laundering or misappropriation of funds
- Is a systemic, willful or serious breach of the law as it relates to Mercy Services, or its internal policies or processes
- Involves offering or accepting a bribe from a person
- Is illegal (for example, illicit drug sale or use, violence or threatened violence and criminal property damage)
- Presents a significant or serious threat to the health and safety of workers
- Involves a serious mismanagement of Mercy Services' resources
- Involves victimisation of someone for reporting a 'Reportable Conduct'
- Involves any instruction to cover up or attempt to cover up serious wrongdoing
- Interferes with any impending internal or external audit processes
- Presents a serious risk to the reputation or financial wellbeing of Mercy Services

In circumstances where Mercy Services is engaged under Federal or State Government contracts, 'Reportable Conduct' may extend to include '**disclosable conduct**'. '**Disclosable conduct**' is conduct that:

- Perverts, or attempts to pervert, the course of justice;
- Constitutes maladministration (that is, conduct that breaks the law, is unreasonable, unjust or improperly discriminatory, or based wholly or partly on improper motives);
- Is an abuse of public trust;
- Results in the wastage of any public money or money held by the Commonwealth/a corporate Commonwealth entity;
- Results in the wastage of any property (other than money) that is owned by or held by the Commonwealth/a corporate Commonwealth entity; or
- Results in a danger, or a risk of danger, to the environment.

What is **not** 'Reportable Conduct'

This Policy is **not** intended to apply to disclosures relating to conduct concerning a person's individual employment (other than as set out in 'Reportable Conduct') such as (but not limited to) personal or work-related grievances concerning:

- Alleged bullying, harassment or discrimination;
- Disciplinary matters;
- Disputes between staff;
- Work health and safety matters
- Alleged concerning conduct/behaviour (other than as set out in 'Reportable Conduct') of a Worker
- Engagement, transfer or promotion of staff

These matters are **not** deemed to be 'Reportable Conduct' and will typically be investigated and/or addressed separately under other organisational policies such as the Code of Conduct, the Bullying, Harassment and Discrimination Policy, Managing Unsatisfactory Performance Policy and the Grievance Policy. Any individual who has concerns about matters such as these must refer to one of these applicable policies or contact People and Culture.

This Policy is also **not** intended to apply to reporting:

- Client/resident complaints other than as set out in 'Reportable Conduct'. For such concerns please refer to the organisational Complaints Policy;
- Concerns involving vulnerable people (including children and young people), other than as set out in 'Reportable Conduct'. To respond to such concerns please refer to Mercy Services' Client Safeguarding Policy.

Reports that do not fall under or relate to 'Reportable Conduct' will be handled under separate relevant organisational policies.

2. HOW TO SPEAK UP AS A WHISTLEBLOWER

2.1 Before Making a Whistleblower Report

Before making a Whistleblower Report, an eligible whistleblower or other person should satisfy themselves that they are aware, have knowledge of, or have 'reasonable grounds' to suspect, that someone has, or will commit 'reportable conduct'. 'Reasonable grounds' is based on the objective reasonableness of the reasons for the suspicion. In practice, a mere allegation with no supporting information is unlikely to reach that standard.

2.2 Who to Make a Whistleblowing Report to

Individuals are encouraged to speak up and disclose any suspected or actual wrongdoing or illegal activity ('Reportable Conduct') via Mercy Services' independent and externally managed whistleblowing hotline called the Speak Up Integrity Hotline.

The Speak Up Integrity Hotline is a hotline available via telephone or email, 24 hours a day, 7 days a week and is run by Core Integrity.

To qualify for protection as an 'eligible whistleblower' an individual is required to make a report of 'reportable conduct' to an 'eligible recipient'. Core Integrity via their Speak Up Integrity Hotline are an 'eligible recipient'.

Mercy Services has a second 'eligible recipient' that individuals may also contact to make a report. This secondary 'eligible recipient' is MyKludo, an independent organisation located in Sydney NSW not affiliated with Core Integrity. MyKludo have been engaged to undertake the role of Whistleblower Protection Officer (WPO) for Mercy Services. Once a report is made to MyKludo, either directly or via the Speak Up Integrity Hotline, they will direct it to the most appropriate person within Mercy Services so that an investigation can take place. Depending on the nature of the report, following an informed examination of the matter, an appropriate person within Mercy Services could be one, or a combination of, the following:

- Head of Risk and Compliance
- Head of People and Culture
- Chief Executive Officer
- Chair of the MCSAL Board
- Chair of the MCSAL Service Delivery Sub-Committee

An 'eligible whistleblower' may also make a disclosure of reportable conduct to a member of parliament or a journalist in exceptional or 'emergency' situations, however, Mercy Services encourage individuals to report to Mercy Services in the first instance, where practicable.

2.3 How to Make a Whistleblower Report?

Mercy Services has put in place the Speak Up Integrity Hotline for 'eligible whistleblowers' to make reports and disclosures concerning 'reportable conduct'. This service can be contacted by:

Contact Details	
Telephone:	1800 324 775
Email:	speakup@coreintegrity.com.au

'Eligible whistleblowers' and other persons may also make disclosures in limited circumstances, including to a Regulator, or when making an emergency or public interest disclosure. Before making such a disclosure we recommend the 'eligible whistleblower' or other person seek independent legal advice to understand the criteria for making such a disclosure.

2.4 What should be included in the Speak Up Integrity Hotline Report?

'Eligible whistleblowers' or other persons should include as much detailed information as possible so that the report can be investigated.

Useful details include:

- Date, time and location;
- Names of person(s) involved, roles and their business group;
- Your relationship with the person(s) involved;
- The general nature of your concern;
- How you became aware of the issue/situation;
- Possible witnesses; and
- Any other information that you have to support your report.

2.5 Can a Speak Up Integrity Hotline Report be made Anonymously?

Yes, an 'eligible whistleblower' or other person can choose to make their report or disclosure anonymously. If the individual chooses to remain anonymous, however, maintaining anonymity may make it more difficult for Mercy Services to practically investigate the issue or take the action the organisation might like to take. A person reporting should therefore include as much detailed information as possible so that the report/disclosure can be investigated. Ideally, it is preferred that those making a report or disclosure identify themselves, so that Mercy Services can contact them directly to discuss their concerns. It will also permit Mercy Services to investigate the situation more quickly and efficiently as well as assist the individual by supporting them and answering any questions or concerns that they might have about the process.

It is also important to note that on occasion, the nature and content of the report/disclosure in itself may inadvertently give the identity of the reporting person away. Individuals making a report/disclosure need to consider this also when wanting to maintain their anonymity.

2.6 Confidentiality

Mercy Services will treat all reports, as well as confidential information acquired in the course of investigating a report, with the strictest confidence. Subject to compliance with legal requirements, Mercy Services will only disclose the identity of the person who made the report, or any other information that is likely to lead to the identification of that person, with their prior consent or otherwise in the limited circumstances listed below.

In limited circumstances, Mercy Services may need to disclose the identity of the person making the report without their consent to certain third parties, including:

- Mercy Services lawyers;
- The Australian Securities and Information Commission;
- The Australian Charities and Not-for-profits Commission;
- The Australian Federal Police/NSW Police Force;
- The Commonwealth Ombudsman (where we are engaged under a relevant Federal Government Contract);
- Any third party where the investigating authority, public authority, officer or public official is of the opinion that disclosure of your identity is necessary to investigate the matter effectively, or it is otherwise in the public interest to do so (where Mercy Services is engaged under a relevant Federal or State Government contract).

2.7 Protection from Detrimental Conduct

Mercy Services understands that the decision to make a report for 'eligible whistleblowers' can be a difficult one to make. Accordingly, the Organisation is committed to ensuring any person feels safe in making a report. When a report in relation to 'Reportable Conduct' is made, the identity of the person making the report will remain confidential and the person will be protected from 'detrimental conduct' for making the report.

Under this Policy, any 'detrimental conduct' against a person reporting 'Reportable Conduct' will be treated as a serious wrongdoing. These protections will apply even where it is subsequently determined that the report was mistakenly made or not substantiated.

If a person makes a report and subsequently faces any kind of 'detrimental conduct', they are encouraged to notify the Speak Up Integrity Hotline immediately and they will ensure that the matter is referred to the Whistleblower Protection Officer (WPO). The WPO will then liaise with the most appropriate person within Mercy Services to ensure the matter is investigated promptly. If a person is found to have disadvantaged or retaliated against a person because of their submission of a report, that will be grounds for disciplinary action, up to and including possible termination of employment.

Mercy Services also understands that there may also be some serious repercussions for individuals who are mentioned in a report. Accordingly, Mercy Services will ensure their fair treatment and will extend the protections stated above to these individuals where appropriate.

2.8 False or Misleading/Vexatious Reports/Disclosures

When making a report/disclosure, individuals are expected to have reasonable grounds to suspect the information being reported/disclosed is true. A report/disclosure cannot be made if it is knowingly not true or misleading. In addition to this, a report/disclosure cannot be made if it is baseless and/or made with an adverse primary intent to cause distress, detriment or harassment to the subject of the claim. In circumstances such as these, such actions would be considered a breach of the Organisation's Code of Conduct and will be considered a serious matter that may result in disciplinary action, up to and including possible termination of employment. There may also be legal consequences if a person makes a knowingly false or misleading report.

2.9 Responding to Reportable Conduct

The Speak Up Integrity Hotline will assess all reports that are received and will determine whether the matter falls under this Policy. If the matter is deemed to fall under this Policy, the Speak Up Integrity Hotline will forward the matter to the Whistleblower Protection Officer (WPO) who will make a second assessment to ensure the report falls under this Policy.

If the Speak Up Integrity Hotline and/or WPO determine that a report does not fall under or relate to Reportable Conduct, they will advise the person making the report and refer them to the most appropriate organisational policy that relates to their

concern. The person making the report will then be required to follow the specified actions held within that policy to have their matter heard.

2.10 Investigating ‘Reportable Conduct’

Any individual who makes, or is the subject of, a report is encouraged to contact Mercy Services’ Employee Assistance Program (EAP) for support if required.

A report made that is assessed as falling within this Policy will be investigated and the Whistleblower Protection Officer (WPO) will refer the matter to the most appropriate person within Mercy Services for this to occur.

Mercy Services will then determine whether the matter will be investigated internally or whether an external investigator is required. This will depend on the nature of the report. While the particular circumstances of each report may require different investigation steps, all investigations will

- Follow a fair process;
- Be conducted as quickly and efficiently as the circumstances permit;
- Determine whether there is enough evidence to substantiate the matters reported; and
- Be independent of the person(s) concerned with the allegations.

Feedback will be provided to the person who made the report/disclosure, as appropriate, on the progress and expected timeframes of the investigation.

The investigator will conduct the investigation as soon as practicable and will ensure it is fair and independent from any persons to whom the disclosure relates.

2.11 Fair Treatment of Individuals mentioned in a Report

Within the investigation process outlined in this Policy, Mercy Services will allow fair treatment of any individuals mentioned in the report/disclosure, including:

- Handling any report/disclosure confidentially;
- Matters reported will be assessed and may be subject to an investigation;
- There will be a presumption of innocence until the outcomes of the investigation is determined; and
- The purpose of the investigation is to determine whether there is enough evidence to substantiate the matters reported.

2.12 What happens after an investigation?

Mercy Services will notify the reporting person once an investigation has been completed. Reporting person(s) need to be aware, however, that Mercy Services may be unable to disclose particular details or the outcome of the investigation.

2.13 Public Interest and Emergency Disclosure Reporting

Mercy Services encourages a person to make a report by contacting the Speak Up Integrity Hotline in the first instance where possible.

Reports made in public interest and emergency disclosure situations are also protected. Under these circumstances, reports can be made to an 'Eligible Public Recipient'. It is important that a person making a report understands the criteria for making a public interest or emergency disclosure and we suggest that independent legal advice is sought on the relevant requirements for these types of disclosures.

Reports made in the public interest are protected from 'detrimental conduct' if a person:

- Has already made a report to Mercy Services concerning 'Reportable Conduct' (the 'initial report') and at least 90 days have lapsed since the initial report was made; and
- Has no reasonable grounds to believe that action is being, or has been, taken to address the matters relating to the initial report; and
- Has reasonable grounds to believe that making a further report would be in the public interest; and
- Gives a written notification to Mercy Services after the 90 days mentioned above have lapsed, that easily identifies the initial report and the intention to make a public interest report; and
- Makes the public interest report to an Eligible Public Recipient and the extent of the information reported is no greater than is necessary to demonstrate the misconduct or improper state of affairs or circumstances.

Reports made in emergency situations are protected from 'detrimental conduct' if a person:

- Has already made an initial report to Mercy Services; and
- Has reasonable grounds to believe that the information in the initial report concerns a substantial and imminent danger to the health or safety of person(s) or the natural environment; and
- Has given to Mercy Services written notification that easily identifies the initial report and the intention to make an emergency report; and
- Makes the emergency report to an Eligible Public Recipient and the extent of the information reported is no greater than is necessary to inform the Eligible Public Recipient of the substantial and imminent danger.

3. CONSEQUENCES

Breaches of this Policy will be taken seriously and may result in disciplinary action, up to and including possible termination of employment.

4. KEY PERFORMANCE INDICATORS

Employees will have full awareness of this Policy and reportable conduct matters are being reported appropriately and through the established process.

5. EXPECTED OUTCOME

Mercy Services has an effective tool to appropriately identify wrongdoing and a reporting mechanism that permits a safe and secure means for disclosure.

6. DEFINITIONS

In the context of this document:

Detrimental Conduct includes any reprisal, discrimination, harassment, victimisation, retaliation or threats of retaliation against a person making a report or disclosure. This may include: dismissal, suspension or demotion; alteration of a person's position or duties to their disadvantage; disciplinary action; harassment or intimidation; discrimination; harm (including psychological harm) or injury; damage to a person's reputation; or damage to the person's property, business or financial position.

Eligible Public Recipient is a person that is a member of Commonwealth Parliament, a member of State Parliament, a member of the legislature or a journalist.

Eligible Whistleblowers means all current and former board members, senior executives, management, supervisors, employees, secondees, contractors, suppliers (or their employee or subcontractor) and volunteers. It also applies to relatives, dependents or spouses of any of these people. Who makes a report of 'Reportable Conduct', makes the report to an 'Eligible Recipient', and has reasonable grounds to suspect that the Reportable Conduct has taken place.

The **Whistleblower Protection Officer** WPO is the Executive Governance - Legal and Risk or a person appointed by that Executive.

7. VERSION CONTROL AND CHANGE HISTORY

Version	Date Reviewed	Amendments
1.0	September 2021	Complete revision of policy and updating to new format/style
1.1	15/12/2022	Minor update to whistleblowing contact details and Board contacts

Author	Lee Thistlethwaite & Board	Date Created	September 2021
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