

# Policy Statement

<b>Subject:</b>	<b>Whistleblower</b>		
<b>Policy Owner:</b>	Board		
<b>Functional Area:</b>	Organisational		
<b>Effective Date:</b>	22/09/2020	<b>Review Date:*</b>	22/09/2022
<b>Scope</b>	This policy applies to Community Living Australia. It includes, all directors, officers and personnel including executives, managers, employees, contractors, consultants, volunteers and work experience personnel, clients and suppliers.		

## Policy

### Commitment

At Community Living Australia we are guided by our Community Living Australia values. These values are the foundation of how we behave and interact with each other, our clients, contractors and stakeholders. Together our values reflect the priorities of the business and provide guidance in decision making.

Community Living Australia's Code of Conduct and other policies have been developed to align with our values to ensure that we observe the highest standards of fair dealing, honesty and integrity in our business activities.

Our Whistleblower Policy provides a mechanism for complaint and protection for people who report serious wrongdoing. It does not apply to employees who wish to lodge grievances or complaints about industrial or employment conditions that fall outside of the public interest. Complaints such as these are to be made in accordance with our grievance policy.

The Policy also ensures that CLA complies with state and federal laws regarding whistleblowing.

### NDIS Practice Standards

*Referenced from NDIS Practice Standards and Quality Indicators – Jan 2020 version 3*

### Risk Management

Risks to participants, workers and the provider are identified and managed.

### Governance and Operational Management

Each participant's support is overseen by robust governance and operational management systems relevant (proportionate) to the size, and scale of the provider and the scope and complexity of supports delivered.

## Definitions

**Whistleblower** - is a person, whether anonymously or not, reports wrongdoing in accordance with this Policy

Worker – is a person who performs duties for CLA either as an employee, contractor, officer, volunteer, work experience student.

**Wrongdoing** - is conduct that, breaches the law, is corrupt, or an abuse of process, is dishonest or fraudulent, unreasonably endangers health and safety, perverts the course of justice, is gross mismanagement, has financial or non-financial loss detrimental to the interests of Community Living Australia, is an unethical breach of the Code of Conduct, is serious or improper conduct that could give rise to serious disciplinary action, constitutes maladministration. It includes Reportable Conduct as defined at Law and in this Policy.

**Whistleblower Protection Officer (WPO)** - The WPO is the person to whom a Whistleblower concerned about personal protection may disclose Wrongdoing or Reportable Conduct.

**Whistleblower Responsible Officer (WRO)** – The WRO will ensure any investigation into a Whistleblower report is conducted according to Law.

**Law(s)** – means any state or federal Whistleblowers laws and regulations and concepts of procedural fairness

**Reportable Conduct** – refers to conduct defined as such in the body of this Policy or as a matter of law

## Purpose

The purpose of this Policy is to encourage reporting of Wrongdoing or Reportable Conduct that is of reasonable concern by providing a safe reporting mechanism and protection for people who report serious Wrongdoing.

## Who does this Policy Apply To?

This Policy applies to:

- Employees
- Directors
- Officers (including Board Members)
- Managers
- Team Leaders
- Clients and Suppliers
- Contractors (including employees of contractors)
- Consultants
- Relatives, dependents and spouses of any of the above as defined by Law

## What is Wrongdoing or Reportable Conduct

You may make a report under this Policy if you have reasonable grounds to suspect that a Community Living Australia director, officer, employee, worker, contractor, supplier or volunteer who has business dealings with Community Living Australia has engaged in Wrongdoing or the following conduct which:

- is dishonest, fraudulent or corrupt or constitutes bribery or an abuse of authority;
- is illegal activity (including theft, dealing in or use of illicit drugs, violence or threatened violence and criminal damage against property or other breaches of state or federal law)
- is an unethical breach of Community Living Australia's policies involving dishonest by altering company records, adopting questionable accounting practices, or wilfully breaching Community Living Australia's Code of Conduct or the NDIS Quality & Safeguards Code of Conduct;
- is damaging or has the potential to damage Community Living Australia and or its reputation;
- amounts to a mismanagement of client funds or misusing Community Living's funds or money;
- a breach of any legislation relating to Community Living Australia's operations or activities;
- behaviour that is oppressive, discriminatory or grossly negligent;
- practices endangering the health or safety of clients, workers or the general public;
- practices endangering the environment, public safety or public health.

## Responsibilities – making a Report

An individual who is Whistleblowing must provide information to assist in any investigation of the Wrongdoing disclosed. Such individual must report the Wrongdoing or Reportable Conduct to the WPO and cooperate with the WPO and WRO as directed.

The WRO must ensure an investigation is carried out in a timely manner and in accordance with Law and this Policy. The WRO may appoint an external investigator as required.

A disclosure may be made in person, by telephone or in writing or email. The relevant contact details are:

TITLE	NAME	PHONE	EMAIL
Whistleblower Protection Officer (WPO)	Mark Kulinski	0400363599	mark.kulinski@cloust.com.au
Whistleblower Responsible Officer (WRO)	Nicole Smith	85365859	nicole.smith@cloust.com.au

In writing: Confidential  
Whistleblowers Protection Officer  
PO Box 1166  
Strathalbyn SA 5255

Community Living Australia must provide support for Whistleblowers in accordance with this Policy.

## Investigating a Report

Where a report is made in good faith and on reasonable belief grounds about a matter that comes under this Policy, the WPO will investigate the report. Where the WPO deems necessary the WPO may use an external investigator to conduct an investigation, either in conjunction with the WPO or independently. Where the WPO deems necessary, the WPO may also use an external expert to assist with an investigation. All investigations will be conducted in a fair and independent manner and all reasonable efforts will be made to preserve confidentiality of an investigation.

To avoid jeopardising an investigation, the individual who has made a report under this Policy is required to keep confidential the fact that a report has been made (subject to any legal requirements).

## Process

Any person reporting a breach should be informed that:

- the individual will not be disadvantaged for the act of making such a report, however the making of a report does not prevent them from being implicated in the Wrongdoing or Reportable Conduct; and
- if the individual wishes to make their complaint anonymously, their wish shall be honoured except insofar as it may be overridden by Law; however,

Any such report should where possible be in writing and should contain, as appropriate, details of

- the nature of the alleged breach, including dates, names times and locations;

- the person or persons responsible for the breach;
- the facts relevant to the Whistleblower's belief that a breach has occurred;
- information about how the Whistleblower knows or reasonably believes the alleged breach to be true;
- copies of any relevant evidence;
- the nature and whereabouts of any further evidence that would substantiate the Whistleblower's allegations.

Evidence to support such concerns should be brought forward at this time if it exists. The absence of such evidence will be taken into account in subsequent consideration of whether to open an investigation into the matter. However, absence of such evidence is not an absolute bar to the activation of the Community Living Australia's investigative procedures.

Community Living Australia is committed as necessary to appropriate disclosures to the appropriate authorities which depending on the nature of disclosure may include a Minister of the Crown, the SA Police, and the Anti-Corruption Branch of the SA Police, the Auditor-General or the Ombudsman SA, ASIC or any federal authority. Where the disclosure relates to fraud it must be reported directly to the Australian National Securities Commission.

The person or persons conducting the investigation shall be as far as possible unbiased.

## Investigation Feedback

Wherever possible, and assuming that the identity of the person making the report is known, the Whistleblower will be kept informed of the progress and outcomes of the investigation, subject to privacy and confidentiality considerations.

## Support and Protection for Whistleblowers

### Protection

An individual making a report in accordance with this Policy will not be discriminated against or disadvantaged in their employment or engagement with Community Living Australia, even if the report is subsequently determined to be incorrect or not substantiated.

The protections afforded under this Policy are not available were the individual discloses trivial or vexatious conduct lacking in substance or unsubstantiated allegations which have been found to have been made maliciously or knowingly to be false. Disclosures of this kind will be treated seriously and may be subject to disciplinary actions that could involve dismissal, termination of services or cessation of a service or client relationship.

An individual who makes disclosure as a Whistleblower may not be protected from the consequences flowing from their own Wrongdoing, however their active co-operation will be taken into account when considering disciplinary or other action.

The Whistleblower must not be subjected to any actual or threatened retaliatory behaviour or reprisal from making a report under this policy. If a Whistleblower feels he or she has been subjected to such actual or threatened retaliation, behaviour or reprisal he or she must immediately report it to the WRO.

### Confidentiality & Anonymous Reporting

The identity of a Whistleblower will be maintained as confidential in accordance with Law. Confidentiality will remain in all circumstances, unless the Whistleblower consent to his/her identity being disclosed or, disclosure is otherwise required so that the matter may be properly investigated. The Law does not expressly require any other information relating to a disclosure (i.e. the nature of the allegations) to be maintained as confidential.

Disclosures may be made anonymously, and this anonymity shall as far as possible be preserved by the organisation, except insofar as it may be overridden by due process of Law.

The Whistleblower should, however, be informed that the maintenance of such anonymity may make it less likely that the alleged breach can be substantiated in any subsequent investigation.

Where anonymity has been requested the Whistleblower is required to maintain confidentiality regarding the issue on their own account and to refrain from discussing the matter with any other person unless authorised by Community Living Australia's WRO in writing.

### Support for Disclosers

Support available for disclosers includes:

- Connecting the discloser with access to the Employee Assistance Program
- Appointing an independent support person from the People & Culture team to deal with any ongoing concerns they have

Use of these support services by a discloser may require the discloser to consent to disclosure of their identity or information that is likely to lead to the discovery of their identity.

### Breach of this Policy

Any breach of this Policy will be taken seriously and may result in counselling and/or disciplinary action, up to and including summary dismissal or the termination of employment.

### Resources

#### Board

The Board of Community Living Australia, through the Risk & Compliance Committee, governs and is responsible for the ultimate decision-making power regarding reports and investigations under this Policy.

### Whistleblower Protection Officer (WPO)

Community Living Australia has appointed a Whistleblower Protection Officer who will safeguard the interest of individuals making reports under this Policy and will ensure the integrity of the reporting mechanism.

Reports under this Policy should be reported to the WPO, who will review the report, and refer any reports that require further investigation to the Whistleblower Responsible Officer.

The WPO reports directly to the Board Directors and the Risk & Compliance Committee. The WPO also has access to independent advisers as and when required. The current WPO is the Chief Executive.

### Whistleblower Responsible Officer (WRO)

Community Living Australia has appointed a Whistleblower Responsible Officer who will carry out or supervise the investigation of reports made under this Policy. The current WRO is the Manager of People & Culture.

The WPO and WRO act independently of each other and the responsibilities of these roles do not reside with one person.

### Further Assistance

Any employee who requires assistance in understanding the Whistleblower Policy should first consult their nominated Line Manager. Should further advice be required, employees should contact [qualityteam@cloust.com.au](mailto:qualityteam@cloust.com.au).

### Related Documents

- [NDIS Practice Standards and Quality Indicators – January 2020 version 3](#)
- [Code of Conduct](#)
- [Risk Management Policy](#)
- [Work Health and Safety Act 2012 \(SA\)](#)
- [Whistleblowers Protection Act 1993 \(SA\)](#)

Approved by the Chief Executive	Date	Signature
Mark Kulinski	22/09/2020	