

PRO024 – WHISTLEBLOWER PROCEDURE

People & Culture

Definitions

Word/Term	Definition
Whistleblower	Any persons defined within the scope of this procedure making a report in relation to reportable conduct.
Whistleblower Officer	Chief Executive Officer

Introduction

The Board and management of Capecare is committed to operating in accordance with all applicable legislation and regulations and in accordance with Capecare's policies and procedures.

As set out in the Capecare Code of Conduct, directors, officers, employees, consultants and contractors of the Company are expected to not only act in compliance with legal obligations, but also act ethically and responsibly, which involves acting with honesty and integrity.

Purpose and Scope

The purpose of this procedure is to encourage the persons to whom the policy applies to raise any concerns or report any instances of any potential breach of law, any violations (or suspected violations) of the Capecare Code of Conduct or any other legal or ethical concern without the fear of intimidation or reprisal.

This procedure will enable Capecare to:

- a) deal with reports from Whistleblowers in a way that will protect the identity of the Whistleblower and provide for the secure storage of the information provided
- b) establish the process for protecting Whistleblowers against reprisal by any person internal or external to Capecare; and
- c) assist in ensuring Capecare maintains the highest standards of ethical behaviour and integrity

This procedure, as amended from time to time, applies to any person who is, or has been:

- a) an officer or employee of Capecare (Personnel)
- b) a service provider or third-party contractor to Capecare (Third Parties)
- c) an individual who is an associate of Capecare; or a relative or dependant of any of the above categories of persons

All personnel and third parties will be provided access to a copy of this policy via the Company's website. Training and awareness sessions on this policy will be provided from time to time, as required.

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Content

1. Whistleblower Officer

For the purposes of this procedure the Chief Executive Officer is the appointed Capecare Whistleblower Officer and will be responsible to handling all reports of misconduct. The role of the Whistleblower Officer will be to investigate the substance of any complaint regarding Reportable Conduct, to determine whether there is evidence in support of the conduct raised or, alternatively, to refute the report made. The Whistleblower Officer also has a direct line of reporting to the Board Chairperson.

If the Reportable Conduct concerns the Whistleblower Officer, or a Whistleblower is not comfortable contacting the Whistleblower Officer, they should contact the Board Chairperson.

2. Reportable Conduct

Reportable Conduct can be the following conduct by a person or persons connected with Capecare, which in the view of a Whistleblower acting in good faith upon reasonable grounds is:

- a) a breach of the Capecare Code of Conduct
- b) a breach of the Aged Care Code of Conduct
- c) dishonest, fraudulent or corrupt
- d) illegal (such as theft, illicit drug sale or use, violence, harassment, criminal damage to property or other breaches of state or federal law)
- e) in breach of applicable law
- f) unethical or in breach of Capecare's policies and procedures (either representing a breach of Capecare's Code of Conduct or generally)
- g) conduct amounting to harassment, discrimination, victimisation or bullying
- h) other serious improper conduct
- i) any conduct which may cause financial or non-financial loss to Capecare or be otherwise detrimental to the interests of Capecare; or
- j) any information concerning misconduct an improper state of affairs or circumstances

This policy is not the avenue for individuals to pursue personal-work related grievances, and any such grievance should be brought forth under Capecare's internal grievance procedure.

3. Procedure for Reporting

A Whistleblower should by an objective test have reasonable grounds to suspect misconduct or other disclosable matters, however it is not the Whistleblower's responsibility to investigate or prove a case of Reportable Conduct.

It is a serious matter to make allegations that prove to be unsubstantiated, or are made maliciously or known to be false, and any person doing so may be subject to disciplinary action.

Wherever possible a Whistleblower should provide a disclosure regarding Reportable Conduct to the Whistleblower Officer in writing, so that the formal process and investigation can be followed. Disclosures can be made directly to the Whistleblower Officer via email to tim.nayton@capecare.com.au, or in writing addressed to the Chief Executive Officer marked private and confidential to 20 Ray Avenue, Busselton, Western Australia 6280.

All disclosures made to Capecare can, if the Whistleblower wishes, be made anonymously. The Whistleblower must take into consideration that making a disclosure anonymously in some instances may hinder Capecare's ability to undertake a full investigation of the matter.

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Should the Whistleblower Officer determine that the disclosure does not meet the requirements of Reportable Conduct it may still be deemed misconduct by Capecare standards. In this instance the Whistleblower Officer will consult with the Chief Operating Officer as to the appropriate course of action.

4. Investigation Procedure

The Whistleblower Officer will refer a disclosure to the Board Chairperson for review, who will then commission an appropriate committee to investigate. The committee will ensure that, unless the circumstances require otherwise, the person who is subject of any Whistleblower disclosure investigated by or on behalf of Capecare is:

- a) informed in writing as to the substance of the allegations
- b) given the opportunity (and sufficient time) to respond to the allegations, be afforded the opportunity to bring a representative of their choosing to any meeting and be heard in relation to the matter under investigation
- c) informed as to the substance of any adverse finding against them included in any report arising from the investigation, and
- d) offered the opportunity to utilise the employee assistance program where they are an employee of Capecare.

The investigation will be conducted in an objective and fair manner, and otherwise as is reasonable and appropriate having regard to the nature of the reportable conduct and the circumstances.

4.1. Investigation Plan

An investigation plan will be developed to ensure all relevant questions are addressed, the scale of the investigation is in proportion to the seriousness of the allegation(s) and sufficient resources are allocated. The Whistleblower Officer is responsible for ensuring that any investigation is adequately resourced.

- Strict security of information will be maintained during the investigative process and all information obtained will be properly secured to prevent unauthorised access.
- All relevant witnesses must be interviewed, and relevant documents considered.
- Notes of all discussions, phone calls and interviews must be made.
- Where possible, interviews should be taped, but only with the written consent of the person being interviewed.
- The principles of procedural fairness (natural justice) should be observed. Where adverse comment about a person is likely to be included in a report, the person affected must be given an opportunity to comment beforehand and any comments must be considered before the report is finalised.
- The person or persons conducting the investigation must act in an unbiased manner and if this is not possible for any reason, they must excuse themselves from the investigation.
- Where possible and assuming the identity of the Whistleblower is known, the Whistleblower will be kept informed of the progress and outcome of the investigation of his/her disclosure, subject to privacy and confidentiality considerations.
- All Whistleblowers must maintain confidentiality of any information provided to them by Capecare in relation to, or consequently outcome of their disclosure.
- Review all claims made, in conjunction with any evidence provided by the Whistleblower.
- Investigate and locate any evidence that may substantiate or refute the claims of the Whistleblower (this may include interviewing other parties).
- The person/s against which the allegation has been made will have the opportunity to respond and explain their behaviour and to provide any material in support of their response and explanation.

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- A conclusion shall not be reached, and a recommendation will not be made until reasonable and appropriate enquires have been made and submitted material considered.
- The Disclosure Committee may also refer the matter for investigation to an external body or the police if criminal conduct appears to have occurred, and the Board of Capecare will be advised of any such referral.

The absence of evidence may be considered in consideration of whether to open an investigation into the matter. However, absence of evidence is not an absolute bar to an investigation being undertaken. The existence of a concern will be sufficient to trigger reporting responsibilities.

4.2. Findings and Reporting

At the conclusion of an investigation a report will be prepared by the Disclosure Committee. The report will include:

- the details of the Whistleblower disclosure.
- the information and evidence collected during the investigation that either supports or refutes the allegation of Reportable Conduct.
- the conclusions reached by the Disclosure Committee and the reasoning behind each conclusion and the impact of the conduct on Capecare and others and any breaches of any law or regulation.
- the recommendation of the Disclosure Committee as to any action to be taken and as to who should be the appropriate decision maker in respect of any such action.
- Prior to providing the report to any person, the Whistleblower Officer will make a copy of the report available and discuss the findings with the Board Chairperson.
- The Whistleblower Officer must also consider whether external legal advice should be sought prior to finalising the report.
- The outcome of the investigation should be communicated to the person who made the report together with a summary of any proposed actions to be taken by Management. If necessary or appropriate, a confidentiality requirement should be placed on the disclosure of the report of its contents.

Authority as to taking any action in response to a recommendation made by the Disclosure Committee shall be determined by the seriousness of any substantiated allegations.

The level of reporting to the Board as to disclosures will be determined by the seriousness of any allegations made in relation to Improper Conduct. At a minimum, the Whistleblower Officer will prepare a general report on disclosures to the Board of Capecare on an annual basis.

The Whistleblower Officer will maintain a register of disclosures, a copy of the report of the Disclosure Committee and actions taken in response to the report.

5. Protection of Whistleblowers

Capecare is committed to ensuring confidentiality in respect of all matters raised under this procedure, and that those who make a report in good faith and under reasonable grounds are treated fairly and do not suffer any disadvantage.

5.1. No disadvantage

A Whistleblower who reports reportable conduct will not be personally disadvantaged by having made the report by dismissal, demotion, any form of harassment, discrimination, victimisation or current or future bias.

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Where reprisals are taken or are claimed to have been taken against a Whistleblower, the Whistleblower should report it immediately to the Whistleblower Officer. If the matter is not remedied, then it should be reported in accordance with section 3 of this procedure.

5.2. Confidentiality and privacy

Subject to compliance with legal requirements, upon receiving a report under this policy, Capecare or the Whistleblower Officer will not disclose any particulars that would suggest or reveal a Whistleblower's identity as a Whistleblower, without first obtaining the Whistleblower's consent. Any disclosure that a Whistleblower consents to, will be disclosed on a strictly confidential basis.

Capecare will also ensure that any records relating to a report of Reportable Conduct are stored securely and are able to be accessed only by authorised staff.

Unauthorised disclosure of:

- a) the identity of a Whistleblower; or
- b) information from which the identity of the Whistleblower could be inferred, will be a breach of this policy and the offender(s) will be subject to disciplinary action, which may include termination.

Subject to legal compliance, all individuals mentioned within a disclosure, or to whom a disclosure relates will be kept confidential. In all instances Capecare will ensure a fair and equitable process is followed in responding to a disclosure for not only the Whistleblower, but all individuals involved in the matter.

Supporting Documents

PRO043 - Counselling & Discipline Procedure

HR50 - Code of Conduct

Legislative Context & Reference Sources

ALL STATES LEGISLATION AND SERVICES REGISTER

This Register lists legislation, standards and services used in each of the operational Procedures - Residential Aged Care Facility & Home & Community services of Capecare.

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