



POLICY NAME	WHISTLEBLOWER
POLICY TYPE	COMMUNITY SERVICES
PURPOSE	This Whistleblower Policy and the related Whistleblower Procedure outline how JCS will handle and investigate whistleblower reports received from staff, clients, volunteers, contractors, suppliers, or members of the public who detect, or reasonably suspect illegal or unethical behaviour related to JCS operations.
SCOPE	This policy applies to all personnel, which includes: <ul style="list-style-type: none">• JCS Board of Management;• JCS Employees and Volunteers;• Contractors engaged by JCS; and• Consultants engaged by JCS;
DEFINITIONS	<p>Illegal behaviour</p> <p>Illegal behaviour in the workplace includes unlawful conduct like discrimination, sexual harassment, bullying, victimisation, and vilification, as well as unsafe work practices, fraud, theft, and failure to pay correct entitlements. Such behaviour creates a hostile or harmful environment and violates both legal and moral standards, potentially leading to fines, damage to the organisation's reputation, and legal action against the organisation. Employers have a duty of care to prevent and address these issues by establishing clear policies, training employees, and creating safe reporting mechanisms.</p> <p>Unethical behaviour</p> <p>Unethical behaviour in the workplace includes any actions that breach moral principles, professional standards, or company policies, such as dishonesty, discrimination, harassment, fraud, or misuse of resources. These behaviours damage trust, reduce productivity, harm the company's reputation, and can foster a toxic work environment.</p> <p>Abuse</p> <p>Any act or failure to act that results in a breach of a person's human rights, civil liberties, physical and mental integrity, dignity or general well-being, whether intended or through negligence. Abuse includes but is not limited physical abuse, sexual abuse (including child sexual abuse), psychological</p>



or emotional abuse, constraints and restrictive practices, financial abuse, legal or civil abuse, systemic abuse, physical neglect, passive neglect, wilful deprivation and emotional neglect.

Physical abuse

Any non-accidental physical injury or injuries to a child or adult. This includes inflicting pain of any sort or causing bruises, fractures, burns, electric shock, or any unpleasant sensation. Examples of physical abuse in caregiving include rough physical handling, sudden movements of bedding, pushing and pulling, over- medication, unnecessary or excessive use of restraints, ignoring dietary restrictions, toileting abuse (leaving someone on the toilet too long or not taking clients to the bathroom when they need to use it) This is neglect and bathing in water that is too hot or too cold

Sexual abuse

Any sexual contact between an adult and child 16 years of age and younger; or any sexual activity with an adult who is unable to understand, has not given consent, is threatened, coerced or forced to engage in sexual behavior. It includes discussions of a sexual nature including jokes which clients do not want, do not truly understand or to which they are unable to give informed consent, including but not limited to inappropriate touching, gestures, or comments.

Psychological or emotional abuse

Verbal assaults, threats of maltreatment, harassment, humiliation or intimidation, bullying, failure to interact with a person or to acknowledge that person's existence. This may also include denying cultural or religious needs and preferences. Emotional abuse can also include: ignoring a person when they ask for help, making a person beg for help, providing help in a way that makes the person feel like a burden or feel guilty, intentionally making a person wait for help, refusing to recharge the battery of a person's wheelchair, providing physical care in way that is unnecessarily rough or careless, refusing to provide help unless the person agrees to lend money and purposely unplugging or turning off adaptive equipment.

Constraints and restrictive practices

Restraining or isolating an adult for reasons other than medically ordered by their medical professional provider as a medical necessity or the absence of a less restrictive alternative to prevent harm. This may include the use of chemical or physical means or the denial of basic human rights



or choices such as religious freedom, freedom of association, access to property or resources or freedom of movement.

Financial abuse

The improper use of another person's assets or the use or withholding of another person's resources.

Legal or civil abuse

Denial of access to justice or legal systems available to other citizens.

Systemic abuse

Failure to recognise, provide or attempt to provide adequate or appropriate services, including services that are appropriate to that person's age, gender, culture, needs or preferences.

Physical neglect

Failure to provide adequate food, shelter, clothing, protection, supervision and mental and dental care, personal hygiene or to place persons at undue risk through unsafe environments or practices.

Passive neglect

A caregiver's failure to provide or willful withholding of the necessities of life including food, clothing, shelter or medical care.

Wilful deprivation

Willfully denying a person who, because of age, health or disability, requires medication or medical care, shelter, food, therapeutic devices or other physical assistance – thereby exposing that person to risk of physical, mental or emotional harm.

Emotional neglect

The failure to provide the nurturance or stimulation needed for the social, intellectual and emotional growth or wellbeing of an adult or child.

POLICY

JCS recognises that whistleblowers play an important role in helping the organisation to identify, detect and prevent illegal, unethical activity as an integral part of good corporate governance and management practice.

JCS also understands that proper management and investigation of whistleblower reports are required under legislation and failure to comply with this requirement is a criminal offence.

JCS is committed to:



- encouraging the reporting of matters that may cause harm to individuals or financial or non-financial loss to JCS or damage to its reputation;
- dealing with reports from whistleblowers in an effective and transparent manner;
- protecting whistleblowers against reprisal by any person internal or external to JCS, and;
- ensuring the highest standards of ethical behaviour and integrity are maintained.

Training for the board, and staff will be provided in relation to the application of the Whistleblower Policy and Procedure.

In addition to providing training to all aged care workers and responsible persons, JCS will communicate monthly, to aged care workers and responsible persons that whistleblower disclosures are welcome and encouraged.

Whistleblower reports handling

JCS will handle and investigate whistleblower reports received from staff, clients, volunteers, contractors, suppliers, or members of the public.

The whistleblower reports will be only handled by the CEO or the chair of the Board of directors.

Accordingly, the organisation will:

1. Act in accordance with legislative requirements when written reports and disclosures are received by the chair of the Board of directors or the CEO;
2. Take all reasonable steps to protect, support and respect the legislative rights of a person who in good faith reports breaches of law and organisation policy, unethical behaviour and corrupt conduct relating to JCS operations;
3. Nominate an external agency to whom reports can be made (if necessary);
4. Commence an investigation if the report meets the requirements under this policy or dismiss the allegation if it is considered to be not made in good faith and is trivial or fanciful and notify the person making the report of this decision;
5. Respect the legislative rights of a whistleblower to make an anonymous report to the Board chair or CEO;
6. Guarantee all investigations are conducted in a fair and independent manner whilst observing the principles of natural justice. This includes maintaining strict confidentiality and security of information;

PROCEDURE



7. Take necessary disciplinary action for any individual who makes a false report knowing it to be false or vexatious;
8. Respect the legislative rights of a whistleblower who makes a report to an external registered organisation such as the Australian Securities and Investments Commission (ASIC) or who makes a public interest disclosure to the Australian Prudential Regulation Authority (APRA) or to the Commonwealth Ombudsman;
9. Provide for education and training of the Board, and staff regarding JCS whistleblower management, include disseminating the JCS whistleblower procedure document to staff so they know how to make a report or disclosure and know their rights and protections that apply, and;
10. Provide relevant information to clients, volunteers, contractors and suppliers.

Reporting Illegal or Unethical Conduct

Where anybody believes on reasonable grounds that any other employee, client, volunteer, board director, contractor or supplier has, in respect to JCS operations, acted in an illegal, improper or unethical manner, JCS requires that this conduct is reported.

Reporting under this policy includes conduct which involves:

- abuse and mistreatment of clients;
- theft and fraud;
- harassment, bullying and intimidation;
- unethical behaviour or behaviour in breach of JCS policies/values;
- abuse of a position of authority;
- potential or actual financial loss to JCS;
- potential or actual reputational damage to JCS, and;
- any other conduct the person making the report reasonably believes is illegal, improper or unethical.

A person making a report in connection with any suspected illegal, improper or unethical conduct shall be able to do so without fear of reprisal or retribution.

Anonymity

A whistleblower can make a report anonymously and know that this will be observed except where identification may be overridden by legislation.

However, maintaining anonymity may make it difficult to investigate and substantiate a report and anonymity may be inconsistent with natural justice for the person or persons about whom the report is made.



Anonymity may also mean that it is difficult to provide feedback to the whistleblower on the status of the investigation. The individual making the report is required to maintain confidentiality and refrain from discussing the matter with any unauthorised persons.

Confidentiality and Victimisation

JCS will take all reasonable steps to protect, support and respect the rights of a person who in good faith reports alleged improper behaviour.

Retaliation action or threats of retaliation action against any person who has made or who is believed to have made a report will not be tolerated. Any such retaliatory action or victimisation by any employee or other individual will be treated as serious misconduct and will result in disciplinary action that may include dismissal.

A whistleblower, who considers they have been retaliated against or is concerned about how the whistleblower procedure has been applied to their disclosure, should raise this with the CEO. The CEO will take action as they consider appropriate and may recommend that the concerns are investigated.

A whistleblower who considers that the CEO has not adequately resolved their concerns can escalate such concerns to the Chair of the Board of Directors.

Investigation and management of the disclosure

Handling a disclosure

Upon receipt of a disclosure, the recipient (CEO or the chair of the Board of directors) will inform the discloser of receipt (unless anonymous) and determine whether the information disclosed falls within the scope of this policy, and which whistleblower protections apply.

Where and while it remains unclear whether a disclosure qualifies for protection, the discloser will be treated as though they were protected under the whistleblower protections. Appropriate (confidential) records and documentation for each step in the process will be maintained.

Investigating a disclosure

Each disclosure will be assessed and may be the subject of an investigation. The recipient will determine whether any investigation should be conducted, whether internally or externally (including obtaining legal advice as required), and will lead any internal investigation.

The objective of an investigation will be to determine whether there is enough evidence to substantiate or refute the matters disclosed. Investigations will be conducted in a timely, fair and objective manner, independent of any person/s to whom the disclosure relates.



The discloser may be requested to provide further information. Regular progress reports will be given to the discloser (unless anonymous), and appropriate supports provided to both the discloser (unless anonymous) and the subject/s of the disclosure.

Issues identified from the investigation will be dealt with and resolved or otherwise finalised in a timely and efficient manner.

A formal account of the disclosure, investigation and any outcomes will be provided to the Board.

The discloser will be informed when the investigation process has completed and, unless it would not be appropriate in the circumstances, the discloser will be informed of the outcome.

Where appropriate, the subject/s of the disclosure or other persons mentioned in it will also be informed of the outcome. If the discloser is not satisfied with the outcome of JCS investigation, they may contact the relevant regulatory bodies who are eligible recipients for protected disclosures in the circumstances (such as ASIC).

Ensuring fair treatment of employees mentioned in a disclosure

JCS will take appropriate measures to ensure fair treatment of employees who are mentioned in a disclosure, including those who are the subject of a disclosure.

Measures may include, in addition to other measures outlined above:

- disclosures will be handled confidentially as to the identity of any person who is the subject of, or mentioned in the disclosure, when it is practical and appropriate in the circumstances;
- an employee who is the subject of a disclosure will be advised about the subject matter of the disclosure as and when required by principles of natural justice and procedural fairness, and prior to any actions or investigations being taken;
- an employee who is the subject of a disclosure may be provided with support services (including counselling or other professional or legal services).

JCS cannot disclose:

- information that identifies, or that could be used to identify a whistleblower, or
- any other information that may lead to the whistleblower's identity being revealed.

This applies to information the provider gained because of the information the whistleblower provided. However, there are exceptions which allow a provider to disclose this identifying information to the following groups:

- the Aged Care Quality and Safety Commissioner, or their staff



- the System Governor (being the Secretary of the Department of Health and Aged Care)
- an official of the Department of Health and Aged Care
- the Inspector-General of Aged Care
- a police officer
- a lawyer, but only for the purpose of obtaining legal advice
- a court or royal commission.

The provider may also disclose this information if the whistleblower consents or if it is necessary to prevent or lessen a serious risk to the safety or another person.

RESPONSIBILITIES

It is the responsibility of each Board member, employee, volunteer, contractor and consultant to ensure that they remain informed regarding JCS procedures which impact upon their duties, and to work within them.

CONTINUOUS IMPROVEMENT

All JCS Board members, employees and volunteers, as well as contractors and consultants are encouraged to provide feedback on this procedure to their supervisor, to ensure that it remains relevant and continues to reflect the actual manner in which activities are undertaken.

RELATED DOCUMENTS & ATTACHMENTS

- Strengthened Aged Care Quality Standards
- Corporations Act 2001 (Commonwealth)
- Treasury Laws Amendment - Enhancing Whistleblower Protections Bill 2018 (Commonwealth)
- Fair Work Act 2009 (Commonwealth)
- Equal Opportunity Act 1984 (SA)
- Work Health Safety Act 2012 (SA)
- Older Person Racism, Violence, Abuse, and Neglect Prevention and Management Policy and Procedure (JCS)
- Incident Management Framework, Policy & Procedure (JCS)
- Feedback & Complaints Policy & Procedure (JCS)