



# Nature Alliance Family Day Care Service

## Protected Disclosures (Whistleblower) Policy



### **POLICY IN THIS SECTION AS REQUIRED BY**

Education and Care Services National Law (WA) Act 2012: Part 14; Division-6 295; 271-273  
Division- 7 296 -300

### **PURPOSE:**

Nature Alliance Family Day Care Service aims to operate in an equitable and transparent manner in relation to any incidents, complaints, allegations or disclosures that are made.

### **SCOPE:**

This policy applies to Family Day Care Service staff, Family Day Care Educators, Family Day Care Educator Assistants, contractors, management, volunteers, students, and parents associated with the Service.

### **PRINCIPLE:**

Nature Alliance Family Day Care is committed to best practice when responding to all complaints, incidents, allegations or disclosures in respect to the Service and the care and education provided in accordance with the Education and Care Regulations and National Law. Our Service is committed to the highest standard of conduct and supports a culture of honesty, ethical behaviour, compliance and governance.

This policy is to ensure that individuals who disclose Service wrongdoing (whistleblower) relating to the conduct of staff, or others engaged by our Service can do so safely and with confidence that they will be supported and protected from detriment.

It is designed to comply with:

- The Education and Care Services National Law and Regulations
- The Corporations Act 2001 (Cth), Part 9.4AAA – Protection for Whistleblowers
- The Fair Work Act 2009 (Cth) (in relation to adverse action)
- The Service's Complaints and Grievances Policy, Code of Conduct, and Child Safe Standards.

This policy operates in conjunction with our Service's Grievance and Complaints Policy and procedures to ensure transparency, accountability, and a safe environment for all.

### **POLICY:**

This policy encourages employees, engaged Educators, Educator Assistants, students, volunteers, parents and carers to report any concerns or instances of wrongdoing or misconduct without hesitation. This reinforces Nature Alliance Family Day Care Service's strong commitment to supporting and protecting individuals who make disclosures, ensuring they are safe from any form of detrimental action which will not be tolerated under any circumstances. When Nature Alliance Family Day Care Service receives a complaint, allegation or disclosure, we have obligations to protect the person who made the report and to appropriately manage and address the situation.

### **Definitions**

#### **Reporter (Whistleblower)**

An eligible *Reporter (whistleblower)* is any person who makes a disclosure of information under this policy in good faith and with reasonable grounds to suspect wrongdoing.

This includes:

- Employees (full-time, part-time, casual)
- Educators and Educator Assistants
- Volunteers and students
- Contractors and suppliers (and their employees)
- Directors
- Parents or guardians (in certain circumstances)
- Former employees or contractors of the Service

### **Eligible Disclosure**

A disclosure of information that the Reporter (whistleblower) has reasonable grounds to suspect indicates misconduct or an improper state of affairs or circumstances in relation to:

- A breach of the Education and Care Services National Law or Regulations
- A breach of Australian laws (e.g., Corporations Act, Fair Work Act)
- A serious wrongdoing, such as fraud, corruption, endangerment of children or staff, or systemic non-compliance
- Behaviour that is dishonest, unethical, or unsafe

Personal grievances that relate solely to interpersonal conflicts or employment terms are **not** covered by this policy unless they involve reprisal for whistleblowing or a broader systemic issue.

### **Victimisation**

Victimisation refers to any act that causes harm, disadvantage, or adverse treatment to a person because they have made, or intend to make, a disclosure.

It applies to disclosures regarding:

- Misconduct, breach of policy, or unethical behaviour by staff or management
- Financial malpractice, theft, or fraud
- Breach of child safety or duty of care
- Serious breaches of legal or regulatory obligations
- Cover-ups of any of the above

## **GENERAL PROCEDURE:**

### **1. Reporting Serious Wrongdoing:**

Reports can be made confidentially to:

- Approved Provider / Service Manager / Service Nominated Supervisor
- Regulatory Authority (if relevant to National Law breaches)
- External Authorities, such as:
  - Australian Securities and Investments Commission (ASIC)
  - Fair Work Ombudsman
  - Department of Education – Early Childhood Education Directorate

#### **Reports may be made:**

- In writing (email or letter)
- Verbally (meeting or phone call)
- 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.

All disclosures will be treated confidentially and sensitively.

## **Making a Disclosure:**

When making a disclosure, the reporter (whistleblower) should provide:

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

## **Protection And Remedies for Reporters (whistle blower)**

Individuals making qualifying disclosures are protected from:

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

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 Service Manager
- the Nominated Supervisor
- or an external Authority

**The Family Day Care 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 reports will be treated seriously and may result in:

- disciplinary action
- termination of employment or membership
- legal action
- referral to Authorities

**External Recipients Of A Disclosure**

If a staff member, volunteer or other person would prefer to make an external protected disclosure outside the Service, they may contact the Regulatory Authority, Ombudsman or the statutory Child Protection authority as follows:

WESTERN AUSTRALIA	
Regulatory Authority - Education and Care Regulatory Unit, Department of Communities	
○ (08) 6277 3889 / 1800 199 383	email: <a href="mailto:ecru@communities.wa.gov.au">ecru@communities.wa.gov.au</a>
Corruption and Crime Commission (CCC WA)	
○ (08) 9215 4888	website: <a href="http://www.ccc.wa.gov.au">www.ccc.wa.gov.au</a>
Ombudsman Western Australia	
○ (08) 9220 7555	website: <a href="http://www.ombudsman.wa.gov.au">www.ombudsman.wa.gov.au</a>

**Receiving And Managing Disclosures**

Disclosures may be received by the following persons, depending on the nature of the concern:

**Primary Receiving Officers**

- Approved Provider
- Service Manager
- Nominated Supervisor

Where a disclosure involves one of the above persons, or the reporter (whistleblower) reasonably believes they are unable to make the disclosure to that person, the disclosure may instead be made to:

- An alternative senior representative authorised by the Approved Provider
- An independent external authority where appropriate (eg. Regulatory Authority, Fair Work Ombudsman, Corruption and Crime Commission, Police or other relevant statutory authority)

The receiving person will:

- Receive disclosures respectfully and without judgement
- maintain confidentiality
- document disclosures securely
- assess immediate risks
- determine escalation requirements
- avoid conflicts of interest

- refer matters to an alternative authorised person where independence cannot be maintained.

Our Family Day Care Service is committed to ensuring that all protected disclosures are handled appropriately, fairly, and confidentially. The person 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 outcomes, 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 FDC Service person managing the disclosure 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 investigations 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 - Regulatory Authority, Police

### **Managing Disclosures Confidentially**

Following a disclosure, the FDC 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)
- 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 evaluated and reviewed on an annual basis 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 change to policies will be made to families within 14 days.

### **SUPPORTING DOCUMENTS**

Nature Alliance NA-POL-0008 Grievance and Complaints Policy

Nature Alliance NA-POL-0007 Confidentiality, Privacy and Record Management

### **SOURCES**

Australian Government. Work Health and Safety Act 2011 (Cth).

Australian Securities & Investments Commission. Whistleblower rights

Western Australian Legislation Education and Care Services National Law (WA) Act 2012 (WA Services only)

Western Australia Legislation Education and Care Services National Regulations 2012 (WA Services only)