



Whistleblower Policy

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WHISTLEBLOWER POLICY

1. Introduction

ADSSI Limited (**ADSSI**) is a company limited by guarantee under the Corporations Act and an Not for Profit (**NFP**) registered under The Australian Charities and Not-for-profits Commission (**ACNC**).

ADSSI trades as Adssi in-home support (**Adssi**), Beresfield Community Care (**BCC**), Maitland Community Care (**MCC**) and Dungog and District Neighbour Care (**DDN**) and are collectively referred to as the Company (**ADSSI**).

1.1. Purpose

ADSSI sets out clear standards and expectations for the behaviour of all directors and employees through its **Vision, Mission and Values**, which are further supported by the Company's **Code of Conduct and Ethics Policy**.

This Policy sets out the system for reporting and handling of whistleblower matters, and how ADSSI will deal with them fairly, confidentially, and impartially. It also outlines what reasonable steps and precautions ADSSI will actively take to protect persons who make a disclosure.

1.2. Scope

ADSSI must comply with whistleblower obligations contained within:

- Part 9.AAA of the Corporations Act 2001; and
- ASIC RG 270 Whistleblower Policies;
- Aged Care Act 1997; and
- National Disability Insurance Scheme (NDIS) Act 2013.

Under the above obligations, ADSSI is required to have a Whistleblower Policy (**Policy**), that is available to all directors and employees of the Company and, at minimum, contains information about:

- the protections available to whistleblowers;
- to whom disclosures that qualify for protection under the Policy may be made (and how they may be made);
- how ADSSI will support whistleblowers and protect them from detriment;
- how ADSSI will investigate disclosures that qualify for protection;
- how ADSSI will ensure fair treatment of employees of ADSSI who are mentioned in disclosures;
- how the Policy is to be made available to officers and employees of the company; and
- any other matters prescribed by the regulations for the purposes of this Policy.

2. Whistleblower disclosures

ADSSI encourages the early reporting and escalation of any inappropriate activities or conduct so that wrongdoings can be identified and addressed as early as possible. All disclosures made under this Policy are treated confidentially to protect the identity of the person wishing to make the disclosure.

2.1. Matters covered by this policy

A whistleblower matter may be reported (disclosure) where there are reasonable grounds for a person to believe that certain activities or conduct has taken place in the past, is taking place, or is potentially going to occur in the future that is suspected of being:

- **dishonest**
- **improper**
- **unethical**
- **illegal**
- **discriminatory**
- **harassment**
- **bullying**
- **a workplace health or safety risk**
- **serious harm to clients**

- **corrupt**
- **victimisation**

Certain disclosures attract statutory protection under the Corporations Act 2001. This applies where the disclosure meets the requirements for a Protected Disclosure (as set out under the whistleblower protections section of this Policy) and is made in relation to one of the following Protected Matters:

misconduct (as defined in s.9 of the Corporations Act 2001);

- an improper state of affairs;
- an offence against the:
 - Corporations Act 2001
 - Australian Securities and Investments Commission Act 2001
 - Aged Care Act 1997
 - National Disability Insurance Scheme (NDIS) Act 2013
 - Work Health and Safety Act 2011
- an offence against any other Commonwealth law punishable by imprisonment for a period of 12 months or more
- a danger to the public
- a public interest disclosure relating to substantial and imminent
- danger to the health or safety to people or the natural environment

ADSSI recognises that matters appropriate for disclosure are not limited to these above examples and that a disclosure can be made in relation to any actual or potential matters. Any person can make a disclosure about the Company or its service providers through the reporting channels provided through this Policy. A person making a disclosure can still qualify for protection even if the disclosure turns out to be incorrect. However, the reporting of a disclosure should be made on reasonable grounds that is not vexatious or frivolous in nature. It is important to note that disclosures relating solely to personal work-related grievances are covered separately by the Fair Work Act 2009 and do not qualify for whistleblower protections under the Corporations Act 2001.

2.2. Whistleblower Officer

ADSSI's Whistleblower Officer is the **People and Culture Manager**. In this policy, the whistleblower may also be referred to as the Disclosure Officer.

2.3. Disclosure Officers

Where possible, ADSSI encourages disclosures to be reported internally in the first instance to the Company's Whistleblower Officer. Where the person making a disclosure does not wish to engage the Whistleblower Officer, they may reach out instead to any of the following Disclosure Officers who are additionally authorised to receive and handle whistleblower matters at ADSSI:

- Quality Manager;
- Director of Corporate Services;
- Chief Executive Officer; or
- Chair of the Governance Subcommittee.

Contact details for all Disclosure Officers can be found on the company intranet (SPARKLE), through Outlook or the Human Resources Information System (ELMO, or via your company contact). External contact can be made via XXXX -- The Chair of Governance Committee XXX.

2.4. External Service

ADSSI does not have an independent reporting channel.

2.5. Other reporting channels

Disclosures that qualify for statutory protection can also be made to specific persons outside of ADSSI's official reporting channels. This includes disclosures that are made to:

- a director, the company secretary or a Chief Executive of ADSSI;

- an auditor (or member of an audit team conducting an audit) of ADSSI;
- a regulator of ADSSI (such as ASIC, ACNC, or ACQSC);
- a legal practitioner for the purposes of obtaining legal advice or legal representation in relation to a whistleblower disclosure;
- a Minister of Parliament; or
- a journalist.

2.6. Anonymous reporting

ADSSI recognises the importance of protecting the identity of any person who wishes to make a disclosure. The reporting channels and investigative processes established under this Policy will not seek to identify the person making the disclosure unless they voluntarily reveal their identity. A person making a disclosure can also refuse to answer questions at any time when they feel their anonymity is at risk. There is no requirement for a person to identify themselves in order to receive statutory protections under the Corporations Act 2001. Persons making a disclosure should be aware that their anonymity can be compromised in situations where:

- the discloser has previously mentioned to other people that they are considering making a disclosure;
- a very small number of people have access to the information contained in the disclosure; or
- the disclosure relates to information that a discloser has been informed of in private or in confidence.

2.7. What to include in a whistleblower report

The following matters should be considered for inclusion when making a disclosure:

- nature of the conduct being reported;
- names of people involved;
- names of any witnesses;
- date, time and location of incident(s); and
- details of any supporting evidence.

3. Whistleblower investigations

All disclosures reported to ADSSI under this Policy must be reviewed by the Whistleblower Officer or an appropriate Disclosure Officer to determine whether it qualifies for statutory protection and whether a formal investigation is required. The investigation must be objective, fair and independent, while preserving the confidentiality of the investigation and the person making the disclosure. At the end of the investigation, the Disclosure Officer is required to prepare a final report for review by ADSSI's Board of Directors (**Board**). The person reporting a disclosure will be kept informed by the Disclosure Officer of any actions taken, or proposed action to be taken within 90 days of the initial disclosure being made (where the person making the disclosure can be contacted). Where the person making a disclosure is not satisfied with the outcome of an investigation, they may seek a review of the original investigation by a different Disclosure Officer.

However, ADSSI is not obliged to re-open an investigation where it concludes the review has been conducted properly, or where new information that has come to light would not change the findings of an investigation.

3.1. Duties of the Disclosure Officer

A Disclosure Officer is responsible for receiving and handling disclosures made in accordance with this Policy. The Disclosure Officer is required to:

- support arrangements so that disclosures can be made privately and discreetly (and away from the workplace where necessary);
- explain to the person making the disclosure what will happen in relation to the information being disclosed;

- provide an initial timeframe to the person making the disclosure, with updates as required;
- obtain specific consent from the person making the disclosure to allow information to be disclosed where required to support any subsequent internal investigation;
- take all necessary and reasonable steps to ensure that the identity of the person making the disclosure (and any person who is the subject of a disclosure) is kept confidential;
- support and protect the person making the disclosure from victimisation and detriment;
- carry out their investigations of the disclosure objectively, fairly and independently; and
- confidentially document and maintain secure records of any information received as part of the disclosure.

The Whistleblower Officer will also provide the Governance Sub-Board Committee with an annual report of the disclosures made throughout the financial year. This report will also detail ADSSI's compliance with training requirements and recommendations regarding continuation of positions identified as Disclosure Officers.

3.2. Investigative Report

The Disclosure Officer will prepare a report for the Board at the conclusion of their investigation. This report will contain:

- the matter of the disclosure;
- an account of all relevant information received under the disclosure;
- relevant documents, statements or other exhibits received and accepted as evidence during the investigation;
- where an investigation has rejected evidence as being unreliable, the reasons for this opinion being formed;
- the conclusions reached and the basis for those conclusions; and
- any recommendations arising from the conclusions.

Where the Disclosure Officer has found evidence of the conduct reported under the disclosure, then the recommendations of the report must contain steps that outline the actions required by ADSSI to:

- contain the matter;
- prevent the matter from re-occurring; and
- remediate any detriment arising from the matter.

This may include bringing disciplinary or legal proceedings against the person found responsible for the conduct and referring the matter to an appropriate authority for further review and action where required. The report itself must not disclose information that is likely to lead to the identification of the person who has made the disclosure. The Disclosure Officer will provide an update to the person making a disclosure at the end of the investigation to summarise outcomes and actions undertaken by ADSSI.

3.3. Fair treatment of individuals mentioned in a disclosure

ADSSI seeks to treat all persons fairly which includes circumstances where a disclosure is being made or where the person is the subject of a disclosure. ADSSI has in place the following measures to ensure this is adhered to in practice:

- disclosures will be handled confidentially when it is practical and appropriate in the circumstances;
- each disclosure will be assessed and may be the subject of an investigation;
- the objective of an investigation is to determine whether there is enough evidence to substantiate or refute the matters reported;
- when an investigation needs to be undertaken, the process will be objective, fair and independent;

- an employee who is the subject of a disclosure will be advised about the subject matter of the disclosure as and when required in accordance with the principles of natural justice and procedural fairness and prior to any actions being taken (for example, if the disclosure will be the subject of an investigation); and
- an employee who is the subject of a disclosure may contact ADSSI's support services (e.g. Employee Assistance Program)

4. Whistleblower protections

ADSSI forbids personnel from acting in any manner that victimises (causes a detriment) to a person as a result of them making a disclosure. ADSSI must make reasonable precautions to prevent the victimisation of the person making the disclosure, in a manner that demonstrates appropriate diligence being exercised in the handling of the matter. All disclosures will be treated in a confidential and sensitive manner. No action will be taken against a person who has made a disclosure on reasonable grounds which is later found to be unsubstantiated through subsequent investigation. The investigation of a disclosure may also require co-operation from other directors, employees or suppliers of ADSSI. Where this takes place, ADSSI requires the investigation to be carried out on an impartial basis that does not victimise any other party that has been involved as a result of the disclosure or its investigation.

4.1. Identity protection

It is illegal to identify a discloser and ADSSI requires all disclosures to be treated on a highly confidential basis. For the purposes of this Policy, this means that unless required by law, the investigation will not reveal the identity of the person making the disclosure (or information that is likely to lead to the identification of that person) unless consent has been given by the person making the disclosure. ADSSI will take reasonable steps to reduce the risk that information contained in a disclosure results in the identification of the person making the disclosure through the following practices:

- all personal information or reference to the discloser witnessing an event will be redacted;
- the discloser will be referred to in a gender-neutral context;
- where possible, the discloser will be contacted to help identify certain aspects of their disclosure that could inadvertently identify them; and
- disclosures will be handled and investigated by qualified staff.

ADSSI will take reasonable steps to secure information contained in a disclosure to protect the identity of the person making a disclosure through the following practices:

- all paper and electronic documents and other materials relating to disclosures will be stored securely;
- access to all information relating to a disclosure will be limited to those directly involved in managing and investigating the disclosure;
- only a restricted number of people who are directly involved in handling and investigating a disclosure will be made aware of a discloser's identity (subject to the discloser's consent) or information that is likely to lead to the identification of the discloser;
- communications and documents relating to the investigation of a disclosure will not to be sent to an email address or to a printer that can be accessed by other staff; and
- each person who is involved in handling and investigating a disclosure will be reminded about the confidentiality requirements, including that an unauthorised disclosure of a discloser's identity may be a criminal offence.

It is important to note that ADSSI may be required by law to disclose the identity of the person making the disclosure (for example to ASIC, the Australian Federal Police or by a court order) or to a legal practitioner for the purposes of obtaining legal advice or representation.

4.2. Protected Disclosures

The law provides for statutory protections under the Corporations Act 2001 for certain whistleblower disclosures (**Protected Disclosures**).

This applies where the disclosure is reported by an **Eligible Whistleblower** to an **Eligible Recipient** on a **Protected Matter** where:

An **Eligible Whistleblower** means any current or former:

- employee of ADSSI;
- director or company secretary of ADSSI;
- service provider (or an employee of the service provider) to ADSSI; or
- a relative or dependent of any of the above persons.

An **Eligible Recipient** means any person who is:

- an authorised Disclosure Officer of ADSSI;
- a director, the company secretary or Chief Executive of ADSSI;
- an auditor (or member of an audit team conducting the audit) of ADSSI;
- a regulator of ADSSI; or
- a legal practitioner for the purposes of obtaining legal advice or legal representation in relation to a whistleblower disclosure.

A **Protected Matter** means information where the Eligible Whistleblower has reasonable grounds to suspect that the information being disclosed about ADSSI concerns a Protected Matter as outlined in Section 2.1 of this Policy.

4.3. **Statutory protection from detrimental acts or omissions**

The law forbids the victimisation of people as a result of a Protected Disclosure. Victimisation includes threatening or causing detriment to the person making the disclosure (or someone known to that person) whether implied or express, conditional or unconditional by way of:

- dismissal or other disciplinary action of an employee;
- injury of an employee in his or her employment;
- alteration of an employee's position or duties to his or her disadvantage;
- discrimination between an employee and other employees of the same employer;
- harassment or intimidation of a person;
- harm or injury to a person, including psychological harm;
- damage to a person's property;
- damage to a person's reputation;
- damage to a person's business or financial position; or

any other damage to a person. However, detriment does not include:

- administrative action that is reasonable for the purpose of protecting a discloser from detriment; or
- managing a discloser's unsatisfactory work performance, where the action is in line with ADSSI's performance management procedure.

ADSSI will take reasonable steps to follow measures and mechanisms that help to protect people from victimisation or detriment through the following practices:

- undertake a risk assessment of potential victimisation or detriment against persons involved in the disclosure;
- establish strategies to minimise and manage stress, time or performance impacts to the person making the disclosure (which may include modifications to employee roles or workplace arrangements);
- provide support services such as the Employee Assistance Program where appropriate;
- review workplace arrangements to ensure management are aware of their responsibilities to address the risks of isolation or harassment, manage conflicts and

ensure fairness when managing the performance of (or taking management action in relation to) the person making a disclosure; and

- consider interventions where detriment has occurred, that may assist the person who has made a disclosure (including, but not limited to, taking disciplinary action to address the detrimental conduct, offering extended leave, compensation or other remedies).

ADSSI recognises that a person is entitled to, and may wish to seek, independent legal advice or contact a regulator, where they believe they have suffered a detriment.

4.4. Statutory protection from civil, criminal and administrative liability

A person who makes a Protected Disclosure is protected by the law from:

- civil liability (e.g. any legal action against the discloser for breach of an employment contract, duty of confidentiality or another contractual obligation);
- criminal liability (e.g. attempted prosecution of the discloser for unlawfully releasing information, or other use of the disclosure against the discloser in a prosecution (other than for making a false disclosure)); and
- administrative liability (e.g. disciplinary action for making the disclosure).

However, these protections do not grant immunity for any misconduct a disclosure has engaged in that is revealed in their disclosure.

4.5. Compensation and other remedies

A person may seek to claim compensation or remedies through a court where they believe they have suffered loss, damage or injury as a result of a Protected Disclosure, or where they believe ADSSI has failed to take reasonable precautions or exercise appropriate due diligence in preventing detrimental conduct occurring in relation to a Protected Disclosure.

4.6. Personal work-related grievances

Personal work-related grievances are those that relate to the discloser's current or former employment with implications for the discloser personally but does not have any other significant implications for ADSSI or a disclosable matter. For example:

- an interpersonal conflict between the discloser and another employee;
- a decision that does not involve a breach of workplace laws;
- a decision about the engagement, transfer or promotion of the discloser; or
- a decision to discipline, suspend or terminate the discloser.

Although these disclosures do not qualify for protection under the Corporations Act 2001, they are taken seriously by ADSSI and may result in disciplinary action for any misconduct involving bullying, harassment or discrimination.

Personal work-related grievances will only be treated as a Protected Disclosure where it is made to a legal practitioner for the purposes of obtaining legal advice or representation.

5. Public Interest and Emergency Disclosures

Whistleblower legislation aims to ensure appropriate mechanisms and protections exist for identifying and uncovering serious misconduct. This includes establishing how reporting can be made directly to a regulator on matters of public interest, or emergency matters that represent a substantial and imminent danger to the health or safety of people or the natural environment. The matter may also be disclosed to a Member of Parliament or to a journalist (and remain protected) where certain conditions are met.

5.1. Disclosures to a Member of Parliament or to the media

A whistleblower may qualify for statutory protection when disclosing a matter to either a Member of Parliament or a journalist subject to:

- informing the regulatory authority that received the original disclosure in writing of their intention to make a public interest disclosure (as defined in section 5.2 below) or an emergency disclosure (as defined in section 5.3 below). This notice must clearly identify and reference the original whistleblower disclosure; and

- ensuring the extent of information being further disclosed is no greater than necessary.

It is important for the discloser to understand the criteria for making an emergency disclosure or public interest disclosure before doing so. ADSSI recommends independent legal advice is obtained before making an emergency or public interest disclosure.

5.2. Public interest disclosures

A public interest disclosure can qualify for statutory protection where:

- at least 90 days have passed since a previous disclosure has been made to the regulator;
- the discloser has reasonable grounds to believe that no action has been (or is being) taken to address the matter; and
- the discloser has reasonable grounds to believe that further disclosure would be in the public interest.

5.3. Emergency disclosures

An emergency disclosure can qualify for statutory protection where the whistleblower has reasonable grounds to believe the information concerns a substantial and imminent danger to the health or safety of one or more persons or to the natural environment.

6. Administration

This policy will be made available to all ADSSI employees, volunteers and officers through the intranet (SPARKLE) and is published on the company's website which is accessible to ADSSI's suppliers and the general public.

6.1. Implementation

This Policy is made available to all directors and employees of ADSSI. ADSSI's induction, employee handbook and mandatory training programs ensure ADSSI personnel have knowledge of the Whistleblower Policy and where additional resources can be found. This Policy is owned by the Chief Operations Officer and must be reviewed by the Governance Committee at least every three years with any major changes approved by the Board.

6.2. Training

The Whistleblowing Officer, Disclosure /Officers and Chair of the Governance Sub-Board Committee will have training on appointment and refresher training annually.

6.3. Related ADSSI Documents

Code of Conduct and Ethics
Grievance Resolution Procedure
Misconduct and Investigations Guideline
Performance Management Procedure