

WHISTLEBLOWER POLICY

Merton Living Limited

Adopted: 1st November 2025

Next Review: 31st October 2026



1 Purpose of this Policy

Merton Living Limited is committed to creating a culture where anyone connected with our organisation can safely raise serious concerns about wrongdoing in the delivery of aged-care services.

This policy explains how whistleblower (protected) disclosures can be made and how people are protected under the **Aged Care Act 2024 (Cth)**.

The objectives are to:

- encourage early reporting of suspected breaches, neglect, or misconduct;
- ensure disclosures are handled promptly, fairly, and confidentially; and
- comply with **Part 5 of Chapter 7 (Aged Care Act 2024)** and **Section 165 of the Aged Care Rules 2025**, which make a whistleblower system a **condition of registration**.

This policy forms part of Merton Living's compliance with section 165 of the Aged Care Act 2024 and the Aged Care Rules 2025. Maintaining a whistleblower system and policy is a condition of registration for all approved providers.

The Board and Executive are responsible for fostering a culture of transparency, accountability and psychological safety that encourages people to speak up.

Employees and officers of the organisation may also receive additional protection under **Part 9.4AAA of the Corporations Act 2001 (Cth)**.

2 Scope

This policy applies to:

- all employees, volunteers, students and contractors;
- directors and other responsible persons;
- associated providers and suppliers; and
- **clients, their families, carers and advocates.**

It covers disclosures made under the *Aged Care Act 2024* about suspected contraventions, misconduct, neglect, abuse, or unsafe practices connected with Merton Living's operations or services.

3 What Is a Whistleblower Disclosure

A *whistleblower disclosure* (also called a *protected disclosure*) is a report made in **good faith** by a person who has **reasonable grounds to suspect** that a provider or individual has breached the *Aged Care Act 2024* or related laws.

Examples include:

- abuse, neglect, or exploitation of a care recipient;
- unsafe or unlawful care practices;
- fraud, falsification of records, or improper claiming;
- unauthorised disclosure or misuse of client information;
- serious breach of the **Aged Care Code of Conduct**; or
- victimisation or threats against anyone who raises a concern.

A disclosure need not prove the allegation — a reasonable suspicion is sufficient.

How this differs from a complaint

A whistleblower disclosure is a report of suspected unlawful or serious misconduct and qualifies for legal protection under the *Aged Care Act 2024*.

A **complaint** is usually an expression of dissatisfaction about the quality or delivery of services — for example, food, communication, rostering, or delays — and is managed through Merton Living's Feedback and Complaints Policy.

Where a matter could fall into either category, the individual can choose how they would like it to be handled. Merton Living will assist the person to understand the options and ensure the matter is directed through the appropriate and safest process.

4 Who Can Make a Disclosure

Under **section 547** of the *Aged Care Act 2024*, **any person** may make a protected whistleblower disclosure.

This includes aged-care workers, responsible persons, volunteers, subcontractors, clients, their families, carers, and members of the public.

5 Who Can Receive a Disclosure (Eligible Recipients)

A disclosure can be made within Merton Living or directly to an external body. The *Aged Care Act 2024* recognises multiple safe pathways so people can choose the one they trust.

A disclosure qualifies for protection if it is made to one of the following **eligible recipients** as defined in *section 547 of the Aged Care Act 2024*:

- the **Commissioner**, the **Complaints Commissioner**, or a staff member of the **Aged Care Quality and Safety Commission**
- the **System Governor** or an **official of the Department of Health, Disability and Ageing**
- the **registered provider** (Merton Living Limited)
- a **responsible person** of the provider (e.g. CEO or Board Director)
- an **aged care worker** of the provider
- a **police officer**
- an **independent aged care advocate**

A disclosure may also be made to a **lawyer** for the purpose of obtaining legal advice about these rights and protections.

6 How to Make a Disclosure

You do not need to use special language or prove misconduct — a simple report of what you have seen, heard or experienced is enough.

Disclosures may be made **verbally or in writing, anonymously or openly**, through any of the following:

OPTION	CONTACT / DETAILS
INTERNAL – CEO (RESPONSIBLE PERSON)	45 Ogilvie St Denman NSW 2328 • admin@mertonliving.org.au • 02 6547 2684
AGED CARE QUALITY AND SAFETY COMMISSION	1800 951 822 • agedcarequality.gov.au
DEPARTMENT OF HEALTH, DISABILITY AND AGEING	1800 020 103 • health.gov.au
OLDER PERSONS ADVOCACY NETWORK (OPAN)	1800 700 600 • opan.org.au
POLICE (URGENT OR CRIMINAL MATTERS)	000 or local Police Station

Merton's internal whistleblower system accepts disclosures by phone, email, post, or in person.

A discloser may choose whether their concern is treated as a **whistleblower disclosure** (protected) or a **complaint** under the Feedback and Complaints Policy. Merton Living will confirm your preference and document that choice.

7 How Merton Living Will Manage Disclosures

When a protected whistleblower disclosure is received, Merton Living Limited will manage it in accordance with **section 165-60 of the Aged Care Rules 2025** and the organisation's whistleblower system.

All actions will be taken as soon as practicable and in a way that is fair, confidential, trauma-informed, and culturally safe.

7.1 Initial Acknowledgement and Assessment

- Every disclosure will be **acknowledged within five business days** of receipt (unless the disclosure was made anonymously).
- The **Chief Executive Officer (CEO)** or delegated **Whistleblower Protection Officer (WPO)** will conduct an **initial assessment within 10 business days** to determine:
 - whether the disclosure qualifies for protection under the *Aged Care Act 2024*;
 - whether immediate safety, clinical or environmental risks exist; and
 - whether a **Serious Incident Response Scheme (SIRS)** notification is required.
- Where the disclosure raises a criminal matter, the CEO/WPO will refer it to the **police** or relevant regulator.

7.2 Investigation

- An **independent investigator** (internal or external) will be appointed where appropriate and must have no conflict of interest.
- Investigations will:
 - be carried out promptly, objectively and with procedural fairness;
 - follow natural-justice principles for any person named or implicated; and
 - aim to establish facts and identify any systemic or governance issues.
- If the disclosure involves the CEO or a Board Director, the **Board Chair** will engage an external investigator and oversee the process.

7.3 Confidentiality and Record-Keeping

- The identity of a whistleblower will not be disclosed except where permitted under **section 550 of the Aged Care Act 2024** (for example, to the Commission, police, a legal adviser, or with the person's consent).
- All records will be securely stored in restricted-access files and de-identified for reporting purposes.
- Unauthorised disclosure of identity information is a civil offence attracting a **penalty of up to 30 penalty units**.

7.4 Support and Protection

- The WPO will undertake a **risk assessment** to identify any risk of detriment or victimisation to the discloser or others.

- Practical measures (for example, changes in reporting lines, rostering or duties) will be implemented to protect safety and wellbeing.
- Access to **confidential counselling, Employee Assistance Program (EAP)** or an **independent advocate (OPAN 1800 700 600)** will be offered.
- Any person who causes or threatens detriment may be subject to disciplinary action and may incur civil penalties of up to **500 penalty units (approximately \$165 000)** under **section 551 of the Aged Care Act 2024**.

7.5 Outcome and Feedback

- On completion, the investigator will prepare a written report summarising findings, conclusions, and recommendations to prevent recurrence.
- Where appropriate, de-identified outcomes will be communicated to the whistleblower and to relevant executives.
- Systemic or governance issues will be referred to the **Audit and Risk Committee** for monitoring and action.

7.6 Continuous Improvement

- Each investigation outcome will be reviewed to identify lessons learned and opportunities for improvement.
- De-identified data about the number and type of whistleblower disclosures, actions taken, and timeframes will be reported **quarterly to the Board Audit and Risk Committee**.
- Recommendations will feed into quality-improvement and risk-management processes.

8 Confidentiality and Record-Keeping

Under **section 550** of the *Aged Care Act 2024*:

- it is a **civil offence** to disclose the identity of a whistleblower or information likely to reveal it, except where permitted (e.g. to the Commission, police, lawyer or with consent); and
- Merton Living must take **all reasonably practicable steps** to protect confidentiality.

All records will be securely stored, access-controlled, and retained in accordance with privacy and record-keeping requirements.

9 Protections for Whistleblowers

Under **section 551** of the *Aged Care Act 2024*:

- it is a **civil offence** to cause or threaten to cause **detriment** to a person because they made, may have made, or are believed to have made a protected disclosure;
- detriment includes dismissal, demotion, disciplinary action, discrimination, harassment, intimidation, reputational damage, or any disadvantage; and

- a person who suffers loss, damage, or injury may seek **court orders** under **section 552**, including injunctions, reinstatement, compensation, or exemplary damages.

Whistleblowers are also protected from civil, criminal, or administrative liability for making a disclosure.

However, these protections do not extend to personal wrongdoing revealed by the disclosure itself.

10 Support for Whistleblowers

Merton Living Limited recognises that speaking up about wrongdoing can be stressful and may create concern about personal or professional repercussions.

We are committed to providing a supportive, safe, and respectful environment for anyone who makes a protected disclosure.

Merton Living will:

- assess and mitigate the risk of victimisation or stress;
- take reasonable management action to protect wellbeing and privacy;
- offer access to counselling, employee assistance or advocacy support (e.g. OPAN); and
- keep the discloser informed where possible, while maintaining confidentiality.

Merton Living will apply the following principles:

- **Respect and psychological safety:** All disclosers will be treated with dignity, empathy, and respect.
 - **Protection from harm:** Merton Living will take all reasonably practicable steps to prevent or minimise the risk of victimisation, retaliation, or other detriment.
 - **Cultural safety:** Responses will be trauma-informed and culturally safe, recognising the needs of Aboriginal and Torres Strait Islander peoples, people from culturally and linguistically diverse backgrounds, and people with disability.
 - **Fairness to all parties:** Support will also be provided to individuals who are the subject of a disclosure to ensure procedural fairness and wellbeing.
-

11 Fair Treatment of Individuals Named in a Disclosure

Any person named or implicated will be treated fairly and in accordance with natural justice.

They will be advised of the allegations (unless this would compromise the investigation), given an opportunity to respond, and supported appropriately.

12 Governance, Training and Continuous Improvement

Merton Living will maintain a **whistleblower system** that meets the requirements of **section 165-60 of the Aged Care Rules 2025**.

This policy forms part of that system and outlines the organisation's procedures, protections, and governance responsibilities.

12.1 System Requirements

The whistleblower system will include:

- clear procedures for receiving, assessing and managing disclosures;
- the ability for individuals to report **verbally, in writing or anonymously**;
- defined roles and responsibilities for managing and protecting disclosers;
- secure record-keeping and confidentiality protocols; and
- processes for supporting all parties and preventing victimisation.

12.2 Training and Communication

- All aged-care workers and responsible persons will complete mandatory **training** on whistleblower obligations and protections:
 - at induction,
 - annually, and
 - whenever the system or relevant legislation changes.
- At least **monthly**, internal communications will reinforce that protected disclosures are welcome and encouraged, and will remind staff how to access support and reporting channels.

12.3 Governance and Review

- The **Whistleblower Protection Officer (WPO)** will oversee day-to-day operation of the system and report quarterly to the **Chief Executive Officer**.
- The **Board Audit and Risk Committee** will receive **de-identified reports** on trends, risks and actions, and ensure continuous compliance.
- The system will be **reviewed at least annually** to assess its effectiveness, identify improvements, and confirm ongoing compliance with the *Aged Care Act 2024* and Rules.

12.4 Accessibility

To ensure transparency and accessibility:

- this policy and summary information about the whistleblower system will be **published on Merton Living's website**;
- included in **staff handbooks, induction materials, and volunteer orientation packs**; and
- provided in **accessible formats** for clients, families and advocates (for example, plain-English and easy-read versions or translated materials on request).

13 Related Documents

- Aged Care Act 2024 (Cth)
 - Aged Care Rules 2025 (s 165-60)
 - Aged Care Quality and Safety Commission Act 2018
 - Aged Care Code of Conduct
 - Feedback and Complaints Policy
 - Incident Management and SIRS Policy
 - Risk Management Framework
-

14 Key Terms and Definitions

Term	Definition / Explanation	Legislative Reference
Aged Care Act 2024 (Cth)	The primary Commonwealth legislation governing the regulation, delivery and oversight of aged care in Australia, effective 1 November 2025.	–
Aged Care Rules 2025	Subordinate legislation made under the Aged Care Act 2024. Rule 165-60 sets out provider duties for whistleblower systems.	Rule 165-60
Aged Care Worker	An employee, volunteer or contractor who provides or supports the delivery of aged-care services on behalf of the registered provider.	s 5
Complaint	An expression of dissatisfaction about a service, decision or experience that is managed through Merton Living's Feedback and Complaints Policy. It differs from a protected disclosure of wrongdoing under the <i>Aged Care Act 2024</i> .	Provider practice – Guidance Note
Confidentiality Obligation	It is a civil offence to identify, or provide information likely to identify, a whistleblower except where permitted by law.	s 550
Court Remedies	Legal options available to a whistleblower who experiences detriment — for example injunctions, compensation, reinstatement or exemplary damages.	s 552
Eligible Recipient	The people or bodies to whom a protected disclosure can be made: the Commissioner, Complaints Commissioner or staff of the Aged Care Quality and Safety Commission; the System Governor or Department official; a registered provider; a responsible person or aged-care worker of the provider; a police officer; or an independent aged care advocate.	s 547
Protected Disclosure (Whistleblower Disclosure)	Information disclosed by a person who reasonably suspects a breach of the Aged Care Act 2024 or misconduct in connection with aged-care services.	s 547

Responsible Person	A person responsible for the management, control or decision-making of a registered provider (e.g. Board Director, CEO).	s 5
System Governor	The official responsible for administering the aged-care system within the Department of Health, Disability and Ageing.	s 5
Victimisation / Detriment	Any act causing or threatening harm, loss or disadvantage (e.g. dismissal, demotion, harassment, discrimination, intimidation, reputational damage) to someone because they made, or are believed to have made, a protected disclosure.	s 551
Whistleblower (Protected Discloser)	A person who makes a disclosure in good faith about suspected wrongdoing under the <i>Aged Care Act 2024</i> and meets the conditions for protection.	s 547
Whistleblower Protection Officer (WPO)	The individual appointed by Merton Living to coordinate whistleblower processes, ensure discloser support, and report to the CEO and Board.	Internal role – Rule 165-60
Whistleblower System	The integrated framework — including this policy, procedures, training and reporting mechanisms — used to receive, assess, investigate and manage protected disclosures.	Rule 165-60

Summary of Key Legislative References

Provision	Subject	Summary
s 165 (Act)	Condition of Registration	Providers must implement and maintain a whistleblower system.
s 547	Eligible Recipients	Lists persons/bodies to whom a disclosure may be made.
s 550	Confidentiality	Civil offence to unlawfully identify a whistleblower.
s 551–552	Victimisation & Court Orders	Civil offence to cause detriment; courts may award remedies.
Rule 165-60	Provider Duties	Providers must manage disclosures, act promptly, and ensure support/fair treatment.

End of Policy

(This policy supersedes the 2019 Whistleblower Policy and is designed to meet the requirements of the Aged Care Act 2024 effective 1 November 2025.)