

PM11 - Whistleblowing Policy and Procedure

Purpose

- The organisation believes that compliance with the Public Interest and Disclosure Act 1998 and the Enterprise and Regulatory Reform Act 2013 is consistent with its objective of providing a high-quality service, and that use of an agreed procedure will support that compliance.

Scope

- All employees.

Policy

- This organisation encourages a free and open culture in its dealings with its officers, employees and all people with whom it engages in business and legal relations. In particular, this organisation recognises that effective and honest communication is essential if malpractice is to be effectively dealt with and the organisation's success ensured.

Procedure

INTRODUCTION

- Members of staff are likely to be the first to realise that there may be something seriously wrong within the organisation. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to their employer. They may also fear harassment or victimisation. In these circumstances, it may be easier to ignore the concern rather than report what may just be a suspicion of malpractice.
- The organisation recognises the need for, and importance of, whistleblowing as a means of ensuring that staff can confidentially raise issues of concern and conscience inside the organisation and therefore members of staff are encouraged to raise genuine concerns about malpractice at the earliest practicable stage. This procedure is, accordingly, intended to provide a safeguard to enable members of staff to raise concerns about one or more of the following that has occurred, is occurring, or is likely to occur. These qualifying disclosures are set out in The Public Interest Disclosure Act 1998:
 - That a criminal offence has been committed, is being committed or is likely to be committed;
 - That a person has failed, is failing or is likely to fail to comply with any legal obligation to which they are subjected;
 - That a miscarriage of justice has occurred, is occurring or is likely to occur;
 - That the health and safety of any individual has been, is being or is likely to be damaged. It must indicate a greater danger than is associated with the normal use of the process/product, or a danger that is not usually associated with it;
 - That information tending to show any matter falling within any one of the preceding examples has been, is being or is likely to be deliberately concealed.
 - More recent changes to the law (June 2013) state that disclosures will now only be a qualifying disclosure if the worker reasonably believes that the disclosure is "in the public interest". This follows amendments made by the Enterprise and Regulatory Reform Act 2013.

RAISING CONCERNS

- Any person wishing to raise concerns should report the matter to the Registered Manager, in a confidential manner, when such concerns are with regard to matters such as the following: fraud and financial irregularities; serious maladministration arising from deliberate improper conduct; miscarriages of justice; failure to comply with legal obligations; unethical activities that may be of a criminal nature; or dangerous acts or omissions that create a risk to health, safety or the environment within the sphere of activities of the organisation. In the event that the

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concerns relate to the Registered Manager they should be reported to the Registered Provider.

- If you do not feel that the Registered Manager or Registered Provider will appropriately handle your concerns, you may report your concerns directly to the CQC. The CQC will not disclose your identity without your consent unless there are legal reasons requiring them to do so, e.g. where your information is about a child or vulnerable adult who is at risk.
- It is important to recognise that whistleblowing is not a substitute for the Grievance Procedure that is available to staff who have individual or collective complaints about their management.
- Concerns should normally be raised in writing, but oral reports will also be accepted on the understanding that instances of whistleblowing raised anonymously will not be investigated.

COMPLAINT OF ABUSE AGAINST THE MANAGER OR DEPUTY

- Where an abuse complaint is received by a member of staff and refers to the actions of the Manager or Deputy Manager, then the referral must in the first instance be made to the Social Services Adult Protection Team. The Adult Protection Team will take the responsibility of informing other agencies. The contact details for your local Social Services are as follows:

Leicester City Adult Social Care 1 Grey Friars Leicester LE1 5PH Telephone: 0116 252 7004

RESPONSIBILITY FOR DEALING WITH CONCERNS

- Responsibility for dealing with any concerns reported will lie with the Registered Manager who will have access to the Registered Provider.
- The Registered Manager, in consultation with the Registered Provider, shall have discretion over the nature of the investigation into concerns raised, including, where it is considered appropriate, the involvement of the Inspection Unit or Auditors. If there is evidence of criminal activity, the Police will be informed.

TIMESCALES FOR DEALING WITH CONCERNS

The Registered Manager will endeavour to deal with reported concerns as quickly as possible. Initially, the Registered Manager will acknowledge, in a confidential manner, receipt of the concern being raised. Because of the nature and type of concerns that may be raised through whistleblowing, it is not possible to set time limits for the completion of investigations. However, the Registered Manager will ensure that in all cases an initial investigation will start within 5 working days of a concern being reported.

PROTECTION FOR THE STAFF

Staff will often be unsure as to whether or not misconduct is taking place. It is better that staff raise concerns which prove unfounded, than that they keep quiet about something which turns out to be really serious because they lack evidence, or are afraid of getting into trouble with management or colleagues.

- A member of staff will never be disciplined for raising a concern, so long as they follow the Whistleblowing Procedure or make disclosures in accordance with the Public Interest Disclosure Act 1998. However, disciplinary action could be taken if someone used the Whistleblowing Procedures to raise false concerns in bad faith. The Registered Provider shall decide whether disciplinary action is to commence.
- The organisation will take any steps necessary to ensure that those who raise concerns are

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protected from bullying or victimisation by fellow workers.

- The organisation will regard a member of staff's actions as legitimate if they have:
 - Followed the Whistleblowing Procedure;
 - Acted in good faith and not for personal gain or out of personal motives;
 - Had reasonable grounds for believing that the information disclosed indicates the existence of one or more of the following:
 - That a criminal offence has been committed, is being committed, or is likely to be committed;
 - That a person has failed, is failing, or is likely to fail to comply with any legal obligation to which they are subject;
 - That a miscarriage of justice has occurred, is occurring or is likely to occur;
 - That the health and safety of any individual has been, is being or is likely to be damaged.

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- That information tending to show any matter falling within any one of the preceding examples has been, is being or is likely to be deliberately concealed.

DISCLOSURE BY STAFF OUTSIDE THE ORGANISATION

Workers in general are subject to an implied contractual term of confidence and trust which seeks to prevent them from disclosing their employer's confidential information.

- There is also, within the organisation's contract of employment, a specific confidentiality clause. The breach of this condition could be regarded as gross misconduct which would justify summary dismissal.
- All matters of concern must be raised internally in the first instance. The purpose of this is to give the organisation every chance to investigate and take appropriate action before Disclosure is in the public domain.

COMMUNICATION AND REVIEW OF PROCEDURES

The Registered Manager will ensure that the procedures have been widely distributed and communicated to all members of staff and that appropriate staff and Registered Provider awareness-raising measures and activities are introduced by the organisation. The Registered Manager will report to the Registered Provider with regard to the effectiveness of these measures.

Note: All QCS Policies are reviewed annually, more frequently, or as necessary.