



**WHISTLEBLOWING  
POLICY AND PROCEDURE**

Date Policy Implemented December 2009 –by Paul Graham, Director of Services  
Reviewed in line with Mental Capacity Act 2005  
Policy Reviewed January 2022 by Dawn Brookes Registered Care Manager

## **Whistleblowing Policy**

Aspects Care Ltd is committed to the highest standards of quality, honesty, openness and accountability.

As an employee you have an important role in achieving this goal. Employees will usually be the first to know when someone in the organisation is doing something illegal or improper but often feel worried about voicing their concerns. Under certain circumstances, you have legal protection for making disclosures about any organisations for which you work.

We have come up with a policy and procedure to cover the reporting of any genuine concerns you may have about suspected misconduct within the organisation. The policy is intended to conform to the guidance in the Public Interest Disclosure Act (PIDA). PIDA encourages you to raise concerns internally in the first instance.

PIDA is designed to encourage and enable employees to make a disclosure about any suspected serious misconduct, illegal act or a dangerous situation within the organisation.

This is called making a “Protected Disclosure” under PIDA, and when it is made in the public interest and in accordance with this policy, an employee is legally protected from harassment or victimisation and will not be subject to any other detriment as a result of the disclosure.

The person making the disclosure does not have to be directly or personally affected by the serious misconduct, but must believe that the disclosure is true and the disclosure must be made in the public interest.

To be protected, the disclosure must be in the public interest and raise a concern that:

- a) a criminal offence (e.g. fraud, corruption or theft) has been, is being or is likely to be committed;
- b) a person has failed, is failing or is likely to fail to comply with any legal obligation to which they are subject;
- c) a miscarriage of justice is occurring, has been or is likely to occur;
- d) the health or safety of any individual has been, is being or is likely to be endangered;
- e) the environment has been, is being or is likely to be damaged;
- f) that information relating to any of the above is being deliberately concealed or attempts are being made to conceal the same.

PIDA will protect any employee making a protected disclosure, irrespective of whether or not the disclosure relates to information gained in the course of their employment (e.g. a protected disclosure made by an employee acting as a service user would still fall under the PIDA protection).

If an employee does not feel comfortable making a disclosure to the Council, he/she shall be entitled to make a disclosure to other prescribed persons.

The legislation on making a protected disclosure is designed to protect you from suffering any detrimental treatment and/or from being dismissed from your employment for whistle blowing.

Protecting an employee whistleblower

Employees are protected if:

- they reasonably believe that the information disclosed, and any allegations contained in it, are substantially true;
- they think they are telling the right person; and
- they believe that their disclosure is in the public interest.

Any employee who makes a 'protected disclosure' which meets the definition in PIDA is legally protected against victimisation and shall not be subject to any other detriment for whistleblowing. Aspects Care has adopted this policy in order to encourage early internal whistleblowing and demonstrate its commitment to preventing victimisation. If an employee claims that, despite that commitment, he or she has been victimised for making a disclosure, he or she should make a further complaint under this whistleblowing procedure directly to Director of Services.

An employee has the right to complain of victimisation as a result of any whistleblowing to an employment tribunal.

Any allegation that an employee has victimised a whistleblower will be taken seriously by the Council and managed appropriately. In particular, the employee alleged to have caused the victimisation could:

- be subject to an internal Council investigation and potential disciplinary action, including dismissal;
- face a civil claim personally, as the affected whistleblower could be entitled to directly issue a legal claim against the offender.

## **POLICY**

This policy applies to all permanent and short-term employees of Aspects Care Ltd. It also applies to people that are training with the Company, external consultants, contractors, self employed workers (if supervised or working off-site) and agency staff whilst working within Aspects Care Ltd.

It is impossible to give an exhaustive list of the activities that constitute misconduct or malpractice but, broadly speaking we would expect you to report the following:

- Criminal offences
- Actions or practices which you have witnessed or heard about that are abusive to service users
- Failure to comply with legal obligations

- Actions which endanger the health or safety of employees or the public
- Actions which cause damage to the environment
- Actions which are intended to conceal any of the above

These acts can be in the past, present or future, so that, for example, a disclosure qualifies if it relates to environmental damage that has happened, is happening, or is likely to happen.

The policy is primarily for concerns where the interests of others or of the organisation itself are at risk. **If in doubt – raise it!**

## **YOUR CONFIDENCE**

Aspects Care Ltd is committed to this policy. If you raise a genuine concern under this policy, you will not be at risk of losing your job or suffering any form of retribution or harassment as a result. You will be protected by law as long as you honestly think what you are reporting is true, you think you are telling the right person and you believe that your disclosure is in the public interest. This policy does not, however, extend to anyone who breaks the law when reporting something or maliciously raises a concern that they know is untrue.

If we conclude that you have made false allegations maliciously or with a view to personal gain, you may be subject to disciplinary action up to and including your summary dismissal on the grounds of gross misconduct

Regardless of the above assurance, we understand that you may still want to raise a concern in confidence under this policy. If you ask us to protect your identity by keeping your confidence, we will not disclose it without your consent. But you should remember that if you do not tell us who you are, it will be much more difficult for us to investigate your concern or to give you feedback.

## **HOW TO RAISE A CONCERN INTERNALLY**

We hope that, in the first instance, you will feel able to raise a concern with your direct line manager. You can do this in writing or, if you prefer, you can telephone your manager.

If, for whatever reason, you feel you cannot speak with your manager about your concern or if you think your concern has not been handled properly, then you should ring Paul Graham, the Company Director of Care at Aspects Care Limited. His telephone number is 0121 433 2500 or you can write to him at 32 Pershore Road South, Cotteridge, Birmingham B30 3EJ or e-mail him at [paulgraham@aspectscare.co.uk](mailto:paulgraham@aspectscare.co.uk)

Remember, we can deal with your concern even if you prefer to remain anonymous, but as mentioned before, this will make the investigation and giving you feedback much harder.

## **HOW WE WILL HANDLE THE MATTER**

Once you have told us of your concern, we will look into it carefully and thoroughly to assess what action, if any, should be taken. Depending on the nature of your concern, this may mean an internal inquiry or a more formal

investigation. We will tell you who your point of contact will be and whether we will need further assistance from you. We may ask you how you think your concern should be best dealt with. If you have a personal interest in the matter we would ask that you tell us at the outset. Whilst we will try to give you as much feedback as possible, we may not be able to give you specific details as this could infringe upon the privacy of another individual.

We cannot guarantee that we will respond to all concerns in the way that you might wish, but we will try to handle the matter fairly and properly. By using this policy, or the policy of your employing company, you will help us to achieve this.

## **EXTERNAL CONTACTS**

The rules and regulations set out in the Employee Handbook require that you do not disclose confidential, false or misleading information. In considering taking a concern outside the Group, you should be aware of your duty of confidentiality, and you should consider whether reporting the concern externally, without first giving the Group the opportunity to look into the matter, is the reasonable course of action.

We hope this policy gives you the reassurances you need to raise concerns internally, but if you still feel uneasy, we would rather you raised a concern with the appropriate regulator than not at all. Provided you are acting in good faith, and you have evidence to back up your concerns, you can also contact:

- **Health and Safety Executive**  
www.hse.gov.uk/ or 0345 300 9923

### **Financial Services Authority**

0800 111 6768 or 0300 500 8082      [www.fsa.gov.uk](http://www.fsa.gov.uk)

### **Birmingham social Services**

**Tel No: 0121 303 1234 option 1**

**Fax No: 0121 303 6245**

**E-mail: [CSAdultSocialCare@birmingham.gov.uk](mailto:CSAdultSocialCare@birmingham.gov.uk)**

### **Care Quality Commission**

CQC National Customer Service Centre

Citygate

Gallowgate

Newcastle upon Tyne

NE1 4PA

**Telephone :03000 616161**

**Fax :            03000 616171**

## **MONITORING THE POLICY**

Confidential records will be kept of all matters raised through this policy and the appropriate committee will receive reports with an assessment of the effectiveness of the policy.

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