

# Whistleblowing Policy

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## 1 Legislative Framework and Guidance

1. Blowing the Whistle to a Prescribed Person, List of prescribed persons and bodies 2015
2. Public Interest Disclosure Act 1998

## 2 Purpose

The purpose of this policy is

- To comply with the Public Interest Disclosure Act 1998.
- To encourage staff to feel confident in passing on information concerning wrongdoing. In this Policy, we call that 'making a disclosure' or 'blowing the whistle'.
- To reassure staff that they will be protected from possible reprisals or victimisation
- To distinguish between Whistle blowing and personal grievances and complaints

## 3 Policy

CareTech is committed to the highest standards of openness, probity and accountability. The Board/senior management will ensure that any individual who raises a genuine concern under this policy will not be at risk of losing their job or suffer any form of retribution as a result. Members of the Board will not tolerate the harassment or victimisation of anyone raising a genuine concern.

## 4 Scope

All employees including Agency and Volunteer workers are welcome and encouraged to make disclosures under this policy.

## 5 Public Interest Disclosure

Whistleblowing is when a worker reports suspected wrongdoing at work. Officially this is called 'making a disclosure in the public interest'. Whistleblowing law is located in the Employment Rights Act 1996 (as amended by the Public Interest Disclosure Act 1998).

To be covered by whistleblowing law, a worker who makes a disclosure must reasonably believe two things. The first is that they are acting in the public interest. This means in particular that personal grievances and complaints are not usually covered by whistleblowing law.

The second thing that a worker must reasonably believe is that the disclosure tends to show past, present or likely future wrongdoing falling into one or more of the 'Qualifying' categories:

- criminal offences (this may include, for example, types of financial impropriety such as fraud)
- failure to comply with an obligation set out in law
- miscarriages of justice
- endangering of someone's health and safety
- damage to the environment

- covering up wrongdoing in the above categories

It provides the right for a worker to take a case to an employment tribunal if they have been victimised at work or they have lost their job because they have 'blown the whistle'. PIDA (Public Interest Disclosure Act 1998) gives employees two safeguards in respect of disclosures of information.

- An employee is entitled not be subjected to any detriment by virtue of having made a protected disclosure.
- The dismissal of any employee directly due to the individual having made such a disclosure will automatically be regarded as unfair dismissal.

## **6 Protection**

As from 25 June 2013, to qualify for protection under PIDA a disclosure should be in relation to a concern which is in the 'public interest'. The public interest means the public good, not what is of interest to the public, and not the private interests of the person raising the concern. Whilst there is no longer a requirement for someone to have good faith when they raise a concern, an employment tribunal has the power to reduce any compensation award by up to 25% if it considers that the disclosure was made in bad faith (for example if the whistleblower's motives were to pursue a personal grudge against their manager).

## **7 Types of Whistleblowing Eligible for Protection**

Certain conditions must be met for a whistleblower to qualify for protection under the legislation, depending on to whom the disclosure is being made and whether it is being made internally or externally. To be protected, the disclosure must be in the public interest, the individual must have a reasonable belief that the information shows that one of the categories of wrongdoing listed in the legislation has occurred or is likely to occur and the concern must be raised in the correct way.

### **7.1 Internal Disclosures**

Workers are encouraged to make internal disclosures (raise concerns with their employer) with the view that employers will then have an opportunity to address the issue. If a worker makes a qualifying disclosure internally to an employer (or other reasonable person), they will be protected.

### **7.2 External Disclosures**

If a disclosure is made externally there are conditions which need to be satisfied before a disclosure will be protected. One of these conditions must be met if a worker is considering making an

external disclosure.

- If the disclosure is made to a 'prescribed person' (a list of prescribed persons is made under PIDA, and you can find details of relevant prescribed persons for the NHS and social care on line at <http://wbhelpline.org.uk/wp-content/uploads/2014/04/Raising-Concerns-at-Work.pdf> or in Section 16 of this policy), the worker must reasonably believe that the concern that they are raising is one which is relevant to that prescribed person (i.e. comes under their area of responsibility as a regulator) and that the disclosure is substantially true;
- A worker can also be protected if they reasonably believe that the disclosure is substantially true, the disclosure is not made for personal gain, it is reasonable to make the disclosure, and one of the following conditions apply:
  - at the time he/she makes the disclosure, the worker reasonably believes that he/she will be subjected to a detriment by his/her employer if he/she makes a disclosure to his/her employer; or
  - the worker reasonably believes that it is likely that evidence relating to the failure/ wrongdoing will be concealed or destroyed if the disclosure is made to the employer; or
  - the worker has previously made a disclosure to his/her employer.
- Additional conditions apply to other, wider disclosures to the police or the media. These disclosures can be protected if the worker reasonably believes that the disclosure is substantially true, the disclosure is of an exceptionally serious nature, and it is reasonable to make the disclosure. Please note that these conditions do not apply to disclosures made to legal advisors in the course of obtaining legal advice.

## **8 Who's Protected**

The following people are protected:

- employees
- agency workers
- people that are training with an employer, but not employed
- self-employed workers, if supervised or working off-site

## **9 Confidentiality**

ROC will treat all such disclosures in a confidential and sensitive manner. The identity of the staff making the allegation may be kept confidential so long as it does not hinder or frustrate any investigation. However, the investigation process may reveal the source of the information and the individual making the disclosure may need to provide a statement as part of the evidence required.

## **10 Anonymous Allegations**

Concerns expressed anonymously may be considered at the discretion of ROC. In exercising this discretion, the factors to be taken into account will include:

- The seriousness of the issues raised
- The credibility of the concern
- The likelihood of confirming the allegation from attributable sources

## **11 Untrue Allegations**

- If an employee makes an allegation in good faith, which is not confirmed by subsequent investigation, no action will be taken against that employee.
- In making a disclosure, the employee should exercise due care to ensure the accuracy of the information. If, however, an employee makes malicious or vexatious allegations, and particularly if (s)he persists with making them, disciplinary action may be taken against that employee.

## **12 How to blow the Whistle**

- As a first step, you should normally raise concerns with your line Manager. This may depend, however, on the seriousness and sensitivity of the issues involved and who is suspected of the malpractice. For example, if you believe that management is involved you should approach a more senior level of management.
- Concerns are better raised in writing. You are invited to set out the background and history of the concern, giving names, dates and places where possible, and the reason why you are particularly concerned about the situation. If you do not feel able to put your concern in writing, you can telephone or meet the appropriate Manager/Director.
- The earlier you express the concern, the easier it is to take action.
- Although you are not expected to prove the truth of an allegation, you will need to demonstrate to the person contacted that there are sufficient grounds for your concern.

## **13 'Tell Us' Campaign**

- Care Tech have introduced the 'Tell Us' campaign. It is designed to encourage whistleblowing so that Directors can take a personal responsibility to investigate and resolve any issues of concern.
- Each member of staff will be provided with a prompt card with details of how they can blow the whistle, in strict confidence, which will be directed to the Chief Executive and to the Chief

Operating Officer. These are Board level positions and the process will be under the scrutiny of our Board level Care Governance and Safeguarding Committee.

- 'Tell Us' hotline is 0800 999 8247 and email address is [whistleblower@caretech-uk.com](mailto:whistleblower@caretech-uk.com).

## **14 How ROC/CareTech will Respond**

- The action taken by ROC / CareTech will depend on the nature of the concern. The matters raised may:
  - be investigated internally
  - be referred to the Police
  - form the subject of an independent inquiry
- ROC / CareTech will make initial enquires to decide whether an investigation is appropriate and, if so, what form it should take.
- Some concerns may be resolved by agreed action without the need for investigation.
- Within 10 working days of a concern being received, ROC / CareTech will write to you:
  - acknowledging that the concern has been received;
  - indicating how it proposes to deal with the matter;
  - giving an estimate of how long it will take to provide a final response;
  - telling you whether any initial enquiries have been made; and
  - telling you whether further investigations will take place, and if not, why not.
- When any meeting is arranged, you have the right, if you so wish, to be accompanied by a Trade Union representative or a colleague from ROC / CareTech who is not directly involved in the area of work to which the concern relates.
- ROC / CareTech will take steps to minimise any difficulties which you may experience as a result of raising a concern. For instance, if you are required to give evidence in criminal or disciplinary proceedings, ROC/CareTech will advise you about the procedure.
- Subject to legal constraints, ROC / CareTech will send you information about the outcomes of any investigations.

## **15 Tribunals**

- If an employee is dismissed for whistleblowing, they can go to an Employment Tribunal.
- If the tribunal decides the employee has been unfairly dismissed, it will order that they are:
  - reinstated (get their job back)
  - paid compensation

## **16 How the Matter can be taken Further**

The procedure outlined above is intended to provide individuals with an avenue to raise concerns within ROC/CareTech. However, if the whistleblower decides to blow the whistle to a prescribed person or body, rather than ROC/CareTech, the details of whom can be found in the Sections [16.1](#), [16.2](#) and [16.3](#).

While we hope this policy gives you the reassurance you need to raise your concern internally with us, we recognise that there may be circumstances where you can properly report a concern to an outside body. In fact, we would rather you raised a matter with the appropriate regulator – such as those listed below – than not at all.

'PROTECT' (Formerly known as Public Concern at Work (PCaW)) is the independent authority on public interest whistleblowing. Established as a charity in 1993 following a series of scandals and disasters, 'PROTECT' has played a leading role in putting whistleblowing on the governance agenda and in developing legislation in the UK and abroad.

They are able to offer free advice to people with whistleblowing dilemmas.

If you are unsure whether to use this policy or you want confidential advice at any stage, you may contact 'PROTECT' who can talk you through your options and help you raise a concern.

### **16.1 'PROTECT' Contact Details**

Telephone: Protect Advice Line: 020 7404 6609

Email: Protect Advice line: [whistle@protect-advice.org.uk](mailto:whistle@protect-advice.org.uk)

### **16.2 Social Care**

#### **16.2.1 Care Quality Commission**

About the provision of adult social care services in England.

CQC National Customer Service Centre

Citygate

Gallowgate

Newcastle upon Tyne NE1 4PA

Tel: 03000 616161

[www.cqc.org.uk](http://www.cqc.org.uk)

### **16.2.2 Health and Care Professions Council**

About matters relating to the registration and fitness to practise of health and care professional.

Health and Care Professions Council

Park House

184 Kennington Park Road

London SE11 8BU

Tel: 0300 500 6184

<http://www.hcpc-uk.org/>

### **16.2.3 Her Majesty's Chief Inspector of Education, Children's Services and Skills ('the Chief Inspector')**

About matters relating to regulation and inspection of establishment and agencies for children's social care services.

Ofsted

Piccadilly Gate

Store Street

Manchester M1 2WD

Tel: 0300 123 3155

Email: [whistleblowing@ofsted.gov.uk](mailto:whistleblowing@ofsted.gov.uk)

## **16.3 Social Services and Child Welfare**

Her Majesty's Chief Inspector of Education, Children's Services and Skills ('the Chief Inspector') about matters relating to regulation and inspection of establishment and agencies for children's social care services.

### **16.3.1 Ofsted**

Piccadilly Gate

Store Street

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## 17 Revision History



Date of next review: July 2021

Date of review: July 2020

Date of review: January 2018

Date of review: July 2016

Date of review: May 2015

Katie Stephens	Head Of Service	
Sarah Clark	HR Manager	

Date of review: May 2014

Date of review: March 2013

Date of release: January 2013