

# WHISTLE BLOWING POLICY



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## GLOSSARY OF TERMS:

This policy and procedure applies to all individuals working at all levels of the Skylark Plus, including senior managers, officers, directors, trustees, employees, consultants, contractors, trainees, home workers, part-time and fixed-term workers, casual and agency staff and volunteers (collectively referred to as '**staff**' or '**staff member**' in this policy and procedure).

The term '**whistleblowing**' is most commonly used to describe the disclosure of a wrong-doing within an organisation by a current or ex- staff member. Officially this is called 'making a disclosure in the public interest'. Disclosure of confidential information about an organisation could clearly be a breach of a staff member's contract and therefore special arrangements have been put in place to protect both the staff and the Trust. It is important that a staff member's concerns about illegal or unethical activities can be raised without fear of victimisation or reprisal and that the Trust is alerted to malpractice early, so that it can be stopped and appropriate steps taken to prevent its reoccurrence.

Occasionally the expression '**whistleblowing**' is used to describe a

situation where an external party raises a concern about the operation of the Trust or of one of its education or care provisions. In these circumstances the Trust's Complaints Policy and Procedure is followed.

### **AIMS OF THE POLICY:**

Skylark Plus is committed to conducting its business with honesty and integrity and expects all staff to maintain high standards. However, all organisations face the risk of things going wrong from time to time, or of unknowingly harbouring illegal or unethical conduct. Therefore, we have cultivated a culture of openness and accountability in order to prevent such situations occurring or to address them when they do occur. All staff are required to report any suspected wrong-doing, including their own.

The aims of this Policy are:

- To encourage staff members to report suspected wrong-doing as soon as possible and in the knowledge that their concerns will be taken seriously and investigated, as appropriate and that their confidentiality will be respected.
- To provide staff with guidance as to how to raise those concerns.
- To reassure staff that they are able to raise genuine concerns without fear of reprisals, even if they turn out to be mistaken. Provided that this policy and procedure is used correctly and you believe the truth of the facts you are reporting, you will not suffer any detriment as a result of whistleblowing. A failure to follow this policy and procedure may, however, make the disclosure unreasonable and the protection given to you by this policy and procedure may be lost.

This Whistleblowing Policy may be amended, withdrawn, suspended or departed from at the discretion of Skylark Plus. While it does not form part

of any employee's contract of employment and is entirely non-contractual, all employees are required to adhere to the policy and any failure to comply with any aspect of the policy may be treated as a disciplinary matter.

## Legislation

This policy has been written in line with the [government guidance on whistle-blowing](#). We also take into account the [Public Interest Disclosure Act 1998](#).

## PROCEDURES

### What is Whistleblowing

Whistleblowing is the disclosure of information (i.e. facts not allegations) which, in the reasonable belief of the staff member, tends to show one or more of the following qualifying disclosures:

- That a criminal offence has been, is being or is likely to be committed;
- 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 endangered;
- That the environment has been, is being or is likely to be damaged;
- That the Trust has failed, is failing or is likely to fail to comply with any legal obligation or regulatory requirement (e.g. the Trust does not have the right insurance);
- That information tending to show that any of the above has been, is being or is likely to be deliberately concealed;
- Fraud and financial irregularities.

A whistle-blower is a person who raises a genuine concern of a wrong-doing relating to any of the above which is in the public interest. If you have any genuine concerns related to suspected wrong-doing or danger affecting any of the Trust's activities (a whistleblowing concern which is in the public interest) you should report it under this policy and procedure.

The following does not count as whistleblowing:

- Personal grievances (e.g. bullying, harassment, discrimination) are not covered by whistleblowing law, unless your particular case is in the public interest. These should be reported using the Trust's Grievance procedure.
- Mismanagement which may arise from error or incompetence.
- Complaints relating to matters which affect your own employment directly, such as your contract of employment or the way that you have been treated at work. In those cases you should use the Grievance Procedure or other policies as appropriate.

If you are uncertain whether something is within the scope of this policy and procedure you should seek advice from the Department of Human Resources.

## **Raising a Whistleblowing Concern**

### **Stage One**

**Procedure:** You should disclose the suspected wrong-doing first to a member of your Provision Management Team or the appropriate Trust Head/Director. In the event that the Provision Management Team or the Trust Head/Director is involved in the suspected wrongdoing, you shall be entitled to proceed directly to Stage Two of this procedure.

**Response:** You can expect a response detailing to whom the disclosure has been notified or any action taken as soon as reasonably practicable and in any event within 10 days of the Provision Management Team member or Trust Head/Director becoming aware of the disclosure.

## **Stage Two**

**Procedure:** If no response is forthcoming after 10 days or if a member of the Provision Management Team or Trust Head/Director is involved in the suspected wrong-doing, you shall be entitled to notify a member of the Executive Team.

**Response:** You can expect a response detailing any action taken within 10 days of the Executive Team member becoming aware of the disclosure.

## **Stage Three**

**Procedure:** If no such response is forthcoming, you should inform a member of the relevant Board of Trustees/Board of Directors of the disclosure; they can be contacted via the relevant Company Secretary.

## **Stage Four**

**Outside body:** If you do not receive a response as soon as reasonably practicable and in any event within 10 days, you shall be entitled to notify a relevant and appropriate body outside the Trust which may include:

- The Health and Safety Executive;
- The Environment Agency;
- The Information Commissioner;
- The Department for Education;

- The Police;
- The Care Quality Commission;
- Education and Skills Funding Agency;
- Ofsted;
- Estyn;
- Care Inspectorate Wales;
- Care Inspectorate Scotland;
- OSCR Scottish Charity Regulator;
- The Charity Commission.

## **Investigation and Outcome**

Once you have raised a concern, we will carry out an initial assessment to determine the scope of any investigation. The Trust will inform you of the outcome of our assessment. You may be required to attend an initial meeting and additional meetings, in order to provide further information.

In some cases we may appoint an investigator or team of investigators including staff with relevant experience of investigations or specialist knowledge of the subject matter. The investigator(s) may make recommendations for change to enable us to minimise the risk of future wrong-doing.

The Trust will aim to keep you informed of the progress of the investigation and its likely timescale. However, sometimes the need for confidentiality may prevent us from giving you specific details of the investigation or any disciplinary action taken as a result. You should treat any information about the investigation as confidential.

If the Trust concludes that a whistle-blower has made false allegations maliciously or with a view to personal gain (or for the gain of others) the whistle-blower will be subject to disciplinary action under the Trust's

Disciplinary and Dismissal Procedure.

## **Meetings**

At any stage of this procedure Skylark Plus may arrange a meeting with you to discuss your concern.

Skylark Plus will take down a written summary of your concern and provide you with a copy after any meeting. The Trust will also aim to give you an indication of how we propose to deal with the matter.

## **Confidentiality**

Skylark Plus hopes that staff will feel able to voice wrong-doing concerns openly under this policy and procedure. However, if you want to raise your concern confidentially, we will make every effort to keep your identity confidential. If it is necessary for anyone investigating your concern to know your identity, the Trust will discuss this with you.

Skylark Plus does not encourage staff to make disclosures anonymously. Proper investigation may be more difficult or impossible if the Trust cannot obtain further information from you. It is also more difficult to establish whether any allegations are credible. Whistle-blowers who are concerned about possible reprisals if their identity is revealed, should come forward to the Department of Human Resources and appropriate measures can then be taken to preserve confidentiality.

## **External Disclosures**

The aim of this policy and procedure is to provide an internal mechanism for reporting, investigating and remedying any wrong-doing in the workplace. In extreme circumstances, you will have the right to raise your concern directly with a relevant and appropriate outside body without first having

followed the stages above. This may, however, cause damage to the Trust and its reputation as well as constitute a breach of your own duty of confidentiality towards the Trust and this action should only be taken in extreme circumstances and after careful thought.

The Trust will consider extreme circumstances exist where you have a reasonable belief that:

- The Trust will treat you detrimentally if you inform your Provision Management Team or the Trust Head/Director in accordance with Stage one above; or
- If you inform the Provision Management Team in accordance with Stage two or Stage three; or
- A cover-up is being mounted by the Trust; or
- A disclosure made previously to the Provision Management Team or the Trust Head/Director in accordance with the stages above has not prompted a satisfactory response.

We strongly encourage you to seek advice before reporting a concern to anyone external. The independent whistleblowing charity, Protect, operates a confidential helpline: *Whistleblowing Advice Line: 020 3117 2520*. They also have a list of prescribed regulators for reporting certain types of concern.

## **The Media**

Even where extreme circumstances are thought to exist, you should under no circumstances approach a commercial body or the media with details of the suspected wrongdoing. If you approach any such body and/or where your concern is disclosed for personal gain, or for the gain of others, the Trust will consider this to be gross misconduct and immediate disciplinary action will be taken against you under the Trust's Disciplinary and Dismissal

Procedure. You are also likely to lose your whistleblowing law rights.

### **Third Parties**

Wrong-doing concerns usually relate to the conduct of our staff, but they may sometimes relate to the actions of a third party, such as a Local Authority, customer, supplier or service provider. The law allows you to raise a concern with a third party, where you reasonably believe it relates mainly to their actions or something that is legally their responsibility. However, the Trust encourages you to report such concerns internally first. You should contact the Department of Human Resources for guidance.

### **Protection and Support for Staff who Report a Wrong-Doing**

It is understandable that whistle-blowers are sometimes worried about possible repercussions. We aim to encourage openness and will support staff whom raise genuine concerns under this policy and procedure, even if they turn out to be mistaken.

Staff must not suffer any detrimental treatment as a result of raising a concern in the public interest. Detrimental treatment includes dismissal, disciplinary action, threats or other unfavourable treatment connected with raising a concern. If you believe that you have suffered any such treatment, you should inform the Department of Human Resources immediately. If the matter is not remedied you should raise it formally using the Trust's Grievance Procedure.

Staff must not threaten or retaliate against whistle-blowers in any way. Anyone involved in such conduct will be subject to disciplinary action under the Trust's Disciplinary and Dismissal Procedure.

### **Support for Staff**

Skylark Plus recognises that raising a whistleblowing concern can be difficult and stressful. To ensure all staff feel safe and supported:

- Staff can seek confidential advice from the **senior leadership team or mental health champion**, who can support with next steps or representation.
- Staff will be offered a meeting to discuss concerns in a supportive, non-judgemental environment.
- Where needed, we will signpost staff to external emotional support services, including **occupational health** or **mental health support organisations**.
- The independent whistleblowing charity **Protect** offers free and confidential legal advice on 020 3117 2520.
- Any staff member who feels unsafe or threatened will be supported through safeguarding measures and risk assessments if necessary.

We are committed to ensuring that no whistle-blower faces harm, isolation, or disadvantage as a result of raising a concern in the public interest.