

Whistleblowing Policy

PP/C11 Version 7

For the latest version of this policy please refer to the electronic location below or the website

Summary	Active Assistance has a responsibility to ensure that the systems and process in place promote a culture of transparency where staff, whether employed directly or indirectly, are able to disclose their concerns within the workplace. For the purpose of this policy, these concerns relate to wrongdoing within the workplace. This may include any criminal offence, a failure to comply with legal obligations, a miscarriage of justice, a health and safety danger, an environmental risk or a concealment of any of these. A concern under this policy is any concern which it is honestly believed will harm the service that we deliver.
Scope	All staff
Document Type	Policy <input checked="" type="checkbox"/> SOP <input type="checkbox"/> Guideline <input type="checkbox"/>
Verified by	Quality and Clinical Leads Forum
Version Issued	February 2019
Next Review Date	February 2022
Author	Quality and Governance Manager
Lead Director	Director of Governance and Quality
Electronic Location (EL)	Information Centre
Located on Website	Yes

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Contents

1. Introduction	3
2. Scope.....	3
3. Definitions.....	3
4. Important Distinctions Between Complaints, Grievances and Whistleblowing	4
5. The Public Interest Disclosure Act 1998 (PIDA)	5
6. Responsibilities	5
7. Managing internal disclosures of whistleblowing	6
8. External Disclosure.....	8
9. Training Requirements.....	9
10. Policy Review Statement.....	9
11. Associated Documents, Further Guidance and References.....	9
12. Audit and Monitoring.....	10
Appendices.....	11

Whistleblowing Policy

1. Introduction

- 1.1. For the purpose of this policy whistleblowing is the reporting by staff of bad practice, suspected misconduct, illegal acts or failure to act on knowledge of these concerns. The aim of this policy is to encourage all Active Assistance staff who have serious concerns about any aspect of the Active Assistance services to come forward and voice those concerns.
- 1.2. This policy provides guidance for staff in the reporting of serious concerns that constitute whistleblowing.
- 1.3. This policy has been developed to ensure that Active Assistance has implemented appropriate measures to encourage whistleblowing, ensuring that it takes positive action when it is reported.
- 1.4. This policy has been developed to ensure that Active Assistance complies with the Public Interest Disclosure Act 1998 in protecting and not victimising staff that seek to report and have investigated genuine and reasonable concerns about any form of malpractice that they encounter in their work.

2. Scope

- 2.1. This policy applies to all directly and indirectly employed staff within Active Assistance and other persons working within the organisation.

3. Definitions

3.1. Whistleblowing

In the UK, whistleblowing is defined as the raising of concerns in the public interest by a worker, whether to their employer or externally through a range of designated channels (the chief of which are termed 'prescribed persons').

4. Important Distinctions Between Complaints, Grievances and Whistleblowing

- 4.1. Whistleblowing is about reporting a concern at work, and the Public Interest Disclosure Act only applies to staff raising concerns at work. If an individual has a **complaint** about poor care, they should ask to see the complaints procedure of the service about which they are complaining. All health and social care services are required to have a complaints procedure in place.
- 4.2. When a member of staff raises a **grievance**, this is usually an issue, problem or complaint about their work, working conditions or employment rights. In this situation, the member of staff raising the grievance usually wishes to complain to management about their treatment and they have a personal interest in ensuring the issue is addressed.
- 4.3. A concern raised through a **protected public interest disclosure** (whistleblowing) alleges malpractice or serious wrongdoing such as dangerous or criminal activity which affects others (e.g. service users, members of the public, or their employer). The member of staff raising the concern (whistle-blower) is not usually directly or personally affected by the danger or illegality. Therefore, the whistle-blower should be treated as a messenger, alerting others to a serious concern so that they can address it, and should not be expected to prove the malpractice. They do not have a vested interest in the outcome of the whistleblowing, unlike a grievance where they will normally be expected to be able to prove their case under the grievance procedure.
- 4.4. Staff can contact ACAS for further guidance on whistleblowing and grievances see www.acas.org.uk. Or call 0300 123 1100.
- 4.5. When an individual raises a concern with a manager, they should consider whether it is a qualifying whistleblowing issue or whether the matter is a personal employment issue which would be more appropriately dealt with through the divisional or service grievance procedure.

5. The Public Interest Disclosure Act 1998 (PIDA)

5.1. The Public Interest Disclosure Act 1998 protects whistle-blowers from detrimental or unfavourable treatment and victimisation from their employers and co-workers after they have made a qualifying disclosure of a concern in the public interest.

5.2. PIDA details six subject areas under which disclosures have to fit so as to be “qualifying disclosures”:

- Criminal offences;
- Failure to comply with legal obligations;
- Miscarriages of justice;
- Threats to health and safety of an individual;
- Damage to the environment; or
- A deliberate attempt to cover up any of the above.

6. Responsibilities

Active Assistance

6.1. Shall provide an up-to-date clear whistleblowing policy and ensure that all staff are aware of and can act on concerns and allegations in accordance with this policy.

6.2. Shall ensure that where there are concerns that a member of staff does not feel confident to report in the first instance to their line manager, or where this is not appropriate or considered too sensitive, the staff member has access to a confidential whistleblowing reporting system.

Chief Operating Officer and Director of Governance and Quality

6.3. They shall be accountable for ensuring there is a culture which promotes openness, transparency and learning to enable employees to raise serious concerns that constitute whistleblowing.

Manager to Whom Disclosure is Made

- 6.4. It is the responsibility of the Manager to whom the disclosure was made to investigate and escalate to the Divisional Manager. It is the responsibility of the Divisional Manager to escalate this immediately to the Chief Operations Officer and the Group HR Director.
- 6.5. If a manager fails to act promptly, suppresses evidence or is involved in any action to discourage whistleblowing, they may render themselves liable to disciplinary action.

7. Managing internal disclosures of whistleblowing

- 7.1. It is the responsibility of the allocated Manager to assess and investigate the allegation. The Manager must investigate impartially and objectively. Once a disclosure has been made it is good practice to hold a meeting with the whistle-blower to gather all the information needed to understand the situation before any further action is taken.
- 7.2. In some cases, a suitable conclusion may be reached through an initial conversation with the Manager. In more serious cases there may be a need for a formal investigation. It is for the allocated Manager to initially decide what the most appropriate action to take is. The allocated Manager may need to seek further guidance from HR.
- 7.3. It is the allocated Managers responsibility to produce a summary of the meeting for record keeping purposes and provide a copy to the whistle-blower and the Divisional Managing Director.
- 7.4. Where required the Manager shall take the necessary steps under the divisional policy on Adult Safeguarding at risk and Safeguarding Children, by making reference to the local authorities safeguarding strategy. In addition, they should if possible, protect the source of the information.
- 7.5. Any member of staff who attempts to prevent a staff member from reporting their concerns to a manager, or who bullies, attempts to intimidate or discriminates against a colleague in these circumstances will be dealt with under disciplinary proceedings.

- 7.6. A whistle-blower who feels themselves to be subject to hostile action from colleagues should inform their manager, who should, if necessary, take steps to alter the staff member's duties so as to protect them from the hostile action.
- 7.7. Managers must take reports from whistle-blowers seriously and investigate all allegations thoroughly. Any allegations against colleagues that are found to be merely flippant or malicious may render the accuser liable to disciplinary action or criminal proceedings.
- 7.8. There may be good reasons why a staff member wishes their identity to remain confidential. The law does not compel an organisation to protect the confidentiality of a whistle-blower. However, it is considered best practice to maintain that confidentiality, unless required by law to disclose it. Managers dealing with whistleblowing concerns should ensure they understand how to handle the disclosure and protect personal information. (For advice please contact HR). It will help to manage the expectations of whistle-blowers if the risk that some colleagues may still speculate about who has raised the concern is explained to them.
- 7.9. Anonymous information will be just as important for a service to act upon. Staff should be made aware that the ability of Active Assistance to ask follow up questions or provide feedback will be limited if the whistle-blower cannot be contacted.
- 7.10. Staff members should be made aware that making a disclosure anonymously means it can be more difficult for them to qualify for protections as a whistle-blower. This is because there would be no documentary evidence linking the worker to the disclosure for the employment tribunal to consider.
- 7.11. If any staff member does not feel confident to report in the first instance to their line manager, or where this is not appropriate or considered too sensitive, they should report their concerns via a confidential e-mail at whistleblowing@activeassistance.com.
- 7.12. Any member of staff who witnesses or suspects abuse by another member of staff should report the matter to the most senior person on duty at the time. The person hearing the allegation will accept responsibility for the actions that follow and will assure the whistle-blower that they have acted correctly by reporting the matter and will not be victimised.

- 7.13. If the staff member feels unable to talk to the most senior person on duty at the time, they should report their concerns via the confidential e-mail at whistleblowing@activeassistance.com.
- 7.14. Where possible the matter will be dealt with in confidence, however it may be necessary for the “whistle-blower” to present their concerns during the investigation process.
- 7.15. Active Assistance also recommends that its staff make arrangements to have access to independent legal advice in the event of their being involved in allegations as whistle-blowers or as people against whom allegations are made. They are encouraged to do this through membership of a trades union or professional organisation that includes legal advice as part of its services.
- 7.16. Despite the assurances Active Assistance gives to its staff, the organisation accepts that there may be concerns that the staff member does not feel confident or able to report in the first instance to their manager. Active Assistance then accepts the right and obligation of the staff member to report their concerns to an outside authority such as the police, the Local Authority Safeguarding unit or to the Care Quality Commission to initiate an investigation. Active Assistance will not penalise or victimise any staff member who responsibly reports their concerns in these ways. Further guidance on reporting concerns in this way can be found in the external disclosure section.

8. External Disclosure

- 8.1. 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 member of staff is considering making an external disclosure.
- 8.2. If the disclosure is made to a “prescribed person” (a list of prescribed persons is made under PIDA – appendix 1.) the member of staff 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.

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- 8.3. If an Active Assistance staff member decides to blow the whistle to a prescribed person rather than to a Manager, they must make sure that they have chosen the correct person or body for the issue.

9. Training Requirements

- 9.1. All Active Assistance Staff policies are supported by training which will be provided to all staff on the key arrangements of this policy.
- 9.2. All new staff receive training in this policy on whistle blowing as part of the induction training.
- 9.3. All line Managers are responsible for ensuring that staff are aware of this policy.

10. Policy Review Statement

- 10.1. This document may be reviewed at any time at the request of either staff or management, but will automatically be reviewed 3 years from initial approval and thereafter on a triennial basis unless organisational changes, legislation, guidance or non-compliance prompt an earlier review.

11. Associated Documents, Further Guidance and References

- Grievance Procedures
- Management of Complaints, Concerns and Compliments Policy
- Complaints Procedures
- Incident Reporting Procedures
- Incidents, Serious Incidents, Events and Escalation Policy
- Disclosure of Abuse or Bad Practice Procedure
- Prevention of Corruption Procedure
- Safeguarding Policies
- Regulated Services
- Care and Support Statutory Guidance under the Care Act 2014
- Regulated Services (Service Providers and Responsible Individuals) Wales 2017

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- Regulation and Inspection of Social Care (Wales) Act 2016
- Information Commissioners Office (ICO) – Data Protection Act 2018

12. Audit and Monitoring

Objective	Lead	Measure	Frequency	Reporting
To investigate all whistleblowing as reported.	Chief Operating Officer and Group HR Director	Via whistleblowing email / phone calls	Ongoing	Quality and Governance Report

Appendices

Appendix 1.

External Disclosure – Whistle Blowing to a “prescribed person”

This is a list of the prescribed persons and bodies who you can make an external disclosure to. There is also a brief description about the matters you can report to each prescribed person. A link to the list of prescribed persons can also be found at www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2.

More information on whistleblowing can be found on the GOV.UK website:
www.gov.uk/whistleblowing.

For example:

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.

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: 0845 300 6184

www.hpc-uk.org.

GMC (About matters relating to the registration and fitness to practise of a member of a profession regulated by the General Medical Council)

General Medical Council

Fitness to Practise Directorate

3 Hardman Street

Manchester M3 3AW

Tel: 0161 923 6602

Email: practise@gmc-uk.org.

National Health Services Trust Development Authority (About the performance of English NHS trusts, including clinical quality, governance and management of risk)

The Contact Centre NHS Trust Development Authority Southside Victoria Road London SW1E 6QT

Tel: 020 7932 1980

Email: ntda.enquiries@nhs.net.

Nursing and Midwifery Council (About matters relating to the registration and fitness to practise of a registered nurse or midwife and any other activities in relation to which the Council has functions.

Nursing and Midwifery Council)

23 Portland Place

London W1B 1PZ

Tel: 020 7637 7181

Email: whistleblowing@nmc-uk.org.

www.nmc-uk.org

Local Authority Safeguarding Unit

Information to be found on the relevant local authority safeguarding website

Information Commissioners Office (ICO) - About matters relating to data protection

www.ico.org.uk

Appendix 2.

Whistleblowing Posters

How many people does it take to make a difference?



We encourage and support staff who raise genuine concerns. If something at work is troubling you, please tell us. We are committed to dealing with all concerns raised openly, responsibly and professionally.

If you are unsure how to proceed with your concern, please discuss with your manager, or refer to the Whistleblowing Policy alternatively contact

Email: whistleblowing@activeassistance.com

Be the one who makes a difference. Stand up. Speak up.



If you see a risk, wrong-doing or malpractice,
tell us so we can change it.

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If you are unsure how to proceed with your concern, please discuss with your manager, or refer to the Whistleblowing Policy alternatively contact

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**IF SOMETHING'S
WRONG
DO WHAT'S
RIGHT
SPEAK UP**

If you see a **risk, wrong-doing** or **malpractice**,
tell us so we can **change it**.

We encourage and support staff who raise genuine concerns. If something at work is troubling you, please tell us. We are committed to dealing with all concerns raised openly, responsibly and professionally.

If you are unsure how to proceed with your concern, please discuss with your manager, or refer to the Whistleblowing Policy alternatively contact:

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