



Purpose

- This policy outlines the process to follow if a person wishes to 'whistleblow' and raise a concern about a wrongdoing in their workplace.
- **This policy and procedure does not apply if a member of the workforce is aggrieved about their personal position.** They must use the Grievance Policy and Procedure.
- To support HSN Care Limited in meeting the Key Lines of Enquiry noted at the end of this document:
 - To meet the legal requirements of the regulated activities that HSN Care Limited is registered to provide:
 - The Criminal Justice and Courts Act 2015
 - The Enterprise and Regulatory Reform Act 2013
 - The Care Act 2014
 - The Health and Social Care Act 2008 (Regulated Activities) (Amendment) Regulations 2015
 - Public Interest Disclosure Act 1998

Scope

- The following roles may be affected by this policy:
 - All employees, in all and any Home, Centre or Office operated or owned by all and any company within the HSN Care Limited Group; NHS Staff, Persons working on training courses; and temporary Agency Staff
- The following Residents may be affected by this policy:
 - Resident, in all and any Home or Centre operated or owned by all and any company within the HSN Care Limited Group,
- The following stakeholders may be affected by this policy:
 - Commissioners, Local Authority and the Care Quality Commission.

Objectives

- All staff have a duty to ensure standards of quality care by raising concerns regarding wrongdoing or malpractice. This policy will provide the means of ensuring that staff can confidentially raise genuine concerns of malpractice and/or misconduct through appropriate means at the earliest point without fear of reprisal.

Policy

- HSN Care Limited is committed to the principals of whistleblowing and supporting and providing mechanisms for employees to fulfil their duty without fear of any reprisals.
- HSN Care Limited is committed to a high standard of care, to honesty, openness and decency in all its activities. It is recognised that Resident safety must come first at all times and whilst it can be difficult for staff to raise concerns about the practice of others, including managers, the implications of not raising those concerns are potentially very serious for HSN Care Limited, its employees and most importantly for those receiving our services.
- This organisation encourages a free and open culture in its dealings with its employees and all people with whom it engages in business and legal relations. In particular, HSN Care Limited recognises that effective and honest communication is essential if any wrongdoing or malpractice is to be effectively dealt with and the organisation's success ensured.
- HSN Care Limited believes raising concerns/speaking up is important to ensure the safety of Resident, employee and public safety.
- HSN Care Limited recognises staff members are likely to be the first to realise that there may be something seriously wrong within the organisation but may feel that speaking up would be disloyal to colleagues or their employer who may under certain circumstances face criminal charges. They may also fear harassment or victimisation and fear for a loss of job or reduction in work hours.
- HSN Care Limited will not tolerate the ill treatment including any bullying or harassment of anyone raising a concern. We will ensure that any individual who raises a concern, can do so confidentially in line with the Public Interest Disclosure Act 1998 (PIDA).
- HSN Care Limited will ensure that any individual who raises a genuine concern under the Whistleblowing Policy and procedure will not be at risk of termination of their employment or suffer any form of reprisal which includes but not limited to loss or reduction of hours or changes to regular working patterns because of it.
- HSN Care Limited will support and enable members of staff and volunteers to speak out regarding misconduct and malpractice through a structured and regularly reviewed process.
- HSN Care Limited recognise that whistleblowing concerns are often raised when employees do not feel their earlier concerns have been listened to or that any action has been taken. HSN Care Limited will put in place mechanisms for our staff to discuss concerns when they arise and endeavour to give feedback on any actions if confidentiality will not be breached.

Procedure

- All staff have a duty to raise concerns regarding inappropriate behaviour, unlawful conduct, poor practice or behaviour to ensure standards of quality care.
- This procedure is 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 (see definition) mean that you can raise a concern about risk, malpractice or wrongdoing you think is harming the services, might harm or has in past harmed any aspect of the services we deliver. A few examples of this might include (but are by no means restricted to):
 - Unsafe care
 - Unsafe working conditions
 - Inadequate induction or training for staff
 - Lack of, or poor, response to a reported Resident safety incident
 - Suspicions of fraud (which can also be reported to the local counter-fraud team)
 - Damaging the environment - e.g. disposing materials or waste incorrectly, for example, flushing medicines or syringes down the toilet or sink
 - A bullying culture (across a team or organisation rather than individual instances of bullying)
 - Incidents of unsafe staffing, falsification of timesheets, Resident visit logs or MAR charts or clinical or care records
 - Failure to investigate claims of physical or sexual assault
 - Physical, verbal or sexual abuse of any Resident, colleague or other
 - Breaching the Data Protection Act
- **How to Raise a Concern- Step 1** - If a member of staff has a concern about a risk, malpractice or wrongdoing at work, it is hoped that they feel they will be able to raise it first with their Registered Manager (or in the absence of the Registered Manager the Duty or Deputy Manager)
 - This may be done verbally or in writing
 - It is better to raise a concern as soon as it arises
 - Where possible, unless for example, where the concern relates to a Safeguarding matter, your concerns will be treated confidentially
 - Your line manager will inform you if they cannot keep the concern confidential
 - The Registered Manager has overall responsibility for concerns raised and the Duty or Deputy Manager will need to share your concern with the Registered Manager who will have access to the Nominated Individual on behalf of the Registered Provider

- **How to Raise a Concern - Step 2** - If a member of staff does not feel they can raise the concern with the Duty or Deputy Manager or the concern relates or involves the Duty or Deputy Manager, or they have raised it with the the Duty or Deputy Manager and no action has been taken - the colleague must then escalate their concerns to the Registered Manager
- **Registered Manager and Registered Providers Responsibility** - Responsibility for dealing with any concerns reported will lie with the Registered Manager who will have access to the Registered Provider
 - If the concerns relate to the Registered Manager, concerns must be escalated directly to the Nominated Individual on behalf of the Registered Provider.
 - If the concerns relate to any persons of Director level and above, concerns must be escalated directly to the Chair of the Board.
 - If your concerns involve any of the above or they are fulfilling the both roles you can contact the CQC
- **How to Raise a Concern - Step 3** - 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 Care Quality Commission on 03000 616161 or through their website
 - 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
- **Investigation** - The Registered Manager, in full and complete consultation with the Nominated Individual on behalf of the Registered Provider, shall have discretion over the nature of the investigation into concerns raised, including, where it is considered appropriate, the involvement of others such as Adult Social Services or Auditors. If there is evidence of criminal activity, the Police will be informed.
- **Protected Disclosures and Safeguarding** - Where a safeguarding concern is received by a member of staff, local safeguarding policies and procedures will be followed
 - Where a safeguarding concern is received by a member of staff and refers to the actions of the Registered Manager or Deputy Manager, then the Nominated Individual on behalf of the Registered Provider will also refer the matter to the Social Services Adult Protection Team and CQC
 - The Adult Protection Team will take the responsibility of informing other agencies. The contact details for your local Social Services are as follows: **Hertfordshire Health and Community Services 0300 123 4042**
- **Raising a Concern - Timescales** - The Registered Manager (or relevant Director) will acknowledge your disclosure within locally agreed timescales and in line with best practice. They will let you know who will be investigating the disclosure and any contact information you or they will require and how they will keep you informed. Any further clarification will be asked for and a review and/or completion date to the investigation.
- Where possible, the responsible Registered Manager (or relevant Director) will feedback on the outcome of any investigation, although this may not always be possible in full due to the nature of the disclosure.

- A record of the information you have given and proceedings will be kept in line with best practice.
- **False Allegations** - All whistleblowing concerns will be investigated, however if an employee is found to have made allegations maliciously and/or not in good faith, disciplinary action may take place. 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. The Registered Provider shall decide whether disciplinary action is to commence.
- **Bullying and Harassment of Whistleblowers** - The Enterprise and Regulatory Reform Act imposed a new personal liability on co-workers who victimise or harass whistleblowers as well as vicarious liability on the part of their employers. Unless an employer has taken reasonable steps to prevent this type of victimisation by co-workers, it will be deemed liable for the acts of its staff. It is therefore no longer enough to deal with incidents of bullying or harassment as and when they arise, on a case by case basis. The only basis upon which an employer will now be able to defend itself against liability for the actions of its staff will be by proactive steps. In order to demonstrate a "reasonable steps" defence, an employer will need to anticipate conduct such as bullying and harassment. To avoid incidents of bullying or harassment occurring HSN Care Limited will take the following steps:
 - Adhere to the Whistleblowing Policy
 - Embed a culture of openness and transparency
 - Communicate the policy
 - Offer any necessary training to ensure it is put into effect
 - Take action if any worker bullies or harasses a whistleblower
- **Implementing Whistleblowing Procedures** - The Whistleblowing Policy and Procedure will form part of induction. Raising concerns will be discussed regularly during supervision and team meetings to promote an open culture and ensure whistleblowing processes are embedded within our business.
- **Employment Contracts, Whistleblowing and Confidentiality** - A settlement agreement is used to bring an employment relationship to an end in a manner which is mutually agreed by the parties. In some instances, they may be used where the employee and employer agree that the employment relationship can no longer proceed and must be brought to an end. They may also be used to resolve a dispute or issue, where the employment does not need to be terminated, for example a dispute over pay. HSN Care Limited will seek legal or Human Resource advice when drawing up any compromise agreements or employment contracts to avoid the risk of breaching the Public Interest Disclosure Act.

Definitions

- **Whistleblowing** - A member of staff who raises a concern about something they have seen first hand at work in relation to malpractice or wrongdoing. This could be concerns about inappropriate or unlawful conduct, financial mismanagement, poor practice or behaviour
- **Qualifying Disclosure** - Qualifying disclosures are disclosures of information where the worker reasonably believes (and it is in the public interest) that one or more of the following matters is either happening, has taken place, or is likely to happen in the future.
 - A criminal offence
 - The breach of a legal obligation
 - A miscarriage of justice
 - A danger to the health and safety of any individual
 - Damage to the environment
 - Deliberate attempt to conceal any of the above
- **Public Interest** - A disclosure made in the interest of the public, i.e. not relating to an individual such as in a grievance case
- **Grievance or Private Complaint** - A dispute about the employee's own employment position without a public interest aspect
- **PIDA** - Public Information and Disclosure Act - Legislation which provides protection to workers who make disclosures in the public interest
- **Employee/Staff** - PIDA refers to 'workers'. This policy has used the term employee/staff /colleagues to reflect the relevant persons this policy relates to. The NHS integrated Policy (2016) Freedom to Speak Up: Whistleblowing Policy for the NHS refers to Volunteers being included however PIDA does not specifically include volunteers as they are not paid employees and therefore cannot be compensated financially for ill treatment or unfair dismissal
- **Criminal Justice and Courts Act 2015** - Legislation which lays out the offences involving ill-treatment or wilful neglect by a person providing health or social care
- **Anonymously** - Made or done by someone whose name is not known or made public

Key Facts - Professionals

Professionals providing this service must be aware of the following:

- All staff have a duty to ensure standards of quality care by raising concerns regarding inappropriate behaviour, unlawful conduct, poor practice or behaviour and will be protected and supported to do so
- HSN Care Limited is committed to the Whistleblowing policy and procedure, and will act on information given in line with it
- All whistleblowers will be treated in fair way and not be victimised or prejudiced as a result of a genuine concern

Key Facts - People affected by the service

- People affected by this service must be aware of the following:
 - People affected by the Service can raise concerns through the complaints process

Further Reading

As well as the information in the 'underpinning knowledge' section of the review sheet it is recommended that you add to your understanding in this policy area by considering the following materials:

- Safeguarding Policy and Procedure **(CR03)**
- Grievance Policy and Procedure **(PP04)**
- Duty of Candour Policy and Procedure **(AR38)**
- Complaints and Procedure **(QQ03)**
- Anti-Bullying Policy and Procedure **(PE05)**
- Confidentiality Policy and Procedure **(CR07)**

Outstanding Practice

To be outstanding in this policy area you could provide evidence that:

- HSN Care Limited enables employees to raise concerns by providing support (such as a helpline) from an independent agency in regard to whistleblowing concerns
- HSN Care Limited has a designated Whistleblowing Champion and evidence of the proactive nature of this role and how it is a success
- HSN Care Limited uses lessons learnt from concerns, without breaching confidentiality, to ensure continuous improvement of your service
- Staff report that the organisation is extremely open, transparent and actively support and encourage whistleblowing

Key Question	Key Line of Enquiry (KLOE)
SAFE	S2: How are risks to individuals and the service managed so that people are protected and their freedom is supported and respected?
WELL-LED	W1: How does the service promote a positive culture that is person centred, open, inclusive and empowering?

Note: All HSN Care Limited Policies are reviewed annually, more frequently, or as necessary.