



## Whistleblowing (v2.0.0)

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**Person responsible for updating this policy:** Hitendrakumar Sharma

### Policy Statement

Whistleblowing is the term used when someone who works for an employer raises a concern about the bad practice, or risk, for example to a person's safety, wrongdoing which harms, or creates a risk to harm, to the service user, colleagues or the wider public.

The Bluestar Care & Support- Bluestar Resourcing policy on whistleblowing sets out to comply, in every aspect, with the Public Interest Disclosure Act 1998 (PIDA) in protecting and not victimising staff who seek to report, and who have investigated genuine and reasonable concerns about any form of malpractice that they encounter in their work.

At the same time, Bluestar Care & Support- Bluestar Resourcing aims to create an atmosphere of open communication and commitment to high standards of work, within which criticisms can be frankly made and thoroughly investigated.

Bluestar Care & Support- Bluestar Resourcing also recommends that its staff make arrangements to have access to independent legal advice in the event of any involvement in allegations as whistleblowers or as people against whom allegations are made. They are encouraged to do this through membership of a trade union or professional organisation that includes legal advice as part of its services.

#### **Speak up, we will listen.**

Speaking up about any concerns you have at work is important. It is vital because it will help us to keep improving our services for the service user and the working environment for the staff.

You may feel worried about raising a concern, and we understand this but please do not be put off. Following our duty of candour, our senior management is committed to an open and honest culture. We will look into what you say and you will always have access to the support you need.

This document outlines the Bluestar Care & Support- Bluestar Resourcing policy for responding to allegations or reports of abuse of the service user and other forms of misconduct, made by one or more members of staff against other staff. These actions are known as whistleblowing.

The requirement for such a policy arises because it was previously the case that management considered individuals involved in whistleblowing as trouble-makers. It is now legally recognised that staff who are in a position to observe and report bad practice should be enabled to do so without fear of repercussions on their conduct and career prospects. Indeed, failure to report malpractice could lead to accusations of colluding in it, and therefore of being guilty of misconduct.

### Public Interest Disclosure Act PIDA

PIDA provides protection for people to make protected disclosures. These people are:

- Workers who are directly employed by the registered provider
- Workers who have left their job after making a protected disclosure
- Other workers who provide services to the registered provider, examples are agency staff, visiting community health staff, GPs, independent activities organisers, contractors, visiting hairdressers, people on work experience and trainees, but not volunteers.

This is not a complete list - there will be other types of workers that provide services to a registered provider.

If a worker makes a disclosure after they leave their job, they may be protected by PIDA. They may wish to take independent legal advice. They can get free, independent, and confidential advice from the Whistleblowing Helpline, they can also call Protect for free and confidential advice. Care Quality Commission (CQC) cannot give legal advice to workers or employers. Other people who are not workers can raise concerns about a service with the provider of the service or with organisations such as Care Quality Commission (CQC), but PIDA does not cover such disclosures, and this is not called 'whistleblowing'.

PIDA can provide justice for a worker who suffers a detriment or any form of retribution because of their whistleblowing, provided the disclosure is protected under the legislation.

Firstly, this means that the disclosure is a 'qualifying disclosure'. This means:

- The disclosure is about one of the relevant types of wrongdoing (see below).
- The worker reasonably believes that the information, and any allegations contained in it:
  - Are substantially true;
  - Fall into one of the relevant types of wrongdoing; and
  - Are disclosed in the public interest.

A disclosure will never amount to a qualifying disclosure, even if the other criteria are satisfied, if the person making the disclosure commits an offence by making it, or if the person making the disclosure was given the information in the course of obtaining legal advice, and the information is subject to legal professional privilege.

Secondly, the qualifying disclosure must be 'protected'. This means the disclosure is made in a protected manner to an appropriate person under the legislation - it is likely this will mean to Bluestar Care & Support- Bluestar Resourcing. However, there are exceptions where it is reasonable to disclose elsewhere and advice should be taken on this.

## Obligations on Staff to Report Abuse

Bluestar Care & Support- Bluestar Resourcing requires its entire staff to observe Bluestar Care & Support- Bluestar Resourcing work and report diligently on anything that causes them concern. We believe that teamwork and loyalty to colleagues should not be allowed to deter staff from reporting suspected abuse, criminal acts, and neglect of a service user or bad practice, and follows the guidelines issued by the Care Quality Commission (CQC). Any member of staff who witnesses or suspects abuse by another member of staff should report it as soon as possible to their line manager. Service Manager Hitendrakumar Sharma will accept responsibility for the actions that follow and will assure the whistleblower that they have acted correctly by reporting the matter and that they will not be victimised.

Despite the assurances given by Bluestar Care & Support- Bluestar Resourcing, we accept that there may be incidents that a staff member does not feel confident enough or able to report in the first instance to Service Manager Hitendrakumar Sharma. Where this is not appropriate or considered too sensitive the worker should report to a director or other service manager/advisor. Where this is not considered appropriate then Bluestar Care & Support- Bluestar Resourcing accepts the right and obligation of the staff member to report their concerns to an outside authority such as the police, West Sussex Safeguarding Unit or to the Care Quality Commission (CQC) to initiate an investigation. Bluestar Care & Support- Bluestar Resourcing provides every staff member with the contact details of these agencies and are included in the staff handbook. Bluestar Care & Support- Bluestar Resourcing will not penalise or victimise any staff member who responsibly reports their concerns in these ways.

## Relevant types of wrongdoing

For a worker's disclosure to be protected by PIDA, it must be about a relevant type of wrongdoing. This means it falls into one or more of the following:

- That a criminal offence has been committed, is being committed or is likely to be committed
- That a person has failed, is failing or is likely to fail to comply with any legal obligation to which s/he is subject
- That a miscarriage of justice has occurred, is occurring or is likely to occur
- That the health or 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.

## Investigating and Dealing with Allegations

The manager to whom abuse by a staff member is reported should take the necessary steps under the Adult Safeguarding Policy. In addition, they should also protect the source of the information, if possible. 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.

If the whistle-blower should contact Care Quality Commission (CQC) direct there are several ways they may respond

If the whistle-blower should contact Care Quality Commission (CQC) directly, there are several ways they may respond to the disclosure. This is dependent on the information given and the seriousness of the matter. They will need to decide if the concern is within the scope of regulatory duties, if they are the correct organisation to investigate or if another organisation is better placed to deal with the concern.

The identity of the whistle-blower can remain confidential and the local compliance inspector for the service in question will always follow up on concerns and keep in touch with the whistle-blower, where they have confirmed they wish them to do that.

If a whistle-blower contacts a compliance inspector during an inspection of the service, a record of their concern would be made, and the inspector would check whether they wish Care Quality Commission (CQC) to keep in touch with them after the inspection.

## Dealing with Interference with or Victimisation of Staff who have Reported Abuse

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. A whistleblower 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 to protect them from the hostile action.

Bluestar Care & Support- Bluestar Resourcing in this policy and in its handbook information gives information on how to make contact with Protect, previously the Public Concern at Work, that has been established to protect whistleblowers from victimisation and bullying as a result of their actions.

## Empowering Freedom to Speak Up

To be effective, Freedom to Speak Up requires leadership support at all levels to treat speaking up as an opportunity for learning and improvement. To see speaking up as a tool for 'problem sensing' not to retreat defensively into 'comfort-seeking'.

The National Guardian's Office has set out its six strategic goals to achieve the National Guardian's vision, improving existing services as well as making some step changes to drive further change across the system. These are:

- Continuing to improve resources and offer to Freedom to Speak Up guardians
- Developing additional support and guidance for organisational leaders
- Using the National Guardian's independent voice to champion Freedom to Speak Up and challenge the healthcare system by raising awareness of issues which affect workers' confidence to speak up
- Using the insight gathered by the National Guardian's Office to drive recommendations to improve speak-up measures and culture, for example through Speak Up Reviews, and challenging organisations to do better
- Improving partnership working with key organisations to deliver change
- Improve the organisational maturity and internal infrastructure of the National Guardian's Office to support these ambitions.

## Concerns

Risk, wrongdoing and bad practice which you believe is harming the service we deliver should be raised as a concern.

Some examples are;

- Unsafe care
- Unsafe working conditions
- Inadequate induction or training
- Lack of or a poor response to reported incidents
- Bullying culture.

This list is not exhaustive

Proof is not required, we encourage you to raise the matter while it is a concern. It does not matter if you turn out to be mistaken as long as you are genuinely troubled.

## Unjustified Reporting

Bluestar Care & Support- Bluestar Resourcing managers take reports from whistleblowers seriously and investigate all allegations thoroughly. Any allegations against colleagues that are found to not be reasonably believed by the accuser may render the accuser liable to disciplinary action and criminal proceedings and the person would not be protected by BDA

by FIDA.

## The outcome of any Investigation

Bluestar Care & Support- Bluestar Resourcing will endeavour to keep an individual informed of progress, and where possible provide an update within 28 days. They will be advised when the matter has been concluded, though it cannot be guaranteed that all the details of the investigation and the final outcome will be disclosed; security and confidentiality must be maintained for all parties.

## Confidentiality

We want you to feel comfortable raising your concerns openly but we also appreciate that you may want to raise them confidentially. This means that while you are willing for your identity to be known to the person you report your concern to, you do not want anyone else to know your identity, therefore we will keep your identity confidential unless required to disclose it by law. You can choose to raise your concern anonymously without giving anyone your name but that may make it more difficult to investigate thoroughly and give you feedback on the outcome.

## Contact Details

Care Quality Commission (CQC)

Citygate

Gallowgate

Newcastle Upon Tyne

NE1 4PA

Local Authority Safeguarding Unit: West Sussex Safeguarding Unit

Local Police: [0845 60 70 999 or 101]

### Whistleblowing helpline

This is available to both managers for advice and staff for reporting purposes. Telephone number 08000 724 725.

### Protect

Protect is a charity offering advice and can be reached via their helpline on 020 3117 2520.

## Training Statement

All staff, during induction, are made aware of the organisation's policies and procedures, all of which are used for training updates. All policies and procedures are reviewed and amended where necessary and staff are made aware of any changes. Observations are undertaken to check skills and competencies. Various methods of training are used including one to one, online, workbook, group meetings, individual supervision and external courses are sourced as required.

## Related Policies

- Adult Safeguarding (Domiciliary)
- Confidentiality (Domiciliary)
- Cyber Security (Domiciliary)
- Duty Of Candour (Domiciliary)
- Recruitment And Selection (Domiciliary)

## Related Guidance

- [Speak Up: Free, independent, confidential advice on the speaking up process](#)
- [CQC: Raising a Concern](#)
- [CQC: Whistleblowing Guidance for Providers who are Registered with CQC](#)
- [Gov.UK: Whistleblowing support available to both managers for advice and staff for reporting purposes](#)
- [Protect: Free, confidential whistleblowing advice](#)
- [Crime Prosecution Service: Whistleblowing: Frequently Asked Questions](#)
- [National Guardian Office: Freedom to Speak Up](#)

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