

Whistleblowing Procedure

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Version 10

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Appendices

There are no appendices.

Introduction

This policy has been written in accordance with the Public Interest Disclosure Act 1998 which protects workers who 'blow the whistle' about wrongdoing in the workplace.

Whistleblowing policies enable employees to raise/disclose genuine concerns about crime, civil offences (including negligence, breach of contract, breach of administrative law), dangerous or illegal act or practice that they become aware of through their work, danger to health and safety or the environment and the cover up of any of these without fear of reprisals, rather than leaving them to ignore the issue or raise the concern outside the organisation.

This policy has been developed to encourage and support staff to make disclosures about any of the above within the organisation. You are responsible for making sure that these guidelines are followed at all times. We also acknowledge that specific responsibilities fall upon management.

The Act covers Hft staff, agency workers, contractors, home-workers, trainees and other professionals. The Act does not presently cover the genuinely self-employed, volunteers.

1. What is whistleblowing?

1.1 Whistleblowing, in general terms, is:

- A whistle-blower is a person who raises a concern about a dangerous or illegal act or practice that they become aware of through their work. For example, they could come across health and safety risks, potential environmental problems, fraud or corruption.
- A whistle-blower is a witness, not a complainant. We encourage staff to keep their eyes open and keep us informed of their concerns. This way we can ensure that action is taken and management can ensure that good practice is adopted and maintained across the organisation.

1.2 Staff using the Whistleblowing policy often do not have a personal interest in the outcome of any investigation into the concern, but are simply trying to alert others, and are therefore said to be 'acting in the public interest'. Hiding or ignoring any wrongdoing will not only affect morale, but will affect the people we support.

- 1.3 All **personal** grievances should be dealt with through the Hft [Grievance Procedure](#).

2. Raising/disclosing concerns of professional practice

- 2.1 All staff have a duty as well as a right and a moral obligation to challenge and report malpractice to Hft. Disclosures can be made relating to:
- any instance of unprofessional behaviour or poor practice: any situation where a person we support is being abused, neglected, or their rights and dignity are being, or have been, over-ruled, or where decisions are taken which are clearly not in their interests and puts them at risk, matters of concern you may have about practice issues: whether in relation to care practice, handling of money or finances, employment conditions or health and safety which are detrimental to the people we support or which place you or people we support at risk, or expose them to abuse or discrimination. Please also refer to the Hft guidelines on [Protecting Employees from Abuse and Violence](#).
 - You should also refer to the Safeguarding and Safety section within the Operations Handbooks.

3. Protection of employees raising a concern

- 3.1 Certain kinds of disclosures qualify you for protection ('qualifying disclosures'). A 'qualifying disclosure' means any disclosure of information that, in the reasonable belief of the employee making the disclosure, will show 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 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

- that information tending to show any matter falling within any one of the preceding paragraphs has been, is being or is likely to be deliberately concealed.
- 3.2 You should be aware that when a worker makes a disclosure, s/he must have reasonable belief that the information disclosed tends to show one or more of the offences or breaches listed above.
- 3.3 A 'qualifying disclosure' will be a protected disclosure where it is made:
- to the worker's employer, either directly to the employer or by procedures authorised by the employer for that purpose. It would not cover a disclosure to a colleague where you reasonably believe that the relevant failure relates solely or mainly to
 - the conduct of a person other than his employer (such as agency workers)
 - any other matter for which a person other than his employer has legal responsibility.
- 3.4 It would be unlawful for Hft to dismiss you for making a protected disclosure.
- 3.5 Where staff raising the concerns are themselves involved in the practices, the fact that they have brought the matter to light will be acknowledged in any subsequent disciplinary action.
- 3.6 Complaints which are malicious, knowingly untrue or made for personal gain are viewed as being serious breaches of professional conduct. Staff making such complaints, if proven, are liable to disciplinary action, which may include dismissal.
- 3.7 If anyone tries to discourage you from coming forward to express a concern, we will treat this as a disciplinary offence. In the same way, we will deal severely with anyone who criticises or victimises staff after a concern has been expressed.
- 3.8 We will give regular updates to you and you will be informed about the outcome of the investigation.
- 3.9 We will support you in making disclosures and take action to protect you from reprisals and victimisation.

4. How to raise a concern

- 4.1 We know that it is never easy to report a concern, particularly one that may relate to fraud or corruption. We like to encourage staff to come

forward with any concerns at an early stage, and before problems have a chance to become serious.

- 4.2 In the first instance, you should report all concerns directly to your line manager. If for some reason this is not possible, you should speak to any member of the senior management team, or the Financial Risk and Compliance Audit Manager, or a member of the HR department.
- 4.3 If you have a concern regarding the safeguarding of a person or people you support and you feel that you cannot approach another manager, or senior member of staff, you can use Hft's anonymous Safeguarding phone line, to report a safeguarding concern, call Tel: 141 0117 906 1682.
- 4.4 If you think that someone you support is at risk of abuse you can also report directly to the local authority Safeguarding Adults team or to CQC if you work in a CQC regulated service.
- 4.5 You can come forward with another work colleague or trade union representative to report a concern.
- 4.6 Any disclosure made to Hft (which may be about a manager or director) will be protected if it is made 'in good faith' and that the person has a reasonable belief that the allegation is true.
- 4.7 A relevant manager will then be appointed to conduct the investigation. Who this will be will vary depending on what the complaint is about.
- 4.8 We will keep a record of the disclosure. Depending on the severity of the issue you may be asked to write a statement of what you have witnessed, and we will ask you to sign it.
- 4.9 We may use this statement, if necessary, to form part of a disciplinary process. If this is the case the individual who is being disciplined will be given a copy of your signed statement.
- 4.10 We may think it necessary to suspend the said individual connected to the concern raised pending an investigation. If this is the case the individual will be told that they should not discuss the matter with any colleagues – nor should they visit the service.
- 4.11 The suspended individual will have a support person at the service who they can contact if they need to.
- 4.12 We will deal severely with anyone who criticises or victimises staff after a concern has been raised. If you feel you have been victimised or criticised for raising a concern you must inform a member of the management immediately.
- 4.13 You should raise any concerns or issues you have with your line manager, or the manager who has been dealing with the issue. If you

want any other information about the process you can get advice from the HR Advice and Guidance Helpdesk at the Central Services Office. You will have support from your line manager or HR.

- 4.14 We will try to respect your confidentiality when raising the concern as much as possible if that is what you would like. It may not be possible to preserve confidentiality in all instances.

5. Concerns raised by people we support

- 5.1 If information comes directly from a person we support, listen carefully and reassure them that you have understood what they have said and that their concern will be investigated.
- 5.2 It is extremely important that you let the person we support know that they will not suffer any detrimental consequences as a result of having brought the matter into the open.
- 5.3 The person should be encouraged to use the Complaints Procedure. If they decline to do so, then you have a responsibility to raise the concern yourself directly with your line manager.

6. Concerns about deprivation of liberty

- 6.1 The addendum to the Mental Capacity Act 2005 Code of Practice requires 'managing authorities', e.g. Hft or an Hft service, to apply to the 'supervising authority', the Local Authority, for permission to deprive any individual of their liberty.
- 6.2 If the need to deprive someone of their liberty is urgent, e.g. the use of physical interventions for challenging behaviour in order to keep someone from harm, the managing authority (Hft) may grant themselves an 'urgent authorisation' but must still have applied for a 'standard authorisation' to the supervising authority (the Local Authority).
- 6.3 The Code of Practice says that if anyone believes that a person is being deprived of liberty without the managing authority having applied for an authorisation, they should draw this to the attention of the managing authority, asking them to apply for an authorisation.
- 6.4 If the concerned person has done this, but the managing authority has not applied for an authorisation within a reasonable period, the concerned person has a right to ask the supervisory body to decide whether there is an unauthorised deprivation of liberty.

"They should tell the ... name of the person they are concerned about and the name of ... the service and ... explain why they think that the person is deprived of their liberty."

6.5 Such a report to Hft (the 'managing authority') would be covered by the Whistleblowing policy described above. That report and any to the 'supervising authority' (the Local Authority) is likely to be a qualifying disclosure.

7. Support for staff raising concerns about practice

7.1 In addition to the support which Hft will provide to employees who raise concerns, advice and support may be sought from:

- Public Concern at Work – a registered charity (Telephone: 0207 404 6609 or whistle@pcaw.org.uk)
- Whistleblowing Helpline advice for the NHS and Social Care (Telephone: 08000 724 725)
- Employee Assistance Programme, Care First (Telephone 0808 168 2143, quoting policy number CFL1 – see the [Employee Assistance Programme](#) guidelines).

8. Confidentiality

8.1 Hft will deal with any disclosure or concern raised fairly, confidentially and sensitively. No one outside of the investigation will be told of the details of the complaint unless necessary or appropriate.