



## Evergreen Care Trust

Shyp House, 1 Barnack Road, Stamford, Lincolnshire, PE9 2NA



## Review Sheet

Last Reviewed  
05 Dec '22Last Amended  
05 Dec '22Next Planned Review in 12 months, or  
sooner as required.Business  
impact

Minimal action required circulate information amongst relevant parties.

Reason for  
this review

Scheduled review

Were  
changes  
made?

Yes

Summary:

This policy outlines the process for raising concerns about care and standards. It has been reviewed an in sections 4.1 and 5.15 only and a new reference added in relation to the duty of candour. Existing refe also checked to ensure they remain current.

Relevant  
legislation:

- The Criminal Justice and Courts Act 2015
- The Enterprise and Regulatory Reform Act 2013
- The Care Act 2014
- Public Interest Disclosure Act 1998
- The Health and Social Care Act 2008 (Regulated Activities) (Amendment) Regulations 2012

Underpinning  
knowledge -  
What have  
we used to  
ensure that  
the policy is  
current:

- Author: Public Concern at Work, (2016), *PAS 1998:2008 Whistleblowing Arrangements Code of Practice*. [Online] Available from: [Accessed: ]
- Author: NHS Improvement Service, (2016), *Freedom to speak up: raising concerns (whistleblowing) policy for the NHS*. [Online] Available from: <https://www.england.nhs.uk/wp-content/uploads/2021/03/freedom-to-speak-up-raising-concerns-policy-for-the-nhs-april-19.pdf> [Accessed: 5/12/2022]
- Author: The Care Quality Commission, (2013), *Whistleblowing: Guidance for providers who are registered with The Care Quality Commission*. [Online] Available from: [https://www.cqc.org.uk/sites/default/files/documents/20131107\\_100495\\_v5\\_00\\_whistleblowing\\_guidan](https://www.cqc.org.uk/sites/default/files/documents/20131107_100495_v5_00_whistleblowing_guidan) [Accessed: 5/12/2022]
- Author: The Care Quality Commission, (2022), *Report a concern if you are a member of staff*. [Online] Available from: <https://www.cqc.org.uk/contact-us/report-concern/report-concern-if-you-are-member-staff> [Accessed: 5/12/2022]
- Author: Nursing and Midwifery Council, (2022), *Whistleblowing to the NMC*. [Online] Available from: <https://www.nmc.org.uk/standards/guidance/raising-concerns-guidance-for-nurses-and-midwives/whistleblowing/> [Accessed: 5/12/2022]
- Author: CQC, (2022), *Regulation 20: Duty of candour*. [Online] Available from: <https://www.cqc.org.uk/guidance-providers/all-services/regulation-20-duty-candour> [Accessed: 5/12/2022]

Suggested  
action:

- Encourage sharing the policy through the use of the QCS App

Equality  
Impact  
Assessment:

QCS have undertaken an equality analysis during the review of this policy. This statement is a written re demonstrates that we have shown due regard to the need to eliminate unlawful discrimination, advance opportunity and foster good relations with respect to the characteristics protected by equality law.



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**1. Purpose**

1.1 The purpose of this policy is to:

- ┆ Encourage staff to report suspected wrongdoing as soon as possible, 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 should be able to raise genuine concerns without fear of reprisals, even if they turn out to be mistaken

This policy and procedure does not apply if a member of the workforce is aggrieved about their personal position. They must use the Grievances Policy and Procedure.

1.2 This policy covers all employees, officers, consultants, contractors, volunteers, interns, casual workers and agency workers.

This policy does not form part of any employee's contract of employment and Evergreen Care Trust may amend it at any time.

1.3 To support Evergreen Care Trust in meeting the following Key Lines of Enquiry/Quality Statements (New):

Key Question	Key Lines of Enquiry	Quality Statements (New)
SAFE	S1: How do systems, processes and practices keep people safe and safeguarded from abuse?	QSS3: Safeguarding
SAFE	S2: How are risks to people assessed and their safety monitored and managed so they are supported to stay safe and their freedom is respected?	QSS4: Involving people to manage risks QSS5: Safe environments
SAFE	S6: Are lessons learned and improvements made when things go wrong?	QSS1: Learning culture
WELL-LED	W1: Is there a clear vision and credible strategy to deliver high-quality care and support, and promote a positive culture that is person-centred, open, inclusive and empowering, which achieves good outcomes for people?	QSW1: Shared direction and culture QSW2: Capable, compassionate and inclusive leaders

1.4 To meet the legal requirements of the regulated activities that {Evergreen Care Trust} is registered to provide:

- ┆ The Criminal Justice and Courts Act 2015
- ┆ The Enterprise and Regulatory Reform Act 2013
- ┆ The Care Act 2014
- ┆ Public Interest Disclosure Act 1998
- ┆ The Health and Social Care Act 2008 (Regulated Activities) (Amendment) Regulations 2012



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## 2. Scope

**2.1** The following roles may be affected by this policy:

- | All staff
- | NHS staff
- | Persons working on training courses
- | Temporary Agency Staff

**2.2** The following Members may be affected by this policy:

- | Members

**2.3** The following stakeholders may be affected by this policy:

- | Commissioners
- | Local Authority
- | Care Quality Commission



## 3. Objectives

**3.1** 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.



## 4. Policy

**4.1** Evergreen Care Trust is committed to a high standard of care, to honesty, openness and decency in all its activities and in line with the requirements of duty of candour. It is recognised that Member 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 Evergreen Care Trust, its employees and most importantly for those receiving its services.

**4.2** Evergreen Care Trust 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, Evergreen Care Trust 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.

**4.3** Evergreen Care Trust recognises that 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 a reduction in work hours.

**4.4** Evergreen Care Trust will not tolerate the ill treatment, including any bullying or harassment, of anyone raising a concern. It will ensure that any individual who raises a concern, can do so confidentially in line with the Public Interest Disclosure Act 1998 (PIDA).

**4.5** Evergreen Care Trust 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 is not limited to, loss or reduction of hours or changes to regular working patterns because of it.

**4.6** Evergreen Care Trust will ensure that it follows not only the law on whistleblowing, but also best practice and guidance from the NHS and regulatory bodies including the Care Quality Commission.

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**5. Procedure**

**5.1** All staff have a duty to raise concerns regarding inappropriate behaviour, unlawful conduct, poor practice or behaviour to ensure standards of quality care.

**5.2** 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 staff can raise a concern about risk, malpractice or wrongdoing that they think is harming the services, might harm or has harmed in the past any aspect of the services that Evergreen Care Trust delivers. 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 Member safety incident
- | Suspicions of fraud (which can also be reported to the local counter-fraud team)
- | Damaging the environment - e.g. disposing of 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, Member visit logs or MARs or clinical or care records
- | Failure to investigate claims of physical or sexual assault
- | Physical, verbal or sexual abuse of any Member, colleague or other person on the premises of Evergreen Care Trust
- | Breaching the Data Protection Act

**5.3 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 line 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, the concerns raised will be treated confidentially
- | The member of staff's line manager will inform them if they cannot keep the concern confidential
- | The Registered Care Manager has overall responsibility for concerns raised and the member of staff's line manager may need to share the concern with the Registered Care Manager who will have access to Evergreen Care Trust Stamford & District

**5.4 How to Raise a Concern - Step 2**

- | If a member of staff does not feel they can raise the concern with their line manager or the concern relates to or involves the line manager (or they have raised it with the line manager and no action has been taken) the member of staff should then escalate their concerns to the Registered Care Manager

**5.5 How to Raise a Concern - Step 3**

- | If the member of staff does not feel that the Registered Care Manager or Evergreen Care Trust Stamford & District will appropriately handle their concerns, the member of staff may report their concerns directly to:
  - | the Care Quality Commission on 03000 616161 or through its website
- | The CQC will not disclose the member of staff's identity without their consent unless there are legal reasons requiring the CQC to do so, e.g. where the information is about a child or vulnerable adult who is at risk

**5.6 Support**

Prior to raising a concern, the member of staff may want to get free, independent and confidential advice from:

- | The Whistleblowing Helpline for NHS and Social Care; or



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- | Public Concern at Work (a whistleblowing charity)

### 5.7 Investigation

The Registered Care Manager, in consultation with Evergreen Care Trust Stamford & District, 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.

### 5.8 Registered Care Manager and Evergreen Care Trust Stamford & District Responsibility

- | Responsibility for dealing with any concerns reported will lie with the Registered Care Manager who will have access to Evergreen Care Trust Stamford & District
- | If the concerns relate to the Registered Care Manager, concerns should be escalated to Evergreen Care Trust Stamford & District
- | If the concerns involve both the Caroline Joyce and Evergreen Care Trust Stamford & District or an individual is fulfilling both roles, the member of staff can contact the CQC

### 5.9 Protected Disclosures and Safeguarding

- | Where a safeguarding concern is received by a member of staff, Lincolnshire Local Authority 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 Manager or Deputy Manager, then the referral must in the first instance be made to the Social Services Adult Protection Team
- | The Adult Protection Team will take the responsibility of informing other agencies. The contact details for the local Social Services for Evergreen Care Trust are as follows:

Lincolnshire Safeguarding Team, Lincolnshire County Council, County Offices, Newland, Lincoln, LN1 1YL

Lincolnshire 01522 782155

### 5.10 Raising a Concern - Timescales

The individual with whom the concern is raised will acknowledge the concern within locally agreed timescales and in line with best practice.

The investigating officer will be confirmed to the member of staff along with any further information required including contact information and an estimate of the likely timescales involved.

**5.11** Where possible, the responsible manager will feed back to the member of staff who raised the concern on the outcome of any investigation, although this may not always be possible in full due to the nature of the disclosure.

**5.12** A record of the information provided and details of the proceedings will be kept in line with best practice.

### 5.13 False Allegations

All whistleblowing concerns will be investigated. However, if a member of staff is found to have made allegations maliciously and/or not in good faith, disciplinary action may be taken. 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 (PIDA).

### 5.14 Bullying and Harassment of Whistleblowers

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, Evergreen Care Trust 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 that it is put into effect
- | Take action if any worker bullies or harasses a whistleblower

### 5.15 Employment Contracts, Whistleblowing and Confidentiality



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The PIDA protects Whistleblowers from being restricted to bring claims of whistleblowing. Evergreen Care Trust will seek legal or Human Resource advice to ensure that (where relevant) any agreements between Evergreen Care Trust and the employee/worker does not prevent them from issuing a whistleblowing claim.



## 6. Definitions

### 6.1 Whistleblowing

- | The disclosure of information which relates to suspected wrongdoing or dangers at work. This may include:
  - | Criminal activity
  - | Failure to comply with any legal (or professional) obligation or regulatory requirements
  - | Miscarriages of justice
  - | Danger to health and safety
  - | Damage to the environment
  - | Bribery
  - | Facilitating tax evasion
  - | Financial fraud or mismanagement
  - | Breach of our internal policies and procedures
  - | Conduct likely to damage our reputation or financial wellbeing
  - | Unauthorised disclosure of confidential information
  - | Negligence
  - | The deliberate concealment of any of the above matters

### 6.2 Vicarious Liability

- | Vicarious liability refers to a situation where someone is held responsible for the actions or omissions of another person. In a workplace context, an employer can be liable for the acts or omissions of its employees, provided it can be shown that they took place in the course of their employment

### 6.3 Anonymously

- | Made or done by someone whose name is not known or made public

### 6.4 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

### 6.5 Employee/Staff

- | PIDA refers to 'workers'. This policy has used the term employee/staff/colleagues to reflect the relevant persons that 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

### 6.6 Grievance or Private Complaint

- | A dispute about the employee's own employment position without a public interest aspect

### 6.7 Public Interest

- | A disclosure made in the interest of the public, i.e. not relating to an individual such as in a grievance case

### 6.8 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



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- | Damage to the environment
- | Deliberate attempt to conceal any of the above

### 6.9 Whistleblower

- | A member of staff who raises a concern about something they have seen firsthand at work in relation to malpractice or wrongdoing. This could be concerns about inappropriate or unlawful conduct, financial mismanagement, poor practice or behaviour

### 6.10 PIDA

- | Public Interest Disclosure Act 1998 - Legislation which provides protection to workers who make disclosures in the public interest



## Key Facts - Professionals

Professionals providing this service should be aware of the following:

- | Evergreen Care Trust is committed to the Whistleblowing Policy and Procedure and will act on information given in line with it
- | 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
- | All whistleblowers will be treated in a fair way and will not be victimised or prejudiced as a result of a genuine concern
- | On induction, staff will be trained on the whistleblowing procedures of Evergreen Care Trust. Information on how to report concerns will be visible at Evergreen Care Trust
- | Evergreen Care Trust will monitor the effectiveness of the whistleblowing procedures and will review every concern raised to identify and address any themes or trends