



Whistleblowing Policy and Procedure

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1. POLICY STATEMENT

The Learning Sanctuary is committed to openness, accountability and a culture in which staff, volunteers, agency workers, contractors and others working on behalf of the service feel able to raise genuine concerns about wrongdoing, unsafe practice or risks to service users without fear of retaliation.

Concerns will be taken seriously, considered promptly and handled as confidentially as reasonably possible. A person who raises a genuine concern in the public interest will not be subjected to detrimental treatment because they have spoken up, even where the concern is ultimately not substantiated.

This policy should be read alongside The Learning Sanctuary Safeguarding Adults Policy and Procedure, Mental Capacity Act 2005 Policy and Procedure, Relational and Behaviour Policy, Positive Support, De-escalation and Physical Intervention Policy, Leaving the Service Unexpectedly (Absconding) Policy, First Aid Policy, complaints and grievance arrangements, and other relevant health and safety procedures.

2. PURPOSE AND AIMS

- Encourage concerns about wrongdoing, unsafe practice or risks to service users to be raised as early as possible.
- Explain how a worker can raise a concern and how The Learning Sanctuary will respond.
- Protect service users by ensuring concerns about abuse, neglect, unsafe practice, financial wrongdoing or failures in care and support are not ignored.
- Ensure whistleblowing concerns are distinguished from personal employment grievances and service-user complaints while recognising that issues may overlap.
- Support a culture of professional curiosity, transparency and learning rather than concealment.

3. WHO THIS POLICY APPLIES TO

This policy applies to employees and workers providing services to The Learning Sanctuary, including agency workers, contractors, consultants and volunteers where relevant. Statutory whistleblowing protection depends on the individual and circumstances, but The Learning Sanctuary expects everyone working within the service to raise serious concerns.

Service users, families, carers and advocates who wish to raise concerns about the service would normally use the complaints or safeguarding process rather than this staff whistleblowing procedure.

4. LEGAL FRAMEWORK

The principal legal framework for protected whistleblowing is Part IVA of the Employment Rights Act 1996, as inserted by the Public Interest Disclosure Act 1998 and subsequently amended. A qualifying disclosure may be protected where a worker reasonably believes that the disclosure is in the public interest and tends to show specified wrongdoing.

The Learning Sanctuary will also have regard, where relevant, to its duties under safeguarding, health and safety, equality, data protection and other applicable law.

5. WHAT IS WHISTLEBLOWING?

Whistleblowing generally concerns suspected wrongdoing that is in the public interest. Examples may include:

- a criminal offence, fraud, theft or corruption;
- a failure to comply with a legal obligation;
- a miscarriage of justice;
- danger to the health or safety of any person;
- damage to the environment;
- deliberate concealment of information relating to any of the above;
- serious safeguarding failures, abuse, neglect or exploitation;
- unsafe or inappropriate care or support practices;
- falsification of records or deliberate failure to record significant incidents;
- misuse of service users' money or property;
- inappropriate, unnecessary, punitive or excessive physical intervention;
- deliberate disregard of Mental Capacity Act principles, including inappropriate restriction or decisions made without proper regard to capacity and best interests;
- serious breaches of professional boundaries or organisational procedures that place people at risk.

6. WHISTLEBLOWING, SAFEGUARDING, COMPLAINTS AND GRIEVANCES

Not every concern is a whistleblowing disclosure. A personal employment concern affecting an individual worker, such as a dispute about their own terms of employment, will usually be dealt with under the grievance procedure.

A concern raised by a service user or their representative about the quality of their own service will normally be dealt with under the complaints procedure, unless safeguarding or another statutory process is more appropriate.

A concern that an adult is experiencing or is at risk of abuse or neglect must be considered immediately under The Learning Sanctuary Safeguarding Adults Policy. The fact that a matter may also be whistleblowing must never delay action needed to protect a person from harm.

7. SAFEGUARDING ADULTS AND SPEAKING UP

All staff have a responsibility to act where they witness, suspect or receive information suggesting abuse, neglect, exploitation or unsafe practice. Concerns must not be ignored because they involve a colleague, senior person, family member, professional or another organisation.

Where a concern relates to the conduct of a member of staff or volunteer towards a service user, the Director / Designated Safeguarding Lead must consider the Safeguarding Adults Policy, relevant North Yorkshire multi-agency safeguarding procedures and whether referral to external agencies is required.

If the concern involves the Director, or the person raising the concern reasonably believes that reporting internally would create a risk of concealment, victimisation or failure to act, the concern should be escalated externally as set out in this policy.

8. MENTAL CAPACITY, RESTRICTIVE PRACTICE AND HUMAN RIGHTS

Staff should raise concerns where they believe a service user's rights under the Mental Capacity Act 2005 are being disregarded. This may include repeatedly assuming incapacity without appropriate consideration, failing to support a person to

make their own decisions, overriding a capacitous decision because it is considered unwise, failing to apply best-interests principles, or imposing unnecessary restrictions.

The Learning Sanctuary's fundamental approach is least restrictive and non-forceful. Concerns about inappropriate restraint, force, coercion, punishment or unnecessary restriction must be reported promptly and may also require safeguarding action.

9. HOW TO RAISE A CONCERN

9.1 When to raise a concern

A worker does not need proof before raising a genuine concern. Concerns should be raised promptly where there is a reasonable belief that wrongdoing may have occurred, is occurring or is likely to occur.

9.2 Who to report to

Concerns should normally be raised with Jenny Mills or Andrew Mullane, Directors. Where the concern relates to safeguarding, it should also be managed through The Learning Sanctuary's safeguarding procedure.

If the concern is about a Director, or the worker reasonably believes it cannot safely or appropriately be raised with one of the Director, the worker may seek independent advice and/or make a disclosure to an appropriate external or prescribed body, depending on the nature of the concern.

9.3 How to raise the concern

Concerns may be raised verbally or in writing. Writing can assist clarity, but a genuine concern will not be disregarded simply because it was raised verbally. The person should provide as much relevant information as they reasonably can, including dates, people involved, what was observed or reported and any immediate risk.

Workers should not delay reporting in order to investigate the matter themselves or obtain proof. Where immediate safety or safeguarding action is required, this takes priority.

10. CONFIDENTIALITY AND ANONYMOUS CONCERNS

The Learning Sanctuary will seek to protect the identity of a person raising a concern as far as reasonably possible. Absolute confidentiality cannot be guaranteed where

disclosure is necessary for safeguarding, legal, regulatory, police or fair-investigation purposes.

Anonymous concerns will be considered, although anonymity can make investigation and feedback more difficult. A worker who is worried about identification may seek independent advice before making a disclosure.

11. RESPONSE TO A WHISTLEBLOWING CONCERN

On receiving a concern, the Directors or other appropriate recipient will:

- consider whether anyone is at immediate risk and take protective action first;
- consider whether the matter engages safeguarding, police, health and safety, commissioning or other external reporting duties;
- acknowledge and clarify the concern within a reasonable period;
- make an accurate record of the concern and relevant information;
- decide whether the matter should be handled under this policy or another procedure, or under more than one procedure;
- determine how the concern should be investigated and whether an independent person is required;
- avoid conflicts of interest in deciding who investigates;
- keep the whistleblower appropriately informed, subject to confidentiality and the rights of others;
- record findings, actions and organisational learning.

12. INVESTIGATION

Investigations will be proportionate to the seriousness and nature of the concern. The person raising the concern may be asked for further information and may, where appropriate, be accompanied at a meeting by a trade union representative or workplace colleague.

The Learning Sanctuary may need to involve an independent investigator, local authority safeguarding services, commissioners, the police, HSE or another relevant external body. Internal investigation must not interfere with or delay a safeguarding, police or regulatory process.

The whistleblower will be informed when the matter has been considered and, where possible, of the outcome. The Learning Sanctuary may be unable to disclose details relating to another person's confidential information or disciplinary action.

13. PROTECTION FROM DETRIMENT

The Learning Sanctuary will not tolerate victimisation, intimidation, threats, bullying, exclusion, loss of opportunity or other detrimental treatment because a worker has raised a genuine concern or made a protected disclosure.

Any worker who believes they have experienced detrimental treatment after raising a concern should report this promptly. Such conduct may itself lead to disciplinary or other action.

14. CONCERNS THAT ARE NOT SUBSTANTIATED

A worker will not be penalised simply because a concern raised genuinely and in the public interest is not substantiated. Staff are encouraged to speak up where they reasonably believe there is a serious concern.

Knowingly making a false allegation or deliberately providing false information is different from raising a concern that later proves mistaken. Deliberately malicious conduct may be addressed under the appropriate disciplinary or organisational procedure.

15. EXTERNAL DISCLOSURES AND INDEPENDENT ADVICE

The Learning Sanctuary encourages concerns to be raised internally where this is safe and appropriate, but recognises that there are circumstances in which a worker may make a disclosure externally.

Workers may obtain confidential advice from Protect, the independent whistleblowing charity, and may make a disclosure to an appropriate prescribed person or body where the statutory requirements are met. The correct external body will depend on the subject of the concern.

For safeguarding concerns relating to adults in North Yorkshire, staff must also follow the current local multi-agency safeguarding arrangements. Where a person is in

immediate danger or a serious crime is suspected, emergency services or the police should be contacted as appropriate.

16. RECORD KEEPING AND DATA PROTECTION

Records of whistleblowing concerns, decisions, investigations and outcomes will be kept securely with access limited to those who have a legitimate need to know. Personal information will be handled in accordance with data protection requirements.

Records should distinguish factual information, allegations, professional judgement, decisions and actions taken. Safeguarding records must be managed in accordance with The Learning Sanctuary Safeguarding Adults Policy.

17. LEARNING AND REVIEW

Where a concern identifies weaknesses in practice, systems, training, risk assessment or policy, The Learning Sanctuary will consider what changes are required to reduce the risk of recurrence. Whistleblowing is viewed as an important part of organisational learning and safeguarding culture.

18. RELATED THE LEARNING SANCTUARY POLICIES

- Safeguarding Adults Policy and Procedure.
- Mental Capacity Act 2005 Policy and Procedure.
- Relational and Behaviour Policy.
- Positive Support, De-escalation and Physical Intervention Policy.
- Leaving the Service Unexpectedly (Absconding) Policy and Procedure.
- First Aid Policy and Procedure.
- Handling People's Money Policy.
- Health and Safety and Risk Assessment arrangements.
- Complaints Procedure.
- Staff Grievance and disciplinary arrangements, where applicable.

19. MONITORING AND REVIEW

This policy will be reviewed annually and sooner where legislation, statutory guidance, North Yorkshire safeguarding arrangements, commissioning requirements, organisational learning or The Learning Sanctuary's service model changes.

Where current law or applicable safeguarding requirements set a higher or different standard, the current legal or local requirement will take precedence.