

Whistleblowing Policy

ACE Ltd



Ratification

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Introduction

Whistle blowing is where an employee raises concerns about underhand or illegal practices within the service they work.

It is the policy of Azalea Care and Education (ACE) to encourage the reporting of all matters of serious concern involving a member of staff, and for persons to feel that they can do so freely and without fear of reprisals or intimidation.

ACE's policy is to operate within the country's laws and regulations, and all employees are expected to co-operate in this by adhering to all laws, regulations, policies and procedures.

ACE is committed to maintaining an open culture with the highest standards of honesty and accountability, where employees can report any legitimate concerns in confidence. ACE takes all malpractice very seriously, and this document sets out the procedure by which employees can report any concerns.

ACE offers protection to any employee who honestly and reasonably believes that underhand or illegal practices are taking place. ACE undertakes to comply with all applicable laws relating to the prohibition of retaliation against good-faith whistle-blowers; see the Public Interest Disclosure Act 1988, which gives to workers who whistle blow protection against victimisation or dismissal.

Assuming the requirements of this policy have been met, ACE undertakes to protect the employee from any personal claims and from any victimisation, harassment or bullying occasioned as a result of their disclosure. ACE also undertakes not to initiate any disciplinary action. The aim is that the career of any employee should not in any way be harmed or hindered as a result of their disclosure (whether the item reported proves to be true or not, provided the reporting was carried out in good faith).

Any reprisal or similar action taken against a discloser because they have made a protected disclosure under this policy may be regarded as gross misconduct and may result in disciplinary action.

Areas covered by the policy

Azalea Care and Education would expect all employees to report any of the following:

- a criminal offence
- a failure to comply with a legal obligation.
- a miscarriage of justice
- the endangering of an individual's health and safety
- damage to the environment
- deliberate concealment of information relating to any of the above.



Where the nature of a disclosure is not included in the above list, it should be made by way of the home's grievance procedure and not under this whistle blowing policy.

Procedure for raising a concern

In the event an employee has reason to believe that underhand or illegal practices are taking place, the employee is encouraged to make his or her disclosure immediately to the Care Manager. A member of the management will then investigate the alleged offence. When disclosing any concerns, the employee will not be expected to have absolute proof of malpractice but will need to be able to show the reasons for their concern.

If, at this stage, the concern appears to be one that could be considered abuse of a service user, the manager receiving the disclosure should immediately report this to the Safeguarding Team for the area in which the abuse is alleged to have occurred and the Responsible Individual. In this case the Safeguarding procedures take precedence and direction of further steps will be through the safeguarding processes.

It is particularly important in matters concerning the health, safety and welfare of those on our premises (whether service users, employees, contractors or visitors) that anyone who becomes aware of a hazard (actual or potential) or dangerous occurrence is expressly required to immediately notify the Manager and Responsible Individual before making any other report (e.g. to an outside body) not least so that immediate action can be taken if necessary to deal with the hazard. If an employee has reasonable grounds for believing that the Manager or the Responsible Individual may be involved, then they are to escalate the matter to the other directors.

Failure to notify the Manager or Responsible Individual when reasonably aware or certain of an occurrence included in the list of categories of disclosures above is regarded as misconduct. Failure to notify internally before notifying externally without good cause is also regarded as misconduct. Only if an employee has reasonable grounds for believing that the Responsible Individual may be involved may contact be made to an outside body in the first instance.

Where requested, ACE will keep the identity of the discloser confidential as far as possible. However, in certain circumstances, e.g. if a criminal investigation follows, the employee may be needed as a witness. If this happens, the manager will inform the employee at the earliest opportunity.

If the alleged offence is substantiated, appropriate action will be taken. The discloser will be informed when the investigation has been concluded where reasonably practicable. However, it should be noted that any action against another employee as a result of the concern raised is confidential information to that employee and cannot be disclosed to the person who raised the concern.



Abuse of this policy

Any deliberate false or malicious allegations will be taken very seriously and appropriate disciplinary action will be taken. Where an employee acts in a malicious way (for example by leaking information to the press), the protection outlined above will not apply and the employee will be subject to disciplinary action which could result in summary dismissal for gross misconduct. Likewise, if an employee acts in a vexatious way, the protection outlined above will not apply and the employee will be subject to disciplinary action which could result in summary dismissal for gross misconduct.

What is whistleblowing?

Whistleblowing is the term used when someone who works for an employer raises a concern about malpractice, risk, wrongdoing, or possible illegality, which harms, or creates a risk of harm, to people who use the service, colleagues or the wider public.

The purpose of this document is to

- give confidence to members of staff about raising concerns about conduct or practice which is potentially illegal, corrupt, improper, unsafe or unethical or which amounts to malpractice or is inconsistent with the organisation's standards and policies so that she/he is encouraged to act on those concerns.
- Provide clear channels for raising concerns.

- Ensure that members of staff receive a response to the concerns they have raised and feedback on any action taken.
- Offer assurance that members of staff are protected from reprisals or victimisation for whistleblowing action undertaken in good faith and within the meaning of the Public Interest Disclosure Act (PIDA) 1998 (see section 4 below).

This policy should be used in conjunction with

- Staff code of conduct
- Safeguarding policy
- Complaints policy
- Staff Disciplinary policy
- Bullying and Harassment policy
- All Wales Safeguarding procedures
- Data Protection act

The policy applies to all staff working for Azalea Care and Education (ACE).

Concerns which would be appropriate to report include the following issues, where they affect or are relevant to ACE:

- Safeguarding of vulnerable people.
- Health and safety risks.
- Concerns over the prevention of people being drawn into terrorism (as defined in the Government's PREVENT strategy 2011).
- Any unlawful act.
- The unauthorised use of ACE's or Local Authority funds
- A breach of ACE Code of Conduct
- Maladministration (eg not adhering to procedures, negligence).
- Failing to safeguard personal and/or sensitive information (data protection).
- Fraud and corruption
- Abuse of power.
- Other unethical conduct.
- Any deliberate concealment of information tending to show any of the above.

The Policy has been written in line with the Public Interest Disclosure Act (PIDA) 1998, which protects whistleblowers from reprisals as long as the worker makes a qualifying disclosure. This is any disclosure of information that, in the reasonable belief of the worker making the disclosure, is made in the public interest and tends to 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 she or he is subject.
- That a miscarriage of justice has occurred, is occurring or is likely to occur.
- That the health and 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 of the proceeding paragraphs has been or is likely to be deliberately concealed.

Protection for staff

Workers have the right not to be victimised or dismissed as a result of a disclosure which is protected by the Act. This protection begins as soon as the employee begins working for ACE and is not subject to any qualifying period of employment. Where a whistleblower is victimised as a result of their whistleblowing, they can bring a claim at an employment tribunal for compensation. A disclosure will not qualify for protection unless it is made in the public interest and tend to show one or more number of issues listed above.

ACE management team will not tolerate any victimisation or harassment of staff who have whistleblown in accordance with above criteria. Staff who engage in harassment or victimisation will be subject to the organisation's Staff Disciplinary policy. It is accepted that there may be occasions when a concern turns out to be unfounded but was raised in good faith. ACE management will not take action against the individual in these circumstances. However is staff are found to have raised malicious unfounded concerns to make mischief or personal gain, this will also be taken seriously and may lead to disciplinary action in accordance with the Staff Disciplinary Policy.

Anonymity and Confidentiality

All concerns raised will be treated in confidence and every effort will be made not to reveal the identity of the whistleblower if they so wish unless a disclosure is required by law.

The best way to raise a concern is to do so openly. Openness makes it easier for the organisation to investigate the matter and obtain further information. Concerns expressed anonymously are more difficult but they will still be investigated by the RI if they fulfil the above criteria. Any identification of a whistleblower will only be with the consent of the individual.

The Responsible Individual will exercise some discretion when investigating anonymous allegations considering:

- The seriousness of the issue raised.
- The credibility of the concern,
- The likelihood of confirming the allegation from other sources

The provisions of the Data Protection Act must be observed during the process, particularly in disclosure, use and processing of personal information.

Safeguarding

If the allegation made by a whistle blower is in relation to a child protection concern, then the Care Manager will contact social services and/or the Local Safeguarding Team where appropriate.



Staff will be made aware of their ability to contact the Responsible Individual, Local Safeguarding Team or regulators directly if they do not feel comfortable whistleblowing to the Care Manager.

If the concern needs to have Police or other statutory authority involvement, the whistleblowing process will be halted until the statutory authorities have completed their investigations and confirmed that it is appropriate to continue with the whistleblowing process.

Process

Staff members should report their concerns, in writing, to a member of the management team and/or the Responsible Individual in the first instance.

Note: if the concerns involve a member of the management team or the Responsible Individual then staff should be aware of other persons within Gwent Social Services or CIW they could contact.

It is expected that the professional receiving the allegation will investigate. However, it is at the discretion of the individual to delegate the investigation to another person if they feel this is appropriate with a regard for anonymity and confidentiality.

Once a concern is raised

This appointed person investigating the concern, while maintaining the confidentiality of the complainant, will ensure that any individual who is the subject of the allegation is given details of the allegations in order to respond.

Once a concern is raised, the person receiving the whistleblowing allegation will be responsible for ensuring that it is investigated properly. The nature of the investigation will depend upon the concern raised.

The person receiving the whistleblowing concern is responsible for ensuring the complainant receive feedback on progress, subject to any issues of confidentiality that may be necessary to guarantee a successful conclusion. It may not be possible to inform them of the precise action undertaken where this would infringe a duty of confidence owed by the ACE to another party.

Result of investigation

The person investigating a disclosure will call in a relevant professional from social services if they consider is necessary.

The result of an investigation will fall into different categories:

- Reporting to police
- Disciplinary action
- Management action where weakness in ACE procedures/policies identified.
- Not possible to pursue due to inadequate evidence.
- No further action required if evidence shows that the concern or allegation is unfounded.

Record keeping



All whistle blowing investigations are recorded in ACE's single central record with regard for anonymity and confidentiality.

Trade Unions recommend they are contacted before a member makes any whistleblowing complaint.

Additional information can also be obtained from the whistleblowing charity - Public Concern at Work 0207 404 6609

The above policy will be reviewed in consultation with relevant Trade Unions.

ACE Ltd