

## WHISTLEBLOWING POLICY – HR15

### 1. INTRODUCTION

Phoenix Support operates a fully open and transparent service. Anything that should not be occurring, we want to know and we will protect anyone who shows courage in doing the right thing and protect the values that they show to reflect our own. Any whistle blower with genuine information regarding the mistreatment or abuse of any service or its users will be fully supported by any member of the Phoenix Support management

### 2. POLICY STATEMENT

All service users and staff who are supported by, or working for, Phoenix Support are entitled to receive a high standard of practice and support from its employees. Essential elements of this are that all staff will demonstrate professional competence, perform consistently and maintain good relationships with Service Users, colleagues and relatives they will contribute to an organisation that is open, honest and prepared to take action if poor practice places Service Users at unnecessary risk

### 3. DEFINITION

Any member of staff has the duty to disclose, as we do to protect, where they have a reasonable belief that a criminal offence, a miscarriage of justice, an act creating risk to health and safety or causing damage to the environment or a breach of any other legal obligation, or concealment of any of the above. Staff will be protected and treated with respect where they have the courage to come forward.

### 4. PURPOSE

The purpose of this guidance is to assist staff in fulfilling their duty to notify Phoenix Support where there is reasonable suspicion of any of the above. In making any disclosure, staff will not be required to prove that their suspicions are well founded, but they are expected to make any disclosure in good faith and to have reasonable grounds for their beliefs or concerns. Managers will carry out investigations. This guidance does not replace existing procedures such as grievances or disciplinary, but may lead to an investigation under these procedures

### 5. CONTEXT

The Public Interest Disclosure Act 1998 provides protection for staff members who raise legitimate concerns about specified matters, referred to as 'qualifying disclosures'. A qualifying disclosure is one made in good faith and reasonable belief by an employee. Other relevant legislation to this policy includes, The Employment Rights Act 1996, Public Interest Disclosure Act (Prescribed Persons) Order 1999, Employment Tribunals (Constitution and Rules of Procedure) (Amendment) Regulations 2010.

### 6. IMPLEMENTATION

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## **6.1 RAISING SERIOUS CONCERNS**

- 6.1.1 The first people to realise something is going seriously wrong in their workplace are often those who work there. The kind of concern people may have are abuse of Service Users (which could be physical, sexual, emotional and financial or neglect), misuse of money or fraud, unsafe work practices or criminal offences.
- 6.1.2 Any concerns on initial report will be treated with utmost confidence, but in most circumstances the person reporting will be required to provide an account of the events or evidence of the concern
- 6.1.3 This guidance covers all situations where staff have concerns or suspicions about serious malpractice or misconduct in the workplace.
- 6.1.4 The first underlying principle is that Service Users come first, all members of staff have a duty to protect our service users from harm.
- 6.1.5 The second is that no member of staff who uses this process in good faith will be penalised for doing so. Phoenix Support will seek to protect and support staff who raise legitimate concerns and ensure that there is no victimisation in the workplace.

## **6.2 THE PROCESS FOR RAISING SERIOUS CONCERNS**

- 6.2.1 Staff should, in the first instance, raise concerns with their line manager, or, if they believe their manager is implicated, with a more Senior Manager. Staff who feel unable to contact their manager should contact one of those listed below, who will arrange an interview away from the workplace.
1. General Manager
  2. Operations Manager
- 6.2.2 Staff can contact either person at Head Office. If contact is made by telephone, staff should inform them who is calling and that the call is of a personal nature. Contact can also be made in writing by sending a letter to Head Office addressed to either person and marked Private and Confidential, for the personal attention of the addressee only.
- 6.2.3 If staff for any reason would prefer to raise concerns with a different senior member of staff, they can contact them in the same way as above.
- 6.2.4 Staff should not use the media to raise concerns as this may breach the confidentiality of Service Users and is against Company policy, any concern that are not made known to Senior Managers cannot be reasonably dealt with.
- 6.2.5 Concerns expressed anonymously are far less powerful, but will be investigated at the discretion of Phoenix Support. In exercising discretion, the factors to be taken into account would include:
- The seriousness of the issues raised

- The credibility of the issue's raised
- The likelihood of confirming the allegation from an attributable source

### **6.3 INDEPENDENT AND CONFIDENTIAL WHISTLEBLOWING HELPLINE**

**6.3.1** If any member of staff has concerns but is unsure how to raise them or simply wants advice on best practice they can call free on: **08000 724725**

**6.3.2** The NHS and Social Care Helpline will operate weekdays between 08.00 – 18.00 with an out of hours answering service available at weekends and public holidays.

### **6.4 ACTION ON RECEIPT OF A REPORT BY A WHISTLEBLOWER**

**6.4.1** Any manager who receives from a member of staff a report that constitutes, abuse of Service Users (which could be physical, sexual, emotional and financial or neglect) misuse of money or fraud, unsafe work practices or criminal offences is to immediately inform the General Manager verbally followed with a confidential written report of the allegation to be communicated by email. The report should contain the following information;

- 1) What is alleged to have happened
- 2) Where it is alleged to have happened
- 3) When it is alleged to have occurred
- 4) Who is involved including the alleged victim (if appropriate), perpetrator, witnesses
- 5) Which, if any external agencies have been contacted
- 6) Any immediate action taken so far
- 7) Action intended to be taken next

**6.4.2** The relevant Senior Manager will initiate any further investigation or action appropriate to the circumstances and notify the Senior Management team of the report at the next opportunity, the investigation policy will apply.

### **6.5 ASSURANCES**

**6.5.1** Staff should be assured that their concerns would be treated seriously and with sensitivity, confidentially will be maintained as far as possible where the complainant wishes to remain anonymous. An anonymous complainant must be informed that they may be required to produce a statement and the investigation may reveal the source of the information.

**6.5.2** Immediate steps will be taken to remedy the situation.

**6.5.3** Staff should know that Phoenix Support would not tolerate the harassment of any staff raising concerns, either during or after the investigation. However, Phoenix Support will also not tolerate malicious use of the process to 'get at' staff or managers.

**6.5.4** Staff who raise concerns will receive feedback and support from the General Manager throughout the process.

### **6.6 INVESTIGATION AND RESOLUTION**

**6.6.1** Phoenix Support will ensure that where the situation is easily resolvable, it will be dealt with quickly, using mediation and problem solving where appropriate. In certain circumstances, it will be clear that disciplinary or investigative procedures need to be used.

- 6.6.2 If the manager dealing with the matter believes that the situation is straightforward and can be resolved quickly, it will be brought to the attention of the manager directly responsible for the service/department, and the remedial action will be agreed between the two managers. The service/department Manager's line manager will also be informed.
- 6.6.3 Responsibility for ensuring that remedial action is taken will lie with the manager of the service/department concerned, while their line manager will be responsible for monitoring its completion.
- 6.6.4 If the matter is more complex, a formal investigation will be undertaken. This will be carried out in accordance with the principles of the Investigation Policy, and may involve the staff member and any other individuals involved giving written statements. The staff member's statement will be taken into account, and he/she will be asked to comment on any additional evidence obtained.
- 6.6.5 The Investigating Office will then report as appropriate, Senior Managers will be responsible for taking any necessary action, including reporting the matter to any appropriate government department or regulatory agency. If disciplinary action is required, the Investigating officer will also liaise with HR so that a disciplinary hearing can be arranged.
- 6.6.6 Phoenix Support aims to ensure that investigations are concluded and a formal written response (outlining the outcome of the investigation and any action planned or taken as a result), will be provided to the staff member within 28 working days. However, if for some reason this is not possible, the staff member will be kept informed of progress and the reason for the delay. Where the investigation concludes that no action is necessary, a full explanation will be provided.
- 6.6.7 If the staff member is concerned that the investigating manager is involved in the wrongdoing, has failed to make a proper investigation, or has failed to report the outcome of the investigations correctly, he/she should inform the General Manager, who will arrange for another manager to review the investigation, make any necessary enquiries and make his/her own report as described above.
- 6.6.8 Where any senior members of staff are implicated in the concerns, the matter will be referred directly to the Company Director, who will set up an impartial investigation and will provide the formal response.
- 6.6.9 If following the conclusion of the investigation, the staff member reasonably believes that the appropriate action has not been taken; he/she should report the matter to the proper authority. The legislation sets out a number of bodies to which qualifying disclosures may be made. These include:
- HM Revenue & Customs; the Financial Services Authority; the Office of Fair Trading;
  - The Health and Safety Executive; the Environment Agency.
- 6.6.10 *If contact is made with an external organisation it is essential that Phoenix Support is made aware of the problem (via the above channels), and that confidentiality is appropriately upheld***

## **6.7 CONFIDENTIALITY**

- 6.7.1 The purpose of this policy is to enable staff to raise their concerns in a clear and simple way. However, the following points should be noted:

- 6.7.2 All concerns will be treated in the strictest confidence; however, it may not necessarily be possible for the complaints to remain anonymous. Further details may be required to investigate an issue fully and if the concerns are founded, further involvement may be required
- 6.7.3 All staff have a duty of confidentiality to Phoenix Support' Service Users and staff. Information about any Service User or member of staff must not be revealed to non-Phoenix Support personnel without the express consent of the person concerned and the General Manager.
- 6.7.4 Any communication with the media must be dealt with via the General Manager. If any staff member discloses their concerns directly to the media disciplinary action may be taken.
- 6.7.5 The aim is to carry out the investigation as quickly as possible. The conclusion of such an investigation will be reported to the person raising the concerns, where it does not breach confidentiality to do so.
- 6.7.6 Where there is no clear outcome to the investigation or no action can be taken, support will be provided to those that have to work together.

## **6.8 MONITORING AND REVIEW**

- 6.8.1 The General Manager is responsible for monitoring the implementation and effectiveness of this policy. They will collate the monitoring information and submit an annual report to the Management Team.
- 6.8.2 The policy will be reviewed annually for effectiveness and recommendations for improvement will be considered and implemented in accordance with procedures.
- 6.8.3 When the complaint has been closed, the investigation and the outcome will be logged there will be a check carried out to ensure that the "Whistleblower" received feedback and was supported throughout the procedure.
- 6.8.4 The General Manager will carry out a quarterly audit of ongoing / complete "Whistleblowing" cases to ensure all procedures are being or have been followed and that details have been recorded according to the policy.
- 6.8.5 At the end of each financial year, a report against the following indicators will be submitted to the Company Director by the General Manager (Critical concerns will be reported through the usual channels).
- 1) Number of concerns raised through this policy
  - 2) Nature and type of concerns raised
  - 3) Number of concerns dealt with through formal procedures
  - 4) Number of concerns dealt with and resolved informally during initial discussion
  - 5) Number of concerns investigated with or by external agencies
  - 6) Safeguarding Alert, health and Safety or Police Investigation
  - 7) Number of Concerns raised externally
  - 8) The outcome

## **6.9 PRINCIPLES**

- 6.9.1 Everyone should be aware of the importance of preventing and eliminating wrongdoing at work. Staff members should be watchful for illegal or unethical conduct and report anything of that nature that they become aware of.
- 6.9.2 Any matter raised under this procedure will be investigated thoroughly, promptly and confidentially the outcome of the investigation reported back to the staff member who raised the issue.
- 6.9.3 No staff member will be victimised for raising a matter under this procedure. This means that the continued employment and opportunities for future promotion or training of the staff member will not be prejudiced because he/she has raised a legitimate concern. Victimisation of a staff member for raising a qualified disclosure will be a disciplinary offence.
- 6.9.4 If misconduct is discovered as a result of any investigation under this procedure, Phoenix Support' disciplinary procedure will be used, in addition to any appropriate external measures. Maliciously making a false allegation will be a disciplinary offence.
- 6.9.5 An instruction to cover up wrongdoing is itself a disciplinary offence. If instructed not to raise or pursue any concern, even by a person in authority such as a manager, staff members should not agree to remain silent. They should instead report the matter to their line manager or where this is inappropriate in the circumstances, to another member of Senior Management.

## 6.10 GENERAL GUIDE

- 6.10.1 Where a staff member has a concern, they should, in the first instance, raise it with their line manager. Where the line manager is believed to be involved, or if for any other reason the staff member does not wish to approach their line manager, the senior line manager should be approached.
- 6.10.2 Staff members who feel unable to follow this route should contact any member of Senior Management Team, or the Company Director. Any such approach will be treated with the strictest confidence and the staff member's identity will not be disclosed without his/her prior consent.
- 6.10.3 In addition, the staff member may seek personal support or advice by contacting a representative from his/her professional organisation, Trade Union or "Public Concern at Work" a legal charity which offers a free and confidential advice service. Talking to their advisers does not constitute a breach of confidentiality or of employment contract. They offer independent, professional advice about the best way to raise your concern and will try to ensure that it is resolved with the minimum risk to everyone.

**Public Concern at Work**  
**Suite 301**  
**16BaldwinsGardens**  
**London**  
**EC1N 7RJ**  
Tel: 0207 404 6609  
Fax: 0207 404 6576  
Email: [helpline@pcaw.co.uk](mailto:helpline@pcaw.co.uk)

### **6.10.5 Phoenix Support will not tolerate the harassment or unequal treatment of any staff member raising concerns. It will therefore take action to ensure that the person lodging**

**the concern will remain as “comfortable” as is possible at work and will not suffer any form of recrimination.**