

Aim

The aim of SSA Star Care Ltd is to establish an open culture whereby our people feel enabled to raise any concerns about any suspected malpractice or abuse within the organisation without fear of reprisal, victimisation or ill-treatment, and where they feel that their concerns will be taken seriously.

Background

This organisation is committed to delivering the highest quality services to its service users and therefore expects high standards from its employees, volunteers, agency staff and contractors. In order to maintain these high standards the organisation considers that a culture of openness and accountability is vitally important whereby staff feel enabled to raise any concerns about any suspected malpractice or abuse within the organisation without fear of reprisal, victimisation or ill-treatment, and where they feel that their concerns will be taken seriously.

This organisation understands 'whistle-blowing' to refer to a complaint about suspected malpractice at work made by a member of staff, either to the management of the organisation or to an external regulatory body, such as the Care Quality Commission (CQC) or the Health & Safety Executive (HSE), or to the police. Such actions are protected in law by the **Public Interest Disclosure Act 1998** which protects employees who justly 'blow the whistle' about their employers where a worker has 'a reasonable belief' that their disclosure exposes one or more of the following:

- a criminal offence
- the breach of a legal obligation
- a miscarriage of justice
- a danger to the health and safety of any individual
- damage to the environment
- fraud or corruption
- deliberate covering up of information tending to show any of the above.

A clear example in the care sector might be where a member of staff has suspicions about systematic physical, mental or financial abuse of vulnerable service users.

According to the law such a disclosure is in the 'public interest' and so those making the disclosure should be protected from any subsequent victimisation or ill treatment. The legislation was originally introduced to combat any culture of secrecy or intimidation whereby employees are discouraged from coming forward.

SSA Star Care Ltd strongly supports whistle-blowing legislation as an important element in rooting out unacceptable forms of malpractice in the care sector and as a critical quality assurance safeguard for service users. SSA Star Care Ltd also supports measures which protect whistleblowers from any form of victimisation or ill treatment. It is the position of the organisation that any malpractice or criminal activity occurring in the organisation - or the covering up of such activities - is entirely unacceptable and, if discovered, will lead to immediate disciplinary or legal action.

As well as its legal duties under the law, this organisation also understands that safeguarding service users from abuse is a key part of compliance with the **Health and Social Care Act 2008 (Regulated Activities) Regulations 2014** and the Fundamental Standards of Quality and Safety, and is necessary to satisfy the registration requirements of the Care Quality Commission.

Health and Social Care Act 2008 (Regulated Activities) Regulations 2014: Regulation 13

The intention of this regulation is to safeguard people who use services from suffering any form of abuse or improper treatment while receiving care and treatment. Improper treatment includes discrimination or unlawful restraint, which includes inappropriate deprivation of liberty under the terms of the Mental Capacity Act 2005.

To meet the requirements of this regulation, providers must have a zero tolerance approach to abuse, unlawful discrimination and restraint. This includes:

- neglect
- subjecting people to degrading treatment
- unnecessary or disproportionate restraint
- deprivation of liberty.

Providers must have robust procedures and processes to prevent people using the service from being abused by staff or other people they may have contact with when using the service, including visitors. Abuse and improper treatment includes care or treatment that is degrading for people and care or treatment that significantly disregards their needs or that involves inappropriate recourse to restraint. For these purposes, 'restraint' includes the use or threat of force, and physical, chemical or mechanical methods of restricting liberty to overcome a person's resistance to the treatment in question.

Where any form of abuse is suspected, occurs, is discovered, or reported by a third party, the provider must take appropriate action without delay. The action they must take includes investigation and/or referral to the appropriate body. This applies whether the third party reporting an occurrence is internal or external to the provider.

Policy

In this organisation:

- All our people will be encouraged to raise any genuine concerns or suspicions that they might have about any malpractice, suspected crime, breach of legal obligations, miscarriage of justice, danger to health and safety or the environment, financial malpractice (eg fraud, corruption, etc) - or any cover-up of any of these areas.
- As soon as one of our people becomes concerned about such an issue they should firstly raise it with their line manager, unless the manager is the potential transgressor, in which case the member of staff should complain to the senior management of the organisation. Concerns may be raised verbally or in writing.
- In some cases it is understood that, despite this policy, one of our people raising a concern will wish to remain anonymous and for the concern to be raised in confidence. In such cases every effort will be made to ensure confidentiality as far as this is reasonably practical.
- When reporting a concern our people should provide as much information and detail as possible, including names, dates, and any evidence, if any.
- Whenever the senior management or registered person receives a complaint made under the **Public Interest Disclosure Act 1998** they must launch an immediate investigation which may or may not involve a referral to the police, the HSE or the CQC, etc.
- Where one of our people is raising an issue in good faith and has 'reasonable suspicions' that their complaint will not be listened to by managers, where they believe they will be unjustly treated because of their disclosure or where they reasonably suspect that the

care manager himself is involved in the malpractice, then the disclosure should be made direct to the appropriate regulatory authority such as the HSE or CQC, etc.

- As a last resort a member of staff may feel that their only recourse is to contact the police. This action should only be taken if the matter has already been raised with the prescribed regulator, where the disclosure is 'reasonable' in all circumstances, where it is not made for personal gain and where the member of staff reasonably believes that they will be victimised or the issue 'covered up'. Our people are advised to take legal advice before taking this step.
- Where any member of staff believes that they have reasonable suspicions and raises one or more of these issues in good faith and in the best interests of others, then the organisation understands that they will be covered under the **Public Interest Disclosure Act 1998** and that the organisation has a legal duty to protect them from detrimental treatment, unfair dismissal, ill-treatment, harassment or victimisation, etc.
- No action will be taken against anyone who makes an allegation in good faith, reasonably believing it to be true, even if the obligation is not subsequently confirmed by the investigation.
- Any harassment or victimisation of anyone raising a genuine concern in good faith under this policy will not be tolerated and appropriate action will be taken, including disciplinary action.
- If an internal investigation is conducted within the organisation then the senior management or registered person will be responsible for keeping the whistleblower informed about the progress of the investigation and action taken. Where criminal or disciplinary proceedings occur as a result of the disclosure then the whistleblower may be required to give a written statement or give evidence at a hearing. In such cases the organisation will give full support.
- If concerns are demonstrated to have been raised frivolously, maliciously, for personal gain or where they were known to be untrue, then the organisation may take disciplinary action against the person making the claims or, in the case of agency staff, the agency contract may be terminated.

Management duties

The Care Manager and supervisors in the organisation have a duty to:

- Investigate any alleged malpractice as sensitively and speedily as possible
- Protect the rights and interests of staff who have 'blown the whistle' and are covered by the Public Interest Disclosure Act 1998, investigating any allegations of bullying or harassment and taking appropriate action.
- Regularly revise policies and procedures to combat abuse, updating them with current good practice
- Operate systems of management, supervision, internal inspection, and quality control which are designed to reveal abuse if it exists and encourage a culture and ethos for the organisation which is hostile to any sort of abuse
- Operate recruitment policies and procedures which identify and exclude from employment in the organisation potential or actual abusers
- Provide training for staff in all aspects of abuse and protection, including their duties to protect service users from abuse and their rights to protection under the **Public Interest Disclosure Act 1998** and the SSA Star Care Ltd Whistleblowing policy.

- Monitor cases and incidents, analysing trends and patterns and implementing improvements to procedures if an investigation into abuse reveals deficiencies in the way in which the organisation operates or loopholes which could be exploited by abusers
- Review and update this policy as required.

Staff duties

Our people have a duty to:

- Provide service users with the best possible care at all times and to never engage in any action or activity that could be construed as abusive
- Always report any suspicions of malpractice or criminal activities in the organisation and to never attempt to condone, ignore, 'turn a blind eye' to or cover up such activities
- Never raise a concern frivolously, maliciously, for personal gain or where they were know the claim to be untrue
- Cooperate in every possible way in any investigation into an alleged abuse
- Participate in training activities relating to abuse and protection.

Applicability and scope

This policy applies to all our people, service users, visitors, volunteers and contractors without exception. All staff at the organisation have responsibility for ensuring that they work within the remit of this policy and in the manner in which they have been trained.



PROCEDURE	
1.0	Scope
1.1	The procedure for reporting bad practice / whistle-blowing
2.0	Aims and Values
2.1	To ensure that any of our people who might have observed bad practice are enabled to report it without fear of retribution, ridicule or victimisation.
2.2	To ensure that there is an effective system in place for reporting bad practice.
3.0	Contents
6.0	General procedure
4.0	Referenced Documents
	Whistle-blowing Confidentiality Policy Records Control and Access Policy
5.0	Responsibilities
	Management and all our people

6.0 GENERAL PROCEDURE

- 6.1** In any case where bad practice is alleged, management should ensure that a thorough investigation is carried out. In order to protect all parties, management should ensure strict adherence to the Confidentiality and Access to Records Procedure.
- 6.2** When the alleged offence is confirmed to be of a serious nature the staff member at the centre of the allegation will be suspended immediately on full pay pending the outcome of the investigation. The staff member will be informed of the necessity for this action and will be assured that, at this point, there is no inference of guilt.
- 6.3.1** Management will report matters of serious concern to the police, Greater Manchester Safeguarding Children Board, Greater Manchester Adult Safeguarding Team or to other Social Service parties as appropriate to the circumstances. Reports should be made using the appropriate notification form.
- 6.4** Following the completion of the investigation if the allegations are justified, the staff member concerned will be subject to the Disciplinary Procedure through to summary dismissal, as appropriate.
- 6.5** Where the allegation is not proven but has proven to be a malicious action on the part of the accusing party, then the accuser will be subject to appropriate disciplinary action..

Responsibilities

Responsibility for the implementation, monitoring and review of this policy and procedure lies with the senior management of the organisation.

Signed: Nirupama Singh

Dated: 23.8.2019

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