

WHISTLEBLOWING PROCEDURE

1 INTRODUCTION AND SCOPE

1.1 OVERALL CONTEXT

St Elizabeth's expect the highest standards of behaviour of all employees, contractors, trustees and governors.

The Whistleblowing Procedure is intended to encourage employees and others to report inappropriate action by any of the above which would not normally be revealed due to fears of victimisation or retribution.

The Procedure provides a framework to ensure that St Elizabeth's and those who act on its behalf conduct themselves in a proper manner.

St Elizabeth's makes clear that no employee or other person covered by this procedure will be subject to victimisation or other detriment by making a report under this procedure where it is, in the reasonable belief of the worker making the disclosure, "in the public interest".

1.2 LEGAL CONTEXT

The Employment Rights Act 1996 as amended by the Public Interest Disclosure Act (PIDA) 1998 (and as amended under the Enterprise and Regulatory Reform Act (ERRA) 2013), and the Human Rights Act 1998. Those protected by PIDA will include agency and bank workers as well as staff.

1.3 PRINCIPLES

Everyone should be aware of the importance of preventing and eliminating wrongdoing at work. Staff should be watchful for illegal or unethical conduct and report anything of that nature that they become aware of.

Failure by a member of staff to report to an appropriate manager his/her knowledge of serious malpractice or wrong doing by others, where that wrong doing or malpractice relates to conduct of St Elizabeth's business, including activities carried out by contractors on its behalf, will be considered to be a disciplinary offence

Any matter raised under this procedure will be investigated thoroughly, promptly and confidentially, and the outcome of the investigation reported back to the worker who raised the issue.

No person covered by this procedure will be victimised for raising a matter under this procedure where it is, in the reasonable belief of the worker making the disclosure, "in the public interest". This means that the continued employment and opportunities for future promotion or training of the worker will not be prejudiced because he/she has reasonably raised a legitimate concern.

Victimisation of a person covered by this procedure for raising a disclosure within the scope of this procedure will be a serious disciplinary offence.

If misconduct is discovered as a result of any investigation under this procedure, St Elizabeth's disciplinary procedure will be used, in addition to any appropriate external measures.

Maliciously making a false allegation is a disciplinary offence. An instruction to cover up wrongdoing is itself a disciplinary offence. If told not to raise or pursue any legitimate concern, even by a person in authority such as a manager, workers should not agree to remain silent. They should report the matter to the CEO or a trustee.

1.4 SCOPE OF THE PROCEDURE

The procedure applies to a report where it is the reasonable belief of the employee or other person making the report that tends to show one or more of the following-:

- a criminal offence has been committed, is being committed or is likely to be committed;
- a failure by a person to comply with a legal obligation has occurred, is occurring or is likely to occur;
- a miscarriage of justice has occurred, is occurring or is likely to occur
- the health and safety of an individual has been, is being or is likely to be endangered;
- damage to the environment has occurred, is occurring or is likely to occur;
- failure to comply with St Elizabeth's policies and procedures has occurred, is occurring or is likely to occur;
- conduct has occurred, is occurring or is likely to occur which may damage St Elizabeth's reputation;
- deliberate concealment of information relating to any of the above has occurred or is likely to occur; and
- in relation to the conduct of St Elizabeth's business, including activities carried out by contractors on its behalf.

1.5 MATTERS OUTSIDE THE SCOPE OF THE PROCEDURE

The procedure does not cover:

- Issues at work which affect an employee personally, which can usually be referred to their line manager, or if necessary be pursued using St Elizabeth's Anti-Bullying and Harassment Procedure or St Elizabeth's grievance procedure.
- Terms and conditions of employment and other such matters that would normally be dealt with by St Elizabeth's ICG.
- Matters relating to child abuse which should be reported to the Named Person in St Elizabeth's, namely the Head of School or Registered Child Care Manager. (Where the above are not available, eg outside of office hours, the Duty Manager/Person in Charge should be contacted).

- Matters relating to the Protection of Vulnerable Adults should be referred to:
 - College: College Principal, Domiciliary Care Manager
 - Adult Services: Line Manager, Registered Care Manager.
 - Where the above are not available, eg outside of office hours, the Duty Manager/Person in Charge should be contacted.
- Complaints from the public that relate to standard of service delivered by St Elizabeth's or its contractors which should be reported through St Elizabeth's Complaints procedure.

1.6 WHO IS COVERED BY THE PROCEDURE

All employees, contractors (and their staff), partner agencies, agency workers, bank workers, consultants, trainees, volunteers and self employed people providing work for St Elizabeth's may make reports under this procedure outlining any concerns.

2. OUTLINE OF PROCEDURE

The Whistleblowing Procedure covers the following:

- Reporting a concern within the management structure including senior staff and members of the governing bodies and trustees.
- Reporting a concern
- What will happen when you report a concern
- Conclusion of the investigation.
- Anonymous reports.
- Anonymity.
- Statutory protection.
- Protection of employees.
- Advice.
- Reporting outside St Elizabeth's
- Review of Whistleblowing Procedure.

3. REPORTING A CONCERN WITHIN THE MANAGEMENT STRUCTURE

- 3.1 In the first instance you should normally report any concerns to your line manager* using the attached form.
- 3.2 However, if you feel the matter is extremely serious or sensitive, or involves your line manager, or if you feel your line manager has not dealt with the matter properly, you should report the matter to the Chief Executive, again using the attached form. In the

case of it involving the Chief Executive, or if you feel the Chief Executive has not dealt with the matter properly, you should report it to the Chair of the Trustees¹.

- 3.3 Before raising your concern you may wish to take advice on the matter from any of those listed in paragraph 11 of this procedure or discuss your concerns with a colleague first. If you are not the only person affected, you may wish to make a joint report.
- 3.4 It is advisable that you report your concern as early as possible. A significant delay in reporting the matter may make the subsequent investigation difficult to pursue.
- 3.5 In raising your concern in writing, you should give as much detail as possible, ie the background and history, giving names and relevant dates and the reasons why you are particularly concerned about the situation.
- 3.6 If you feel hesitant about putting your concern in writing at this stage you should telephone the manager to whom you wish to make the report and arrange to meet them. Do bear in mind you may be asked to put the details in writing at a later stage.
- 3.7 You may raise your concerns with a trade union representative if you wish. Your trade union representative may then assist you in reporting your concerns.

4. REPORTING A CONCERN TO THE CHIEF EXECUTIVE

- 4.1 You may make a written or verbal report to the Chief Executive if:
 - pursuing your concerns through the management structure is not, or is no longer, appropriate (see paragraph 3.2); or you fear that you will be victimised if the matter is raised within your management structure; or
 - you fear that relevant information may be concealed or destroyed if the matter is raised within your management structure.
- 4.2 You should write to, email or telephone the Chief Executive outlining your concerns. Bear in mind you may be asked to put the details in writing later.

5. WHAT WILL HAPPEN WHEN YOU REPORT A CONCERN TO THE CHIEF EXECUTIVE

- 5.1 You will be advised whether the referral is appropriate for this procedure.
- 5.2 Receipt of your report will be logged by the Chief Executive, following which you will normally be interviewed by a designated Investigating Officer. You may be accompanied at the interview by a trade union representative or friend if you feel this would help.

¹ Please submit the report in writing addressed to the Chair of St Elizabeth's Trustees, marking the envelope "personal – addressee only" via the Company Secretary

- 5.3 In most cases you will be asked to provide a written statement detailing the allegations following the interview.
- 5.4 You will receive a written acknowledgement of your report and will be informed of the action that will be taken to investigate your concern within 10 working days of receipt. You will also be given an estimate of the likely timescale of the investigation, although this cannot be guaranteed.
- 5.5 Where appropriate, the Investigating Officer may refer the matter to other investigations, such as Health and Safety Officers, in which case you may be interviewed by those officers.
- 5.7 Wherever possible, you will be kept informed of the progress of the investigation, unless the Investigating Officer considers that there is a risk of the investigation being prejudiced by disclosures of the process being taken. You may not receive full details of the progress or the outcome of the investigation if provision of details would be inconsistent with obligations of confidentiality in relation to others or would prejudice any action which may be taken as a result of the investigation.
- 5.8 In some circumstances the matter may be referred to an external agency, such as the police if crime is involved. Wherever possible the Chief Executive or Investigating Officer will advise you of this before doing so.

6. CONCLUSION OF INVESTIGATION

- 6.1 If your allegation is not proven or there is insufficient evidence on which to base a conclusion, you will be advised accordingly. It will not be necessary in these cases for a report to be prepared as this could compromise your identity unnecessarily.
- 6.2 In cases where action is necessary as a result of your allegation, a report will usually be sent to the Chief Executive (or trustee) who will be responsible for ensuring the implementation of the recommendations in the report. You will be advised when the investigation is complete but it may not always be possible to tell you the details of the findings as this may be confidential or may prejudice further action.

7. ANONYMOUS REPORTS

- 7.1 Whilst it is accepted that anonymous allegations do not carry the same weight, any such reports received by St Elizabeth's will be considered at its discretion and where such a decision is made, appropriate investigations made as far as possible into the circumstances. In exercising this discretion account will be taken of the seriousness, credibility of the matters raised and the likelihood of confirming the allegation from the sources quoted.

8. ANONYMITY

- 8.1 During the initial stages of the investigation, if you so wish, St Elizabeth's guarantees that your identity will only be disclosed to those directly involved in investigating the allegation. We will do our best to maintain your anonymity throughout the enquiry but this may not be possible. For example, it may be obvious to those under

investigation who has made the allegation. We will always seek your permission before formally identifying you.

- 8.2 In cases where disciplinary action is taken, it may be necessary for you to provide witness evidence. We will try to gather evidence to support your allegation without requiring your attendance at a hearing, but this may not always be possible. We may also need to disclose your identify to other investigating agencies but will discuss this with you before doing so.

9. **STATUTORY PROTECTION**

- 9.1 The Employment Rights Act 1996, as amended by the Public Interest Disclosure Act 1998 (and as amended under the Enterprise and Regulatory Reform Act (ERRA) 2013, and the Enterprise and Regulatory Reform Act 2013, provides individuals making disclosures protected by the Act with protection from victimisation, dismissal or any other detriment provided it is, in the reasonable belief of the worker making the disclosure, "in the public interest".

10. **PROTECTION TO EMPLOYEES AND OTHERS COVERED BY THIS PROCEDURE**

- 10.1 No action will be taken against you by St Elizabeth's if you make a report under this procedure where it is, in your reasonable belief, "in the public interest" but it is not confirmed by the investigation.
- 10.2 If you consider that you have been, are being or are likely to be victimised, dismissed, made redundant or made to suffer some other detriment as a result of making a report under this procedure, you should report your concerns to the Chief Executive. The matter will then be dealt with as a new referral under this procedure.
- 10.3 St Elizabeth's will treat any victimisation or harassment of a person covered by this procedure who has made a report where it is, in your reasonable belief, "in the public interest" under this procedure as a serious disciplinary offence.
- 10.4 Employees should not make reports other than in good faith or maliciously make false reports. Disciplinary action may be taken against an employee who does so.
- 10.5 If you are already the subject of a disciplinary, capability or redundancy procedure, this will not normally be halted as a result of your report.

11. **ADVICE**

- 11.1 If you wish to receive advice from Human Resources before making a report under this procedure, you should contact the Director of HR (01279 844410).

Alternatively, you may wish to ask for confidential help from your trade union or professional organisation.

You may also contact any of the following organisations outside St Elizabeth's for assistance with your concern:

- Whistleblowing Helpline for NHS and Social Care Staff: Tel. 08000 724 725; email: enquiries@wbhelpline.org.uk.
- CQC: Tel. 03000 616161; email: enquiries@cqc.org.uk - Care Quality Commission leaflet *Raising a Concern with CQC* available at www.cqc.org.uk.
- Hertfordshire Adult Safeguarding Board: Tel. 0300 123 4042 (24 hours a day); email. Adult.safeguarding@hertfordshire.gov.uk
- Protect (formerly Public Concern at Work): (for general advice and guidance)

12. REPORTING OUTSIDE ST ELIZABETH'S

Note that a report made to such a body will only be protected under the Employment Rights Act if the following apply: -

- You make the report where it is, in your reasonable belief, "in the public interest"
- You reasonably believe that the information disclosed, and any allegation contained in it, are substantially true; and
- You reasonably believe that your report falls within the type of matters specified in legislation made under the Employment Rights Act for that body.

This procedure is intended to provide you with an avenue within St Elizabeth's to raise concerns. St Elizabeth's hopes you will be satisfied with any action taken. If you are not, and if you feel it is right to take the matter outside St Elizabeth's following completion of the process set out earlier in this Procedure, the following are possible contact points:

- The Audit Commission
 - The Health & Safety Executive
 - The Environment Agency
- or other appropriate regulatory body.

Care Quality Commission: regulates adult social and health care Tel: 03000 616161
www.cqc.org.uk

Ofsted: regulates education and care services for children and young people Tel: 0300 123 3155 Email: whistleblowing@ofsted.gov.uk

12.2 A report made externally, ie to the police, media or Member of Parliament, but not to an appropriate regulatory body, will only be protected under the Employment Rights Act if the following apply:

- If you reasonably believed the information and any allegation contained in it to be substantially true; and
- The allegation has not been made for personal gain; and
- You make the report where it is, in your reasonable belief, "in the public interest"; and
- The allegation has already been raised with St Elizabeth's or with an appropriate regulatory body; or
- you reasonably believed you would be victimised if the allegation was so raised; or

- where there is no appropriate regulatory body, you reasonably believed that it is likely there would be a cover-up if the allegation was raised with St Elizabeth's or
- that the matter is exceptionally serious; and in all the circumstances it was reasonable to make the report.

13. **REVIEW OF WHISTLEBLOWING PROCEDURE**

The procedure and reports made under it should be reviewed at least annually.

Next Scheduled Review: October 2020

St Elizabeth's Centre

Form for making a public interest disclosure (whistleblowing)

This form is intended for use by any individual working for the organisation (including contractors, agency workers and volunteers) who wishes to raise an issue about wrongdoing.

This form should be used to report wrongdoing within the organisation (for example, financial irregularities or health and safety concerns), rather than to raise a personal grievance (for example, an allegation of bullying or harassment, or are complaining that your contract of employment has been breached).

If you are unsure about whether your concerns are best dealt with under the organisation's whistleblowing policy or grievance procedure, please read the organisation's whistleblowing policy, which provides examples of the issues that should be reported using this form. If you remain unsure about which procedure to use, please consult the Director of HR for further advice.

Once you have submitted this form, St Elizabeth's whistleblowing procedure will be invoked. This will result in an investigation, which will not involve anyone (for example, your line manager) you may have implicated below.

In certain circumstances, you can request that your concerns be kept anonymous. Where possible, St Elizabeth's will respect a request, but cannot guarantee it will be able to do so.

Formal public interest disclosure (whistleblowing)

Employee's name:

Employee's job title:

Employee's department:

Date:

Does your public interest disclosure relate to your line manager?

Yes/No

Summary of disclosure:

Please set out the details of the issue that you wish to raise, providing examples where possible, particularly dates, times, locations and the identities of those involved. You may attach additional sheets if required.

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Individuals involved:

Please provide the names and contact details of any people involved in your concerns, including witnesses.
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Outcome requested:

Please set out how you would like to see the issue dealt with, and why and how you believe that this will resolve the issue.
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Declaration:

I confirm that the above statements are true to the best of my knowledge, information and belief. I understand that, if I knowingly make false allegations, this may result in the organisation taking disciplinary action against me.
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Form completed by (print):	
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Signature:	
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For completion by the responsible manager:

Date form:	
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Name of recipient and job role:	
Signature:	