

St Elizabeth's Centre

Speaking Out Policy (Whistleblowing)

Policy Owner: HR Director
Version No.: 1.0
Created & Approved: 20 July 2020 – Board approved
Review Due: July 2022



Speaking Out Policy (whistleblowing)

1. Introduction

All of us at one time or another have concerns about what is happening at work. Usually these are easily and quickly resolved as part of day-to-day operational practice. Speaking up is vital – it helps us to keep improving our services, and the working environment. However, when the concern feels serious it can be difficult to know what to do. If something is troubling you that you think we should know about and look into, please raise it following the processes in this Policy.

2. Principles

St Elizabeth's Centre (St Elizabeth's) is committed to achieving the highest possible standards of service and operating practices. We believe that our staff and those working with us or alongside us, should speak out at work immediately if they have a concern about what we do, or how we do it. We actively encourage our staff to raise any concerns they may have about possible or actual risk, malpractice or wrongdoing. We take concerns that are raised with us seriously, investigate them and take action. We ensure that anyone raising a concern with us under this Policy, in good faith, is supported and thanked for doing so.

3. Policy Aims

3.1. This Policy aims to:

- a) encourage staff to speak out immediately if they have a concern about what we do or how we are doing it and to support them to do so;
- b) provide a process for serious concerns ("protected disclosures") to be raised in the workplace, in line with statutory requirements, and ensure that the necessary statutory protections are in place for staff raising concerns under this process (whistleblowing) – see appendix A¹;
- c) promote accountability throughout St Elizabeth's, reducing the risk of serious malpractice occurring and supporting a culture of continuous review and improvement; and
- d) reassure staff that concerns raised in good faith will be taken seriously and handled promptly and as confidentially as possible.

3.2. For the avoidance of doubt, nothing within this Policy is intended to prevent individuals from complying with their statutory obligations or professional obligations.

4. Scope

4.1. St Elizabeth's encourages staff, and all those involved in the receipt of, or the provision of our services, as well as those more loosely associated with us (such as members of the public), to let us know if they are concerned that there is something seriously wrong (malpractice) with respect to what we are doing, or how we are doing it.

4.2. Where an individual in a specified role or work/service relationship with St Elizabeth's (see 4.5, below) has a concern about malpractice (see 4.6, below) they should use this Speaking Out Policy to raise their concern.

4.3. Service users, their family members or carers and the wider public should raise concerns using the relevant service's complaints policy, which are available on the intranet, the website or on request from the main office.

¹ The legislation that determines whistleblowing is the Public Interest Disclosure Act 1998 and the Employment Rights Act 1996

4.4. If a concern relates to individual employment issues, it should be raised using the grievance process, which is available on the intranet.

4.5. **Who can raise a concern under this Policy?**

- a) Employees and former employees;
- b) Bank workers and former bank workers;
- c) Volunteers;
- d) Agency workers;
- e) Contractors; or
- f) Self-employed individuals who provide a service within St Elizabeth's.

Please note that statutory protection in respect of whistleblowing is limited to 'workers', as defined under Section 43(k) of the Employment Rights Act 1996 (as amended by the Public Interest Disclosure Act 1998) – see Appendix A.

4.6. **How is a concern (malpractice) defined within this Policy?**

- a) A criminal offence;
- b) A failure to comply with a legal obligation or regulatory requirement;
- c) A miscarriage of justice;
- d) A danger to health and safety;
- e) Damage to the environment; or
- f) Deliberate concealment of any of the above.

This includes concerns about unsafe care of service users. As an organisation providing services to children and vulnerable adults, we have a particular safeguarding responsibilities. **Anyone** who witnesses or suspects the mistreatment or abuse of a service user, whether by a member of staff or another person, **must** follow the **safeguarding** processes and report their concern without delay to their supervisor, manager, the duty manager or the senior manager on call, following the relevant service's safeguarding policy.

5. Operating Principles

- 5.1. You do not need to have firm evidence of malpractice. You simply need a reasonable belief, genuinely held, that there is something significant that may be wrong.
- 5.2. Please speak out as soon as you become aware of a potential serious issue – raising a concern at the earliest opportunity could stop the issue from becoming more serious, dangerous or damaging.
- 5.3. It is better to raise concerns openly. This makes it easier for St Elizabeth's to assess the issue, to obtain more information and to decide how to investigate.
- 5.4. You can raise a concern **confidentially** i.e. give your name on the condition that it is not revealed without your consent. A request for confidentiality will be respected to every extent possible. However, in some cases, it will be impossible to take action without open testimony from the person raising the concern. Additionally, where St Elizabeth's is required to disclose the name of the person raising a concern, for example to the police, the local safeguarding body, or to a regulator, we may not be able to continue to keep the name of the staff member confidential.

Note: St Elizabeth's is required to notify instances of alleged or actual abuse of a service user to the various bodies and regulators, for example the local safeguarding authority.

- 5.5. You can raise a concern **anonymously** i.e. where no name is given. If you do, St Elizabeth's will assess information received as best as we can. However, raising a concern anonymously may limit an investigation because it will be more difficult for us to verify the information provided. It would also make it impossible for us to feed back the outcome of the investigation to the person raising the concern.

6. How to Raise a Concern

- 6.1. It should be noted that for general and minor concerns (i.e. outside those detailed in 4.6, above), the easiest way for your concern to be addressed and resolved is to raise it with your immediate line manager.
- 6.2. For concerns about actual or possible malpractice raised under this Policy, St Elizabeth's has put in place a formal reporting process which should be followed.
- 6.3. If you are unsure whether a concern should be raised under this Policy or you need guidance about how to raise a concern, you can contact the HR Director (see Appendix B) or the charity, Protect, which provides independent and confidential advice (see Appendix B).
- 6.4. You can raise a concern verbally, but it is better if you do so in writing – or to follow up any conversation in writing - so that the details of your concern as you see it are clear to all. You will find guidance to assist you, published alongside this Policy, which includes a checklist about the information you might provide when raising a concern. The guidance also contains a template form, which you may (but are not obliged) to use.
- 6.5. Very rarely, if ever, will it be appropriate or acceptable for a concern to be raised via the media. Anyone who does so is likely lose any disclosure protections given to them by law, and may face disciplinary action, up to and including dismissal for gross misconduct.

7. Reporting & escalation process

7.1. Step 1

Concern is raised with a relevant service lead - a member of the Operational Management Team (OMT) (see Appendix B).

7.2. Step 2

If the person raising the concern determines that Step 1 is not appropriate, given the nature of the concern to be raised or potential involvement of colleagues, he/she should raise it with a member of the Senior Leadership Team (SLT) (see Appendix B).

7.3. Step 3

If a concern has been raised in Step 1 or 2, but there has not been a satisfactory resolution, or where the matter is so serious that it cannot be raised with any member of OMT or SLT, the concern may be raised with a member of the Trustee Board. Contact should be made via the General Counsel & Company Secretary who will provide contact details, in confidence (see Appendix B).

7.4. Step 4

If you do not achieve a satisfactory resolution of your concern, or where the matter is so serious that you cannot raise it with anyone connected to St Elizabeth's, you should take specialist advice before raising it with an external organisation (a 'prescribed body') (see Appendix B).

St Elizabeth's accepts the right and obligation of any staff member who reasonably believes that their concerns are not being, or might not be properly responded to or addressed, to report their concerns to an outside authority, determined as a 'prescribed person' in the Public Interest Disclosure legislation.

8. Handling the concern

- 8.1. Whether a concern is raised verbally or in writing, the person with whom the concern is raised will acknowledge receipt as soon as possible in writing, normally within three working days.
- 8.2. Depending on the nature of the concern, the person with whom the concern has been raised will normally adopt the role of responsible person, and will arrange for the concern to be investigated. In exceptional circumstances the concern may be allocated to another senior manager who will undertake the role of responsible person. In this situation, you will be notified.
- 8.3. The responsible person will ensure:
 - a) a proportionate investigation is carried out as speedily and efficiently as possible;
 - b) the investigation is impartial and objective, and its conclusions are factually based;
 - c) the results of the investigation are duly considered, and appropriate action is taken;
 - d) the person who raised the concern is regularly informed about the progress of the investigation and its outcome (in the level of detail that is appropriate); and
 - e) relevant records are passed to the CEO who will determine the required retention period, and retain them securely.
- 8.4. The CEO will report in summary to the Trustees.

9 Dealing with interference with or victimisation of staff raising concerns

- 9.4 Any employee who attempts to prevent an individual from reporting their concerns using this Policy, or who bullies, attempts to intimidate or discriminates against a colleague in these circumstances, will be dealt with under a disciplinary process.
- 9.5 If you raise a concern under this Policy, and you feel you are being subjected to hostile action from colleagues as a result, you should inform your manager/the relevant senior manager immediately. He/she will take action to protect you from the hostile action and to deal with the colleagues under a disciplinary process.

10 Unwarranted or Malicious Reporting

We believe that all genuine concerns should be raised - and as soon as possible - , even if after investigation they are not proven. However, concerns that are determined, after investigation, to be unwarranted, with no reasonable belief in their truth, or which are malicious or pursuing personal grievances, may lead to disciplinary action being taken.

The Legal Context (Whistleblowing)

Raising serious concerns (whistleblowing) is a process prescribed by legislation² where a **specific** approach is taken to **specific** type of concern raised by an individual in a **specific** role/relationship with an employer. The requirements around the management of this type of serious concern (which is one that is determined by law as in the public interest) are complex.

To meet the criteria required to access the whistleblower protection (prescribed in law), you must be **worker** (see below) acting in the **public interest** who takes action in the reasonable belief that one or more of the following is happening, has happened, or will happen in their workplace:

- A criminal offence;
- A failure to comply with a legal obligation;
- A miscarriage of justice;
- A danger to health and safety;
- Damage to the environment; or
- Deliberate concealment of any of the above.

The person raising a concern must be a **worker** under the extended meaning of this term, as defined under Section 43(k) of the Employment Rights Act 1996 (as amended by the Public Interest Disclosure Act 1998). Specifically:

- Employee, former employee;
- Bank worker, former bank worker; or
- Agency worker.

If you are unsure whether your concern can and should be raised under the **whistleblowing** process detailed below, or you need guidance on how to raise a concern, you are encouraged to contact the charity, Protect. Protect provides independent and confidential advice. For contact details for this organisation, and others that may also be able to advise you, please refer to Appendix B.

Workers who raise genuine concerns in good faith, in line with whistleblowing legislation, are protected from detrimental treatment under employment legislation. Individuals who make raise concerns maliciously, make disclosures without a reasonable belief in their truth or make disclosures which are personal grievances against other individuals will not receive this legal protection and may face disciplinary action as a result.

Workers raising a concern under a whistleblowing process are entitled to be accompanied by a colleague or a trade union representative at any time during the disclosure or the investigation.

² Public Interest Disclosure Act 1998 and the Employment Rights Act 1996

Contact Details

Specific requirements and guidance that underpin this Policy are available from the relevant Regulator's website. Please see:-

Ofsted: <https://www.gov.uk/government/publications/whistleblowing-about-childrens-social-care-services-to-ofsted/sharing-concerns-and-information-with-ofsted-about-childrens-social-care-services>

CQC: <https://www.cqc.org.uk/files/whistleblowing-quick-guide-raising-concern-cqc>

Charity Commission: <https://www.gov.uk/government/publications/whistleblowing-disclosures-made-to-the-charity-commission-for-england-and-wales-2018-to-2019/whistleblowing-disclosures-made-to-the-charity-commission-for-england-and-wales-2018-to-2019>

Further Advice (external bodies)

- [Protect](#) (formerly Public Concern at Work) Tel: 020 3117 2520.
- 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.
- [Ofsted](#).
- Local Safeguarding Authority:
 - Adults: <https://www.hertfordshire.gov.uk/services/Adult-social-services/Report-a-concern-about-an-adult/Hertfordshire-Safeguarding-Adults-Board/Hertfordshire-Safeguarding-Adults-Board.aspx>,
 - Children: <https://www.hertfordshire.gov.uk/services/childrens-social-care/child-protection/hertfordshire-safeguarding-children-partnership/hscp.aspx>
- The [Charity Commission for England and Wales](#).

Prescribed People and Bodies

The Department for Business, Energy & Industrial Strategy's Guidance, '[Whistleblowing: list of prescribed people and bodies](#)', provides a list of prescribed people and bodies you can report malpractice to, other than your employer, including:

- The Care Quality Commission (CQC);
- The Charity Commission for England and Wales;
- Her Majesty's Chief Inspector of Education, Children's Services & Skills (the Chief Inspector) (Ofsted); and
- The Health & Safety Executive.

St Elizabeth's Staff – Contact Details

For all St Elizabeth's staff, please see the intranet for contact details or contact Reception where colleagues can provide internal phone numbers and email addresses.

- HR Director: Tel: 01279 844 410
- General Counsel & Company Secretary: Tel 01279 844 205

Operational Leadership Team

- Assistant Director of Care
- Head of Domiciliary Care
- Head of Children's Home
- Head of School
- Head of College
- Head of Facilities
- Head of Fundraising/Shops
- Finance Manager
- IT Manager
- Head of HR Operations
- Nurse Manager
- Therapy Services Manager
- Day Opportunities Manager
- Executive Assistant

Senior Leadership Team

- CEO
- Director of Health and Care
- Director of Education and Skills
- Finance Director
- HR Director