

# Whistleblowing

## 1. Background

All of us at one time or another has concerns about what is happening at work, usually these concerns are easily resolved. However, when they are concerns about the quality of resident care, unlawful conduct, financial malpractice, fraud, and corruption, it can be difficult to know what to do.

Employees and other parties referred to in section 3 may be worried about raising such issues or may want to keep the concerns to themselves, perhaps feeling it's none of their business or that it's only a suspicion. Employees may feel that raising the matter would be disloyal to colleagues, managers or to Abbeyfield The Dales (ATD).

Employees of ATD should be assured that the Board of Trustees and Chief Executive (CE) are committed to the highest possible standards of openness and accountability. In line with that commitment, ATD encourage all staff (including agency and volunteer staff), contractors, and anyone else who may work within ATD and could potentially witness wrongdoing, to come forward and voice those concerns without fear of reprisals or suffering any detriment.

## 2. Objectives

Abbeyfield The Dales Ltd. (ATD) is committed to providing services that enhance the quality of life for older people and developing services that will meet the needs of future generations. This commitment is based on the Mission and Values of ATD. ATD will also comply with all relevant and current legislation.

The purpose of this policy is to:

- Provide avenues for staff to raise concerns and report suspected wrongdoing as soon as possible, knowing that their concerns will be taken seriously and investigated as appropriate;
- Provide staff with guidance how to raise those concerns including if they are dissatisfied with ATD initial findings;
- Reassure staff that they will be protected from reprisals or victimisation for raising genuine concerns, even if they turn out to be mistaken; and
- Where staff have concerns or issues relating to their own employment, then the Grievance Policy and Procedure should be used.

If you are uncertain whether something is within the scope of this policy, you should seek advice from line managers, Senior Management Team (SMT) or Chief Executive (CE).

### 3. Scope

This policy applies to all ATD staff (including agency and volunteer staff), contractors, and anyone else who may work within ATD and could potentially witness wrongdoing.

This policy does not form part of any employee's contract of employment or any staff terms and conditions and may be amended at any time.

For the purposes of this policy a Whistleblower is a person who raises a genuine concern relating to any of the matters set out below. If you have any genuine concerns related to suspected wrongdoing or danger affecting any of our activities (a whistleblowing concern) you should report it under this policy.

Whistleblowing is the disclosure of information which relates to suspected wrongdoing or dangers at work. This may include:

- Criminal activity or any unlawful act including fraud, bribery, corruption and theft;
- Danger to health and safety of employees, residents, or the public;
- Failure to comply with any legal or professional obligation or regulatory requirements;
- Abuse or neglect of vulnerable people;
- Breach of ATD internal policies and procedures; and/or
- Conduct likely to damage ATD reputation or the deliberate concealing of any of the above.

### 4. Policy

#### 4.1. Protection for Staff Making a Disclosure

ATD aims to encourage openness and will support staff who raise genuine concerns under this policy, even if they turn out to be mistaken. ATD will aim to ensure that staff do not suffer any detrimental treatment because of raising a concern.

ATD will not tolerate the harassment or victimisation of anyone raising a genuine concern. Any such behaviour will be dealt with under ATD Disciplinary Policy and Procedure and could result in dismissal.

Where it is found that whistleblowing concerns have been raised with malicious or vexatious intent and the allegations were known or should reasonably have been known to be unfounded, then this may also be dealt with under ATD Disciplinary Policy and Procedure.

#### 4.2. Making Anonymous Disclosures

It is recognised that there may be circumstances when staff would prefer to speak to someone in confidence and ask for anonymity.

Whilst ATD would seek to support staff who raise concerns, those who have allegations made against them have a right to know what has been said, to respond. Anonymity may also hinder or prevent a full investigation from being carried out.

Whilst ATD do not encourage anonymity, where requested, we will make every effort to keep your identity secret. However, if it is necessary for anyone investigating your concern to know your identity, we will discuss this with you.

If the situation arises where we are not able to resolve the concern without revealing your identity (for instance because your evidence is needed in court), we will discuss with you whether and how we can proceed.

### **4.3. Procedure for Raising a Concern**

We hope that in many cases you will be able to raise any concerns with your line manager. If you do not wish to raise the concerns with your line manager or a member of staff then you are encouraged to contact the independent charity; Protect who can be contacted on 020 3117 2520 (website: [www.protect-advice.org.uk](http://www.protect-advice.org.uk)) which specifically provides support and advice to whistle-blowers at any stage.

Where an employee member of staff has a whistleblowing concern the procedure below should be followed:

- Report the concerns either verbally or in writing to your immediate manager;
- If you feel you cannot report the issue to your immediate manager, you should refer the case to a more senior manager.
- If you feel that you cannot report the matter to your immediate or more senior manager, you can report the matter to any member of the SMT of your choice within ATD.
- In the event of these steps failing or being inappropriate, you should write to, or contact the CE.

If the whistleblowing concern is about the CE it is recommended that the whistle-blowers' first contact should be the independent charity; Protect who can be contacted on 020 3117 2520 (website: [www.protect-advice.org.uk](http://www.protect-advice.org.uk)) which specifically provides support and advice to whistle-blowers at any stage.

The manager receiving whistleblowing concerns will:

- Acknowledge receipt of the concern in writing within 10 days of it being received, confirming what action is being taken.
- Seek advice and carry out an Initial Investigation into the concerns to identify whether a full, formal investigation is needed.

### **4.4. Initial Investigation**

When a disclosure is received, an initial investigation should be carried out. The purpose of this initial investigation is to establish quickly whether there is a need to go on to carry out a full, formal investigation under this procedure. The initial investigation will normally involve meeting with the whistle-blower.

Where the initial investigation concludes that the situation does not require a formal investigation, the whistle blower will be informed accordingly as soon as possible, and it may be appropriate to hold a meeting to deal with the matter informally. Any documents obtained or produced as part of the initial investigation may be destroyed where it is concluded that no further action is necessary.

## **4.5. Formal Investigation**

Where the conclusion of the initial investigation is that the matter requires a full, formal investigation, this will be carried out internally by an appropriate manager or referred to the appropriate external person (e.g. the police or regulator) for investigation. In some cases, ATD may appoint an investigator or team of investigators with relevant experience of investigations or specialist knowledge of the subject matter.

Subject to any legal constraints, the whistle-blower will be informed of the outcome of the preliminary enquiries as to whether a full investigation or any further action will be taken. ATD will aim to keep the whistle-blower informed of the progress of the investigation and its likely timescale. However, sometimes the need for confidentiality may prevent ATD from providing specific details of the investigation or any disciplinary action taken as a result. Staff should treat any information received about the investigation as confidential.

The investigation will gather all the relevant facts relating to the concerns raised and is likely to include:

- A review of relevant information and documents; and
- Interviews with witnesses as appropriate, including residents and accompanied by appropriate advocates where necessary.

All interviews with witnesses and with the whistle-blower should be recorded and statements taken. The statements, where appropriate, should then be sent to the individual concerned for confirmation and signature.

The findings of the investigation, where appropriate, should be written up in an investigation report, together with any conclusions and recommendations for follow up action. Depending on the circumstances, this could include that any incidents of misconduct or gross misconduct be dealt with under ATD Disciplinary Policy and Procedure.

## **4.6. Right of Appeal Against Internal Investigation Conclusions**

The aim of this policy is to deal with concerns raised under it fairly and thoroughly. While we cannot always guarantee the outcome that staff are seeking, it is recognised that there may be circumstances where the whistle blower may be unhappy with the outcome of an investigation. ATD will, under these circumstances, grant the whistle-blower the opportunity to submit a further report explaining their view. The concerns will be considered again, by a manager more senior to the manager conducting the first investigation and may be investigated further, if it is considered that there is good reason to do so.

## **4.7. Making External Disclosures**

The aim of this policy is to provide an internal mechanism for reporting, investigating, and remedying any wrongdoing in the workplace. In most cases staff should not find it necessary to alert anyone externally. In some circumstances, it may however be appropriate for staff to report their concerns to an external body such as a regulator. ATD strongly encourage staff to seek advice before reporting a concern to anyone external. If the whistle-blower thinks that this may be necessary, it is recommended

that the whistle-blower's first contact should be the independent charity; Protect who can be contacted on 020 3117 2520 (website: [www.protect-advice.org.uk](http://www.protect-advice.org.uk)) which specifically provides support and advice to whistle blowers at any stage.

#### **4.8. Overall Responsibility**

The CE has overall responsibility for this policy, and for reviewing the effectiveness of actions taken in response to concerns raised under this policy. Staff who feel they need guidance, training or support with whistleblowing issues should raise this with their line manager, Quality Manager or CE.

#### **5. Finance, Value for Money & Social Value**

N/A

#### **6. Supported Appendices**

Appendix 1: Frequently Asked Questions

#### **7. Linked Policies**

Disciplinary (S008P)

Grievance (S014P)

#### **8. Legislation/Regulation**

N/A

#### **9. Review**

Every 3 years, subject to regulatory and legislative changes.

#### **10. Procedure/Guidance**

N/A

## APPENDIX 1

### ABBNEYFIELD POLICY & PROCEDURE/GOOD PRACTICE GUIDELINES

#### Frequently Asked Questions

##### **Why should I blow the whistle?**

Whistleblowing can inform those who need to know about health and safety risks, potential environmental problems, fraud, corruption, deficiencies in the care of vulnerable people, cover-ups and many other problems. Often it is only through whistleblowing that this information comes to light and can be addressed before real damage is done.

Whistleblowing is a valuable activity which can positively influence all our lives.

##### **What kind of misconduct can I whistle blow?**

The sorts of issues that you may blow the whistle about may vary depending of your role within Abbeyfield The Dales (ATD). The list below sets out some examples of concerns that you may raise under this Policy:

###### **Criminal activity**

- Fraud - for example a member of staff in the Finance Office may come across a colleague making a fraudulent expense claim;
- Bribery, for example a Head of Care Services may come across a Scheme Manager inappropriately accepting gifts from residents; and
- Theft or embezzlement, for example, a carer coming across a colleague stealing from a resident.

###### **Failure to comply with any professional obligations**

- Abuse of power, for example Head of Care Services may come across a Scheme Manager inappropriately favouring their relative in the provision of ATD.

###### **Breach of Abbeyfield policy**

- Conflict of interest, for example a manager coming across a carer having an inappropriate personal relationship with a resident;
- Misuse of company property, for example a member of staff may come across a colleague giving an ATD laptop to a family member for personal use; and
- Non-compliance to procedure – for example a member of staff discovering ATD is not complying with its Health and Safety policy.

##### **What is the difference between making a complaint and blowing the whistle?**

When someone blows the whistle, they are raising a concern about dangers that affect others (e.g. residents, members of the public or their employer). The person blowing the whistle is usually not directly or personally affected by the danger. Consequently, the whistle-blower rarely has a personal interest in the outcome of any investigation into their concern, they are simply trying to alert others.

This is very different from a complaint. When someone complains, they are usually saying that they have personally been poorly treated. Poor treatment could involve a breach of the individual's employment rights or bullying, and the complainant is seeking redress or justice for themselves. The complainant would have a vested interest in the outcome and would be expected to be able to prove their case.

It is therefore not in anyone's interest if the whistleblowing policy is used to pursue a personal grievance. Any personal grievances should be dealt with under the Grievance Policy.

### **How do I blow the whistle?**

Report your concerns either verbally or in writing to your manager. If you feel you cannot report the matter to your manager, then refer the case to a more senior manager or to a member of the SMT in accordance with the Whistleblowing policy.

### **Should I blow the whistle anonymously?**

In principle, ATD requires the whistle-blower to disclose their identity to enable them to be accorded with the necessary protection and to be involved in and informed of the outcome of the investigation.

### **What should I provide when I make the whistleblowing disclosure?**

- Details of the person(s) involved;
- Details of the allegation;
- Nature of the allegation;
- Where and when the alleged misconduct/wrongdoing took place;
- Other relevant information; and
- Any supporting evidence if available.

### **What protection would I receive if I make a whistleblowing disclosure?**

You will be accorded with protection of confidentiality to the extent reasonably practicable, and in case of the employees, protection against any adverse and detrimental actions.

### **What if the investigation later reveals the complaint was found to be of no basis and unfounded? Will I be adversely affected?**

So long as the disclosure was made on the basis of a genuine concern that you believe relates to a whistleblowing matter, you will not be adversely affected as a result of raising a concern. However if, in the event that it is discovered that such disclosure was not made based on a genuine concern and was made with malicious/ill intent to injure the reputation of the person and/or organisation against whom the disclosure was made, appropriate disciplinary action may be taken against you.

### **Am I going to be notified on the outcome of my whistleblowing disclosure?**

Yes, you will be notified upon completion of the process provided your identity is made available during the disclosure. However, sometimes the need for confidentiality may prevent us giving you specific details of the investigation or any disciplinary action taken as a result. You should treat any information provided to you about the investigation as confidential.