

Whistleblowing Policy and Procedure

1. What is Whistleblowing?

- 1.1. A “Whistleblower” is someone who discovers something that is wrong and alerts their employer or the relevant authorities to what is going on. The law protects whistleblowers from their employers subjecting them to detrimental treatment or dismissal by reason of their having “blown the whistle” and from detrimental treatment by their colleagues.
- 1.2. This policy has been written to comply with The Public Interest Disclosure Act 1998, which was introduced to protect employees who “blow the whistle” about any wrongdoing. To be protected by law, the act of whistleblowing must fall within the legal rules and the whistleblower must reasonably believe that their disclosure of wrongdoing is made in the public interest.
- 1.3. The policy gives clear guidance to all staff regarding the correct procedure for bringing to attention any wrongdoing or suspected wrongdoing, which they feel could affect service users, supporters, other members of staff, volunteers, visitors, Nechells POD, or any organisation or persons connected with Nechells POD.
- 1.4. We wish to encourage staff at all levels to raise concerns in an open and honest way to demonstrate and ensure good practice in our activities.
- 1.5. For the purposes of this policy, we consider that examples of potential malpractice at Nechells POD would include anything that is:
 - 1.5.1. illegal, a criminal offence was committed, or is being or likely to be committed. A person has or is likely to fail to comply with a legal obligation. A miscarriage of justice has occurred or is likely to occur
 - 1.5.2. contrary to Nechells POD Safeguarding policies for both Children and Adults.
 - 1.5.3. contrary to policy, regulation, procedure or instructions
 - 1.5.4. likely to endanger the health and safety of any individual whether service users, members of the public or colleagues
 - 1.5.5. damaging, or likely to be damaging to, the environment
 - 1.5.6. unprofessional, inappropriate or conflicts with a general understanding of what is right and wrong
 - 1.5.7. an attempt to protect a colleague who is guilty of any of the above
 - 1.5.8. tending to show that any matter falling within one of the above categories has been, is being, or is likely to be deliberately concealed

- 1.5.9. it is essential that where anything goes wrong, we have the opportunity to put it right, and justify the trust placed in us by our service users, partners, employees and volunteers.

1.6. **The policy outlines:**

- 1.6.1. our commitment to openness and good communications
 - 1.6.2. the ways of raising concerns in the workplace for our staff
 - 1.6.3. the availability of support to those raising issues of concern
 - 1.6.4. that Nechells POD will be equally firm with those employees who make false allegations maliciously. However, if allegations are made in good faith, the employee will not be subject to any formal action.
- 1.7. This policy is not to be confused with the Grievance Procedure which should be used where an employee is aggrieved about their personal circumstances.
 - 1.8. This policy should not be confused with the Safeguarding Policy which should be followed in all cases involving service users, except in cases where you are not satisfied that your concerns have been acted upon and service users are at risk of harm.
 - 1.9. ***The 'whistleblowing' procedure is not intended as an extra mechanism for staff to challenge decisions, practices and policies with which they disagree, but is reserved for raising concerns about malpractice or improper actions where the normal route for these concerns appears to be blocked, or staff do not feel normal route can be used.***

2. **Openness**

- 2.1. We consider that our employees have a considerable contribution to make to the development of Nechells POD and the improvement of the services it offers. We encourage staff to raise good ideas and concerns without fear or favour.

3. **Raising Concerns**

- 3.1. An employee who has a concern should raise it immediately with their Line Manager. It is likely that further investigation will be necessary and you may be required to attend a disciplinary or investigative interview as a witness.
- 3.2. When an employee feels that they cannot raise the concern with their immediate Line Manager they may approach the Chair of Trustees.

- 3.3. Management will support all those who have an honest and reasonable suspicion that malpractice has occurred, is occurring, or is likely to occur.
- 3.4. The aim of this policy is to provide a mechanism for reporting, investigating and remedying any wrongdoing in the workplace.

4. Acting on Concerns raised.

- 4.1. After you have raised a concern, we will decide how to respond in a responsible and appropriate manner. This will usually involve making internal enquiries but it may become necessary to carry out a full investigation which may be formal or informal depending on the nature of the concern raised. We will endeavour to complete investigations within a reasonable time.
- 4.2. We will keep you informed of progress and let you know when the investigation is completed. We will not be able to inform you of any matters which would infringe any duty of confidentiality owed to others.
- 4.3. In the UK, the Public Interest Disclosure Act has rules for making a Protected Disclosure:
 - 4.3.1. you must disclose the information in good faith
 - 4.3.2. you must believe it to be substantially true
 - 4.3.3. you must not act maliciously or make false allegations
 - 4.3.4. you must not seek any personal gain.
- 4.4. Therefore the Procedure should be used when staff feel reported matters have been ignored. If you use this policy to raise a concern which you reasonably believe to be in the public interest, we assure you that you will not suffer any form of retribution or detrimental treatment.
- 4.5. If a member of staff raises a concern related to a child protection issue, the Project Manager, Finance Manager or Chair of Trustees should urgently consult the LEA officer designated to lead on child protection (or if they are not available the designated manager for child protection) so that the action for handling of such allegations under Nechells POD disciplinary procedure for staff and the child protection procedures established by the Local Safeguarding Children's Boards can be initiated.
- 4.6. If the employee feels that they cannot raise the concern with Nechells POD staff or Trustees, they will be protected in law if disclosing information to the following:
 - 4.6.1. a legal adviser in the course of getting legal advice
 - 4.6.2. a minister for the crown (e.g. your Member of Parliament, Government Minister or a member of the House of Lords)

4.6.3. one of the prescribed persons set out in the Public Interest Disclosure (Prescribed Persons) Order 1999 (e.g. disclosure of a danger to health and safety to the Health and Safety Executive; disclosure of breach of tax rules to HM Revenue & Customs). Please see Appendix B for more information and contact details.

4.7 Disclosure to any other person is not generally protected except in very limited circumstances.

5. Anonymous Allegations

5.1 Staff should put their name to allegations whenever possible.

5.2 Anonymous concerns are much less powerful. Nonetheless anonymous allegations will be considered under this Whistleblowing procedure especially concerns raised relating to the welfare of children. In relation to determining whether an anonymous allegation will be taken forward, the Charity Director and Chair of Trustees will take the following factors into account:

- The seriousness of the issue raised.
- The credibility of the concern
- The likelihood of confirming the allegation from attributable sources, and obtaining information provided.

6. Malicious Allegations

6.1 Those making allegations genuinely, and who act reasonably and responsibly, will be treated genuinely, reasonably and responsibly by Nechells POD.

6.2 Nechells POD will be equally firm with those employees who make false allegations maliciously. They could leave themselves open to disciplinary action, and even dismissal depending on the circumstances. Additionally, an individual who is subject to such a disclosure may feel they have the grounds to take legal action.

6.3 Any employee who criticises, bullies or victimises a fellow employee by reason of their whistleblowing will be liable to disciplinary action up to and including dismissal, depending on the seriousness of their conduct.

6.4 Nechells POD is continuously developing policies and procedures in order to ensure it meets the requirements of the law, the registration authority and good practice.

6.5 This policy will be reviewed every three years or when guidance or legislation changes.

Appendix A

Advice

Free advice can be gained from '**Public Concern At Work**', who will work with you to help you choose the best course of action for reporting your concern.

Public Concern At Work, the whistleblowing charity, is the leading authority in the field. They aim to protect society by encouraging workplace whistleblowing.

- They advise individuals with whistleblowing dilemmas at work.
- They support organisations with their whistleblowing arrangements
- They inform public policy and seek legislative change

More information, address and telephone numbers are available via their website

www.pcaw.org.uk.

Public Interest Disclosure (Prescribed Persons) Order 1999

The full list of Prescribed Persons can be found at:

www.gov.uk/government/uploads/system/uploads/attachment_data/file/510962/BIS-16-79-blowing-the-whistle-to-a-prescribed-person.pdf

However some examples and information are found in **Appendix B**.

Please Note.

If you decide to blow the whistle to a prescribed person rather than your employer, you must make sure that you have chosen the correct person or body for your issue. For example, if you are blowing the whistle on a charity you should contact the Charity Commission for England and Wales. You can find a full list of the prescribed persons and bodies to whom you can make a disclosure at the above.

There is also a brief description about the matters you can report to each prescribed person. In addition, you could also blow the whistle to your legal adviser, in the course of obtaining legal advice, or to a member of the House of Commons about any matter specified in the Public Interest Disclosure (Prescribed Persons) (Amendment) (No 2) Order 2015. You can get the contact details for any Member of Parliament at the following www.parliament.uk/mps-lords-and-offices

Appendix B

Useful contact details can be found on the following websites:

Commissioners for Her Majesty's Revenue & Customs (HMRC) about the administration of UK taxes; the administration of national insurance and tax credits systems; Customs and border-related functions and criminal investigations.

www.hmrc.gov.uk

The Charity Commission for England and Wales about the proper administration of charities in England and Wales and of funds given or held for charitable purposes in England and Wales.

www.charitycommission.gov.uk

Charity Commission Email:

whistleblowing@charitycommission.gsi.gov.uk

Data Protection and Freedom of Information: The Information Commissioner about compliance with the requirement of legislation relating to data protection and to freedom of information.

www.ico.org.uk

The Environment Agency about acts and omissions which have an actual or potential effect on the environment or the management or regulation of the environment including those relating to pollution, abstraction of water, flooding, the flow in rivers, inland fisheries and migratory salmon or trout.

www.environment-agency.gov.uk

Care Homes: The Local Government Ombudsman looks at complaints about adult social care providers (such as care homes and home care providers). It is a free service. It investigates complaints in a fair and independent way and does not take sides.

<http://www.lgo.org.uk/>

Healthcare Care Quality Commission about matters relating to the provision of health and social care.

www.cqc.org.uk.

Ofsted – Her Majesty's Chief Inspector of Education, Children's Services and Skills ("the Chief Inspector") about matters relating to the regulation and inspection of establishments and agencies for children's social care services.

www.gov.uk/government/organisations/ofsted.

Health and Safety: The Health and Safety Executive about matters relating to those industries and work activities for which the Health and Safety Executive is the enforcing authority under the Health and Safety (Enforcing Authority) Regulations 1998 and which are about the health and safety of individuals at work, or the health and safety of the public arising out of or in connection with the activities of persons at work.

www.hse.gov.uk

Food Standards: The Food Standards Agency (FSA) about matters which affect the health of any member of the public in relation to consumption of food and matters which concern the protection of consumers.

www.food.gov.uk

Pensions: The Pensions Regulator about matters relating to the protection of members' benefits under occupational and private pensions schemes and the administration and governance of work-based pension schemes including matters relating to automatic enrolment under the Pensions Act 2008.

www.thepensionsregulator.gov.uk

Fundraising: The Fundraising Regulator holds the Code of Fundraising Practice for the UK. It sets and maintains the standards for charitable fundraising, aims to ensure that fundraising is respectful, open, honest and accountable to the public and regulates fundraising in England and Wales.

www.fundraisingregulator.org.uk