

TRIPLE HOME CARE LTD

Policy Title	Whistleblowing	Date Implemented or Date of Last Review	04-12-2020
CQC KLOE Reference	Safe	Date of Next Review	04-12-2022

Policy

The Agency takes allegations of wrongdoing, or malpractice (in any form) very seriously and therefore seeks to ensure that employees, acting in good faith, who genuinely believe that wrongdoing is evident, are able to disclose the information without fear of detriment or victimisation, and in confidence. All employees are encouraged to be open about their concerns, and to express them at the earliest opportunity.

Procedure

No employee acting in good faith will suffer any detriment as a result of making a general disclosure about something of real concern to them. This concern may well be about something which they believe is very serious, and which needs to be dealt with as a matter of considerable priority. The Public Interest Disclosure Act 1998 protects workers who make disclosures in good faith, provided that they are qualifying and protected disclosures.

The Public Interest Disclosure Act 1998 – the meaning of qualifying and protected disclosures.

The Public Interest Disclosure Act 1998 (The “Act”) deals with the protection of employees who make a disclosure about a wrongdoing which they believe needs to be rectified. Such actions are usually referred to as “Whistleblowing”. The Act first of all deals with defining a disclosure which qualifies for protection, and then goes on to deal with the conditions which must be in place for the employee to have protection from either unfair dismissal or being made to suffer a detriment as a result of the disclosure, or “Whistleblowing”.

Qualifying disclosures are disclosures of information which the employee reasonably believes (see note below) tend to show one or more of the following matters is either happening now, took place in the past, or is likely to happen in the future:

- a criminal offence;
- failure to comply with legal obligations;
- a miscarriage of justice;
- a danger to the health & safety of individuals;
- damage to the environment;
- Deliberate concealment of any of these matters.

Note

It is important that the employee must have reasonable grounds for believing that some form of wrongdoing is evident, and therefore disclosing such allegations. The belief need not be correct - it might be discovered subsequently that the employee was in fact wrong - but the employee must show that he held the belief, and that it was a reasonable belief in the circumstances at the time of disclosure.

The Agency reserves the right to impose penalties (up to and including dismissal) through the Disciplinary Policy for any malicious or false allegations made with the intent of causing harm or disrepute to the Agency, its employees or associates.

Making a Protected Disclosure – The Procedure

There are six situations contemplated by the legislation on Whistleblowing.

(i) Internal Disclosure – The recommended route

The Agency requests that unless circumstances dictate that it would be unreasonable to do so, all disclosures are made internally, in the first instance. The disclosure may be made orally, or in writing, and should be made either to the employee's Manager, or Supervisor (see note below). When making a disclosure it is important that as much information as possible is given so that the reasons for concern are apparent, and that further investigation may be made.

- All disclosures will be treated in the strictest confidence;
- Anonymous disclosures will be disregarded;
- No employee acting in good faith will suffer any detriment as a result of making a general disclosure about something of real concern to them.

The person to whom the disclosure is made must take reasonable steps to: -

- establish that the disclosure is made in good faith;
- investigate the details of the allegations to establish whether or not they are substantially true;
- if necessary and appropriate, refer the matter to the relevant authority, e.g. the Police, external auditors, Health & Safety Executive;
- report back to the person who made the initial allegation so that they are aware of the action being taken;
- inform the reporter of the outcome of the investigation.

Note

In certain circumstances the employee may feel that disclosure to his/her Supervisor and/or Manager may not be appropriate, as it is possible that either or both may be directly involved in or related to the disclosure. In such circumstances the employee is authorised to disregard the normal reporting structure and go to the level of management they believe is appropriate, having regard to all of the circumstances.

(ii) Making a qualifying disclosure to a prescribed person

Although the Agency requests that disclosures are made internally, employees who are concerned about wrongdoing or failures can make disclosures to a person or body which has been prescribed by the Secretary of State for the purpose of receiving disclosures about the matters concerned. If an employee makes a qualifying disclosure to such persons, it will be a protected disclosure provided the employee:-

makes the disclosure in good faith;
reasonably believes that the information, and any allegation it contains, are substantially true;
and reasonably believes that the matter falls within the description of matters for which the person or body has been prescribed.

(For example, breaches of health and safety regulations can be brought to the attention of the Health and Safety Executive or appropriate local authority, or environmental dangers can be notified to the Environment Agency.)

(iii) Making a qualifying disclosure to a legal adviser

A qualifying disclosure will be a protected disclosure if it is made to a legal adviser in the course of obtaining legal advice. There are no further conditions attached.

(iv) Making a qualifying disclosure to a Minister

A qualifying disclosure made in good faith by an employee, employed in a Government-appointed organisation, such as a non-departmental public body, will be a protected disclosure if made to a Government Minister (either directly or via departmental officials).

(v) Making a qualifying disclosure more generally (i.e. to a person not mentioned above).

A qualifying disclosure will be a protected disclosure if the following conditions are met: Firstly, the employee must:-

- make the disclosure in good faith;
- reasonably believe that the information, and any allegation contained in it, are substantially true; and
- not act for personal gain.

In addition, one or more of the following conditions must be met:

- the employee reasonably believed that he would be subjected to a detriment by his employer if disclosure were to be made to the employer or to a prescribed person;
- in the absence of an appropriate prescribed person, the employee reasonably believed that disclosure to the employer would result in the destruction or concealment of information about the wrongdoing;
- the employee had previously disclosed substantially the same information to his employer or to a prescribed person.

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- Finally, it must be reasonable for the employee to make the disclosure and to the person chosen.

(vi) Making a qualifying disclosure about an exceptionally serious failure

A qualifying disclosure made about a relevant failure which is exceptionally serious will be a protected disclosure if the employee:-

- makes the disclosure in good faith;
- reasonably believes that the information disclosed, and any allegation contained in it, are substantially true; and
- does not act for personal gain.

Also, it must be reasonable for the employee to make the disclosure in view of all the circumstances, having regard in particular to the identity of the person to whom the disclosure is made.

References to Legislation and Fundamental Standards	
Health and Social Care Act 2008 (Regulated Activities) Regulations 2014	Regulations 12 20
Fundamental Standards	<p style="text-align: center;">Care and treatment must be provided in a safe way</p> <p style="text-align: center;">Registered persons must be open and transparent with service users about their care and treatment (the duty of candour)</p>

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