

Whistleblowing

Raising Concerns on Working Practices

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Policy Statement

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1. Introduction

The Public Interests Disclosure Act (1998) (PIDA) protects workers from detrimental treatment or victimisation from their employer if, in the public interest, they blow the whistle on wrongdoing in the workplace. **Whistleblowing** can be defined as raising a concern about a wrongdoing within an organisation. The concern must be a genuine concern about a crime, criminal offence, miscarriage of justice, dangers to health and safety and of the environment – and includes the covering up of any of these.

For a disclosure to be protected by the Act's provisions it must relate to matters that 'qualify' for protection under the Act. Qualifying disclosures are disclosures which the worker reasonably believes tends to show that 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
- the breach of a legal obligation
- a miscarriage of justice
- a danger to the health and safety of any individual
- damage to the environment
- deliberate concealment of information tending to show any of the above five matters

A qualifying disclosure to the commission will be a 'protected' disclosure provided the worker:

- makes the disclosure in good faith

- reasonably believes that the relevant failure relates to 'the proper administration of charities and funds given, or held, for charitable purposes'
- reasonably believes that the information disclosed, and any allegation contained in it are substantially true

2. Scope

This Policy is relevant to:

- All employees of FitzRoy
- All contractors, agency staff and volunteers working on behalf of FitzRoy
- All persons associated with the **working** activities of FitzRoy

3. Policy Statement

The whistleblowing policy is primarily for concerns where public interest is at risk, this includes a risk to the people we support, staff, the wider public or FitzRoy itself.

FitzRoy are committed to creating a culture of openness within services and the wider organisation where people feel safe in speaking up, and that this is both acceptable and encouraged. This policy is intended to assist individuals who believe they have discovered risk, wrong-doing or malpractice and haven't been able to openly raise issues. It is not for employees with concerns about their employment that affects only them – If a member of staff wishes to make a complaint about their employment or how they have been treated, it is more appropriate for them to follow the FitzRoy Grievance Policy.

The types of concerns that may be raised include, but are not limited to:

- Physical or sexual abuse or neglect of the people we support
- Unsafe working conditions
- Lack of, or poor, response to a reported safety incident
- Failure to act lawfully or in line with professional or regulatory requirements
- Fraud, theft, or other financial irregularities
- Unauthorised disclosure of confidential information

If you are unsure if your concern meets the criteria, please seek advice from your line manager, another colleague or via the confidential hotline (see flow chart - Appendix 1).

FitzRoy will treat any allegations made by an employee seriously and carry out appropriate investigations.

FitzRoy will protect, wherever possible, the confidentiality of an employee where a concern has been raised in confidence, unless it is a matter that can not be dealt with internally, and external authorities become involved, or where the risk is such that confidentiality needs to be broken.

4. Anonymous Allegations

Individuals may choose to raise a concern anonymously, however in this situation it may make investigation more difficult and there will be no feedback mechanism for the outcome of the investigation. This Policy therefore encourages you to put your name to your allegation whenever possible. Concerns expressed anonymously are much less powerful, but they may be considered at the discretion of FitzRoy. In exercising this discretion, the factors to be taken into account would include:

- the seriousness of the issue raised
- the credibility of the concern, and
- the likelihood of confirming the allegation from other sources

5. Untrue Allegations

If you make an allegation in good faith and reasonably believing it to be true, but it is not confirmed by the investigation, FitzRoy will recognise your concern and you have nothing to fear. If, however, you make an allegation frivolously, maliciously or for personal gain, appropriate action that could include disciplinary action, may be taken.

6. Who must do what – Responsibilities

6.1 Directors and Regional Managers must ensure:

- The promotion of an open and transparent service culture, supporting staff to feel comfortable in raising concerns
- Staff feel supported and confident on how to raise concerns, both inside and outside of the organisation, without fear of recrimination
- An investigation is carried out on any reported concerns
- Staff are protected and know their rights under PIDA
- Managers record, report to senior managers and/or regulatory bodies and take action regarding the concerns raised

6.2 Service Managers/Deputies/Senior Support Workers must ensure:

- The promotion of an open and transparent service culture, supporting staff to feel comfortable in raising concerns
- Regular individual Support and Developments and Team Meetings are carried out to give support staff the opportunity to raise concerns
- Any concerns raised are acknowledged within 5 working days
- Reports are investigated, and concerns raised by support staff and others are addressed
- Where the occurrence will not break confidentiality, it is recorded onto SharePoint 'Report an Occurrence', if this will cause a breach in confidentiality it will be saved in the appropriate protected folder in shared or personal folders.
- The Local Authority Safeguarding team are notified (where required).
- Any concerns raised with outcomes and actions and the individual who raised the concern receives feedback on the actions taken (which should also be recorded).

- The identity of the whistle-blower is kept confidential and maintained unless consent is obtained, or it is required by law.

6.3 Employees and Temporary Staff (Bank or Agency) must:

- Report any unsafe practices, acts or unsafe conditions to their line manager (or preferred senior manager)
- Maintain all mandatory training courses, read, acknowledge, and understand this procedure

6.4 The Quality Managers and Regional Managers will:

- Carry out periodic reviews on locations including reviewing the opportunities staff have to raise concerns, informal discussions with staff, family members and external professionals
- Review concerns raised and how these have been addressed and actioned to ensure policy and procedures were adhered to
- Outline improvement and advise on compliance (where shortfalls are identified)

7. Raising a Concern

7.1 Who should you raise your concern with? (See also flowchart – Appendix 1)

This will depend on the seriousness and sensitivity of the issues involved and who is suspected of the wrongdoing. Wherever possible you should raise an issue initially via your line manager or other manager; if you do not feel able to do this because they are involved, you should normally raise concerns (ideally in this order) with:

- Your Line Manager or other senior member of the team
- Your Regional Manager - see appendix 2 for contact details
- The Director of Operations and Business Development
- Via the confidential hotline number
- The Chief Executive
- Local Authority Safeguarding Team
- Care Quality Commission Regulatory Body

7.2 Concerns about Directors

FitzRoy have a nominated Trustee who will deal with any concerns related to Directors, any concerns raised either to an individual or via the confidential hotline number will be passed directly to the Nominated Trustee for investigation.

7.3 How to Raise a Concern

You may raise your concern by telephone, in person or in writing. The earlier you express your concern, the easier it is to take action. You will need to provide the following information:

- the nature of your concern and why you believe it to be true
- the background and history of the concern (giving relevant dates)

Although you are not expected to prove beyond doubt the truth of your suspicion, you will need to demonstrate to the person contacted that you have a genuine concern relating to suspected wrongdoing or malpractice within a FitzRoy service and there are reasonable grounds for your concern.

You may also raise a concern with the Local Authority Safeguarding Team and/or the Care Quality Commission.

8. What We Will Do

Once you have told us of your concern, we will assess it and consider what further action may be needed. Initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it will take – **these enquiries will be made confidentially**. We will tell you who will be handling the matter (the Responsible Manager), how you can contact them and what further assistance may be needed from you. If we think your concern falls within existing complaint or HR policy, we will let you know (we can only do these things if you tell us who you are).

Once a concern has been raised, the Responsible Manager must acknowledge receipt within 5 working days (where they know who raised the concern).

- All communications, decisions and actions taken in light of the complaint should be recorded and appended to the original Occurrence Report.
- If a concern raised is in association with a shortfall in the care provided to persons supported, or reported to/investigated by the Police, this will be notified to the CQC by the Responsible Manager.
- The Responsible Manager must provide the whistle-blower (if they have provided their name and contact details) with regular updates on progress and actions taken throughout the investigation period and consult with them throughout.

9. Protection against Victimisation and Confidentiality

- If a genuine concern has been raised under this policy, there is no risk of the whistle-blower losing their job or suffering any form of punishment as a result. FitzRoy will not tolerate any harassment or victimisation of anyone who raises a genuine concern, disciplinary action will be taken towards anyone who causes victimisation.
- If the allegations have been raised maliciously or the matter is found to be untrue, it may be necessary to take matters further through the disciplinary process. In circumstances when the whistle-blower would prefer to speak to someone in confidence in the first place, this must be raised in the first instance. If the whistle-blower does not wish their identity to be disclosed, FitzRoy will not do so without the whistle-blower's consent (unless required by law).
- When a resolution is not possible without revealing the whistle-blower's identity e.g., when their personal evidence is essential; the whistle-blower will always be consulted with, to identify how to take matters forward.

- The details of any concern raised under this policy will only ever be shared with people who have a genuine 'need to know' in order to investigate and address the issues raised.

10. HSF Assist

FitzRoy subscribes to HSF Assist who provide a free and confidential advice and support for a wide range of matters (finance, emotional, bereavement, management, health etc).

Staff are always encouraged to contact them on 0345 222 0214. More details can be found on the HSF Assist website via <https://hsfassist.com/>

11. Policies related to this document

- Safeguarding Policy
- Information Governance
- Capacity and Consent
- Occurrence Reporting
- Grievance Policy

12. Main legislation applicable to this document

- The Public Interest Disclosure Act (PIDA) 1998
- Data Protection Act (General Data Protection Regulations from 25 May 2018)

13. Contact addresses and guidance links

- <https://hsfassist.com/> - HSF Assist
- Public Concern at Work – Whistleblowing Charity
- Information Commissioners Office – Reporting a Breach in Data Protection
- Care Quality Commission**
Citygate
Gallowgate
Newcastle upon Tyne
NE1 4PA
Tel: 03000 616161
Email: enquiries@cqc.org.uk

14. Consultation and review

Version	Changes	Consulted with	Date implemented
VS002	Merge of the HR Whistleblowing and the Operations Whistleblowing policies formally introducing the Complaints Forms and the Occurrence Reporting procedure.	HR / Quality Management / Regional Managers	October 2016

V5	Minor changes to content in relation to confidentiality. Addition of confidential hotline number. Addition of clear flowchart of actions when raising concerns		September 2018
V5.1	Minor changes to contact telephone numbers and removal of hyperlinks	Quality and Operational Management	March 2019
V.2	General policy review	Quality and Operations	June 2022

15.Appendix 1

Whistleblowing

GUIDANCE FOR STAFF

We need you to tell us about any serious concerns you have about where you work, that may affect the safety and security of people receiving care, our staff or our services.

At FitzRoy we have guidance to help make raising concerns simple and effective.

