Policy and Procedure

Shaftesbury
All together better for disability

July 2023

Whistleblowing and Raising Concerns Policy

This document relates to	
Shaftesbury Care Operational Staff	✓
Central Support Services	✓
Shaftesbury Education	✓
Shaftesbury Children and Young People Services (non educational)	✓
Livability Contracting Services	x

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Introduction

Purpose and Scope

1. The purpose of Shaftesbury's Raising Concerns and Whistleblowing Policy and Procedure is to enable individuals to raise genuine concerns of alleged malpractice, including concerns of fundraising practice, so that they can be investigated and addressed, whilst maintaining the confidentiality of internal operations.

2. This policy provides a framework within which individuals can raise concerns and manage a disclosure of malpractice or "whistleblowing" effectively and ensure there is a fair, consistent and transparent procedure to address issues. This policy also outlines the legal protection offered to whistle-blowers.

3. This policy applies to all staff who work for Shaftesbury (full-time, part-time, self-employed, employed through an agency, or as a contractor).

4. In addition, this policy also contains a section related to how volunteers and fundraisers can raise whistleblowing concerns.

5. The Raising Concerns and Whistleblowing Policy and Procedure is distinct from the Complaints Procedure, which should be used to raise concerns about service or process delivery.

6. Allegations and concerns regarding potential abuse of vulnerable adults and children should be raised through the Safeguarding Policy and Procedure, unless the disclosure is about a breach of this procedure.

7. This policy should not be used to raise matters in relation to terms and conditions of employment, except where there is a health and safety or public interest element, or the concern affects multiple staff. If the claim is about personal circumstances then workers should refer to the Grievance Policy and Procedure or the Bullying and Harassment Policy.

8. Shaftesbury will try to resolve issues and concerns internally in the first instance, but individuals can also escalate the matter to the Fundraising Regulator or another prescribed body (see paragraph 37) should internal resolution not be possible.

What is whistleblowing?

9. In simple terms, whistleblowing occurs when an individual provides certain types of information, usually to the employer or a regulator, which has come to their attention through work. Whistleblowing is 'making a disclosure in the public interest' and occurs when a worker raises a concern about danger or illegality that affects others.

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10. The Public Interest Disclosure Act 1998 (PIDA) is a key piece of whistleblowing legislation and applies to almost all employees and workers who ordinarily work in Great Britain. Examples of the situations covered by the Act include:

- Administrative malpractice (financial and non-financial)
- Fundraising Malpractice (improper administration of funds/donations)
- Fraud
- Bribery
- Other criminal offences
- Risks to health and safety
- Failure to comply with a legal obligation
- Miscarriages of justice
- Environmental damage
- 'Prevent' issues

11. Whistleblowing legislation does not require individuals to whistle blow; however workers may still be obliged to do so if they work under a professional code of conduct. This can include:

- Approved persons/Senior Managers to the Financial Conduct Authority or Prudential Regulatory Authority;
- Solicitors to the Solicitors Regulation Authority;
- Accountants to the Association of Chartered Certified Accountants;
- Doctors to the General Medical Council;
- Nurses under the Nursing and Midwifery Council

Legal Protection

12. The Public Interest 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. If an employee is dismissed because they have made a protected disclosure it will be treated as unfair dismissal.

13. 'Worker' has a special wide meaning for these protections. As well as employees, it includes the self-employed, agency workers and people who aren't employed but are in training with employers.

14. It is not necessary for the worker to have proof that such an act is being, has been, or is likely to be, committed – a reasonable belief that the information disclosed is substantially true is sufficient.

15. A worker who makes such a protected disclosure will be protected from detrimental treatment. However, if an allegation is made frivolously, maliciously or for personal gain, the employee may be subject to disciplinary action.

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Policy Statement/Guiding Principles

16. Shaftesbury recognises that the decision to report a concern can be a difficult one to make and urges all individuals to raise any concerns that they may have about the conduct of others in the organisation or the way in which the organisation is run.

17. Individuals have a right to raise with Shaftesbury any matters of concern. This policy is designed to provide a clear commitment that concerns will be taken seriously, and to encourage workers and volunteers to communicate their concerns through the appropriate channels.

18. Shaftesbury aims to provide an open environment so that those working for us can raise issues they believe to be in the public interest. All concerns will be treated in confidence and every effort will be made not to reveal the individual's identity if they so wish. However, they may need to come forward as a witness at an appropriate time and therefore workers are encouraged to put their name to the allegation.

19. At the same time Shaftesbury expects from all its workers and representatives a duty of confidentiality relating to the organisation's service users and its commercial affairs, and therefore no worker or representative may disclose to unauthorised persons confidential or classified information except in accordance with the Whistleblowing Policy and Procedure.

20. An instruction to cover up wrongdoing is itself a disciplinary offence. If told not to raise or pursue any concern, even by a person in authority such as a manager, individuals should not agree to remain silent.

21. The individual has no responsibility for investigating the matter - it is the organisation's responsibility to ensure that an investigation takes place.

The Procedure - Shaftesbury Workers

22. We have a dedicated email account so staff can raise concerns whistleblowing@Shaftesbury.org.uk or you can call 0191 933 7572 or scan the QR code for Whistleblowing.

23. The organisation encourages workers to raise their concerns under this procedure in the first instance with their line manager. However, depending on the seriousness and sensitivity of the issues involved and who is suspected of the malpractice, the

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worker can approach a Senior Manager, Director, Company Secretary, HR Business Partner, Chair of the Audit Sub-Committee or a Trustee. Letters to Trustees or Chair of the Audit Sub-Committee should be marked private and confidential and sent to National Office for the attention of the Company Secretary.

24. The Freedom to Speak Up Guardian is a person with a designated role to ensure that there is a culture across the organisation where staff are free to speak up without fear of reprisal or detriment. The Guardian is independent of management and they are available to receive, consider and discuss concerns either informally or formally through the whistleblowing procedure. They can be contacted via the National Office.

How to Raise Concerns and use of the Whistleblowing Notification Form

25. Workers can raise concerns using the attached Whistleblowing Report Form. (**Appendix 1**) or by scanning the QR code which will access the form, on the Whistleblowing poster displayed in services, and also below:

26. Before submitting the form, workers should ensure that their concern/complaint should be raised under the Whistleblowing Policy.

27. The person who receives the notification should immediately inform the Corporate Governance Team who will log that a Whistleblowing issue has been raised.

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28. If a member of staff wishes to raise a concern but is not sure that their concern constitutes a whistleblowing issue, an email address is available for conveying information about the concern, which can then be considered by the Quality or Governance Team. All such information will be reviewed on receipt and an investigation undertaken where necessary.

Shaftesbury's Response

29. If the worker raising the disclosure has chosen to give their name, then the manager to whom the disclosure has been made or another designated manager will acknowledge in writing that a disclosure has been received.

30. An initial meeting with the worker raising the concern will take place, as soon as practicable and no later than 10 working days of the disclosure being made.

31. Following the initial meeting the manager will write to the worker within 5 calendar days:

- Indicating how Shaftesbury proposes to deal with the matter.
- Giving an estimate of how long it will take to provide a final response.
- Advising the worker of the support mechanisms available.

32. The worker may be accompanied at any meetings by a work colleague or a trade union representative, if they are a member of a union.

Internal Fact Finding and Investigation

33. An initial fact-finding may be undertaken where there is no evidence to support the disclosure that has been raised.

34. Should an initial fact finding exercise uncover evidence which supports the allegation, then a formal investigation will be instigated.

35. Any formal investigation will follow the principles set out in the Investigation Procedure and a manager responsible for commissioning and supervising the investigation will be appointed. Due regard will be given throughout the investigation to the maintenance of confidentiality.

36. The commissioning manager will notify the worker of the outcome of the investigation.

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37. Whistleblowing incidents will be noted at Executive and Trustee meetings.

38. Whistleblowing incidents that conclude a serious incident has occurred need to be formally reported to the Charity Commission in accordance with the Commission's requirements.

Contacting Third Parties

39. Workers may, if they wish, contact the independent body, Public Concern at Work on 020 7404 6609 for confidential advice.

40. If a worker decides to blow the whistle to a prescribed person rather than Shaftesbury, they must make sure to choose the correct person or body. A list of prescribed persons and bodies who a disclosure can be made to is available at: https://www.gov.uk/government/publications/Whistleblowing: list of prescribed people and bodies.

41. Where appropriate, the person who the disclosure was made to may also need to refer the matter to an external regulator, and where appropriate the police.

42. If a worker goes to the media, they can expect in most cases to lose their whistleblowing legal protection. It is only in exceptional circumstances that a worker can go to the media without losing their rights. They must reasonably believe that the information they disclose and any allegation contained in it are substantially true.

Fundraisers and Volunteers

43. If a fundraiser has concerns over how Shaftesbury is fundraising or a volunteer is concerned about malpractice, they can also use the whistleblowing form or QR code to raise the concern.

44. The form can be submitted to their manager, the volunteering coordinator, a director, the Chair of the Audit Sub-Committee or a Trustee. The volunteer/ fundraiser can choose to remain anonymous.

45. Shaftesbury will respond to the allegation using a similar process as outlined in paragraphs 28 to 36.

46. Volunteers or fundraisers who raise concerns will be protected from repercussions including detrimental treatment and victimisation.

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47. Shaftesbury will try to resolve issues and concerns internally in the first instance, but can also escalate the matter to the Fundraising Regulator or another prescribed body (see paragraph 38).

Further Information

48. If you require any further information about any aspect of this policy, please refer to the toolkit or contact your HR Business Partner.

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Policy and procedure ownership

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Raising Concerns and Whistleblowing Policy and Procedure	7.0

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Executive Director of Care Operations	*Jane Percy*	July 2023

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6.1	January 2022	Jane Percy	Review
7.0	July 2023	Mandy Himpson	Updated QR Codes

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Whistleblowing Report Form Appendix1

Date of Concern:
Do you wish your name to remain confidential as far as possible?
Please give your name here if you do not want to remain anonymous and how we should contact you (e.g. phone, email)
Who is the allegation or concern against?
What is the allegation or concern? *Please give as much detail as possible*.
Where is this happening and is it still happening?
What evidence can you give to support this? *Please attach any evidence you have*
Have you reported this previously?
If you have reported this previously, who and when did you report it?
Any further information?

If you are unsure about what to do, you can raise your concerns through other channels i.e. by emailing whistleblowing@Shaftesbury.org.uk or asking for advice i.e. from the People Team.

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