



## Freedom to Speak Up



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## 1. Introduction

“Speaking Up” or whistleblowing is the term applied to a situation where an employee raises concerns about safety, malpractice or wrongdoing at work.

This policy sets out the values, principles and procedures underpinning this care service’s approach to whistleblowing. (The care service can be either a care home or domiciliary care service.) The care service understands “whistleblowing” to refer to actions taken by an employee or employees to raise concerns about:

- alleged, suspected or observed malpractice;
- assessed, identified or perceived risks (eg to the safety of people using services);
- unethical conduct or possible illegal acts.

Any of the above could harm, or create a risk of harm, to people using services, colleagues or the general public.

The policy is in line with the Care Quality Commission (CQC) recommendations for the reporting of concerns about people’s care and the safeguarding provisions under Regulation 13 of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014.

The right to blow the whistle is also built into the practice of “Good Governance” as described in Regulation 17, which requires care providers to be transparent and open and comply with the Public Disclosure Act 1998 (and as amended under the Enterprise and Regulatory Reform Act (ERRA) 2013).

The policy also reflects the quality statements, which CQC will be using instead of the Key Lines Of Enquiry (KLOE) as its single assessment framework particularly:

### 1.1. Safe: Learning culture

“We have a proactive and positive culture of safety based on openness and honesty, in which concerns about safety are listened to, safety events are investigated and reported thoroughly, and lessons are learned to continually identify and embed good practices.”

### 1.2. Well-led: Freedom to speak up

“We foster a positive culture where people feel that they can speak up and that their voice will be heard.”

The policy should be read with and used to complement Harpenden Mencap’s complaints procedure.

Harpenden Mencap recognises that “whistleblowing” is distinct from a complaint in that “whistleblowers” raise their concerns as employees. Complaints about a service are raised by people using the service, others acting on their behalf or members of the public. However, it is recognised that similar procedures should be followed to respond to complaints and whistleblowing.

## 2. Scope

This policy applies to all employees whether casual or contracted as well as any temporary worker within Harpenden Mencap.

## 3. Principles

The principles of “Whistleblowing” summarised as:

- Care services should be promoting open, transparent cultures, which encourage staff to act on and report any concerns about practices that fall below acceptable standards;

- Staff members are the people most likely to observe and be in a position to report bad practice;
- Employees, who raise genuine concerns about harmful practices, which they come across in their work (as described above) must be taken seriously and seen to be acting correctly;
- Whistleblowers should not be regarded as “troublemakers” to be penalised in some way by their employing organisation:
- The organisation should listen to and thoroughly investigate every concern raised by a staff member as they would if the matter was raised as a complaint by a person receiving care or others acting on their behalf:
- In line with the Public Interest Disclosure Act 1998, Harpenden Mencap will make sure that staff members who raise, in good faith, reasonable concerns about unacceptable practices are not victimised as a result.

#### 4. Responsibilities

It is the responsibility of all staff that work with Harpenden Mencap to create a culture of honesty and openness. This includes but is not restricted to:

##### 4.1. Trustees

Under the guidance of the Chair, all trustees are made aware of Harpenden Mencap’s approach and must encourage and empower all workers to raise concerns in good faith, to uphold the safety and reputation of the organisation.

##### 4.2. Chief Executive Officer

The Chief Executive Officer has the responsibility to ensure that all staff are aware of this policy and their responsibilities. The CEO is responsible for appointing Freedom to Speak Up Guardians and is ultimately accountable to ensure that arrangements meet the needs of the workers in the organisation.

##### 4.3. Managers

All managers must empower and encourage their staff teams, volunteers, students, bank or casual workers and the people we support “**speak up**” about any issue, or concerns they may have. They should ensure that any individual is supported and that no one will treat them in any way which will make them feel isolated or alienated for raising any concerns.

##### 4.4. Freedom to Speak Up Guardians

Harpenden Mencap has \*\* voluntary Freedom to Speak Up Guardians (FTSU). The role of the Guardian is to offer assistance with mediation and dispute resolution. They act in an independent capacity, ensure that the principles of this policy are applied and adhered to. They can signpost to appropriate counselling or support mechanisms and ensure anybody ‘**speaking up**’ is aware of their rights and responsibilities and the correct process that should be followed. The FTSU Guardian **does not**:

- act as an advocate in any way;
- speak on behalf of anyone else;
- make any judgements or undertake any investigations;
- take part of any disciplinary process;
- take on or forward any issue raised with them.

A worker making a complaint will be informed of who the Guardians are and what support they can offer, but it will be their choice whether to interact with a Guardian or not.

Anything discussed with a Guardian MUST be treated in the strictest of confidence and only shared when authorised or when failing to escalate would be illegal or an issue of safeguarding.

#### **4.5. Workers**

ALL workers , whether contracted, casual, students, agency workers or volunteers who work for and behalf of Harpenden Mencap are protected under this policy and have an obligation to report malpractice, unacceptable risks and wrongdoing.

All workers should be aware of their rights and also their responsibilities in **'speaking up'** and how this interfaces with other policies within Harpenden Mencap including complaints, grievances and safeguarding. All workers must contribute to a culture that is open and transparent and where issues can be reported in the ethos of resolution and continuous improvement.

### **5. Procedure**

Harpenden Mencap recognises that its staff members have a duty of care, moral and legal obligations to report all incidents where they consider vulnerable adults or colleagues to have been harmed or are at serious risk of being injured or harmed in the course of their work.

Harpenden Mencap considers that these obligations to report such incidents, which include suspected breaches of the organisation's or other employees' professional codes of conduct, override any other considerations such as loyalty to colleagues.

Any member of staff who witnesses or suspects abuse or acts of harm by another member of staff should report the matter without delay to their manager. The manager will accept responsibility for the actions that follow and will assure the "whistleblower" that they have acted correctly by reporting the matter, will not be victimised and their confidentiality assured unless there are overriding, eg legal reasons for disclosing their identity.

Harpenden Mencap accepts that there may be occasions when the staff member does not feel confident or able to report in the first instance to the manager. In these circumstances, it is recognised that the "whistleblower" might need to take their concerns to a different manager or the Chief Executive Officer.

Where a staff member believes that their concerns are not being responded to, or addressed appropriately, it is accepted that they have a right and obligation to report their concerns to an outside authority. This could be the police, the local safeguarding adults authority or the CQC.

Each of these organisations can be expected to respond in line their respective procedures. Again, in line with its Public Disclosure Interest Act responsibilities, Harpenden Mencap will not penalise or victimise any staff member who responsibly reports genuine concerns in any of these ways.

#### **5.1. Raising Concerns**

Harpenden Mencap assures its staff that their concerns about any possible mistreatment of the people using eh service will be listened to and investigated.

Staff members are encouraged to raise any concern directly or in writing. They are also entitled to make their representations accompanied by a friend or colleague or trade union representative as they decide and think fit. They might also wish to obtain witness statements, however, all concerns should be reported without delay.

The organisation undertakes to assess and investigate any concerns impartially, proportionately and objectively, so that it can be fair to all parties concerned in seeking to clarify the facts before taking further actions.

The investigating manager will keep any staff members affected by an investigation aware of the actions being taken and the outcomes, considering the need to respect the possible confidentiality of some of the information relating to other staff members and people using the services, which has developed in the process of the investigation.

Information will usually be treated with the utmost confidence. This might not be possible in all cases, for example, if the alleged malpractice requires reporting to the police and/or the local safeguarding adults authority.

Staff are also made aware that all instances of alleged or actual abuse must be notified to the local safeguarding adults' authority and to the CQC under its notification of serious incidents procedures.

### **5.2. Investigating and dealing with allegations**

The manager who receives the allegation will take the necessary steps under the safeguarding policy. In addition, the manager will, if possible, protect the source of the information.

If a manager fails to act promptly, suppresses evidence or is involved in any action to discourage whistleblowing, they will be liable to disciplinary action.

Where the whistleblower has gone directly to the CQC or local safeguarding authority to report their concerns, the care service will always co-operate fully with any resulting enquires and investigations, and take all necessary actions from the outcomes.

### **5.3. Interference with or victimisation of "whistleblowing" staff**

Any member of staff who attempts to prevent a colleague from reporting their concerns to a manager or who bullies, attempts to intimidate or discriminates against a colleague in these circumstances will be dealt with under disciplinary proceedings.

A whistleblower who feels themselves to be subject to hostile action from colleagues should inform their manager, who should if necessary take steps to alter the staff member's duties so as to protect them from the hostile action.

The care service provides staff with information on how to contact Protect (formerly Public Concern at Work), an organisation that has been established to protect whistleblowers from victimisation and bullying.

### **5.4. Unjustified reporting**

Harpenden Mencap takes reports from whistleblowers seriously and investigate all allegations thoroughly. Any allegations against colleagues, however, which are found to be unwarranted or malicious, may render the person who made them liable to disciplinary action.

## **6. Contacts**

The following contacts are provided to aid staff in raising concerns in confidence:

- Whistleblowing Helpline for NHS and Social Care Staff: Tel. 08000 724 725; email: [enquiries@wbhelpline.org.uk](mailto:enquiries@wbhelpline.org.uk).
- How to contact the CQC: Tel. 03000 616161; email: [enquiries@cqc.org.uk](mailto:enquiries@cqc.org.uk).
- Local Safeguarding Authority/Multi-Agency Safeguarding Hub (MASH)
- Care Quality Commission leaflet: *Raising a Concern with CQC* available at [www.cqc.org.uk](http://www.cqc.org.uk).

- [Protect](#) (formerly Public Concern at Work) for advice and guidance on ways forward.

**6.1. Freedom to Speak Up Guardians**

Name	Contact Details

**7. Training**

All new staff receive training in this policy on whistleblowing as part of the induction training. All staff receive updated training as policies change.