Child Protection - Whistleblowing Policy

"Absolutely without fail - challenge poor practice or performance." Barnardo's 1999

This policy is for all Malvern Special Families (MSF) staff. It is intended to provide our employees with an avenue in which to raise concerns within MSF and it is hoped that you will be happy with any action taken. If you are not, and if you feel it is right to take the matter further this policy details the procedures you should follow.

What is whistleblowing?

Whistleblowing means calling attention to wrongdoing that is occurring within an organisation. Alerting someone outside your organisation or outside your immediate working environment to this wrongdoing. You are legally protected from being victimised for whistleblowing if you have followed certain procedures.

Part IV A of the Employment Rights Act 1996 provides protection for employees who raise legitimate concerns about specified information in specified ways. Such concerns are called "protected disclosures" in the Act.

Protected Disclosures

Firstly, a protected disclosure is defined as being any "qualifying disclosure" made by the employee in accordance with SS43 C to H of the Act. Thus, is defined in S43B as being any disclosure of information which, in the reasonable belief of the employee, is made in the public interest and tends to show one or more of the following: -

a) that a criminal offence has been committed, is being committed or is likely to be committed.
b) that a person has failed, is failing or is likely to fail to comply with any legal obligation to which he is subject.
c) that a miscarriage of justice has occurred, is occurring or is likely to occur.
d) that the health and safety of any individual have been, is being or is likely to be endangered.
e) that the environment has been, is being or is likely to be damaged, or
f) that information tending to show any matter falling within any of a) to e) above has been or is likely to be deliberately concealed.

Secondly, the law will treat a "qualifying disclosure" as a "protected disclosure" when the employee makes the disclosure to a relevant person for this purpose:

i) To the employee's employer
ii) To another person who has legal responsibility for the person(s) who has allegedly failed to act appropriately under a) to f) above (assuming that is not the employer).
iii) To a legal adviser in the course of the employee taking legal advice
iv) A list of other people prescribed by an Order made by the Secretary of State – see the Public Interest Disclosure (Prescribed Persons) Order 2014 as amended.

The employee has no responsibility for investigating the matter - it is MSF management's responsibility to ensure that an investigation takes place. The trustees are responsible for ensuring the operation of this policy with regard to matters relating to this charity. This procedure is not designed to be a substitute for the disciplinary or grievance procedures.

Individual Responsibility

Staff must acknowledge their individual responsibilities to bring matters of concern to the attention of the Service Manager, CEO and/or relevant agencies. Although this can be difficult this is particularly important where the welfare of children may be at risk.

You may be the first to recognise that something is wrong but may not feel able to express your concern out of feeling that this would be disloyal to colleagues, or you may fear harassment or victimisation. These feelings, however natural, must never result in a child or young person continuing to be unnecessarily at risk.

Guiding Principles

There may be occasions where a member of staff has a personal difficulty, maybe a physical or mental health problem which they know to be impinging on their professional competence. Staff have a responsibility to discuss such a situation with their line manager so professional and personal support can be offered to the member of staff concerned.
Confidentiality cannot be guaranteed where personal difficulties raise concerns about the welfare or safety of children.

Harassment or victimisation

MSF recognise that the decision to report a concern can be a difficult one to take, and we will not tolerate any harassment or victimisation and will take appropriate action to protect those that raise a concern in good faith. In addition, the Public Disclosure Act offers protection to employees from suffering a detriment and dismissal when they have 'blown the whistle'.

Confidentiality

Whistleblowing will be recorded on confidential Incident Reports. MSF undertakes to protect your identity and won't disclose it without your consent. If the situation arises where it is not possible to pursue your concern without revealing your identity (e.g. the need to give evidence in court or at a disciplinary hearing), the Investigating Officer will discuss this with you and whether it is possible to proceed.

Safeguarding issues

If the concern relates to a safeguarding issue, you should inform the CEO and DSL for the charity. However, if the CEO fails to act upon the concern, you should take your concern to the Chairperson. If after reporting to them, you are still concerned about the situation then you should contact the Family Front Door on 01905 82266.

Anonymous allegations
Concerns expressed anonymously, may be considered under this whistleblowing procedure, especially those relating to the welfare of children. This policy encourages individuals to put their name to their allegation whenever possible. Concerns expressed anonymously are less powerful but will be considered at the discretion of the CEO.
MSF, when determining whether an anonymous allegation will be investigated further, will take the following factors into account:

- The seriousness of the issue raised.
- The credibility of the concern
- The likelihood of obtaining the necessary information in order to confirm the allegation.

Deliberately false or malicious allegations

MSF will consider any deliberately false or malicious allegations it receives as a disciplinary matter.

Remember

1. It is often the most vulnerable children or young people who are targeted. These children need someone like you to safeguard their welfare. Do not think “what if I am wrong” — think “what if I am right.”
2. Non-reporting of safeguarding concerns is a disciplinary offence.

How to raise a concern

If wrongdoing in the workplace is suspected:

- Do not approach or accuse the individual directly.
- Do not try to investigate the matter.
- Do not convey such suspicions to anyone else other than those with proper authority but do raise your concern (see below).

- As a first step, raise the issue with the Service Manager. Concerns can be made verbally are better put in writing. Or in the absence of the Service Manager, raise the issue with the CEO. If you believe that the Service Manager and/or CEO are involved in the matter of concern you should contact the Chairperson of the charity.
- Any concerns are better put in writing on an Incident Report Form. When setting out your concern in writing you should include as much detail as possible, for example, set out the background and history of the concern, giving names, dates and places and explaining the reasons for your concerns.
- A member of staff is not expected to prove the truth of the allegation, but you will need to demonstrate sufficient grounds for the concern.

How the Charity Will Respond

The action taken by MSF will depend on the nature of the concern. Some concerns may be resolved by agreed action without the need for investigation.
Initially the investigating officer will consider the matter raised and decide whether an investigation is appropriate and if so, what form it should take. It may be appropriate for the investigating officer to initially consider other procedures such as the Allegations of Abuse against Staff (in cases of safeguarding) and immediately contact the Family Front Door for advice. If the concern is unrelated to a "qualifying disclosure" then the investigating officer should halt the use of this procedure and instead refer the employee to the grievance or other relevant procedure.

Written acknowledgement

Once the investigating officer has considered the issue(s) they will write to you within 10 working days of the concern being raised:

- acknowledging that the concern has been received.
- indicating how they propose to deal with the matter.
- giving an estimate (so far is reasonably practical) of how long it will take to provide a final response.
- advising whether any initial enquiries have been made.
- advising whether further enquiries will take place.
- informing you of any support available whilst matters are investigated.
- Maintain confidentiality where possible but explaining that it may not be possible that you remain anonymous.

The investigation process

The investigating officer may decide it is necessary to meet with you to seek further information or for clarification purposes. Where a meeting is arranged you have the right to be accompanied by a trade union representative or a colleague who is not involved in the matter(s) of concern. The investigating officer may also feel it is necessary to collect further evidence and interview witnesses as part of the investigation process. During the investigation process the investigating officer may feel it is appropriate to refer matters to:

- the Police, due to concerns of a criminal nature.
- The Family Front Door in relation to child safeguarding concerns.

The investigation process would aim to be completed within 20 working days of the matter being raised with the investigating officer; however, enquiries may extend beyond this timescale in some more complex cases.

Possible outcomes

Following the investigation process the investigating officer will write up their findings and recommendations and present them, in the form of a report, to the CEO and the Trustees if the CEO has not completed the investigation so that they can determine what further action (if any) is required.
The investigating officer will determine that either:

- there is no evidence to support the matters raised and no further action is required, or
- allegations have been proven and that it is appropriate to act in accordance with the disciplinary procedure or other relevant action, or

- the outcome is currently unknown because matters have been referred to other parties for further investigation e.g. police, Ofsted, social services, legal, DBS or
- The allegation is found to be malicious and will be investigated as a conduct issue under the disciplinary procedure.

MSF will take appropriate steps to minimise any difficulties that you may experience as a result of raising a concern. For instance, if you are required to give evidence in criminal or disciplinary proceedings, MSF will arrange for you to receive advice about the procedure.
MSF recognises that you need to be assured that the matter has been properly addressed. Therefore, subject to legal constraints, you will receive a copy of the report.

How Can The Matter Be Pursued Further?

This policy is intended to provide employees of MSF an avenue in which to raise concerns within MSF and it is hoped that this will be the option in the first instance.

- The Service Manager will undertake an investigation into your concerns and offer you support.
- If the matter cannot be discussed with the Service Manager, speak to the CEO.
- If the matter cannot be discussed with the CEO, speak with Chair of Board of Trustees
- **If the matter cannot be discussed with the chair call:**
  Ofsted Whistleblowing Hotline 0300 123 3155 (Monday to Friday from 8am to 6pm) or Children's Services Family Front Door on 01905 822666 from Monday-Thursday 9am-5.00pm, Friday 9am-4.30pm. For assistance out of office hours (5:00pm to 8:30 am weekdays and all day at weekends and bank holidays) please contact the Emergency Duty Team (EDT) on 01905 768020

External Bodies

You are strongly advised to seek independent advice before you raise any issue *outside* of MSF. Advice is available from:

- 'Public concern at Work' which is an independent charity who provide confidential advice to workers who are unsure whether or how to raise a public interest concern (telephone 0207 404 6609 or www.pcaw.co.uk)
- You can also raise your concern with the proper external regulator such as The Health and Safety Executive.

An employee can make a disclosure (and still retain protection under the Employment Rights Act 1996) to a non-prescribed person (for example, the police or Ofsted) if certain conditions are met, namely:

- the worker reasonably believes the information is substantially true.
- the worker is not making the disclosure for personal gain; and, in all the circumstances,
- It is reasonable for the worker to make the disclosure.

The worker must also:

- reasonably believe that he or she would be subject to a detriment by the employer if he or she made the disclosure directly to the employer or a prescribed person.
- Reasonably believe that the employer would conceal or destroy evidence if the disclosure were put directly; or have previously made the same disclosure to the employer or a prescribed person to no avail.

MSF encourages employees to raise their concerns in accordance with this procedure in the first instance. If, having read this policy, you are uncertain about whether it is the appropriate policy or how to proceed, please feel free to seek informal advice.

Support available for the Whistleblower

MSF management have a duty to support whistleblowers that act in good faith, and it is in the long-term interests of the organisation that they should do so.

Managers notified of a concern:

- Have a responsibility to ensure that concerns raised are taken seriously.
- Where appropriate, should investigate properly and make an objective assessment of the concern.
- Should keep the employee informed of progress.
- Have a responsibility to ensure that the action necessary to resolve a concern is taken.
- As with any case where an employee is found to be involved in wrongdoing, it will need to be dealt with effectively in accordance with employment law and contracts of employment.
- Have a responsibility to protect the employee from harassment or victimisation, this can involve temporary re-deployment where necessary.
- No action will be taken against the employee if the concern proves to be unfounded and was raised in good faith, although management should recognise that it may have consequences for relations between employees.
- Malicious allegations may be considered as a disciplinary offence.
- Non-reporting of safeguarding concerns is a disciplinary offence.

Policy Review

MSF will review this policy annually or sooner should new legislation come to light, or a related incident arises in the charity.

People to contact:
Service Manager, 01684 892526 (office) 07875 296043 (work mobile)
CEO, (DSL) 01684 892526 (office)
Clive Fletcher, (Chairperson) 01684 892526 (office)

If you are unable to raise concerns through the normal reporting lines for MSF, please note the following reporting channels:

Ofsted Whistleblowing Hotline: 0300 123 3155
8am to 6pm, Monday to Friday.

Children's Services Family Front Door on 01905 822666 (Monday-Thursday 9am-5.00pm, Friday 9am-4.30pm). For assistance out of office hours (5:00pm to 8:30 am weekdays and all day at weekends and bank holidays) please contact the Emergency Duty Team (EDT) on 01905 768020