

**North Yorkshire Safeguarding Children Partnership**

**Whistleblowing Practice Guidance**

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| 1.3 | NYSCB Board | 21/09/2015 | For information |
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| 1.6 | NYSCP Policy and Development Officer and LADO Manager | 14/09/2021 | Additional information to provide clarity included and links to government code of practice and guidance. |

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**Whistleblowing Practice Guidance**

1. **Introduction**

Whistleblowing is the term used when **someone who works in or for an organisation** wishes to raise concerns about:

* Malpractice,
* Wrongdoing,
* Illegality or
* Risk in the organisation (for example, crimes, civil offences, miscarriages of justice, dangers to health and safety)

Whistleblowing may also include the cover up of any of the above concerns. Whistleblowing applies to raising a concern within the organisation as well as externally, such as to a regulator.

1. **Legal Basis**

Whistleblowing law is located in the Employment Rights Act (as amended by the Public Interest Disclosure Act 1998), is intended to promote internal and regulatory disclosures and encourage workplace accountability and self-regulation.

The Act protects the public interest by providing a remedy for individuals who suffer workplace reprisal for raising a genuine concern, whether it is a concern about child safeguarding and welfare systems, financial malpractice, danger, illegality, or other wrongdoing. The concern may relate to something that is happening or has happened in the past or something that you fear may happen in the future.

1. **Employer’s Responsibilities in Regards to Whistleblowing**

As an employer it is good practice to create an open, transparent and safe working environment where workers feel able to speak up. Although the law does not require employers to have a whistleblowing policy in place, the existence of a whistleblowing policy shows an employer’s commitment to listen to the concerns of workers. By having clear policies and procedures for dealing with whistleblowing, an organisation demonstrates that it welcomes information being brought to the attention of management. This is also demonstrated:

* Recognising workers are valuable ears and eyes
* Getting the right culture
* Training and support
* Being able to respond
* Better control

Resolving the wrongdoing quickly

1. **Information about how to Raise a Concern**

All agencies should ensure that have in place their own internal whistleblowing policy accessible to all staff. This policy should provide guidance in relation to defining their organisational stance on whistleblowing and outline the procedures which staff and volunteers should follow.

Any whistleblowing policies or procedures should be clear, simple and easily understood. Here are some tips about what a policy should include:

* An explanation of what whistleblowing is, particularly in relation to the organisation
* A clear explanation of the organisation’s procedures for handling whistleblowing, which can be communicated through training
* A commitment to training workers at all levels of the organisation in relation to whistleblowing law and the organisation’s policy
* A commitment to treat all disclosures consistently and fairly
* A commitment to take all reasonable steps to maintain the confidentiality of the whistleblower where it is requested (unless required by law to break that confidentiality)
* Clarification that any so-called ‘gagging clauses’ in settlement agreements do not prevent workers from making disclosures in the public interest
* Give an indication of what feedback a whistleblower might receive
* An explanation that anonymous whistleblowers will not ordinarily be able to receive feedback and that any action taken to look into a disclosure could be limited – anonymous whistleblowers may seek feedback through a telephone appointment or by using an anonymised email address
* A commitment to emphasise in a whistleblowing policy that victimisation of a whistleblower is not acceptable. Any instances of victimisation will be taken seriously and managed appropriately
* Approximate timeframes for handling any disclosures raised
* Clarification that the whistleblower does not need to provide evidence for the employer to look into the concerns raised
* Signpost to information and advice to those thinking of blowing the whistle, for example the guidance from the Government, Acas, Public Concern at Work or Trade Unions
* Information about blowing the whistle to the relevant prescribed person(s)

1. **Whistleblowing, Complaints and Grievances**

Whistleblowing is very different from a complaint or a grievance. The term ‘**whistleblowing**’ usually applies when a person is acting as a witness to misconduct or malpractice that you have observed and which threatens other people.

A **grievance** is when an employee has a dispute about their own circumstances relating to their employment. Anyone who meets this criterion should follow their organisation’s procedures in relation to grievances.

A **complaint** is where a person, or a person close to the complainant, has personally been poorly treated and are seeking redress or justice for themselves or that person. In these circumstances the person making the complaint should follow the relevant organisation’s complaints procedures. If the complaint is in relation to the work of the North Yorkshire Safeguarding Children Partnership (NYSCP), then the NYSCP complaints procedure should be followed.

1. **Duty to disclose concerns**

Safeguarding is everyone’s responsibility as identified in Working together to Safeguard Children (WTSC, 2018)[[1]](#footnote-1). Every employee working with children has a duty and responsibility to disclose any concerns about the conduct of another professional.

It is important that this practice guidance should be followed in accordance with other North Yorkshire Safeguarding Children Partnership (NYSCP) policies and procedures. Professionals in all agencies have a responsibility to refer a child to Children's Social Care when it is believed or suspected that a child:

* + - Has suffered significant harm and /or;
    - Is likely to suffer significant harm and/or;
    - Has developmental and welfare needs which are likely only to be met through provision of family support services (with agreement of the child's parent).

For further information on how to make a referral to Children’s Social Care, please see the NYSCP website ([www.safeguardingchildren.co.uk](http://www.safeguardingchildren.co.uk)).

Whistleblowing is a protective disclosure and, if made in good faith, should not result in any form of detriment to the worker.

If a member of staff believes that what he/she is saying is true, they should have nothing to fear as he / she will be doing their duty to their employer and those for whom they are providing a service.

Bullying, harassment or victimisation (including informal pressures) by other members of staff towards someone who raises concerns should not be tolerated by agencies. Senior management in agencies should take appropriate action to protect their staff or volunteers who raise a concern in good faith. Such retaliation could include, but is not limited to:

* Frequent and undesirable changes in work assigned;
* Unsubstantiated disciplinary action;
* Unjust denial of promotion or transfer.

If the concerns relate to a person(s) in the same agency, that agency's reporting procedures should be followed.

If the concerns relate to a person/persons from another agency, the person raising the concerns should contact a senior manager within his/her own agency, and a decision be made as to how the concern will be addressed, and by whom. It is the responsibility of the senior manager within the agency of the person raising the concern to ensure that a response is received from the agency to which the concern relates.

The person raising the concern and his/her senior manager must maintain a written record of events which give rise to the concern and of subsequent actions and responses.

In accordance with WTSC, 2018 , a referral should be sent to the Local Authority Designated Officer (LADO) where an organisation has received an allegation that a volunteer or member of staff who works with children has:

* behaved in a way that has harmed a child, or may have harmed a child;
* possibly committed a criminal offence against or related to a child;
* behaved towards a child or children in a way that indicates they may pose a risk of harm to children
* behaved or may have behaved in a way that indicates they may not be suitable to work with children

Any referral should be sent within one working day using the LADO Referral Form (see <https://www.safeguardingchildren.co.uk/professionals/forms-for-professionals/>), giving as much detail as possible. Completed LADO Referral Forms should be emailed using secure mail to [lado@northyorks.gov.uk](mailto:lado@northyorks.gov.uk). If an agency does not have secure email, the LADO should be contacted on 01609 533080 within office hours.

Where there is an immediate threat to a child or young person the Police should be contacted on 101 or the Emergency Duty Team (if outside office hours) on 01609 780780.

The person reporting the concern should receive, in writing:

* An acknowledgment that the concern has been received;
* Indication how the matter will be dealt with

Where applicable:

* Information on staff support mechanisms;
* Contact details of the person dealing with your concern (in some organisations this will be a Whistleblowing Contact).

For more information regarding managing allegations against staff please the “NYSCP Managing Allegations Against Those Who Work or Volunteer with Children Practice Guidance” available from:

<https://www.safeguardingchildren.co.uk/professionals/practice-guidance/>

1. **Confidentiality**

All concerns should be treated in confidence and the identity of a member of staff or volunteer should not be revealed if they so wish. In some cases confidentiality may not be possible, for example when reporting abuse or a criminal offence, as action may need to be taken and the person reporting the concerns may be needed to provide evidence in disciplinary or criminal proceedings. Staff should be consulted if it does become necessary to reveal their identity.

1. **Anonymous Allegations**

Whenever possible, staff and volunteers should be prepared to put their name to an allegation. Concerns expressed anonymously are much harder to investigate, but should be considered by senior managers in the organisation. In exercising this discretion the factors to be taken into account would include:

* The seriousness of the issues raised;
* The credibility of the concern; and
* The likelihood of confirming the allegation from other sources.

1. **Managers**

Managers have a responsibility to ensure that concerns are taken seriously. Where appropriate they should investigate and make an objective assessment of the concern. They also have a responsibility to ensure that the action necessary to resolve a concern is taken.

1. **How Agencies Should Respond**

Agencies should respond to any concern raised. How they respond may vary, for example depending on whether they are a public or voluntary sector agency. Where appropriate, the matters raised may:

* Be investigated by management, internal audit, or through the disciplinary process;
* Be investigated under another procedure, e.g. child / adult protection;
* Be reported to the organisation's Standards or Management Committee;
* Be referred to the Police;
* Be referred to the LADO (see Section 6.9 above)
* Be referred to an external auditor;
* Form the subject of an independent inquiry.

1. **Monitoring Concerns**

Organisations should monitor concerns raised by whistleblowing, and take action accordingly. This includes reviewing these procedures.

1. **False Allegations**

If a member of staff or volunteer makes an allegation in good faith, but the allegation is not confirmed by any subsequent investigation, no action should be taken against them. However, agencies may consider disciplinary action where it is believed that an employee has made an allegation frivolously, maliciously or for personal gain.

1. **Support for Employees**

Agencies should offer support, either in-house or external, to staff or volunteers who raise concerns.

1. **Related Procedures**

A number of organisational policies relate to whistleblowing. It is recommended that agencies have policies and procedures to address concerns relating to:

* Work related grievance;
* Bullying and harassment;
* Equal opportunities;
* Health and safety.

1. **Internal Disclosures**

Organisations should provide advice or information, either through their Human Recourses Department or on their organisation's intranet. Some organisations may choose to have contact persons that can be contacted about concerns.

1. **Further Information**

For further information please see the Department for Business Innovation & Skills Whistleblowing: Guidance for employers and Code of Practice available from:  
  
<https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/415175/bis-15-200-whistleblowing-guidance-for-employers-and-code-of-practice.pdf>

1. **External Contacts**

The below table provides external contacts for those who would like to discuss their concerns with someone outside their agency and the matters they would be able to help with.

| Agency | Contact Details |
| --- | --- |
| The Care Quality Commission  *(Ensures hospitals, care homes, dental and general practices and other care services in England provide people with safe, effective and high-quality care* | CQC National Customer Service Centre  Citygate  Gallowgate  Newcastle upon Tyne  NE1 4PA  Tel: (03000) 616161 Fax: (03000) 616171  Website: <http://www.cqc.org.uk> |
| Certification Officer  *(fraud and other irregularities, relating to the financial affairs of trade unions and employers' associations)* | Email: [info@certoffice.org](mailto:info@certoffice.org)  Certification Officer  Lower Ground Floor  Fleetbank House  2-6 Salisbury Square  London  EC4Y 8JX |
| Charity Commission  *(Administration of charities and of funds given or held for charitable purposes)* | Charity Commission for England and Wales  PO Box 211 Bootle L20 7YX  Telephone: 03000 66 9197 Website: [www.gov.uk/government/organisations/charity-commission](http://www.gov.uk/government/organisations/charity-commission) |
| Criminal Cases Review Commission  *(Actual or potential miscarriages of justice)* | 5 St Philip’s Place Birmingham B3 2PW  Telephone: 0121 233 1473 Fax: 0121 232 0899  For information: [info@ccrc.x.gsi.gov.uk](mailto:info@ccrc.x.gsi.gov.uk) |
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| The Environment Agency  *(Acts or omissions which have an actual or potential effect on the environment)* | National Customer Contact Centre PO Box 544 Rotherham S60 1BY  Telephone: 03708 506 506  Minicom service, for the hard of hearing: 03702 422 549 National Customer Contact Centre.  Email address: [enquiries@environment-agency.gov.uk](mailto:enquiries@environment-agency.gov.uk) |
| General Medical Council  *(Regulator for setting standards for doctors and managing the UK medical register)* | General Medical Council  3 Hardman Street,  Manchester  M3 3AW  Tel: (0161) 923 6602  email: [gmc@gmc-uk.org](mailto:gmc@gmc-uk.org) |
| HM Customs and Excise  *(VAT, insurance premium tax, excise duties, landfill tax, import and export of prohibited or restricted goods)* | HMRC Fraud Hotline  Cardiff  CF14 5ZN  United Kingdom  Tel: 0800 788 887 |
| HM Inspectorate of Constabulary Fire and Rescue Services (HMICFRS)  *(independently assesses police forces and policing across activity from neighbourhood teams)* | Her Majesty's Inspectorate of Constabulary and Fire & Rescue Services  6th Floor  Globe House  89 Eccleston Square  London  SW1V 1PN  Email: [contact@hmic.gsi.gov.uk](mailto:contact@hmic.gsi.gov.uk)    Telephone on **020 3513 0500**; or  Fax on 020 3513 0650 |
| Health and Safety Executive  *(Health and safety at work)* | The Lateral,  8 City Walk,  Leeds  LS11 9AT  To contact a named individual in HSE you can call our Advisory team on 0300 003 1747 during office hours - 8.30am to 5.00pm, Monday to Friday, Wednesday 10.00am to 5.00pm.  Website: <http://www.hse.gov.uk/> |
| Health and Care Professions Council | Tel: 0300 500 6184  Website:  <http://www.hpc-uk.org/>  Address:  Health and Care Professions Council  Park House 184 Kennington Park Road, London  SE11 4BU |
| Healthwatch  *(Have significant statutory powers to ensure the voice of the consumer is strengthened and heard by those who commission, deliver and regulate health and care services)* | Healthwatch England  National Customer Service Centre  Citygate  Gallowgate  Newcastle upon Tyne  NE1 4PA  Tel: (03000) 68 3000  Email: [enquiries@healthwatch.co.uk](mailto:enquiries@healthwatch.co.uk)  Website: <http://www.healthwatch.co.uk> |
| The Information Commissioner  *(Compliance with data protection legislation)* | Website:  <https://ico.org.uk/>  Address:  Wycliffe House  Water Lane  Wilmslow  Cheshire  SK9 5AF  Tel: 0303 123 1113 |
| Inland Revenue  *(Other tax issues, national insurance, SSP, SMP)* | Tel: 0300 200 3300 |
| Local Government and Social Care Ombudsman  *(Council maladministration)* | 53-55 Butts Rd  Coventry  CV1 3BH  Tel: 0300 061 0614  If you have a complaint, please use the [complaint form](https://www.lgo.org.uk/forms/showForm.asp?nc=QG1E&fm_fid=81) |
| Monitor  *(Protect and promote the interests of patients)* | Monitor  Wellington House  133-155 Waterloo Road  London  SE1 8UG  Tel: (0203) 747 0000  Email: [enquiries@monitor.gov.uk](mailto:enquiries@monitor.gov.uk) |
| Nursing Midwifery Council  *(Regulator for nursing and midwifery)* | Nursing and Midwifery Council  23 Portland Place  London  W1B 1PZ  General enquiries: 020 7637 7181  Registration enquiries: (0207) 333 9333  Website: <http://www.nmc.org.uk/>  Email: [complaints@nmc-uk.org](mailto:complaints@nmc-uk.org) |
| OFSTED | Tel: 0300 123 1231  Website: <https://www.gov.uk/government/organisations/ofsted>  Email: [enquiries@ofsted.gov.uk](mailto:enquiries@ofsted.gov.uk)    Address:  Ofsted Piccadilly Gate Store Street Manchester M1 2WD |
| Public Sector Audit Appointments  *(responsible for appointing auditors to local government, police and local NHS bodies, for setting audit fees and for making arrangements for the certification of housing benefit subsidy claims)* | You can also write to:  PSAA Limited 18 Smith Square London SW1P 3HZ  Email: [generalenquiries@psaa.co.uk](mailto:generalenquiries@psaa.co.uk)  Tel: (0207) 072 7445  Website: <http://www.psaa.co.uk> |
| NHS Trust Development Authority  *(Provides support, oversight and governance for all NHS Trusts)* | The Contact Centre NHS Trust Development Authority Wellington House  133-155 Waterloo Road  105 Victoria Street  London  Greater London  SE1 8UG  Tel: 0300 123 2257  Website: <http://www.ntda.nhs.uk> |

1. <https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/722307/Working_Together_to_Safeguard_Children_Statutory_framework.pdf> [↑](#footnote-ref-1)