

<b>TITLE</b>	<b>ABBNEYFIELD OXFORD SOCIETY</b> <b>WHISTLEBLOWING POLICY</b>
<b>1. Introduction</b>	<p>Whistleblowing occurs when an employee raises a concern about a danger or illegality that affects others. The whistleblower is usually not directly or personally affected by the danger or illegality.</p> <p>The provisions introduced by the Public Interest Disclosure Act 1998 and the Enterprise and Regulatory Reform Act 2013 protect most workers from being subjected to a detriment by their employer where they have made a 'disclosure' (where they have 'blown the whistle').</p> <p>All of us at one time or another have concerns about what is happening at work. Usually these concerns are easily resolved. However, when they are about unlawful conduct, financial malpractice, fraud and corruption or concerns about the quality of resident care, it can be difficult to know what to do.</p> <p>Employees may be worried about raising such issues or may want to keep the concerns to themselves, perhaps feeling it's none of their business or that it's only a suspicion. Employees may feel that raising the matter would be disloyal to colleagues, managers or to the organisation.</p> <p>Abbeyfield Oxford Society is committed to the highest possible standards of openness and accountability. In line with that commitment, we encourage employees and others with serious concerns to come forward and voice those concerns without fear of reprisals or suffering any detriment.</p> <p>This policy aims to:</p> <ul style="list-style-type: none"> <li>▪ Provide avenues for staff to raise concerns and receive feedback on any action taken;</li> <li>▪ Allow staff to take the matter further if they are dissatisfied with Abbeyfield's response; and</li> <li>▪ Reassure staff that they will be protected from reprisals or victimisation for whistleblowing in good faith.</li> </ul> <p>Where employees have concerns or issues relating to their own employment, the Grievance Policy and Procedure may be more suitable.</p> <p>This Policy applies to all employees of Abbeyfield Oxford Society.</p>

### **1.1 Types of Disclosure**

Certain kinds of disclosures qualify for protection ("qualifying disclosures"). Qualifying disclosures are disclosures of information which the employee reasonably believes tend to show 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 or safety of any individual;
- damage to the environment; or
- deliberate covering up of information tending to show any of the above five matters

It should be noted that in making a disclosure the employee must have reasonable belief that the information disclosed tends to show one or more of the offences or breaches listed above ('a relevant failure'). The belief need not be correct - it might be discovered subsequently that the employee was in fact wrong - but the employee must show that he held the belief, and that it was a reasonable belief in the circumstances at the time of disclosure.

### **1.2 What is a Protected Disclosure?**

A qualifying disclosure will be a protected disclosure where it is made:

- (a) by an employee using the procedures described within this policy, or
- (b) to another person whom the worker reasonably believes to be solely or mainly responsible for the relevant failure, or
- (c) to a person or body which has been prescribed by the Secretary of State for the purpose of receiving disclosures about the matters concerned. For example, breaches of health and safety regulations can be brought to the attention of the Health and Safety Executive or appropriate local authority, or environmental dangers can be notified to the Environment Agency.

### **1.3 Protection for Employees Making a Disclosure**

Under the Act any employee making a qualifying disclosure has the right not to suffer any detriment such as straightforward dismissal, dismissal under cover of redundancy, bullying, demotion or failure to receive promotion because of the disclosure. Should an

employee suffer detriment, he/she has the right to submit a complaint to an employment tribunal to determine the facts of the case.

#### **1.4 Making Anonymous Disclosures**

Whilst Abbeyfield would seek to provide anonymity to staff who raise concerns, those who have allegations made against them have a right to know what has been said and to respond and a full investigation carried out. In law there is no protection of anonymity for staff who raise concerns but there is protection against victimisation and detriment suffered as a result of raising a genuine concern.

Abbeyfield Oxford Society will not tolerate the harassment or victimisation of anyone raising a genuine concern. Any such behaviour will be dealt with under Abbeyfield Oxford Society's Disciplinary Policy and Procedure and could result in dismissal. However, we recognise that employees may nonetheless want to raise a concern in confidence under this policy. Where employees request that their identity be kept anonymous, we will not disclose it without your consent.

If the situation arises where we are not able to resolve the concern without revealing your identity (for instance because your evidence is needed in court), we will discuss with you whether and how we can proceed.

#### **1.5 Right of Appeal Against Internal Investigation Conclusions**

The aim of this policy is to deal with concerns raised under it fairly and thoroughly. It is, however, recognised that there may be circumstances where the employee may be unhappy with the outcome of an investigation. Abbeyfield will, under these circumstances, grant the person the opportunity to submit another report explaining their view. The concerns will be investigated again, by a manager more senior to the manager conducting the first investigation, if it is considered that there is good reason to do so.

#### **1.6 Making External Disclosures**

In some circumstances the employee may wish to contact an outside body. If this is the case, it is recommended that the first contact should be the independent charity, Public Concern at Work

	<p>on 020 7404 6609, which specifically provides support and advice to whistleblowers.</p> <p>If an employee makes a qualifying disclosure to such persons, it will be a protected disclosure provided the employee:</p> <ul style="list-style-type: none"> <li>▪ makes the disclosure in <i>good faith</i>;</li> <li>▪ reasonably believes that the information, and any allegation it contains, are <i>substantially true</i>; and</li> <li>▪ reasonably believes that the matter falls within the description of <i>matters for which the person or body has been prescribed</i>.</li> </ul> <p>It is strongly advised that before reporting concerns externally, advice be sought from the appropriate Head of Department or HR Manager.</p> <p style="text-align: center;"><b>1.7 Raising Concerns with Malicious Intent</b></p> <p>Where it is thought that concerns raised have been done so with malicious intent, this may be dealt with under Abbeyfield Oxford Society's Disciplinary Policy and Procedure.</p>
<p><b>2. Procedure</b></p>	<p>Where an employee has a concern which falls into any one of the areas listed at 1.1 above, the procedure below should be followed:</p> <ul style="list-style-type: none"> <li>▪ Report the concerns either verbally or in writing to immediate manager</li> <li>▪ If the employee feels they cannot report the issue to their immediate manager, they should refer the case to a more senior manager/director.</li> <li>▪ If the employee feels that they cannot report the matter to their immediate manager, they can report the matter to the Chairman of the Society or any other Executive Committee member of their choice..</li> </ul> <p>The manager or trustee receiving the employees concerns will:</p> <ul style="list-style-type: none"> <li>▪ acknowledge receipt of the concern in writing within 5 days of it being received confirming what action is being taken</li> <li>▪ seek HR advice (from St Albans) if needed and carry out an Initial Investigation into the concerns to identify whether a full, Formal Investigation is needed</li> </ul>

## **2.1. Initial Investigation**

When a disclosure is received, an Initial Investigation should be carried out. The purpose of this Initial Investigation is to establish quickly (within 24 hours where possible) whether there is a need to go on to carry out a full, Formal Investigation under this procedure.

The Initial Investigation will normally involve meeting with the whistleblower.

Where the Initial Investigation concludes that the situation does not require a Formal Investigation, the employee will be informed accordingly as soon as possible and it may be appropriate to hold a meeting to deal with the matter informally. Any documents obtained or produced as part of the Initial Investigation should be destroyed where it is concluded that no further action is necessary.

## **2.2. Formal Investigation**

Where the conclusion of the Initial Investigation is that the matter requires a full, formal investigation this will be carried out internally by an appropriate manager or referred to the appropriate external person (e.g. the police or regulator) for investigation.

Subject to any legal constraints, the employee will be informed of the outcome of the preliminary enquiries as to whether a full investigation or any further action will be taken.

The investigation will gather all the relevant facts relating to the concerns raised and will normally include:

- A review of relevant information and documents
- Interviews with witnesses as appropriate, including residents (accompanied by appropriate advocates where necessary)

All interviews with witnesses and with the employee should be recorded and statements taken. The statements should then be sent to the individual concerned for confirmation and signature.

The findings of the investigation should be written up in an Investigation Report, together with any conclusions and recommendations for follow up action. Depending on the circumstances, this could include that any incidents of misconduct or gross misconduct be dealt with under Abbeyfield Oxford

	Society's Disciplinary Policy and Procedure.
<b>3. FAQ</b>	<p><b>What sorts of concerns does Whistleblowing deal with?</b></p> <p>Whistleblowing covers concerns about misconduct, illegal or underhand practices within an organisation. The law covering this area and this policy, aims to provide a clear, safe way for employees to raise their concerns without being subjected to any detriment for doing so.</p> <p>If an employee has concerns about something to do with their own employment, the Grievance Policy may be a more suitable way to raise and resolve these concerns.</p>
<b>4. Review</b>	<p>Policy last reviewed: February 2014 Review date: February 2016</p>