

Ortu Specialised Home

POLICY NO 6



WHISTLEBLOWING POLICY

Reporting officers: **Whistleblowing reports should be made to:**

Home Manager -

RI -

If the referral is aboutor..... – report directly to

LADO..... or the to the Police.....

Policy Statement

Ortu is firmly committed to maintaining the highest standards of ethics, honesty, openness and accountability. It also recognises that its entire staff team have an important role to play in achieving a goal and the freedom and given rights to 'Freedom to speak up'.

All of us at one time or another may have concerns about what is happening at work. Usually these concerns can be addressed by discussing them with a manager. However, when they are about breaches of the law, serious misconduct by another person, health and safety or financial malpractice, it can be difficult to know what to do. If a concern of this type is troubling you, which you think should be reported and investigated, please follow the Whistleblowing Policy.

This Whistleblowing Policy has been developed with the purpose of encouraging workers to raise, discuss and resolve matters of concern within the workplace. It is emphasized that you should always try to deal with any concerns through your Line Manager first and only follow the other routes available if that is not possible. All matters will be treated in confidence.

Ortu is committed to preventing and/or stamping out all forms of malpractice and wrongdoing within the organisation. Effective and honest communication is essential if malpractice is to be effectively dealt with. Accordingly, you are encouraged to report any wrongdoing by Ortu or its workers which has occurred or is likely to occur and which falls short of these business principles. ORTU would rather that the matter was raised when it is just a concern rather than wait for a situation to escalate.

If a report is raised in good faith under this policy, the member of staff raising the concern will not be of any risk of being penalized, discriminated against or victimized in any way. This policy applies if the individual is acting in good faith, even if after investigation their concern is unfounded. This policy is in accordance with the Public Interest Disclosure Act 1998 (the "Act"); and the Public Interest Disclosure (Prescribed Persons) Order (Northern Ireland) 1999 and the Public Interest Disclosure (Prescribed Persons) (Amendment Order (Northern Ireland) 2004.

Scope of Policy

These provisions apply equally to all staff employed by Ortu, contractors, agency workers, volunteers, and other workers at Shardale.

1.0 Whistleblowing

Whistleblowing is the term used to describe a disclosure made by an employee about a colleagues conduct in the course of their employment or about Ortu practices.

Employee in this context includes not only those who are directly employed by Ortu, but also other individuals such as contractors, agency workers, volunteers and other casual staff. Anyone who works for Ortu under any type of contract will fall within the scope of the protection.

2.0 Aim of the Policy

The aim of this policy is:

- to enable and encourage workers to raise genuine concerns about possible wrong doing at work without fear of reprisal;
- to reassure workers that such matters will be dealt with seriously and effectively by Ortu and
- to allow Ortu to take action against any worker who makes allegations in bad faith and/or publicly discloses information when it is unreasonable for them to do so.
- The Whistleblowing Policy is designed to ensure that possible illegal or dangerous activities or forms of malpractice that is observed or of which a worker becomes aware is brought swiftly to management's attention. This matter of concern may not necessarily be related to the whistleblower's area of work.

This policy is separate from Ortu's Grievance Policy, which relates to general concerns that a worker may have about their own personal circumstances.

3.0 Principles

In the past, people who have reported colleagues' actions who they consider have ill treated, neglected or abused service users, have often been regarded as trouble-makers and have been penalised inconsequence for "doing the right thing". It is now recognised that staff are the people most likely to observe and be in a position to report on bad practice. It is important for any care home therefore to create an atmosphere of open communication and commitment to high

standards of work, within which criticisms can be frankly made and thoroughly investigated.

Ortu's policy complies with the Public Disclosure Act 1998, which aims in law to protect staff and to ensure they are not victimised, when reporting and seeking to have investigated genuine and reasonable concerns about any form of malpractice that they encounter in their work.

Under no circumstances will the identity of the worker be revealed outside this list without their knowledge.

Action on disclosure

Any matter raised under this procedure will be treated very seriously investigated thoroughly, promptly and confidentially, and the outcome of the investigation, will be reported back to the employee who raised the issue.

If anyone should try to discourage a worker from coming forward to express a genuine concern, Ortu will treat this as a disciplinary matter in accordance with Shardale's Disciplinary Policy and Procedure.

Disclosures under the Public Interest Disclosure legislation

In accordance with the Public Interest Disclosure legislation, this policy will apply in cases where workers genuinely and in good faith believe that one of the following sets of circumstances is occurring, has occurred or may occur within Ortu:

- neglect/abuse/untoward treatment/cruelty against a service user
- criminal offence (including fraudulent and corrupt behaviour
- e.g. theft, fraud, negligence or malpractice);
- a failure to comply with legal obligations;
- a miscarriage of justice;
- a health and safety danger (e.g. neglect of fire prevention appliances);
- an environmental risk; or
- a concealment or destruction of evidence in respect of any of the above.

It is not necessary that employees prove the breach or failure that they are alleging has occurred or is likely to occur, but may simply raise a reasonable suspicion. However, it should be noted that they will not be protected from the consequences of making such a disclosure if, by doing so, they commit a criminal offence or if they make the disclosure motivated by a reason which is not in good faith.

The Types of Misconduct that Could Justify Whistleblowing

There are many types of conduct that may justify a worker raising concern that is in the public interest. Examples include:

- falsification of records for financial gain committed or planned, or serious negligence over Shardale assets has occurred.
- failure to pay staff rates of pay equivalent to at least the minimum wage;
- the use of unsafe equipment or unsafe working practices;
- the employment of illegal immigrants; or
- false returns to HM Revenue & Customs.

Considering making a disclosure

If you are considering making a disclosure under the Whistleblowing Policy, you should be clear that in doing so you:

- make it in good faith;
- reasonably believe that the information, and any allegation it contains, is substantially true;
- would not be disclosing the information for financial gain; and
- believe it is reasonable in all the circumstances to make the disclosure.

You should also consider whether the matter would be more appropriately dealt with by using Shardale's Grievance Policy or Dignity at Work Policy, as appropriate.

If you are a member of a trade union, you may wish to contact them for advice when considering raising concerns under the Whistleblowing Policy.

This document outlines Ortu's policy on addressing allegations of abuse of service users made by staff members of Ortu against other staff. This process is known as Whistleblowing. The policy is written in recognition of and compliance with the provisions of the Public Disclosure Act 1998.

Salient features of the Public Disclosure Interest Act 1998

This legislation encourages people to raise concerns about malpractice in the workplace and will help ensure that organisations respond by

- Addressing the message rather than the messenger; and
- Resisting the temptation to cover up serious malpractice.

Through protecting whistleblowers from dismissal and victimisation in the following circumstances, the Act promotes the public interest.

Malpractice

The Act applies to people at work raising genuine concerns about crime, civil offences (including negligence, breach of contract, breach of administrative law), miscarriage of justice, danger to health and safety or the environment and the cover up of any of these. It applies whether or not the information is confidential.

Individuals Covered by

In addition to employees, this Policy covers trainees, Ortu staff and contractors. The usual employment law restrictions on minimum length of service and age do not apply.

Legal Advice

The Act confirms that workers may safely seek legal advice on any concerns they have about malpractice. This includes seeking advice from Public Concern at Work, which is designated a legal advice centre by the Bar Council.

Internal Disclosures

A disclosure in good faith to a manager or the employer will be protected if the whistleblower has a reasonable suspicion that the malpractice has occurred, is occurring or is likely to occur. Where a third party is responsible for the matter this same test applies to disclosures made to it.

Wider Disclosures

Wider disclosures (eg to the police, the media, MPs, and non-prescribed regulators) are protected if, they meet one of three preconditions. Provided they are not made for personal gain, these preconditions are that the whistleblower:

- Reasonably believed they would be victimised if they raised the matter internally or with a prescribed regulator.
- Reasonably believed a cover-up was likely and there was no prescribed regulator.
- Had already raised the matter internally or with a prescribed regulator.

Full Protection

Where the whistleblower is victimised in breach of the Act he can bring a claim to an Employment Tribunal for compensation. Awards will be uncapped and based

on the losses suffered. Additionally where an employee is sacked, he may apply for an interim order to keep his job.

Gagging Clauses

Gagging clauses in employment contracts and severance agreements are void insofar as they conflict with the Act's protection.

(Source: Public Concern at Work website www.pcaw.co.uk.)

Obligations on Staff to Report Abuse

Ortu also recognises that its staff have moral and legal obligation to report abuse and any occasion or incident matter where they consider vulnerable adults are at risk of being injured or harmed by other people.

Ortu considers that teamwork and loyalty to colleagues should not be allowed to deter staff from reporting suspected abuse, criminal acts, neglect of service users or bad practice.

Any member of staff who witnesses or suspects abuse by another member of staff should report as soon as possible by reporting the matter to their supervisor or 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 and will not be victimised.

Despite the assurances Ortu gives to its staff, it accepts that there may be incidents that the staff member does not feel confident or able to report in the first instance to the manager. Ortu then accepts the right and obligation of the staff member to report their concerns to an outside authority such as the police, the local authority safeguarding unit or to the Care Quality Commission to initiate an investigation. The home will not penalise or victimise any staff member who responsibly reports their concerns in these ways.

Ortu's Commitment to its Staff

- Ortu assures its staff that their concerns about any possible mistreatment of its service users will be listened to and investigated.
- Staff 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.
- Ortu undertakes to assess and investigate any concerns impartially and objectively, so that it can be fair to all parties concerned in seeking to clarify the facts before taking further actions.
- Ortu's management will keep any staff members affected by an investigation of the actions being taken and the outcomes, taking into account the need to respect the possible confidentiality of some of the

information relating to other staff members and service users, which has developed in the process of the investigation.

- All information will be treated with the utmost confidence. This might not be possible in all cases, for example, if the abuse requires reporting to the police and/or the local authority's safeguarding unit. Staff should also be aware that all instances of alleged or actual abuse must be notified to CQC and/or Ofsted at the earliest opportunity possible
- Investigating and Dealing with Allegations

The manager to whom abuse by a staff member is reported should take the necessary steps under Ortu's policy on abuse. In addition, they should 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 may render themselves liable to disciplinary action.

Dealing with Interference with or Victimisation of Staff who have Reported Abuse

Any member of staff who attempts to prevent a staff member 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.

Ortu provides staff with information on how to make contact with the Public Concern at Work organisation that has been established to protect whistleblowers from victimisation and bullying.

Unjustified Reporting

Ortu's managers take 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.

Training

All new staff receive training in whistle blowing as part of their induction training, and will be updated training as needed as per policy change.

Additional reading:

[Freedom to Speak Up](#) – Francis Report/Whistleblowing



Policy review date November 2023

Name: _____

Date: _____