



Public Disclosure by Age Concern Liverpool & Sefton Employees: 'Whistle-blowing' Policy

Throughout this policy we may make reference to Age Concern Liverpool & Sefton, the Organisation or ACL&S. This means however that the policy is applicable to the Charity, Age Concern Liverpool & Sefton, the trading company, Age Concern Liverpool (Services) Ltd and any subsequent company within the group.

Advice and Instructions for Staff and Volunteers

The term "whistle-blowing" has no legal definition within EC or UK law; however, it has been used to describe incidents where an employee publicly discloses some alleged wrongdoing within an organisation.

The Public Interest Disclosure Act 1998 aims to promote greater openness in the workplace and, by amending the Employment Protection Act 1996, protects "whistle-blowers" from detrimental treatment, i.e. victimisation or dismissal, for raising concerns about matters in the public interest. In providing this protection, the Act also reinforces the obligations of all persons employed by the Age Concern Liverpool & Sefton not to disclose to external sources any trade secrets or confidential information acquired during the course of their employment unless they fall within the qualifying period for protection disclosures.

This statement sets out Age Concern Liverpool & Sefton Policy and provides in some detail advice and guidance to staff and volunteers and the scope of the Policy. It explains that any member of staff who has a reasonable belief that there is serious malpractice relating to any of the protected matters specified in the Policy may raise a concern under the procedure agreed by Age Concern Liverpool & Sefton which is described in this statement. There is also information about the rights of the staff to raise the matter externally if they are not satisfied with Age Concern Liverpool & Sefton's response and the protection afforded to them if they choose to do this after the internal procedures have been exhausted.

Whistle-blowing Policy

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Introduction

1. All persons employed by Age Concern Liverpool & Sefton are under an obligation implied in their contract to give honest and faithful service to their employer. This includes an obligation not to disclose to external sources any trade secrets or confidential information acquired during the course of employment or act in a manner that will undermine the mutual trust and confidence on which the employment relationship is based. The Public Interest Disclosure Act 1998 complements these obligations by providing protection to employees for disclosure made without malice and in good faith of certain specific confidential information to a third party in defined circumstances. These are outlined below in paragraph 3. The purpose of this policy is to provide a means by which staff are enabled to raise concerns with Age Concern Liverpool & Sefton if they have reasonable grounds for believing there is serious malpractice within the organisation. Age Concern Liverpool & Sefton encourages staff to raise matters of concern responsibly through the procedures laid down in this policy statement.

Scope of the Policy

2. The policy is designed to deal with concerns raised in relation to the specific issues which are in the public interest and are detailed in paragraph 3 below, and which fall outside the scope of other Age Concern Liverpool & Sefton policies and procedures. The policy will not apply to personal grievances concerning an individual's terms and conditions of employment, or other aspects of the working relationship, complaints of bullying or harassment, or disciplinary matters. Such complaints will be dealt with under existing procedures on grievance, bullying and harassment and discipline.
3. The policy may deal with specific concerns which are in the public interest and may include:

- a criminal offence
- failure to comply with legal obligations or with the Policies and Procedures Age Concern Liverpool & Sefton
- financial or non-financial maladministration or malpractice or impropriety or fraud
- Professional malpractice
- a risk to the health and safety of any individual
- environmental damage
- a miscarriage of justice
- improper conduct or unethical behaviour
- attempts to suppress or conceal any information relating to any of the above

If in the course of investigation any concern raised in relation to the above matters appears to the investigator to relate more appropriately to grievance, bullying or harassment, or discipline, those procedures will be invoked.

Who can raise a concern?

4. Any member of staff or volunteer who has a reasonable belief that there is serious malpractice relating to any of the protected matters specified in paragraph 3 above, may raise a concern under the procedure detailed in paragraph 6. The issues raised under the protected list may relate to another member of staff, a group of staff, the individual's own area of work or another part of the organisation. Concerns must be raised without malice and in good faith, and the individual must reasonably believe that the information disclosed and any allegations contained in it, are substantially true. The disclosure must not be made for purposes of personal gain, and in all the circumstances it must be reasonable to make the disclosure. Age Concern Liverpool & Sefton will ensure that any member of staff who makes a disclosure in such circumstances will not be penalised or suffer any adverse treatment for doing so. However, a member of staff who does not act in good faith or makes an allegation without having reasonable grounds for believing it to be substantially true, or makes it for purposes of personal gain, or makes it maliciously may be subject to disciplinary proceedings.
5. In view of the protection afforded to a member of staff raising a bona fide concern, it is preferable if that individual puts his/her name to any disclosure. The identity of the person raising the matter will be kept confidential, if so requested, for as long as possible provided that this is compatible with a proper investigation. Anonymous complaints are not covered by this procedure, but may be reported, investigated or acted upon as the person receiving the complaint sees fit (including the use of this procedure), having regard to the seriousness of the issue raised, the credibility of the complaint, the prospects of being able to

investigate the matter, and fairness to any individual mentioned in the complaint.

Procedure

6. Initial step

Normally any disclosure about a “protected matter”, as listed in item 3, should be made in the first instance to:

The Chief Operating Officer

If the disclosure is about this Officer, the member of staff may raise the concern with the Chair of Age Concern Liverpool & Sefton.

If the disclosure concerns the Chair, the member of staff may raise the concern with the Deputy Chair of Age Concern Liverpool & Sefton.

The person to whom the disclosure is made will decide whether the matter should be dealt with under this procedure. If he or she considers that the matter should be dealt with under a different Age Concern Liverpool & Sefton procedure, s/he will advise the person making the disclosure as to the appropriate steps which should be taken.

Process

7. The person to whom the disclosure is made will normally consider the information and decide whether there is a prima facie case to answer. He or she will decide whether an investigation should be conducted and what form it should take. This will depend on the nature of the matter raised and may be

- investigated internally
- referred to the External Auditors
- the subject of independent enquiry

Some matters following investigation, may need to be referred to the relevant outside body, e.g. the Police Adult Protection Unit or the funding body. If the person to whom the disclosure is made decides not to proceed with an investigation, the decision will be explained as fully as possible to the individual who raised the concern. It is then open to the individual to make the disclosure again either to another of the persons specified in the paragraph above or to the Deputy Chair of Age Concern Liverpool & Sefton as outlined in Section 6.

Investigation

8. Any investigation will be conducted as sensitively and speedily as possible. The person to whom the disclosure is made may authorise an initial investigation to establish the relevant facts. The investigation

may be conducted by the external auditor in the case of a financial irregularity, or by another person. The investigator will report his or her findings to the person to whom the disclosure was made, who will then decide if there is a case to answer and what procedure to follow. This may include taking steps with the competent authority to set up a special internal independent investigation or reference to some external authority, such as the police, for further investigation. The decision may be that the matter would be more appropriately handled under existing procedures for grievance, bullying and harassment, or discipline.

9. Where disclosure is made the person or persons against whom it is being made will be told at an early stage of it and of the evidence supporting it, and they will be allowed to respond.

The individual making the disclosure will be informed of what action is being taken.

Should an investigation or referral lead the organisation to conclude there has been a breach of Age Concern Liverpool & Sefton discipline, the member or members of staff responsible may, in addition to any civil or criminal proceedings, be subject to disciplinary action in accordance with the appropriate disciplinary procedures for the relevant category of staff. All staff involved in this process can seek support from Age Concern Liverpool & Sefton's external Counselling Service.

Records

10. An official written record will be kept of each stage of the procedure (see also paragraph 11).

Reporting of outcomes

11. A report of all disclosures and subsequent actions taken will be made by the persons deciding on the issues. This record should be signed by the Investigating Officer and the person who made the disclosure, and dated. Where appropriate the formal record need not identify the person making the disclosure, but in such a case that person will be required to sign a document confirming that the complaint has been investigated. Such reports will normally be retained for at least five years. In all cases a report of the outcome will be made to the Trustee Board, which will refer the report on appropriately if necessary.

Advice for staff raising a concern

12. Age Concern Liverpool & Sefton acknowledges the difficult choice a member of staff or volunteer may have to make in raising a concern. As the issues that prompt the concern are likely to be complex, how the member of staff or volunteer proceeds with his or her concern will vary

from situation to situation. The following advice is offered if a member of staff or volunteer wishes to make a disclosure:

- make any objections to illegal, unsafe or unethical practices promptly so as to avoid any misinterpretation of the motives for doing so; focus on the issues and proceed in a tactful manner to avoid unnecessary personal antagonism which might distract attention from solving the problem;
- be accurate in his/her observations and claims and keep formal records documenting relevant events.

Members of staff or volunteers may also wish to seek independent legal advice.

Complaints of retaliation as a result of disclosure

13. Age Concern Liverpool & Sefton accepts that it has an obligation to ensure that staff or volunteers who make a disclosure without malice and in good faith are protected, regardless of whether or not the concern raised is upheld. A member of staff or volunteer who has made a disclosure and who feels that, as a result, he or she has suffered adverse treatment should submit a formal complaint (for a volunteer) or use the grievance procedures (if a member of paid staff) as set out in the relevant policy detailing what has been done to him or her. If it appears that there are reasonable grounds for making the complaint, the onus will be on the person against whom the complaint of adverse treatment has been made to show that the actions complained of were not taken in retaliation for the disclosure.

14. Where it is determined that there is a prima facie case that a member of staff or volunteer has suffered adverse treatment, harassment or victimisation as a result of his or her disclosure, a further investigation may take place and disciplinary action may be taken against the perpetrator in accordance with the relevant procedure.

External disclosure

15. If, having exhausted this procedure, a member of staff is not satisfied with the organisation's response and reasonably believes that the information disclosed, and any allegation contained in it, are substantially true, he or she is at liberty to take the matter further by raising it with certain bodies or persons such as

- a member of Parliament
- a legal advisor
- other bodies or persons (if any) prescribed by the Secretary of State under Section 43F of the Employment Protection Act 1996, as amended by Section 1 of the Public Interest Disclosure Act 1998

16. A member of staff who makes an external complaint in good faith to any prescribed body or person after exhausting the Age Concern Liverpool & Sefton procedure, will be protected against victimisation or other adverse treatment.

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