



Age UK Notts Whistleblowing Act 1998 & Public Interest Disclosure

Purpose

With the introduction of the Public Interest Disclosure Act (PIDA) also known as the “Whistleblowers” Act, all workers now have legal protection from any form of retribution, victimisation or detriment as a result of publicly disclosing certain serious allegations of malpractice. Age UK Nottingham & Nottinghamshire (and its subsidiary businesses) takes this right very seriously and have designed this policy to inform employees about the legislation and to set out guidelines.

Qualifying Disclosures

If an employee is to be protected, the disclosure must be one covered by PIDA. A qualifying disclosure is a disclosure which, in the reasonable belief of the employee tends to show one or more of the following:

- That a criminal offence has been committed, is being committed, or is likely to be committed.
- That a person has failed, is failing, or is likely to fail to comply with a particular legal obligation.
- That a miscarriage of justice has occurred, is occurring, or is likely to occur.
- That the health and safety of any individual has been, is being, or is likely to be endangered.
- That the environment has been, is being, or is likely to be damaged.
- That information indicating the occurrence of any of the above has been, is being, or is likely to be deliberately concealed.

Bribery & Corruption

Bribery is the offering, promising, giving, accepting or soliciting of money, a gift or other advantage as an inducement to do something that is illegal or a breach of trust in the course of carrying out an organisation’s activities. Any instances of actual or potential bribery should be properly and promptly investigated in line with the procedure outlined in this policy. See the Anti-Bribery & Corruption policy for further information.

Exclusions

Employees who make disclosures will not qualify for protection if either; the person commits an offence by making it, e.g. a breach of the Official Secrets Act, or it is a disclosure in respect of which legal professional privilege would apply.

Qualifying Procedures

The employee making a protected disclosure must make it in one of six specified circumstances to remain protected under PIDA. These circumstances can be categorised as:

- Disclosure to employer, or the person legally responsible or an appropriate individual authorised by the employer to receive disclosures.
- Disclosure to a legal advisor.
- Disclosure to a government minister, where the worker's employer is appointed by a minister.
- Disclosure to a prescribed person.
- A disclosure to an individual unconnected with the organisation (external disclosures), e.g. media or police.
- Disclosure in exceptionally serious cases.

All disclosures must be made "in the public interest" with the exception of a disclosure to a legal advisor.

Disclosure to Prescribed Persons

Prescribed persons are those bodies prescribed by an order made by the Secretary of State. The Public Interest Disclosure (Prescribed Persons) Order 2014 currently lists more than 60 regulators, as well as Government Ministers, Local Authorities and MPs, to whom protected disclosures may be made. The regulators listed include the Financial Conduct Authority, the Information Commissioner (in regards to Data Protection), the Environment Agency and the Health and Safety Executive.

External Disclosures

Workers will only be protected if they have previously raised the matter with the employer or prescribed person or have not done so because they reasonably believe they will be victimised. If there is no prescribed person, there must be a reasonable belief that a complaint to the employer would result in evidence being concealed or destroyed. Alternatively, the worker has already disclosed this information to the employer or prescribed person. The worker must also make the disclosure, in the reasonable belief that the allegations are substantially true, are "in the public interest" and must not act for personal gain. It must also be "reasonable in all the circumstances" of the case to make the disclosure.

Reasonable in all circumstances

The Act stipulates that the following factors should be taken into account when assessing reasonableness:

- The identity of the person to whom the disclosure is made.
- The seriousness of the concern.
- Whether the matter is continuing or is likely to occur in the future.
- Whether the disclosure is made in breach of a duty of confidentiality owed by the employer to another person, e.g. to protect patient confidentiality.
- Any action which the employer or regulator has taken, or might reasonably be expected to have taken as a result of a previous disclosure.
- Whether the employee complied with an authorised procedure when raising the issue with the employer.

Exceptionally Serious Cases

The information disclosed must be serious enough to justify bypassing one of the other specified procedures. The employee must make the qualifying disclosure in the public interest, demonstrate a reasonable belief that the allegations are substantially true, and not make the disclosure for personal gain. It must also be reasonable in all the circumstances for the disclosure to have been made, with particular reference to the identity of the person to whom the disclosure was made.

Enforcement

Any employee whose employment is terminated as a result of making a protected disclosure can make a claim to an employment tribunal for an automatic unfair dismissal; there is no qualifying service requirement. Compensation for workers who have suffered detrimental treatment short of dismissal, e.g. loss of pay rise or promotion, is not subject to an upper limit, and will be based on a just and equitable assessment by the employment tribunal. If employment has been terminated then there is no upper compensation limit.

Procedure

Within Age UK Notts the following procedure should be followed if an employee feels that there is a need to disclose certain serious allegations of malpractice. It is necessary to have a separate and distinct procedure for dealing with such complaints as it imposes upon Age UK Notts the obligation to investigate all such complaints with appropriate seriousness and to take on the responsibility as employer to proceed with any further action deemed necessary.

A person who feels he or she needs to take action as a result of one of the “Qualifying Disclosures” listed above has the right to be assisted and supported in making his or her complaint by a representative of his or her choice and such a representative will

be afforded the same rights as are given to representatives in the Age UK Notts Grievance Procedure.

Complaints should be put, either by the complainant or by his or her representative, to the prescribed person(s). The prescribed persons are:

1. The Human Resources Manager, unless the complaint is about a senior manager, Trustee or Director
2. The Chief Executive, if the complaint is about a senior manager, Trustee or Director
3. The Chair of the Board of Trustees (by sending a letter marked F.A.O. The Chair of the Board of Trustees marked Private and Confidential to the Charity's Headquarters), if the complaint is about the Chief Executive.

Investigations of Complaints

1. All complaints will be investigated as speedily as possible. In normal circumstances, there should be an aim to complete the investigation within a month of the investigation being ready to start. However, it is recognised that there may be circumstances in which this time period will need to be extended.
2. All investigations will be carried out observing the strictest confidentiality, i.e. no information about the case may be passed by anyone involved to any member of staff or outsider not directly involved.
3. The prescribed person must:
 - (a) Arrange for an outline of the complaint to be put in writing if possible.
 - (b) Pass the details of the complaint to the person designated to carry out the investigation.
4. The precise way in which an investigation should take place will vary according to the circumstances of the case, but will normally include:
 - (a) Interviewing the complainant (with his or her representative, if one is nominated) to discover the detail of the complaint;
 - (b) Interviewing any witnesses;
 - (c) Interviewing the subject of the complaint who, if a staff member, should be first cautioned of the possibility of disciplinary action and who should, therefore, be given the right to be accompanied by a representative.

It should be made clear to both complainants and witnesses in all cases that the notes made at interviews will be sent to them asking for confirmation that they are an accurate record or a copy of the audio file, if the interviews are recorded.

5. A report of the investigation, together with any recommendation for further action, must be completed by the person responsible for conducting the investigation and given to the prescribed person.

Related Policies:

Disciplinary Policy
Grievance Policy
Code of Conduct
Anti-Bribery and Corruption Policy

Owner	Laura Page	
Issue Number	Amendment & Date	Name
1.0	First draft	Tara Dunseath
1.1	Agreed by Board 15/11/06	Mick Tinkler
1.2	Change of owner to LS	Mick Tinkler
1.3	Change of owner to AG	Alison George
1.4	Re-branded 23rd December 2010	Laura Page
1.5	Change of owner to LP (29/09/11)	Laura Page
1.6	Added point 6 and recognition of associated businesses (20/12/11)	Laura Page
1.7	Added section on Bribery & Corruption (31/01/12)	Laura Page
1.8	Update following the Regulatory Reform Bill 2012-13 to ensure compliance with the new rules	Laura Page
1.9	Annual review January 2014	Laura Page
1.10	Update to ensure compliance with the new Public Interest Disclosure (Prescribed Persons) Order 2014 (05/11/14)	Siân Ellerton
1.11	Annual review January 2016	Victoria Pearce
2.0	Annual review with minor amendments Jan 2017	Natalie Iwanciw
2.1	Annual review – changes to the prescribed person	Mick Tinkler
2.2	Annual review – point 6 removed about Age UK Local Trading (23/12/19)	Gurpreet Vandra
2.3	Annual review – no amendments (14/12/20)	Gurpreet Vandra
2.4	Annual review – no amendments (05/09/22)	Gurpreet Vandra
2.5	Change of title from Public Interest Disclosure (Whistleblowing) Policy to Whistleblowing Act 1998 & Public Interest Disclosure Policy (26/01/2023)	Gurpreet Vandra
2.6	Annual review – no amendments (21/12/23)	Gurpreet Vandra