

Whistleblowing (Raising Serious Concerns at Work) Policy

Contents

1. Policy
2. Scope
3. Responsibilities
4. What is whistleblowing?
5. Exceptions
6. Confidentiality
7. Advice
8. Procedure
9. Reporting
10. External disclosure
11. Key Contacts
12. Diversity implications

1. Policy

- 1.1 St Mungo's is committed to the highest standards of quality, probity, openness and accountability. As part of that commitment, we actively encourage employees or others with serious concerns about any aspects of our work to come forward and express those concerns (these disclosures often being termed "whistleblowing"). As an employer we wish to create an open, transparent and safe working environment where workers feel able to speak up.
- 1.2 In most cases, we would hope that concerns will be dealt with through our normal processes for internal communication and for resolving grievance and disciplinary matters. However, in some cases we recognise that individuals may need to come forward on a confidential basis to disclose serious concerns and/or suspected malpractice. This policy is designed to provide guidance on how to do so.
- 1.3 St Mungo's makes the commitment to following best practice principles around whistleblowing, and looks to:
 - Ensure this Whistleblowing Policy is easily accessible to everyone it applies to, clearly communicated and under regular review;
 - Confirm that any clauses in settlement agreements do not prevent workers from making disclosures in the public interest;
 - Create an organisational culture where workers feel safe to raise a disclosure in the knowledge that they will not face any disadvantage from the organisation because of speaking up;
 - Recognise that any detriment towards an individual who raises a disclosure is not

Document reference: **A04**

Issue: **1** Approved By: **Audit and Risk Committee**

acceptable, and make a commitment that all disclosures raised will be dealt with appropriately, consistently, fairly and professionally;

- Undertake to protect the identity of anyone raising a disclosure, unless required by law to reveal it, and to offer support throughout; and
- Provide feedback to the worker who raised the disclosure where possible, subject to other legal requirements.

2. Scope

- 2.1 This policy covers all full and part-time employees, locums, agency staff, volunteers, contractors and consultants, and Board members. Therefore, the policy refers to anybody raising a concern as the 'complainant' rather than the 'employee'.
- 2.2 This policy does not form part of any individual employee's contract of employment with St Mungo's.
- 2.3 Any data held or collated within the scope of this policy will be handled in accordance of the Data Protection Act 2018 and the General Data Protection Regulation 2018.

3. Responsibilities

- **The CEO and Executive Team** are responsible for ensuring that all aspects of the policy and procedure are properly applied, reviewed and updated, including following up on actions arising in their departments from investigation reports
- **Directors/Managers** are responsible for applying the policy in a fair and consistent manner and ensuring staff are made aware of the policy as part of their induction training.
- **Staff members** are expected to familiarise themselves with this policy, and to understand St Mungo's expectations of good conduct.
- **The Audit and Risk Committee** has responsibility for reviewing the organisational arrangements for raising concerns about possible wrongdoing, alongside receiving reports on any concerns raised.

4. What is whistleblowing?

- 4.1 Whistleblowing is the disclosure of information which relates to suspected wrongdoing or dangers at work. The complainant will make a "qualifying disclosure" where they have a reasonable belief that one of the following sets of circumstances is occurring, has occurred, or may occur within the organisation and they reasonably believe that the disclosure is in the public interest:
- That a criminal offence has been committed, is being committed or is likely to be committed in connection with the work of St Mungo's.
 - That there is reason to have genuine concern about abuse or neglect of

Document reference: **A04**

Issue: **1** Approved By: **Audit and Risk Committee**

clients and other vulnerable people.

- That in connection with their work at St Mungo's a person has failed, is failing or is likely to fail to comply with any legal obligation to which s/he is subject.
- That a miscarriage of justice has occurred, is occurring or is likely to occur, directly or indirectly, from the work of St Mungo's.
- That the health and safety of any individual has been, is being, or is likely to be endangered and the matter has not been properly addressed through St Mungo's normal health and safety management procedures.
- That the environment has been, is being or is likely to be damaged as a result of any aspect of the work of St Mungo's.
- That information relating to any of these circumstances is being, or is likely to be, deliberately concealed.

4.2 The complainant does not need to provide evidence for the employer to look into the concerns raised. They will, however, need to demonstrate that they are acting in good faith and there are reasonable grounds for concern.

4.3 In addition to the legal protection from unfair dismissal or other detriment because of raising a genuine concern, St Mungo's undertakes that any person who raises concerns should not be subject to any form of victimisation. If it is suspected this has transpired, it will be investigated under St Mungo's Disciplinary Procedure and if substantiated will normally be treated as gross misconduct.

5. Exceptions

5.1 This policy should not be used for complaints relating to personal circumstances, such as the way someone has been treated at work. In these cases, the Grievance Policy and Procedure should be used. A grievance is a matter of personal interest and does not impact on the wider public (for example, complaints about hours of work or receipt of insufficient training), whilst a whistleblowing procedure provides the framework for dealing with serious concerns with a wider impact such as those listed at 4.1.

5.2 People who use services, their relatives or representatives, or others, can make complaints about a service using the Complaints Policy and Procedure. This is not whistleblowing.

5.3 The protection listed under 4.3 above will not be afforded either as a statutory right or within the terms of this policy if:

- The complainant does not reasonably believe that the disclosure is in the public interest, or if the complaint is made maliciously.
- A complaint is pursued frivolously or for personal gain.
- The complaint concerns information which the complainant does not substantially believe to be true.
- Disclosure is made to an outside body without first invoking the procedure set out

Document reference: **A04**

Issue: **1** Approved By: **Audit and Risk Committee**

below, unless there is a genuine concern that to pursue this procedure would be inappropriate, or previous attempt(s) to do so has failed (or the disclosure is made to the complainant's legal adviser).

- There is an inappropriate breach of confidentiality by the person making the complaint/disclosure or their representative.
- The procedure is used to deal with matters that are not properly the subject of these arrangements.

5.4 In such cases, St Mungo's reserves the right to take such disciplinary action against the complainant as appropriate.

6. Confidentiality

6.1 Any person raising a concern under this procedure, and any representative of St Mungo's responding to it, is required to respect the confidentiality of the concern. This means:

- The information should be shared only with the nominated representative(s) of St Mungo's, the complainant's trade union representative or legal adviser, or a specific workplace colleague that the complainant is using for support in this matter, who will be equally bound by this requirement of confidentiality.
- Where written records of concerns and their outcomes are maintained, this will be in a form that does not breach confidentiality, and the complainant will be advised of the nature of the information stored. Information will only be shared on a need-to-know basis within the organisation.
- St Mungo's will confine any response to the concerns to the complainant and their representative or adviser, and to those required for securing appropriate action. This will be on a strictly limited need-to-know basis. This basis will vary depending on the nature and scale of the concern raised.
- In extreme circumstances where the complainant is reasonably of the view that there is an overriding public interest in relation to a concern that has not been, or will not be, properly addressed by St Mungo's, information may be shared with an outside agency in accordance with 10.2 below.

7. Advice

7.1 If somebody has a concern within the terms of this policy, they may wish firstly to approach one of the following for confidential advice and support in taking the matter forward:

- Their line manager or divisional director
- The Director of Governance and Compliance (St Mungo's Whistleblowing Lead)
- A trade union representative
- One of St Mungo's Workplace Supporters

Document reference: **A04**

Issue: **1** Approved By: **Audit and Risk Committee**

The objective of anybody being asked for such support should be:

- To help the complainant to take the most appropriate steps within the terms of this policy and procedure.
- To handle the matter with sensitivity to the position of the complainant and any fears they might have in relation to their own safety or career.
- At the same time, to be aware of the rights of others involved, including the right to confidentiality, and the right to have their side of the story heard should the matter be pursued under the formal procedure

8. Procedure

8.1 Immediately on becoming aware of concern sufficiently serious to be covered by this policy (after seeking initial informal advice if required, as in 7.1 above), the complainant should write to one of the 'nominated persons' listed below, or speak with them directly, then following this up with written confirmation if requested. The complainant may, if s/he wishes, be accompanied by a trade union representative or work colleague in any discussion with the nominated person.

8.2 The earlier the concern is expressed, the easier it is to act. However, complainants can report concerns at any time, providing the following information:

- The nature of the concern and why they believe it to be true
- The background and history of the concern (giving relevant dates).

8.3 The person to whom a concern should be addressed will normally be as set out below, but in the absence of a specified person, the complainant should take the concern to another person on the list. All concerns will be considered and handled as per this policy however they are communicated.

- In most instances, the concern should be addressed to the organisation's Whistleblowing Lead, the Director of Governance and Compliance at **whistleblowing@mungos.org**.
- If the concern is about the Director of Governance and Compliance, or they are on annual leave or otherwise unavailable, the concern should be addressed to the Chief Executive.
- If the concern relates to the Executive Team as a whole, or in the event of a failure of the concern being addressed by any of the above, the concern may be addressed to the Chair of the Audit and Risk Committee. The concern may also be addressed to the Chair of the Board of St Mungo's in the case of non-availability of all of the above.

8.4 The nominated person should respond to the complainant within 48 hours of receipt of the concern. If the complainant has not received a response within this time, they should direct their concern to another individual from the list of nominated people below.

Document reference: **A04**

Issue: **1** Approved By: **Audit and Risk Committee**

The nominated person receiving such a concern should consider the issue to be of high priority and take appropriate action as soon as possible. If it is apparent to the nominated person that the concern raised is continuing and staff or clients are at undue risk (for example, in relation to serious health and safety or safeguarding concerns), the nominated person should take steps to ensure that any immediate risk is reduced. These actions could be temporary measures undertaken whilst the concern is investigated.

Additional time may be required to undertake a thorough investigation. The nominated person must ensure that the complainant is informed of the progress of the investigation and is provided with reasonable timeframes for updates. These should be adhered to unless there are circumstances which prevent this. Care must be taken to respect the confidentiality of others when providing these updates to the complainant.

- 8.4 Please note that responding to concerns is not the same as either accepting or rejecting them. To be fair to all complainants, including those who may be wrongly or mistakenly accused, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. The nominated person will take such action as thought fit, which may include seeking advice on how to proceed and conducting some initial investigations. The nominated person will not necessarily conduct investigations themselves but may appoint another suitable investigator(s) as considered appropriate according to considerations such as the subject area(s) of the concerns and availability to carry out the investigations within reasonable timescales.
- 8.5 The nominated person must deal with the matter with full sensitivity to the position and rights of all involved. Full consideration should be given to what support the complainant and the subject(s) of any complaint may need, and appropriate measures taken to address these. It is understandable that complainants are sometimes worried about possible repercussions. St Mungo's aims to encourage openness and will support staff who raise genuine concerns under this policy, even if they turn out to be mistaken.
- 8.6 Where a concern is raised in confidence, St Mungo's will protect the identity of the complainant wherever possible. However, there may be circumstances where this is not possible, for example where the complainant is an essential eyewitness and the matter could not be investigated further without revealing their identity, or if there is a safeguarding concern. The matter will be discussed with the complainant should such a situation arise. This does not apply where the nominated person appoints an investigator(s) to investigate the concern on their behalf and considers that it is essential for the purposes of a full and proper investigation to disclose the name of the person raising the concern.
- 8.7 If the complainant is not satisfied that appropriate action has been taken (either in the nature of the action taken, or in the timeliness of the action), s/he may approach the Chair of the Audit and Risk Committee or, in the case of their non-availability, to the Chair of the Board of St Mungo's. The complainant should be advised of the outcome of that further referral.
- 8.8 The nominated person shall maintain logs of all communication during an investigation of a whistleblowing case and ensure that there are regular updates to Complainants on the status of the investigations.

Document reference: **A04**

Issue: **1** Approved By: **Audit and Risk Committee**

- 8.9 Any relevant issue arising in a whistleblowing case in a service contracted to St Mungo's by a local authority will be reported to that authority's safeguarding lead or the commissioning team as appropriate.
- 8.10 Management responsibility for delivering the recommendations raised through any whistleblowing investigation will be designated to the relevant Executive Director who will then feed back to the nominated person on progress.

9. Reporting

- 9.1 All instances of whistleblowing, regardless of the outcome of the investigation, will be reported to the Audit and Risk Committee, who have oversight of this policy and its implementation.
- 9.2 The Committee will also receive an annual summary of whistleblowing reports so that it may consider any impact on its overall opinion concerning internal controls within the organisation and provide assurance on the effectiveness of the systems and procedures to the Board.
- 9.3 Reporting will be sufficient to allow the Committee to assess the extent of the progress being made since the previous report; receive any potential update on next steps; understand actual and perceived emerging risks; and understand any aspect relevant to communication with the complainant.
- 9.4 It is recognised that there is a need for confidentiality in reporting, and so consideration will be given as to whether some of the details can be reported under 'confidential minutes' with limited circulation.

10. External disclosure

- 10.1 In most cases, external disclosure should not be necessary. St Mungo's strongly encourages the complainant to seek advice before reporting a concern to anyone external. It will very rarely, if ever, be appropriate to alert the media.
- 10.2 If, having followed the procedure, the complainant is still not satisfied, or if s/he has genuine grounds to believe that it would be inappropriate to pursue the stages listed above, a qualifying disclosure may be made to one of the '**prescribed regulators**' set out in the Public Interest Disclosure (Prescribed Persons) Order 1999 SI 1999/1549, namely:
- [The Charity Commission for England and Wales](#)
 - [Regulator for Social Housing](#)
 - • [Care Quality Commission](#)
 - • [Companies House](#)
 - • [The Information Commissioner](#)
 - • [Health & Safety Executive](#)
 - • [Her Majesty's Revenue & Customs \(HMRC\)](#)

Document reference: **A04**

Issue: **1** Approved By: **Audit and Risk Committee**

- 10.3 For guidance on making disclosure outside St Mungo's through prescribed regulators, the complainant can contact Protect (formally Public Concern at Work) for advice. Protect is an independent charity offering free, confidential advice to anyone concerned about possible malpractice in their organisation. The complainant may, alternatively, wish to seek advice from their trade union representative or independent legal advisor.
- 10.4 Information arising from a whistleblowing complaint that subsequently leads to a disciplinary, grievance or other investigation will be dealt with in accordance with the arrangements set out in St Mungo's normal disciplinary and grievance procedures. Certain complaints may be dealt with through the police and/or courts as required.

11. Key Contacts

Whistleblowing Lead	Claire Tuffin, Director of Governance and Compliance Whistleblowing@mungos.org
Chief Executive	Emma Haddad, Chief Executive Emma.Haddad@mungos.org
Chair of Audit and Risk Committee	Jane Cunliffe
Protect	https://protect-advice.org.uk/contact-protect-advice-line/ 0207 404 6609

12. Diversity Implications

St Mungo's remains proactive in taking steps to ensure inclusion for the people who work for and with us throughout all stages of the whistleblowing procedure.

13. Relevant Policies and Procedures

- St Mungo's Code of Conduct
- Grievance Policy and Procedure
- Dignity at Work Policy
- Bullying and Harassment Policy
- Health and Safety Policy
- Safeguarding Policy

Document reference: **A04**

Issue: **1** Approved By: **Audit and Risk Committee**

- Equality and Inclusion Policy
- Disciplinary Policy and Procedure
- Employment Rights Act 1996 (as amended)
- The Public Interest Disclosure Act (PIDA) 1998

The following documents were referred to in the review of this policy:

- Public Concern at Work: Code of Practice
- Department for Business, Education and Skills: *Whistleblowing, Guidance for Employers and Code of Practice*
- Chartered Institute of Internal Auditors: *Whistleblowing and Corporate Governance*
- Whistleblowing Guidance for Providers Registered with the CQC
- Guidance published by the Charity Commission and Regulator of Social Housing.