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## WHISTLEBLOWING POLICY

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### PURPOSE

RCL HOME CARE is committed to the highest openness, transparency and accountability standards. Please also refer to RCL HOME CARE's Safeguarding of Vulnerable Adults Policy.

RCL HOME CARE wishes to support well-intentioned whistle-blowers using the disclosure procedure, even if their fears become groundless.

In all cases, the safety of an individual is of paramount importance. Immediate action to raise concerns must be taken by anyone who believes that any individual is or is likely to be endangered. The Safeguarding of Vulnerable Adults Policy sets out the procedure for dealing with suspected or reported abuse of people using our services. This includes the process for reporting to external agencies, including the Regulator and local Safeguarding Adults Board (we have a copy of the local authority's policy for reference).

### SCOPE

All colleagues, volunteers and others engaged under a contract for service or acting in the name of RCL HOME CARE.

Concerns relating to an individual colleague's employment or relating to an individual's disputes with other individuals must be dealt with through the grievance procedure detailed in the Grievance Policy. Concerns relating to harassment should be addressed through the harassment procedure outlined in the Harassment Policy.



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People using our services, or their friends/relatives/advocates, have access to a formal complaints procedure for issues which adversely affect life in the service location or the quality of care and/or support provided.

## **1. PROTECTED DISCLOSURES**

There may be circumstances where an individual has concerns regarding a particular aspect of the services of the organisation or the activities of its workers or volunteers, which they believe may affect and/or prejudice the interests of the public (including a person using our services) and/or breach any current legislation. In this situation, any disclosure of information which, in the reasonable belief of that individual, tends to show one or more of the following will be considered to be a protected disclosure under this policy -

- A criminal offence or activity
- Exposing fraud
- Physical or emotional abuse of service users
- Medical negligence
- Failure to comply with legal obligations
- A miscarriage of justice
- Danger to the health and safety or welfare of any individual using our services
- Any damage to the environment
- The concealment of any of the above

It should be noted that issues concerning abuse, bullying or harassment of people using our services or issues endangering the health, safety or welfare of people using our services would be covered by the above definitions.

If any of these situations exist, then the individual must, in the first place, disclose via the appropriate channels, as set out below, which include an external helpline. By following these procedures, a concern raised will be a 'protected disclosure'. It will provide the individual appropriate protection from dismissal or any other detriment that could otherwise follow when confidentiality is not maintained.



To make a protected disclosure by going directly to an outside person or agency - e.g. the regulator, the colleague must either -

- Reasonably believe the employer would mistreat them if they disclosed to their employer or prescribed person
- Reasonably believe that their disclosure to the employer would result in the destruction or concealment of information about the wrongdoing
- Have previously disclosed the same or very similar information to their employer or a prescribed person or
- In extreme circumstances where it is believed a severe failure has occurred in the workplace.

Concerns relating to an individual's opinion - e.g., disagreements with work practices- are not classed as a protected disclosure and should be raised with a manager to address the concerns.

## 2. PROCEDURES FOR A PROTECTED DISCLOSURE

Any person who considers that one of the matters set out below is taking place within the organisation and, therefore, wishes to disclose - this policy should do so by using the following procedure -

- 2.1 A disclosure can be made to a relevant manager or a senior staff member within the company. Suppose this is inappropriate or the disclosure concerns their manager or the colleague feeling they need to go directly to a more senior level. In that case, the disclosure can be made to anyone within the organisation with legal or internal responsibility for the subject matter. Alternatively, staff may want to speak to someone outside of RCL HOME CARE, and the specialist company which takes out-of-hours calls (see below) can be rung at any time. They will help the staff discuss the problem and pass the concern to senior management. Staff may also refer residents and relatives to the "Elder Abuse" helpline on **080 8808 8141** if they wish to talk to someone outside of RCL HOME CARE about elder abuse.



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The Chief Executive is the individual who has been given specific responsibility within the organisation for any of the potential matters about which a disclosure can be made. Any of the below matters where the alleged matter is to be by the Chief Executive.

- Health and safety, care and/or support of people using our services, environmental issues
- Safeguarding
- Employment matters
- Financial irregularities
- Deliberate concealment of information – any Director / Chief Executive

Disclosure may also be made to the relevant line manager, who may advise the person who wishes to disclose the legislation and the possible internal avenues of complaint open to them.

2.2 Where the matter requires instant attention, such as where the health or safety of an individual is at risk, and the person to whom the disclosure should be made is unavailable, or where the staff member wishes to speak to someone outside of RCL HOME CARE, disclosure may also be made using an emergency external free phone helpline service (as below).

**Telephone 0800 085 3388.**

This emergency external free phone service is staffed 24 hours, every day of the year. The service is provided by trained personnel who will respond appropriately – either by contacting the person within the organisation who is named as having the authority to deal with the issue or, where the safety of an individual is at risk, by contacting an appropriate external organisation (including the police authorities or social services), to protect or remove the individual(s) concerned.

All colleagues, casual workers, agency staff and volunteers can access the free phone service. The free phone service number is widely and openly displayed within the organisation.



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**Note:** If a disclosure has been made to the CEO or registered manager, it can be made in writing or verbally. In that case, they will take immediate appropriate action to safeguard the health and safety of any individuals as necessary. They must then respond to the disclosure by arranging a meeting with the person making the disclosure as soon as is reasonably practicable, but in any event, by seven (7) calendar days after the disclosure is first made. Even if the first meeting is exploratory, it should generally occur within that period.

- 2.3 Where the colleague requests anonymity, it may be more challenging to investigate the concern, seek clarification or provide feedback. It will also be difficult to protect the colleague from reprisals should their identity be deduced correctly by others during any investigation. Anonymity is, therefore, not encouraged.

Every effort will be made to keep your identity confidential until any formal investigation is underway. To not jeopardise the investigation into the alleged malpractice, you will also be expected to keep confidential the fact that you have raised a concern, the nature of the problem, and the identity of those involved. Every effort will be made to inform you if your identity is likely to be disclosed.

Anonymous allegations will still be considered carefully, considering the seriousness of the issues raised, the credibility of the concerns and the likelihood of confirming the allegation. However, they can be more challenging to investigate.

- 2.4 At the meeting, the individual will have the opportunity to detail their concerns and the information which led them to that belief. The individual must report all relevant information to assist the next stage.

The CEO/Registered Manager to whom the disclosure is made should assess what further investigation is required of the allegation which has been completed and inform the person disclosing the nature and timescale of such investigation. Where appropriate, the CEO/Registered Manager to whom the



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disclosure is made should notify the directors of the allegation and proposed investigatory action. Proper authorities will be informed accordingly and, where necessary, will be involved in the investigation process.

- 2.5 Following the investigation, the CEO/Registered Manager must inform the complainant of its outcome and, where relevant, agree on the likely course of action for remedying the situation or the offence and agree on a timetable during which such action will be taken.
- 2.6 Only limited feedback can be provided where disciplinary action may be taken against another colleague due to legal confidentiality obligations.
- 2.7 A written summary of the contents of the meeting must be made, then agreed upon by the relevant individual and signed by both parties, and a copy must be sent to the administrator to be kept confidentially on file as evidence that a disclosure was made and also how it was dealt with.
- 2.8 If necessary, a further meeting must be held within an agreed time frame to discuss progress in remedying the situation and establish that the individual making the disclosure is satisfied that their concerns have been dealt with and redressed.
- 2.9 Colleagues may wish to be accompanied by a work colleague who may act as a companion. Non-employed disclosing may also want to be accompanied at the meeting(s). In these circumstances, the organisation would appreciate knowing who will accompany the person disclosing the meeting(s). An administration member should also attend the meeting(s) to act as a witness and ensure the correct procedure is followed.
- 2.10 Any person may make such disclosures without fear of retribution from any source and in the knowledge that such concerns will be promptly and adequately investigated. Due regard will be given throughout the investigation to the maintenance of confidentiality. Colleagues are encouraged to raise concerns internally. Colleagues will not be disciplined or



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dismissed or suffer any other detriment due to making a protected disclosure by complying with the procedure set out in this policy.

2.11 If the person is not satisfied that the disclosure is being adequately dealt with, either within a reasonable period or within one agreed upon, then they should inform the CEO/Registered Manager, preferably in writing, that they intend to disclose to an external body. Colleagues may only do so, under the provisions of the Public Interest Disclosure Act, to one of the following -

- Legal Adviser; or a
- Minister of the Crown; or
- Any person prescribed by legislation, such as a statutory Regulator or other appropriate Regulatory body (see HR9.5a) or
- A disclosure to any other third party provided the colleague makes such disclosure in good faith, reasonably believing the allegation to be accurate and not to make any personal gain.

**Note:** the Charity Commission is an appropriate Regulatory body for matters relating to the proper administration of charities and funds given or held for charitable purposes.



### **3. LEGAL PROTECTION**

Colleagues following the above procedure will be covered by legal protection under the Public Interest Disclosure Act. They will be supported by RCL HOME CARE when they have acted in good faith, regardless of whether any subsequent investigation supports or refutes the complaint. This will include protection against reprisal because they have raised a concern under the policy. Any reprisal will be treated as a disciplinary matter that may lead to dismissal. Failure to follow the above procedure without justification will remove legal protection for colleagues under the Public Interest Disclosure Act. It will render the colleague liable to summary dismissal, subject to the gross misconduct terms of the Discipline Policy. The same will apply when a colleague is found to have made a malicious allegation or a disclosure that is not true, and it is clear that the colleague did not believe it to be true when the disclosure was made.

In addition, failure by a Manager / Director or by the Chief Executive to respond to an allegation brought to their attention or submitting the person who has disclosed to any detriment as a result of having made the disclosure will also be deemed to be misconduct and will be dealt with under the Discipline Policy.

### **4 RESPONSIBILITY**

All those referred to within the Scope of this policy must adhere to its terms and conditions.

Colleagues must understand that this policy is also incorporated into their employment contracts.

Directors specified as the persons responsible for this policy are also responsible for ensuring the correct procedure is followed in that clause.