

# Raise concerns, freedom to speak up and whistleblowing policy and procedures



## Objectives

All employees have a duty to ensure standards of quality care by raising concerns regarding wrongdoing or malpractice. This policy will provide the means of ensuring that staff can confidentially raise genuine concerns of malpractice and/or misconduct through appropriate means at the earliest point without fear of reprisal.

## Policy

Xander Recruitment Group is committed to a high standard of care, to honesty, openness and decency in all its activities and in line with the requirements of duty of candour. It is recognised that Service user safety must come first at all times and, whilst it can be difficult for staff to raise concerns about the practice of others, including managers, the implications of not raising those concerns are potentially very serious for Xander Recruitment Group, its employees and most importantly for those receiving its services.

Xander Recruitment Group encourages a free and open culture in its dealings with its employees and all people with whom it engages in business and legal regulations. In particular, Xander Recruitment Group recognises the effective and honest communication is essential if any wrongdoing or malpractice is to be effectively dealt with and the organisation's success ensured.

Xander Recruitment Group recognises that temporary workers are likely to be the first to realise that there may be something seriously wrong within the organisation but may feel that speaking up would be disloyal to colleagues or their employer who may, under certain circumstances, face criminal charges. They also fear harassment or victimisation and fear for a loss of job or a reduction in work hours.

Xander Recruitment Group will not tolerate the ill treatment, including any bullying or harassment, of anyone raising a concern, It will ensure that any individual who raises a concern, can do so confidentially in line with the Public Interest Disclosure Act 1998 (PIDA)

Xander Recruitment Group will ensure that any individual who raises a genuine concern under this policy will not be at risk of termination of their employment or suffer any form of reprisal which includes, but is not limited to, loss or reduction of hours or changes to regular working patterns because of it.

Xander Recruitment Group will ensure that it follows not only the law on whistleblowing, but also best practice and guidance from the NHS and regulatory bodies including the Care Quality Commission.

## Procedure - Raising Concerns

All staff have a duty to raise concerns regarding inappropriate behaviour, unlawful conduct, poor practice or behaviour to ensure standards of quality care.

### 3.2 Freedom to Speak Up (FTSU)

Staff at Xander Recruitment Group are encouraged to speak up about anything that gets in the way of doing a great job.

Xander Recruitment Group can provide a Freedom to Speak Up Guardian who supports staff to speak up when they feel that they are unable to in other ways

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## 3.3 Whistleblowing

Staff at Xander Recruitment Group can report certain types of wrongdoing, usually something seen at work – though not always. The wrongdoing disclosed must be in the public interest. This means it must affect others, for example the general public

3.4 This procedure is intended to provide a safeguard to enable members of staff to raise concerns about one or more of the following that has occurred, is occurring, or is likely to occur. These Qualifying disclosures (see definition) mean that staff can raise a concern about risk, malpractice or wrongdoing that they think is harming the services, might harm or has harmed in the past any aspect of the services that Xander Recruitment Group delivers. A few examples of this might include (but are by no means restricted to):

- Unsafe care
- Unsafe working conditions
- Inadequate induction or training for staff
- Lack of, or poor, response to a reported Service User safety incident
- Suspicions of fraud (which can also be reported to the local counter-fraud team)
- Damaging the environment – e.g. disposing of materials or waste incorrectly. For example, flushing medicines or syringes down the toilet or sink
- A bullying culture (across a team or organisation rather than individual instances of bullying)
- Incidents of unsafe staffing, falsification of timesheets, Service Users records or other clinical or care records
- Failure to investigate claims of physical or sexual assault
- Physical, verbal or sexual abuse of any Service User, colleague or other person on the premises of Xander Recruitment Group

## Breaching the Data Protection Act

This policy should not be used for complaints relating to a member of staff's own personal circumstances, such as the way they have been treated at work. In those cases, the individual should use the Grievance Policy and Procedure; Anti-Bullying Policy and Procedure; or Harassment Policy and Procedure.

## 3.5 How to Raise a Concern – Step 1

- If a member of staff has a genuine concern about a risk, malpractice or wrongdoing at work, it is hoped that they feel they will be able to raise it first with their line manager
- This may be done verbally or in writing
- It is better to raise a concern as soon as it occurs
- Where possible, unless, for example, where the concern relates to a safeguarding matter, the concerns raised will be treated confidentially.
- The member of staff's line manager will inform them if they cannot keep the concern confidential
- The Regional Health and Social Care Manager has overall responsibility for concerns raised and the member of staff's line manager may need to share the concern with the Regional and Social Care Manager who will have access to.

## 3.6 How to Raise a Concern – Step 2

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If a member of staff does not feel they can raise the concern with their line manager or the concern relates to or involves the line manager (or they have raised it with the line manager and no action has been taken ) the member of staff should then escalate to the Regional Health and Social Care Manager

### 3.7 How to Raise a Concern – Step 3

- If a member of staff does not feel that the Regional Health and Social Care Manager or will appropriately handle their concerns, the member of staff may report their concerns directly to the Care Quality Commission on 03000 616161 or through its website
- The CQC will not disclose the member of staff's identity without their consent unless there are legal reasons requiring the CQC to do so, e.g. where the information is about a child or vulnerable adult at risk

### 3.8 Protection and Support

- It is understandable that whistleblowers are sometimes worried about possible repercussions. Xander Recruitment Group aims to encourage openness and will support staff who raise genuine concerns under this policy, even if they turn out to be mistaken.
- Whistleblowers must not suffer any detrimental treatment as a result of raising a concern. Detrimental treatment includes dismissal, disciplinary action, threats or other unfavourable treatment connected with raising a concern. If an individual believes they have suffered any such treatment, they should inform the Regional Health and Social Care Manager immediately. If the matter is not remedied, the individual should raise it formally using the Grievance Procedure at Xander Recruitment Group.
- Anyone who threatens or retaliates against whistleblowers in any way may be subject to disciplinary action.
- Prior to raising a concern, the member of staff may want to get free, independent and confidential advice from:
- The Whistleblowing Helpline for NHS and Social Care; or Public Concern at Work ( a whistleblowing charity)

### 3.9 Investigation

- The Regional Health and Social Care Manager may arrange a meeting to discuss the concern. If so, the individual may bring a colleague or union representative to any meeting under this policy. The individual's companion must respect the confidentiality of the disclosure and any subsequent investigation.
- The Health and Social Care Manager, in consultation with, shall have discretion over the nature of the investigation into concerns raised, including, where it is considered appropriate, the involvement of others such as Adult Social Services or auditors. If there is evidence of criminal activity, the Police will be involved.
- Xander Recruitment Group cannot always guarantee the outcome the individual is seeking, however Xander Recruitment Group will try to deal with individual's concern in a fair and appropriate way. If the individual is not happy with the way in which the concern has been handled, they can raise it with one of the contacts listed at paragraphs 5.5 to 5.7.

### 3.10 Regional Health and Social Care Manager and Responsibility

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- Responsibility for dealing with any concerns reported will lie with the Regional Health and Social Care Manager who will have access to the tools needed to investigate the concerns raised
- If the concern relate to the Regional Health and Social Care Manager, concerns should be escalated to the director
- If the concerns involve both the and or an individual is fulfilling both roles, the member of staff can contact the CQC

### 3.11 Protected Disclosures and Safeguarding

- Where a safeguarding concern is received by a member of staff, safeguarding policies and procedures will be followed
- Where a safeguarding concern is received by a member of staff and refers to the actions of the Manager or Deputy Manager, then the referral must in the first instance be made to the Social Services Adult Protection team
- The Adult Protection Team will take responsibility of informing other agencies.

### 3.12 Raising a Concern – Timescales

- The individual with whom the concern is raised will acknowledge the concern within locally agreed timescales and in line with best practice.
- The investigation officer will be confirmed to the member of staff along with any further information required including contact information and an estimate of the likely timescales involved.

3.13 Where possible, the responsible manager will feed back to the member of staff who raised the concern on the outcome of any investigation, although this may not always be possible in full due to the nature of the disclosure.

3.14 A record of the information provided and details of the proceedings will be kept in line with best practice

### 3.15 False, Malicious Vexatious Allegations

All whistleblowing concerns will be investigated. However, if a member of staff is found to have made allegations maliciously and/or not in good faith, disciplinary action may be taken. A member of staff will never be disciplined for raising a concern, so long as they follow the whistleblowing procedure or make disclosures in accordance with the Public Interest Disclosure Act 1998 (PIDA).

### 3.16 Bullying and Harassment of Whistleblowers

- Unless an employer has taken reasonable steps to prevent this type of victimisation by co-workers, it will be deemed liable for the acts of its staff. It is therefore no longer enough to deal with incidents of bullying or harassment as and when they arise, on a case by case basis. The only basis upon which an employer will now be able to defend itself against liability for the actions of its staff will be by proactive steps. In order to demonstrate a “reasonable steps” defence, an employer will need to anticipate conduct such as bullying and harassment. To avoid incidents of bullying or harassment occurring Xander Recruitment Group will take the following steps:
- Adhere to the Whistleblowing Policy

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- Embed a culture of openness and transparency
- Communicate the policy
- Offer an necessary training to ensure that it is put into effect
- Take action if any worker bullies or harasses a whistleblower

### 3.17 Employment Contracts, Whistleblowing and Confidentiality

The PIDA protects Whistleblowers from being restricted to bring claims of whistleblowing. Xander Recruitment Group will seek legal or Human Resources advice to ensure that (where relevant) any agreements between Xander Recruitment Group and the employee/worker does not prevent them from issuing a whistleblowing claim.

### 3.18 Monitoring, Review, Continuous Improvement

Xander Recruitment Group strives through its Good Governance and Quality Assurance policies and procedures to ensure that as an organisation it has a clear audit and review process in place that seeks to foster a culture of continuous improvement and learning.

Xander Recruitment Group invites and actively seeks feedback, especially from those who may be faced with particular barriers to speaking up and raising concerns.

### 3.19 External Disclosures

- The aim of this policy is to provide an internal mechanism for reporting, investigating and remedying any wrongdoing in the work place. In most cases it should not be necessary to alert anyone externally .
- The law recognises that in some circumstances it may be appropriate for individuals to report their concerns to an external body such as a regulator. It will very rarely, if ever, be appropriate to alert the media. Xander Recruitment Group strongly encourages staff members to seek advice before reporting a concern to any external.
- Whistleblowing concerns usually relate to the conduct of staff, but they sometimes relate to the actions of a third party, such as a supplier or service provider. In some circumstances the law will protect an individual if they raise the matter with the third party directly. However, Xander Recruitment Group encourages staff to report such concerns internally first, in line with this policy.
- Definitions

### Criminal Justice and Courts Act 2015

Legislation which lays out the offences involving ill-treatment or wilful neglect by a person providing health or social care

### Whistleblowing

The disclosure of information which relates to suspected wrongdoing or dangers at work. This may include (but not limited to):

- Criminal activity
- Failure to comply with any legal (or professional) obligation or regulatory requirements
- Miscarriages of Justice
- Danger to health and safety
- Damage to the environment
- Bribery

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- Facilitating tax evasion
- Financial fraud or mismanagement
- Breach of internal policies and procedures
- Conduct likely to damage the reputation or financial wellbeing of the organisation
- Unauthorised disclosure of confidential information
- Negligence
- The concealment of any of the above matters
- Anonymously
- Made or done by someone whose name is not known or made public
- Employee/Staff
- PIDA refers to 'workers'. This policy has used the term employee/staff/colleagues to reflect the relevant persons that this policy relates to. The NHS integrated Policy (2016) 'Freedom to Speak Up: Whistleblowing Policy for the NHS' refers to volunteers being included. However, PIDA does not specifically include volunteers as they are not paid employees and therefore cannot be compensated financially for ill treatment or unfair dismissal.
- Vicarious Liability
- Vicarious Liability refers to a situation where someone is held responsible for the actions or omissions of another person. In a workplace context, an employer can be liable for the acts or omissions of its employees, provided it can be shown that they took place in the course of their employment.
- Grievance or Private Complaint
- A dispute about the employee's own employment position without a public interest aspect
- Whistleblower
- The term 'whistleblower' is used to describe people who make a 'qualifying disclosure' about a genuine concern at work. Where a worker suffers a detriment or is dismissed as a result, then they may have a certain employment protection under the Employment Rights Act 1996 (as amended by the Public Interest Disclosure Act 1998, often referred to as 'PIDA')
- PIDA
- Public Interest Disclosure Act 1998 – Legislation which provides protection to workers who make disclosures in the public interest

### Public Interest

A disclosure made in the interest of the public, i.e. not relating to an individual such as in a grievance case

### 4.10 Qualifying Disclosure

Qualifying disclosures are disclosures of information where the worker reasonably believes (and it is in the public interest) that one or more of the following matters is either happening, has taken place, or is likely to happen in the future:

- A criminal offence
- The breach of a legal obligation
- A miscarriage of justice
- A danger to health and safety of any individual
- Damage to the environment
- Deliberate attempt to conceal any of the above

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