

Policy Name	Whistleblowing Policy (Protection for those making Public Interest Disclosures)
Version No.	V6
Approval Date	14 March 2022
Category	Corporate
Classification	Internal

Whistleblowing Policy (Protection for those Making Public Interest Disclosures)	
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Version Control

Version	Date	Description	Updated By	Approved By
V3.0	25/07/2019	First draft new template	Governance and Risk Officer	
V3.1	02/04/2020	Updated Draft	Governance and Risk Officer	
V4	02/05/2020	Final Draft for ELT approval	Director of Governance and Compliance	ELT
V5	15/05/2020	Final Draft for Board approval	Director of Governance and Compliance	Board
V6	03/03/2021	Updated to extend the policy to Volunteers and Trustees under the Human Rights Act (prompted by adoption of NHF Code of Governance).	Risk and Compliance Manager	ELT Board

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1. Policy Purpose

In the interest of deterring and detecting wrongdoing at The ExtraCare Charitable Trust (ExtraCare) and to maintain an open, accountable, and transparent organisational culture, this policy encourages all individuals to report concerns that they feel are in the public interest, without fear of reprisal. The public interest is "**the welfare or well-being of the general public**" and society.

It is not disloyal to speak up if you have a concern. Doing so enables ExtraCare to achieve high standards of service and ethics. Speaking up also enables ExtraCare to properly investigate such concerns and deal with them appropriately. Raising a concern ('whistleblowing') is a positive act that can make a valuable contribution to ExtraCare's efficiency and success.

The purpose of this policy is to ensure that ExtraCare Trustees, employees, volunteers, and contractors (individuals) understand how to report concerns and how ExtraCare will respond to 'whistleblowing' to protect those who raise concerns when reporting what they reasonably suspect to be wrongdoing, malpractice or illegal activity.

2. Objectives

As a registered charity and a registered provider of both care and housing related support, ExtraCare is committed to working in an ethical manner in the best interests of its staff, volunteers and residents and meeting all legislative and regulatory requirements.

The objectives of this policy are:

- a) To encourage individuals to report suspected wrongdoing, **based on the definition in Section 8.1**, as soon as possible, in the knowledge that their concerns will be taken seriously and investigated as appropriate and that their confidentiality will be respected;
- b) To encourage and enable the raising of concerns within ExtraCare so that concerns can be addressed rather than ignoring a problem or 'blowing the whistle' externally;
- c) To provide guidance to individuals as to how to raise concerns; and
- d) To reassure individuals that they can raise concerns without fear of reprisals, even if their concerns turn out to be mistaken.

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3. Scope

This policy applies to Trustees, employees, volunteers and contractors (individuals) at the ExtraCare Charitable Trust and its subsidiaries.

This policy does not form part of any individual's contract, of employment or service and ExtraCare may amend it at any time.

ExtraCare will keep the scope under review to reflect the latest legal status regarding those covered by Public Interest Legislation or case law (judicial precedent).

Personal grievances about employment (for example complaints of bullying or harassment at work) are covered by our **Grievance Policy** and are not covered by this policy.

This policy does not apply to residents, relatives, external agencies, and others, who can report any concerns via our **Complaints policy**. A reporting form is available on our website. If a resident or relative is a volunteer then this Whistleblowing policy will apply.

4. Responsibilities

It is the responsibility of every individual to report any concern where they have a reasonable belief that wrongdoing has occurred, is occurring or is likely to occur. All ExtraCare Trustees, employees, volunteers and contractors should feel confident that meeting this responsibility will not prove detrimental to their employment status or their working environment and that ExtraCare will take appropriate action to investigate and deal with their concern.

Detailed responsibilities are below:

Board of Trustees	<ul style="list-style-type: none"> Promotes a culture of openness and transparency, where individuals feel empowered and assured that they can discuss their concerns without fear of reproach.
Audit and Assurance Committee	<ul style="list-style-type: none"> Has delegated authority from the Board of Trustees to keep ExtraCare's policies and procedures relating to 'whistleblowings' under review. Has delegated responsibility from the Board to receive reports on concerns raised under this policy and reviews the

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	<p>effectiveness of actions taken in response to concerns raised under the policy.</p> <ul style="list-style-type: none"> Receives a whistleblowing report (or a nil return) as a standing agenda item to each meeting.
Senior Independent Director (SID)	<ul style="list-style-type: none"> Provides an independent and impartial source of advice where individuals have concerns but are unable to raise them through the normal management route. Oversees the independence, autonomy and effectiveness of ExtraCare's policies and procedures in respect of whistleblowing, ensuring there is an appropriate mechanism in place to enable individuals to raise their concerns. Ensures that concerns are taken seriously, dealt with confidentially, within reasonable time limits and in the most appropriate way.
Executive Governance and Compliance Director	<ul style="list-style-type: none"> Is notified of any whistleblowing including notifications from third parties of any whistleblowing made directly to them, such as the Care Quality Commission (CQC), the Charities Commission, and the Regulator of Social Housing (RSH). Identifies the appropriate investigative officer for any whistleblowing concern. Reports any whistleblowing (and outcomes) to the Audit and Assurance Committee. Promotes and raises awareness of this policy through appropriate staff training and communication routes, e.g. Communications Bulletins and Workplace. Ensures that lessons learned from concerns are identified and solutions implemented.
Senior PA to Executive Leadership Team	<ul style="list-style-type: none"> Monitors the SID email account and alerts the SID when emails are received.
All Managers	<ul style="list-style-type: none"> Ensures that this policy is adhered to. Contributes to a culture where individuals feel safe to discuss concerns. Takes concerns seriously and handles them in accordance with this policy. Recognises that raising a concern can be a difficult experience for an individual. Seeks appropriate advice as necessary and communicates relevant findings to others where appropriate.

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	<ul style="list-style-type: none"> Notifies the Executive Director Governance and Compliance where a third party has received a whistleblowing concerning ExtraCare e.g. CQC, Charities Commission, RSH.
All individuals raising concerns	<ul style="list-style-type: none"> Raises the concern as soon as possible in an objective and factual way and in accordance with this policy. Keep records where possible of any incidents and potential witnesses (being mindful of data protection). Cooperates with any investigation, if appropriate, including being available for interview, providing statement(s) and/or other documentary evidence. Maintains confidentiality of residents, staff and any other individuals concerned so far as reasonably practicable.
All staff	<ul style="list-style-type: none"> Cooperate with any investigation if appropriate. Attend training on whistleblowing issues and governance matters

5. Monitoring & Review

The Executive Director Governance and Compliance will be responsible for recording concerns and advising on investigations. The Executive Director Governance and Compliance must be informed of all whistleblowing investigation findings and the lessons learnt.

Any disclosure reported to a third party, including but not limited to the Charity Commission, the CQC and RSH, must be notified to the Executive Director Governance and Compliance once notified to us by the relevant third party.

Reports on whistleblowing cases will be provided to the Audit & Assurance Committee by the Executive Director Governance and Compliance, which will review the response of management in each case.

This policy will be subject to a full review every 3 years.

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6. Risk Management

ExtraCare seeks to minimise the risk of malpractice and breaches of legislation through this policy. It is important that where an individual identifies something they think is fundamentally wrong, illegal or endangers others that it is identified and reported early providing ExtraCare with an opportunity to investigate, address and make improvements to operations and culture to mitigate the risk of harm and legislative breach.

The Board of Trustees identifies a breach of a legislative and/ or regulatory requirement as a corporate risk, for which it has a tolerance ranging from averse to minimal (appetite). Failure to comply with this policy not only represents a risk to our compliance with legislation and regulation, but a reputational risk for the Charity. Compliance with this policy and related documents reduces these risks and also ensures that the Charity meets its legislative and regulatory obligations.

7. Statement of Commitment

ExtraCare recognises that a robust whistleblowing policy supports good governance and also supports its values.

ExtraCare's Board of Trustees, Executive Leadership Team and Senior Management Team are committed to creating an open, transparent and supportive culture and recognise the valued contribution individuals make. Individuals are encouraged to speak up with any genuine issues that are concerning them. This policy enables individuals to do so in confidence and without fear of reprisal.

ExtraCare will provide appropriate feedback to those who raise concerns to demonstrate that their concerns are being addressed and reassure those raising concerns that appropriate action will be taken.

8. Additional Arrangements

8.1 What is Whistleblowing

The law provides protection for those who raise legitimate concerns **made in the public interest** and made with the reasonable belief that:

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- a. A criminal offence has been or is likely to be committed;
- b. There has been a breach of any legal obligation;
- c. A miscarriage of justice has occurred, is occurring or is likely to occur;
- d. The health & safety or welfare of any individual has been, is being or is likely to be endangered;
- e. The environment has been, is being or is likely to be damaged; and/or
- f. Information concerning any of the matters listed above is deliberately concealed.

The above includes instances where:

- g. The Charity's funds or assets are misused;
- h. The health and safety of residents is put at risk/The Charity is using its activities as a platform for extremist views or materials; and/or
- i. There has been an act of Bribery under our Anti-Bribery Policy.

A whistleblowing concern should not be confused with a grievance, which is a personal complaint about an individual's own employment situation. If you have a concern about your employment, in the first instance you should check the Grievance policy. If you are still uncertain whether something is within the scope of this policy, you should seek advice from the Executive Director Governance and Compliance or HR.

8.2 Raising a Concern

Once you have checked that the concern is within the scope of this policy, matters of concern may be raised verbally or in writing and should be raised in accordance with the following escalations routes:

Escalation Stage	Individual Raising Concern		
	Trustees	Staff and Volunteers	Contractors
1. Initially raise with:	Board Chair	Line Manager	Member of staff managing contract
2. If not able or not appropriate to raise as above in 1:	Executive Director Governance and Compliance	Next manager higher in the organisation structure	Next manager higher in the organisation structure
3. If unable or not appropriate to raise in accordance with 1 or 2 above:	Senior Independent Director (SID@extracare.org.uk)	Executive Director Governance and Compliance	Executive Director Governance and Compliance

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In exceptional cases	Senior Independent Director SID@extracare.org.uk	Senior Independent Director SID@extracare.org.uk	Senior Independent Director SID@extracare.org.uk
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Irrespective of who the concern is raised with, the Executive Director Governance and Compliance will be notified within 48 hours by the officer receiving the report/concern.

8.3 Confidentiality

All individuals should feel able to voice any whistleblowing concerns openly under this policy. However, if you want to raise your concern confidentially, we will make every effort to keep your identity secret unless there is a requirement of disclosure by law. If it is necessary for anyone investigating your concern to know your identity, where we are not prohibited by law, we will discuss this with you in the first instance.

We do not encourage individuals to make disclosures anonymously. Proper investigation may be more difficult or impossible if we cannot obtain further information from you. It is also more difficult to establish whether any allegations are credible. Whistleblowers who are concerned about possible reprisals if their identity is revealed should come forward to the Executive Director Governance and Compliance and appropriate measures will be taken to preserve confidentiality, so far as practicable. If you are in any doubt, you can seek advice from Protect, the independent whistleblowing charity who offer a confidential helpline. Helpline 0203 117 2520 Email: whistle@pcaw.co.uk Website: www.pcaw.co.uk.

8.4 Investigation and Outcome

To protect individuals and ExtraCare, initial enquiries will be made to decide if the matter falls under the definition of a whistleblowing case or another procedure within ExtraCare's reporting framework, whether an investigation is appropriate, and, if so, what form it should take. These enquiries will be made by the individual receiving the initial report/concern (as per Section 8.2).

As any whistleblowing must be reported to the Executive Director Governance and Compliance, should a concern then be progressed via a different process (such as a grievance process) then the basis for that decision will be documented by the individual receiving the report and provided to the Executive Director Governance and Compliance. This is both to ensure concerns meeting the definition of a whistleblowing are appropriately responded to,

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and also allow for analysis of wider learning (such as staff training and internal communications).

The action taken by ExtraCare will depend on the nature of the concern. The matters raised may:

- Be investigated by management, internal audit, or through the disciplinary/grievance process;
- Be referred to the police;
- Be referred to the external auditor; and/or
- Form the subject of an independent inquiry.

Within 10 working days of a concern being received by them, the person receiving the report will write to the whistleblower:

- Acknowledging that the concern has been received and, if appropriate, providing a short, written summary of the concern raised;
- Informing them whether any initial enquiries have been made, and what further investigations will take place, if any; and
- Giving an estimate of how long it will take to provide a final response unless the whistleblower states a final response is not required.

A copy of the report will be sent to the Executive Director Governance and Compliance. The whistleblower may be invited to a meeting to discuss the concerns raised by them, and you can be accompanied to such a meeting by a colleague or trade union representative. Any companion must respect the confidentiality of your disclosure and any subsequent investigation.

In some cases, we may appoint an external or internal investigator or team of investigators. The investigator (or investigators) may make recommendations for change to enable us to minimise the risk of future wrongdoing.

We will aim to keep you informed of the progress of the investigation and its likely timescale. However, sometimes the need for confidentiality may prevent us giving you specific details about the investigation or any action (including disciplinary action) taken as a result. You are required to treat any information about the investigation as confidential.

While we cannot always guarantee the outcome you are seeking, we will try to deal with your concern fairly and in an appropriate way. By using this policy, you can help us to achieve this.

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If you are not happy with the way in which your concern has been handled, or with the outcome of any investigation, you can raise this with the next person listed in the escalation process in paragraph 8.2 above or in exceptional cases with the Senior Independent Director.

If you are unsure whether or how to raise a concern or want confidential advice, you can contact the independent charity Protect (a whistleblowing charity) on 020 3117 2520 or at whistle@protect-advice.org.uk. Their lawyers can provide free confidential advice on how to raise a concern about serious malpractice at work.

8.5 Protection and Support for Whistleblowers

It is understandable that whistleblowers are sometimes worried about possible repercussions. We aim to encourage openness and will support individuals who raise genuine concerns under this policy, whatever the outcome.

The Employment Rights Act 1996 (as amended by the Public Interest Disclosure Act 1998), Case Law, and the Human Rights Act provide individuals with protection to ensure they are not detrimentally treated when they blow the whistle and it is considered in the public interest to do so.

The Public Interest Disclosure Act stipulates that Whistleblowers must not suffer 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. However, this does not include protection from disciplinary for breaches in your contract unrelated to the whistleblowing matter.

If you believe you have suffered any such treatment, you should inform the Head of People or Executive Director Governance and Compliance immediately. If the matter is not remedied, you should raise it formally using our Grievance Procedure.

Any employee found to be involved in the detrimental treatment of a whistleblower may be subject to disciplinary action.

If we conclude that a whistleblower has made false allegations maliciously, the whistleblower may be subject to disciplinary action.

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8.6 External disclosures

The aim of this policy is to provide an internal mechanism for reporting, investigating and remedying any wrongdoing in the workplace. In most cases you should not find it necessary to alert anyone externally.

The law recognises that in some circumstances it may be appropriate for you to report your concerns to an external body such as a regulator. It will very rarely if ever be appropriate to alert the media. We strongly encourage you to seek advice before reporting a concern to any external party. The independent whistleblowing charity, Protect, operates a confidential helpline. They also have a list of prescribed regulators for reporting certain types of concern. Their contact details are in paragraph 8.4 above.

Whistleblowing concerns usually relate to the conduct of our staff, but they may sometimes relate to the actions of a third party, such as a supplier or service provider. In some circumstances the law will protect you if you raise the matter with the third party directly. However, we encourage you to report such concerns internally first, in line with this policy. You should contact one of the individuals set out in paragraph 8.2 above for guidance.

9. Other Relevant ExtraCare Policies & Documents

Policies Applying to Staff, Volunteers and Contractors
Anti-Fraud, Theft & Financial Irregularity Policy
Bullying Harassment and Victimisation Policy
Equality and Diversity Policy
Health and Safety Policy
Mental Capacity Policy
Risk Management Policy
Safeguarding Vulnerable Adults and Children at Risk Policy
Policies Applying to Staff Only
Anti-Social Behaviour Policy
Disciplinary Policy
Grievance Policy
Major Incident and Escalation Policy
Policies Applying to Trustees Only

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Trustee Code of Conduct
Trustee Escalation Policy
Policies Applying to Staff and Residents
Complaints Policy
Professional Boundaries Code of Conduct

10. Relevant Legislative & Regulatory Requirements

Legislation	Regulation	Guidance
Public Interest Disclosure Act 1998 Mental Capacity Act Equality Act 2010	Care Quality Commission Fundamental Standards (April 2015)	Department of BIS – Whistleblowing Guidance for Employers & Code of Practice (Mar 2015)
Bribery Act 2010		Department of BIS – Blowing the whistle to a prescribed person – list of prescribed persons & bodies (Feb 2016)
Care Act 2014		Charity Commission guidance- https://www.gov.uk/guidance/whistleblowing-guidance-for-charity-employees
Employment Rights Act 1996		CQC Quick Guide to Raising a Concern with CQC: https://www.cqc.org.uk/sites/default/files/20200420_Whistleblowing_quick_guide_final_update.pdf
Human Rights Act 1998		https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/415175/bis-15-200-whistleblowing-guidance-for-

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		employers-and-code-of-practice.pdf
		UK Case Law Gilham v Ministry of Justice