

**Title:** **Whistleblowing Policy and Procedure**

**Synopsis:** To outline the policy and procedure for Whistleblowing within Freeways and Freeways Trust

**Status:** Final

**Version No:** 07

**Author:** Claire Hayward, CEO

**Date approved:** 29 May 2020

### **Diversity Impact Analysis**

Freeways wishes to ensure that its policies and procedures do not impact unfairly on employees with protected characteristics. Managers must therefore ensure that the application of this policy and procedure does not have an adverse impact on such individuals or groups. Concerns about any detrimental impact should be immediately raised with the HR manager.

### **Review**

This guidance will be reviewed after 3 years or earlier in line with any legislative requirements.

**Issue Date:** June 2023

**Review Date:** June 2026

### **Change Record**

<b>Version No</b>	<b>Issue Date</b>	<b>Reason for Change</b>
1.0	12/2006	Update in line with legislation changes
2.0	7/2011	Update
3.0	8/2014	Care Act compliant
4.0	3/2015	Align with whole policy review
5.0	6/2017	Update
6.0	6/2020	Review – no change to procedure
7.0	6/2023	Review – updates to section 4.4, 4.5 and 4.6

## Abbreviations

Abbreviation	Definition
Freeways	For the purposes of this policy 'Freeways' also incorporates Freeways Trust employees

## Table of Contents

	<b>PAGE</b>
<b>WHISTLEBLOWING POLICY</b>	
1. Purpose	3
2. Scope	4
3. Principles	4
<b>WHISTLEBLOWING PROCEDURE</b>	
4. Internal Procedure	5
5. External Procedure	6

## WHISTLEBLOWING POLICY

### 1. Purpose

- 1.1 Freeways is committed to the highest standards of openness and accountability.
- 1.2 An important aspect of accountability and transparency is a mechanism to enable staff and other members of Freeways to voice concerns in a responsible and effective manner. It is a fundamental term of your statement of employment particulars that an employee will not disclose confidential information about Freeways affairs.
- 1.3 However, where an individual discovers information which they believe shows serious malpractice or wrongdoing within Freeways then this information should be disclosed internally without fear of reprisal, and there should be arrangements to enable this to be done. In most instances the line manager would be the appropriate person to be informed but disclosure can also be completed independent of line management.
- 1.4 The Public Interest Disclosure Act 1998, gives legal protection to employees against being dismissed or penalised by their employers as a result of publicly disclosing certain serious concerns. For a disclosure to be protected by the Act's provisions it must relate to matters that 'qualify' for protection under the Act. Qualifying disclosures are those where an employee reasonably believes or intends to show that one or more of the following matters is either happening now, took place in the past, or is likely to happen in the future:
  - a criminal offence
  - the breach of a legal obligation
  - a miscarriage of justice
  - a danger to the health and safety of any individual
  - damage to the environment
  - deliberate concealment of information tending to show any of the above five matters

Freeways has endorsed the provisions, as above, so as to ensure that no members of staff should feel at a disadvantage in raising legitimate concerns.

- 1.5 It should be emphasised that this policy is intended to assist individuals who believe they have discovered malpractice or impropriety. It is not designed to question financial or business decisions taken by Freeways nor should it be used to reconsider any matters which have already been addressed under harassment, grievance, disciplinary or other procedures.
- 1.6 It is the expectation that the whistleblowing policy and procedure is used prior to staff using external recourse to air internal complaints.

## 2 Scope

- 2.1 This policy and procedure aims to raise concerns internally and at a high level and to disclose information which the individual believes shows malpractice or impropriety. This policy is intended to cover concerns which are in the public interest and may at least initially be investigated separately but might then lead to the invocation of other procedures e.g. disciplinary.

These concerns could include:

- Improper conduct or unethical behaviour including, but not exclusively, in relation to the care and support of our service users and others at risk
- Financial malpractice or impropriety or fraud
- Failure to comply with a legal obligation or Statutes
- Dangers to Health & Safety or the environment
- Criminal activity
- Attempts to conceal any of these

Staff should therefore refer to individual policies and procedures, staff code of conduct and individual statement of particulars, where applicable for further clarity.

## 3. Principles

### Protection

- 3.1 This policy is designed to offer protection to those employees of Freeways who disclose such concerns provided the disclosure is made:

- In good faith
- In the reasonable belief of the individual making the disclosure that it tends to show malpractice or impropriety and if they make the disclosure to an appropriate person (see below).

### Confidentiality

- 3.2 Freeways will treat all such disclosures in a confidential and sensitive manner. The identity of the individual making the allegation may be kept confidential so long as it does not hinder or frustrate any investigation. However, the investigation process may reveal the source of the information and the individual making the disclosure may need to provide a statement as part of the evidence required.

### Anonymous Allegations

- 3.3 Freeways encourages individuals to put their name to any disclosures they make. Concerns expressed anonymously are much less credible, but they may be considered at the discretion of Freeways. In exercising this discretion, the factors to be taken into account will include:

- The seriousness of the issues raised

- The credibility of the concern
- The likelihood of confirming the allegation from attributable sources

#### Untrue Allegations

- 3.4 If an individual makes an allegation in good faith, which is not confirmed by subsequent investigation, no action will be taken against that individual. In making a disclosure the individual should exercise due care to ensure the accuracy of the information. If, however, an individual makes malicious or vexatious allegations, and particularly if they persist with making them, disciplinary action may be taken against that individual.

#### Failure to Raise Concerns or Report Malpractice

- 3.5 Everyone working for Freeways has a duty of care and a personal responsibility to protect service users and others from exploitation or abuse, or any other form of malpractice.
- 3.6 Failure to report does not absolve any individual of their personal responsibility. If a member of staff is aware of, is made aware of, or (by not reporting) knowingly condones malpractice, they may be liable to face investigation and ultimately, disciplinary action.
- 3.7 Freeways takes the view that there can be no excuse for not raising concerns and reporting malpractice. Please remember that with a duty of care comes a duty to report any malpractice; our duty of care is paramount.

## **WHISTLEBLOWING PROCEDURE**

### **4. Internal Procedure**

- 4.1 As soon as an individual becomes aware of a concern they should, where appropriate inform their line manager, or another manager, verbally and follow this up with a written statement or an occasion report.
- 4.2 A member of the management team should acknowledge receipt of the concern in writing usually within seven calendar days of receipt of the information.
- 4.3 Alternatively individuals can use the email address: [info@freeways.org.uk](mailto:info@freeways.org.uk) and write “**whistleblowing – private and confidential**” in the subject line, where they believe the most appropriate course of action is to go directly to senior management.
- 4.4 The manager will consider what action may be appropriate; this may involve an informal review or a more formal investigation. Depending on the nature of the concern a number of policies and procedures may be evoked to take the concern further. These may include, but are not exclusive to:

- Safeguarding Adults at Risk and Safeguarding Children Policy and Procedures
- Disciplinary Policy and Procedure
- Performance Management Policy and Procedure

4.5 Whenever possible, we will give the complainant feedback on the outcome of any investigation and aim to complete this within 28 calendar days. Please note however, that we may not be able to tell them about the precise actions we take where this would infringe a duty of confidence we owe to another person. Also, if the complainant chooses to remain anonymous we will not be able to give feedback directly.

4.6 If the complainant is not satisfied that their concern is being properly dealt with by the investigating officer (manager), they have the right to raise it in confidence with the Chief Executive Officer or a trustee (where the CEO is the investigating officer).

## **5. External Procedure**

5.1 It is appropriate to disclose concerns externally if and when:

- There is immediate risk of harm to an individual and / or
- The internal investigation finds the allegations unsubstantiated and all internal procedures have been exhausted, but the complainant is not satisfied with the outcome of the investigation. Freeways recognises the lawful rights of employees and ex-employees to make disclosures to prescribed persons, or, where justified, elsewhere.

## **6. External Contacts**

- For regulated services which include domiciliary care services the Inspectorate CQC (Care Quality Commission) can be contacted on: - 03000 616161
- For non-regulated services – Local Authority Social Care or contract compliance teams
- Safeguarding Adults / Children – Via Local Authority safeguarding teams / care referral teams
- Health and Safety – via Local Authority Environmental Health Team