

DISCLOSURES IN THE PUBLIC INTEREST

NB SAFEGUARDING CONCERNS SHOULD BE DEALT WITH UNDER Autism East Midlands' SAFEGUARDING POLICY

The Public Interest Disclosure Act 1998 protects employees who raise legitimate concerns about specified matters from being dismissed by Autism East Midlands or from being subjected to detrimental treatment or victimised by either Autism East Midlands or work colleagues as a result, provided certain criteria are met. The Act makes provision about the kinds of disclosure which may be protected and the circumstances in which disclosures are protected. These rules are therefore intended to comply with the Act by encouraging employees to make disclosures about fraud, misconduct, bribery or other wrongdoing to Autism East Midlands, without fear of reprisal, so that problems can be identified, dealt with and resolved quickly.

Autism East Midlands' policy is to support workers who raise protected disclosures. Employees must not victimise, subject to detrimental treatment or retaliate against an employee who has made a protected disclosure.

Employees are protected provided they reveal information of the right type (known as a "qualifying disclosure") and they reveal that information to the right person and in the right way (known as making a "protected disclosure").

Qualifying disclosures

Certain kinds of disclosure qualify for protection. These are disclosures of information which you reasonably believe are made in the public interest and tend to show one or more of the following relevant failures is either currently happening, took place in the past, or is likely to happen in the future:

- a criminal offence, including offences such as theft, fraud or acts of bribery
- 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.

Only disclosures of information that fall within one or more of these six categories qualify for protection.

Your belief must be reasonable, but it need not be correct. It might be discovered subsequently that you were, in fact, wrong or mistaken in your belief, but you must be able to show that you held the belief and that it was a reasonable belief to hold in the circumstances at the time of disclosure. Note that it is not your responsibility to investigate the matter. That is Autism East Midlands' responsibility.

You must also reasonably believe that your disclosure is made in the public interest. It will therefore not include disclosures which can properly be characterised as being of a personal rather than a wider public interest, for example a disclosure about a breach of the terms of your own contract of employment.

Protected disclosures

For a qualifying disclosure to be a protected disclosure, you need to make it to the right person and in the right way. There are a number of methods by which you can make a protected disclosure, but Autism East Midlands always encourages all employees to raise any disclosure internally in the first instance.

You are protected if you make a qualifying disclosure to either:

- Autism East Midlands, or
- where you reasonably believe that the relevant failure relates solely or mainly to the conduct of a person other than Autism East Midlands or any other matter for which a person other than Autism East Midlands has legal responsibility, to that other person.

You are encouraged to raise any qualifying disclosures that you may have by following the disclosure procedure set out below.

If your concern relates to a breach of your own contract of employment, you should use Autism East Midlands' grievance procedure instead as these types of disclosure are not made in the public interest and are therefore not covered by this policy.

The disclosure procedure

This procedure applies to all permanent and temporary employees and workers. In addition, third parties such as agency workers, consultants and contractors and any others who perform functions in relation to Autism East Midlands should use it.

The procedure is as follows:

If you wish to make a qualifying disclosure, you should, in the first instance, report the situation in writing to your line manager, setting out in detail the nature of your disclosure. If you do not wish to contact your line manager, you can instead contact an alternative manager.

Such disclosures should be made promptly so that investigation may proceed and any action taken expeditiously.

All qualifying disclosures will be treated seriously. The disclosure will be promptly investigated and, as part of the investigatory process, you will be interviewed and asked to provide a written witness statement setting out the nature and details of your qualifying disclosure and the basis for it. Confidentiality will be maintained during the investigatory process to the extent that this is practical and appropriate in the circumstances. However, in order to effectively investigate a disclosure,

Autism East Midlands must be able to determine the scope of the investigation and the individuals who should be informed of or interviewed about the disclosure. Autism East Midlands reserves the right to arrange for another manager to conduct the investigation other than the manager with whom you raised the matter.

Once the investigation has been completed, you will be informed in writing of the outcome and Autism East Midlands' conclusions and decision as soon as possible. Autism East Midlands is committed to taking appropriate action with respect to all qualifying disclosures which are upheld.

You will not be penalised for raising a qualifying disclosure even if it is not upheld, unless the complaint was both untrue and made with malice.

Once Autism East Midlands' conclusions have been finalised, any necessary action will be taken. This could include either reporting the matter to an appropriate external government department or regulatory agency and/or taking internal disciplinary action against relevant members of staff. If no action is to be taken, the reasons for this will be explained to you.

If, on conclusion of the above stages, you reasonably believe that appropriate action has not been taken, you may then report the matter externally to the proper authority in accordance with the provisions of the Act. The Act sets out a number of prescribed external bodies or persons to which qualifying disclosures may be made and you can access these at:

<https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2>.

However, Autism East Midlands always encourages all employees to raise their concerns directly in the first instance, rather than externally. This enables issues to be dealt with promptly and speedily.

General principles

- be aware of the importance of eliminating fraud, misconduct, bribery or other wrongdoing at work. Report anything that you become aware of that is illegal or unlawful
- any matter raised under this procedure will be investigated thoroughly promptly and confidentially and the outcome of the investigation reported back to the worker who has raised the issue
- you will not be victimised, subjected to a detriment or dismissed for raising a protected disclosure under this procedure
- victimisation of an employee or worker, or subjecting them to any form of detrimental treatment or retaliation (including bullying and harassment), for raising a protected disclosure under this procedure will not be tolerated by Autism East Midlands, is a disciplinary offence and will be dealt with under Autism East Midlands' disciplinary procedure. Depending on the seriousness

of the offence, it may amount to potential gross misconduct and could result in your summary dismissal

- be aware that you can also be held personally liable for any act of victimisation or detrimental treatment of an employee or worker on the ground that they made a protected disclosure
- you should immediately draw the attention of your line manager to suspected cases of victimisation or detrimental treatment related to either you or another employee or worker having made a protected disclosure
- covering up someone else's wrongdoing is also a disciplinary offence. Never agree to remain silent about a wrongdoing, even if told to do so by a person in authority, such as your line manager
- your right to make a protected disclosure under this procedure overrides any confidentiality provisions in your contract of employment
- finally, maliciously making a false allegation is a disciplinary offence.

Support for Staff during Investigations

Autism East Midlands recognises that involvement within safeguarding concerns and investigations can be extremely stressful and often distressing.

The process of investigation can be lengthy and staff have said that being left in a "vacuum" with no information can add to the stress and anxiety.

As someone who has raised a concern (whistle-blowing)

Support will be offered via the usual channels of supervision, with the frequency increased subject to agreement between the line manager and the individual. It is recognised that more frequent, shorter sessions with a focus on emotional well-being may be appropriate during an on-going investigation for which they have whistle blown, and for a period following the outcome.

Where, due to the nature of the investigation, it is inappropriate for the line manager to provide supervision during an investigation, this will be provided by another manager from the wider Autism East Midlands service.

It is also important that information is shared around the outcome of an investigation, within the bounds of confidentiality.

As someone who has had an allegation made against them

If a staff member is relocated during the period of an investigation an agreement will be made with them and the relevant managers as to the most appropriate arrangements for supervision.

If a staff member is suspended during the period of an investigation the HR department will offer to update them on any progress made, or to inform them that there is no change. The frequency of this will be agreed with the staff member and

may be altered by mutual agreement of both the individual and the HR department.

All staff also have access to the independent counselling service provided. While you do not have to access this through your line manager or HR Department, it might be helpful to inform them you are doing so in order that any additional support can also be discussed with you.

Related Policies:

Safeguarding Policy

Document Control
Title: Disclosures in the Public Interest (Whistle-blowing)
Category: Non-Contractual
Applicable To: All Staff
Date Last Reviewed: October 2024
Procedure Owner: HR