

# CONFIDENTIAL REPORTING PROCEDURE

## 1. INTRODUCTION

1.1 The terms “confidential reporting”, “whistle-blowing” and “making a disclosure” are often used when an employee passes on information concerning alleged wrongdoing, malpractice, or illegal acts or omissions.

1.2 The Board wishes to encourage employees, and others that it deals with, who may have concerns about any aspect of the Board's activities, to come forward and voice those concerns. The Procedure is designed to complement the Board’s formal Policy on Counter Fraud and Corruption.

1.3 Employees may be the first to see something seriously wrong within the Board. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the Board. They may also fear harassment or victimization. It may be easier, therefore, to ignore the concern, rather than report what may just be a suspicion of malpractice. This Procedure Note aims to address those worries, and help foster a culture of openness, integrity and trust.

1.4 As well as employees, this Procedure Note applies to all other individuals working within the organisation (e.g. Board members, volunteers, contractors, consultants and agency staff).

1.5 The Procedure is not however a substitute for the Board’s other policies and procedures, in particular, those relating to personal grievances or individual employment terms and conditions of service. The Procedure is primarily for issues where the interests of others or of the organisation itself are at risk.

## 2. PROTECTION

2.1. This Procedure makes it clear that employees and others can report their concerns in a confidential manner, without fear of victimisation, discrimination or disadvantage. It is intended to encourage and enable them to raise concerns with the Board, rather than overlooking a problem, or 'blowing the whistle' outside.

2.2 Under the Employment Rights Act 1996, as amended by the Public Interest Disclosure Act 2013, employees of the Board who speak out against corruption or malpractice at work have statutory protection against victimisation and dismissal. An employee has the right to take a case to an employment tribunal if they have been victimised at work, or lost their job, as a consequence of making a disclosure.

2.3 To be covered by these laws, the person must reasonably believe that:

- they are acting in the public interest; and
- the wrong-doing falls within certain defined categories.

2.4. The defined categories are:

- criminal offences, which may include financial impropriety (e.g. fraud);
- failure to comply with legal obligations;
- miscarriages of justice;
- endangering another person's health and safety;
- damage to the environment; and
- covering up any wrongdoing in any of the above.

### **3. AIMS**

3.1 This Procedure aims to:

- encourage employees to be vigilant for illegal or unethical conduct;
- encourage employees to raise concerns;
- provide alternative avenues for raising concerns, where they do not wish to use their normal management and reporting routes;
- ensure allegations are treated in absolute confidence, with the Board making every effort not to reveal the reporter's identity;
- ensure that allegations are treated fairly, ethically and consistently; and
- reassure employees acting in good faith that they will be protected from possible reprisals or victimization.

### **4. SCOPE**

4.1 Any concern that an employee has about any aspect of service provision, or the conduct of employees or members of the Board or of others acting on behalf of the Board, can be reported under this Procedure. It may be something that:

- \* makes an employee feel uncomfortable in terms of apparent non-adherence to known standards;
- \* appears to be contrary to the requirements of the Board's Financial and Contract Regulations and Codes of Conduct;
- \* falls below established standards of practice;
- \* amounts to improper conduct; or
- \* appears to be an attempt to mislead.

4.2 Examples for reporting might include:

- fraud, corruption or financial irregularity;
- conduct against the law or justice;
- failure to observe health and safety regulations, or actions which involve risks to the public or other employees;
- damage to the environment;
- a criminal offence;
- conduct of the Board's contractors and suppliers;
- sexual, racial, disability or other discrimination;
- physical or verbal neglect or abuse;
- other unethical conduct, malpractice, negligent or unprofessional behaviour; or
- concealment of any of the above.

## 5. RAISING CONCERNS

5.1 Individuals are encouraged to raise any issue internally within the Board in the first instance, rather than raising it outside the organisation. If issues are first raised externally, protection under the whistle-blowing law may be weakened.

5.2 Employees or others who wish to raise a concern should do so verbally or in writing (marked 'Confidential') to the Chief Executive, the Finance Officer, a line manager or others. Any concerns regarding the Chief Executive may be raised with the Chairman.

5.3 An informant should not:

- approach, alert or confront individuals directly;
- investigate the concern personally; or
- consult or discuss the matter with persons other than those with the correct authority.

5.4 Employees who wish to make a written statement or report should set out:

- \* the background and history of the concern, giving relevant dates;
- \* the reason why there is particular concern about the situation;
- \* whether they have any personal interest in the matter; and
- \* that they are raising the concern as a whistle-blowing matter.

5.5 In order to ensure that employees receive the protection of the Public Interest Disclosure Act 2013, employees should put their name to the allegation. Any potential requirement for the future disclosure of identity will be discussed with the individual at the time of making the allegation.

5.6 Concerns expressed anonymously are much less powerful. Anonymous concerns and allegations will therefore be investigated at the discretion of the Chief Executive or the Chairman. In exercising this discretion, the factors to be taken into account would include:

- \* the seriousness of the issues raised;
- \* the credibility of the concern; and
- \* the likelihood of confirming the allegation from attributable sources.

5.7 Although employees are not expected to prove, beyond doubt, the truth of an allegation they will need to demonstrate that there are reasonable grounds for their concerns.

5.8 If an employee makes an allegation in good faith, but it is not confirmed by the investigation, no action will be taken against them. If, however, they make an allegation frivolously, maliciously, vexatiously or for personal gain, disciplinary action may be taken against them.

5.9 The Board understands that employees who are members of a Trades Union recognised by the Board may, in the first instance, wish to seek advice and guidance from their Union on the application of this Procedure.

## 6. HOW THE BOARD WILL RESPOND

6.1 The Chief Executive, in consultation with the Chairman, the Monitoring Officer and the Board's legal and personnel advisers, will decide how best to respond to concerns. The matter may be:

- \* investigated by management, internal audit, or through the disciplinary process;
- \* referred to the Police;
- \* referred to the External Auditor; or
- \* the subject of an independent inquiry.

6.2 In order to protect individuals and those accused of misdeeds or possible malpractice, initial enquiries will be made to decide whether an investigation is appropriate and if so, what form it should take. The overriding principle which the Board will have in mind is the public interest.

6.3 Within 10 working days of a concern being raised, the Chief Executive, the Monitoring Officer or the Finance Officer will write to the employee concerned at their private address:

- \* acknowledging that the concern has been received;
- \* indicating how the Board proposes to deal with the matter;
- \* telling the employee whether any initial enquiries have been made; and
- \* telling the employee whether further investigations will take place and, if not, why not.

6.4 If the matter is subject to further investigation, the employee will be kept Informed of progress, and will be told of the timescale for that investigation. The amount of contact between the officers considering the issue, and the employee having the concern, will depend on the nature of the matters raised, the clarity of the information provided, and the potential difficulties involved. If necessary, the investigating officer will seek further information from the employee raising the concern.

6.5 During any stage of an investigation under this Procedure, an employee may be accompanied by a representative of a Trades Union recognised by the Board, a work-place colleague, a family member, or a friend.

6.6 The Board will take steps to minimise any difficulties that may be experienced as a result of raising a concern. For instance, where an employee is required to give evidence in criminal or disciplinary proceedings, the Board will arrange for them to receive advice about the procedures involved.

6.7 The Board believes that employees need to be assured that matters of concern have been properly addressed and therefore, subject to any legal constraints, employees will be informed of the outcome of any investigation.

6.8 The Chief Executive will ensure that a record of the concerns and outcomes is maintained in a form that does not endanger confidentiality.

## **7. HOW THE MATTER CAN BE TAKEN FURTHER**

7.1 The Board expects that employees will be satisfied with any action it takes. If, however, employees are not satisfied, and feel that it is right to take the matter outside the Board, the following are possible contact points:

- the Health & Safety Executive
- Defra
- the External Auditor
- a Trades Union
- the Serious Fraud Office
- a relevant Voluntary Organisation
- Her Majesty's Revenue and Customs
- the Police
- the Charity Commission
- the organisation 'Public Concern at Work'.

7.2 In addition, a list of prescribed people for this purpose is available on the gov.uk website.

7.3 If an employee does decide to take the matter outside the Board, they must ensure that they do not disclose to a third party any of the Board's confidential information. If the employee is in any doubt, they are strongly advised to seek the confidential advice of the Board's Monitoring Officer before taking any action to ensure that they do not inadvertently put themselves in a position where they will be criticised.

## **8. REVIEW**

8.1. As a minimum, this Procedure Note will be formally reviewed every three years.