



# Whistleblowing Policy and Procedural Guidance

## Definition

Whistleblowing is 'raising a concern about malpractice within an organisation or through an independent structure associated with it'. (UK Committee on Standards in Public Life)

If workers bring information about a wrongdoing to the attention of their employers, they are protected in certain ways under the Public Interest Disclosure Act 1998. This is commonly referred to as 'blowing the whistle'. The law that protects whistle-blowers is for the public interest, so people are encouraged to speak out if they find malpractice in an organisation. Blowing the whistle is more formally known as 'making a disclosure in the public interest'.

## Protection

This group is an organisation committed to delivering a high-quality pre-school service, promoting organisational accountability and maintaining public confidence.

This policy provides individuals in the workplace with protection from victimisation, reprisals or punishment, where they raise a genuine concern about misconduct or malpractice in the organisation. The policy is underpinned by the Public Interest Disclosure Act 1998, which encourages people to raise concerns about misconduct or malpractice in the workplace, in order to promote good governance and accountability in the public interest. The Act covers behaviour, which includes:

- A criminal offence
- Failure to comply with any legal obligation
- A miscarriage of justice
- Danger to health and safety and/or environment
- Deliberate concealment of information about any of the above.

Paid and unpaid workers are entitled to expect fair and reasonable treatment from the employer and their colleagues. It is not intended that this policy be a substitute for, or an alternative to the group's formal Grievance Procedure. The group has in place formal procedures that staff, paid and unpaid, can use if they feel they have been unfairly treated or discriminated against. They can seek advice from a Trade Union, a lawyer, or others as they see fit.

However, this group accepts that there may be rare occasions in the organisation when situations arise which are illegal, improper or unethical, or which are otherwise in conflict with the Codes of Practice of Social Service Workers and Employers. It is committed to providing staff, paid and unpaid with an effective mechanism for dealing with such situations, and this policy is designed to nurture a culture of openness and transparency within the organisation, which makes it safe and

acceptable for staff to disclose, in good faith, a concern they may have about malpractice within the service.

### **Reporting Procedures**

A paid or unpaid worker who, acting in good faith, wishes to make a disclosure in the public interest, should report the matter to the manager, who will advise the worker of the action he or she will take in response to the concerns expressed. This person will hereafter be referred to as the investigating officer. Disclosures should be investigated and resolved as quickly as possible.

If a paid or unpaid worker feels the matter cannot be discussed with the manager, he or she should report it to the chairperson/. The chairperson will decide, in consultation where necessary with Early Years Scotland and Social Care and Social Work Improvement Scotland (SCSWIS) (formerly the Care Commission) what action is to be taken. This may include whether the issue raised should be dealt with through the group's own Grievance Procedure.

If there is evidence of criminal activity, then the investigating officer should inform the police. The group will ensure that any internal investigation does not hinder a formal police investigation.

### **Timescales**

Due to the varied nature of these sorts of disclosures, which may involve internal investigators and / or the police, it is not possible to lay down precise timescales for such investigations. The investigating officer should ensure that the investigations are undertaken as quickly as possible without affecting the quality and depth of those investigations.

The investigating officer, should as soon as practically possible, send a written acknowledgement of the concern to the complainant, and thereafter report back to them in writing the outcome of the investigation and on the action that is proposed. If the investigation is a prolonged one, the investigating officer should keep the complainant informed, in writing, as to the progress of the investigation and as to when it is likely to be concluded.

All responses to the complainant should be in writing and sent to their home address.

### **Investigating Procedure**

The investigating officer should follow these steps:

- Full details and clarifications of the disclosure should be obtained and noted. The individual making the disclosure will need to provide a statement as part of the required evidence.
- The investigating officer should inform the member of staff against whom the disclosure is made as soon as is practically possible. The member of staff will be informed of their right to be accompanied by a trade union or other representative at any future interview or hearing held under the provision of these procedures.
- The investigating officer should consider whether the case merits the involvement of the auditors / independent examiners and the police at this stage and should consult with the chairperson / owner.

- The allegations should be fully investigated by the investigating officer with the assistance where appropriate, of other individuals / bodies.
- A judgement concerning the disclosure and validity of the disclosure will be made by the investigating officer. This judgement will be detailed in a written report containing the findings of the investigations and reasons for the judgement. The report will be passed to the chairperson or owner as appropriate.
- The chairperson / owner will decide what action to take. If the disclosure is shown to be justified, then they will invoke disciplinary or other appropriate procedures.
- The person making the disclosure should be kept informed of the progress of the investigations and, if appropriate, of the final outcome.
- If appropriate, a copy of the outcomes will be passed to the auditor / independent examiner to enable a review of the procedures.

If the person making the disclosure is not satisfied that their concern is being properly dealt with by the investigating officer, they have the right to raise it in confidence with the chairman or owner. If the investigation finds the allegations unsubstantiated and all internal procedures have been exhausted, but the person making the disclosure is not satisfied with the outcome of the investigation, the group recognises the lawful rights of employees and ex-employees to make disclosures to prescribed persons such as the Health and Safety Executive, Scottish Care and Social Work Improvement Scotland (SCSWIS) (formerly the Care Commission) or, where justified, elsewhere.

### **Identity of Whistleblower**

The group will treat all such disclosures in a 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. The investigation process may have to reveal the source of the information.

A disclosure made in good faith to a manager, senior playworker, line manager, chairperson or owner will be protected. Anonymity will be maintained wherever possible, and the worker will not suffer any personal detriment as a result of raising a genuine concern about misconduct or malpractice within the organisation. At the appropriate time, however, they may need to come forward as a witness. This policy encourages the person making the disclosure to put their name to any allegations they make. Concerns expressed anonymously are much less credible, but they may be considered at the discretion of the group.

Please note that:

- Staff must disclose the information in good faith.
- Staff must believe it to be substantially true.
- Staff must not act maliciously or make false allegations.
- Staff must not seek any personal gain.

### **Untrue Allegations**

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 he or she persists with making them, disciplinary action may be taken against that individual.