

WHISTLEBLOWING POLICY AND PROCEDURE

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Section 1 – Policy

1) Policy statement

- 1.1) The Standards Board for England is committed to maintaining the highest levels of probity and behaviour amongst its workforce, and takes very seriously any form of malpractice that is identified or uncovered. Our Code of Conduct for Employees sets out the standards expected from all our employees, providing staff with a comprehensive frame of reference. As an organisation, our values are to be fair, helpful and authoritative and we expect our employees to work in accordance with these values.
- 1.2) Employees who have concerns are able raise disclosures about wrongdoing under this policy, so that problems can be identified and resolved quickly. Where employees raise concerns in good faith and reasonably believe them to be true, they will be protected from possible reprisals or victimisation. If employees raise a genuine concern under this policy, they will not be at risk of losing their job or suffering any form of retribution as a result. Provided they are acting in good faith, it does not matter if they are mistaken.
- 1.3) However in making a disclosure the individual should take care to ensure the accuracy of the information. This assurance cannot be extended to someone who it is shown has raised untrue matters. Employees should give this careful consideration and take advice prior to making a complaint. If it can be shown that the employee who raises the disclosure has done so vexatiously, mischievously, maliciously or for personal gain, disciplinary action may be taken.
- 1.4) This policy and procedure provides a mechanism for employees to raise serious concerns about wrongdoing and get feedback on any action taken as a result. Employees are encouraged to feel confident in raising such concerns.
- 1.5) The procedure also provides details of how to pursue any appeal, if an employee is not satisfied with any action taken.

2) Background

- 2.1) The Public Interest Disclosure Act 1998 protects employees against detrimental treatment or dismissal as a result of any disclosure by them of normally confidential information in the interests of the public. The Standards Board for England's whistleblowing policy and procedure, as set out, is in line with the Act.

- 2.2)** A disclosure will qualify for protection if the concern relates to unlawful conduct, financial malpractice or dangers to the public or the environment. Specific examples could include:
- a criminal offence (eg fraud, corruption or theft) has been/is likely to be committed
 - the breach of a legal obligation
 - a miscarriage of justice
 - the health or safety of any individual has been/is likely to be endangered
 - damage to the environment
 - public funds are being used in an unauthorised manner
 - the Standards Board's Code of Conduct has not or is not being observed or is being breached by a member of staff or the Board
 - any other form of serious improper action or conduct is taking place
 - information relating to any of the above is being deliberately concealed or attempts are being made to conceal the same

3) Scope and principles

- 3.1)** All employees of the Standards Board may use this policy. This includes permanent and temporary staff. It also covers agency staff and staff seconded to the organisation.
- 3.2)** Contractors working for the Standards Board may also use this policy in order to make the Standards Board aware of any concerns that the contractor's staff may have with regard to any contractual or other arrangement with the Standards Board. The private concerns of the contractor relating to non-Standards Board business should be raised with the relevant contractor organisation and/or other suitable agency/regulator – including the police, if appropriate.
- 3.3)** It is not intended to be used where other more appropriate procedures are available, for example the Grievance Procedure, where an individual is aggrieved about their personal position. Rather the Whistleblowing policy is primarily for concerns where the interests of others or of the organisation itself are at risk. See also section 2, 1.6 for further information.

If an individual asks for their identity to be protected, it will not be disclosed without their consent. Meetings may, if necessary be arranged off-site. If, due to the nature of the disclosure, the Standards Board is not able to resolve the concern without

revealing their identity (for instance because the employee's evidence is needed in court), this will be fully discussed with the employee to agree how the matter can proceed.

The Standards Board will make effort to protect employee confidentiality but this cannot be guaranteed because the content of the complaint, at the very least will need to be revealed if any action is to be taken; this may in turn identify the source. If employees do not disclose who they are, ie they make an anonymous disclosure, the matter will be dealt with in accordance with the procedure, although it may be more difficult to look into the matter or give feedback. Accordingly while the Standards Board will consider anonymous complaints, this policy is not designed to deal with them.

- 3.5)** If an employee raises a concern and then wishes not to proceed with the disclosure, the manager receiving the disclosure will be obliged to consider whether the matter should be investigated because of the potentially serious nature of the issue. The employee will be informed of this decision. The manager will be guided by what is in public interest, recognising the Standards Board's role as a regulator of conduct in public life.
- 3.6)** Where an employee has been made subject to a Whistleblowing disclosure, and following an investigation there is a case to answer the matter will be dealt with through the Standards Board's human resource policies and procedures. Where the investigation concludes that there is a case of misconduct by an employee, a formal disciplinary investigation leading to a hearing may take place in accordance with the Standards Board's Disciplinary Procedure.
- 3.7)** During any investigation both parties will be kept up to date with progress on the investigation. Timescales for this will be determined by the investigating manager and notified to both parties as part of the investigation process. Appropriate support will be provided to both parties as required.
- 3.8)** Employees who are unsure about whether to use this policy and procedure or require independent advice at any stage, may contact:
- their trade union
 - the independent charity Public Concern at Work on 020 7404 6609. Its lawyers can give you free confidential advice at any stage about how to raise a concern about serious malpractice at work
- 3.9)** If an employee takes the matter outside the Standards Board, they should ensure that no disclosure of confidential information takes place, as the Public Interest Disclosure Act

does not provide blanket protection and could leave employees vulnerable to disciplinary or other action, if they disclose confidential information in circumstances not covered by the Act.

If the disclosure is shown to have been malicious, the manager appointed to investigate may recommend an investigation under the Disciplinary Procedure against the complainant.

While the Standards Board cannot guarantee that matters will be responded to in the way employees might wish, a commitment is made to handle the matter fairly and properly.

Section 2 – Procedure

1) Making a disclosure – initial action

- 1.1) As soon as an employee becomes reasonably concerned about a matter, they should first raise the issue with their line manager (the “receiving manager”), unless the disclosure concerns them, in which case the employee should write to the Chief Executive or the HR Manager.
- 1.2) Disclosures involving the Chief Executive should be raised with the Chair of the Board. In this case, the Chair of the Board may appoint an independent external investigator to consider the case and if there are grounds for proceeding. Disclosures concerning a member of the senior management team (SMT) should be raised with the Chief Executive. This can be done via the employee’s line manager. If the concern is regarding the HR Manager then the matter should be raised with the employee’s line manager or a member of SMT.
- 1.3) All managers have a responsibility to act on the concerns raised, in accordance with this procedure. Failure to do so in accordance with the policy and procedure may lead to disciplinary action.
- 1.4) Concerns may be raised verbally or in writing and should give the background, the nature of the malpractice that is alleged; relevant dates where possible; the reasons for the concern and the names of individuals against whom the allegations are made.
- 1.5) If the concern is raised verbally, then the person receiving the information should put in writing, an outline of the matters raised and this should be confirmed in writing to the employee. This should be done within ten working days.
- 1.6) Once a concern is raised the receiving manager, should report the matter to the Head of Legal who will appoint an appropriate manager to investigate (the “investigating manager”). This could be receiving manager. The Head of Legal will determine whether the matter constitutes a disclosure or whether it should be dealt with under another procedure (the employee will be informed of this).

If the matter is dealt with under the Whistleblowing policy then the employee will then be informed of the name of the investigating manager and how they can be contacted. If the matter relates to the Head of Legal, the Chief Executive will appoint the investigating manager. Due to the nature of the disclosure the Head of Legal may appoint an independent external investigator to look into the matter. If the matter

relates to the Head of Legal then decisions for proceeding will be made by the Chief Executive.

- 1.7) The receiving manager will then inform the employee in writing of the process to be followed.
- 1.8) The receiving manager will also inform any employee against whom allegations are made of the allegations. This will normally be done in writing within ten working days. However this may be delayed if it is likely to jeopardise the investigation.

2) Handling a disclosure

- 2.1) The investigating manager will be responsible for deciding whether there are grounds for proceeding further with the case. Potential action that the investigating manager could take includes a clarification of the facts, a more formal investigation or the employee may be advised that the matter is better dealt with under another Standards Board policy.

- 2.2) Where appropriate, the matters raised may:

- be investigated by the investigating manager or internal auditors
- be referred to the police
- be referred to the external auditor
- form the subject of an independent inquiry by an outside body

This will be determined by the investigating manager in conjunction with the Head of Legal and the HR Manager.

- 2.3) Within four weeks of a concern being raised, the investigating manager will write to both parties:
 - indicating how the Standards Board proposes to deal with the matter, and where an internal investigation is to take place giving an estimate of how long it will take to provide a full response
 - supplying information on the Standards Board's employee assistance (counselling service) support
 - indicating whether further investigations will take place and if not, why not
- 2.4) Appendix 1 provides details of the role of the investigating manager. The investigating manager will be able to access external legal support and advice regarding the matters under investigation.
- 2.5) Any internal investigation should take no longer than three months to complete from the date of receipt of original

disclosure. As part of the investigation, the investigation manager will decide:

- whether disciplinary action be taken against any employee
- whether changes should be recommended to any Standards Board procedure
- whether any other action should be recommended
- These will be detailed in a final report

2.6) The investigating manager will send a copy of the final report, including recommendations, to the Head of Legal who will consider the recommendations and determine what action, if any, to take. The investigating manager will also give a response in writing to the employee who made the disclosure as soon as possible after the completion of the investigation. This response will include the outcome of the investigation and what action, if any, is to be taken, although precise details may not be given where there are legal constraints, or it would infringe a duty of confidence owed by us to someone else or where there are business reasons for not doing so.

2.7) The individual who is subject to the disclosure will also be informed of the outcome in writing and what action, if any, is to be taken as soon as possible after the completion of the investigation.

3) Appeal

3.1) An employee who raises a concern and is not satisfied with the outcome or action proposed may appeal against the decision to a more senior manager within the Standards Board. An appeal should be made to the HR Manager within five days' of receipt of the outcome letter.

3.2) The Chief Executive, in consultation with the HR Manager will determine who should hear the appeal. The appeal should be completed within one month.

3.3) After the appeal process is exhausted, there is no further right of internal appeal. However, if the employee remains dissatisfied they may raise the matter further by contacting an outside agency, for example:

- the National Audit Office
- Communities and Local Government

3.4) An employee who is subject to action arising from a whistleblowing disclosure will be able to make representations, within five working days, to the Chief Executive about the outcome of the report. The Chief Executive will consider these representations and may direct further investigation or review as appropriate.

4) Timescales

Action	Timescale	By Who
Written acknowledgement of disclosure made in writing or if received verbally, including an outline of process to be followed.	Within 10 working days.	Person who receives the disclosure – the receiving manager.
Confirm in writing to the person complained of that a disclosure has been received and that it is being considered. Outline the process to be followed.	Within 10 working days.	Person who receives the disclosure – the receiving manager.
Confirmation of whether the matter is to be investigated, and if so, how it will be investigated. Letters sent to employee and person complained of.	Within four weeks of receipt of disclosure.	Person appointed to investigate – the investigating manager.
Written confirmation of outcome of investigation and action to be taken. Report sent to Head of Legal. Head of Legal considers recommendations and determines what action to take. Letters sent to employee and person complained of.	Within three months of receipt of disclosure.	Person appointed to investigate – the Investigating manager.
Appeal against outcome of investigation.	Within five working days from receipt of outcome.	Employee who makes the disclosure.
Appeal carried out.	Within one month of appeal.	Manager appointed to hear the appeal.
Appeal to Chief Executive.	Within five working days from receipt of outcome.	Employee subject to the disclosure.

- 4.1)** While the investigating officer will need to adhere to the timescales indicated, the nature of some serious concerns may require the investigation to take longer than three months. In these circumstances all parties will be kept informed as to progress.

5) Recording and monitoring

- 5.1)** The HR section will maintain a register containing all concerns that are brought to the organisation's attention. These will be reported on a quarterly basis to the Board.
- 5.2)** All records will be treated as confidential and kept no longer than necessary in accordance with the Data Protection Act 1998. Individuals will have the right to request and have access to certain personal data. Employees will be given copies of meeting records, although some information may be withheld to protect a third party.

Appendix 1 – The role of the investigating manager

The investigating manager will have the following responsibilities to the Standards Board for England:

- Arrange individual interviews with relevant witnesses or individuals and inform them of their right to be accompanied at the meeting by their trade union representative or work colleague.
- Establish the facts/obtain statements/collect documentary evidence.
- Maintain detailed records of the investigation process.
- Make any recommendations for action to be submitted to a more senior manager.

The investigating manager will have the following responsibilities towards the employee who raised the disclosure:

- Hold a formal meeting with the employee making the complainant to discuss the matter.
- Inform them of their right to be accompanied at any interview by their trade union representative or work colleague.
- Keep the employee up to date with progress on the matter and agree timescales for action.
- Notify the employee making the disclosure about the outcome of the investigation, including how the matter will be dealt with and whether they will be required to attend an investigatory interview.
- Give details of employee support mechanisms available.

The investigating manager will have the following responsibilities towards the employee against whom the disclosure is raised:

- Inform the individual/individuals about whom the disclosure is made in writing of the disclosure, the seriousness of the allegations and provide any supporting evidence.
- Advise in writing of the procedure to be followed.
- Give the person the opportunity to respond in person and in writing to the claims made, and receive and consider any relevant evidence.
- Inform them of their right to be accompanied at any interview by a trade union representative or work colleague.
- Give details of employee support mechanisms available.
- The investigating manager may also be required to act as a witness at any subsequent disciplinary hearing if required.
- Where necessary the Standards Board will provide support, counselling or mediation to any team subject to investigation in order to ensure normal working relationships are resumed as effectively as possible.

The manager appointed to hear an appeal will have the following responsibilities:

- Hold appeal meeting with employee who made the disclosure.
- Ensure all parties are informed of their right to be accompanied at any meetings by a trade union representative/work colleague.
- Review the investigation report/procedure followed and findings.
- Decide whether to uphold appeal or not.
- Initiate a new investigation if necessary.
- Report the appeal findings in writing to the Chief Executive, if applicable.
- Communicate outcome in writing to the employee making the disclosure and the employee against whom the disclosure is made.