

Whistleblowing Policy

Purpose

The purpose of this policy is to set out The Education Fellowships' approach and procedure for dealing with concerns raised by employees.

Introduction

Employees are often the first to discover that there may be something inappropriate happening within the workplace. It is therefore important that they feel able to express their concerns without fear of harassment or victimisation. The Public Interest Disclosure Act is designed to protect employees who make disclosures of information from detriment or dismissal. This policy reflects the provisions of this Act.

The Education Fellowship are committed to promoting a culture of openness and a shared sense of integrity throughout the organisation by inviting all employees to act responsibly in order to uphold its' reputation and maintain public confidence.

The Education Fellowship expects the highest standards of operation, integrity and accountability in all aspects of its' work. In line with this commitment, all employees are encouraged to voice any concerns they may have without fear of reprisals. This policy provides an appropriate tool for this, rather than overlooking a concern or reporting outside The Education Fellowship in an inappropriate manner.

The Education Fellowship ("the Company") is committed to be compliant with the Bribery Act 2010. The Company actively encourages a culture of honesty and openness and therefore all employees are required to bring up to their manager or other designated person any issue that, in the employee's opinion, might constitute bribery or corruption.

Employees may, in properly carrying out their duties, have access to, or come into contact with, information of a confidential nature. Their terms and conditions provide that except in the proper performance of their duties, employees are forbidden from disclosing, or making use of in any form whatsoever, such confidential information.

However, the law allows employees to make a 'protected disclosure' of certain information. In order to be 'protected', a disclosure must relate to a

specific subject matter and the disclosure must also be made in an appropriate way. Whistleblowing protection is confined to a disclosure, which, in the reasonable belief of the employee making the disclosure, is made in the public interest. Those circumstances where an employee may make a disclosure on a specific subject matter are outlined in paragraph 5 of this policy.

Aims and Scope of the Policy

This policy aims to:

-  Provide a suitable tool for employees to raise concerns internally,
-  Provide assurance that matters raised will be dealt with quickly and appropriately and ensure that concerns are taken seriously;
-  Reassure employees they if they raise a concern in good faith, they will be protected from reprisals or victimisation

This policy provides information on how an Education Fellowship employee can raise concerns about working practices and the process to follow when raising such concerns. Issues raised through this policy may be addressed through other procedures (e.g. discipline, grievance, child protection).

Before raising a concern under the scope of this policy, employees should consider the following:

-  That the responsibility for expressing concerns rests with *all* employees
-  Line manager, team meetings or other opportunities should be used where possible to seek clarification and raise questions on day to day concerns
-  It is recognised that it can be difficult to raise concerns, however once known, all employees must act to prevent the escalation of a concern, and to prevent themselves being implicated

All employees have the right to raise concerns under this policy, which could be about the actions or practices of their colleagues, private contractors, Directors, Governors or volunteers.

This policy applies to all employees; however, it also covers those contractors working for the Trust on its premises. It also covers suppliers and those providing services under a contract with the Trust in their own premises. The term 'individual' used throughout this document is used to include all the above.

Concerns regarding an individual employee's own employment do not fall within the scope of this policy. This includes matters relating to conditions of service or treatment. These matters should be considered under the Trusts Grievance Procedure.

The principles of the policy

Existing procedures are in place to enable individuals to raise grievances about their own employment. This policy is intended to cover concerns that fall outside the scope of individual grievances and relates to both employees and workers.

This policy is in addition to the any other complaints procedure and other statutory reporting procedures, and seeks to encourage you to raise your concerns internally within the organisation.

If you are unsure whether or not to use this policy/procedure, or if you need independent advice at any stage, you can contact Public Concern at Work, which is an independent charity, which can give free confidential advice at any stage on how to raise a concern about serious malpractice at work. Please refer to Appendix 1 for further details.

Specific Subject Matter

If, in the course of employment, an employee becomes aware of information which they reasonably believe tends to show one or more of the following, they must use the Company's disclosure procedure set out below:

-  That a criminal offence has been committed is being committed or is likely to be committed
-  That a person has failed, is failing or is likely to fail to comply with any legal obligation to which he is subject
-  That a miscarriage of justice that has occurred, is occurring, or is likely to occur
-  That the health or safety of any individual has been, is being, or is likely to be, endangered
-  That the environment, has been, is being, or is likely to be, damaged
-  That information tending to show any of the above, is being, or is likely to be, deliberately concealed
-  That the business or any associated person has been, is being, or is likely to be receiving or offering bribes

- 👉 That any foreign official has been, is being, or is likely to be bribed or offered facilitation payment by the company or any associated person

'Qualifying disclosures' i.e. those which would be raised under this policy, are disclosures of information which a worker reasonably believes to show that one of more of the following is either happening at the present time, took place in the past or is likely to happen in the future:

- 👉 Any unlawful act, whether criminal or a breach of civil law, failure to comply with legal obligations or where a miscarriage of justice has occurred, is occurring or is likely to occur
- 👉 Maladministration, as defined by the Local Government Ombudsman
- 👉 Breach of any statutory Code of Practice breach of, or failure to implement or comply with any policy or procedure rules determined by The Education Fellowship
- 👉 Failure to comply with appropriate professional standards
- 👉 Corruption or fraud including obtaining money (e.g. grants) without entitlement
- 👉 Misuse of assets, including stores, equipment, vehicles, buildings computer hardware and software
- 👉 A danger to the health or safety of any individual
- 👉 Failure to take reasonable steps to report and rectify any situation which is likely to give rise to significant avoidable cost, or loss of income, to the Company
- 👉 Abuse of power, or the use of the Company's powers and authority for an unauthorised or ulterior purpose
- 👉 Damage to the environment
- 👉 Deliberate covering up of information tending to show any of the above matters

An individual does not have to raise a grievance in order to make a 'protected disclosure'; however, if the employee intends to raise the matter as a grievance, this intention must be clearly stated.

Disclosure Procedure

Information, which an employee reasonably believes, tends to show one or more of the above should promptly be disclosed to your Line Manager so that any appropriate action can be taken.

If it is inappropriate to make such a disclosure to the manager, the employee should speak to the Chief Operating Officer.

Employees will suffer no detriment of any sort for making such a disclosure in accordance with this procedure.

However, failure to follow this procedure may result in the disclosure of information losing its 'protected status.'

For further guidance in relation to this matter or concerning the use of the disclosure procedure generally, employees should speak in confidence to their Line Manager.

Safeguards to protect whistle-blowers

The Company recognises that the decision to report a concern can be a difficult one to make, not least because of the fear of reprisals from those responsible for the malpractice. As far as possible The Education Fellowship will seek to respect the confidentiality and anonymity of the individual raising the concern and will seek to protect him/her from reprisals. In this regard, The Education Fellowship will not tolerate any harassment or victimisation of the individual who has raised the concerns, nor will any attempt to prevent individuals from raising concerns in good faith be acceptable.

In making the disclosure, an individual must have a reasonable belief that the information disclosed shows one or more of the offences or breaches listed above. Ultimately, the belief may not be accurate, but the individual must show that they held the belief and that it was a reasonable belief in the circumstances, at the time of the disclosure.

Individuals are encouraged to come forward in good faith with genuine concerns in the knowledge that they will be taken seriously.

If, following investigation, a complaint is confirmed to be unfounded, this outcome will be notified to the employee and the matter will be deemed concluded unless new and further evidence comes to light.

The Trust recognises that raising concerns can be difficult and stressful for employees. Advice and support will be made available, as appropriate to the individual raising the concern and (if applicable) to the employee who is the subject of the concern.

Confidentiality

The Education Fellowship encourages individuals to put their name to allegations made. Concerns expressed anonymously are much less powerful as the ability of the Company to gather crucial information from the complainant is not possible. However, such complaints will be considered at the discretion of the Company; in exercising this discretion, the factors to be taken account of will include:

-  The seriousness of the issue raised,
-  The credibility of the concern,
-  The likelihood of being able to confirm that the allegation is from attributable sources
-  The ability to trace the source of unfounded or malicious allegations

The Trust will endeavour to protect the identity of individuals who raise concerns and do not want their name to be disclosed. It must be appreciated, however, that the investigation and necessary statements made by the individual(s) who raised the issue may reveal the source of the information. If an employee is unwilling to make such a statement, it may not be possible for action to be taken to address the concern. In some cases, where serious concerns are raised it may be necessary to disclose the identity of the employee without their consent, however this will be discussed with the employee first.

Raising a concern

If individuals express concerns at an early stage, the easier it is to take action. As a first step, The Education Fellowship encourages individuals to initially raise concerns with their Line Manager and to allow those staff in positions of responsibility and authority an opportunity to address the issue and seek an explanation for the behaviour or activity. This will depend on the nature of the concerns, the seriousness and sensitivity of the issues involved and who is alleged to be involved.

Individuals who feel that they cannot approach their Line Manager should approach:

-  The Chief Operating Officer

In the case where concerns raised relate to matters of fraud or malpractice, the Board will be notified and the Trust's external auditors will be engaged to investigate.

If an employee so wishes, advice may also be sought from a Trade Union or Professional Association. The employee should consider who would be the most appropriate person to deal with the matter; however care is needed to ensure that this will not result in a breach of confidentiality or the disclosure of exempt information. Individuals may invite their trade union or professional association to raise the matter internally on their behalf, but should take care that any disclosures are protected disclosures under the Act.

Concerns raised under this policy should, where possible, be submitted in writing, setting out the background and history of the concern, giving names, dates and places, and the reason why the individual is concerned about the situation. Individuals who do not feel able to put their concerns in writing can telephone or meet the appropriate officer. Employees should make clear that the matter is being raised under the Whistle-Blowing Policy.

The Education Fellowship process

The action taken by The Education Fellowship will depend on the nature of the concern. The matters raised may, for example:

-  Be investigated internally,
-  Be referred to the Police, or other appropriate body
-  Be referred to the External Auditor, or
-  Form the subject of an independent inquiry

In the first instance the COO will, in order to protect individuals, make initial enquiries to determine whether a full investigation is appropriate and, if so, what form it should take. Concerns or allegations that fall within the scope of specific procedures (for example, child protection or unlawful discrimination issues) will normally be referred for consideration under those procedures. Some concerns may be resolved by agreed action without the need for further investigation.

The preliminary investigation may identify the need to involve third parties to provide further information, advice or assistance; for example, the involvement of other members of staff, legal or HR advisors, the police, or other appropriate external body.

Records will be kept of work undertaken and actions taken throughout the investigation. The investigating officer(s), will consider how best to report the findings and what (if any) corrective action needs to be taken. This may include some form of disciplinary action or third party referral.

Within 14 working days of a concern being received, the employee, if known, will be sent a response:

- 👍 Acknowledging that the concern has been raised,
- 👍 Indicating how it is proposed to deal with the matter,
- 👍 Indicating what further involvement and/or communication may be necessary in order to investigate the issue
- 👍 Where possible, giving an estimate of how long it will take to provide a final response, and
- 👍 Telling the individual whether further investigations will take place, and if not, why not.

The amount of contact between the officers considering the issue and the person who has raised the issue will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, further information will be sought from the individual.

When any meeting is arranged with the individual, he or she will be given the right to be accompanied by a trade union or professional association representative or a work colleague who is not involved in the area of work to which the concern relates.

The Trust accepts that individuals need to be assured that the matter has been properly addressed. Thus, subject to legal or contractual constraints, and taking in to account the confidential nature of subsequent proceedings, individuals will receive appropriate information about the outcomes of any investigations.

Dissatisfaction with a response

This policy is intended to provide individuals with an avenue to raise relevant concerns within the Company. If the individual is dissatisfied with the resolution of the matter, or has genuine concerns that the matter has not been dealt with appropriately, these concerns should initially be raised with the investigating officer and the Board.

Where the concern is of a particularly serious nature, the employee may feel that it is more appropriate to raise the matter external. Independent advice about how to raise serious concerns constructively can be obtained through Public Concern at Work. Further details can be found in Appendix 1.

There are a number of bodies, which have been prescribed by the Secretary of State for the purpose of receiving disclosures; details of these bodies can be found in Appendix 2. Again, any disclosure made to a prescribed person must be made in good faith and the worker must believe that the information given and the allegations made are substantially true and ensure that they are not acting for personal gain. Appendix 2 provides details of some of the bodies that have statutory functions and are able to provide authoritative advice and guidance to workers about matters disclosed to them.

If an employee does take the matter outside of the Company, they must ensure that they do not disclose confidential information that is unrelated to the issue being raised.

In making a disclosure outside of the Company to a prescribed body, individuals should be aware that the disclosure must be made in good faith to an appropriate prescribed person or organisation and the individual must believe that the information disclosed and any allegations made are true.

Raising unfounded or malicious concerns

If an allegation is made in good faith, but is not confirmed by the investigation, no action will be taken against the individual raising the concern and the will endeavour to protect the individual from reprisals or victimisation.

However, if an employee makes an allegation which – through the internal investigation process - is found to be malicious, mischievous or vexatious, or a disclosure made for personal gain, such actions will be considered as a disciplinary offence and are likely to result in disciplinary action being taken against the employee.

Whistle-blowers making false allegations may expose themselves to actions for libel or slander, which together make up the civil wrong of defamation. This is a complex area of law. In essence a person puts themselves at risk of being sued for damages if, without justification, they publish or communicate a false statement about someone which may injure his or her reputation in the eyes of ordinary members of society.

However, a whistle-blower will not generally be liable provided that they had a legal, moral or social duty or interest in making the statement to a person with a similar interest.

Responsible Officer

The CEO has overall responsibility for the maintenance and operation of this policy. A record of concerns raised and the outcomes will be maintained, and will be reported as necessary to the Board of Trustees.

Appendix 1: ADVICE AND INFORMATION

Public Concern at Work

Public Concern at Work is an independent organisation which can provide guidance and training to employers on whistleblowing and can also offer free advice to employees unsure whether or how to raise a concern about workplace wrongdoing.

Public Concern at Work 3rd Floor, Bank Chambers
6-10 Borough High Street
London SE1 9QQ
Telephone (general enquiries and helpline): 020 7404 6609

Email UK enquiries: whilst@pcaw.co.uk

UK helpline: helpline@pcaw.co.uk

UK services: services@pcaw.co.uk

Advisory, Conciliation and Arbitration Service (ACAS)

ACAS operates a nationwide network of helplines which deal with queries about employment matters, including the rights and obligations arising out of employment law. The service is available to any individual or organisation free of charge. Any worker who contacts ACAS will wish to bear in mind the distinction between seeking information about the provisions of the Public Interest Disclosure Act 1998, and the requirements attached to making a protected disclosure.

ACAS East Midlands

Apex Court
City Link
Nottingham
NG2 4LA
Tel: 08457 38 37 36
General Helpline numbers 0845 474747

Customers with a hearing or speech impairment may prefer to contact Acas using the Text Relay service by dialling 18001 08457 474747

Appendix 2: LIST OF EXTERNAL PRESCRIBED PERSONS

Prescribed Persons

Matters in respect of which the person is prescribed:

Contact

The proper conduct of public business, value for money, fraud and corruption in local

government, and health service, bodies

The Audit Commission

1 Vincent Square
London
SW1P 2PN
Tel: 0845 052 2646

Fraud, and other irregularities, relating to the financial affairs of trade unions and

employers' associations

Certification Officer Floor 22
Euston Tower
286 Euston Road
London NW1 3JJ
Tel: 020 7210 3734 Email: info@certoffice.org

The Charity Commissioners for England and Wales

The proper administration of charities and of funds given or held for charitable purposes

Post Assessment Team

First Contact

Charity Commission Direct PO Box 1227 Liverpool L69 3UG Tel: Charity Commission

First Contact on 0845 300 0218 –

lines are open Monday to Friday, 9 am to 5pm, except national holidays
Text phone service for hearing and speech impaired callers on 0845 300 0219
email: whistleblowing@charitycommission.gsi.gov.uk

Chief Executive of the Criminal Cases Review Commission

Actual or potential miscarriages of justice

(The Commission has responsibility for these matters in respect of England,
Wales and

Northern Ireland)

Criminal Cases Review Commission
5 St Philip's Place
Birmingham
B3 2PW
Tel: 0121 633 1473 Fax: 0121 633 1804
Email: info@ccrc.gov.uk