

WTSF Whistle Blowing Policy & Procedures

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WTSF Whistleblowing Policy & Procedures

1 Introduction

- 1.1 This whistle-blowing policy has been introduced in response to the Public Interest Disclosure Act 1998 and provides advice and a procedure which enables employees to raise concerns about what is happening at work, particularly where those concerns relate to unlawful conduct, financial malpractice or dangers to the public or the environment.
- 1.2 The WTSF is committed to maintaining high standards of openness, honesty, probity, and accountability. In line with this commitment, it encourages employees, coaches, and volunteers with serious concerns about any aspect of the WTSF's work to come forward and voice those concerns. This policy makes it clear that such concerns can be raised without fear of reprisal.
- 1.3 The object of this policy is to ensure that concerns are raised and dealt with at an early stage and in an appropriate manner. The WTSF encourages you to bring to its attention alleged wrong-doing and ethical or legal concerns which may impact on the work that we do and anyone involved. You have a duty to be vigilant and to keep the WTSF informed of any such matters.
- 1.4 This policy is to provide you with a formal channel through which employees and workers can raise matters of a serious nature relating to the WTSF. Such matters cannot be raised informally.
- 1.5 You have the right to be able to report any personal matter of conscience or concern you encounter in the workplace and you have a specific right to legal protection if you expose activities that you believe to be illegal or against the public interest.

2 Public Interest Disclosure Act 1988 (PIDA)

- 2.1 PIDA provides protection for "workers" who raise legitimate concerns about specified matters. The term Worker includes employees, coaches, all other workers, and volunteers, and includes agency temps, consultants, and contractors.
- 2.2 Concerns raised under PIDA are called qualifying disclosures.
- 2.3 As the name implies, PIDA is there to protect disclosures about activity which is against the public interest. For example, if you suspect someone is committing fraud (such as falsifying expense claims) or corruption (such as manipulating a contractual process for personal gain), or that health and safety standards prescribed by law are

not being observed, these would be qualifying disclosures. This is because these activities are illegal, and therefore against the public interest.

3 Valid Reasons for using the whistle blowing process

- 3.1 The WTSF encourage you to disclose information which tends to show one or more of the following where such disclosure relates in some way to the WTSF:
- 3.1.1 that a criminal offence has been committed, is being committed or is likely to be committed.
 - 3.1.2 the improper use of WTSF funds.
 - 3.1.3 poor quality of care, abuse or neglect
 - 3.1.4 that a person has failed, is failing or is likely to fail to comply with any legal obligation to which they are subject.
 - 3.1.5 that a miscarriage of justice has occurred, is occurring or is likely to occur.
 - 3.1.6 that the health and safety of any individual has been, is being or is likely to be endangered.
 - 3.1.7 that the environment has been, is being or is likely to be damaged.
 - 3.1.8 that information tending to show any of the above has been, is being or is likely to be deliberately concealed.
- 3.2 Such disclosures are referred to in this policy as “qualifying disclosures” and this list is not exhaustive.
- 3.3 When considering whether a matter falls into any of the above categories, you should bear in mind the rules and regulations to which the WTSF and its staff are subject. If you make a Disclosure, you must have a reasonable belief that the information you are disclosing is true and you must make the Disclosure in good faith.
- 3.4 PIDA does not apply to disclosures about something which affects you personally rather than the public interest. For example, if you believe you are being unfairly treated at work (maybe because of not being promoted or because you have been harassed) redress should be sought, not via PIDA, but by using the grievance or harassment procedure.
- 3.5 Exceptions to this would include if you believed you had been victimised after making a qualifying disclosure, or you were being required to do something which was unethical or illegal.

4 Preconditions that must be met

- 4.1 The whistle-blower must also meet one or other of the following further pre-conditions:
- 4.1.1 they reasonably believed they would be victimised if they raised the matter internally.
 - 4.1.2 they reasonably believed that the disclosure related to a criminal offence and was thus a 'qualifying disclosure'.
 - 4.1.3 they reasonably believed the evidence was likely to be concealed or destroyed.
 - 4.1.4 the concern had already been raised with the employer or a suitable alternative.
 - 4.1.5 the concern is of an 'exceptionally serious' nature.
 - 4.1.6 they had suffered an identifiable detriment.
 - 4.1.7 the disclosure itself must be reasonable.

5 How the Whistle-Blowing Policy Differs from the Grievance Procedure

- 5.1 This policy does not apply to raising grievances about an employee's personal situation. These types of concerns are covered by the WTSP Grievance Policy & Procedures. The WhistleBlowing Policy is primarily concerned with where the interests of others or the WTSP itself are at risk.
- 5.2 It may be difficult to decide whether a particular concern should be raised under the Whistle-Blowing Policy or under the Grievance Procedure, or under both. If you have any doubt as to the correct route to follow, please seek advice from the Governance & Operations Manager, who will be able to advise you accordingly.

6 Method of Disclosure

- 6.1 Qualifying disclosures cannot be made informally, and you should not discuss or raise such matters with your colleagues or your Manager.
- 6.2 If you wish to make a qualifying disclosure you must make it through the formal channel set out in this policy. The WTSP has a specified individual to whom qualifying disclosures should be made (the "Appointed Person"). The current Appointed Person is the Governance & Operations Manager. The Appointed Person will act as a co-ordinator to ensure that any qualifying disclosure is referred to an appropriate party for investigation.
- 6.3 As stated above, if you wish to make a qualifying disclosure, you must make it in writing to the Appointed Person unless:

- 6.3.1 the Appointed Person is absent, and you reasonably consider that the qualifying disclosure cannot wait until their return. In this instance you should make the qualifying disclosure in writing to the WTSF Chairperson.
- 6.3.2 the qualifying disclosure relates to or involves the Appointed Person in any way, in which case you should make the Disclosure in writing to the WTSF Chairperson.
- 6.4 When raising a concern, an employee should try to provide the following information:
 - 6.4.1 The background history of the concern.
 - 6.4.2 Any relevant dates.
 - 6.4.3 Any evidence or grounds for suspicion behind the concern.
- 6.5 This information should demonstrate that there are reasonable grounds for concern. Proof is not required; just a reasonable, honest belief that wrongdoing has or is likely to occur.

7 Anonymity

- 7.1 You can, if you wish, choose to remain anonymous when making a disclosure. However, it is more difficult to investigate such disclosures especially if further information is required. It also means you are unlikely to be kept informed of any action resulting from your disclosure.
- 7.2 If you are able to reveal your identity to the person you are reporting your concern to, you may ask that your identity is not revealed to others, and this will be respected. This does not mean that your identity could not be revealed in any circumstances as, following a disclosure resulting in legal action against individuals or organisations, you may be required to give evidence in court.

8 Confidentiality

- 8.1 The Appointed Person and the Investigator will keep your Disclosure, and the fact that you are the source of the Disclosure, as confidential as possible and will only inform individuals that need to know.
- 8.2 These individuals may include, but will not necessarily be limited to:
 - 8.2.1 the alleged wrongdoer(s)
 - 8.2.2 others named by you when making the Disclosure

8.2.3 any witnesses or other individuals who can provide further information in relation to the Disclosure

8.3 You must treat the Disclosure with the utmost confidence. You must not discuss the Disclosure with any third party other than the Appointed Person, the Investigator and, if you have one and consider it appropriate to consult someone, your legal advisor.

8.4 You must not attempt to carry out your own investigation.

9 Procedure following Disclosure

9.1 After you have made a written Disclosure, the Appointed Person will write to you acknowledging receipt of the Disclosure and to arrange a meeting with you. The written acknowledgement will normally be sent to you within 2 working days of the Disclosure and the meeting will usually take place within 5 working days of the Disclosure.

9.2 By law, any complainant can bring a relevant person ('companion') to a grievance meeting, if it's about a legal or contractual issue. This is known as 'the right to be accompanied'.

9.3 The person must choose their companion from one of the following:

9.3.1 a colleague

9.3.2 a trade union representative

9.3.3 an official employed by a trade union

9.4 Under discrimination law the employer needs to consider a disabled employee's request to bring someone else for additional support, such as a carer.

9.5 It is at the discretion of the WTSF to agree if the complainant wants to bring anyone else. It can depend on their contract – for example, some employment contracts might allow for a spouse or legal representative.

9.6 If the employee wants to bring a companion, they should tell the Investigator who that person is as soon as possible. This is so arrangements can be made in good time.

9.7 The companion should also be given enough time to prepare for the meeting (for example, to look at any evidence).

- 9.8 The purpose of the meeting will be to enable the Appointed Person to obtain enough details of the matter to enable them to establish whether the Disclosure is well founded.
- 9.9 At this meeting you will be asked to identify any other individuals with knowledge of the matter, who may also need to be interviewed. Your role is to raise a matter which may be of concern to the WTSF.
- 9.10 The scope of the investigation carried out by the Appointed Person is to be determined by the Appointed Person themselves.
- 9.11 If the Appointed Person concludes that the Disclosure is not well founded, no further investigation will be carried out under this procedure. This decision will be final and will not be reviewed unless further evidence is produced in relation to the Disclosure.
- 9.12 At the end of the preliminary investigation and if the appointed Person considers the complaint to be well-founded, they will assess who is best placed to carry out further investigations and will refer the matter accordingly.
- 9.13 The matter will be referred to the most appropriate and relevant person to conduct the investigations (the “Investigator”).
- 9.14 To be clear, the Investigator will not be investigating the Disclosure on your behalf, but on behalf of the WTSF.
- 9.15 The Investigator will determine the method and scope of the investigations.
- 9.16 The Investigator may need to meet with you in order to obtain further information. As before you retain the right to be accompanied.
- 9.17 The Investigator will prepare a written report to the WTSF Whistle-Blowing Committee (a sub-committee of the WTSF Board made up of the Chairperson, the Finance Director and one other independent Board Member) outlining the extent of the investigations and setting out their conclusions to enable the committee to decide upon any further actions.
- 9.18 A copy of this report will be provided to the Appointed Person.
- 9.19 The Appointed Person and the Investigator will have a meeting with you, after the report has been finalised, to inform you of the outcome of the further investigations. You will not be entitled to keep a copy of the report.

9.20 The conclusion of the Investigation and any sanctions set by the WTSF Whistle-Blowing Committee are final. You have no right of appeal.

9.21 The Investigator, with assistance from the Appointed Person, will be responsible for ensuring that any further actions deemed necessary are implemented.

10 Time Periods

10.1 All or any of the time periods set out in this policy may need to be varied in certain circumstances. If this is the case, the Appointed Person will inform you of this during the course of the procedure and advise you of the revised timescale.

11 Victimisation following disclosure

11.1 The WTSF will make every effort to ensure that you suffer no adverse repercussions as a result of making a Disclosure. Any allegation of victimisation of an individual who has made a Disclosure will be taken very seriously and anyone found to be victimising such a person will be subject to disciplinary action, up to and including dismissal.

12 Vexatious or Malicious Disclosure

12.1 The presumption should always be that a whistle blowing complaint is made in good faith. However, if the investigator becomes aware that the complaint is made with vexatious or malicious intent, they may make a decision and recommendations for further action on this basis.

12.2 Every complaint must be considered on its merits and, even if someone has made a vexatious or malicious complaint in the past, it must not be assumed that any other complaint they make will also be vexatious or malicious.

12.3 Managers should consider any known temporary or permanent outside factors, such as personal or health issues that may have affected the employee and which the employee is prepared to share. Managers should remind the employee about any relevant, available, employee assistance programmes.

12.4 A vexatious complaint is one that is pursued, regardless of its merits, solely to harass, annoy or subdue somebody; something that is unreasonable, without foundation, frivolous, repetitive, burden-some or unwarranted. In identifying vexatious complaints, managers must be careful to:

- 12.4.1 distinguish between employees who are raising genuine concerns or;
- 12.4.2 recognise where people are simply being difficult.

This can be achieved by recognising that complainants may often be aggrieved, frustrated or have other reasons for their behaviour; the focus must be on careful consideration of the merits of the case rather than the attitude of the complainant. However, a complaint may be regarded as vexatious where the employee:

- 12.4.3 Persists in pursuing a complaint which has already been investigated by another or the same manager and provides no new or material information.
 - 12.4.4 Seeks to prolong contact by continually changing the substance of a complaint or by continually raising further concerns or questions whilst the complaint is being addressed.
 - 12.4.5 Fails to clearly identify the substance of a complaint, or the precise issues which may need to be investigated despite reasonable efforts by the manager to assist them.
 - 12.4.6 Complains solely about trivial matters to an extent which is out of proportion to their significance.
 - 12.4.7 Makes excessive contact with the manager or seeks to impose unreasonable demands or expectations on resources, such as responses being provided more urgently than is reasonable or necessary.
- 12.5 A malicious complaint is one that is made with the intention of causing harm, for example:
- 12.5.1 deliberately seeking to defame a colleague or manager and raising a complaint with this intent
 - 12.5.2 through lying about an issue or incident in the knowledge that this will cause harm
 - 12.5.3 through knowingly basing a complaint on rumour and gossip with the intention of causing harm.
- 12.6 A malicious complaint is defined as:
- 12.6.1 one that the investigation has shown to be without foundation
 - 12.6.2 one where the investigation evidence demonstrates that the complainant knowingly lied to the Investigation Manager; and
 - 12.6.3 where there is sufficient evidence to demonstrate this at a disciplinary hearing on the basis of the balance of probabilities.

- 12.7 Vexatious and malicious complaints can be very difficult to identify. Largely, this must be a matter of professional judgement for the manager. However, once identified, such complaints should be tackled as soon as possible.
- 12.8 The Whistle Blowing Policy should be followed but managers may conclude as part of their investigation or decision that the complaint is vexatious and or malicious. Managers may also seek to limit the scope of the complaint to what is reasonable and relevant to the complaint itself.
- 12.9 The mere fact that an employee has brought a number of complaints in the past is not of itself sufficient grounds for refusing to consider a complaint if it raises new matters. Managers should not treat anyone less favourably or subject them to a detriment because they have brought a complaint. This applies even where they are suspected to be vexatious, malicious or otherwise.
- 12.10 Each case must be considered on its merits, be evidence based and investigated, as appropriate. Any mitigating factors must be taken into account (for example, stress, and physical and mental illness, or certain behaviours which may be outward symptoms of underlying workplace problems such as bullying, harassment or discrimination, as these may have a significant bearing on the case.
- 12.11 Following investigation, and before reaching a decision that a complaint is vexatious or malicious, managers should seek advice from Employment Relations or Human Resource Professionals. They may also find it helpful to speak to their line manager.
- 12.12 Vexatious or malicious use of the whistle-blowing procedure will not be tolerated. If there is evidence that an employee is making vexatious or malicious use of the whistle-blowing procedure, the matter will be investigated under the WTSP Staff Disciplinary Policy & Procedures.
- 12.13 Complainants who make malicious or vexatious complaints of bullying, harassment, victimisation or discrimination will be subject to disciplinary procedures.

13 Records

- 13.1 The Appointed Person will maintain notes of meetings, reports, recommendations and all other documents relating to Disclosures made under this policy. Such documents will be kept confidentially.

14 Revision of Policy



- 14.1 This policy is not intended to be contractually binding. The WTSF reserves the right to amend and/or withdraw this policy from time to time for any reason, including without limitation, to take account of changes in the law, best practice and/or operational requirements.