



Appendix 5:

Whistle-blowing Policy

Introduction

The ESU is committed to the highest standards of openness, probity and accountability.

An important aspect of accountability and transparency is a mechanism to enable staff and other members of the organisation to voice concerns in a responsible and effective manner. It is a fundamental term of every contract of employment that an employee will faithfully serve his or her employer and not disclose confidential information about the employer's affairs. Nevertheless, where an individual discovers information which they believe shows serious malpractice or wrongdoing within the organisation then this information should be disclosed internally without fear of reprisal, and there should be arrangements to enable this to be done independently of line management (although in relatively minor instances the line manager would be the appropriate person to be told).

The Public Interest Disclosure Act gives legal protection to employees against being dismissed or penalised by their employers as a result of publicly disclosing certain serious concerns. The ES-U has endorsed the provisions set out below so as to ensure that no members of staff should feel at a disadvantage in raising legitimate concerns.

It should be emphasised that this policy is intended to assist individuals who believe they have discovered malpractice or impropriety. It is not designed to question financial or business decisions taken by the ESU nor should it be used to reconsider any matters which have already been addressed under harassment, complaint, disciplinary or other procedures.

This policy covers all employees, consultants, contractors, workers and volunteers.

This policy does not form part of any contract of employment and the ESU may amend it at any time.

What is Whistle-blowing?

Whistle-blowing is the reporting of suspected wrongdoing or dangers in relation to our activities. This policy is designed to enable employees of the ESU to raise concerns internally and at a high level and to disclose information which the individual believes shows malpractice or impropriety. This policy is intended to cover concerns which are in the public interest and may at least initially be investigated separately but might then lead to the invocation of other procedures e.g. Disciplinary. These concerns could include:

- Financial malpractice or impropriety or fraud
- Failure to comply with a legal obligation or Statutes
- Dangers to Health & Safety or the environment

- Criminal activity
- Improper conduct or unethical behaviour
- Attempts to conceal any of these

Confidentiality

The ESU will treat all such disclosures in a confidential and 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. However, the investigation process may reveal the source of the information and the individual making the disclosure may need to provide a statement as part of the evidence required.

Anonymous Allegations

We do not encourage staff to make disclosures anonymously. Proper investigation may be more difficult or impossible if we cannot obtain further information from you. It is also more difficult to establish whether any allegations are credible. Therefore this policy encourages individuals to put their name to any disclosures they make. However concerns expressed anonymously may be considered at the discretion of the ESU.

In exercising this discretion, the factors to be taken into account will include:

- The seriousness of the issues raised
- The credibility of the concern
- The likelihood of confirming the allegation from attributable sources

Untrue Allegations

If an individual has a genuine concern 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.

Procedures for Making a Disclosure

On receipt of a complaint of malpractice, the member of staff who receives and takes note of the complaint, must pass this information as soon as is reasonably possible, to the appropriate designated investigating officer as follows:

- Complaints of malpractice will be investigated by the appropriate Director unless the complaint is against the Director or is in any way related to the actions of the Director. In such cases, the complaint should be passed to the Director-General.
- In the case of a complaint, which is any way connected with but not against the Director, the Director-General will nominate a Senior Officer to act as the alternative investigating officer.
- Complaints against the Director-General should be passed to the Chairman who will nominate an appropriate investigating officer.
- The complainant has the right to bypass the line management structure and take their complaint direct to the Chairman. The Chairman has the right to

refer the complaint back to management if he feels that the management without any conflict of interest can more appropriately investigate the complaint.

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

Timescales

Due to the varied nature of these sorts of complaints, which may involve internal investigators and 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.

However, sometimes the need for confidentiality may prevent the ESU giving the complainant specific details of the investigation or any disciplinary action taken as a result. The complainant must treat any information about the investigation as confidential.

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 complaint should be obtained.
- The investigating officer should inform the member of staff against whom the complaint 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 colleague (not acting in a legal capacity) at any future interview or hearing held under the provision of these procedures.
- The investigating officer should consider the involvement of the auditors and the Police at this stage and should consult with the Director-General or Chairman.
- The allegations should be fully investigated by the investigating officer with the assistance where appropriate, of other individuals / bodies.
- A judgement concerning the complaint and validity of the complaint 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 Director-General or Chairman as appropriate.

- The Director-General or Chairman will decide what action to take. If the complaint is shown to be justified, then they will invoke the disciplinary or other appropriate procedures.
- The complainant should be kept informed of the progress of the investigations and, if appropriate, of the final outcome.

If the complainant 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 Director-General or Chairman.

If the investigation finds the allegations unsubstantiated and all internal procedures have been exhausted, but the complainant is not satisfied with the outcome of the investigation, the ESU recognises the lawful rights of employees and ex-employees to make disclosures to prescribed persons (such as the Health and Safety Executive, the Audit Commission, or Charity Commission), or, where justified, elsewhere.

Protection and Support for Whistle-blowers

It is understandable that whistle-blowers are sometimes worried about possible repercussions. We aim to encourage openness and will support staff who raise genuine concerns under this policy, even if they turn out to be mistaken.

Whistle-blowers must not suffer any detrimental treatment as a result of raising a concern. Detrimental treatment includes dismissal, disciplinary action, threats or other unfavourable treatment connected with raising a concern. If you believe that you have suffered any such treatment, you should inform the Director-General or Chairman immediately. If the matter is not remedied you should raise it formally using our Grievance Procedure.

You must not threaten or retaliate against whistle-blowers in any way. If you are involved in such conduct you may be subject to disciplinary action.

However if we conclude that a whistle-blower has made false allegations maliciously the whistle-blower may be subject to disciplinary action.