

# WHISTLEBLOWING POLICY

Issue Date: 05.01.2024

## INTRODUCTION

All organisations face the risk of things going wrong or of unknowingly harbouring malpractice. ELATT has a duty to identify malpractice and take the appropriate measures to remedy the situation. By encouraging a culture of openness within our organisation ELATT aims to prevent malpractice. The organisation wants to encourage all workers to raise issues, which concern them at work.

Under the Public Interest Disclosure Act 1998 (PIDA), which came into force on 2<sup>nd</sup> July 1999, protection is afforded against any form of retribution, detriment, victimisation or dismissal for workers who report ('blow the whistle') on criminal behaviour or other serious allegations of malpractice or misconduct within an organisation either to the employer, a regulatory or other body.

## SCOPE

This policy applies to all 'workers' within ELATT, including employees, contractors providing services, agency workers, home workers, temporary workers, casual workers and trainees on work experience or vocational schemes.

A disclosure will qualify for protection if, in the reasonable belief of the individual, it is made in the public interest and relates to one or more of the following actions:

- a criminal offence;
- a failure to comply with a legal obligation;
- a miscarriage of justice;
- the endangering of an individual's health and safety;
- damage to the environment;
- deliberate concealment of information relating to any of the above.

It is not possible to come up with an exhaustive definition of what we mean by malpractice and there may well be other issues of concern, which we have not listed here but would nevertheless be considered as malpractice. You are encouraged to speak up if you have any concerns.

## SPEAKING OUT

If you genuinely believe that there is some form of malpractice occurring within the organisation and you raise a concern in accordance with this policy, ELATT will ensure that you do not suffer any disadvantage in the workplace as a result of speaking out about your concerns.

It may be that a concern that you raised does not turn out to be well founded when investigated by the organisation. This does not mean that you should not have

This policy is non-contractual and may change from time to time.



raised your concern in the first place and this will not therefore affect ELATT's policy to ensure that you do not suffer a disadvantage as a result of raising your concern.

## RAISING DISCLOSURES EXTERNALLY

As well as internal disclosures, the legislation also covers disclosures to prescribed persons such as regulatory bodies and wider disclosures e.g. to the media, MPs or the Police.

The disclosure to ELATT must be made if the whistleblower has a reasonable suspicion that the alleged malpractice has taken place, is taking place or is likely to take place. Disclosure to a **regulator** e.g. Health and Safety Executive, Financial Services Authority will be protected where, in addition, the whistleblower honestly and reasonably believes that the information and any allegation in it are substantially true. Disclosure to **other bodies** is protected if, in addition to the tests for regulatory disclosures, it is reasonable in all the circumstances.

The whistleblower must also meet one or other of the following preconditions.

- they reasonably believe that they would be victimised if they raised the matter internally;
- they reasonably believe that the disclosure related to a criminal offence and was thus a 'qualifying disclosure';
- there was no prescribed regulator and they reasonably believed the evidence was likely to be concealed or destroyed;
- the concern had already been raised with the employer or a prescribed regulator;
- the concern is of an 'exceptionally serious' nature;
- they had suffered an identifiable detriment.

The main purpose of this policy is to give workers the opportunity and protection they need to raise their concerns internally. ELATT fully expects that in almost all cases raising concerns internally will be the most appropriate action for workers to take.

However, if for whatever reason, a worker feels that he/she cannot raise his/her concerns internally and he/she honestly reasonably believes the information and any allegations are true, he/she should consider raising the matter with a prescribed regulatory or independent organisations if he/she considers that they have an interest in the matter and, despite the best efforts of the organisation, the worker believes that disclosure within ELATT is inappropriate or has been unsuccessful. Such regulatory organisations include the Health & Safety Executive, the Financial Services Authority, Environment Agency, Inland Revenue, DTI (Insolvency Division) and Civil Aviation Authority.

Disclosures made to the worker's legal adviser in the course of obtaining legal advice will be protected.

This policy is non-contractual and may change from time to time.

Alternatively, if a worker has good reasons for not using the internal or regulatory disclosure procedures described above, he/she may consider making wider disclosure by reporting the matter to the police or to the media, for example. However, workers who make wider disclosures of this type will only be protected from victimisation and suffering detriment in certain circumstances. In this situation ELATT strongly recommends that the worker take legal advice before following this course of action.

## **PROCEDURE**

- In the first instance any concerns should be raised with the Chief Executive Officer in writing.
- If the Chief Executive Officer is the employee's manager and the individual does not feel able to raise the matter with them then the concern should be raised with the Chair of the Board of Trustees.
- Concerns raised will be treated with the utmost confidentiality and will be investigated fully. The employee will be advised of the outcome of the investigation.
- Employees should be reassured that there will not be any victimisation or detriment for reporting such actions as stated in section 2. If an employee has a genuine fear of reprisals then the employee can raise this matter directly with the regulator or other body.
- Employees who have concerns or complaints regarding their employment should raise these matters under ELATT's Grievance Procedure.
- Employees who raise false or malicious claims under this policy may be subject to ELATT's Disciplinary Procedure.

## **BREACH OF THIS PROCEDURE**

As part of ELATT's commitment to tackling malpractice and encouraging employees to speak out, it should be recognised that anyone who either:

- Victimises or harasses other employees or others working for the organisation as a result of that person genuinely raising a concern under this Policy; or
- Deters or attempts to deter employees or others from genuinely raising concerns under this Policy;

may be subject to disciplinary action.

In accordance with this Policy, ELATT will view this sort of victimisation very seriously and, therefore, any disciplinary action taken may result in dismissal. Similar action will be taken against others working for the organisation who are not subject to the Disciplinary Procedure, including the termination of their relationship with the organisation.

This policy is non-contractual and may change from time to time.

## **DISCLOSURES MADE IN BAD FAITH**

If an employee or other worker raises a concern which they know to be false and/or raises a concern solely out of malice, then disciplinary action may be taken against that employee. In accordance with ELATT's Disciplinary Procedure, this disciplinary action may result in dismissal and may constitute gross misconduct for which summary dismissal is the sanction. As regard to others who work for ELATT (and in relation to whom the Disciplinary Procedure does not apply) the organisation may take action to terminate their relationship with ELATT.

## **GRIEVANCE PROCEDURE**

The Grievance Procedure also exists for you to raise concerns about your own working conditions and should generally be used if your concerns do not relate to malpractice.

## **HOW TO MAKE A DISCLOSURE TO THE DfE/ESFA**

To complain or make a disclosure about ELATT to the Department for Education or Education and Skills Funding Agency, or any other post-16 education or training provider, please email [ESFA's Customer Service Team](#) or send a letter to:

Customer Service Team  
Education and Skills Funding Agency  
Cheylesmore House  
Quinton Road  
Coventry CV1 2WT

Please ensure you provide the following details about ELATT so that the DfE can correctly identify us:

- URN: 51646
- UKPRN: 10002118

For more information regarding how the ESFA handles whistleblowing disclosures please read the [guidance here](#).

## **FURTHER INFORMATION**

UK Government website: [Whistleblowing for Employees](#)

- How the person making the disclosure will be protected.
- A link explaining how to make direct disclosures to the ESFA.

The [Protect website](#), a charity that advises and supports individuals and organisations during the whistleblowing process.

This policy is non-contractual and may change from time to time.