

# Whistleblowing Policy

This policy was adopted at a meeting of:

**Torphins Playgroup Pre-School**

.....

On *(date)* .....

Signed ..... Designation .....

## **Statement of Purpose**

The Early Education and Childcare (ELC) setting is committed to providing a high quality service, promoting organisational accountability and maintaining public confidence. However, we accept that there may be rare occasions within the ELC setting when situations arise which are illegal, improper or unethical, or which otherwise conflict with the *Codes of Practice for Social Service Workers and Employers* (SSSC). We are committed to providing staff, paid and unpaid, with an effective mechanism for dealing with such situations. This policy is designed to nurture a culture of openness and transparency within the organisation which makes it safe and acceptable for staff to disclose, in good faith, a concern they may have about malpractice within the setting. Throughout this guidance the term **parents** is used to include all main caregivers.

## **Definition of Whistleblowing**

'Whistleblowing is the raising of a concern, either within the workplace or externally, about danger, risk, malpractice or wrongdoing which affects others.'

*The Whistleblowing Commission Code of Practice* (Public Concern at Work).

## **Protection of Staff**

Staff within the Early Education and Childcare (ELC) setting who bring information about wrongdoing to the attention of their employers are protected in certain ways under the Public Interest Disclosure Act of 1998. This is commonly referred to as 'blowing the whistle'. The law that protects whistleblowers is in the public interest as it encourages people to speak out if they find malpractice within an organisation. Blowing the whistle is more formally known as 'making a disclosure in the public interest'.

This policy provides individuals in the workplace with protection from victimisation, reprisals or punishment where they raise a genuine concern about misconduct or malpractice within the organisation.

The Act covers behaviour which includes:

- a criminal offence
- failure to comply with any legal obligation
- a miscarriage of justice
- danger to health and safety and/or environment
- deliberate concealment of information about any of the above

All staff are entitled to expect fair and reasonable treatment from management and colleagues should they make a disclosure. Staff are also entitled to seek advice from a Trade Union, a lawyer or others as they see fit.

This policy is not a substitute for the setting's formal grievance procedures which staff can use in circumstances where they feel they have been unfairly treated or discriminated against.

## **Reporting Procedures**

Any member of staff who, acting in good faith, wishes to make a disclosure in the public interest should normally report the matter to the Manager or Lead Practitioner who will advise the worker of the action he or she will take in response to the concerns expressed. This person will hereafter be referred to as the investigating officer. Disclosures will be investigated and resolved as quickly as possible.

If the member of staff feels the matter cannot be discussed with or relates to the Manager or Lead Practitioner then they should report directly to the Chairperson.

## **Timescales**

Due to the varied nature of these sorts of disclosures, which may involve external  
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agencies such as the police alongside the setting's own investigator, 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 will, as soon as practically possible, send a written acknowledgement of the concern to the complainant. Thereafter they will report back to them in writing the outcome of the investigation and, if appropriate, the resulting proposed action. If the investigation is a prolonged one the investigating officer will keep the complainant informed in writing as to the progress of the investigation and when it is likely to be concluded.

All responses to the complainant will be in writing and sent to their own homes.

## **Investigating Procedures**

The investigating officer will follow these steps:

- Full details and clarifications of the disclosure should be obtained and noted. The individual making the disclosure will provide a statement as part of the required evidence.
- The investigating officer will inform any member of staff against whom a disclosure is made as soon as possible. This member of staff will be informed of their right to be accompanied by a trade union or other representative at any future interview or hearing held under the provision of these procedures.
- The investigating officer should consider whether the case merits the involvement of the auditors, Care Inspectorate or police at this stage and should consult with the chairperson. The chairperson will decide how to proceed in consultation, where necessary, with Early Years Scotland (EYS) and The Care Inspectorate.
- If there is evidence of criminal activity then the investigating officer must inform the police. The ELCC setting will ensure that any internal investigation does not hinder a formal police investigation.
- The allegations should be fully investigated by the investigating officer with the assistance of other individuals/bodies as appropriate.
- A judgement concerning the validity of the disclosure will be made by the investigating officer. The 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 chairperson/owner.
- The chairperson will decide what action to take. This may include whether the issue raised should be dealt with through the ELCC setting's own grievance procedures rather than being treated as an instance of whistleblowing. If the disclosure is shown to be justified they will invoke disciplinary or other appropriate procedures.
- The person making the disclosure will be kept informed of the progress of the investigations and, if appropriate, of the final outcome.
- Where appropriate a copy of the outcomes will be passed to the auditor or Care Inspectorate to enable a review of the procedures.

If the person making the disclosure is not satisfied that their concern has been properly dealt with by the investigating officer they have the right to raise it in confidence with the chairperson.

In cases where the allegations are found to be unsubstantiated and the complainant remains unsatisfied with the outcome, the ELCC setting recognises the lawful right of employees and ex-employees to make disclosures directly to prescribed bodies such as Health and Safety Executive and Care Inspectorate etc.

**Identity of Whistleblower**

A disclosure made in good faith to management will be protected as far as possible. Anonymity will be maintained wherever possible and the member of staff will not suffer any personal detriment as a result of raising a genuine concern about misconduct or malpractice within the setting. However the investigation process may require to reveal the source of the information in order not to impede progress and complainants should be made aware of this. They may also be required to come forward as a witness at some point.

This policy encourages the person making the disclosure to put their name to any allegations they make. Concerns expressed anonymously are much less credible but they may be considered at the discretion of the ELCC setting.

Staff must:

- disclose in good faith
- believe the allegation to be substantially true
- not act maliciously or make false allegations
- and not seek any personal gain

**Untrue Allegations**

If an individual makes an allegation in good faith which is not confirmed by subsequent investigation, no action will be taken against them. 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 then disciplinary action may be taken against them.

### **Monitoring of this Policy**

It will be the responsibility of the Manager or Lead Practitioner to ensure that all staff, including new or temporary staff, are familiar with this policy and to monitor that it is being implemented. This will be achieved through an annual review of all documentation/correspondence generated by any instances of whistleblowing within the past year to ensure correct procedures have been adhered to and that those involved concur with this view.

### **See also:**

Safe Recruitment Policy  
Complaints Policy  
Anti-bullying and Harassment Policy  
Confidentiality Policy  
Equal Opportunities Policy  
Child Protection Policy  
Effective Employment Practice for Early Learning and Childcare Settings

### **Links to national policy:**

The Health and Social Care Standards. My support, my life (Scottish Government, 2017)  
1.2, 1.13, 2.3, 2.4, 2.8, 2.13, 2.14, 2.15, 2.25, 3.14, 3.17, 3.20, 3.22, 4.1, 4.7, 4.18, 4.20, 4.21, 4.23

<https://www.gov.scot/Resource/0052/00520693.pdf>

<http://www.legislation.gov.uk/ukpga/1998/23/data.pdf> (PDF of Public Interest Disclosure Act 1998)

<http://www.sssc.uk.com/about-the-sssc/codes-of-practice/what-are-the-codes-of-practice>

### **Find out more:**

<http://www.pcaw.org.uk/guide-to-pida> (Guide to PIDA (Public Interest disclosure Act 1998))

<https://www.nspcc.org.uk/what-we-do/news-opinion/new-whistleblowing-advice-line-professionals/>

The Whistleblowing Commission Code of Practice (Public Concern at Work).

[https://www.pcaw.org.uk/files/PCaW\\_COP\\_FINAL.pdf](https://www.pcaw.org.uk/files/PCaW_COP_FINAL.pdf)

<https://www.gov.uk/whistleblowing>

Public Interest Disclosure Act of 1998

<http://www.legislation.gov.uk/ukpga/1998/23/contents>