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Whistleblowing Policy and Procedure

Policy

It is important that any fraud, misconduct or wrongdoing by staff or others working on behalf of Malvern Cube is reported and properly dealt with. This policy sets out the statutory protection for employees and workers from being treated unfairly at work if they whistle blow. Volunteers who have concerns and wish to make a qualifying disclosure should refer to the guidance provided by the Charity Commission https://www.gov.uk/guidance/report-serious-wrongdoing-at-a-charity-as-a-worker-or-volunteer.

Information provided by workers could prevent wrongdoing which might damage the organisation's reputation and/or performance or which might save people from harm. We therefore require all individuals to raise any concerns they may have about the conduct of others in the charity or the way in which the organisation is run. This policy sets out the way in which individuals may raise any concerns that they have and how those concerns will be dealt with. Any matters raised should be in the public interest, rather than personal complaints or grievances which will be dealt with under the relevant policies and procedures.

Background

The Public Interest Disclosure Act 1998 amended the Employment Rights Act 1996 to provide protection for workers who raise legitimate concerns about specified matters in the public interest. These are called "qualifying disclosures". A qualifying disclosure is one made by an employee who has a reasonable belief that:

- a criminal offence (such as fraud)
- a miscarriage of justice
- an act creating risk to someone's health and safety
- an act causing damage to the environment
- a breach of any other legal obligation or a failure to comply with a legal obligation
- or covering up wrongdoing in relation to any of the above

is being, has been, or is likely to be, committed. It is not necessary for the worker to have evidence or proof that such an act is being, has been, or is likely to be, committed - a reasonable belief is sufficient. The individual employee has no responsibility for investigating the matter - it is the charity's responsibility to ensure that an investigation takes place.

If a worker makes a protected disclosure, they have the right not to be dismissed, subjected to any other detriment, or victimised, because they have made a disclosure. Employees and workers are encouraged to raise their concerns under this procedure in the first instance.

Principles

- Everyone should be aware of the importance of preventing and eliminating wrongdoing at work. Staff and others working working on behalf of the charity should be watchful for illegal or unethical conduct and report anything of that nature that they become aware of
- Any matter raised under this procedure will be investigated thoroughly, promptly and confidentially and the outcome of the investigation reported back to the person who raised the issue
- No employee or other person working on behalf of the charity will be victimised for raising a matter under this procedure. This means that the continued employment and opportunities for future promotion or training of the worker will not be prejudiced because they have raised a legitimate concern
- Victimisation of an individual for raising a qualified disclosure will be a disciplinary offence
- If misconduct is discovered as a result of any investigation under this procedure, our disciplinary procedure will be used, in addition to any appropriate external measure
- Maliciously making a false allegation is a disciplinary offence
- An instruction to cover up wrongdoing is itself a disciplinary offence. If told not to raise or pursue any concern, even by a person in authority such as a manager, the worker should not agree to remain silent, but should report the matter to the Centre Manager or the chair of the board of trustees

Procedure

This procedure is for disclosures about matters other than a breach of an individual's own contract of employment. Matters relating to a worker's contract of employment should be raised via the grievance procedure.

Stage 1: In the first instance, any concerns should be raised with the Centre Manager, who will arrange an investigation of the matter. The investigation may require the person making the disclosure and other individuals involved to provide a written statement. Any investigation will be carried out in accordance with the principles set out above.

The whistleblower's statement will be taken into account and they may be asked to comment on any additional evidence obtained. The Centre Manager will take any necessary action, including reporting the matter to the chair of the board of trustees and any appropriate government department or regulatory agency. The Centre Manager will also invoke any disciplinary action required. On conclusion of any investigation, the whistleblower will be told the outcome and what the charity has

done, or proposes to do, about it. If no action is to be taken, the reason will be explained.

Stage 2: The person making the disclosure should escalate the matter to the chair of the board of trustees if they are concerned that the Centre Manager:

- is involved in the wrongdoing
- has failed to make a proper investigation
- or has failed to report the outcome of the investigations to the relevant person

The chair will arrange for a review of the investigation, make any necessary enquiries and make their own report to the board of trustees.

Stage 3: If, on conclusion of stages 1 and 2, the whistleblower reasonably believes that the appropriate action has not been taken, they should report the matter to the relevant body, which might include:

- HM Revenue and Customs
- The Health and Safety Executive
- The Environment Agency
- The Serious Fraud Office
- The Charity Commission
- The Pensions Regulator
- The Information Commissioner
- The Financial Conduct Authority
- The Competition and Markets Authority
- The Independent Office for Police Conduct

The full list of prescribed persons and bodies can be found here https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2

Individuals seeking further information and support in relation to whistleblowing disclosures can find guidance from https://protect-advice.org.uk/wb-commission/ or https://www.acas.org.uk/advice

Confidentiality

There may be good reasons why a worker wishes their identity to remain confidential. It is considered good practice for the organisation to maintain the confidentiality of the whistleblower, unless required by law to disclose it. Workers should be made aware, however, that making a disclosure anonymously may mean it can be more difficult for them to quality for legal protections, as there would be no documentary evidence linking the worker to the disclosure for an employment tribunal to consider.

Data protection

When an individual makes a disclosure, we will process any personal data collected in accordance with organisation's data protection policy. Data collected from the

point at which the individual makes the report is held securely and accessed by, and disclosed to, individuals only for the purposes of dealing with the disclosure.