

# **The Tutor Trust Whistleblowing Policy (Making a Disclosure in the Public Interest)**

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## **Introduction**

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

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 Tutor Trust.

An important aspect of accountability and transparency is a mechanism to enable staff, trustees and tutors of the Tutor Trust to voice concerns in a responsible and effective manner. It is a fundamental requirement of every employee, trustee and tutor to faithfully serve the Tutor Trust and not to disclose confidential information about the Tutor Trust'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 or externally without fear of reprisal, and there should be arrangements to enable this to be done independently of management (if applicable).

Whistleblowing is the name given to the act of the disclosure of information to the employer or the relevant authority by an individual who knows, or suspects, that the Tutor Trust is responsible for, or has taken part in, some wrongdoing.

The Public Interest Disclosure Act (PDIA), which came into effect in 1998, gives legal protection to employees against being dismissed or penalised by their employers as a result of publicly disclosing certain serious concerns. The Tutor Trust has endorsed the provisions set out below so as to ensure that no members of staff, trustees or tutors 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 Tutor Trust nor should it be used to reconsider any matters which have already been addressed under harassment, complaint, disciplinary or other procedures. Once the "whistleblowing" procedures are in place, it is reasonable to expect staff, trustees and tutors to use them rather than air their complaints outside the charity.

## **Qualifying Disclosures**

Certain disclosures are prescribed by law as "qualifying disclosures". A "qualifying disclosure" means a disclosure of information that you genuinely and reasonably believe is in the public interest and shows that the Tutor Trust has committed a "relevant failure" by:

- Committing a criminal offence
- Failing to comply with a legal obligation
- A miscarriage of justice
- Endangering the health and safety of an individual
- Sexual harassment (unwanted conduct of a sexual nature, as defined in the Equality Act 2010)
- Environmental damage
- Concealing any information relating to the above.

These acts can be in the past, present or future, e.g. a disclosure qualifies if it relates to environmental damage that has happened, is happening, or is likely to happen. The Tutor Trust will take any concerns that you may raise relating to the above matters very seriously.

The Employment Rights Act 1996 provides protection for workers who “blow the whistle” where they reasonably believe that some form of illegality, injustice or breach of health and safety has occurred or is likely to occur. The disclosure has to be “in the public interest”. We encourage you to use the procedure to raise any such concerns.

Should the concern not meet the requirement to be a qualifying disclosure, you should raise this under the organisation’s grievance policy. Where a concern is raised under the whistleblowing policy where it is not appropriate to do so, i.e. it relates to a personal grievance, the receiving manager will confirm that the matter will be addressed under the grievance policy.

## **Safeguards**

### **i. Protection**

This policy is designed to offer protection to those employees, trustees and tutors of the Tutor Trust who disclose such concerns provided the disclosure is made:

- in good faith
- in the reasonable belief of the individual making the disclosure that it tends to show malpractice or impropriety and if they make the disclosure to an appropriate person (see below). It is important to note

that no protection from internal disciplinary procedures is offered to those who choose not to use the procedure. In an extreme case malicious or wild allegations could give rise to legal action on the part of the persons complained about.

## **ii. Confidentiality**

The Tutor Trust 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.

## **iii. Anonymous Allegations**

This policy encourages individuals to put their name to any disclosures they make. Concerns expressed anonymously are much less credible, but they may be considered at the discretion of the Tutor Trust.

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

## **iv. Untrue Allegations**

If an individual makes an allegation in good faith, 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 they persist with making them, disciplinary action may be taken against that individual (if applicable).

## **Procedures for Making a Disclosure**

It is important that you carefully identify what is wrong.

- Why is it wrong? – is what is happening illegal/ against government guidelines?
- Ensure that you have the facts not opinion. Write down what you have witnessed, the background and history of your concern.
- Names, dates and places (where possible)
- Have others witnessed the same? If so ask them to do the same. Reason why you are concerned about this situation.

At the earliest opportunity make your concerns known keep copies of your report, all correspondence and other relevant information (in a way that doesn't break confidentiality/ data protection).

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.

- 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 an alternative Director for referral.
- In the case of a complaint, which is any way connected with but not against the Director, they will nominate a different Director to act as the alternative investigating officer.

- Complaints against the CEO should be passed to the Trustee Chair 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 CEO. The CEO has the right to refer the complaint back to a Director if they feel that the Director without any conflict of interest can more appropriately investigate the complaint.

Where a staff member, trustee or tutor feels unable to raise the issue with their manager (or equivalent), or member of staff or feels that their genuine concerns are not being addressed, other whistleblowing channels are open to them:

- General guidance on whistleblowing can be found via: [Advice on Whistleblowing](#); and the [NSPCC's what you can do to report abuse dedicated helpline](#) is available as an alternative route for staff who do not feel able to raise concerns regarding child protection failures internally or have concerns about the way a concern is being handled by their school or college. Staff, trustees and tutors can call 0800 028 0285 – line is available from 8:00 to 20:00, Monday to Friday and email: [help@nspcc.org.uk](mailto:help@nspcc.org.uk)

In addition, independent advice can be sought from Protect who are an independent whistleblowing charity who offer confidential advice about whistleblowing. They can be contacted on their free helpline 020 3117 2520 or on their [website](#).

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

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## **Timescales**

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

All responses to the complainant should be in writing and also 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 representative at any future interview or hearing held under the provision of these procedures.
- The investigating officer should consider the involvement of the Police at this stage and should consult with the CEO.

- 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 then be passed to the CEO.
- The CEO will decide what action to take. If the complaint is shown to be justified, then they will invoke the disciplinary or other appropriate charity 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 CEO, or one of the designated persons described above.

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 charity 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 the utility regulators), or, where justified, elsewhere.

Bullying, harassment or any other detrimental treatment afforded to a colleague who has made a qualifying disclosure is unacceptable. Anyone found to have acted in such a manner will be subject to disciplinary action.

NSPCC – Whistleblowing helpline is available as an alternative route for staff, trustees and tutors. They can call 0800 028 0285 – this line is available from 08:00 – 20:00 or email [help@nspcc.org.uk](mailto:help@nspcc.org.uk)

### **Formal Action**

Should formal action be required as a result of any disclosure made under this policy, this action will be carried out in accordance with the applicable internal policy. Any potential sanctions imposed will be fair and reasonable in line with the relevant policy.

### **Protection Against Detrimental Treatment**

Everyone who raises matters of concern under this policy are protected against detrimental treatment, up to and including dismissal, because they have made a disclosure.

Bullying, harassment or any other detrimental treatment afforded to a colleague who has made a qualifying disclosure is unacceptable. Anyone found to have acted in such a manner will be subject to disciplinary action.

*For further information please refer to our grievance, disciplinary and dismissal and sexual harassment policies.*