

WHISTLE BLOWING POLICY

AIM

It is the aim of the Diocese of Chester to help the clergy, staff and officers to act with probity in their behaviour, and to follow, and be seen to follow, the highest ethical and moral standards. Should there be any failure in this, the policy seeks to enable staff to alert the organisation to any potential problem or wrongdoing reasonably believed to exist, without fear of any negative reprisal in response to the revelation (such as fear of dismissal, denial of promotion or pay prospects, or any other detrimental treatment).

SUMMARY

Staff must consider the reasonableness of suspicion and whether informal action is appropriate. S/he may involve a senior colleague and should alert the Diocesan Secretary or Director of Human Resources who will undertake an investigation. The procedure is confidential. Any resulting disciplinary action will normally take place after the investigation. It is possible to appeal the decision. Malicious, vexatious or frivolous use of the process will result in disciplinary action. Managers have a duty to follow up the case to ensure appropriate controls are brought in to mitigate further, similar problems.

POLICY

As part of their duty to conduct matters in a responsible and transparent way, the Diocese of Chester aims to achieve best practice in corporate governance. It is generally accepted that part of good governance and risk management involves having an appropriate fraud response procedure, which may involve a whistle blowing policy.

Whistle blowing is the disclosure by an employee to either his / her employer or an appropriate regulatory body of suspected wrongdoing by anyone within the workplace. Wrongdoing may include (but is not limited to):

- a criminal offence
- a breach of legal obligation
- a miscarriage of justice
- a risk to the health and / or safety of an individual or individuals (be that another employee, a client, a member of the public or any other person)
- damage to the environment
- deliberate concealment of any of the above
- a failure to comply with an element of stated corporate governance policy or other compliance matter
- deliberate non-compliance, to the detriment of the organisation, with the organisation's stated policies / procedures or underhand dealings or practices.

In line with the Public Interest Disclosure Act 1998 (PIDA) the Diocese of Chester wishes to encourage any employee to alert them to any potential problems reasonably believed to exist, without fear of any negative reprisal in response to his / her revelation, be that fear of dismissal, denial of promotion or any other detrimental treatment.

Accordingly, the Diocese of Chester has put in place a system for the making of such disclosures with the appropriate degree of discretion, ensuring the confidence of all parties involved.

The procedure is also an alternative to a variety of less formal mechanisms:

- discussion with your line manager
- discussion with a senior manager
- discussion with a member of staff with financial qualifications, Director of Human Resources, or other relevant professional.

Whistle blowing may be to an outside regulatory body, or even the police, in some circumstances, though such action is not covered by this policy. However, this procedure may involve such bodies, where appropriate, further down the line of inquiry and investigation.

A whistle blowing policy is different from disciplinary and / or grievance and / or complaints procedures. Advice on distinguishing such matters is included in the FAQs to this policy.

PROCEDURE

Scope and Purpose

The whistle blowing procedure applies to all employees of the Diocese of Chester (DBF).

The procedure:

- provides a means of addressing conduct or behaviour or activities which fall within the definition in the policy and on which an employee may feel compelled to blow the whistle;
- defines what may be done under the policy and by whom and sets out important employee rights and obligations;
- ensures that within each set of circumstances all employees are treated consistently, fairly and equitably;
- ensures that any disciplinary action in relation to disclosure of matters in the policy is fair and reasonable in all the circumstances and is applied equitably in every case;
- may lead to further action, for example, of a disciplinary nature or an internal review of procedures and controls.

Objectives

The objectives of the procedure are:

- for employees to be able to disclose without fear of reprisal any suspicion of an activity that might be illegal or fraudulent or dangerous to, or risk the reputation of, either an individual person or persons or to the organisation as a whole. Once reasonable suspicion has been identified, it will be suitably investigated and, where necessary, action taken;
- to ensure that instances of irregularity are dealt with;
- to prevent allegations (especially false ones) from being publicised and damaging the reputation of the Diocese.

Principles

- Staff should have a process available to them under which they may alert the organisation to potential problems and raise any serious concerns they may have.
- There may be circumstances where the employee is legally liable if he/she does not blow the whistle. These include cases of serious frauds or instances of professional malpractice.
- Once a disclosure is made, speed may be of the essence and all those involved in the procedure should act without delay.
- Confidentiality is essential in the first instance, both to ensure confidence in the fairness and probity of the process and so as not to alert any potential wrong-doer to suspicion, as this may lead to him or her destroying evidence. Later on, confidentiality may be lifted (if appropriate) to rectify the situation and to put in place processes to minimise the risk of it recurring.
- Disciplinary action will not usually be taken against an employee suspected of an activity falling within the procedure until the case has been investigated and reasonable belief of the activity taking place has been established; however, there may be exceptions when dismissal for gross misconduct or suspension is necessary prior to the final result of an investigation and other ensuing procedures.
- Malicious, vexatious or frivolous use of the process will result in disciplinary action against the employee invoking or seeking to invoke the procedure.
- All proceedings, witness statements and records will be kept confidential as far as is possible.
- Management has a duty to ensure that all matters raised under the policy are taken seriously.
- A policy is in place to provide a secure atmosphere in which staff feel they may raise concerns without fear of reprisal.

Process

Stage 1: Potential whistle blower considers reasonableness of suspicion

1. An employee becoming aware of a situation which s/he suspects is an activity about which s/he might blow the whistle under the policy, should, in the first instance, consider if his/her grounds for suspicion are reasonable. S/he should also consider whether s/he wishes to follow up the suspicion with one of the more informal methods of investigation or the more formal representation directly to the Diocesan Secretary or Director of Human Resources.
2. If the employee chooses the whistle blowing policy as the most appropriate mechanism for his/her concern (or the more informal procedures have been tried and the result has proved unsatisfactory in the eyes of the employee) the employee may, if s/he wishes, raise the matter in confidence with his/her line manager in the first instance. If, for whatever reason, s/he does not wish to consult his/her line manager but nonetheless wants a second opinion, a member of the senior management team may be consulted in confidence.
3. If the line manager or member of the senior management team is alerted under the policy, that member of the senior management team should advise the employee in

question in no more than five working days whether s/he also considers the suspicion reasonable and, also, that the use of the policy is appropriate in the circumstances. The employee may still alert the Diocesan Secretary or Director of Human Resources even if his/her member of the senior management team does not concur with his/her suspicion and / or feels that invoking the policy will be inappropriate, provided s/he still believes there are reasonable grounds for suspicion.

4. Whether or not the employee informs a member of the senior management team, a person considering blowing the whistle must not prevaricate, make obvious investigations or set any traps. It may be proved detrimental to any further investigations if the person believed to be involved in the wrongful activity is approached.

Stage 2: Raising the suspicion and initial investigation

5. Once the employee (and any member of the senior management team consulted) believes there are reasonable grounds for suspecting an activity falling within the policy and that the use of the policy is appropriate, the employee should alert the Diocesan Secretary or Director of Human Resources, who will take the basic details of the concern. They will then decide how the initial evaluation should be conducted (usually by commissioning relevant staff or professional assistance), consider the outcome and recommendations, and be briefed on the progress of any subsequent investigation (challenging where necessary its adequacy and conclusions). Usually at this point, the Chair of the Board of Finance, the relevant director or head of department will be informed that a whistle blowing issue has arisen, but their involvement in the investigation may be limited to being informed (reflecting the delicacy of the nature of a whistle blowing investigation. More information will later be provided to enable the introduction of new, stricter controls).
6. In most cases the Diocesan Secretary or Director of Human Resources will have an initial conversation with the whistle blower for a basic assessment of the case, then request an appropriate person to undertake further interviewing of the whistle blower, assessing the evidence and making a recommendation on further action. These first steps should normally take place within a few working days and those staff responsible will ensure that the matter is considered as quickly as possible without affecting the quality and depth of the investigations required. The whistle blower will be informed of the results of the investigation, though there may be some aspects which will remain confidential, for instance, certain aspects of any resulting disciplinary proceedings.
7. If the Diocesan Secretary or Director of Human Resources decide that the matter should not be taken further but the whistle blower is unhappy with the decision, a desk review of the documentation by the Chair of the DBF, or another director, may be undertaken, followed by a one-to-one interview between him / her and the whistleblower.
8. If the case is still dismissed and the whistle blower is still dissatisfied, s/he may use the formal procedure of direct representation to a group of directors. In the light of having already had the suspicion discounted after investigation, taking such a step should be recognised as a serious allegation and spurious or vexatious claims may result in disciplinary action.

Stage 3: Detailed investigation

9. If after initial investigations there appear to be grounds for the suspicion, further work will take place. The police might be involved, or in particularly complex cases, experts, for examples, forensic accountants, may be brought in, if necessary. The investigations will still be as swift as possible, as this will increase the chances of revealing the wrongdoing.
10. As a result of finding any wrongdoing being perpetrated, the appropriate disciplinary or other procedures will be brought into play as and when necessary.
11. If the suspicion is ultimately found not to have grounds, the whistle blower may appeal as in paragraphs 7 and 8 above.

Stage 4: Follow up investigation

12. After the investigations have taken place any necessary changes to rectify errors resulting from the wrongdoing should be implemented if possible.
13. If not already involved, the wrongdoer's director / head of department (and any other relevant staff) will, in consultation with the Diocesan Secretary and other appropriate Advisors, review the risks the situation has revealed, and create new controls to combat these.
14. When appropriate thereafter, the rest of the directors and any other body responsible for the area of work involved in the situation, will be alerted. Any other relevant reporting body will also be informed.

FREQUENTLY ASKED QUESTIONS

What is whistle blowing?

Whistle blowing is the act of reporting officially and formally any suspected wrongdoing or malpractice in the work environment.

What is the difference between a complaint and whistle blowing?

Essentially when someone blows the whistle, s/he is raising a disinterested concern about something that affects the interests of others or of the employer. Whistle blowing is an alert, and the whistle blower is not expected to investigate further or prove the activity is taking place.

A complaint, conversely, normally relates to the person raising the issue directly. It is usually due to poor treatment in breach of the person's rights, or bullying, and seeks to make redress. The person, therefore, has a vested interest in the outcome of the complaint and will need to give evidence and sometimes even provide his / her case.

The Diocese of Chester has separate policies for grievances, discipline and complaints, which can be found in the Staff Handbook (available on the Diocese of Chester website).

Where an employee is unsure as to which route to follow, the concern should be raised with their head of department, a senior colleague or the Director of Human Resources.

Isn't whistle blowing tittle-tattle / grassing up / being a sneak?

No. Whistle blowing is an early warning system, and usually initiated by the most loyal or public-spirited employees. Whistle blowing may save lives, jobs, money and reputations. Whistle blowing might have prevented, or stopped earlier the Alder Hey Hospital scandal or the Enron collapse.

To whom do I blow the whistle?

To the Diocesan Secretary or the Director of Human Resources.

What should I do in the first instance if I suspect wrongdoing?

Remember you are a witness not a complainant.

Don't use the process to pursue a personal grievance.

Consider the possible risks and outcomes of any action you take.

Do not approach the person involved (this may lead to him / her destroying evidence).

Make sure your suspicion is supported by facts, don't just allege.

Remember that you may be mistaken or there may be an innocent or good explanation.

Whistle blowing alerters do not need to prove anything, though they need reasonable grounds, and the alert is to the error, not the reason for it (i.e. accidental or purposeful).

Do not become a private detective.

Recognise that the process may be complex, you may not be thanked immediately and the situation may lead to a period of disquiet or distrust in the organisation despite your having acted in good faith.

What legal protection do I have when I whistle blow?

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

The Public Interest Disclosure Act 1998 (PIDA) protects workers who blow the whistle in good faith. PIDA protects any employee with reasonable grounds when alerting management to any potential problems from negative reprisal in response to his / her revelation, be that dismissal, denial of promotion or pay prospects, or any other detrimental treatment.

Will I be legally liable if I do not blow the whistle?

In some specific cases, yes. For example, in some areas of serious fraud or in other cases of professional malpractice (accountants, auditors, HR professionals, counsellors etc should already know their legal responsibilities and for what acts or omissions they can be held legally liable).

Why would an organisation encourage whistle blowing?

It detects and deters wrongdoing.

It helps to control risk.

It demonstrates to its stakeholders, clients and regulators that an organisation is serious about good governance.

It reduces the chance of anonymous or malicious leaks.

It reduces the chance of a legal claim against the organisation (by “nipping things in the bud”).

May I make an anonymous disclosure?

Yes, but it is much harder to investigate suspicions if reported anonymously and sometimes impossible. It is best to declare your identity if you feel able to do so. Staff should note:

Being anonymous does not stop others from successfully guessing who raised the concern.

It is harder to investigate the concern if people cannot ask follow-up questions.

It is easier to get protection under the UK Public Interest Disclosure Act if the concerns are raised openly.

It can lead people to focus on the whistle blower, maybe suspecting that he / she is raising the concern maliciously.

Staff are encouraged to put their names to any disclosures they make since concerns expressed anonymously inevitably appear much less credible. For this reason, anonymous disclosures under the whistle blowing policy will be considered only at the discretion of the Diocesan Secretary or Director of Human Resources.

What will be the consequence for me?

You will not be blamed for speaking up or for any failure to speak up earlier. You may have taken time to form your suspicions, or to build up the courage to act on them. However, those who have been actively involved in wrong doing will not have automatic immunity from disciplinary or criminal proceedings.

If you make an allegation in good faith which is subsequently not confirmed by an investigation, no action will be taken against you. In making a disclosure, staff are expected to exercise due care in ensuring accuracy and validity of the information. If a member of staff makes malicious or vexatious allegations, and particularly if these are persistently made, then further action (including disciplinary action) may be taken.

What if I don't trust the organisation / people to whom I might blow the whistle? (either personally or because the malpractice may be at management level).

Depending upon the activity you suspect, there may be an appropriate ombudsman, regulator or authority to report to. Or you may consult an independent lawyer (which would be at your own expense), a trade union representative or the police. If the suspected wrongdoer is the person to whom you might make a disclosure under this policy, you may choose the more formal process of direct representation to the directors.

In the UK there is also Public Concern at Work, an independent charity which has played a leading role in putting whistle blowing on the governance agenda and in influencing the content of legislation in the UK and abroad. Its representatives can advise as to how to proceed (but are not an alternative process as they are purely advisory):

<http://www.pcaw.co.uk/>

PUBLIC CONCERN AT WORK

Telephone

Whistleblowing Advice Line: 020 7404 6609

General enquiries: 020 3117 2520

Fax

020 7403 8823

Email

UK advice line: whistle@pcaw.org.uk

Media enquiries: press@pcaw.org.uk

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