

# **Felixstowe Youth Development Group**



## **Policy Number 30**

# **WHISTLE BLOWING POLICY AND PROCEDURE**

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**Approved by \_\_\_\_\_ David Rowe**  
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# FELIXSTOWE YOUTH DEVELOPMENT GROUP WHISTLE BLOWING POLICY AND PROCEDURE

## 1 Introduction

1.1 Individuals at work are often the first to realise that there may be something seriously wrong within an organisation. There may be individuals who do not express their concerns because they feel that speaking up would be disloyal to their colleagues or their employer. Individuals who remain silent about these concerns may be doing so because of the fear of harassment or victimisation. In these circumstances, it may be easier to ignore the concern rather than report what may just be a suspicion of malpractice.

1.2 Felixstowe Youth Development Group (FYDG) is committed to the highest possible standards of openness, propriety and integrity. In line with this commitment, employees and volunteers with serious concerns about unlawful conduct, financial malpractice or dangers to the environment, employees and volunteers, the public or FYDG's reputation are encouraged to come forward and voice those concerns.

1.3 This Policy has been prepared in response to the Employment Rights Act 1996 (ERA) and the Public Interest Disclosure Act 1998 (PIDA) and the British Standards Institution PAS 1998:2008. These Acts set out a framework for raising genuine concerns and providing guarantees of full protection to employees and other Council workers who raise such issues.

## 2 Aims and Scope of this Policy

2.1 This Policy aims to:

- a. Provide avenues for employees and volunteers to raise serious concerns and report unsuitable and inappropriate behaviour (e.g. Safeguarding)
- b. provide avenues for employees and volunteers to question and act upon concerns;
- c. provide avenues for employees and volunteers to receive feedback on any action taken;
- d. allow employees and volunteers to take the matter further if they are dissatisfied with the response; and
- e. reassure employees and volunteers that they will be protected from victimisation for whistle-blowing in good faith.

2.2 There are existing procedures in place to enable employees to lodge a grievance relating to their employment. The distinction should be made between raising a genuine concern, as opposed to a grievance. Whistleblowing can be undertaken where an employee or volunteer has a concern about danger or illegality: Usually because it threatens others (e.g. customers, or the public). A grievance or private complaint is, by contrast, a dispute about the employee's own employment position and would normally have no additional public interest dimension.

2.3 The scope of the Policy is to:

2.3.1 Provide protection under the ERA and PIDA, where any disclosure of information which, in the reasonable belief of the employee or volunteer making the disclosure, intends to show one or more of the following:

- a. a criminal offence that has been, is being, or is likely to be committed.
- b. a person that has failed, or is failing or is likely to fail to comply with a legal obligation to which he is subject;
- c. a miscarriage of justice that has occurred, is occurring or is likely to occur;
- d. the health or safety of any individual that has been, is being or is likely to be endangered;
- e. the environment that has been, is being, or is likely to be endangered; or
- f. information concerning any of the above matters that has been, is being or is likely to be deliberately concealed.

2.4 Any disclosure that does not concern these matters falls outside the scope of the Act.

2.5 Also to be a qualified disclosure, the following additional conditions must also be fulfilled:

- a. The person making the disclosure must be an employee or volunteer
- b. the disclosure must be made lawfully and without breaching legal professional privilege;
- c. it must be made in good faith (i.e. there is a reasonable belief that the information disclosed is true);
- d. the person making the disclosure must not act maliciously or make false allegations; and
- e. the person making the disclosure must not seek any personal gain for it (where a disclosure has been made to a third party) such as financial payments, gifts or any other benefit or advantage.

### 3 Safeguards

#### 3.1 Harassment or Victimisation

3.1.1 FYDG recognises that the decision to report a concern can be a difficult one to make, not least because of the fear of reprisal from those responsible for the malpractice. FYDG will not tolerate harassment or victimisation of the whistle-blower and will take action in accordance with the ERA and PIDA to protect employees and volunteers when a concern is raised in good faith.

3.1.2 Individuals making a disclosure will be informed of the Officer investigating their concerns. The appointed Investigating Officer will regularly liaise with the individual concerned to ensure they are safeguarded from any reprisals.

3.1.3 However, this does not mean that where employees and volunteers who whistle blow are already the subject of disciplinary or other employment related procedures, that said procedures will be halted.

#### 3.2 Confidentiality

3.2.1 Whilst FYDG gives an assurance that it will not tolerate the harassment or victimisation of anyone raising a genuine concern, it recognises that nonetheless an individual may want to raise a concern in confidence under this Policy. FYDG will do its best to protect the identity of employees and volunteers who whistle-blow and who do not want their name to be disclosed. However, in some circumstances the investigation process may reveal the source of the information and a statement may be required as part of the evidence.

3.2.2 Equally, when raising a concern, employees and volunteers should consider confidentiality and the rights of any other person involved until an investigation of the concern has been concluded.

#### 3.3 Anonymous Disclosure

3.3.1 The Policy encourages employees and volunteers to put their name to any concern raised or allegation made. Protection provided under the ERA and PIDA cannot be applied to an unnamed individual. Concerns expressed anonymously are much less powerful, but they may be considered at the discretion of the Company Secretary.

3.3.2 In exercising the discretion, the factors to be taken into account would include:

- a. the seriousness of the issues raised;
- b. the credibility of the concern; and
- c. the likelihood of confirming the allegation from attributable sources.

#### 3.4 External Disclosures

3.4.1 While it is hoped the Policy will reassure employees and volunteers to raise concerns internally, FYDG accepts that employees and volunteers can contact an appropriate external body.

#### 3.5 Malicious and Vexatious Allegations

3.5.1 No action will be taken against employees and volunteers who raise concerns or make allegations in good faith but which are not confirmed by the investigation. Disciplinary action may however be taken in cases where malicious or vexatious allegations are raised.

#### 3.6 Using the whistleblowing Policy with an ulterior motive

3.6.1 The Policy has been written to reassure the employees and volunteers that there is a safe alternative to silence. The Policy will not cover employees and volunteers where it is established that the Policy has been used with an ulterior motive such as:

- a. Where an employee or volunteer who has participated in the malpractice hopes to use the Policy to secure or negotiate immunity from any disciplinary action; or
- b. Where an employee or volunteer is concerned that his or her own position is vulnerable, either because of a possible redundancy or because of some pre-existing disciplinary issues; or
- c. Where an employee or volunteer raises the concern for some private motive and not to prevent or correct the wrongdoing.

## **4 How to raise a concern**

4.1 Initially, a concern should be raised with an immediate manager. This depends, however, on the seriousness and sensitivity of the issues involved and who is thought to be involved in the malpractice.

4.2 If it is believed that management is involved, an approach to the Company Secretary or Chair of the Management Board is recommended.

4.3 Employees and volunteers are encouraged to express their concern at the earliest opportunity so that timely action can be taken.

4.4 Although employees and volunteers are not expected to investigate the matter or to prove that the concern is well-founded, they should be able to demonstrate to the person contacted that there are reasonable grounds for the concern.

4.5 If deemed appropriate, employees and volunteers may raise their concern through their trade union or professional association.

## **5 How FYDG will respond**

5.1 The person with whom the concern has been raised (Line Manager, Chair or Secretary) will refer the matter to the Company secretary who will appoint an impartial person to investigate the concern and advise the informant who this is. Confidentiality will be maintained in accordance with section 3.2.

5.2 In order to protect individuals and FYDG, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. The overriding principle which FYDG will have in mind is the public interest. (Note: the disclosure does not have to be in the public interest for the protection to be afforded.) Concerns raised or allegations made which fall within the scope of specific procedures (for example, harassment or discrimination issues) will normally be referred for consideration under those procedures.

5.3 Following initial investigations FYDG will respond to the concern, as appropriate. The action taken by FYDG will depend on the nature of the concern. The matters raised may:

- a. be investigated by Internally;
- b. be referred to the police;
- c. be referred to the external investigator;

5.4 Some concerns may be resolved by agreed action without the need for investigation. If urgent action is required, this will be taken before any investigation is conducted.

5.5 All concerns received will be acknowledged in writing or email, where appropriate, within ten working days. Wherever possible the acknowledgement will:

- a. indicate how FYDG proposes to deal with the matter;
- b. give an estimate of how long it will take to provide a final response;
- c. advise whether any initial enquiries have been made;
- d. advise whether further investigations will take place, and if not, explain this decision; and
- e. indicate how FYDG will proceed where the informant has chosen to remain anonymous.

5.6 When any meeting is arranged with an employee or volunteer, they have the right, if they so wish, to be accompanied by a trade union or professional association representative.

5.7 The outcome of the investigation will be detailed in a written report by the Investigating Officer. The report will outline the findings of the investigations and reasons for the judgement made. This report will be presented to the Company Secretary to decide the final action.

5.8 FYDG recognises that employees and volunteers need to be assured that the matter has been properly addressed. Thus, subject to any legal constraints, employees and volunteers raising a concern will receive information about the outcome of any investigation.

5.9 If the informant is not satisfied that the concern has been properly dealt with by the Investigating Officer, they have the right to raise it in confidence with the Chair.

5.10 The Policy is intended to provide employees and volunteers with an avenue to raise concerns within FYDG. FYDG hopes that employees and volunteers will be satisfied with any action taken as a result of raising a concern. If they are not, and if they feel it is right they can take the matter outside of the organisation.

5.11 If the informant does take the matter outside the organisation, they should be careful not to disclose confidential information, and ensure that they comply with the requirements of the Public Interest Disclosure Act 1998 so that they do not lose the protection of the Act against dismissal or other detriment.

5.12 Further information and advice can be obtained from: <http://www.pcaw.co.uk/> (Public Concern at Work)

## **6 The Responsible Officer**

6.1 The Company Secretary has overall responsibility for the administration of this Policy.

6.2 The Company Secretary will maintain a record of concerns raised and the outcomes in a format which does not endanger confidentiality.

## **7 Review and updating of Policy**

7.1 The Policy will be reviewed every 3 years or before if legislation changes.