

Whistle Blowing Policy

East Cumbria Family Support Association acknowledges that it may be appropriate for an employee, volunteer, trainee or student, to disclose information to an appropriate body about the organisation, a member of staff or volunteer if the disclosure would reveal or prevent malpractice or an unlawful act.

The person who is making a justified disclosure will be protected from victimisation or dismissal, and would be supported through the process provided they follow the organisations procedures.

East Cumbria Family Support Association encourages disclosure within the organisation as soon as an employee, volunteer, trainee or student become aware of a potential problem. This can be done within the normal supervision process, or the organisations grievance procedure.

What can be disclosed

For a disclosure to be protected, the employee or worker must reasonably believe that the disclosure tends to show that one or more of the following has happened, or is likely to happen.

- A criminal offence;
- Failure to comply with any legal obligation;
- Miscarriage of justice;
- Danger an individuals health or safety;
- Deliberate concealment of information tending to show any of the above;
- (Employments Rights Act 1996s 43B(1))

Even if the disclosure shows one or more of the above, the disclosure is not protected if the worker commits an offence by making the disclosure.

Who it can be disclosed to

The legislation encourages disclosure to the employer. A disclosure is protected if it is made to:

- The employer (in the first instance the Association Manager);

- A trustee (in the second instance);
- A person other than the employer whom the worker believes in good faith has a legal responsibility for the matter;
- A legal advisor.

(Employments Rights Act 1996 ss 43c-43e)

Prescribed person

A disclosure is protected if it is made to a prescribed person provided the worker:

- Makes the disclosure in good faith;
- Reasonably believes the information disclosed is substantially true;
- Reasonably believes the prescribed person is authorised to deal with such matters.

Prescribed persons include the charity commissioners, the inland revenue, the health and safety executive and similar regulatory bodies, but not the police.

(Public interest disclosure order ammendment no7 2010)

Disclosure to others

A disclosure to others for example an MP, the police or media is proteted only if the worker:

- Makes the disclosure in good faith;
- Reasonably believes the information disclosed is true;
- Does not make the disclosure for personal gain;
- Is acting reasonably, in all the circumstances of the case, in making the disclosure;
- Reasonably believes he or she will be subject to detriment by the employer if the disclosure is made to the employer or a prescribed person, or believes it is likely that evidence relating to the matter will be concealed or destroyed if disclosure is made to the employer, or the employee or worker has already disclosed the information to the employer and appropriate action has not been taken.

Employment Rights Act 1996 s 43G

In deciding whether a disclosure to a person other than the employer or a prescribed person is protected, the following issues are considered;

- The identity of the person to whom the disclosure is made.
- The seriousness of the matter.
- Whether the matter is likely to continue or recur.
- Any action the employer or the person to whom the disclosure has been made, has taken, or should have taken as a result of a previous disclosure.
- Whether in making the disclosure the worker complied with the organisations procedures for disclosure.

Exceptionally serious breaches

For serious breaches, disclosure can be made without the normal attempt to resolve the matter internally or through a prescribed person. For a disclosure of this type to be protected, the employee or worker must show that:

- The disclosure was made in good faith;
- He or she reasonably believes that the disclosure is true;
- The disclosure is not made for personal gain;
- The matter disclosed was of an exceptionally serious nature;
- In all circumstances it is reasonable to make the disclosure.