



## East Cumbria Family Support Association

### WHISTLE BLOWING POLICY

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## **1. Introduction**

- 1.1 East Cumbria Family Support Association (ECFSA) acknowledges that it may be appropriate for an employee, volunteer, trainee or student, to disclose information concerning suspected malpractice, or unlawful behaviour :
- Within ECFSA,
  - In certain circumstances to an appropriate outside body.
- 1.2 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 procedures of ECFSA.
- 1.3 East Cumbria Family Support Association encourages disclosure within the organisation as soon as an employee, volunteer, trainee or student becomes aware of suspected malpractice, or unlawful behaviour.

## **2 . What can be disclosed**

- 2.1 For a disclosure to be protected, the person making the disclosure must reasonably believe that one or more of the following has occurred :
- A criminal offence;
  - Failure to comply with any legal obligation;
  - Miscarriage of justice;
  - Danger to an individual's health or safety;
  - Deliberate concealment of information tending to show any of the above;
- (Employments Rights Act 1996 Section 43B(1))**
- 2.2 It is important to note that, even if the disclosure shows one or more of the above, the disclosure is not protected if the person making the disclosure commits an offence by making the disclosure.

## **3 Disclosures within East Cumbria Family Support Association**

- 3.1 Where an employee, volunteer, trainee or student (the complainant) believes that one of the circumstances listed under 2.1 above has occurred, they should in the first instance report the matter to their line manager.
- 3.2 Should the concern be in relation to the complainant's line manager, they should report the matter to the Chief Officer.
- 3.3 If no action is taken by the line manager or Chief Officer, the complainant should report the matter to the Chair of the Board of Trustee
- 3.4 The legislation encourages disclosure to the employer. A disclosure is protected if it is made to:
- The employer (in the first instance the complainant's supervisor or the Chief Officer);
  - The Chair of the Board of Trustees, or another 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 Sections 43c-43e)**

#### **4 Disclosures to outside bodies**

4.1 If no action is taken as a result of the above process, or if the complainant has reasonable cause to believe that this is the case, they should disclose the matter to a “Prescribed Person” outside ECFSa.

4.2 A disclosure is protected if it is made to a prescribed person, provided that the person making the disclosure :

- 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.

4.3 Prescribed persons include the Charity Commissioners, Inland Revenue, Health and Safety Executive and similar regulatory bodies, but not the police.

**(Public Interest Disclosure Order Amendment No7 2010)**

4.4 A disclosure to others for example an MP, the police or media is protected only if the person making the disclosure:

- 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 Section 43G**

4.5 If the complainant has reasonable cause to believe that their concerns should be dealt with outside ECFSa, and not by a prescribed person, they have to consider the following :

- 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 ECFSa, or others to whom the disclosure has been made, has or have taken, or should have taken, as a result of the disclosure.
- Whether in making the disclosure the complainant complied with the procedures of ECFSa.

## **5 Exceptionally serious breaches**

5.1 For exceptionally serious breaches, disclosure can be made outside the procedures to resolve the matter within ECFSAs, or through a prescribed person.

5.2 To take such action the complainant must show that:

- There are good reasons for making the disclosure outside ECFSAs, and without reference to a prescribed person;
- The disclosure was made in good faith;
- The complainant reasonably believes that the disclosure is true;
- The disclosure is not made for personal gain;
- The matter disclosed is of an exceptionally serious nature;
- In all circumstances it is reasonable to make the disclosure.