



28.0 Whistleblowing Policy

Policy Review:

This policy has immediate effect and replaces all previous versions. This policy will be reviewed on or before 23/07/24 and amended, as necessary.

A handwritten signature in blue ink, appearing to read 'P. Martin'.

Pam Martin

A handwritten signature in blue ink, appearing to read 'Paul Martin'.

Paul Martin

Date 09/06/2023. Version 1

This policy will be reviewed annually and updated accordingly by The Senior Management Team for approval. The Directors will hold overall responsibility and ownership for this policy.

Whistleblowing Policy and Procedure

1 Scope and Purpose

This Policy encourages staff, to inform senior management if they are concerned about suspected serious malpractice, fraud or corruption so that it may be investigated.

Whistleblowing can be defined as the disclosure of confidential information which relates to malpractice, fraud, or other illegal or unethical conduct connected with the workplace. This extends to allegations of suspected fraud; malpractice; financial irregularity; corruption; bribery; dishonesty; criminal activities; miscarriage of justice; breach of any code of ethics or ignoring a serious risk to health and safety or the environment.

The following are examples of serious malpractice:

- Fraud
- Financial irregularities
- Corruption
- Bribery
- Dishonesty
- Acting in a manner contrary the PMTandA's code of conduct
- Miscarriage of justice
- Criminal Activity or failing to comply with a legal obligation
- Creating or ignoring a serious risk to health and safety

Policy Statements Applicability

The policy applies to all members of PMTandA i.e., staff, students and members of the Corporation. Members of the public may also have concerns and this policy has been produced to help them and members of PMTandA, in being able to communicate their concerns.

Appropriate disciplinary procedures may be invoked against staff if matters are vexatious or maliciously raised.

This Policy does not exist as an alternative method for an employee raising a grievance or as an appeal against actions taken by managers under the PMTandA's Capability or Disciplinary Policies.

PMTandA also believes that the accessibility of this procedure should eliminate the need for workers going to external agencies before internal PMTandA procedures have been followed.

2 Dissemination

The HR Department will ensure that the policy is available on PMTandA's intranet. Dissemination within Faculties and Departments to staff and/or students is the responsibility of the respective management teams.

General Policy Statement

3 Introduction

PMTandA, as a publicly funded organisation, is committed to high standards and openness in management and governance. If fraud, malpractice or corruption occurs, they must be tackled.

Normally this would be done through routine management procedures. In some circumstances however, a further procedure is needed to enable concerns to be raised confidentially inside and, if necessary, instead of whistleblowing outside of the organisation.

4 Confidentiality

Any employee who raises a concern has an assurance that the matter will be treated as confidentially as possible. For example, the identity of the whistle-blower will not be disclosed routinely to the perpetrator of the alleged incident, unless the whistle-blower consents to disclosure.

Whatever necessary and appropriate steps are required to safeguard and preserve such confidentiality, PMTANDA will make appropriate arrangements. For example, evidence can be given away from the workplace or orally. All documentation relating to the incident will avoid revealing the identity of the whistle-blower.

However, there must be a proper acknowledgement of the rights of anyone who is accused of malpractice, including the right to be fully informed of any case he/she is required to answer. Also, cases involving alleged criminal activity may need to be reported to the police, in which case there can be no guarantee of anonymity.

PMTandA will not normally respond to an anonymous communication or representation, however, may do so in exceptional circumstances.

5 Public Interest Disclosure Act 1998

PMTandA will not tolerate harassment or victimisation of anyone raising a concern in good faith, whether or not the case is proven. The PIDA protects workers who disclose information in the correct manner. 'Workers' has a broader meaning than 'employees' and will apply to individuals who:

- Are employed under a contract of employment;
- Are employed under any other contract under which they perform personally any work of services for another party;
- Are agency workers;
- Are work experience trainees.

6 Protected Grounds for Disclosures

To qualify for protection for disclosure, the employee must:

- Be acting in good faith;
- Have reasonable grounds for believing the information disclosed indicates the existence of one of the problems itemised below.

The employee making the disclosure must do so in the belief that it shows one or more of the following:

- That a criminal offence or malpractice has been committed, is being committed, or is likely to be committed;
- That a person has failed, is failing or is likely to fail to comply with any legal obligation to which s/he is subject;
- That the health and safety of any individual has been, is being or is likely to be, damaged. It must indicate a greater danger than is associated with the normal use of the process/product, or a danger that is not usually associated with it;
- That information tending to show any matter falling within any one of the preceding paragraphs has been, is being, or is likely to be deliberately concealed

An employee is also protected under PIDA if:

- The employee has previously raised the matter with the employer;
- The employee had not done so because of a reasonable fear of being penalised or because he/she believes that evidence would be concealed or destroyed and there is no regulating body to which genuine concerns can be expressed.

Any deliberately false and malicious accusations will be dealt with under the disciplinary procedure.

7 Investigatory Procedure

Disclosures under the Whistleblowing Policy must be raised with the Quality Director.

If the allegations or concerns involve the Quality Director, the whistle-blower should report to other Company Directors who will instigate an investigation.

If the allegation or concern is about the Company, the employee should raise it with the Governors, who will instigate an investigation.

The responsibility for co-ordinating and conducting any investigations against staff rests with the Company Directors specifically the Quality Director.

Initially, PMTandA will appoint an investigating officer.

Depending upon the nature of the complaint, PMTandA may commission either an internal or external auditor or other independent person to carry out the investigation.

Any criminal activity will require the involvement of the police.

8 Timescale and Communication

PMTandA will ensure that all investigations are carried out as speedily as possible, taking into account the confidentiality considerations.

The Quality Director will immediately acknowledge receipt of the report of the incident to the home address of the whistle-blower.

On receipt of the disclosure of a concern the Investigating officer will offer to meet the Discloser, in confidence, within 5 working days or immediately if there is any danger of loss of life or serious injury. The purpose of the meeting will be for the Investigating officer to obtain as much information as possible about the grounds for the Discloser's belief that malpractice has occurred or is likely to occur.

The Discloser may be accompanied by a Trade Union representative or work colleague at the meeting. The investigating officer may be accompanied by an Administrative Assistant to take notes; these notes will not identify the Discloser. Disclosure under this procedure shall, wherever possible, be in writing but, if this is not practicable, such disclosure may be oral, at the choice of the Discloser. The Discloser should provide as much supporting written evidence as possible about the disclosure and the grounds for concern about malpractice.

After considering the information obtained at the initial meeting the investigating officer will, within 5 working days or immediately if there is any perceived danger of loss of life or serious injury, provide the Discloser with a written summary/record of the information obtained at the meeting. The summary will include recommendations as to actions to be taken in response to the disclosure. The Discloser will then have 5 working days in which to confirm the written summary.

Once the written summary has been confirmed the investigating officer will forward a copy of this to the Governors who will forward to the relevant parties for action.

A copy of the agreed record will also be forwarded to the Company Directors where the concern relates to a member of staff other than the Quality Director.

9 Outcomes

Once PMTandA has decided what further action (if any) should be taken, the investigating officer will inform the Discloser in writing of the decision.

If no further action is proposed, the investigating officer will give reasons for this.

If the outcome is the activation of the Disciplinary or Grievance procedures, then the confidentiality required under these procedures will be observed, which may mean that the Discloser is not informed of the specific outcome of those procedures. The investigating officer

will inform the Discloser that appropriate action has been taken without describing the detail.

If the outcome is the activation of an investigation this should normally be completed within 20 working days of confirmation of the written record of the disclosure.

As soon as it is available, a copy of the report of the investigation will be given to the discloser, the person/persons against whom the concern is directed, the Governors and the Company Directors.

Once the investigation report has been received, the following steps may be taken depending on the conclusions reached by the Training Advisor and which members of staff or governors are the subject of concern:

- a. When the concern is explained to the satisfaction of the Training Advisor, the discloser, the Quality Director and the governors, and when the last three individuals are not in any way the subject of the concern, the investigation will be closed and the report retained on file in the Quality Directors Office, unless the Quality Director is the subject of the discloser's concern. The Training Advisor will keep a second copy.
- b. When the concern relates to a senior post holder and has been explained to the satisfaction of the Training Advisor, but not the discloser, the matter will be drawn to the attention of the Governors. In such circumstances the Governor will interview the discloser/Training Advisor in order to determine whether further investigation is needed.
- c. Where the concern has been explained to the satisfaction of the Training Advisor but not the discloser and where the concern relates to the individuals other than governors and senior post holders, the matter will be drawn to the attention of the senior Governor and the Company Directors who will decide whether further action is needed. The discloser will be informed.
- d. Where the Training Advisor concludes that there is substance to the concerns expressed by the discloser, the matter will be referred to the Corporation Board who will determine the form and scope of the full investigation. A full investigation may be undertaken by:
 - the police
 - the Audit committee
 - External Auditors
 - others as appropriate

Except in the case of a police investigator, the person(s) responsible for the full investigation will present a written report to the Corporation who will decide on further action.

The investigating officer will be kept informed as appropriate at all stages in the matter.

10 Appeal

Disclosers who remain dissatisfied with the outcome will be informed of their right to take up the matter with the National Council for Education and Training.

A summary of whistle blowing incidents and outcomes will be drawn to the attention of the Corporation annually, at the end of each academic year. Copies will be provided to both internal/external auditors and the governors

11 Protecting Whistle-blowers

PMTandA gives assurance that workers will be protected from dismissal or other unfavourable treatment for raising a genuine concern, providing the complainant follows the whistleblowing procedure, in accordance with the Public Interest Disclosure Act 1998.

It is in PMTandA's interest that workers should feel able to raise genuine concerns, even if such concerns ultimately prove to be unsubstantiated. Workers should follow this policy in the first instance before approaching external organisations and should request guidance from the company directors if they are unsure of how to proceed.

PMTandA will regard an employee's actions as legitimate in this context if the following conditions are met:

- The employee has followed PMTandA's Whistleblowing Procedure;
- The employee has acted in good faith and not out of personal gain or out of personal motive;
- The employee has, by following the procedure, allowed PMTandA the opportunity to investigate the complaint and take appropriate action before the disclosure reaches the public domain

In the rare instance of an 'exceptionally serious' breach which is of such enormity it justifies the bypassing of the above procedure; the whistle-blower will only have statutory protection if:

- They have acted in good faith in making the disclosure;
- The disclosure is of a very serious nature;
- It is reasonable, in all circumstances, for the disclosure to be made;
- At the time of the disclosure, they reasonably believed they would be subjected to a detriment;
- There was a reasonable belief that it was likely that evidence relating to the incident would be concealed, tampered with or destroyed if a disclosure was made to the employer;
- They have previously made the disclosure to their employer.