



Whistleblowing Policy (Incorporating Good Faith Reporting)

Review of Policy

Version	Date	Approver
2.0	February 2023	Ciara Joseph

Contents

- 1. What is Whistleblowing?3
- 2. Our Commitment3
- 3. Who does this policy apply to?3
- 4. Aims of the Policy3
- 5. What types of concerns can be raised?4
- 6. What types of concerns should not be raised under this Procedure?4
- 7. Safeguards and Penalisation5
- 8. Confidentiality6
- 9. Raising a Concern Anonymously6
- 10. Procedure: Raising a Concern7
- 11. Communication, Monitoring and Review9

1. What is Whistleblowing?

Whistleblowing, otherwise referred to as raising a protected disclosure, occurs when a worker discloses relevant information which in the reasonable belief of the worker tends to show one or more relevant wrongdoings which has come to their attention in connection with work.

This policy is intended to encourage and enable workers to raise concerns within our workplace rather than overlooking a problem or “blowing the whistle” externally. Under this policy a worker is entitled to raise concerns or disclose information without fear of penalisation or threat of less favourable treatment, discrimination or disadvantage.

2. Our Commitment

The Arts Council (“the Council”) is committed to maintaining an open culture with the highest standards of honesty and accountability where our workers can report any concerns in confidence.

3. Who does this policy apply to?

This policy applies to all "*workers*" as defined in section 3 of the Protected Disclosures Act 2014 – 2022 (the "Act") and includes any individual who is or was an employee of the Council as well as independent contractors, consultants, trainees and agency workers. The Act also extends the term "*worker*" to include shareholders, directors, executive members, job applicants, volunteers and those involved in recruitment and pre-contract negotiations with the Council.

It is important to note that should you have a concern exclusively in relation to your own employment, workplace relationships or personal circumstances in the workplace, it should be dealt with by way of the Council's Grievance Procedure or other appropriate procedure.

It is also important to note that this policy does not replace any legal reporting or disclosure requirements. Where statutory reporting requirements and procedures exist, these must be complied with fully.

4. Aims of the Policy

- To encourage you to feel confident and safe in raising concerns and disclosing information;
- To provide avenues for you to raise concerns in confidence;
- To ensure that you receive a response where possible to your concerns and information disclosed;
- To reassure you that you will be protected from penalisation or any threat of penalisation.

5. What types of concerns can be raised?

A concern or disclosure made under this policy should contain specific factual information that tends to show a "*relevant wrongdoing*", as defined under the Act, such as possible fraud, crime, danger or failure to comply with any legal obligation which has come to your attention in a work-related context with the Council and about which you have a reasonable belief of relevant wrongdoing.

Relevant wrongdoings which fall within the scope of this policy are defined by the Act as:

- a) an offence, has been, is being or likely to be committed;
- b) a person has failed, is failing, or likely to fail to comply with any legal obligation **other than** under the worker's contract of employment;
- c) that a miscarriage of justice has occurred etc.;
- d) that the health or safety of any person has been, is, or is likely to be endangered;
- e) that the environment has, is being or likely to be damaged;
- f) that an unlawful or otherwise improper use of funds or resources of a public body, or of other public money, has, is, or is likely to occur;
- g) that an act or omission by or on behalf of a public body is oppressive, discriminatory or grossly negligent or constitutes gross mismanagement; or
- h) that a breach of specified EU law set out in the Directive 2019/1937 has occurred, is occurring or is likely to occur; or
- i) that information tending to show any matter falling within any of the preceding paragraphs has been, is being or is likely to be concealed or destroyed or an attempt has been, is being or is likely to be made to conceal or destroy such information

6. What types of concerns should not be raised under this Procedure?

This policy is intended to deal with reports of relevant wrongdoing as defined within the Act. This policy is not intended to cover personal complaints or personal grievances or matters otherwise falling under a worker's personal contract of employment or engagement. A personal concern, for example, a grievance around your own contract of employment or issues in relation to workplace relationships would not be regarded as a whistleblowing concern and would be more appropriately processed through our Grievance Procedure, Policy on Employment Equality, Health and Safety Policy or other appropriate policy.

7. Safeguards and Penalisation

A worker who makes a disclosure in the manner set out under the Act and has a reasonable belief of relevant wrongdoing will not be penalised by the Council, even if the concerns or disclosure turn out to be unfounded.

Penalisation means any direct or indirect act or omission which occurs in a work-related context. It is prompted by the making of a report and can include:

- suspension, lay off or dismissal;
- demotion, loss of opportunity for promotion or withholding of promotion;
- transfer of duties, change of place of work, reduction in wages or change in working hours;
- the imposition or administering of any discipline, reprimand or other penalty;
- coercion, intimidation, harassment or unfair treatment;
- injury, damage or loss;
- threat of reprisal;
- withholding of training;
- a negative performance assessment or employment reference;
- failure to convert a temporary employment contract into a permanent one where a legitimate expectation was held;
- failure to renew or early termination of a temporary employment contract;
- harm to the worker's reputation;
- black listing;
- early termination or cancellation of goods and services;
- cancellation of a licence or permit;
- or psychiatric or medical referrals.

If you believe that you are being subjected to penalisation as a result of making a disclosure under this procedure, you should inform the Company Secretary immediately.

Workers who penalise or retaliate against those who have raised concerns under this policy will be subject to disciplinary action.

Workers are not expected to prove the truth of an allegation. However, they must have a reasonable belief that the information disclosed shows, or tends to show, a relevant wrongdoing as outlined at clause 5 above. The motivation for making a disclosure is not relevant to whether or not it is protected. All disclosures will be dealt with by the Council regardless of the worker's motivation for making the disclosure, and the worker will be protected so long as the worker reasonably believes that the information disclosed tended to show a relevant wrongdoing.

While the Council welcomes the submission of all genuine disclosures, it will nevertheless view very seriously any false, malicious, frivolous or vexatious allegations that are made under this policy. It should be noted that appropriate [disciplinary action](#) will be taken against any worker who is found to have raised a concern or raised a disclosure with malicious intent.

8. Confidentiality

The Council is committed to protecting the identity of the worker raising a concern and ensures that relevant disclosures are treated in confidence. The focus will be on the wrongdoing rather than the person making the disclosure. A person to whom a report is made or transmitted under this policy shall not, without the explicit consent of the reporting person, disclose to another person, other than such persons deemed necessary pursuant to and in accordance with section 16 of the Act, the identity of the reporting person or any information from which the identity of the reporting person may be deduced.

However there are circumstances, as outlined in the Act, where confidentiality cannot be maintained particularly in a situation where the worker is participating in an investigation into the matter being disclosed. Should such a situation arise, we will make every effort to inform the worker that their identity may be disclosed.

9. Raising a Concern Anonymously

A concern may be raised anonymously. However, on a practical level it may be difficult to investigate such a concern. We would encourage workers to put their names to allegations, with our assurance of confidentiality where possible, in order to facilitate appropriate follow-up. This will make it easier for us to assess the disclosure and take appropriate action including an investigation if necessary. It is also important to note that persons who report a concern anonymously cannot obtain redress under the Act without identifying themselves as part of the process of seeking redress.

10. Procedure: Raising a Concern

(a) Who should you raise your concern with?

As a first step, appropriate concerns should be raised with the Company Secretary. If however, your concern relates to the Company Secretary, you should raise your concern with a member of the Senior Management Team. The Company Secretary or the Senior Management Team will endeavour to ensure that the confidentiality of the identity of the reporting person and any third party mentioned in the report is protected and shall prevent access thereto unless deemed relevant in the context of investigation and enquiry.

Note: Concerns should be raised with the Company Secretary in the first instance, (a member of the SMT if the concern related to the Company Secretary.) If you are unhappy with the outcome and wish to appeal, this will be escalated to the Director for review.

(b) How to raise a concern

Concerns may be raised verbally or in writing. Should you raise a concern verbally we will keep a written record of our conversation and provide you with a copy after our meeting. Should you raise a concern in writing, we would ask you to give the background and history of the concern, giving relevant details, insofar as is possible, such as dates, sequence of events and description of circumstances. *Any conflict of interest in the matter should be disclosed at the outset.*

The earlier you express the concern the easier it will be for us to deal with the matter quickly.

Having raised your concern with us, we will confirm and acknowledge receipt within 7 days of a disclosure being received. Thereafter we will nominate an impartial person or persons who will maintain communication, provide feedback and where necessary, seek further information from you. We will conduct an initial assessment of the concern raised to determine whether there is prima facie evidence that a relevant wrongdoing may have occurred and if it should be treated as a protected disclosure, having regard to the provisions of the Act. All reports shall be treated as being a protected disclosure until we are satisfied that they are not.

We may arrange a meeting to discuss the matter with you on a strictly confidential basis, normally within 10 working days of receipt of your disclosure. The purpose of the meeting is to enable you to explain your concern and discuss the circumstances surrounding it. The meeting will also enable us to clarify whether there is prima facie evidence that a relevant wrongdoing may have occurred or if it is a matter more appropriate to our other procedures, for example our Grievance Procedure.

You can choose whether or not you want to be accompanied by a colleague or a trade union representative. In regard to confidentiality, it is important that there should be an awareness of respecting

sensitive Council information, which, while unrelated to the disclosure, may be disclosed in the course of a consultation or investigation process.

(c) How we will deal with your disclosure

Having met with you in regard to your concern and clarified that the matter is in fact appropriate to this procedure, we will carry out an initial assessment to examine what actions we need to take to deal with the matter. This may involve simply clarifying certain matters, clearing up misunderstandings or resolving the matter by agreed action without the need for an investigation.

If, on foot of the initial assessment, we conclude that there are prima facie grounds for concern that a relevant wrongdoing may have occurred which cannot be dealt with at this point, we will conduct an investigation which will be carried out fairly and objectively. The form and scope of the investigation will depend on the subject matter of the disclosure. We may, at our discretion, engage the services of a suitably skilled external third party to assist with the investigation.

Disclosures may, in the light of the seriousness of the matters raised, be referred immediately to the appropriate authorities. Likewise if urgent action is required (for example to remove a health and safety hazard), this action will be taken.

It is important to us that you feel assured that a disclosure made by you under this policy is taken seriously and in this regard we undertake to communicate with you as follows:

- We will acknowledge receipt of your disclosure and arrange to meet with you as outlined above;
- Where possible, we will inform you of how we propose to deal with the matter and keep you informed of actions, including the outcome of any investigation. However, it is important to note that sometimes the need for confidentiality and legal considerations may prevent us from giving you specific details of an investigation.
- We will inform you of the likely time scales in regard to each of the steps being taken but in any event we commit to dealing with the matter as quickly as practicable. We will provide feedback within 3 months following the date of acknowledgement of receipt of your disclosure and/or at such 3-month intervals until such time as the procedures relating to your disclosure are closed.

It is possible that in the course of an investigation you may be asked to clarify certain matters. To maximize confidentiality such a meeting can take place off site and you can choose whether or not to be accompanied by a colleague or trade union representative.

Where a concern is raised or a disclosure is made in accordance with this policy, but the allegation is subsequently not upheld by an investigation, no action will be taken against the worker making the

disclosure and the worker will be protected against any penalisation. It is important to note that if an unfounded allegation is found to have been made with malicious intent, then disciplinary action may be taken.

(d) How the matter can be taken further

The aim of this policy is to provide an avenue within this workplace to deal with concerns or disclosures in regard to relevant wrongdoings. We are confident that issues can be dealt with “in house” and we strongly encourage workers to report such concerns internally.

We acknowledge that there may be circumstances where an employee wants to make a disclosure externally, and the legislation governing disclosures — The Protected Disclosures Act 2014 - 2022 — provides for a number of avenues in this regard.

It is important to note, however, that while you need only have a reasonable belief as to relevant wrongdoings to make a disclosure internally, if you are considering an external disclosure, different and potentially more onerous obligations apply depending on to whom the disclosure is made.

11. Communication, Monitoring and Review

This policy will be communicated as appropriate and will be subject to regular monitoring and review in consultation with our workforce. At all times legislation will take precedence where relevant over the provisions made in this policy and the associated procedures.