



Whistleblowing Policy

V3 May 2022 RG
Review date May 2023

Introduction

Whistleblowing has been defined as:

'the disclosure by an employee or professional of confidential information which relates to some danger, fraud or other illegal or unethical conduct connected with the work place, be it of the employee or his/her fellow employees'

(Public Concern at Work Guidelines 1997).

Statutory protection for employees who whistleblow is provided by the **Public Interest Disclosure Act 1998 ("PIDA")**. The PIDA protects employees against victimisation if they make a protected disclosure within the meaning of the PIDA and speak out about concerns about conduct or practice within the company which is potentially illegal, corrupt, improper, unsafe or unethical or which amounts to malpractice.

This policy applies to all staff including full and part time, assessors and consultants working with Marshall Assessment.

Aims and Scope of Policy

Marshall Assessment is committed to high standards in all aspects of the company and will treat whistleblowing as a serious matter. In line with Marshall Assessment's commitment to openness, probity and accountability, members of staff are encouraged to report concerns which will be taken seriously, investigated and appropriate action taken in response.

This document should be read in conjunction with the Marshall Assessment Malpractice and Maladministration Policy (internal)

This policy aims to:

- give confidence to members of staff about raising concerns about conduct or practice which is potentially illegal, corrupt, improper, unsafe or unethical or which amounts to malpractice or is inconsistent with Marshall Assessment's standards and policies so that they are encouraged to act on those concerns
- provide members of staff with avenues to raise concerns
- ensure that members of staff receive a response to the concerns they have raised and feedback on any action taken
- offer assurance that members of staff are protected from reprisals or victimisation for whistleblowing action undertaken in good faith and within the meaning of the PIDA.

This policy covers whistleblowing relating to alleged:

- unlawful conduct
- miscarriages of justice in the conduct of statutory or other processes
- failure to comply with a statutory or legal obligation
- potential maladministration, misconduct or malpractice
- health and safety issues including risks to the public as well as risks to learners and members of staff
- action that has caused or is likely to cause danger to the environment
- abuse of authority
- unauthorised use of public or other funds
- fraud or corruption
- breaches of financial regulations or policies
- mistreatment of any person

- action that has caused or is likely to cause physical danger to any person or risk serious damage to Marshall Assessment or any employer's property
- sexual, physical or emotional abuse of members of staff or learners
- unfair discrimination or favouritism
- racist incidents or acts, or racial harassment and
- any attempt to prevent disclosure of any of the issues listed.
- Influence exerted from Marshall Assessment over other organisations for financial or performance related gains
- Influence from external boards exerted over Marshall Assessment's board for financial or performance related gains
- Favourable or perceived favourable treatment of training provider/s or employer/s in Marshall Assessments EPA pipeline

Safeguard Against Reprisal, Harassment and Victimisation

Marshall Assessment will not tolerate harassment or victimisation of members of staff when matters are raised in accordance with the PIDA provisions. Any member of staff who victimises or harasses a member of staff as a result of their having raised a concern in accordance with the whistleblowing policy will be dealt with under Marshall Assessment's staff disciplinary procedures.

The PIDA provides protection to employees in circumstances where their disclosure can be classed as a protected disclosure. Under the PIDA it would be automatically unfair to dismiss or make any employee/member of staff redundant because they had made a protected disclosure; and that it would be unlawful to subject them to any other detriment, such as demotion or a fine. In the event of such action an Employment Tribunal has the power to order re-instatement, re-engagement or order the award of compensation to successful claimants.

Confidentiality

Marshall Assessment recognises that members of staff may want to raise concerns in confidence and will do its utmost to protect the identity of members of staff who raise a concern and do not want their name disclosed.

However, investigation into the concern could reveal the source of the information; and statements may be required from the member of staff as part of the evidence, which would be seen by all parties involved. If the investigation leads to prosecution and the whistle-blower is likely to be called in to give evidence in court.

Marshall Assessment will not place members of staff under pressure to give their name and will give due consideration to proceeding with investigating the concern on the basis of an anonymous allegation.

Anonymous Allegations

Staff should put their name to allegations whenever possible - anonymous concerns are much less powerful. Nonetheless anonymous allegations will be considered under this whistleblowing procedure especially concerns raised relating to the welfare of learners. In relation to determining whether an anonymous allegation will be taken forward Marshall Assessment will take the following factors into account:

- the seriousness of the issue raised
- the credibility of the concern
- the likelihood of confirming the allegation from attributable sources, and obtaining information provided.

Untrue and Malicious/Vexatious Allegations

If a member of staff makes an allegation in good faith but it is not confirmed by further inquiry the matter will be closed and no further action taken. If, however, the inquiry shows that untrue allegations were malicious and/or

vexatious or made for personal gain then Marshall Assessment will consider taking disciplinary action against the member of staff.

Procedure for Making a Whistleblowing Allegation

You should raise your concern with your line manager and consult related Internal Malpractice Policy. The person to be approached depends to an extent on the seriousness and sensitivity of the issue and who is thought to be involved.

If you feel you cannot express your concerns within the company, it is open to you to raise your concern with someone outside the company setting from the list of organisations in the section of this policy 'Taking the Matter Further', with key organisations to contact suggested as the Public Concern at Work and the regulator and trade unions. If the concern needs to have Police or other statutory authority involvement, the whistleblowing process will be halted until the statutory authorities have completed their investigations and confirmed that it is appropriate to continue with the whistleblowing process.

If possible, put your concern in writing for the avoidance of doubt. You should set out the background and history of the concern, giving names, dates and places where possible, and explaining the reason for your concerns. If you feel unable to put the matter in writing, you can still raise your concern verbally and should telephone or arrange to meet the appropriate person. You can also ask your trade union or professional association to raise the matter on your behalf or to support you in raising the concern.

If you suspect malpractice or maladministration in any aspect of an assessment by Marshall Assessment, please contact the Compliance Director using the following email address: malpractice@marshall-assessment.com

Response to Whistleblowing

The matter raised may:

- need inquiry internally in the company
- need to be passed to the Police if it relates to alleged criminal activity
- need to be passed to the person in the Skills Funding Agency who deals with complaints about financial management or financial propriety in companies
- require a third-party independent investigation (in the case of internal malpractice / maladministration)

At this stage concerns/allegations are neither accepted nor rejected.

Timescale for Response

The person appointed by Marshall Assessment to look into whistleblowing allegations will normally provide a written response to you **within 5 working days** (except in the case of anonymous allegations):

- acknowledging that the concern has been received
- indicating how it is proposed to deal with the matter
- giving an estimate of how long it will take to provide a final response
- advising whether any enquiries have been made
- advising whether further enquiries will take place
- informing you of support available whilst matters are looked into, and
- maintaining confidentiality wherever possible, but also explaining that it may not be possible that you can remain anonymous.

The Inquiry Process

The appointed person will be an independent investigator not part of the MA organisational structure. They will:

- Look into the allegation - seeking evidence and interviewing witnesses as necessary.
- Maintain confidentiality wherever possible but will be mindful that there is no guarantee that the whistle-blower can remain anonymous.
- If appropriate, bring the matter to the attention of the Skills Funding Agency appointed person dealing with complaints about financial management of companies.
- If appropriate, bring the matter to the attention of the EQA via the responsible officer
- If appropriate, for concerns of criminal behaviour refer the matter to the Police.

If the person appointed by Marshall Assessment needs to talk to you, you are permitted to be accompanied by a professional association representative or a fellow member of staff not involved in the area of work to which the concern relates.

The target is to complete the inquiry **within 10-15 working days** from the date of the initial written response. If the enquiry extends beyond the timescales outlined for specific reasons all individuals concerned will be notified of this in writing with an indication when the inquiry will be completed.

The Inquiry Report

Following completion of the inquiry process the independent investigator will make a written report and submit to the Compliance Director, normally **within 5 working days**. **The report will not contain the whistle-blower's name unless you have expressly stated that you wish to be named.**

Commented [SJ1]:

Following receipt of the inquiry report, the Compliance Director will convene a committee with at least one subcommittee member and an independent person from outside Marshall Assessment, to consider the inquiry report and decide on the action to be taken. This should normally take place **within 10 - 15 working days** following receipt of the inquiry report.

Following notification of the committee's decision, the Director will notify you of the outcome normally **within 5 working days** (except in relation to anonymous allegations), setting out the action to be taken or that no further action is to be taken and the reasons why.

Taking the Matter Further

If no action is to be taken and/or you are not satisfied with the way the matter has been dealt with, you can make a complaint under Marshall Assessment's complaints procedure or raise your concerns with other organisations as listed below:

- a relevant professional body or regulatory organisation
- the Public Services Ombudsman
- a solicitor
- the Police - for concerns of criminal behaviour
- a trade union or professional association
- Public Concern at Work (an independent charity that provides free advice for persons who wish to express concern about fraud and other serious malpractice. Telephone 0207 404 6609 or www.pcaw.co.uk).
- The Regulator #: Please clearly mark any emails with the subject line '**Complaint**' and send them to enquiries.ifa@education.gov.uk

Please see (<https://www.instituteforapprenticeships.org/about/complaints-procedure/#:~:text=1-.How%20to%20complain,a%20particular%20team%20or%20process>) for further guidance.

Appendix to Whistleblowing Policy

Guidance Note for Members of Staff

This guidance should be followed if you suspect any conduct or practice in any area of the company's activities which is potentially illegal, corrupt, improper, unsafe or unethical or which amounts to malpractice.

DO

- Make an immediate note of your concerns.
- Note all relevant details such as what was said in telephone or other conversations, the date, time and the names of any parties involved; or any action observed.
- Convey your suspicions to someone with the appropriate authority and experience e.g. your line manager or a member of the senior management team.
- Deal with the matter promptly.
- Keep a copy of all notes/details etc.
- Ask for a copy of your company's whistleblowing policy if this has not routinely been made available to all company staff.

DO NOT

- Do nothing.
- Be afraid of raising your concerns. You must not suffer any recrimination as a result of voicing a reasonably held suspicion. The Director will treat any matter you raise sensitively and confidentially wherever possible (if you feel that the matter raised is not being treated sensitively and seriously then seek professional or alternative advice).
- Approach or accuse any individuals directly.
- Try to investigate the matter yourself. There are rules surrounding the gathering of evidence for use in criminal cases. Any attempt to gather evidence by people who are unfamiliar with these rules may destroy the case.
- Convey your suspicions to anyone other than those with the proper authority although other organisations such as a trade union or professional association may help you raise your concerns.
- If you wish to remain anonymous, do not include your name / position or any other information which could lead to your identity being disclosed.

Commented [SJ2]:

Remember the Public Interest Disclosure Act 1998 protects you from victimisation by dismissal, redundancy or any other detrimental action provided you:

- Have disclosed the information in good faith.
- Believe it to be substantially true.
- Have not acted maliciously or made a false allegation.
- Are not seeking any personal gain.
- It was reasonable for the disclosure to have been made.