

1. Introduction

1.1. Purpose

The purpose of this document is to set out Employ My Ability's (EMA) policy on Whistleblowing. EMA is committed to the highest standards of openness, and accountability. An important aspect of accountability and transparency is a mechanism to enable staff and other members of the Company to voice concerns in a responsible and effective manner.

The policy and associated direction contained within it, provides guidance to all staff on the fundamental aspect within every contract of employment that an employee will faithfully serve his or her employer and not disclose confidential information about the employer's affairs. Nevertheless, where an individual discovers information which they believe shows serious malpractice or wrongdoing within the organisation then this information should be disclosed internally without fear of reprisal; this policy sets out the framework to achieve this independently of any employee's normal direct line management route.

1.2. Legal and/or regulatory framework

This Policy fulfils the requirements of:

- a) Public Interest Disclosure Act 1998

Which gives legal protection to employees against being sanctioned by their employer for publicly disclosing serious concerns.

2. Scope

This policy applies to all staff so as to ensure that no staff feel at a disadvantage in raising legitimate concerns.

It is intended to assist individuals who believe they have discovered malpractice or impropriety which are in the public interest, to raise their concern at a high level and disclose information which they believe may be substantive and directly relevant to that specific concern.

It is not designed to question financial, or business decisions taken by the EMA, nor should it be used to reconsider any matters which have already been addressed under harassment, complaint, disciplinary or other procedures.

Once a member of staff has instigated a "Whistle-blow" it is reasonable to expect staff to follow this process, rather than to concurrently air their complaints outside of EMA.

3. Policy statement

3.1. General

This policy is intended to cover concerns which are in the public interest and may at least initially be investigated separately, but might then lead to the invocation of other procedures e.g. disciplinary. These concerns could include:

- a) Financial malpractice or impropriety or fraud.
- b) Failure to comply with a legal obligation or Statutes.
- c) Dangers to Health & Safety or the environment.

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- d) Criminal activity.
- e) Improper conduct or unethical behaviour.
- f) Attempts to conceal any of the above.

3.2. Safeguards & Protection

This policy is designed to offer protection to those employees of EMA who disclose such concerns provided the disclosure is made in good faith, and with the reasonable belief of the individual making the disclosure, that it tends to show malpractice or impropriety.

It is important to note that no protection from internal disciplinary procedures is offered to those who choose not to use the procedure.

In an extreme case malicious or wild allegations could give rise to legal action on the part of the persons complained about.

3.3. Confidentiality

The Company will treat all such disclosures in a confidential and sensitive manner. The identity of the individual making the allegation may be kept confidential so long as it does not hinder or frustrate any investigation. However, the investigation process may reveal the source of the information and the individual making the disclosure may need to provide a statement as part of the evidence required.

3.4. Anonymous Allegations

This policy encourages individuals to put their name to any disclosures they make. Concerns expressed anonymously are much less credible, but they may be considered at the discretion of the Company.

In exercising this discretion, factors taken into account will include:

- a) The seriousness of the issues raised
- b) The credibility of the concern
- c) The likelihood of confirming the allegation from attributable sources

3.5. Untrue Allegations

If an individual makes an allegation in good faith, which is not confirmed by subsequent investigation, no action will be taken against that individual. In making a disclosure the individual should exercise due care to ensure the accuracy of the information.

If, however, an individual makes malicious or vexatious allegations, and particularly if he or she persists with making them, disciplinary action may be taken against that individual.

3.6. Procedures for making a disclosure

On receipt of a complaint of malpractice, the member of staff who receives and takes note of the complaint, must pass this information as soon as is reasonably possible, to the appropriate designated investigating officer as follows:

- a) Complaints of malpractice will be investigated by the appropriate Manager unless the complaint is against the Manager or is in any way related to the actions of the Manager. In such cases, the complaint should be passed to a Director for referral.
- b) In the case of a complaint, which is any way connected with but not against the Director, the Trustee Advisory Board will nominate a Senior Manager to act as the alternative investigating officer.

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- c) The complainant has the right to bypass the line management structure and take their complaint direct to the Trustee Advisory Board. The Trustee Advisory Board has the right to refer the complaint back to management if they feel that the management without any conflict of interest can more appropriately investigate the concern.

If there is evidence of criminal activity, then the investigating officer should inform the police. EMA will ensure that any internal investigation does not hinder a formal police investigation.

3.7. Timescales

Due to the varied nature of these sorts of complaints, which may involve internal investigators and/or the police, it is not possible to lay down precise timescales for such investigations. The investigating officer should ensure that the investigations are undertaken as quickly as possible without affecting the quality and depth of those investigations.

The investigating officer, should as soon as practically possible, send a written acknowledgement of the concern to the complainant and thereafter report back to them in writing the outcome of the investigation and on the action that is proposed. If the investigation is a prolonged one, the investigating officer should keep the complainant informed, in writing, as to the progress of the investigation and as to when it is likely to be concluded.

All responses to the complainant should be in writing and sent to their home address.

3.8. Investigation Procedure

The investigating officer should follow these steps:

- a) Full details and clarifications of the complaint should be obtained.
- b) The investigating officer should inform the member of staff against whom the complaint is made as soon as is practically possible. The member of staff will be informed of their right to be accompanied by a trade union or other representative at any future interview or hearing held under the provision of these procedures.
- c) The investigating officer should consider the involvement of the Police at this stage and should consult with the Directors.
- d) The allegations should be fully investigated by the investigating officer with the assistance where appropriate, of other individuals / bodies.
- e) A judgement concerning the complaint and validity of the complaint will be made by the investigating officer. This judgement will be detailed in a written report containing the findings of the investigations and reasons for the judgement. The report will be passed to the Directors as appropriate.
- f) The Directors will decide what action to take. If the complaint is shown to be justified, then they will invoke the disciplinary or other appropriate EMA procedures.
- g) The complainant should be kept informed of the progress of the investigations and, if appropriate, of the final outcome.

If the complainant is not satisfied that their concern is being properly dealt with by the investigating officer, they have the right to raise it in confidence with the Trustee Advisory Board, or one of the designated persons described above.

If the investigation finds the allegations unsubstantiated and all internal procedures have been exhausted, but the complainant is not satisfied with the outcome of the investigation, EMA recognises

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the lawful rights of employees and ex-employees to make disclosures to prescribed persons (such as the Health and Safety Executive, OFSTED, CQC, DFE) or where justified, elsewhere.

4. Roles & responsibilities

The Directors of EMA are required to objectively, and with transparency follow this policy and assign roles as prescribed herein.

5. Implementation

The Senior Management Team at EMA have overall responsibility for the implementation of this policy; however, all employees are required to adhere to and support its implementation.

All employees are to be made aware of any changes to this policy.

6. Support, advice and communications

Requests for further advice, support or implementation guidance on this policy can be obtained from an employee's line manager, or any member of the Senior Management Team.

7. Review

This policy will be reviewed annually, following which the revision number and date will be updated to ensure that staff always know that they are referencing the correct policy.

Should there be a need to change the content of the policy before its annual review date then please send a notification to compliance@employability.org.uk

8. Associated documents

Not applicable.

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