



## Duty to Act (Whistleblowing) Policy

### 1. Introduction

- 1.1. This policy applies to all employees, self-employed, volunteers and trustees of the organisation. Other individuals performing functions in relation to the organisation, such as agency workers and contractors, are encouraged to use it.
- 1.2. It is essential to Yellow Door (Solent) that any fraud, misconduct or wrongdoing by employees, self-employed, volunteers and trustees of the organisation is reported and properly dealt with. The organisation therefore encourages all individuals to raise any concerns that they may have about the conduct of others in Yellow Door or the way in which the organisation is run. This policy sets out the way in which individuals may raise any concerns that they have and how those concerns will be dealt with.

### 2. Background

- 2.1. The law provides protection for workers who raise legitimate concerns about specified matters. These are called "qualifying disclosures". A qualifying disclosure is one made in the public interest by a worker who has a reasonable belief that:
  - 2.1.1. a criminal offence;
  - 2.1.2. a miscarriage of justice;
  - 2.1.3. an act creating risk to health and safety;
  - 2.1.4. an act causing damage to the environment;
  - 2.1.5. a breach of any other legal obligation; or
  - 2.1.6. concealment of any of the above;
- 2.2. is being, has been, or is likely to be, committed. It is not necessary for the worker to have proof that such an act is being, has been, or is likely to be, committed - a reasonable belief is sufficient. The worker has no responsibility for investigating the matter - it is the organisation's responsibility to ensure that an investigation takes place.
- 2.3. A worker who makes such a protected disclosure has the right not to be dismissed, subjected to any other detriment, or victimised, because they have made a disclosure.

A worker may be worried about raising such issues or may want to keep the concerns to themselves, perhaps feeling it's none of their business or that it's only a suspicion. A worker may feel that raising the matter would be disloyal to colleagues, managers or to the organisation. The organisation encourages workers to raise their concerns under this



procedure in the first instance. If a worker is not sure whether or not to raise a concern, they should discuss the issue with their line manager.

- 2.4. Any worker who shares a concern or makes an allegation will be adequately supported by a member of Yellow Door Management Team, by a clinical Supervisor or an independent person acting on behalf of Yellow Door as appropriate.

### **3. Principles**

- 3.1. Everyone should be aware of the importance of preventing and eliminating wrongdoing at work. Workers should be watchful for illegal or unethical conduct and report anything of that nature that they become aware of.
- 3.2. Any matter raised under this procedure will be investigated thoroughly, promptly and confidentially, and the outcome of the investigation reported back to the worker who raised the issue.
- 3.3. No worker will be victimised for raising a matter under this procedure. This means that the continued employment and opportunities for future promotion or training of the worker will not be prejudiced because they have raised a legitimate concern.
- 3.4. Victimisation of a worker for raising a qualified disclosure will be a disciplinary offence.
- 3.5. If misconduct is discovered as a result of any investigation under this procedure the organisation's disciplinary procedure will be used, in addition to any appropriate external measures.
- 3.6. Maliciously making a false allegation is a disciplinary offence.
- 3.7. An instruction to cover up wrongdoing is itself a disciplinary offence. If told not to raise or pursue any concern, even by a person in authority such as a manager, workers should not agree to remain silent. They should report the matter to Senior Manager/ CEO.
- 3.8. This procedure is for disclosures about matters other than a breach of an employee's own contract of employment. If an employee is concerned that their own contract has been, or is likely to be, broken, they should use the organisation's Conflicts, Complaints & Concerns Policy.

### **4. Procedure**

#### **4.1. Stage 1**

- 4.1.1. In the first instance, and unless the worker reasonably believes their line manager to be involved in the wrongdoing, or if for any other reason the worker does not wish to approach their line manager, any concerns should be raised



with the worker's line manager or another Senior Manager. If they believe the line manager to be involved, or for any reason does not wish to approach the line manager, then the worker should proceed straight to stage 3.

#### 4.2. *Stage 2*

- 4.2.1. The line manager will arrange an investigation into the matter (either by investigating the matter personally or immediately passing the issue to someone in a more senior position). The investigation may involve the worker who made the report and other individuals involved giving a written statement. Any investigation will be carried out in accordance with the principles set out above. The worker's statement will be taken into account, and they will be asked to comment on any additional evidence obtained. The line manager (or the person who carried out the investigation) will then report to the board, which will take any necessary action, including reporting the matter to any appropriate government department or regulatory agency. If disciplinary action is required, the line manager (or the person who carried out the investigation) will report the matter to their line manager and start the disciplinary procedure. At the conclusion of any investigation, the worker who made the report will be told the outcome of the investigation and what the Senior Management Team/ CEO has done, or proposes to do, about it. If no action is to be taken, the reason for this will be explained.
- 4.2.2. If the allegation is safeguarding related, a report will be made to the Local Area Designated Officer (LADO) within 24 hours of the allegation being received. A report will be made to the Police if a criminal offence has taken place. Trustees will also decide if the incident should be reported to the Charity Commission/ other regulatory bodies.

#### 4.3. *Stage 3*

- 4.3.1. If the worker is concerned that their line manager is involved in the wrongdoing, has failed to make a proper investigation or has failed to report the outcome of the investigations to the Senior Management Team/ CEO, they should inform the Chair of Trustees/ a Trustee of the organisation, who will arrange for another manager to review the investigation carried out, make any necessary enquiries and make their own report to the board as in stage 2 above. If for any other reason the worker does not wish to approach their line manager they should also in the first instance contact a Senior Manager of the organisation. Any approach to the Senior Manager will be treated with the strictest confidence and the worker's identity will not be disclosed without their prior consent. The Senior Manager would seek support from CEO/ Trustee.



#### 4.4. *Stage 4*

4.4.1. If on conclusion of stages 1, 2 and 3 the worker reasonably believes that the appropriate action has not been taken, they should report the matter to the proper authority. The legislation sets out a number of bodies to which qualifying disclosures may be made. These include:

- 4.4.1.1. Local Safeguarding Authority
- 4.4.1.2. HM Revenue & Customs;
- 4.4.1.3. the Financial Conduct Authority;
- 4.4.1.4. the Competition and Markets Authority;
- 4.4.1.5. the Health and Safety Executive;
- 4.4.1.6. the Environment Agency;
- 4.4.1.7. the Independent Office for Police Conduct; and
- 4.4.1.8. the Serious Fraud Office.
- 4.4.1.9. BACP or the regulatory body of the professional

## 5. **Data protection**

When an individual makes a disclosure, the organisation will process any personal data collected in accordance with its data protection policy. Data collected from the point at which the individual makes the report is held securely and accessed by, and disclosed to, individuals only for the purposes of dealing with the disclosure.