

WHISTLEBLOWING POLICY

1. INTRODUCTION

- 1.1 Dunbar Education is committed to conducting its business with honesty and integrity and aims to achieve the highest possible standards of service and ethical standards in all its practices.
- 1.2 We expect all staff to maintain the same high standards too; however, all organisations face the risk of things going wrong and sometimes malpractice and wrongdoing can take place. We take malpractice and wrongdoing very seriously and aim to prevent and eliminate any wrongdoing or malpractice within the organisation.
- 1.3 We therefore encourage all staff to raise any concerns they may have about malpractice or wrongdoing within the organisation freely and without fear of suffering a detriment or dismissal to enable us to eliminate and prevent wrongdoing or malpractice within the organisation.
- 1.4 We will treat any concerns raised seriously and will protect and support any individual who makes a disclosure in line with this policy.
- 1.5 This policy does not form part of any contract; Dunbar Education reserves the right to amend this policy at any time without prior notice.

2. WHO CAN RAISE A CONCERN UNDER THIS POLICY?

- 2.1 This policy applies to all current and former employees, workers, officers, consultants, contractors of our business, including home workers, trainees, apprentices, agency workers, casual workers, and limited company contractors.
- 2.2 No qualifying length of service is required in order to raise a concern under this policy.

3. WHEN TO USE THIS POLICY

- 3.1 This policy should be used to report concerns of malpractice or wrongdoing in relation to our organisation's activities where you have information which you reasonably believe tends to show one or more of the following:
 - that a criminal offence has been committed, is being committed or is likely to be committed; or

- that a person has failed, is failing or is likely to fail to comply with any legal obligation to which he or she is subject (excluding those in relation to bribery and corruption, which should be reported using the procedure set out in the Anti-Bribery and Corruption Policy.) or
- that a miscarriage of justice has occurred, is occurring or is likely to occur; or
- that the health or safety of an individual has been, or is being or is likely to be endangered; or
- that the environment has been, is being or is likely to be damaged; or
- that any of the above malpractices have been, are being or are likely to be deliberately concealed. This applies whether the malpractice has already occurred, is currently in progress, or is likely to happen in the future.

3.2 You must reasonably believe that the disclosure is being made in the public interest.

3.3 It doesn't matter if you are mistaken about your concern, but you must have information that tends to show some malpractice or wrongdoing rather than an opinion or a feeling.

4. DISCLOSURES THAT ARE NOT COVERED BY THIS POLICY

4.1 You will not qualify for protection under this policy if you commit an offence in making the disclosure, or if you disclose a matter that is subject to legal, professional privilege (for example, correspondence between Dunbar Education and our lawyers regarding a specific case).

4.2 If your concern relates to your own treatment as an employee of Dunbar Education, including personal circumstances at work, you should raise it under our grievance procedure instead, unless you reasonably believe that the matter is in the public interest.

4.3 If your concern relates to your own treatment or personal circumstances at work but you are not an employee of Dunbar Education, you should use our complaints procedure instead of the grievance procedure.

A. Our complaints policy is available on request.

4.4 If you wish to raise a concern of suspected malpractice or wrongdoing in relation to a hirer's activities you may need to raise the concern directly with the hirer instead.

4.5 Any other concerns about our services generally which are not related to the types of wrongdoing or malpractice covered by this policy should be raised using our complaints policy instead.

5. HOW TO RAISE A CONCERN

- 5.1 If you have any concerns of the types of malpractice or wrongdoing covered by this policy, you should in the first instance make a disclosure to your immediate superior. Agency workers should disclose concerns to the consultant who is responsible for managing their assignment.
- 5.2 If, for any reason, you feel that you cannot tell your immediate superior, or in the case of an agency worker the consultant responsible for managing your assignment, you should raise the issue with the Director, Matt Brown, matt.brown@dunbareducation.com.
- 5.3 If you have made a disclosure and are still concerned, or the matter is so serious that you feel you cannot discuss it with either of the two persons named above, you should raise the matter with the following member of management: Dan Brown, Director, dan.brown@dunbareducation.com
- 5.4 A disclosure of a concern can be made by telephone, in person or in writing (including by email). However, it is preferable for the disclosure to be made in writing so that we can keep an exact record of your concern.
- 5.5 You are not expected to prove the truth of your concern beyond reasonable doubt or provide any evidence; however, you will generally need to provide the following information as a minimum:
 - the nature of the concern;
 - why you believe it to be true;
 - the background and history of the concern; and
 - relevant dates where possible.
- 5.6 You can raise any concerns anonymously; however, we encourage you to give your name when reporting your concern wherever possible because it may be more difficult for us to protect your position or give you feedback on the outcome of investigations if you choose to remain anonymous.
- 5.7 You may wish to consider discussing your concern with a colleague before raising it formally under this policy. You can also choose to raise a concern under this policy alone or with a colleague; however, it is in the interests of all parties to maintain confidentiality once you have raised a formal concern.

6. HOW WE RESPOND TO CONCERNS RAISED UNDER THIS POLICY

- 6.1. We are committed to ensuring that all disclosures raised in accordance with this policy will be dealt with objectively, consistently, fairly, and professionally.
- 6.2. We will take the time to listen to any issues raised and arrange a meeting as soon possible to discuss your concern (unless the concern has been raised

anonymously). The aim of the meeting will be to establish the background and facts in order to help us decide whether and how to carry out any subsequent investigation. We may ask you for further information about the concern raised, either at this meeting or at a later stage.

- 6.3. You may bring a colleague [or trade union representative] to any meeting that takes place. The companion must respect the confidentiality of the disclosure and any subsequent investigation.
- 6.4. Any concerns you raise in line with this policy will be recorded in our Central Database.
- 6.5. After the meeting, we will decide how to respond. This will usually involve making internal enquiries in the first instance, but it may be necessary to carry out an investigation at a later stage which may be formal or informal depending on the nature of the concern raised. We will endeavour to complete investigations within a reasonable time.
- 6.6. We will keep you informed of the progress of the investigation as it is carried out and when it is completed, and give you an indication of the timescale for any actions or next steps that we may take. We cannot inform you of any matters that would breach any duty of confidentiality owed to others.
- 6.7. We will consider any concerns raised anonymously at our discretion, considering factors such as the seriousness of the issue raised, the credibility of the concern and the likelihood of confirming the allegation from other sources. However, concerns that are expressed completely anonymously are much less powerful and are difficult to investigate. It may also be difficult for us to provide you with feedback if you cannot be contacted.
- 6.8. If disciplinary or other proceedings follow the investigation, we may need to ask you to come forward as a witness to help us take appropriate action to end the wrongdoing.

7. CONFIDENTIALITY

- 7.1 All concerns raised will be treated as confidential and every effort will be made not to reveal the identity of any individual who raises a concern. Unless the law requires otherwise, we will only make disclosures to third parties or other staff with your consent.

8. RAISING YOUR CONCERN EXTERNALLY (EXCEPTIONAL CASES)

- 8.1 The main purpose of this policy is to give all our staff the opportunity and protection they need to raise concerns internally. We would expect that in almost all cases raising concerns internally would be the most appropriate course of action in order to resolve the issue.

- 8.2 However, if for whatever reason you feel you cannot raise your concerns internally and you reasonably believe the information and any allegations are substantially true and in the public interest, the law recognises that it may be appropriate for you to raise the matter with another approved person, such as a regulator, professional body, or an MP. A list of the relevant prescribed people and bodies that you can raise a concern with is available on the GOV.UK website via the following link:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/510962/BIS-16-79-blowing-the-whistle-to-a-prescribed-person.pdf.

- 8.3 We strongly encourage individuals to seek appropriate advice before reporting a concern to an external person. Public Concern at Work is a leading independent charity whose main objective is to promote compliance with the law and good practice in the public, private and voluntary sectors. They are a source of further information and advice and operate a confidential helpline. ACAS also operate a free confidential helpline that you can contact for advice. The contact details for both organisations are set out in the information and contacts section under paragraph 10 below.

9. PROTECTION AND SUPPORT FOR THOSE RAISING CONCERNS

- 9.1 We hope that all staff will feel able to voice their concerns freely under this policy.
- 9.2 Dunbar Education is committed to good practice and high standards and to being supportive of staff who raise genuine concerns under this policy, even if they turn out to be mistaken.
- 9.3 Any individual raising a genuine concern must not suffer any detriment as a result of doing so. If you believe that you have suffered such treatment, you should inform Matt Brown - Director, immediately.
- 9.4 Dunbar Education will not tolerate any harassment or victimisation of individuals who raise concerns about wrongdoing or malpractice in the workplace. No member of staff may threaten or retaliate against an individual who has raised a concern. Any person involved in such conduct may be subject to disciplinary action.
- 9.5 To ensure the protection of all our staff and the integrity of our business, those who raise a concern frivolously, maliciously and/or for personal gain and/or make an allegation they do not reasonably believe to be true and/or not made in the public interest may also be subject to disciplinary action.
- 9.6 If you are not happy with the way in which a matter has been addressed or dealt with you should raise it formally using our complaints procedure. Employees of Dunbar Education can use our grievance procedure to address the issue instead.

10. FURTHER INFORMATION AND CONTACTS

- 10.1 If you have any queries about the application of this policy, please contact Matt Brown – Director in the first instance.
- 10.2 Public Concern at Work is a source of further information and advice. It also provides a free helpline offering confidential advice on 020 7404 6609. Further information is available on their website at www.pcaw.co.uk.
- 10.3 The Advisory, Conciliation and Arbitration Service (ACAS) also has a free helpline that you can contact for further advice. The ACAS telephone number is: 0300 123 1100 and the helpline is open Monday to Friday from 8am to 8pm and Saturday from 9am to 1pm. The website can be found here: www.acas.org.uk.
- 10.4 If you are a member of a recognised trade union, you can also seek information and advice from your trade union representative.

NOTES – delete these notes from the final copy of your policy

Note number	Section heading	Paragraph number	Explanation
1.	Introduction	1.5	This is an optional paragraph. There is no legal obligation to provide whistleblowing training to your staff; however, it is best practice to provide it so that all staff know how to handle any concerns that they, or others, may have. More importantly, employers can now become vicariously liable if their agents or co-workers subject a whistleblower to a detriment on the grounds that they have made a protected disclosure, even if the employer did not know about or approve of the co-worker or agent's actions. An employer will have a defense if it can show that it took all reasonable steps to prevent the worker or agent from carrying out the offending act(s). No guidance is given as to what will constitute 'reasonable steps' in this context. However, if you choose not to offer training you must at the very least ensure that the policy is brought to the attention of all staff i.e. at the recruitment stage and that it can be easily accessed by all staff.
2.	Who can raise a concern under this policy?	2.1.	Statutory protection for whistleblowers applies to all workers. Section 43K of the Employment Rights Act 1996 (ERA) extends the meaning of a worker for the purpose of whistleblowing protection to cover a range of staff including employees, workers, agency workers, home workers, trainees and contractors. However, statutory protection does not extend to the genuinely self-employed (e.g. sole traders or limited company contractors who are genuinely outside IR35) or to volunteers.
3. & 4.	When to use this policy	3.1	You can choose to deal with any concerns about bribery under your anti bribery policy instead. The REC has a model anti-bribery policy (model policy 3) which can be accessed HERE . Do bear in mind that workers who disclose concerns about

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			bribery in line with the anti-bribery policy instead of the whistleblowing policy will still benefit from whistleblowing protection, provided the worker reasonably believes that the disclosure is being made in the public interest.
5.	When to use this policy	3.1	You can choose to insert any provisions that is specific to your business such as a breach of the REC Code of professional practice or the requirements of other regulatory bodies such as the Care Quality Commission (CQC) if you carry out regulated activities and are registered with the CQC.
6.		3.2	Amendments to the whistleblowing provisions were made in 2013 by the Enterprise and Regulatory Reform Act 2013, including a new requirement for workers to reasonably believe that their disclosure is made in the public interest in order to qualify for whistleblowing protection. Additionally, there is no longer a requirement for disclosures to be made in good faith in order for a worker to qualify for whistleblowing protection. Instead, the Employment Tribunal now has the power to reduce a successful claimant's compensation by up to 25% if it considers that the disclosure was not made in good faith. The changes apply to qualifying disclosures made on or after 25 June 2013. Further information on the changes is available in the REC legal guide.
7.	Disclosures that are not covered by this policy	4.3	It is not appropriate to use internal grievance procedures with workers i.e. those engaged under contracts for services and those that you have not directly employed under a contract of employment as this could contribute to blurring their employment status. Further guidance on employment status is available in the REC legal guide HERE .

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8.	Disclosures that are not covered by this policy	4.4	<p>Concerns raised by agency workers in relation to the activities of the hirer’s organisation should be raised with the hirer directly.</p> <p>The reason for this is because Section 43K of the ERA extends the definition of worker for the purpose of whistleblowing protection to include individuals who work or have worked for a person in circumstances in which:</p> <ul style="list-style-type: none"> • he is or was introduced or supplied to do that work by a third person; and • the terms on which he is or was engaged to do the work are or were in practice substantially determined by: <ul style="list-style-type: none"> ○ the person for whom he works or worked, ○ the person who introduced them (the third person), or ○ both of those people. <p>Additionally, in the case of <i>McTigue v University Hospital Bristol NHS Foundation Trust</i>, the EAT clarified the circumstances in which an agency worker can claim whistleblowing protection against an end-user by virtue of the extended definition of ‘worker’ in S.43K of the ERA. Among other things, the EAT held that the fact that the individual is an ‘employee’ or ‘worker’ in relation to the agency does not prevent him or her also being a S.43K ‘worker’ in relation to the end-user.</p> <p>Therefore, if an agency worker supplied by an employment business to work for a hirer reports a concern about wrongdoing or malpractice in the hirer’s organisation, you should encourage the worker to disclose the matter to the hirer directly in line with the hirer’s own whistleblowing policy. You must not disclose the concern to the hirer</p>

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			without the worker's consent. If the hirer subjects the agency worker to a detriment as a result of their disclosure, the worker could bring a claim against the hirer. Hirers will need to ensure that they have adequate procedures in place to protect agency workers supplied to work for them.
9.	How to raise a concern	5.2	Insert the name of the person responsible for dealing with whistleblowing concerns. There is no legal requirement to have a designated whistleblowing officer, some larger organisations may have dedicated whistleblowing staff but this may not be possible for smaller organisations. Nevertheless, you should as a matter of best practice ensure that you have at least one senior member of staff as a point of contact for individuals who wish to raise concerns under this policy, particularly if the disclosure involves the immediate superior or the line management relationship is damaged.
10.	How to raise a concern	5.6	You should, as a matter of best practice, have systems in place to allow workers to raise concerns anonymously. Some larger employers offer a confidential 'whistleblowing hotline' for staff to report concerns. However, smaller employers can simply allow workers to raise concerns via an anonymous telephone call or via email from an anonymous or third party email address.
11.	How we respond to concerns raised under this policy	6.1	You should reassure the whistle-blower that their disclosure will not affect their position at work. The Government Department for Business Innovation and Skills has produced useful whistleblowing guidance for employers . Page 8 of the document contains best practice guidance on how to deal with concerns raised.

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12.	How we respond to concerns raised under this policy	6.3	There is no statutory right for workers to be accompanied to this meeting but allowing companions could encourage individuals to raise concerns. You may, if you prefer, specify that the companion may be a colleague only but the BIS guidance recommends as a matter of best practice that an individual should be allowed to be accompanied by a trade union representative or colleague, if they wish.
13.	How we respond to concerns raised under this policy	6.4	The BIS guidance recommends that it is good practice for organization's to record the number of whistleblowing disclosures they receive and their nature. Such a register may also be required by an industry regulator.
14.	How we respond to concerns raised under this policy	6.6	You should ensure that you give workers an appropriate timeframe for dealing with the matter and adhere to it. You should also keep the worker informed of any changes to the timeframe.
15.	How we respond to concerns raised under this policy	6.7	Although anonymous reporting may be more difficult to deal with, you should nonetheless respond to allegations made anonymously and not simply ignore them. You can allow anonymous whistle-blowers to seek feedback through a telephone appointment or by corresponding with them via an anonymous or third party's email address.
16.	How we respond to concerns raised under this policy	6.8	This is an optional provision. The BIS guidance recommends that it is best practice to provide support to the worker during what can be a difficult or anxious time with access to mentoring, advice and counselling.
17.	Confidentiality	7.1	Wherever possible, the identity of the whistleblower should be kept confidential, to minimise the risk of victimisation or detriment at a later stage. You must comply with the Data Protection Act 1998 at all

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			times and must not disclose the worker's concern to any third parties without the worker's consent unless the law requires otherwise.
18.	Raising your concerns externally (exceptional cases)	8.2	In order to qualify for whistleblowing protection a worker has to report their concern to their employer or a prescribed person or body if they cannot go to their employer with the disclosure first. Prescribed persons are mainly regulators and professional bodies but include other persons and bodies such as MPs. The relevant prescribed person depends on the subject matter of the disclosure, for example a disclosure about wrongdoing in a care home could be made to the Care Quality Commission.
19.	Protection and support for those raising concerns	9.4	A worker can bring a tribunal claim against an individual co-worker or agent of their employer if they subject the worker to detriment on the ground that the worker made a protected disclosure. This right applies only in relation to qualifying disclosures made on or after 25 June 2013.