



## TC05 – Whistleblowing Policy and Procedure

### Purpose

- Whistle-blowing is an important aspect of safeguarding, where staff/volunteers are encouraged to express concerns or grievances about their organisation without fear of victimisation, discrimination or reprisals in any form.
- TOPCATS believes that compliance with the Public Interest and Disclosure Act 1998 and the Enterprise and Regulatory Reform Act 2013 is consistent with its objective of providing a high-quality service, and that use of an agreed procedure will support that compliance.
- The Public Interest and Disclosure Act 1998 applies where a worker has reasonable belief that their disclosure demonstrates one or more of the following offences or breaches:
  - A criminal offence
  - Breach of a legal obligation
  - Miscarriage of justice
  - A danger to the environment
  - Deliberate covering up of information tending to show any of the above
  - Financial frauds and malpractice
  - Other types of corruption
  - Abuse or neglect of vulnerable people/customers
  - Poor standards of service
  - Damaging personal conflicts at senior level
  - Bullying, harassment or victimisation in the workplace
  - Danger to health or safety of an individual

### Scope

- All employees.
- All volunteers.

- Young People and their families, parents/carers.
- Trustees

## **Policy**

TOPCATS support measures that protect whistle-blowers from any form of victimisation. This procedure ensures that concerns are dealt with effectively and efficiently and to preserve, as far as possible, the confidentiality of the person who has raised the concern.

As part of that commitment, TOPCATS encourages anyone with serious concerns about any aspect of the work to come forward and express their concerns. In many cases, concerns or complaints will be dealt with through the procedures mentioned.

- TOPCATS encourages a free and open culture in its dealings with its officers, employees and all people with whom it engages in business and legal relations. In particular, TOPCATS recognises that effective and honest communication is essential if malpractice is to be effectively dealt with and the organisation's success ensured.

## **Procedure**

### **INTRODUCTION**

The following procedures are in place to make provision for anyone within TOPCATS to disclose information of suspected malpractice on a confidential basis and to be protected against victimisation, reprisals or dismissal.

Any member of staff, whether an employee, freelance or volunteer, found trying to discourage concerned employees, suppliers, volunteers or Young People from coming forward to express a concern will be subject to disciplinary action. In the same way, an employee or other member of staff criticising or victimising an employee, volunteer, supplier or Young Person as a result of a concern being expressed will also face disciplinary action.

- Members of staff are likely to be the first to realise that there may be something seriously wrong within the organisation. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to their employer. They may also fear harassment or victimisation. In these circumstances, it may be easier to ignore the concern rather than report what may just be a suspicion of malpractice.
- The organisation recognises the need for, and importance of, whistleblowing as a means of ensuring that staff can confidentially raise issues of concern and conscience inside the organisation and therefore members of staff are encouraged

to raise genuine concerns about malpractice at the earliest practicable stage. This procedure is, accordingly, intended to provide a safeguard to enable members of staff to raise concerns about one or more of the following that has occurred, is occurring, or is likely to occur. These qualifying disclosures are set out in The Public Interest Disclosure Act 1998:

- That a criminal offence has been committed, is being committed or is likely to be committed;
- That a person has failed, is failing or is likely to fail to comply with any legal obligation to which they are subjected;
- That a miscarriage of justice has occurred, is occurring or is likely to occur;
  
- That the health and safety of any individual has been, is being or is likely to be damaged. It must indicate a greater danger than is associated with the normal use of the process/product, or a danger that is not usually associated with it;
- That information tending to show any matter falling within any one of the preceding examples has been, is being or is likely to be deliberately concealed.
- More recent changes to the law (June 2013) state that disclosures will now only be a qualifying disclosure if the worker reasonably believes that the disclosure is “in the public interest”. This follows amendments made by the Enterprise and Regulatory Reform Act 2013.

## RAISING CONCERNS

- Any person wishing to raise concerns should report the matter to the Manager (Anne-Marie Battrick), in a confidential manner, when such concerns are with regard to matters such as the following: fraud and financial irregularities; serious maladministration arising from deliberate improper conduct; miscarriage of justice; failure to comply with legal obligations; unethical activities that may be of a criminal nature; or dangerous acts or omissions that create a risk to health, safety or the environment within the sphere of activities of the organisation. In the event that the concerns relate to the Manager they should be reported to the Floor Supervisor (Lyndsay King)
- If you do not feel that the Manager or the Floor Supervisor will appropriately handle your concerns, you may report your concerns directly to the TOPCATS Board of Trustees, should this still be insufficient then CQC. The CQC will not disclose your identity without your consent unless there are legal reasons requiring them to do so, e.g. where your information is about a child or vulnerable adult who is at risk.

- It is important to recognise that whistleblowing is not a substitute for the Grievance Procedure that is available to staff who have individual or collective complaints about their management.
- Concerns should normally be raised in writing, but oral reports will also be accepted on the understanding that instances of whistleblowing raised anonymously will not be investigated.

### **COMPLAINT OF ABUSE AGAINST THE MANAGER OR DEPUTY**

- Where an abuse complaint is received by a member of staff and refers to the actions of the Manager or Floor Supervisor, then the referral must in the first instance be made to Social Services Adult Protection Team. The Adult Protection Team will take the responsibility of informing other agencies. The contact details for your local Social Services are as follows:

**Adrian House, Alexander Road, Lowestoft, NR32 1PL, 01502 674773**

### **RESPONSIBILITY FOR DEALING WITH CONCERNS**

- Responsibility for dealing with any concerns reported will lie with the Manager.
- The Manager, in consultation with the Floor Supervisor, shall have discretion over the nature of the investigation into concerns raised, including, where it is considered appropriate, the involvement of the Inspection Unit or Auditors. If there is evidence of criminal activity, the Police will be informed.

### **TIMESCALES FOR DEALING WITH CONCERNS**

The Manager will endeavour to deal with reported concerns as quickly as possible. Initially, the Manager will acknowledge, in a confidential manner, receipt of the concern being raised. Because of the nature and type of concerns that may be raised through whistleblowing, it is not possible to set time limits for the completion of investigations. However, the Manager will ensure that in all cases an initial investigation will start within 5 working days of a concern being reported.

### **PROTECTION FOR THE STAFF**

Staff will often be unsure as to whether or not misconduct is taking place. It is better that staff raise concerns which are proven unfounded, than that they keep quiet about something which turns out to be really serious because they lack evidence, or are afraid of getting into trouble with management or colleagues.

- A member of staff will never be disciplined for raising a concern, so long as they follow the Whistleblowing Procedure or make disclosures in accordance with the Public Interest Disclosure Act 1998. However, disciplinary action could be taken if someone used the Whistleblowing Procedures to raise false concerns in bad faith. The Manager shall decide whether discipline action is to commence.
- TOPCATS will take any steps necessary to ensure that those who raise concerns are protected from bullying or victimisation by fellow workers.
- TOPCATS will regard a member of staff's actions as legitimate if they have:
  - Followed the Whistleblowing Procedure;
  - Acted in good faith and not for personal gain or out of personal motives;
  - Had reasonable grounds for believing that the information disclosed indicated the existence of one or more of the following:
    - That a criminal offence has been committed, is being committed, or is likely to be committed;
    - That a person has failed, is failing, or is likely to fail to comply with any legal obligation to which they are subject;
    - That a miscarriage of justice has occurred, is occurring or is likely to occur;
    - That the health and safety of any individual has been, is being or is likely to be damaged.
    - That information tending to show any matter falling within any one of the preceding examples has been, is been or is likely to be deliberately concealed.

## **DISCLOSURE BY STAFF OUTSIDE THE ORGANISATION**

Workers in general are subject to an implied contractual term of confidence and trust which seeks to prevent them from disclosing their employer's confidential information.

- There is also, within the organisation's contract of employment, a specific confidentiality clause. The breach of this condition could be regarded as gross misconduct which would justify summary dismissal.
- All matters of concern must be raised internally in the first instance. The purpose of this is to give the organisation every chance to investigate and take appropriate action before Disclosure is in the public domain.

## **COMMUNICATION AND REVIEW OF PROCEDURES**

The Manager will ensure that the procedures have been widely distributed and communicated to all members of staff and that appropriate staff awareness-raising

measures and activities are introduced by the organisation. The Manager will report to the Floor Supervisor with regard to the effectiveness of these measures.