



## **European Social Fund 2014-2020**

### **Whistleblowing Policy**

**Aiming High: Enabling Disadvantaged NEETs to Realise their Economic Potential through Inclusive Employability Solutions Project**

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## **Enterkey Training Limited Whistleblowing Policy**

**[This organisation wide policy will also be applied to the Aiming High: Enabling Disadvantaged NEETs to Realise their Economic Potential through Inclusive Employability Solutions Project - part-funded by the European Social Fund and supported under the Youth Employment Initiative]**

### **What Is Whistleblowing?**

- 1.1 A whistleblower is someone who discovers something that is wrong and alerts his employer or the relevant authorities to what is going on. The law recognises that Whistleblowing occurs and protects employees who are whistleblowers from detrimental treatment such as dismissal. To be protected by the law a whistleblower must fall within the stringent legal rules. Anyone who does not act in good faith or is motivated by personal gain will not be protected.

### **Our Policy**

- 1.2 It is our policy as an employer to ensure that at every level of management our business is conducted in such a way as to comply with all legal requirements that govern our activities. This policy applies to the way that we employ and manage our staff. We operate as a team and we expect our employees to all play their part as members of the team for the good of the business as a whole. We do not believe that any of our employees will ever feel the need to become a whistleblower. There is no reason for any employee to believe that he or she will suffer detriment for speaking up if they believe that something is wrong or that if we are alerted to it we will conceal or destroy evidence. However, we are fully aware of our responsibility under the law and we will respect the legal protection afforded to a whistleblower.

### **Public Interest Disclosure Act 1998**

- 1.3 The Act protects “whistleblowers” from suffering detriment in employment and makes dismissal for certain disclosure automatically unfair. There is no qualifying period of employment for this protection.
- 1.4 Police workers, civilian police employees and those who work in the Security Service, Secret Intelligence Service or Government Communications Headquarters are NOT protected.

### **Who is protected?**

- 1.5 A worker who makes a qualifying disclosure that is made to one of a category of persons set out in the Act and which is therefore a protected disclosure.
- 1.6 ‘Worker’ is widely defined and includes employees and other workers as normally understood by the expression but also contractors under an employer’s control, persons on training schemes and also doctors, dentists and other professionals providing National Health Service schemes.

### **What is protected?**

- 1.7 A ‘qualifying disclosure’ is one of information that in the reasonable belief of the disclosing worker shows wrongdoing of one or more of the following kinds:
- 1) A criminal offence was committed or is being or is likely to be committed
  - 2) A person has or is or is likely to fail to comply with a legal obligation
  - 3) A miscarriage of justice has occurred or is or is likely to occur
  - 4) The health and safety of any individual has been or is being or is likely to be endangered
  - 5) The environment has been, is being or is likely to be damaged

6) That information tending to show any matter falling within any one of the above categories has been, is being, or is likely to be deliberately concealed.

1.8 However, if the person making the disclosure commits a criminal offence by making it or makes it in breach of legal professional privilege (e.g. solicitor's secretary disclosing client information) it is not a qualifying disclosure.

1.9 To be a 'Protected Disclosure' the 'Qualifying Disclosure' must only be made to one of the following categories of person:

- a) The employer or (where the disclosure relates to the conduct of another person or matters for which another person other than the employer has legal responsibility) that other person
- b) A legal adviser in the course of getting legal advice
- c) A Minister of the Crown (where the worker is employed by someone appointed by a Minister of the Crown or a body whose members are so appointed)
- d) To one of the prescribed persons set out in the Public Interest Disclosure (prescribed Persons) Order 1999 (e.g. health and safety problem disclosure is to the Health and Safety Executive; Fraud: Secretary of State for Trade and Industry; consumer protection matters: Local Authority Consumer Protection unit; tax matters: the Inland Revenue)
- e) Any other person where the disclosure is one of an "exceptionally serious failure" made in good faith, not for personal gain, where it was reasonable to make the disclosure.

### **What Protection does the worker have?**

2.0 He is protected from detriment or dismissal as a result of making a protected disclosure. Dismissal is automatically unfair, and there is no limit on compensation for such a dismissal. Complaint of detriment or dismissal is made to an Employment Tribunal.

2.1 There are existing procedures in place to enable you to lodge a grievance relating to your own employment. The Whistle-blowing Policy is intended to cover major concerns that fall outside the scope of other procedures. These include: - (i) conduct which is an offence or a breach of law;

(ii) disclosures related to miscarriages of justice;

(iii) health and safety risks, including risks to the public as well as other Workers;

(iv) damage to the environment;

(v) a misuse of Enterkey Training or other public money;

(vi) possible fraud and corruption and other unethical conduct.

2.2 Thus, any serious concerns that you have about any aspect of service provision or the conduct of Workers of Enterkey Training can be reported under this Whistle-blowing Policy. This may be about something that: -

(i) makes you feel uncomfortable in terms of known standards, your experience, or the standards to which you believe Enterkey Training subscribes; or

(ii) is against the policies; or

(iii) falls below established standards of practice; or (iv) amounts to improper conduct.

### **Safeguards Against Harassment or Victimisation**

3.0 Enterkey Training is committed to good practice and high standards and wants to be supportive of employees.

3.1 Enterkey Training recognises that the decision to report a concern can be a difficult one to make. If what you are saying is true, or you in good faith believe it to be true, you should have nothing to fear because you will be doing your duty to your employer and those for whom you are providing a service.

- 3.2 Enterkey Training will not tolerate any harassment or victimisation (including informal pressures) and will take appropriate action to protect you when you raise a concern in good faith.
- 3.3 Any investigation into allegations of potential malpractice will not influence or be influenced by any disciplinary or redundancy procedures that already affect you.

## **Confidentiality**

- 4.1 All concerns will be treated in confidence and every effort will be made not to reveal your identity if you so wish. At the appropriate time however, you may need to come forward as a witness.

## **Anonymous Allegations**

- 5.1 This policy encourages you to put your name to your allegation whenever possible.
- 5.2 Concerns expressed anonymously are much less powerful, but will be considered at the discretion of Enterkey Training.
- 5.3 In exercising this discretion the factors to be taken into account would include the seriousness of the issue raised, the credibility of the concern, and the likelihood of confirming the allegation from attributable sources.

## **Untrue Allegations**

- 6.1 If you make an allegation in good faith, but it is not confirmed by the investigation, no action will be taken against you. If, however, you make an allegation frivolously, maliciously or for personal gain, you may be subject to disciplinary action.

## **Our Procedure**

- 7.1 As a first step, you should normally raise concerns with your immediate line manager or their manager. This depends, however, on the seriousness and sensitivity of the issues involved and who is suspected of the malpractice.
- 7.2 Concerns may be raised orally or in writing. Workers who wish to make a written report about their concerns are requested to provide the following information: -
  - (i) The background to and history of the concern (giving relevant dates); and
  - (ii) The reason why you are particularly concerned about the situation.
- 7.3 The earlier you express a concern, the easier it is to take action.
- 7.4 Although you are not expected to prove beyond doubt the truth of an allegation, you will need to demonstrate to the person contacted that there are reasonable grounds for your concern.
- 7.5 You may wish to consider discussing your concern with a colleague first and you may find it easier to raise the matter if there are two (or more) of you who have had the same experience or concerns.
- 7.6 You may invite your colleague, trade union, professional association representative to be present during any meetings or interviews in connection with the concerns you have raised.

## **How we will Respond**

- 8.1 Within ten working days of a concern being raised, the Operations Director will write to you acknowledging that the concern has been received indicating how we propose to deal with the

matter, giving an estimate of how long it will take to provide a final response, telling you whether any initial enquiries have been made, supplying you with information on staff support mechanisms and telling you whether further investigations will take place, and if not, why not. Do not forget that testing out your concerns is not the same as either accepting or rejecting them.

- 8.2 Where appropriate, the matters raised may be investigated by management, through the disciplinary process, be referred to the police, be referred to the external auditor or form the subject of an independent inquiry.
- 8.3 In order to protect individuals and those accused of misdeeds or possible malpractice, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. The overriding principle, which Enterkey has in mind, is the public interest. Concerns or allegations which fall within the scope of specific procedures (for example, harassment or discrimination issues) will normally be referred for consideration under those procedures.
- 8.4 Some concerns may be resolved by agreed action without the need for investigation. If urgent action is required, this will be taken before any investigation is conducted.
- 8.5 The amount of contact between the Workers considering the issues and you will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, Enterkey will seek further information from you.
- 8.6 Where any meeting is arranged, off-site if you so wish, you can be accompanied by a colleague, union, colleague or professional association representative.
- 8.7 Enterkey will take steps to minimise any difficulties which you may experience as a result of raising a concern. For instance, if you are required to give evidence in criminal or disciplinary proceedings Enterkey will arrange for you to receive advice about the procedure.
- 8.8 Enterkey Training accepts that you need to be assured that the matter has been properly addressed. Thus, subject to legal constraints, we will inform you of the outcome of any investigation.
- 8.9 The Operations Director has overall responsibility for the maintenance and operation of this policy. The Operations Director will maintain a record of concerns raised and the outcomes (but in a form which does not endanger your confidentiality) and will report as necessary to the Managing Director.

## **How the Matter can be Taken Further**

- 9.1 This policy is intended to provide you with an avenue within Enterkey Training to raise concerns. We hope you will be satisfied with any action taken. If you are not, and if you feel it is right to take the matter outside Enterkey Training, the following are possible contact points: -
  - (i) the external auditor;
  - (ii) your trade union;
  - (iii) your local Citizens Advice Bureau;
  - (iv) relevant professional bodies or regulatory organisations;
  - (v) a relevant voluntary organisation;
  - (vi) the Police;
  - (vii) Public Concern at Work (telephone: 020 7404 6609 or email [whistle@pcaw.org.uk](mailto:whistle@pcaw.org.uk)).
- 9.2 If you do take the matter outside Enterkey Training, you should ensure that you do not disclose confidential information.