



# **PUBLIC INTEREST DISCLOSURE POLICY**

Personnel & Office Services

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PUBLIC INTEREST DISCLOSURE POLICY

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# PUBLIC INTEREST DISCLOSURE POLICY

(covering all employees)

## 1 INTRODUCTION

- 1.1 In line with its commitment to uphold the highest standard of conduct and ethics in all areas of the Joint Board's work, the Joint Board will not tolerate any form of malpractice which compromises this commitment.
- 1.2 To help ensure that the Joint Board meets this objective, the support of its employees is sought to reveal malpractice which has been, is or may become evident in any area of the Joint Board's work. Employees who properly disclose malpractice to the Joint Board will be assured of protection against victimisation.

## 2 MALPRACTICE

- 2.1 Although not an exhaustive definition, the following list illustrates those matters which will normally be regarded as malpractice in relation to areas of the Joint Board's work.
  - (a) a criminal offence or breach of the law;
  - (b) a failure to comply with a legal obligation;
  - (c) a miscarriage of justice;
  - (d) damage to the health and safety of any individual, whether employee or member of the public;
  - (e) damage to the environment;
  - (f) the unauthorised use of public funds;
  - (g) possible fraud or corruption;
  - (h) sexual or physical abuse of clients;
  - (i) conduct that may be illegal, improper or unethical, and
  - (j) deliberate concealment of any information relating to areas of malpractice.

## 3 RESPONSIBILITIES

- 3.1 Employees are expected to make a disclosure where **they have a reasonable belief, held in good faith**, that any of the above instances of malpractice has occurred, is occurring or may occur in the future. Employees are also expected to disclose instances where they feel that they have been required by a colleague, manager, elected member or member of the public to act in a way which is tantamount to malpractice.
- 3.2 The Assessor will have overall responsibility for responding promptly to employee disclosures affecting the Joint Board. This will include keeping the employee informed of progress in relation to how the matter disclosed is being handled/has been concluded. The Assessor is also responsible for ensuring that this Policy is communicated to existing employees and new starts on appointment.

- 3.3 The Chief Executive to the Joint Board has overall responsibility for overseeing this Policy on a Board-wide basis. In exceptional circumstances, the Chief Executive will have responsibility for responding to disclosures where an employee feels unable to raise a matter for attention in the Joint Board. In such cases the Chief Executive will have discretion to decide, either that it is fair and reasonable for the disclosure to be dealt with in the Joint Board, or to take some other course of action.

#### 4 *PROTECTION AGAINST VICTIMISATION*

- 4.1 The Joint Board recognises that employees must be afforded support and protection if they are to feel confident in discharging the disclosure responsibilities placed on them by this Policy.
- 4.2 Accordingly, where an employee makes a disclosure of malpractice, then the Joint Board will take appropriate action to ensure that its employees are protected from any form of victimisation (including informal pressures in the workplace). The victimisation or bullying of anyone making a disclosure in good faith will be regarded as a disciplinary offence. Similarly, it will be a disciplinary offence to deter someone from making a disclosure in good faith.
- 4.3 Where a disclosure is **NOT** substantiated through investigation, but management is satisfied that the employee who made the disclosure did so in good faith and with a reasonably held belief that malpractice had occurred, then no action will be taken against the employee.
- 4.4 In the event that management considers that an employee has made an allegation which is false, frivolous, malicious or for personal gain, then disciplinary action may be taken against that employee.

#### 5 *ANONYMOUS DISCLOSURES*

- 5.1 The possibility of dealing effectively with malpractice, and thereby serving the public interest, is greatly reduced if disclosures are made anonymously. Employees are therefore strongly encouraged to make themselves known when making disclosures under this procedure.
- 5.2 Disclosures which are made anonymously will still be considered by the Assessor or, if appropriate, the Chief Executive, City of Edinburgh Council, as the Joint Board's Monitoring Officer, but it will take into account factors such as the seriousness, quality and reliability of the disclosure, and the scope for it being substantiated through attributable sources.
- 5.3 Where an anonymous disclosure cannot be progressed due to lack of information, then a record will be made of that decision.

#### 6 *DEALING WITH DISCLOSURES*

- 6.1 In recognition of the seriousness and sensitivity of the areas of malpractice covered by this policy, and with due regard to the possible anxieties which an employee may experience in discovering and disclosing such matters, the Joint Board will accord a high level priority in responding timeously to them.

- 6.2 Disclosures made by employees will be treated with the utmost sensitivity and, as far as is reasonably practicable, the employee's identity will not be revealed. Employees must be made aware, however, that they may be required to come forward as witnesses where the due process requires their further involvement. In such circumstances, the Joint Board will arrange for the employee to be given advice about the relevant procedures. The employee will also be afforded the opportunity to be accompanied by a trade union representative or other person of his/her choice if he/she has any further active involvement in the process.
- 6.3 Disclosures may be made in person – orally, or in writing. The disclosure should, wherever possible, contain all relevant available details about the background and history of the matter being disclosed including names, dates and times as well as the reasons for grounds for concern. Employees who are unsure about how to approach this situation may seek advice from their personnel representative or their trade union.
- 6.4 The process described below will be followed when making and responding to disclosures:-
- (a) **the first step** in the process will normally be for employees to make a disclosure to their immediate line manager or, if this avenue is unavailable or inappropriate, to the manager occupying the level above the immediate line manager. The manager in receipt of the disclosure will determine whether the matter should be referred for attention either within the Joint Board or to another local authority department which has operational responsibility for the area in which the malpractice has occurred. The manager must then **immediately acknowledge receipt** of the disclosure in writing to the employee and where the disclosure was made orally, the acknowledgement should also form a record of the disclosure. Receipt of a disclosure should always be reported to the Assessor. Where, exceptionally, the employee feels unable to raise the matter for attention in the Joint Board, the disclosure should be made to the Joint Board's Monitoring Officer (paragraph 3.3 refers)
  - (b) **the second step** in the process is for management to make an initial assessment of what further action, if any, requires to be taken with regard to the disclosure. Thereafter the employee must be given written notification of the action to be initiated in respect of the disclosure. Normally, the aim should be to complete this stage of the process **within five working days** of the disclosure being made. In the event that a longer period is required to make the initial assessment, the employee should be advised accordingly. The Chief Executive, as Joint Board's Monitoring Officer, should be advised of the action proposed to be taken in respect of the disclosure.
  - (c) **the third step** in the process will be for management to undertake the programme of action which has been decided upon. This may be done through any, or a combination of a number of routes which could include an investigation by management, internal audit or through the disciplinary procedures by referring the matter to the Police. In certain serious cases, urgent action to curtail the malpractice may be necessary before an investigation is carried out. The employee may be involved as a witness in an investigatory or other process and any subsequent proceedings which may arise as a result. **The outcome of the process which has been undertaken will be notified to the employee** who will also be informed of general progress at **no later than fortnightly intervals**. Where the process is particularly lengthy or complex, it may be appropriate to agree with the employee that progress reports should be provided at less frequent intervals. The Monitoring Officer, should be informed of the outcome of the process.

## 7 EXTERNAL/THIRD PARTY DISCLOSURES

- 7.1 It is the employee's responsibility, by using the internal disclosure arrangements, to afford the Joint Board the opportunity to investigate and resolve occurrences of malpractice. Indeed, one of the main aims of this policy is to provide the means, support and protection to enable employees to make disclosures of malpractice through the internal arrangements.

- 7.2 While the purpose of this Policy is to create the conditions in which employees will feel confident in raising matters internally, it is recognised that there may be circumstances where matters may be properly reported to certain outside bodies such as regulators (eg Health & Safety Executive) or the Police. When considering this option, employees may wish to seek advice prior to taking any action in order to ensure that the disclosure to the outside body is protected. Such advice may be sought from ie personnel or trade union representatives etc.

## 8 *GENERAL*

- 8.1 This policy is not intended to replace any other statutory reporting procedures operated by the Joint Board.
- 8.2 Matters of concern relating to an employee's own situation which would normally be dealt with under the Joint Board's Grievance Procedure should continue to be handled in that way.

## 9 *LOCAL AGREEMENT*

- 9.1 This document is a local collective agreement between the Joint Board and recognised Trade Unions. Every effort will be made by both parties to ensure that this document will be maintained as a local collective agreement, and adjusted by agreement to meet changing future needs. In the event of failure to reach agreement, both parties reserve the right to terminate this local agreement by giving four months notice in writing. In such circumstances, the terms of the local agreement will cease to apply to existing and future employees.