

# *Policy*

## *Public Disclosure by Sanctuary Trust Employees: 'Whistle-blowing' Policy*

### *1 Advice and Instructions*

- 1.1. The term "whistle-blowing" has no legal definition within EC or UK law; however, it has been used to describe incidents where an employee publicly discloses some alleged wrongdoing within an organisation.
- 1.2. The Public Interest Disclosure Act 1998 aims to promote greater openness in the workplace and, by amending the Employment Protection Act 1996, protects "whistle-blowers" from detrimental treatment, i.e. victimisation or dismissal, for raising concerns about matters in the public interest.
- 1.3. In providing this protection, the Act also reinforces the obligations of all persons employed by the The Sanctuary Trust not to disclose to external sources any trade secrets or confidential information acquired during the course of their employment unless they fall within the qualifying for protection disclosures.
- 1.4. This statement sets out the The Sanctuary Trust's Policy and provides in some detail advice and guidance to staff on the scope of the Policy. It explains that any member of staff who has a reasonable belief that there is serious malpractice relating to any of the protected matters specified in the Policy may raise a concern under the procedure agreed by the Management Council and which is described in this statement.
- 1.5. There is also information about the rights of staff to raise the matter externally if they are not satisfied with the The Sanctuary Trust's response and the protection afforded to them if they choose to do this after the internal procedures have been exhausted (see Grievance, Complaints and Disciplinary policy).

### *2 Introduction*

- 2.1. All persons employed by The Sanctuary Trust are under an obligation implied in their contract of employment to give honest and faithful service to their employer. This includes an obligation not to disclose to external sources any confidential information acquired during the course of employment or act in a manner that will undermine the mutual trust and confidence on which the employment relationship is based.

- 2.2. The **Public Interest Disclosure Act 1998** complements those obligations by providing protection to employees for disclosure made without malice and in good faith of certain specific confidential information to a third party in defined circumstances. These are outlined below in paragraph 3.3.
- 2.3. The purpose of this policy is to provide a means by which staff, volunteers and service users are enabled to raise concerns with the appropriate Sanctuary Trust authorities if they have reasonable grounds for believing there is serious malpractice within the Charity. The Sanctuary Trust encourages matters of concern to be raised responsibly in line with this policy and its procedures.

### **3 *Scope of the Policy***

- 3.1. The policy is designed to deal with concerns raised in relation to the specific issues which are in the public interest and are detailed in paragraph 3.3 and which fall outside the scope of other Sanctuary policies and procedures.
- 3.2. The policy will not apply to personal grievances concerning an individual's terms and conditions of employment, or other aspects of the working relationship, complaints of bullying or harassment, or disciplinary matters. Such complaints will be dealt with under existing procedures on grievance, complaints and discipline. Details of these policies and procedures will be found in the Project Manager's office.
- 3.3. The policy may deal with specific concerns, which are in the public interest and may include:
  - 3.3.1. A criminal offence
  - 3.3.2. Failure to comply with legal obligations or with the Statutes, Ordinances and Regulations of The Sanctuary Trust
  - 3.3.3. Financial or non-financial misadministration or malpractice or impropriety or fraud
  - 3.3.4. Academic or professional malpractice
  - 3.3.5. A risk to the health or safety of any individual
  - 3.3.6. incidents of breaches or suspected breaches of the Modern Slavery Act 2015
  - 3.3.7. Environmental damage
  - 3.3.8. A miscarriage of justice
  - 3.3.9. Improper conduct or unethical behaviour
  - 3.3.10. Attempts to suppress or conceal any information relating to any of the above.
- 3.4. If in the course of investigation any concern raised in relation to the above matters appears to the investigator to relate more appropriately to grievance, bullying or harassment, or discipline, those procedures will be invoked.

### **4 *Who can raise a concern?***

- 4.1. Any member of staff, volunteer or service user who has a reasonable belief that there is serious malpractice relating to any of the protected

matters specified in paragraph 3.3 above, may raise a concern in line with this policy and its procedures.

- 4.2. The issues raised under the protected list may relate to another member of staff, a group of staff or another department of The Sanctuary Trust. Concerns must be raised without malice and in good faith, and the individual must reasonably believe that the information disclosed, and any allegations contained in it, are substantially true.
- 4.3. The disclosure must not be made for purposes of personal gain, and in all the circumstances it must be reasonable to make the disclosure. The Sanctuary Trust will ensure that any member of staff who makes a disclosure in such circumstances will not be penalised or suffer any adverse treatment for doing so. However, a member of staff who does not act in good faith or makes an allegation without having reasonable grounds for believing it to be substantially true, or makes it for purposes of personal gain, or makes it maliciously or with aggravated intent may be subject to disciplinary proceedings.
- 4.4. In view of the protection afforded to a member of staff raising a bona fide concern, it is preferable if that individual puts his/her name to any disclosure. The identity of the person raising the matter will be kept confidential, if so requested, for as long as possible provided that this is compatible with a proper investigation.
- 4.5. Anonymous complaints are not covered by this policy and its procedures, but may be reported, investigated or acted upon as the person receiving the complaint sees fit (including the use of this policy and its procedures), having regard to the seriousness of the issue raised, the credibility of the complaint, the prospects of being able to investigate the matter, and fairness to any individual mentioned in the complaint.

## **5 Who is involved?**

- 5.1. Normally any disclosure about a protected matter would be made in the first instance to the Project Team Leader.
- 5.2. If the disclosure is about the Project Team Leader the member of staff may raise the concern with the Senior Managers.
- 5.3. If the disclosure is about a member of the Senior Managers, but not the Director, the member of staff may raise the concern with the Director.
- 5.4. If the disclosure is about the Director the member of staff may raise the concern with the Chairman or other Board member.
- 5.5. If the disclosure concerns the Chairman or other board member, the member of staff may raise the concern with the Director who would contact the Charities Commission or Companies House or other relevant bodies. The name of the Chairman or board members existing at the time of a potential disclosure is published in the Annual report and lodged at Companies House.

- 5.6. The person to whom the disclosure is made will decide whether the matter should be dealt with under this policy and its procedures. If he or she considers that the matter should be dealt with under a different Sanctuary Trust procedure, s/he will advise the person making the disclosure as to the appropriate steps which should be taken.
- 5.7. Investigations will be dealt with confidentially and circumspectly and as speedily as possible and will be referred to relevant external agencies when necessary.

## ***6 Advice for staff raising a concern***

- 6.1. The Sanctuary Trust acknowledges the difficult choice a member of staff may have to make in raising a concern. As the issues that prompt the concern are likely to be complex, how the member of staff proceeds with his or her concern will vary from situation to situation. Members of staff who wish to seek independent legal advice will be supported by Sanctuary Trust as much as possible.

## ***7 Complaints of retaliation as a result of disclosure***

- 7.1. The Sanctuary Trust accepts that it has an obligation to ensure that staff who make a disclosure without malice and in good faith are protected, regardless of whether or not the concern raised is upheld.
- 7.2. A member of staff who has made a disclosure and who feels that, as a result, he or she has suffered adverse treatment should submit a formal complaint under the Grievance procedure as set out in the relevant staff handbook and in the statutes and ordinances detailing what has been done to him or her.
- 7.3. If it appears that there are reasonable grounds for making the complaint, the onus will be on the person against whom the complaint of adverse treatment has been made to show that the actions complained of were not taken in retaliation for the disclosure.
- 7.4. Where it is determined that there is a prima facie case that a member of staff has suffered adverse treatment, harassment or victimisation as a result of his or her disclosure, a further investigation may take place and disciplinary action may be taken against the perpetrator in accordance with the relevant policy and procedures.

## ***8 External disclosure***

- 8.1. A member of staff who makes an external complaint in good faith to any prescribed body or person after exhausting The Sanctuary Trust's internal procedure, will be protected against victimisation or other adverse treatment under this policy.