

## **Whistleblowing Policy and Procedure**

### **Table of Contents**

1. Introduction .....	2
Whistleblower Definition.....	2
Purpose of the Policy .....	2
2. Qualifying Disclosures .....	2
ESB Responsibilities .....	2
3. The Protection of ESB International Employees .....	3
Anonymous Allegations .....	3
Untrue Allegations .....	3
Confidentiality.....	4
4. The Procedure.....	4
Protection for Registered Centres and Employees.....	4
5. Treatment by Others.....	5
6. Communication of the Policy .....	5
7. Policy Review .....	6

## 1. Introduction

Under certain circumstances, employees are protected from suffering any detriment or termination of employment if they make disclosures about organisations for whom they work.

English Speaking Board (International) Ltd. (ESB International) understands that where an individual discovers information which they believe shows serious wrongdoing within the organisation then this information should be disclosed internally without fear of reprisal (see [Public Interest Disclosure Act 1998](#)), and there should be arrangements to enable this to be done independently of line management (although in relatively minor instances the line manager would be the appropriate person to be told).

### Whistleblower Definition

A whistle blower is a person who exposes any kind of information or activity that is deemed illegal, unethical, or not correct within an organisation that is either private or public. The information of alleged wrongdoing can be classified in many ways: violation of company policy/rules, law, regulation, or threat to public interest/national security, as well as fraud, and corruption.

### Purpose of the Policy

A clearly defined Whistleblowing policy is in place for the public, trustees and employees working on behalf of ESB International to communicate any concerns which are in the public interest.

## 2. Qualifying Disclosures

### ESB Responsibilities

This policy is designed to enable trustees and employees working on behalf of ESB International to raise concerns internally at Senior Management level, or higher, and to disclose information which the individual believes shows malpractice or impropriety. This policy is intended to cover concerns which are in the public interest and may at least initially be investigated separately but may then lead to the invocation of other procedures e.g., disciplinary.

2.1 Certain disclosures are prescribed by law as “qualifying disclosures”. A “qualifying disclosure” means a disclosure of information that the employee genuinely and reasonably believes is in the public interest and shows that the Organisation has committed a “relevant failure” by:

- committing a criminal offence;
- failing to comply with a legal obligation;
- a miscarriage of justice;
- endangering the health and safety of an individual;
- environmental damage; or
- concealing any information relating to the above.

- financial malpractice or impropriety or fraud
- improper conduct or unethical behaviour

2.2 These acts can be in the past, present, or future, so that, for example, a disclosure qualifies if it relates to environmental damage that has happened, is happening, or is likely to happen. ESB International will take any concerns that you may raise relating to the above matters very seriously.

2.3 [The Employment Rights Act 1996](#) provides protection for workers who ‘blow the whistle’ where they reasonably believe that some form of illegality, injustice or breach of health and safety has occurred or is likely to occur. The disclosure has to be “in the public interest”. We encourage you to use the procedure to raise any such concerns.

### 3. The Protection of ESB International Employees

This policy is designed to offer protection to ESB International employees who disclose such concerns provided the disclosure is made:

- in good faith
- in the reasonable belief of the individual making the disclosure that it tends to show malpractice or impropriety and if they make the disclosure to an appropriate person. It is important to note that no protection from internal disciplinary procedures is offered to those who choose not to use the procedure. In an extreme case, malicious or wild allegations could give rise to legal action on the part of the persons complained about.

#### Anonymous Allegations

Concerns expressed anonymously are much less credible, but they may be considered at the discretion of the Company. In exercising this discretion, the factors to be taken into account will include:

- The seriousness of the issues raised
- The credibility of the concern
- The likelihood of confirming the allegation from attributable sources

#### Untrue Allegations

If an individual makes an allegation in good faith, which is not confirmed by subsequent investigation, no action will be taken against that individual. In making a disclosure the individual should exercise due care to ensure the accuracy of the information. If, however, an individual makes malicious or vexatious allegations, and particularly if he or she persists with making them, following a fair investigation process, disciplinary action may be taken against that individual.

## Confidentiality

ESB International will treat all such disclosures in a confidential and sensitive manner. The identity of the individual making the allegation may be kept confidential so long as it does not hinder or frustrate any investigation. However, the investigation process may reveal the source of the information and the individual making the disclosure may need to provide a statement as part of the evidence required.

## 4. The Procedure

On receipt of a Whistleblowing complaint, the members of staff who receive the complaint must forward this information as soon as is reasonably possible to the HR Manager ([HR@esbuk.org](mailto:HR@esbuk.org)).

- 4.1 In the first instance you should report any concerns you may have to your line manager who will treat the matter with complete confidence. If you are not satisfied with the explanation or reason given to you, you should raise the matter with the appropriate official organisation or regulatory body.
- 4.2 If you do not report your concerns to your line manager, you should take them directly to the appropriate organisation or body.
- 4.3 Whistleblowing complaints will be investigated by the HR Manager, unless the complaint is against the HR Manager, or is in any way related to the actions of the HR Manager. In such cases, the complaint should be forwarded in confidence to the Chief Executive for referral.
- 4.4 In the case of a complaint, which is any way connected with but not against the Chief Executive, the Chief Executive will nominate a Senior Manager to act as the alternative investigating officer.
- 4.5 Complaints against the Chief Executive should be forwarded to the Chair of Trustees who will nominate an appropriate internal / external investigating officer.
- 4.6 The complainant has the right to bypass the line management structure and take their whistleblowing complaint direct to the Chair of Trustees. The Chair of Trustees has the right to refer the whistleblowing complaint back to management if he/she feels that the management without any conflict of interest can more appropriately investigate the complaint.
- 4.7 If there is evidence of criminal activity, the investigating officer should inform the police.
- 4.8 The Company will ensure that any internal investigation does not hinder a formal police investigation.

## Protection for Registered Centres and Employees

This guidance is principally for centre staff who may witness malpractice in examinations and assessments but may be unsure about what action to take.

[Public Interest Disclosure Act 1998](#) (PIDA) gives a legal protection to centre employees from being dismissed or penalised by their employers as a result of publicly disclosing (“blowing the whistle on”) certain serious concerns.

Each centre will have its own whistleblowing policy. However, if it does not, centre employees will still be protected under the PIDA. This allows the centre employees the opportunity to bring to the centre Senior Management Team’s attention, possible corruption, or non-conformance with legal obligations for example, but also if it is suspected that malpractice is taking place.

The centre employee will still be protected by the PIDA if:

- they believe that by making the disclosure to their employer they will be victimised; **or**
- they reasonably believe that by making the disclosure to their employer there is likely to be a cover-up; **or**
- the matter has previously been raised internally or with the sector regulator.

If the centre employee believes that their Senior Management Team will take action to remedy the situation, then informing their immediate line manager would be the best solution. However, if it is believed that the centre Senior Management Team is involved, or the centre employee believes that they may be victimised by raising the issues with them, then the centre employee may wish to talk to ESB International. See point 4 of this policy.

As the awarding organisation, we will:

- respect your rights under the PIDA;
- understand the difficult position that you are in; and
- explain the importance of supporting evidence that might help in your particular case.

We will make every effort to protect the centre employee's identity, if that is what the centre employee wishes, unless legally obliged to release it. This may be in the course of a police investigation, for example. Please be aware that it will not be possible for ESB International to provide the centre employee with a report on the findings or outcome of any investigation that may ensue.

## **5. Treatment by Others**

Bullying, harassment, or any other detrimental treatment afforded to a colleague who has made a qualifying disclosure is unacceptable. Anyone found to have acted in such a manner will be subject to disciplinary action.

## **6. Communication of the Policy**

ESB's Whistleblowing Policy is widely communicated, understood, and adhered to by trustees, employees, and contractors working on behalf of ESB International. In addition, the policy is communicated externally on ESB International's website: [www.esbuk.org/policies](http://www.esbuk.org/policies)

## 7. Policy Review

This policy will be monitored and reviewed annually, to ensure its procedures and practices continue to meet legislative and regulatory compliance. If required, ESB International reserve the right to make changes to the policy in line with customer and learner feedback, or in response to individual cases.

Revision No.	Change to previous release	Reason for change
2	1. Introduction, first paragraph added in 1.2 ESB Responsibilities moved into 2. Qualifying Disclosures, contractors removed 2.1 Environmental damage and a miscarriage of justice added to list 2.2 and 2.3 added Protection of Employees moved into 3. 1.3 moved into 4. The Procedures How ESB will manage a Whistleblowing complaint altered to 4. The Procedure, numbering added to section 5. Treatment by others added 1.5 Communication of the Policy moved to point 6 1.6 reworded and moved to 1. Introduction (second paragraph) 1.7 reworded and changed to 7. Policy Review	Policy Review
3	3. Untrue Allegations, wording added 4.2 wording corrected 4.6 'Whistleblowing' added to the section Under 'Protection for Registered Centres and employees' word 'body' is replaced with 'organisation'	Policy Review