



Public concern at work (whistleblowing)

Policy

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Introduction

Public concern at work is commonly named as “whistleblowing.” This is when a member of staff or an appointed person of an organisation reports suspected wrongdoing at work; this is officially called ‘making a protected disclosure.’ This procedure is also implemented for those individuals and organisation that wish to report a wrongdoing relating to the delivery and assessment of qualifications and customised awards.

Employees and other associated individuals who make a ‘protected disclosure’ are protected from being treated badly or being dismissed. The key piece of whistleblowing legislation is the **Protection of the Whistleblower Act (Cap 527 Laws of Malta)** which applies to almost all employees and other associated individuals who ordinarily work and study in Malta.

The purpose of this document forms part of the Malpractice and Maladministration Policy. It sets out how we deal with allegations or suspicions of malpractice, and it outlines possible cases of whistleblowing and states what we will do if malpractice or maladministration is proven to be true, including the action we may take against those responsible to prevent recurrence and ways we will prevent, or mitigate, or correct any Adverse Effect.

Uniplural Academy will, always conducts its business with integrity and the highest standards. It expects all individuals working with and appointed by *Uniplural Academy* to maintain the same standards in everything they do. *Uniplural Academy* recognises however that any individual may find it difficult to know what to do when faced with concerns about transgression at work or in their place of learning, including any criminal offence, a failure to comply with legal obligations, a miscarriage of justice, a health and safety danger, an environmental risk or a concealment of any of these.

Staff may be worried about raising such issues or may want to keep the concerns to themselves. Perhaps feeling that it is none of your business or that it is only a suspicion. Equally staff might feel that raising concerns might be disloyal to colleagues or *Uniplural Academy* or that staff ‘whistleblowing’ would be subjected to disciplinary action or some other penalty for speaking out.

This procedure aims to establish a policy whereby such genuine concerns can be raised without individuals fearing reprisals. This procedure is primarily for concerns where the interests of others or *Uniplural Academy* are at risk. If staff are aggrieved about their own personal position, then they should refer to the centre’s grievance procedure and/or the Staff Handbook.

If staff raise a genuine concern under this policy, they will not be at risk of losing their job or suffering any other form of sanction as a result. It does not matter if their concern proves to be groundless provided, they are acting in good faith. If it should become clear this procedure has been used maliciously (for example to pursue a grudge against another individual) then this will constitute misconduct and will be dealt with under the centre’s disciplinary procedure, and/or outlined in the Staff Handbook.

Uniplural Academy will not tolerate the harassment or victimisation of anyone raising a genuine concern. Maltese Law protects employees who report wrongdoing within the workplace. If Staff feel they are being subjected to any detriment as a result of raising a concern under this procedure, they must inform their line manager or Head of Institution. If Staff ask us to keep their identity confidential when raising a concern under this procedure, the centre will not

disclose it without their consent, save where required to do so for legal reasons. Where this is necessary *Uniplural Academy* reserves the right to make such a referral without the individual's consent.

Procedure

How to 'blow the whistle'

Staff can 'blow the whistle' on suspected wrongdoing and can be assured that they are able to speak, or set out in writing, to an appointed person at *Uniplural Academy* in the strictest confidence. They may wish to tell their line manager in the first instance but if they think their line manager will cover it up; or they would be treated unfairly if they complained; or the line manager fails to sort the issue out, then they must report directly to the Head of Institution.

If the matter requires further investigation this will be carried out and the centre will endeavour to notify the 'whistle-blower' of the outcome of that investigation and what action if any has been taken.

If staff are unsure whether or how to use this policy or have any questions about it, they should speak to the Head of Institution. Or if the issue relates to the delivery or assessment of qualifications the member of staff can 'whistle-blow' directly to the Awarding Organisation.

Dismissals and 'whistleblowing'

Staff at *Uniplural Academy* cannot be dismissed because of whistleblowing. Learners cannot be withdrawn from their training programme. Employees and Learners are protected by law as long as certain criteria are met.

Types of whistleblowing eligible for protection

These are called 'qualifying disclosures.' They include when someone reports:

- that someone's health and safety is in danger
- damage to the environment
- a criminal offence
- that the company is not obeying the law (e.g. not having the right insurance)
- that someone is covering up wrongdoing in the workplace or their place of learning.

Who is protected from dismissal

The following people are protected:

- employees
- agency workers
- people that are training with an employer, but not employed
- self-employed workers, if supervised or working off-site

A worker will be eligible for protection if they honestly think what they are reporting is true and they think they are telling the right person.

Who is not protected from dismissal?

Workers are not protected from dismissal if:

- they break the law when they report something
- they found out about the wrongdoing when someone wanted legal advice ('legal professional privilege') - e.g. if they are a solicitor.

NOTE: Individuals who are not employees cannot claim unfair dismissal because of whistleblowing, but they are protected and can claim 'detrimental treatment.'

It is the responsibility of *Uniplural Academy* to make clear to employees and appointed persons what to do if they come across malpractice in the workplace. This should encourage them to inform someone with the ability to do something about the problem

Employees should inform their line manager immediately if they become aware that any of the specified actions is happening (or has happened or is likely to happen). In more serious cases, for example, if the allegation is about the actions of their line manager, the employee should feel able to raise the issue with a more senior manager, bypassing lower levels of management.

Whistle-blowers can ask for their concerns to be treated in confidence and such wishes will be respected. Employees will not be penalised for informing management about any of the specified actions.

Although this document forms part of the Malpractice and Maladministration Policy and Procedure, *Uniplural Academy* will deal with whistleblowing separately rather than as an extension to or part of any existing grievance procedure.

The reason for this is partly because the scale of risk to *Uniplural Academy* and to an employee will generally be significantly greater in whistleblowing cases than in other matters. In addition, the whistle-blower may have no grievance in relation to their terms and conditions or indeed in relation to the employer (it may, for example, relate to the conduct of a contractor).

When a whistleblowing issue has been raised, the Head of Institution:

- has a responsibility to ensure that concerns raised are taken seriously;
- should, where appropriate, investigate properly and make an objective assessment of the concern;
- should keep the employee advised of progress;
- have a responsibility to ensure that the action necessary to resolve a concern is taken.

Procedures for making a disclosure

On receipt of a complaint of malpractice, the member of staff who receives and takes note of the complaint, must pass this information as soon as is reasonably possible, to the appropriate designated investigating officer as follows:

- Complaints of malpractice will be investigated by the Line Manager unless the complaint is against the Line Manager or is in any way related to the actions of the Line Manager. In such cases, the complaint should be passed to the Head of Institution for referral;
- The whistle-blower has the right to bypass the line management structure and take the issue directly to the Head of Institution.

If there is evidence of criminal activity, then the investigating officer should inform the police. The Centre will ensure that any internal investigation does not hinder a formal police investigation.

Timescales

Due to the varied nature of these sorts of complaints, which may involve internal investigators and/or the police, it is not possible to lay down precise timescales for such investigations. The investigating officer should ensure that the investigations are undertaken as quickly as possible without affecting the quality and depth of those investigations.

The investigating officer, should as soon as practically possible, send a written acknowledgement of the concern to the complainant and thereafter report back to them in writing the outcome of the investigation and on the action that is proposed. If the investigation is a prolonged one, the investigating officer should keep the complainant informed, in writing, as to the progress of the investigation and as to when it is likely to be concluded.

All responses to the complainant (whistle-blower) should be in writing and sent to their home address.

Investigating procedure

The investigating officer should follow these steps:

- Full details and clarifications of the complaint should be obtained.
- The investigating officer should inform the member of staff against whom the complaint is made as soon as is practically possible. The member of staff will be informed of their right to be accompanied by a trade union or other representative at any future interview or hearing held under the provision of these procedures.
- The investigating officer should consider the involvement of the Centre auditors and the Police at this stage.
- The allegations should be fully investigated by the investigating officer with the assistance where appropriate, of other individuals/bodies.
- A judgement concerning the complaint and validity of the complaint will be made by the investigating officer. This judgement will be detailed in a written report containing the findings of the investigations and reasons for the judgement. The report will be passed to the Head or in the case of qualifications and assessment to the Awarding Organisation as appropriate.
- The Line Manager will decide what action to take. If the complaint is shown to be justified, then they will invoke the disciplinary or other appropriate Centre procedures.
- The complainant should be kept informed of the progress of the investigations and, if appropriate, of the final outcome;
- If appropriate, a copy of the outcomes will be passed to the Head to enable a review of the procedures.

If the complainant is not satisfied that their concern is being properly dealt with by the investigating officer, they have the right to raise it in confidence to the Head or directly with the Awarding Organisation.

If the investigation finds the allegations unsubstantiated and all internal procedures have been exhausted, but the complainant is not satisfied with the outcome of the investigation, the centre

recognises the lawful rights of employees and ex-employees to make disclosures to prescribed persons (such as the Health and Safety Executive, the Audit Commission, or the contracted regulators), or, where justified, elsewhere.

Confidentiality

Confidentiality will be maintained during the investigatory process to the extent that this is practical and appropriate in the circumstances. However, in order to effectively investigate a disclosure, **Uniplural Academy** must be able to determine the scope of the investigation and the individuals who should be informed of or interviewed about the disclosure. If it becomes necessary to disclose the whistle-blower's identity, **Uniplural Academy** will make efforts to inform them that their identity is likely to be disclosed. In order not to jeopardise the investigation, a whistle-blower is also expected to keep the fact that they have raised a concern, the nature of the concern and the identity of those involved confidential.

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