



WHISTLEBLOWING POLICY & PROCEDURE

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1. INTRODUCTION

ELCAP seeks to work ethically, and with honesty and integrity. We expect the same standards from all of our people – employees, trustees and volunteers.

We recognise, however, that there may be occasions when we – or our people – do not get this right. In these instances, you may wish to raise your serious concerns through this whistleblowing policy.

2. HEALTH AND SOCIAL CARE STANDARDS

The application of this policy is guided by the Health and Social Care Standards and by the following standards in particular:

- I am accepted and valued whatever my needs, ability, gender, age, faith, mental health status, race, background or sexual orientation. (1.1)
- My human rights are protected and promoted and I experience no discrimination. (1.2)
- I can control my own care and support if this is what I want. (2.1)
- I am empowered and enabled to be as independent and as in control of my life as I want and can be. (2.2)
- I experience people speaking and listening to me in a way that is courteous and respectful, with my care and support being the main focus of people's attention. (3.1)
- I am protected from harm, neglect, abuse, bullying and exploitation by people who have a clear understanding of their responsibilities. (3.20)
- I experience high quality care and support based on relevant evidence, guidance and best practice. (4.11)

3. OBJECTIVES

The objectives of this policy are to:

- Provide an effective way for employees, trustees and volunteers to raise serious concerns.
- Ensure that anyone who raises a serious concern receives feedback on any action taken.
- Ensure that anyone who raises a serious concern in good faith is protected from reprisal or victimisation.
- Signpost anyone who raises a serious concern to other sources of assistance if they are dissatisfied with ELCAP's response or if internal investigation is not appropriate.
- Allow ELCAP to take action against an employee, trustee or volunteer who makes allegations in bad faith and/or discloses information when it is unreasonable for them to do so.

4. WHAT IS A WHISTLEBLOWER?

A whistleblower is someone who reports wrongdoing – for example, failure to do things, illegal activity or malpractice. This will often be something s/he has seen or become aware of at work.

The wrongdoing a whistleblower disclosed must be in the public interest. This means that it must affect other people.

5. PROTECTION FOR WHISTLEBLOWERS

The Public Interest Disclosure Act 1998 provides protection to whistleblowing employees who raise legitimate concerns that:

- A criminal offence has been committed, is being committed or is likely to be committed.
- A legal obligation has not been met, is not being met or is unlikely to be met.
- A miscarriage of justice has occurred, is occurring, or is likely to occur.
- The health and safety of any individual has been, is being or is likely to be endangered.
- The environment has been, is being, or is likely to be damaged.
- Any of the wrongdoings described above have been, are being, or are likely to be deliberately concealed.

It is not necessary for whistleblowers to have proof that the wrongdoing is being, has been, or is likely to be committed. However they need to have a reasonable belief that wrongdoing has occurred, is occurring, or is likely to occur.

Employees who make protected disclosures, as described above, have the right not to be dismissed, victimised or subjected to any other detriment.

Volunteers and trustees do not have the same legal protection as employees. However as ELCAP wants an honest and open environment in which concerns can be raised freely, we will treat whistleblowing volunteers and trustees in the spirit of the Public Interest Disclosure Act 1998.

6. MALICIOUS WHISTLEBLOWING

If an employee, trustee or volunteer maliciously raises a matter which they know to be untrue or are involved in the wrongdoing they disclose, their conduct may be addressed through the appropriate ELCAP policy.

7. NON-WHISTLEBLOWING CONCERNS

This policy should be used only in the specific circumstances outlined in Section 5, above. Other ELCAP policies will be relevant in other circumstances, including, but not limited to, our:

- Adult and child protection policy
- Bullying and harassment procedure
- Compliments, suggestions and complaints procedure
- Disciplinary procedure
- Grievance procedure

8. RAISING YOUR CONCERNS

You should raise your whistleblowing concern as soon as possible after you become aware of potential wrongdoing. This will make it easier for ELCAP to investigate and act on your concerns.

You should make your disclosure in writing and:

- Provide any relevant context and background to your concern, including dates, locations and the names of people you believe are involved.
- State clearly why the situation causes concern.

You must state that you are raising your concern via the whistleblowing policy and whether you wish your identity to be kept confidential. While we will make every effort to deal with your concern confidentially, depending on the circumstances, this may not always be possible. Where it is not possible for us to deal with your concern confidentially, we will advise you of this and explain the reasons.

We will consider anonymous disclosures, but we do not encourage them as anonymity often makes it difficult to properly investigate concerns, protect employees and provide feedback on the outcome of investigations.

9. WHO SHOULD I RAISE MY CONCERNS WITH?

Wherever possible, you should look to raise your concern with your line manager. If this is not appropriate – for example, because they may be involved in the alleged wrongdoing – you should raise your concern with their manager.

Where your concern is about the Chief Executive or a trustee, you should contact the following senior officers:

Concern about	Senior Officer
Chair of the Executive Board	Vice Chair of Executive Board

Trustees, including Vice Chairs	Chair of the Executive Board
Chief Executive	Chair of the Executive Board

If appropriate, the senior officer may arrange for the concern to be investigated externally and independent of ELCAP, and for appropriate follow-up action to be taken.

10. WHAT HAPPENS AFTER I RAISE A CONCERN

Your disclosure will be acknowledged within five working days. It will be investigated by the ELCAP manager or senior officer that you raise your concern with, except when a senior officer determines that external investigation is appropriate.

The person investigating your concern will arrange to meet you as soon as possible, away from your workplace if necessary, to enable you to explain your concern.

You will be told at the meeting, or as soon as possible afterwards, the action which will be taken to address the concern you have raised. Actions taken in response to a disclosure will depend on the nature of the concern but may involve one or more of the following:

- An internal investigation under this procedure
- An external investigation under this procedure
- Action under another ELCAP policy or procedure
- A referral to the police or a relevant statutory body
- A referral to ELCAP's external auditors
- A referral to the Office of the Scottish Charity Regulator (OSCR)
- No action required

Where action is not taken, you will be informed of this and told the reasons why.

ELCAP managers receiving a whistleblowing concern must inform the Chief Executive that a concern has been raised and inform her/him of progress in resolving it.

11. WHAT HAPPENS AFTER I RAISE A CONCERN

We encourage staff to use the internal processes described in this policy in the first instance.

In exceptional or urgent circumstances, or where, having made a disclosure, you are unhappy with the outcome, you have a legal right to make a disclosure to prescribed bodies. These include, but are not limited to:

- The Care Inspectorate
- Commissioners for Her Majesty's Revenue and Customs (HMRC)
- Office of the Scottish Charity Regulator (OSCR)
- The Health and Safety Executive

- The Scottish Environment Protection Agency
- The Scottish Social Services Council

12. MAKING A DISCLOSURE TO THE PRESS

Disclosures to the press will be not be considered reasonable and may constitute misconduct, which may be addressed through our Disciplinary Procedure.

13. FURTHER ASSISTANCE

If you are unsure about what to do about your whistleblowing concern and would like independent advice, you can contact Public Concern at Work.

Public Concern at Work is a charity which provides independent and confidential advice to employees who are unsure whether or how to raise a public interest concern. They have an advice line which is managed by qualified lawyers with experience in whistleblowing law and practice.

You can contact Public Concern at Work as follows:

- Website: www.whistleblowing.org.uk
- Email: whistle@pcaw.org.uk
- Telephone: 020 7404 6609

14. POLICY REVIEW

ELCAP undertakes to review this policy regularly – at least every three years – with regard to:

- Relevant guidance, legislation and regulation.
- Changes in the organisation.
- Changes in good practice.