



children's
hearings
scotland

Whistleblowing Policy



Review Schedule

Document Name/Title	Whistleblowing Policy
Document Type	HR & Governance Policy
Document Owner	HR/OD
Summary of Changes	Reviewed Policy
Date of Approval	SMT: 07/03/2023 RAC:
Date of Implementation	
Impact Assessed	N/A – covered in other areas of work
Version No.	4.0
Review Interval	Three years
Date of Last Review	2018
Date of Next Review	March 2026

1. Purpose

- 1.1** Whistleblowing is the term used when an employee passes on information concerning wrong-doing in the workplace. In this policy, we call that making a “disclosure” or “blowing the whistle”. The wrongdoing will typically (although not necessarily) be something they have witnessed at work. In accordance with the Employment Rights Act 1996 (as amended by the Public Interest Disclosure Act 1998 (PIDA)), CHS’ Whistleblowing Policy enables the disclosure of serious concerns about acts carried out by CHS or, indeed, individual employees. The Act fundamentally endorses that any serious concerns disclosed should be raised in a manner that provides protection to the employee in that they are free from fear of intimidation or reprisals. It also enables employees “blowing the whistle” to complain to an employment tribunal if they suffer any form of detriment in doing so, including dismissal. This policy reflects advice outlined on the GOV.UK website. 1.3 CHS recognises that wrong doing could damage our reputation and/or performance, and affect vulnerable children and young people. We want a culture which is open, honest and transparent, in line with our National Standards, our commitments to equality and diversity and provides a good standard of customer service. We will treat all disclosures consistently, fairly and professionally.
- 1.2** The policy applies to all paid employees and ex-employees, including temporary and contracted employees of CHS who have concerns relating to;
- A criminal offences, such as fraud;
 - The health and safety of employees or visitors;
 - Risk or damage to the environment by CHS;
 - A miscarriage of justice or breaking of the law; or
 - Concern around the covering up of a wrong doing.
- 1.3** All CHS employees are encouraged to engage in regular open discussions with their line manager during which they can raise any concerns informally. See section 3.2 for relevant policies to raise issues formally.
- 1.4** All new employees to CHS will be advised of this policy through their employment contracts and the formal induction process. All existing employees in CHS will be advised of changes to the policy through our HR channels. The policy will be filed with all other CHS approved policies and on our website. As with all CHS policies, it will be updated in line with any legislative changes.
- 1.5** CHS strives for transparency and openness in its work and relationships. All employees are encouraged to report behaviours that are unprofessional, unethical, unacceptable or illegal, rather than overlook the issue.
- 1.6** This policy is not applicable to volunteers (panel or AST members) who deliver CHS services. Community members who have concerns around how CHS operates should raise these in accordance with CHS’ Core Policies for Children’s Panel and Areas Support Teams published on our website: <http://www.chscotland.gov.uk/our-publications/policies/>.

- 1.7** Grievances, including bullying, harassment, or discrimination, do not fall under whistleblowing policies and law unless the particular case is in the public interest. Employees who wish to raise a grievance should refer to the CHS grievance policy.
- 1.8** CHS provides a wide range of services to customers that require the ownership and responsible operation, as well as maintenance of physical assets, including digital devices. The purpose of this policy is to ensure assets are managed in a manner that maximizes benefits, reduces risks and provides satisfactory levels of service to employees and volunteers in a safe and sustainable manner.

2. Qualifying Disclosures that Provide Protection to the Employee

- 2.1** The PIDA does not introduce a general protection for whistleblowers in all circumstances. A disclosure will only qualify for protection if it is reasonable to believe that the whistle blower is acting in the public interest and has genuine cause for concern that one or more of the following has occurred, is occurring, or is likely to occur, regardless of physical evidence:
- That a criminal offence has been committed, is being committed or is likely to be committed;
 - That a person or the organisation has failed, is failing or is likely to fail to comply with any legal obligation to which s/he is subject;
 - That a miscarriage of justice has occurred, is occurring or is likely to occur;
 - That a work situation or the health or safety of any individual has been, is being or is likely to be endangered;
 - That the environment has been, is being or is likely to be damaged; or
 - That information tending to show any matter falling within any one of the preceding paragraphs has been, is being or is likely to be deliberately concealed.

The above list is not exhaustive and what amounts to a qualifying disclosure is fully set out in the Public Interest Disclosure Act 1998 (PIDA).

- 2.2** Whistleblower will qualify for protection under the Act if the disclosure is made:
- In good faith to Children’s Hearings Scotland or to another person who is reasonably believed to be solely or mainly responsible for the failure in question;
 - To a legal adviser in the course of obtaining legal advice;
 - In good faith to a Government Minister by a worker employed in a Government-appointed body like CHS;
 - To a prescribed person or body e.g. the Health and Safety Executive. In this case, a disclosure must be made in good faith and be reasonably believed that the information and any allegation in it is substantially true. The whistle blower must ensure that the correct person or body has been chosen for the issue raised. A full list of prescribed people and bodies is available on the Gov.uk website here: [Whistleblowing: list of prescribed people and bodies - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/publications/whistleblowing-list-of-prescribed-people-and-bodies)
- 2.3** Qualifying disclosures will also be protected if they are made, other than described in section 2.2 above, provided that the individual makes the disclosure in good faith,

reasonably believes that the information and any allegation contained in it are substantially true and they are not acting for personal gain. One or more of the following conditions must also apply:

- The individual reasonably believed that he or she would be victimised if he or she had made the disclosure to CHS or to a prescribed person;
- There was no designated officer and the individual reasonably believed that disclosure to CHS would result in the destruction or concealment of evidence; or
- The individual had already disclosed substantially the same information to the employer or the designated officer.

3. Procedure for raising a concern

- 3.1** It is preferable, and at the heart of the PIDA, to raise the matter internally, if appropriate and practical, but only the employee can make the decision to proceed in this way. If there is any doubt about how to proceed, the employee should speak to the Deputy Chief Executive, who is the designated officer entrusted by the Board with the duty of investigating potential disclosures. If an employee/former employee goes to the media they will generally lose their whistleblowing rights.
- 3.2** There are a range of policies and procedures which deal with standards of behaviour at work e.g. disciplinary, dignity at work, staff code of conduct, equal opportunities, grievance, capability, recruitment and selection etc. Employees are encouraged to use these procedures when appropriate. If an employee is unsure if their concern falls under the whistleblowing policy they may raise it as such however, during the course of the investigation it may be found that another CHS policy is more appropriate.
- 3.3** CHS will not tolerate any harassment or victimisation of any employees who raises a concern via this policy (including informal pressure). This will be treated as gross misconduct which will be dealt with under CHS' Disciplinary Procedure.
- 3.4** An employee should normally approach their line manager with a possible disclosure in the first instance. However, if the employee does not feel comfortable doing so the employee can approach the Depute Chief Executive with their concerns directly. The Depute Chief Executive will act impartially to give appropriate advice and support. Employees do not need to have evidence to raise a concern however, they should be able to explain fully what has given rise to their concern.
- 3.5** CHS recognises that not employees will feel confident raising a concern and may wish to do so completely anonymously. In these cases, employees may raise a concern via the CHS Complaints process by submitting a form anonymously via the CHS Complaints portal on our website [here](#). Employees should state that they are either a current or previous CHS employee and that they are raising the complaint via the whistleblowing policy. Complaints raised anonymously will be processed via the same investigative procedures however the individual raising the complaint will not receive updates, feedback, our outcomes due to their anonymity.

- 3.6** Employees are encouraged to raise concerns internally, either anonymously or directly, however, if an employee wishes to raise a concern externally they may do so. In order to maintain the protections of a whistle blower, concerns should be raised to one of the Prescribed Persons under the Public Interest Disclosure (Prescribed Persons) Order 2014 can be found here: [Whistleblowing: list of prescribed people and bodies - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/publications/whistleblowing-list-of-prescribed-people-and-bodies).
- 3.7** When a concern is raised to a line manager, the line manager should gather all details as described to them by the employee and pass these on to the Depute Chief Executive in order to formally raise the concern. The Depute Chief Executive will arrange an initial interview with the employee which will, if requested, remain confidential (unless required by law), to ascertain the area of concern.
- 3.8** During the initial interview, the Depute Chief Executive (DCE) will ascertain whether the employee raising the concern wishes their identity to be disclosed and will reassure the employee about protection from possible reprisals or victimisation. With the Employee, the DCE will consider any temporary adjustments that may be required in the workplace during the investigation. The DCE will review the process with the employee, managing expectations in terms of what action and/or feedback they can expect as well as timescales for providing updates. Current employees can seek free confidential support and counselling from CHS' Employee Assistance provider.
- 3.9** The Depute Chief Executive will also ask the employee whether they wish to make a written or verbal statement. In either case the Depute Chief Executive will write a brief summary of the interview which will be agreed by both parties. The Depute Chief Executive has the responsibility to ensure that the concerns raised by the employee are progressed with the appropriate person within CHS, and using the most appropriate policies.

4. Concerns about the National Convener/Chief Executive or Board Members

- 4.1** If the concern is about the National Convener/Chief Executive or the Depute Chief Executive, the concern should be made to the Board Chair, who will advise how the investigation should proceed and the route for any subsequent appeals.
- 4.2** Where the concern raised is about a Board Member, then the individual should raise their concern directly with the Board Chair. Where the concern is about the Board Chair, then the individual should raise their concern with the relevant Head of Division in the Scottish Government, either by using the following [internal link](#) (hosted on Saltire) or seeking advice from HR/OD team.

5. The Investigation

- 5.1** Dependent on the nature of the serious concern/issue raised, the Depute Chief Executive will appoint a competent manager/officer to conduct the investigation and act as the

Investigation Lead. Where appropriate, a representative from Human Resources may assist. Neither should have previous knowledge of the concern raised. The investigation will be conducted in strictest confidence having due regard to the requirement to conduct a fair and reasonable investigation.

- 5.2** Throughout any investigation, employees will still be expected to continue their duties/role as normal. In exceptional circumstances where this is not possible the HR/OD team will provide support and guidance on what actions could be taken.
- 5.3** Normally, the investigation will be conducted within 20 working days, concluding with a recommendation on what action requires to be taken. All parties involved will be guaranteed a fair and impartial hearing. Where the investigation or feedback is delayed for any reason, the Depute Chief Executive will advise the employee of this.
- 5.4** If, however, it is the view of those concerned that any delay might cause harm, an immediate meeting will be arranged. It is the responsibility of the Investigation lead to record details of the meeting, and to ensure that the employee raising the concern is not openly identified at this stage.
- 5.5** If at any time throughout the investigation it becomes evident that formal disciplinary action may be a possible outcome, the investigation should be conducted in accordance with the provisions of the disciplinary procedure and in line with the gravity of the offence. The investigation should be concluded as quickly as is reasonably possible however CHS will allow for some flexibility in the timescales for completion given the possible complexity of the concerns raised. A date to conclude the investigation should be agreed at the outset and all parties concerned should be advised of this in writing. Should it be thought necessary to suspend an employee during the course of an investigation, this action should be taken in line with CHS' Disciplinary Procedure.
- 5.6** At all stages of the process any employee interviewed as part of the investigation will have the right to be accompanied by a colleague or staff representative.

6. Possible Outcomes

- 6.1** At the end of the investigation, the investigation lead should submit a detailed written report containing the findings of the investigation and any proposed actions to the DCE, or relevant executive/non-executive.
- 6.2** On receipt of the report the DCE will consider and decide what, if any, corrective actions are necessary and the final outcome of the investigation. The final outcomes will be shared with the relevant departments, accountable officers, and external bodies as required. If the investigation shows there are grounds for further action against individuals the appropriate policies and procedures will be followed.
- 6.3** It may also be appropriate during the investigation to report concerns to external agencies e.g. Police, Social Services, Health and Safety Executive and/or other public bodies. It may

be necessary to suspend internal investigations until the outcome of any criminal proceedings are known.

- 6.4** Where the investigation concludes that false concerns were raised with malicious intent or for personal gain, this would constitute grounds for disciplinary action to be taken against the employee raising the concerns via the appropriate policies and procedures.
- 6.5** If the concerns are unfounded, and the disclosure is not upheld, no action will be taken against the employee. The employee will receive feedback on the investigation and outcome.
- 6.6** Every effort will be made to ensure an employee who raises concerns in good faith will not suffer adversely as a consequence of their actions, even if these concerns are unfounded. Mediation and dispute resolution to help rebuild trust and relationships may be considered.

7. Feedback

- 7.1** Once the investigation has been completed the employee who raised the concerns originally will receive feedback. This will include whether the original concerns were upheld, respecting the confidentiality of all parties.
- 7.2** Following the conclusion of the internal process, it is possible that an employee may continue to be concerned about an issue. If this is the case there are a number of options open to them. Employees may:
 - Report the matter to CHS' Sponsor Team in accordance with the Regulatory Framework for CHS;
 - Report the matter to the appropriate professional or regulatory body; or
 - Access voluntary agencies for advice.
- 7.3** Anonymous whistle blowers will not ordinarily be able to receive feedback and any action taken to look into a disclosure could be limited.

8. Review

- 8.1** This policy will be reviewed every three years, or in line with changes to legislation or best practice.
- 8.2** CHS' Complaints Management Officer (where appropriate) will:
 - Record the number of whistleblowing disclosure received and include in the quarterly complaints report; and
 - Maintain records of the data and content of feedback provided to whistle blowers.
- 8.3** The DCE will submit to the complaints annual report a review of any whistleblowing disclosures including any actions taken and lessons learned.

9. More Information

More information can be obtained from:

The Government: <https://www.gov.uk/whistleblowing>

UNISON: <https://www.unison.org.uk/get-help/knowledge/disputes-grievances/whistleblowing/>

Public Interest Disclosure Act (PIDA): [Public Interest Disclosure Act 1998 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/1998/24)

Support: [Protect - Speak up stop harm - Protect - Speak up stop harm \(protect-advice.org.uk\)](https://www.protect-advice.org.uk/)

Further reading: [Department for Business, Innovation & Skills Whistleblowing: guidance and code of practice for employers \(2015\)](https://www.gov.uk/government/guidance/department-for-business-innovation-and-skills-whistleblowing-guidance-and-code-of-practice-for-employers-2015)

10. Version Control

Version	Date	Owner	Summary of Changes
V3.0	20.03.2018	Business Manager	<ul style="list-style-type: none">Section 4.2 – updated link.
V4.0	23/02/2023	Head of Strategy & Development/DCE	<ul style="list-style-type: none">All links updated, additional links included for staff support and informationFull review with current best practiceAddition of facility to raise anonymous concern via CHS complaintsAddition of information to raise concerns externallyClarification of escalation of concernsRe-allocation of reporting duty from Governance Officer to Complaints Management OfficerReview section added formalising policy review and reporting arrangements