



Management Training & Development Limited

Whistleblowing, Malpractice & Maladministration Policy

Policy Owner		Position		
Sean McPheat		Chief Executive Officer		
Signature				Date
Review History				
10v1	Approved	Jan 2021	Review	
10v2	Addition of definitions of Malpractice and mal administration and the requirement to report to awarding bodies.	March 2022	Review	March 2023

Purpose

MTD is committed to maintaining the highest ethical standards in all its activities. It regards impropriety and malpractice as serious matters and seeks both to prevent them arising and to ensure that legitimate concerns are addressed.

MTD takes seriously the need to operate in a climate of openness in which legitimate grievances can be raised without fear of reprisal and is committed to:

- Fostering a culture of openness & transparency for a safe working environment
- Encouraging a consultative style of management
- Ensuring that the standards of conduct MTD sets itself (e.g. in its code of ethics and codes of conduct for staff and any other stakeholders) are understood and observed
- Promoting accountability
- Raising awareness that genuine and legitimate concerns will be treated seriously.

In line with best practice and to meet the requirements of the Public Interest Disclosure Act 1998, the following Policy has been adopted in consultation with Government guidelines.

Application

This Policy applies to employees, including senior post holders, and to contractors of MTD and is intended to reflect the Public Interest Disclosure Act. It therefore relates to concerns about matters of public interest. Section 4 sets out in more detail about issues which fall within the remit of the Policy.

MTD also has in place a range of policies and procedures relating to the conduct and expectations of its staff and learners. These include codes of conduct, grievance, disciplinary, malpractice and complaints procedures. Allegations of injustice, discrimination or malpractice against individuals should normally be raised under these procedures.

Throughout this Policy, the term employee will be used to refer to the individual raising the concern.

Definition

Whistleblowing is the term used when a worker passes on information concerning wrongdoing. In this guidance, we call that “making a disclosure” or “blowing the whistle”. The wrongdoing will typically (although not necessarily) be something they have witnessed at work.

To be covered by whistleblowing law, a worker who makes a disclosure must reasonably believe two things. The first is that they are acting in the public interest. This means in particular that personal grievances and complaints are not usually covered by whistleblowing law.

The second thing that a worker must reasonably believe is that the disclosure tends to show past, present or likely future wrongdoing falling into one or more of the following categories:

- criminal offences (this may include, for example, types of financial impropriety such as fraud)
- failure to comply with an obligation set out in law
- miscarriages of justice
- endangering of someone's health and safety
- damage to the environment
- covering up wrongdoing in the above categories

Whistleblowing law is located in the Employment Rights Act 1996 (as amended by the Public Interest Disclosure Act 1998). It provides the right for a worker to take a case to an employment tribunal if they have been victimised at work or they have lost their job because they have 'blown the whistle'.

Remit

Activities that fall within the remit of this Policy include:

- suspected fraud and financial irregularities
- serious maladministration arising from the deliberate commission of improper conduct
- unethically or dishonestly activities which may be of a criminal nature including theft, corruption, and bribery
- dangerous acts or omissions which create a risk to health, safety or the environment.
- failure to comply with a legal obligation or causing a miscarriage of justice.

The Policy does not cover matters which may arise from weak management rather than malpractice. Nor should the Policy be used by an employee to raise grievances about their personal employment situation.

Malpractice and Maladministration

Malpractice is essentially any activity or practice which deliberately contravenes regulations and compromises the integrity of the development, delivery, internal or external assessment process and / or the award of qualifications. Malpractice could involve centre staff, learners, External Verifiers and Awarding Organisation (AO) staff or contractors.

For the purpose of this policy this also covers misconduct and forms of unnecessary discrimination or bias towards learner(s).

Maladministration is essentially any activity or practice which results in non-compliance with administrative regulations and requirements and includes the application of persistent mistakes, or poor administration within a centre (e.g. inappropriate learner records, storage of exams papers or not conducting exams in line with requirements).

Instances of suspected malpractice or maladministration must be reported in line with this policy, set out "Reporting the Matter"

If the suspected malpractice or maladministration is related to working with an awarding body (e.g. Highfields) a report **must** be made to the Awarding Organisation in line with the appropriate AO procedures.

Below is a non-exhaustive list of examples of malpractice and maladministration in relation to working with Awarding Organisations

- Contravention of centre recognition and qualification approval conditions.
- Failure to carry out delivery, internal assessment, internal moderation, or internal verification in accordance with AO requirements.
- Deliberate failure to adhere to learner registration and certification procedures.
- Deliberate or persistent failure to adhere to AO centre recognition and / or qualification approval criteria, or actions assigned MTD.
- Deliberate failure to maintain appropriate auditable records, e.g. certification claims,
- Persistent instances of maladministration within the centre.
- Fraudulent claim for certificates.
- The unauthorised use of inappropriate materials / equipment in assessment settings (e.g. mobile phones, smart watches, mobile devices or other aids)
- Intentional withholding of information from an AO which is critical to maintaining the rigour of quality assurance and standards of qualifications.
- Forgery of evidence.
- Collusion or permitting collusion in exams.
- Learners still working towards a qualification after certification claims have been made,
- Plagiarism of any nature by learners.
- Unauthorised amendment, copying or distributing of exam papers.
- Inappropriate assistance to learners by centre staff (e.g. unfairly helping them to pass a unit or qualification),
- Submission of false information to gain a qualification.
- Deliberate failure to adhere to the requirements of our reasonable adjustments and special considerations policy.

Confidentiality

The law does not compel an organisation to protect the confidentiality of a whistleblower. However, it is considered best practice to maintain that confidentiality, unless required by law to disclose it. MTD will follow the recommended Government guidance of best practice wherever possible.

MTD will ensure that all Senior & Line Managers dealing with whistleblowing concerns are briefed to ensure they understand how to handle the disclosure and protect personal information.

Anonymous information will be considered just as important and will be acted upon in a timely manner. MTD would like all staff to be made aware that the ability of MTD to ask to follow up questions or provide feedback will be limited if the whistleblower cannot be contacted. It may be possible to overcome these challenges by using telephone appointments or through an anonymised email address and this would be decided on a case by case basis.

Protection for the Employee

Employees who raise legitimate concerns about impropriety or malpractice in accordance with this Policy will not face any detrimental consequences. In particular, they will not be subject to harassment or victimisation. There is statutory protection (the Public Interest Disclosure Act, 1998) from dismissal or penalties imposed by employers for those who disclose information in the proper manner.

Procedure

Reporting the Matter

If staff have reasonable grounds for believing that there is alleged malpractice of the type, for example, listed in in this policy they should inform their Line Manager immediately and set out the allegations having considered whether another MTD policy or procedure would be more appropriate to follow. The employee may raise their concern orally rather than in writing in order that confidentiality is not accidentally breached.

A full note (which will not identify the employee) will be made by the Line Manager and agreed with the employee raising the concern. If the employee does not feel able or comfortable to bring the matter to their line manager, for example if the allegation includes said Line Manager, then they can inform another member of the Senior Leadership Team.

If it is suspected that the Senior Leadership team or the Managing Director is involved in the concerns then they may consider reporting their concerns externally. In most cases you should not find it necessary to alert anyone externally, however, the law recognises that in some circumstances it may be appropriate for you to report your concerns to an external body, such as a regulator. It will very rarely, if ever, be appropriate to alert the media. We strongly encourage you to seek advice before reporting a concern to anyone external. The independent whistleblowing charity, Public Concern at Work, operates a confidential helpline.

If reported internally - The Line Manager will consider the concern raised and if it does not fall within the remit of this procedure, the employee will be so advised and referred to the appropriate procedure e.g. grievance, harassment etc.

If the complaint falls within the remit of this procedure, then the Line Manager will arrange for an appropriate investigation to be carried out and will advise the Senior Leadership Team and Managing Director as appropriate.

All responses made to the employee will be in writing and sent to their home address. The Line Manager will respond to the employee, as set out below, within 5 working days of the concern being raised:

- a written acknowledgement of the concern
- an indication of how MTD will deal with the matter
- an estimate of how long it will take to provide a final response
- whether initial enquiries have been made
- whether further investigations will take place and if not, the reason of this
- information on staff support mechanisms

Investigation

The Line Manager will investigate the matters raised unless they consider that the nature of the complaint is such that other Senior Leaders should be involved.

The Line Manager has authority to request and obtain information required in connection with the investigation and to meet with employees, contractors etc. Any meetings involving employees will be conducted in consultation with HR.

Criminal Activity

If there is evidence of criminal activity then the police will be informed by the Line Manager without delay. The Senior Leadership Team and the Managing Director will be notified prior to this action being taken, as appropriate.

Timescale

Where possible, the investigation will be completed within 15 working days of the concern being raised. However, it should be noted that investigations may take longer depending on the complexity and gravity of concerns raised.

Response

The Line Manager will inform the Senior Leadership Team, and Managing Director of the concern raised and, when known, the outcome and any action proposed. Consideration will also be given to the need to advise stakeholders, where appropriate, of the concerns raised and/or the outcomes from any investigations.

At the conclusion of the investigation, a report will be prepared for the next scheduled meeting of the Senior Leadership Team setting out the concerns raised, the outcome of the investigation and any actions proposed. In the event of a prolonged investigation, the Senior Leadership Team will be advised of progress at each of the scheduled meetings.

The Line Manager will inform the employee raising the concern on the outcome of the investigation and on any actions proposed. If the investigation is prolonged, then the Line Manager will keep the employee who raised the concern informed, in writing, as to the progress of the investigation and as to when it is likely to be concluded.

If the employee is not satisfied that the concern has been dealt with properly they will have the right to raise the matter in confidence with the Managing Director. Concerns should be communicated to the Managing Director, within 5 working days of the proposed outcome being confirmed in writing. The Managing Director will liaise with the Line Manager relating to the subsequent correspondence and the investigation that has taken place and will consider any further action required, the employee raising the concern will be kept informed of any actions proposed or taken and of any outcomes.

If the employee raising the concern is still not satisfied that the matter has been dealt with properly and all the internal procedures have been exhausted, then they may contact the Advisory, Conciliation and Arbitration Services (Acas) or the whistleblowing charity, Protect (<https://protect-advice.org.uk/>) for confidential advice.

Anonymous Allegations

MTD encourages employees to disclose their identity in raising any concerns. Concerns expressed anonymously will be considered at the discretion of the Senior Leadership Team, who will advise Managing Director.

In exercising this discretion, the Senior Leadership Team will take into account:

- the seriousness of the matters raised
- the credibility of the matters raised
- the likelihood of confirming any allegations made based on the information supplied or on evidence that can be obtained from non-anonymous sources.

Such allegations may be referred for investigation under other policies and procedures of MTD, if appropriate.

Malicious Accusations

If this procedure is used knowingly to make false or malicious accusations, it will be regarded as a disciplinary offence. Wilful misuse of this procedure could constitute an act of gross misconduct and could lead to dismissal.