

“Whistleblowing” Policy

Signed: _____ Patrick Wolter, Chief Executive

Last agreed by the Board of Trustees: Nov 2022

Review Date: Nov 2023

Introduction

The Mary Frances Trust encourages an open culture in all its dealings between members of staff, people using our services, volunteers, trustees, other people with whom we deal, and other organisations with which it comes into contact. Effective and honest communication is essential if any malpractice and wrongdoing are to be effectively dealt with. For the purpose of this policy when referring to 'staff' this is inclusive of staff, trustees, volunteer, members of the public, clients, or member of the statutory authorities.

Individuals who have a reasonable belief that malpractice is occurring have a responsibility to speak out and can do so in the confidence that they will be supported by the organisation. The organisation will not tolerate harassment or victimisation (including informal pressures) of anybody who has raised genuinely founded concerns. The organisation will treat any such harassment as potential gross misconduct which will be dealt with under the Disciplinary Procedure and the appropriate action taken, up to and including dismissal.

This procedure provides guidance on how any such issues may be raised in confidence within the organisation – this tends to be referred to as "whistleblowing." Also, under the Public Interest Disclosure Act 1998, Employment Rights Act 1996, and Enterprise & Regulatory Reform Act 2013, any employee or other worker has the right to be protected from suffering any detriment for making a qualifying disclosure in the public interest.

It is our intention to implement this policy in a way that will demonstrate our commitment to promoting equality of opportunity and valuing the diversity of the people who use our services, staff and community partners. This statement represents our corporate approach to equality.

You can make a report either orally or in writing, and the organisation would normally expect you to raise your concerns with your direct line manager.

If, because of the nature of the issue, you do not feel comfortable raising it directly with your manager, then you can report it instead to the Chief Executive and/or the Chair of the Board of Trustees.

Background

Most issues at work can be easily resolved, either by talking to your line manager or, in certain cases, using the organisation's Grievance Procedure.

However, when the concerns are about serious matters such as breaches of the law or regulations, health and safety matters or financial malpractice, then it can be more difficult to know what to do. Members of staff may feel apprehensive about raising such issues because they may feel that they are being disloyal to either the organisation or their colleagues. They may also feel that their concerns will not be taken seriously, or be afraid of being victimised, bullied, or even dismissed if they raise such issues. However, the MFT does not believe that it is in anybody's interest for members of staff with any knowledge of wrongdoing to remain silent, and we are determined to allow people to raise matters safely.

Initially such matters should always be raised internally, unless the member of staff feels unable to do so, e.g. if the matter involves key people in the organisation. In these circumstances, the matter may be raised externally, but it is important to raise it only with a "prescribed person", so that employment rights are protected. A list of prescribed persons can be found on the www.gov.uk website under *Blowing the whistle: list of prescribed people and bodies*.

Specifically-

<https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2/whistleblowing-list-of-prescribed-people-and-bodies>

Issues covered by this policy

This policy is designed to deal with concerns raised in the public interest and which fall outside the scope of our other policies. This policy does not apply to personal grievances concerning an individual's terms and conditions of employment, or other aspects of the working relationship, complaints of bullying or harassment, or disciplinary matters; such complaints should be dealt with under the appropriate procedures on grievance, bullying and harassment and discipline.

Members of staff should use this policy to voice their concerns if they become aware of the following types of behaviour amongst staff (including agency or contract staff), trustees, suppliers or contractors:

- A criminal offence
- The breach of a legal obligation
- A miscarriage of justice
- A danger to the health and safety of any individual
- Damage to the environment

- Deliberate attempt to conceal any of the above.

If, in the course of an investigation, it becomes apparent that an issue would more appropriately be dealt with under grievance, bullying or harassment, or disciplinary procedures, then the matter will be dealt with through the appropriate procedure.

Making a whistleblowing report

You can make a report either orally or in writing, and the organisation would normally expect you to raise your concerns with your direct line manager.

If, because of the nature of the issue, you do not feel comfortable raising it directly with your manager, then you can report it instead to the Chief Executive and/or the Chair of the Board of Trustees

Raising an issue

Any member of staff who has a reasonable belief that there is a serious issue in the kind of areas indicated above should raise it with the appropriate person within the organisation at the earliest possible opportunity. That person would normally be their line manager.

The person raising the issue must reasonably believe that the information disclosed, and any allegations contained in it, are substantially true, and that disclosure under “whistleblowing” procedures is in the public interest.

The MFT will ensure that any member of staff who makes a qualifying disclosure will not be penalised or suffer any detriment for doing so.

However, if a member of staff makes a “whistleblowing” allegation without having reasonable grounds for believing it to be substantially true, and if the allegation is malicious, vexatious or for the purposes of personal gain, then the disclosure may not meet the criteria for a qualifying public interest disclosure, in which case the individual may be subject to disciplinary action.

Protection for the member of staff

In view of the protection afforded to a member of staff raising a genuine concern, it is highly desirable for the member of staff to put their name to any disclosure. The identity of the person raising the matter will be kept confidential, if so requested, for as long as possible, provided that this is compatible with a proper investigation. Anonymous complaints are not covered by this procedure but, if received, they may be investigated or acted

upon as the person receiving the complaint sees fit. This will depend on the seriousness of the issue raised, the credibility of the complaint, the prospects of being able to investigate the matter, and fairness to any individual mentioned in the complaint.

Provided members of staff have a reasonable belief that malpractice is occurring, it does not matter if they are ultimately mistaken, as long as their belief was genuine at the time. Any member of staff making a complaint will be required to show the reasons for their concern.

The organisation will not tolerate the victimisation or intimidation of anyone because they have raised a genuine concern, and anyone responsible for any such action against somebody who has raised such a concern, will be the subject of disciplinary action, up to and including dismissal.

This protection is also extended to any witnesses who may be involved in any subsequent internal investigation or investigation by an outside body such as the police or a regulator. Any victimisation or intimidation of any witnesses will be the subject of disciplinary action including dismissal.

It should be noted that the organisation would expect that, initially, issues would be raised internally, although we accept that some issues may be raised with an outside body, as indicated above. However, it is important that disclosures are only made to “prescribed persons”. If any employee makes any unauthorised statement to the media, or through social media channels, it will be treated as serious misconduct and the employee will be subject to disciplinary action.

The procedure

When a complaint is made it will follow this process:

- The person to whom the disclosure is made will normally consider the information and decide whether there is a case to answer.
- They will decide whether an investigation should be conducted and what form it should take.
- Sometimes disclosures made will lead to a formal investigation which, depending on what is found, will determine the action to be taken, and the timescales involved.

- Your contact will keep you up-to-date on the outcome of any enquiries and investigations carried out and any actions taken, where it does not impact on the duty the organisation has to the confidentiality of others.
- If your concern falls more properly within other procedures (ie Disciplinary or Grievance) then the person to whom you have reported your concern will advise you of this and make arrangements accordingly.

The person to whom the employee initially makes the disclosure will, unless the member of staff is advised otherwise, act as the main point of contact in the matter. This person will be responsible for dealing with matters if there should be any perceived instances of victimisation due to the member of staff having raised their concern. Should the member of staff feel that there is any detriment to them, or to their career, as a result of raising the concern, this should be reported immediately to the person to whom the disclosure was made. If the member of staff reasonably believes that they are unable to discuss the detriment with that person, they should bring it to the attention of the Chair of the Board of Trustees, or another Trustee if the Chairman has already been involved.

Depending on the nature of the matter raised, issues may be investigated internally and/or referred to an external body (e.g. police or a regulator). If the person to whom the disclosure is made decides not to proceed with an investigation, the decision will be explained as fully as possible to the individual who raised the concern. It is then open to them to make the disclosure again to another more senior member of staff if they do not feel satisfied with the way their complaint has been dealt with.

If the member of staff feels that this is not appropriate, and that they wish to raise the issue with an outside body, they are **strongly advised** to seek advice from the Chief Executive and/or the Chair of the Board of Trustees, and/or 'Protect-Speak up stop harm' before reporting any concern externally.

Independent advice from Protect-Speak up stop harm

Protect-Speak up stop harm is an independent charity able to advise members of staff confidentially on the use of this procedure and under what circumstances you should consider contacting an outside body.

Protect-Speak up stop harm. The Green House, 244-254 Cambridge Heath Road, London E2 9DA -Website: <https://protect-advice.org.uk/>

Tel: 020 3117 2520

Or seek advice from Citizens Advise, professional organisation, and or Trade Unions.