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| **Whistle Blowing Policy and Procedure** |

1. **Statement**

TRN (Train) Ltd, referred to as TRN, recognises that whilst there are rules, regulations, and procedures in place to ensure good practice takes place, the potential for malpractice exists. Staff will often be the first to see or suspect any such activities, which may be innocent, or may turn out to be fraudulent, dangerous or some other malpractice. Therefore, it is important that a procedure exists which is available to all staff should they have any such concerns to report.

1. **Introduction**

This policy explains how any member of staff, who has a reasonable belief that an incident of malpractice has occurred, may raise a concern under the procedures described in this policy.

TRN realise that staff may be worried about raising any such concerns and may think it best to keep it to themselves, perhaps feeling it’s none of their business, that it’s only a suspicion, or that by raising the matter they would be being disloyal to colleagues, managers or to the organisation. However, staff should be assured that it is safe and acceptable to speak up and raise any concerns they may have at an early stage and in the right way. Rather than wait for evidence, TRN would prefer that staff raise the matter while it is still only a concern.

There is also information about the rights of staff to raise the matter externally if they are not satisfied with the Company's response and the protection afforded to them if they choose to do this after the internal procedures have been exhausted.

1. **Scope**

This policy shall apply to all employees, whether permanent or temporary, carrying out work undertaken on behalf of the company. The 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 will be dealt with under existing procedures on grievances and conduct management.

1. **Purpose**

Certain issues are prescribed by law as “qualifying disclosures”, which are where it can be shown that a company commits a “relevant failure”. This policy is designed to deal with concerns raised in relation to these kinds of specific issues and which include:

* a criminal offence
* failure to comply with legal obligations
* a miscarriage of justice
* maladministration
* malpractice
* danger to the health or safety of any individual
* environmental damage
* a miscarriage of justice
* improper conduct or unethical behaviour
* attempts to suppress or conceal any information relating to any of the above.
1. **References/Legislation**

Public Interest Disclosure Act (PIDA) 1998

Employment Protection Act 1996

1. **Disclosures**

The Public Interest Disclosure Act (PIDA) 1998 provides a framework within which organisation’s can promote responsible whistle blowing. It gives significant statutory protection to employees who disclose information (protected disclosure) and it also protects them if they raise the matter outside the organisation (if they have good reason for doing so).

In the UK, the Public Interest Disclosure Act has rules for making a Protected Disclosure, which are that you must:

* disclose the information in good faith
* believe it to be substantially true
* not act maliciously or make false allegations
* not seek any personal gain

Despite its title (Public Interest Disclosure Act 1998), there was no specific requirement that a protected disclosure be made in the “public interest”. This enabled workers who complain about their individual employment contracts or make the most minor grumbles to claim protection under the whistleblowing rules. The Government stated this was not what the whistleblowing legislation was intended to achieve and that “this loophole” should be closed. As from 25 June 2013 any disclosure made by a worker will only count as a “qualifying disclosure” if the worker reasonably believes that the disclosure is both “made in the public interest” and fits into any of the categories set out in the legislation (e.g. a criminal offence, a breach of a legal obligation, a miscarriage of justice etc).

1. **Procedure**

Where a staff member has a legitimate concern over some perceived irregularity in company procedures, this concern should be drawn to the attention of their line manager, either orally or in writing, who will record the details on the Incident Report Form and determine the most appropriate method of investigating the complaint, including who will be the investigating officer. In the event that the concern relates to the line manager then the employee should raise the matter with the Managing Director and/or a Company Director. The matter will be regarded as strictly confidential.

If the concern relates to the alleged malpractice of another staff member, that staff member will not be advised of the name of the complainant without the complainant’s authority to do so.

The staff member raising the complaint will normally be advised of the outcome of the investigation within 10 working days. If the complaint is substantiated, details of the remedial action taken will also be notified to the complainant. In cases where the investigation is unavoidably prolonged, the investigating officer will keep the complainant informed, in writing, as to the progress of the investigation and as to when it is likely to be concluded.

If the staff member who raised the complaint is not satisfied that it has been properly investigated, or that their concerns have been adequately addressed, the employee does have the right to report this to the appropriate organisation or body e.g. the Police, the Education and Skills Funding Agency, the Environment Agency, Health and Safety Executive or Social Services Department.

1. **Malicious accusations**

Any deliberately false or malicious accusations will result in the complainant being dealt with under the Company’s conduct management procedures.

**9. Escalation and whistleblowing complaints about delivery of funded learning programmes**

9.1 The Education and Skills Funding Agency (ESFA) has information on GOV.UK in relation to how it handles whistleblowing disclosures about post-16 training providers.

The link to this information is:

<https://www.gov.uk/guidance/how-esfa-handles-whistleblowing-disclosures>

To complain or make a disclosure about a post-16 education or training provider, please email ESFA’s Customer Service Team (complaints.esfa@education.gov.uk) or send a letter to:

Customer Service Team
Education and Skills Funding Agency
Cheylesmore House
Quinton Road
Coventry

CV1 2WT