

# Public concern at work (whistleblowing) policy

OCTOBER 2023

## **Introduction**

Public concern at work is commonly named as “whistleblowing”. This is when a member of staff or an appointed person of an organisation reports suspected wrongdoing at work; this is officially called ‘making a protected disclosure’. This procedure is also implemented for those individuals and organisation that wish to report a wrongdoing relating to the delivery and award of Qualifi’s qualifications and customised awards.

Employees and other associated individuals who make a ‘protected disclosure’ are protected from being treated badly or being dismissed. The key piece of whistleblowing legislation is the Public Interest Disclosure Act 1998 (PIDA) which applies to almost all employees and other associated individuals who ordinarily work and study in the UK.

The purpose of this document forms part of the Malpractice and Maladministration Policy and Procedure implemented by Qualifi and meets the regulatory requirements set by Ofqual [www.ofqual.gov.uk](http://www.ofqual.gov.uk), CCEA, [www.ccea.org.uk](http://www.ccea.org.uk) and QiW [www.qualificationswales.org](http://www.qualificationswales.org). It sets out how we deal with allegations or suspicions of malpractice and It outlines possible cases of whistleblowing and states what we will do if malpractice or maladministration is proven to be true, including the action we may take against those responsible to prevent recurrence and ways we will prevent, or mitigate, or correct any Adverse Effect.

Qualifi will, at all times conducts its business with integrity and the highest standards. It expects all individuals working with and appointed by Qualifi to maintain the same standards in everything they do. Qualifi recognises however that any individual may find it difficult to know what to do when faced with concerns about transgression at work or in their place of learning, including any criminal offence, a failure to comply with legal obligations, a miscarriage of justice, a health and safety danger, an environmental risk or a concealment of any of these.

You may be worried about raising such issues or may want to keep the concerns to yourself, perhaps feeling that it is none of your business or that it is only a suspicion. Equally you might feel that raising your concerns might be disloyal to your colleagues or Qualifi or that you would be subjected to disciplinary action or some other penalty for speaking out.

This document cannot cover every possible case but we will follow the objectives and principles of investigations to support a rigorous process that reaches conclusions based on proper consideration of the relevant and available evidence.

This procedure aims to establish a policy whereby such genuine concerns can be raised without individuals fearing reprisals. This procedure is primarily for concerns where the interests of others or Qualifi are at risk. If you are aggrieved about your own personal position then use the grievance procedure outlined in the organisation’s Staff Handbook.

If you raise a genuine concern under this policy you will not be at risk of losing your job or suffering any other form of sanction as a result. It does not matter if your concern proves to be groundless provided you are acting in good faith. If it should become clear this procedure has been used maliciously (for example to pursue a grudge against another individual) then this will constitute misconduct and will be dealt with under the disciplinary procedure, outlined in the Staff Handbook.

Qualifi will not tolerate the harassment or victimisation of anyone raising a genuine concern. The Public Interest Disclosure Act 1998 protects employees who report wrongdoing within the workplace. If you feel you are being subjected to any detriment as a result of raising a concern under this procedure you must inform your line manager or senior officer. If you ask us to keep your identity confidential when raising a concern under this procedure we will not disclose it without your consent save where required to do so for legal reasons. Where this is necessary Qualifi reserves the right to make such a referral without your consent.

## **Procedure**

How to 'blow the whistle'

You can 'blow the whistle' on suspected wrongdoing and you can be assured that you are able to speak, or set out in writing, to an appointed person at Qualifi in the strictest confidence. You may wish to tell your line manager in the first instance but if you think he/she will cover it up; would treat you unfairly if you complained; has not sorted it out and you have already told them, then you must report directly to a senior officer or the Chair to the Executive Board.

If the matter requires further investigation this will be carried out and we will endeavour to notify you of the outcome of that investigation and what action if any has been taken.

If you remain unhappy with the speed or outcome of the investigation, the way in which the matter was dealt with or if you feel unable to raise the matter with your line manager or senior officer, for any reason then you should refer the matter to the Chair of the Executive Board. When the senior officer or Chair of the Executive Board as investigated, he or she will endeavour to notify you of the outcome of the investigation and what action if any has been taken.

You should note that although we will endeavour to inform you of the outcome of our investigations into your concerns, we may not be able to tell you the precise action we take where this would infringe a duty of confidence owed by us to someone else.

If you are unsure whether or how to use this policy or have any questions about it you should speak to a senior officer or the Chair to the Executive Board. Alternatively you may wish to seek independent advice from, for example, a trusted professional organisation such as the Citizen's Advice Bureau or the independent charity Public Concern at Work who provide free confidential

advice on 0207 404 6609.

### **Dismissals and “Whistleblowing”**

As an employee you cannot be dismissed because of whistleblowing. As a learner you cannot be withdrawn from your training programme. You are protected by law as long as certain criteria are met.

### **Types of whistleblowing eligible for protection**

These are called ‘qualifying disclosures’. They include when someone reports:

- that someone’s health and safety is in danger;
- damage to the environment;
- a criminal offence;
- that the company is not obeying the law (eg not having the right insurance); ● that someone is covering up wrongdoing in the workplace or their place of learning.

### **Who is protected from dismissal?**

The following people are protected:

- employees
- agency workers
- people that are training with an employer, but not employed
- self-employed workers, if supervised or working off-site

A worker will be eligible for protection if they honestly think what they are reporting is true and they think they are telling the right person.

### **Who is not protected from dismissal?**

Workers are not protected from dismissal if:

- they break the law when they report something (eg they signed the Official Secrets Act); ● they found out about the wrongdoing when someone wanted legal advice (‘legal professional privilege’) - eg if they are a solicitor.

NOTE: Individuals who are not employees cannot claim unfair dismissal because of whistleblowing, but they are protected and can claim ‘detrimental treatment’.

It is the responsibility of Qualifi Limited to make clear to employees and appointed persons what to do if they come across malpractice in the workplace. This should encourage them to inform someone with the ability to do something about the problem

Qualifi attaches importance to identifying and remedying malpractice of any kind takes appropriate action by implementing the malpractice procedure outlined in this document.

Employees should inform their line manager immediately if they become aware that any of the specified actions is happening (or has happened, or is likely to happen). In more serious cases, for example, if the allegation is about the actions of their line manager, the employee should feel able to raise the issue with a more senior manager, bypassing lower levels of management.

Whistleblowers can ask for their concerns to be treated in confidence and such wishes will be respected. Employees will not be penalised for informing management about any of the specified actions.

Although this document forms part of the Malpractice and Maladministration Policy and Procedure, Qualifi will deal with whistleblowing separately rather than as an extension to or part of any existing grievance procedure.

The reason for this is partly because the scale of risk to Qualifi and to an employee will generally be significantly greater in whistleblowing cases than in other matters. In addition, the whistleblower may have no grievance in relation to their terms and conditions or indeed in relation to the employer (it may, for example, relate to the conduct of a contractor).

When a whistleblowing issue has been raised, the Executive Board of Qualifi:

- have a responsibility to ensure that concerns raised are taken seriously;
- should, where appropriate, investigate properly and make an objective assessment of the concern;
- should keep the employee advised of progress;
- have a responsibility to ensure that the action necessary to resolve a concern is taken.

### **Procedures for Making a Disclosure**

On receipt of a complaint of malpractice, the member of staff who receives and takes note of the complaint, must pass this information as soon as is reasonably possible, to the appropriate designated investigating officer as follows:

- Complaints of malpractice will be investigated by the appropriate Director unless the complaint is against the Director or is in any way related to the actions of the Director. In such cases, the complaint should be passed to the Chief Executive for referral;
- In the case of a complaint, which is any way connected with but not against the Director, the Chief Executive will nominate a Senior Officer to act as the alternative investigating officer;

- The complainant has the right to bypass the line management structure and take their complaint direct to the Chief Executive. He has the right to refer the complaint back to management if he feels that the management without any conflict of interest can more appropriately investigate the complaint.

Should none of the above routes be suitable or acceptable to the complainant, then the complainant may approach one of the following individuals who have been designated and trained as independent points of contact under this procedure. They can advise the complainant on the implications of the legislation and the possible internal and external avenues of complaint open to them:

1. Chief Executive
2. Chief Operating Officer
3. Responsible Officer

If there is evidence of criminal activity then the investigating officer should inform the police. The Company will ensure that any internal investigation does not hinder a formal police investigation.

### **Timescales**

Due to the varied nature of these sorts of complaints, which may involve internal investigators and/or the police, it is not possible to lay down precise timescales for such investigations. The investigating officer should ensure that the investigations are undertaken as quickly as possible without affecting the quality and depth of those investigations.

The investigating officer, should as soon as practically possible, send a written acknowledgement of the concern to the complainant and thereafter report back to them in writing the outcome of the investigation and on the action that is proposed. If the investigation is a prolonged one, the investigating officer should keep the complainant informed, in writing, as to the progress of the investigation and as to when it is likely to be concluded.

All responses to the complainant should be in writing and sent to their home address.

### **Investigating Procedure**

The investigating officer should follow these steps:

- Full details and clarifications of the complaint should be obtained;
- The investigating officer should inform the member of staff against whom the complaint is made as soon as is practically possible. The member of staff will be informed of their right to be accompanied by a trade union or other representative at any future interview or hearing held under the provision of these procedures;

- The investigating officer should consider the involvement of the Company auditors and the Police at this stage and should consult with the Governance Panel;
- The allegations should be fully investigated by the investigating officer with the assistance where appropriate, of other individuals/bodies;
- A judgement concerning the complaint and validity the complaint will be made by the investigating officer. This judgement will be detailed in a written report containing the findings of the investigations and reasons for the judgement. The report will be passed to the Governance Panel as appropriate;
- The nominated Senior Director will decide what action to take. If the complaint is shown to be justified, then they will invoke the disciplinary or other appropriate Company procedures;
- The complainant should be kept informed of the progress of the investigations and, if appropriate, of the final outcome;
- If appropriate, a copy of the outcomes will be passed to the Company Auditors to enable a review of the procedures.

If the complainant is not satisfied that their concern is being properly dealt with by the investigating officer, they have the right to raise it in confidence with the nominated Senior Director, or one of the designated persons described above.

If the investigation finds the allegations unsubstantiated and all internal procedures have been exhausted, but the complainant is not satisfied with the outcome of the investigation, the Company recognises the lawful rights of employees and ex-employees to make disclosures to prescribed persons (such as the Health and Safety Executive, the Audit Commission, or the contracted regulators), or, where justified, elsewhere.

### **Confidentiality**

Confidentiality will be maintained during the investigatory process to the extent that this is practical and appropriate in the circumstances. However, in order to effectively investigate a disclosure, we must be able to determine the scope of the investigation and the individuals who should be informed of or interviewed about the disclosure. If it becomes necessary to disclose your identity, we will make efforts to inform you that your identity is likely to be disclosed. In order not to jeopardise the investigation, you are also expected to keep the fact that you have raised a concern, the nature of the concern and the identity of those involved confidential