

# Whistleblowing Policy



# East Clayton Farm

Version 2.0 – September 2020

<b>Policy number</b>		Policy owner		
		The Trustee Board of East Clayton Farm		
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Related ECFLDC policies				

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## DOCUMENT CONTROL

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## ISSUE CONTROL

VERSION	DATE	COMMENTS	AUTHOR
3.0	September 2019	Updated to bring the document in line with the farm's corporate identity.	J Rolfe

## PRINCIPAL RELATED POLICIES & PROCEDURES

DOCUMENT TITLE	LOCATION
Disciplinary & Grievance	ECF Policies & Procedures
Complaints	ECF Policies & Procedures

## CONFIRMATION OF RECEIPT OF POLICY & PROCEDURE

NAME	
JOB TITLE	
LINE MANAGER	

# **SECTION 1**

## **1. POLICY**

This policy and procedure explains how any employee, volunteer or service user, including children and vulnerable adults, can immediately 'blow the whistle' if they are worried or concerned about something wrong happening in the work place, safe in the knowledge that they will be supported if they come forward.

The policy covers serious public interest concerns that, in the reasonable belief of the individual, are either happening now, have happened, or are likely to happen.

## **2. PRINCIPLES**

East Clayton Farm (ECF) aims to conduct its business at all times with the highest standards of integrity and honesty. We expect all employees and workers to maintain the same standards in everything they do. All those who work for us and with us are therefore strongly encouraged to report any perceived wrongdoing by the organisation or its employees, workers, that falls short of these principles.

It is safe and acceptable to speak up about concerns at an early stage. No action will be taken against anyone who makes an allegation in good faith, reasonably believing it to be true, even if the allegation is not subsequently confirmed by the investigation. We prefer the issue or concern to be raised, rather than run the risk of not detecting a problem early on.

If an individual raises a genuine concern under this policy, they will not be at risk of losing their job or suffering any detriment (such as reprisal or victimisation).

East Clayton Farm will not tolerate any harassment or victimisation (including informal pressures) and will take appropriate action, in line with our Bullying and Harassment Policy and Procedure, to protect those who raise a concern in good faith.

Any investigation into allegations of potential malpractice will not influence or be influenced by any disciplinary or redundancy procedures already taking place concerning an individual.

If after investigation, it is found that an individual has raised a concern maliciously and which they know to be untrue, this will be dealt with under our Disciplinary Policy and Procedure.

Every effort will be made to ensure confidentiality as far as this is reasonably practicable. It must be appreciated that it will be easier to follow up and to verify complaints if the individual is prepared to give his/her name, and unsupported anonymous complaints and allegations are much less powerful and therefore will be treated with caution.

Help will be provided to anyone raising a concern in order to minimise any difficulties, which they experience. This may include advice on giving evidence if needed. Meetings may, if necessary, be arranged off-site with the employee being represented if they wish.

Open discussion on safe working practices with regard to safeguarding, health and safety and environment, are discussed routinely by the CEO and the individual at performance review meetings.

### **3. SCOPE**

This policy applies to all employees, volunteers, service users and contract staff working for East Clayton Farm.

The Whistleblowing procedure is not to be used for complaints about employment or how you have been treated, rather the following will apply:

- Disciplinary & Grievance Policy & Procedure
- Staff Handbook
- Complaints Policy & Procedure

This policy does not apply to Incident and Risk reporting covered under Health and Safety and Environmental Management procedures.

### **4. EXPECTATIONS**

All employees, volunteers, service users and contract staff working for East Clayton Farm will be made aware of this policy at induction, or when first engaging with East Clayton Farm.

All concerns raised and investigations conducted under this policy and procedure will be reviewed by the CEO to ensure appropriate action has been taken and where appropriate policy and procedure is amended to prevent re-occurrence.

### **5. DEFINITION**

**Whistleblowing:** The official name for Whistleblowing is 'making a disclosure in the public interest'. It means that if you believe there is wrongdoing in your workplace, you can report this by following the correct processes and your employment rights are protected.

#### **SERIOUS PUBLIC INTEREST CONCERNS INCLUDE:**

- conduct which is an offence or a breach of law, e.g. fraud, corruption or theft
- disclosures related to miscarriages of justice
- health and safety risks, including risks to clients and visitors as well as individuals who work for us
- Verbal, sexual or physical abuse of individuals, or other unethical conduct/behaviour
- discrimination on grounds of sex, race or disability or religion
- damage to the environment, e.g. green issues
- malpractice

- professional misconduct
- nepotism
- Deliberate covering up of/failing to report information tending to show any of the above matters.

This list is not exhaustive and there may be other serious public interest concerns, which would come under this Policy.

**Malpractice** –improper, illegal or negligent behaviour by anyone in the workplace.

## **6. LEGISLATION AND GUIDANCE**

***The Public Interest Disclosure Act 1998*** (Whistle-blowers Act) protects employees against detrimental treatment or dismissal as a result of any disclosure of normally confidential information in the interests of the public. The Act only covers protected disclosures under six categories listed below. To obtain protection employees must first disclose the information to the employer.

***The Public Interest Disclosure Act 1998*** also implies actions that the employer should take to avoid damaging disclosure about its activities.

***Employment Rights Act 1996*** - There may be some overlap between a whistleblowing concern and a grievance - such as on health and safety where the risk may be wholly or exclusively to the employee himself. It must be discussed with the individual and agreed whether this is a public interest concern or not.

***Management of Health and Safety at Work Regulations 1999*** - what employers must do to make sure their businesses comply with health and safety law

***Public Interest Disclosure (Prescribed Persons) Order 1999 and Subsequent Amendments:*** lists the persons and the public interest disclosures for which they are responsible., where disclosures are raised outside the workplace.

***BIS List of Prescribed Persons and Bodies (June 2015)*** provides a list of the prescribed persons and bodies, external to the workplace, who you can make a disclosure to.

***Bribery Act 2010*** = describes the offence “ a financial or other advantage to encourage that person to perform their functions or activities improperly or to reward that person for having already done so”

***The Enterprise and Regulatory Reform Act 2013 (ERRA)*** In order to benefit from whistleblower protection a disclosure must “in the reasonable belief of the worker making the disclosure” be

“made in the public interest” and introduces both personal liability on employees who victimise their whistleblowing colleagues, and vicarious liability on the employer for the same.

**20/3/15 Dept. for Business Innovation and Skills publication** Whistleblowing: Guidance for employer and code of practice

**Data Protection Act (1998)** – governs how personal data is used

## **7. ROLES AND RESPONSIBILITIES**

The CEO is the nominated sponsor for the Whistleblowing Policy and Procedure and:

- ensures that all concerns raised are dealt with fairly, thoroughly and in accordance with the policy.
- ensures, where appropriate, policy and procedure are amended to prevent re- occurrence.
- acts as escalation lead in matters referred to an external auditor or where an independent enquiry is required.

### **Individuals**

The individual has a responsibility to raise concerns providing s/he has a reasonable belief that malpractice and/or wrongdoing has occurred.

## **8. RELATED POLICIES AND DOCUMENTS**

ECF have the following related policy and documents

- Safeguarding children and vulnerable adults policy
- Health and Safety policy and procedures

## **SECTION 2**

### **PROCEDURE**

#### **When should a concern be raised?**

Raise the concern, as soon as you are reasonably sure that something:

- is wrong
- has happened
- is happening
- could happen

Make sure you have considered the issue / concern carefully and you can relate the facts as you see them. Remember you are a witness and are not responsible for resolving the issue.

If you feel you cannot discuss the issue internally, then you can get independent advice through the Public Concern at Work (PCAW) confidential helpline <http://www.pcaaw.org.uk/advice>

#### **Who should a concern be raised with?**

Wherever possible concerns and issues should be raised internally and with the CEO.

Where the seriousness or sensitivity of the concern may involve the CEO, the Chair of Trustees should be contacted. . To whistleblow externally, you must make sure that you have chosen the correct person or body for your issue and there are specific conditions which have to be met by to have protection under the whistle-blowers act. Therefore, the easiest way in which you can make a protected disclosure is to raise it internally.

#### **How should a concern be raised?**

Concerns may be raised verbally or in writing and include the following information:

- Date(s) of incident(s)
- Type of incident (see What the Policy covers in Section 1 for guidance)
- Description of incident(s)/details of concerns
- Where it happened, will happen, is happening
- Who has been involved
- The reason(s) for your concern
- Your name, work location and contact details (if you feel comfortable sharing your identity)

### **How Will East Clayton Farm Respond?**

The CEO receiving the report of alleged malpractice will make initial enquiries to decide whether urgent action is required, before any investigation is conducted.

Concerns or allegations raised that fall within the scope of safeguarding children and vulnerable adults must be handled under the robust escalation procedures laid down clearly in our related Safeguarding Children and Vulnerable Adults Policy & Procedure

If, in the public interest, an investigation is appropriate, the CEO will decide, what form the investigation should take which may include:

- investigation by management, internal audit
- management through the disciplinary process

If it is in the public interest and the CEO considers that an external investigation is appropriate, they will agree with the Board of Trustees what action should be taken. This may include:

- referral to the police
- referral to the external auditor
- establishment of an independent inquiry

### **What is the timescale for the procedure?**

Within **four weeks** of a concern being raised, the CEO receiving it will write to the individual:

- acknowledging that the concern has been received
- indicating how East Clayton Farm propose to deal with the matter
- giving an estimate of how long it will take to provide a full response
- saying whether any initial enquiries have been made
- supplying information on support available to the employee and
- saying whether further investigations will take place and if not, why not.

Subject to the provisions of the *Data Protection Act (1998)*, the employee will be informed of the final outcome of any investigation.

### **Concerns on the outcome of the internal investigation**

If you consider actions or decisions taken as a result of your raising a concern are unsafe or inappropriate, you should consult the Chair of Trustees.

You must be specific as to what the disagreement is about; and what you aim to achieve.

Where the concern remains unresolved, the Chair of Trustees will agree with you an arbitration procedure to assist in discussion and resolution.