

• Whistleblowing Policy

Name of Policy	Date Effective	Review Date	Signature
Whistleblowing Policy	1 January 2019	1 January 2020	<i>A. J. Hardy</i>

1.0 INTRODUCTION

1.1 FW Solutions Ltd is committed to the highest standards of openness, probity and public accountability. It seeks to conduct its affairs in a responsible manner, taking into account the requirements of The Public Interest Disclosure Act 1998, The Bribery Act 2010, The Enterprise and Regulatory Reform Act 2013 and any other relevant legislation or regulations.

1.2 Therefore, FW Solutions Ltd is committed to operating in an ethical and principled way to prevent and detect fraud, corruption, bribery and malpractice. This policy/procedure is intended to provide safeguards to enable staff to raise genuine concerns about malpractice, suspected bribery, breaches of the law and other serious wrongdoings in connection with FW Solutions. It enables staff to identify concerns externally and sets out how this can be done.

1.3 FW Solutions Ltd encourages staff to raise genuine concerns about suspected wrongdoing at the earliest practicable stage without fear of adverse repercussions being taken against them. However, a failure to raise a concern under this procedure may result in a disclosure losing its protected status under the PIDA.

1.4 This policy/procedure also seeks to balance the need to allow a culture of openness against the need to protect FW Solutions Ltd or other staff against vexatious or unfounded allegations. It is not designed to question financial or business decisions taken by FW Solutions Ltd, and it is not a mechanism for staff to raise grievances: a separate procedure exists for this purpose.

1.5 Learners at FW Solutions Ltd are also encouraged to raise genuine concerns about suspected wrongdoing by making a complaint in line with the official Complaints Policy. Any such issues should be directed in the first instance to the Managing Director

1.6 If an individual employee has any specific needs which require adjustments to be made to the format of any meetings/discussions they may attend under this policy, they should discuss these with Human Resources or Work Based Learning Manager prior to the scheduled meeting time. This may include issues around language, literacy, disability or times of meetings.

2.0 SCOPE OF THE POLICY/PROCEDURE

2.1 This policy/procedure is intended to cover the disclosure by a member of staff of confidential information which relates to some danger, fraud, bribery or other illegal

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or unethical conduct connected with the workplace, be it by the member of staff or by his/her colleagues. The policy/procedure applies to all staff at FW Solutions Ltd, including apprentices.

2.2 Examples of issues that might be raised are:

- financial malpractice, impropriety or fraud
- bribery, corruption, improper conduct or unethical behaviour
- dishonesty including criminal activities
- failure to comply with a legal obligation
- miscarriage of justice
- academic or professional malpractice
- unethical activities which may be of a criminal in nature
- dangers to health, safety, well-being or the environment
- attempts to conceal any of the above

2.3 Staff who are unsure whether it is appropriate to raise their concern under this policy/procedure or whether it is an issue that should be raised under the staff grievance procedure should approach the Managing Director for confidential advice.

3.0 PROTECTION OF STAFF RAISING CONCERNS

3.1 The Public Interest Disclosure Act 1998 (PIDA) gives legal protection to staff who raise concerns out of a sense of public duty.

3.2 Disclosures are protected, provided that the member of staff is:

- acting in good faith and the concern is reasonably believed to be of public interest
- has reasonable grounds for believing that the information disclosed indicates the existence of one or more of the following:
 - that a criminal offence has been committed, is being or is likely to be committed
 - that a person has failed, is failing or is likely to fail to comply with any legal obligation to which s/he is subject
 - that a miscarriage of justice has occurred, is occurring or is likely to occur
 - that the health and safety of any individual has been, is being or is likely to be damaged
 - it must indicate a greater danger than is associated with the normal use of the process/product, or a danger that is not usually associated with it
 - that the environment has been, is being or is likely to be damaged
 - that information tending to show any matter falling within any one of the preceding paragraphs has been, is being or is likely to be deliberately concealed

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3.3 For it to be considered to be 'protected', a disclosure must relate to a specific subject and have been made in an appropriate manner. The member of staff must reasonably believe that the disclosure is being made in the public interest. A protected disclosure must consist of information and not merely be allegations of suspected malpractice.

3.4 FW Solutions Ltd will treat as a serious disciplinary matter any example of where any member of staff or manager seeks to deter a member of staff, agency workers, or contractor working at, or in association with FW Solutions Ltd, from raising a legitimate concern.

3.5 Staff who bring legitimate concerns to the attention of management, as outlined in the policy/procedure, will have the right to have the matter treated confidentially and not have their name disclosed to the alleged perpetrator of malpractice without their prior approval.

3.6 A person raising a concern will not be required to put the matter in writing, although the manager with whom they discuss the issue will take notes, which do not identify the person making the disclosure. The identity of the person making the disclosure will be protected unless there is an overriding reason which makes this impossible. In order to protect the member of staff making the disclosure, it may be necessary to offer alternative working arrangements, which could include working from home. FW Solutions Ltd may also provide advocacy.

3.7 If a member of staff makes an allegation, in good faith, in accordance with this policy/procedure which is not confirmed by subsequent investigation, no action will be taken against that individual.

4.0 ACCOUNTABILITY OF STAFF RAISING CONCERNS

4.1 FW Solutions Ltd has a responsibility to ensure that those staff against whom concerns are raised are treated fairly, as any allegation made under this policy is a serious matter. FW Solutions Ltd will take all reasonable steps to provide protection as necessary. This will apply to alleged perpetrators and/or those who may be required to give evidence.

4.2 Concerns should be raised only if the disclosure is in the interests of FW Solutions Ltd's staff, learners or the public (i.e. for the protection of one or more of these groups).

4.3 It is an abuse of the policy to bring a false or malicious accusation. Therefore, it must be understood that falsely or maliciously raising unfounded allegations will be treated as a serious disciplinary offence and, in the case of making such an allegation externally, could involve the offence of bringing FW Solutions Ltd into disrepute. FW Solutions Ltd also has a duty of care to the reputations of members of

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staff. Care will be taken to protect such reputations in instances of malicious, false or mistaken accusations.

5.0 PROCEDURE - HOW TO RAISE A CONCERN

5.1 General

Staff wishing to raise a concern should do so in accordance with the procedure set out below. It is acknowledged that anyone wishing to raise a concern may wish to be accompanied or represented by a member of staff employed by FW Solutions or a recognised trade union representative at any stage of the procedure.

5.1.1 Any member of staff who wishes to raise a concern in relation to the items included at section 2.2 should contact the independent Managing Director, who has been identified as the person responsible for investigating allegations of whistleblowing. Contact details are as follows:

Sandra Hardy
Managing Director
FW Solutions Limited
Windsor House
Cornwall Road
Harrogate
HG1 2PW
01423 536672
s.hardy@fwsolutions.net

5.1.2 If the allegations are made against the Managing Director, the matter should be raised with the Business Administration Manager.

5.1.3 Depending on the nature of the complaint, the Business Administration Manager may determine that FW Solutions Ltd.'s internal or external audit service should conduct the investigation.

5.1.4 The matter will be dealt with under Stage 5.2 below.

5.1.5 Staff are encouraged to identify themselves when making a disclosure. If an anonymous disclosure is made, FW Solutions Ltd will not be able to notify the individual making the disclosure of the outcome of actions taken by FW Solutions Ltd. Anonymity also means that FW Solutions Ltd may have difficulty in investigating such a concern. FW Solutions Ltd reserves the right to determine whether to apply this procedure in respect of an anonymised disclosure in light of the following considerations:

- the seriousness of the issues raised in the disclosure;

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- the credibility of the concern and whether sufficient information was provided to allow an investigation to occur
- the likelihood that the concern can be confirmed from attributable sources.

5.1.6 For further guidance in relation to this policy/procedure, or concerning the use of the disclosure procedure generally, staff should speak in confidence to the Business Administration Manager or the Managing Director.

5.2 Procedure for Investigation of a Disclosure

5.2.1 A member of staff raising a concern should contact the Managing Director, outlining their concerns under FW Solutions Ltd.'s Whistleblowing Policy. The complainant may prefer the initial contact to be made by telephone, rather than in writing, to safeguard confidentiality. If this is the case, the Managing Director will respond to the complainant immediately with a written acknowledgement of their concerns.

5.2.2 The Managing Director will arrange to meet the complainant outside FW Solutions Ltd to discuss his/her allegations.

5.2.3 Within 2 weeks, the Managing Director will either:

i) inform the complainant in writing of the investigative measures they are intending to put in place in pursuit of the complaint; or

ii) determine whether or not they believe that the disclosure is wholly without substance or merit and does not require any further action. If this is the case, the complainant will be notified in writing of the reasons for this decision and advised that no further action will be taken by FW Solutions Ltd under this policy/procedure. Considerations to be taken into account when making this determination may include the following:

- if the Managing Director is satisfied that the complainant does not have a reasonable belief that the suspected malpractice is occurring
- if the matter is already the subject of legal proceedings or appropriate action by an external body; or
- if the matter is already subject to another, appropriate FWS procedure.

5.2.4 To ensure confidentiality, such communications (and any other correspondence connected to the complaint) shall be sent to the complainant's home address, rather than via FW Solutions Ltd's internal communication systems.

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5.2.5 Dependent on the complexity of the allegations and the time required for a thorough investigation, the Managing Director will provide the complainant with reports on the progress of the investigation.

5.2.6 The Managing Director will provide the complainant with written confirmation of the outcome of their complaint at the conclusion of the investigation, subject to third party rights.

5.2.7 Possible actions could include an internal investigation; referral to FW Solutions Ltd's auditors; or referral to the relevant external bodies such as the police, OFSTED, the Health & Safety Executive or the Information Commissioner's Office.

5.2.7 If the complainant is not satisfied that their concern has been properly dealt with by the Managing Director, they will have the right to raise the matter in confidence with the Chair of the Board of Governors within 10 working days. The Chair will make a final decision on any action to be taken and notify the complainant.

5.3 Matters Relating to the Board of Governors

5.3.1 The member of staff should contact the Business Administration Manager in the first instance if the concern relates to:

- Managing Director
- an individual governor or the Board of Governors
- where there are exceptional circumstances, for example where a member of staff feels that the raising of the concern within FW Solutions Ltd could lead to the destruction of evidence of criminal activity

5.3.2 The Board of Governors may commission such further investigation as he/she considers is warranted and may refer the matter to the Chair of the Board of Governors or to an Audit Committee for further action if appropriate.

5.3.3 If the concern reported to the Business Administration Manager is one which is likely to affect the Board of Governors, the Business Administration Manager may seek advice from the Education & Skills Funding Agency or FW Solutions Ltd.'s internal/external auditors as to the steps to be taken to deal with the matter. In this eventuality, the Business Administration Manager must inform the Chair of the Board of Governors that this has been done.

5.3.4 The Business Administration Manager will advise the member of staff raising the concern in writing to their home address of the outcome of the

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Chair's review and any further action taken to resolve the issue, unless they have chosen to remain anonymous.

6.0 SAFEGUARDS FOR STAFF MAKING A DISCLOSURE

6.1 A member of staff making a disclosure under this policy/procedure can expect the matter to be treated confidentially by FW Solutions Ltd and, where applicable, their name will not be disclosed to anyone implicated in the suspected wrongdoing, without their prior approval.

6.2 FW Solutions Ltd will take all reasonable steps to ensure that any report, recommendations or other relevant documentation produced by FW Solutions Ltd does not identify the member of staff making the disclosure without their written consent, or unless FW Solutions Ltd is legally obliged to do so, or for the purposes of seeking legal advice.

6.3 FW Solutions Ltd will regard a Whistle-blower's actions as legitimate where:

- i) the complainant has followed FW Solutions Ltd.'s procedure on whistleblowing;
- ii) the complainant has acted in good faith and not for personal gain or out of personal motives.

6.4 No formal disciplinary action will be taken against a member of staff on the grounds of making a disclosure made under this policy/procedure. This does not prevent FW Solutions Ltd from bringing disciplinary action against a member of staff where FW Solutions Ltd has grounds to believe that a disclosure was made maliciously or vexatiously, or where a disclosure is made outside FW Solutions Ltd without reasonable grounds.

6.5 A member of staff will not suffer dismissal or any detrimental action or omission of any type (including informal pressure or any form of victimisation) by FW Solutions Ltd for making a disclosure in accordance with this policy/procedure. Equally, where a member of staff is threatened, bullied, pressurised or victimised by a member of staff for making a disclosure, disciplinary action will be taken by FW Solutions Ltd against the member of staff in question.

6.6 Where a member of staff who has legitimately made a disclosure within this procedure has evidence of victimisation or of reprisals by managers or colleagues, they should:

- a) Seek the advice of their local trade union representative; and either
- b) Initiate a grievance procedure against the perpetrator of the victimisation (if appropriate); or
- c) Report the matter to a member of the Senior Management Team, who will advise on whether the disciplinary process should be initiated.

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7.0 MALICIOUS ACCUSATIONS

7.1 FW Solutions Ltd regards maliciously raising false and unfounded allegations as a serious matter which will be dealt with under the Staff Disciplinary Policy/Procedure.

7.2 Where a malicious allegation is made externally, this would involve the offence of "Bringing FW Solutions Ltd into Disrepute".

7.3 In the case of malicious allegations, the Managing Director will report the matter to the Chief Executive, who will initiate FW Solutions Ltd's disciplinary procedure.

7.0 DISCLOSURES TO EXTERNAL BODIES

8.1 This policy/procedure allows members of staff to raise disclosures internally within FW Solutions Ltd. A member of staff has the right to make a disclosure outside of FW Solutions Ltd where there are reasonable grounds to do so and in accordance with the law.

8.2 Staff may make a disclosure to an appropriate external body prescribed by the law. This list of 'prescribed' organisations and bodies can be found in information on the Government's website www.gov.uk including:

- FW Solutions Ltd.'s internal or external auditors
- the Department for Business, Innovation & Skills
- the Education Skills Funding Agency
- the Health & Safety Executive
- the National Audit Office or its successor body
- a Member of Parliament

8.3 Staff can also make disclosures on a confidential basis to a practising solicitor or barrister.

8.4 If a member of staff seeks advice outside of FW Solutions, they must be careful not to breach any confidentiality obligations or damage FW Solutions Ltd's reputation in so doing.

9.0 ACCOUNTABILITY

9.1 FW Solutions Ltd will keep a record of all concerns raised under this policy/procedure (including cases where FW Solutions Ltd deems that there is no case to answer and therefore that no action should be taken).

10.0 REPORTING

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10.1 An annual report on the number of disclosures and the broad outcomes will be made to the Board, commencing with the 2018/19 academic year.

11.0 FURTHER ASSISTANCE FOR STAFF

11.1 FW Solutions Ltd will not tolerate any harassment or victimisation of staff who make disclosures. If, at any stage of this procedure, a member of staff feels that they are being subjected to informal pressures, bullying or harassment due to making a disclosure, they should raise this matter in writing with the Managing Director.

11.2 A member of staff making a disclosure may want to confidentially request counselling or other support from FW Solutions Ltd.'s Staff Health Policy. Any such request should be addressed to the Business Administration Manager. Such a request would be made in confidence.

11.3 For confidential advice on Whistleblowing issues staff can also contact the charity Public Concern at Work, as follows:

CAN Mezzanine
7-14 Dover Street
London
SE1 4YR

www.pcaw.org.uk

Whistleblowing Advice Line: 020 7404 6609
Email: whistle@protect-advice.org.uk

