



Speaking Out “Whistle Blowing” Policy July 2022

Date of Policy: 07 July 2022

Policy Approved by: BOT

Signature: CA

Overall responsibility for implementing the policy:

Policy Applies to: All Staff and volunteers of **COMPASS-Ghana**

Date of Next Review: July 2023

1. This Policy reflects the Public Interest Disclosure Act (2013) often called the "Whistle-blowers Act". It provides a general protection to "workers" who are defined in the Act as employees; agency staff and consultants contracted to work for **COMPASS-Ghana**. Such people have the right not to be subjected to any detriment by the Executive Management or their Line Managers at **COMPASS-Ghana** on the grounds that they make what the Act calls a "qualifying disclosure", which also falls under the definition of a "protected disclosure". Any member of staff, who is dismissed for making a protected disclosure, will be treated in law as having been unfairly dismissed.

Section One: Qualifying Disclosure:

2. The disclosure has to be a "Qualifying one" under the Act. I.e. "any disclosure of information which in the reasonable belief of the employee making the disclosure shows:

- a. an alleged criminal offence
- b. a failure to comply with a legal obligation
- c. a miscarriage of justice
- d. a breach of health and safety such that an individual has been, is, or is likely to be endangered
- e. damage to the environment; or
1. the deliberate concealment, or likely deliberate concealment, of information about one of the above.

3. Workers are protected from dismissal or detriment because of making a public interest disclosure (known as whistleblowing). The individual making the disclosure will have to demonstrate that there were reasonable grounds for their belief.

4. A disclosure will not qualify if an offence is committed in making it, for example under the Data Protection Act.

5. Examples of malpractice or impropriety might also include:

- a. Professional malpractice or negligence
- b. Financial malpractice, impropriety or fraud
- c. Failure to comply with Standing orders and Financial Instructions
- d. Conflicts of interests which might tend to bring the jobholders' s integrity into question



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- e. Information tending to show any of the above matters has been, is being or is likely to be deliberately concealed.

6. ***It is immaterial whether the relevant failure occurred, occurs or would occur within or outside of the UK, and whether the law applying to it is that of the UK or of any other country or territory. In other words, a disclosure may still qualify where it relates to a matter occurring outside the UK, or where any offence or breach of a legal requirement involves the laws of another country.***

7. Common examples of complaints that fall within the ambit of whistleblowing law are the commission of a criminal offence such as fraud, or where the company or organisation is deliberately flouting rules relating to health and safety.

Section Two: In the public interest

8. Under the ERA 1996, the individual who makes a qualifying disclosure must also reasonably believe that they are acting in the public interest in so doing.

9. That said, the whistle-blower need not be correct about their concerns, provided they have reasonable grounds for believing that the information disclosed, and any allegation contained in it, are substantially true.

10. In other words, their belief must be honestly held in all the circumstances prevailing at the time of the disclosure. Their complaint can also relate to past, present or likely future wrongdoing.

11. The policy is not intended to replace other policies and procedure, nor should it be used when other procedure would be more appropriate — these include:

- a. Complaints
- b. Discipline
- c. Grievance
- d. Bullying and Harassment

12. A disclosure investigated under this policy may lead to the use of other procedures as appropriate.

Section Three: A Protected Disclosure

13. The disclosure will only be protected within the meaning of the Act if it is made in the "Public Interest" to a designated person at **COMPASS-Ghana** — The Chief Operating Officer. If the individual believes that they will suffer detriment if the disclosure is made to the designated person or another member of **COMPASS-Ghana**, or that the matter will be concealed by such a person, then they make the disclosure to another body specified and this will also be protected — See paragraph on "independent Advice" — below.

Section Four: Definition

14. Staff may have concerns about what is happening at work from time to time. These concerns may be easily resolved via informal discussions with the relevant staff member between themselves



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or with their line manager. Although they may be of interest to the public, they are not usually so serious as to be classified as needing investigation.

15. It is important to encourage a climate of openness and dialogue within **COMPASS-Ghana** where the free expression of staff of their concerns is welcomed by their managers as a contribution to improving services. However, it is important that managers address issues in their department, and deal with issues effectively without the need to resort to formal procedures in every case.

16. **COMPASS-Ghana** is committed to the highest standards of openness, probity, and accountability. It seeks to conduct its affairs in a responsible manner and all staff are expected to act in a similar way.

17. Concerns about negligence, professional misconduct, financial malpractice, unlawful conduct or dangers to the public or the environment do need a more formal approach from the outset and staff should seek advice from their Line Manager straight away.

18. There may be anxiety about raising issues that that the member of staff is not sure concern them. If in any doubt these should be discussed in confidence with their Line manager

19. It is recognised that some concerns should be raised in confidence under this policy. If the member of staff asks that their identity be withheld, then this must be adhered to, and the Manager may not disclose the identity without consent. If the situation arises where **COMPASS-Ghana** is not able to resolve the concern without revealing the identity, discussion will take place with the member of staff as to how this can be taken forward.

20. Members of Staff may consider approaching an external body or individual such as the Department of Health, Member of Parliament or an external advocate (Local Councillor) or member of the media. This should not be done until all the steps within this policy have been exhausted. It may, however, be that the member of Staff wishes to report the matter to a professional body such as the General Medical Council, or the Nursing and Midwifery Council. This is perfectly acceptable but must be followed up by reporting the issue using the same steps outlined within this policy.

21. The same process should be adopted for reports to the Health and Safety Executive or the Charity Commission. It is hoped, however, that this would not be necessary, and that the member of staff felt able to report the issue to **COMPASS-Ghana** and are confident that **COMPASS-Ghana** would manage it effectively.

22. If the member of staff holds a registered professional qualification such as Registered Nurse or Medical practitioner, they must refer to their code of Professional Conduct or registering body for advice.

Section Five: Arrangements

23. This policy is designed to allow all **COMPASS-Ghana** staff to raise concerns initially through the internal procedure or with one of the external independent bodies referred to in this policy. This policy has also been developed to allow COMPASS-Ghana to make known, personally. Any concerns to an appropriate person and seek independent advice.



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24. The terms of the Public Interest Disclosure Act - Updated 15 April 2020 makes it clear that employees should, if at all possible, use their organisations' s internal policy rather than going directly to wider disclosure e.g. the media or police. Therefore, staff of **COMPASS-Ghana** should initially raise their concerns internally.

Section Six: COMPASS Ghana's Assurance to its Employees.

PROTECTION:

25. A disclosure made under the provisions of this policy will be protected if it is made in good faith and made in the reasonable belief of the individual making the disclosure that it tends to show malpractice or impropriety. The disclosure is made in accordance with the procedures outlined in Annexure A of this policy.

CONTRACTUAL LIABILITY:

26. It is an implied term of a contract of employment that an employee will observe a duty of confidentiality, thereby requiring them to refrain from disclosing their employer's confidential information and acting in a way which is likely to destroy the mutual trust and confidences on which the employment relationship is based. In addition, **Compass-Ghana** requires staff to sign a confidentiality clause within their contract of employment. Notwithstanding this, a disclosure made under this policy would not be considered a breach of either an express or implied term unless it was found to have been made maliciously or unreasonably.

CONFIDENTIALITY

27. **COMPASS-Ghana** will treat all disclosures in a confidential and sensitive manner and will, if requested, and so far, as is reasonably practicable, protect the identity of the individual making the allegation. However, the investigation process may reveal the source of the information and the individual making the disclosure may need to provide a statement as part of the evidence required. If the confidentiality is likely to be breached by way of the investigation this will be brought to the attention of the employee as soon as this is realised.

ANONYMOUS ALLEGATIONS

28. Staff are encouraged to put their name to any disclosure. However, any concern raised anonymously will be considered at the discretion of **COMPASS-Ghana**, considering the following factors:

- a. The seriousness of the issues raised
- b. The credibility of the concern
- c. The likelihood of confirming the allegation from attributable sources.

MALICIOUS ALLEGATION

29. If an allegation is subsequently deemed to be deliberately malicious or vexatious, disciplinary action possibly leading to dismissal of the complainant may be taken.

End



PROCEDURE FOR MAKING A DISCLOSURE

Informal Steps:

1. If the employee is concerned about what they believe might be malpractice, then they should raise their concerns with their line manager, or, if there are reasons for not taking the issue to their Line Manager the, another senior person, possibly another member of the Executive Team or Board of Trustees.
2. If the employee is a member of a Trade Union or Professional Association, then they may approach their representative for help. If the informal action does not resolve, the situation then the formal steps outlined below should be followed.

Formal Steps:

3. How to make a disclosure: An employee wishing to make a disclosure under this procedure should do so to the designated person listed below, and the choice of that person is at the discretion of the individual:
 - a. Immediate Line Manager
 - b. Chief Operating Officer
 - c. The Clinical Director
 - d. The Chief Executive Officer
 - e. A member of the Board of Trustees
4. It must be made clear in the disclosure that the procedure contained in this policy is being invoked.
5. The person with whom the member of staff has raised the concern with, will write (letter and or email) acknowledging receipt and next steps, within ten days of the concern being raised, to let the member of staff know how the concern will be dealt with. This information will include:
 - ✿ an indication of how the concern will be dealt with
 - ✿ an estimate of how long it will take to provide a final response
 - ✿ whether any initial enquiries have been made
 - ✿ whether further investigations will take place, and if not why
 - ✿ information about support available to the member of staff
6. The person with whom the member of staff raised the concern with, will at the same time notify the HR lead or team that a whistleblowing allegation has been made.

How the Disclosure will be Investigated:

7. The designated person (para 3 above) will decide on the form of the investigation to be undertaken, or, if the allegation is anonymous, whether to take no action. This decision will be made in



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consultation with an Executive Team member of **COMPASS-Ghana** as long as no such individual has a conflict of interest or is implicated in the disclosure.

8. An investigation may be undertaken by one or more of the following means:
 - a. Investigate the matter internally
 - b. Refer the matter to the police, an obligation if a potentially criminal act has occurred
 - c. Call for an independent enquiry —to be conducted by a qualified/experienced third party with no vested interest either with the individual or **COMPASS-Ghana** or its interests.
9. If the matter is to be investigated internally a decision will also be taken as to who should conduct the investigation, the procedure to be followed and the scope of the written report. The following factors will be considered:
 - a. The nature of the allegation
 - b. The seriousness of the alleged malpractice and impropriety and likely outcomes if proven
 - c. Any conflict of interest that any individual involved may have, especially if they are involved in the investigation or required to reach a decision on the matter.
10. The internal investigation will be carried out as expeditiously and sensitively as possible. **COMPASS-Ghana** will endeavour to conclude the investigation within six weeks of the disclosure being made. If this is not possible the person making the disclosure will be informed of the reason.
11. Any person under investigation will be advised as soon as is reasonably practicable and having regard to the nature of the disclosure. If they are to be questioned about the disclosure, they will be entitled to be accompanied by:
 - a. a member of their professional association/body,
 - b. a Trade Union Representative,
 - c. an appropriate staff member/work colleague.
12. Any person under investigation may be suspended if it is not considered appropriate for them to remain at work whilst the investigation is carried out. Suspension **does not imply** that the member of staff has committed an offence and should be on full pay. If the investigation shows that the disclosure is without foundation, the suspended member of staff should be allowed to return to work immediately.
13. The authority to suspend for reasons of investigating matters raised under this policy is vested with the Chief Executive of **COMPASS-Ghana** or the Chair of the Trustees.

The Investigation — General Guidance

14. Records of the disclosure: **COMPASS-Ghana** will make a written record of the key points of concerns raised under this policy. It will prepare a pro-forma record to ensure consistency of approach,



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including such detail as the substance of the concern, the types of risk involved, any action already taken or agreed to be taken and whether the member of staff has requested confidentiality.

15. **Investigations:** Complaints will be investigated promptly so that any delay does not create further grounds for complaint and to ensure that relevant evidence is collected before it is destroyed. **COMPASS-Ghana** will be cognisant that any delay or inaction on its part can appear suspicious to a member of staff who already suspects malpractice? Expediency is important to ensure that a member of staff is reassured that their matter is being dealt with in a robust and serious manner.
16. The Designated Manager will determine in consultation with a member of the Executive Team the level of investigation required. If the matter needs further investigation, the Designated Manager will appoint an investigator or team of investigators.
17. The investigators will be responsible not only for looking into the truth of the allegations, but also making recommendations for disciplinary action against any wrongdoer and wider change within the organisation.
18. They will be responsible for ensuring a balanced investigation/review to ensure that all parties are heard in a fair and reasonable manner, with supporting evidence or testimony, mindful that this is not a court of law. It should not be adversarial in process, but thorough, empathetic, balanced and robust.
19. It may be appropriate to investigate in two stages.
 - a. Firstly, to determine whether there is prima facie evidence of the alleged wrongdoing (without focusing on individual responsibility).
 - b. Secondly, to investigate the people involved to determine who is responsible.
20. Inevitably there may be occasions when a member of staff has simply misunderstood the circumstances or is motivated by a personal grievance against a colleague (whether maliciously or otherwise). In these cases, the investigator may be able to curtail the requirement for a lengthy investigation through a sympathetic meeting at which the member of staff's concerns is put in context. This could dissipate any personal antagonism but, if it does not or the member of staff is not happy with the explanation provided, the investigator should consider whether further investigation is warranted.
21. The member of staff continues to have the right to raise their concern with a higher level of management.
22. **Best Practice:** To ensure that **COMPASS-Ghana** adopts a thorough approach it will:
 - a. Maintain a regular review of existing policies, procedures, codes and rules, such as those in contracts of employment, staff handbooks and intranets to ensure they are consistent with the whistleblowing policy.
 - b. Consider the interaction with grievance procedures, mindful that it is usually wise to separate the grievance and whistleblowing policies, the issues often overlap. **COMPASS-Ghana** will Provide staff with guidance on which procedure to use.



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- c. Be prepared to take professional advice at an early stage, in view of the complexity and risk involved.
- d. Avoid imposing a legal duty on workers to blow the whistle. This is unlikely to inspire confidence and may lead to several practical difficulties.
- e. Ensure that its policy is not unduly legalistic in order to encourage a culture of openness.
- f. Not use this policy for bullying or harassment complaints or other individual grievances.
- g. Be mindful that while it is important to enable members of staff to report concerns outside the normal management structure, **COMPASS-Ghana** will proactively create and maintain a culture that encourages effective relationships across all its staff encouraging issues to be resolved and discussed directly and at the relevant level.
- h. **COMPASS-Ghana** will adopt a "pause" policy where a disclosure is listened to and seek not to overreact to disclosures made where they seem mistaken, where there is an appearance of bad faith or where they are external COMPASS-Ghana will investigate thoroughly and make extra efforts to prevent victimisation.
- i. **COMPASS-Ghana** will not rely on confidentiality clauses to prevent external disclosures, as it believes they are unenforceable if the disclosure is protected.
- j. **COMPASS-Ghana** will ensure that any Whistle-blower will not receive detrimental treatment or behaviour directly or indirectly from their colleagues inside or outside the workplace ie contracted partners or volunteers.
- k. **COMPASS-Ghana** will ensure that any employee returning after a suspension will not receive detrimental treatment or behaviour directly or indirectly from their line managers, colleagues inside or outside the workplace ie contracted partners or volunteers and that all aspects of the investigation will remain confidential to ensure the individual receives no detriment.
- l. Where lessons are learnt regardless of the outcome of the investigation, they will be redressed for the betterment of **COMPASS-Ghana** and all its employees.

Outcome of the Investigation

20. The report of the investigation inquiry or police action and any recommendations will be considered by the Chief Executive or Chief Operating Officer or Chair of Trustees and a decision taken in consultation with any advisers deemed appropriate on what, if any, further action is required. Such action may include:

- a. Invoking the Disciplinary Process (ACAS Guidelines)
- b. Invoking the Grievance process (ACAS Guidelines)
- c. Instituting further investigation either internally or externally
- d. Taking specific action, for example reviewing policy or procedures.



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21. The Member of Staff who made the disclosure will be advised of the outcome in writing and if no action is to be taken, the reason for it. Where the disclosure is made against a named person or persons they will also be informed of the outcome.

Reporting the Outcome

22. A report of all disclosures and the action taken will be made by the Chief Executive and/or the Chair of the Trustees to the next meeting of the Executive Team and the Board of Trustees in confidential session. The Board of Trustees will not be made aware of the name of the person who made the disclosure.

End

July 2022