

## Whistleblowing Policy

### 1. Introduction

Datalaw is committed to the highest standards of openness and accountability. This policy is intended to give all staff a mechanism to voice concerns without fear of retribution. It should be emphasised that this policy is intended to assist individuals who believe they have discovered malpractice or illegality. It is not designed to question financial or business decisions taken by the organisation nor should it be used to reconsider any matters which have already been addressed under harassment, complaint, disciplinary or other procedures.

These concerns could include:

- Financial malpractice or impropriety or fraud
- Failure to comply with a legal obligation or statute
- Dangers to Health & Safety or the environment
- Criminal activity
- Improper conduct or unethical behaviour including safeguarding concerns
- Attempts to conceal any of these
- Inducing others or collusion with others to do any of these things

Datalaw will not tolerate malicious allegations and therefore, any person found to purposely make malicious allegations may find themselves subject to disciplinary action. Equally, if any discrimination or harassment takes place as a result of whistleblowing, Datalaw will take firm action under the disciplinary procedures.

This policy applies to all adults working at Datalaw whether they are members of staff or volunteers.

This policy should be read in conjunction with the following policies;

- Staff Code of Conduct
- Safeguarding Policy
- Prevent Policy
- Staff Disciplinary Procedure

## 2. Definitions

**Whistle-blower** - A whistle-blower is a member of staff or volunteer who reports certain types of wrongdoing. This will usually be something they've seen at work - though not always. The wrongdoing disclosed must be in the public interest. This means it must affect others, e.g. the general public.

**Whistleblowing** – the act of blowing the whistle i.e. reporting wrongdoing

You're protected by law if you report any of the following

- a criminal offence, e.g. fraud, financial malpractice, bribery
- a danger to the public
- risk or actual damage to the environment
- a miscarriage of justice
- the company is breaking the law
- you believe someone is covering up wrongdoing
- abusing children, young people or vulnerable adults

Complaints that don't count as whistleblowing

Personal grievances (e.g. bullying, harassment, discrimination) are not covered by whistleblowing law, unless your particular case is in the public interest. Staff with these complaints should follow the reporting procedures identified in the Bullying and Harassment Policy.

## 3. Legislation

This policy is in line with The Public Interest Disclosure Act 1998. This Act has its origins in the European Convention on Human Rights which was incorporated in UK law by the Human Rights Act 1998. The Act came into force on 2 July 1999 and gives legal protection to employees against being dismissed or penalised by their employers as a result of publicly disclosing/ blowing the whistle on criminal behaviour or other wrongdoing.

The following principles apply:

- Any employee has a right and a duty to raise a concern about possible fraud, abuse, neglect, harassment or health and safety
- Managers have a duty to ensure that any employee who raises a concern under the terms of this policy will be protected from any recriminations.

## 4. Confidentiality

DataLaw will treat all disclosures in a confidential and sensitive manner. The identity of the individual making the allegation will be kept confidential so long as it does not hinder or frustrate any investigation. 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.

This policy encourages individuals to put their name to any disclosure they make. Concerns expressed anonymously are much less credible, but they may still be considered at the

discretion of the Managing Director.

In exercising this discretion, the factors to be taken into account will include:

- The seriousness of the issues raised
- The credibility of the concern
- The likelihood of confirming the allegation from attributable sources

## **5. Procedure for making a disclosure**

If an individual makes an allegation in good faith, which is not confirmed by subsequent investigation, no action will be taken against that individual. In making a disclosure the individual should exercise due care to ensure the accuracy of the information. If, however, an individual makes malicious or vexatious allegations, and particularly if he or she persists with making them, disciplinary action may be taken against that individual.

The whistle-blower has a responsibility to be clear what the specific issue is. It is not necessary that they prove the malpractice or misconduct that they are alleging; simply that they have reasonable suspicion. They should report their concern to their immediate line manager in the first instance. If an employee feels that he/she is unable to approach his/her line manager with a specific concern, he/ she should approach the Managing Director. Managers are required to be sensitive to considerations such as race, age, gender and sexual orientation.

The MD must ensure that any genuine concern brought to their attention under the terms of this policy will be dealt with quickly and sympathetically.

## **6. Process for investigation**

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 representative.
- The whistle-blower has a responsibility to be clear what the specific issue is. It is not necessary that they prove the malpractice or misconduct that they are alleging; simply that they have reasonable suspicion. They should report their concern to their immediate line manager in the first instance.
- The investigating officer should consider the involvement of the Police at this stage and should consult with the Managing Director at all times.
- 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 of 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 Managing Director as appropriate.

- The Managing Director will decide what action to take. If the complaint is shown to be justified, then they will invoke the disciplinary or other appropriate procedures.
- The complainant should be kept informed of the progress of the investigations and, if appropriate, of the final outcome.
- 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 Managing Director.