

## Public Disclosure

Version: 2.5; effective from August 2017

Policy Summary: The Public Disclosure policy document is a summary of the Cheynes Training approach to the protection from detrimental treatment of those who report incidents of public interest. References to Cheynes Training includes subcontractors contracted to work with Cheynes Training except where the subcontractor has a separate policy agreed in writing with Cheynes Training.

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### Introduction

The Public Interest Disclosure Act, 1998 aims to promote greater openness in the workplace and, by amending the Employment Protection Act 1996, protects "whistle-blowers" from detrimental treatment, including victimisation or dismissal, for raising concerns about matters in the public interest. In providing this protection, the Act also reinforces the obligations of all persons employed by the organisation not to disclose to external sources any trade secrets or confidential information acquired during the course of their employment unless they fall within the scope of qualifying for protection disclosures.

This statement sets out Cheynes Training's policy and provides advice and guidance on the scope of the policy. It explains that anyone who has a reasonable belief that there is serious malpractice relating to any of the protected matters specified in the policy may raise a concern under the procedure described in this policy. There is also information about the rights to raise the matter externally if they are not satisfied with Cheynes Training's response and the protection afforded to them if they choose to do this after the internal procedures have been exhausted.

#### **1. Cheynes Training is an operating division of Cheynes Management Limited.**

All persons employed by Cheynes Training are under an obligation implied in their contract of employment to give honest and faithful service to their employer. This includes an obligation not to disclose to external sources any trade secrets or confidential information acquired during the course of employment or act in a manner that will undermine the mutual trust and confidence on which the employment relationship is based. The Public Interest Disclosure Act 1998 complements those obligations by providing protection to employees for disclosure made without malice and in good faith of certain specific confidential information to a third party in defined circumstances. These are outlined below in Section 2 below.

The purpose of this policy is to provide a means by which employees are enabled to raise concerns with the appropriate authorities if they have reasonable grounds for believing there is serious malpractice within the organisation. Cheynes Training encourages anyone to raise matters of concern responsibly through the procedures laid down in this policy document.

#### **2. Scope of the Policy**

The Policy is designed to deal with concerns raised in relation to the specific issues which are in the public interest and are listed below, and which fall outside the scope of other company policies and procedures.

The policy deals with specific concerns that are in the public interest, this includes:

- A criminal offence
- Failure to comply with legal obligations of the company
- Financial or non-financial maladministration/malpractice/impropriety or fraud
- Academic or professional malpractice
- A risk to the health or safety or the safeguarding of any individual
- Improper conduct or unethical behaviour
- Failure to protect the equal rights of any individual
- Serious discriminatory or harassment behaviour towards any individual
- Environmental damage
- Attempts to suppress or conceal any information relating to any of the above

If, in the course of investigation, any concern raised in relation to the above matters appears to the investigator to relate more appropriately to grievance, bullying or harassment, or discipline, those procedures will be invoked.

### **3. Who can raise a concern?**

Anyone who has a reasonable belief that there is serious malpractice relating to any of the protected matters specified in Section 2 above may raise a concern under the procedure detailed in Section 4 below. The issues raised under the protected list may relate to any other member or members of the team. Concerns must be raised without malice and in good faith, and the individual must reasonably believe that the information disclosed, and any allegations contained in it, are substantially true. The disclosure must not be made for purposes of personal gain, and in all the circumstances it must be reasonable to make the disclosure.

Cheynes Training will ensure that anyone who makes a disclosure in such circumstances will not be penalised or suffer any adverse treatment for doing so. However, any employee who does not act in good faith or makes an allegation without having reasonable grounds for believing it to be substantially true, or makes it for purposes of personal gain, or makes it maliciously may be subject to disciplinary proceedings.

In view of the protection afforded to any person raising a bona fide concern, it is preferable if that individual puts his/her name to any disclosure. Provided the law allows, the identity of the person raising the matter will be kept confidential if so requested for as long as possible provided that this is compatible with a proper investigation. Anonymous complaints are not covered by this procedure, but may be reported, investigated or acted upon as the person receiving the complaint sees fit using this procedure, having regard to the seriousness of the issue raised, the credibility of the complaint, the prospects of being able to investigate the matter, and fairness to any individual mentioned in the complaint.

### **4. Procedure**

Normally any disclosure about a protected matter should be made in the first instance to the Programme Director.

If the disclosure is about the Programme Director, a concern may be raised with Paul Adamczuk, the managing director of Cheynes Management Limited, who will report the matter to the board of directors of Cheynes Management Limited, the parent company of Cheynes Training.

The person to whom the disclosure is made will decide whether the matter should be dealt with under this procedure. If he or she considers that the matter should be dealt with under a different procedure, s/he will advise the person making the disclosure as to the appropriate steps that should be taken.

### **5. Process**

The person to whom the disclosure is made will normally consider the information and decide whether there is a prima facie case to answer. He or she will decide whether an investigation should be conducted and what form it should take. This will depend on the nature of the matter raised and may be:

- Investigated internally
- Referred to External Auditors or other authorities
- The subject of independent enquiry

Some matters, following investigation, will need to be referred to the relevant outside body, e.g. the Police, the Education and Skills Funding Agency, etc. If the person to whom the disclosure is made decides not to proceed with an investigation, the decision will be explained as fully as possible to the individual who raised the concern. It is then open to the individual to make the disclosure again either to the Programme Director or to one of the directors of Cheynes Management Limited.

### **6. Investigation**

Any investigation will be conducted as sensitively and speedily as possible. The person making the disclosure will be notified of the intended timetable for the investigation. The person to whom the disclosure is made may authorise an initial investigation to establish the relevant facts. The investigation may be conducted by an internal auditor appointed by the Programme Director in the case of a financial irregularity, or by the board of directors of Cheynes Management Limited. The investigator will report his or her findings to the person to whom the disclosure was made, who will then decide if there is a case to answer and what procedure to follow. This may include taking steps with the competent authority to set up a special internal independent investigation or reference to some external authority, such as the Police, for further investigation. The decision may be that the matter would be more appropriately handled under existing procedures for grievance, bullying and harassment, or discipline.

Where disclosure is made the person or persons against whom it is made will be told at an early stage of it and of the evidence supporting it, and they will be allowed to respond.

The individual making the disclosure will be informed of what action is to be taken. Should an investigation or referral lead the person conducting the investigation to conclude there has been a breach of Cheynes Training's discipline, the person or person's responsible may, in addition to any civil or criminal proceedings, be subject to action taken by Cheynes Training including any disciplinary action in accordance with the appropriate disciplinary procedures for the relevant category of staff.

### **7. Records**

A written record will be kept of each stage of the procedure.

### **8. Reporting of outcomes**

The persons deciding on the issues will make a report of all disclosures and subsequent actions taken. This record should be signed and dated by the person investigating the incident(s) and by the person who made the disclosure. Where appropriate the formal record need not identify the person making the disclosure, but in such a case that person will be required to sign a document confirming that the complaint has been investigated. Such reports will normally be retained for at least five years. In all cases a report of the outcome will be made to the board of directors of Cheynes Management Ltd, which will refer the report on appropriately if necessary.

### **9. Advice for employees raising a concern**

Cheynes Training acknowledges the difficult choice an employee may have to make in raising a concern. As the issues that prompt the concern are likely to be complex, how the employee proceeds with his or her concern will vary from situation to situation.

The following advice is recommended if an employee wishes to make a disclosure:

- Make any objections to illegal, unsafe or unethical practices promptly so as to avoid any misinterpretation of the motives for doing so
- Focus on the issues and proceed in a tactful manner to avoid unnecessary personal antagonism that might distract attention from solving the problem
- Be accurate in his/her observations and claims and keep formal records documenting relevant events.

Cheynes Training also recognises that any person raising a concern may also wish to seek independent legal advice.

### **10. Complaints of retaliation as a result of disclosure**

Cheynes Training accepts that it has an obligation to ensure that anyone who makes a disclosure without malice and in good faith is protected, regardless of whether or not the concern raised is upheld. Any person who has made a disclosure and who feels that, as a result, he or she has suffered adverse treatment should submit a formal complaint detailing what has been done to him or her. If it appears that there are reasonable grounds for making the complaint, the onus will be on the person against whom the complaint of adverse treatment has been made to show that the actions complained of were not taken in retaliation for the disclosure.

Where it is determined that there is a prima facie case that a member of staff has suffered adverse treatment, harassment or victimisation as a result of his or her disclosure, a further investigation may take place and disciplinary action may be taken against the perpetrator in accordance with the relevant procedure.

### **11. External disclosure**

If, having exhausted this procedure, the person making the disclosure is not satisfied with Cheynes Training's response and reasonably believes that the information disclosed, and any allegation contained in it, are substantially true, he or she is at liberty to take the matter further by raising it with certain bodies or persons such as

- A legal adviser
- A Member of Parliament
- Other bodies or persons (if any) prescribed by the Secretary of State under Section 43F of the Employment Protection Act 1996, as amended by Section 1 of the Public Interest Disclosure Act 1998.

Anyone who makes an external complaint in good faith to any prescribed body or person after exhausting Cheynes Training's procedure will be protected against victimisation or other adverse treatment.

William Howarth, Programme Director. June 2017