

## Confidentiality and Whistleblowing Policy

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PERSES encourages workers to raise genuine concerns about malpractice at the earliest possible stage in the right way. This applies to all PERSES employees, consultants, temporary and agency workers, and anyone on a contract for services.

### The objectives of this policy are:

- To support the current legal requirements of the Public Interest Disclosure Act 1998.
- To support PERSES's values.
- To ensure employees can raise concerns without fear of suffering retribution.
- To provide a clear and confidential procedure.

### This policy is informed by the following key principles

- Any concerns raised will be treated fairly and properly.
- PERSES will not tolerate the harassment or victimisation of anyone raising a genuine concern.
- Any individual making a disclosure will retain their anonymity unless they agree otherwise.
- PERSES will ensure that the individual raising the concern is aware of who is handling the matter.
- PERSES will ensure no one will be at risk of suffering some form of retribution as a result of raising a concern even if they are mistaken. This assurance does not extend to someone who maliciously raises a matter they know is untrue.

The types of matters regarded as malpractice for the purposes of this policy are:

- Fraud or financial malpractice
- Corruption, bribery or blackmail
- Criminal offences
- Failure to comply with a legal or regulatory obligation
- Miscarriage of justice
- Endangering the health and safety of an individual
- Endangering the environment
- Concealment of any of the above.

For personal grievances please refer to PERSES Grievance Policy.

If an individual has a concern about malpractice the issue should first be raised with his or her line manager either orally or in writing. If the individual does not feel able to raise the matter with his or her line manager, a member of the Board of Directors may be approached.

Once a concern has been raised internally, the employee involved will be kept informed on who is handling the matter, how contact can be made with him or her, and if anything further is needed.

PERSES will give as much feedback as possible without infringing any duty of confidence owed by PERSES to someone else, or any data protection obligation. PERSES will not disclose the identity of a party raising a concern without obtaining the consent of that person. If the situation arises where PERSES is not able to resolve the concern without revealing the identity of a relevant party (e.g. if evidence is required in court), this will be discussed in order to determine the best way to proceed.

Independent advice can be sought at any time from the independent charity Public Concern At Work (0207 404 6609). Their lawyers can give / provide free confidential advice at any stage about how to raise a concern about serious malpractice at work. (<http://www.pcaaw.co.uk/>).

Sometimes a person making an allegation of malpractice or maladministration may wish to remain anonymous, although it is always preferable to reveal your identity and provide us with your contact details. However, if you are concerned about possible adverse consequences that may occur should your identity be revealed to another party then please inform us that you do not wish for us to divulge your identity and we will work to ensure your details are not disclosed.

We will always aim to keep a whistleblower's identity confidential where asked to do so although we cannot guarantee this, and we may need to disclose your identity should the complaint lead to issues that need to be taken forward by other parties. For example:

- **The police, fraud prevention agencies or other law enforcement agencies (to investigate or prevent crime, including fraud)**
- **The courts (in connection with any court proceedings)**
- **Other third parties such as the relevant regulatory authority (e.g. Ofqual in England).**
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The investigator(s) assigned to review the allegation will not reveal the whistleblower's identity unless the whistleblower agrees or it is absolutely necessary for the purposes of the investigation (as noted above). The investigator(s) will advise the whistleblower if it becomes necessary to reveal their identity against their wishes.

A whistleblower should also recognise that he or she may be identifiable by others due to the nature or circumstances of the disclosure (e.g. the party which the allegation is made against may manage to identify possible sources of disclosure without such details being disclosed to them).

Once a concern has been raised we have a duty to pursue the matter. It will not be possible to prevent the matter being investigated by subsequently withdrawing their concern as we are obliged by the regulators to follow-up and investigate allegations of malpractice or maladministration.

In all cases, we will keep you updated as to how we have progressed the allegation (e.g. we have undertaken an investigation) and the whistle-blower will have the opportunity to raise any concerns about the way the investigation is being conducted with the investigator(s). However, we won't disclose details of all of the investigation activities and it may not be appropriate for us to disclose full details of the outcomes of the investigation due to confidentiality or legal reasons (e.g. disclose full details on the action that may be taken against the parties concerned). While we cannot guarantee that we will disclose all matters in the way that you might wish, we will strive to handle the matter fairly and properly.

### **Investigations**

The paragraphs below explain how an investigation is likely to be handled.

#### **Responsibility for the Investigation**

In accordance with regulatory requirements all suspected cases of malpractice and/or maladministration will be examined promptly by PERSES to establish if malpractice or maladministration has occurred and we will take all reasonable steps taken to prevent any adverse effect from occurring as defined by the regulators.

All suspected cases of malpractice and maladministration will be passed to our Head of Centre Management and we will acknowledge receipt, as appropriate, to external parties within 48 hours. All high-risk cases of malpractice and/or maladministration will be escalated to the Head of Compliance and Assurance to investigate further.

Our Head of Compliance and Assurance will be responsible for ensuring the investigation is carried out in a prompt and effective manner and in accordance with the procedures in this policy and will allocate a relevant member of staff (e.g. a member of our centre management team/escalated to compliance and assurance) to lead the investigation and establish whether or not the malpractice or maladministration has occurred, and review any supporting evidence received or gathered by PERSES.

At all times we will ensure that PERSES personnel assigned to the investigation have the appropriate level of training and competence and they have had no previous involvement or personal interest in the matter.

#### **Notifying Relevant Parties**

In all cases we will tell the person who made the allegation who will be handling the matter, how they can contact them, what further assistance we may need from them and agree a timetable for feedback (see the above section on 'Confidentiality and Whistleblowing' for possible limitations in relation to the feedback, and the section below on 'Investigation Timelines and Summary Process' for details of our anticipated response times).

In cases of suspected or actual malpractice and/or maladministration at a centre, we will notify the centre co-ordinator involved in the allegation (except when the centre co-ordinator or management is under investigation) that we will be investigating the matter.

In the case of learner malpractice, we may ask your centre to investigate the issue in liaison with our own personnel. We will only ask the centre to investigate the matter where we have confidence that the investigation will be prompt, thorough, independent and effective.

In all cases we may withhold details of the person making the allegation if to do so would breach a duty of confidentiality or any other legal duty.

We may engage and communicate directly with centre personnel who have been accused of malpractice if appropriate (e.g. the staff member is no longer employed by the centre) and/or communicate directly with a learner or their representative (e.g. if there is a contradiction in the evidence provided during an investigation or where the centre is suspected of being involved in malpractice).

Where applicable, PERSES' Director of Training, Mr David Betts, will inform the appropriate regulatory authorities if we believe there has been an incident of malpractice or maladministration, which could either invalidate the award of a qualification, or if it could affect another awarding organisation. In particular we will keep them informed of progress in large and/or any complex cases.

Where the allegation may affect another awarding organisation and their provision we will also inform them in accordance with the regulatory requirements and obligations imposed on PERSES by the regulators and/or seek to undertake a joint investigation with them if appropriate. If we do not know the details of organisations that might be affected, we will ask the regulators to help us identify relevant parties that should be informed.

If fraud is suspected and/or identified, we may also notify the police.

### **Investigation Timelines and Summary Process**

Once PERSES have received an allegation of malpractice or maladministration you will be sent an acknowledgement of receipt within 7-working days. The allegation will be reviewed in line with our policies and procedures and an investigation will be conducted where necessary. To ensure a fair and thorough process is followed the duration of the investigation will depend on the nature and severity of the allegation we receive at this stage, or the complexity of the response required.

We do aim to provide this as soon as the outcome is available or within a maximum of 28-days. Please note that in some cases the investigation may take longer; for example, if a centre visit is required. In such instances, we will advise all parties concerned of the likely revised timescale.

The fundamental principle of all investigations is to conduct them in a fair, reasonable and legal manner, ensuring that all relevant evidence is considered without bias. In doing so investigations will be underpinned by terms of reference and based around the following broad objectives:

- **To establish the facts relating to allegations/complaints in order to determine whether any irregularities have occurred**
- **To identify the cause of the irregularities and those involved**
- **To establish the scale of the irregularities and whether other qualifications may be affected**
- **To evaluate any action already taken by the centre**
- **To determine whether remedial action is required to reduce the risk to current registered learners and to preserve the integrity of the qualification**
- **To ascertain whether any action is required in respect of certificates already issued**
- **To obtain clear evidence to support any sanctions to be applied to the centre, and/or to centre personnel, in accordance with our sanctions policy**
- **To identify any adverse patterns or trends.**

In carrying out any investigation PERSES will be sensitive to the effect on, and reputation of, a centre and/or those centre personnel who may be subject to an investigation. We will strive to ensure that the investigation is carried out as confidentially as possible and the organisation/person who is the subject of the allegation will have the opportunity to raise any issues about the proposed approach and the conduct of the investigation with the investigator(s) during the investigation.

The investigation may involve a request for further information from relevant parties and/or interviews with centre personnel involved in the investigation. In any interviews carried out with the person(s) accused of malpractice or maladministration they can choose to be accompanied by a representative, this could be a colleague, trade union representative, or other third party.

In addition, we will:

- **Ensure all material collected as part of an investigation is kept secure. All records and original documentation concerning a completed investigation that ultimately leads to sanctions against a centre will be retained for a period of no less than five years. If an investigation leads to invalidation of certificates, or criminal or civil prosecution, all records and original documentation relating to the case will be retained until the case and any appeals have been heard and for five years thereafter.**
- **Expect all parties, who are either directly or indirectly involved in the investigation, to fully co-operate with us.**

Either at notification of a suspected or actual case of malpractice or maladministration and/or at any time during the investigation, we reserve the right to impose sanctions on the centre in accordance with our sanctions policy in order to protect the interests of learners and the integrity of the regulated qualifications.

David Betts will be responsible for regularly reviewing the application and maintenance of sanctions to ensure they continue to be appropriate and proportionate to the incident(s) and risk of future incidents occurring.

We also reserve the right to withhold a learner's, and/or cohort's, results for all PERSES courses/qualifications and/or units they are studying at the time of the notification/investigation.

If appropriate, we may find that the complexity of a case or a lack of cooperation from a centre means that we are unable to complete an investigation. In such circumstances we will consult the relevant regulatory authority in order to determine how best to progress the matter.

Where a member of PERSES staff is under investigation we may suspend them or move them to other duties until the investigation is complete.

Throughout the investigation our Head of Compliance and Assurance will be responsible for overseeing the work of the investigation team to ensure that due process is being followed, appropriate evidence has been gathered and reviewed and for liaising with and keeping informed relevant external parties.

### **Investigation Report**

If we believe there is sufficient evidence to implicate an individual/centre in malpractice/and/or maladministration we will:

- **Inform the individual and/or centre (preferably in writing) of the allegation**
- **Inform them of the evidence we found to support our judgment**
- **Inform them that information in relation to the allegation and investigation may be, or has been, shared with the regulators and other relevant bodies (e.g. police)**
- **Provided them with an opportunity to consider and respond to the allegation and our findings**
- **Inform them of our appeals policy should they wish to appeal against our decisions**

After an investigation, we will produce a draft report for the parties concerned to check the factual accuracy. Any subsequent amendments will be agreed between the parties concerned and ourselves. The report will cover the following areas:

- **Identify where the breach, if any, occurred**
- **Confirm the facts of the case (and any mitigating factors if relevant)**
- **Identify who is responsible for the breach (if any)**
- **Contain supporting evidence where appropriate (e.g. written statements)**
- **Confirm an appropriate level of remedial action to be applied.**

We will make the final report available to the regulatory authorities and other external agencies as required.

If it was an independent/third party that notified us of the suspected or actual case of malpractice and/or maladministration we may also inform them of the outcome, normally within 7 working days of making our decision. In doing so we may withhold some details if to disclose such information would breach a duty of confidentiality or any other legal duty.

If it is an internal investigation against a member of our staff the Head of Compliance and Assurance will agree the report with the relevant internal managers and appropriate internal disciplinary procedures may be implemented. In some circumstances the police or other external authorities may need to be alerted.

### **Investigation Outcomes**

If the investigation confirms that malpractice or maladministration has taken place, we will consider what action to take to:

- **Minimise the risk to the integrity of certification now and in the future**
- **Maintain public confidence in the delivery and awarding of qualifications**
- **Discourage others from carrying out similar instances of malpractice or maladministration**
- **Ensure there has been no gain from compromising our standards.**

The action we may take include (this list is indicative only):

- **Impose actions in relation to a centre with specified deadlines in order to address the instance of malpractice/maladministration and to prevent it from reoccurring such as:**
- **Undertake additional/increased visits to a centre to provide them with a greater level of support and/or monitoring depending on their needs and performance**
- **Requiring specific centre staff to undergo additional training and/or scrutiny by the centre if there are concerns about their ability to undertake their role in the delivery of PERSES qualifications effectively**
- **Not permitting specific centre staff to be involved in the delivery or assessment of PERSES qualifications (e.g. not permitting an individual to invigilate assessments)**
- **Altering the way, and the period in which, centres receive assessment materials from PERSES if there are concerns around their ability to maintain the security and confidentiality of such materials**
- **Appointing independent invigilators to observe an assessment at the centre if there are concerns around the centre's arrangements and/or the centre is unable to resource particular assessments**
- **Appointing independent assessors to undertake assessments at the centre if there are concerns around the centre's arrangements or resource levels**
- **Impose sanctions on your centre, if so these will be communicated to you in accordance with our sanctions policy along with the rationale for the sanction(s) selected**

The action taken against a learner in relation to proven instances of malpractice and/or maladministration may include one, some or all of the following (which may be communicated to the learner by PERSES and/or the learner's centre):

- **Issuing a written warning that if the offence is repeated further action may be taken**
- **Loss of all marks/credits for the related work/unit**
- **Disqualification from the unit(s)/qualification**
- **Placing a ban from taking any further qualifications (e.g. for a set period of time)**

In cases where certificates are deemed to be invalid, inform centre(s) concerned and the regulatory authorities why they are invalid and any action to be taken for reassessment and/or for the withdrawal of the certificates. We will also ask the centre(s) to let the affected learners know the action we are taking and that their original certificates are invalid and ask the centre where possible to return the invalid certificates to PERSES. We will also amend our database so that duplicates of the invalid certificates cannot be issued, and we expect the centre to amend their records to show that the original awards are invalid.

Where PERSES staff have been found to be responsible/involved in the malpractice and/or maladministration, any necessary disciplinary or dismissal procedures will be implemented against them. We will also amend aspects of our qualification development, delivery and awarding arrangements and if required assessment and/or monitoring arrangements and associated guidance to prevent the issue from reoccurring. We will also inform relevant third parties of our findings in case they need to take relevant action in relation to the centre. Finally, we will carry out additional, related investigations if we suspect the issue may be more widespread at the centre and/or at other centres.

### **Review Arrangements**

We will review this policy annually as part of our quality assurance requirements and revise it as and when necessary in response to centre and learner feedback, changes in our practices, actions from the regulatory authorities or external agencies, changes in legislation, or trends identified from previous allegations.

In addition, this policy may be updated in light of operational feedback to ensure our arrangements for dealing with suspected cases of malpractice and maladministration remain effective.

This policy will be made available to any relevant person on request. Safeguarding policy, procedures and instructions are set within management systems and will include appropriate monitoring and analysis, reporting and recommendations for continuous improvement. We are committed to reviewing our policy and practice at least annually.

### Independent legal advice

Independent advice can be sought at any time from the independent charity Public Concern At Work (0207 404 6609). Their lawyers can give / provide free confidential advice at any stage about how to raise a concern about serious malpractice at work. (<http://www.pcaw.co.uk/>).

On behalf of PERSES

Signed:..........  
Mr Stephen McCann – Director

Date: 29<sup>th</sup> January 2022