



H SIVYER (Transport) Ltd

Whistle Blowing Policy

2023
Version 2

1. Scope

All employees of **H Sivyer Transport Ltd**

2. Purpose

To prevent malpractice by the organisation, its employees, agents and partners by advising staff how to raise concerns with the company's management and advising them of the protection offered by the Public Interest Disclosure Act 1998 ('PIDA').

3. Introduction

3.1

All organisations face the risk of things going wrong or of unknowingly harbouring malpractice. We have a duty to identify and take measures to remedy all malpractice particularly with regard to issues of fraud and corruption.

3.2

By encouraging a culture of openness within our company we believe that we can prevent malpractice before it happens.

3.3

By promoting a culture of openness, we want to encourage you to raise issues which concern you at work. We recognise, however, that you may be worried that by reporting such issues you will be opening yourself up to victimisation, detriment or risking your job security.

3.4

Such fears are understandable, this policy is therefore designed to provide you with information about the protections offered by PIDA as well as the process by which you may raise your concerns

3.5

By knowing about malpractice at an early stage we stand a good chance of taking the necessary steps to safeguard the interests of all staff, protect our organisation and stop fraud and corruption before it happens.

3.6

In short, do not hesitate to 'speak up' or 'blow the whistle' on malpractice.

4. Definitions

4.1

'Fraud': for the purpose of this policy refers to where an individual has undertaken, or intends to undertake, actions in order to obtain gain for him/herself or another, or cause loss to another, or expose another to risk of loss.

The term 'fraud' encompasses

- i) Fraud by false representation;
- ii) Fraud by failing to disclose information; and
- iii) Fraud by abuse of position.

Descriptions of the above can be found within the Fraud Act 2006.

4.2

'Corruption' for the purpose of this policy refers to an individual who has given or obtained advantage through means which are illegitimate, immoral, and/or inconsistent with their duty to the company or the rights of others. Examples include accepting bribes or incentives during procurement processes, seeking to influence others.

4.3

'Malpractice' for the purpose of this policy refers to actions which may be:

- i) illegal, improper, or unethical;
- ii) in breach of a professional code;
- iii) possible maladministration, fraud, or misuse of public funds; or
- iv) acts which are otherwise inconsistent with the Staff Code of Conduct.

5. Grievances

5.1

It should be noted that this policy is not our normal grievance procedure. If you have a complaint about your own personal circumstances then you should use the grievance procedure. If you have concerns about malpractice within the organisation then you should use the procedure outlined in this policy.

6. Protection of whistleblowers

6.1

The management of **H Sivyer Transport Ltd** is committed to this policy. If the policy is used to raise a concern in good faith, we give you our assurance that you will not suffer any form of retribution, victimisation, or detriment as a result of your actions. In addition, the PIDA may provide you with legal protection in relation to your disclosures if you raise your concerns in accordance with that Act.

6.2

Concerns will be treated seriously and actions taken in accordance with this policy. If you ask us to treat the matter in confidence, we will do our utmost to respect your request. However, it is not possible to guarantee confidentiality. If we are in a position where we cannot maintain confidentiality and so have to make disclosures, we will discuss the matter with you first. We will give you feedback on any investigation and be sensitive to any concerns you may have as a result of any steps taken under this procedure.

6.3

In some circumstances the company may decide that we ought to reveal your identity in order to assist in the investigation into the matter. You will be advised beforehand if this is the case.

6.4

Remember, if you do not tell us who you are it will be much more difficult for us to look into the matter, to protect your position or to give you feedback. Accordingly, while we will consider anonymous reports, this procedure is not appropriate for concerns raised anonymously.

6.5

Whistleblowers receive protection under the PIDA. Further information about the protection afforded under PIDA can be found using the resources listed at the end of this policy.

7. Procedure

7.1

If you are concerned about any form of malpractice, you should normally first raise the issue with your line manager. There is no special procedure for doing this - simply tell them about the problem or put it in writing if you prefer. At whatever level you raise the issue, you should declare whether you have a personal interest in the issue at the outset. If your concern falls more properly within the grievance procedure your manager will tell you.

7.2

If you feel you cannot tell your line manager, for whatever reason, you should raise the issue with the next tier of management or, if the issue is related to financial issues, the Head of Finance. If you feel that you cannot disclose to the next tier of management or the Head of Finance because you believe that the individual may be implicated in the malpractice, you should raise the matter in confidence with one of the Senior Management Team. The Senior Management Team is entrusted with the duty of investigating staff concerns about illegal, improper, or unethical behaviour. You should also approach one of the Senior Management Team to draw attention to cases where there is evidence of irregular or improper behaviour elsewhere in the organisation, but where you have not been personally involved, or if you are required to act in a way which, for you, raises a fundamental issue of conscience.

7.3

If you have reported a matter as described in the above paragraph and believe that the response does not represent a reasonable response to the issues you have raised, you may report the matter directly to the Managing Director.

7.4

After you have raised your concern, we will decide how to respond in a responsible and appropriate manner. Usually this will involve making internal enquiries first but it may be necessary to carry out an investigation at a later stage which may be formal or informal depending on the nature of the concern raised. If you have raised a concern we will, as far as possible, keep you informed of the decisions taken and the outcome of any enquiries and investigations carried out. However, we will not be able to inform you of any matters which would infringe our duty of confidentiality to others.

7.5

In all but the most exceptional of circumstances concerns about malpractice should be raised internally. The purpose of this policy is to give you the opportunity and protection you need to raise your concerns internally without reporting the concern to external bodies. It is, therefore, expected that raising concerns internally will be the most appropriate action to be taken in almost all cases and so you must try to do so. If, however, you feel you cannot raise your concerns internally the PIDA may afford you protection in relation to your disclosure but only if you are acting in good faith and if you honestly and reasonably believe that your allegations are true. In such circumstances you may consider raising the matter with the police or the appropriate regulator e.g. Health and Safety Executive, Environmental Health Department etc. If you do take this route to whistle blow an issue you may be required to demonstrate why you thought the normal internal procedure was not appropriate. You are strongly recommended to take advice (see section 7.9 below) before following this course of action though, as the PIDA only affords protection to whistle blowers in certain circumstances.

7.6

If you have good reason for not using the internal or regulatory disclosure procedures described above, you might consider making wider disclosure by reporting the matter to the media, or making a posting on the internet. Please note, if you have not followed internal procedures, whistle blowing disclosures to the media or by other public disclosure will generally be considered to be an unreasonable course of action. Reporting your concerns for public circulation, even if done in good faith, before raising them in accordance with these procedures may result in disciplinary proceedings, which could lead to dismissal. You are recommended to take legal advice before following this course of action though, as the PIDA only affords protection to whistle blowers in certain circumstances. In particular, no protection is given if the disclosure is made for personal gain.

7.7

It is important to note that a disclosure will not be protected under PIDA where you are committing an offence by making that disclosure, for example by breaching the Official Secrets Act or Section 59 of the Data Protection Act.

7.8

It is recommended that you obtain advice about whistleblowing and PIDA at an early stage if you intend to report malpractice. This is important so that you know the extent of the protection which will be provided to you under PIDA. If you are a member of a trade union you may wish to seek advice about raising an issue from a trade union representative. You may also wish to seek advice from Public Concern at Work which is an independent charity set up to provide advice and guidance about whistleblowing issues. Contact details for Public Concern at Work are given in Section 9.

8. Malicious whistleblowing

8.1

If you are found to have made allegations maliciously and/or not in good faith, a disciplinary process may be instigated against you. This may result in your dismissal from the company.

8.2

It is important to note that as long as you have raised a concern in good faith, you will not be subject to disciplinary action even if the investigation finds your allegations to be unproven.

9. Frequently asked questions

9.1

I told my line manager a number of weeks ago that I believe that a colleague is misusing company resources. Nothing seems to have happened since. What should I do?

Speak with your line manager to ask how the investigation is progressing. If you feel that no or insufficient progress has been made you must inform your manager's manager.

9.2

I believe that a colleague is stealing from the company. How do I deal with this?

This issue should be dealt with by using this whistleblowing procedure. You must, therefore, inform your line manager.

9.3

I believe that malpractice is happening within the company and I am thinking of going to the press about it. What are the implications of this?

You should try to exhaust all internal mechanisms for whistleblowing or refer to our sponsoring department or the relevant regulatory body. You should be aware that going directly to the press may limit your protection under the Public Interest Disclosure Act (PIDA) and you may be liable for dismissal. It is advised that you seek advice from your trade union, if you are a member, or contact Public Concern at Work (whose details are in section 9) before taking this course of action.

9.4

What does PIDA do? PIDA protects workers who make a protected disclosure of information, concerning certain types of matters relating to their employment, from being dismissed or penalised by their employers as a result of the disclosure.

9.5

Members of staff are workers within the definition contained in PIDA and may make a qualifying disclosure of information if they reasonably believe that the disclosure would tend to show that **H Sivyer Transport Ltd** is involved in a relevant failure as outlined in section 9.6 below.

9.6

Not all disclosures of information are protected by PIDA. Protection only arises in relation to protected disclosures. Protected disclosures are:

qualifying disclosures (defined below) made to an appropriate party (see section 9.7. below); and made in accordance with the differing conditions for disclosure applying to each different type of recipient of the information.

A qualifying disclosure is: “any disclosure of information which, in the reasonable belief of the worker making the disclosure, tends to show one or more of the following.

- (a) That a criminal offence has been committed, is being committed or is likely to be committed;
- (b) That a person has failed, is failing or is likely to fail to comply with any legal obligation to which he is subject;
- (c) That a miscarriage of justice has occurred, is occurring or is likely to occur;
- (d) That the health or safety of any individual has been, is being or is likely to be endangered;
- (e) That the environment has been, is being or is likely to be damaged; or
- (f) That information tending to show any matter falling within any one of the preceding paragraphs has been, or is likely to be deliberately concealed.”

PIDA refers to those matters covered by (a) to (f) above as relevant failures. A disclosure will not be a qualifying disclosure if the person making it commits an offence by making it (e.g., if the disclosure would breach official secrets legislation or if it would breach section 59 DPA 1998). You would therefore not receive protection under PIDA if you made a disclosure in these circumstances

9.7

A protected disclosure may be made to one of five types of recipients, these are:

- the worker’s employer;
- a legal adviser;
- a Minister of the Crown (in certain circumstances);
- a regulatory body (referred to as a prescribed person); and
- a third party (for example, the media).

The circumstances in which disclosures may be made vary depending upon the intended recipient of the information. To be protected by PIDA, a worker wishing to make a disclosure must make sure that s/he reasonably believes that the disclosure tends to show a relevant failure and s/he must make the disclosure in good faith. You may need independent legal advice to direct you in understanding this legislation.

10. Resources

10.1

For more information on whistleblowing and related legislation visit: <http://www.pcaw.co.uk>

If you need independent advice about a whistleblowing issue you can telephone Public Concern at

Work on **020 7404 6609**.

11. Glossary

11.1

- Malpractice' – in the context of this policy this may refer to any of the following:
- Failure to comply with a legal obligation
- Unprofessional acts
- Misuse or inappropriate use of H Sivyer Transport Ltd funds or resources
- A criminal offence
- A miscarriage of justice
- The endangering of an individual's health and safety
- Damage to the environment
- Deliberate concealment of information relating to any of the above

Review

This policy will be reviewed:

Annually.

Following a change in procedures.

Following a change in legislation.

If it is found to be inadequate

If requested by the review board following a major concern.

Date For Next Review: **31st May 2024**



Simon J Sivyer
Managing Director

For and On Behalf of **H Sivyer (Transport) Limited.**

Dated:**1st June 2023**