

## 1. Introduction

The Enterprise and Regulatory Reform Act 2013 introduced some changes to the Employment Rights Act 1996, which means that a protected disclosure needs to be made in the public interest – this means that an employee must reasonably believe that it is in the public interest and that they will be protecting the public by ‘blowing the whistle’ on any malpractice in their organisation.

1.1 CARESCO realises that although it strives to put in place appropriate management systems and safeguards in relation to various aspects of the organisation, such as financial management, there might be occasions when things go wrong.

With this in mind CARESCO acknowledges that staff and volunteers can act as an early warning system when the interests of the public could be put at risk. Matters of fraud or mismanagement are of grave concern to the Board of Trustees and this Policy is a tool to enable issues to arise without prejudice. Using current legislation and good practice guidance, CARESCO has developed this policy to ensure the safeguard of the organisation and individuals within it.

Under the Public Interest Disclosure Act 1998, workers have specific rights to make disclosures about alleged wrongdoings without suffering detriment in their employment or being unfairly dismissed for making such disclosures. This Policy is based on the principles outlined in that Act.

This Policy may also be used should an external body want to make an anonymous report to CARESCO. Where possible the person receiving the report must encourage the individual / external body to put in a formal complaint in order for it to be as transparent as possible. However, where this is not possible, the matter will be immediately referred to the General Manager (see section 3 regarding the procedure for reporting concerns).

1.2 CARESCO appreciates that when staff or volunteers are confronted by issues of major concern, they may feel unable to act for fear of reprisals, management’s failure to act or blame. However, CARESCO has already made a commitment to developing a culture of enquiry and part of that is about creating trust and openness within staff, volunteers and management forums.

1.3 It is assumed that an individual whistle blowing is doing so because of a real concern and are not in any way malicious or trouble making. Therefore, whistle blowers will not be punished for making an accusation that fails to stand the test of investigation.

## 2. What constitutes Whistle Blowing?

2.1 Only some disclosures are covered by the protection of the Act. A qualifying disclosure is one which, in the reasonable belief of the member of staff or volunteer, shows:

- That a criminal offence is being committed, has been committed or is likely to be committed or
- That a person has failed, is failing or is likely to fail, to comply with any legal obligation to which he or she is subject or
- That a miscarriage of justice has occurred, is occurring or likely to occur or
- That the health and / or safety of an individual has been, is being or is likely to be endangered or

- That the environment has been, is being or is likely to be damaged or
- That information concerning any of the above has been, is being or is likely to be deliberately concealed.

### **3. What should an individual do if they are confronted with the issues identified in point 2?**

3.1 It is hoped that all issues of concern can be resolved through open discussion and dialogue. Where this has failed, the individual must consider which policy their concern relates to. They must ask the following questions:

- Is this issue a personal grievance? If yes, then they must refer to CARESCO's Grievance & Disciplinary Policy and Procedure.  
For example – there is conflict within the team based on a clash of personalities
- Is this a matter for consideration under gross misconduct which must be assessed by the General Manager? If so refer to the relevant CARESCO staff or volunteer handbook.  
For example – has a member of staff been observed stealing?
- Is this a matter of failure to undertake necessary tasks as directed by the General Manager? If so refer to the relevant CARESCO staff or volunteer handbook.  
For example – has a staff member continually failed to undertake regular tasks after the support of colleagues and management?
- Is this an instance of bullying or intimidation? If so, then refer to CARESCO's Discrimination, Harassment and Bullying Policy and Procedure.
- Is this matter very serious? I am concerned about the repercussions should I say anything? I want to be kept anonymous. If so the Whistle Blowing Policy is the best route.

3.2 For the member of staff or volunteer to be protected within the remit of the Public Interest Disclosure Act 1998, they must make the disclosure in accordance with the following principles. The procedure for making the report is outlined in Appendix 1.

Also, for a member of staff, volunteer or external body to be protected under the Act, they must make the disclosure to:

- The trustees
- A legal adviser
- An external agency or
- Other persons, if the worker makes the disclosure in good faith reasonably believing the information to be substantially true and not making the disclosure for personal gain.

3.3 In the case of a disclosure to "other persons", the member of staff, volunteer or external body will have to reasonably believe at the time of making the disclosure that:

- He or she will not be subjected to a detriment by the organisation if the disclosure is made to the employer or a prescribed person, or
- Where there is no prescribed person, evidence relating to the wrongdoing will not be concealed or destroyed if disclosure is made to the employer, or
- The member of staff, volunteer or external body should previously have made a disclosure of substantially the same information to the employer or to a prescribed person.

These conditions may be disregarded in the case of protected disclosures relating to 'exceptionally serious failures' by the employer: for instance a case which is immediately referred for criminal investigation will take precedence over any internal investigation.

**4. Safeguards**

4.1 The identity of the person raising the concern will remain confidential. If disclosure is required for any reason this will be discussed with the individual concerned.

4.2 CARESCO will not tolerate the victimisation (including informal pressures) of any person who has raised a concern. CARESCO's staff or volunteer handbook will be used against any staff member or volunteer who is found to be harassing or victimising the person raising the concern. Any breach of confidentiality will also be taken very seriously and again Disciplinary Procedures will be evoked.

**5. Implementation, Monitoring and Review**

5.1 The General Manager will take full responsibility for the implementation of this policy.

5.2 This policy will be given to staff and volunteers for their handbooks and will be made available to the public.

5.3 This Policy is a living document and shall be regularly reviewed and, if required, updated as legislation changes.

5.4 Any significant issues shall be monitored by the General Manager and / or trustees.

The management board of CARESCO trustees should review this policy at 3 year intervals or as appropriate.

**Approved by the CARESCO Trustees**

Signed .....  
(Chairman)

Date .....

# Procedure Guidance Notes for Making a Disclosure

## 1. Internal Reports

- The individual should approach the General Manager. Where this is not possible because of the nature of the concern, the individual must disclose to another member of staff.
- The General Manager, or other appropriate person, must take a statement of the concerns and will design an action plan accordingly, which will include how an investigation will take place.
- The person reporting the concern shall be kept informed of the agreed action plan and reassured that their identity will be protected where possible.
- Once an investigation has been completed the General Manager, or other appropriate person, will recommend a course of action.
- Action will be taken in line with other policies and procedures.
- The person reporting the concern will be informed of the outcome. If they are not satisfied that their concern has been addressed, they can discuss the matter informally with the General Manager, or other appropriate person.
- The General Manager will discuss with the Chair of Trustees, or other trustee where appropriate, whether the concern should be re-investigated. If so, once the outcome has been decided, the decision is final.

### **Note:**

- Where the General Manager is the cause of concern, matters must be taken directly to the trustees.
- If the General Manager has not been involved during the initial investigation they should be kept informed of the progress. This is because CARESCO will deal with all issues within the line management structure. However the General Manager has a duty to report all concerns to the Board of Trustees, keeping the individual/s concerned anonymous, where appropriate.

## 2. External Reports

- Individuals and external bodies will be encouraged to follow the formal complaints procedure but where this is not possible, and then by agreement, the matter will be immediately referred to the General Manager, or other appropriate person, for consideration.
- The General Manager, or other appropriate person, will design and conduct an investigation keeping the Trustees informed at all times.
- If the outcome warrants action, the General Manager, or other appropriate person, will evoke relevant policies and procedures.
- The person or agency making the report will be kept informed at each stage and of the outcome. If they are unsatisfied they may go directly to the Chair who, in conjunction with the Board, will decide whether to conduct another investigation.
- The decision of the Chair and Board will be final.