

NCTJ Whistleblowing Policy

Introduction

The NCTJ aims to establish and maintain a culture of openness and we want to encourage our staff, centres, training providers, learners and apprentices to raise issues which concern them in relation to the delivery of NCTJ qualifications, end-point assessments and services.

By knowing about malpractice/poor practice and maladministration we are able to take the necessary steps to safeguard the interests of our staff, centres, training providers, learners and apprentices.

However, the NCTJ recognises that you may be worried that by reporting such issues you may be subject to some adverse action. Therefore, this policy is designed to provide you with information about the Public Interest Disclosure Act as well as the process by which you may whistleblow. It also explains that there are certain protections in place to protect whistleblowers.

Centres' responsibility

It is important that centre/training provider staff and candidates are fully aware of this policy and its contents, as well as our malpractice and maladministration policy.

We also encourage centres/training providers to have a culture of openness where staff and candidates can freely raise concerns about activities and practices without the risk of adverse consequences to their future employment, career or educational provision.

Review arrangements

The NCTJ will review the policy annually as part of its self-evaluation arrangements and revise it as and when necessary in response to external feedback, trends from our internal monitoring arrangements, changes in our practices, actions from the regulatory authorities or external agencies or changes in legislation.

If you would like to feedback any views please contact the NCTJ via the details provided at the end of this policy.

What is whistleblowing?

Whistleblowing is when an individual reports suspected malpractice, maladministration or wrongdoing and/or the covering up of malpractice, maladministration or wrongdoing. Officially this is called 'making a disclosure in the public interest'.

The malpractice, maladministration or wrongdoing is often committed by the individual's employer or a candidate's centre, although this is not always the case.

Whistleblowing is different from both complaints and employment disputes:

- Complaints tend to be an expression of personal dissatisfaction (e.g. with a product or service being received and/or encountered) and should be taken forward with the arrangements outlined in our complaints policy.
- Employment disputes tend to be where a worker has a dispute about their own employment position or contract. If you are experiencing such a dispute you should take this up with your employer or another responsible body. The NCTJ cannot investigate or take any action over such instances.

Individuals can raise a concern with the NCTJ under the arrangements outlined in this policy, if they have a reasonable belief that malpractice, maladministration and/or a wrongdoing is occurring or is likely to occur, relating to one or more of the following categories (as set out in the Public Interest Disclosure Act 1998 - PIDA):

- a criminal act (e.g. the unauthorised use of public funds or possible fraud and corruption)
- a failure to comply with a legal obligation the individual/organisation may be subject to
- a miscarriage of justice
- endangering an individual's health and safety
- damage to the environment
- deliberate concealment of information about any of the above

A whistleblower can also raise a concern with the NCTJ if they think their employer, centre or training provider:

- will cover up or attempt to cover up the concern raised
- would treat them unfairly if they raise a concern
- has not resolved the concern after raising it with them

In addition, an individual raising an allegation of a concern under these whistleblowing arrangements should have a reasonable belief that the disclosure is in the public interest.

PIDA also gives protection to whistleblowers for disclosures to a number of different people such as employers, legal advisers, Ministers of the Crown and a number of prescribed regulators (for certain purposes).

Ofqual – the NCTJ's regulator in England – are a prescribed regulator for:

- matters relating to the development, delivery and award of regulated qualifications
- matters relating to National Curriculum assessment arrangements
- matters relating to Early Years Foundation Stage assessment arrangements
- other matters likely to be of relevance or interest to their role as the regulator of qualifications, examinations and assessments in England

As such, Ofqual has a public whistleblowing policy. In this policy they state that if an individual works for a centre, which is delivering regulated qualifications, and they wish to make a whistleblowing disclosure to someone outside of their organisation, they

should normally consider making the disclosure to the relevant awarding organisation that has approved their centre to deliver the qualification(s) in question (e.g. the NCTJ).

You may also decide to contact the relevant regulator, but they will normally ask the relevant awarding organisation to investigate and report on the subject of the disclosure.

We hope this clarification and policy gives you the reassurance you need to raise your concern with the NCTJ. However, you may still wish to report a concern to the appropriate regulator. Links to their whistleblowing policies are provided below.

- Ofqual – the regulator in England, and responsible for the external quality assurance of end-point assessments
<https://www.gov.uk/guidance/ofquals-whistleblowing-policy>
- Qualifications Wales – responsible for the regulation of qualifications in Wales
<https://qualificationswales.org/media/kh5n3wba/regulatory-whistleblowing-policy.pdf>
- CCEA – the regulator in Northern Ireland
<https://ccea.org.uk/about/policies/fraud-policies>
- SQA – the regulator in Scotland
<https://accreditation.sqa.org.uk/accreditation/Regulation/Policies>

Examples of whistleblowing disclosures that could be made to the NCTJ include:

- A member of staff at a centre or training provider making a disclosure about actual, possible or suspected malpractice/maladministration at the centre/training provider and/or failure to comply with the terms of the centre/training provider's centre-recognition agreement (see our malpractice and maladministration policy for examples)
- Making a disclosure about actual, possible or suspected malpractice/maladministration being carried out by a member of the NCTJ
- a candidate or parent/guardian making a disclosure about actual, possible or suspected malpractice/maladministration occurring at an NCTJ-accredited centre or approved exam centre

In case of doubt on how best to proceed you can speak in confidence to the NCTJ head of awarding or an appropriate member of NCTJ staff (contact details are provided at the end of this policy) or Protect (see next section).

Seeking independent advice

This document sets out our whistleblowing arrangements which are aligned with the Public Interest Disclosure Act 1998 (PIDA).

This legislation 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.

The Act also has the effect of making confidentiality clauses unenforceable where a protected disclosure is made.

You are recommended to take advice before making a whistleblowing allegation, to ascertain your rights under the Act. For example, if you want independent advice at any stage about your rights and protection we recommend that you contact Protect (<https://protect-advice.org.uk/>) which is a registered charity and is the independent authority on public interest whistleblowing.

How to whistleblow

Whistleblowers should consider whether a concern can be disclosed internally at the centre or training provider in the first instance. Where it is reasonable to do so, it is recommended that concerns are raised at your centre/training provider in the first instance.

To raise an allegation with the NCTJ under these whistleblowing arrangements, please contact the head of quality and assessment at the NCTJ (contact details are at the end of this policy).

Upon making an allegation it is helpful to provide as much information and supporting evidence as possible to help inform us of the nature of any investigation we will carry out.

Although it is important to note that it is not essential to have clear evidence before making an allegation under this policy – we just ask that you explain as fully as you can the nature of the allegation or circumstances that gave rise to your concern.

Protecting your identity

Sometimes a person making an allegation may wish to remain anonymous, although it is always preferable for you 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, please inform us that you do not wish the NCTJ 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 to:

- the police, fraud prevention agencies or other law enforcement agencies (to investigate or prevent crime, including fraud)
- the courts (in connection with court proceedings) another person to whom we are required by law to disclose your identity
- other third parties where we consider it necessary to do so (e.g. Ofqual)

The investigator(s) assigned to explore the allegation will not, wherever possible, reveal a whistleblower's identity unless they agree, or it is absolutely necessary for the purposes of the investigation (as noted above). The investigator will advise you if it becomes necessary to reveal your identity against your 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 the disclosure without such details being disclosed to them).

What we will do upon receiving a whistleblowing allegation

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 the concern, as we are obliged by the regulators to follow-up and investigate allegations of malpractice or maladministration.

Depending upon the nature of the allegation, we will appoint someone to investigate the allegation who has the appropriate level of training and competence and who has not had any previous involvement or personal interest in the matter.

The person(s) appointed to investigate – the investigator(s) – may contact/meet with the person who raised the concern – the whistleblower – as soon as possible to ascertain the details of their concern. If the whistleblower does not wish to make a written statement the investigator(s) will write a brief summary of the concern(s) that have been raised and the whistleblower will be expected to confirm this as correct. A work colleague, trade union representative or another individual (e.g. a friend or independent witness) can accompany the whistleblower at this and any subsequent meeting.

The investigator will then conduct an investigation to establish the facts in accordance with the arrangements in our malpractice/maladministration policy.

We may not disclose details of the investigation activities to the whistleblower and we are not obliged to disclose details of the outcomes of the investigation. This may be 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 matters in the way that the whistleblower might wish, we will handle the matter fairly and properly and provide assurance that action has been taken where appropriate.

Outcomes of an investigation

If the investigation results in a proven case of malpractice or maladministration, we will take action against the relevant parties in accordance with the arrangements in the NCTJ's malpractice and maladministration policy.

If the allegation is not proven by the investigation, provided you (the whistleblower) did not deliberately raise an allegation which you knew to be untrue, no action will be taken against you by the NCTJ. If the allegation was made due to a genuine misunderstanding, the individual(s) (e.g. centre or centre staff member) who have been the subject of the investigation will be expected to bear no malice or ill feeling towards their accuser and colleagues should not mistreat a whistleblower.

If, however, the investigation concludes that you (the whistleblower) raised an allegation which you knew not to be true, disciplinary action may be taken against you by your centre or training provider.

Contact us

If you wish to make an allegation in accordance with the arrangements outlined in this policy, or have a query in relation to our whistleblowing arrangements, please contact the NCTJ head of awarding or an appropriate member of NCTJ staff on 01799 544014 or info@nctj.com. Individual contact details for NCTJ staff are available from our website www.nctj.com.