

## Whistleblowing Policy

### 1. What is meant by whistleblowing

- 1.1 Whistleblowing is officially known as ‘making a disclosure in the public interest’. It is when a worker raises a concern about apparent wrongdoing, illegal activity, or neglect of duties by an organisation, or persons within it.
- 1.2 The [Public Concerns at Work](#) charity website is available for anyone who has such a concern and who would like advice on how best to proceed. PCAW’s telephone no is: 0207 404 6609.

### 2. Whistleblowing to the CLC

- 2.1 All licensed conveyancers and firms licensed by the CLC are required to uphold the Code of Conduct. The vast majority of the CLC’s regulated community act in a way which is consistent with the Overriding Principles (OPs) provided in the CLC Code of Conduct:

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| OP 1. | Act with independence and integrity                                |
| OP 2. | Maintain high standards of work                                    |
| OP 3. | Act in the best interests of your Clients                          |
| OP 4. | Comply with your duty to the court [not currently applicable]      |
| OP 5. | Deal with regulators and ombudsmen in an open and co-operative way |
| OP 6. | Promote equality of access and service                             |

- 2.2 However, there may be a small number of firms, or individuals within them, which may not act in such a principled manner. In such instances, CLC licensees have a regulatory responsibility under Code of Conduct provision 5)o) to inform us if they have materially breached the Code of Conduct. A ‘material’ breach is one which significantly threatens, or has already broken, one or more of the Code’s Overriding Principles (outlined above). To do so, means the licensee is likely to have potentially, or actually, threatened the public interest, causing client(s) to suffer a serious level of detriment.
- 2.3 For instance, one of the requirements of this Code is that licensees act in the best interests of clients. Should a person have a concern that the licensee is not keeping client monies safe this is obviously not in the interests of clients. In such an instance, a whistleblowing disclosure is in the public interest.
- 2.4 Should a licensee choose not to notify us, other persons may decide to do this for them, disclosing to us their concerns about an apparent lack of professional conduct.

### 3. Making a whistleblowing disclosure to the CLC

- 3.1 Despite the regulatory responsibility for firm managers to notify us of a material breach, a firm may deliberately withhold this information from us. An individual concerned about the practises of its employer should consider, amongst other things, how the public interest would be best served so that the concern is raised and properly addressed (whilst at the same time, minimising any potential risk to their self).
- 3.2 The way an employee can 'blow the whistle' depends on whether they feel they can tell their employer. An employee concerned about apparent wrongdoing by their employer, and who feels they can, should raise the issue with them through the appropriate channels/the firm's Whistleblowing Policy should they have one. (All CLC-regulated firms are required to have in place arrangements for a regulatory concern to be raised with the appropriate manager, Head of Legal Practice or Head of Finance and Administration).
- 3.3 Generally, only when the processes outlined at 3.2b have not proved satisfactory, would the issue be reported to the CLC. However, in some instances the employee may not feel comfortable with initially raising the issue internally, or has done so but the issue has not been resolved. In determining whether reporting the issue to the CLC is an appropriate course of action, considerations to be borne in mind can include:

- The options for raising concerns internally or externally
- The likely willingness of the firm to address the issue
- Genuine concern vs. innocent explanation – is there reasonable cause to believe there has been a breach of the CLC's regulatory arrangements or the law?
- The risks attached to the apparent misconduct and whether they are serious or imminent – is the breach likely to be of material significance to the CLC?
- Who is, or would be, affected, and how e.g. the number of affected clients, amount of monies involved, vulnerability of clients

- 3.4 To encourage people to speak out if they find improper, illegal or negligent behaviour or practices, whistleblowers are protected for public interest (e.g. they cannot be treated less favourably – e.g. denied promotion - simply because they blew the whistle). The duty to disclose overrides any other duties (e.g. confidentiality) a whistleblower may have, but it does not override legal privilege (i.e. communications between a professional legal adviser and their client, or a person representing that client, whilst obtaining legal advice, do not have to be disclosed<sup>1</sup>). We cannot protect the whistleblower if they commit a criminal offence in making the disclosure.
- 3.5 Should the employee have had some involvement in the wrongdoing but having identified the issue to us, they then cooperate with our investigation, this is likely to be taken into account as a mitigating factor in determining any appropriate sanction.

#### **4. How the CLC will approach whistleblowing disclosures made to it**

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<sup>1</sup> Provided the communication is not made for the purpose of committing a fraud or crime

- 4.1 We will support and protect those that make a disclosure in good faith; who reasonably believe that the information disclosed, and any allegations they make are substantially true; and who reasonably believe that the disclosure relates to a matter relevant to the CLC.
- 4.2 We acknowledge that some persons will feel more comfortable making an anonymous disclosure. We will look into anonymous whistleblowing disclosures wherever possible. However, it may not always be possible to fully investigate or substantiate anonymous disclosures.
- 4.3 We will consider each disclosure of information sensitively and carefully, and decide upon an appropriate response. We will do whatever is practicably possible to try to ensure that the whistleblower's identity is not identifiable to the firm concerned. However, we cannot guarantee this, as we may need to disclose their identity to relevant parties (depending upon the nature of the disclosure).
- 4.4 Where a whistleblower's disclosure, and our subsequent investigation of this, reveals a material breach of the Code of Conduct, we will consider whether the consumer or public interest is threatened by the individual's actions, or the firm's practices. In such instances we will take proportionate regulatory action against the licensee concerned and relevant individuals. The CLC Regulation and Enforcement Policy *[provide hyperlink when re-published]* sets out the options available to us and how we determine the appropriate action to take in the circumstances.

## **5. How to make a whistleblowing disclosure to the CLC**

5.1 The preferred method of disclosure is via email to: [monitoring@clc-uk.org](mailto:monitoring@clc-uk.org)

5.2 Disclosure can also be made by post:

Director of Operations (Ref PIDA<sup>2</sup>)  
Council for Licensed Conveyancers  
CAN Mezzanine  
49 – 51 East Road  
London  
N1 6AH

or provided by phone on: 0207 250 8479.

- 5.3 When making a whistleblowing disclosure as much evidence as possible should be provided to support it.
- 5.4 A person wishing to receive acknowledgement from the CLC of their disclosure will need to explicitly state this and identify the postal or email address to which the acknowledgement of receipt should be sent.
- 5.5 Should the whistleblower consider the licensee's conduct to be unlawful they should also notify the police that a criminal offence has been, is about to be, or is being, committed.

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<sup>2</sup> Public Interest Disclosure Act 1998

